

**P9 [PR-PC] Development Application DA08/1225 for the demolition of existing dwellings & hall & construction of an aged care facility comprising 200 units in a three (3) storey building at Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 D**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA08/1225 Pt3**

**SUMMARY OF REPORT:**

The subject site incorporates a total site area of 3.5188 hectares and has frontage to Kingscliff Street and Pearl Street, Kingscliff. The site involves six allotments, the largest of which is currently vacant land.

The proposal has been lodged under the provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and is for the construction of a multi-level Retirement Village, comprising of two hundred (200) self contained units in a staged development. The proposal incorporates six clusters of apartments (on three levels), with the clusters grouped around and linked to a Central Facility at ground level.

The breakdown of the 200 units is as follows:

142 x 2 bedroom units plus study;  
29 x 2 bedroom units plus study nook; and  
29 x 3 bedrooms units.

As a consequence of stormwater drainage constraints over the site, negotiations have been undertaken with the applicant, in which Council proposes to upgrade the stormwater drainage system, which is the only lawful point of discharge for the site. Due to the high cost of this project, the applicant has agreed to provide a monetary contribution to the project.

The application was advertised for a period of 30 days, during which time five submissions were received.

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

The estimated cost of the proposed development (\$61,000,000) has resulted in the application being referred to Council's Planning Committee for final determination.

**RECOMMENDATION:**

**That Development Application DA08/1225 for the demolition of existing dwellings & hall & construction of an aged care facility comprising 200 units**

in a three (3) storey building at Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP28949; Lot 1 & Lot 2 DP 378971; Nos. 16-20 Kingscliff Street & Nos. 90-92 Pearl Street, Kingscliff 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 Plan Nos:

- **A-DA-01-01 (Rev F) – *Site Plan (as amended in red)* prepared by ML Design and dated 2/12/08;**
- **A-DA-10-01 (Rev G) – *Basement Floor Plan* prepared by ML Design and dated 7/7/09;**
- **A-DA-10-02 (Rev G) – *Ground Floor Plan (as amended in red)* prepared by ML Design and dated 7/7/08;**
- **A-DA-10-03 (Rev E) – *Level 01 Floor Plan* prepared by ML Design and dated 3/12/08;**
- **A-DA-10-04 (Rev A) – *Level 02 Floor Plan* prepared by ML Design and dated 3/12/08;**
- **A-DA-15-01 (Rev A) – *Tenancy Plans* prepared by ML Design and dated 2/12/08;**
- **A-DA-18-01 – *Sequence Stages 1-4* prepared by ML Design and dated 8/12/08;**
- **A-DA-20-01 (Rev C) – *Overall Section* prepared by ML Design and dated 2/12/08;**
- **A-DA-20-02 (Rev E) – *Typical Section* prepared by ML Design and dated 2/12/08;**
- **A-DA-30-01 (Rev C) – *Elevations 1-4* prepared by ML Design and dated 2/12/08;**
- **A-DA-30-02 (Rev C) – *Elevations 5-8* prepared by ML Design and dated 2/12/08;**
- **A-DA-30-03 (Rev F) – *Elevations 9-12* prepared by ML Design and dated 2/12/08;**
- **A-DA-30-04 (Rev A) – *Typical Elevations* prepared by ML Design and dated 2/12/08;**
- **A-DA-30-05 (Rev A) – *Materials & Finishes* prepared by ML Design and dated 2/12/08,**

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. All works within the un-named public road stub (connecting to Kingscliff Street), will be considered by Council to be private driveway works, with all maintenance requirements being the responsibility of the site owner.

[GENNS02]

6. All dewatering works must comply with the additional dewatering information and *Dewatering Management Plan – Zone of Influence* map dated 9 June 2009 submitted by HMC Environmental Consulting, unless approved otherwise by Council's General Manager or his delegate.

[GENNS03]

7. Staging of the development (Stages 1-4) shall be in accordance with the approved construction sequencing plan.

[GENNS04]

8. Only the following kinds of people may occupy the development:

- Seniors or people who have a disability (in accordance of the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
- People who live within the same household with seniors or people who have a disability;
- Staff employed to assist in the administration of and provision of services to housing provided under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

[GENNS05]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

9. The developer shall provide a total of 256 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code. This includes the provision of 10 on-street parking spaces.

Full design detail of the proposed parking and manoeuvring areas (including integrated landscaping) shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. Landscaping within the parking and manoeuvring areas shall be in accordance with any Council approved landscaping plan.

[PCC0065]

10. **Section 94 Contributions**

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

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

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

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

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

**Stage 1**

**(a) Tweed Road Contribution Plan:**

164 Trips @ \$861 \$141,204

S94 Plan No. 4

Sector6\_4

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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

**(b) West Kingscliff – Open Space:**

45.6888 ET @ \$2600 \$118,791

DCP Section B4

S94 Plan No. 7

**(c) Shirewide Library Facilities:**

45.7116 ET @ \$374 \$17,096

S94 Plan No. 11

**(d) Bus Shelters:**

42.7704 ET @ \$26 \$1,112

S94 Plan No. 12

**(e) Eviron Cemetery:**

	48.212 ET @ \$131	\$6,316
	S94 Plan No. 13	
(f)	Community Facilities (Tweed Coast - North)	
	50.3333 ET @ \$492	\$24,764
	S94 Plan No. 15	
(g)	Emergency Facilities (Surf Lifesaving):	
	45.78 ET @ \$200	\$9,156
	S94 Plan No. 16	
(h)	Extensions to Council Administration Offices & Technical Support Facilities	
	45.6888 ET @ \$1996.8	\$91,231.40
	S94 Plan No. 18	
(i)	Cycleways:	
	45.6584 ET @ \$352	\$16,072
	S94 Plan No. 22	
(j)	Regional Open Space (Casual)	
	45.6888 ET @ \$855	\$39,064
	S94 Plan No. 26	

## Stage 2

(a)	Tweed Road Contribution Plan:	
	90 Trips @ \$861	\$77,490
	S94 Plan No. 4	
	Sector6_4	
	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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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

- (b) **West Kingscliff – Open Space:**  
23.5368 ET @ \$2600 \$61,196  
DCP Section B4  
S94 Plan No. 7
- (c) **Shirewide Library Facilities:**  
23.5476 ET @ \$374 \$8,807  
S94 Plan No. 11
- (d) **Bus Shelters:**  
22.1544 ET @ \$26 \$576  
S94 Plan No. 12
- (e) **Eviron Cemetery:**  
24.732 ET @ \$131 \$3,240  
S94 Plan No. 13
- (f) **Community Facilities (Tweed Coast - North)**  
26 ET @ \$492 \$12,792  
S94 Plan No. 15
- (g) **Emergency Facilities (Surf Lifesaving):**  
23.58 ET @ \$200 \$4,716  
S94 Plan No. 16
- (h) **Extensions to Council Administration Offices  
& Technical Support Facilities**  
23.5368 ET @ \$1996.8 \$46,998.28  
S94 Plan No. 18
- (i) **Cycleways:**  
23.5224 ET @ \$352 \$8,280  
S94 Plan No. 22
- (j) **Regional Open Space (Casual)**  
23.5368 ET @ \$855 \$20,124  
S94 Plan No. 26

**Stage 3**

- (a) **Tweed Road Contribution Plan:**  
122.5 Trips @ \$861 \$105,473  
S94 Plan No. 4  
Sector6\_4

## 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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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

**(b) West Kingscliff – Open Space:**

32.0362 ET @ \$2600 \$83,294

DCP Section B4

S94 Plan No. 7

**(c) Shirewide Library Facilities:**

32.0509 ET @ \$374 \$11,987

S94 Plan No. 11

**(d) Bus Shelters:**

30.1546 ET @ \$26 \$784

S94 Plan No. 12

**(e) Eviron Cemetery:**

33.663 ET @ \$131 \$4,410

S94 Plan No. 13

**(f) Community Facilities (Tweed Coast - North)**

34.6667 ET @ \$492 \$17,056

S94 Plan No. 15

**(g) Emergency Facilities (Surf Lifesaving):**

32.095 ET @ \$200 \$6,419

S94 Plan No. 16

**(h) Extensions to Council Administration Offices  
& Technical Support Facilities**

	32.0362 ET @ \$1996.8	\$63,969.88
	S94 Plan No. 18	
(i)	Cycleways:	
	32.0166 ET @ \$352	\$11,270
	S94 Plan No. 22	
(j)	Regional Open Space (Casual)	
	32.0362 ET @ \$855	\$27,391
	S94 Plan No. 26	

**Stage 4**

**(a) Tweed Road Contribution Plan:**

97.5 Trips @ \$861 \$83,948

S94 Plan No. 4

Sector6\_4

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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

**(b) West Kingscliff – Open Space:**

25.4982 ET @ \$2600 \$66,295

DCP Section B4

S94 Plan No. 7

**(c) Shirewide Library Facilities:**

25.5099 ET @ \$374 \$9,541

S94 Plan No. 11

**(d) Bus Shelters:**



	24.0006 ET @ \$26	\$624
	S94 Plan No. 12	
(e)	Eviron Cemetery:	
	26.793 ET @ \$131	\$3,510
	S94 Plan No. 13	
(f)	Community Facilities (Tweed Coast - North)	
	28 ET @ \$492 \$13,776	
	S94 Plan No. 15	
(g)	Emergency Facilities (Surf Lifesaving):	
	25.545 ET @ \$200	\$5,109
	S94 Plan No. 16	
(h)	Extensions to Council Administration Offices & Technical Support Facilities	
	25.4982 ET @ \$1996.8	\$50,914.81
	S94 Plan No. 18	
(i)	Cycleways:	
	25.4826 ET @ \$352	\$8,970
	S94 Plan No. 22	
(j)	Regional Open Space (Casual)	
	25.4982 ET @ \$855	\$21,801
	S94 Plan No. 26	

[PCC0215]

#### 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.

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 5 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 7.2 (currently 5.4c per tonne per kilometre)

**Admin.** Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

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

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

#### Stage 1

Water DSP5: 49.976 ET @ \$10709 \$535,193.00

Sewer Kingscliff: 58.201 ET @ \$5146 \$299,502.30

#### Stage 2

Water DSP6: 22.8 ET @ \$10709 \$244,165.20

Sewer Kingscliff: 28.5 ET @ \$5146 \$146,661.00

#### Stage 3

Water DSP6: 30.6 ET @ \$10709 \$327,695.40

Sewer Kingscliff: 38.25 ET @ \$5146 \$196,834.50

#### Stage 4

Water DSP6: 24.6 ET @ \$10709 \$263,441.40

Sewer Kingscliff: 30.75 ET @ \$5146 \$158,239.50

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

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates

applicable in Council's adopted Fees and Charges current at the time of payment.

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

[PCC0265]

13. 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]

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

[PCC0465]

15. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, Tweed Shire Council Development Control Plan Part A14 - Cut and Fill on Residential Land and Councils Development Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.

**Please note timber retaining walls are not permitted.**

[PCC0475]

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. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0675]

18. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 3.3m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Principle Certifying Authority prior to the issue of a Construction Certificate.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS3500.3.2 1998 *“National Plumbing and Drainage – Part 3.2: Stormwater Drainage – Acceptable Solutions”*

[PCC0685]

19. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) Design flood level of RL 3.3m AHD.
  - (b) The minimum habitable floor level for all buildings is RL3.8m AHD.
  - (c) All building materials used below Council's design flood level must not be susceptible to water damage.
  - (d) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.
  - (e) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

20. Details of the kitchen exhaust system are to be provided and approved prior to 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 of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

21. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- (a) Vehicular access to Pearl Street
  - (b) Construction of vehicular access to Kingscliff Street, within the existing (un-named) road reserve.
  - (c) The above-mentioned access to Kingscliff Street is to have a minor realignment to ensure the driveway is perpendicular to the kerb line.

- (d) The construction of 10 on-street parking spaces within the existing road reserve.
- (e) Construction of a 1.2m wide concrete footpath within the existing road reserve, to link with the existing path in Kingscliff Street.
- (f) Provision of suitable identifying marks or signage to delineate the actual end of the public road area.

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

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

[PCC0895]

22. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

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

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

[PCC1105]

24. 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]

25. 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]

26. 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]

27. Prior to the issue of a construction certificate a Construction Management Plan and Construction Noise Management Plan shall be submitted to the satisfaction of the General Manager or his delegate. The plans shall identify all potential impacts arising from demolition and construction activities and detail measures to ameliorate such impacts to within acceptable standards. All works shall comply with the approved plans.

28. A "Hotline" service shall be established at full cost to the applicant to allow any persons affected by site-related activities to make enquiries about such activities or register a complaint. Details of how the service

will be established and maintained shall be included within the Construction Management Plan. This service shall allow affected persons to make contact via telephone, electronic mail and facsimile. The service shall be operational at all times during construction and a logbook of complaints shall be kept and be available for review by Council upon request, with a summary provided to Council at 3 monthly intervals.

29. Prior to the issue of a construction certificate, the final location of the Waste Storage Area is to be approved by General Manager or his delegate. The location shall take into consideration potential noise impact upon neighbouring properties, and incorporate appropriate acoustic measures.
30. Prior to the issue of a construction certificate, a Light Spill Plan shall be submitted to the satisfaction of the General Manager or his delegate. All works shall comply with the approved plan.
31. Prior to the issue of a construction certificate, details of the proposed 'clerestory' component for all south facing buildings (in accordance with the sketch submitted on 7 July 2009 by ML Design) shall be submitted to the satisfaction of the General Manager or his delegate. All works shall comply with the approved plan.
32. Prior to the issue of a construction certificate, detailed documentation shall be submitted to the satisfaction of the Principal Certifying Authority, demonstrating strict compliance with all relevant provisions of the accessibility and usability standards for self contained dwellings (under Schedule 3 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004).

[PCCNS01]

33. Prior to the issue of a construction certificate an interim statement shall be provided from a NSW EPA / (DECC) accredited site auditor, to the satisfaction of the General Manager or his delegate, which confirms that the site, and fill materials on the site, have been satisfactorily investigated and it is satisfactory for basement excavations and dewatering to proceed.

Should contaminants above relevant health investigations be detected on the site, all works shall stop and a remediation action plan submitted to Council to the satisfaction of the General Manager or his delegate. The remediation action plan shall be vetted and approved by a NSW EPA / (DECC) accredited site auditor.

34. A dilapidation report detailing the current condition of the adjacent buildings and infrastructure is to be prepared and endorsed by a qualified structural engineer. The report is to be submitted to the Principle Certifying Authority prior to the issue of the Construction Certificate.

[PCCNS02]

35. Water quality monitoring of any standing water on any part of the development site and any water running off the development site to the south, whether or not this has originated from the site or 'upstream', will be undertaken at least weekly over a minimum period of three months in order to establish baseline water quality parameters for the site. Site-

specific Thresholds for Key Water Quality Indicators must be developed and submitted to the General Manager or delegate for approval in order to provide a basis for determination of variances which exceed identified habitat preference thresholds for Wallum Froglets (*Crinia tinnula*) on adjacent land and thus require remediation action. Baseline monitoring will measure the following parameters:

- pH;
- turbidity;
- suspended solids;
- salinity;
- dissolved Oxygen;
- dissolved organic compounds;
- magnesium and calcium hardness; and
- temperature.

[PCCNS03]

36. A detailed landscape plan shall be prepared by a landscape architect or landscape consultant to a standard acceptable to the General Manager or delegate. The plan shall include appropriate treatment of the main access driveway within the road reserve, to 'break up' the on-street visitor parking area and proposed landscaping within open stormwater drains. The plan must comply with Appendix 5 of Planning for Bushfire Protection Guidelines 2006 and shall include the following documentation -
- a. A site plan (at 1:100 to 1:1000 scale) showing the existing features, including north point, access road and an outline of proposed buildings indicating doors and windows and extent of basement carparking if applicable. Any trees to remain in the vicinity are to be located to scale and identified by botanical and common names.
  - b. Proposed and existing site services with potential to impact on landscape space, including water, gas, electricity, sewer, stormwater, etc.
  - c. Easements on or adjacent to the site.
  - d. View lines to and from the development and details of pedestrian access and circulation areas within and around the development, including retaining walls, seating, fences, gates, decorative features etc.
  - e. Additional survey plan showing the location, canopy spread, trunk diameter, height and names of those existing tree/s and significant tree/s or other vegetation communities adjacent to the site likely to be affected by the development. The plan shall also include the existing ground levels at the base of the trunk of the tree/s as well as at the drip lines of the tree/s.
  - f. A photomontage illustrating proposed landscaping at maturity overlain over building elevations from street frontages and adjoining development.



- g. Existing and proposed ground levels (shown as spot heights and/or contours over the site and direction and degree of slope) indicating the site boundaries, and the base of the trees proposed to be planted or that are to be retained (if applicable).**
- h. Sectional elevations through the site showing the existing and proposed ground lines, building elevations and proposed plantings.**
- i. Construction details of planter boxes (including width and depth), paving, edging, fencing, screening, panels and other hard landscape components. As far as possible deep root zones must be provided for large trees and paving is to be porous. Paving works within 2m of the trunk of the large trees shall be constructed in such a way as to ensure the existing moisture infiltration and gaseous exchange to the tree root system is maintained.**
- j. Planting details for the preparation and planting of tube and potted plants, super-advanced plants, bare-rooted stock and any other planting.**
- k. A detailed plant schedule and plan at a scale of 1:100 to 1:1000 indicating the location of all proposed planting and any existing vegetation to be retained on and adjacent to the site. The plan is to include a detailed plant schedule which shall include;**
  - species listed by botanical and common names, with the majority of plants (>80%) constituting local native species and including no known environmental weed species;**
  - specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.**
  - maintenance methods including the use of drip irrigation and mulching or groundcovers to reduce bare soils areas and including a maintenance schedule for a minimum period of one year after completion of landscaping on site.**

[PCCNS04]

- 37. Prior to the issue of any construction certificate for works within the site, the applicant shall complete the required sewer main relocation works to the satisfaction of Council.**

**The sewer main relocation works are not to commence until a Section 68 application (for the work) has been submitted to Council with all relevant details, and approved for construction.**

[PCCNS05]

- 38. The developer shall pay a contribution equal to the indexed project cost (being \$3.03M at June 2009) minus Council's fixed (not indexed) allocation of \$1.9M, towards the cost of construction of the Blue Jay Circuit Drainage Scheme (BJCDS). The contribution includes the normal Section 94 Plan No. 7 Drainage contribution and shall be paid three (3) months prior to commencing the development. The contribution shall be paid in cash or by way of a Bank Guarantee.**

**The amount of the project cost from which the contribution is calculated as above, shall be varied based on the construction cost indices applicable at the time of payment with a base date of June 2009.**

**Council or an Accredited Certifier shall only issue a construction certificate for Stage 1 of the development (subject to all other relevant matters being complied with) providing Council has substantially commenced construction of the BJCDs. Council shall substantially commence construction immediately following payment of the contribution. (Substantially commenced means excavation and laying of at least 30m of the proposed pipeline).**

**Prior to the issue of a construction certificate, or payment of the contribution, whichever occurs first, the landowner and Council shall enter into a Voluntary Planning Agreement to reflect the terms of this Condition.**

[PCCNS06]

- 39. All stormwater drainage from the development shall be discharged to the Blue Jay Circuit Drainage Scheme, being the lawful point of discharge for the development. Stormwater discharge to private land is not permissible, unless written consent is obtained from the affected landholder and submitted to the PCA.**

[PCCNS07]

- 40. All works on private land adjoining the development require the written consent of the affected landholder(s), copies of which shall be submitted to the PCA prior to issue of a Construction Certificate.**

[PCCNS08]

- 41. The relocation of public stormwater infrastructure through the site requires separate TSC approval of a Section 68 Local Government Act Stormwater Application, prior to the issue of a Construction Certificate. For the design of public stormwater systems, a safety factor of 2 shall be applied to design rainfall intensities, with a 500mm freeboard to be provided before overtopping can occur. Provision of this factor of safety and freeboard shall be clearly detailed in the s68 Stormwater Application.**

[PCCNS09]

- 42. Landscaping works within open stormwater drains shall be limited to easily maintainable lawn/grass, and shall not include trees, shrubs or other plantings or structures that will limit the hydraulic capacity of the drains or limit future maintenance access. A landscaping plan shall be submitted with the s68 Stormwater Application to Council to demonstrate the suitability of landscaping in these areas. The plan shall be in accordance with any other Council approved landscaping plan.**

[PCCNS10]

- 43. The filling and drainage works must maintain an emergency overflow path from the adjacent stormwater retention basin on the Blue Care site to the inlet of the Blue Jay Circuit Drainage Scheme. This flow path must be at a suitable level and be of an adequate cross section to provide at least equivalent service to the existing overflow measures.**

[PCCNS11]

#### **PRIOR TO COMMENCEMENT OF WORK**

- 44. 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]

45. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-
- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
  - (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
  - (c) WorkCover Regulations 2000

[PCW0025]

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

[PCW0125]

47. 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]

48. 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]

49. 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]

50. 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]

51. 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]

52. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill nature of material, proposed use of material and confirmation further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[PCW0375]

53. 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]

54. 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]

55. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

56. Prior to commencement of building works on the site, all sewer main relocation works are to be completed to Council's satisfaction.

