



TWEED
SHIRE COUNCIL

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

Agenda

Planning Committee Meeting Thursday 7 November 2019

held at
Council Chambers, Murwillumbah Civic & Cultural Centre, Tumbulgum Road, Murwillumbah
commencing at 5.30pm

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 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 Secretary 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 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, 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.

(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 4.16 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 4.16 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 4.28 (3) and (4).

(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(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 the Planning Committee:

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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA19/0101 for Four Townhouses at Road 2070 First Avenue, Tweed Heads and Lot 1 DP 780214 No. 5 First Avenue, Tweed Heads

SUBMITTED BY: Development Assessment and Compliance

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

SUMMARY OF REPORT:

On 14 February 2019, Council received a development application for the construction of four townhouses and construction of an access road to service the development from Phillips Lane (to be constructed in the First Avenue Road reserve). The development consists of four, three storey units, two of which are detached and two of which are attached. Each unit accommodates four bedrooms with a double garage and one visitor space.

This application has been called up for determination by Mayor Milne and Councillor Cherry.

The applicant's Statement of Environmental Effects (SEE) submitted with the application provides the following development standard/control details:

Provision	Design Requirement	Proposed Development	Compliant
Building Height	9 metres 2 storeys in TCC DCP	9 metres 2 storeys with parking level	Yes No
Floor Space Ratio	0.8	0.683	Yes
Residential Density	1 dwelling per 250m ² within 300m of Mixed Use Zone	1 dwelling per 308m ²	Yes
Setbacks	6m to the frontages 1.5m sides; 5m to rear or DSZ	8m to Adelaide Street, 1.5 to southern side boundary, 1.5 metres to First Avenue frontage to north and east, 1.5m to Wharf Street (First Ave)	No Eastern and Northern Street frontages treated as side setbacks
Deep Soil Zones	Front: Width of site less driveway Rear: 8 metres depth, 30% width	Front: Width of 100% of site to Adelaide Street, depth of 8m (120m ²); 90m ² in centre of site; 130m ² to Wharf Street frontage (340m ² , or 27.8% of site area total provided as DSZ areas, with 45% of the site landscaped)	Yes No (Wharf Street frontage not compliant dimension)
Impervious area	60%	60.2%	No
Private Open Space	Balconies have a minimum depth of 2 metres and area of 10m ²	Unit 1: 70.99m ² Unit 2: 74.01m ² Unit 3: 29.65m ² Unit 4: 49.05m ²	Yes
Car Parking	1.5 spaces per 3 bedroom dwelling; 1 space per 10 dwellings (visitors in multi unit developments) 7.5 resident spaces and 1 visitors space	8 resident spaces (2 per dwelling) and 1 visitor space	Yes
Bicycles	1 spaces per dwelling and 1 visitor	1 spaces per dwelling and 1 visitor	Yes
Motorcycles	1 spaces per 25 car spaces	1 space will be provided	Yes

The proposed development involves the removal of a number of sapling and juvenile Three-vein Laurel (*Cryptocarya triplinervis*), multiple saplings and one semi mature Red Kamala (*Mallotus philippinensis*), multiple sapling and one semi mature (*Macaranga tanarius*), one semi-mature Guioa (*Guioa semiglauca*), a number of non-native tree species, two non-active Australian Brush-Turkey mounds, and one large camphor laurel stag. Council's Sustainability and Environment (S&E) Unit have reviewed the application and raised no objection to the vegetation removal subject to the imposition of appropriate conditions.

The application also seeks the following variations to the Tweed Development Control Plan 2008 (DCP) Part A1 Part B:

- Minimum lot size of 1,233m² where the DCP requires a minimum lot size of 1,350m² in zone R2 (Low Density Residential) for town housing (multi-dwelling development);
- No ground level habitable rooms for units 3 and 4;
- Impervious area of 60.2% where a maximum of 60% is specified;
- Variations to the front, rear and side setback requirements;
- Retaining wall height and proximity to property boundaries in three locations for retaining cut and fill external to the building confines; and
- Variation to the fencing height and solid ratio.

The variations are considered to be generally minor in nature. While the applicant is seeking a variation to the minimum lot size in Zone R2 for multi-dwelling housing, it is noted that the proposal meets with the specified density requirements (a minimum area of 250m² per unit where the site is located less than 300m from a business zone). It is considered that the variations can be supported.

The application was notified from 6 March 2019 to 20 March 2019. During this time, three submissions were received. The main issues raised were as follows:

- Extent of earthworks and lack of respect for existing flora and fauna;
- Access from Phillips Lane is unacceptable – cul-de-sac, no line marking, unregulated car parking on lane, limited refuse collection vehicle access;
- Development will impact on the residential amenity of existing Phillip Lane residents;
- Lack of details as to who is undertaking works in road reserve (public land);
- No details of how pedestrian access through road reserve is to be maintained, access should not be relocated closer to Phillips Lane properties;
- Visual impact of development from Boyds Bay Bridge due to reduced setback from Wharf Street frontage and 9m height;
- Concern raised with traffic noise impacts and useability of balconies;
- Any consent should require at least 4 additional visitor car parking spaces due to lack of street frontage;
- No replacement tree planting proposed despite proposed tree removal;
- Waste collection from Phillips Lane currently an issue;
- Stormwater Management - potential for swale to block/overflow, collection of water from upper area of road reserve;
- Provision should be made for vehicle access from First Avenue Road Reserve to adjoining property on Phillips Lane;
- Council should be certifier of development given works on public land;
- Survey land is incorrect and appears to show a boundary realignment of road reserve;
- Additional tree on boundary with 68 Adelaide Street should be removed to facilitate future development of that site;
- No details of fencing – requests fence between subject site and 68 Adelaide Street;
- Given extent of earthworks, dilapidation reports should be required on adjoining properties with same made available to property owners; and
- Potential loss of public water views and private water views from 68 Adelaide Street due to height which contravenes two storey control in DCP.

These matters are discussed in more detail later in this report. It is considered that the matters raised have been addressed in the assessment process or can be managed by way of a condition of any consent issued.

The application was referred to Council's Building Unit, Water and Waste Water Unit, Traffic Engineering Unit, Development Engineering Unit, Stormwater Unit, Environmental Health Section and Sustainability and Environment Unit.

While a number of issues were raised in relation to the demonstrated carrying capacity of Phillips Lane, details of retaining structures and stormwater management, these issues have been resolved in the assessment process. The internal units have advised that there is no objection to the proposal subject to the imposition of appropriate conditions.

RECOMMENDATION:

That Development Application DA19/0101 for four townhouses at Road 2070 First Avenue, Tweed Heads; Lot 1 DP 780214 No. 5 First Avenue, Tweed Heads be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by PMH Planning and dated June 2019 (Version 2) and the following plans prepared by Burleigh Design and dated 11 June 2019, except where varied by the conditions of this consent:

- **Site Plan Drg No 18-4594, Sheet 1 of 12, Issue F;**
- **Landscape Plan Drg No 18-4594, Sheet 2 of 12, Issue F;**
- **Unit 1 and 2 Floor Plans Drg No 18-4594, Sheet 3 of 12, Issue F;**
- **Unit 3 and 4 Floor Plans Drg No 18-4594, Sheet 4 of 12, Issue F;**
- **Elevations 1 Drg No 18-4594, Sheet 5 of 12, Issue F;**
- **Elevations 2 Drg No 18-4594, Sheet 6 of 12, Issue F;**
- **Elevations/Sections Drg No 18-4594, Sheet 7 of 12, Issue F;**
- **Upper roof plan Drg No 18-4594, Sheet 8 of 12, Issue F;**
- **Colour Elevations 1 Drg No 18-4594, Sheet 9 of 12, Issue F;**
- **Colour Elevations 2 Drg No 18-4594, Sheet 10 of 12, Issue F;**
- **Colour Elevations 3 Drg No 18-4594, Sheet 11 of 12, Issue F;**
- **3D Elevated terrain/Section Drg No 18-4594, Sheet 12 of 12, Issue F;**
- **Landscape Design Intent Plan Drg SD2 Rev C prepared by Ecrú Design Studio and dated 24 June 2019;**
- **Landscape Design Intent Fencing Plan Drg SD3 Rev C prepared by Ecrú Design Studio and dated 24 June 2019;**
- **Landscape Design Intent plant schedule Drg SD4 Rev C prepared by Ecrú Design Studio and dated 24 June 2019.**

[GEN0005]

2. The development shall be completed in accordance with the plans approved by Council, except where varied by conditions of this consent.

[GEN0015]

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

[GEN0115]

4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.

[GEN0135]

5. Sewer manholes are present on this site. Manholes are not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form

accompanied by the required attachments and the prescribed fee. 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.

