



TWEED
SHIRE COUNCIL

Mayor: Cr K Skinner (Mayor)

Councillors: B Longland (Deputy Mayor)
D Holdom
K Milne
W Polglase
J van Lieshout
P Youngblutt

Agenda

Planning and Regulation Reports

Ordinary Council Meeting

Tuesday 17 May 2011

held at Murwillumbah Cultural and Civic Centre
commencing at 3.30pm

COUNCIL'S CHARTER

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

Items for Consideration of Council:

ITEM	PRECIS	PAGE
	REPORTS FROM THE DIRECTOR PLANNING AND REGULATION	5
6	[PR-CM] Development Application DA10/0480 for the Demolition of Existing Dwellings and Construction of a Function Centre at Lots 9 & 10 Section 4 DP 2974; Nos. 9-11 River Street and Road 5190 Stafford Street, South Murwillumbah	7
7	[PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards	37
8	[PR-CM] Development Application DA11/0095 for The Unity Festival at Lot 167 DP 729468, Queensland Road, Murwillumbah	41
9	[PR-CM] Development Application DA11/0176 for a Gazebo and Pool Pump House at Lot 5 DP 1047760, No. 9 Winchelsea Way, Terranora	43
10	[PR-CM] Part V Application PTV10/0032 for Kirkwood Road Extension from Fraser Drive west of the Pacific Highway to Minjungbal Drive to the east including Highway on & off Ramps at Lot 697 DP47411, ROAD 2920 Kirkwood Road; Lot 33 DP 1073293 Firetail Street	61
11	[PR-CM] State Emergency Services/Unlimited Arts - Development of Site	97
12	[PR-CM] Development Application DA10/0556 for a Surf Lifesaving Outpost and Vehicle Access at Lot 7064 DP 1113596, Surfside Crescent, Pottsville	101

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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

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

MATTERS FOR CONSIDERATION

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

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6 [PR-CM] Development Application DA10/0480 for the Demolition of Existing Dwellings and Construction of a Function Centre at Lots 9 & 10 Section 4 DP 2974; Nos. 9-11 River Street and Road 5190 Stafford Street, South Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA10/0480 Pt2

SUMMARY OF REPORT:

Council at its meeting held on 19 April 2011 resolved to support this application in principle and requests that a report be prepared outlining conditions for consideration at the Council meeting to be held in May.

This report is in response to the latest Council's resolution. The report provides Council with two (2) main options to consider for determination:

- (i) to resolve to refuse the application in accordance with the officer's previous recommendations; or
- (ii) to resolve to approve this application subject to the conditions provided in this report.

RECOMMENDATION:

That Development Application DA10/0480 for the demolition of existing dwellings and construction of a refreshment and ancillary function centre at Lots 9 and 10 Section 4 DP 2974; Nos. 9-11 River Street and Road 5190 Stafford Street, South Murwillumbah be refused for the following reasons:

- 1. The application has failed to satisfy Clause 8(1) of the Tweed LEP 2000 specifically Clause 8(1)(c). The development will have an adverse cumulative impact in the shire created by lack of car parking spaces.**
- 2. The application is not considered satisfactory with regard to parking and access. Adequate car parking has not been provided in accordance with Tweed Shire Council Development Control Plan Section A2 - Site Access and Parking Code.**

REPORT:

Applicant: Mr C Dudgeon
Owner: MR CI Dudgeon and Mrs RJ Dudgeon
Location: Lots 9 and 10 Section 4 DP 2974 Nos. 9-11 River Street and ROAD
5190 Stafford Street, South Murwillumbah
Zoning: 3(c) Commerce and Trade
Cost: \$960,000

BACKGROUND:

The original DA for a function centre was submitted to Council on 20 July 2010 with sections of the report also referring to partial and possible dual use of the building as a restaurant. The application submitted proposed a building of two storeys consisting of ground level parking and entry, and upper floor Function Areas/restaurant incorporating a commercial kitchen, bar, dining areas, office, associated facilities and storage.

The proposal was submitted to the December Council meeting with a recommendation for refusal. Council resolved at the meeting to defer the decision in order for the applicant to amend the plans to resolve the areas of concern.

The amended application was submitted to the April Council meeting with a recommendation for refusal. Council resolved to support this application in principle and requests that a report be prepared outlining conditions for consideration at the Council meeting to be held in May.

The building contains large timber decks orientated to the River at the rear and to the River Street frontage.

The building is to be constructed using a variety of building materials – including a rendered painted block work, decorative stonework, weatherboard and metal roofing.

The applicant provided additional information and amended plans on 21 December 2010 and 8 February 2011, for which this report relates to. It was also clarified within these submissions that the proposal involves a "refreshment room with an ancillary function room" use.

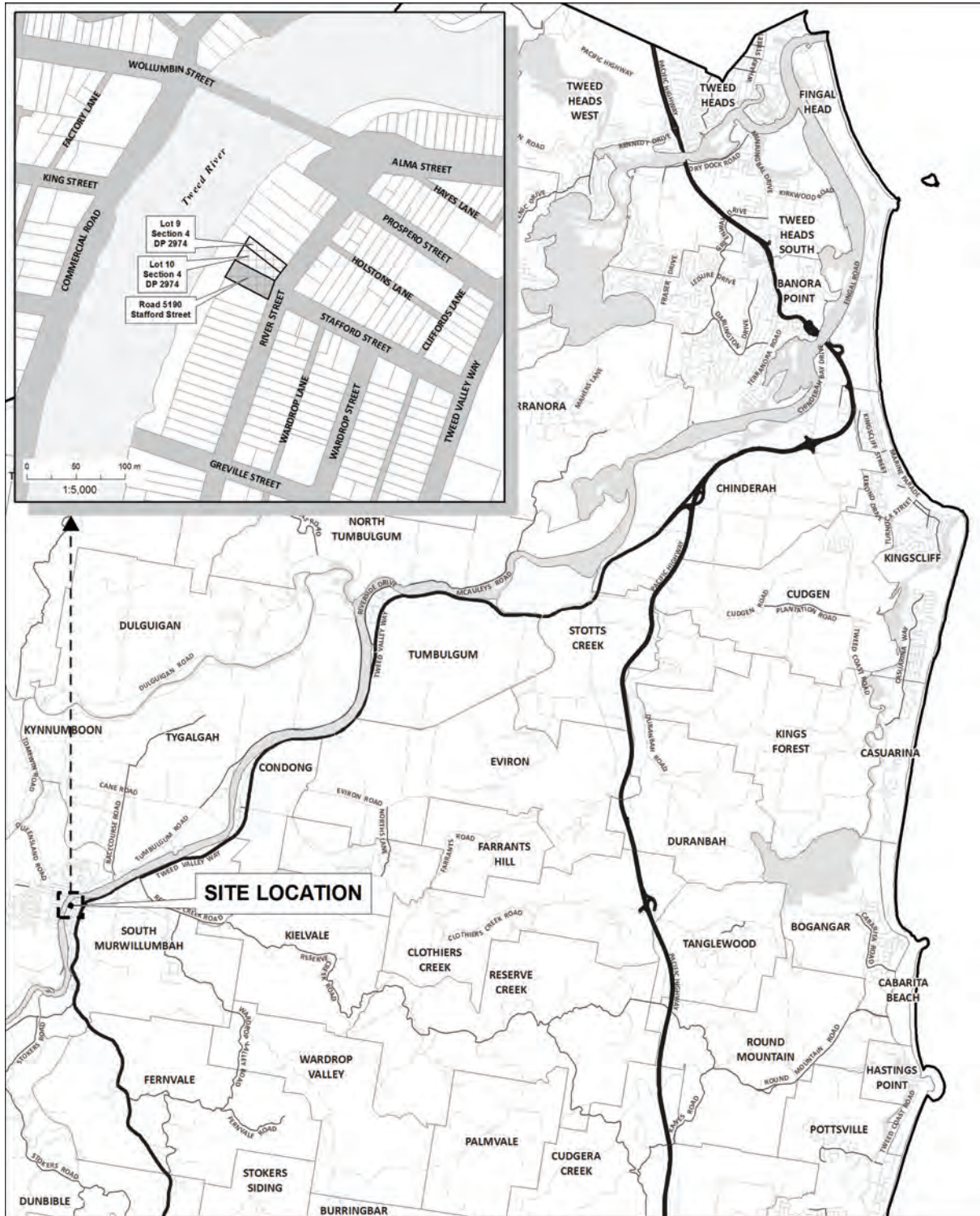
The applicant amended the function centre component of the development to cater for 79 seats and 5 staff. As such the development requires a total of 26.2 car parking spaces to cater for the Function Centre component of the proposed. With a 20% reduction for ESD reduction the total number required for the function centre component is 21 car parking spaces.

The applicant submits that there is 100.48m² of dining area and 5 staff for the refreshment room which would result in a requirement of 19.3. With a 20% ESD reduction, the total number required for the refreshment room component is 16 car parking spaces.

The applicant has proposed 21 on site car parking spaces.

Council at its meeting held on 19 April 2011 resolved to support this application in principle and requests that a report be prepared outlining conditions for consideration at the Council meeting to be held in May.

SITE DIAGRAM:



Locality Plan

Nos. 9-11 River Street, South Murwillumbah and Road 5190 Stafford Street, South Murwillumbah

<p><small>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 all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) 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.</small></p>	<p>Cadastre: 05 April, 2011 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p>	<p>0 960 1,920 M 1:100,000 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p><small>Map Projection: Universal Transverse Mercator Horizontal Datum: Geodetic Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</small></p>	<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484</p> <p>PO Box 816 Murwillumbah NSW 2484</p> <p>T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p>	 <p>TWEED SHIRE COUNCIL</p>
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Relevant statutory considerations were considered in the original report attached.

OPTIONS:

1. Determine the application as per the recommendation and having regard to the previous Council Officers reports, which was to refuse the application.
2. Council recommends that Development Application DA10/0480 for the demolition of existing dwellings and construction of a refreshment room/function centre at Lots 9 & 10 Section 4 DP 2974; Nos. 9-11 River Street and Road 5190 Stafford Street, South Murwillumbah be approved, the following conditions should be imposed:

GENERAL

1. **The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos wd01 to wd10 prepared by Andrew Reynolds and dated 21/11/10, 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 approved modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]
4. **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.**
[GEN0190]
5. **The development is to be carried out in accordance with Councils Development Design and Construction Specifications.**
[GEN0265]
6. **The building is to be designed and constructed to withstand the likely flood flow rates and debris loads applicable to the site.**

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. 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 include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

(a) Tweed Road Contribution Plan:

147.5528 Trips @ \$1601 per Trips	\$236,232
(\$1455 base rate + \$146 indexation)	
S94 Plan No. 4	
Sector10_4	

[PCC0215/PSC0175]

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

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

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

Water DSP2:	1.5678 ET @ \$11020 per ET	\$17,277.20
Sewer Murwillumbah:	3.7977 ET @ \$5295 per ET	\$20,108.80

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

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

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

[PCC0265/PSC0165]

- 9. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.**

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

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

[PCC0275]

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

[PCC0285]

- 11. 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 the approval of the General Manager or his delegate.**

[PCC0465]

- 12. 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 A1 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]

- 13. 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]

- 14. Prior to the issue of a construction certificate, documentary evidence shall be submitted to Tweed Shire Council demonstrating that a Controlled Activity Approval (CAA) under the Water Management Act 2000 has been obtained for works within 40m of waterfront land (as defined under the Water Management Act 2000) or any works that involve an aquifer interference activity as defined under the Water Management Act 2000.**

[PCC0575]

- 15. 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 for Council approval.**

[PCC0675]

- 16. 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 7.0m AHD.

(i) All building materials used below Council's design flood level must not be susceptible to water damage.

(b) 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 and provide appropriate earth leakage devices.

(i) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

- 17. 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. Certification**

shall be provided by a suitably qualified individual demonstrating the system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

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

[PCC0865]

19. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

URBAN ROAD (delete if not required)

- (a) Construction of an urban bitumen sealed road generally in accordance with the 'Site Plan' by Andrew Reynolds version 'O' for the Stafford Street frontage of the site, with the following provisos;

- Carriageway width (kerb to kerb) to be 7.5m, unless a greater width is required for 'B99' vehicle turning paths.
- A kerb line shall be implemented for the northern side of the road.
- Vehicular footpath crossings shall be provided for off-road driveway access – no kerb and gutter is to be arced across the footpath area.
- Give way signage and linemarking shall be installed for the Stafford Street legs of the intersection.

- (b) All footpath crossings are to be splayed.

[PCC0875]

20. 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 undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access: new driveway access from River street (note that this is required to be evenly splayed); also two (2) new driveways from Stafford Street – unless these are constructed in conjunction with the new Stafford Street roadworks.

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
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

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

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[PCC0985]

22. 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.

(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]

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

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

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

a) 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.

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

[PCC1145]

24. 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]

25. Prior to issue of construction certificate the applicant is to submit an 'Application for Plan Approval Fit-out Details', with appropriate fees, and to be granted Council approval for the fit-out of the premises.

[PCCNS01]

26. Prior to issue of a construction certificate a report shall be submitted from a suitably qualified acoustic consultant detailing that mechanical plant selection and design has been undertaken in accordance with Section 6.0 of the Environmental Noise Impact

Report prepared by CRG Traffic & Acoustics Pty Ltd dated January 2011 (crgref: 10163a report Jan2011). The report shall include recommended noise mitigation measures to be carried out relating to mechanical plant.

[PCCNS02]

27. The development shall provide a transverse drainage system for the continuity of stormwater flows from the open drain on adjoining land to the north, through the development site, to the Stafford Street stormwater drainage system, for all events up to and including the 100 year ARI storm event. Any piped system serving this purpose must be supplemented by an overland flow path that will operate in a manner that will minimise potential damages and nuisance in the event of a pipe failure. Implementation of such an overland flowpath will require localised lowering of the basement driveway to form a depression that gravitates from the northern boundary of the site, in the vicinity of the proposed inlet headwall, through to the Stafford Street frontage. The design of the pipe inlet must include a safety factor of 2 to account for blockage. The s68 Stormwater Application shall include a hydraulic assessment of the transverse drainage system, which demonstrates that the system will provide a "no worsening" post-development case for upstream land for events up to and including the 100 year ARI event. The hydraulic assessment shall include identification of the extent of all contributing catchments, as verified by on site survey. An easement benefitting Council shall be created over the transverse drainage system prior to occupation.

[PCCNS03]

28. The submitted Stormwater Management Plan is not considered to be entirely acceptable, and On-site Stormwater Detention (OSD) is to be implemented. The development shall provide for the mitigation for stormwater runoff generated by the development with the existing downstream stormwater infrastructure in place, in accordance with Development Design Specification D5 - Stormwater Drainage Design Clause D5.16 Stormwater Detention. Engineering details of an adequate OSD system shall be submitted with the s68 Stormwater Application to Council for approval prior to issue of a construction certificate.

OSD devices including the discharge control pit (DCP) are to comply with standards in the last version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater generated from the site must initially be directed to the DCP.

Appropriate ventilation must be provided for any enclosed or covered OSD storage area.

This OSD system is required to be a completely separate stormwater system to the transverse drainage system imposed via the previous consent condition.

[PCCNS04]

- 29. The construction certificate application shall include certified engineering details of the proposed access platform adjacent to Council's levee. The platform shall be of light weight construction and must be readily removable from its structural supports and relocatable without the need for special equipment. No structural supports are permitted within three (3) metres horizontal distance of the surveyed top of the levee embankment. The platform must be designed to impose minimal bearing forces on the levee.**
- 30. The developer must obtain all necessary separate State Government approvals for any works on Lot 8126 DP 755698 (State Crown Land).**

[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

- 31. 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]

- 32. 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, 3rd 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]

- 33. 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]

34. 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]

35. 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]

36. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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]

- 37. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that 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]

- 38. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.**

[PCW0665]

- 39. Civil work in accordance with a development consent must not be commenced until:**
- (a) a construction certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:**
 - (i) the consent authority, or**
 - (ii) an accredited certifier, and**
 - (b) the person having the benefit of the development consent:**
 - (i) has appointed a principal certifying authority,**
 - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) accredited in accordance with Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:**

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

(iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,

(iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

(c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

[PCW0815]

40. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

41. 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]

42. 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]

43. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of

fees in accordance with Councils adopted fees and charges prior to commencing any building works.

[PCW1135]

DURING CONSTRUCTION

- 44. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.**

[DUR0025]

- 45. Construction and/or demolition 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 6.00pm

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]

- 46. 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.

$L_{Aeq, 15 \text{ min}}$ 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.

$L_{Aeq, 15 \text{ min}}$ 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]

- 47. 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]

- 48. 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]

49. **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]

50. **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]

51. **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.**

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

52. **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 the works.**

[DUR0675]

53. **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]

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

[DUR0815]

55. **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]

- 56. 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]

- 57. All work associated with this approval is to be carried out so as not to impact on the 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 removed from the site by wind**

[DUR1005]

- 58. 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]

- 59. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.**

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.**
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.**
- (c) That site fill areas have been compacted to the specified standard.**
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.**

[DUR1805]

- 60. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:**

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.**

- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

61. Pram ramps are to be constructed at road intersections in accordance with Council's Standard Drawing No. SD 014 within all kerb types including roll top kerb.

[DUR1855]

62. The footpath area is to be graded to the kerb and turfed for the full frontage of the site.

[DUR1865]

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

[DUR1875]

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

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures

- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

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

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

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

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

[DUR2195]

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

[DUR2355]

67. 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]

68. 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]

69. 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]

70. 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]

71. 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]

72. 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]

73. 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]

74. Construction of the facility shall be undertaken in accordance with Section 6.0 of the Environmental Noise Impact Report prepared by CRG Traffic & Acoustics Pty Ltd dated January 2011 (crgref: 10163a report Jan2011).

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 75. 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]

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

[POC0225]

- 77. 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 professionally 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]

- 78. 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]

- 79. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300650124.**

[POC0625]

- 80. The premises 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]

- 81. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.**

[POC0985]

82. 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]

83. Prior to issue of an occupation certificate, certification from an appropriately qualified acoustic consultant shall be submitted detailing that the construction of the facility has been undertaken in accordance with Section 6.0 of the Environmental Noise Impact Report prepared by CRG Traffic & Acoustics Pty Ltd dated January 2011 (crgref: 10163a report Jan2011).

[POCNS01]

84. Prior to issue of an occupation certificate, certification from an appropriately qualified individual shall be submitted detailing that the construction of the mechanical exhaust ventilation if required, has been installed in accordance with AS16668.2.

[POCNS02]

USE

85. 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]

86. LAeq noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residence.

LAeq noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12.00 midnight and 7.00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

[USE0165]

87. 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]

88. As per the 'Planning For Entertainment Guidelines 2009) the following condition is REVIEWABLE.

Hours of operation of the business are restricted to the following hours:-

Monday – Thursday 9:30am – 9:30pm

Friday 9:30am – 11:00pm

Saturday 8:00am – 12:00am

Sunday 8:00am – 9:30pm

Functions are only permitted on Saturday nights.

[USE0185]

89. All deliveries to the premises are to occur only within the approved hours of operation unless otherwise approved by Councils General Manager or his delegate.

[USE0195]

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

[USE0225]

91. 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]

92. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

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

[USE0845]

94. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

95. All activities shall be carried out in accordance with the requirements of the NSW Office of Liquor, Gaming and Racing (OLGR).

[USE1085]

96. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact Report prepared by CRG Traffic & Acoustics Pty Ltd dated January 2011 (crgref: 10163a report Jan2011) unless varied by conditions of development consent.

[USENS01]

97. Live entertainment or amplified music is not permitted on the external western and eastern deck areas.

[USENS02]

98. The use of the eastern deck area is only permitted between the hours of 9:30am to 6:00pm.

99. The function centre component is to have a maximum seating capacity of 79 patrons.

100. The dining area for the refreshment room is restricted to the 100.48m² area as depicted on Plan No. wd09 - issue O prepared by Andrew Reynolds.

[USENS03]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

The bond shall be based on 5% of the value of the works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

102. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

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 (WAX) plans.

[PSC0735]

103. 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) Identify all allotments to be created as dual occupancies.**
- (c) An easement in favour of Tweed Shire Council shall be created over the full length of the flood levee within the subject land. The easement width shall extend from the rear (north western) boundary to three (3) metres (measured horizontally) on the landward side of the surveyed top of the levee embankment.**
- (d) Creation of an inter-allotment drainage easement over a pipeline and overland flowpath (beneath the building) that is to be constructed as part of this development.**
- (e) Restriction on Title and companion Positive Covenant to be created regarding on-site Stormwater Detention perpetual maintenance requirements. Information in this regard can be obtained from the last version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook".**

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.

[PSC0835]

104. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

105. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (a) Compliance Certificate - Roads**
- (b) Compliance Certificate - Drainage**

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.**
- 2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".**

[PSC0915]

106. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

[PSC0925]

107. The site is to be consolidated into a single allotment. Concurrently with this, a 3m x 3m splay corner is required to be dedicated to Council as public road.

[PSCNS01]

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination by Council the applicant has a right to appeal to the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Should the recommendation of this report be upheld, no direct policy implications will occur.

CONCLUSION:

As stated in previous Council reports, if the proposal is approved it will set an unreasonable precedent for interpretation of Clause 8(1) of the Tweed LEP 2000. Additionally any approval that does not provide adequate car parking spaces to cater for the proposal would compromise the integrity of Council's Development Control Plan Section A2.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Report to Council meeting of 19 April 2011 regarding DA10/0480 (ECM 32572495)
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7 [PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

ORIGIN:

Director Planning and Regulation

SUMMARY OF REPORT:

In accordance with the Department of Planning's Planning Circular PS 08-014 issued on 14 November 2008, the following information is provided with regards to development applications where a variation in standards under SEPP1 has been supported/refused.

RECOMMENDATION:

That Council notes the April 2011 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

On 14 November 2008 the Department of Planning issued Planning Circular PS 08-014 relating to reporting on variations to development standards under State Environmental Planning Policy No. 1 (SEPP1).