[PCWNS01]

#### **DURING CONSTRUCTION**

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

[DUR0005]

58. The provision of 256 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.

Signage is to be provided to advise that visitor parking is also available in the basement car parking area. All visitor spaces and staff spaces are to be marked and maintained as such.

[DUR0085]

59. 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]

60. 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]

61. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

62. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

63. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

64. 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]

65. 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]

66. 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]

67. 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]

68. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001 and the approved demolition work plan.

[DUR0645]

69. 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]

70. During filling operations,

- No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- All fill and cut batters shall be contained wholly within the subject land.
- 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.

and upon completion,

- all topsoil to be respread and the site to be grassed and landscaped

including battered areas.

[DUR0755]

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

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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

[DUR0815]

73. 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]

74. 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]

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

[DUR0995]

76. 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]

77. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

78. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]



**79. A certificate is to be submitted by a Registered Surveyor certifying that all habitable floor areas are constructed above 3.8 metres AHD, and certifying the actual finished level of the total site. Certification of those levels by a registered surveyor must be submitted to the Principal Certifying Authority prior to proceedings past floor level to ensure that the floor is above flood level.**

[DUR1365]

**80. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.**

[DUR1415]

**81. The habitable floor area of the building is to be at a level not less than RL 3.8 m AHD.**

[DUR1435]

**82. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.8m AHD.**

[DUR1445]

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

[DUR1505]

**84. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.**

[DUR1515]

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

[DUR1545]

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

[DUR1565]

**87. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be installed in accordance with the requirements of Part 2, Clauses 6, 7 and 8 of the Public Health (Microbial Control) Regulation 2000.**

[DUR1645]

**88. 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]

89. 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]

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

[DUR1875]

91. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

92. 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]

93. 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]

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

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]

95. 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]

96. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg.

[DUR2435]

97. 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]

98. 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]

99. 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]

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

[DUR2505]

101. 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]

102. 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]

103. 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]

104. 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]

105. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a minimum with 9mm thick high impact resistant material E.g. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer and tiled to a height of at least 2 metres above the floor. The floor/ wall junction shall be coved to the satisfaction of Council's Environmental Health Officer.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish from the floor surface up to the underside of the ceiling or where permitted from the top of any bench or fitting permanently fixed to the wall.

Metal stud wall framing in lieu of timber framing shall be used in wet areas or where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

106. 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 and other requirements of Council's Environmental Health Officer as may be directed.

[DURNS02]

107. All works shall comply with the Dewatering Management Plan, HMC December 2008 (HMC2008.144B), unless approved otherwise by Council's General Manager or his delegate. All waters shall be tested prior to release and only permitted to discharge where water quality meets the Action Thresholds under part 7 of that Plan.

108. The applicant shall arrange for a site inspection to be carried out with Council's Environmental Health 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.

109. No offsite dewatering shall commence until Council's Environmental Health Officer is satisfied that the quality of water to be discharged will comply with any agreed water quality criteria. Council's Environmental Health 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.

[DURNS03]

110. All works must comply with the Section 4.2 Amelioration Measures within the *Targeted Amphibian Survey: Kingscliff Retirement Village, Kingscliff* by James Warren & Associates dated July 2009.
111. Prior to the commencement of works sediment and erosion control measures sufficient to prevent the transportation of sediment into adjacent known habitat for Wallum Froglets (*Crinia tinnula*) must be installed inside the southern boundary of the development site. Sediment and erosion control measures must be inspected weekly at a minimum during construction and maintenance undertaken immediately an issue is identified.
112. The extent of the construction area must be clearly identified with highly visible traffic barrier prior to commencement of works. Outside of this area the following activities shall not be permitted:
- Storage and mixing of materials;
  - Vehicle parking;
  - Liquid disposal;
  - Machinery repairs and/or refuelling;
  - Construction site office or shed;
  - Combustion of any material;
  - Stockpiling of soil, rubble or debris;
  - Any filling or excavation including trench line, topsoil skimming and/or surface excavation, unless otherwise approved by Council; and
  - Pesticide, herbicide or chemical applications.

[DURNS04]

113. A water quality monitoring program is to be undertaken weekly during any earthworks and construction activity for any runoff from the site, and is to continue until stabilisation of exposed areas. Results of such monitoring must be made available to Council upon request. Parameters to be measured include:
1. pH;
  2. turbidity;
  3. suspended solids;
  4. salinity;
  5. dissolved Oxygen;
  6. dissolved organic compounds;
  7. magnesium and calcium hardness; and
  8. temperature.

[DURNS05]

114. Water quality monitoring results from the above program which indicate any variance that exceeds or closely approaches the Site-specific Thresholds for Key Water Quality Indicators as approved by General Manager or delegate must be reported to the General Manager or

delegate; be followed by an immediate investigation by suitably qualified persons under the direction of an Ecologist and require immediate amelioration actions taken to correct water quality.

[DURNS06]

115. All works associated with the demolition, construction and use of the proposed development are to be in accordance with the Waste Management Plan (HMC, April 2009) and HMC's detailed plan of the Waste Storage Area (submitted on 22 June 2009), unless approved otherwise by Council's General Manager or his delegate.

[DURNS07]

116. All works shall comply with the Acid Sulfate Soils Investigation and Management Plan, Border-Tech, November 2008 (BT 17817-Ass). Any bunded area for the treatment of acid sulfate soils shall be made impervious to the satisfaction of the General Manager or his delegate. Any water discharge or runoff from acid sulfate soil treatment areas shall comply with the discharge criteria nominated under Table 2 of the Acid Sulfate Soils Investigation. All waters shall be tested prior to discharge and records kept on site for inspection by an authorised officer of Tweed Shire Council.

[DURNS08]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

117. 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]

118. 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]

119. 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]

**120. 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]

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

[POC0615]

**122. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.**

[POC0625]

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

[POC0635]

**124. 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]

**125. Work as executed plans are to be provided to Council in accordance with Councils Development Design Specification, D13 and a CCTV inspection of the stormwater pipes and sewerage system to be dedicated to Council as public infrastructure including joints and junctions demonstrate that the standard of the system is acceptable to Council.**

**Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.**

[POC0765]

**126. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.**

[POC0855]

**127. 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 covered by the Sec.68 approval for sewer relocation works.**

[POC0985]

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

[POC0995]

**129. 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]

130. Construction and operation of the development shall comply with the Environmental Noise Impact Assessment, CRG, 28 April 2009, including Section 6, to the satisfaction of the General Manager or his delegate. Prior to the issue of an occupation certificate for any stage of the development a report shall be provided to Council from a suitably qualified person which confirms that the recommendations made in that report have been satisfactorily complied with.
131. Prior to the issue of an occupation certificate for any stage of the development a report shall be provided to Council from a suitably qualified person which assesses all mechanical plant and equipment for potential noise impacts on site and off site. The report shall detail amelioration measures required for plant and equipment. The report shall provide a validation statement (to the satisfaction of the General Manager or his delegate) confirming that noise levels from plant fall within relevant limits established by the Environmental Noise Impact Assessment, CRG, 28 April 2009.
132. Prior to the issue of an occupation certificate for any stage of the development, a statement shall be provided from a NSW EPA / (DECC) accredited contaminated lands auditor, to the satisfaction of the General Manager or his delegate, which confirms that the site is suitable for the use.

[POCNS01]

133. Should a centralised warm or hot water system be installed, prior to issue of an occupation certificate, documentary evidence shall be provided to Council from a 'competent person', to the satisfaction of the General Manager or his delegate, which confirms that any relevant system was designed, installed and operated in accordance with the requirements of AS3666.1 and AS3666.2.
134. A second dilapidation report is to be prepared by a suitably qualified engineer at the completion works to ascertain if any structural damage has occurred to the adjacent buildings and infrastructure. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the Principle Certifying Authority, prior to the issue of the Occupation Certificate.

[POCNS02]

135. Council approved landscaping shall be completed prior to the release of the occupation certificate. Landscaping shall be maintained at all times to the satisfaction of the General Manager or delegate. Trees identified for retention in the development application plans shall not be removed without separate Council approval.

[POCNS03]

136. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
  - (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
  - (b) All public infrastructure sewer mains within the site are to be covered by a 4m wide easement. Furthermore, the owner shall



indemnify Council from any and all future damage that may occur to the development, as a result of Council needing to access the sewer main at any time in the future.

- (c) The use of any accommodation shall be limited to only the kinds of people permitted by the restrictions of occupation provisions under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[POCNS04]

137. Drainage easements benefitting Tweed Shire Council shall be created to contain all public drainage services that traverse the site. Minimum easement width shall be 3 metres. Drainage easements shall also be created over any additional interallotment drainage, benefitting the adjoining land.

[POCNS05]

## USE

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

[USE0125]

139. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

140. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or

equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

141. All deliveries to the premises are to occur only within the hours of 7.00am to 6.00pm Monday to Saturday, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted.

[USE0195]

142. 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]

143. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer

[USE0245]

144. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.

[USE0255]

145. The use being restricted to the floor area designated on the approved plan. Use of the development does not include tourist development or tourist accommodation.

[USE0415]

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

[USE0845]

147. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be operated in accordance with the requirements of Part 3, Clause 9 of the Public Health (Microbial Control) Regulation 2000.

[USE0935]

148. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be maintained in accordance with the requirements of Part 4, Clauses 11, 12 and 13 of the Public Health (Microbial Control) Regulation 2000, and a certificate to confirm that the regulated system is being maintained shall be submitted to Council on a 12 Monthly basis.

[USE0945]

149. Any person carrying out skin penetration on the premises shall cause a copy of the NSW Health Guidelines on Skin Penetration and also a copy of the NSW Health, Skin Penetration Code of Best Practice to be kept on the premises.

[USE0955]

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

[USE0965]

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

[USE0975]

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

[USE0985]

153. Clinical wastes shall be separated from the general waste stream and disposed via Council's approved clinical waste collection and disposal service. Suitable arrangements shall be made for the collection and disposal of clinical wastes to the satisfaction of the General Manager or his delegate.

[USE0995]

154. Use of the water retained in rainwater detention tanks shall be restricted to irrigation of landscaping unless otherwise approved in writing by Council.

[USENS01]

155. Night use of the approved bowling green is not permitted without prior written authorisation from the General Manager or his delegate.

[USENS02]

## **DEPARTMENT OF WATER AND ENERGY**

### **SCHEDULE OF CONDITIONS FOR TEMPORARY DEWATERING**

#### **DEVELOPMENT APPLICATION NUMBER\_\_DA08/1225**

1. All works shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
2. All works are to be constructed in accordance with Report HMC 2008.144B Dewatering Management Plan December 2008 and/or with conditions of development consent.
3. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
4. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
5. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
6. All precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works shall be taken.

7. The water extracted shall not be used for any purpose other than temporary construction dewatering.
8. Any water extracted by the works must not be discharged into any watercourse or groundwater if it would pollute that water.
9. Polluted water shall not be discharged into a river or lake other than in accordance with the conditions of a licence granted under the Protection of the Environment Operations Act 1997
10. Tailwater drainage shall not be allowed to discharge onto adjoining roads, Crown land or other persons land, or into any river as defined in the Water Act 1912, or a groundwater aquifer, by surface or sub-surface drains or pipes or any other means.
11. Water must not be discharged unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the Council's sewerage treatment system.
12. The ph of any water extracted must be tested prior to the commencement of discharge and at least twice daily thereafter and a record kept of the date, time and result of each test in the site log.
13. Works used for the purposes of conveying, distributing or storing water from the dewatering work shall not be constructed or installed so as to obstruct the free passage of floodwaters flowing in, to or from a river or lake.
14. Authorised officers of the Department of Water and Energy (DWE), or any other duly authorised officer, must be granted unrestricted access to the works either during or after construction, for the purpose of carrying out any inspection or test of the of the works and its fittings or to take samples of water or material in the work.
15. Any works deemed necessary by DWE for the protection or proper maintenance of the works, or for the control of the water extracted or prevention of pollution of groundwater, shall be undertaken on instruction to do so
16. A record shall be maintained of the actual volume of groundwater pumped (in kilolitres or megalitres) from the dewatering works, the discharge rate (in litres per second) and duration of pumping (number of days) and this information is to be provided to DWE if and when requested.
17. A record shall be maintained of the actual volume and quality of any tailwater generated by the dewatering and this information is to be provided to DWE if and when requested.
18. A record shall be maintained of the groundwater levels beneath and around the construction site throughout the duration of the dewatering and for a period of at least two (2) months following cessation of the required pumping, and this information is to be provided to DWE if and when requested.
19. DWE may request the provision of interim information relating to the records described in the above three (3) conditions at any time during construction.

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

- 1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.**
- 2. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of *Planning for Bushfire Protection 2006*.**
- 3. Internal roads shall comply with section 4.2.7 of *Planning for Bushfire Protection 2006*. Except that in this instance a perimeter road and a through road is not required.**
- 4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of *Planning for Bushfire Protection 2006*.**
- 5. New construction shall comply with Australian Standard AS3959-1999 '*Construction of buildings in bush fire-prone areas*' Level 1.**
- 6. Screen-less door systems, including glazing and supporting framework shall be designed and constructed to prevent the entry of embers into the building. Draught excluders, seals and door furniture shall be manufactured from materials having a flammability index no greater than 5 (with the exception of intumescent seals which are permissible) and ensure that there are no gaps >2.0mm in diameter when the door is closed.**
- 7. A minimum 1.8 metre high radiant heat shield made of non-combustible materials shall be constructed along the southeast, south and west boundaries adjacent to the hazard. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.**
- 8. Landscaping to the site is to comply with principles of Appendix 5 of *Planning for Bushfire Protection 2006*.**
- 9. No brushwood fencing shall be used.**

## **REPORT:**

**Applicant:** Kingscliff Retirement Ltd ATF Kingscliff Retirement Trust  
**Owner:** Kingscliff Bowls Club Limited  
**Location:** Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP28949; Lot 1 & Lot 2 DP 378971; Nos. 16-20 Kingscliff Street & Nos. 90-92 Pearl Street Kingscliff  
**Zoning:** 2(b) Medium Density Residential & 2(c) Urban Expansion  
**Cost:** \$61,000,000

## **BACKGROUND:**

The subject site (involving 6 allotments) is described as Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP 28949; Lot 1 & Lot 2 DP 378971; No 16, No 18, No 20 Kingscliff Street & No 90 & 92 Pearl Street Kingscliff. The site is irregular in shape with a 32m frontage to Kingscliff Street to the north and an approximate 34m frontage to Pearl Street to the east.

The development site slopes gently from the north (RL 3.8) towards the south (RL 0.9), with a total site area of 3.5188 hectares. Site improvements comprise four one and two storey dwelling houses and an RSL Hall, each of which is to be demolished as part of this application. Vegetation on the site largely consists of slashed grasslands. The only other significant vegetation on the subject site is several trees along Kingscliff Street, which are proposed to be retained where possible.

The immediate locality surrounding the subject site is essentially residential in character, with a mixture of one and two storey detached dwellings, medium density multi level units (three and four storeys in height) and the adjacent Bluecare Nursing Home.

Council's DCP Section B4 nominates the subject site as a "Club" site. At the time of preparation of the DCP, it was intended that the Kingscliff Bowls club would relocate to the site because of threats posed on their existing premises from coastal erosion. However as a result of the construction of various coastal protection measures, it is no longer necessary for the Club to relocate, leaving the site available for proposed development.

## **THE PROPOSAL:**

Council is in receipt of a Development Application seeking consent for the construction of a multi-level Retirement Village, comprising of two hundred (200) self contained units in a staged development. The proposal incorporates six clusters of apartments (on three levels), with the clusters grouped around and linked to a Central Facility at ground level.

In addition to the 200 units, the proposal incorporates:

- a 280 space basement car park;
- construction of a bowls green;
- vegetable gardens serviced by the residents
- medical and day care nursing onsite visitation;
- demolition of the existing RSL Hall and dwelling houses;
- filling of the site to the design flood level of RL 3.3m AHD;
- driveway entry off Kingscliff Street; and

- separate service and delivery bay access off Pearl Street.

The Central Facility incorporates: an entry lobby; reception; admin offices; media and mail rooms; main lounge; toilet facilities; as well as a library and associated meeting and retreat rooms. Also included is: a dining room; café; kitchen; medical room; laundry; staff room; and staff kitchen.

Each cluster of apartments incorporates six to twelve units, in a staggered configuration to limit long access corridors. Each pair of clusters shares an individual entry and links the units above to a communal open space. The individual apartments are self contained and have a mix of two bedroom plus study and three bedroom units. Each unit includes open plan living / dining / kitchen, bedrooms, bathrooms and laundry.