[GEN0155]

6. 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]

7. All existing trees within the road reserve are to be retained and protected during construction. Where existing trees within the road reserve cannot be adequately retained and protected, approval from Council's General Manager or their delegate is required to remove street trees and they are to be replaced with a similar species in a 45L pot in accordance with Council's Development Design Specification D14.08.03C Tree Planting and Location (for distances away from infrastructure such as light poles and driveways) and Standard Drawing 'Tree and Shrub Planting Details' Dwg. No. SD701 (including the installation of root barrier) to the satisfaction of Council's General Manager or their delegate.

[GEN0355]

8. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2017.

[GEN0360]

9. The importation or exportation of waste (including fill or soil) to 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*".

[GENNS01]

10. All dwellings shall connect to the existing sewer junction for Lot 1 DP 780214.

11. Vegetation removal shall be limited to that prescribed in Figure 3.1 Tree Survey Plan and associated table of the *Arborist Report - Tree Assessment and Tree Management Plan 5 First Avenue Tweed Heads* prepared by Element Ecology dated December 2018. All other trees identified to retained in the Arborist Report shall be retained and protection during construction and for the life of the development in accordance with the recommendations of the Arborist Report unless otherwise approved by Council's General Manager or their delegate.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying

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

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

These charges include indexation provided for in the Section 7.11 Contribution 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 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

(a) Tweed Road Contribution Plan: 9.1 Trips @ \$972 per Trips (\$815 base rate + \$157 indexation) CP Plan No. 4 Sector1_4	\$8,845
(b) Open Space (Casual): 3 ET @ \$659 per ET (\$502 base rate + \$157 indexation) CP Plan No. 5	\$1,977
(c) Open Space (Structured): 3 ET @ \$754 per ET (\$575 base rate + \$179 indexation) CP Plan No. 5	\$2,262
(d) Shirewide Library Facilities: 3 ET @ \$985 per ET (\$792 base rate + \$193 indexation) CP Plan No. 11	\$2,955
(e) Bus Shelters: 3 ET @ \$75 per ET (\$60 base rate + \$15 indexation) CP Plan No. 12	\$225
(f) Eviron Cemetery: 3 ET @ \$140 per ET (\$101 base rate + \$39 indexation) CP Plan No. 13	\$420
(g) Community Facilities (Tweed Coast - North) 3 ET @ \$1624 per ET (\$1,305.60 base rate + \$318.40 indexation) CP Plan No. 15	\$4,872

- (h) **Extensions to Council Administration Offices
& Technical Support Facilities**
3 ET @ \$2195.88 per ET \$6,587.64
(\$1,759.90 base rate + \$435.98 indexation)
CP Plan No. 18
- (i) **Cycleways:**
3 ET @ \$555 per ET \$1,665
(\$447 base rate + \$108 indexation)
CP Plan No. 22
- (j) **Regional Open Space (Casual)**
3 ET @ \$1282 per ET \$3,846
(\$1,031 base rate + \$251 indexation)
CP Plan No. 26
- (k) **Regional Open Space (Structured):**
3 ET @ \$4500 per ET \$13,500
(\$3,619 base rate + \$881 indexation)
CP Plan No. 26

[PCC0215]

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

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

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: 1.68 ET @ \$13,926 = \$23,395.70

Sewer: 3.0 ET @ \$6,690 = \$20,070.00

14. In accordance with Section 4.68 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 (as applicable). Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

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

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

[PCC0485]

16. A Traffic Control Plan in accordance with AS1742 and the latest version of the NSW Government Roads and Maritime Services (RMS) publication "Traffic Control at Work Sites" shall be prepared by an RMS accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for Subdivision Works. Safe public access shall be provided at all times.

[PCC0865]

17. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include (but not limited to) engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

- (a) Construction of driveway access and car parking in the First Avenue road reserve as per engineering plans titled 'preliminary civil works plan' prepared by Westera Partners issue A sheet 3 of 7 dated 28 may 2019.
- (b) The vehicular access and car parking area in First Avenue is to be designed to accommodate heavy vehicle loadings such as garbage trucks.
- (c) A 400m high kerb is to be constructed along the eastern boundary of the proposed road upgrade in Council's road reserve for First Avenue. A galvanised steel double rail vehicle barrier is to be installed on top of the kerb.

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic Control Plan (as applicable)

Where Council is requested to issue a Construction Certificate for subdivision works associated with this consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one

single approval to be issued. Separate approval under Section 138 of the Roads Act 1993 will then NOT be required.

[PCC0895]

18. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

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

- (a) The Construction Certificate Application for Building Works shall include a detailed Stormwater Management Plan (SWMP) 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 Urban Design principles and where practical, integrated water cycle management.

[PCC1105]

20. 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. The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.
- b) Where Council is requested to issue a Construction Certificate for subdivision works associated with this consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

21. 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]

22. 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 no greater than predevelopment rates. 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.

[PCC1165]

23. 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 NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

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

[PCC1195]

25. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

[PCC1235]

26. Prior to the issue of a Construction Certificate, plans shall be updated to demonstrate that no trees which grow over one metre in height at maturity shall be located within one metre of the edge of the sewer pipe.

[PCCNS01]

27. Prior to the issue of a Construction Certificate amended fencing plans shall be submitted for the written approval of the General Manager or his delegate. The plans shall incorporate the following:

- (a) The boundary fence on Adelaide Street shall be a maximum height of 1.5m with a maximum solid fence height of 600mm. Above the solid wall the fence is to have a minimum openness ratio of 60%.
- (b) The stone clad wall at the entrance to the site from the First Avenue road reserve shall be no greater than 1m high, with the overall height of the solid wall and open gauge railing no greater than 1.5m high.

[PCCNS02]

28. A Dilapidation Report is to be prepared by a practicing structural engineer at the applicant's expense, detailing the structural condition of adjoining properties, including Council's property, and their ability to withstand the proposed excavation and site works associated with the development. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report is to be submitted to and approved by nominated PCA prior to the issue of a construction certificate. Such works shall take place in accordance with the recommendations of the approved report.

[PCCNS03]

29. Prior to the issue of a Construction Certificate, an application is to be submitted to Council's Local Traffic Committee for the proposed parking regulatory signage in First Avenue for the garbage truck turn around area.

[PCCNS04]

30. A detailed plan of landscaping prepared in general accordance with the *Landscape Design Concept Plan* prepared by ECRU design Studio dated 18 December 2018 containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species to the Tweed Shire is to be submitted and approved by Council's General Manager or their delegate prior to the issue of a Construction Certificate.

[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

32. An application is to be made to Council to temporarily "cap off" the existing building sewerage house drainage from Council's sewerage system, prior to any demolition work commencing. A Plumbing and Drainage Works on Private Land application form shall be submitted to Tweed Shire Council and payment of fees in accordance with Councils adopted fees and charges.

[PCW0045]

33. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and

- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

34. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

35. 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]

36. 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]

37. 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]

38. 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 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

39. 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]

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

[PCW1005]

- 41. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new (or modification of the existing) driveway access (or modification of access).**

Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

- 42. Prior to commencement of works on-site, tree protection fencing is to be installed and maintained to protect all retained trees in accordance with the recommendations made in Section 4.2.2 of the *Arborist Report - Tree Assessment and Tree Management Plan 5 First Avenue Tweed Heads* prepared by Element Ecology dated December 2018 to the satisfaction of the nominated project arborist.**

[PCWNS01]

DURING CONSTRUCTION

- 43. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.**

[DUR0005]

- 44. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.**

[DUR0015]

- 45. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Biodiversity and Conservation Division of the NSW Department of Planning, Industry and Environment. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.**

[DUR0025]

46. Commencement of work, including the switching on and operation of plant, machinery and 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]

47. 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]

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

[DUR0245]

49. The development shall be carried out in accordance with the provisions of the Road Traffic Noise Impact Assessment, CRG Acoustics 19 December 2018 (crgref:18121 report).

[DUR0275]

50. If window systems to be used are not openable or are required to remain closed in order to satisfy the requirements of the Road Traffic Noise Impact Assessment, CRG Acoustics 19 December 2018 (crgref:18121 report), then a system of mechanical ventilation complying with the relevant provisions of the Building Code of Australia shall be installed to service all habitable areas of the dwelling.

[DUR0295]

51. 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]

52. 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]

53. 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 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

54. 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 2017.

[DUR0415]

55. If the work involved in the erection or demolition of a building:

(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

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

[DUR0445]

57. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Work Health and Safety Regulation 2017.

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

[DUR0645]

58. 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]

59. 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.