In accordance with that Planning Circular, the following Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

DA No.	DA10/0707
Description of Development:	proposed mixed use motor showroom car repair station and commercial premises - staged development (JRPP)
Property Address:	Lot 16 Section 4 DP 2379; Lot 1 DP 1014402 No. 169-171 Wharf Street & Lot 20 Section 4 DP 2379 No. 58 Recreation Street, Tweed Heads
Date Granted:	21/4/2011
Development Standard to be Varied:	Clause 32B(4)(b) - overshadowing
Zoning:	3(b) General Business
Justification:	The eastern end of the proposed building (Stage 2) produces a shadow across the adjacent reserve at 3.00pm midwinter, which is non-compliant with Clause 32B(4) of the North Coast Regional Environmental Plan 1988 (NCREP). The applicant has provided a SEPP 1 Objection, which notes that the resultant impact on the amenity of the open space is considered minor and that strict compliance with the foreshore shadow development standard would unreasonably preclude the appropriate development of the site in accordance with the commercial development controls that apply to the site.
Extent:	The extent of overshadowing is noted as 8m deep into the reserve, for a length of 48.5m (which is approximately 48% of the width of the reserve at that point. Overall, the overshadowing is approx 11.5% of the reserve.
Authority:	Tweed Shire Council

DA No.	DA11/0109
Description of Development:	dwelling, front fence and swimming pool
Property Address:	Lot 344 DP 1087716 No. 5 Cylinders Drive, Kingscliff
Date Granted:	18/4/2011
Development Standard to be Varied:	Clause 16 of TLEP and Clause 32B of NCREP
Zoning:	2(f) Tourism

Justification:	<p>An objection has been lodged under SEPP 1 to vary the development standard provided by clause 32B (4) of the North Coast Environmental Plan 1988(NCREP 1988), which prohibits overshadowing of the coastal reserve at the times of 3pm mid winter and 6.30 pm midsummer to be unreasonable. The shadow diagrams submitted show that the building will overshadow the coastal reserve to the east at both of these times</p> <p>It is considered in this instance that the standard is unreasonable for the following reasons.</p> <p>Whilst the dwelling will overshadow the coastal reserve, the area of the coastal reserve that will be affected comprises a grassed area and coastal dune vegetation. The shadow will not impact on any areas used by the public for formal recreational activities.</p>
Extent:	<p>An objection has been lodged under SEPP 1 to vary the development standard provided by clause 32B (4) of the North Coast Environmental Plan 1988(NCREP 1988), which prohibits overshadowing of the coastal reserve at the times of 3pm mid winter and 6.30 pm midsummer to be unreasonable. The shadow diagrams submitted show that the building will overshadow the coastal reserve to the east at both of these times. The proposed development is a two storey dwelling and shadow cast by the dwelling will only overshadow the coastal dune and not the beach area. The beach is approximately 100m from the rear of the property.</p>
Authority:	Tweed Shire Council

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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8 [PR-CM] Development Application DA11/0095 for The Unity Festival at Lot 167 DP 729468, Queensland Road, Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA11/0095 Pt1

SUMMARY OF REPORT:

The applicant, The Unity Festival Inc., has requested a refund of Council's fees associated with the Development Application for the holding of *The Unity Festival* at the Murwillumbah Showgrounds over two (2) days over the next five (5) years (2011-2015 inclusive). The applicant is a 'not for profit' community organisation that was formed in 2009 to develop a multicultural festival to provide a public benefit to the community.

The total amount requested is \$262.00, with a breakdown of Council's fees as follows:

DA Fee	\$239.00
Environment Enforcement Levy	\$23.00
TOTAL	\$262.00

The Unity Festival Inc. was a recipient of a Council donation in 2010, with Council resolving to donate the fees associated with Development Application DA10/0395 to the organisation. That Application was for the holding of the Festival in 2010.

Council's donation policy states: *That an individual or an organisation shall not be eligible for any more than two donation grants in any consecutive three year period.*

RECOMMENDATION:

That Council's fees associated with Development Application DA11/0095 for *The Unity Festival* at Lot 167 DP 729468, Queensland Road, Murwillumbah be donated to The Unity Festival Incorporated as the donation policy permits no more than two (2) donations within any consecutive three (3) year period, with this the second donation to the organisation within that period.

REPORT:

Applicant: The Unity Festival Inc
Owner: Land and Property Management Authority
Location: Lot 167 DP 729468 Queensland Road, Murwillumbah
Zoning: 6(b) Recreation
Cost: \$23,000

BACKGROUND:

As per summary.

OPTIONS:

1. Council donates a total of \$262.00 to the applicant, being the fees associated with DA11/0095.
2. Council declines to donate Council's fees associated with DA11/0095.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The applicant's request for a refund of Council's fees associated with the Development Application is supported as the applicant is a 'not for profit' organisation with the subject development providing a public benefit to the community.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

9 [PR-CM] Development Application DA11/0176 for a Gazebo and Pool Pump House at Lot 5 DP 1047760, No. 9 Winchelsea Way, Terranora

ORIGIN:

Building and Environmental Health

FILE NO: DA11/0176 Pt1

SUMMARY OF REPORT:

A development application has been lodged to construct a detached outbuilding comprising a gazebo and pool pump house on the subject allotment.

The allotment fronts Terranora Road which is a designated road requiring a thirty metre building alignment under the provisions of part 5, clause 24 of the Tweed Local Environment Plan (LEP) 2000.

The Applicant has submitted an objection under the provisions of State Environmental Planning Policy (SEPP) 1 for the outbuilding to observe a building alignment of 17.50m.

Given that the proposed SEPP1 variation is greater than 10%, this application has been referred to Council for determination in accordance with previous directions of the NSW Department of Planning.

The SEPP 1 objection is considered to be worthy of support.

RECOMMENDATION:

That:

- 1. State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environmental Plan 2000 regarding setbacks to designated roads be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.**
- 2. Development Application DA11/0176 for a gazebo and pool pump house at Lot 5 DP 1047760, No. 9 Winchelsea Way, Terranora be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**

[GEN0015]

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 approved modifications to any existing public utilities situated within or adjacent to the subject property.**

[GEN0135]

PRIOR TO COMMENCEMENT OF WORK

4. **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]

5. **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]

6. 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]

7. 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]

8. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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]

DURING CONSTRUCTION

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

[DUR0005]

10. Construction and/or demolition 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 6.00pm

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]

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

[DUR0245]

12. 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]

13. 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]

14. 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]

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.

[DUR0415]

16. All work associated with this approval is to be carried out so as not to impact on the 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 removed from the site by wind

[DUR1005]

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

[DUR1875]

18. 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/demolition.

[DUR2185]

19. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

20. 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]

21. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 22. 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]

- 23. 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]

- 24. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.**

[POC1055]

USE

- 25. 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]

- 26. The building is not to be used for any habitable commercial or industrial purpose.**

[USE0455]

REPORT:

Applicant: Mrs T Murdock
Owner: Mrs TE Murdock
Location: Lot 5 DP 1047760 No. 9 Winchelsea Way, Terranora
Zoning: 1(c) Rural Living
Cost: \$15,000

BACKGROUND:

A development application has been lodged with Council to construct a detached outbuilding comprising a gazebo and pool pump house on the subject allotment.

The land is zoned 1(c) *Rural Living* under Tweed Local Environmental Plan 2000, is located on the southern side of Terranora Road, has an existing two storey dwelling house and an existing swimming pool and slopes downhill from Terranora Road.

The allotment has frontage to Terranora Road which under the provisions of the Tweed Local Environmental Plan 2000 is a designated road.

The allotment has a maximum depth of 86.895 metres and encompasses an area of 4010m².

The allotment is accessed from Winchelsea Way and there is no access from Terranora Road.

Under the provisions of part 5, clause 24 of the Tweed LEP 2000 the proposed outbuilding is required to observe a minimum building alignment to Terranora Road of thirty (30) metres.

The outbuilding is proposed to be set back 17.50 metres from Terranora Road.

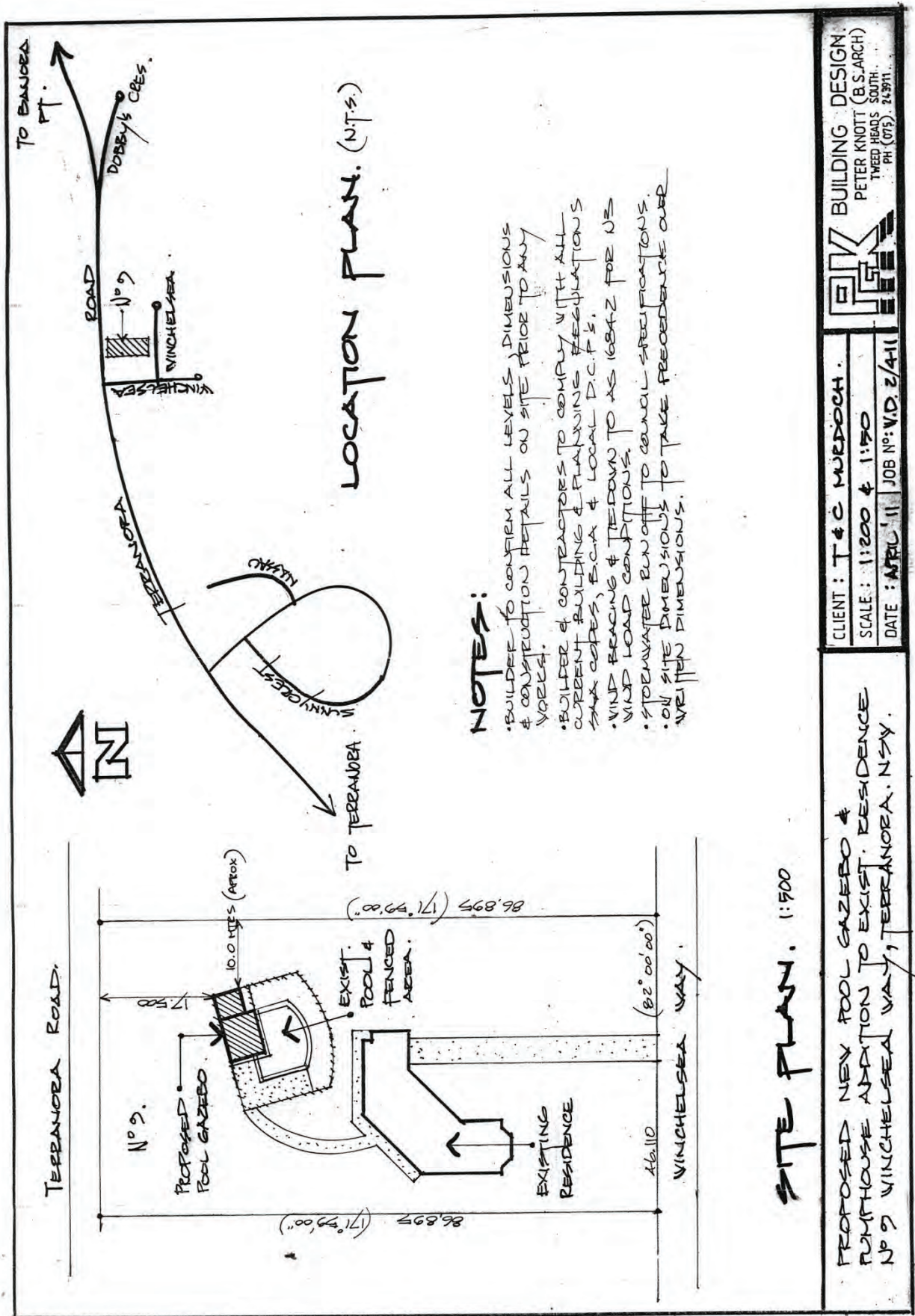
The existing swimming pool on the site currently encroaches into the thirty metre setback and the proposed outbuilding comprising a gazebo and pool pump house is to be used in conjunction with the existing swimming pool and is therefore proposed to be located within the vicinity of the existing swimming pool.

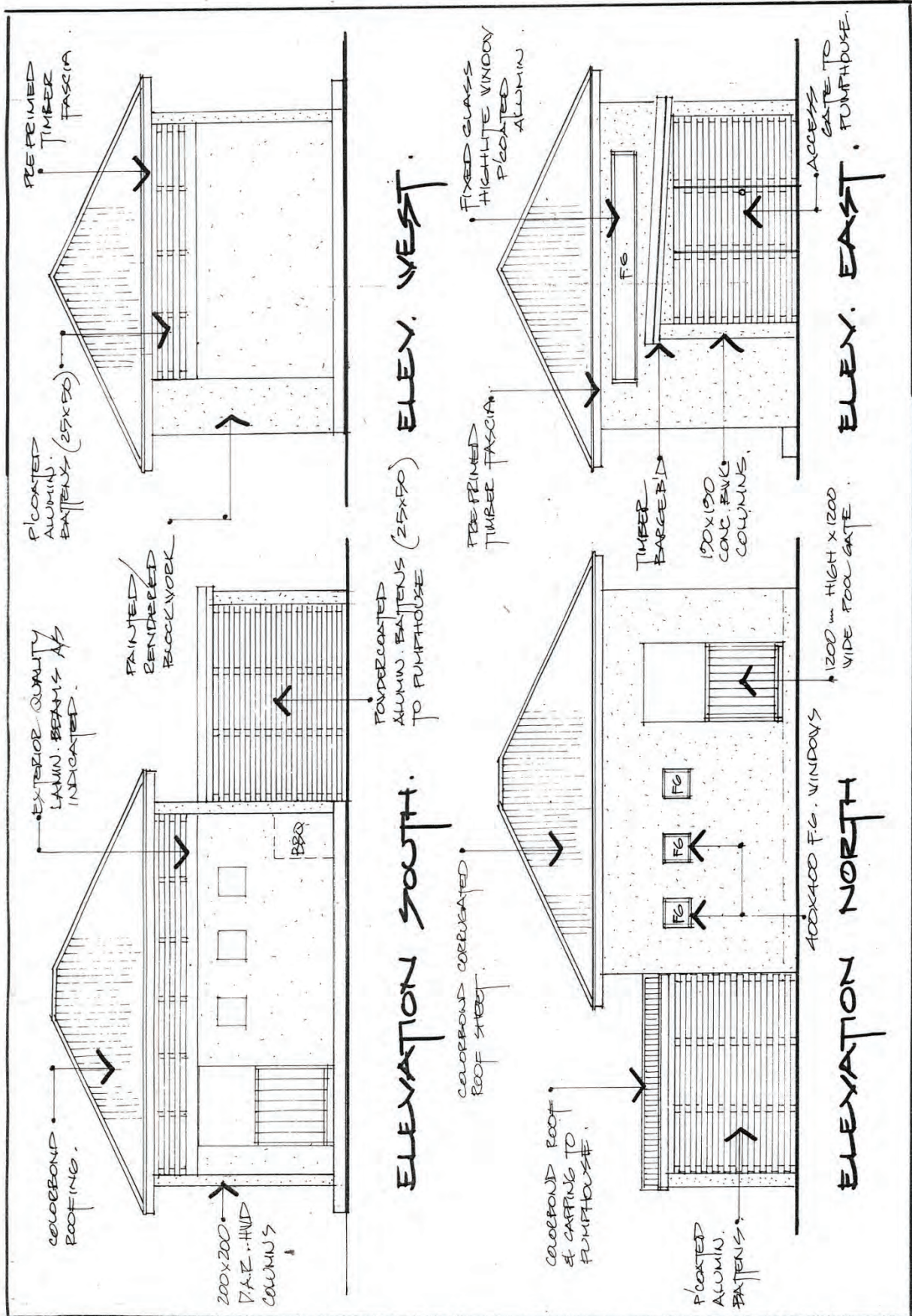
The Applicant has lodged an objection to this requirement under the provisions of State Environmental Planning Policy No. 1 (SEPP 1) to consider a reduced building alignment of 17.50 metres for the outbuilding to the Terranora Road frontage of the allotment.

The SEPP 1 objection is considered below in this report.

Council has historically granted SEPP 1 objections to the thirty metre building alignment for new residential dwelling houses and additions to existing residential dwelling houses along Terranora Road where it is considered that compliance with this building setback is unnecessary and/or unreasonable.

DEVELOPMENT PLANS:





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

The proposal satisfies the aims of the plan.

Clause 5 - Ecologically Sustainable Development

Proposal satisfies the objectives of this plan.

Clause 8 - Zone objectives

The proposal is consistent with the primary objective of the zone.

Clause 15 - Essential Services

All required essential services are available and adequate.

Clause 16 - Height of Building

The outbuilding will be single storey which is permissible in this area. The height & scale of the proposal is consistent with surrounding development.

Clause 17 - Social Impact Assessment

Approval of the proposal is considered to be unlikely to result in any negative social impact issues.

Clause 24 – Designated Roads.

Terranora Road is a designated road which requires a thirty metre building alignment. The proposal does not satisfy this requirement and a SEPP 1 objection has been lodged in this regard.

Clause 35 - Acid Sulfate Soils

Allotment is not affected by acid sulfate soils.

Other Specific Clauses

N/A

The SEPP 1 objection is supported and is discussed below.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

SEPP No. 1 - Development Standards

A SEPP 1 objection has been lodged against the requirement under clause 24 of the Tweed LEP 2000 for the dwelling house to observe a thirty (30) metre building alignment to Terranora Road, which is a designated road.

The Applicant has made the following submission in support of their request for a SEPP 1 variation:

“This objection accompanies a development application for the addition of a gazebo and pool pump house ancillary to an existing dwelling at Lot 5 DP 1047760 – No. 9 Winchelsea Way, Terranora.

The objective of this Development Standard include:

- *To control development along designated roads.*

The proposed gazebo and pool pump house will be located a minimum of 17.5m from the alignment of Terranora Road and therefore the development does not comply with the 30m setback requirement. It is submitted that the development standard requiring a 30m setback is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- *There are other structures located along Terranora Road that also encroach within the 30m setback from the designated road.*
- *The existing swimming pool is already within the 30m setback distance.*
- *The structures are located well below the level of Terranora Road.*
- *It is unlikely that the structures would significantly compromise traffic safety along Terranora Road.*
- *No additional vehicular accesses are proposed. The existing access arrangements from Winchelsea Way will be retained.*

For the above reasons, Council is requested to uphold the objection and grant consent to the development application as proposed.”

Access to the site from Winchelsea Way will be retained. There is no current or proposed access to the site from Terranora Road.

The floor level of the outbuilding will be substantially below Terranora Road and therefore it is considered that traffic using Terranora Road will not be impacted on by the proposed development in relation to sight lines

or other distractions nor will traffic have an adverse impact on the outbuilding.

Furthermore due to the nature of the site and the proposed outbuilding being located below the level of this section of Terranora Road it is considered that vegetative screening will not be necessary.

The outbuilding will be ancillary with the existing swimming pool that is already within the 30m setback.

The objectives of part 5 (Roads) clauses 22, 23 and 24 of the Tweed LEP and a response to each objective is as follows –

Clause 22 – Development near designated roads

- **To protect and improve the capacity, efficiency and safety of designated roads.**

Response – The existing vehicular access to the subject site off Winchelsea Way will be retained and therefore the capacity, efficiency and safety of Terranora Road will not be compromised.

- **To prevent development on designated roads that would detract from the scenic attractiveness of the area of the Tweed.**

Response - the proposed development will comprise residential dwelling house additions which will be consistent with the rural residential character of the area.

This subdivision was approved to permit the construction of single dwelling houses and ancillary structures and is therefore considered impractical to enforce a thirty metre building alignment to Terranora Road.

Furthermore as the site slopes away from the roadway it is considered that the proposal will not have an adverse impact on the scenic attractiveness of the area.

- **To prevent or reduce the potential impact of traffic noise on development adjacent to designated roads.**

Response - the outbuilding will be set back 17.50 metres from Terranora Road.

Due to the slope of the allotment and the level of the allotment below Terranora Road the gazebo and pool pump house will be at a level considerably below Terranora Road which will lessen the impact of traffic noise on the proposed outbuilding. Furthermore as the proposed outbuilding is not habitable it is considered that noise nuisance from traffic on Terranora Road is not an issue.

Clause 23 – Control of access

- **To control access to designated roads.**

Response – no vehicular access is proposed off Terranora Road. The existing vehicular access from Winchelsea Way will be retained.

Clause 24 – Set backs to designated roads

- **To control development along designated roads.**

Response - the allotment exists in an area which is zoned for rural residential use and in a subdivision which was specifically created for residential dwelling houses therefore the proposal is considered to be consistent with the objectives of the zoning of the area.

SEPP No 71 – Coastal Protection

The proposal is located within the boundary of the SEPP and based on the nature and scale of the development, the proposal is unlikely to have any adverse impacts in this coastal location. The proposed development is considered compatible with the intent for the development of the locality.

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

The draft Tweed Local Environmental Plan (LEP) 2010 was considered in the assessment of this application.

The proposal is not inconsistent with the aims & objectives of this instrument.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The proposed outbuilding comprising a gazebo and pool pump house complies with A1 – Residential and Tourist Development Code.

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

Clause 92(a) Government Coastal Policy

The proposal is located within the boundary and based on the nature and scale of the development, the proposal is unlikely to have any adverse impacts in this coastal location. The proposed development is considered compatible with the intent for the development of the locality.

Clause 92(b) Applications for demolition

No demolition is proposed.

Clause 93 Fire Safety Considerations

This clause is not applicable to the proposed development.

Clause 94 Buildings to be upgraded

This clause is not applicable to the proposed development.

- (a) (v) **Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

N/A

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

Context and Setting

The allotment is located in a residential subdivision and contains a variety of dwelling types.

The proposal is considered to be consistent with the existing and future character of the area.

Access, Transport and Traffic

The existing vehicular access to the property from Winchelsea Way will be retained. There is no vehicular access from Terranora Road.

Flora and Fauna

The site does not contain any flora or fauna of any significance.

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

Surrounding Landuses/Development

The allotment is surrounded by similar residential allotments to the east, south and west.

Flora and Fauna

The site does not contain any flora or fauna of any significance.

Topography

The allotment slopes moderately downhill from north to south.

Site Orientation

The allotment has a northern orientation; the proposed outbuilding and the existing swimming pool have been located on the northern side of the allotment to take advantage of this solar access.

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

There have been no submissions made in relation to this application.

(e) Public interest

There is no adverse public interest issues anticipated should this application be approved.

OPTIONS:

1. Approve the application with conditions, or
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Refusal of the application may expose Council to a challenge in the Land & Environment Court.

POLICY IMPLICATIONS:

Approval of this application is considered to be unlikely to undermine the enforcement of Council's policies in this matter.

Each application is considered on its merits and Development Control Plan A1. The variations from the Tweed LEP 2000 have been considered and are regarded as being worthy of approval due to the particular circumstances of the site.

CONCLUSION:

Under the circumstances it is considered that the proposal to construct the outbuilding comprising a gazebo and pool pump house with a minimum building line of 17.50 metres to Terranora Road is reasonable for conditional approval.

The SEPP 1 objection to reduce the statutory building line has been considered and under the circumstances it is considered that the variation is justified and should be supported.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

- 10 [PR-CM] Part V Application PTV10/0032 for Kirkwood Road Extension from Fraser Drive west of the Pacific Highway to Minjungbal Drive to the east including Highway on & off Ramps at Lot 697 DP47411, ROAD 2920 Kirkwood Road; Lot 33 DP 1073293 Firetail Street**

ORIGIN:

Development Assessment

SUMMARY OF REPORT:

This proposal is for the extension of Kirkwood Road from its junction with Falcon Way to the east of the Pacific Highway and from Fraser Drive to the west. The proposal includes the provision of access to and from the Pacific Highway via southbound on and off ramp and via a northbound off ramp.

Presently, Kirkwood Road is a two-lane road between Minjungbal Drive and Falcon Way, and continues as an unmade road reserve either side of the Pacific Highway to Fraser Drive.

The application has been assessed under Part 5 of the Environmental Planning & Assessment Act as determined by Division 17 (Roads and traffic) of the SEPP (Infrastructure) 2007. Tweed Shire Council is the determining authority under Section 110A of the Environmental Planning & Assessment Act 1979. Section 111 of the Act states that the determining authority shall examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

The proposed activity is not considered to impact upon the environment including critical habitat or threatened species, populations or ecological communities, or their habitats to an unacceptable level. Accordingly, an Environmental Impact Statement is not required.

RECOMMENDATION:

That Part V Application PTV10/0032 for Kirkwood Road extension from Fraser Drive west of the Pacific Highway to Minjungbal Drive to the east including highway on & off ramps at Lot 697 DP 47411, ROAD 2920 Kirkwood Road; Lot 33 DP 1073293 Firetail Street; ROAD 944 Pacific Highway, Tweed Heads South 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**

Design Unit dated December 2010, and Project Modifications prepared by Tweed Shire Council Design Unit dated April 2011, except where varied by these conditions.

[PTV0010]

2. **All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.**

[PTV0030]

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. **Construction and/or demolition 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 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[PTV0050]

5. **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.**

$L_{Aeq, 15 \text{ min}}$ 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.**

$L_{Aeq, 15 \text{ min}}$ 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.

