



TWEED
SHIRE COUNCIL

Mayor: Cr G Bagnall

Councillors: P Youngblutt (Deputy Mayor)
C Byrne
B Longland
K Milne
W Polglase

Agenda

Planning Committee Meeting Thursday 3 September 2015

held at Murwillumbah Cultural and Civic Centre
commencing at 5.00pm

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C
79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

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 in 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.

Note: See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

(2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and
- (b) must not refuse the application on the ground that the development does not comply with those standards, and
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
 - (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note: The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
 - (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
 - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

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Items for Consideration of Council:

ITEM	PRECIS	PAGE
	REPORTS THROUGH THE GENERAL MANAGER	6
	REPORTS FROM THE DIRECTOR PLANNING AND REGULATION	6
1	[PR-PC] Development Application DA14/0904 for a 28 Townhouse Development at Lot 2 DP 566095; No. 47 Champagne Drive Tweed Heads South	6
2	[PR-PC] Coastal Villages Planning Proposal and Amendments to Tweed Development Control Plan - Section B23 Hastings Point	82
3	[PR-PC] Tweed DCP 2008 - Draft Amendment B28 - Club Banora	95
4	[PR-PC] Unauthorised Activities at Lot 22 DP 585033 No. 51 Phillip Street, Chinderah	104
5	[PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards	111

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA14/0904 for a 28 Townhouse Development at Lot 2 DP 566095; No. 47 Champagne Drive Tweed Heads South

SUBMITTED BY: Development Assessment and Compliance

FILE REFERENCE: DA14/0904 Pt1

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process

SUMMARY OF REPORT:

The subject application was reported to Councils Planning Committee Meeting of 6 August 2015 with the report recommending refusal.

At this meeting Council resolved *that Council give in-principle support for the application and brings back recommended conditions of consent to the September Planning Committee Meeting.*

Accordingly, contained within this report at Option 2 is a set of draft conditions, should Council want to approve the application; however please note that the attached conditions incorporate a deferred commencement condition in relation to contaminated land. Council Officers requested additional information in regards to contamination which has not been satisfactorily addressed to date. Therefore the consent (deferred commencement consent) will not be activated until such time as the deferred matters are satisfied.

Council Officers original report and recommendation for refusal remain unchanged.

ORIGINAL SUMMARY:

Consent is sought for the construction of 28 Town houses on Lot 47 DP 566095; 47 Champagne Drive Tweed Heads.

The site represents a heavily sloping, thus constrained site within a R1 General Residential zoning under the Tweed Local Environmental Plan 2014.

The development comprises a 28 town house development. The development is proposed to accommodate three dwelling types (Type A, B and C, as nominated on Drawing No DA-13, DA-14 and DA-15, Issue B, drawn by Reddog Architects and dated 24/04/2015).

Dwelling type A includes 13 dwellings located along the northern elevation (highest part) of the site.

Dwelling type B includes eight dwellings located south (lower) of the proposed dwelling Type A.

Dwelling type C includes seven dwellings which are also located south (lower) of the proposed dwelling Type A.

A Request for further information was sent to the applicant 17 February 2015.

Council requested that given the abovementioned non-compliances, the extent of further information requested by Council's and the NSW Rural Fire Services and the anticipated amount of time required supplying this information to a satisfactory standard, that the application be withdrawn. The applicant did not wish to withdraw the application and subsequently submitted amended plans and further information requested.

The fundamental issues with regard to the subject application are:

- The low level of amenity provided to the subject development, including poor natural light and no cross ventilation for the lower levels of dwellings 1-13, which are proposed to have the lower level constructed below natural ground level;
- The bulk and scale of the development, given its location on the ridgeline, including the dominance of the ridgeline by hardstand;
- The visual impacts, (again due to the bulk and location of the development) from the adjoining ridgeline, and the surrounding areas, including overlooking and loss of views between properties
- The extent of variations sought to Section A1 of Council's DCP 2008. There is in some 20 variations sought, 17 of which are addressed further within this report and are considered to contribute to the reasons for refusal of this application.

To date a satisfactory response is still required in relation to contaminated lands. In accordance with Clause 7(1) *contamination and remediation to be considered in determining a development application of the State Environmental Planning Policy (SEPP) 55 – Remediation of Land* a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. Accordingly, in the absence of the requested contaminated lands investigation, Council is not in a position to consent to the proposed development.

The development application was originally advertised and notified for a period of 14 days, from Wednesday 14 January 2015 to Wednesday 28 January 2015. During this period a total of 12 submissions (objections) were received.

The application was re-notified for a period of fourteen (14) days from Wednesday 6 May 2015 to Wednesday 20 May 2015.

During this period a further 14 submissions (objections) were received.

A Councillor workshop was held with the applicants on Thursday 9 July 2015.

The subject application was originally called up to Council for determination by Councillors Byrne and Youngblutt.

The officers' recommendation is for refusal.

RECOMMENDATION:

That Development Application DA14/0904 for a 28 townhouse development at Lot 2 DP 566095; No. 47 Champagne Drive Tweed Heads South be refused for the following reasons:

- 1. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(iii) – the provisions of any Development Control Plan in that the development is inconsistent with the Development Control Plan Section A1 – Residential Development Code.**
- 2. The development does not satisfy Clause 7(1), contamination and remediation of the State Environmental Planning Policy 55 – Remediation of Land.**
- 3. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(e) - *the public interest* in that the development is not considered to be in the public interest.**

REPORT:

Applicant: PRC Developments Pty Ltd
Owner: Mrs Margaret A Turnbull & Mr Neil T Turnbull
Location: Lot 2 DP 566095; No. 47 Champagne Drive Tweed Heads South
Zoning: R1 - General Residential
Cost: \$5,200,000

Background:

Consent is sought for the construction of 28 Town houses on Lot 47 DP 566095; 47 Champagne Drive Tweed Heads.

The site represents a heavily sloping, thus constrained site within a R1 General Residential zoning under the Tweed Local Environmental Plan 2014.

The subject site is shown below.



The development proposes a 28 town house development, with a total of 63 onsite parking spaces (including the provision of five visitor spaces), a communal BBQ area and refuse/trailer storage area. The development is proposed to accommodate three dwelling types (Type A, B and C), the particulars of each dwelling type are further described below.

Dwelling Type A:

Dwelling type A includes 13 dwellings located along the northern elevation (highest part) of the site. The Dwellings are two storeys, have two bedrooms and are proposed to be partially attached. The development is comprised of three blocks containing three adjoining dwellings and one block of containing four attached dwellings.

The lower floor plan is comprised:

- Bedroom one, ensuite and sleep out
- Stacked carport

The lower floor level is proposed to be constructed below natural ground level.

The upper floor plan is comprised:

- Kitchen, dining and living
- Laundry/bathroom
- Bedroom 2
- Study
- Terrace (rear, northern elevation)
- Deck (front, southern elevation)

Dwelling Type B

Dwelling type B includes eight dwellings located south (lower) of the proposed dwelling Type A. The Dwellings are two storeys, have two bedrooms, are proposed to be partially attached and are comprised of a pole construction.

The lower floor plan is comprised:

- Bedroom one
- Bedroom two, with ensuite
- Bathroom
- Laundry
- Deck (southern elevation)

The upper floor plan is comprised:

- Kitchen, dining and living
- Study
- Terrace (rear, northern elevation)
- Double carport (front of dwelling, northern elevation)
- Deck (front, southern elevation)

Dwelling Type C

Dwelling type C includes seven dwellings which are also located south (lower) of the proposed dwelling Type A. The dwellings have two bedrooms and a bedroom/study, are proposed to be partially attached and are comprised of a pole construction.

The lower floor plan is comprised:

- Bedroom one
- Bedroom, with ensuite
- Bathroom
- Laundry
- Deck (southern elevation)

The upper floor plan is comprised:

- Kitchen, dining and living
- Study/Bedroom 3
- Double carport (front of dwelling, northern elevation)
- Toilet
- Deck (front, southern elevation)

The configuration of the lower level of buildings is a mix of dwelling type B and C and is comprised of two blocks containing three attached dwellings, one block containing four attached dwellings and one block containing five attached dwellings.

Given the site has limited frontage to the Champagne Drive road reserve, access to the site is proposed to be via single a 6m wide driveway located approximately 2.5m from the site's eastern boundary, with a 1.8m high acoustic fence situated along the eastern boundary, adjoining the rear boundaries of 88-94 Vintage Lakes Drive.

Given the site's limited road frontage, none of the proposed dwellings have a street frontage, all dwellings will be accessed from the shared internal driveway, with each of the proposed dwellings front façades being oriented internally to the proposed driveway.

The demolition of the existing dwelling on site will be sought under a separate application.

The site is currently comprised of a single dwelling house, associated carport and cattle holding yard. The site has a frontage of approximately 131m, however only some 25m of the frontage adjoin the existing Champagne Drive road reserve. The site has an overall land area of 2.553 hectares and slopes from the front to the rear with a maximum slope of between 25 and 35 degrees, though the Geotechnic Report, accompanying the subject application; prepared by Morrison Geotechnic, reference number 16857 and dated 28 April 2014 (Appendix B of the subject application) advises that the site typically ranges between a 15 and 25 degree gradient.

The fundamental issue with regard to the subject application is the low level of amenity provided to the subject development; the bulk and scale of the development, given its location on the ridgeline of the site, which is highly visible from both the adjoining ridgeline and the surrounding areas and the extent of variations (in excess of 20) sought to Section A1 of Council's DCP 2008 (which are discussed further within this report).

With regard to the background of the subject application, the following is advised:

- In January 2003 a Development Assessment Panel Meeting was held for a proposed subdivision of the subject site, the minutes quoted to applicable legislation and controls for consideration and advised that the applicant was open to lodge a Development Application for consideration.
- In 2008 a further enquiry from Opus Qantec McWilliam was received by Council in relation to a proposed 11 lot subdivision (with four lots being serviced by a right of carriage way). Council's Development Engineer reviewed the proposed development and advised that the proposal was an overdevelopment of the site. Stating that the topography of the site warranted a maximum of four lots.

A response was sent to the customer in November 2008 advising the following:

- *Eleven lots is considered an overdevelopment of this site given the steep topography.*
- *The concrete access road with adjoining lots is not an appropriate design solution for this constrained site.*
- *The design does not comply with Council's standard for cul-de sacs and non cul-de sac kerb frontages.*
- *Filling will result in removal of stormwater detention capacity, accordingly it is doubtful that Q100 overland flow from the site, including flow from Champagne Drive could be conveyed to a legal point of discharge.*

- *Options should be considered for minimising the fill on the site including integration of the subdivision with house design.*
- *Measures for minimising the impact of the proposed road on existing adjacent dwellings will need to be considered.*

- In May 2014 a Development Assessment Panel Meeting was held which included a proposal for 27 units on the subject site. The applicant was advised (but not limited to) the following:
 - cut and fill should be minimised,
 - the orientation of the dwellings should take into consideration of solar aspects as well as views,
 - view analysis should be submitted with the application at lodgement,
 - a Contamination report addressing previous site uses is to accompany the Development Application in accordance with Council's Contaminated Land Policy.

Prior to the subject application no formal Development Applications were lodged with Council.

The surrounding area predominately contains single dwelling houses.

The development application was originally advertised and notified for a period of 14 days, from Wednesday 14 January 2015 to Wednesday 28 January 2015. During this period a total of 12 submissions were received.

As advised under the summary section of this report, amended plans were submitted by the applicant and the application was re-notified for a period of fourteen (14) days from Wednesday 6 May 2015 to Wednesday 20 May 2015. During this period a further 14 submissions were received.

The matters raised in all submissions are addressed later in this report.

The subject application was called up to Council for determination.

It is recommended that the application be refused.

SITE DIAGRAM:



Locality Plan

Lot 2 DP 566095
No 47 Champagne Drive, Tweed Heads South

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Cadastral 21/07/2015
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Boundaries shown should be considered approximate only.

0 0.5 1 Km
1:50,000 @ A4 Portrait
DO NOT SCALE
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geoidetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
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Figure: 21.566095 STANDARD TEMPLAT SUBSCAMFONHMAS - Locality Plan_SCH_A30.indd

Author: Ratchelor - Strategic Planning & Urban Design Pty Ltd

Date Printed: 21 July 2015

DEVELOPMENT/ELEVATION PLANS:

2411-229 CHAMPAGNE DRIVE

SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2486

RPO
LOT NO 2 ON DP466905

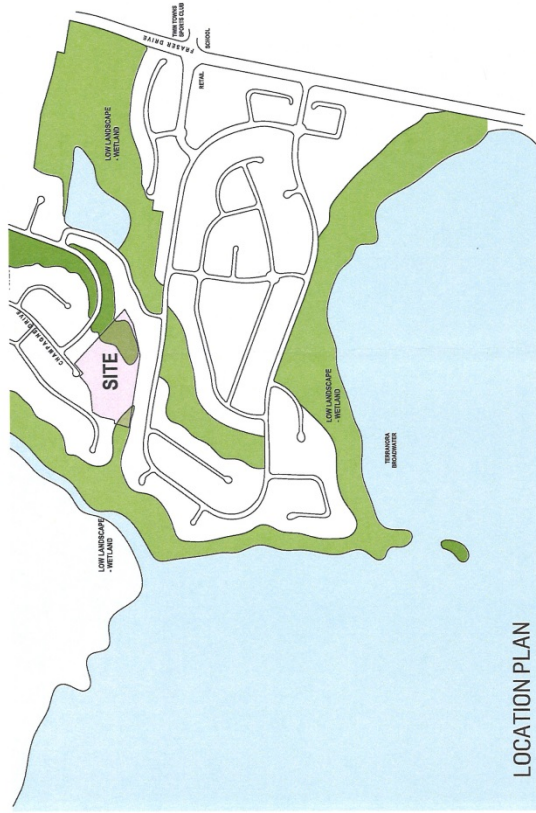
SITE AREA
2.53 H

ZONE
R1 GENERAL RESIDENTIAL

LOCAL COUNCIL
TWEED SHIRE COUNCIL

DRAWING SET

- DA-01 COVERAGE
- DA-02 SITE ANALYSIS
- DA-03 PROPOSED SITE ANALYSIS
- DA-04 SITE PLAN
- DA-05 LOWER FLOOR PLAN
- DA-06 UPPER FLOOR PLAN
- DA-07 UPPER FLOOR / ROOF PLAN
- DA-08 UPPER ROOF PLAN
- DA-09 SECTION A & B
- DA-10 SECTION C
- DA-11 ELEVATIONS 1
- DA-12 ELEVATIONS 2
- DA-13 TOWNHOUSE TYPE A - 2 BED
- DA-14 TOWNHOUSE TYPE B - 2 BED
- DA-15 TOWNHOUSE TYPE C - 3 BED
- DA-16 TOWNHOUSE SPECIFICATIONS
- DA-17 PERSPECTIVES
- DA-18 SERVICES PLAN
- DA-19 SUN STUDY - 21st JUNE
- DA-20 SUN STUDY - 21st DECEMBER
- DA-21 SUN STUDY - 22nd MARCH



LOCATION PLAN

COVERPAGE

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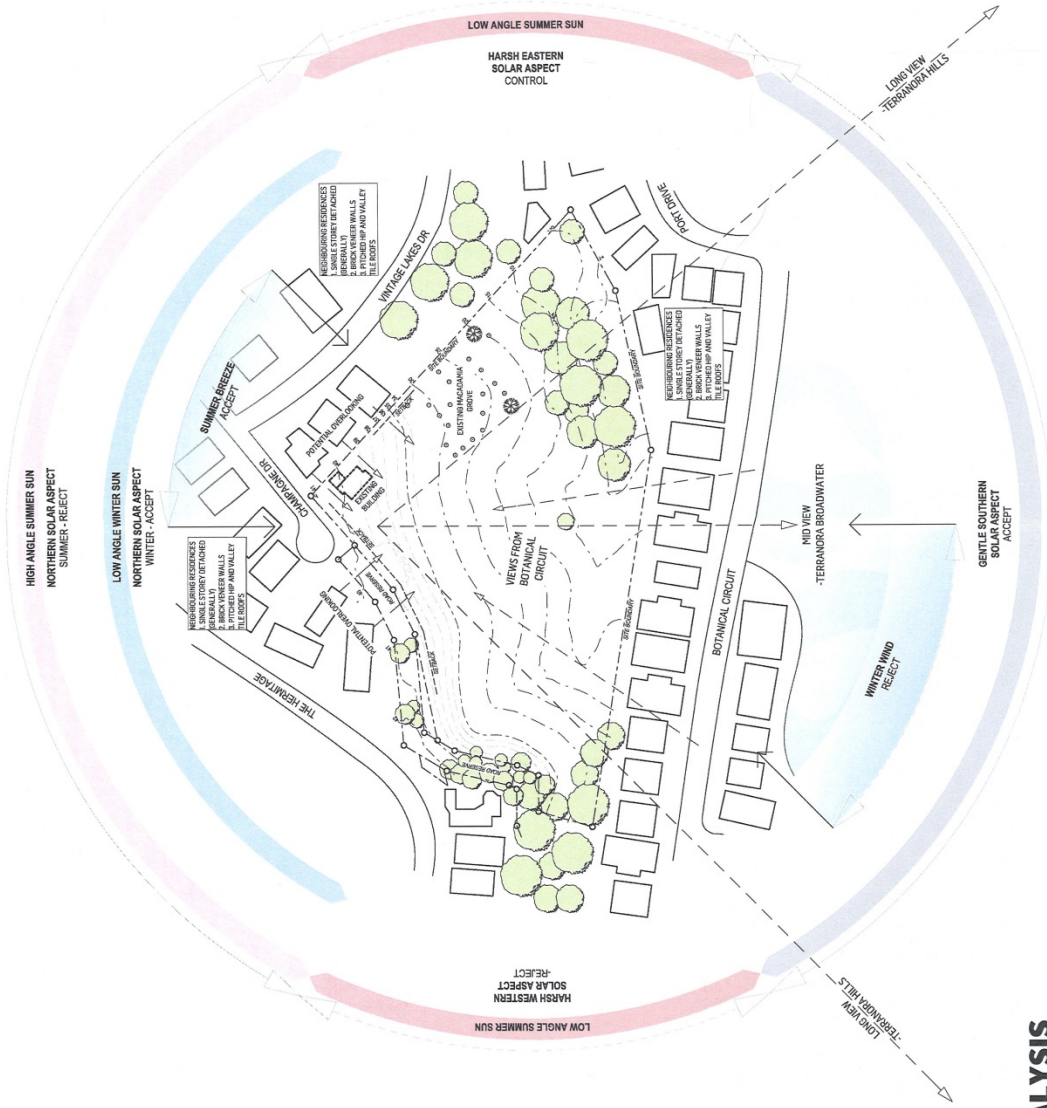
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A	08/12/2014	LO	DRAWING FOR LO	RP	47 CHAMPAGNE DRIVE
B	21/04/2015	RS	COUNCIL RESPONSE	RP	TWEED HEADS SOUTH NSW, 2486

CHAMPAGNE DRIVE



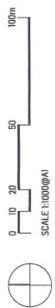
PROJECT NO. 2411-229
DRAWING NO. DA-01
ISSUE B

LOT NO 2 ON DP466905
TWEED SHIRE COUNCIL



EXISTING SITE ANALYSIS

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ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/12/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE

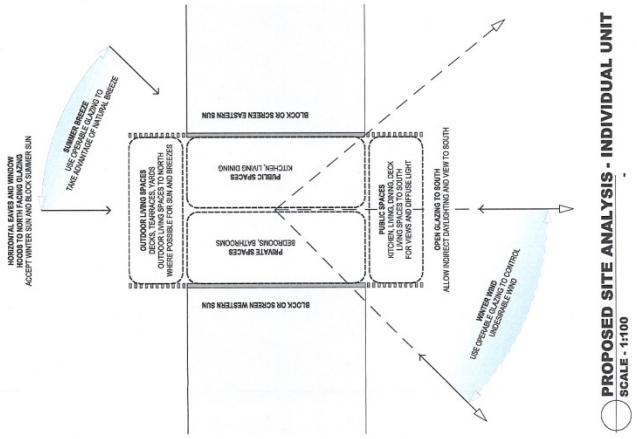
SITE ADDRESS
 47 CHAMPAGNE DRIVE
 MURUMBidgee NSW 2488

PROJECT NO.
 2411-229

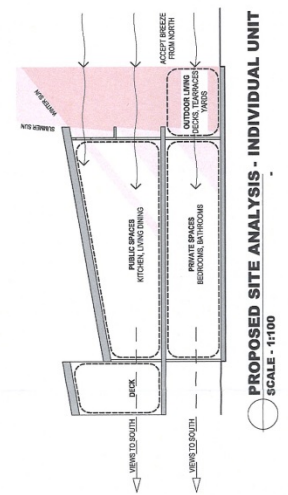
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 DA-02

ISSUE
 B





PROPOSED SITE ANALYSIS - INDIVIDUAL UNIT
SCALE - 1:100

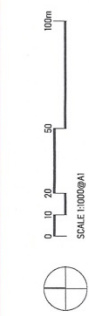


PROPOSED SITE ANALYSIS - INDIVIDUAL UNIT
SCALE - 1:100



PROPOSED SITE ANALYSIS

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ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/12/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE
PROJECT NO. 2411-229
DRAWING NO. DA-03
ISSUE B





DEVELOPMENT DATA

	2 BED UNITS - TYPE A (13 Number)
	2 BED UNITS - TYPE B (6 Number)
	3 BED UNITS - TYPE C (7 Number)
TOTAL	28 UNITS

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2466
 LOT NO 2 ON DP56805
 TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND RLs ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL MAY VARY TO THOSE INDICATED.
 LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



SITE PLAN

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PROJECT NO. **2411-229**
 DRAWING NO. **DA-04**
 ISSUE **B**

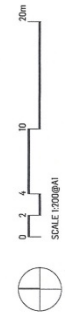


DEVELOPMENT DATA

 2 BED UNITS - TYPE A (13 Number)
 2 BED UNITS - TYPE B (6 Number)
 3 BED UNITS - TYPE C (7 Number)
TOTAL 28 UNITS

LOWER FLOOR PLAN

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NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-15-16) FOR FURTHER DETAIL
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND RISES ARE DESIGN HEIGHTS AND SUBJECT TO LOCAL COUNCIL REQUIREMENTS
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.