The breakdown of the 200 units is as follows:

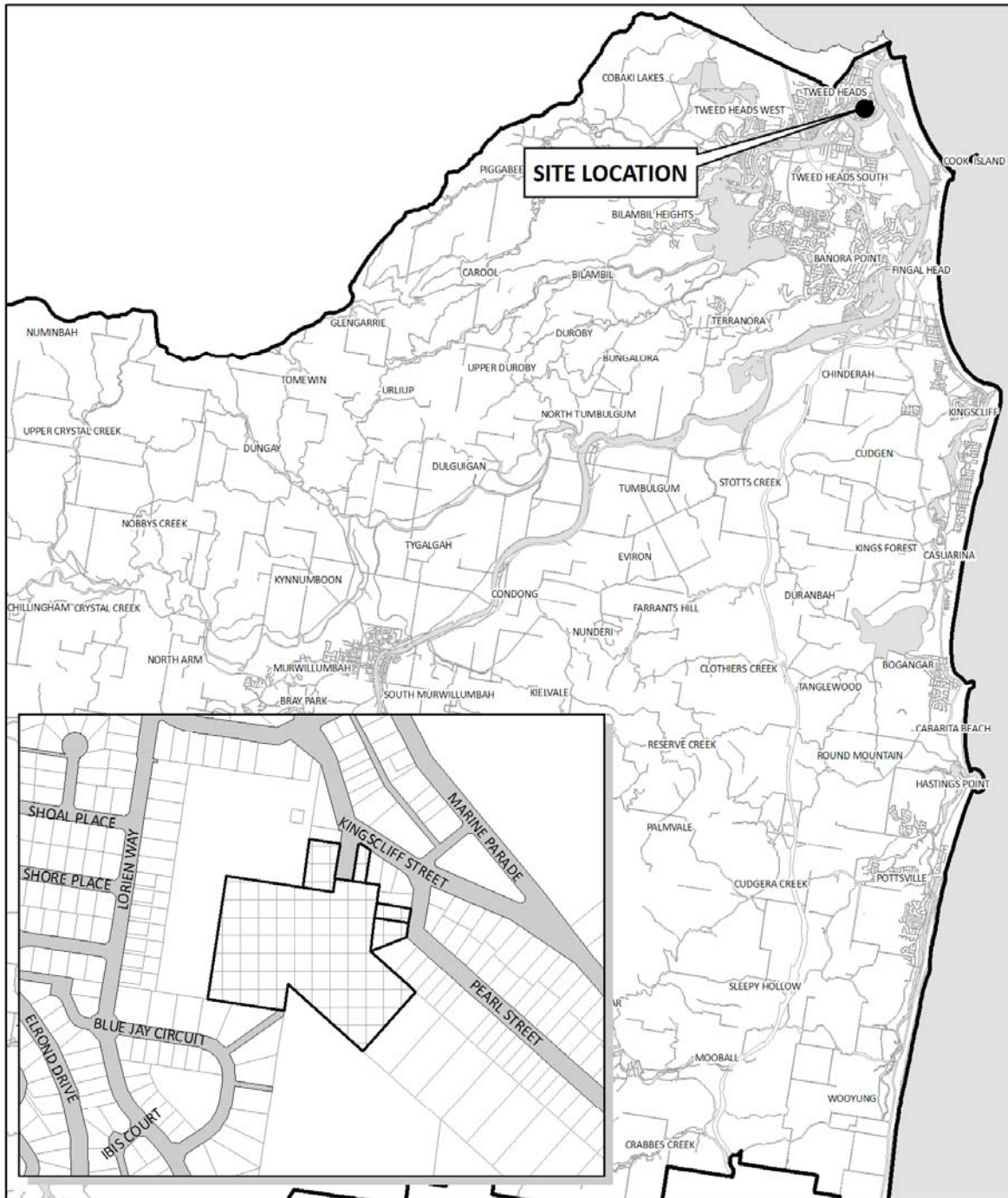
142 x Type A units (2 bedroom plus study);  
29 x Type B units (2 bedroom plus study nook); and  
29 x Type C units (3 bedrooms)

As a result of detailed assessment and negotiations with the applicant, Council proposes to upgrade the Blue Jay Circuit stormwater pipe to provide sufficient capacity for the proposed development in terms of stormwater drainage. Due to the high cost of this project, and the reliance on this service to provide a lawful point of discharge for the subject land, the applicant has agreed to provide a monetary contribution to the project. A condition has been imposed requiring a Planning Agreement to be entered into for the stormwater works.

The proposed development has been assessed against all of Council's applicable policies, as well as the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The application was advertised for a period of 30 days, during which time five submissions were received.

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

**SITE DIAGRAM:**



**LOCALITY PLAN**

Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP 28949; Lot 1 & Lot 2 DP 378971  
 No 16, No 18, No 20 Kingscliff Street & No 90 & 92 Pearl Street Kingscliff

Filename: z:\esri\planning\mxd\A4P\_B&W SitePlan.mxd

Author: J.Batchelor - Planning Reforms Unit

Date Printed: July 03, 2009

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaim all responsibility and liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Call before you Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.



Cadastre July 03, 2009  
 © Dept. of Lands & Tweed Shire Council

Coordinate System - MGA Zone 56  
 Datum - GDA 94

DO NOT SCALE  
 COPY ONLY - NOT CERTIFIED



**Tweed Shire Council**  
 PO Box 816,  
 Murwillumbah  
 NSW 2484  
 Tel: (02) 6670 2409  
 Fax: (02) 6670 2483











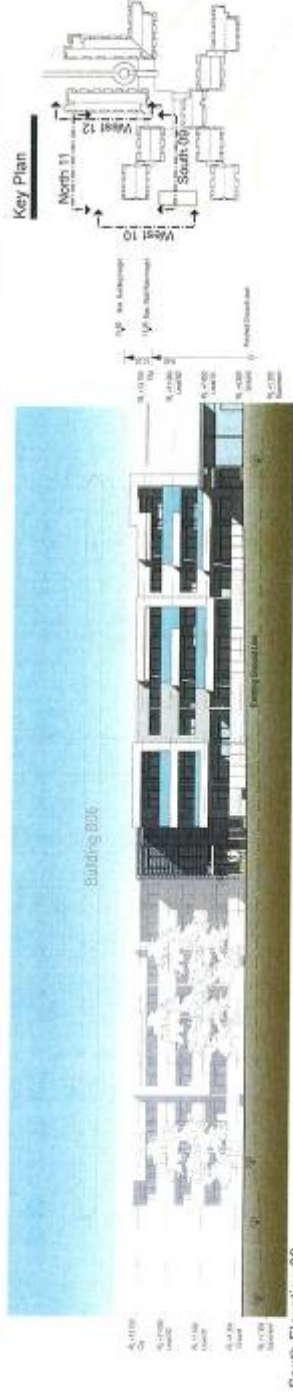


**DISCLAIMER**  
 M. Design is not responsible for the accuracy of the information contained herein. The information is provided for informational purposes only and is not intended to be used as a basis for any legal or financial decision. The information is provided as a service to the client and is not intended to be used as a basis for any legal or financial decision. The information is provided as a service to the client and is not intended to be used as a basis for any legal or financial decision.

**NOTES**  
 1. All elevations are shown in feet and inches.

**REVISIONS**

NO.	DATE	DESCRIPTION
1	09/11/2024	Initial Design
2	09/11/2024	Revisions



South Elevation 09



West Elevation 10



North Elevation 11



West Elevation 12



**M Design**  
 ARCHITECTS  
 10000 Kingscliff Drive  
 Suite 100  
 Houston, TX 77055  
 Phone: 281.462.1000  
 Fax: 281.462.1001  
 www.mdesign.com

**KINGSCLIFF RETIREMENT VILLAGE**

FOR  
**KINGSCLIFF RETIREMENT TRUST LIMITED**

**ELEVATIONS  
 OVERALL ELEVATIONS  
 9-12**



4627-01-0 A-DA-30-03



**CONTRACTOR**  
 M&D Design  
 10000 14th Avenue, Suite 100  
 Golden, CO 80401  
 Tel: 303.440.1111  
 Fax: 303.440.1112  
 www.manddesign.com

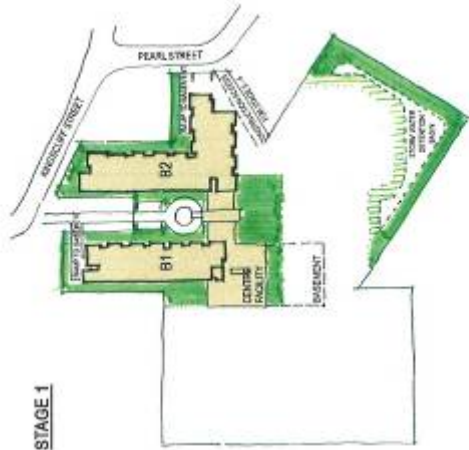
**DATE**  
 10/15/14

**PROJECT**  
 Kingscliff Retirement Village

**LEGEND**

-  BUILDING UNDER CONSTRUCTION
-  EXTENT OF LANDSCAPING
-  TEMPORARY LANDSCAPING

**STAGE 1**



**STAGE 2**



**STAGE 3**



**STAGE 4  
FINAL STAGE**



**ARCHITECT**  
 M&D Design  
 10000 14th Avenue, Suite 100  
 Golden, CO 80401  
 Tel: 303.440.1111  
 Fax: 303.440.1112  
 www.mandesign.com

**PROJECT**  
 KINGSCLIFF RETIREMENT VILLAGE

**FOR**  
 KINGSCLIFF RETIREMENT TRUST LIMITED

**CONSTRUCTION SEQUENCE STAGES 1-4**

**DATE**  
 10/15/14

**SCALE**  
 1" = 100'











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

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

#### Tweed Local Environmental Plan 2000

##### Clause 4 - Aims of the Plan

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

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

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

##### Clause 5 - Ecologically Sustainable Development

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

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

##### Clause 8 – Consent Considerations

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

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

As noted below, the proposed development is considered to meet the primary objective of the zone by way of optimum utilisation of the site, whilst taking

into account environmental constraints. The proposal generally complies with Clause 8(a).

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

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

#### Clause 11 - Zone objectives

Clause 11 of the LEP relates to zone objectives. The subject site consists of two different zonings, as noted below:

Lots 1 & 2 DP378971 and Lots 6 & 7 Section 1 DP28949 are zoned 2(b) Medium Density Residential under the provisions of the LEP. The primary objective of this zone is to:

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

Lot 1 DP605577 and Lot 4 DP617471 are zoned 2(c) Urban Expansion under the provisions of the LEP. The primary objective of this zone is to:

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

The Tweed LEP 2000 provides a definition for housing for older people or people with disabilities being: -

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

The proposed use of the subject land for the purposes of housing for seniors or people with a disability is permissible with consent and is considered to be consistent with the zone objectives.

#### Clause 15 - Essential Services

Clause 15 of the TLEP requires the provision of essential services to be available to the site prior to any consent being granted. Council's reticulated potable water supply and piped effluent disposal infrastructure is available to the area. Council's Water & Sewer Engineer has undertaken an assessment of the development in this regard, as noted later in the report. Council's Development Engineer has also noted that electricity and telecommunication services are currently provided to the area. Appropriate conditions of consent have been applied in this regard.

#### Clause 16 - Height of Building

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

### Clause 17 - Social Impact Assessment

Clause 17 of the TLEP requires a social impact assessment for development types likely to have a significant social impact in the locality. The applicant has provided a Social Impact Assessment. Further comment is provided in this regard later in the report.

### Clause 34 - Flooding

Clause 34 of the TLEP provides objectives to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood liable land. The subject site is identified as being prone to flooding. Further detail is provided later in this report on the matter.

### Clause 35 - Acid Sulfate Soils

Clause 35 of the TLEP provides for the management of acid sulfate soils. The subject land is identified as being in a Class 2 area. Council's Environment and Health Unit has assessed the proposed development in this regard, noting the following;

*'An Acid Sulfate Soils Investigation, Border-Tech, November 2008 (BT 17817-Ass) has been undertaken and submitted for consideration. Sampling (field and laboratory) were completed and analysed. The report indicates the site to be a very high treatment area with all material excavated below 1.5m AHD being required to be limed at 12kg/dry tonne or 17kg/dry m<sup>3</sup>. The investigation is deemed satisfactory, subject to conditions of consent'.*

### Clause 39 – Remediation of Contaminated Lands

The applicant submitted a Preliminary Contaminated Land Assessment Report for consideration. Council's Environment and Health Unit has applied appropriate conditions of consent with regards site contamination to the affect interim and final statements are required from an approved DECC auditor confirming that the site is suitable for the proposed use.

Assessment of the report by Council's Environment and Health Unit also determined that further information was required with regard to the proposed fill source material. Upon receipt of such information, Council's Environment and Health Unit was satisfied with the proposal, subject to applicable conditions of consent with regard documentation of imported fill material, from an approved source etc.

### Clause 39A – Bushfire Protection

Clause 39A of the TLEP refers to bushfire prone land. The subject site is identified as bushfire prone and the applicant has provided an assessment against the Planning for Bushfire Protection 2006 guidelines. As the proposed development of the land is for special fire protection purposes (under the Seniors SEPP), integrated referral to the Rural Fire Services was undertaken. The RFS have issued a bushfire safety authority as required under section 100B of the Rural Fires Act 1997 and conditions of have been included.

### **State Environmental Planning Policies**

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

### **Clause 32B: Coastal Lands**

This Clause requires the consideration of the NSW Coastal Policy, Coastline Management Manual and the North Coast Design Guidelines for proposals on coastal lands; and also contains provisions relating to public access to the foreshore.

The proposal is considered to be generally consistent with the relevant provisions of the NSW Coast Government Policy and the Coastline Management Manual. The development is sited several hundred metres away from the foreshore and beach. The development will not impede public access to the foreshore or cause any overshadowing of beaches or adjacent open space. Accordingly, the proposal fully complies with this clause of the REP.

### **Clause 43: Residential development**

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

### **SEPP No. 55 - Remediation of Land**

As noted under Clause 39 of the Tweed LEP, Council's Environment and Health Unit has no objection to the proposed development, subject to conditions of consent requiring site audit statements from an approved DECC auditor. Should contaminants above relevant health investigations be detected, an approved Remediation Action Plan is then required before any works can continue. As such, SEPP55 is considered to be satisfied.

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

The applicant has submitted a Design Verification and statement which addresses the 10 design principles under SEPP 65. The following is a brief summary of the proposal with regard the SEPP provisions.

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

The development is considered to be consistent with the desired future character of the area. It appears that the development has been designed in regard to the geographical context in which it is located and the natural and built features of the area. The building has been designed to address Kingscliff and Pearl Streets and is of a contemporary design that is not considered to detract from the surrounding built environment.

#### **Scale and Density**

Having regard for the size of the land, the 3 storey height limit and the desired vision of a medium density residential precinct, the development is suitable in both bulk and scale.



## **Resource Energy and Water**

The applicant has submitted BASIX certificates demonstrating the development is sound in terms of energy efficiency. The design appears to have taken into consideration various energy efficiency, water management and solar access provisions.

## **Landscaping**

Landscaping Intent plans have been provided with the development application. Council's Specialist Planner / Ecologist has assessed the proposal in this regard, noting that...*'sufficient area exists outside the development footprint to enable landscaping to meet general objectives as well as comply with Appendix 5 of Planning for Bushfire Protection (inner protection area)'*. Appropriate conditions of consent have been imposed to ensure that appropriate landscaping will be provided.

## **Amenity**

The applicant has submitted that...*'the primary goal was to provide a high level of privacy within the individual apartments, balanced by communal open spaces where residents have the ability to participate in the wide spectrum of activities on site'*. Conditions of consent have been imposed to ensure that amenity levels are maintained for surrounding residences, as well as future occupants of the development.

## **Safety and Security**

The proposal appears to have taken safety and security measures into consideration by way of surveillance of access points and security lighting within the site and landscaped areas etc.

## **Social Dimension**

Socially the development represents good utilisation of land zoned for medium density development within acceptable proximity to shops, clubs and other recreational opportunities in the Kingscliff area.

## **Aesthetics**

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

The overall aesthetics of the building provide a desirable modern development, which is in keeping with the future character of the surrounding area. It is considered that the proposed building will be prominent; however the height and scale of the building will be offset by good urban design and articulation.

In conclusion, the proposed development is considered to be consistent with the provisions of SEPP 65.

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, subject to appropriate conditions of consent. Specifically the proposed development is considered compatible with the intent for the development of the locality.

#### SEPP (Major Projects) 2005

The proposed development was originally lodged with the Department of Planning as a Major Project under Part 3A of the *Environmental Planning & Assessment Act 1979*. However, on 1 October 2008 the Department of Planning provided the applicant with written advice that the Minister had...*'formed the opinion on 23 September 2008 that the proposal is not of State or regional significance'*. Therefore, development consent is required under Part 4 of the Act, with Tweed shire Council being the consent authority.

#### SEPP (Housing for Seniors or People with a Disability) 2004

Aims of the Policy:

(1) *This Policy aims to encourage the provision of housing (including residential care facilities) that will:*

- (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) *make efficient use of existing infrastructure and services, and*
- (c) *be of good design.*

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

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

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

#### **Clause 8 - Seniors**

*In this Policy, **seniors** are any of the following:*

- (a) *people aged 55 or more years;*
- (b) *people who are a resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided;*
- (c) *people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.*

The applicant has noted that the occupation of the proposed apartments will be in accordance with this Clause.

#### **Clause 10 – Seniors housing**



In this Policy, **seniors housing** is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility; or
- (b) a hostel; or
- (c) a group of self-contained dwellings; or
- (d) a combination of these, but does not include a hospital.

The applicant has noted that the development will take the form of a group of self contained dwellings, with each unit including a kitchen and laundry.

### **Clause 13 – Self-contained dwellings**

#### (1) General Term: “**self-contained dwelling**”

In this Policy, a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

#### (2) Example: “**in-fill self-care housing**”

In this Policy, **in-fill self-care housing** is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

#### (3) Example: “**serviced self-care housing**”

In this Policy, **serviced self-care housing** is seniors’ housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.

The applicant has noted that the apartments will come within the general term “self-contained dwelling” and the proposed development would be defined as “serviced self-care housing”.

### Part 1 – General

#### **Clause 14 – Objective of Chapter**

*The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.*

The proposed development is considered to be consistent with Clause 14.

#### **Clause 15 – What Chapter does**

*Allows development on land zoned primarily for urban purposes for the purpose of any form of seniors housing.*

The land is zoned for urban purposes, being 2(b) Medium Density Residential and 2(c) Urban Expansion under the provisions of the LEP. Therefore, the proposed development meets the provisions of Clause 15.

**Clause 16** – Development consent required

*Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.*

As noted above, development consent is required under Part 4 of the Act, with Tweed shire Council being the consent authority.

**Clause 17** details provisions for development on land adjoining land zoned primarily for urban purposes. This is not applicable to this application as the site is zoned for urban purposes.

**Clause 18** - Restrictions on occupation of seniors housing allowed under this Chapter

(1) *Development allowed by this Chapter may be carried out for the accommodation of the following only:*

- (a) *Seniors or people who have a disability,*
- (b) *People who live within the same household with seniors or people who have a disability,*
- (c) *Staff employed to assist in the administration of and provision of services to housing under this Policy.*

The applicant has acknowledged that the proposed development will be in accordance with this Clause.

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

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

**Clause 19** details provision for use of senior's housing in commercial zones. This is not applicable to this application as the site is not zoned for commercial purposes.

**Clause 21** allows the subdivision of the land with consent. The applicant has acknowledged that strata subdivision of the apartments is not proposed. As such, this clause does not apply.

**Clause 23** refers to development on land used for the purposes of an existing registered club. Although the subject site is owned by the Kingscliff Bowls Club, the site itself is not a registered club and therefore this clause does not apply.

*Part 1A – Site compatibility certificates*

**Clause 24** and **Clause 25** relates to site compatibility certificates required for proposals on land which adjoins land zoned primarily for urban purposes, land zoned as a Special Use, land that is used for the purposes of an existing registered club, or involves buildings having a floor space ratio that would require the consent authority to grant consent under CI 45 (Vertical Villages).

A site compatibility certificate is not required for the proposed development. As such, Clause 24 and 25 are not considered to be applicable.

Part 2 – Site-related requirements

**Clause 26** - Location and access to facilities

(1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with sub-clause (2) to:*

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

The applicant has stated that the Kingscliff Town Centre (located approximately 750m from the site) contains banks, a medical centre, chemist, ambulance and retail shops. In addition, the Kingscliff Shopping Centre (located approximately 600m from the site) contains a supermarket and specialty shops. In terms of community services and recreation facilities, the applicant has noted the following are available within the village of Kingscliff: ambulance station; police station; fire station; bowls club; Kingscliff beach; Cudgen Creek estuary; and Cudgen Leagues Club. In addition, the applicant has identified that a medical centre is located in Marine Parade.