[PTV0060]

6. **Prior to works commencing on the North Bound Off Ramp in stage 2 of the project, a Detailed Site Contamination Investigation is required in areas identified in Section 6 of the Kirkwood Road Project Review of Environmental Factors December 2010, and if required a Remediation Action Plan, prepared by a qualified Environmental Consultant in accordance with the NSW Department of Environmental, Climate Change and Water's Contaminated Lands Guidelines shall be submitted to Council for review and approval. Construction works in this area shall not commence until this report**

has been reviewed and approved by the General Manager or his Delegate.

7. All works shall be carried out in accordance with any approved Remediation Action Plan or to the satisfaction of Council's General Manager or his delegate. Upon completion of remediation works, Council shall be provided with a Post Remediation Validation Report to the satisfaction of the General Manager or his delegate. Construction works shall not commence until this report has been reviewed and approved by the General Manager or his delegate.
8. Prior to any works commencing, an Acid Sulfate Soil Management Plan for the site prepared by a qualified environmental consultant in accordance with the NSW ASSMAC Guidelines shall be submitted to Council for review and approval. Construction works shall not commence until this report has been reviewed and approved by the General Manager or his delegate.
9. All works shall be carried out in accordance with an approved Acid Sulfate Soil Investigation and Management Plan or to the satisfaction of Council's General Manager or his delegate.
10. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from Council's General Manager or his delegate.
11. Prior to any works commencing, a Dust Monitoring Program prepared in accordance with the DECCW Guidelines is to be established to obtain baseline data to be used as a reference during the construction phase. A copy of this Program shall be provided to Council.
12. All works shall be carried out in accordance with the Dust Monitoring Program or to the satisfaction of Council's General Manager or delegate.
13. Prior to any works commencing, an Acoustic Report for the proposed acoustic barrier along the existing section of Kirkwood Road (rear of 20-56 Blundell Boulevard) prepared by a qualified acoustic consultant in accordance with the NSW RTA Environmental Noise Management Manual and current Office of Environment and Heritage (formerly NSW Department of Environment, Climate Change and Water) Guidelines shall be submitted to Council's General Manager or his delegate for review and approval. The report shall include traffic volumes that will trigger the installation of the barriers.
14. All works shall be carried out in accordance with the Mitigation Measures outlined in Section 6.6.8 of the Kirkwood Road Project – Falcon Way to Fraser Drive, Tweed Heads South – Review of Environmental Factors prepared by Tweed Shire Council dated December 2010, Acoustic Assessment – Kirkwood Road Extension prepared by Air Noise Environment Pty Ltd dated December 2010, Additional Mitigation Scenario – Kirkwood Road Extension prepared by Air Noise Environment Pty Ltd dated 14 December 2010, the

Acoustic Report for the proposed acoustic barrier along the existing section of Kirkwood Road (rear of 20-56 Blundell Boulevard) and any addendums to these documents as approved by Council's General Manager or his delegate.

- 15. Immediately following the operation of each Stage of the Kirkwood Road Project, or in the case of the proposed acoustic barrier to the rear of 20-56 Blundell Boulevard - the completion of recommendations of the acoustic report, Post Construction Noise Impact Compliance Assessment reports from a suitably qualified acoustic consultant shall be prepared and submitted for consideration and approval by Council's General Manager or delegate in respect to noise associated with the Kirkwood Road Project.**

The assessment reports shall consider the mitigation measures outlined in Section 6.6.8 of the Kirkwood Road Project – Falcon Way to Fraser Drive, Tweed Heads South – Review of Environmental Factors prepared by Tweed Shire Council dated December 2010, Acoustic Assessment – Kirkwood Road Extension prepared by Air Noise Environment Pty Ltd dated December 2010, Additional Mitigation Scenario – Kirkwood Road Extension prepared by Air Noise Environment Pty Ltd dated 14 December 2010 (Ref: 2451replet01), the acoustic report for the proposed acoustic barrier along the existing section of Kirkwood Road (rear of 20-56 Blundell Boulevard), and any addendums to these documents as approved by Council's General Manager or his delegate, and include any recommended noise amelioration measures to be carried out by the applicant. The report shall be submitted within a period not exceeding 60 days of the date of operation of each Stage (or completion of recommendations of the acoustic report for the proposed acoustic barrier to the rear of 20-56 Blundell Boulevard).

The applicant shall carry out any such recommendations as provided within the noise assessment reports to the satisfaction of the General Manager or delegate within 30 days from the date of the acoustic assessment of each Stage (or completion of recommendations of the Acoustic Report for the proposed acoustic barrier to the rear of 20-56 Blundell Boulevard), provided that the General Manager or delegate may extend the time period for the carrying out of any recommended acoustic treatment to a date which may be determined by the General Manager or delegate.

- 16. All imported fill material shall be from an approved source. Prior to works commencing, 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 Council for the approval of the General Manager or his delegate.**
- 17. 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.

18. Prior to the commencement of works, a construction waste management plan is to be provided to Council. The waste management plan is to include:
 - a. Demolition
 - i) The volume and type of waste generated during demolition.
 - ii) The methods of storage of material on site. A site plan should be included.
 - iii) How recyclable materials will be separated, managed, and where the materials will be sent for recycling.
 - iv) The location and methods of disposal of all residual waste.
 - v) The licensed transporter of the waste.
 - b. Construction
 - i) The type of waste generated during construction.
 - ii) The method and location of waste storage on site.
 - iii) How any recyclable materials will be managed.
 - iv) The location of the disposal facility for residual waste.

During the demolition and construction phases it is the responsibility of the site manager to ensure that the above management measures are inspected and maintained on a daily basis.

19. The landscaping design plan for the site is to address the interaction between the development and the public park and footpaths in Lot 36 DP 1069519 and Lot 40 DP 1069551. In particular, the landscape design plan is to address the playground to be constructed on Lot 40 DP 1069551 with respect to the Playground Risk rating strategy.
20. A Habitat Restoration Plan must be prepared for the vegetation offset sites nominated as 1A (Kirkwood Road) and site 2A (Lot 1327//1005077) within six months of the date of this approval. Such plan must be prepared in accordance with Council's *draft Habitat Restoration Guidelines* and submitted to Council's Development Assessment Unit for approval. Such plan must describe how restoration works will be funded for a minimum 5 year period whilst restoration is undertaken and how the site will be managed thereafter.
21. Within six months of the date of this approval, the applicant must commence the process of re-categorisation of offset site 2A (Lot 1327//1005077) to *Natural Area / Bushland* and prepare a Plan of Management in accordance with the requirements of the Local

- Government Act (note that the Habitat Restoration Plan may include these requirements within the one plan).**
- 22. A registered Spotter-catcher must be present on site during all works that involve the clearing of native vegetation so as to minimise impacts to native fauna.**
 - 23. A Compensatory Fauna Nest-Box Plan must be submitted to Council's Development Assessment Unit for approval within six months of the date of this approval. All reasonable opportunities to re-use hollows removed from trees on the site must be taken.**
 - 24. Any part of the activities with the potential to trigger a Fisheries Permit must be discussed with the Department of Industry and Investment (Fisheries) and such a permit applied for if directed by Fisheries.**
 - 25. Native vegetation must not be removed outside that area strictly required for works directly associated with the project as described in the Review of Environmental Factors and associated documents submitted with the application.**
 - 26. Works must comply with the recommendations Cultural Heritage Assessment for the Kirkwood Road Extension project by Converge dated 20/12/10.**
 - 27. A Construction Environmental Management Plan (CEMP) is to be prepared for the construction phase of the development. The Construction Environmental Management Plan is to be prepared in accordance with the Review of Environmental Factors and associated documentation submitted with this application and is to detail proposed environmental impact avoidance and mitigation measures and monitoring programs.**
 - 28. A suitably qualified Environmental Officer, that is be nominated and approved by Council's Development Assessment Unit, shall be engaged by the proponent for the duration of the construction works as detailed in the CEMP. Their role shall be to oversee the environmental compliance of the project until completion and to act as a liaison officer to consult with complainants in relation to the project impacts during construction works.**
 - 29. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be complied with during all phases of the project. Safe public access shall be provided at all times.**
 - 30. 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".**

31. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.
32. A copy of approved plans, the CEMP and relevant specifications and documents incorporating conditions of approval shall be kept on site at all times and shall be readily available for perusal by any officer of Council or relevant State Government Authorities.
33. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

[GEN0045]

34. All imported fill material shall be from an approved source. 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 the approval of the General Manager or his delegate.

[PCC0465]

35. 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.

and upon completion,

- all topsoil to be respread and the site to be grassed and landscaped including battered areas.

[DUR0755]

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

[DUR0815]

37. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles.

[DUR0995]

38. All work associated with this approval is to be carried out so as not to impact on the 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 removed from the site by wind

[DUR1005]

- 39. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.**

[DUR1015]

REPORT:

Applicant: Tweed Shire Council
Owner: Kirkwood Est Pty Ltd
Location: Lot 697 DP 47411, Road 2920 Kirkwood Road; Lot 33 DP 1073293 Firetail Street, Road 944 Pacific Highway, Tweed Heads South
Zoning: 6(b) Recreation & 2(e) Residential Tourist
Cost: Nil

BACKGROUND:

The Kirkwood Road Project is to be constructed as a two lane road linking Kirkwood Road from Falcon Way to Fraser Drive, including access to and from the Pacific Highway. The alignment would connect with Fraser Drive via a roundabout at the intersection of Fraser Drive and Kirkwood Road. Included in the proposal is an overpass over the Pacific Highway.

This project has been identified within Tweed Shire Council's 1997 Tweed Road Development Strategy and the construction of the eastern section of the proposal is included in Tweed Shire Council's next five year works plan.

The elements of construction are summarised as follows;

- A two lane road extension from the intersection of Kirkwood Road and Falcon Way to the Pacific Highway
- An overpass across the Pacific Highway
- Three on/off ramps for the Pacific Highway (northbound off-ramp, southbound off ramp and southbound on-ramp)
- Asphalt concrete road surface
- 60 km/hr vehicle speed limit and
- Road-side acoustic barriers (Noise walls)
- Pedestrian and bicycle path
- A haul road is proposed to provide access between the eastern and western sides of the Pacific Highway prior to the development of the overpass

The project also includes the provision of landscaping to the road development.

Adjoining property access from the proposal will be limited to a left turn access into the Tweed Heads Crematorium and Memorial Gardens from Kirkwood Road. There will be no traffic access into Sunshine Avenue from Kirkwood Road.

It is proposed to undertake the above development in two stages with the development of Kirkwood Road from Falcon Way to the Pacific Highway and the provision of southbound on and off ramps comprising Stage 1A.

Stage 1B would consist of the development of Kirkwood Road from Fraser Drive to the Pacific Highway, the Pacific Highway overpass and the northbound off ramp from Pacific Highway to Kirkwood Road.

It is proposed to commence construction of Stage 1A in mid 2011 with a projected date of construction on Stage 1B between 2015- 2020.

The proposed development is expected to have an environmental impact through the removal of 6.9ha of vegetated land including 2.78ha of Endangered Ecological Communities. These EEC's consist of:

- 0.86ha of *Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions,*
- 1.38ha of *Subtropical Coastal Floodplain Forest of the NSW North Coast Bioregion.* And;
- 0.17ha *Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions* and another 0.37ha of a highly modified form of this community.

Compensatory offsets have been outlined for the establishment of revegetation of a 5ha and a 2ha parcels, which in the opinion of Council's Ecologist could support Subtropical Coastal Floodplain Forest.

Details of each aspect of the proposed works are discussed in detail further below.

CLEARING AND GRUBBING

Clearing of the existing vegetation and the removal of remnant roots would be carried out in the initial stages of the development. Initially, these works would only be undertaken for the eastern section of the proposal, the southbound ramps, the western fill source area, and the haul road.

EARTHWORKS

It is anticipated that approximately 95,000m³ of fill is required for the project. It is proposed to source this from the approximate 154,000m³ of cut material located within the project site, mainly to the western side of the Pacific Highway.

Surplus material would be left in situ following completion of the eastern section of the alignment. Following completion of the overpass and western section, surplus fill would be stockpiled and stabilised within previously cleared areas for use on for future projects.

All material to be imported to the site is to be sourced from Council approved quarries in the locality.

PAVEMENT DESIGN

The proposed pavement type involves a profile made up of two unbound gravel layers with a primer seal and an asphalt wearing course. This has been determined based on site geotechnical results, anticipated vehicle movements, and future anticipated vehicle movement growth.

PAVEMENT ALIGNMENT

The Kirkwood Road alignment has been designed in order to reduce impacts on existing vegetation, in particular through the alignment of the highway overpass to completely avoid impacts to SEPP 14 wetlands, avoiding sensitive vegetation by the steepening of batters wherever possible, the location of footpaths/cycleways on cleared land, and the design of noise walls locations.

East of the Pacific Highway, the Kirkwood Road carriageway would be designed to RL 1.9 m to match the existing Kirkwood Road levels from Falcon Way to Minjungbal Drive. In a 1 in 100 year flood event, the proposed road level would be approximately 0.7 m below the predicted high water line.

To the west of the Pacific Highway, the section to Fraser Drive will have a minimum proposed carriageway height of RL 2.35 m. This would maintain a 300 mm level below the anticipated 1 in 100 year flood level of 2.65m. This is required to provide a flood evacuation route for the western area.

REVISED INTERSECTING STREET ALIGNMENT

The proposed development requires the amendment of some of the existing access ways and street alignment around the Kirkwood Road Project. These revisions are outlined below;

- Sunshine Avenue presently provides access to the Tweed Heads Crematorium, however the proposed development will terminate this access way, requiring an alternative arrangement. It is proposed to shorten Sunshine Avenue and provide a U-turn facility at the southern end where the Kirkwood Road project is to be developed.
- Access to the Tweed Heads Crematorium and Memorial Gardens is to be provided from Kirkwood Road in a 'Left In/ Left Out' manner in order to prevent the possibility of queuing onto the Pacific Highway from funeral corteges.

Fraser Drive Kirkwood Road intersection - Kirkwood Road and Fraser Drive intersection is proposed to be constructed as a single lane round about.

Falcon Way Kirkwood Road intersection – This intersection has been modified slightly in order to achieve adequate sightlines for traffic from Falcon Way and to provide adequate maneuverability for all vehicles around the roundabout.

PEDESTRIAN CYCLEWAY

Due to the proximity of the proposed development to surrounding schools, holiday parks, sporting fields and other recreation areas, this application includes the provision of a cycle way and pedestrian path alignment to the Kirkwood Road upgrade and Service Roads. This path consists of a 2.5m wide shared path which is separated from vehicular traffic by virtue of safety barrier or grassed verges.

SAFETY DEVICES

There are a number of safety devices proposed as part of this project in order to meet the safety requirements associated with the construction of a road. These include;

Guard rail- A guard rail is proposed at interchanges, on/ off ramps, and to the Pacific Highway overpass.

Wire rope- A wire rope will be utilised to the south bound on/ off ramp and to the western section of the Kirkwood Road extension.

Pedestrian crossing- It is proposed to provide pedestrian crossings to Kirkwood Road at the southbound off ramp and the northbound off ramp to facilitate access along the pedestrian cycleway at these points. The existing pedestrian crossing along Kirkwood Road at the Falcon Way junction is to be upgraded by way of widening the central median to allow more space for pedestrians and providing fencing to funnel pedestrians to this crossing point.

Concrete barriers- These are to be used to provide traffic separation from the Pacific Highway and the overpass.

Street lighting- Lighting is proposed to areas along the proposed Kirkwood Road alignment including the intersections with Pacific Highway, the Pacific Highway on/ off ramps and the intersection with Fraser Drive. Further lighting may be provided depending on the final design.

NOISE MITIGATION MEASURES

Noise barriers are to be provided to the proposed development as required by noise assessment. Nominal plans have been submitted for the location of these noise barriers, based on noise assessment undertaken to date. Additional noise assessments have been commissioned to further determine what level of noise mitigation measures are required.

HYDROLOGY

There are a number of stormwater infrastructure structures proposed as part of this development. These include three storm water transverse drainage systems along Kirkwood Road, to the east of the Pacific Highway

Longitudinal drainage is proposed along both eastern on and off ramps from the Pacific Highway to direct overland flow to the proposed treatment basins (see below).

Systems are also proposed at both interchanges to provide collection and transfer of collected run-off to proposed treatment basins.

A new underground piped culvert is to be constructed for the collection system on the eastern side of the highway. This includes an underground drainage pathway to the east flowing to an existing open drain which occurs along the southern boundary of Arkinstall Park. This drain discharges into Ukerebagh Passage.

WATER QUALITY MANAGEMENT

Four permanent stormwater detention ponds with high flow outlets are proposed as part of this development. These would retain surface water on the site until they reach capacity, with overflows released over a weir structure or through a high level release system into grassed swales.

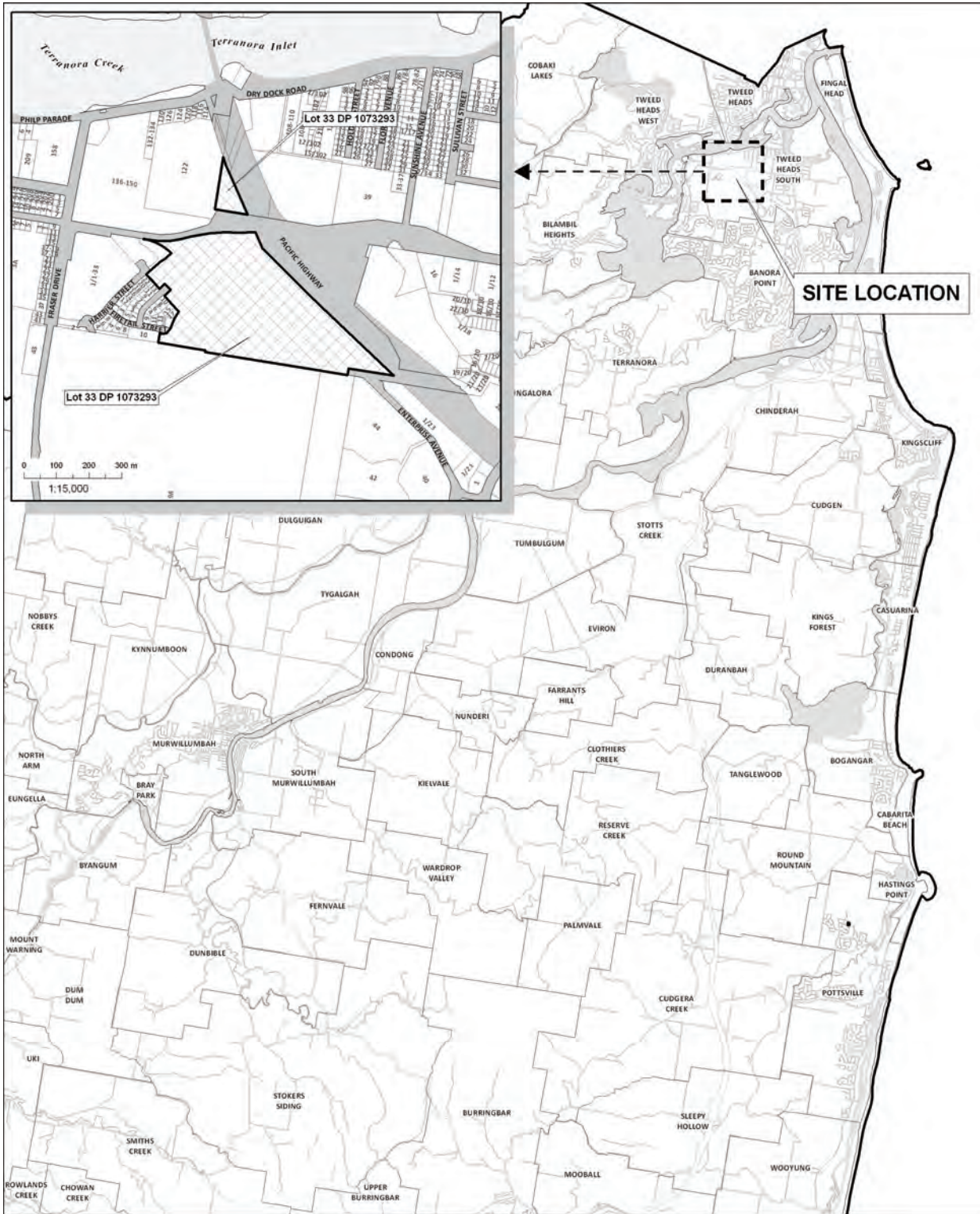
Prior to the release of water from these ponds, turbidity levels would be monitored to ensure released waters comply with environmental guidelines. If turbidity levels do not comply with environmental standards flocculation methods would be utilised.

Furthermore, staged water quality management is to be undertaken through the implementation short term sediment and erosion control measures. These include temporary check dams, batter chutes, ground covers and water diversion channels.

KIRKWOOD ROAD HIGHWAY OVERPASS

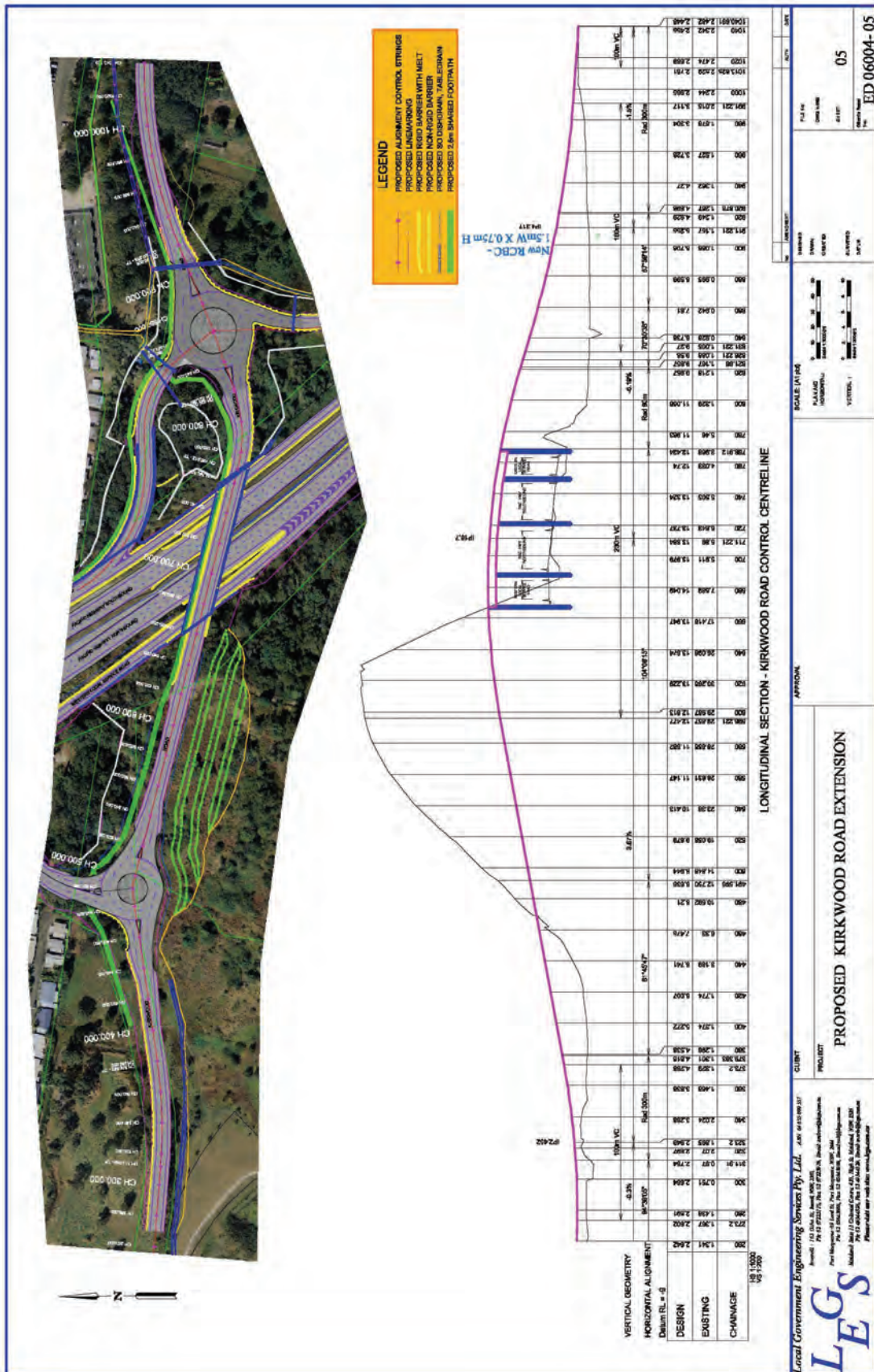
A four span concrete structure is proposed for the highway overpass over Pacific Highway. A pedestrian path is proposed to the northern side of the overpass with antichuck screens to both sides of the overpass.