[DUR0795]

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

[DUR0815]

61. Any cut or fill on the property is to be battered at a ratio not greater than 1:2 (v:h) within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

62. 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]

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

[DUR0985]

64. 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]

65. 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]

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

[DUR1795]

67. 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]
68. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act. [DUR1885]
69. Where existing kerb or footpath is to be removed for driveway laybacks, stormwater connections, kerb ramps or any other reason, the kerb or footpath must be sawcut on each side of the work to enable a neat and tidy joint to be constructed. [DUR1905]
70. During construction, a “satisfactory inspection report” is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection. [DUR1925]
71. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1945]
72. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation Certificate (including interim). [DUR1955]
73. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site. [DUR2185]
74. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate. [DUR2425]
75. 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]
76. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;

- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

77. 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]

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

[DUR2505]

79. 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]

80. 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]

81. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

82. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a bulk property service water connection for proposed Lot 1 DP 780214, from the existing water main in Adelaide Street. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

83. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2017.

[DUR2835]

84. Works in the vicinity of public infrastructure must comply with the following requirements:
- a) Surface treatment over the sewer pipe shall be limited to soft landscaping, noninterlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
 - b) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located at least 1.0 metres horizontally clear of sewer main.
 - c) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted to be planted within the sewer easement or within one metre of the sewer if no easement exists, to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping over the sewer shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.
 - d) Deep soil planting zones are not permitted within the sewer easement or within one metre of the sewer if no easement exists, to ensure adequate protection of council's public sewer infrastructure.

[DURNS01]

85. A suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the *Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers* (Hangar & Nottidge 2009). Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

86. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.
87. 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 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
88. 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.

[POC0005]

[POC0205]

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]

- 89. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).**

[POC0355]

- 90. 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]

- 91. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all works required under Section 138 of the Roads Act 1993.**

[POC0745]

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

[POC0755]

- 93. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the condition including the structural condition of the adjoining buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and advise if any damages have occurred that could be attributed to the work the subject of this development consent. If damages have occurred the PCA is to be provided with evidence that the damages have been satisfactorily repaired prior to the issue of an Occupation Certificate (including interim).**

A copy of the dilapidation report is to be provided to the Principle Certifying Authority.

[POC0825]

94. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates for the road works and stormwater infrastructure in First Avenue) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.
- [POC0865]
95. 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]
96. 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]
97. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.
- [POC1055]
98. Prior to the issue of an Occupation Certificate (including interim) a Geotechnical level 1 certification is to be provided for the earthworks associated with the development and roadworks in First Avenue.
- [POCNS01]
99. Prior to the issue of an Occupation Certificate (including interim) the car parking spaces located in First Avenue road reserve are to advise "No parking on garbage collection days".
- [POCNS02]
100. Prior to the issue of an Occupation Certificate, the nominated Project Arborist shall provide to Council's General Manager or delegate a certification report that includes the following information:
- a. Confirmation that all works have been undertaken in general accordance with Australian Standard *AS4970 - 2009 Protection of trees on development sites*, industry best standards, the approved *Arborist Report - Tree Assessment and Tree Management Plan 5 First Avenue Tweed Heads* prepared by Element Ecology dated December 2018 and details of any remedial actions recommended/undertaken by the Project Arborist to avoid/minimise disturbance of existing vegetation.
 - b. Brief assessment of the condition of tree retained, details of any deviations from approved essential tree protection management actions/measures, any on-going management measures for retained trees and if applicable, evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.
101. Prior to issue of occupation certificate landscaping works are to have been completed in accordance with the approved detailed plan of landscaping and an on-site inspection from Council's Project Officer - Biodiversity is to be undertaken to confirm satisfactory completion of approved landscape works.
- [POCNS03]

- 102. Prior to issue of an Occupation Certificate a validation report from a suitably qualified person shall be submitted to the Building Certifier which confirms compliance with Rw ratings and internal noise criteria identified in the *Road Traffic Noise Impact Assessment, CRG Acoustics 19 December 2018 (crgref:18121 report)*.**

[POCNS04]

USE

- 103. 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]

- 104. 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]

- 105. 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]

- 106. The buildings are to be used for single dwelling purposes only.**

[USE0505]

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

[USE0875]

REPORT:

Applicant: Bland 2 Property Trust

Owner: Bland 2 Pty Ltd

Location: Road 2070 First Avenue, Tweed Heads; Lot 1 DP 780214 No. 5 First Avenue, Tweed Heads

Zoning: R2 Low Density Residential

Cost: \$1,200,000

Background:

Application details

The application seeks approval for the construction of four townhouses and construction of an access road to service the development from Phillips Lane (to be constructed in the First Avenue Road reserve).

The development consists of four three storey units, two of which are detached and two of which are attached. Each unit accommodates four bedrooms with a double garage and one visitor space.

The applicant's Statement of Environmental Effects (SEE) submitted with the application provides the following development standard/control details:

Provision	Design Requirement	Proposed Development	Compliant
Building Height	9 metres 2 storeys in TCC DCP	9 metres 2 storeys with parking level	Yes No
Floor Space Ratio	0.8	0.683	Yes
Residential Density	1 dwelling per 250m ² within 300m of Mixed Use Zone	1 dwelling per 308m ²	Yes
Setbacks	6m to the frontages 1.5m sides; 5m to rear or DSZ	8m to Adelaide Street, 1.5 to southern side boundary, 1.5 metres to First Avenue frontage to north and east, 1.5m to Wharf Street (First Ave)	No Eastern and Northern Street frontages treated as side setbacks
Deep Soil Zones	Front: Width of site less driveway Rear: 8 metres depth, 30% width	Front: Width of 100% of site to Adelaide Street, depth of 8m (120m ²); 90m ² in centre of site; 130m ² to Wharf Street frontage (340m ² , or 27.8% of site area total provided as DSZ areas, with 45% of the site landscaped)	Yes No (Wharf Street frontage not compliant dimension)
Impervious area	60%	60.2%	No
Private Open Space	Balconies have a minimum depth of 2 metres and area of 10m ²	Unit 1: 70.99m ² Unit 2: 74.01m ² Unit 3: 29.65m ² Unit 4: 49.05m ²	Yes
Car Parking	1.5 spaces per 3 bedroom dwelling; 1 space per 10 dwellings (visitors in multi unit developments) 7.5 resident spaces and 1 visitors space	8 resident spaces (2 per dwelling) and 1 visitor space	Yes
Bicycles	1 spaces per dwelling and 1 visitor	1 spaces per dwelling and 1 visitor	Yes
Motorcycles	1 spaces per 25 car spaces	1 space will be provided	Yes

The proposal also involves the removal of:

- Approximately four sapling and juvenile Three-vein Laurel (*Cryptocarya triplinervis*);
- Multiple saplings and one semi mature (~4 m in height and 20cm diameter at breast height - dbh) Red Kamala (*Mallotus philippinensis*);
- Multiple sapling and one semi mature (~4 m in height and 10cm dbh) Macaranga (*Macaranga tanarius*);
- One semi-mature (~4 m in height and 15cm dbh) Guioa (*Guioa semiglauca*);
- A number of non-native tree species;
- Two large old and non-active Australian Brush-Turkey mounds; and
- One large camphor laurel stag.

The application also seeks the following variations to the Tweed Development Control Plan 2008 (DCP) Part A1 Part B:

- Minimum lot size of 1,233m² where the DCP requires a minimum lot size of 1,350m² in zone R2 (Low Density Residential) for town housing (multi-dwelling development);
- No ground level habitable rooms for units 3 and 4;
- Impervious area of 60.2% where a maximum of 60% is specified;
- Variations to the front, rear and side setback requirements;

- Retaining wall height and proximity to property boundaries in three locations for retaining cut and fill external to the building confines; and
- Variation to the fencing height and solid ratio.

Site details

The subject site is legally described as Lot 1 DP 780214 and is more commonly known as 5 First Avenue, Tweed Heads and the First Avenue road reserve.

5 First Avenue has an area of 1,233m² as per Council's records, and as submitted by the applicant. The site is zoned R2 Low Density residential and is currently occupied by a raised single storey dwelling located on the eastern boundary of the site.

The site is irregularly shaped with a frontage of 13.1m to Adelaide Street, a frontage of 4.4m and 31.9m to Wharf Street and a frontage of 50.6m to the First Avenue Road reserve. It is noted that the road reserve to the east (Wharf Street) ranges from approximately 16m to 27m and is steeply sloping.