(2) *Access complies with this clause if:*

- (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development and the overall average gradient along the distance is no more than 1:14, or*
- (b) N/A , or*
- (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division— there is a transport service available to the residents who will occupy the proposed development:*
  - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
  - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*

- (iii) *that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),*

*and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).*

The applicant has stated that Kingscliff Street / Pearl Street has a Surfside Buslines bus route with regular services to Tweed Heads (Route 603) hourly from 7.30am until 7.30pm Monday to Friday, 7.30am to 6.30pm Saturday and 8.30am to 6.30pm from Kingscliff to Tweed Heads. Whilst Route 603 does travel between Tweed Heads and Kingscliff, a check of the bus route has identified that the subject site is somewhat bypassed (with buses on Route 603 travelling via Chinderah Road, Cudgen Road and Turnock Street). However, further assessment shows that Route 601 (Effective of 30 March 2009) provides an alternative bus route between Kingscliff and Tweed Heads, and travels within 200m of the subject site (along Beach Street and Lorien Way). The land between the site and Beach Street is flat, providing a suitable access pathway. It should also be noted that the proposed development includes a community bus for the transport of residents of the Retirement Village to the Kingscliff Town Centre at least once per day and Tweed Heads at least once per week.

- (3) *For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*

- (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*  
(ii) *a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*  
(iii) *a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*

The applicant has noted that residents will be collected at the porte-cochere and delivered to the shopping centre car park or the town centre such that walking distance from the set down point to all facilities will be a maximum of 400m on level grades.

In light of the above provisions, Clause 26 is considered satisfied.

#### **Clause 27 – Bush fire prone land**

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies*

*with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.*

The subject site is identified as bush fire prone land and as such the applicant submitted Bushfire Threat Assessment Report (prepared by BCA Check and dated November 2008) against the Planning for Bushfire Protection 2006 guidelines. The application was referred to the Rural Fire services as Integrated Development. The RFS have issued a bushfire safety authority as required under section 100B of the Rural Fires Act 1997 and conditions of have been included.

**Clause 28 - Water and sewer**

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

The proposed development is located within the existing urban area of Kingscliff with water and sewerage services available. Council's Water & Sewer Engineer has confirmed that connection is available to Council's reticulated water and sewer mains in Pearl Street and Kingscliff Street. Further detail regarding water and sewer are discussed later in this report. Clause 28 is considered satisfied.

**Clause 29-** Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

- (1) *This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.*

Clause 24 does not apply to the proposed development. As a result, Clause 29 applies.

- (2) *A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v), which are noted below:*

*25(b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:*

- (i) *the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
- (iii) *the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out*

- in clause 26) and any proposed financial arrangements for infrastructure provision,*
- (v) *without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.*

The applicant states that the subject site has been filled, is highly modified, is regularly slashed and consequently has no natural environmental values. These issues are discussed in further detail later in this report. The applicant also notes that the existing uses and future development of surrounding land is likely to be that of two storey residential dwellings, along with a mix of multi dwelling housing developments up to three storeys. As such, the proposed development is considered to be compatible with the existing and future uses of the surrounding locality.

As noted above, the proposed development is considered to satisfy Clause 26. With regard infrastructure, the applicant has agreed to undertake substantial financial investment for stormwater infrastructure, allowing the proposed development to proceed. Further detail on stormwater matters are discussed later on the report.

The impact of bulk, scale and character of the proposal upon the surrounding environment has been assessed under separate heading. However in summary, the impact of the development is considered to be acceptable, with appropriate conditions of consent applied to minimise any such impact.

- (3) *Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.*

Having regard for the above, the proposed development is considered to meet the provisions of Clause 29.

### Part 3 – Design requirements

#### *Division 1 – General*

**Clause 30** requires that the applicant must provide a site analysis statement with the application addressing the following points; site dimensions, topography, services, existing vegetation, microclimates, location of buildings and other structures, views to and from the site and overshadowing by neighbouring structures. The applicant has provided detailed site analysis plans and notations within the Statement of Environmental Effects to satisfy Clause 30.

**Clause 31** relates to the design of ‘in-fill self-care housing’. The proposed development does not meet the definition for in-fill self-care housing, which is housing that does not provide the following services: *meals; cleaning services; personal care; or nursing care*. The applicant has noted that medical and day care nursing visitations will be available onsite, together with dining, laundry and cleaning services. As such, the proposed development is defined as ‘serviced self-care housing’ and Clause 31 does not apply.

**Clause 32** refers to the design of residential development. This clause states that a consent authority must not consent to a development application unless they are satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2. An assessment against the individual design principles are noted below, which concludes that this clause is considered satisfied.

*Division 2 – Design Principles*

**Clause 33** - Neighbourhood amenity and streetscape

*The proposed development should:*

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area; and*
- (b) N/A; and*
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*
  - (i) providing building setbacks to reduce bulk and overshadowing; and*
  - (ii) using building form and siting that relates to the site's land form; and*
  - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development; and*
  - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours; and*
- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) retain, wherever reasonable, major existing trees, and*
- (g) be designed so that no building is constructed in a riparian zone.*

In terms of the desired future character of the area, the applicant was requested to provide an assessment of the proposed development against the relevant provisions of Council's DCP Section A1 – Residential and Tourist Code. The applicant provided such assessment, the details of which are discussed later in this report. In any case, the proposed development is considered to satisfy this component of the clause.

With regard neighbourhood amenity and residential character, the applicant has identified a lack of transition between existing three storey development and single storey dwellings. They have attempted to address the issue by way of: incorporating substantial setbacks to reduce bulk; providing a compliant design in terms of allowable height; proposing landscaping which is sympathetic to the existing streetscape; and the retainment of exiting trees where possible.

The proposed development is considered to provide acceptable setbacks, with reasonable landscaping provisions. The subject site is located within an area undergoing change in terms of higher density development. As such, the proposal is largely in keeping with the amenity and streetscape of the neighbourhood. This Clause is considered to be satisfied.

### **Clause 34** - Visual and acoustic privacy

*The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

The applicant has provided an assessment of the proposed development in terms of compliance with DCP A1, which highlights that the development is compliant with required separation from existing residences and between each unit within the proposal. As noted by the applicant, private open space within the development...*'has created large areas of passive and active landscaped spaces to provide visual and physical amenity to residents and neighbours alike'*. In addition, the designs of the units incorporate a secondary balcony, located behind a screen structure, which provides additional privacy for the occupants of the proposed units.

An Environmental Noise Impact Assessment has been submitted with the application, which recommends various mitigation measures for the proposed development. Council's Environment & Health Unit has assessed the proposed development with regard acoustic impact during the proposed construction and operation of the proposal. Appropriate conditions of consent have been applied, including the requirement for additional detail prior to the occupation of the development relating to potential noise impacts on and off the site. Therefore, this clause is considered satisfied.

### **Clause 35** - Solar access and design for climate

*The proposed development should:*

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

The applicant has provided shadow diagrams for the proposed development, which indicate that the configuration and orientation of the development will not significantly impact upon sunlight to the private open space areas of neighbouring properties. In addition, the applicant has stated that the development complies with the sunlight access provisions of Section A1 of the DCP.

With regard the units within the development itself, where possible each apartment incorporates the windows of living and dining areas to the north. In terms of energy efficiency, the applicant has noted that the development incorporates the following:

- *'large balconies and additional screening for efficient solar management;*
- *6 star rated air conditioning units servicing the living and bedrooms of each unit; and*



- *Natural ventilation for kitchens and bathrooms;*

It is considered that the development has been designed so that where possible, the rooms receive adequate solar access. The top level of all south facing apartments will be conditioned to incorporate a 'clerestory' component in the roof, to allow additional solar access. It is also noted that all dwellings are configured so that the living / dining areas are located adjacent to the external living areas. This clause is considered satisfied.

### **Clause 36 - Stormwater**

*The proposed development should:*

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

The application was referred to Council's Infrastructure and Planning Engineer for assessment. As noted in further detail later in this report, the applicant's original stormwater design was not acceptable. The applicant has been involved in negotiations with Council, which have resulted in an agreement between the two parties relating to an upgrade in the public stormwater drainage system, which has allowed the proposed development to proceed to this point. Appropriate conditions of consent have been applied to ensure that the development complies with Clause 26 of the SEPP.

### **Clause 37 - Crime Prevention**

*The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:*

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

The applicant has noted the following strategies to be adopted in terms of effective crime prevention:

- *'Facilitating easy and effective surveillance by staff and residents. This can be achieved in two ways:*
  - *Residents are encouraged to be alert and aware of their surroundings by the strategically laid-out complex of buildings. Individually, each apartment cluster is provided with secure access-controlled entry points;*
  - *Staff will have access to CCTV monitoring at all access points throughout the village, as well as within each cluster;*

- *Ensuring that adequate measures, instructions and training are in place to raise awareness and instil confidence in the community’.*

Additional comment relating to safety and security is detailed within the principles of SEPP 65. This clause is considered satisfied.

### **Clause 38 - Accessibility**

*The proposed development should:*

- (a) *have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) *provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

As noted elsewhere in this report, each cluster of apartments is linked to the Central Facility. Safe pedestrian access is available from the entry point of the development at level grades to public transport services and local facilities. A porte-cochere over the entrance way to the building is proposed, allowing residents to safely gather and access the facility’s on-site mini-bus.

Vehicular access is proposed off Kingscliff Street, with a basement carpark for residents and visitors. In addition, visitor spaces will also be available at ground level. The at-grade parking will incorporate landscaping bays to provide an attractive and safe environment for both pedestrians and motorists. Access from the basement car park is via lifts and stairs to the ground level of each cluster of buildings. As such this clause is considered to have been satisfied.

### **Clause 39 - Waste Management**

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

The proposed development incorporates a refuse chute in each dwelling. A common refuse collection area is located in the basement. The applicant has provided a Waste Management Plan and a detailed plan of the waste storage area, which incorporates recycling provisions. Council’s Waste Management Coordinator has assessed the waste management plan with no objections, subject to conditions of consent. This clause is considered satisfied.

### Part 4 – Development standards to be complied with

#### **Clause 40 - Development standards – minimum sizes and building height.**

- (1) **General** *A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) **Site size** *The size of the site must be at least 1,000 square metres.*
- (3) **Site frontage** *The site frontage must be at least 20 metres wide measured at the building line.*
- (4) **Height in zones where residential flat buildings are not permitted** *If the development is proposed in a residential zone where residential flat buildings are not permitted:*

- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*
- (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

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

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

The total area of the site is 3.5188 hectares, exceeding the minimum requirement of 1000m<sup>2</sup>.

The site frontage to the road reserve off Kingscliff Street is 20.110m, exceeding the minimum requirement of 20m.

The site is zoned 2 (b) Medium Density Residential and 2(c) Urban Expansion, in which residential flat buildings are permissible with consent, with the site being affected by a three (3) storey height limit. Therefore the 8m standard is not applicable to this development.

Clause 40 is considered satisfied.

*Division 3 – Hostels and Self-Contained Dwellings: Standards concerning access and usability*

**Clause 41** - Standards for hostels and self-contained dwellings.

The SEPP notes that development standards concerning accessibility and usability for self contained dwellings require the development to be assessed against the standards specified in Schedule 3. An assessment against the provisions of Schedule 3 is noted below.

**Siting Standards** – *Wheelchair access and Common areas*

Access throughout the entire site is to be in accordance with Australian Standards for wheelchair access. The applicant has noted that the whole of the site will be less than a 1:10 gradient and that wheelchair access is also available to common areas within the site.

**Security** – *Acceptable pathway lighting must be provided*

The applicant has noted that the proposed development will comply with the SEPP's requirements for pathway lighting, noting that...*'any security lighting provided shall contain the light spill within the site'*.

**Letterboxes** – *must be situated on a hardstand area with wheelchair access, must be lockable and located together in a central location adjacent to the street entry*

The applicant has noted that the proposal meets the SEPP's requirements for letterboxes. Although there does not appear to be any nominated letterbox areas, the floor plan of the Central facility incorporates a mail room. An appropriate condition of consent will be applied requiring further detail in this regard prior to the issue of a Construction Certificate.

**Private car accommodation** – Resident car parking provisions must comply with the Australian Standards disability requirements; 5% of the spaces must be increased to a width of 3.8m; and any garage must be capable of being power operated.

A detailed assessment with regard the parking requirements under the SEPP are discussed later in this report. In this regard, the applicant has requested a variation to the minimum width requirements for residential car spaces. The revised car parking design and justification for variation has been assessed by Council's Traffic Engineer and Development Engineer with no objection, subject to conditions of consent.

**Accessible entry** – Every entry (whether a front door or not) to a dwelling must comply with clauses 4.3.1 and 4.3.2 of AS4299.

The applicant has noted that all units will comply with requirements of AS4299 and AS1428.

**Interior: general** – widths of internal corridors and circulation at internal doorways must comply with AS1428.1.

The applicant has noted that the proposal has been designed to comply with AS1428.1.

**Bedroom** – at least one bedroom must have sufficient area to accommodate a queen size bed, a clear area at the foot and beside the bed, 2 double power points (at the head of the bed), 1 general power point opposite the head of the bed, a telephone outlet next to the bed (on side closest to door and next to power outlet), & wiring for potential illumination of 300 lux.

The applicant has noted that the proposed development complies with this component of the SEPP. The typical layouts for each type of unit indicate compliance with bed size and clear areas beside the beds. The power points and wiring detail has not been provided at the stage of the development. An appropriate condition of consent has been applied requiring such detail to be provided at Construction Certificate stage.

**Bathroom** – at least 1 bathroom within a dwelling must have required facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS1428.1. They must have slip resistant floor, washbasin with clearances that comply with AS1428.1, shower that complies with AS1428.1, except that a grab rail, portable shower head & folding seat must be accommodated. A wall cabinet must be provided with sufficient illumination to enable labels of stored items to be read. A double power outlet must be provided beside the mirror.

The applicant has noted that further detail regarding compliance with bathroom requirements will be provided at Construction Certificate stage. An applicable condition of consent has been applied in this regard.

**Toilet** – dwellings must have at least 1 toilet and be a visitable toilet that complies with the requirements for sanitary facilities of AS4299.

The applicant has noted that toilets have been designed to comply with the provisions of the SEPP. Further detail is to be provided at Construction Certificate stage.

**Surface finishes** – balconies and external paved areas must have slip-resistant surfaces.

The applicant has noted that this requirement will be complied with at Construction Certificate stage. An applicable condition of consent has been applied in this regard.

**Door hardware** – door handles and hardware for all doors must be provided in accordance with AS4299.

The applicant has noted that this requirement will be complied with at Construction Certificate stage. An applicable condition of consent has been applied.

**Ancillary items** – switches and power points must be provided in accordance with AS4299.

The applicant has noted that this requirement will be complied with at Construction Certificate stage. An applicable condition of consent has been applied in this regard.

**Living room and dining room** – a living room must have a circulation space in accordance with clause 4.5.2 of AS4299 & a telephone adjacent to a general power outlet. A living and dining room must have wiring to allow potential illumination level of at least 300 lux.

The applicant has noted that each unit has been designed to comply with the circulation space requirements. The typical layouts for each type of unit indicate an area in excess of 2.25m in each living / dining area. Telephone and wiring provisions have not been provided at the stage of the development. An appropriate condition of consent has been applied requiring such detail to be provided at Construction Certificate stage.

**Kitchen** – kitchens must have a circulation space in accordance with clause 4.5.2 of AS4299, a complying door width as well as benches, tap set, cook tops & oven in accordance with clause 4.5 of AS4299. 'D' pull cupboard handles are to be provided as well as a double power outlets within 300mm of the front work surface and a power outlet for a refrigerator.

The applicant has noted that the proposal has been designed to comply with the kitchen circulation and door width provisions of the SEPP, with further detail relating to fittings being provided at Construction Certificate stage.

**Lifts in multi storey buildings** – for multi storey developments containing separate dwellings on different storeys, lift access must be provided to dwellings above ground level, compliant with BCA requirements.

The applicant has noted that the proposal has been designed with lift access to dwellings above the ground floor level, which is compliant with clause E3.6 of the BCA.

**Laundry** – dwellings must have a laundry that has a compliant width, provision for the installation of an automatic washing machine & clothes dryer, a clear space in front of the compliances (at least 1.3m), slip resistant floor surface & an accessible path to any clothes line.

The applicant has noted that the development is compliant in that each dwelling has been designed with a laundry space, washing machine and applicable clear space in front of the appliances. The applicant also noted that detail relating to surface finishes and access paths is to be provided at Construction Certificate stage.

**Storage for linen** – provision for linen storage within each dwelling must be in accordance with clause 4.11.5 of AS4299.

The applicant has noted that the proposed development meets the provisions of this clause.

**Garbage** – a garbage storage area must be provided in an accessible location.

The applicant has noted that the proposed development complies with this provision of the SEPP. Although not noted on the typical layout plans, the applicant has stated that waste disposal is via garbage chutes.

In terms of the overall provisions of Clause 41, the proposed development is considered to be consistent with the SEPP. As noted above, appropriate conditions of consent have been applied requiring the provision of further detail at Construction Certificate stage to ensure that applicable access and usability requirements are met.

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

##### *Division 4 – Self contained dwellings*

**Clause 50** – Standards that cannot be used to refuse development consent for self contained dwellings

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

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

The proposal is a multi level development that exceeds 8m. However, the development meets the three (3) storey height limit applicable to the site.

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

The applicant has noted that the Floor Space Ratio is 0.77:1, which is allowable under the FSR provisions of DCP Section A1 for multi dwelling development. It is also noted that the maximum FSR under Section A1 is 1.2:1 for residential flat buildings.

**(c) Landscaped area:** if a minimum of 30% of the area of the site is landscaped.

The area of the site is 3.5188ha, which equates to the need for 10,556m<sup>2</sup> of landscaped area. The proposed development incorporates a landscaped area of 11,215m<sup>2</sup> (31.8% of the site), which exceeds the requirement and is considered satisfactory.

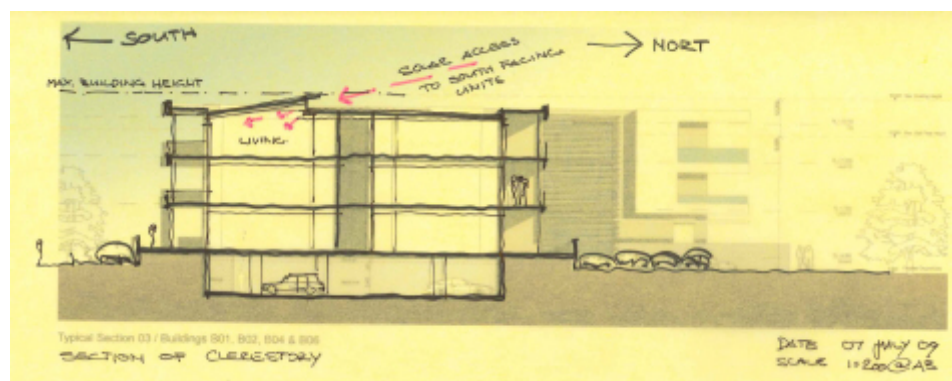
- (d) **Deep soil zones:** 15% of the site area, with two-thirds of the area to be located at the rear of the site, each having a minimum dimension of 3m.

15% of the site equates to 5,278m<sup>2</sup> in area required for deep soil zones. The architectural plans nominate a deep soil zone area of 5,600m<sup>2</sup> (16%). However, as the basement car parking level is contained within the building line of the units, the entire landscaped area has the potential to be deep soil zones. Therefore, the proposal is considered to greatly exceed the minimum deep soil zone requirements.

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

The applicant has noted that only 65% of the dwellings comply with the solar access requirements for living rooms and private open space areas. Investigation into this issue has resulted in the applicant proposing a 'Clerestory' component into the roof of south facing units on the third level of the proposal. This effectively raises the roof to allow sunlight into the top level units and results in a development which exceeds the SEPP's requirements for solar access.

In addition, the clerestory component can be incorporated into the design of the development without exceeding the maximum building height provisions for a three storey multi dwelling housing development (as noted in the applicant's sketch below). A condition of consent has been applied requiring the clerestory component to be incorporated into the development at the Construction Certificate stage.



- (h) **Parking:** if at least the following is provided:
- (i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider.

The proposed development incorporates 429 beds, which requires 215 car spaces under this provision of the SEPP. After various discussions relating to car parking (detailed later in this report) a car parking

arrangement has been proposed incorporating 256 spaces. As such, the proposal is considered to comply with this clause.