SITE DIAGRAM:



Locality Plan
 Lot 697 DP47411, Kirkwood Road;
 Lot 33 DP 1073293 Firetail Street,
 Tweed Heads South

<p><small>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 all 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 approximate only. It should not be used for survey or construction purposes and prior to any excavation 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.</small></p>	<p><small>Cadastre: 04 May, 2011 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</small></p>	<p><small>0 1 2 Km 1:125,000 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</small></p> <p><small>Map From: Universal Transverse Mercator Horizontal Datum: Geocentric Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</small></p>	<p><small>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484 T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</small></p>	
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LEGEND

- PROPOSED ALIGNMENT CONTROL STRIPS
- PROPOSED LANE MARKINGS
- PROPOSED MEDIAN WITH HELI
- PROPOSED NON-LOADED BARRIER
- PROPOSED 50 DISCHARGE TABLE DRAIN
- PROPOSED 2.5m SHARED FOOTPATH
- TEMPORARY HAUL ROAD
- DRAINAGE CHANNEL
- FUTURE CULVERT

<p>DESIGN UNIT TWEED SHIRE COUNCIL COMMUNITY OFFICES 100 WILSON STREET MURUMBidgee NSW 2484 PHONE 08 84762888 FAX 08 84762833 WEBSITE www.tweedshire.nsw.gov.au</p>		<p>PROJECT: KIRKWOOD ROAD EXTENSION (Falcon Way to Fraser Drive), South Facing Highway Ramps to Kirkwood Road and Eastern Service Road</p>		<p>DRAWING NUMBER: ED06004 - 02</p>	
<p>DESIGN ENGINEER: CHECKED: P.J.E. DATE: _____ DESIGNED: J.P.L. DATE: _____ CHECKED: J.P.L. DATE: _____ HORIZONTAL DATUM: 1984 CO-ORDS ADOPTED PM VERTICAL DATUM: AND N E</p>		<p>ACAD FILE No: G:\AUTOCAD DRAWINGS\PHUR</p>		<p>SHEET 2 OF 38 SHEETS</p>	
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<p>THIS SHEET MAY BE REDUCED</p>					

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	3	Although clearly designated as road reserve, the area subject to this application has been undeveloped for many years whilst development has occurred on adjacent land. Previously largely cleared in the 1970's, trees and vegetation communities have regenerated and the area is subject to little use at present. The imposition of a connector road will increase noise and reduce the present visual amenity, however, surrounding developments have generally been conditioned with the expectation that the road will be built in the future with such measures as noise protection conditioned.
b) Any transformation of a locality	2	Whilst the Kirkwood Road Project is considered to substantially transform the development area by virtue of the removal of vegetated land as outlined above, having regard to the wider locality the proposal is considered to have a minor overall impact on the transformation of an area which is largely highly developed. Arkinstall Park and local schools will continue to provide greener belts amongst the developed zones.

Factors taken into consideration	Rating of Impact	Comments (if applicable)
c) Any environmental impact on the ecosystems of the locality	2	The proposed development would result in impacts upon the ecosystems on the site through loss of habitat, however having regard to the proposed habitat compensation areas in the locality it is considered that the Kirkwood Road Project will result in greater areas of restored and protected habitat in the longer term. Strict erosion and sediment controls, and imposition of a construction environmental management plan will reduce any potential for off-site impacts arising from the development.
d) Any reduction of the aesthetic, recreational, scientific, or other environmental quality or value of a locality	2	<p>Negative impacts to the aesthetic, scientific and environmental qualities of the site are envisaged through the proposed works and associated activities.</p> <p>Recreational values of the site will be improved through cycleway construction which will improve pedestrian access in the immediate locality and improve connectivity from east to west in the area. Significant weed control works, road edge restoration and improved stormwater quality controls will mitigate impacts and provide for improvement in some regards.</p>

Factors taken into consideration	Rating of Impact	Comments (if applicable)
<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</p>	<p>1</p>	<p>Two Cultural Heritage Assessments have been undertaken on the subject site, in 2005 and 2010. Boreholes undertaken in 2005 did not reveal the presence of any middens or other below-ground items of significance.</p> <p>The 2010 report identified cultural heritage items consisting of two scarred trees within the project area, one of which was identified with certainty and the other of which was of less certainty. The eastern section of road alignment has been designed to avoid the certain scar tree, but the second tree was unavoidable. A condition has been imposed to ensure the Cultural Heritage report recommendations are complied with, thus mitigating the impact on the cultural and historic value of these items. It is understood that other offset benefits such as employment on the project are under discussion.</p> <p>An assessment of European heritage did not reveal any special significance that could be attributed to the site.</p> <p>As such the proposal is unlikely to impact on any locality, place or building having aesthetic, anthropological, archaeological, architectural, or historic value.</p>
<p>f) Any impact on the habitat of protected fauna (within the meaning of the National Parks and Wildlife Act 1974)</p>	<p>1</p>	<p>Impacts are expected to protected (i.e. non-threatened native) fauna due to the loss of habitat in the area. Few species are considered to rely on the site for the whole or any part of their life-cycle and most are mobile species which use the site more for forage than roosting or nesting. Nonetheless, amelioration is proposed in the form of habitat restoration which will benefit all relevant species, a nest-box program, and use of a spotter-catcher during site works to relocate any captured fauna to suitable bushland.</p>

Factors taken into consideration	Rating of Impact	Comments (if applicable)
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	Detailed considerations of the full suite of flora and fauna species on the site has been undertaken with the result that the proposal is unlikely to result in the extinction or endangering of any species.
h) Any long term effects on the environment	1	The loss of vegetation will not be replaced on site thus may be considered to cause long term impacts on the environment, however, the proposal will result in a greatly improved environmental outcome for a large contiguous native area which will is presently mown and will become bushland. On balance, overall impacts are considered to be negligible due to the compensatory off-set plan associated with the development on the site. Permanent measures to prevent erosion and improve water quality and road verges will result in long-term improvements.
i) Any degradation of the quality of the environment	2	<p>There is likely to 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 are proposed to minimise these impacts and prevent the further degradation of the quality of the environment at the site and these aspects have been conditioned.</p> <p>Following completion of works and provision of environmental compensation measures, it is considered that the overall quality of environment in the locality will not be degraded by virtue of this development.</p>
j) Any risk to the safety of the environment	2	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.

Factors taken into consideration	Rating of Impact	Comments (if applicable)
k) Any reduction in the range of beneficial uses of the environment	1	<p>The proposed development is not considered to reduce the range of beneficial uses to the environment. Whilst the proposal does consist of the removal of vegetated areas currently on the site, it is considered that elements of the proposal such as the installation of stormwater quality control devices and pedestrian cycleway would result in a beneficial use of the environment</p> <p>The pedestrian cycleway proposed as an element of this proposal would increase pedestrian access in the locality and improve amenity and recreational values of the site.</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 Kirkwood Road Project is not considered to result in any additional pollution within the environment.</p>
m) Any environmental problems associated with the disposal of waste	1	<p>Disposal of waste as a result of the activity is not expected to result in any environmental problems. There will 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. No contaminating activities are known from the site.</p>
n) Any increase demands on resources (natural or otherwise) that are, or are likely to become in short supply	1	<p>The proposed development is to source fill from cut associated with the western section of the proposal where possible.</p> <p>Some additional material is to be imported to the site, however these are not considered to be in short supply and will be sourced locally.</p>
o) Any cumulative environmental effect with other existing or likely future activities	1	<p>The proposal is not likely to result in a significant negative cumulative environmental effect with other existing or likely future activities. Overall, the proposed development is considered to be acceptable having regard to the provision of compensatory habitats elsewhere in the locality.</p>

Factors taken into consideration	Rating of Impact	Comments (if applicable)
p) Any impact on coastal processes and coastal hazards, including those under projected climate change conditions	1	The proposal is not likely to impact negatively on coastal processes or hazards, having regard to its location, a minimum of 400m from the nearest coastal waters.

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*. Furthermore 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 proposed Kirkwood Road Project.

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

- a. *critical habitat; and*

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.

- 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

Impacts are expected to protected (i.e. non-threatened native) fauna due to the significant loss of habitat in the area. Amelioration is proposed in the form of habitat restoration which will benefit all relevant species, a nest-box program, and use of a spotter-catcher during site works.

- c. *any other protected fauna or protected native plants within the meaning of the National Parks and Wildlife Act 1974.*

This matter has been considered in detail and discussed above. No significant impact is expected to arise with the protection and rehabilitation of offset sites.

GENERAL COMMENTS

The application was placed on public exhibition for a period of 30 days from Wednesday 19 January 2011 to Monday 21 February 2011, with a total of 13 submissions received.

An assessment of the submissions received is provided below:

Noise

A number of submissions were received raising issues with the impact of noise associated with both the construction phase of the development and by vehicular traffic upon opening of the road.

Following further consultation with various stakeholders in the area by members of Council's Design Unit, additional sound modelling has been commissioned at the cemetery/ crematorium and along the developed section of Kirkwood Road in order to validate the sound modelling previously undertaken for the proposal and to determine the adequacy of the proposed noise wall locations and whether any additional works are required in relation to this sensitive receiver.

Noise modelling undertaken has indicated that during the construction phase of the development, acceptable noise levels would not be exceeded in relation to the Tweed Heads South Public School.

A number of conditions have been provided by Councils Environmental Health Section in relation to noise impacts arising from the proposal, requiring that an additional acoustic report be undertaken on the site and that the applicant carry out any such recommendations as provided within the noise assessment reports to the satisfaction of the General Manager or delegate.

Pedestrian Safety

A number of submissions have been received in relation to pedestrian safety, in particular arising from the location of two schools in close

proximity to the development and the pedestrian crossing to the east of the Falcon Way roundabout. Some of these submissions have proposed measures to increase pedestrian safety including the provision of traffic lights at the pedestrian crossing, a 'Kiss and Ride' lay-by and a pedestrian overpass.

Council officers have undertaken a full review of the existing Falcon Way Kirkwood Road Intersection. This review resulted in the redesign of the pedestrian crossing to facilitate additional fencing to funnel pedestrians to the crossing point and the widening of the central storage refuge on Kirkwood Road to provide additional space for pedestrians crossing the road.

On the suggestion of traffic light installation, the intersection is required to meet a number of standards and final RTA approval prior to traffic lights being approved for installation. The indicated pedestrian counts and traffic counts received by Council do not meet the "Warrants" required for the installation of traffic lights.

It is advised that it is not possible to provide a pedestrian overpass due to the location of the road adjacent to existing property boundaries to the southern side of Kirkwood Road and the close proximity of a creek to the northern roadside boundary. This restriction of space also precludes the provision of a 'Kiss and Ride' lay-by.

Traffic Restrictions (speed zones/ restrictions to road use by certain vehicles)

Two submissions have been received relating to restricting traffic along the proposed Kirkwood Road Upgrade. One of these has proposed a 40km/ hour speed limit both east and west along Kirkwood Road either side of the Falcon Way intersection. The other has proposed to restrict heavy vehicles using Kirkwood Road to business hours only.

With respect to the proposed speed limit, Councils Design Unit have indicated that this will be investigated and if appropriate, this speed limit will be proposed as part of the final design.

In relation to restricting the use of the road, Council's present road hierarchy designates Kirkwood Road as an Urban Collector which means that the Kirkwood Road would be suitable for use for all vehicles except B-Doubles. B-Doubles can only operate on approved routes. Kirkwood Road is not an approved B-Double route

Vibration

A number of submissions have been received concerning negative impacts on dwellings (including uneven settlement and cracking) in the area arising from vibration both during the construction phase and from heavy vehicles using the road upon opening.

Councils Design Unit has indicated that the approved contractor will undertake Condition Surveys of all properties adjacent to heavy construction activities. This will provide the resident and the contractor with written and photographic evidence of the existing condition of the inspected property. In the event that there is a change in the existing condition of the inspected property the property owner will notify the Contractor and a joint inspection of the damage will be undertaken between the property owner and Contractor. Comparison of the property will be undertaken with the original report and a determination will be made to the claimants claim.

It is also noted by the Design Unit that all earth fill used in the construction of surrounding dwellings is required to be compacted to a suitable density to reduce any such issues in relation to long term settlement or cracking.

In addition to this a condition has been provided by Councils Development Engineering Section prohibiting the use of vibratory compaction equipment within 100 metres of any dwelling house, building or structure.

Drainage

Three submissions have been received in relation to drainage associated with the proposed development. One of these issued a preference for one of the two drainage options outlined in the Review of Environmental Factors, whilst the second requested that the drain located to the northern side of Kirkwood Road requires trees to be removed and generally tidied up. The third submission requests that the Kirkwood Road project address existing and future drainage problems in the "lower" area of the Crematorium/ Cemetery

Revised documentation received in relation to this proposal has indicated that the drainage option selected by Council is in accordance with that proposed in the submission.

With respect to the request to generally tidy up the drain to the northern side of Kirkwood Road, this has been forwarded to Council's Asset Engineer for inspection.

With respect to drainage at the Crematorium/ Cemetery Council have undertaken further review of the drainage design associated with the lower areas of the Crematorium and have identified that the area requires an additional culvert. This culvert will provide a conduit to drain water from low lying areas to the south of Kirkwood Road to the open drain to the north of Kirkwood Road.

Air Pollution

A number of submissions were received raising issues with the impact of exhaust fumes from passing vehicles on the surrounding area.

These submissions were forwarded to Council's Design Unit who have indicated that mitigation measures are to be undertaken to ensure air quality is not negatively impacted during construction of the proposal. A number of conditions have been provided by Councils Environmental Health and Engineering Sections in relation to mitigation of dust during construction.

A desktop assessment of operational phase air quality impacts was undertaken as part of the Review of Environmental Factors. Using data from an adjacent highway upgrade project with significantly higher traffic levels, it was inferred that emissions from vehicles would be below relevant DECCW air quality standards.

Flooding

Two submission were received raising concerns in relation to increased flooding arising from the proposal during heavy rainfall.

These submissions were forwarded to Council's Design Unit for comment. In response it was indicated that a full drainage study of the areas has been undertaken and all information obtained has indicated that modelling undertaken predicts that peak 1 in 100 year ARI storm flows generated after Kirkwood Road is constructed, will be reduced from current flowrates due to excess stormwater being detained on the southern side of Kirkwood Road. Therefore the construction of Kirkwood Road will not lead to increased runoff being directed to the existing stormwater system.

Removal of Vegetation

Council received two submissions objecting to the removal of vegetation associated with the proposal.

With respect to the removal of vegetation associated with the proposal, it is noted that Council has undertaken two ecological assessments within the project area. This information has guided the design of the road alignment to minimise impact to the natural habitat.

Where possible, corridors of trees will be retained particularly between Sunshine Avenue and the Falcon Way intersection.

Measures are proposed to ensure retained vegetation and habitats are not further impacted during construction. Retained vegetation will also be the subject of weed management to help improve the ecological condition of this vegetation in the future. In addition to this, compensatory ecological offset areas are proposed as part of this application to mitigate any negative impacts arising from the proposal.

Inconsistency in Flora and Fauna Assessment over Lot 33 DP 107329

One submission received has requested that a Site Survey undertaken on the above Lot relating to flora and fauna by the client is to prevail over the

Flora and Fauna Assessment submitted as part of this REF in the event of an inconsistency to assist the assessment of a future Development Application lodged on the abovementioned Lot.

As indicated within the Flora and Fauna Assessment prepared by Lewis Ecological Surveys on behalf of Council, the area away from the likely direct and indirect impacts of the proposed development were only briefly viewed to provide a broader context of the area.

It is considered that in the event of a Development Application being received by Council for development on this site, the relevant Council officers would assess that application on its merits and ensure that all necessary ecological information be provided.

Request for signage to be erected on approach roads for the new site access to the Crematorium/ Cemetery

New signage is to be erected in accordance with relevant design standards for the Crematorium and Lawn Cemetery. A review of the proposed sign locations will be conducted in consultation with the Crematorium/ Cemetery prior to signage design being finalised.

Request for road to be split carriage way

One submission requested that the road be redesigned as a split carriage way with a central vegetated median to reduce the audible difference to the properties at Rosella Court.

Councils Design Unit have investigated the possibility of this proposal and it is considered that the impact on the existing vegetation by the separation of the road is significant. Thus this design change has been deemed inappropriate.

Safety at Falcon Way Junction

A number of submissions have been received concerning inadequate sight distances for traffic attempting to gain access from Falcon Way onto Kirkwood Road. In addition to this concerns have been raised with respect to the ability of traffic to safely negotiate the roundabout at the Falcon Way junction. One submission raised the proposal of traffic lights at Falcon Way to improve safety.

Following the receipt of these submissions Councils Design Unit have redesigned the roundabout at this location to facilitate the provision of requisite sight distances onto Kirkwood Road and to improve the manoeuvrability of traffic around the roundabout.

It is considered that the addition of traffic lights at this intersection would not be supported by NSW RTA based on predicted traffic flows.

Access to Crematorium/ Cemetery Site

A submission has been received requesting the provision of a right turn access to the Crematorium/ Cemetery site and to approve a new vehicular access to the eastern boundary of the site generally in the vicinity of the McKenzie Aged Care Facility.

Council officers have investigated the provision of a right turn entrance to the site through the widening of the road footprint. It is determined that such an arrangement would not be supported as such an intersection could lead to queueing onto the Pacific Highway from the proposal which raises safety concerns. In addition to this the widening of the road footprint would necessitate the clearing of environmentally sensitive vegetation. As such the proposal for a right turn access to the Cemetery/ Crematorium is not supported.

In relation to a new vehicular access to the site, It is advised by Councils Design Unit that the access proposal by Invocare is to formalise an existing unapproved access under Section 138 of the Roads Act and as such is not considered to form a part of this application.

Provision of double glazing, air-conditioning and higher walls at Rosella Close

One submission has requested the provision of double glazing, air-conditioning and higher walls to dwellings in Rosella Close in order to minimise impact from the road project.

Councils Design Unit has indicated that these properties were built with consent conditions that required the properties to be acoustically rated prior to the issuing of an Occupancy Certificate. Council records indicate that this was completed and signed off by a Private Certifier. This is considered to preclude a requirement for double glazing, air-conditioning or additional wall height.

Negative Visual Impact of the proposal

One submission has concerns that the design of the new road project makes no allowance for the visual impact that changed traffic movements and vegetation removal will introduce to the Crematorium site and business

Section 6.5 of the review of Environmental Factors outlines the residual impacts of the proposal on the visual amenity of Tweed Heads Crematorium and Memorial Gardens and proposes extensive buffer planting to mitigate these impacts. A full landscaping design for the project has been commissioned and will include buffer planting design associated with the Crematorium

Kirkwood Road Project not required

One submission received has indicated that the proposed Kirkwood Road Project is not necessary due to the Sexton Hill and Northern Interchange development.

Kirkwood Road as part of the agreed Lower Tweed and Pacific Highway master plan has been identified as a critical piece of infrastructure that is required between now and 2015. Council have received funding for the upgrade from the RTA to undertake the works with the next 20 months. The Kirkwood Road Project is considered necessary due to predicted continual population increase of the Tweed Shire, pending developments to the west of the Pacific Highway and existing pressures on Dry Dock Road and Minjungbal Drive.

Existing section of Kirkwood Road not suitable for increased traffic due to width.

One submission contends that the existing section of Kirkwood Road between falcon Way and Minjungbal Drive is not of sufficient width to cater for increased traffic flow or heavy vehicles.

The Design Unit of Tweed Shire Council has reviewed this submission and indicated that the design of the Kirkwood Road and Falcon Way intersection complies with current road design standards.

Acoustic Barrier at Palms Village Caravan Park

One submission has been received with respect to an acoustic barrier adjoining Palms Village Caravan Park. This specifically relates to the location of the barrier along the northbound service road and the extension of the barrier at the south east section of the caravan park.

The proposed design has been amended to reflect the changes requested along the northbound service road. Councils Design Unit have also indicated that it intends to extend the acoustic barrier along south east corner of Palms Village. This is considered to provide the best acoustic outcome for the residents of the Palms Village in accordance with acoustic modelling undertaken.

Haul Road

One submission was received on behalf of the Palms Village Caravan Park concerning the location of the haul road proposed as part of this application.

This submission was referred to Council's Design Unit who have acknowledged that the proposed realignment of the haul road within the road reserve is acceptable.

Relocation of On/ Off Ramps

One submission proposed the relocation of the On/ Off ramps from the Pacific Highway junction with Kirkwood Road to the Pacific Highway Junction with Greenway Drive.

The proposed amendment to the project was investigated by Council Officers, however it has been determined that it is not possible to provide On/ Off ramps to Greenway Drive as there would not be requisite space between junctions along Pacific Highway once the Banora Point Upgrade is completed.

Parking of construction equipment in close proximity to school

One submission received raised concerns with the parking of construction equipment in close proximity to the Tweed River High School.

Councils Design Unit have indicated that the successful contractor will have designated storage areas for construction equipment. These areas would be identified within a Council approved Construction Environmental Management Plan prior to works commencing. Risk preventative measures would be installed to reduce the potential for the public (including children) accessing equipment.

These preventative measures would include; fencing of compounds and machinery storage areas, removal of machinery from site when not being used over long periods, and storage areas with limited exposure to the public.

Impact from the proposal on surrounding street (Heffron Street)

One submission received raised concerns in relation to possible increases in traffic, the provision of on street bus parking, pedestrian safety and the adequacy of the speed zone along Heffron Street.

Councils Design Unit have reviewed the submission and indicated that it expects that traffic volumes to remain similar in Heffron St as a result of the project.

Kirkwood Road is not considered to generate traffic in the area and instead will share traffic from other roads. The ultimate East West link of Kirkwood road will reduce traffic flow along Dry Dock Road. This traffic, if wanting to head south along Minjungbal Drive, will possibly take the Kirkwood Road option instead of the Heffron Street route, thereby reducing the traffic to this street.

It is further considered that any proposal for off-road school bus facilities would need to be constructed on Dept. of Education land and Council would consider any applications on its merits.

Currently there is a 40km/hr school speed zone on Heffron Street, two pedestrian refuges, and phased traffic signals at the entrance of Heffron Street. and Minjungbal Drive. Any new proposed pedestrian facilities would need to conform to appropriate standards and RTA approvals and guidelines.

Sleep deprivation arising from the proposal

One submission has highlighted that the proposed development would result in sleep deprivation for elderly persons living in the locality causing them health issues.

Council recognise that the existing environment would change as part of the proposal and has implemented all reasonable and feasible measures to mitigate impacts to the environment and amenity during construction and operation of the proposal as necessary to comply with current legislation.