ISSUE	DATE	BY	DESCRIPTION	CHD	SITE ADDRESS
A	08/12/2014	LG	DA APPLICATION	RP	TWEED HEADS SOUTH
B	21/04/2015	RS	COUNCIL IN RESPONSE	RP	NSW, 2486

LOT NO 7 ON DP596085
 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE

PROJECT NO. **2411-229** DRAWING NO. **DA-05** ISSUE **B**

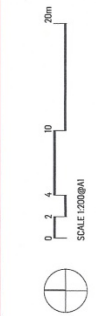




DEVELOPMENT DATA

 2 BED UNITS - TYPE A (13 Number)
 2 BED UNITS - TYPE B (6 Number)
 3 BED UNITS - TYPE C (7 Number)
TOTAL 28 UNITS

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-15-15) FOR FURTHER DETAILS.
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS.
 - ALL HEIGHTS AND RL'S ARE DESIGN HEIGHTS AND SUBJECT TO APPROVAL BY THE COUNCIL.
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



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GROUND FLOOR PLAN

CHAMPAGNE DRIVE

SITE ADDRESS
 17 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2486
 LOT NO 2 ON DP568085
 TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

PROJECT NO. **2411-229**
 DRAWING NO. **DA-06**
 ISSUE **B**





DEVELOPMENT DATA

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 2 BED UNITS - TYPE B (0 Number)
 3 BED UNITS - TYPE C (7 Number)
TOTAL 28 UNITS

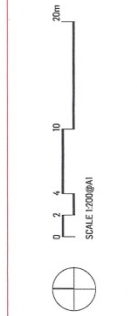
CHAMPAGNE DRIVE

PROJECT NO. **2411-229** DRAWING NO. **DA-07** ISSUE **B**

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B	21/04/2015	RS	COUNCIL I/R RESPONSE	RP

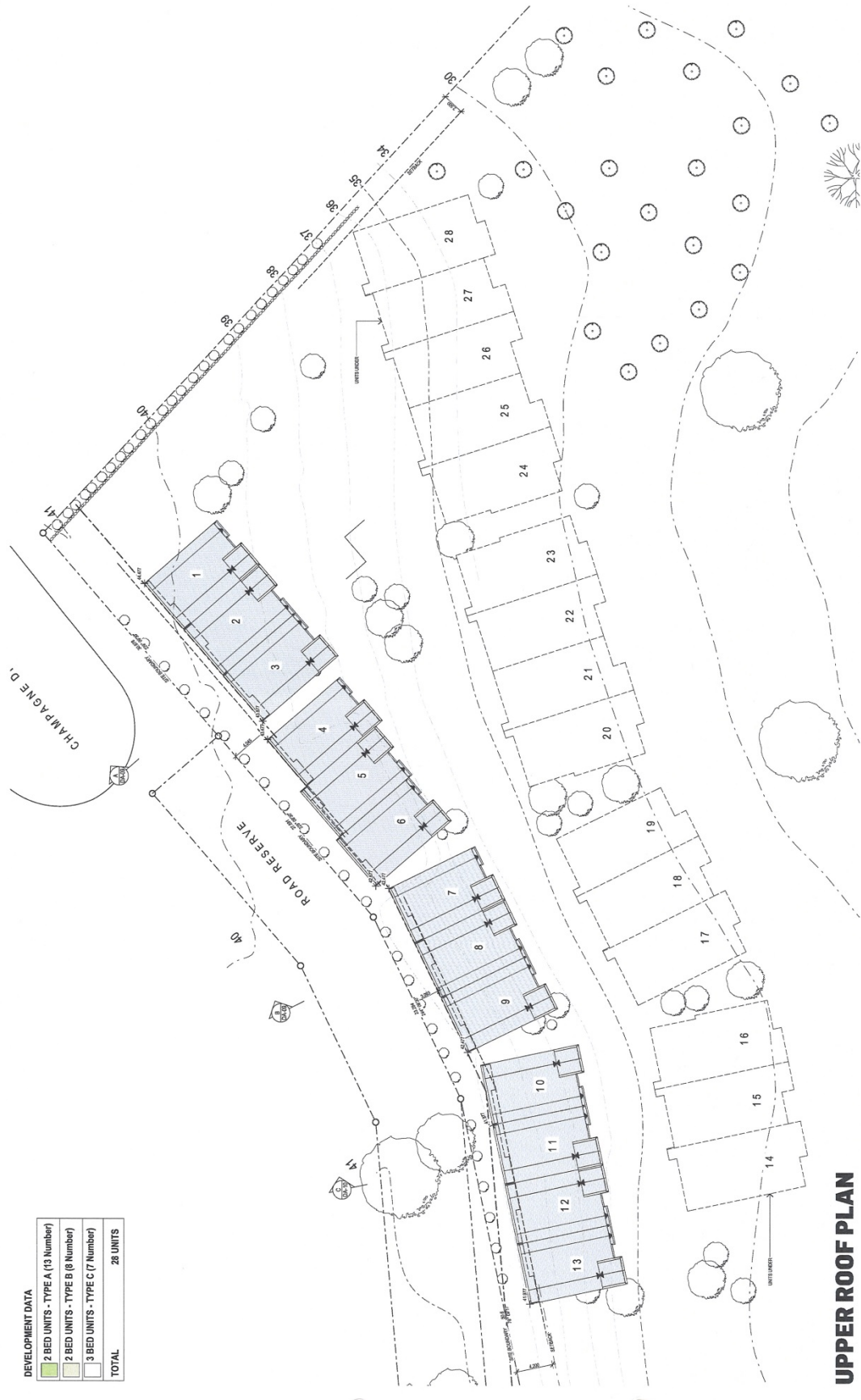
SITE ADDRESS
 7 CEDAR FORE DRIVE
 TWEED HEADS SOUTH
 NSW, 2488
 LOT NO 2 ON DP586095
 TWEED SHIRE COUNCIL

NOTE:
 - REFER TO INDIVIDUAL TOWNHOUSE UNIT SHEETS (DA-15-16) FOR FURTHER DETAIL
 - REFER TO TOWNHOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/L'S ARE DESIGN HEIGHTS AND SUBJECT TO APPROVAL BY THE COUNCIL
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



UPPER FLOOR / ROOF PLAN

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DEVELOPMENT DATA

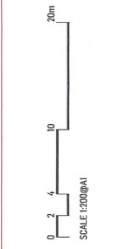
2 BED UNITS - TYPE A (13 Number)	
2 BED UNITS - TYPE B (8 Number)	
3 BED UNITS - TYPE C (7 Number)	
TOTAL	28 UNITS

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2468
 LOT NO 2 ON DP556805
 TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHD
A	09/02/2014	LG	DA APPLICATION	RP
B	20/04/2015	RS	COUNCIL RESPONSE	RP

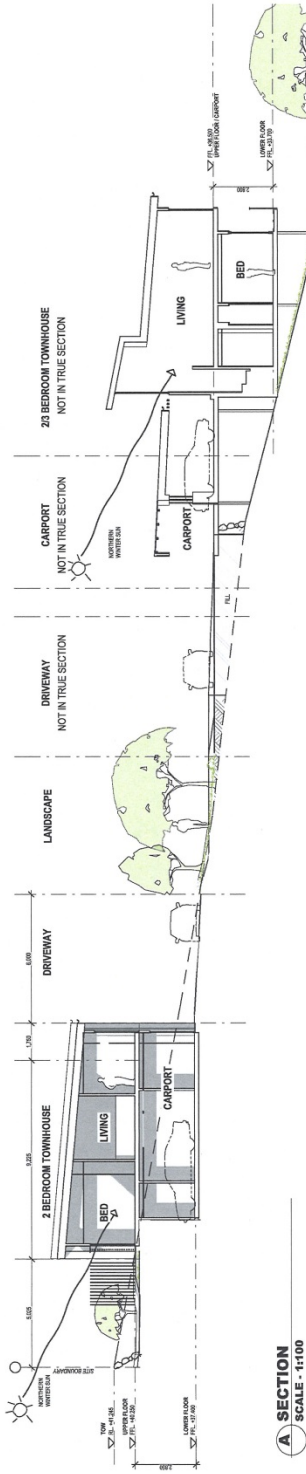
NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 FOR FURTHER DETAIL HOUSE SPECIFICATIONS (DA-16) FOR
 MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/L'S ARE DESIGN HEIGHTS AND SUBJECT
 TO FURTHER DETAIL. MAY VARY TO THOSE INDICATED.
 - LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



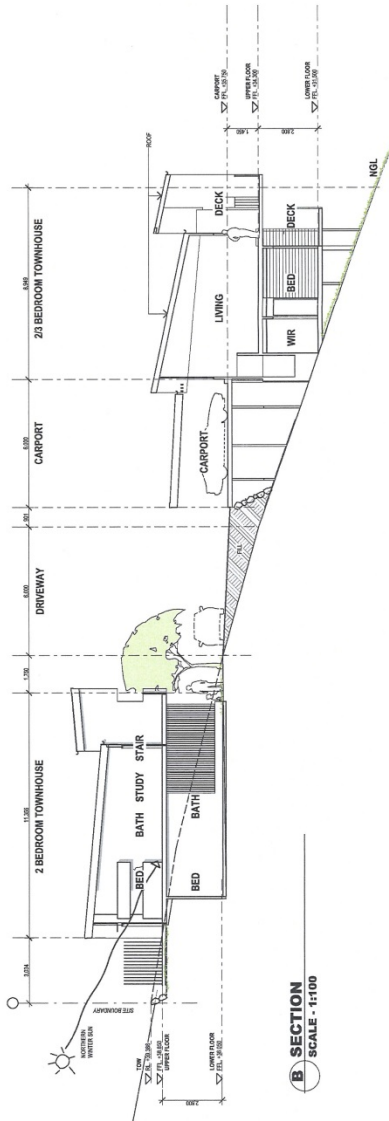
UPPER ROOF PLAN

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 redidigitalarchitects.com
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 email@redidigitalarchitects.com

PROJECT NO. **2411-229** DRAWING NO. **DA-08** ISSUE **B**



A SECTION
SCALE - 1:1100



B SECTION
SCALE - 1:1100

NOTE:
 - REFER TO INDIVIDUAL TOWNHOUSE UNIT SHEETS (DA-15-19)
 FOR FURTHER DETAILS
 - REFER TO TOWNHOUSE SPECIFICATIONS (DA-46) FOR
 MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/Ls ARE DESIGN HEIGHTS AND SUBJECT
 TO VERIFICATION BY THE COUNCIL
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO
 LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



SECTION A & B

reddog
 reddogarchitects.com
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 email@reddogarchitects.com

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 1500 WINDYBUSH SOUTH
 NSW, 2466

CHD
 RP

DESCRIPTION
 LG DA APPLICATION
 RS COUNCIL IR RESPONSE

DATE
 08/12/2014
 21/04/2015

ISSUE
 A
 B

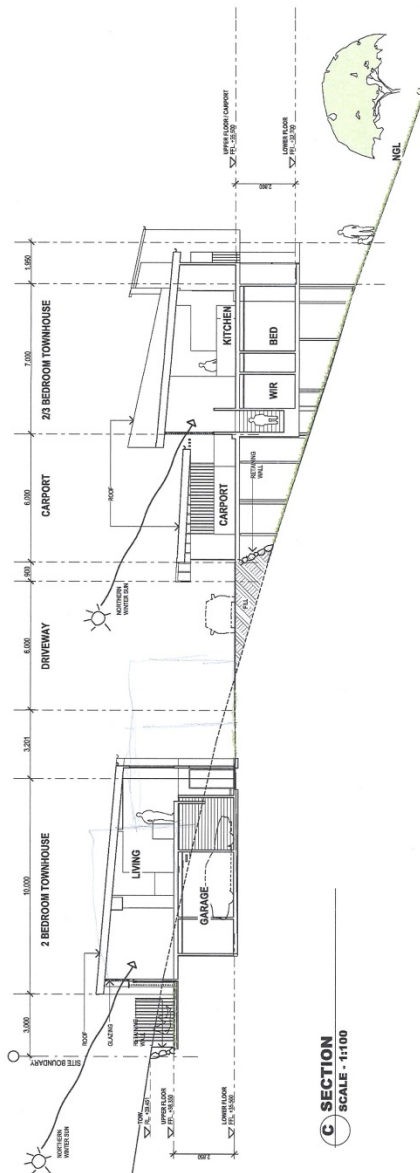


PROJECT NO.
2411-229

DRAWING NO.
DA-09

ISSUE
B

LOT NO 2 ON DP556095
TWEED SHIRE COUNCIL



C SECTION
SCALE - 1:1100

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND RL'S ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL, MAY VARY TO THOSE INDICATED.
 LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



ISSUE	DATE	BY	DESCRIPTION	CHKD	SITE ADDRESS
A	09/02/2014	LG	DA APPLICATION	RP	47 CHAMPAGNE DRIVE TWEED HEADS SOUTH NSW, 2486
B	21/04/2015	RS	COUNCIL RESPONSE	RP	LOT NO 2 ON DP568895 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE

PROJECT NO. **2411-229**
 DRAWING NO. **DA-10**
 ISSUE **B**

SECTION C

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 email@redogarchitects.com



01 SOUTH ELEVATION DRIVEWAY ELEVATION
SCALE - 1:1200



02 NORTH ELEVATION - DRIVEWAY ELEVATION
SCALE - 1:1200



03 SOUTH ELEVATION - UNITS 14-28
SCALE - 1:1200

ELEVATIONS 1

Reddog
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NOTE: TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-15-15)
FOR FURTHER DETAIL
- REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
- ALL HEIGHTS AND R/L'S ARE DESIGN HEIGHTS AND SUBJECT TO APPROVAL BY THE LOCAL COUNCIL
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.

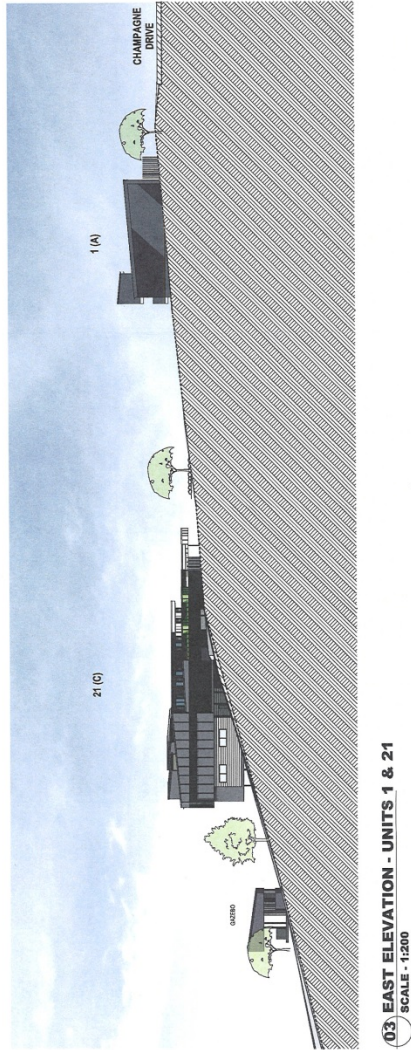
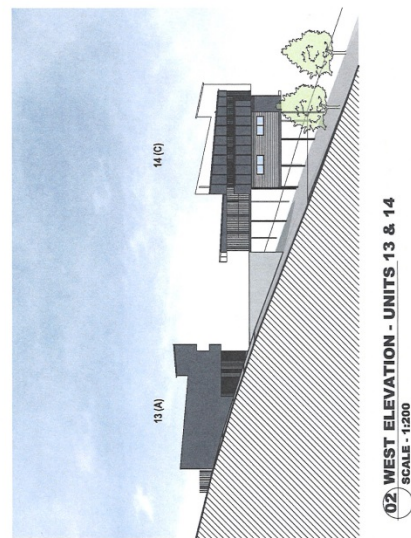
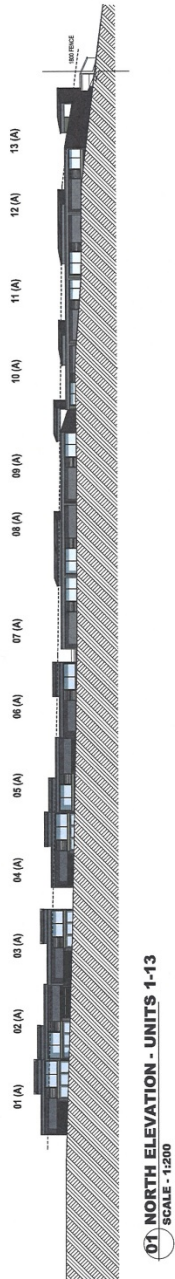


ISSUE	DATE	BY	DESCRIPTION	CHD	SITE ADDRESS
A	08/02/2014	LG	DA APPLICATION	RP	47 CHAMPAGNE DRIVE TWEED SHIRE SOUTH NSW, 2466
B	21/04/2015	RS	COUNCIL RESPONSE	RP	LOT NO 2 ON DP566095 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE



PROJECT NO. **2411-229**
DRAWING NO. **DA-11**
ISSUE **B**



ELEVATIONS 2

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 email@residogarchitects.com



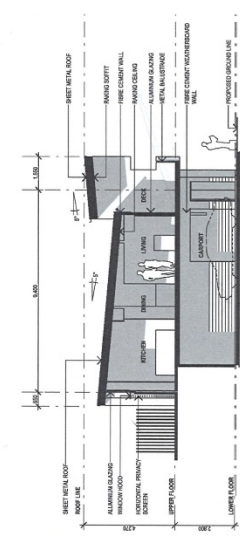
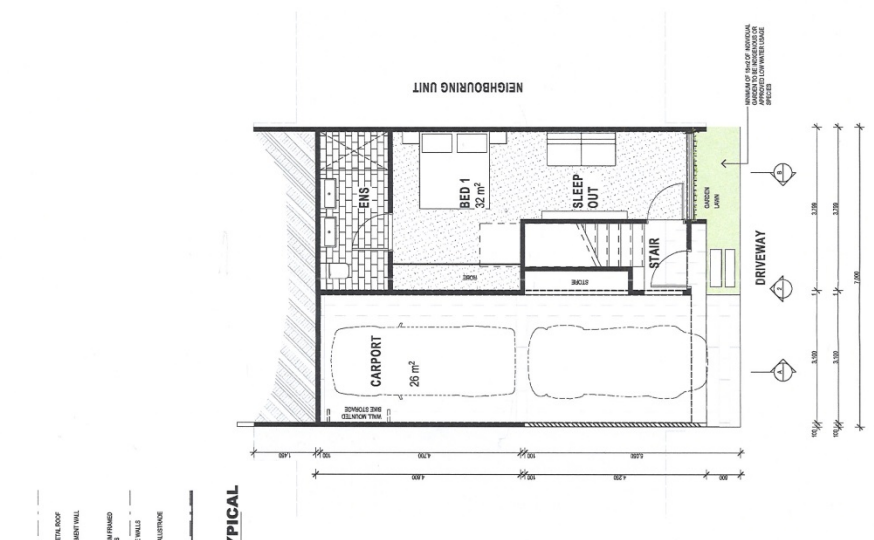
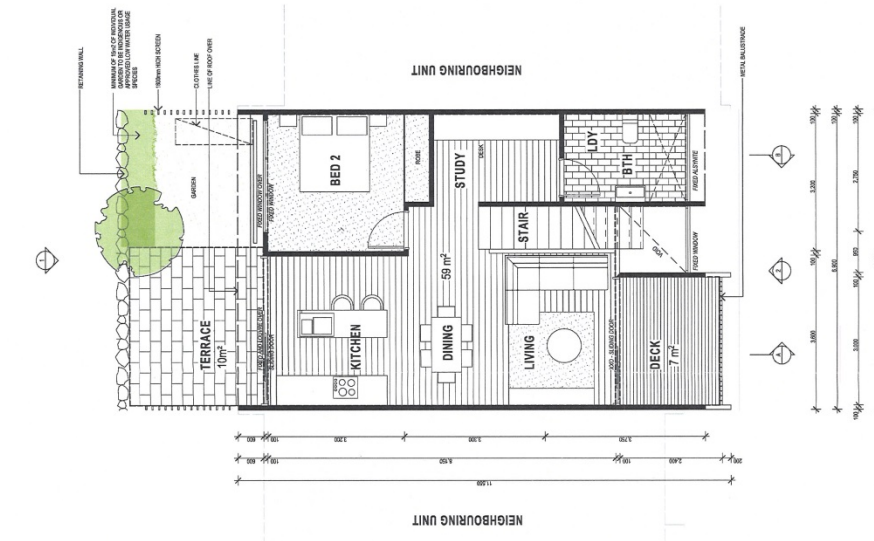
NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/Ls ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL MAY VARY TO THOSE INDICATED TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.

ISSUE	DATE	BY	DESCRIPTION	CHND	SITE ADDRESS
A	08/02/04	LG	DA APPLICATION	RP	47 CHAMPAGNE DRIVE MUSKUMBI SOUTH NSW, 2468
B	21/04/05	RS	COUNCIL RESPONSE	RP	LOT NO 2 ON DP4560005 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE



PROJECT NO. **2411-229**
 DRAWING NO. **DA-12**
 ISSUE **B**



TOWNHOUSE - TYPE A
88m² INTERNAL
10m² EXTERNAL
+ 32m² CARPORT

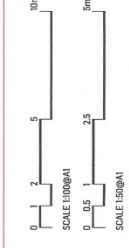
CHAMPAGNE DRIVE

SITE ADDRESS
470 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2486

CHD
RP

ISSUE
A
B

NOTE:
REFER TO TOWNHOUSE SPECIFICATIONS (DA-18) FOR MATERIAL FITTINGS AND APPLIANCE DETAILS
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.
- ALL HEIGHTS AND RISERS ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL. MAY VARY TO THOSE INDICATED.



TOWNHOUSE TYPE A - 2 BED

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email@reddlogarchitects.com

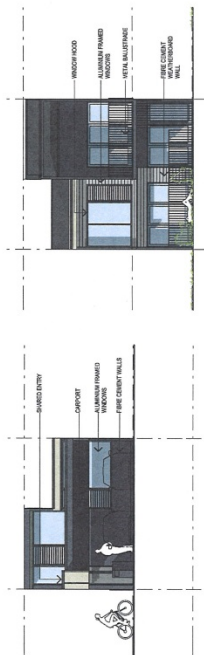


PROJECT NO.
2411-229

DRAWING NO.
DA-13

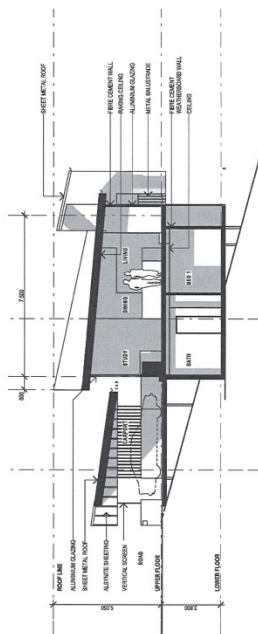
ISSUE
B

LOT NO 2 ON DP5968095
TWEED SHIRE COUNCIL

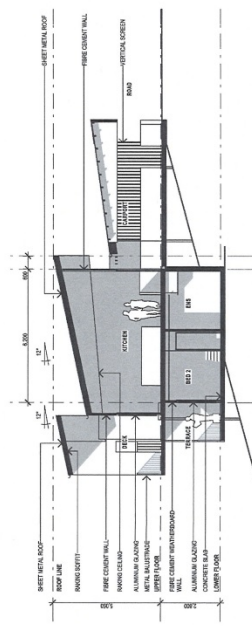


1 NORTH ELEVATION - TYPICAL
SCALE - 1:100

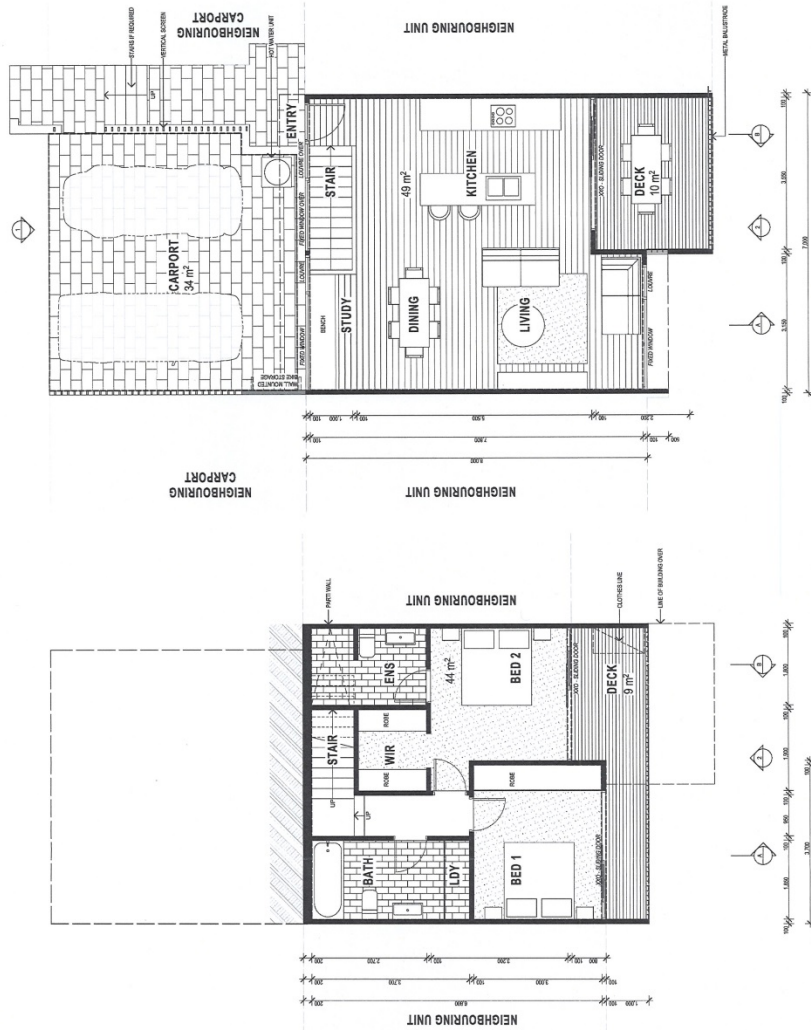
2 SOUTH ELEVATION - TYPICAL
SCALE - 1:100



A SECTION - TYPICAL
SCALE - 1:100



B SECTION - TYPICAL
SCALE - 1:100



UPPER FLOOR PLAN - TYPICAL
SCALE - 1:50

LOWER FLOOR PLAN - TYPICAL
SCALE - 1:50

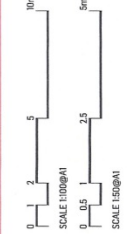
TOWNHOUSE - TYPE B
18M2 INTERNAL
10M2 EXTERNAL
+ 34M2 CARPORT

CHAMPAGNE DRIVE

SITE ADDRESS
47 CHAMPAGNE DRIVE
MURUMBidgee NSW 2486
LOT NO 2 ON DP596095
TWEED SHIRE COUNCIL

ISSUE
A 08/02/2014 LG DA APPLICATION
B 21/04/2015 RS COUNCIL RESPONSE

NOTE:
REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIALS AND FINISHES.
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.
- AREAS ARE APPROXIMATE ONLY. DIMENSIONS AND SUBJECT TO FURTHER DETAIL MAY VARY TO THOSE INDICATED.