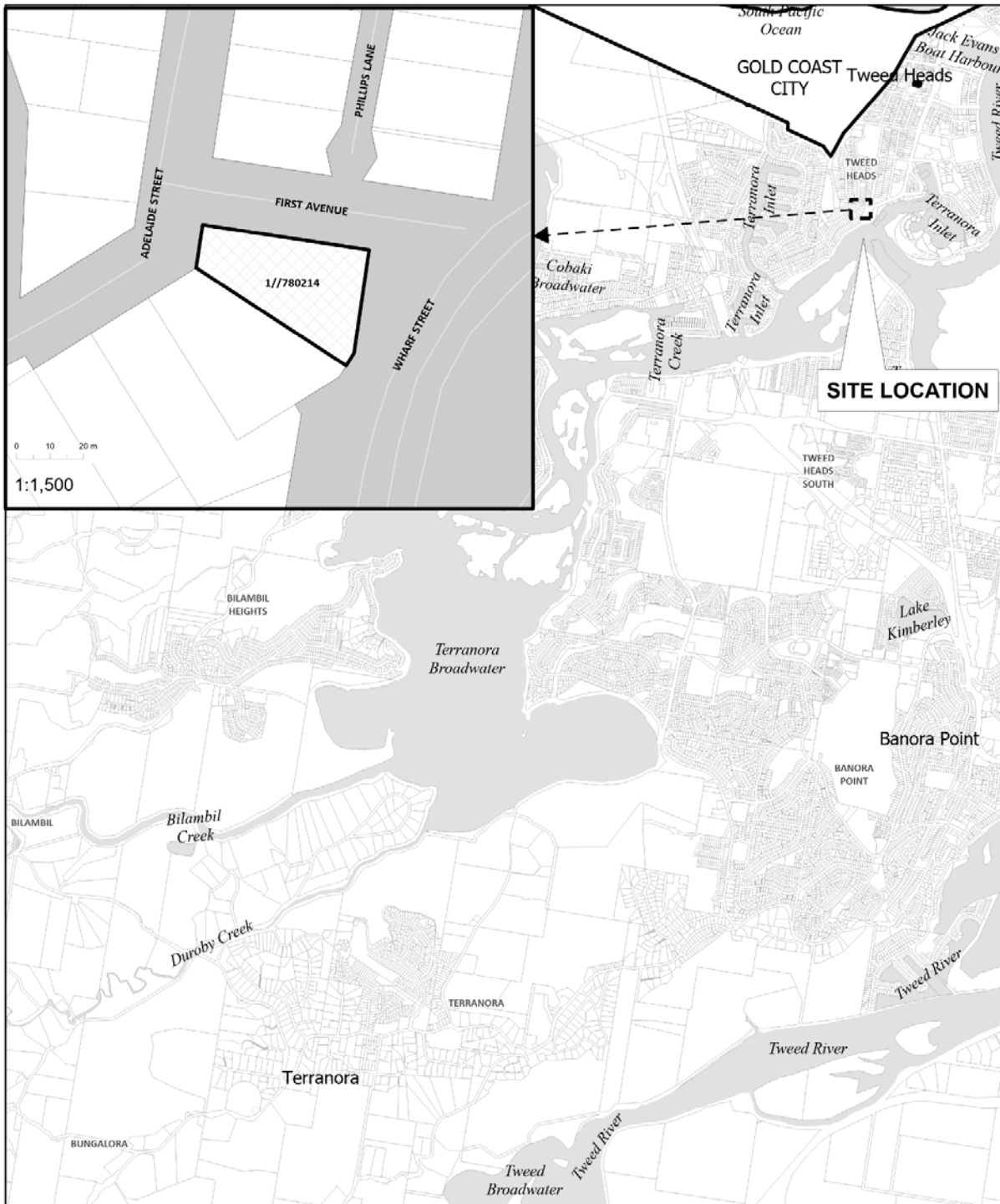
The site has a steep incline dropping from approximately RL 25.5m AHD on the western boundary (Adelaide Street frontage) to approximately RL 11.4m AHD on the eastern boundary (Wharf Street frontage). The site is currently accessed by an unsealed road from Phillips Lane, a cul-de-sac of approximately 245m servicing a mix of single dwellings and multi-dwelling developments.

To address the works in the road reserve, the applicant amended the application to include the First Avenue road reserve in the application site. The road reserve is steeply sloping and heavily vegetated. Though there are steps from Adelaide Street into the road reserve and a path from the road reserve onto Wharf Street, there is no formalised pedestrian access through the site. It is noted that the reserve is, however, used as a pedestrian access from Adelaide Street through to Wharf Street with a track identifiable through the site.

History of the application

There are no development consents on the site. The applicant attended a Development Advisory Panel (DAP) meeting with Council on 15 August 2018 to discuss a proposal for the construction of 5 x 3 bed townhouses on the site.

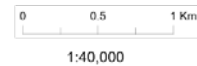
SITE DIAGRAM:



Site Plan

Lot 1 DP 780214

No. 5 First Avenue, TWEED HEADS



1:40,000



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Coordinate System - MGA Zone 56
Datum - GDA 94

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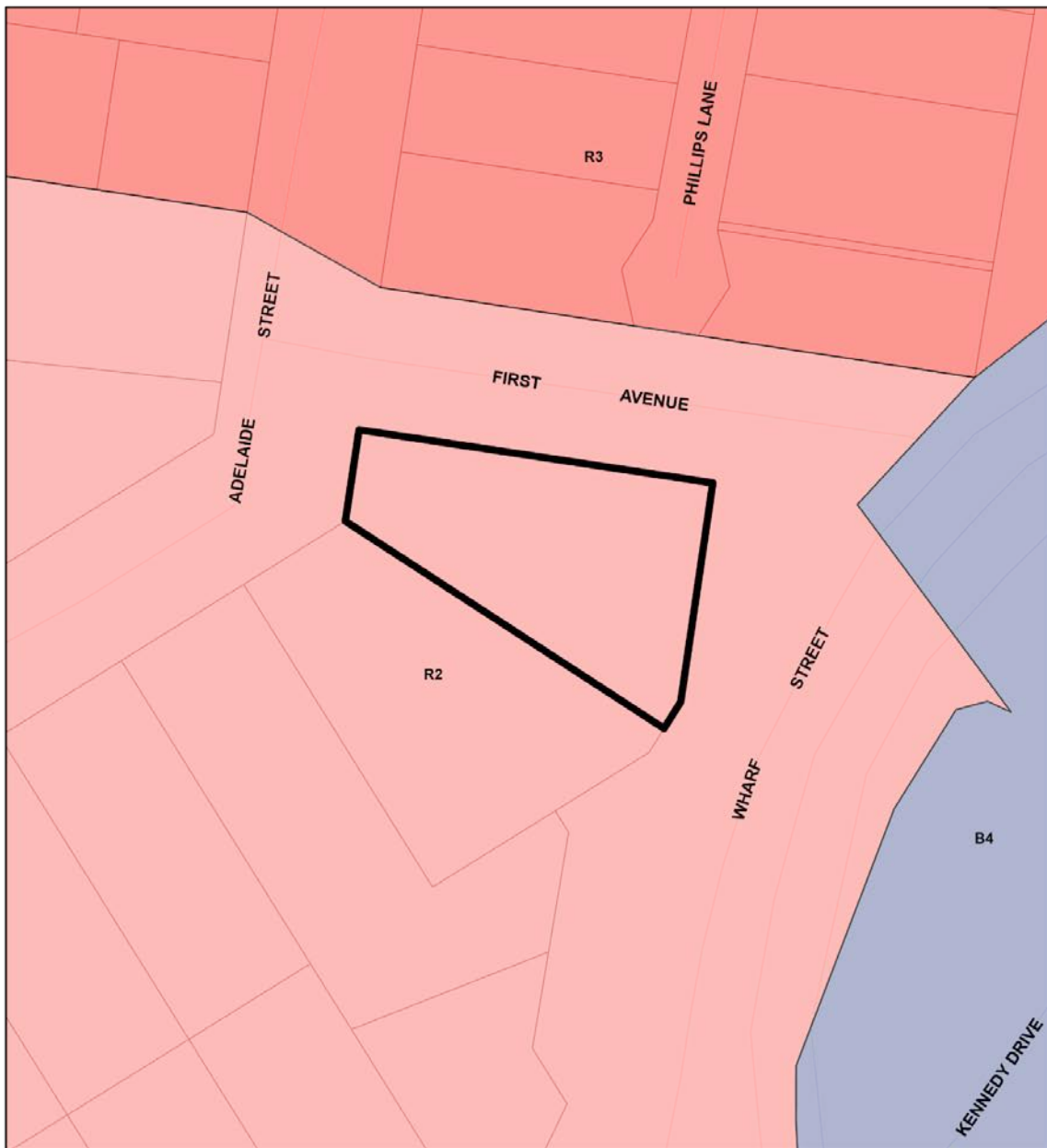
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Date Printed: 22 October, 2019

ZONING MAP:



Subject Land	Land Zoning (LZN 2012)
 Subject Land	 B4 Mixed Use
	 R2 Low Density Residential
	 R3 Medium Density Residential

1:750 @ A4 Portrait
 0 6.5 13 m
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 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidetic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56

Site Plan - Local Environmental Plan

Lot 1 DP 780214
 5 First Avenue, TWEED HEADS

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 Date Printed: 22 October, 2019

AERIAL PHOTOGRAPH:



1:750 @ A4 Portrait
0 7.5 15 m
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



Aerial Photography April 2018

5 First Avenue, TWEED HEADS

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Boundaries shown should be considered approximate only.