Lack of time to prepare submission

One submission has indicated that insufficient time was provided by Council to prepare a submission.

Council officers met with members of Invocare (who made this submission) on 09 February 2011 and advised that Invocare formally apply for an extension of time to the closing period due to the short notice. Council advised Invocare that this application would be given due consideration due to the late notice associated with notification of the formal submission period had commenced.

The proposed Kirkwood Road Project 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 considered likely to significantly affect the environment including critical habitat or threatened species, populations or ecological communities, or their habitats.

The Kirkwood Road Project will improve the transport infrastructure of the area as highlighted in Council documentation and works plan. 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 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.

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11 [PR-CM] State Emergency Services/Unlimited Arts - Development of Site

ORIGIN:

Building and Environmental Health

SUMMARY OF REPORT:

The Land and Property Management Authority (LPMA) has responded to Council's request to progress the long term tenure of the State Emergency Services (SES) Tweed Heads Unit on Reserve 89237, Lot 682 DP 41192 Pioneer Parade, Banora Point detailing a process to investigate the matter.

This report presents these processes with a recommendation to proceed as detailed.

RECOMMENDATION:

That Council:

- 1. Seeks a short term licence over Reserve 89237 for the purpose of Site Investigation for a term of 12 months.**
- 2. Undertakes a diligent investigation to determine whether there are suitable sites on Council-owned land in the Shire that might be utilised for SES purposes.**
- 3. Pursues public consultation to show either:**
 - (i) That there is a surplus of open space in the Terranora locality and Reserve 89237 that is not required for public recreation; or**
 - (ii) That Reserve 89237 is required for public recreation but alternatives/offsets proposed by Council for the loss of public recreation space are acceptable to the community; or**
 - (iii) That no alternatives/offsets are sought by the community for the loss of land for public recreation and open space; or**
 - (iv) That the community will not accept alternatives/offsets offered by Council for the loss of open space and alternative sites for the SES facility will be pursued.**

REPORT:

On 15 June 2010 Council resolved to endorse the permanent location of the State Emergency Service Tweed Heads Unit on Lot 682 DP 41192 Pioneer Parade, Banora Point and request the Land and Property Management Authority (LPMA) to create an additional purpose of Reserve 89237 for emergency service facilities to ensure the long term tenure of the SES.

Following this resolution, correspondence was forwarded to the LPMA, they responded advising that the SES was a Council function, that the existing crown Reserve was designated Public Recreation and that the SES was not authorised to occupy the Reserve.

In response to this correspondence on 19 October 2010 Council resolved to write *to the Minister of Emergency Services Mr Steve Whan seeking urgent assistance to make representations on behalf of Council with the NSW Land and Property Management Authority to seek a review of its position on the continuing use of the operations of the State Emergency Service (SES) Tweeds Head Unit at Lot 682 DP41192, Crown Reserve 89237 Pioneer Parade, Banora Point.*

Consequently, following a meeting with the Land and Property Management Authority Council has now received a written response detailing the discussions and a process to address the matter as follows:

1. Tweed Shire Council seek a short term licence over Reserve 89237 for the purpose of Site Investigation for a term of 12 months; and
2. Council complete diligent investigations to determine whether there are suitable sites on Council-owned land in the Shire that might be utilised for SES purposes; and
3. Council will pursue public consultation to show either:
 - (i) That there is a surplus of open space in the locality and the site is not required for public recreation; or
 - (ii) That the site is required for public recreation but alternatives/offsets proposed by Council for the loss of public recreation space are acceptable to the community; or
 - (iii) That no alternatives/offsets are sought by the community for the loss of land for public recreation and open space; or
 - (iv) That the community will not accept alternatives/offsets offered by Council for the loss of open space and alternative sites for the SES facility will be pursued.

The LPMA has advised that once this process is complete Council can proceed to seek necessary planning consents and tenure from the Crown or to relocate the SES premises.

The SES have written to advise they are extremely eager to progress the matter, have highlighted the benefits of the current site and support Council's actions to date to ensure their long term tenure on the site.

It is therefore recommended that Council seek a short term licence and complete investigations and public consultation as required by the LPMA to progress the matter.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Report from Council meeting of 15 June 2010 (ECM 32581980)
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12 [PR-CM] Development Application DA10/0556 for a Surf Lifesaving Outpost and Vehicle Access at Lot 7064 DP 1113596, Surfside Crescent, Pottsville

ORIGIN:

Development Assessment

FILE NO: DA10/0556 Pt1

SUMMARY OF REPORT:

The application seeks approval for the construction of a surf life saving out post building and vehicle access from Surfside Crescent Pottsville. The proposed facility has a height of 3.8m, and a floor area of 109m², and will contain a storage area for life saving equipment, first aid room, internal toilet and shower, unisex toilet accessed externally. The proposed facility is located approximately 350 metres north of the river mouth of Mooball Creek and adjacent to the residential properties of 47, 49, 51 Elanora Avenue and 5, 7, 9 Surfside Crescent. The building is setback 5 metres from the property boundary of number 7 Surfside Crescent and 11.3 metres from the property boundary of 51 Elanora Avenue. Council received 13 submissions from the public on this development application, 12 objecting to the proposal. The Mayor Councillor Skinner requested that the application be determined by Council. It is considered that the application is suitable for approval subject to conditions.

RECOMMENDATION:

That Development Application DA10/0556 for a surf lifesaving outpost and vehicle access at Lot 7064 DP 1113596, Surfside Crescent Pottsville be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos RC10010, RC10010/03 and RC10010/04 prepared by Tweed Shire Council and dated 6/2010, 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 approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant Authority.**
[GEN0135]

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

[GEN0265]

5. **The facility shall be connected to reticulated town water and sewerage services.**

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

Water DSP6:	0.3 ET @ \$11020 per ET	\$3306
Sewer Hastings Point:	0.45 ET @ \$5295 per ET	\$2382.80

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

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

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

[PCC0265/PSC0165]

7. **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]

8. **A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be**

prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

9. 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 undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Vehicular access. In this regard the proposed driveway is to be constructed in concrete for the footpath crossing of Surfside Crescent. Furthermore, the submitted plans showing a driveway longitudinal section with a 10% gradient (across the footpath area), must be amended to provide for a compliant 2.5% gradient across the footpath area of Surfside Crescent.

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]

10. 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.
- (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]

11. **A construction certificate application for works that involve any of the following:**

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

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

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

[PCC1145]

12. **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]

13. **An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.**

[PCC1195]

14. **Prior to the issue of a construction certificate and as a matter of courtesy, the applicant shall approach and obtain consent from the owner of Lot 40 DP 249208, for connection to the existing sewer main within the rear of that property.**

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

15. 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]

16. 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]

17. 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]

18. 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]

19. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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]

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

[PCW0985]

DURING CONSTRUCTION

21. Construction and/or demolition 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 6.00pm

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]

22. 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.

$L_{Aeq, 15 \text{ min}}$ 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.

L_{Aeq, 15 min} 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]

- 23. 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]

- 24. 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]

- 25. The site is considered potentially contaminated. 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]

- 26. 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]

- 27. All work associated with this approval is to be carried out so as not to impact on the 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 removed from the site by wind**

[DUR1005]

- 28. 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]

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

[DUR1875]

30. 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]

31. 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/demolition.

[DUR2185]

32. 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]

33. 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/l.

[DUR2435]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

34. 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]

USE

35. 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]

36. 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]

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

[USE0225]

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

[USE0255]

39. Following completion of a satisfactory post earth work surface radiation survey excavations or disturbances greater than 500mm below the ground surface are not permissible without the separate written approval of Council.

[USENS01]

40. Following the completion of construction and prior to commencement of use a post earth work surface radiation validation survey shall be completed and reported to Council to the satisfaction of the General Manager or his delegate (covering as a minimum the construction area and associated beach access tracks). Surface radiation levels shall not exceed the relevant NSW Health Action level Criteria.

[USENS02]

NSW RURAL FIRE SERVICE

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

1. At the commencement of building works and in perpetuity the property to the east and south of the building to a distance of 15 meters, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

- 2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.**

Access

The intent of measures for internal roads is to provide safe operational access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

- 3. Property access roads shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.**

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

- 4. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.**
- 5. New construction shall comply with section 7 (BAL 29) Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" and section A3.7 Addendum Appendix 3 of "Planning for Bush Fire Protection". The northern and western elevations shall comply with section 6 (BAL 19) Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" and section A3.7 Addendum Appendix 3 of "Planning for Bush Fire Protection".**

REPORT:

Applicant: Tweed Shire Council
Owner: Land and Property Management Authority
Location: Lot 7064 DP 1113596, Surfside Crescent, Pottsville
Zoning: 6(a) Open Space
Cost: \$10,000

BACKGROUND:

The subject site is identified as part of Lot 7064 on DP1113596, adjoining Lots 2, 3 and 4 on DP253861 to the west, Lots 40, 41 and 42 on DP249208 to the north and Cudgera Beach to the east. The site consists of cleared land associated with the existing surf life saving outpost building (shipping container) and the connecting pedestrian access track.

The site is zoned as *6(a) Open Space* under the *Tweed Local Environmental Plan 2000*. The surrounding land uses are predominantly *6(a) Open Space* and *7(f) Environmental Protection* along the coastal strip, with *2(a) Low Density Residential* and *2(b) Medium Density Residential* to the west and *6(b) Recreation* to the far west. The foredune adjoining the site was subject to sand mining between the 1950's to 1970's. The vegetation community currently present has regenerated/rehabilitated from this disturbance. The site occurs within the coastal zone and is designated a sensitive coastal location as defined by the *State Environmental Planning Policy No 71—Coastal Protection* (SEPP 71).

Existing beach access ways occur within and surrounding the site, to the north (emergency vehicle/licensed fisher access way) and to the east (pedestrian access way) of the proposed building footprint. The 'study area' is the subject site and any additional areas which are likely to be affected by the proposal, either directly or indirectly as per the definition provided in the *Threatened species assessment guidelines - the assessment of significance* (DECCW, 2007).

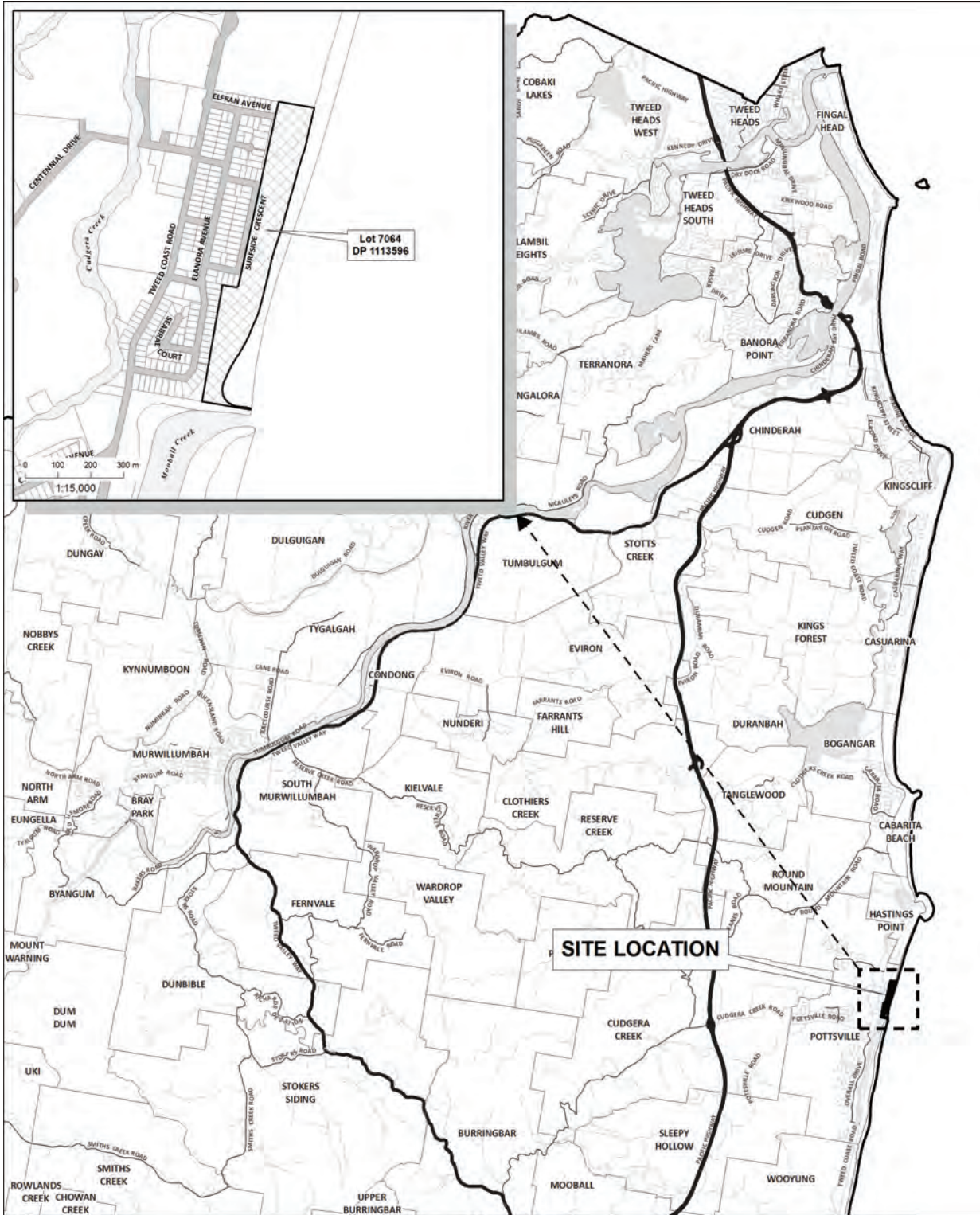
The surf life saving outpost is intended to provide secure storage for surf life saving equipment, a first aid room and public amenities during the surf life saving holiday patrol period of Cudgera Beach. The vehicle access track is necessary for the transportation of surf life saving equipment and personnel between the beach and the outpost building and the public road network (Surfside Crescent).

Works would involve the construction of the access track connection between Surfside Crescent (to the north) and the outpost site. This access track would provide access for construction plant during construction of the outpost building. The proposed works are summarised below.

- Vegetation clearing within access track and outpost footprint.
- Land forming for access track and building pad.
- Construction of outpost building.
- Installation of overhead power.
- Trenching and pipe works for sewer connection of outpost building to existing gravity fed sewer main at rear of adjoining lots (to the north).

- Trenching and pipe works within access track for connection to water main network on northern side of Surfside Crescent (across from junction between access track and Surfside Crescent).
- Landscaping, namely turf establishment.
- Construction of gate for access track at junction with Surfside Crescent.

SITE DIAGRAM:



Locality Plan

Lot 7064 DP 1113596
Surfside Crescent, Pottsville

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 all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) 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 "Dial 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: 05 April, 2011
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Boundaries shown should be considered approximate only.



Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484

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W | www.tweed.nsw.gov.au
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Filepath: Z:\SRP\PRJ\STANDARD TEMPLATES\BASEMAPS\GIMMap - LocalityPlan_A4I.mxd

Author: B.Beachem - Reporting Systems Unit

Date Printed: 03 April, 2011

AERIAL PHOTOGRAPH WITH DRAFT COASTAL HAZARD LINE



DRAFT Tweed Development Control Plan
Section B25 - Coastal Hazards
Coastal Hazard Lines

- 2050 Hazard line
- 2100 Hazard line
- Immediate Hazard line

SOURCE: Aerial imagery taken October 2009 by Fugro Spatial Pty Ltd
Aerial photography can be purchased online from Fugro Spatial Pty Ltd. at: <http://www2.fugroworld.com/>

Aerial Photo - taken October 2009
Lot 7064 DP 1113596
Surside Crescent, Pottsville

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Cadastre: 05 May, 2011
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Boundaries shown should be considered approximate only.

0 25 50 100 M
1:5,000 @ A4 Portrait
DO NOT SCALE
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56
GDA

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DEVELOPMENT PLANS:

PLAN
 A1 SHEET 4256 0 3.5 5 10 15 20 25 30 35 m
 A3 SHEET 1500
 SCALE

SECTION VIEW 4
 FROM NO. 51
 ELANDRA AV.
 POTTSVILLE

SECTION VIEW 3
 FROM NO. 3
 SURFSIDE CR.
 POTTSVILLE

SECTION VIEW 2
 FROM NO. 3
 SURFSIDE CR.
 POTTSVILLE

SECTION VIEW 1
 FROM NO. 5
 SURFSIDE CR.
 POTTSVILLE

CONCEPT DESIGN
 Not For Construction

TWEED SHIRE COUNCIL

DESIGN UNIT
 CONSULTING ENGINEER: MURRAY & MURRAY PTY. LTD.
 CONSULTING ENGINEER: 02 66234589
 CONSULTING ENGINEER: 02 66234590
 CONSULTING ENGINEER: 02 66234591
 CONSULTING ENGINEER: 02 66234592

SHIRAZ OFFICER
 CHECKED BY: J.E. 8/2/05
 DRAWN BY: J.E. 8/2/05
 PROJECT NO.: 112801
 SHEET NO.: 1500
 PROJECT TITLE: SURFSIDE CRESCENT, POTTSVILLE
 DRAWING NO.: 1500

PROJECT:
 SURFSIDE CRESCENT, POTTSVILLE
 CABARITA SLSC - POTTSVILLE OUTPOST BUILDING

PLAN TITLE:
 SITE LAYOUT

DATE	REVISION
11/2011	A3 1:500

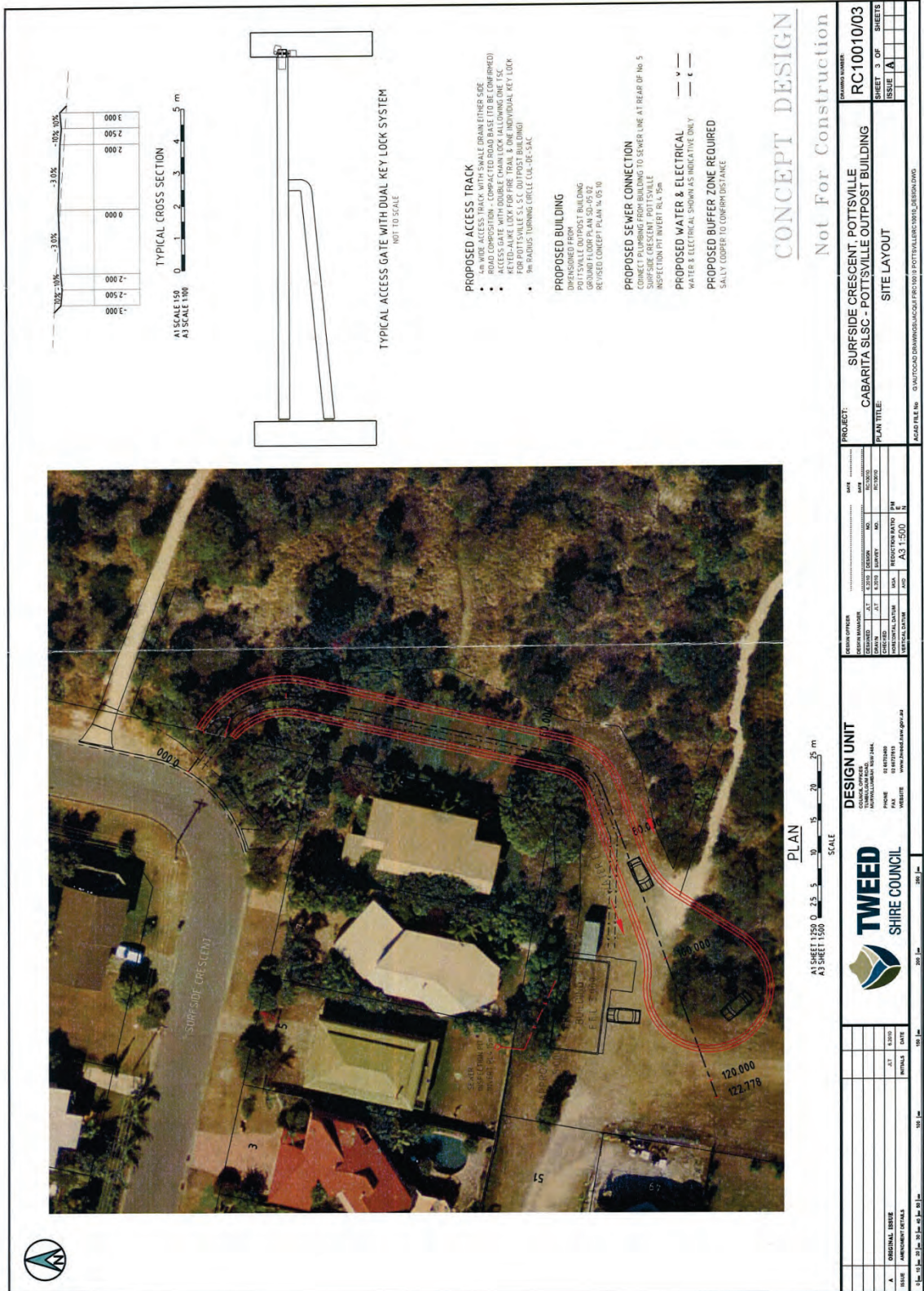
SHIRAZ OFFICER
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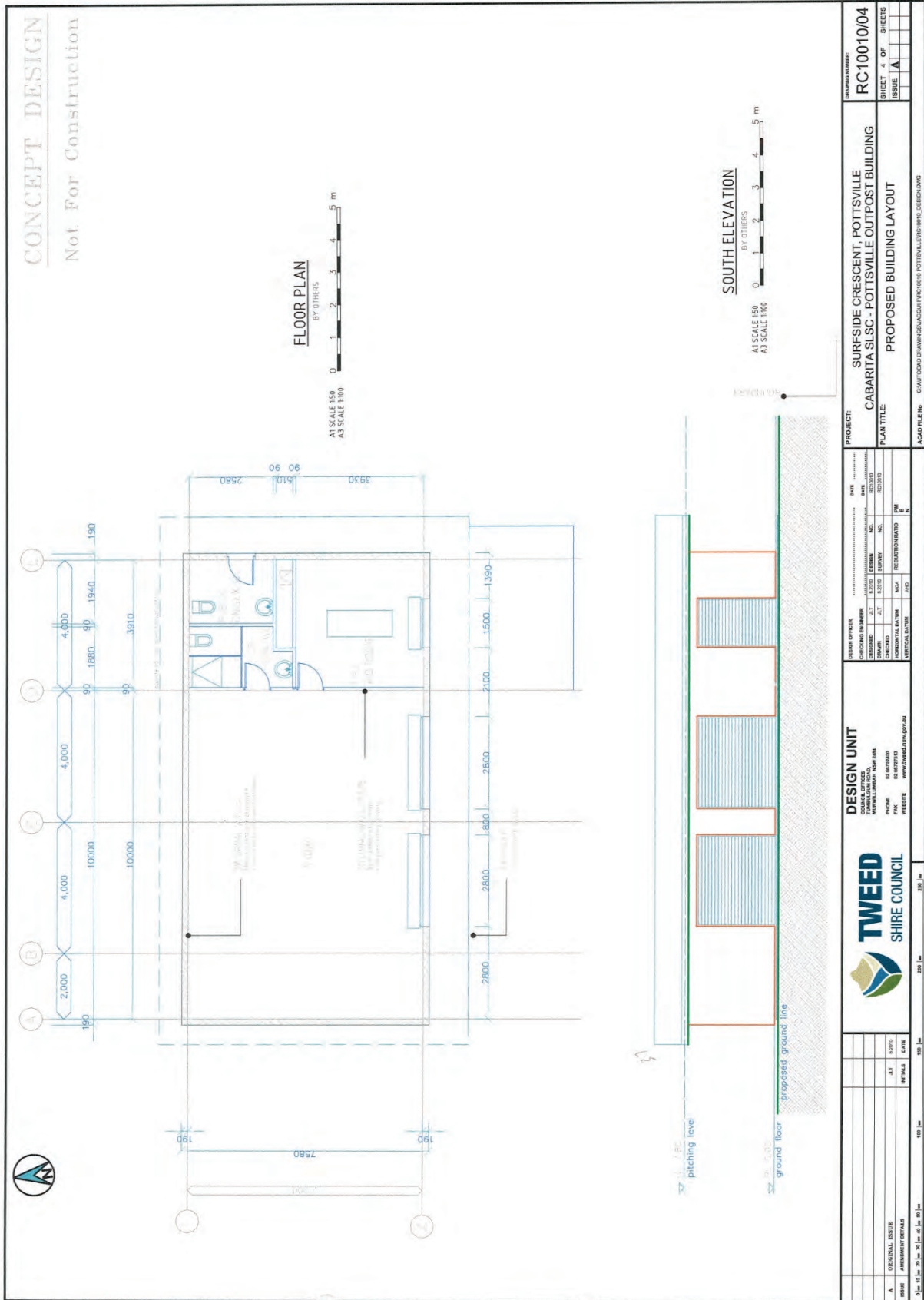
PROJECT:
 SURFSIDE CRESCENT, POTTSVILLE
 CABARITA SLSC - POTTSVILLE OUTPOST BUILDING

PLAN TITLE:
 SITE LAYOUT

CONCEPT DESIGN
 Not For Construction

RC10010/.
 SHEET OF SHEETS
 ISSUE A





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

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

Tweed Local Environmental Plan 2000

The development is defined as an Emergency Facility, pursuant to the Tweed LEP 2000. The development is permissible with consent in the 6(a) Open Space zone.