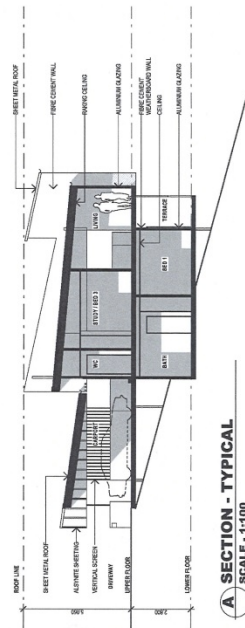
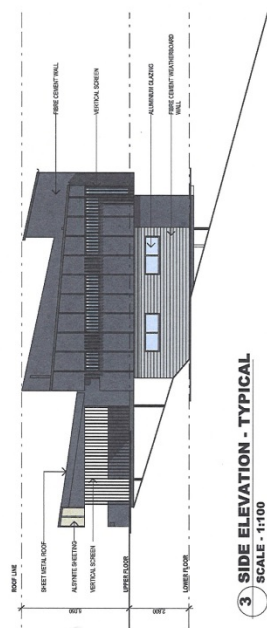
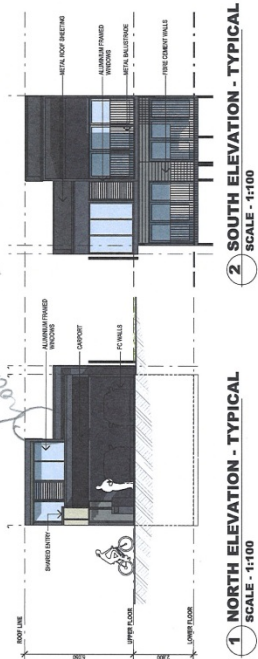
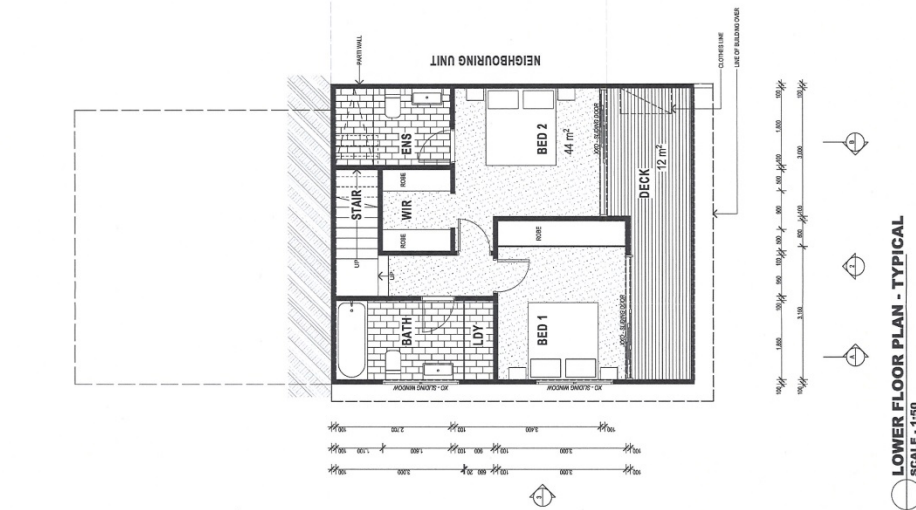
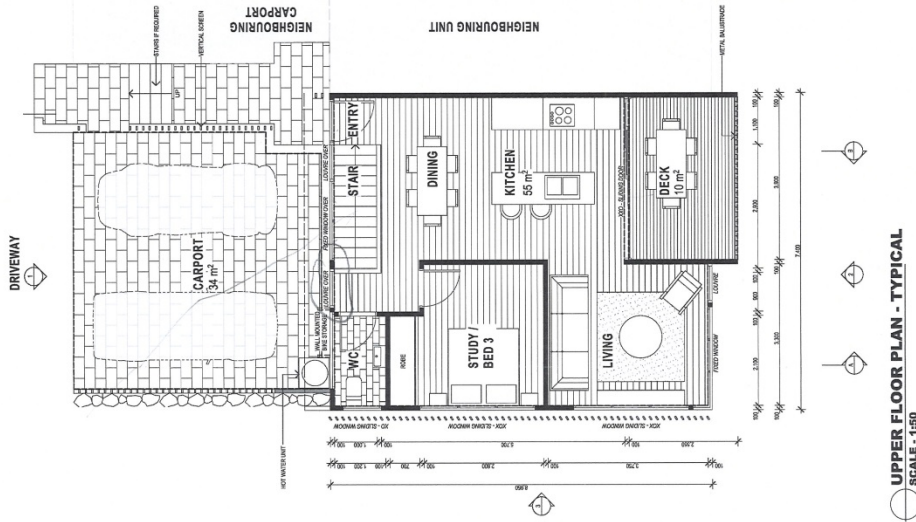


TOWNHOUSE TYPE B - 2 BED

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PROJECT NO. 2411-229
DRAWING NO. DA-14
ISSUE B



TOWNHOUSE TYPE C - 3 BED

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email@reddogarchitects.com

NOTE:
- REFER TO TOWNHOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL
- ALL HEIGHTS AND RISERS ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL. MAY VARY TO THOSE INDICATED.

ISSUE	DATE	BY	DESCRIPTION	CHNG
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL IN RESPONSE	RP

SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2468

LOT NO 2 ON DP5968085
TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE



PROJECT NO. 2411-229
DRAWING NO. DA-15
ISSUE B

MATERIALS & FINISHES

ROOF
 TIMBER FRAME
 30° PITCH
 R10 FOIL BACKED BULK INSULATION
ROOF SOFFIT
 FIBRE CEMENT SHEETING
UPPER LEVEL FLOOR SOFFIT (OPEN BELOW)
 FIBRE CEMENT SHEETING WITH R2.0 BULK INSULATION
INTERNAL LININGS
 RANKING PLASTERBOARD (LIVING AREAS) WITH
 R2.0 BULK INSULATION
 FLAT PLASTERBOARD, CEILINGS (WET AREAS & BEDROOMS) WITH
 R2.0 BULK INSULATION
EXTERNAL CLADDING
 TIMBER FRAME WITH R2.0 FOIL INSULATION
 FIBRE CEMENT SHEETING
 FIBRE CEMENT WEATHERBOARDS
 ALUMINUM SHEETING
 BLOCKWORK WITH REFLECTIVE FOIL
INTERNAL LININGS
 TIMBER FRAME
 PLASTERBOARD LININGS
PART WALL
 PLASTERBOARD LININGS

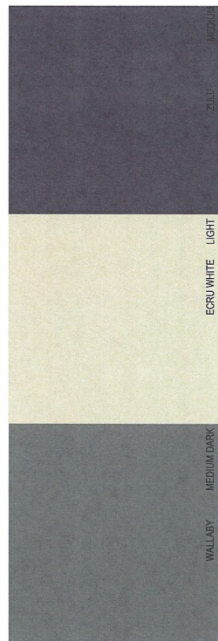
COLORBOND
 WALLBAY
 PAINT FINISH
 RESENE ECRU WHITE
 PAINT FINISH
 RESENE ECRU WHITE
 PAINT FINISH
 RESENE GUSTENING WHITE
 RESENE GUSTENING WHITE

PAINT FINISH
 RESENE ZULU &
 RESENE ECRU WHITE
 RESENE ECRU WHITE
 EVERLITE OPAL
 RESENE ZULU
 PAINT FINISH
 RESENE GUSTENING WHITE
 PAINT FINISH
 RESENE GUSTENING WHITE

UPPER FLOOR
 TIMBER FRAME
 CARPET
 TILES
 INTERNAL TIMBER FLOORING
 EXTERNAL DECKING
LOWER FLOOR
 CONCRETE SLAB
 CARPET
 TILES
 INTERNAL TILES
 EXTERNAL TILES
CARPORT
 CONCRETE SLAB

GLAZING
 ALUMINUM FRAME
 SOUTH - Uw-6.8 SIGCw 0.74
 NORTH - Uw-5.0 SIGCw 0.38
 WEST - Uw-5.0 SIGCw 0.38
 EAST - Uw-5.0 SIGCw 0.38
SCREENS & BALUSTRADES
 HORIZONTAL PRIVACY SCREEN - FIXED
 VERTICAL SCREEN - FIXED
 HORIZONTAL WINDOW HOOD
 TIMBER BOUNDARY FENCE

COLOURS



FIXTURES & FITTINGS

ENERGY
 HEAT PUMP AIR SOURCED HOT WATER UNIT
 CEILING FANS & PULL DOWN LIGHTS TO LIVING
 CEILING FANS & SINGLE PHASE AIR CONDITIONING TO BEDROOMS
 ELECTRIC COOKTOP & ELECTRIC OVEN
 WELL VENTILATED FRIDGE CAVITY
LIGHTING
 KITCHEN
 LAUNDRY
 HALLWAY
 BATHROOM
 NATURAL & ARTIFICIAL LIGHTING
 ARTIFICIAL LIGHTING
 ARTIFICIAL LIGHTING
 ARTIFICIAL LIGHTING

WATER
 SHOWER HEAD
 BATHROOM TAPS
 BATHROOM TAPS
 WATER CLOSET
 3 STAR
 4 STAR
 5 STAR
 4 STAR

FOAT FINISH GREY
 NATURAL ANODISED
 CLEAR
 LOW E - TINTED GREY
 LOW E - TINTED GREY
 LOW E - TINTED GREY
 NATURAL ANODISED
 NATURAL ANODISED
 PAINT FINISH - RESENE ECRU WHITE
 PAINT FINISH

SOLAR ABSORPTION

PROPOSED
 WALLS
 ZULU
 ECRU WHITE - LIGHT
 ROOFS
 SHALE GREY - MEDIUM DARK
REQUIRED
 DARK (0.7)
 LIGHT (0.4)
 MEDIUM DARK (0.7)
 COLOUR SUBJECT TO CHANGE
 VALUES TO BE MAINTAINED

TOWN HOUSE SPECIFICATIONS

Reddog
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CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2486

CHD
 RP
 RP

DESCRIPTION
 DA APPLICATION
 COUNCIL RESPONSE

DATE
 08/02/2014
 21/04/2015

ISSUE
 A
 B

BY
 LG
 RS

PROJECT NO.
2411-229

DRAWING NO.
DA-16

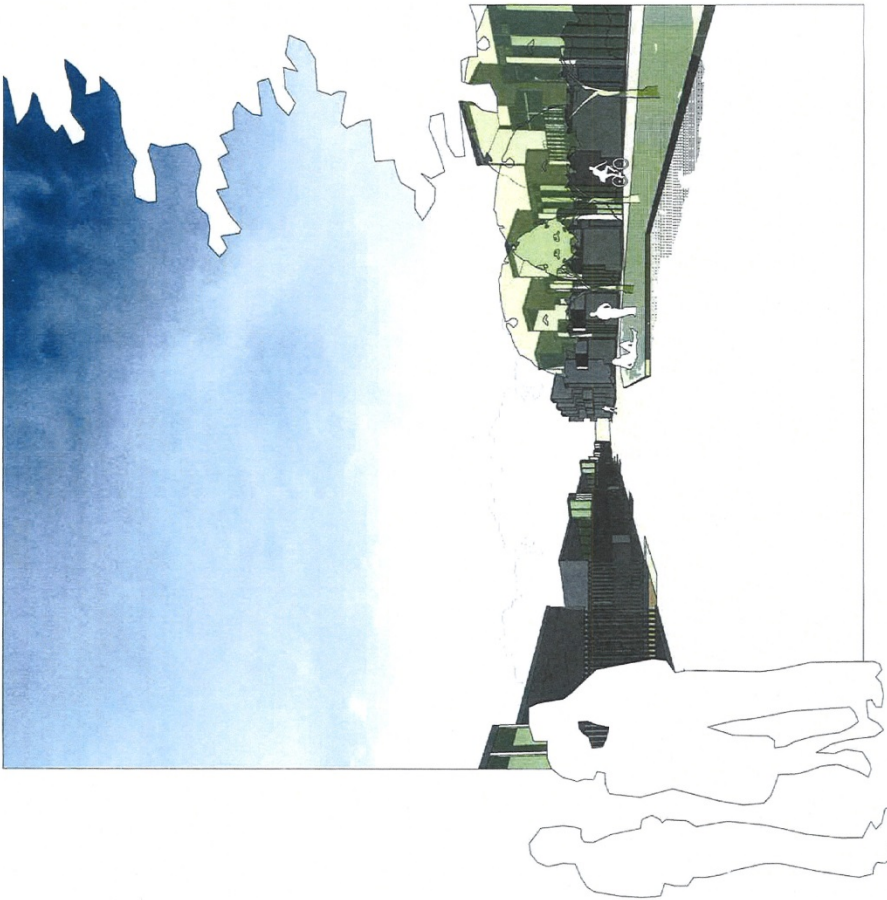
ISSUE
B

PROJECT NO.
2411-229

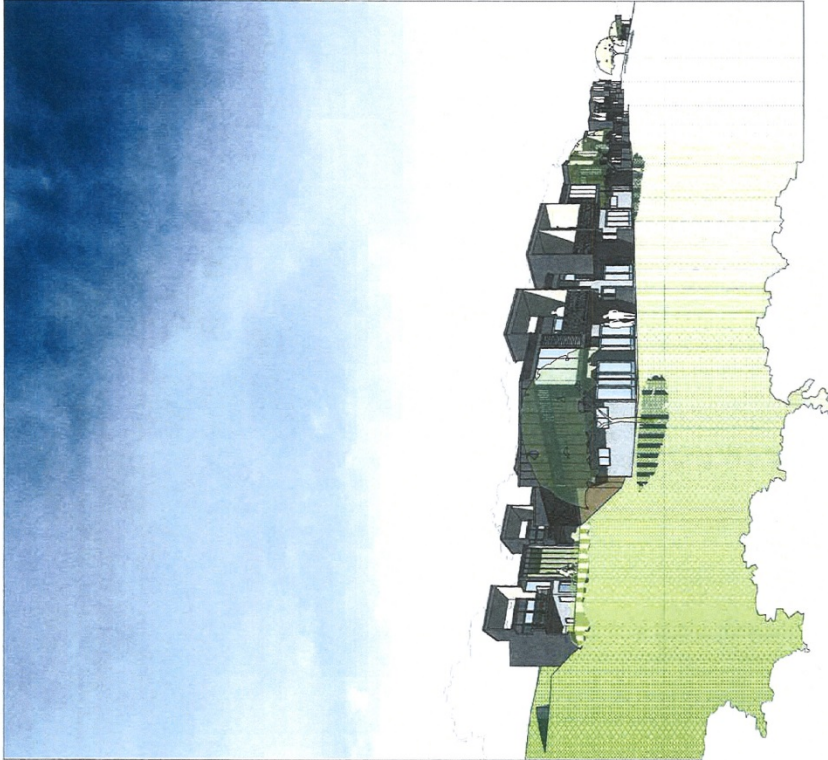
DRAWING NO.
DA-16

ISSUE
B





DRIVEWAY VIEW - EAST
SCALE - 1:50



SOUTH-WEST VIEW
SCALE - 1:50

PERSPECTIVES

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ISSUE A
DATE 08/12/14
BY LG DA APPLICATION
DESCRIPTION RP
CHD
SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2486
LOT NO 2 ON DP566095
TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE

PROJECT NO. 2411-229
DRAWING NO. DA-17
ISSUE A





- DRAINAGE PATHS
- - - EXISTING SEWER
- - - EXISTING WATER
- - - EXISTING TELSTRA

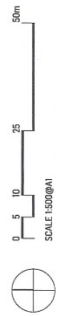
CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2466
 LOT NO 2 ON DP568095
 TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

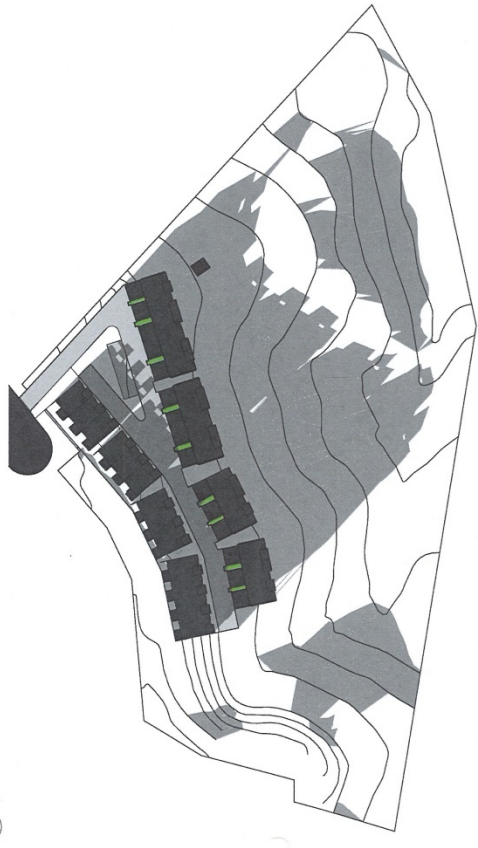
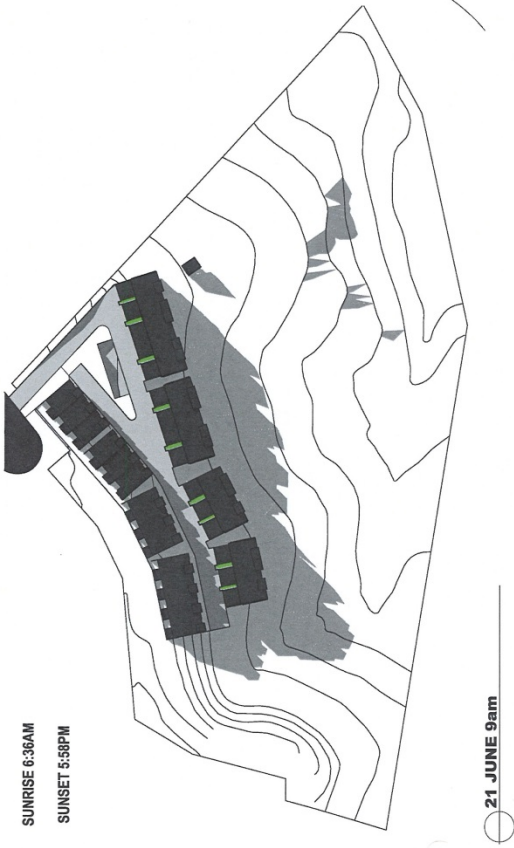
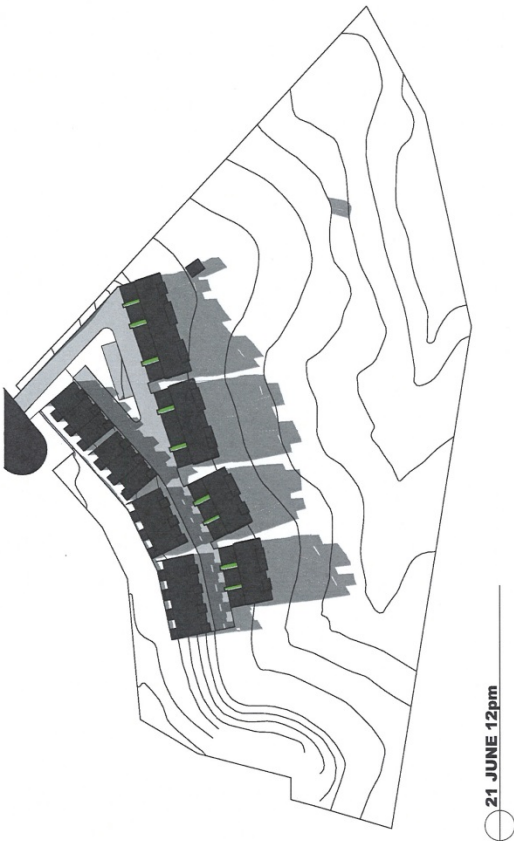


PROJECT NO. **2411-229**
 DRAWING NO. **DA-18**
 ISSUE **B**



SERVICES PLAN

Reddog
reddogarchitects.com
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 email@reddogarchitects.com



SUNRISE 6:36AM
SUNSET 5:58PM

SUN STUDY - 21st JUNE

red dog
redogarchitects.com
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email@redogarchitects.com

ISSUE	DATE	BY	DESCRIPTION	CHD
A	09/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

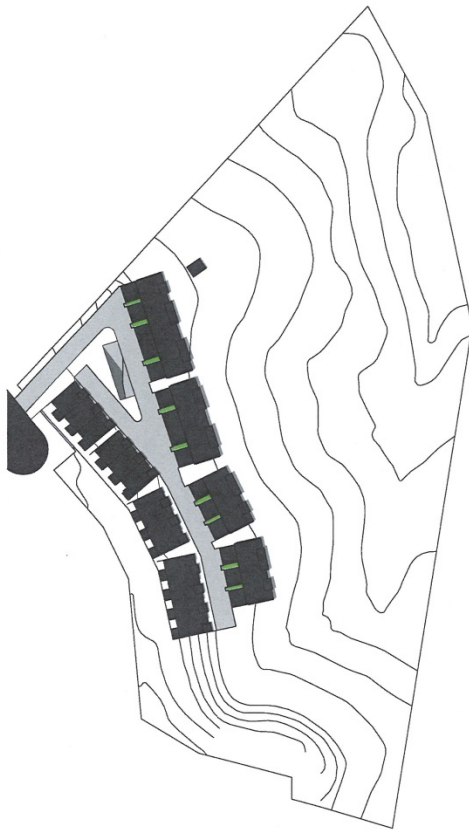
SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED VALLEY SOUTH
NSW 2466

PROJECT NO. 2411-229
DRAWING NO. DA-19
ISSUE B

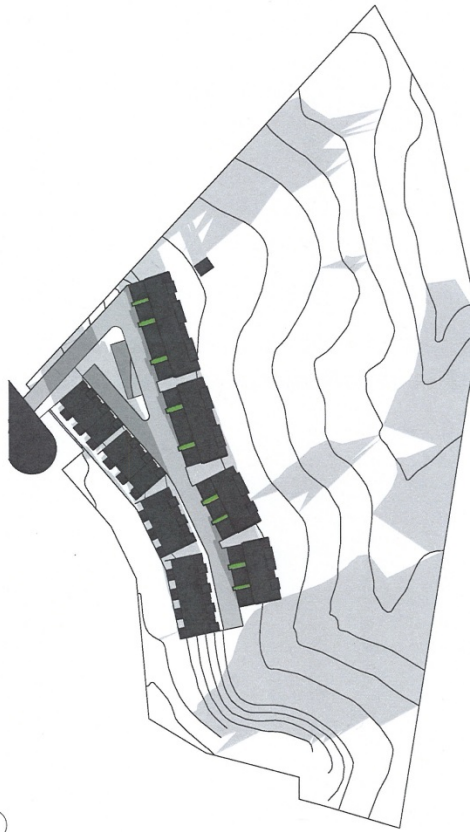
LOT NO 2 ON DP566095
TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE