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Author: S.Scott - GIS Date Printed: 22 October, 2019

Ground Floor Area

UNIT 1	UNIT 2
Storage	4.58
Bedroom	11.50
Living Area	25.50
Ground Floor Total	41.58
Mid Floor	65.00
Mid Floor Deck	25.50
Upper Floor	42.75
Upper Floor Deck	15.88
Upper Floor Total	104.93
UNIT 1 Total	146.51
Storage	4.58
Bedroom	11.50
Living Area	25.50
Ground Floor Total	41.58
Mid Floor	65.00
Mid Floor Deck	25.50
Upper Floor	42.75
Upper Floor Deck	15.88
Upper Floor Total	104.93
UNIT 2 Total	146.51



UPPER FLOOR PLAN
UNIT 1



UPPER FLOOR PLAN
UNIT 2



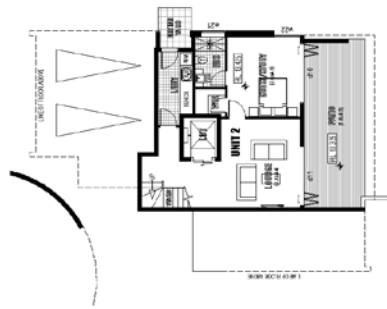
MID FLOOR PLAN
UNIT 1



MID FLOOR PLAN
UNIT 2



GROUND FLOOR PLAN
UNIT 1



GROUND FLOOR PLAN
UNIT 2

NOT FOR CONSTRUCTION

Burleigh DESIGN

PROJECT: UNIT 1 & 2
ADDRESS: 1/111-1111
PROPOSED: TEMPERATURES

BLAND 2 PROPERTY

31001 Bland
11000 Bland, QLD

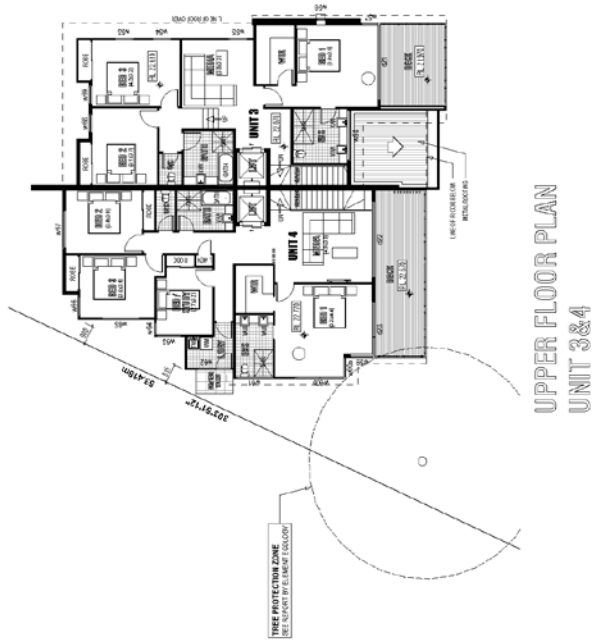
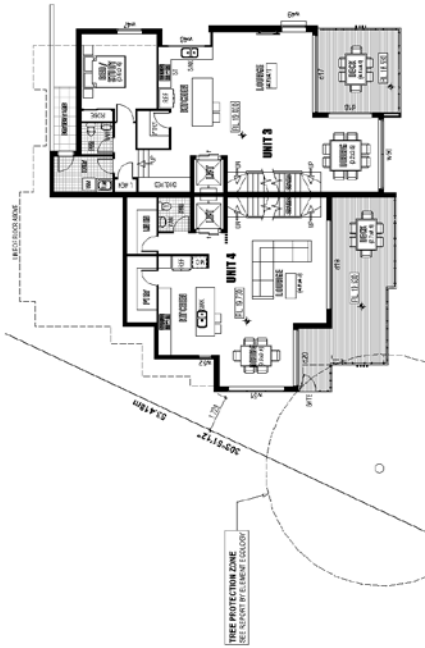
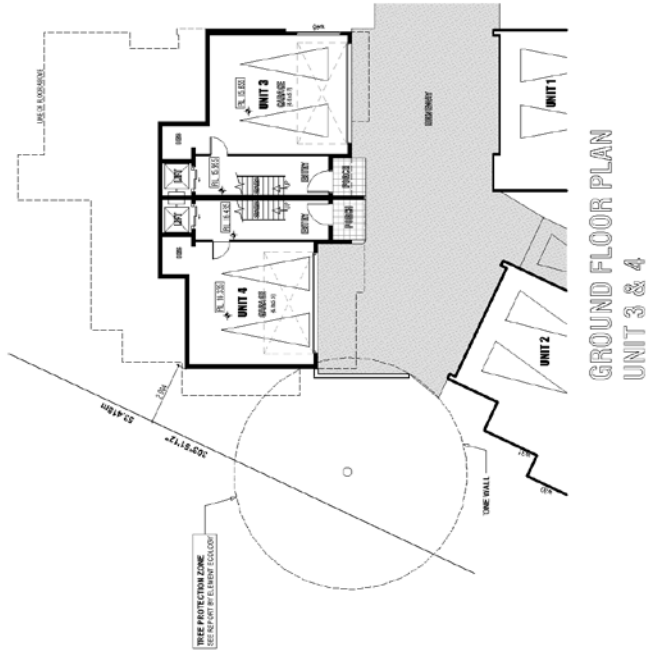
UNIT 1 & 2 FLOOR PLANS

DATE: 18-05-2019

SCALE: 1:100

PROJECT NO: 2019-01

DATE: 18-05-2019



NOT FOR CONSTRUCTION

Burleigh DESIGN
ARCHITECTS
10/11 BURLEIGH AVENUE
BURLEIGH, QLD 4219

DATE: 11/11/19
PROJECT: PROPOSED TOWNHOUSES
CLIENT: BLAND 2 PROPERTY
ADDRESS: 1/111 BURLEIGH AVENUE, BURLEIGH, QLD
SCALE: 1:100
DRAWN: J. BURLEIGH
CHECKED: J. BURLEIGH
DATE: 11/11/19
JOB NO: 190007D
DRAWING NO: 18-004

UNIT 3	UNIT 4
Garage	Garage
Ground Floor	Ground Floor
Mid Floor Deck	Mid Floor Deck
Perch	Perch
Upper Floor	Upper Floor
Upper Floor Deck	Upper Floor Deck
134.21 m ²	134.21 m ²
Garage	Garage
Ground Floor	Ground Floor
Mid Floor Deck	Mid Floor Deck
Perch	Perch
Upper Floor	Upper Floor
Upper Floor Deck	Upper Floor Deck
134.21 m ²	134.21 m ²

NOT FOR CONSTRUCTION

BIMLEY DESIGN

15 BUCKINGHAM AVENUE
MELBOURNE VIC 3122
PH: 03 9594 1111
WWW.BIMLEYDESIGN.COM.AU

PROJECT: **18/011**
DATE: **24/08/19**
SCALE: **1:100**

PROPOSED TOWNPLANS

BLIND 2 PROPERTY

CLIENT: **9 First Avenue, Trowee Heath, VIC 3122**

ADDRESS: **9 First Avenue, Trowee Heath, VIC 3122**

GROUND ELEVATIONS

02

24/08/2019

18/011

18/012



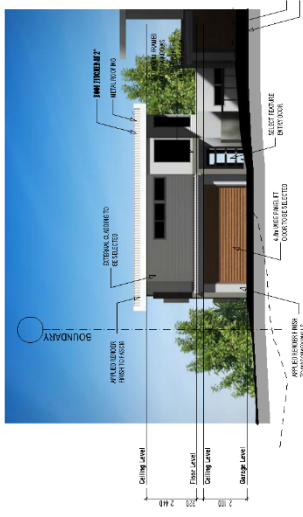
UNIT 2 - EAST ELEVATION



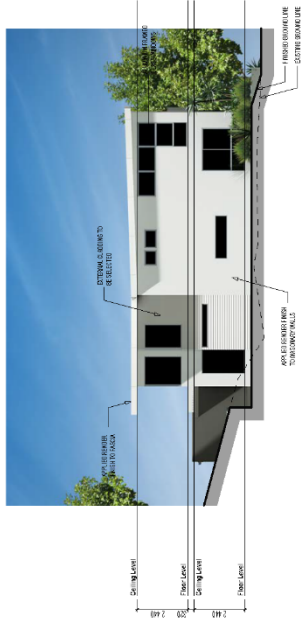
UNIT 2 - WEST ELEVATION



UNIT 3 & 4 - WEST ELEVATION



UNIT 1 - WEST ELEVATION



UNIT 2 - SOUTH ELEVATION



UNIT 2 - NORTH ELEVATION



UNIT 3 & 4 - EAST ELEVATION



UNIT 3 & 4 - SOUTH ELEVATION

FINISHES SCHEDULE

PAINT -	Resene Vista White
	Resene White Pointer
	Resene Double Ash
	Resene Triple Dune