Clause 4 - Aims of the Plan

The aim of the Tweed Local Environmental Plan 2000 (Tweed LEP 2000) is to *“manage 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”*.

The proposed surf life saving outpost is located on land zoned 6(a) Open Space pursuant to the Tweed LEP 2000, adjacent to the coastal foreshore. The subject proposal is relatively minor in nature and scale and does not contravene the vision for the Tweed Shire.

Clause 5 - Ecologically Sustainable Development

The scale of the proposed development does not contravene the four principles of ecological sustainable development. The proposed surf life saving outpost is located within the existing cleared area used to accommodate the existing surf life saving outpost (shipping container), the proposed access results in removal of regrowth vegetation however, the development overall results in;

- a) no irreversible environmental damage.
- b) the environment is maintained for the benefit of future generations.
- c) the biological diversity and ecological integrity is retained and a fundamental consideration.
- d) the environmental qualities of the locality are retained.

Clause 8 - Zone objectives

Clause 11 identifies the objectives of the LEP zones and describes the development that is allowed without consent, or only with consent, or that is prohibited within the zones. The proposed development is situated on land zoned 6(a) Open Space.

The primary objective of the 6(a) zone is to: *“identify existing public land, and land that is proposed to be acquired for public ownership, to satisfy the open space and recreational needs of local residents and visitors to the area of Tweed and to enable its development to encourage or assist their recreational use and enjoyment of the land”*.

The secondary objective of the 6(a) zone is *to allow other development that is compatible with the recreational use of the land.*

The proposed development is considered consistent with the objectives of the 6(a) zone because it allows for the continued existence of the open space resource associated with the Tweed Coast Reserve and is compatible with the recreational use of the land by providing amenities to beach users and providing facilities to support surf life saving patrols of Cudgera Beach during peak holiday periods. The proposal is permissible with consent in accordance with the Tweed LEP 2000.

Clause 15 - Essential Services

The objective of the clause is *to ensure that development does not occur without adequate measures to protect the environment and the community's health and to ensure that development occurs in a coordinated and efficient manner.* The plans indicate that the facility will be connected to both town water and sewer. The site and proposed development can be serviced by Council's reticulated water and sewer.

Clause 16 - Height of Building

The objective of the clause is *to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.* The site is restricted by a three storey height limit with the surrounding residential land restricted to a two storey height limit. The proposed building is single storey in height, with surrounding development mainly consisting of two storey dwellings. The single storey height and relatively small scale (in relation to the surrounding dwellings) of the proposed building is appropriate to its location.

Clause 17 - Social Impact Assessment

The objective of the clause is *to ensure proper consideration of development that may have a significant social or economic impact.* The proposed lifesaving out post is considered to provide a public benefit to the local community of Pottsville by providing improved surf life saving.

Clause 34 -

Clause 34 refers to flood liable land and aims to minimise future potential flood damage and the adverse effects of flooding on the community by ensuring that only appropriate, compatible development occurs on flood liable land. The subject site is mapped as being affected by flooding with a 100 year flood level of 2.4 m. The site of the outpost building is situated at ~5 m AHD, above the minimum design flood level of 2.4 m. Given the building location above the design flood level and the low human safety risk associated with the proposed use of the outpost building (e.g. for

storage of surf life saving equipment and public amenities), the proposal is not considered inappropriate in this locality and is unlikely to have an impact on the potential for flood damage on the community.

Clause 35 - Acid Sulfate Soils

Clause 35 aims to manage the disturbance of Acid Sulfate Soils (ASS) on waterways and ecosystems and requires an assessment of the likely impacts of ASS as a result of any proposed works. The subject site is identified as being Class 4 ASS land, meaning that development consent is required for any works beyond 2 m below the natural ground surface or works by which the watertable is likely to be lowered beyond 2 m below the natural ground surface. The proposed development involves forming of a building pad with no excavation beyond 2 m below the natural ground surface proposed. Excavations would be limited to service trenches which do not require excavation beyond 2 m below natural ground surface. Due to the limited depths of excavation required, impacts from ASS are not considered to be relevant to the proposal.

Other Specific Clauses

Clause 36 – Coastal erosion

Clause 36 aims to protect land that may be subject to coastal erosion (but not within Zone 7 (f)) from inappropriate development. In determining whether to grant consent to development involving the erection of a building or the carrying out of work at or above the surface of the ground on land that in the consent authority's opinion may be subject to coastal erosion, the consent authority must consider the following.

- (i) *the likelihood of the proposed development adversely affecting the behaviour or being adversely affected by the behaviour of the sea, or of water in an arm of the sea or any other body of water*

Comment:

The proposed outpost building occurs outside the extent of the coastal hazard zone, as modelled by WBM Oceanics (2001). However, the proposed access track occurs within the projected 100 year maximum erosion limit. Accordingly, the infrastructure aligned within the access track (namely water and electricity supply) is susceptible to damage in a 100 year extreme erosion event. The water supply connection to Surfside Crescent will be fitted with an isolation valve to protect the existing supply network in the event of a 100 year max erosion event damaging the water supply infrastructure within the access track. The clearing of vegetation for the access way will make it more susceptible to dune structural damage in the event of an extreme erosion event. However, the potential damage associated with the proposed development, resulting from a 100 year extreme erosion event (eg. scouring of sand along access way), is

not considered significant in the context of the likely damage such an event would cause to the foredune along the Tweed Coast. The area of clearing is small and necessary to allow for emergency vehicle access. Given the set back of the proposed development footprint from the foreshore (greater than 100 m), the proposal would not adversely affect the behaviour of the sea or associated waterbodies. Similarly, the natural behaviour of the sea is unlikely to affect the proposed infrastructure, except in an extreme event, in which damage is likely to be confined to the foredune, access track and potentially the water and electricity supply within the access track. The outpost building is not likely to be affected.

- (ii) *the likelihood of the proposed development adversely affecting any beach or dune or the bed, bank, shoreline, foreshore, margin or flood plain of the sea, any arm of the sea or any other body of water*

Comment:

The position of the proposed development is set back from the foreshore on the landward side of the foredune. The development is unlikely to affect the functioning of the dynamic foreshore and foredune system.

- (iii) *the likelihood of the proposed development adversely affecting the landscape or scenic quality of the locality*

Comment:

The proposed outpost building and access way occur on the landward side of the foredune approximately 100m from the beach shore. Regrowth woodland occurs on the foredune between the proposed development and the coastline. The outpost building will be visually obscured by the foredune. The building has been designed to be unobtrusive and complement the surrounding environment.

There would be reductions in the visual amenity at the site during the construction phase as a result of construction activities. These disruptions would be unavoidable but temporary. The proposal would not result in long-term impacts on the scenic qualities of the coast.

- (iv) *the potential impacts of climate change including sea level rise*

Comment:

The proposed development will be subject to the same potential impacts from climate change as any coastal development. The NSW Department of Environment, Climate Change and Water (DECCW) *NSW Climate Change Action Plan – Summary of Climate Change Impacts for the North Coast Region* (2008) identifies the following likely impacts for this region:

- Sea level rise and the potential for increased storminess will exacerbate the risks of coastal erosion, as well as subsequent inundation of low-lying areas.
- Coastal erosion is likely to result in a recession of sandy parts of the coastline.
- Settlements adjacent to estuaries and the coast are likely to be at additional risk of flooding as sea levels rise. Private and commercial property and major infrastructure will be affected. The rise in sea levels is also likely to increase the risk of flooding in parts of the lower floodplain with associated impacts upon the community.
- Increases in short and intense rainfall events are likely to result in flooding from urban streams and drainage systems. This is likely to reduce the level of protection provided by existing management measures such as levees, with associated impacts upon the community. The proposed outpost building is sited on the western boundary of the Lot to maximise the buffer from coastal erosive processes. The building pad is well above the flood design level providing a buffer to rising flood levels.

Clause 39(A) – Bushfire protection

Clause 39(A) Bushfire Protection aims to minimise bushfire risk to built assets and people, and to reduce bushfire threat to ecological assets and environmental assets. The proposal is situated on land mapped as being bushfire prone, predominantly within the buffer associated to the adjoining hazardous foredune vegetation. The application was referred to the NSW Rural Fire Service for comment. The NSW Rural Fire Service provided recommended conditions which have been added to the consent. In determining whether to grant consent to development in areas that are likely to be affected by bushfire, the consent authority must consider the following.

- (a) whether the development is likely to have a significant adverse effect on the implementation of any strategies for bushfire control and fuel management adopted by the Bushfire Control Office established by the Council for the area*

Comment:

The proposed development is expected to have a positive influence on bushfire management through the provision of an access track adjoining the eastern boundary of Lot 42 on DP 249208. This access track provides an extension to the existing APZ servicing the residential properties to the south. The access track provides for continuous passage for emergency service vehicles from the existing APZ in the south with the sealed road network (Surfside Crescent) in the north. This allows access for fire fighting personnel to fight wild fire and carry out fuel reduction activities and provides a fire break to neighbouring houses in the event of a fire within the foredune vegetation.

- (b) *whether a significant threat to the lives of residents, visitors or emergency services personnel may be created or increased as a result of the development (including any threat created or increased by the access arrangements to and from the development)*

Comment:

The vehicle access track is expected to reduce the safety risk for fire fighting personnel through improving the APZ between the foredune vegetation and the residences to the west. Furthermore, it is expected to reduce the safety risk to neighbouring residents through providing a fire break between the hazardous foredune vegetation and their houses. The proposed building is not for residential purposes with day visitors only. The proposed development is not expected to affect the risk of bushfire to visitors using Cudgera Beach and the outpost amenities.

- (c) *whether the increased demand for emergency services during bushfire events that is created by the development would lead to a significant decrease in the ability of the emergency services to effectively control major bushfires*

Comment:

Considering, the small scale of the development and the existing demand for fire fighting services during bushfire events to protect residence at the hazardous vegetation interface, the proposal is not expected to significantly increase demand on emergency services.

- (d) *the adequacy of measures proposed to avoid or mitigate the threat from bushfires including:*

- (i) *the siting of the development*

Comment:

The outpost building is sited on relatively flat ground within an existing clearing. The shortest edge of the building faces the hazardous vegetation. The proposal includes two emergency evacuation options: to the south along the existing APZ which connects with Tweed Coast Road and to the north along the proposed access track which connects with Surfside Crescent. The siting of the outpost building is considered favourable from a bushfire hazard minimisation perspective.

- (ii) *the design of structures and the materials used*

Comment:

The outpost building has been designed for security, durability and to minimise ignition potential. The building has no glazing and the storage

area entrances are covered with metal garage doors which will be fitted with ember guards. The shape of the building is a rectangular block with minimal surface area and no re-entrant angles. These features are favourable from a bushfire hazard reduction perspective as the opportunity, for embers to settle on the building and cause the building to ignite, are limited. The lack of glass windows and the metal garage doors provide protection against embers entering the building.

(iii) *the importance of fuel-free and fuel-reduced areas, and*

Comment:

The outpost building is set within an existing clearing. Post construction, the building will continue to be surrounded by minimal vegetation (predominantly mowed grass). The quantity of fuel within the vicinity of the building is minimal.

(iv) *landscaping and fire control aids such as roads, reserves, access arrangements and on-site water supplies*

Comment:

The proposal includes a 5,000 L dedicated fire-fighting water tank. The tank will be made of metal, have a 65 mm Storz outlet and be located on the western side of the building away from the hazardous vegetation. No landscaping is proposed. Short-cut grass will be maintained in the vicinity of the outpost building.

(e) *the environmental and visual impacts of the clearing of vegetation for bushfire hazard reduction*

Comment:

The proposal does not require additional vegetation clearing for the purpose of bushfire hazard reduction due to the strategic siting of the outpost building within an existing clearing and the proposed access track serving a dual purpose of APZ and access track. In addition, Clause 39A requires the consent authority to consider the provisions of *Planning for Bushfire Protection* (RFS in co-operation with DoP, 2006) and be satisfied that those provisions are complied with as much as possible. Standard conditions are recommended to ensure compliance with the provisions of *Planning for Bushfire Protection*.

State Environmental Planning Policies

North Coast Regional Environmental Plan

Clause 29A: *Natural areas and water catchment* states that:

- (1) *The council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones unless it is satisfied that:*
- (a) *the wildlife habitat will not be significantly disturbed by the proposed development, and*
 - (b) *the scenery will not be adversely affected by the proposed development, and*
 - (c) *an erosion and sediment control plan will be implemented which will successfully contain on the site any erosion or sediment caused by the proposed development.*
- (2) *In this clause, "clearing of natural vegetation" means:*
- (a) *the removal of the majority of the vegetation, ground cover, topsoil or flora (other than noxious weeds, or trees which are dead, dangerous, exotic or propagated for horticultural purposes) within an area in excess of 1 hectare, or*
 - (b) *the reduction of the canopy or the population of any one tree species in excess of 20 per cent within an area in excess of 1 hectare, but does not include such removal or reduction:*
 - (c) *within 3 metres of the boundary of land in different ownership or occupation for constructing or maintaining a fence, or*
 - (d) *within 0.5 metre of the common boundary of land in different ownership or occupation to allow a registered surveyor to survey the boundary.*

Comment:

The development footprint is positioned in an area which is predominantly cleared and highly modified. The requirement for clearing native vegetation is limited in extent to 0.05 ha or 541m² and occurs on the western boundary of the existing foredune vegetation. The development footprint is setback from the foreshore, with the existing foredune and associated vegetation proving a visual buffer from the single storey storage unit. Suitable conditions are recommended in relation to erosion and sediment control.

Clause 30 Objectives

Part 3, Division 2 – Coastal development is applicable to this proposal being within the coastal zone. The objectives and development control clauses are considered in relation to the proposed development below.

- (a) *to enhance the visual quality of the coastal environment*

Comment:

The proposed development has been designed to minimise visual impact on the coastal environment, through unobtrusive structural design (one

storey building with low pitched roof) and positioning on the landward side of the foredune. The subject site in its existing state is considerably disturbed being largely cleared and dominated by non-native vegetation. The development would not significantly diminish the visual amenity of the coastal environment.

(b) to provide for the appropriate recreational use of beaches

Comment:

The proposed development would support the recreational use of Cudgera Beach by improving surf life saving facilities and providing public amenities and improved access.

(c) to protect the water quality of the coastal environment

Comment:

The water quality of the coastal environment would be protected through suitable mitigation measures such as sediment control devices.

(d) to minimise risks to people and property resulting from coastal processes

Comment:

The proposed development would not result in an increased occurrence or intensity of coastal processes. The outpost would be used on a seasonal basis as an outpost by surf life savers and the amenities would be used on a transient basis by the public. The manner of use by the public would be consistent with the current use. Therefore, the proposal would not increase the risk of people and property being exposed to the inherent risks of natural coastal processes.

(e) to minimise changes to coastal processes resulting from development

Comment:

The development footprint is setback approximately 100m from the shore, with the existing foredune and associated vegetation proving a buffer to coastal erosive processes. The development footprint is positioned in an area which is predominantly cleared and highly modified. The proposed development is not expected to result in changes to coastal processes.

(f) to encourage retention of natural areas and regeneration of those natural areas which are already degraded

Comment:

The proposed development footprint has been strategically selected to minimise the extent of vegetation clearing required. Removal of exotic species in this area will assist with natural regeneration of the foredune. Any landscaping associated with the proposal would utilise local native species.

Clause 32B: Coastal Lands

- (1) *This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.*
- (2) *In determining an application for consent to carry out development on such land, the council must take into account:*
 - (a) *the NSW Coastal Policy 1997,*
 - (b) *the Coastline Management Manual, and*
 - (c) *the North Coast: Design Guidelines.*
- (3) *The council must not consent to the carrying out of development which would impede public access to the foreshore.*
- (4) *The council must not consent to the carrying out of development:*
 - (a) *on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or*
 - (b) *elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).*

Comment:

The proposal is considered not to negate the objectives of the following policies;

- (a) the NSW Coastal Policy 1997,
- (b) the Coastline Management Manual, and
- (c) the North Coast: Design Guidelines.

The proposed development is considered to not to create any significant adverse effects to the public access to the foreshore, however, the proposal creates overshadowing to waterfront open space before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time). As such an objection pursuant to SEPP 1 – *Development Standards*.

Clause 33: Coastal hazard areas

Before granting consent to development on land affected or likely to be affected by coastal processes Council is required to consider the following:

- (a) *take into account the Coastline Management Manual*

Comment:

The Tweed Coastline Management Plan (Umwelt, 2005) has been developed in accordance with the NSW Coastline Management Manual (1990). The proposed activity has been developed with consideration for the Tweed Coastline Management Plan objectives and management actions identified for the Pottsville – Wooyung Area.

- (b) *require as a condition of development consent that disturbed foreshore areas be rehabilitated*

Comment:

The most highly modified portions of the study area have been specifically selected for the proposed development. The applicant states that the foredune vegetation surrounding the subject site is currently subject to weed management activities undertaken by Pottsville Beach Coastcare group.

- (c) *require as a condition of development consent that access across foredune areas be confined to specified points*

Comment:

The proposed development incorporates existing access across the foredune formalising pedestrian and vehicle access routes.

Clause 81: Development adjacent to the ocean or a waterway

- (1) *The council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:*

- (a) *there is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development,*
(b) *buildings to be erected as part of the development will not detract from the amenity of the waterway, and*
(c) *the development is consistent with the principles of any foreshore management plan applying to the area.*

- (2) *Nothing in subclause (1) affects privately owned rural land where the development is for the purpose of agriculture.*

Comment:

The proposed building is located approximately 100 metres from the ocean, with sufficient foreshore open space open to the public. The proposed development has been designed to minimise visual impact on the coastal environment, through unobtrusive structural design (one storey building with low pitched roof) and positioning on the landward side of the foredune. The subject site in its existing state is considerably disturbed being largely cleared and dominated by non-native vegetation. The development would not significantly diminish the visual amenity of the coastal environment or foreshore open space.

SEPP No. 1 – Development Standards

Clause 32B: *Development control - Coastal Lands*, of the North Coast Regional Environmental Plan 1988 states:

1. *This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.*
2. *In determining an application for consent to carry out development on such land, the council must take into account:*
 - (a) *the NSW Coastal Policy 1997,*
 - (b) *the Coastline Management Manual, and*
 - (c) *the North Coast: Design Guidelines.*
3. *The council must not consent to the carrying out of development which would impede public access to the foreshore.*
4. *The council must not consent to the carrying out of development:*
 - (a) *on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or*
 - (b) *elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).*

In accordance with the new 5 part test outlined by Chief Justice Preston in recent decision *Wehbe v Pittwater Council* (2007) NSW LEC 827. He also rephrased the assessment process as follows:

1. *The applicant must satisfy the consent authority that “the objection is well founded” and compliance with the*

development standard is unreasonable or unnecessary in the circumstances of the case.

The following reasons are provided as to why the standard is considered to be unreasonable and unnecessary in this particular case:

- The existing outpost (shipping container) already casts a shadow onto the waterfront open space at the designated time. The shipping container has an approximate dimensions of height of 2.90m x length 12.19m x width 2.44m (29.74m²) with the dimensions of the proposed outpost (roof area) being height 3.8m x length 16.2m x width 9.4m (152.28m²). The size of the proposed shadow is relatively minor due to the relatively small scale of the development and in relation to the size of the reserve (90, 511.79m²).
- The proposed building does not cast a shadow on the beach (which is 100m from the building) but on the cleared area adjacent to the existing dwellings and vegetated foreshore areas. The overshadowing created by the proposal will not impact upon the enjoyment of beach areas by the public.
- It is common for SLSC buildings to overshadow the foreshore given the necessity in their location. SLSC buildings are required to be within close proximity to the beach to provide fast response times.
- The adjoining residential buildings have the potential to casts similar sized shadows onto the foreshore given their heights are up to 2 storeys in height, greater than the proposal.
- Existing dune vegetation on the foreshore shadows the foreshore with the overshadowing caused by the proposal not reaching the foreshore.
- The SLSC is a community, non-profit organisation which provides a public benefit to the community.

Comment:

It is considered that the non compliance with the development standard is well accepted and overshadowing will not have any adverse impacts, therefore the SEPP 1 objection is supported.

2. *The consent authority must be of the opinion that “granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3”.*

The aims of the policy are as follows:-

“This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the

attainment of the objects specified in section 5 (a) (i) and (ii) of the Act”.

Comment:

The aims of the policy state that flexibility can be granted in circumstances where strict compliance with standards is unnecessary or unreasonable. In this circumstance, it is considered that the non compliance with the development standard is acceptable as the SLSC building is required to be within close proximity to the beach and the overshadowing will not have any significant adverse impacts, therefore the SEPP 1 objection is supported.

3. *The consent authority must be satisfied that a consideration of the matters in clause 8(a) “whether non-compliance with the development standard raises any matters of significance for State or regional environmental planning; and (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Comment:

The proposed non-compliance is of such a minor nature/scale that is not considered to raise matters for State and regional planning. The proposed variance relates to overshadowing of open space. As demonstrated the proposed application does result in overshadowing of beach, however the overshadowing is related an area 100m west of the beach area. Therefore it is not considered that the application raises any matters of significance for State or Regional environmental planning.

Preston expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Comment:

The objective of the standard contained within Clause 32B(4)(b) is related to the protection of the recreational integrity of foreshore open space areas and the need to restrict adverse impacts upon same by the erection of buildings in close proximity. As the proposed development does not impact upon foreshore and has only a minimal impact on open space (being the cleared area adjacent to existing residential dwellings and the vegetated foreshore area which has limited public access), it is considered that the objectives of Clause 32(B) are achieved.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

Comment:

The objective of the standard is relevant to the development but the non compliance is considered acceptable as the proposed SLSC building is required to be within close proximity to the beach to be effective in surf life saving.