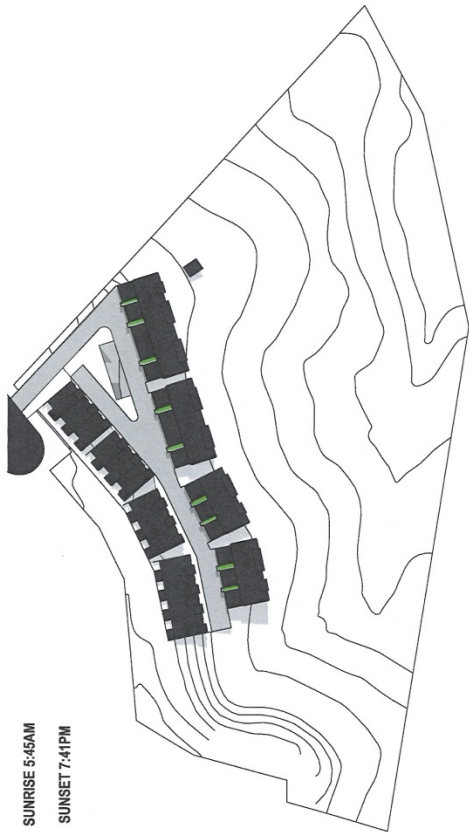




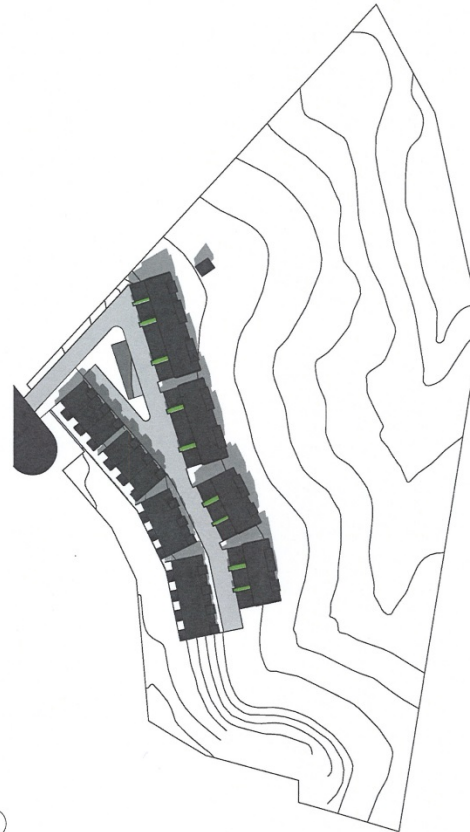
21 DECEMBER 12pm



21 DECEMBER 6pm



21 DECEMBER 9am



21 DECEMBER 3pm

SUN STUDY - 21st DECEMBER

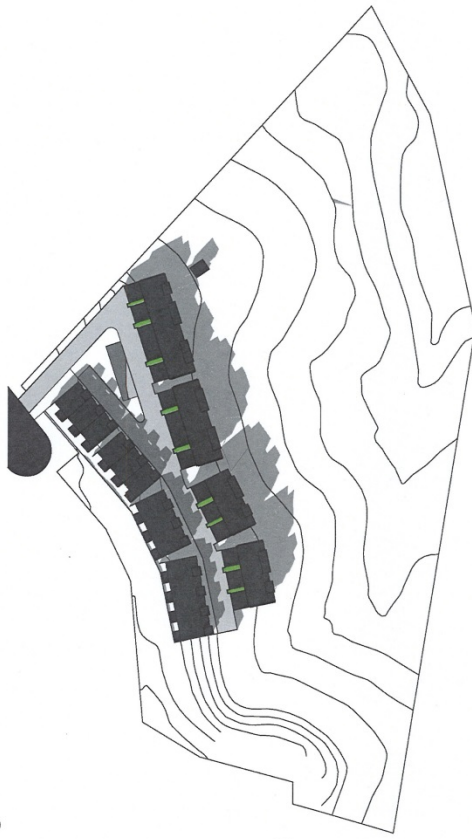
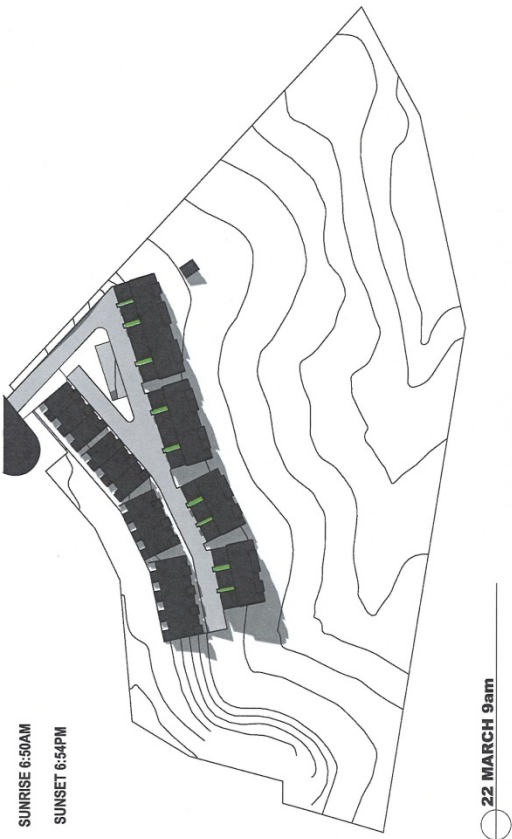
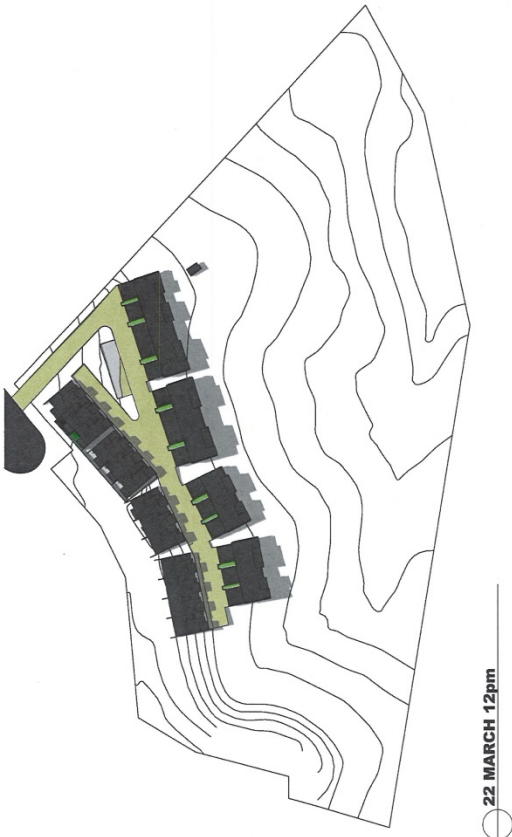
Reddog
 reddogarchitects.com
 P 07 3252 8810 F 07 3252 8814
 email@reddogarchitects.com

ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE
 PROJECT NO. **2411-229** DRAWING NO. **DA-20** ISSUE **B**

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW 2486
 LOT NO 2 ON DP568005
 TWEED SHIRE COUNCIL





SUN STUDY - 22nd MARCH

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 email@reddlogarchitects.com



ISSUE
 A
 B

DATE
 08/02/2014
 21/04/2015

BY
 LG DA APPLICATION
 RS COUNCIL RESPONSE

CHD
 RP
 RP

SITE ADDRESS
 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2486
 LOT NO 2 ON DP566095
 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE



PROJECT NO. **2411-229**
 DRAWING NO. **DA-21**
 ISSUE **B**

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 2014

Clause 1.2 – Aims of the Plan

This plan aims to make local environmental provisions for land within the Tweed Heads area in accordance with the relevant standard environmental planning instrument under Section 33A of the Act.

The particular aims of this plan are as follows:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) *to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,*
- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) *to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,*
- (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

It is considered that the proposal would be consistent with the aims of the plan, in the facilitation of a form of medium density residential development.

Clause 2.3 – Zone objectives and Land use table

The subject site is located within the R1 General Residential zone. The objectives of this zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the provision of tourist accommodation and related facilities and services in association with residential development where it is unlikely to significantly impact on amenity or place demands on services beyond the level reasonably required for residential use.*

The development provides medium density accommodation within an appropriately zoned location. Accordingly, is considered to be consistent with the zone objectives. Residential Accommodation (multi-dwelling housing) is permitted with consent in the zone.

Clause 4.3 - Height of Buildings

The objectives of this clause are as follows:

- (a) *to establish the maximum height for which a building can be designed,*
- (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- (d) *to encourage greater population density in less car-dependant urban areas,*
- (e) *to enable a transition in building heights between urban areas comprised of different characteristics,*
- (f) *to limit the impact of the height of a building on the existing natural and built environment,*
- (g) *to prevent gross overshadowing impacts on the natural and built environment.*

This clause states that the height of any building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. In this instance the subject site is mapped as having a maximum building height of 13.6m.

The proposed development has a maximum stated height of 10.5m. Accordingly, the proposed development complies with this regard.

Clause 4.4 – Floor Space Ratio

The objectives of this clause are as follows:

- (a) *to define the allowable development density of a site and for particular classes of development,*
- (b) *to enable an alignment of building scale with the size of a site,*
- (c) *to provide flexibility for high quality and innovative building design,*
- (d) *to limit the impact of new development on the existing and planned natural and built environment,*
- (e) *to encourage increased building height and site amalgamation at key locations in Tweed.*

This clause states that the maximum floor space ratio (FSR) for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space

Ratio Map. The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. In this instance the applicable floor space ratio is (2:1) over the entire site.

The subject site has a total area of 2.533 hectares and a proposed Gross Floor Area of 3,823m². This results in an approximate FSR of 0.15:1 which is much less than the permitted maximum. The proposal is acceptable in this regard.

Clause 5.5 – Development within the Coastal Zone

This clause states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following:

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*

The subject application does not propose any amendments to existing public access to or along the coastal foreshore.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
 - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) *the location, and*
 - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The proposed development is permissible on the subject site and is generally consistent with the prescribed development requirements as outlined throughout this report. As such the proposal is considered to be acceptable at this location.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
 - (i) *any significant overshadowing of the coastal foreshore, and*
 - (ii) *any loss of views from a public place to the coastal foreshore,*

The proposed development is located in excess of 500m from the coastal foreshore and is therefore not considered to impact on the amenity of the

foreshore by virtue of overshadowing or a loss of views. The subject application is considered to be acceptable having regard to the above considerations.

(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

The proposed development is not considered to compromise the scenic qualities of the coast as it represents an acceptable development on appropriately zoned land. Beyond this, the subject development is not considered to generate any specific opportunities to protect the visual amenity and scenic qualities of the coast due to its nature and scale.

(e) how biodiversity and ecosystems, including:

(i) native coastal vegetation and existing wildlife corridors, and

(ii) rock platforms, and

(iii) water quality of coastal waterbodies, and

(iv) native fauna and native flora, and their habitats, can be conserved, and

The proposal is to be undertaken on a previously developed land which is currently utilised for residential purposes. The proposed development would result in the removal of some landscaping vegetation within the existing site. It is considered that this vegetation provides amenity landscaping rather than having a specific ecological value.

It is noted that replacement landscaping is to be provided to the site. It is considered that the proposal will have a minimal impact on the local biodiversity or ecosystems in this regard.

(f) the cumulative impacts of the proposed development and other development on the coastal catchment.

The proposed development is not considered to result in an unacceptable cumulative impact on the coastal catchment given the sites zoning and the permissibility of the development at this location.

This clause goes on to further state:

(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and

As outlined elsewhere in this report, the proposal will not impede or diminish the right of access of the public either to or along the public foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The subject site would maintain connection to Council's reticulated sewer system.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

It is noted that the application has been reviewed by Council's Engineering Unit with respect to stormwater, who has advised that the townhouse development site relies on two downstream easements through private allotments for the legal discharge of stormwater. Hydraulic investigation and design was required to determine the spare capacity of these services to accept increased runoff from the development (and any external contributing catchments) in minor and major storm events, and any upgrades and/or stormwater detention facilities necessary to protect downstream development.

Further information in this regard was received from the applicant, with Council's Flooding and stormwater Engineering raising no further concerns subject to conditions being applied.

Having regard to the above, it is considered that the subject application would be in accordance with the above controls, with no untreated stormwater being discharged to the sea, beach or the like.

- (d) *the proposed development will not:*
- (i) *be significantly affected by coastal hazards, or*
 - (ii) *have a significant impact on coastal hazards, or*
 - (iii) *increase the risk of coastal hazards in relation to any other land.*

The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

Having regard to the above assessment the proposal is considered to be acceptable with respect to the provisions of this clause.

Clause 5.9 – Preservation of Trees or Vegetation

The subject site is not subject to a TPO and comprises limited vegetation. It is considered that the proposal raises no major implications in respect of this clause.

Clause 5.10 - Heritage Conservation

The subject site is not mapped as being within a Heritage Conservation area.

Clause 5.11 - Bush fire hazard reduction

The subject site is mapped as being bushfire prone land. A Bushfire Report has been prepared and included with the application. The application was referred to the NSW Rural Fire Service in accordance with section 91 of the Environmental Planning and Assessment Act 1979. The NSW Rural Fire Service did not object to the proposal and issued applicable conditions.

Clause 7.1 – Acid Sulfate Soils

Class 5 Acid Sulfate Soils are identified on the subject site.

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Council's Environmental Health Officer has reviewed this aspect of the proposed development and has not returned any objections on this basis. As such, the proposed development is considered to be acceptable having regard to Acid Sulfate Soils.

Clause 7.2 - Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

There are considerable earthworks required to facilitate the proposed development, namely excavation for the construction of dwellings 1-13, where the extent of cut exceeds 2.0m, with Units 4-13 requiring some 2.8m of cut (as referenced in the earthworks plan, submitted to Council 2 June 2015).

Clause 7.2(3)(a)-(i) outlines matters which require consideration when assessing an application.

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,
- (i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.

The proposed development seeks consent to undertake substantial earthworks for the construction of Units 1-13 and the driveway. The proposed development includes cut of up to 2.85m within the building footprint of dwellings 1-13. The area of works is approximately 100m wide by approximately 30m into the site.

The extent of works is considered to have an impact on the amenity of the surrounding residences, however this would be limited to the duration of works. No impact on drainage is envisaged and should the application have been recommended for approval further information in relation to the quality of the fill excavated would have been required.

Whilst the development meets the provisions of Clause 7.2, the extent of cut required for the proposed development is not supported under the provisions of the Section A2 of the Tweed DCP.

Clause 7.3 – Flood Planning

The subject sites south eastern corner is mapped as flood prone land. The site has a 1 in 100 year level of 2.6m AHD and an adopted minimum floor level of 3.1m AHD and a Probable Maximum Flood level (PMF - worst case scenario event) of RL 5.7m AHD. The site's elevation ranges from RL 2 to RL 40m AHD.

The subject application was referred to Councils Flooding and Stormwater Engineer who advised the following.

The PMF is the largest flood event that could conceivably occur.

The lower fringe of the site is classified as flood liable due to the inundation from flood events up to and including the PMF. However the majority of the site including the proposed development envelope is well above the PMF inundation posing no issue from a flood perspective.

Accordingly, Clause 7.3 is considered satisfied.

Clause 7.4 - Floodplain risk management

Multi-dwelling housing is a permissible form of development within the R1 zone. It is considered that the proposal is consistent with the objectives of the zone, providing medium density development on land zoned for such purposes.

Clause 7.5 - Coastal risk planning

The subject land is not identified as being subject to coastal risk.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties.

It is noted that the application has been reviewed by Council's Engineering Unit with respect to stormwater, who raised no concerns in relation to stormwater management subject to conditions being applied.

Clause 7.8 – Airspace operations

The development will not impact on airspace operations.

Clause 7.9 - Development in areas subject to aircraft noise

The development is not located in an area subject to aircraft noise.

Clause 7.10 - Essential Services

All essential services are made available to the subject site.

Other Specific Clauses

There are no other specific clauses applicable to the subject application.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

In accordance with Clause 1.9 Application of SEPPs of the Tweed Local Environmental Plan 2014 the North Coast Regional Environmental Plan does not apply to the subject site.

Clause 1.9 Application of SEPPs (TLEP 2014)

- (1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.
- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:
 - *State Environmental Planning Policy No 1—Development Standards*
 - *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6 and Parts 3 and 4)*
 - *State Environmental Planning Policy No 60—Exempt and Complying Development*
 - *North Coast Regional Environmental Plan*

SEPP No. 44 - Koala Habitat Protection

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

The applicant advised that the site has two small areas of potential Koala habitat mapped on the subject site (under the Tweed Coast Koala Habitat Study). The first area is located in the south-east corner and is identified as secondary habitat, the second nominated area is within the far west corner of the subject site and is also nominated as potential secondary habitat. The Tweed Coast Koala Habitat Study does not identify any koala activity.

The areas nominated under the Tweed Coast Koala Habitat Study are not within the proposed development area. Further the application was referred to Council's Biodiversity Planner raised no concerns with this regard.

SEPP No. 55 - Remediation of Land

In Council's original request for further information (dated 17 February 2015) the applicant was requested to submit a preliminary contamination investigation of the land in accordance with the relevant provisions of the NSW contaminated land planning guidelines. The investigation was required to be carried out by a consultant that has appropriate experience in the investigation of contaminated land and the provision of contamination reports in accordance with the provisions of the NSW contaminated land planning guidelines and other relevant NSW contamination guidelines.

Further to the above the applicant was advised that if on the basis of the findings of the preliminary contamination investigation it is determined that a detailed contamination investigation is required, the consultant shall carry out such investigation in accordance with the relevant provisions of the NSW contaminated land planning guidelines and submit a detailed contamination report to Council's Environmental Health Officer for further consideration and approval.

A response to Council's request was provided by P.R.C Developments Pty Ltd reference PCD01/L027/pnc and dated 26 May 2015.

This response contains the following conclusions:

1. *The earthworks areas located within the residual 1962 disturbed area were most likely borrow pits that eventually functioned as water collection ponds.*
2. *The absence of sediments in the sub-surface soils where these ponds were located within the development land indicate that such sediments that would have contained possible contaminants had been removed and most likely some time prior to 1976.*

3. *The ponds were not filled in prior to 1976 as there is no geotechnical evidence of fill within the residual area.*
4. *It cannot be discounted that some contaminants may have leached into the residual soils below the bases of the ponds.*
5. *It also cannot be discounted that the large shed that existed from 1962 to some time prior to 1987 housed farm chemicals, fertilizer and like products.*
6. *It is prudent to assume that there is a small potential for contamination within the 1962 residual segment within the development land.*
7. *Residential development has taken place in the 1962 disturbed cropping area north and east of the site. This development occurred after 1987 and at a time where the requirements for establishing the presence of and remediation of contaminants had to have been addressed. It is sufficient to recognise that development occurred in that land and that meant that either there was no contamination found, or that any contamination found was readily remediated.*

Council's Environmental Health officer reviewed the applicant's response and has advised the following:

Of particular relevance are conclusions 4, 5 and 6, which indicate that there is some potential for the site to be contaminated.

The P.R.C report proposes that council places a condition of Consent requiring a Detailed Site Contamination Investigation of the development land in the residual 1962 area to establish any actual contamination present and that may require remediation. The Detailed Site Investigation report would be provided to council for approval prior to the issue of a Construction Certificate for the development.

The original further information request required the following in the event that the preliminary contamination investigation determined that a detailed contamination investigation is required:

If on the basis of the findings of the preliminary contamination investigation it is determined that a detailed contamination investigation is required, the consultant shall carry out such investigation in accordance with the relevant provisions of the NSW contaminated land planning guidelines and submit a detailed contamination report to council's Environmental Health Officer for further consideration and approval.

In accordance with Clause 7(1) *contamination and remediation to be considered in determining a development application of the State Environmental Planning Policy (SEPP) 55 – Remediation of Land* a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. Accordingly, in the absence of the requested contaminated lands investigation, Council is not in a position to consent to the proposed development.

Notwithstanding the above, it should be noted that whilst Council has verbally advised the applicant of this requirement a formal request for further information has not been sent with this regard. The reasoning for this is that the response

was received by Council sometime after the amended plans were received and the re-notification period had ceased. Accordingly, the comments received back from Council's Environmental Health Unit came after the reassessment of the amended plans, at which point Council's assessing officer had resolved to recommend the application for refusal.

SEPP No. 65 - Design Quality of Residential Flat Development

The proposed development will comprise of a Class 1a building under the Building Code of Australia. Therefore is excluded from the definition of a residential flat building, as defined under SEPP 65.

Pursuant to Clause 4, the policy does not apply.

SEPP No 71 – Coastal Protection

SEPP 71 applies as the site is located in the coastal zone, though it is not in proximity to the coastal foreshore (and not within a sensitive coastal location).

(a) The aims of this Policy set out in Clause 2:

The proposed development is considered to be consistent with the aims of the policy as set out in clause 2.

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

The proposed development will not alter or restrict the public's access to the foreshore reserve areas located adjacent to the Pacific Ocean.

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

The proposal does not generate any additional opportunities to improve public access to foreshore reserve areas and the like, nor are there any physical opportunities to do so given the spatial separation between the site and foreshore reserve.

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

Whilst the proposed development is sited and designed in general accord with the relevant Council controls, there are variations sought to the controls (detailed below under the DCP assessment of this report) and visual impacts from the adjoining residential areas and the opposing ridgeline. Accordingly, the development is considered likely to have an adverse imposition upon the immediate area in terms of size and scale.

(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.

The proposal is not considered to generate any detrimental impact on the public foreshore, given its spatial separation.

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

The proposal is unlikely to impact upon the scenic quality of the NSW coast, with the development being spatially separated from the Beach and Ocean. The proposal is consistent with the built environment of the Tweed Heads area and the general desire for future built development in the locality.

- (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;*

The proposal will not have an adverse impact upon threatened species. The subject site has been developed over time for urban purposes and contains minimal vegetation or native habitat.

- (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.*

The proposal is unlikely to have an adverse impact upon marine environments or habitats.

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

The proposal will not have an adverse impact upon wildlife corridors or the like.

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

The subject site is not located within an area affected by Coastal Erosion (WBM Coastline Hazard Definition Study), and is inland of the defined Coastal Erosion Zones. The development is unlikely to have an adverse impact upon Coastal Processes or be affected by Coastal Processes.

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

Not applicable.

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

The subject site is not identified as a cultural place or similar.

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

The proposal is unlikely to adversely impact upon the water quality of nearby waterways. Appropriate erosion and sediment controls will be put in place to ensure no sediment impacts on the surrounding area.

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

The subject site is not identified as land containing items of heritage, archaeological or historical significance.

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

Not applicable.

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

- (i) *the cumulative impacts of the proposed development on the environment; and*

No cumulative impacts are likely as a result of the proposed development.

- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

A BASIX certificate has been prepared as part of this application which demonstrates the proposal would be acceptable having regard to the above.

The proposal is considered to be consistent with the matters for consideration within clause 8. The proposal will have no impact on access to and along the foreshore and will not result in overshadowing of the foreshore. The proposal is consistent with the desired future character for the area. It is considered the proposed development does not compromise the intent or specific provisions of State Environmental Planning Policy No. 71 – Coastal Protection.

SEPP (Building Sustainability Index: BASIX) 2004

The proposed development comprises 'dwellings' and accordingly the proposal is a "BASIX affected development". A BASIX certificate has been obtained and was lodged with the subject application.

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

There is no draft EPI.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

A complete A1 assessment has been undertaken and is appended to the DA file. The subject application seeks a range of variations to Section A1 of Councils DCP, namely:

Chapter 1 - Building Types

Control i: Town housing is to provide a mix of dwelling sizes and diversity in the number of bedrooms per dwelling.

The proposed development seeks consent for the construction of 28 town houses, comprised of three different dwellings.

Type A: 2 bed, 91m² internal floor area, 17m² external living area and 32m² carport

Type B: 2 bed, 93m² internal floor area, 19m² external living area and 34m² carport

Type C: 3 bed, 99m² internal floor area, 22m² external living area and 34m² carport

Whilst it is acknowledged that the proposed development is comprised of three different dwellings types, it is not considered that the development offers a real mix in size or diversity in the number of bedrooms per dwelling. The only difference between dwellings types is a minor variation between internal floor areas and dwelling type C offering a third bedroom/study. and type B is a two bedroom unit, with types A and C being three bedrooms.

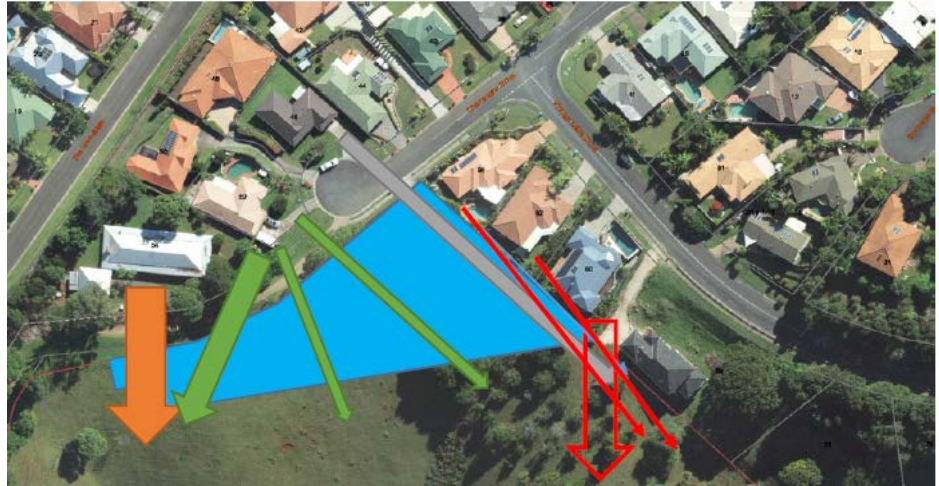
Chapter 2 – Site and Building Design Controls

Design Control 1 – Public Domain Amenity, Public Views and Vistas

Control b: The location and height of new development is to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland.

The redesign submitted to Council in response to Council's request for further information (whilst reducing the required cut for the proposed development) has proposed to bring the footprint for the proposed dwellings 1-13 further up the site, which results in a further impact on the existing views from the Champagne Drive area and existing dwellings.

The applicant submitted a view analysis and included the below plan.



Site View 1 - Development Context & View Corridors

The large brown solid arrow extending from 54 Champagne Drive represents the broad vista available to that dwelling from its southern wall and yard. That view will be across the top of the rooflines of the upper level units.

The thinner green solid arrows represent view lines that are available to No 52 Champagne Drive via the gaps between the upper units. A more distant vista is available from the front yard of this dwelling in the south-west direction across the tops of the upper units 9 to 13.

The grey solid arrow represents the vista available to 48 Champagne Drive from the front yard of that dwelling.

The broad unfilled red arrow represents the fairly unrestricted views available to No 90 Vintage Lakes Drive.

The DCP states that the location and height of any new development is to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland. The proposed development is considered to impact on the views of existing residences and from the public domain of Champagne Drive.

The location of the proposed development is also considered to have a visual impact from the opposing ridgeline and surrounding residential area, in response to the bulk of the development (this is discussed further within this report).

Design Control 2 – Site configuration, Above Ground living areas

Control a: Above ground external living areas are to have a minimum depth of 2.5m and a minimum area of 10sqm.

The proposed development is not consistent with the minimum 10m², or minimum 2.5m depth requirements for above ground external living areas. Dwelling Type A (13 dwellings, located along the northern boundary of the site) include an above ground external living area of only 7m² external living area, with a non-compliant depth of 2.4m

Design Control 2 – Site configuration, Topography, cut and fill

Control a: Building siting is to relate to the original form of the land.

The proposed development is not considered to relate to the original land form, in particular proposed dwellings 1-13 (Type A), and located on the northern elevation of the site, require a cut at the deepest point 2.85m in height and are proposing to building the rear of the lower level below natural ground level.

Control b: Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab, construction would be inappropriate. Example of alternative construction includes: Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design.