MATERIALS -

- Windows - Clear Anodised
- Cladding - Hardies Primeline Weatherboard
- Stone - Random Stone Cladding
- Garage - Merbau Timber Look
- Balustrades - Frameless Glass
- Roof - Windspray Stramit Longspan

NOT FOR CONSTRUCTION

Barfield DESIGN
 1/111-11/111
 1/111-11/111
 1/111-11/111

PROJECT: []
 DRAWING NO: []
 DATE: []

PROPOSED WORKS: []
 CLIENT: []

BLAND PROPERTY []
 ADDRESS: []

5 First Avenue
 Blandford, TAS
 7140

GOLDIE ELEVATIONS
 22 Market Street, Hobart TAS 7000
 Tel: 03 6233 1111
 www.goldieelevations.com.au

T19A/19 ISSUED 7
 T19A/19 ISSUED 7
 T19A/19 ISSUED 7

18-05/19

Considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979:

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

Tweed City Centre Local Environmental Plan 2012

Clause 1.2 – Aims of the Plan

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;
- (b) to promote employment, residential, recreational, arts, social, cultural and tourism opportunities in Tweed City Centre;
- (c) to encourage the responsible sustainable management and conservation of Tweed City Centre's natural and environmentally sensitive areas, the built environment and cultural heritage;
- (d) to promote development that is consistent with the principles of ecologically sustainable development;
- (e) to promote the economic revitalisation of Tweed City Centre;
- (f) to strengthen Tweed City Centre as a multi-functional and innovative regional centre that encourages employment and economic growth;
- (g) to protect and enhance the vitality, identity and diversity of Tweed City Centre;
- (h) to facilitate building design excellence appropriate to a regional city in Tweed City Centre.

The proposal is generally consistent with the aims of the plan in that it provides for multi-dwelling housing at a city centre location.

Clause 2.3 – Zone objectives and Land use table

Multi Dwelling Housing means '3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.'

Note - Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary.'

The site is zoned R2 (Low Density Residential), in which multi-dwelling houses is permitted with consent.

The objectives of Zone R2 are as follows:

- *'To provide for the housing needs of the community within a low density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.'*

The proposal is for multi-dwelling housing in the form of four townhouses. Though the site is below the minimum area specified in the Tweed Development Control Plan 2008 (DCP) for multi-dwelling housing, the proposal complies with the Floor Space

Ratio (FSR) and maximum building height standards in the LEP and the minimum area per unit specified in the DCP.

Clause 4.1 - Minimum Subdivision lot size

The minimum lot size specified for the site is 450m². The application does not seek subdivision.

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.

The maximum building height identified for the site is 9m. The LEP defines building height (or height of building) as:

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The proposed building height is 9m. To demonstrate compliance, the applicant has submitted a 3D height plane plan which illustrates that the height plane is not breached.

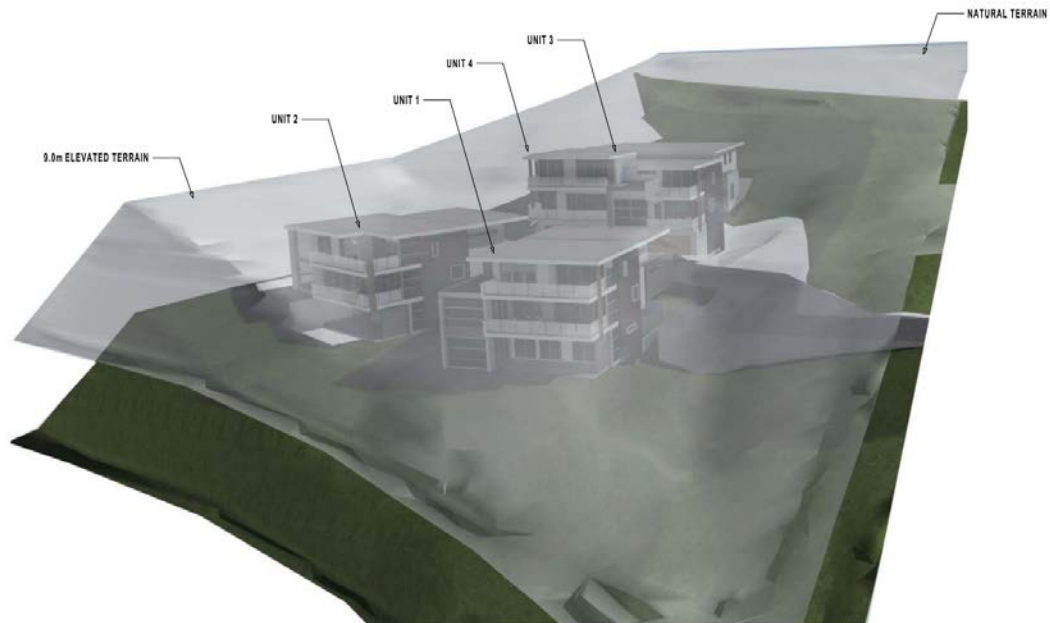


Figure 1: 3D plane of 9m height limit

Clause 4.4 – Floor Space Ratio

The floor space ratio (FSR) adopted for the site is 0.8:1. The applicant has advised that the Gross Floor Area (GFA) is 842.71 with an FSR of 0.683:1.

This is as per the GFA calculated from measurement of the floor plans. The applicant has included areas on the floor plans which exceed this, however this does not appear to be GFA and includes lift areas, duplication of stair areas and possibly includes the external walls.

Clause 6.1 – Acid Sulfate Soils

The site is identified as Acid Sulfate Soils (ASS) Class 5 where works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land requires consent.

The site is elevated and the geotechnical report submitted with the application indicates that cut and fill up to 2m depth will be required to create building platforms.

Two boreholes were drilled to 2.5m and 3.1m and groundwater was not encountered. Council's Environmental Health Section has advised that conditions can be applied to manage ASS.

North Coast Regional Plan 2036 (NCRP)

The North Coast Regional Plan 2036 is a 20-year blueprint for the future of the North Coast which sets out the NSW Government's vision for the North Coast as the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

To achieve this vision the Government has set four goals for the region:

- The most stunning environment in NSW;
- A thriving, interconnected economy;
- Vibrant and engaged communities; and
- Great housing choice and lifestyle options.

The directions and actions of the plan include the following:

Direction	Action
Deliver greater housing supply	<ul style="list-style-type: none"> • Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the region’s projected housing needs. • Facilitate housing and accommodation options for temporary residents by: <ul style="list-style-type: none"> ○ preparing planning guidelines for seasonal and itinerant workers accommodation to inform the location and design of future facilities; and ○ working with councils to consider opportunities to permit such facilities through local environmental plans. • Monitor the supply of residential land and housing through the North Coast Housing and Land Monitor.
Increase housing diversity and choice	<ul style="list-style-type: none"> • Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036. • Develop local growth management strategies to respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place.
Deliver well-planned rural residential housing areas	<ul style="list-style-type: none"> • Facilitate the delivery of well-planned rural residential housing areas by: <ul style="list-style-type: none"> ○ identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and ○ ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised). • Enable sustainable use of the region’s sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.

Direction	Action
Deliver more opportunities for affordable housing	<ul style="list-style-type: none"> • Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing. • Prepare guidelines for local housing strategies that will provide guidance on planning for local affordable housing needs.

The development of the site for multi-dwelling housing, which is a permissible use on the site, would be consistent with the directions of the plan.

State Environmental Planning Policies

SEPP No. 55 - Remediation of Land

The aim of SEPP No. 55 is to provide a State wide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose.

The site is currently in residential use. Council's Environmental Health Section has reviewed the application and advised that no potential issues have been identified.

Standard conditions in relation to asbestos are to be applied to any consent issued.

SEPP (Coastal Management)

The subject site is mapped as being within the Coastal Environment Area and the Coastal Use Area.

The objectives of each clause are as follows:

13 *Development on land within the coastal environment area*

(1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;*
- (b) *coastal environmental values and natural coastal processes;*
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of*

- the proposed development on any of the sensitive coastal lakes identified in Schedule 1;*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability;*
 - (f) Aboriginal cultural heritage, practices and places;*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1); or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact; or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability;*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores;*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands;*
 - (iv) Aboriginal cultural heritage, practices and places;*
 - (v) cultural and built environment heritage; and*
 - (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a); or*
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact; or*
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact; and*

(c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

(2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The subject site is located approximately 106m from the Tweed River, separately from same by Wharf Street/Kennedy Drive interchange and the Ivory Tavern development.