Therefore, having considered all of the abovementioned criteria, the proposed development is considered to meet the aims and requirements of the SEPP (Housing for Seniors or People with a Disability) 2004, subject to applicable conditions of consent.

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

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

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

As a result of the proposed development being proposed under the provisions of the Seniors SEPP, strict compliance with Section A1 is not required (as would be the case if the application was lodged as 'Multi-Dwelling Housing'). Despite this, the applicant was requested to provide an assessment of the proposed development against the planning principles of the DCP, particularly in relation to the 'existing and future character of the area'. Such an assessment was considered necessary to meet the provisions of Clause 33 of the SEPP in terms of assessing the 'character fit' of the development.

As a consequence, the applicant undertook a detailed analysis of the development against all of the provisions of A1, with the applicant concluding the following:

*'In summary, the compliance check demonstrates that the development proposal substantially complies with all relevant development standards contained in Part A1 relating to existing and future character of the area. We submit that the proposal does fit the desired future character of the area based on the provisions of Part A1.'*

The conclusions made by the applicant are concurred with in that the development is considered to meet the desired future character of the area. As such, the development is also considered to satisfy the provisions of Clause 33 of the SEPP.

A2-Site Access and Parking Code

Council's DCP refers to the Seniors SEPP carparking requirements for housing for older people or people with a disability. As noted above, the SEPP requires 0.5 spaces for every bed within the development. The proposal incorporates 429 beds, which results in a minimum of 215 spaces for parking purposes. The original design met the minimum 215 spaces and also included 50 visitor spaces and 12 staff spaces. In addition to the number of spaces, the SEPP has clear requirements on the minimum width of the car spaces. A detailed assessment has been undertaken by Council officers in relation to car parking provisions, with Council's Traffic Engineer providing the following comment on the original parking provisions proposed by the applicant:



*'The proposed number of car spaces is in accordance with SEPP (Housing for Seniors and Persons with a Disability) 2004.*

*The proposed width of the car spaces is not in accordance with the SEPP as disabled persons parking in accordance with AS2890 (i.e. 3.2m width per space) is mandatory under this policy however a width per space of only 2.6m is proposed. Also mandatory under this policy is that 5% of these spaces must be 3.8m wide of which none have been provided or at least shown on the proposal plans'.*

Council's Traffic Engineer required substantial justification from the applicant to consider any variation to the car space width provisions under the SEPP. Discussions were held with the applicant in order to negotiate a reasonable figure of residential car spaces that meet the minimum 3.2m width, without significantly impacting on the number of visitor car spaces.

At the meeting, it was agreed that the applicant had to undertake further investigation into a car parking design which accommodated approximately 50% of the spaces at 3.2m wide. In addition, it was important that 1 space per unit (i.e. 200 spaces were provided overall, as a minimum). Council also required 40 visitor spaces and at least 12 staff spaces. During the meeting, the possibility of incorporating additional visitor spaces within the road reserve at the main entrance to the site was discussed, with no objection from Council subject to appropriate landscaping also being incorporated. With regard the revised car parking design, Council would not consider any variation from the SEPP without substantial justification.

Revised Basement and Ground Floor Plans were subsequently lodged for Council's consideration. The amended plans proposed: 200 residential spaces (42.5% at 3.2m wide and 8% at 3.8m wide); along with 40 visitor spaces (8 of which are proposed within the road reserve); and 12 staff spaces. In addition, the overall parking design incorporates ambulance, community bus and car wash bay spaces. The total number of spaces proposed by the development is 256 spaces.

Also provided was a revised Traffic Report which refers to the RTA Guidelines for Traffic Generating Developments (which requires lower car parking requirements for Resident Funded Aged Housing – 2 spaces for every 3 units) and car parking surveys from existing development of a similar nature to justify a variation from the car space width requirements. The report also noted:

*'The occupancy / ownership of the development will be based on Leasehold Tenure. This will allow the operator to provide car parking bays suitable for people with a disability to the appropriate residents. Given that the proposal is for Independent Living dwellings, where residents must be capable of supporting themselves, it is expected that all residents will have a high level of mobility and will not require disability car parking. It is therefore considered that the proportion of disability parking bays is suitable and will more than cater for the needs of the residents'.*

Upon consideration of the revised parking layout and justification for the variation to SEPP requirements, Council's Traffic Engineer and Development Engineer have no objections to the development, subject to conditions.

### A3-Development of Flood Liable Land

Council's Development Engineer has provided the following comment with regard flooding:

*'The site is flood liable: the Design Flood Level for this site is RL 3.3m AHD. Existing ground levels vary from RL 0.9 to RL 3.8. The site will be filled accordingly. The minimum habitable floor level is RL 3.8m AHD.*

PMF refuge: *It is noted that the applicant intends to provide internal refuges within the buildings, advising all occupants above the first floor that they must accommodate lower level occupants in times of flood. This will be imposed as a requirement and prospective occupants advised via lease agreements and other mandatory documentation (i.e. – General Inquiry Document and Disclosure Statement per Item 5.10 of the S.E.E.).*

*This is not required (per TSC A3 item A3.2.5(b)) as the site has a permanent high level road evacuation route: both streets are above the Design Flood Level, and can lead to areas above the PMF. Nevertheless if the applicant wishes to impose such a requirement, it is seen as an extra safety measure, and Council raises no objections to the proposal. No further action by Council in this regard.*

### A11-Public Notification of Development Proposals

The proposed development was placed on Public Notification for a period of 30 days, during which five (5) submissions were received. The issues raised by the submissions are addressed in detail later in this report.

### A13-Socio-Economic Impact Assessment

Section A13 requires all development proposed under the provisions of the Seniors SEPP incorporating more than twenty units to be accompanied by a Socio-Economic Impact Statement. The applicant has provided such a statement, which incorporates: a study of the demographic profile for the area; a socio-economic assessment (including impacts) of the proposal; and notes the following conclusion and justification:

*'It is our opinion that the proposal achieves a sound balance between the site's opportunities and constraints and substantially complies with all relevant statutory and strategic planning policies and guidelines. It has been noted that some potential minor negative impacts may arise during the construction phase, however to a large extent these can be managed and mitigated as reflected in Section 9.0 of the Statement.*

*Clearly, as documented in this Statement the proposed development, which will provide direct investment of \$61 million and approximately 150 direct jobs during construction, a direct annual investment of approximately \$6 million and 30 fulltime equivalent jobs during operation, will result in significant positive and social economic outcomes.*

*It is emphasised that Kingscliff Beach Bowls Club is an established community organisation which is the proponent for the retirement village for the benefit of Club members and the community generally.*

*In conclusion, it is submitted that the proposal is well justified in terms of socio-economic considerations. Furthermore, the approval of the*

*application would be consistent with ecologically sustainable development principles, the NSW Government Coastal Policy and the aims and objectives of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004'.*

The applicant's detailed assessment against the various socio-economic impacts is considered to meet the provisions of the DCP.

#### B4-West Kingscliff

The applicant has noted the following with regard Section B4 of the DCP:

*'Under the provisions of the Plan, the subject land is designated as a Club site. This land use was originally allocated on the basis that the existing Kingscliff Beach Bowls Club, because of coastal process, may have to relocate. However, since the original Development Control Plan was prepared in the early 1990's, significant protection works have been put in place to protect the existing Club and therefore relocation is no longer required.*

*In the circumstance the use of the subject land is considered to be appropriate and in this regard Council's Development Assessment Panel has advised that as the Club land use is indicative only there is no need to amend the Development Control Plan to facilitate approval of this application'.*

The above statement is concurred with. In all other aspects, the proposed development is considered to be consistent with the provisions of the DCP.

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

##### Clause 92(a) Government Coastal Policy

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

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

The construction of the proposed development will require the demolition of existing buildings located on the five of the six allotments incorporated into the subject site. The applicant has provided a demolition report which incorporates a work plan detailing the proposed methods and mitigation measures to be used during the demolition of the dwellings and RSL Hall. Council's Building Unit and Environment & Health Unit have assessed the proposed development in terms of demolition and pre demolition under slab contamination. Appropriate conditions of consent have been applied in this regard.

#### **(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**

##### Access, Transport and Traffic

There will be two access points for this site: the main access will be a 6m wide driveway within an un-named road reserve leading to Kingscliff Street; while a secondary access (for staff and service vehicles) will come off Pearl Street. Council's Development Engineer has assessed the proposed development in this regard with no objection, subject to conditions of consent relating to construction of the main driveway access, including a slight realignment of the main access to ensure it intersects with Kingscliff Street perpendicularly.

Council's Development Engineer also noted that...*'the Services Report by Hyder Consulting states that 200 vehicle movements per day will be generated by this development. No engineering concerns are raised. The existing road network can adequately cater for this increased traffic loading'*.

### Pre-Demolition Testing

The applicant provided a Pre-demolition Under Slab Soil Contamination Investigation (HMC, November 2008). Council's Environment & Health Unit has undertaken an assessment of the proposed development in this regard, noting that pre-demolition testing has been undertaken for three of the four existing dwellings, with...*'no materials of concern being detected above relevant HIL's'*. No further assessment is required in this regard.

### Dewatering

The applicant has submitted a Dewatering Management Plan for the proposed development. Council's Environment & Health has assessed the management plan with no objection, subject to conditions of consent. In addition, Council's Specialist Planner / Ecologist assessed the proposal in this regard. Further detail was provided in terms of the zone of influence as a result of the proposed basement excavation. Council's Specialist Planner / Ecologist has noted that the additional information provided is...*'sufficient to alleviate concerns with regards to groundwater drawdown for the proposal'*. Appropriate conditions of consent have been applied. The proposal was also forwarded to the Department of Water & Energy as Integrated Development. The Department's comments have been noted later in this report.

### Noise

The applicant provided an Environmental Noise Impact Assessment (incorporating consideration with regards to: construction noise; vehicle noise; and operational noise impacts for both on and off site) at the request of Council's Environment & Health Unit. The acoustic assessment is considered to be satisfactory, subject to conditions of consent. The conditions include the requirement for a Construction Noise Management Plan prior to the issue of a Construction certificate, as well as the need for a report assessing all mechanical plant and equipment for potential noise impacts on and off site.

### Stormwater Management

Council's Infrastructure and Planning Engineer has provided the following comment with regard the original stormwater management design proposed by the applicant:

*'The site accepts runoff from significant external catchments to the north, west and east, with flows traversing the site towards low lying land to the south.'*

*A Council 1200mm diameter stormwater pipe is located within a public walkway off Blue Jay Circuit near the southern boundary of the site. This pipe conveys flows up to the Q5 storm to the west to the main Kingscliff Drain, and ultimately the Tweed River. This is the site's only lawful point of discharge. The inlet arrangement for this pipe is complicated however, by its existing location within a triangular section of Gales Holdings land. Unfortunately this drainage path, being part of the filled Noble Park Estate, does not provide a major flow path for events in excess of the Q5 storm. The applicant contends that as existing major flows enter Gales Holdings Land to the south, this regime should continue'.*

As a result of public notification, several submissions were received from adjoining properties raising concerns with the proposed drainage system. Council's Infrastructure and Planning Engineer has provided the following comment response to the issues raised in the submissions:

*'On behalf of Gales Holdings, Dr Stephen Webb has prepared a report that raises (in summary) the following concerns relating to water quantity:*

*"...the whole stormwater drainage design is predicated on the existing 1200 mm pipe under Noble Park Estate having the normal capacity of a 1200 mm pipe. This is not the case. Further, Gales land and the adjoining external catchments require access to this same 1200 mm pipe whilst the land remains undeveloped. The design does not appear to allow for this. For a whole range of reasons, as set out above, the proposed detention basin is inadequate in size and some of the various catchments that are assumed to drain to it do not appear to be able to drain to it. The increase in future flows caused by the development has been underestimated. The failure to consider longer duration storms, climate change and floods greater than the 100 y design flood, has compounded the inadequacies in the design. These aspects are particularly critical as they all potentially adversely impact on the Gales land and its future development."*

*The points raised in Dr Webb's submission are valid concerns requiring the attention of the applicant. The more detailed design comments regarding catchment calculations and detention basin sizing need to be resolved by the applicant's hydraulic engineer.*

*Council officers are currently considering the preferred option for a Q100 discharge path from the Bowls Club catchment to the Kingscliff Drain, to rectify the apparent oversight in the design of Noble Park Estate without the provision of an overland stormwater flow path. Overall, the Gales Land does not currently present a lawful point of discharge for the proposed development, which represents a significant constraint on the development proposal.*

*On behalf of Blue Care, Cardno have expressed concern that the proposed works will block the existing emergency overflow swale from the Blue Care detention basin to the inlet of the Blue Jay Circuit drainage system and beyond. This is the only overland flow outlet from the Blue Care site and must be preserved, otherwise the facility and adjoining residential dwellings will be at risk of flooding. While a perimeter swale is proposed along the southern boundary, it would have a reduced cross*

*sectional flow area and would be at a higher invert level than the existing swale.*

*The Cardno submission also raises concerns about the proposed 1:1 batter on the common (western) boundary of the development site. Location of the swale above such a steep batter raises stability and maintenance concerns.*

*The points raised in the Cardno submission are valid concerns, requiring the attention of the applicant'.*

Subsequent negotiations with the applicant have resulted in an alternative stormwater solution that avoids On-site Stormwater Detention and also avoids any discharge on to the adjoining Gales' land. The following comments were provided by Council's Infrastructure and Planning Engineer in this regard:

*'The central issue facing the proposed development, being the lawful point of stormwater discharge has progressed to a stage where the assessment of the subject application can proceed.*

*Council now proposes to upgrade the Blue Jay Circuit stormwater pipe from a 5 year ARI capacity to a 100 year ARI capacity. Due to the high cost of this project, and the reliance on this service to provide a lawful point of discharge for the subject land, the applicant has agreed to provide a monetary contribution to the project. By doing so, the applicant may also delete the stormwater detention basin previously proposed at the rear of the development. The applicant's planning consultant has provided a draft condition of consent which has been reviewed and amended by Council officers to ensure that suitable cost sharing arrangements are in place for the drainage project.*

*With regard to the other stormwater concerns raised, the applicant has not made significant changes to the proposal. Conditions of consent are recommended to ensure that issues relating to perimeter drainage, external catchments, relocation of public stormwater infrastructure, stormwater quality control, and protection of the basement from the ingress of stormwater are dealt with during detailed design'.*

### Sewer

Based on the limited documentation originally provided by the applicant, Council's Water & Sewer Engineer provided the following comment:

*'Once current augmentation works are completed in Kingscliff, the current overloading of the trunk sewer, Line A, which services this site, there will be adequate capacity for this development to be connected.*

*However, the proposed development will construct substantial buildings with basement car parking and filling of the site over the location of the trunk sewer. For the development to proceed, the applicant must demonstrate that a satisfactory design for the relocation of the sewer is possible.*

*Hence it would appear that the relocated main would have to be of a larger diameter than the existing. The proposed relocation also fails to reconnect properties Nos 12 & 14 Kingscliff St and 94 Pearl Street. This detail needs to be included. Generally, Water Unit is not happy with the*

*proposed relocation design given. The proponent needs to demonstrate a viable design prior to approval of the application'.*

Council's Water & Sewer Engineer has been negotiating with the applicant's consultants, with further detail provided to Council for further consideration by Council's Water & Sewer Engineer. To this effect, Council's Development Engineer has noted that...*'the existing sewer mains servicing and encumbering the site will require significant realignment to avoid the proposed buildings. Preliminary designs are not quite appropriate, but do indicate that a workable solution is possible'*. Appropriate conditions of consent have been applied in this regard.

#### Waste Collection

The applicant has provided a Waste Management Plan (WMP) for works involved with the demolition of existing structures, construction and operation of the proposed development. Also provided were details of the location, size and collection of the waste bins.

Council's Waste Management Coordinator has assessed the proposed development, noting that the WMP is adequate for the development. Appropriate conditions of consent have been applied, including the requirement that all demolition, construction and operation phases of the proposal are to be in accordance with the approved Waste Management Plan.

#### Landscaping

Council's Specialist Planner / Ecologist has assessed the proposal in terms of landscaping provisions, noting that ...*'although a detailed Landscape Plan has not been provided, it is considered that sufficient area exists outside the development footprint to enable landscaping to meet general objectives as well as comply with Appendix 5 of Planning for Bushfire Protection (inner protection area)'*. Appropriate conditions of consent have been applied with regard landscaping requirements.

#### Flora and Fauna

Council's Specialist Planner / Ecologist's initial assessment of the proposed development raised concerns with regard potential off-site impacts to adjacent wetland areas known to support Wallum Froglets (*Crinia tinnula*), as a result of proposed filling. The following comments were made in this regard:

*'The site has been cleared of its original vegetation for a long period of time and consists predominately of slashed grassland. A small number of native trees occur in the western portion of the site and a low lying wet area occurs in the far south-eastern portion of the site. It is this area that contains some sedgeland and is of most interest in relation to its habitat value. Despite being degraded and having a history of slashing in the past, it presently consists of grasses and sedges up to 1m in height with some pools and standing water evident'*.

As a result of the initial information not satisfying survey requirements for Wallum Froglets, the applicant was requested to undertake the required fauna survey (preferably prior to the determination of the application). Consequently, additional survey work was undertaken, with the following comments provided by Council's Specialist Planner / Ecologist:

*'Further information regarding targeted fauna survey for Wallum Froglets to accord with DECC guidelines has been received today from James Warren and Associates. The information submitted satisfies the minimum survey requirements for Crinia tinnula under these guidelines, is deemed sufficient for the purposes of Section 5A of the EP&A Act and has not recorded Crinia tinnula on the actual development site.*

*Wallum Froglets were recorded from the adjacent land to the south, with the closest record some 70m from the southern boundary of the subject site. A number of other frog species were recorded within the site near its perimeter; however, the species recorded are locally common and abundant species. Impacts arising from this proposal include filling of a small portion of their available habitat and a detrimental impact at a population level for these species is unlikely to result from the development.*

*Mitigation measures are recommended in relation to the quality of water leaving the site and traversing south toward known Wallum Froglet habitat. In addition, strict erosion and sediment control measures need to be employed to ensure no detriment to such areas arises from sedimentation during fill operations. These aspects have been included within the consultant's report as recommended mitigation measures and have been conditioned with reference to that report.*

*With the imposition of the conditions of consent, it is unlikely that a significant impact on threatened species, populations or ecological communities will result from the proposal.*

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

As noted above, the subject site is located within a well established residential area of Kingscliff. The proposed development is generally compliant with all relevant policies applicable to such a development. This includes the SEPP (Housing for Seniors and People with a Disability) 2004, the Tweed LEP 2000 and Development Control Plan. As such, the proposed development is considered suitable for the subject site, subject to conditions of consent.