Dwellings 1-13 (Type A) propose a slab on-ground design, with part of the lower level being built below the natural ground level. The development includes, at the deepest point cut of 2.85m. The DCP requires that Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab, construction would be inappropriate. The DCP nominates Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design as being alternative construction designs.

Control c: On sloping sites step buildings or utilise site excavation and suspended floors to accommodate changes in level rather than levelling the site via cut and fill.

The amended plans for Dwellings 1-13 (dwelling type A), still requires a cut of between 1.5m to 2.85m and also includes the construction of part of the lower level being built below natural ground level. The development of Dwelling Type A does not offer any form of stepping or suspended flooring to accommodate the changes in level.

Control d: Dwellings must not be designed to be on a contiguous slab on ground type if the building site has a slope of greater than 10%. Development on such land is to be of pole or pier construction or multiple slabs or the like that minimise the extent of cut and fill.

The subject site is mapped as having a slope in the range of 8 to greater than 18 degrees where the works are proposed. The elevation ranges from RL 2 to RL 40m AHD. Control d prescribes that dwellings must not be designed on slab on ground type on a site of greater than 10%. Accordingly, the development of units 1-13 is not consistent with control d and should be of a pole or pier construction, or multiple slabs, to minimise the extent of fill.

Control e: Site excavation / land reforming is to be kept to a minimum required for an appropriately designed site responsive development.

The proposed development, in particular dwellings 1-13, includes excessive cut and below ground construction methods, which is not considered to keep site excavation to a minimum. Accordingly,

dwellings 1-13 are not considered to be an appropriate design, which is site responsive.

Control f: The maximum level of cut is 1m and fill is 1m except for areas under control j.

The proposed development exceeds the maximum cut of 1.0m and is not development referred to under control j (see further response below).

Control h: Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m.

The proposed cut areas for Dwellings 1-13 adjoin the northern boundary, which is not consistent with the setback requirement of 900mm under control h.

Control j: Excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages providing the excavations are adequately retained and drained, in accordance with engineering details.

Control j states that excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages, the subject application seeks a variation to this control in relation to dwellings 1-13, no basement parking is proposed and the excavations within the confines of the buildings are up to a maximum height of approximately 2.85m. Accordingly, the variation of 1.85m is not supported.

Control m: The top of any battered cut (or retaining wall) and the toe of any battered fill (or retaining wall) is not to be closer than 900mm for cut and 1.5m for fill to any property boundary, where the overall height at any point exceeds 500mm.

The proposed retaining wall for the cut areas behind units 6-13, is to retain cut between 500mm and 1.0m. The retaining wall adjoins the northern boundary. Accordingly, does not comply with the 900mm setback requirement under control m.

Design Control 5 – Building Footprint and attics, orientation and separation

Building separation

Control e: 4m minimum separation between walls containing primary windows/doors of living rooms (on any level of the building) to shared driveways.

Units 1-13 do not comply with the 4.0m setback requirement under Control e. The units range from as close as 0.5m (Units 1-3) to approximately 2.5, (units 10-13) and a maximum setback of 3.5m (unit 6).

Design Control 6 – Height, Building Height

Control a: 9m is the maximum overall building height.

Dwellings 14-16 and 20-23 exceed the 9m overall building height by a maximum of 1.5m, as a response to the slope, whilst the height is consistent with the TLEP height limit the height of the development is considered to contribute to view loss and the long elevations of hardstand and bulk, which have been raised elsewhere within this report.

Design Control 7 – Building Amenity, View sharing

Control a: Building siting is, as far as it is practical, to be designed to minimise the impact on view sharing between properties.

The location of dwellings 1-13, located along the northern and highest part of the subject site is considered to have an impact on the views from the Champagne Drive road reserve and existing dwellings located in Champagne Drive to the opposing ridgeline and Terranora Broadwater. Whilst impact on views is inevitable on many sloping sites, the design is not considered to step with the site which for dwellings 1-13 has resulted in an impact on view sharing between properties.

Design Control 7 – Building Amenity, Natural ventilation

Control b: Non habitable rooms including kitchen, bathroom & laundry are encouraged to have operable windows.

Dwellings 1-13, include part of the lower level being built below natural ground level. This level is comprised of a single window on the front/southern elevation. The ensuite is to the rear of the building. The distance from the window to the ensuite entrance is approximately 7.0m and 8.5m from the back wall of the ensuite. This raises concern in relation to the amenity, natural light and ventilation afforded to level one (main bedroom).

Control c: The plan layout, including the placement of openings, is to be designed to optimise access to prevailing breezes and to provide for cross-ventilation.

Again as discussed above, the lower floor levels for Units 1-13, as located on the northern elevation are built up to one storey below natural ground level and are also only serviced by a single window, located on the southern elevation. This raises concern in relation to the amenity, natural light and ventilation afforded to level one (main bedroom).

In summary the proposed development seeks a range of variations to Section A1. The main issues being:

Bulk and scale

- Bulk and scale of development, which results in:
 - Hardstand dominance of the ridgeline;

- Overlooking;
- Loss of views between properties
- Loss of green canopy of ridgeline (as viewed from opposing ridgeline)

Amenity

- Poor amenity, as a result of:
 - Construction part of level 1 (habitable room) below natural ground level
 - No cross ventilation, as a result of attached dwellings (at a large scale)
 - Poor natural light, again as part of the dwellings 1-13 are constructed below natural ground level and attached.

A2-Site Access and Parking Code

Parking:

In relation to on site car parking, parking provision is established by Section A2 of the Tweed DCP. Section A2 sets out the following rates:

- 1.5 spaces per 2 bedrooms;
- 2 spaces for 3 or more bedrooms; and
- 1 space per 4 units for visitor parking.

The proposed development is comprised of 21 two bedroom units and seven three bedroom units (28 units). Based on the requirements of Section A2, a total 45.5 spaces (rounded to 46 spaces) is required for the units and seven spaces for visitor parking.

The proposed development includes a total of 61 spaces, which exceeds the requirements, however only allocates five spaces for visitor parking, in lieu of the required seven spaces.

Councils Traffic Engineer reviewed the proposed application and advised the following:

DCP A2 requires visitor carparking at a rate of one space for four units. The development proposes 5 spaces which is two spaces short for the proposed 28 units. Therefore, a condition should be included:

A minimum of seven visitor car parks, conforming to AS2890.1, are to be provided on site.

Access:

With regards to access arrangements Councils Traffic Engineering Unit raised no concerns with the following advised:

It is considered that the adjacent road network will cater for the additional traffic generated by this development with no road or intersection upgrades required. The proposed driveway gradient conforms to Council's Driveway Access to Property Design Specification minimum requirements.

A3-Development of Flood Liable Land

The subject sites south eastern corner is mapped as flood prone land. The site has a 1 in 100 year level of 2.6m AHD and an adopted minimum floor level of 3.1m

AHD and a Probable Maximum Flood level (PMF - worst case scenario event) of RL 5.7m AHD. The sites elevation ranges from RL 2 to RL 40m AHD.

The subject application was referred to Council's Flooding and Stormwater Engineer who advised the following.

The PMF is the largest flood event that could conceivably occur.

The lower fringe of the site is classified as flood liable due to the inundation from flood events up to and including the PMF. However the majority of the site including the proposed development envelope is well above the PMF inundation posing no issue from a flood perspective.

A11-Public Notification of Development Proposals

The development application was originally advertised and notified for a period of 14 days, from Wednesday 14 January 2015 to Wednesday 28 January 2015. During this period a total of 12 submissions were received.

As advised under the summary section of this report, amended plans were submitted by the applicant and the application was re-notified for a period of fourteen (14) days from Wednesday 6 May 2015 to Wednesday 20 May 2015. During this period a further 14 submissions were received.

The matters raised in all submissions are addressed later in this report.

A15-Waste Minimisation and Management

A Waste Management Plan was submitted with the application and referred to Council's Waste Management Unit for comments. Council's Waste Management Unit responded who advised that the refuse area is too small to service 28 units, there is not enough area along the Champagne Drive road reserve to service 56 bins at a time (on both waste and recycling service weeks) and the site is not capable of accommodating a waste vehicle enter and collect from a bulk service.

A16-Preservation of Trees or Vegetation

The subject site is subject to a Tree Preservation Order.

B3-Banora Point West- Tweed Heads South

The subject site is mapped as being 'Residential A', on the map 2 of B3. Accordingly, the following clauses of Section B3 are applicable:

- B.3.3 Land Uses & Components of this Section, subclause B3.3.1 Residential
- B.3.8 Housing

B.3.3.1 Residential

As mentioned above, Section B3 of the Tweed DCP nominates the subject site for "Residential A". Development under this category is to predominately comprise of conventional detached housing; (although dual occupancies may be

permitted within this land use category in accordance with Section A12, of this DCP).

The proposed development is not considered to be consistent with the nominated development type under Section B3 of the Tweed DCP 2008, as the site is nominated as “residential A” which is nominated as single dwelling house allotments.

B3.8. Housing

This section of the DCP requires consideration of the objectives for residential development and the associated guidelines.

The objectives of B3.8.1 are:

- *Encourage sufficient variety of housing forms, sizes and locations so that residential choice in the area is possible within the limitations of market forces;*
- *Ensure convenient access from the dwellings to destinations outside the area and to all necessary resources within the area;*
- *To preserve existing landscape features and to use these features harmoniously; and*
- *To encourage efficient use of land to facilitate more economical arrangement of building, circulation systems and utilities.*

The Guidelines are (B3.8.2):

- a) *The development standards relating to residential development are contained within Section A5 - Subdivision Manual and Section A1 – Multi-Dwelling Housing of this DCP.*
- b)
 - i. *No building within the residential area shall exceed two (2) storeys in height;*
 - ii. *The provisions contained within State Environmental Planning Policy No 6 – Number of Stories in a Building should be used when designing residential flat buildings on sloping sites.*

The proposed development is not considered to be consistent with the guidelines applicable to housing developments in the B3 DCP. These guidelines generally refer to Section A1 of the Tweed DCP and limit the building height to two storeys. The subject application seeks a range of variations to the controls pertained under Section A1, however comply with the two storey height requirement for residential development under B3.

B9-Tweed Coast Strategy

Not applicable to the subject application.

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

Clause 92(1)(a)(ii) Government Coastal Policy

The development does not contravene the Government Coastal Policy, being landward of any defined erosion zones. The proposed development would not overshadow any foreshore open space or impede public access to any such areas.

Clause 92(1)(b) Applications for demolition

Demolition of the existing dwelling will be required and consent for same will be sought under separate application.

Clause 93 Fire Safety Considerations

Council's Building Surveyor has applied appropriate conditions with regard to fire safety.

Clause 94 Buildings to be upgraded

There are no buildings to be upgraded. Construction will be reliant on the demolition of the existing dwelling.

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

The site is not covered by a coastal zone management plan.

Tweed Shire Coastline Management Plan 2005

The land is not subject to this plan.

Tweed Coast Estuaries Management Plan 2004

The land is not subject to this plan.

Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

The land is not subject to this plan.

(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 proposed development, whilst, at a higher density than the surrounding lower density development is considered to offer a diversification of housing type to that in the surrounding areas, whilst still being a compatible land use. Accordingly, the development is considered to be consistent with the surrounding residential context of the site.

Bulk and Scale

Given the site's elevation, the proposed development will be highly visible from the opposite ridgeline and surrounding residential areas. The character of development located along ridgelines will comprise a continuous green landscape with intermittent built form and roofs penetrating the 'green space', consistent with the requirements of Design Control 1- Public domain amenity, of section A1 of the

Tweed DCP 2008. The subject application includes long continuous elevations and relatively narrow landscape breaks between the lower level buildings (containing dwellings 14-28). The development is considered to have a negative impact in terms of bulk and scale, given its located along the ridgeline.

Access, Transport and Traffic

Access to the site is proposed to be via a single 6.0m wide driveway, located off Champagne Drive. The site is located within an existing urban area and the proposed residential development is permissible within the zoning. Council's Traffic Engineer raised no concerns in relation to the subject application advising the following:

It is considered that the adjacent road network will cater for the additional traffic generated by this development with no road or intersection upgrades required. The proposed driveway gradient conforms to Council's Driveway Access to Property Design Specification minimum requirements.

Flora and Fauna

The subject application was referred to Council's Biodiversity Planner who advised the following:

The proposed development has been shown on the plans to be restricted to the northern section of the Lot avoiding direct impact on any native vegetation (with exception of potential issues with stormwater treatment). Trees to be removed along the road reserve comprise exotic species of relatively low ecological value. Future communal facilities would likely have an impact on the existing Macadamia Nut orchard however given that the trees are not considered to be naturally occurring, planted for agricultural production and do not comprise the listed Macadamia tetraphylla.

Notwithstanding the likely loss of exotic/planted vegetation to the north those remaining remnant units of native vegetation to the south-east and west should be afforded adequate protection during the construction and operational phase of the development. Whilst it is acknowledged that the applicant has submitted a landscape plan showing these areas to be 'Retained'; given the value of these patches of vegetation as habitat for those more urban resilient/tolerant fauna species Councils Natural Resource Management (NRM) unit are of the opinion that the integrity of these areas should be improved and potentially expanded through the exclusion of cattle and weed control works as part of the long term management of the site. As such the applicant is requested to provide a habitat restoration plan for those remaining areas of native vegetation and provide commitment to the management of the area in the long term.

A connection between the south-eastern unit to the west via a reconstructed vegetated corridor was initially considered by NRM however due to the potential to increase bushfire risk (increasing the fire run of existing hazard to the west) to neighbouring residents to the south, and both having regard for the merits of the proposal and those expected impacts NRM do not believe that a connection is warranted.

Stormwater Treatment

As shown on Dwg. No. DA-18 Issue A Services Plan dated 08/12/2014 prepared by Reddog Architects a broad area to the south of the site is described as 'Natural Drainage Mitigation Area'. A section of this area is occupied by native vegetation as detailed above (TVMS 207). From review of the application material there does not appear to be a detailed hydraulic/stormwater management plan clearly detailing the role/design of the 'Natural Drainage Mitigation Area'.

Where a stormwater device is required (by Council's Flooding & Stormwater Engineer) that would involve re-profiling/earthworks within this general area of the site, NRM may have concerns about the impact of any such works on native vegetation. As such the applicant is requested to consider the long term retention of existing vegetation during the design phase of any such stormwater treatment devices/measures.

In conclusion Council's NRM unit raised no significant issues and advised that the requirement for a brief habitat restoration plan either as a stand-alone plan or component of the landscape plan detailing the following could have be conditioned:

- Approaches and methods to improve the integrity of these two units and allow for expansion of each unit into adjacent pasture i.e. environmental weed control, cattle exclusion; and
- Long term management arrangements and demonstrated commitment to restoration and maintenance.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is located within an existing and established residential area, in Tweed Heads South. The surrounding area predominately contains single dwelling houses.

Topography

The subject land slopes from the northern boundary (Champagne Drive) to the south (where the site adjoins residences in the Point Vue development). Site levels vary from approximately RL 40m along the northern boundary to RL 2m along the southern boundary.

Aboriginal Cultural Heritage

The subject site is not mapped as being in a location of cultural significance or a location with a higher probability for containing sites of Cultural Significance under the Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan, dated August 2006, nor is the site identified under the Draft Aboriginal Heritage mapping.

Geotechnical/Earthworks/Land forming

The maximum cut required for the proposed development is some 2.8m which is proposed for dwellings 1-13, along the northern boundary. Further site works will include the provision of fill in excess of 1.5m deep, located along the front elevation of proposed dwellings 21-23 and ranging from 0.5m to 1.5m for the proposed driveway.

Services

The site is in within an existing urban area and all required services are available.

Demolition

Demolition of the existing dwelling will be required with approval under separate cover.

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

During the initial advertising period in January 2014 12 submissions (objections) were received.

The applicant provided a copy of the submissions and provided a comprehensive response to Council dated 5 March 2015.

Following the original advertising period the proposed application was amended and re-notified. During the re-notification period a further 14 submissions (objections) were received. Matters raised as part of the re-notification included new concerns in relation to the amended application and also a repeat of those originally raised. All concerns are addressed below, again noting that the applicant has also provided a response.

Matters raised (repeat of matters raised under original advertising):

- land is unsuitable for the proposed development,
- the site earthworks for the development result in excess amounts of cut
- The access driveway and design is too close to existing dwellings located along Vintage Lakes Drive
- The proposed development includes the removal of trees of environmental value and impacts on fauna (including birds and possums),
- The waste disposal arrangements will have noise impacts for existing residences at collection days
- The existing roads are inadequate to provide access for the proposed development and will result in other traffic issues,
- The development is not in keeping with the neighbourhood character.
- The developments density is too high for the area
- The noise generated by the development, including as a result from the extra traffic and location of the communal will negatively impact adjoining residences
- The development only includes five visitor spaces, this is not enough visitors will park in the Champagne Drive Cul-de-sac.
- The site is unstable to accommodate construction works and the developments

- The development type is of an inferior construction and should be brick and tile in keeping with the surrounding area
- The proposed development will impact on property values,
- There is a speed hump located on the proposed driveway; this will cause noise issues for existing residents.
- The development will result in the loss of views, for the existing residents
- The development will have a negative impact on the existing resident's quality of life as a result of increased population impacts, noise, traffic increase, loss of play area for children, loss of views, noise pollution and an impact on fauna.
- The development will result in a further traffic hazard, as there is existing concealed driveways, off Vintage Lakes Drive, any additional traffic will have further implications with this regard.

Further matters raised:

- The proposed communal/playground area is located on a sloping section of the site and does not provide an adequate area for use as a playground. This area is also located in close proximity to the adjoining residences and has the potential to impact on the amenity of existing residents.
- The proposed development does not comply with the requirements for front setbacks or deep soil zone requirements.
- The construction stage has the potential to result in dangerous boulders rolling down the site and causing damage to people and properties located to the south of the site.
- The proposed amendment brings the dwellings proposed along the northern elevation higher, which results in reduced public views and vistas, in particular of the opposite ridgeline and Terranora Broadwater.
- The proposed development is not a consistent with the residential development, in accordance with Councils plans for the area.
- The proposed development is bulky and does not include an area of "greenness" that Council had generally maintained in the area.
- The development will cause damage to the existing road network. How will the developer pay for damage caused to the existing road system.
- The site is comprised of reactive clay which is extremely susceptible to landslip, the required construction of retaining walls will take years and cause ongoing noise issues.
- The proposed acoustic fence will not provide any assistance in relation to noise management.

Council's response:

Traffic/driveway

The site is located within an existing urban area and the proposed residential development is permissible within the zoning. The area is currently comprised of an existing road network servicing the established residential development areas. The proposed development is permitted on the site and would attract any applicable Section 94 contributions under the Tweed Road Contribution Plan.

The location of the driveway is setback approximately 2.5m from the boundary and the applicant has included a 1.8m high acoustic fence and landscaping, running the length of the proposed driveway.

The application was referred to Council's Traffic Engineer who raised no concerns in relation to the subject application.

Land stability

The applicant submitted a Geotechnic report by a suitably qualified engineer. The report included under 16.0 Guidelines for the proposed development in response to the site findings.

Vegetation

The subject application was referred to Council's Biodiversity Planner who advised the following:

The proposed development has been shown on the plans to be restricted to the northern section of the Lot avoiding direct impact on any native vegetation (with exception of potential issues with stormwater treatment). Trees to be removed along the road reserve comprise exotic species of relatively low ecological value. Future communal facilities would likely have an impact on the existing Macadamia Nut orchard however given that the trees are not considered to be naturally occurring, planted for agricultural production and do not comprise the listed Macadamia tetraphylla.

Notwithstanding the likely loss of exotic/planted vegetation to the north those remaining remnant units of native vegetation to the south-east and west should be afforded adequate protection during the construction and operational phase of the development. Whilst it is acknowledged that the applicant has submitted a landscape plan showing these areas to be 'Retained'; given the value of these patches of vegetation as habitat for those more urban resilient/tolerant fauna species Councils Natural Resource Management (NRM) unit are of the opinion that the integrity of these areas should be improved and potentially expanded through the exclusion of cattle and weed control works as part of the long term management of the site. As such the applicant is requested to provide a habitat restoration plan for those remaining areas of native vegetation and provide commitment to the management of the area in the long term.

A connection between the south-eastern unit to the west via a reconstructed vegetated corridor was initially considered by NRM however due to the potential to increase bushfire risk (increasing the fire run of existing hazard to the west) to neighbouring residents to the south, and both having regard for the merits of the proposal and those expected impacts NRM do not believe that a connection is warranted.

No objections were received subject to conditions.

Waste disposal

A Waste Management Plan was submitted with the application and referred to Council's Waste Management Unit for comments. Council's Waste Management Unit responded who advised that the refuse area is too small to service 28 units, there is not enough area along the Champagne Drive road reserve to service 56 bins at a time (on both waste and recycling service weeks) and the site is not capable of accommodating a waste vehicle enter and collect from a bulk service.

Earthworks/Cut and fill

It is acknowledged that the subject site seeks variations in relation to cut and fill requirements as determined under Section A1 of the Tweed Development Control Plan 2008. The officers are not supportive of the application with this regard as the development does not comply with the variations to cut and fill permitted under A2.

Construction type/impacts of value of existing residences

The proposed development whilst at a higher density, different building materials and design than the surrounding area, is considered to offer a diversification of housing type to that in the surrounding areas, whilst still be a compatible land use.

Views

The location of dwellings 1-13, located along the northern and highest part of the subject site is considered to have an impact on the views from the Champagne Drive road reserve and existing dwellings located in Champagne Drive to the opposing ridgeline and Terranora Broadwater. Whilst impact on views is inevitable on many sloping sites, the design is not considered to step with the site which for dwellings 1-13 has resulted in an impact on view sharing between properties.

Bulk and scale on ridgeline

The proposed development is considered to have a negative impact in terms of the bulk and scale of the development, located along the ridgeline. Given the elevation, the site is highly visible from the opposite ridgeline and the surrounding residential area. The character of the ridgeline should be a continuous tree canopy following the ridgeline with intermittent built form and roofs penetrating; presenting a landscape dominated visual characters, which are consistent with the principles embedded within DCP A1. The subject scheme, with long continuous elevations and relatively narrow landscape breaks between is not considered to achieve this.

Noise/Amenity/quality of life

The development is located within a residential area and the proposed townhouse development is permissible with Council consent. It is acknowledged that during construction there would be a short term impact on the amenity of the adjoining residents. However once construction had ceased it is not considered that the use of the site for residential occupation would generate a significant impact on the amenity of residents on the adjoining sites. It should also be noted that the applicant included a 1.8m high acoustic fence along the length of the driveway to combat any impacts from the location of the driveway. The application was referred to Council's Environmental Health Officer who raised no concerns with this regard.

Communal open space

The subject application has included a nominated communal open space area, the area has included a possible "future" pool, BBQ and gazebo area and was also proposed to undertake cut to level the area. The development was considered satisfactory with this regard. It should also be noted that the acoustic

fence was proposed to be continued along the sites eastern elevation to alleviate any impacts from the use of this area on adjoining properties.

Setbacks/deep soil zones

The applicant aimed to reduce the amount of cut required, which resulted in the proposed dwellings 1-13, located on the northern elevation seeking a variation to the front setback requirements under Section A1 of the Tweed DCP.

The front setback objectives under Section A1, which are:

- *To establish the desired spatial proportions of the street and define the street edge.*
- *To enable a transition between public and private space.*
- *To create a landscape setting for residential buildings.*
- *To ensure compatibility with other buildings in the street.*
- *To allow for landscaping.*

With the exception of some 25m (which also includes a 2.5m side setback, a 6m driveway and a 4.0m setback from the driveway to Dwelling 1), only Dwellings 1 and 2 adjoin the road reserve, with these dwellings being setback approximately 4.0m from the cul-de-sac reserve, which is a variation to the required 6.0m setback.

Given the site's topography and when considering the objectives behind the front setback controls it is considered that a variation to the front setback requirements can be supported in this instance.

Construction hazards

The application would need to comply with Australian standards for constructions methods and would need to apply separately for an erosion and sedimentation barrier, which would also be subject to inspection.

(e) Public interest

The proposed development is not considered to be appropriate outcome for the site, nor is it considered to be in the public interest.

OPTIONS:

That Council:

1. Refuses the application for specified reasons; or
2. Approves the application in accordance with the draft conditions of consent below:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of

notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. A detailed site contamination investigation prepared in accordance with the relevant provisions of the NSW contaminated land planning guidelines and if on the basis of the detailed site contamination investigation it is determined that the site requires remediation prior to being made suitable for the proposed use, a site remediation action plan and site validation report prepared in accordance with the relevant provisions of the NSW contaminated land planning guidelines shall be provided to Council's Environmental Health Officer for consideration and approval.

Such detailed site contamination investigation (and if required) remediation action plan and validation report shall be carried out and prepared by a consultant that has appropriate experience in the investigation of contaminated land and the provision of contamination reports in accordance with the provisions of the NSW contaminated land planning guidelines and other relevant NSW contamination guidelines.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans listed in the below table, except where varied by the conditions of this consent.