The site is sufficiently removed from the foreshore to avoid any potential impacts with regard to overshadowing, environmental values, coastal hazard, etc. There are currently no water views available from Adelaide Street across the site, due to the existing tree cover. However the development of the site would not impact on any potential views, due to the sloping topography and the units presenting as single storey to Adelaide Street.

The proposal is considered to be consistent with the objectives of each clause.

SEPP (Building Sustainability Index: BASIX) 2004

The proponent has provided an acceptable BASIX certificate and any approval will be conditioned for compliance.

SEPP (Infrastructure) 2007

Clause 102 of SEPP (Infrastructure) relates to the Impact of road noise or vibration on non-road development:

(1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*

- (a) *residential accommodation,*
- (b) *a place of public worship,*
- (c) *a hospital,*
- (d) *an educational establishment or centre-based child care facility.*

(2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*

(3) *If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (4) *In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993.*

The application has been accompanied by a Road Traffic Noise Impact Assessment prepared by CRG Acoustics dated 19 December 2018 (crgref:18121 report).

Council's Environmental Health Section reviewed the report and advises that internal noise criteria have been adopted in accordance with the Infrastructure SEPP. Table 3 of the report provides building shell acoustic performance ratings (Rw) and indicative materials to achieve the Rw values. It is recommended that conditions be imposed requiring confirmation prior to use:

“Prior to issue of an occupation certificate a validation report from a suitably qualified person shall be submitted to the Building Certifier which confirms compliance with Rw ratings and internal noise criteria identified in the Road Traffic Noise Impact Assessment, CRG Acoustics 19 December 2018 (crgref:18121 report).”

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

There is no draft LEP, REP or SEPP relevant.

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

Tweed Development Control Plan 2008

Section A1- Residential and Tourist Development Code

Building Types – Town houses (villas)

The site is zoned R2 which is the equivalent to Zone 2(a) (as the Low Density Residential zone is referred to in the DCP).

Control b, in Chapter 1 of this part specifies that:

In 2(a) zone lot size minimum of 1350m²:

- i. With dwellings at a density of no greater than 1 dwelling per 450m² with a development lot area of 220m² each.*
- ii. If the site is within 300m of a business zone then a density of 1 dwelling per 250m² with a development lot area of 220m² each.*

As the area of the site is 1,233m², 117m² below the minimum lot size specified for multi-dwelling housing in Zone R2, the applicant is seeking a variation to the minimum lot size.

As shown in the Zoning Map earlier in this report, the site is located approximately 70m from lands zoned B4 (Ivory Tavern development).

The applicant seeks to justify the variation by stating that the lot size shortfall is 117m² and that this is a minor variation as the proposed development easily meets the density requirements with a density of one dwelling per 308m² and a development lot area of over 220m².

The minimum lot size for multi-dwelling housing in Zone R2 as specified above reflects the density specified for lots in excess of 300m from a business zone. Given that the proposal complies with the density of development specified for lands within 300m of a business zone, the site is located immediately opposite land zoned B4 and that the FSR and building height development standards as set out in the LEP are complied with, the variation to the minimum lot size is supported.

The applicant also seeks a variation to the control requiring one habitable room at ground level with an adjacent external living area.

Units 3 and 4 have car parking only at ground level with a stair access and lift to the upper floors. The applicant submits that the topography of the upper portion of the site prohibits compliance. It is acknowledged that the topography of the site is a factor and that car parking must be accommodated on the lower level, and that additional space cannot be provided that this level without significant excavation. Further, generous sized balconies are provided on the mid and upper floors.

As such a variation to this control is supported.

Site and Building Design Controls – Public Domain Amenity

The applicant has treated the First Avenue frontage as a side boundary, which is reasonable, given that the development will be more visible from the Wharf Street and Adelaide Street frontages. Deep soil zones are provided to the Wharf Street and Adelaide Street frontages, though any consent issued will require that proposed trees be removed from the easements on the site – which includes part of the Wharf Street frontage.

The application proposes a 1.8m high timber fence on the southern (side), northern (side) and eastern (Wharf Street) boundaries. A 1m high solid wall is proposed to the Adelaide Street frontage with a 500mm high open gauge fence over.



Figure 2: Proposed Adelaide Street fencing

As set out later, it is recommended that the height of the solid wall at this location be reduced to 600mm.

At the entrance to the site (from First Avenue Road reserve), the applicant proposes a 1.2m high stone clad block wall with a 600mm open gauge fence over with a 2m high open gauge electronic fence. This is considered out of character with the area and any consent issued should require amended plans for the entrance fencing - reduced to a total height of 1.5m for the fence (maximum solid wall height of 600mm).

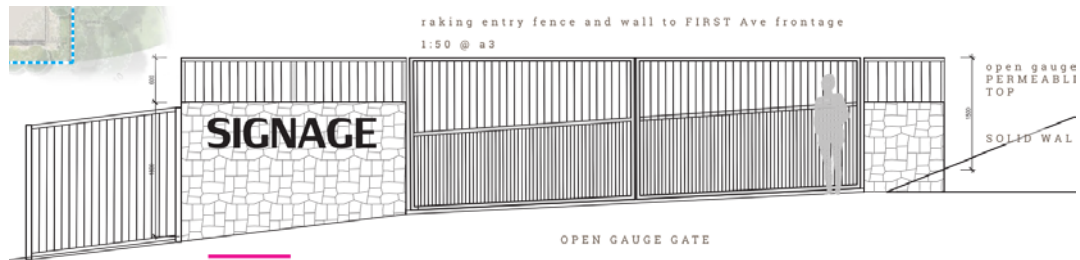


Figure 3: Proposed Phillip Lane frontage fencing

Public views and vistas

The applicant was advised in the DAP meeting that a view corridor analysis should be undertaken to determine the level of impact (if any) associated with loss of views to surrounding residences (particularly from the adjacent property to the south) as a result of the proposed development. The applicant chose not to submit these as part of the original application.

The site is elevated and the proposed development is likely to be highly visible to southbound and northbound traffic on Wharf Street and from the Tweed River.

Given the controls set out later in this part, that town houses should be restricted to two storeys only, the applicant was requested to submit a photomontage of the site from a number of views: Wharf Street approaches and views from water. The photomontages under were submitted as Further information.



OUTLOOK FROM WHARF STREET IVORY TAVERN PARKING LOT

Figure 4: Photomontage of proposal when viewed from Wharf Street



OUTLOOK FROM NO 68 ADELAIDE STREET BALCONY

Figure 5: Photomontage of proposal when viewed from 68 Adelaide Street

Having regard to the topography of the site, which provides for a vegetated backdrop to the site, the impacts from Wharf Street are considered to be acceptable, notwithstanding the three storey nature of the development. The impacts on water views from 68 Adelaide Street is also considered to be acceptable, with views to the water over the roofline preserved.

Deep soil zones

The applicant has nominated Adelaide Street as the front and Wharf Street as the rear.

The front (Adelaide Street) Deep soil zone (DSZ) is compliant. The controls above require a DSZ area of approximately 86sqm to Adelaide Street (based on 6m setback) where approximately 120m² is provided.

With the average width of the site approximately 25m, the minimum width of the rear DSZ specified is 8m and 5.5m long (equating to 44m²). The applicant submits that a DSZ of 115m² is provided and as such the development is compliant. However it is noted by Council's Water and Wastewater Unit that while the site plans has excluded a sewer easement from the DSZ area, the landscaping plan has indicated tree planting in the easement. This is to be managed by condition on any consent issued – no trees which reach a height of 1m at maturity permitted in the easement.

An additional DSZ area is provided on the southern side boundary.

Impermeable site area

It is noted that the application as originally submitted has been amended to incorporate the First Avenue Road reserve into the application area to allow for the provision of access and stormwater infrastructure in this area. The area of this reserve is not considered in the calculation of the impervious areas as it would unreasonably misrepresent the impervious surface area within the development site.

The applicant has advised that the impervious area within the development site is 60.2% and seeks a variation having regard to the minor extent of the breach. A variation of 0.2% represents 2.5m².

The objectives of this control is to promote residential development that is sympathetic with the existing topography, water cycle and amenity of the site and neighbourhood, and to retain the lands ability to infiltrate stormwater.

The applicant has submitted a stormwater management plan which has been reviewed by Council's stormwater engineer who has deemed it to be acceptable. The proposal includes rainwater tanks and makes provision for on-site detention.

Having regard to the limited extent of the variation and the area of DSZ provided, the requested variation is considered acceptable.

Communal open space

While there is no requirement for communal open space, the proposal includes an area of communal open space to the south of the development which incorporates an existing tree to be retained on the site.