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

The application was an exhibition for 30 days. During this time, five (5) written submissions were received. The issues raised have been summarised below:



<b>Issue</b>	<b>Objection Comment</b>	<b>Assessment</b>
Drainage	Flooding issues are experienced for surrounding residential development during heavy storm events. Concern is raised about further stormwater drainage issues as a result of the proposal upon surrounding dwellings.	As noted within the body of this report, negotiations between Council staff and the applicant have resulted in an alternative stormwater drainage solution. Appropriate conditions of consent have been applied requiring further detail for all stormwater drainage under a S68 approval, prior to the issue of a construction certificate.
Construction Impact	Access to the site runs along existing dwellings. Concern is raised about potential impact from vibration and general construction activities on the surrounding area.	The applicant has acknowledged the concerns of surrounding residents and is willing to accept a standard condition precluding the use of vibratory compaction equipment in close proximity to residential properties, as well as a condition of consent requiring the applicant to carry out Pre and Post Construction Dilapidation Reports on all adjoining buildings. These conditions have been applied.
Loss of Access	The vacant subject site is used by the surrounding community as a safe short cut through to Pearl St, Marine Parade, the beach and bowls club etc. The alternative is to walk along the road reserve of Beach and Turnock Streets, which raises pedestrian safety concerns. Suggests a public walkway through the development for the community's interest.	The applicant has confirmed that no provision will be made for public access through the site as it is freehold land and public access would be incompatible with the proposed use and give rise to significant security and privacy issues. The applicant's comments are concurred with and no such requirement has been applied to the development. The fact that the site has been historically used for access by the public does not give rise to the expectation that such access will continue once the site is developed.
Emergency Overland Flow	Stage 2 of the proposed development would fill Bluecare's existing emergency overland flow path, which is required for Q100 storm events or larger. Consideration needs to be given for the entire Bluecare site in terms of stormwater design.	As noted within the body of this report, negotiations between Council staff and the applicant have resulted in an alternative stormwater drainage solution. Council's Infrastructure & Planning Engineer has noted that appropriate conditions of consent have been applied to ensure that issues relating to perimeter drainage and external catchments are dealt with during detailed design.
Property Boundary Batter	The location of the swale at the top of the 1:1 batter down to the existing surface at the property boundary (as shown in Hyder's Section E) may cause stability issues with the batter, resulting in flows entering the Bluecare site and adjacent residential properties.	As above, Council's Infrastructure & Planning Engineer has assessed the issue and noted that appropriate conditions of consent have been applied to ensure that issues relating to perimeter drainage and external catchments are dealt with during detailed design.
Light Spill	Proposal should be	The applicant has acknowledged

Issue	Objection Comment	Assessment
	conditioned to ensure that all lighting (including security lighting) be contained within the allotment.	the concerns of light spill impact and has stated that they will accept a condition of consent requiring the submission of a Light Spill Plan prior to the issue a Construction Certificate. Such a condition has been applied.
Location of Bowling Green	To minimise noise impact & light spill issues, night time lighting of the bowling green should not be permitted. The close proximity of the proposed bowling green may impact upon any future development of the currently vacant allotment to the west.	The applicant has stated that the bowling green would not be flood lit. They have also noted that the bowling green could be located further from the boundary, but given the nature of the current and likely future adjoining uses, relocation is not considered necessary. Assessment of this issue concludes that relocation of the bowling green is not necessary, subject to conditions of consent regarding lighting etc.
Continued Aged Care	<p>There is concern that there is no surety that the development will continue as aged care / disability care in the future.</p> <p>There is no proposal to place all lots under one title.</p> <p>No indication of % allocated to those with disabilities.</p> <p>Although stated there will be no strata titling, there is no information about entry requirements or conditions for continuing residence.</p>	<p>The application has been lodged under the SEPP (Housing for Seniors or People with a Disability) 2004, which restricts who can reside in the development. In addition Council is required to impose a condition to the effect that only the kinds of people mentioned above may occupy the accommodation – see Clause 18 of SEPP assessment above.</p> <p>As is standard practice, a condition will be applied requiring all allotments to be consolidated.</p> <p>There is no requirement under the SEPP to provide a certain % of units to those with disabilities. However, the SEPP's design provisions require construction for all units to Australian standards for people with disabilities.</p> <p>The applicant has confirmed that the confirmed that the proposal will not be strata titled. With regard tenure of the development, the applicant has noted that long term residential leases (up to 99 years) would be issued to qualifying applicants. Tenure would be conditional upon continuous occupancy (i.e. lease ceases on death or relocation).</p>
Disabled development	The objection re: 'onerous and unreasonable requirement for disabled under AS2890' suggests that disabilities are not given the same weight as aged care. Is group living for those with disabilities	The objector appears to have misinterpreted the basis of the applicant's submission, which relates to the SEPP's requirements for disabled parking widths for <u>all</u> residential car spaces. The applicant has requested a variation to such a requirement, but still

Issue	Objection Comment	Assessment
	catered for?	<p>incorporates substantial car space widths to AS2890 standards. This issue has been addressed in detail elsewhere in this report.</p> <p>The SEPP does not preclude group living for those with disabilities.</p>
Tourist Accommodation	What conditions will be placed to ensure that no part of the complex is used for tourism?	<p>As noted above, the application has been lodged under the SEPP (Housing for Seniors or People with a Disability) 2004, which restricts who can reside in the development and a condition of consent has been applied to this effect. As such, tourist development is not permitted. Any proposal for tourist development would require separate development approval.</p>
Stormwater Drainage	The proposed stormwater design uses the existing 1200mm pipe under Noble park Estate which doesn't have the capacity for a Q5 future flow from the development. The design doesn't consider long duration storm events, which means that the proposed detention basin capacity is inadequate.	<p>A detailed assessment has been undertaken with regard an alternative solution for these valid stormwater drainage concerns. Council's Infrastructure &amp; Planning Engineer has noted that the alternative solution results in the deletion of the stormwater detention basin previously proposed at the rear of the development. In this regard, architectural plans have been revised removing the detention basin from the proposal. As noted above, conditions of consent have been applied requiring further detail for all stormwater drainage under a S68 approval, prior to the issue of a construction certificate.</p>
Water Quality	Any stormwater flows discharged onto the adjacent Gales land should have to meet the same water quality criteria with regard impact upon the population of Wallum Froglet on Gales land.	<p>Council's Engineers have noted that the abovementioned alternative stormwater drainage solution will avoid any On-site Stormwater Detention and also avoids any discharge on to the adjoining Gales' land. None the less, Council's Ecologist has applied conditions of consent relating to mitigation measures for the quality of any water leaving the site and traversing south toward known Wallum Froglet habitat, as noted within the applicant's targeted fauna survey report.</p>

### **Department of Water & Energy**

The proposed development required referral to the Department of Water & Energy (DWE) with regard to dewatering licensing. The following is an extract from DWE correspondence:

*'DWE considers the works proposed in DA08/1225 would fall within the category of "low risk" due to the limited time frame (1 month) and volume of dewatering (4.67 megalitres) involved.*

*However, in order to ensure minimal harm will be done to the aquifer DWE needs to be satisfied that adequate arrangements are in force. To this end DWE requests that the attached schedule of conditions be included in any development consent granted.*

*The applicant's attention should also be drawn to the fact that the act of dewatering has the potential to lower the water table beneath adjacent properties which, under some circumstances, may result in subsidence of material causing adverse impacts on the above ground structures. It is the applicant's responsibility to ensure that all appropriate action is taken to avoid this occurring'.*

The abovementioned schedule of conditions provided by DWE has been incorporated into the recommended conditions of consent.

### **Rural Fire Services**

The proposed development required referral to the Rural Fire Services with regard to bushfire provisions for this type of development. The RFS has issued a bush fire safety authority under section 100B of the Rural Fires Act 1997, subject to conditions of consent relating to: asset protection zones; water & utilities; access; evacuation & emergency management; design & construction; and landscaping. The abovementioned RFS conditions have been incorporated into the recommended conditions of consent.

### **(e) Public interest**

The provision of a retirement village within the local community is an important need, which upon completion will contain 200 self contained units. The proposed development is considered to be of a high standard and would cater for a need within the community.

The subject land has been identified for medium density residential purposes under the Tweed Local Environmental Plan 2000. The proposed development is a permissible use within the zone and has been designed in accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The issues raised in submissions are either no longer relevant (due to revised design changes) or can be addressed by way of conditions of consent. In summary, the proposal is not considered to be in conflict with the general public interest.

### **OPTIONS:**

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

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

**POLICY IMPLICATIONS:**

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

**CONCLUSION:**

The proposed development complies with the requirements of SEPP (Housing for Seniors or People with a Disability) 2004 and meets Council's requirements.

The proposed development is considered to be suitable for the site and has been designed with regard to the need for the future residents within the development as well as the surrounding environment. The recommended conditions of consent will enable management of the site during the construction phase and through to the operation of the facility.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

Nil.

---

**P10 [PR-PC] Review of Environmental Factors PTV09/0009 for Stage 1 of the Proposed Jack Evans Boat Harbour Re-development Consisting of Foreshore Embellishment Works to Create Parklands featuring: Extensive Walkways, Cycleway, Boardwalks, Landscaping, Drains**

**ORIGIN:**

**Development Assessment**

**SUMMARY OF REPORT:**

Stage 1 of the Jack Evans Boat Harbour (JEBH) redevelopment proposal consists of foreshore embellishment works to create parklands featuring: extensive walkways, cycleway, boardwalks, story wall, landscaping, demolition of amenities block, drainage, landforming and opportunities for passive water based recreation.

The application has been assessed under Part 5 of the EP&A Act as determined by Division 12 (Parks and Other Public Reserves), and Division 20 (Stormwater Management Systems) of the SEPP Infrastructure. Tweed Shire Council is the determining authority under Section 110A of the EP&A Act. Section 111 of the Act states that the determining authority must take into account a range of matters prescribed in Clause 228(2) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg.) in its decision to proceed with an "activity" which does not require development consent.

The proposed development is considered not to negate the public's interest. The proposed development is considered not to create an adverse impact on the natural or built environments of the locality.

The proposed activity is not likely to significantly affect the environment including critical habitat or threatened species, populations or ecological communities, or their habitats, accordingly, an Environmental Impact Statement is not required.

**RECOMMENDATION:**

**That an Environmental Impact Statement is not required and that the Review of Environmental Factors PTV09/0009 for Stage 1 proposed re-development of the Jack Evans Boat Harbour consisting of foreshore embellishment works to create parklands featuring: extensive walkways, cycleway, boardwalks and opportunities for passive water based recreation, landscaping, drainage, landforming, construction of two headlands, disabled access ramp, rock revetment, story wall, demolition of amenities block and removal of existing features that do not form part of the foreshore re-development at Lot 2 DP 559525 Wharf Street; Lot 1 DP 607300, Lot 7034 DP 1052935, Lot 7036 DP 1054009, Boundary Street & Lot 7091 DP 1108680 Flagstaff Beach Road, Tweed Heads be approved subject to the following conditions: -**

- 1. The development shall be completed in general accordance with the Review of Environmental Factors prepared by Tweed Shire Council dated April 2009, except where varied by these conditions.**

[PTV0010]

2. **Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the General Manager or his delegate. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and Construction", prepared by the NSW Department of Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.**

[PTV0020]

3. **All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.**

[PTV0040]

4. **The site has a Design flood level of RL 2.6m AHD.**
5. **All building materials used below Council's design flood level must not be susceptible to water damage.**
6. **Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.**
7. **Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.**
8. **Prior to the commencement of works on the site an amended Dewatering Management Plan shall be prepared and submitted for consideration and approval by Council's General Manager or delegate which shall include a site plan indicating the location of all proposed groundwater treatment devices and a revised monitoring schedule indicating that the following parameters are to be monitored on a daily basis for the first week of dewatering operations:-Lead (soluble), Arsenic(soluble), Manganese(soluble), Iron(soluble), Aluminium(soluble) and Suspended Solids.**
9. **All imported fill material shall be from an approved source. Prior to the commencement of works details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.**
10. **Prior to the installation of any lights, a lighting plan is to be submitted to Council and approved by the General Manager or his delegate.**
11. **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.**

12. 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.

LAeq 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.

LAeq 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.
13. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.
14. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.
15. 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.
16. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.
17. 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
  - Dust during filling operations and also from construction vehicles
  - Material being removed from the site by wind
18. 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.



## **REPORT:**

**Applicant:** Tweed Shire Council

**Owner:** Department of Lands

**Location:** Lot 2 DP 559525 Wharf Street; Lot 1 DP 607300, Lot 7034 DP 1052935, Lot 7036 DP 1054009, Boundary Street & Lot 7091 DP 1108680 Flagstaff Beach Road, Tweed Heads

**Zoning:** 3(e) Special Tourist (Jack Evans Boat Harbour); 6(a) Open Space and 6(b) Recreation

**Cost:** \$7,000,000

## **BACKGROUND:**

Stage 1 of the proposed JEBH redevelopment consists of foreshore embellishment works to create easily accessible parklands featuring extensive walkways, cycleway, boardwalks, story wall, landscaping, demolition of amenities block, drainage, landforming and opportunities for passive water based recreation. Details of each aspect of the proposed works are discussed in detail further below.

## **DEMOLITION**

Demolition works would be carried out in the initial stages of the development involving the following:

- Clearing of nominated vegetation
- Removal of foreshore footpaths and cycleways
- Demolition of amenities block
- Removal of tarmac road surfaces from the Old Border Caravan Park site
- Removal of stormwater pipes and outlets where required
- Removal of Seabed revetment material where required
- Removal of rock revetment material where required.

## **DRAINAGE**

The existing surface water and stormwater drainage networks at the site would be significantly upgraded using Water Sensitive Urban Design (WSUD) principles.

The proposed stormwater drainage upgrade would involve modifying the existing drainage network behind the foreshore to reduce the number of outlets within JEBH from six to two. The proposed works would involve the construction of one new outlet which would discharge at the end of the proposed western headland, and the extension of an existing outlet located at the eastern end of the site adjacent to Coral Street. Both outlets would discharge into deeper water in order to prevent future blocking and to minimise beach scour and erosion.

The proposed stormwater drainage upgrade would also include the installation of five new Gross Pollutant Traps (GPT's) which would be added on to the new drainage lines or retrofitted on to existing lines. These structures are designed to trap gross pollutants and sediment from stormwater which would significantly improve the quality of stormwater being discharged into JEBH.

Surface water drainage at the site is also to be significantly upgraded. The existing surface water drainage at the site is currently insufficient and during heavy periods of rain creates large puddles, floods footpaths, and causes erosion along parts of the foreshore. The proposed upgrade would install surface inlet pits throughout the site connecting to the pipe network, and construct a designated grass swale overland flow path through the Old Border Caravan Park. These works would be carried out in association with the proposed landforming works and would improve the efficiency of surface water drainage at the site. In summary the proposed drainage works would involve:

- Installation of new pipework
- Connection of new pipework to the existing drainage network
- Removal of abandoned pipework where necessary
- Installation and connection of GPT's
- Installation and connection of surface inlet pits
- Construction of overland flow path.

## **HEADLAND**

The development proposes the construction of two headlands located on either side of the existing central beach approximately 70m apart. The proposed headlands would be constructed using a combination of large natural rocks and precast concrete blocks arranged in a tessellated formation. The purpose of the headlands are to serve as a form of hard landscaping that would improve public access to the water and maintain sand on the central beach area.

The tessellated formation of the headlands are a design feature that would provide direct level access to the water at all tides and can be utilised as informal seating along the harbour foreshore.

A disabled grade access ramp has been incorporated in the design of the eastern headland which would provide disabled access to both the central beach and water. The proposed ramp would significantly enhance public access to the water by creating a safe, level path that can be utilised at all tide levels. The proposed headland works would involve:

- Placement of precast concrete blocks and rock material within harbour and along foreshore
- Construction of disabled access path within eastern headland.

## **ROCK REVETMENT**

The placement of rock revetment material is proposed along the eastern harbour foreshore between the proposed eastern headland and the end of the existing rock revetment adjacent to Coral Street. The proposed revetment works would replace the existing rock and Seabee revetment material and are required to prevent foreshore erosion in this section of the harbour.

The proposed revetment works would involve the removal of the existing dilapidated revetment material in this section and placement of new locally sourced 300 – 600mm rock. Over time the proposed works are anticipated to provide additional aquatic habitat in the area, and would be constructed with a shallow angle to encourage colonisation of foreshore vegetation. The proposed revetment works are consistent with the Tweed River Bank Management Plan.

## **LANDFORMING**

The development proposes landforming works in the vicinity of the Old Border Caravan Park. These works involve the importation of clean fill to the site to achieve the desired contours and levels. The proposed landforming works would also improve surface water drainage at the site by directing flows towards the overland flow path and surface inlet pits positioned throughout the site.

## **STORY WALL**

The development proposes the construction of a story wall along part of the eastern foreshore. The proposed story wall would involve constructing an earth mound with a vertical face that is supported by a concrete retaining wall. Recycled hardwood panelling would then be erected in front of the retaining wall with signage attached displaying narratives of local people and storeys. The constructed earth mound behind the story wall would have a finished surface level of RL 4.8m, which would provide a viewing platform at the site overlooking the JEBH foreshore.

## **CYCLEWAY**

The development proposes the construction of two, three metre wide concrete cycleways across the site which would be used for active recreation. Both cycleways would be located behind the proposed boardwalk and essentially follow the alignment of the harbour foreshore, before meeting at a common point located approximately half way between the Boundary Street entrance and the central beach. Access to the cycleway would be available in three locations situated in Boundary Street, Bay Street, and Coral Street.

## **BOARDWALK**

The development proposes the construction of a timber boardwalk around the harbour foreshore with entry points located in Bay Street and Coral Street. The proposed boardwalk would be variable in width ranging from 3 to 10m and has been designed to encourage passive recreational use and improve public access to the foreshore, particularly for disabled and elderly.

The majority of the boardwalk would be constructed at existing natural ground level or on reclaimed land, however one section located between the central and western beaches would be constructed on elevated piers over water, approximately 1.4m above mean sea level.

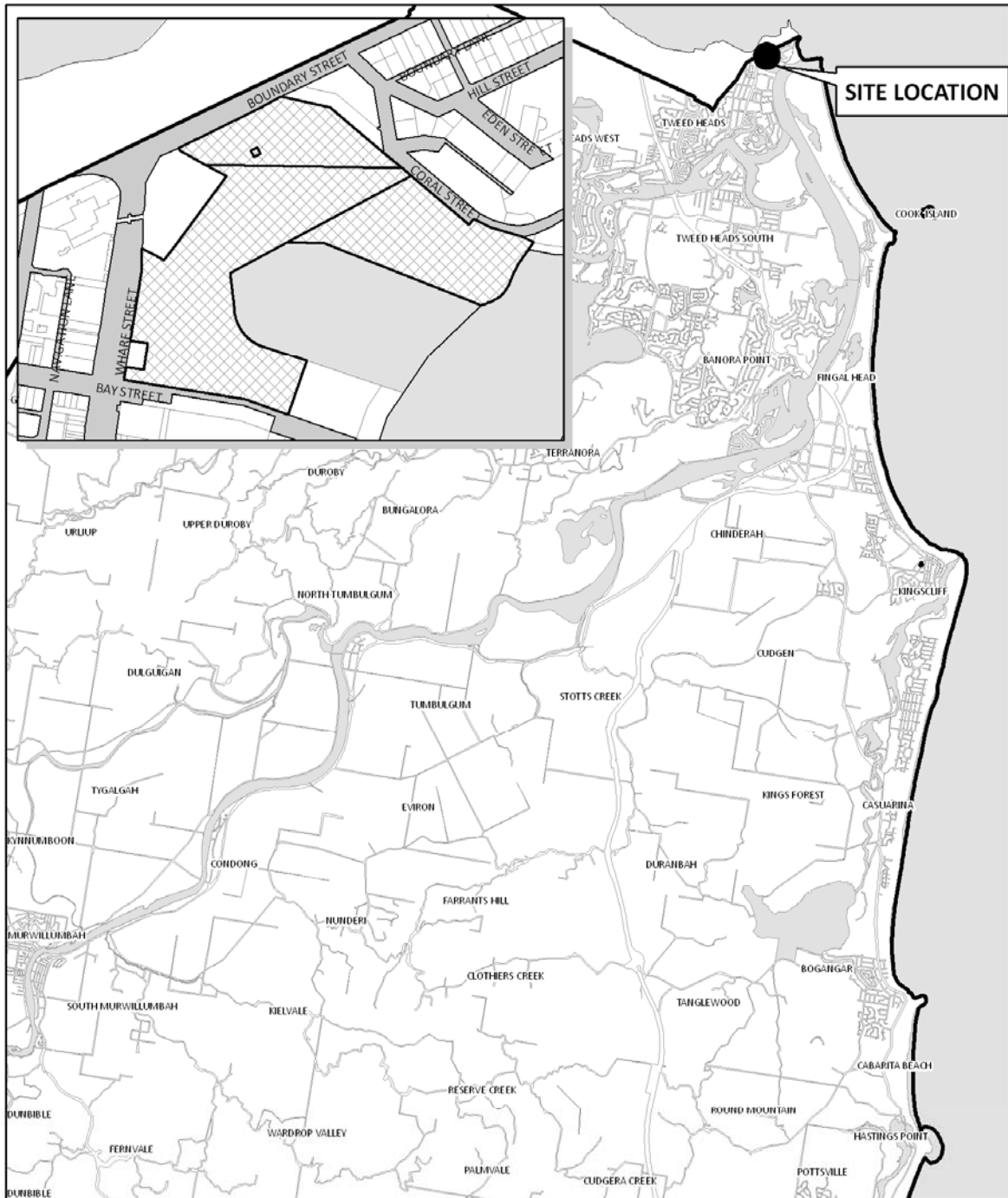
## **FOOTPATHS**

The development proposes the construction of a network of concrete footpaths that would provide formalised pedestrian entry and exit points to the foreshore from the surrounding streets. The locations of the proposed footpaths are designed to link the existing roadside footpaths that surround the site with the passive recreation areas of the development.