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

Comment:

It is concluded that compliance with the development standard is both unreasonable and unnecessary in this instance, as the Surf Life Saving Facility is required to be within close proximity to the beach. Furthermore, as the proposed development demonstrates consistency with the intent and objective of the development standard, the granting of a variance in this instance would not prejudice the future integrity of that standard nor impact upon the amenity of the locality.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

Comment:

The development standards determined under The North Coast Regional and Environmental Plan have not been abandoned or destroyed by Council's actions. Due to the nature of the proposed SLSC, it is necessary in this instance to allow for a relaxation to this clause for development to occur. The overshadowing of open space areas in relation to the subject development application is considered minor and unavoidable, therefore compliance with the standard as under the NCREP is considered unnecessary and unreasonable and the SEPP 1 objection should be supported for this application.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Comment:

This consideration is not relevant because the standard is not dependent on the zone. Notwithstanding, the zoning of the area is appropriate for the proposed development and the surrounding locality has an urban character and residential land uses are well established.

As such it is considered that the non compliance with the development standard is well founded and the overshadowing will not have any adverse impacts, therefore the SEPP 1 objection is supported.

SEPP No. 14 - Coastal Wetlands

The subject site does not occur within a SEPP 14 coastal wetland or within 100m of a SEPP 14 coastal wetland. Accordingly, SEPP 14 does not apply.

SEPP No. 26 - Littoral Rainforest

The subject site does not host any littoral rainforest, nor is it within 100 m of littoral rainforest. The nearest mapped occurrence is located approximately 2 km to the north of the site at Hastings Point (TSC GIS Enlighten, 2010). Accordingly, SEPP 26 is not applicable to this Development Application.

State Environmental Planning Policy 44 (SEPP 44) – Koala Habitat Assessment

SEPP 44 aims to encourage the conservation and management of natural vegetation areas that provide core or potential habitat for koalas to ensure permanent free-living populations will be maintained over their present range. Core koala habitat refers to an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of, and historical records, of a population. Potential koala habitat refers to areas of native vegetation where the trees of the types listed in Schedule 2 of SEPP 44 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

Vegetation on the site is predominantly cleared with the exception of regrowth Banksia dry sclerophyll woodland along the foredune (including the northern portion of the proposed vehicle access track). This vegetation community was noted to host a species of koala feed tree (Swamp Mahogany (*Eucalyptus robusta*)); however, the occurrence of this species was less than 15% of the number of trees in the tree strata, with only two individuals recorded within the subject site. These trees were living during the initial survey; however, subsequent surveys noted die back of these trees with no obvious cause of death. Given the limited occurrence of koala feed trees, SEPP 44 is not considered to apply and there is no requirement for a Koala plan of management.

SEPP No 71 – Coastal Protection

The site occurs within the coastal zone and is designated a sensitive coastal location as defined by SEPP 71. Clause 2 (1) sets out the aims of this Policy and clause 8 sets out the matters a consent authority must consider in determining an application on land to which this Policy applies. These two clauses are addressed below:

Clause 2 considerations

- (a) *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast*

Comment:

The proposed surf life saving outpost is intended to support future recreational use of Cudgera Beach by providing facilities to assist in surf life saving patrols of the beach during the peak holiday periods. The building is to assist in surf life saving activities and improve the safety of the public using Cudgera Beach. The proposal will also provide public amenities.

The proposal is unlikely to result in a significant ecological impact or in a significant cultural impact. The proposal is not expected to result in any economic impacts on the study area.

- (b) *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore*

Comment:

The proposal does not involve the re-construction of any of the existing access ways to the foreshore. An additional emergency vehicle access track will be constructed as part of the proposal, connecting the outpost with the existing public road network (Surfside Crescent) to the sites north. Vehicular access along the proposed access track will only be permissible to emergency service vehicles and pedestrians. The pedestrian access ways which exists north and east of the proposed outpost will not be interfered with. It is noted that the informal pedestrian access, which currently exists from Elanora Ave via Lot 2 on DP253861, may be restricted at such time that this lot is developed. However, the proposed activity will not result in restricted pedestrian access and will formalise access from Surfside Crescent directly to the foreshore as well as past the outpost (via the proposed access track and existing pedestrian access way).

- (c) *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.*

Comment:

The proposal includes the provision of a new vehicle access track. This access track would be permitted to be used by emergency vehicles only but will also be accessible by pedestrians. To minimise clearing and subsequent impact on the natural attributes of the coastal foreshore, the proposed access network in the study area utilises the existing vehicle and pedestrian access ways and formalises access on public land by providing a connection between existing access ways.

(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge

Comment:

The proposed disturbance footprint occurs on land previously subject to sand mining. Accordingly, it is considered unlikely that any items of heritage significance would still occur within the surface or sub-surface of the disturbance footprint and be subject to disturbance by the proposed earth works.

(e) to ensure that the visual amenity of the coast is protected

Comment:

During the construction phase there would be reductions in the visual amenity at the site associated with construction activities. This disruption would be unavoidable but temporary. The height of the proposed building is 3.8 metres, with the surrounding vegetation having a height greater than the proposed building. As such the neighbouring buildings/dwellings views of the beach and ocean will not be obstructed.

(f) to protect and preserve beach environments and beach amenity

Comment:

The proposal is intended to improve beach amenity through providing equipment storage space, first aid facilities and a public toilet. The beach environment is to be preserved through strategically locating the building footprint and access track landward of the dune system to minimise impact on the natural environment.

(g) to protect and preserve native coastal vegetation

Comment:

The proposal requires the clearing of approximately 541m² (0.05 ha) of regrowth Banksia dry sclerophyll woodland. The remaining area of the disturbance footprint occurs within cleared, heavily modified areas dominated by non-native species. The locations of the outpost building

and access track have been strategically selected to minimise the extent of native vegetation clearing.

- (h) *to protect and preserve the marine environment of New South Wales*

Comment:

The subject site occurs on the landward side of the foredune. The outpost building would occur over 100m from the beach shore. Given the distance from the outpost to the beach shore, pollutants are not expected to enter into the marine environment.

- (i) *to protect and preserve rock platforms*

Comment:

There are no rock platforms present at the site.

- (j) *to manage the coastal zone in accordance with the principles of ecologically sustainable development (ESD) (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991)*

Comment:

The proposed development has been designed to take into consideration 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. The proposal demonstrates Council's commitment to ESD through its low impact design.

- (k) *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area*

Comment:

Overall, the proposal is of a minor bulk and scale and is not considered inappropriate for the locality. The outpost building has been designed to fit in with the surrounding natural environment and be as inconspicuous as possible (one storey, low-pitched roof). The floor area has been designed to meet the necessary storage and amenity space requirements to function as a surf life saving outpost facility.

- (l) *to encourage a strategic approach to coastal management*

Comment:

The proposed development would not impact upon coastal management at the site. The access track proposed between the outpost and existing Surfside Crescent will assist in improving bushfire management of the foredune vegetation in the study area by acting as an asset protection zone (APZ) to Lot 42 on DP249208 and providing access to fire-fighting personnel during emergency fire fighting.

Clause 8 considerations

(a) the aims of this Policy set out in clause 2

Comment:

The proposal is consistent with the aims of the Policy, due to the following:

- Existing public access to and along coastal foreshores is improved.
- Opportunities for public access to and along coastal foreshores remain available.
- The site is not identified as having Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.
- Visual amenity of the coast is protected.
- The proposal does not adversely impact on beach environments and beach amenity.
- Native coastal vegetation is retained.
- The proposal does not adversely impact on marine environment of New South Wales, the site is greater than 100m from the closest MHWL.
- The proposal does not adversely impact on rock platforms.
- The type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area. Adjoining properties consist of similar developments in terms of type, scale, bulk and scale.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved

Comment:

The proposal would retain the existing vehicle and pedestrian access ways and provide an additional connection between Surfside Crescent and the pedestrian access way to the east of the proposed outpost site. There is currently no wheelchair beach access provided at Cudgera Beach.

- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability*

Comment:

The existing pedestrian access to Cudgera Beach is via the emergency vehicle access way which connects Surfside Crescent directly with the beach shore and the informal pedestrian access which connects Elanora Ave with the beach shore. These two access ways are approximately 90m apart. The proposal would retain the existing vehicle and pedestrian access ways and provide a connection between them. The proposed access track connection would be constructed for emergency vehicle access, in a similar manner to the existing vehicle access way to the north. Wheelchair accessible access is not proposed in this instance. Wheelchair beach access is available at Cudgen Headland, Kingscliff (approximately 15km to the north of the subject site) and Potts Point (approximately 340m south of the subject site – via Ambrose Brown Park). Beach wheelchairs are available for hire from Kingscliff Beach Holiday Park, Kingscliff and Pottsville South Holiday Park, Pottsville.

- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area*

Comment:

Overall, the proposal is of minor bulk and scale and is not inappropriate for the locality. The location of the outpost building and access way has been strategically selected to minimise disturbance to the natural environment and adjoining landholders. The building would be located in an existing cleared area. The outpost building has been designed to be as unobtrusive as possible (one storey, low-pitched roof). The floor area has been designed to meet the necessary storage and amenity space requirements to function as a surf life saving outpost facility.

- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore*

Comment:

The proposed outpost building would be located in a cleared area setback from the existing foredune vegetation. Given the proposed building is one storey with a low pitched roof, the shadow cast by the building is not expected to be significant. The allotments to the west and north of the subject site (those with views towards the beach) are private properties. The view from the public property to the north and south of the subject site (a continuation of Lot 7064 on DP1113596) will not be obscured by the proposed building as the building is set back on the western boundary of the lot. Accordingly, the outpost building will not result in a significant loss

of views from a public property to the coastal foreshore. The building will not result in visual obstruction of the adjoining resident's view of the foreshore.

- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities*

Comment:

The proposed outpost building and access track occur on the landward side of the foredune, more than 100 m from the beach shore. Regrowth woodland occurs on the foredune between the proposed development and the coastline. The outpost building will be visually obscured from the shore by the foredune. The building has been designed to be unobtrusive and blend into the surrounding environment. The proposal would not impact on the scenic qualities of the coast.

- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats*

Comment:

It is considered that the proposed development would not significantly affect threatened species, populations or ecological communities, or their habitats.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*

Comment:

The proposed development is located more than 100 m from the ocean and is not expected to impact upon fish, marine vegetation, or their habitats.

- (i) *existing wildlife corridors and the impact of development on these corridors*

Comment:

The subject site is not identified as a National Parks and Wildlife Service (NPWS) regional or sub-regional fauna corridor; however, the foredune vegetation to the north and south of the subject site is identified as a regional fauna corridor. Given the contiguous nature of the foredune vegetation along the coastline between Hastings Point in the north and the mouth of Mooball Creek in the south, the site is considered to be a part of this regional corridor. The proposed development is located to minimise the impact on the foredune vegetation by being set back on the

western boundary of the lot in an area which is predominantly cleared of native vegetation. The proposed access track connection will require the removal of some vegetation (~6 m wide) along the western boundary of the lot. However, considering the access track is predominantly located within areas already cleared of native vegetation on the outer edge of the existing bushland, the effect of the narrowing of the corridor is not expected to be significant.

- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards*

Comment:

The proposed outpost building occurs outside the extent of the coastal hazard zone, as modelled by WBM Oceanics (2001). The coastal hazard zone is the projected landward limit of the backbeach erosion escarpment for planning periods of immediate, 50 and 100 years and determines the cumulative hazard zones for these periods. The proposed access track encroaches into the boundary of the projected 100 year maximum erosion limit. The potential damage resulting from a 100 year extreme erosion event, in relation to the proposed development would be limited to infrastructure aligned within the access track, namely, water and electricity supply. The water supply connection to Surfside Crescent would be fitted with an isolation valve to protect the existing supply network in the event of a 100 year max erosion event damaging the water supply infrastructure. The clearing of vegetation for the access track will make it more susceptible to dune structural damage in the event of an extreme erosion event; however, this type of event is likely to cause widespread damage to the dune system (vegetated or otherwise). The area of native vegetation clearing is small and necessary to allow for emergency vehicle access.

- (k) *measures to reduce the potential for conflict between land-based and waterbased coastal activities*

Comment:

The manner in which the subject site is utilised is not likely to change as a result of the proposed development. The proposed development would not result in conflict between land-based and water-based coastal activities.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals*

Comment:

The proposed disturbance footprint occurs on land previously subject to sand mining. Accordingly, it is considered unlikely that any items of

heritage significance would still occur within the surface or sub-surface of the disturbance footprint and be subject to disturbance by the proposed earth works.

(m) likely impacts of development on the water quality of coastal waterbodies

Comment:

The outpost would occur more than 100 m from the beach shore. Given the distance from the outpost to the beach shore, pollutants are not expected to enter into the marine environment in the event of an uncontrolled release.

(n) the conservation and preservation of items of heritage, archaeological or historic significance

Comment:

The proposed disturbance footprint occurs on land previously subject to sand mining. Accordingly, it is considered unlikely that any items of heritage significance would still occur within the surface or sub-surface of the disturbance footprint and be subject to disturbance by the proposed earth works.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities

Comment:

Not applicable as proposal is infill development.

(p) only in cases in which a development application in relation to proposed development is determined:

Comment:

Not applicable.

SEPP (Major Projects) 2005

The site and proposed development is not covered by the provisions of the policy.

SEPP (Infrastructure) 2007

The site and proposed development is not covered by the provisions of the policy.

SEPP (Exempt and Complying Development Codes) 2008

The site and proposed development is not covered by the provisions of the policy.

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

Draft Tweed Local Environmental Plan 2010

The site is covered by the *Draft Tweed Local Environmental Plan 2010*. The site is zoned *RE1 – Public Recreation*, with the maximum building height being 10 metres. The proposal is defined as a community facility which is permissible with consent, consistent with the objectives of the zone and has a built height of 3.8 metres.

Zone RE1 Public Recreation

1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

Community facility means a building or place:

- (a) *owned or controlled by a public authority or non-profit community organisation, and*
- (b) *used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

DRAFT Coastal Hazards - Tweed Development Control Plan Section B25

The aims of the plan are:

- *To provide guidelines for the development of the land having regard to minimising the risks (a function of likelihood and consequence) associated with development on land in proximity to the Tweed Coast.*
- *To establish if the proposed development or activity is appropriate to be carried out, and the conditions of development consent that should be applied if it is to be carried out, having regard to the coastal hazard lines established in the Tweed Coastline Hazard Definition Study 2001 (as amended).*

- *To minimise the risk to life and property associated with development and building on land that is in proximity to the Tweed Coast.*
- *To maintain public access to public land on the Tweed Coast.*

The proposed outpost building occurs outside (west) the extent of the coastal hazard zone. The coastal hazard zone is the projected landward limit of the back beach erosion escarpment for planning periods of immediate, 50 and 100 years and determines the cumulative hazard zones for these periods. The proposed access track encroaches into the boundary of the projected 100 year maximum erosion limit. The potential damage resulting from a 100 year extreme erosion event, in relation to the proposed development would be limited to infrastructure aligned within the access track, namely, water and electricity supply. The water supply connection to Surfside Crescent would be fitted with an isolation valve to protect the existing supply network in the event of a 100 year max erosion event damaging the water supply infrastructure. The clearing of vegetation for the access track will make it more susceptible to dune structural damage in the event of an extreme erosion event; however, this type of event is likely to cause widespread damage to the dune system (vegetated or otherwise). The area of native vegetation clearing is small and necessary to allow for emergency vehicle access.

The proposal is considered not to negate the objectives of the policy.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

In accordance with Section A2.3.3, “development proposals are to be designed to optimise pedestrian and disabled persons access to and within the development”. The proposal provides for improved pedestrian access by connecting the existing vehicle/pedestrian access way from Surfside Crescent to Cudgera Beach with the informal pedestrian access way connecting Elanora Ave with Cudgera Beach. The latter traverses private property which is subject to future development and subsequently a loss of beach access. Section A2.3.3 also requires “provision for access by vehicles and vehicle parking is not to compromise the equity and amenity of pedestrian access.” The proposed access way is intended primarily for emergency vehicle passage. Given that emergency vehicle use is expected to be infrequent (seasonally used by surf life saving vehicles and occasionally used by Rural Fire Service for bushfire management/fire fighting), it is expected to be used most frequently by pedestrians. The level of demand on the access track by vehicles is not expected to compromise the safe usage by pedestrians and vice versa. No public parking, designated bicycle paths or disabled access are proposed for this development. It is expected that a significant proportion

of the peak holiday beach users will be pedestrians from Pottsville North Holiday Park and surrounding holiday homes.

A3-Development of Flood Liable Land

The site of the outpost building is situated at ~5 m AHD, above the minimum design flood level of 2.4 m.

A11-Public Notification of Development Proposals

In accord with Table 1 of *Section A11 - Public Notification*, the proposed development was advertised for a period of 14 days between 8-22 September 2010. During the advertised period, Council received fourteen (14) submissions objecting to the proposal. The issues raised within the submissions are addressed later within this report under section (d) *Any submissions made in accordance with the Act or Regulations*.

A13-Socio-Economic Impact Assessment

A social economic impact assessment is not required as the proposal is not covered by the provisions of the policy, the development is not designated development is not a development that Council considered to create significant impacts. The proposal is considered to provide a public and social benefit to the community.

B21 – Pottsville Locality Based Development Code

The policy identifies that the subject site is located within Pottsville north. The purpose of this section is to provide Design Guidelines in the form of strategies and controls to guide the design, construction and management of the building environment of the site. The intention of the guidelines is to ensure a cohesive high quality residential development and to ensure the environmental significance of surrounding native vegetation views and topography of the site are preserved. The policy, in particular the section relating to Pottsville North, provides controls that relate to residential development and therefore not relevant for a Surf Life Saving Outpost.

The proposed development is consistent with the policy, by proposing minimal removal of vegetation with the building designed to suit the surrounding natural and built environments.

Section 94 and Section 64 Contributions

The proposed development is to be levied water and sewer contributions due to the proposed toilets and showers. However, the development will not be levied Tweed Road Development Contribution Plan as the proposal is ancillary to the existing patrolled beach and is used as a storage facility. No additional vehicle trips are generated as a result of the proposal.

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

Clause 92(a) Government Coastal Policy

The proposed site is located within the Government Coastal Policy, and has been assessed with the objectives of this policy in mind. The Government Coastal Policy contains aims to, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is considered that the proposal does not contradict the objectives of the Government Coastal Policy.

Clause 92(b) Applications for demolition

N/A

Clause 93 Fire Safety Considerations

N/A

Clause 94 Buildings to be upgraded

N/A

- (a) (v) **Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),**

The Coastline management plan

Tweed Shire Coastline Management Plan (TSCMP) (Umwelt (Australia) Pty Limited, 2004) applies to the proposal, specifically Section 3.1.7, referring to the Pottsville – Wooyung area. The proposed development addresses some of the management issues and objectives for the area, including:

- Population pressure demands on the coastline facilities and access to the beach through provision of improved facilities for surf life saving patrols of Cudgera Beach.
- Uncontrolled off-road vehicle access through provision of formal vehicle access track with lockable gate.

The proposal is considered not to negate the objectives of the policy.

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

Context and Setting

The site occurs within the Tweed coastal zone, between developed residential (to the west) and Cudgera Beach foredune and foreshore (to the east). The foredune is covered with regrowth, predominantly native,

vegetation. The foreshore is free of obstructions with the exception of rock revetment associated with Mooball Creek mouth located to the south. The residential area to the west is predominantly low density consisting of one and two storey development.

The neighbouring residences are in close proximity to the subject site; there are 19 houses, one undeveloped lot and two high-density residential estates within 100 m of the subject site. Eight of the neighbouring residences (and one future residence – currently undeveloped lot) are likely to have a direct view of the outpost building. However, due to the existing vegetation and topography (the dune and existing vegetation being higher than the proposed development) the proposed development will not restrict any existing ocean views from the surrounding existing residential development.

The proposed access track would occur adjacent to the eastern boundary of Lot 42 on DP249208 and, subsequently, would be in direct view of this residence. The subject site occurs on part of Lot 7064 on DP1113596 which is zoned for recreational use. This area is frequented by locals and visitors who pass through the foredune to access the foreshore of Cudgera Beach. Pottsville North Holiday Park, which occurs approximately 180 m to the west and Pottsville South holiday Park, which occurs approximately 600 m to the south, attracts a large number of visitors to Cudgera Beach during holiday periods. Cudgera Beach is used for a range of beach-related recreational activities, including, swimming, surfing, walking and jet skiing. 4WD access is not permitted on Cudgera Beach but is still allowed south of Mooball Creek on Black Rocks, Wooyong and Crabbes Creek beaches. Commercial fishers also use the beach for fishing. Permitted vehicle access to the beach occurs via the vehicle access way immediately north of the subject site.

Access, Transport and Traffic

Access to the site is proposed via a formalised vehicle access road from Surfside Crescent. The only vehicles permitted to use the proposed access road are emergency vehicles. As the site is currently occupied by a Surf Life Saving Outpost, the proposed development is considered not to generate additional traffic. Given that emergency vehicle use is expected to be infrequent (seasonally used by surf life saving vehicles and occasionally used by Rural Fire Service for bushfire management/fire fighting), it is expected to be used most frequently by pedestrians.

Flora and Fauna

The proposed development will not result in a significant reduction in flora and fauna. The proposal requires the clearing of approximately 541m² (0.05 ha) of regrowth Banksia dry sclerophyll woodland, with the site having an area of 90, 511.79m². The remaining area of the disturbance footprint occurs within cleared, heavily modified areas dominated by non-native species. The locations of the outpost building and access track

have been strategically selected to minimise the extent of native vegetation clearing.

View Sharing

The site is generally level from the existing residential allotments through to the dune area. The existing level of the land increase in height at the dune area as does the density and height of the existing vegetation. As such, the existing views afforded to the surrounding existing residential developments will not be impacted, as the height of the proposed Outpost is lower than the dune/existing vegetation.

The proposed development is considered not to create significant adverse impacts on the natural or built environments or social or economic impacts on the locality.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is identified as part of Lot 7064 on DP1113596, adjoining Residential Lots 2-4 on DP253861 to the west, Residential Lots 40-42 on DP249208 to the north and west and Cudgera Beach to the east. The subject site consists of cleared area associated with the current Surf Life Saving Outpost building and the connecting pedestrian access track.

The site is zoned as 6(a) *Open Space* under the Tweed LEP 2000. The surrounding land uses are predominantly 6(a) *Open Space* and 7(f) *Environmental Protection* along the coastal strip, with 2(a) *Low Density Residential* and 2(b) *Medium Density Residential* located to the west.

Flora and Fauna

The proposed development will not result in a significant reduction in flora and fauna. The proposal requires the clearing of approximately 541m² (0.05 ha) of regrowth Banksia dry sclerophyll woodland, with the site having an area of 90, 511.79m². The remaining area of the disturbance footprint occurs within cleared, heavily modified areas dominated by non-native species. The locations of the outpost building and access track have been strategically selected to minimise the extent of native vegetation clearing.

Topography

The site is generally level from the existing residential allotments through to the dune area. The existing level of the land increase in height at the dune area as does the density and height of the existing vegetation. As such, the existing views afforded to the surrounding existing residential developments will not be impacted, as the height of the proposed Outpost is lower than the dune/existing vegetation.

Bushfire

The site is identified as being prone to bushfire. Standard bushfire conditions are recommended requiring a construction level of BAL – 29.