Drawing No.	Title	Drawn by	Dated	Issue
DA-01	Coverpage	Reddog Architects	21/04/2015	B
DA-02	Existing Site Analysis	Reddog Architects	21/04/2015	B
DA-03	Proposed Site Analysis	Reddog Architects	21/04/2015	B
DA-04	Site Plan	Reddog Architects	21/04/2015	B
DA-05	Lower Ground Floor Plan	Reddog Architects	21/04/2015	B
DA-06	Ground Floor Plan	Reddog Architects	21/04/2015	B
DA-07	Upper Floor/Roof Plan	Reddog Architects	21/04/2015	B

Drawing No.	Title	Drawn by	Dated	Issue
DA-08	Upper Roof Plan	Reddog Architects	21/04/2015	B
DA-09	Section A & B	Reddog Architects	21/04/2015	B
DA-10	Section C	Reddog Architects	21/04/2015	B
DA-11	Elevations 1	Reddog Architects	21/04/2015	B
DA-12	Elevations 2	Reddog Architects	21/04/2015	B
DA-13	Townhouse Type A - 2 bed	Reddog Architects	21/04/2015	B
DA-14	Townhouse Type B - 2 bed	Reddog Architects	21/04/2015	B
DA-15	Townhouse Type C - 3 bed	Reddog Architects	21/04/2015	B
DA-16	Townhouse specifications	Reddog Architects	21/04/2015	B
DA-17	Perspectives	Reddog Architects	8/12/2015	A
DA-18	Services Plan	Reddog Architects	21/04/2015	B
DA-19	Sun Study - 21 st June	Reddog Architects	21/04/2015	B
DA-20	Sun Study - 21 st December	Reddog Architects	21/04/2015	B
DA-21	Sun Study - 22 nd March	Reddog Architects	21/04/2015	B

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

3. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

4. This development consent does not include demolition of the existing structures on the subject site. A separate approval will need to be obtained for this purpose, as statutorily required.
[GEN0305]
5. As per Tweed Shire Council Development Design Specification D12, the sewer junction (house connection) shall not be made to manholes.
[GENNS01]
6. The exportation and disposal of fill or soil from the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Office of Environment and Heritage "Waste Classification Guidelines".
[GENNS02]
7. The applicant shall ensure that the siting and design of any stormwater infrastructure device/s does not result in the disturbance or removal of native vegetation
8. The applicant shall not remove, damage or disturb native vegetation without prior approval from the relevant authority
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. 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]
10. 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]
11. Permanent stormwater quality treatment shall be provided in accordance with the following:
 - (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development 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]
12. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils Development Design and Construction Specification - Stormwater Quality.
- [PCC1125]
13. Stormwater
- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
- * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by **visible surface flow**, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to withstand loading from vehicles during construction and operation of the development.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.
- [PCC1135]
14. A construction certificate application for works that involve any of the following:
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices

- erosion and sediment control works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

- b) Where Council is requested to issue a construction certificate for subdivision works, 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 Local Government Act will then NOT be required.

[PCC1145]

15. 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]

16. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current 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 must initially be directed to the DCP. Details are to be submitted with the S68 stormwater application.

[PCC1165]

17. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with Plumbing Code of Australia.

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

[PCC1185]

18. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

The arrangements and costs associated with any adjustment to

telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

19. Prior to the issue of a Construction Certificate an amended Waste Management Plan in accordance with Section A15 Waste Management and Minimisation of the Tweed Development Control Plan 2008, shall be submitted to Council and approved to the satisfaction of the General Manager, or his delegate.

[PCCNS01]
20. Any civil or construction works undertaken on the site must be designed and undertaken in full consideration and accordance with the recommendations and 'General Guidelines For Development' of the 'Supplementary Geotechnical Investigation of Geotechnical Constraints' - report: Job no. GE14/046 by Morrison Geotechnic dated April 2014.

[PCCNS01]
21. A detailed landscape plan prepared by a suitably qualified landscape architect or landscape consultant shall be submitted and approved by Council's General Manager or delegate prior to the commencement of any works onsite or prior to issue of a construction certificate whichever occurs first. The detailed landscape plan shall be generally consistent with the statement of landscape intent ('SLI') being *Concept Plan Champagne Drive prepared by Vee submitted December 2014* (in Concept Design Report Rev. A) (reference to the plan strictly relates to landscaping elements only) and shall include the following details:
 - a. A site plan (1:100 or 1:200) showing the existing features. All existing trees to be located to scale and identified by botanical and common names;
 - b. Proposed and existing site services, including water, gas, electricity, sewer, stormwater, etc.;
 - c. Detail recognised best practice arboricultural management measures and approaches prescribed in the *Australian Standard AS 4970 - 2009 Protection of trees on development sites* to avoid disturbance and ensure retention of 'Existing Trees to be Retained' as identified on the SLI
 - d. Planting plans at a scale of 1:100 or 1:200 indicating the location of all proposed and existing planting to be retained. The plan is to include a detailed plant schedule which shall include species listed by botanical and common names; quantities of each species; pot sizes; the estimated size of the plant at maturity, and proposed staking methods (if applicable).
 - e. Minimum of 80% of total plant numbers to be comprised of local native species. No noxious or environmental weed species are to be proposed.
 - f. An establishment period of no less than 26 weeks for landscaping works shall be prescribed
 - g. Include an assisted ecological restoration component for the areas described as 'Existing Trees to be Retained' to the south and west of the development as shown on the SLI. This component shall include:
 - i. An appraisal of the present condition of those nominated areas of remnant vegetation;
 - ii. A plan overlaying an aerial photograph of the site which divides the area into management zones where appropriate;
 - iii. A management strategy for each of the zones, including the adoption of an 'Assisted Natural Regeneration' approach;

- iv. A program of works to be undertaken to remove invasive weed species (noxious and environmental weeds);
- v. A schedule of timing of proposed works involving primary works (26 weeks- Establishment Period) and secondary works (78 weeks - Maintenance Period)
- vi. Coordination of services such as irrigation repair or civil infrastructure maintenance (such as stormwater) that may impact on the landscape establishment and maintenance periods;
- vii. Management of domestic farm/feral animals (if appropriate) and any fencing/signage requirements to restrict access and increase landholder/resident awareness;
- viii. Nomination of key performance indicators/criteria for monitoring purposes;
- ix. Details of long term maintenance and management responsibilities; and
- x. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of Council's General Manager or delegate for such changes

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

22. 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]

23. 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]

24. 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]
25. 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]
26. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 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]
27. **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]

28. 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 the issue of the Subdivision Certificate.

[PCW0375]

29. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.0m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

30. 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. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

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]

31. 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]

32. Owners consent where the developer proposes to connect to the existing Council sewer (proposed lot 504//1010130) is required.

[PCWNS01]

DURING CONSTRUCTION

33. 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]

34. 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]

35. 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]

36. 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]

37. 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]

38. 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 Work Health and Safety Regulation 2011.

[DUR0415]

39. 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]

40. All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

The earthworks and filling shall also be undertaken in accordance with the recommendations provided in the **Geotechnical Investigation** (as required by Consent Condition 17) and monitored by a Registered Geotechnical Testing Consultant.

Notwithstanding earthworks and filling, the frequency of field density tests for trenches shall be undertaken in accordance with Table 8.1 of AS 3798 (current version).

[DUR0795]

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

[DUR0815]

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

[DUR0905]

43. 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]

44. 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]

45. 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]

46. 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]

47. 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]

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

[DUR1955]

49. A garbage storage area shall be provided in accordance with Council's "Development Control Plan Section A15 - Waste Minimisation and Management".

[DUR2195]

50. 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]

51. 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 Division to arrange a suitable inspection.

[DUR2445]

52. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

1. internal drainage, prior to slab preparation;
2. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
3. external drainage prior to backfilling.
4. completion of work and prior to occupation of the building.

[DUR2485]

53. 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 Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

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

[DUR2505]

55. 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]

56. 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]

57. 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:-

- * 45°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]

58. Cut-ins to live sewer shall be conducted in the presence of a Council Officer.
59. Any damage to any property or services shall be the responsibility of the constructor. Reinstatement shall be to the relevant authorities or property owner's satisfaction and at the constructors cost.
60. Continual sewerage services must be maintained for all properties upstream of or connected to the affected sewer, for the duration of the connection to sewer works.

[DURNS01]

61. Landscaping and assisted ecological restoration of the site shall be carried out in accordance with the approved detailed landscaping plans

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

62. 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]

63. 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. On site hydrant are included.

[POC0225]

64. 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 75-100mm 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]

65. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have 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) Banora Point West/Tweed Heads South (DCP Section B3)
 Open Space Passive (Casual):
 23.0625 ET @ \$2294 per ET \$43,146.25*
 (\$2,184 base rate + \$110 indexation)
 S94 Plan No. 1
- (b) Banora Point West/Tweed Heads South (DCP Section B3)
 Open Space Active (Structured):
 23.0625 ET @ \$2630 per ET \$49,736.28*
 (\$2,504 base rate + \$126 indexation)
 S94 Plan No. 1
- (c) South Tweed Heads Master Drainage (DCP Section B3 area):
 2.533 HA @ \$14100 per HA \$29,286.55*
 (\$841.40 base rate + \$13,258.60 indexation)
 S94 Plan No. 2

- (d) Tweed Road Contribution Plan:
102.7 Trips @ \$1387 per Trips \$116,804.90*
(\$1,318 base rate + \$69 indexation)
S94 Plan No. 4
Sector2_4
- (e) Shirewide Library Facilities:
20 ET @ \$851 per ET \$13,956.40*
(\$792 base rate + \$59 indexation)
S94 Plan No. 11
- (f) Bus Shelters:
20 ET @ \$66 per ET \$1,082.40*
(\$60 base rate + \$6 indexation)
S94 Plan No. 12
- (g) Eviron Cemetery:
20 ET @ \$124 per ET \$2,033.60*
(\$101 base rate + \$23 indexation)
S94 Plan No. 13
- (h) Community Facilities (Tweed Coast - North)
20 ET @ \$1411 per ET \$23,140.40*
(\$1,305.60 base rate + \$105.40 indexation)
S94 Plan No. 15
- (i) Extensions to Council Administration Offices
& Technical Support Facilities
20 ET @ \$1888.66 per ET \$30,974.02*
(\$1,759.90 base rate + \$128.76 indexation)
S94 Plan No. 18
- (j) Cycleways:
20 ET @ \$480 per ET \$7,872*
(\$447 base rate + \$33 indexation)
S94 Plan No. 22
- (k) Regional Open Space (Casual)
20 ET @ \$1108 per ET \$18,171.20*
(\$1,031 base rate + \$77 indexation)
S94 Plan No. 26
- (l) Regional Open Space (Structured):
20 ET @ \$3890 per ET \$63,796*
(\$3,619 base rate + \$271 indexation)
S94 Plan No. 26

* Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.

[POC0395]

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

[POC0435]

67. 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.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP4:	17 ET @ \$13128 per ET	\$223,176
Sewer Banora:	21.75 ET @ \$6307 per ET	\$137,177.30

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.

[POC0675]

68. 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]

69. 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]

70. All landscaping works shall be completed and maintained in accordance with the approved detailed landscape plan prior to issue of the occupation certificate. The applicant must provide to Council at completion of assisted ecological restoration works as detailed in the approved detailed landscape plan, works certification from a qualified professional that all works/measures have been completed in accordance with that plan.

[POCNS01]

USE

71. 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]
72. 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]
73. 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]
74. The assisted ecological restoration areas nominated in the approved detailed landscape plan shall be maintained and managed in accordance with that plan. [USENS01]

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

75. The proposed development is to comply with the Site Plan, prepared by Reddog Architecture; Project No. 2411-229, Drawing No. DA-04, Issue A and dated 9/12/2014, except where modified by conditions of this approval.
76. At the commencement of building works and in perpetuity the property around the building shall be managed as follows:
- North West to the boundary as an Inner Protection Area.
 - North East to the boundary as an Inner Protection Area.
 - South East for a distance of 53 metres from units 20-28 inclusive as an Inner Protection Area.
 - South to the boundary from units 14-19 inclusive as an Inner Protection Area.
 - South West for a distance of 60 metres or to the boundary, whichever comes first, of units 13 & 14 as an Inner Protection Area.
77. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
78. Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Council officers recommend option 1.

CONCLUSION:

The proposed development is considered not suitable for the site and is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The applicant may lodge an appeal in the Land and Environment Court in respect of any determination made by Council.

c. Legal:

The applicant has a right of appeal in the Land and Environment Court in respect of any determination made by Council.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

2 [PR-PC] Coastal Villages Planning Proposal and Amendments to Tweed Development Control Plan - Section B23 Hastings Point

SUBMITTED BY: Strategic Planning and Urban Design

FILE REFERENCE: PP14/0001

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development

SUMMARY OF REPORT:

This report seeks Council's endorsement to progress the Hastings Point and Pottsville Localities Planning Proposal and associated exhibited amendments to Section B23 "Hastings Point Locality Based Development Code" of the Tweed Development Control Plan 2008 (draft DCP). The Proposal and the draft DCP were concurrently exhibited for 36 days, attracting approximately 114 submissions, of which approximately 107 expressed support. The content and review of submissions received are discussed within this report.

The Pottsville Locality Based Development Code (Section B21 of the Tweed DCP) is not being amended or revisited as part of this project.

Following a review of the exhibition submissions, it was concluded that there were no grounds to justify amendments to the exhibited Planning Proposal.

It should be noted that the exhibited Planning Proposal did not include a "savings" provision. In this context, a savings provision would operate to protect a development application made but not finally determined before the commencement of that Plan amendment from the application of that amendment. The exhibited amendment if made without the savings provision would operate to prohibit dwelling-houses within the RE2 Private Recreation area of zoning. The current plans for DA15/0201 for a 20 lot subdivision and associated works at Lot 156 DP 628026, No. 40 Creek Street, Hastings Point (the subject of Class 1 deemed refusal appeal in the Land and Environment Court) propose a number of single house lots within the RE2 Private Recreation zone. Consultation with the NSW Department of Planning and Environment Grafton Office indicated that they would be unlikely to include a savings provision unless specifically requested to do so. There is no recommendation to do so, which is consistent with Council's recent resolution to defend the above Class 1 appeal.

There are minor amendments recommended to the draft DCP, as it relates to the Centre and South Hastings Point Precincts. The extent and nature of the amendments are not considered to warrant a further public exhibition of the draft DCP. Accordingly, Council

officers are satisfied that both the Proposal and the draft DCP can be finalised and the necessary steps taken to conclude the longstanding strategic review and implementation of planning strategies for Hastings Point and Pottsville localities.

Adoption of the exhibited planning amendments will also provide greater certainty about Council's longstanding view on these matters. It will undoubtedly assist in providing direction in relation to the development application over Lot 156, Creek Street, Hastings Point, which is currently being litigated as a deemed refusal by the Applicant in the NSW Land Environment Court.

RECOMMENDATION:

That:

- 1. The summary of public submissions received in response to the public exhibition of Planning Proposal, PP14/0001 and Draft Tweed Development Control Plan – Section B23 Hastings Point Locality Based Development Code is received and noted.**
- 2. A public hearing under Section 57(5) of the Environmental Planning and Assessment Act 1979 not be held in relation to the issues raised by way of submission relating to the planning provisions exhibited applicable to Lot 156 DP 628026.**
- 3. The Planning Proposal be finalised and referred to the Minister for Planning and Environment in accordance with Section 59(2) of the Environmental Planning and Assessment Act 1979, to be made.**
- 4. Adopts the Tweed Development Control Plan, Section B23 – Hastings Point Locality Based Development Code Version 3, as amended by Action No. 1 detailed within Attachment 1 to this report.**
- 5. Endorses the public notice of the adoption of the Tweed Development Control Plan in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000.**
- 6. Forwards a copy of the Development Control Plan Section B23 to the Director-General of the NSW Planning and Infrastructure in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.**

REPORT:

By way of background, Council has considered numerous planning reports in respect of the strategic planning framework of the Hastings Point and Pottsville localities since 2010. More recently at its meeting of 6 November 2014, Council resolved as follows:

1. *A Planning Proposal to facilitate the strategic objectives of the Hastings Point and Pottsville Locality Based Development Codes be prepared and submitted to NSW Planning & Environment, requesting a Gateway Determination under Section 56(1) of the Environmental Planning and Assessment Act 1979;*
2. *Council staff amend the proposed extension to the environmental zones and the size and location of the developable footprint of Lot 156 by increasing the 50 metre buffers to 75 metre buffers and adjusting the footprint layout (roads, houses, stormwater treatment/filtration area and bushfire protection zone) accordingly where referred to in the text and diagrams of the draft Development Control Plan B23, Hastings Point and the Planning Proposal for submission to NSW Planning & Environment referred to in paragraph 1 above.*
3. *On receiving an affirmative Determination Notice, the Planning Proposal be finalised and exhibited in accordance with the Determination or where there is no condition, for a period not less than 30 days;*
4. *The Minister for Planning and Infrastructure or his Delegate be advised that Tweed Council is not seeking plan making delegations for this planning proposal;*
5. *The public exhibition of draft Tweed Development Control Plan, Section B23 – Hastings Point Locality Based Development Code, be undertaken for a minimum period of 30 days, in accordance with section 74E of the Environmental Planning Assessment Act 1979; and*
6. *Following public exhibition a further report is to be submitted to Council detailing the content and response to submissions received.*

In accordance with the abovementioned resolution a Planning Proposal (the Proposal) was prepared and a Gateway Determination issued by the Department of Planning & Environment (DP&E) on 12 May 2015. The Gateway Determination issued did not support the proposed E2 zone over portions of Lot 156 DP 628026 (Lot 156) and specifically instructed Council to remove the E2 zone prior to public exhibition.

In response, Council officers amended the Proposal to include the use of the RE2 Private Recreation zone in place of E2 and retain the existing Deferred Matters footprint as per the current Tweed LEP 2014. Whilst Council officers reviewed the DP&E's suggested use of the RU2 – Rural Landscape zone, the objectives and land uses permitted were not considered desirable for the site when compared to the objectives of the RE2 – Private Recreation zone. This methodology has also been pursued within a number of Council's current planning proposals where an environmental zoning has been sought or preferred, but has been prevented owing to the incompleteness of the DP&E's 'E-Zone Review'.

The Proposal and draft DCP were placed on public exhibition concurrently from 27 May – 1 July 2015 via Council's website and in hard copy at the Murwillumbah and Tweed Heads Civic Centres, as well as the Pottsville Beach Neighbourhood Centre.

Public exhibition attracted 114 submissions, of which 107 expressed varying levels of support for the planning proposal, and in particular the proposed provisions relating to Lot 156. The issues raised are addressed in an extensive public submission review, as provided as Attachment 1. This review delineates the areas to which the submissions

relate, the content of those submissions, and includes a planning response or action / recommendation. For example, the three general submissions raised in relation to the Pottsville locality are addressed separately to those received in relation central Hastings Point and South Hastings Point. Each area is described by a map and a corresponding number code, as depicted in the following four figures, below.