## **LANDSCAPING**

The development proposes extensive landscaping works carried out to compensate for the initial removal of vegetation and to enhance the amenity of the site. Part of the proposed landscaping would include dune restoration works behind the southern part of the western beach to stabilise this area of land and minimise further erosion. Planting of larger trees is also proposed between the boardwalk and cycleway to create shade and provide separation between the passive and active recreation areas of the foreshore. All plants proposed in the landscaping works would be native species.

**SITE DIAGRAM:**



**LOCALITY PLAN**

Lot 2 DP 559525 Wharf Street;  
 Lot 1 DP 607300, Lot 7034 DP 1052935, Lot 7036 DP 1054009, Boundary Street  
 Lot 7091 DP 1108680 Flagstaff Beach Road, Tweed Heads

Filename: z:\esri\planning\msd\A4P\_B&W SitePlan.mxd

Author: J.Bachelor - Planning Reforms Unit

Date Printed: July 13, 2009

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "dig before you dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.



Cadastre July 10, 2009  
 © Dept. of Lands & Tweed Shire Council

Coordinate System - MGA Zone 56  
 Datum - GDA 94

DO NOT SCALE  
 COPY ONLY - NOT CERTIFIED



**Tweed Shire Council**  
 PO Box 816,  
 Murwillumbah  
 NSW 2484  
 Tel: (02) 6670 2409  
 Fax: (02) 6670 2483

## CONSIDERATIONS UNDER PART V OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

The proposed activity constitutes an assessment under Part 5 of the EP&A Act. Section 111 of the Act states that the determining authority must take into account a range of matters prescribed in Clause 228(2) of the Environmental Planning & Assessment Regulation 2000, in its decision to proceed with an 'activity' which does not require development consent. The matters raised under Clause 228(2) are addressed below.

Rating of Impact (for inclusion in Table below): 1 = Beneficial/Nil 2 = Minor 3 = Significant

Factors taken into consideration	Rating of Impact	Comments (if applicable)
a) Any environmental impact on a community	1	The proposed development is expected to have a positive environmental impact on the community through improvements in stormwater drainage, public access, amenity, and recreational infrastructure at this site. The development is also expected to provide economic benefits to the area through increased visitor usage.
b) Any transformation of a locality	1	The proposed structures are generally at or just above ground level and utilise natural materials where possible to enhance the natural scenic quality of the surrounding area. In the context of the surrounding area, the works proposed are of a minor bulk and scale and would not significantly alter the character of the locality.
c) Any environmental impact on the ecosystems of the locality	1	The proposed activity would not significantly affect threatened species, populations or ecological communities, or their habitats.
d) Any reduction of the aesthetic, recreational, Scientific, or other environmental quality or value of a locality	1	<p>During construction, minor impacts to the aesthetic, recreational, scientific and environmental qualities of the site are envisaged through construction activities.</p> <p>The development would significantly improve the aesthetic and recreational values of the site through improved foreshore access, upgraded recreational facilities, and improved water quality in the harbour.</p>

e)	Any effect on the locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations	1	The site is highly disturbed with the proposed development unlikely to impact on any locality, place or building having aesthetic, anthropological, archaeological, architectural, or historic value.
f)	Any impact on the habitat of protected fauna (within the meaning of the National Parks and Wildlife Act 1974)	1	It is concluded that the proposed activity would not significantly affect threatened species, populations or ecological communities, or their habitats.
g)	Any endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air	1	The site is highly disturbed and there is limited habitat for threatened, endangered or vulnerable flora or fauna species within the construction boundaries. Accordingly, the proposed development is not likely to endanger any species of animal, plant or other form of life.
h)	Any long term effects on the environment	1	The proposed development is anticipated to have a positive long term effect on the environment through improvements in water quality associated with new drainage works and reduced foreshore erosion as a result of revetment works. Impacts during construction would be managed using standard construction management measures to ensure there are no negative long term effects on the environment.

i) Any degradation of the quality of the environment	1	<p>There would be some minor short term impacts on the environment associated with the construction phase through increased noise and activity, potential loss of sediment from the work site, and decreases in localised air quality from dust and exhaust fumes. Construction mitigation measures (noise management, erosion and sediment control, dust suppression) are proposed to minimise these impacts and prevent the further degradation of the quality of the environment at the site. Following completion of works, the quality of both the aquatic and terrestrial environment would be improved through revegetation works and improved water quality as a result of improved drainage works.</p>
j) Any risk to the safety of the environment	1	<p>There are some minor risks to the safety of the environment associated with the construction phase. A range of risk management measures would be used, including adherence to TSC Safe Operating Procedures.</p>
k) Any reduction in the range of beneficial uses of the environment	1	<p>The proposed development has been designed to enhance the range of beneficial uses of the site. The development would enhance the natural attributes of the site through dune restoration, revegetation, improved drainage, and the installation of stormwater quality control devices. Recognition of the cultural values of site would be displayed in the proposed story wall, and improved foreshore access and amenity would enhance the recreational values of the site. Following completion of the development, the proposal would generate a tourism destination and bring long needed economic benefits to the area.</p>
l) Any pollution of the environment	1	<p>Construction management measures (i.e. erosion and sediment control, dust management and waste management) would ensure the risk of pollution to the environment is minimised during construction.</p> <p>Following construction, the new drainage network with GPT's would prevent pollution of the waterway and improve water quality in the harbour by trapping and collecting pollutants and sediment before being discharged. The proposed revetment works would also improve water quality at the site by reducing the amount of foreshore erosion.</p>



m)	Any environmental problems associated with the disposal of waste	1	Disposal of waste as a result of the activity is not expected to result in any environmental problems. There would be some excess spoil, general site rubbish and construction material created as a result of the activity. Where material can not be reused or recycled, waste material would be transported to a Council landfill site.
n)	Any increase demands on resources (natural or otherwise) that are, or are likely to become in short supply	1	The proposed development would generate some demand for additional extractive materials, however the quantity involved is not considered significant with adequate supply available.
o)	Any cumulative environmental effect with other existing or likely future activities	1	The proposal is not likely to result in a cumulative environmental effect with other existing or likely future activities. Overall, the proposed development would have a positive environmental impact through revegetation works, reductions in foreshore erosion, and improved water quality associated with the upgrades to stormwater drainage.

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT)**

*Section 111(2) - A determining authority shall consider the effect of an activity on:*

- a. *any conservation agreement entered into under the National Parks and Wildlife Act 1974 and applying to the whole or part of the land to which the activity relates;*
- b. *any plan of management adopted under that Act for the conservation area to which the agreement relates;*
- c. *any joint management agreement entered into under the Threatened Species Conservation Act 1995.*
- d. *any biobanking agreement entered into under Part 7A of the Threatened Species Conservation Act 1995 that applies to the whole or part of the land to which the activity relates.*

A conservation agreement or plan of management (*National Parks and Wildlife Act 1974*) does not apply to the land on which the activity would be undertaken. There is no joint management agreement pursuant to the *Threatened Species Conservation Act 1995*. No biobanking agreement applies to the site.

*Section 111(3) - A determining authority shall consider the effect of an activity on any wilderness area (within the meaning of the Wilderness Act 1987) in the locality in which the activity is intended to be carried on.*

There is no designated wilderness area, pursuant to the Wilderness Act 1987, in the locality of the activity.

*Section 111(4) - A determining authority must consider the effect of an activity on:*

- a. *critical habitat; and*
- b. *in the case of threatened species, populations and ecological communities, and their habitats, whether there is likely to be a significant effect on those species, populations or ecological communities, or those habitats; and*
- c. *any other protected fauna or protected native plants within the meaning of the National Parks and Wildlife Act 1974.*

A review of NSW National Parks and Wildlife Service critical habitat declarations register did not identify any critical habitat and occurring within the locality of the proposed activity area.

The proposed activity would not significantly affect threatened species, populations or ecological communities or their habitats or other protected fauna or protected native plants within the meaning of the *National Parks and Wildlife Act 1974*.

## **GENERAL COMMENTS**

The application was placed on public exhibition for a period of 28 days from Wednesday 15 April 2009 to Wednesday 13 May 2009, with a total of 22 submissions received during this period.

The applicant provided an assessment of the submissions received, which is provided below:

### ***Water quality***

***Submissions were received regarding the quality of stormwater entering the harbour and the level of treatment proposed during and post construction of the proposal. A number of submissions argued for the relocation of stormwater outlets to the Tweed River and in the event this was not done, the subsequent impacts on public health as a result of swimming in the harbour. Additional concerns were also raised about the condensing of numerous stormwater outlets into two primary outlets and subsequent increased scouring at outlets.***

*During the construction phase of the development, potential impacts on water quality in the harbour would be managed through the installation of erosion and sediment controls and hazard mitigation measures. All erosion and sediment controls would be installed and maintained in accordance with the Blue Book – Managing Urban Stormwater – Soils and Construction. Following completion of works, improvements to water quality in the harbour are envisaged via the installation of five new Gross Pollutant Traps (GPT). Once installed, the GPT's would trap sediments greater than 150 micron and gross pollutants which are currently entering the waterway unrestricted and reducing the water quality in the harbour. The proposed GPT's would also assist in the partial clean up of oils and grease, metals, and nutrients.*

*The proposed works would also involve modifying the existing drainage network to reduce the number of stormwater outlets into the harbour from six to two. Whilst it is acknowledged that these works would concentrate stormwater flows at the two outlets and likely increase existing scouring, it is considered that overall the works would have a net benefit by reducing the number of outlet locations to just two sites and reducing the overall extent of scouring in the harbour.*

*The relocation of the stormwater outlets to the Tweed River was considered in the initial design stages of the proposal however following investigations this idea was considered unfeasible due to the distance, grade, and depth required to discharge into the river. In addition to this, extending the outlet into the Tweed River would require significant additional funding, and given the foreseen construction difficulties would result in significant environmental disturbance.*

*Notwithstanding the above, whilst the stormwater drainage works would provide significant improvements to the quality of the stormwater being discharged, given the tidal influence from the adjacent Tweed River, the quality of the water in the harbour is ultimately dependant on the water quality in the Tweed River. Given this it is considered that no amount stormwater treatment could guarantee that public health could not be ensured as a result of swimming in the harbour.*

### **Aboriginal Cultural Heritage**

***Several submissions were received regarding a lack of recognition of a current Native Title Claim over the site and as a consequence, incorrect naming and design elements of the “Goorimahbah” project.***

*Correspondence from the Indigenous Public Placemaking Project Committee (IPPP) and the Tweed Shire Council Aboriginal Advisory Committee (AAC) advise that the Githabul Native Title Claim has no impact on the Jack Evans Boat Harbour project. Furthermore, the IPPP Committee, Tweed Shire Council and the Tweed Byron Local Aboriginal Land Council (TBLALC) have advised that Goorima is accepted as the local dialect for the word ‘story’.*

### **Consultation**

***Submissions were received regarding an apparent lack of consultation with respect to design options prior to selecting a final design and a lack of consultation with traditional Aboriginal custodians.***

*As discussed in Section 1.3 of the REF, the Community Consultation Period for the Jack Evans Boat Harbour Concept Design was launched with an event on site at the Old Border Caravan Park, on Saturday April 29, 2006. The event was successful in attracting around 200 people and comprised local Traditional Dance Troupe performances and addresses by local Bundjalung elder Aunty Kath Lena, respected community member Sue Follent, Local Member Mr Neville Newell and Minister for Aboriginal Affairs Mr Milton Orkopoulos.*

*Sixty-one community members replied formally to the consultation period in the form of either letters or feedback forms made available at the community display. Some comments about the Jack Evans Boat Harbour parklands referred to original Masterplan proposals, such as the Swimming Lagoon, which have since been removed from the proposal.*

*The results from feedback following the consultation period relating directly to the JEBH design are summarised in Table 1 below. Comments regarding the proposed design were received from a range of community groups and stakeholders including local residents, business owners, NSW Department of Education and Training, the Arts and Culture Focus Group, Tweed and Coolangatta Tourism, Point Danger*

Volunteer Marine Rescue, Tweed Heads Environment Group, and the Tweed District Residents and Ratepayers Association.

**Table 1:** Summary of community response during consultation period

<b>Comment Type</b>	<b>%</b>	<b>Details (summary)</b>
<i>Positive / General</i>	62%	<ul style="list-style-type: none"> <li>▪ Open Parkland &amp; 'natural' spaces to be re-created</li> <li>▪ Retain 'unique' character of Jack Evans Boat Harbour</li> <li>▪ Positive social and community benefit</li> <li>▪ Retain and improve BBQ and picnic facilities</li> <li>▪ Water Sensitive Urban design to improve drainage and water quality of the harbour</li> <li>▪ Creation of opportunities for market space, public art and street performance</li> <li>▪ Support for Kiosk proposal</li> <li>▪ Completion of walking track and regional cycle-way</li> <li>▪ Strong support for IPPP.</li> <li>▪ Acknowledgement of historic water lines and history of port at Wharf Street</li> <li>▪ New Toilet facilities</li> </ul>
<i>General Suggestions</i>	20%	<ul style="list-style-type: none"> <li>▪ Request for more active play facilities such as courts</li> <li>▪ Consider shark nets / surveillance</li> <li>▪ CCTV proposal</li> <li>▪ Ensure access to beach/water for small boats and surf lifesaving training</li> <li>▪ Re-consider location of interstate bus set down point</li> <li>▪ Concern about recurrent costs and maintenance standards</li> <li>▪ Consider dog-off leash opportunities due to current use</li> </ul>
<i>Negative</i>	18%	<ul style="list-style-type: none"> <li>▪ Insufficient Car parking, no parking meters</li> <li>▪ Expense</li> <li>▪ Insufficient consultation</li> <li>▪ Loss of mangroves on Northern bank &amp; possible destruction of sea-grass beds.</li> </ul>

Given that the majority of community response to the JEBH concept design was positive, it was unanimously approved by Council on the 15<sup>th</sup> August 2006 to endorse the current preferred option of the design.

With specific regards to a lack of consultation with the traditional Aboriginal custodians, the IPPP Committee and Tweed Shire Council AAC have advised that due process has been followed and extensive consultation has been undertaken with the Tweed Aboriginal community since the inception of the project.

### **Dewatering**

**One submission was received identifying a number of technical aspects requiring further information in relation to proposed dewatering operations for drainage construction. Specifically, further information was sought on water quality testing frequency, management of unsuitable material resulting from dewatering operations, maximum allowable dewatering rates, monitoring of drawdown, and construction method for deep excavation.**

*The Dewatering Management Plan (DWMP) proposed that chemical testing of extracted groundwater be carried out on a weekly basis, however following discussions with Council's Environmental Health Officers (EHO's), it was recommended that chemical testing should initially be carried out daily upon commencement of dewatering and then weekly once the water quality parameters stabilise. This was recommended to provide a better initial indication of the water quality being extracted at the site and enable for better management to ensure that extracted groundwater released to the environment is within the acceptable release criteria.*

*In addition to increasing the sampling rate, it was also recommended that the initial extracted groundwater be either recharged into the ground or left to settle in the detention basins until the results of the first chemical analysis are returned from the laboratory. Following receipt of the results the initial extracted groundwater would be treated if necessary or discharged into the harbour if within the acceptable release criteria.*

*The construction method proposed for deep excavations would involve excavating a pit and benching back to ground level at a 45 degree angle. This method of construction is proposed for safety purposes and due to the sufficient work area available at the site. Council does not envisage having to use sheet piling during works, however should the need arise, then Council would look at all available options.*

*The management of unsuitable material resulting from dewatering operations would be undertaken in accordance with Section 6.4 of the DWMP. The DWMP proposes that two detention basins be used, one for primary treatment, and a second 'standby' basin of similar dimensions for the unlikely event that the primary basin does not treat the groundwater to the standard required. In the event that treatment in the second 'standby' basin is still insufficient, then water would be recirculated through the dosing unit and back into the primary basin for further treatment.*

*No works have been undertaken to establish the groundwater flow rate at the site, however, it is anticipated that the flow rate would be high given the sandy nature of the soil and its close proximity to a major water body. Proposed detention basins have been sized to accommodate this expected high flow rate.*

## **Maintenance**

***Numerous submissions were received regarding the ongoing maintenance of proposed infrastructure such as timber boardwalks and other timber features, algal discolouring of concrete decks, cleaning of GPT's, and lack of access for general waste management / foreshore rubbish collection. In light of ongoing maintenance costs, respondents argued for alternative materials to be considered and further consideration given to practical aspects of rubbish collection associated with hard concrete edge sections which limit access for machines.***

*The ongoing maintenance and upkeep of JEBH will require additional resources and create an additional ongoing cost to Council. These factors have been taken into consideration and Council has committed funding as part of the 7 Year Plan to increase ground staff in JEBH. This funding would also cover the costs for*

*increased general maintenance, rubbish collection, and to expedite the clean-up process after storm events when large volumes of rubbish are deposited in the harbour.*

*The use of timber throughout the project has been chosen following extensive research into the maintenance of timber structures in the Tweed Shire. Council is confident that they will be able to maintain the timber structures to an appropriate standard using a lanoline oil based product which would be applied bi/tri annually following initial application. This product is currently used by Council for maintenance on its timber structures. The use of reconstituted plastic materials has been considered as a replacement for timber, however the quality and durability of this material has not been proven over long periods of time and as such, Council has chosen to use timber which is a tried and tested product.*

*With regards to algal discolouring of concrete decks Council proposes to finish submerged concrete elements at JEBH with exposed aggregate revealing the aggregates within the top concrete surface with a water washing technique. The degree of aggregate exposure will vary from heavily exposed (up to 15mm of a 45mm stone) below the low tide level, to lightly exposed (up to 2mm of a 14mm stone) at high tide and above.*

*A surface retarder will be applied to the concrete surfaces following the concrete pour and the surface cementitious layer will be washed off to reveal the aggregates. Some of the elements that are pre-cast will be water washed off site in a pre-casting yard. For elements that will be poured insitu, run off from this process will be contained within a bund, and the work will be carried out at low tide and with dewatering where necessary. The successful contractor will provide an Environmental Management Plan ensuring no impacts on the marine environment of the harbour.*

*As the resultant surface finish will be highly roughened no anti algae treatment will be required. Nonetheless accompanying these measures a series of signs will be installed to alert people to possible slippery surfaces below the water level.*

### **Marine Environment**

***Submissions were received regarding concerns about impacts to the aquatic environment, namely the sea grass beds present at the site and maintenance of fish habitat. These submissions suggested that Council should be protecting and not replacing aquatic habitats (such as seagrass), and questioned what will be done to monitor the success or failure of measures to protect seagrass.***