Radiation

The surface radiation levels recorded on site were below Action Level Criterion specified by the NSW Department of Health for areas experiencing regular occupancy by the same individuals. As the radiation survey did not record radiation levels exceeding NSW Department of Health Action Level Criteria, no remedial action is considered necessary and the development and operation of Pottsville Surf Life Saving outpost is not expected to pose a health risk due to radiation levels.

The site is considered suitable for the proposed Surf Life Saving Outpost.

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

The proposed development was advertised for a period of 14 days between 8-22 September 2010. During the advertised period, Council received thirteen (13) submissions of which twelve (12) objected to the proposal. The submissions and their issues have been tabled below.

ISSUE	COMMENT
<p>AMENITY/VIEW LOSS</p> <ul style="list-style-type: none"> • Overshadowing 	<p>To determine the impact of the building on adjoining neighbours coastal views, surveys were undertaken to identify the height of existing vegetation within the line of sight from the first storey verandas of the adjoining properties to the beach. In summary, the proposed building roof height (3.8 m) is lower than that of the existing vegetation on the foredune and does not obstruct the line of sight from first storey verandahs to the beach. It is acknowledged that ground floor views will be obstructed to some degree by the building; however, ground floor views are of the foredune vegetation and beach views from the ground floor are obstructed by the foredune topography and existing vegetation. The building height has been designed to enable safe passage of the Cabarita Beach Surf Life Saving Club Inc (CBSLSC) vehicles and equipment (rescue board trailers) into and out of the storage bays.</p> <p>In regards to concern that the outpost building will cause overshadowing of Lot 2 on DP253861 in early mornings during winter. The height of</p>

ISSUE	COMMENT
	<p>the building is lower than the existing vegetation, including the patch of predominantly exotic species south of 7 Surfside Cres, and so the shadow cast from the proposed building is unlikely to be significantly greater than that caused by the existing vegetation.</p> <p>In regard to the impact of the proposed power line and access track on the amenity of the surrounding residents. It is noted that the access track will be constructed with road base; however, it will be topped with turf. Given that the surface will be sealed with turf, dust from the track will not likely be an issue and the APZ will be visually similar to the existing APZ. The visual impact of the powerline is expected to be minimal, as it will be a single connection line, not the four-cable Low Voltage bare lines.</p>

ISSUE	COMMENT
<p>ACCESS</p> <ul style="list-style-type: none"> • Pedestrian access, • Traffic and parking 	<p>It was identified that the proposal does not provide for a formal pedestrian access way linking the Pottsville North Holiday Park with the outpost and foreshore access ways and that no disabled access is proposed.</p> <p>It is recognised that Pottsville North Holiday Park is a major source of pedestrians accessing Cudgera Beach via the development site and that a formal pedestrian access way linking these facilities is desirable, particularly as the town grows. However, it is noted that the proposed development is intended to service an existing use at the site, being seasonal beach patrols. The development will not create a new use at the site; rather it is intended to improve the facilities for existing patrols. Therefore, the development is not expected to significantly increase the number of pedestrians and cyclist accessing the area. Accordingly, the construction of a linking access way is considered beyond the scope of the subject development.</p> <p>Wheelchair beach access is not proposed in this instance. Wheelchair beach access is available at Cudgen Headland, Kingscliff (approximately 15 km to the north of the subject site) and Potts Point (Mooball Creek mouth) (approximately 340 m south of the subject site – via Ambrose Brown Park). Beach wheelchairs are available for hire from Kingscliff Beach Holiday Park, Kingscliff and Pottsville South Holiday Park, Pottsville. Given the close proximity of alternative beach access points for people with a disability, particularly Pottsville South Holiday Park to the south, additional disabled beach access at this location is not considered a priority. The proposed access way linking Surfside Crescent with the outpost building will be constructed with a compacted gravel base and grass surface, which may be accessible by some wheelchairs. The toilet provided within the outpost building is designed to accommodate people with a disability.</p> <p>It was noted in the submissions that the proposal doesn't provide for any additional parking. Informal parking exists along the eastern side of</p>

ISSUE	COMMENT
	<p>Surfside Crescent and within the road reserve throughout the adjoining residential streets. The proposed outpost is to service the existing patrols which occur seasonally at Cudgera Beach. The capacity for the proposed development, in isolation, to generate increased traffic to the site is limited given that it is predominantly a storage space for surf life saving equipment and a first-aid facility. It is expected that a significant proportion of the peak holiday beach users will be pedestrians from Pottsville North Holiday Park and surrounding holiday homes. Beach users accessing the site by motor vehicles are not expected to significantly increase in the short to medium term. However, additional parking facilities may be required in the future if the local and holiday population increases significantly. It is noted that future expansion of the outpost into a full Surf Life Saving Clubhouse is not proposed. Accordingly, the proposal has not been designed for intensification of use.</p>
<p>CRIME</p>	<p>A number of submissions raised the issue that the proposed development may result in an increase in criminal activity in the locality, namely graffiti and vandalism of the outpost building, theft from the parked vehicles of beach visitors and loitering around the public toilets at night.</p> <p>With regard to the risk of graffiti and vandalism, it is noted that this risk is inherent in any public space (as well as private property). The building is designed to be robust, for the purpose of minimising the risk of ignition in the event of a bushfire as well as minimising the susceptibility to vandalism. Graffiti may occur on the outpost building. In this event, the graffiti would be treated in the same manner as graffiti throughout the Shire, it would be removed as soon as budget allows. Current graffiti management practices prioritise removal of offensive words or images and encourage use of surfaces that are easily painted over. The outpost building will be a painted brick structure which would allow for graffiti to be painted over. The building is in close proximity to residents and so a degree of passive surveillance will be provide by surrounding neighbours. The NSW Police Force</p>

ISSUE	COMMENT
	<p>Tweed/Byron Local Area Command provided comment on the perceived crime implications of the proposal and recommends that the building is located near to, rather than removed from, local residents. The lack of an awning on the proposed building reduces its attractiveness to loiterers. Theft of valuables left in parked cars is not expected to increase as a result of the proposed development as the development is not expected to result in a significant increase in vehicles accessing the site. This matter would be dealt with by the local police as is currently the case. In regards to the concern about people loitering around the public toilet at night, it is noted that the toilet will be locked at all times and only accessible by key during patrols. A 24 hr alarm with internal motion detectors will be included in the building design. A neutral colour which is inconspicuous in the landscape is proposed.</p>
<p>PUBLICLY ACCESSIBLE TOILET</p>	<p>Numerous submissions raised concern that the public toilet would attract 'undesirables'. It is emphasised that the toilet provided within the outpost building is a single cubicle which will be locked at all times. The public will have access to the toilet during patrols by accessing the key from the surf life savers on duty. The toilet will not be accessible outside of patrol times including night time and throughout the off-season months. Furthermore, the building does not provide an awning and so is not seen as particularly attractive to loiterers.</p>
<p>COASTAL PROCESSES /EROSION</p>	<p>Concern was raised in one submission that the development occurs within the limits of the predicted 100 year erosion limit and, subsequently, there would be potential for damage to the infrastructure within this erosion zone. In addition, concern was raised that the development would have an adverse effect on coastal processes, during construction and post-construction as a result in an intensification of use. The proposed outpost building occurs outside the extent of the coastal hazard zone. The development also occurs outside the extent of the coastal hazard erosion zone according to the 2010 updated modelling which is based on the latest climate change predictions. Based on available data, it is considered unlikely that the</p>

ISSUE	COMMENT
	<p>outpost building would be impacted upon by coastal erosion within the 100 year planning period. It is acknowledged, that the proposed access track encroaches into the boundary of the projected 100 year coastal erosion hazard zone. The potential damage resulting from an extreme erosion event, in relation to the proposed development would be limited to infrastructure aligned within the access track, namely, water and electricity supply. The water supply connection to Surfside Crescent would be fitted with an isolation valve to protect the existing supply network in the event that the water supply infrastructure was damaged.</p> <p>The clearing of vegetation for the access track will make it more susceptible to dune structural damage in the event of an extreme erosion event; however, this type of event is likely to cause widespread damage to the dune system (vegetated or otherwise). The area of native vegetation clearing is small and necessary to allow for emergency vehicle access. Given that the proposed works are predominantly landward of the coastal erosion hazard zone, the site is unlikely to contribute directly to coastal processes, except in an extreme erosion event. Indirect impacts potential affecting coastal processes include vegetation clearing, which as previously stated is limited in extent and predominantly within areas previously cleared and hosting non-native garden plants. During construction, the exposed soil will increase the risk of wind erosion; however, standard construction measures to minimise this impact will be in place, including stabilising disturbed areas once works are complete, or progressively where practicable. Post-construction, the development is not expected to result in a significant intensification of use, given that it is predominantly a storage space for surf life saving equipment and a first aid facility. Rather, the proposed outpost is to better service the existing patrols which occur seasonally at Cudgera Beach. However, the formalisation of pedestrian and vehicle access ways to restrict the associated impacts to designated areas will minimise the impacts on the foredune system associated with any intensification in the use of</p>

ISSUE	COMMENT
<p>ECOLOGY</p> <ul style="list-style-type: none"> • Vegetation clearing, • Koala habitat, • Threatened flora species, • Wildlife corridors, • Electrocution of bats on powerlines 	<p>the area.</p> <p>The proposed development requires the clearing of approximately 541 m² (0.05 ha) of regrowth Banksia woodland along the vehicle access track alignment and vehicle turning circle (south of the building footprint). The extent of clearing of Post-mining Regeneration vegetation (regrowth Banksia woodland) proposed for the development is minor relative to the extent of this and related communities within the locality (nominated 5 km buffer around the site) (<1%). Furthermore, much of the surrounding regrowth Banksia woodland and associated communities are contiguous or semi-contiguous with the site, meaning the opportunity for genetic exchange persists. The remainder of the development footprint occurs within the exotic grassland community, a highly degraded community predominantly cleared of native vegetation which is prevalent within the locality (~117 ha within 5 km buffer of site). The majority of the trees and shrubs to be cleared from this community are non-native garden plants which have encroached into Crown Land from a neighbouring residence.</p> <p>It is noted that the clearing within the proposed access track was planned as part of the asset protection zone (APZ) works between the Tweed Coast Crown Reserve vegetation and the adjoining residences. An existing APZ is established between 1A and 51 Elanora Avenue. This section of the APZ was established upon instruction by the NSW Rural Fire Service (RFS). Prior to the lodgement of the subject development, TSC Natural Resource Management Unit had identified the need to upgrade the APZ to allow connectivity between the existing APZ and Surfside Crescent (in front of 9 Surfside Crescent). Accordingly, the clearing footprint associated with the proposed access track was subject to clearing for the purpose of improving the APZ, irrespective of the outpost development. The subject development has made use of the existing need for an APZ and created a dual purpose for the clearing – an APZ and vehicle access way for surf life saving personnel. The additional clearing required as a result of the outpost building is to accommodate</p>

ISSUE	COMMENT
	<p>the minimum APZ distance between the outpost and hazardous dune vegetation whilst maintaining some separation between the outpost building and the adjoining neighbours, as well as providing adequate space for vehicles turning into and out of the storage bays of the outpost.</p> <p>The vegetation subject to clearing has been surveyed and characterised. The vegetation community is not an Endangered Ecological Community (EEC) as listed under the <i>Threatened Species Conservation Act 1995</i> (TSC Act) or Threatened Ecological Communities (TEC) as listed under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act). No threatened flora species listed under the TSC Act or EPBC Act were recorded within the clearing footprint.</p> <p>The field assessment established that the site was not 'potential koala habitat', as defined by SEPP 44. One species of koala feed tree (Swamp Mahogany - <i>Eucalyptus robusta</i>) was recorded in the clearing footprint; however, the occurrence of this species was less than 15% of the number of trees in the tree strata, with only two individuals recorded within the subject site. These trees were living during the initial survey; however, subsequent surveys noted die back of these trees with no obvious cause of death. Given the limited occurrence of koala feed trees, SEPP 44 is not considered to apply and there is no requirement for a Koala plan of management. Furthermore, the Australia Koala Foundation (AKF) Koala Habitat mapping does not identify the site as Primary or Secondary Koala habitat.</p> <p>The subject site is not identified as a National Parks and Wildlife Service (NPWS) regional or sub-regional fauna corridor; however, the foredune vegetation to the north and south of the subject site is identified as a regional fauna corridor. Given the contiguous nature of the foredune vegetation along the coastline between Hastings Point in the north and the mouth of Mooball Creek in the south, the site is</p>

ISSUE	COMMENT
	<p>considered to be a part of this regional corridor. South beyond the mouth of Mooball Creek, the foredune vegetation extends to Wooyung Nature Reserve in the far south-east of the Shire and beyond along the Byron coast. The areas of core habitat within the coastal foredune corridor include Cudgen Nature Reserve in the north and Wooyung Nature Reserve and Billinudgel Nature Reserve in the south. The coastal foredune corridor is connected with the hinterland bushland in the west via a matrix of bushland and agricultural land through Mooball. This corridor connects with Mooball National Park which, in turn, is connected with Mt Jerusalem National park via Burringbar Range and Nightcap National Park. These corridors are semi-contiguous with areas of urban development (mostly residential housing and road ways) and farmland interrupting the continuity of the bushland. The vegetation to be cleared is a narrow strip on the edge of the existing bushland. Accordingly, the proposed clearing will marginally narrow the existing strip of foredune bushland; however, it will not result in any further fragmentation or isolation of bushland associated with the fauna corridors identified in the area. The potential for gene flow between flora and fauna passage is maintained with adjoining foredune bushland.</p> <p>One submission raised concern that the proposed overhead powerline would pose a risk of electrocution to the flying-foxes and bats seen flying in the area at dusk. It is noted that the powerline proposed to be installed along the access track to service the outpost building will be a single service cable (like those that connect individual houses in the adjoining residential streets) and not four-cable Low Voltage bare lines, typically responsible for electrocution of flying-foxes.</p>
INTENSIFICATION OF USE	<p>It is recognised that any intensification in the use of the area may result in further degradation of the foredune, particularly if pedestrian and vehicle access is uncontrolled. However, as previously discussed the development is designed to meet the needs of an existing use (seasonal patrols) and in isolation has limited</p>

ISSUE	COMMENT
	<p>capacity to increase the number of visitors using the site, given that development is predominantly a storage space and first aid facility. Increasing numbers of visitors is likely to occur over time if the popularity of the village as a holiday destination increases and as the local population expands. Managing population growth of the area is beyond the scope of this development; however, aspects of the development are expected to better equip the site for increasing numbers of visitors, namely, the formalisation of pedestrian and vehicle access ways to restrict the associated impacts to specific areas. This will limited the damage to the foredune caused by trampling through native vegetation communities.</p> <p>Concern has been raised that the outpost building whilst seasonal and small in scale at present, may expand and eventually be used as a permanent patrol point and even full time surf life saving club house. Surf Life Saving NSW (SLSNSW) have provided a response stating that there is no intention for the outpost building to be developed into a full Surf Life Saving Club. In summary, SLSNSW does not support a full Surf Life Saving Club at this location as the demographics do not support it and it is not in the best interest of the viability of CBSLSC. Further, SLSNSW confirms that the proposed location is adjacent to the preferred patrol site: most rescues occur in this location as swimmers are commonly caught in rips and currents flowing out of the Mooball Creek mouth. Concern was also raised that the proposed access track would encourage vehicles into the APZ area and the area surrounding the outpost would become a 'carpark'. However, it is noted that access to the facility will be strictly controlled by a locked gate; with access only permitted to emergency vehicles or those associated with providing those emergency services. The beach going public will not have vehicle access to this area.</p>
<p>SITE SELECTION</p> <ul style="list-style-type: none"> • Land use conflict, • Patrol area, • Alternative site 	<p>A number of submissions questioned the appropriateness of the site selected and a number suggested alternative sites including:</p> <ul style="list-style-type: none"> • The south-east corner of Surfside Crescent

ISSUE	COMMENT
<p>assessments</p>	<ul style="list-style-type: none"> • Closer to the river mouth • Within Ambrose Brown Park • Opposite Pottsville Beach Primary School (north of Elfran Ave). <p>The site was selected based on consideration of all planning, ecological, safety and functional factors. The specific issues raised in the submissions are addressed below.</p> <p>The entire development is located within Lot 7064 on DP 1113596 which is zoned 6(a) – Open Space under the <i>Tweed Local Environment Plan 2000</i> (Tweed LEP). The assessment has determined the development is consistent with the objectives of the 6(a) zone because it allows for the continued existence of the open space resource associated with the Tweed Coast Crown Reserve which is being reserved for the purpose of public recreation or conservation. The development is compatible with the recreational use of the land by providing amenities to beach users and providing facilities to support surf life saving patrols of Cudgera Beach during peak holiday periods. It is recognised that the site, whilst within Open Space zoned land, adjoins residential land and consideration of the adjoining land use and potential land use conflict is necessary. The subject development has incorporated various measures to minimise land use conflict with the adjoining residential area, including, minimising visual amenity impact through building design and siting, formalising beach access and controlling use of public toilet. The need for future improvements in pedestrian connectivity, particularly between Pottsville North Holiday Park and the outpost/beach access is recognised but beyond the scope of this proposal.</p> <p>The siting of the outpost building is neighbouring several residential properties. The fact that Lot 2 on DP253861 was vacant during the design and planning for development was not a determining factor in the final site selection. The development was designed knowing that it would be subject to development in the future and thus formalised public beach access through the Tweed Coast Crown Reserve (rather than relying on the informal access currently via</p>

ISSUE	COMMENT
	<p>Lot 2 on DP253861).</p> <p>The existing patrol area on Cudgera Beach is the preferred location by SLSNSW for the following reasons:</p> <ul style="list-style-type: none"> • on-beach housing is concentrated on the Northern side of the creek • the beach access ways are concentrated in this area (higher patronage) • any river/creek mouth area presents a higher risk of channels/rip currents – a north side patrol base allows for roving patrols and emergency response to this area and also emergency response to the South side of the creek via rescue water craft (SLSNSW, 2010). <p>It is also the preferred location of CBSLSC, due to “its proximity to the danger area of the creek mouth of Pottsville”. When initially considering the development of a permanent outpost for Cudgera Beach patrols, a site selection assessment carried out in 2006 by representatives from SLSNSW, Far North Coast Surf Life Saving (FNCSLS) and CBSLSC assessed several site options. The surf life saving representatives recommended a site opposite Pottsville Beach Primary School (north of Elfran Ave) on the basis that the development would be consistent with zone objectives, there was greater space to provide better parking facilities and it was easily accessibility from Tweed Coast Road. This option was originally proposed as part of a Contributions Plan associated with development of Koala Beach Estate. This option included two potential access routes through the foredune:</p> <ul style="list-style-type: none"> • from the Cudgera Ave round-about, south parallel along Tweed Coast Road and then east along the Elfran Ave APZ and access track – this track does not extend all the way to the foreshore, stopping short by about 50 m on the dune crest. The steep slope from the dune crest to the foreshore was identified as problematic to pedestrian and vehicle access. • from Tweed Coast Road

ISSUE	COMMENT
	<p>(approximately 40 m north of the Cudgera Ave round-about) east along an existing track which terminates on the dune crest. Similarly the dune slope from the crest to the foreshore was found to be steep.</p> <p>Both of these options are constrained by the steep easterly dune face and would require considerably more vegetation clearing to complete the access tracks to the foreshore and provide an adequate APZ around the building which would be surrounded by bush fire prone land. The access track would need to traverse the steep slope of foredune and would potentially need to zig-zag down the face, thereby increasing the extent of vegetation clearing required and erosion potential. The ecological impacts of these options and the land form constraints made these options unsuitable.</p> <p>Similarly, the suggestion to place the outpost building at the south-east corner of Surfside Crescent was not considered suitable due to the back dune profile at this location which would require substantial earthworks to convert to a flat building pad. Furthermore, this site would require considerable more clearing of native vegetation than the proposed site as the development footprint would be entirely within the native regrowth Banksia woodland community, which would then require further clearing to provide an adequate APZ (a minimum distance of 20 m), which would inturn substantially narrow the linear patch of foredune vegetation at this location, potentially impacting on fauna corridor values.</p> <p>Several submissions suggested the site was unsuitable on the grounds that the beach patrol area could not be surveyed from the building location due to dune profile and existing vegetation. It is noted that there is no intention to conduct surf surveillance from the outpost building. Surveillance will be undertaken from the beach; the outpost will be used for first aid and storage.</p> <p>It was also suggested that the first-aid facilities</p>

ISSUE	COMMENT
	<p>were too far from the beach patrol area to be functional. However, CBSLSC have pointed out that the outpost location is a similar distance from the beach as the surf club building at Cabarita Beach is to the regular patrol area at Cabarita. Furthermore, it is more crucial for the first-aid room to be located within easy access of ambulance (closer to public roads) as initial first-aid is given on the beach and all patients are then transferred to a surf club/outpost first-aid room.</p> <p>Some submissions suggested that given the distance of the beach patrol area to the outpost building that the beach patrol area would be left unattended in the event that someone required first-aid treatment at the outpost building. CBSLSC have responded to this concern stating: "Surf club patrols manage the beach in line with Standing Operating Procedures to ensure that swimmers safety is paramount. In first aid cases most times 1-2 patrol members out of a team of 6-8 will transport first-aid cases to an available first-aid room, leaving people on the beach to maintain vigilance".</p> <p>A site was suggested on the north side of the Mooball Creek breakwall. A preliminary constraints assessment was undertaken on this site. In summary, the Mooball Creek site is considered more constrained than the proposed site, primarily due to coastal erosion hazard, flooding and topographic relief. It is considered less favourable from an ecological perspective as it would require more than five times the extent of native vegetation clearing. Also, the vegetation clearing required at the site would result in the removal of the foredune vegetation which currently provides a buffer between Mooball Creek estuary and the residences to the north-west. The removal of this vegetation buffer would potentially reduce dune stability in this area and make it more susceptible to erosion.</p> <p>Another site suggested was within Ambrose Brown Park with a preliminary site assessment also undertaken for this site. In summary, the proposed site is considered more favourable</p>

ISSUE	COMMENT
	<p>than the Ambrose Brown Park site as it is closer to the beach patrol area and requires less track improvement work. The Ambrose Brown Park site would require substantial cut and fill to construct a building pad and vehicle turning area on the sloping site and would result in a reduction in open space available to recreation park users. There would be traffic issues with surf life saving vehicles towing trailers blocking the entrance to Ambrose Brown Park when attempting to enter Tweed Coast Road. The topographic relief between the residences to the north and the site is likely to result in fewer objections in terms of interference with coastal views. However, some members of the public are likely to object to the building being with in the park in terms of detrimental impacts on the park amenity and loss of recreational space. It is closer to services connections such as water and power.</p> <p>From an environmental planning perspective, there are constraints and opportunities for all sites. If an alternative site was selected, the current DA would need to be withdrawn and a new DA would need to be lodged. Changing the site would delay the project as it would be potentially more expensive (due to the substantial amount of earthworks required) and require a second DA to be prepared and lodged. Given the above considerations, the proposed site is considered the most favourable.</p>

(e) Public interest

The proposed Surf Life Saving Outpost is considered not to create significant adverse impact on the natural or built environments and is suitable for the site. The development is considered to be in the public interest.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development complies with the relevant legislation and policies, with the site considered suitable for the proposal, with the development creating minimal impacts. The issues raised in the submissions have been given careful consideration. Numerous alternative sites have been considered with the original site proposed in the development application still considered the most appropriate. There would likely be objections to any location proposed for the SLS outpost, particularly from those most directly affected such as neighbouring residents. Ultimately, the development proposed is assisting with the provision of a community service (through improving facilities for surf life savers to operate beach patrols) and has attempted to keep the impacts on surrounding residents and the environment to a minimum.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.