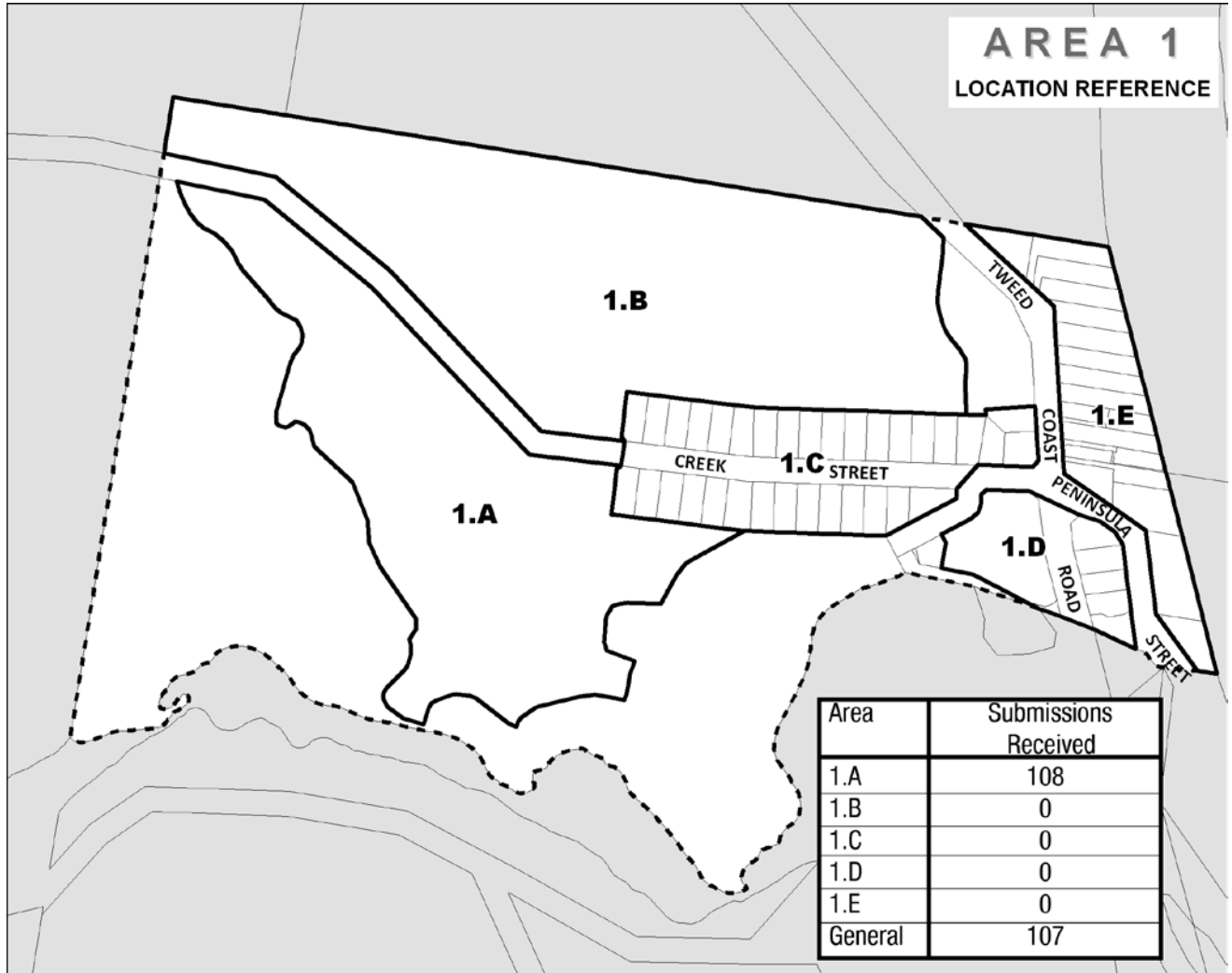


Figure 1 – Quantity of Submissions Received for Area 1

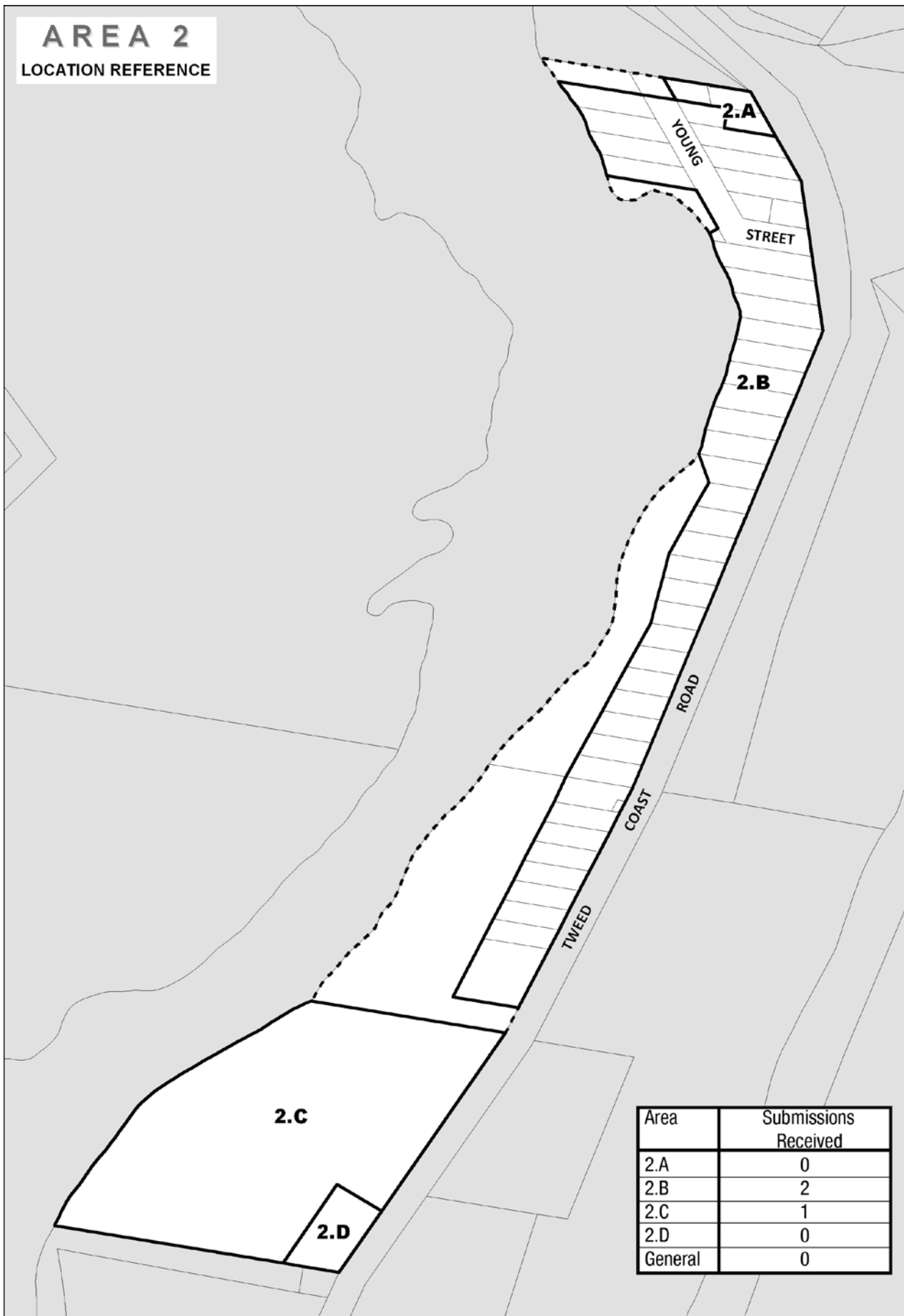


Figure 2 – Quantity of Submissions Received for Area 2

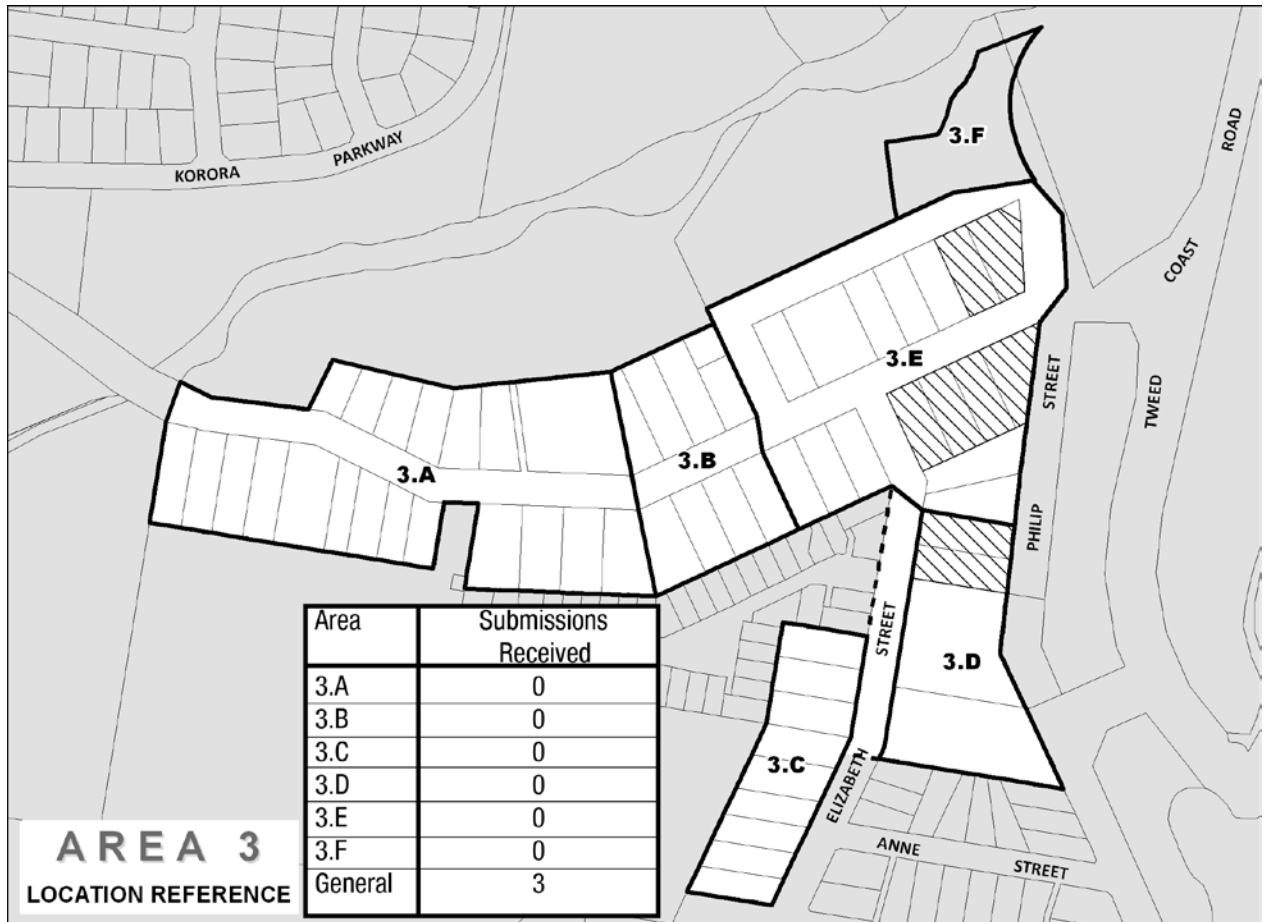


Figure 3 – Quantity of Submissions Received for Area 3

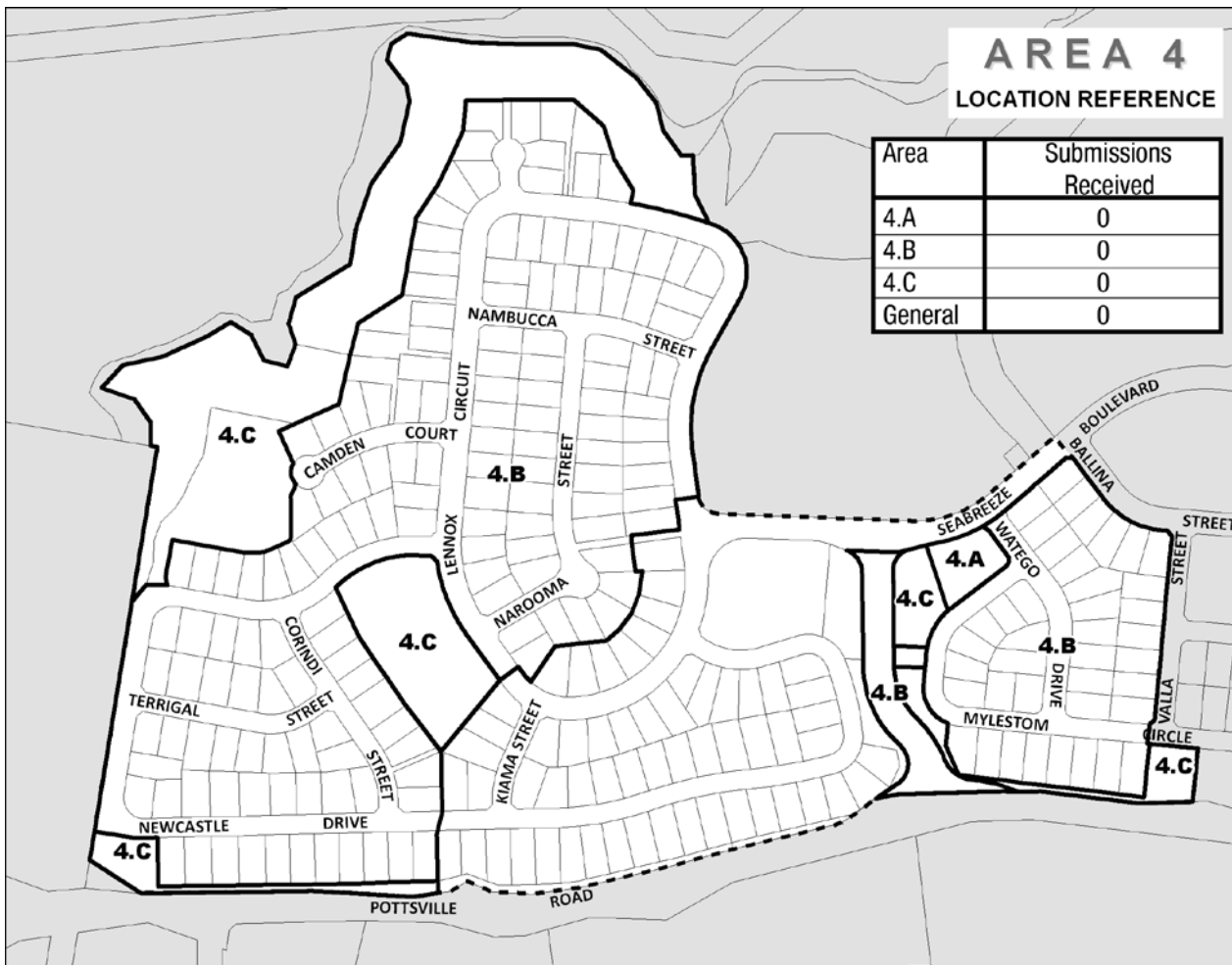


Figure 4 – Quantity of Submissions Received for Area 4

As displayed, the draft planning provisions applying to Lot 156 and the wider Creek Street precinct attracted the vast majority of submissions. For a comprehensive overview of the proposed amendments refer to the publically exhibited version of the planning proposal provided as Attachment 2, to this report.

In addition, the substantive amendments to the draft DCP arising from the Council resolution of 6 November 2014 pertaining to the enlargement of the environmental buffer to 75m is described in the excerpt from the amended public exhibition version of the draft DCP, provided as Attachment 3, to this report.

Hastings Point

Area 1.A

In relation to Area 1.A (which comprises a portion of Lot 156), the submission opposing the Proposal and draft DCP articulates the following key points (amongst others):

- The key objection to the Planning Proposal is that the proposed zoning of the land does not reflect the characteristics of the site and has not been adequately justified.
- The issue of providing buffers can be adequately addressed during the design and implementation of development of the site and should not themselves be excluded from the urban zone on ecological grounds.

- In the context of the actual biophysical features of the site, the remnant of 'development footprint', which would result from the Planning Proposal, is considered to be overly conservation. The constraints and past poor planning of the existing development along Creek Street should not be used as a justification to stifle the effective use of the remaining available land.
- It is noted that the NSW Office of Environment and Heritage (OEH) advocates ecological buffers of up to 50m for EECs. In this case the proposed requirement for a 75m buffer is excessive and is not adequately justified.
- The decreased development footprint, decreased range of permissible land uses and increased lot size is also inconsistent with the principles of ecologically sustainable development (ESD) and leads to urban sprawl, the provision of inefficient infrastructure and excessive road area, which leads to higher cost and decreases housing affordability, has higher ongoing maintenance costs and overall is an inefficient use of available urban zoned land.

In contrast, submissions supporting the Proposal detailed a desire to ensure the following planning controls that are contained within the Proposal and/or the draft DCP are retained:

- 75 m buffer to the developable footprint. TSC continue to push for appropriate E Zoning.
- All housing lots are required to be 700m² minimum
- The filling of land to achieve building pads above flood levels is not an acceptable outcome for the site. The promotion of flood resilient housing types which utilize suspended structural systems to achieve free board above the design flood level, increase site area for infiltration and allow for free flow of flood waters beneath the elevated dwelling is the desired outcome for Lot 156.
- Roads are to form the interface edge to environmental buffer areas rather than back fences to enable ease of buffer and environmental area maintenance, for part of a bushfire buffer and provide a public rather than private interface.
- Asset protection zone and stormwater/infiltration treatment areas should be adequately provided and are required to be in the developable footprint and not the buffer.
- Land outside the developable footprint is to be rehabilitated and restored to re-establish habitat reflective of pre-clearing communities (not cleared grass as quasi asset/protect zone).
- Local native vegetation to be reinstated along a portion of the eastern boundary of Lot 156 where previous clearing has occurred to provide a visual buffer of future development as viewed from bridge looking west. Retain trees adjoining Lot 156/Creek St North boundary.

Regarding the objection it is noteworthy that no ecological studies specific to Lot 156 or the Proposal generally have been submitted to Council for review that post-date Council's meeting and resolution of 6 November 2014. The available ecological information pertaining to Lot 156 pre-dates previous reporting and there is no new or scientific evidence available to support an assertion that Council's prior resolutions have been made in error, or on the basis of superseded information. There is no foundation for such assertion, and the objection that the proposed zoning does not reflect the characteristics of the site is not concurred with. To avoid any ambiguity, Council staff are of the view however that the assessment of the scientific merit of the area described as 'buffer' extends only to 50m, and that the additional distance to 75m is based on other factors. Those other factors arose for consideration and determination by the Tweed Councillors at the Ordinary Meeting of Council on 6 November 2014, and were not expressly stated.

It is agreed that 'buffer' area provisions do not always necessitate a non-urban zoning, and that hinges upon the nature of the buffer, for example; acoustic, odour, bushfire and the like buffers typically have an urban zoning. As with the case of endangered ecological communities their corresponding environmental-buffers typically, as a matter of best practice, take on a zoning that best reflects the objective and purpose of the buffer. This approach ensures the integrity of the buffer is retained, can adequately serve to protect the sensitive environmental land and militates against using an urban zoning when the adverse impact associated with incompatible land-uses is foreseeable.

Further, attaining a high level of environmental protection and conservation necessitates that the development footprint of the land be limited to an acceptable threshold for that purpose, and consequently has been communicated at various levels through local planning policy and Council resolution. The proposed amendments seek to strike a balance between retention of existing character and amenity, and built form, with those of the natural environment. Council's policy and resolution to-date have been informed and shaped by extensive community consultation and feedback that reflects the community's strong desire to preserve the natural and built integrity of the locality, whilst respecting the landowner's expectation to yield an economic benefit from the land's development.

Lastly on this point, the objection raises concern regarding past planning decisions relating to existing Creek Street properties. This is to the effect that historic planning which facilitated the low density, apparent poor planning outcome, along Creek Street should not be used to guide similarly poor, low density, planning outcomes on Lot 156. The objection is not precise or conclusive; it fails to reveal the true nature and extent of the complaint, and is not warranting of comprehensive evaluation nor response as it leaves too much to be inferred.

What can be said is that Hastings Point has developed over a substantial period of time and historically occurred without a detailed local planning scheme. This is the case in most historic settlements. It is this ad hoc use, occupation, and settlement-growth pattern of land spanned over many decades, combined with intervening periods of prosperity and decline, that has shaped the character and identity of many such settlements and towns. It is also this character and identity that the local Hastings Point community has sought to protect over many years and through significant consultation and representation to both Council, and the NSW State Government.

In addition to protecting the natural environment on Lot 156 is the need to ensure that the character of the area is also respected. In that regard the proposed amendments respond to the unique characteristics of the site and locality, and its totality with a subsequent

resultant development will comprise both an environmental and economic sustainable use of the land.

Relationship to DA15/0201 – 20 lot subdivision at Lot 156 DP 628026

Council resolved at its meeting of 6 August 2015, amongst others:

‘that Council engages its solicitors, and suitable consultants, if required, to defend the deemed refusal appeal for DA15/0201’.

The strategic process presently being considered (comprising both the Proposal and draft DCP) will directly influence Council’s defence of the appeal as it establishes an integrated planning framework for the site that encompasses approximately five years of review and analysis. In this regard, Council’s assessing officers and solicitors will continue to review the development application in light of the planning framework, and consider its determining ‘weight’ within the assessment process. Formal legal advice is presently being sought from Council’s solicitors. In the meantime adoption of the Proposal and draft DCP would strengthen Council’s stance and articulation of its opinion on this matter.

Adoption of the Proposal and draft DCP provides a clear and consistent account of Council’s resolved position for the development of Lot 156, from its meeting of 6 November 2014.

It should be noted in relation to the proposed planning instrument that there is no “savings” provision. A savings provision would operate to protect a development application made but not finally determined before the commencement of that Plan amendment from the application of that amendment. In other words, if Council was of mind to seek a savings provision it would do so because it considers the prohibiting nature of the amendment unreasonable in the circumstances, and would be seeking to avoid the strict application of the amending LEP to that development application. In doing so it would likely signal that the amendment is not to operate with paramount force or weight. Given the prior notice the Applicant of DA15/0201 had the benefit of, and that the amending instrument affects only Lot 156, there may be no compelling reason as to why Council should seek a savings provision in this instance.

The exhibited amendment if made without the savings provision would operate to prohibit dwelling-houses within the RE2 Private Recreation area of zoning. Consultation with the Department of Planning and Environment Grafton Office indicated that they would be unlikely to include a savings provision unless specifically requested to do so. In accordance with Council’s previous resolved position, there is no recommendation to amend the current Planning Proposal.

Creek Street - Generally

Specifically in relation to the draft DCP, a number of submissions expressed a desire for no footpath or road widening within the Creek Street road reserve as this is perceived as destroying the green verges which form part of the Creek Street character. In this regard the draft DCP does not contain specific strategies relating to the provision of a footpath or road pavement width however does provide an indicative plan and section of Creek Street including a 6m road pavement width, a 1.2m pedestrian path and water sensitive urban design provisions. Finally, the draft DCP states that detailed streetscape plans are to be undertaken in consultation with the community and stakeholders using this strategy as a guide. To-date, detailed streetscape plans beyond the indicative section and plan within the draft DCP have not been prepared.

In regards to the submissions received, whilst it is acknowledged that the expansion of road width and placement of a pedestrian path would reduce the 'soft' or 'green' appearance of the street, these ideals need to be balanced with ensuring all abilities access, providing a variety of safe movement opportunities and ensuring the safety and longevity of construction of Creek Street. As mentioned previously, the draft DCP acknowledges that further plans and consultation are required. This process provides the appropriate forum for designs to be canvassed with the community which would typically address providing universal access, mechanisms to achieving appropriate safety levels and retaining the streetscape character elements valued by the community. Prior to those more detailed processes taking place however, it is considered appropriate to retain the indicative section and plan within the draft DCP in order to provide guidance should an application be received in the immediate-term that necessitates an upgrade of Creek Street. If the guiding diagrams were to be removed in the absence of the more detailed streetscape plan, standard road reserve formations as per Section A5 of the Tweed Development Control Plan would be applicable. These more standardised road designs are less reflective of the desired future streetscape character of Creek Street than the diagrams depicted within the draft DCP.

E – Zone Review Update

As discussed previously, the submissions received supporting the Proposal detailed a desire for Council to push for an appropriate E zoning on Lot 156, however that the E2 zone was not supported within the Gateway Determination. Whilst Council could resolve to amend the Proposal to re-introduce the E2 zone and again refer the Proposal to the Gateway Panel for determination, no update to the E – Zone Review has been made since Council's previous request. The NSW Department of Planning and Environment has maintained that those zones cannot be used until the review and associated guidelines are completed.

In light of the above it is recommended that the Proposal be pursued as exhibited in order to satisfy the 12 month timeline stipulated within the Gateway Determination, and to give effect to Council's standing resolutions.

Pottsville

The Proposal includes a number of amendments to the Tweed LEP 2014 within the Pottsville Village Centre, as well as Seabreeze Estate. A detailed description of those changes can be found within exhibited version of the Planning Proposal, which is provided as Attachment 2. The key amendments may be surmised as:

Pottsville Village Centre

Implementation of village centre strategies, including:

- Expansion of the B2 Local Centre zone footprint to the west along Coronation Avenue and to the south along Elizabeth Street.
- 2m increase in maximum height of buildings for lots fronting Coronation Avenue and the eastern edge of Elizabeth Street.
- 0.15:1 reduction in maximum floor space ratio for the majority of properties identified to be zoned B2 Local Centre

Seabreeze Estate

Housekeeping based amendments to implement planning provisions that more closely align with contemporary development, by way of example:

- Applying a RE1 Public Recreation zoning and associated development standards to land that is now dedicated park areas,

- Applying a R2 Low Density zone and associated provisions to properties which now been developed as low density single dwelling allotments and,
- Applying a B2 Local Centre zoning and relevant development standards to the identified Seabreeze commercial node.

No public submissions were received in relation to the abovementioned matters. Further, the current strategic process does not include any amendments to the existing Tweed Development Control Plan 2008 – Section B21 Pottsville Locality Based Development Code.

OPTIONS:

1. Council proceeds to endorse the recommendations within this report that facilitate the progression and making of the exhibited Planning Proposal and DCP, without a 'savings provision' within the LEP instrument or
2. Council proceeds to endorse the recommendations within this report that facilitate the progression and making of the exhibited Planning Proposal and DCP, with a 'savings provision' within the LEP instrument, and refers the planning proposal back to the Department of Planning and Environment for reconsideration under the Gateway Determination, or
3. Defers a determination of the LEP and DCP to seek clarification of issues at a Councillor workshop.

Council Officers recommend Option 1.

CONCLUSION:

Since 2010, Council has considered and endorsed a series of reports relating to Pottsville locality, Hastings Point locality and specifically Lot 156 DP 628026 – Creek Street. The preparation of Planning Proposal PP14/0001 (the Proposal) and the Draft Tweed Development Control Plan 2008 – Section B23 Hastings Point Locality Based Development Code (draft DCP) seeks to implement many of the strategic findings for the localities and ensure the LEP and DCP framework operate in concert to deliver desirable and pragmatic outcomes.

The endorsement and making of both the Proposal and draft DCP is now recommended by Council officers as it provides an integrated suite of development controls to effectively guide future development within the Hastings Point and Pottsville localities.

Further, adoption of the exhibited planning amendments will also provide greater certainty about Council's longstanding view on these matters. It will undoubtedly assist in providing direction in relation to the development application over Lot 156, Creek Street, Hastings Point, which is currently being litigated as a deemed refusal by the Applicant in the NSW Land Environment Court.

Lastly, should Council resolve to proceed with the making of the proposed instrument (LEP) in its current form it does so in the knowledge, according to preliminary legal advice, that should the instrument be made prior to the determination of DA15/0201, (Lot 156 Creek Street Hastings Point) it will operate to prohibit parts the application in its current form. That is, it will prohibit dwelling-houses within the proposed RE2 Private Recreation Area zoned land, which is that part of the land where Council signalled its intention for an environmental

zoning, but is currently not permitted to include that zoning on the advice and instruction of the Department of Planning and Environment.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Council's determination of PP 14/0001 will have a direct bearing on the current Class 1 LEC deemed refusal appeal relating to DA15/0201 for a 20 lot subdivision and associated works at Lot 156 DP 628026, No. 40 Creek Street, Hastings Point.

d. Communication/Engagement:

Involve/Collaborate-We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.	Public Submissions Review Table (ECM 3766880)
Attachment 2.	Planning Proposal V.2 – Public Exhibition Edition (ECM 3766892)
Attachment 3.	Excerpt to Tweed Development Control Plan 2008, Section B23 Hastings Point Locality Based Development Code (ECM 3766893)

3 [PR-PC] Tweed DCP 2008 - Draft Amendment B28 - Club Banora

SUBMITTED BY: Strategic Planning and Urban Design

FILE REFERENCE: GT1/DCP/B28 Pt1

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.2 Land use plans and development controls will be applied and regulated rigorously and consistently and consider the requirements of development proponents, the natural environment and those in the community affected by the proposed development



Strengthening the Economy

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.4 Market the Tweed as a destination for business and tourism

SUMMARY OF REPORT:

Draft Tweed DCP 2008 section B28 Club Banora was created to ensure an appropriate scale of retail development in the context of the Banora Point catchment and Tweed's retail hierarchy, and to provide a suite of urban design principles to facilitate integration with the adjoining Banora Point Shopping Village and strengthen the visual amenity and character of the area.

The DCP was publically exhibited and five submissions were received, two from private individuals, two from businesses with retail interests, and one from the proponent.

Key issues raised in submissions included the scale of retail development and potential economic impacts, integration with the Banora Point Shopping Village, character of the locality, activated frontage to Leisure Drive, traffic, suggested rewording of specific clauses, and loss of services and facilities from Club Banora and the future of the Club. This report provides a summary of submissions, a planning response and recommendation.

The proposed amendments to the draft DCP are minor in nature and provide further clarification and refinement of planning principles and controls which include setting the threshold for requiring an economic impact assessment for development proposals where the Gross Floor Area of retail development exceeds 5000 square metres.

While the Market Opportunity and Economic Assessment 2010 supporting the rezoning undertook an assessment using the unit of Gross Lettable Area (GLA), there is no comparable term in Tweed LEP 2014; however the proponent has requested that the threshold be set at 5000 square metres GLA.

The intent of the DCP is to ensure that appropriate consideration is given to the scale of development, and that the 2010 economic assessment is updated once detailed plans are received at the DA stage. As such, the use of 5000 square metres Gross Floor Area is considered an appropriate scale of development above which an economic impact assessment would be required and is a precautionary response to the concerns expressed in submissions.

RECOMMENDATION:

That:

- 1. Tweed Development Control Plan 2008 be amended by the inclusion of new Section B28 Club Banora (Attachment 2).**
- 2. The summary of public submissions received in response to the public exhibition of Draft Tweed Development Control Plan – Section B28 Club Banora is received and noted (Attachment 1).**
- 3. Public notification of the adoption of the Tweed Development Control Plan in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000 occur, and**
- 4. A copy of Tweed Development Control Plan Section B28 Club Banora be sent to the Director-General of NSW Planning and Environment in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.**

REPORT:

This report provides a summary of submissions received during public exhibition of Draft Tweed Development Control Plan 2008 Section B28 Club Banora (Draft DCP) and seeks endorsement for inclusion of a new section B28 Club Banora in Tweed Development Control Plan 2008 (DCP).