*A seagrass assessment was undertaken as part of the REF. The assessment identified and mapped a total of 20 separate seagrass beds growing in the intertidal zone of the harbour foreshore which will have a direct frontage to the proposed area of works. In total it was calculated that these mapped seagrass beds have a cumulative area of 657m<sup>2</sup>. It should be noted however, that this area is not representative of the entire seagrass area present in the harbour as numerous large seagrass beds are also present in the middle of the harbour (which was not included in the mapping).*

*As part of the habitat assessment, a condition assessment of the mapped seagrass was also undertaken which found the health of the seagrass to be variable and*

*dependent on the seagrass beds elevation and distance from the shoreline. The assessment identified that the seagrass beds closest to the shoreline were mostly exposed during low tide periods and were generally in poorer condition in terms of percent seagrass cover, blade length, and general health when compared to those beds located further away from the shoreline, and which are permanently submerged. Also of note from the assessment was that epiphyte growth was observed at all sites, including control sites, providing a key indication of increased nutrient loads in the waterway.*

*Based on an assessment of impacts, in a worst case scenario the proposed development has the potential to impact on approximately 326m<sup>2</sup> of the seagrass mapped in the intertidal zone within JEBH. In the context of the seagrass beds mapped along the foreshore this equates to approximately half of the area mapped. Given the nature of the works proposed, the seagrass beds closest to the shoreline are the most likely to be directly impacted by the development, and as discussed above are identified as generally being in poor condition.*

*Following the completion of construction works, the proposed development is considered likely to improve seagrass habitat at the site through improvements in the quality of stormwater being discharged into the harbour, and through a reduction in the number of stormwater drainage outlets into the harbour.*

*Currently, 'scour' areas are evident around each of the existing drainage outlets into the harbour. These scour areas are evidenced by bare patches of sand with no vegetation and are attributed to the concentrated discharge of stormwater which disturbs and destabilises the sediments in front of the pipe outlets. It is considered that by reducing the number of outlets into the harbour, these areas would restabilise through natural sand accumulation and in time would provide new habitat for seagrass growth*

*In addition to the above, an approval from NSW DPI Fisheries has been granted under Part 7 of the Fisheries Management Act 1994 to harm marine vegetation and undertake dredge and reclamation works. The approval includes a number of conditions, one of which requires that Council undertake annual monitoring of seagrass beds along the intertidal zone during construction and for a period of 2 years following completion of works. This monitoring is required to assess the impacts of the development on seagrass beds along the intertidal zone. Should monitoring indicate that there is a net loss of seagrass greater than the 90m<sup>2</sup> allowed for under the permit, then Council will be required to pay contributions of \$75/m<sup>2</sup> of seagrass lost to the Fish Conservation Trust Fund to offset these impacts.*

### **Sand Maintenance**

***Numerous submissions raised concerns over the potential for increased erosion adjacent to hard landscaping features and revetment works and that the proposal would require ongoing sand nourishment which would not be approved as part of the proposal. Some submissions also proposed that the natural beaches should be retained and that Council should investigate pumping sand onto the harbour foreshore to bury the existing revetment material.***

*The development proposes to retain the existing southern beach and stabilise the existing central beach area through the construction of the two proposed headlands. These works would re-shape the central beach, reducing the beach angle to stabilise it and increase its size. Whilst it is anticipated that some erosion of sand adjacent to hard landscaping features would occur, it is considered that the design of the works would not require ongoing sand nourishment.*

*With regards to submissions suggesting that the pumping of sand onto the existing revetment be investigated, it should be noted that Council has had a long history with moving sand in the harbour to cover the revetment with little success. Over time Council has found that this solution is short lived due to the steep grade and orientation of the revetment and the nature of the water movement in the harbour. In addition to this, it is a costly and time consuming practice resulting in disturbance of the water body and creates regular turbidity through the movement of suspended material in the water.*

### **Car Parking**

***Submissions were received regarding the inadequacy of the proposed car parking to meet demands of increased usage in the redeveloped area as well as catering for major events and festivals. A number of submissions also questioned how Council would prevent Twin Towns Services Club patrons from using the site.***

*References to the inadequate size of onsite car parking are not considered relevant in this application as onsite car parking is not proposed in Stage 1 of this development. Onsite parking would be proposed as part of Stage 2 of the foreshore redevelopment, however such works would be subject to a separate application.*

*Notwithstanding the above, as discussed in the REF, it is considered that there is sufficient car parking on the road network surrounding JEBH to support the existing parking demand at the site, as well as the additional demand that Stage 1 of the proposed development would generate. In total, 174 car parks are available in the street network surrounding the site, the majority of which are unused on a daily basis.*

*Whilst it is acknowledged that the site does provide informal car parking during major events, this is not the intended use of the land. This use is merely opportunistic and reflects the neglect that the site has suffered over time. The site is public parkland of which the proposed development provides improvements to the recreational facilities and amenities at the site for the benefit of the residents of the Tweed.*

### **Bay Street**

***One submission was received suggesting that the proposed development is an attempt by Council to use the Part V public exhibition period to secretly flag the Bay Street issue with regards to land zoning.***

*The proposed foreshore development has no relation to the sale of land at Bay Street and no works are proposed on the land to which this applies (Lot 1 DP 848723).*



## **Construction**

**Concern was raised in several submissions regarding the regulation of environmental controls during the construction phase. The submissions questioned what resources would be available to ensure that environmental controls are adhered to and whether the contract documentation would include penalties for breach of environmental controls. One submission also questioned construction work hours.**

*As with any Council contract, the primary contractor would be responsible for the project and would thus be responsible for compliance with the conditions of consent imposed by the Development Assessment Unit and other relevant Government Authorities. This would include aspects such as erosion and sediment controls, dewatering management, hours of operation, dust controls etc. Any breaches of consents/permits/licences generally incur significant fines under the respective control legislation, of which the contractor would be liable. In addition to the above, Council's Construction Engineer would be on site daily to monitor construction contractors and given the public nature of the site, it is anticipated that any breaches of consents, pollution events, nuisances etc would be reported to Council upon which would be further investigated.*

*With regards to the hours of operation, the hours proposed in the REF are consistent with the standard hours of construction that Council generally permits for other development in the Shire*

## **Costs**

**Several submissions were received which raised concern over the cost of the proposed works generally, and the cost of specific aspects of the development such as the proposed story wall. Rather than spending money on the story wall, submissions argued that money would be better spent relocating the stormwater pipe outlets directly to the Tweed River.**

*The elements prioritised in this project and accordingly in the budget are the direct result of a design process which included extensive consultation about the outcomes. The story walls have not previously been formally opposed through this process. With regards to extending the stormwater drain to the river, please see previous comments under 'water quality' on the viability of this.*

## **Flooding**

**With regards to flooding, submissions were received identifying that the site is regularly subject to flooding and that the proposed design of the development would make it difficult to clean up the debris following such events. One submission was also received which questioned whether the impacts of sea level rise had been considered in the design.**

*In regards to the clean up of flood debris, please refer to comments discussed under Maintenance.*

*With regards to the impacts of sea level rise, the proposed development has been designed with a life span of 50 years, which is the standard life span for regional parks. The development takes into consideration the impact of sea level rise and*

*has designed and engineered the deck levels, grading, and drainage infrastructure to reflect the anticipated rise in sea level during the facilities life span.*

## **Design**

***The bulk of submissions questioned various design aspects of the proposal including aesthetics of the design, lack of access to the foreshore for launching water craft, the absence of a children's playground, overshadowing of the beach area by TTSC (and subsequent suitability of the beach location), safety aspects associated with concrete surfaces, a lack of detail regarding proposed lighting, and location of facilities in relation to prevailing winds / weather / overshadowing compromising their usefulness.***

*In regards to objections about the aesthetics of the design, it is considered that aesthetical opinion is a subjective matter of taste. One aim of the public consultation was to garnish opinion and perspectives on design features to maximise aesthetic outcomes for the proposal.*

*Numerous submissions were received which criticised a lack of access to the foreshore for launching water craft. It should be noted that JEBH has never been a formal location for this purpose and this use is merely opportunistic, reflecting the neglect that the site has suffered over time. Notwithstanding this, the deck along the northern area has been designed to allow emergency and utility vehicles to drive onto the beach, which would enable surf club vehicles to continue the practise of launching their small craft in this location.*

*With regards to the absence of a children's playground, sufficient space is provided adjacent to the Northern Headland for a future children's playground in Stage 2 of the development if necessary. Notwithstanding this it is intended that recreation in the JEBH focus upon passive water sports and BBQ and Picnicking. It should also be noted that the existing children's playground area in Ebenezer Park adjacent to JEBH has been allocated for refurbishment in the 2009/2010 financial year and would provide improved playground facilities for the area.*

*Concerns were raised in regards to a lack of detail of proposed lighting of which Council advises that the lighting is currently being designed by Webb Australia who undertook a Lighting concept plan in 2006. The lighting features will include high level safety access grade P2 lighting to the Regional Cycleway and Pedestrian link combined with low level qualitative lighting to features such as the boardwalks, seating areas, secondary paths, the headland, up-lighting to feature tree areas and to the story wall.*

*For responses concerning safety of concrete surfaces please refer to comments discussed under 'Maintenance'.*

*With regards to concerns about overshadowing by the TTSC and beach location, it is advised that the prevailing weather conditions have been taken into consideration at all times during the design process and that the beach location is a formalisation of the existing informal, ephemeral body of sand. This beach and park in its current configuration is well used all year around even with the overshadowing of Twin Towns. Council does not see a reason as to why this configuration would change and a case could be made as for whether people would actually use the harbour recreationally in times of high wind or storm events.*

The above assessment of the issues raised during the advertising period is agreed with. The proposed re-development of Jack Evans Boat Harbour is considered to be in the public's interest. The development is considered not to adversely impact on the natural or built environments of the locality.

**OPTIONS:**

1. Approve the development application subject to conditions.
2. Refuse the application and provide reasons for refusal.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposed activity is not likely to significantly affect the environment including critical habitat or threatened species, populations or ecological communities, or their habitats. The re-development of the Jack Evans Boat Harbour will revitalise the currently dilapidated public open space, to a more attractive, user friendly, environmentally sensitive park land consisting of: extensive walkway, cycleway, boardwalks, improved drainage, construction of two headlands, rock revetment works, landforming, storey wall and landscaping. The proposed development is considered not to negate the public's interest.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

Nil.

---

THIS  
PAGE  
IS  
BLANK

**THIS  
PAGE  
IS  
BLANK**

**P11 [PR-PC] Major Project Application for Casuarina Town Centre Concept Plan and Project Application - Owner's Consent**

**ORIGIN:**

**Development Assessment**

**FILE NO: GS4/96/135 Pt30**

**SUMMARY OF REPORT:**

At the Council meeting held 28 May 2009, Council considered a report relating to a major project application for Casuarina Town Centre, specifically, land ownership and easement issues. The Council resolved to provide owners consent to allow for processing of the major project application, subject to the proponent agreeing to change the concept plan to:

- Widen the east/west open space reserve on the northeast of the site from 15 to 20 metres and lengthen it to reach Casuarina Way;
- Provide a 15 metre wide easement and optimised alignment for the balance of the cycleway; and
- Extend the beach esplanade road in accordance with the Kings Beach Development Plan.

The Department of Planning have undertaken their assessment of the Casuarina Town Centre Concept Plan and Project Application and do not agree with the requirement for extension of the beach esplanade road (refer attached letter). The Department of Planning consider that Council should provide owners consent, however Council is unable to provide owner's consent given the current Council resolution is conditional on extension of the beach esplanade.

The purpose of this report is to provide the Council an opportunity to reconsider the issue of owners consent in light of the Department's attached advice.

The officers are still of the opinion that the extension of the beach esplanade road is an important urban design element as it promotes greater accessibility and permeability to a key part of the Casuarina development.

Council officers have therefore provided Council within the report two further options to consider, Option 1 which seeks re-confirmation of the previous Council resolution, and Option 2 which enables Council to modify the previous resolution, and thereby give final, unqualified support of the Part 3A application. The officers have recommended Option 1.

**RECOMMENDATION:**

**That Council re-confirms its support of its resolution from 28 May 2009 in respect of the Major Project Application for the Casuarina Town Centre Concept Plan and Project Application, as referred to in Option 1 of this report.**

## REPORT:

**Applicant:** Kings Beach No. 2 Pty Ltd  
**Owner:** Kings Beach No. 2 Pty Ltd and Tweed Shire Council  
**Location:** Tweed Coast Road, Casuarina  
**Zoning:** 2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands)  
**Cost:** N/A

## BACKGROUND:

At its meeting Thursday 28 May 2009, Council considered a report relating to the major project application for Casuarina Town Centre Concept Plan and Project Application. The Department of Planning is consent authority for the application.

The application includes works in two Council owned lots. Owners consent for the purpose of making an application is required prior to the Department being able to determine the proposal. The proposed development layout will also require the relinquishment of a significant easement/right of carriageway currently benefiting Council on Lot 223 DP104849, as well as the closure of Dianella Drive connection to Tweed Coast Road. The primary easement/right of carriageway through the site currently provides a significant open drainage swale, cycleway and pedestrian connection from the foreshore to the nearby sports field to the northwest of the site.

A number of issues were canvassed in the report to Council in May 2009. The officers recommended that Council withhold owner's consent relating to both Lots 10 and 13 DP1014470, the easement/right of carriageway benefiting council over Lot 233 DP104849 and Dianella Drive. It was also recommended that the Council advise the proponents and the Department of Planning that it supports the concept of the town centre and would more favourably consider a request for owners consent if a revised concept plan was submitted that conformed with the intent of the *Kings Beach Development Plan* contained in the Land and Environment Court consent S96/135 of 16 December 1998.

Notwithstanding the recommendation, Council resolved the following:

***“RECOMMENDED that Council:***

- (a) *Subject to (b), (c) and (d) below and the proponent agreeing to change the concept plan to:*
- i. Widening the east/west open space reserve on the northeast of the Town Centre site from 15 to 20m and lengthen it to reach Casuarina Way*
  - ii. provide a 15m wide easement, optimise the alignment, optimise separation of vehicular traffic and provide landscaping satisfactory to Council for the balance of the walkway/cycleway commencing in the reserve referred to in (i) above and extending to lot 10 DP1014470D and*
  - iii. extend the beach esplanade road in accordance with the Kings Beach Development Plan.*

*Council grant owners consent relating to lots 10 and 13 DP1014470, the easement/right of carriageway benefiting Council over lot 223 DP104849 and Dianella Drive for the purpose only of permitting the application to proceed to determination by the Department.*

- (a) Consent does not include owner's consent to enter upon Council's land to carry out works*
- (b) Consent does not include Council's consent to relinquish its benefits relating to easements and right of way on lot 223 DP104849.*
- (c) The matters referred to in (a) and (b) above would be the subject of further negotiations with the proponent, in the event that the Pt 3A application is successful. Negotiations would include monetary compensation to Council relating to these transactions.*
- (d) The Director of Planning and Regulation forwards appropriate conditions to the Department of Planning for consideration in the Part 3A determination."*

## **SITE DESCRIPTION & PROPOSAL**

The Casuarina town centre is proposed on a site located east of Tweed Coast Road and south of Dianella Drive in Casuarina.

The site includes the following lots owned by Kings Beach No. 2 Pty Ltd:

Lot 223 DP1048494  
Lot 3 DP1042119  
Lot 144 DP1030322

Development is also proposed over the following lots, owned by Tweed Shire Council

Lot 13 DP1014470 (land along the foreshore)  
Lot 10 DP1014470 (northern edge of the sports fields)

For further details on the site and proposed layout, refer to the attached report.

## **OWNERS CONSENT**

As indicated in the attached correspondence, the Department of Planning consider that Council should provide owners consent for the abovementioned Council owned lots. The Department of Planning do not agree that the beach esplanade road should be extended.

Given the previous Council resolution of 28 May 2009, Council is unable to provide owners consent unless the concept plan is amended to include extension of the beach esplanade road or the Council resolution itself is amended.

Despite the Department's opinion, the officers are still of the view that the extension of the beach esplanade is an important urban design element, as it provides greater accessibility and permeability to a key part of the Casuarina development. Nonetheless, two options have been presented for Council to consider.

## **OPTION 1**

Council re-confirms its support for the resolution from its meeting of 28 May 2009, as follows:

**“RECOMMENDED** that Council:

- (a) Subject to (b), (c) and (d) below and the proponent agreeing to change the concept plan to:
  - i. Widening the east/west open space reserve on the northeast of the Town Centre site from 15 to 20m and lengthen it to reach Casuarina Way
  - ii. provide a 15m wide easement, optimise the alignment, optimise separation of vehicular traffic and provide landscaping satisfactory to Council for the balance of the walkway/cycleway commencing in the reserve referred to in (i) above and extending to lot 10 DP1014470D and
  - iii. extend the beach esplanade road in accordance with the Kings Beach Development Plan.

Council grant owners consent relating to lots 10 and 13 DP1014470, the easement/right of carriageway benefiting Council over lot 223 DP104849 and Dianella Drive for the purpose only of permitting the application to proceed to determination by the Department.

- (a) Consent does not include owner's consent to enter upon Council's land to carry out works
- (b) Consent does not include Council's consent to relinquish its benefits relating to easements and right of way on lot 223 DP104849.
- (c) The matters referred to in (a) and (b) above would be the subject of further negotiations with the proponent, in the event that the Pt 3A application is successful. Negotiations would include monetary compensation to Council relating to these transactions.
- (d) The Director of Planning and Regulation forwards appropriate conditions to the Department of Planning for consideration in the Part 3A determination.”

## **OPTION 2**

If Council is seeking to amend the previous resolution and provide owners consent in accordance with the Department of Planning advice, the following option could be adopted.

- (a) Subject to (b), (c) and (d) below and the proponent agreeing to change the concept plan to:
  - i. Widening the east/west open space reserve on the northeast of the Town Centre site from 15 to 20m and lengthen it to reach Casuarina Way and
  - ii. provide a 15m wide easement, optimise the alignment, optimise separation of vehicular traffic and provide landscaping satisfactory to Council for the balance of the walkway/cycleway commencing in the reserve referred to in (i) above and extending to lot 10 DP1014470D

Council grants owners consent relating to lots 10 and 13 DP1014470, the easement/right of carriageway benefiting Council over lot 223 DP104849 and



Dianella Drive for the purpose only of permitting the application to proceed to determination by the Department.

- (a) Consent does not include owner's consent to enter upon Council's land to carry out works
- (b) Consent does not include Council's consent to relinquish its benefits relating to easements and right of way on lot 223 DP104849.
- (c) The matters referred to in (a) and (b) above would be the subject of further negotiations with the proponent, in the event that the Pt 3A application is successful. Negotiations would include monetary compensation to Council relating to these transactions.
- (d) The Director of Planning and Regulation forwards appropriate conditions to the Department of Planning for consideration in the Part 3A determination.

### **POLICY IMPLICATIONS:**

Nil.

### **CONCLUSION:**

This report intends to advise Council on the Department of Planning's assessment position in relation to the Casuarina Town Centre major project application.

The Department of Planning considers that the proposed concept plan is generally in accordance with *Kings Beach Development Plan* and that the extension of the beach esplanade road will result in loss of public open space. The Department of Planning consider that Council should provide owners consent.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

1. Letter from the Department of Planning dated 10 July 2009 (ECM 3395941)
  2. Planning Committee report dated 28 May 2009 relating to the Major Project Application for Casuarina Town Centre Concept Plan and Project Application - Council's Final Comments, Land Ownership and Easement Issues - MP06\_0258 (ECM 3395951)
-

THIS  
PAGE  
IS  
BLANK

**THIS  
PAGE  
IS  
BLANK**