A new site specific section B28 Club Banora has been developed in response to feedback received during the public exhibition of the planning proposal for part lot 2 DP 1040576 Leisure Drive Banora Point, being part only of the Club Banora property. Two site-specific issues were identified which need to be added to the list of matters to be considered during assessment of any development application, namely:

- The extent of retail development, and
- Integration of development with the existing Banora Point Shopping Village.

Public exhibition and community engagement

In accordance with Council resolution of meeting of 4 June 2015, the Draft DCP was placed on public exhibition during the period 16 June 2015 to 31 July 2015, and a presentation was made to the Banora Point Resident's Association on Monday 6 July 2015 presenting the details and rationale of the Draft DCP. At this meeting a range of traffic related matters were raised that lead to a further presentation to the Association on Monday 3 August at which Council's Manager Roads & Stormwater and Traffic Engineer provided details of their responsibilities and recent road-related undertakings including discussion regarding the concepts presented for the rezoning of the Club Banora site and addressed questions from the floor.

Submissions

A total of five (5) submissions were received, two from private individuals, two from organisations with a retail interest, and one from the proponent. A summary of matters raised, a response and recommendation can be viewed in Attachment 1; key issues raised included:

- General objection on grounds of affecting the character of Banora Point;
- Potentially adverse economic impacts to adjoining, nearby, and more distant retail centres and inconsistency with the Market Potential and Economic Impact Assessment completed for the concept development, and Council's retail principles;
- Traffic concerns generally and at the Darlington Drive and Leisure Drive intersection;
- Wording of several clauses;
- Integration with the adjoining Banora Point Shopping village;
- Ability to develop an activated frontage to Leisure Drive, and
- Concern about the loss of services and facilities from Club Banora and the future of the Club.

Character of the location

The site subject of the Draft DCP is currently predominantly car park, bowling greens and part of the Club Banora building, and adjoins the existing Banora Point Shopping Village to

the east and part of the Club Banora facility, including bowling greens and carpark to the west.

The character of the site and adjoining land is that of retail development within the Banora Point Shopping Village, carpark and private recreation and as such an expansion of retail and commercial services is seen as being consistent with the existing character of the locality.

Rezoning of the site to B2 Local Centre is consistent with the current zoning of the adjoining Banora Point Shopping Village and is therefore seen as a logical addition to the existing Local Centre zoning and the shopping facilities provided, and consistent with the character of the site and adjoining development.

Notwithstanding this, the DCP also seeks to encourage a more active street frontage to Leisure Drive and better use of landscaping and open space and integration with the Banora Point Shopping Village, all of which are designed to improve the amenity and convenience of the location for local residents and shoppers alike.

Potential economic impacts

A Market Potential and Economic Impact Assessment was completed by Pitney Bowes in 2010 which provided an assessment of population, new dwelling approvals, socio-demographic profile and projections, retail expenditure capacity, competitive context, nature of likely impacts, retail specialty potential, and consideration of broader trading impacts; the conclusion to which provided the necessary advice required to justify proceeding with the proposal.

One submission states its objection as being that the Pitney Bowes report was not based on a specific proposal but on a hypothetical 3000 square metre retail development and 400 square metre specialty shops. In response, the Pitney Bowes assessment provided an assessment based on the completed centre comprising 3,800 square metres (GLA) of supermarket and 1,484 square metres (GLA) of specialty retail and no "Mini-majors" (those tenants with a floor space of more than 400 square metres), totalling 5,284 square metres (GLA).

This submission further claimed that development up to the 5000 square metre cap "has the potential to cause significant adverse economic impacts for the Banora Central shopping centre"; however, no economic impact assessment was provided to justify this statement and contradict the findings of the Pitney Bowes report.

It was also proposed that an economic impact study should be done for development over 1,500 square metres consistent with DCP A13 - Socio Economic Impact Assessment. In response, the objectives of DCP section A13 include:

- Ensure that Development Applications for certain developments that are likely to have a significant social and/or economic impact are properly considered, and
- Achieve economic growth through employment generating activities that adopts the concepts of Ecologically Sustainable Development.

In response, given the local centre context and that the subject site will form a logical extension of the existing shopping facilities provided at Banora Point Shopping Village, a 5000 square metre GFA is considered to be an appropriate threshold before requiring a supporting economic impact study as part of any future development application.

This is supported by the findings of the Market Potential and Economic Impact Assessment (Pitney Bowes) submitted as part of the planning proposal process which provided an assessment of population, new dwelling approvals, socio-demographic profile and projections, retail expenditure capacity, competitive context, nature of likely impacts, retail specialty potential, and consideration of broader trading impacts.

The assessment indicated that a development of 5,284-5,600 square metres GLA, significantly greater than the 5000 square metre GFA threshold within the draft DCP, could be supported without impacting the viability of existing surrounding retail centres.

One submission put forward the view that the Draft DCP does not adequately represent the potential impacts on the existing retail hierarchy. In response, the Draft DCP seeks to ensure that the scale of development is appropriate and justified, limiting the Gross Floor Area of retail development and requiring justification should a larger scale of development be proposed.

Gross Floor Area vs. Gross Lettable Area

One of the key concerns expressed in submissions to the exhibition of the planning proposal and subsequent DCP was the potential scale and economic impact of further retail development in the locality.

Consistent with the intent of the draft DCP to limit the scale of retail development above which an economic impact assessment would be required to justify a variation to the provision, a figure of 5000 square metres was proposed. While not specified in the Draft DCP exhibited, the measurement was based on Gross Floor Area (GFA) as is standard throughout Tweed DCP 2008 and Tweed LEP 2014.

While not raised as an issue in any of the submissions received, 5000 square metres (unqualified) is a figure that was commonly used in correspondence, the Market Potential and Economic Impact Assessment 2010 completed by Pitney Bowes, while poorly qualified, refers to GLA (Gross Lettable Area) in the accompanying tables. Neither Tweed LEP 2014 nor the Standard Instrument Template provides a definition for Gross Lettable Area.

GLA and GFA of retail development can vary significantly, depending on the design of the development. GLA refers to that portion of a development leased by tenants and does not necessarily include public or common areas such as covered walkways, and does not include potential commercial development.

This difference in understanding has been discussed with the proponent post exhibition and has requested that 5000 square metres Gross Lettable Area be the threshold applied in the DCP.

The intention of limiting the scale of development by establishment of a threshold above which an Economic Impact Assessment is required, which is supported by detailed design at the development application stage is the focus of this provision. As such, the use of 5000 square metres GFA establishes the ability to undertake retail development, yet provide an update to the 2010 assessment based on detailed design rather than concepts as is required at this stage, and represents a precautionary response to submissions received.

Should development to the scale of 5000 square metres GLA be preferred, it would be difficult to determine the Gross Floor Area of development without viewing detailed plans, typically provided at the DA stage, but it could be expected, based on concept plans presented in the economic impact assessment, to equate to an area of about 6,500 to 7,000 square metres GFA for the entire development, and a re-exhibition of the Draft DCP for a larger GFA development would be required.

By way of comparison, the Pitney Bowes report presents details of the GLA of retail traders in the locality as seen in the extract Table 3.1 below:

While it can be seen that the adjoining Banora Shopping Village has a GLA of 3,200 square metres of retail facilities, the Village also contains commercial premises, a medical suite, and common property, which when included in the overall size of the Village would produce a Gross Floor Area of about 6,200 square metres.

Given the intention to ensure that large scale retail development is justified against Council's retail principles and allow for assessment at the DA stage based on detailed design plans and provide an update to the 2010 economic assessment, it is proposed to amend the Draft DCP to specify 5000 square metres Gross Floor Area of retail development.

Table 3.1
Club Banora schedule of competing retail facilities

Centre	Retail GLA (sq.m)	Major traders	Dist. by road from Club Banora (km)
Sub-regional Centres			
<i>Tweed Heads South</i>	<i>46,700</i>		<i>2.0</i>
• Tweed City SC	36,700	Big W (7,033), Kmart (7,381), Woolworths (4,527), Coles (3,708)	
• Remainder	10,000	Aldi (1,350)	
Centro Tweed	18,600	Target (5,592), Woolworths (4,527), Coles (3,708)	6.0
Supermarket Centres			
Banora Shopping Village	3,200	Bi-Lo (1,993)	-
Banora Central SC	3,400	Coles (2,800)	2.0
Other Retail Facilities			
Tweed Heights Shopping Village	700	IGA (200)	2.4
Terranora Village SC	900	Spar (350)	6.8

Source: Property Council of Australia; Pitney Bowes Business Insight

Traffic related matters

One submission raised concerns regarding the state of traffic at the Darlington Drive and Leisure Drive roundabout. In response, the Draft DCP addressed two specific issues relating to integration with the existing Banora Point Shopping Village and the scale of retail development.

Matters relating to traffic were considered in preparation of the earlier planning proposal and will be considered again at the development application stage.

Wording of clauses

In response to submissions received, a number of minor amendments have been made which are minor in nature and provide further clarification and refinement of planning principles and controls; this includes setting the threshold for requiring an economic impact assessment for development proposals where the Gross Floor Area of retail development exceeds 5000 square metres.

The final version of proposed Tweed DCP section B28 Club Banora can be seen in Attachment 2, and a schedule of text changes can be viewed in Attachment 3.

Integration with the Banora Point Shopping village and developing an activated frontage to Leisure Drive

While integration of proposed development with the existing Banora Point Shopping Village is a desired outcome, one submission identified the location of the stormwater pipes and drainage easement along the common boundary as a limitation to the extent of potential integration. In response, this physical constraint is recognised, however, consideration of the orientation of buildings and ability to integrate walkways, public domain, open space, landscaping and other potential development between the two sites should be considered at the earliest stages when concepts are being developed.

One submission suggested that the area affected by the Draft DCP should be expanded to include the Banora Point Shopping Village. In response, the draft DCP was prepared to address the specific requirements of the Club Banora site which emerged during exhibition of the planning proposal.

The subject site currently presents as a relatively unconstrained development site; however, the adjoining Banora Point Shopping Village is an existing functional retail development and which presents less immediate redevelopment opportunity. This however does not preclude the future opportunity to redevelop this adjoining site and include it within a combined DCP which applies to both sites. Notwithstanding this, one of the key objectives of the draft DCP is to facilitate the integration between these two sites.

One of the key aspects of integration of development where possible was the use of open space and the ability for pedestrian and vehicular traffic to move between the two sites easily. Part of this consideration led to the inclusion of urban design principles for the development of a more pedestrian friendly frontage to Leisure Drive and linkages between the two sites.

Provision of an active street frontage to Leisure Drive is seen as a positive aspect of the redevelopment of this site and adjoining land in the future. One submission suggested that the intent of Principle P7 and the diagram would require retail/commercial premises to be located on, or adjacent to, the Leisure Drive alignment and would not lead to a desirable urban design outcome and would constrain any future supermarket based retail outlet.

The intention of Principle P7 is to avoid long featureless walls typically created where a large floor area development fronts a street. A range of options would exist to ensure that large floor area development does not dominate the streetscape, including sleeving larger floor plate development with smaller retail units that have more active frontages and compatible streetscape and pedestrian scale.

The appropriate use of pathways and landscaping can do a lot to 'activate the road frontage without requiring development at or adjacent to the road frontage. As such it is proposed that the term "front", be removed from Principle P7, and reference to the location of large floor plate development be inserted as a new principle, as can be seen in Attachment 3.

Future of Club Banora

Concern was expressed in one submission about the future of services and facilities provided by Club Banora and the impact of redevelopment not just of this site but the remainder of the property not subject to the DCP.

While concern about the nature of services and facilities resulting from the redevelopment of Club Banora is acknowledged, the focus of the DCP is on that parcel of land subject of the rezoning. Any queries relating to how Club Banora will be redeveloped should be directed to the Club's board.

A copy of the proposed Tweed DCP 2008 section B28 Club Banora can be viewed in Attachment 2.

OPTIONS:

1. Amend Tweed Development Control Plan 2008 by the inclusion of a new section B28 Club Banora, by adopting the recommendations of this report; or
2. Endorse the applicant's request and re-exhibit the DCP with a larger (undetermined) Gross Floor Area of retail development approximating a Gross Lettable Area of 5000 square metres, or
3. Defer a determination on the draft DCP and seek clarification of matters through a Councillor workshop.

The officer's recommend option 1.

CONCLUSION:

Draft Tweed DCP 2008 section B28 Club Banora was placed on public exhibition to establish planning provisions which limit the gross floor area of retail development; requiring an economic impact assessment for any proposal in excess of the 5000 square metre Gross Floor Area threshold, and to facilitate integration with the adjoining Banora Point Shopping Village.

Submissions received expressed concerns about the scale of retail development and potential economic impacts, integration with the Banora Point Shopping Village, character of the locality, activated frontage to Leisure Drive, traffic, suggested wording of clauses, and loss of services and facilities from Club Banora and the future of the Club.

Five submissions were received, two from private individuals, two from businesses with retail interests, and one from the proponent. While one submission contained substantial technical inaccuracies, a response has been prepared addressing the principle concerns raised in each submission.

While not raised in any submissions or prior correspondence relating to the DCP, the exhibited draft DCP did not stipulate what units the floor area of retail development would be defined in, defaulting to the standard use of Gross Floor Area defined in the LEP and used throughout the DCP; however, while poorly defined, the Market Opportunity and Economic Assessment 2010 was based on the unit of Gross Lettable Area which is not a term recognised in Tweed LEP 2014.

While this confusion in terms could result in different scales of development, the intent of the DCP is to ensure that appropriate consideration is given to the scale of development and the 2010 economic assessment is updated once detailed plans are received at the DA stage. As such, the use of 5000 square metres Gross Floor Area is considered an appropriate scale of development above which an economic impact assessment would be required and is a precautionary response to the concerns expressed in submissions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|--|
| Attachment 1. | Tweed Development Control Plan 2008 – Draft Section B28 Club Banora Response to submissions. (ECM 3764258) |
| Attachment 2. | Proposed Tweed DCP 2008 section B28 Club Banora. (ECM 3764259) |
| Attachment 3. | Schedule of text changes (ECM 3764271) |
-

4 [PR-PC] Unauthorised Activities at Lot 22 DP 585033 No. 51 Phillip Street, Chinderah

SUBMITTED BY: Development Assessment and Compliance

Valid



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Caring for the Environment
4.1	Protect the environment and natural beauty of the Tweed
4.1.3	Manage and regulate the natural and built environments

SUMMARY OF REPORT:

A number of complaints have been received over the past two years in respect to varying forms of unauthorised camping at 51 Phillip Street Chinderah, with associated concerns regarding noise, traffic movement and possible environmental degradation. Investigations have revealed the camping ranges from short term camping to long term campsites where the occupants have lived, or are currently living (tent – since May 2015, two caravans – current/ongoing).

The site has been inspected a number of times over the past two years and as many as seven caravans/tents have been observed on site at any one time.

The owner has been directed both verbally and in writing on multiple occasions since May 2013 to cease the unauthorised land use. Those warnings appear to have been ignored, particularly at peak holiday periods such as Christmas and Easter. There is also evidence of web site and social media promotion of this activity.

Following extensive advice provided by Council officers, the owner lodged a development application for a tourist related camping use in early 2015, but withdrew the application following advice from Council that it failed to address key planning and technical issues.

Accordingly, it is recommended that legal advice be sought to determine an appropriate course of action to rectify the current unauthorised activities on this site.

RECOMMENDATION:

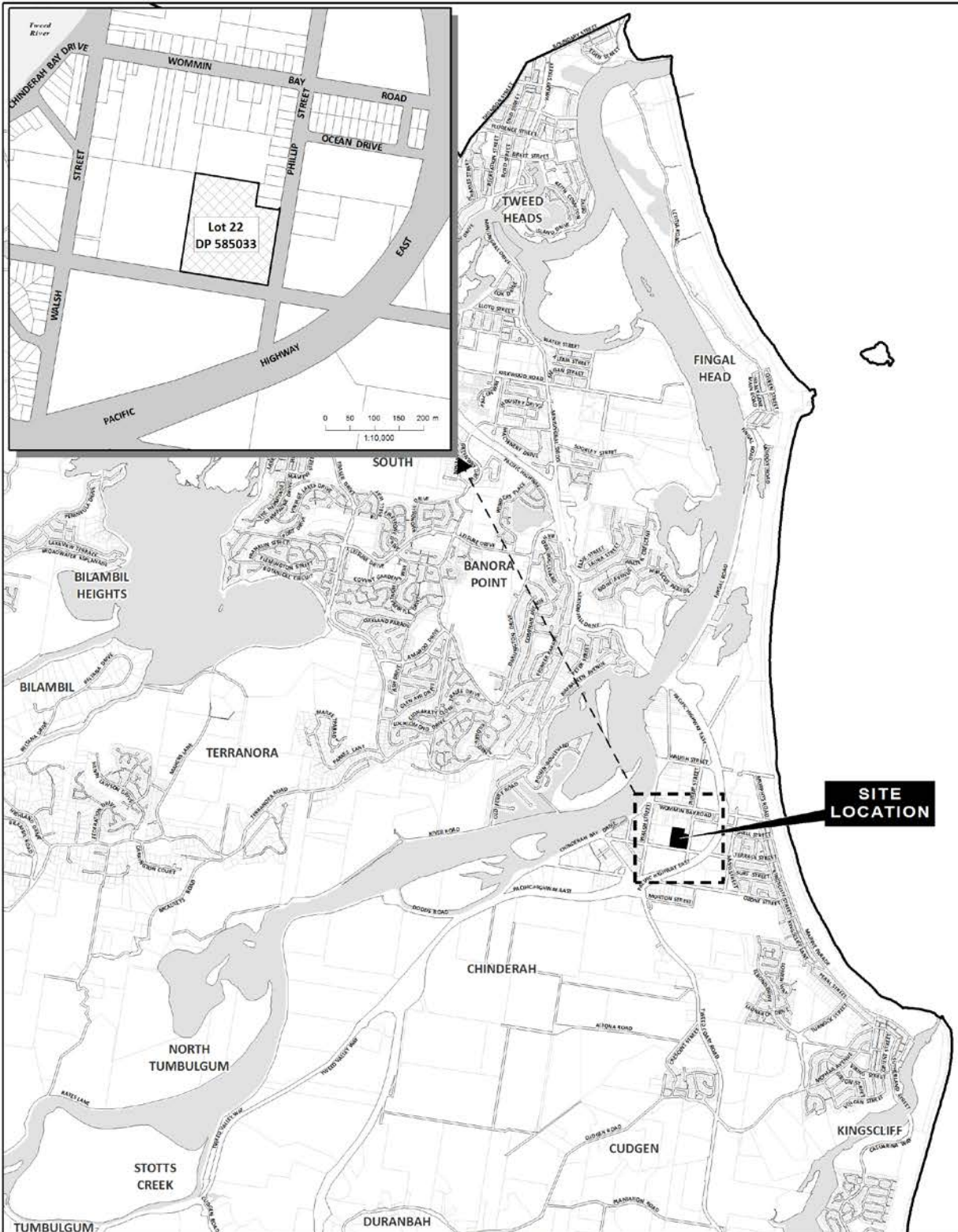
That Council engage solicitors to undertake enforcement actions to address the ongoing unlawful activities at Lot 22 DP 585033, No. 51 Phillip Street, Chinderah.

REPORT:

The site:

The subject site has an approximate area of 3.2 hectares, and is a mix of zonings RU2 Rural Landscape and Environmental Protection. The site comprises an approved and constructed, large dwelling house. Large expanses of the site have been cleared around the dwelling, with the balance of the site heavily vegetated. The site is both flood and bushfire prone. Adjoining properties to the north and west along Phillip Street comprise of low density residential zoned dwelling houses, and heavily vegetated, creek environs to the east and south.

SITE DIAGRAM



Locality Plan

Lot 22 DP585033
No. 51 Phillip Street, Chinderah

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Cadastra 21/08/2015
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Boundaries shown should be considered approximate only.

0 0.5 1 Km
1:50,000 @ A4 Portrait
DO NOT SCALE
COPY ONLY - NOT CERTIFIED

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

Civic and Cultural Centre
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W | www.tweed.nsw.gov.au
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Filename: Z:\GIS\INFO\STANDARD_TEMPLATES\BASE\A4\550\Map_LocalityPlan50_A4P.mxd

Author: J.Bjorkholm Strategic Planning & Urban Design Unit

Date Printed: 21 August, 2015

Chronology of complaint:

On **3 December 2010**, Council officers provided written advice to the current owner on the prevailing planning controls and approval requirements for either a bed and breakfast, or a camping ground to be established on this site. No application was lodged received by Council for these uses.

Initial complaints began on **23 April 2013** when a neighbour was concerned about “mainly weekend activity, with significant late night traffic and noise impacts, and that the premises are fully booked for months in advance”. The complainant referred to a YouTube promotion of a tourist facility - <https://www.youtube.com/watch?v=F95wor3fyl8>. The web site promoted a bed and breakfast/camping ground facility known as ‘the Kingscliff Hideaway’. Council’s compliance officer reminded the owner of the earlier advice from 2010 regarding the required approvals, and made a request to better manage activities on the site in terms of amenity impacts on adjoining residents.

At that time, the owner stated that it was a Bed & Breakfast establishment only. On that basis, Council did not take any further compliance action at that point.

Further complaints were received by Council in **April 2014** regarding an unauthorised camping ground on the subject property. On **1 May 2014**, a further site inspection verified this unauthorised activity, and in particular, a permanent camp site on the river bank in the south eastern corner of the property. A written directive dated **6 May 2014** to cease all unlawful camping was sent and the long term campsite was subsequently removed.

Despite this, the promotion of the activity continued on Facebook advertising a business known as “Stuart’s Little Oasis”. Further complaints emerged in early **October 2014**, triggering another written compliance letter dated **10 October 2014** requiring cessation of all unauthorised camping.

The owner acknowledged at the time that the use was unauthorised, and agreed to lodge a development application (DA) for a ‘camping ground’. At that point, Council officers deferred any enforcement penalty or action, to facilitate a DA process. A DA was lodged by the owner in early 2015. Twelve local neighbours lodged objections to this DA and any continuation of the existing unlawful camping. A review of the application revealed the applicant had not addressed or provided sufficient technical information for assessment. The owner was given the option of either withdrawing the DA, or it would be refused. In **March 2015**, the owner withdrew the DA, and Council officers issued another letter requiring all unauthorised camping activity to cease.

Prior to the DA being withdrawn, another complaint was received in respect to camping over the Christmas period and throughout **January 2015**. Another inspection revealed an ongoing breach with three campsites evident. A letter dated **22 January 2015** provided a final warning and direction to comply with Council’s requirements.

On **7 July 2015**, Council received further complaint regarding unauthorised camping. Following a site inspection, Council’s compliance officer was of the view that a number of unauthorised camping activities were evident, and therefore issued the owner with a \$1,500 Penalty Infringement Notice on **8 July 2015**.

Following a request from the owner, Council officers met on the site on **23 July 2015**. From that inspection, the officers observed that a number of apparent, unauthorised camping and vehicle storage activities were occurring on the site. The owner claimed that the campervan facilities (vans), used in association with the existing dwelling house, were providing an alternative for socially disadvantaged people, with no financial rent being sought, but rather services being performed for the owner in terms of an on-site caretaker. The Council officers noted the use of temporary water and electricity connections, which are major health and safety concerns, particularly in a flood prone area. The owner also claimed that the approximate 20 to 30 vehicles (both with and without registration plates) were being retained on the site as a favour for a friend. The owner at that meeting also acknowledged that the Facebook Page “Stuart’s Little Oasis” was still active in its promotion of camping facilities at the site, and Council officers were advised that the content on the page would be adjusted.

On the basis of the unlawful land uses being undertaken on site since 2012, it is considered appropriate to seek advice from Council’s solicitors on the most appropriate course of action to address this breach.



Permanent camp site in the north eastern corner.





Tent has been erected for months and is centrally positioned.



Permanent camp site along the western side boundary.

OPTIONS:

That Council:

1. take no further compliance or enforcement action; or
2. engage solicitors to undertake enforcement actions to address the ongoing unlawful activities.

CONCLUSION:

It has been evident that the owner of the subject site has undertaken unauthorised camping activity on the subject site in varying forms over the last several years. Council officers have made numerous attempts to seek cooperation from the owner to gain the necessary approvals for this approval. Given the lack of cooperation and compliance in these matters, it is now considered appropriate to engage solicitors with a view to taking enforcement action.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Financial resources will be required to initiate any legal challenge

c. Legal:

Legal advice will be required.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

5 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

SUBMITTED BY: Director

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.4 Strengthen coordination among Commonwealth and State Governments, their agencies and other service providers and Statutory Authorities to avoid duplication, synchronise service delivery and seek economies of scale
 - 1.4.1 Council will perform its functions as required by law and form effective partnerships with State and Commonwealth governments and their agencies to advance the welfare of the Tweed community
-

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 there are no variations for the month of August 2015 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, no Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