Landscaping

The proposal generally complies with the landscaping controls. Though a number of trees require removal, the application has been reviewed by Council’s Sustainability and Environment Unit who have raised no objection to the proposal subject to the imposition of appropriate conditions. One mature tree on the southern boundary is to be retained. Due to the sloping nature of the site, a footpath is not proposed along one side of the units. However this is acceptable having regard to the site topography.

Topography, cut and fill

The site is sloping and to adapt to this the applicant has proposed three storey structures which will present as three storeys to Wharf Street, single storey to Adelaide Street and split level from the First Avenue access.

Cut and fill in excess of 1m is permitted within the confines of the building and to construct the driveway, with the applicant proposing excavation of up to 3.6m within the building footprint. Cut of up to 2.8m is proposed outside of the building footprint to retain a tree on the southern boundary.

Three retaining walls will breach the maximum 1.2m height restriction:

- The retaining wall surrounding the tree adjacent to Unit 2 extends to 2.8m;
- The wall enclosing the patio/landscape area to Unit 2 extends to 1.9m; and
- The retaining wall adjacent to Unit 1 which retains the bin collection area extends to 2.7m.

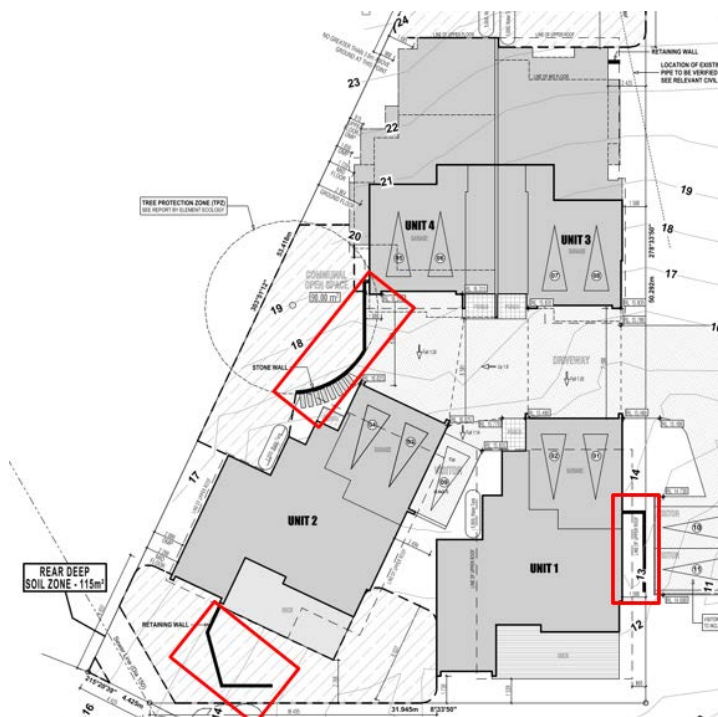


Figure 6: Location of retaining walls in excess of 1.2m

The controls in this part specify that 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 proposal requires a variation to this control with regard to two of the retaining walls referred to above and the batters associated with the driveway and drainage swale.

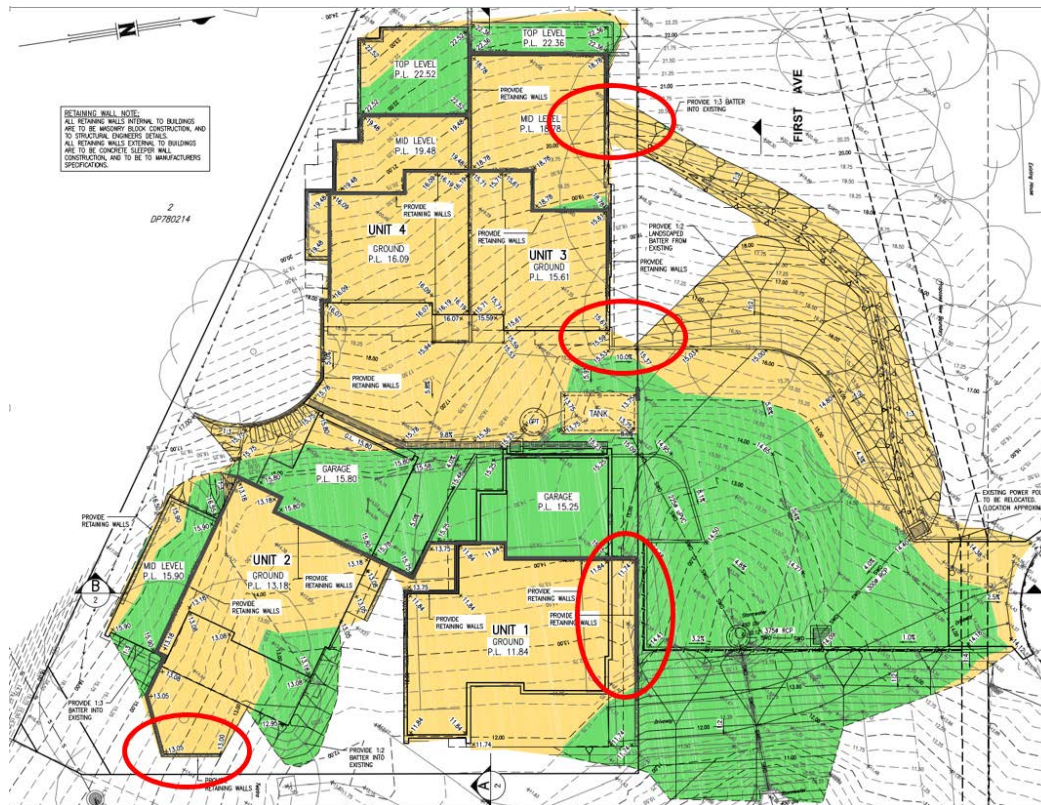


Figure 7: Location of retaining walls/batters less than specified distance from boundary.

There is also extensive cut and fill batters in the First Avenue road reserve. As part of the Request for Further Information, the applicant was requested to amend the application to include the works in the road reserve as part of this application and to provide further details of the works in the road reserve. The applicant has complied with this request.

Council's subdivision engineer has reviewed the application and advised as follows:

- Cut and fill earthworks is proposed up to approximately 4m;
- The cut and fill volumes are less than 1000m³;
- The longitudinal earthworks sections show no retaining walls are proposed to support the driveway and parking area construction in First Avenue. Batters are used to support the driveway area designed with an approximate gradient of 4 to 5%;
- Sediment and erosion control will be required throughout the earthworks due to the steep site;

- The applicant has addressed a request for further information in relation to proposed cut and fill by providing engineering earthworks drawings and longitudinal sections through the fill material;
- Standard conditions in relation to sediment & erosion control, retaining wall certification and geotechnical certification has been included in the recommended conditions.

As such the proposed cut and fill is considered to be acceptable.

Front Setbacks

The controls specify that where a site has dwellings with frontages to two or more streets, the street setbacks for these frontages are to be considered as front setbacks and there be 6m. In established areas and on infill sites town housing is to be consistent with the setback distance of neighbouring buildings and are to be the average of the setbacks of neighbouring dwellings on either side. This setback can be varied up to plus or minus 1m.

Units 3 and 4 are set back 7.4m and 8m from the Adelaide Street frontage which complies with the above.

Unit 2 is 8m from the Wharf Street frontage, though Unit 1 is only 1.739m from this boundary. Therefore a variation is required in this regard (Unit 1). It is noted that due to the orientation of the site that the applicant has considered this section to be the side boundary (First Avenue road reserve frontage) and has indicated compliance with the setback controls.

It is acknowledged that the site is somewhat unusual in that there is a substantial sloping road reserve between the Wharf Street boundary and the road edge (15m – 27m), such that the separation distance from the road carriageway to the boundary is significant. It is further noted that the existing dwelling on the site is set back approximately 300mm from the boundary. It is also noted that a recent town house development at 70 Adelaide Street is set back approximately 3m from the Wharf Street boundary (Refer to aerial photograph earlier in this report).

Having regard to the orientation and shape of the site, it is recognised that providing a 6m setback to both Adelaide Street and Wharf Street, would substantially limit the development potential of the site. As such the reduced setback at this location (1.74m) is considered to be consistent with the existing building setbacks and a variation is supported.

The controls in relation to secondary street setbacks require a setback of 3m. However as noted that the applicant, the First Avenue road reserve is not formed, and given the topography and height difference between Adelaide Street and Wharf Street is not likely to be ever developed as a road. As such, it is not unreasonable to treat this as a side elevation which as setback requirement of 1.5m.

Side setbacks

The ground floor of unit 4 is setback 2.96m from the southern boundary, the mid-floor level is 1.729m from the southern boundary and the upper floor plan encroaching into the 1.5m setback area with bedroom 3 located 900mm from the boundary and the laundry 915mm from the boundary.

The topography of the site is such that the development is spilt level, and as such the upper floor bedroom in question (bedroom 3) and the laundry presents as single storey and as such is technically compliant.

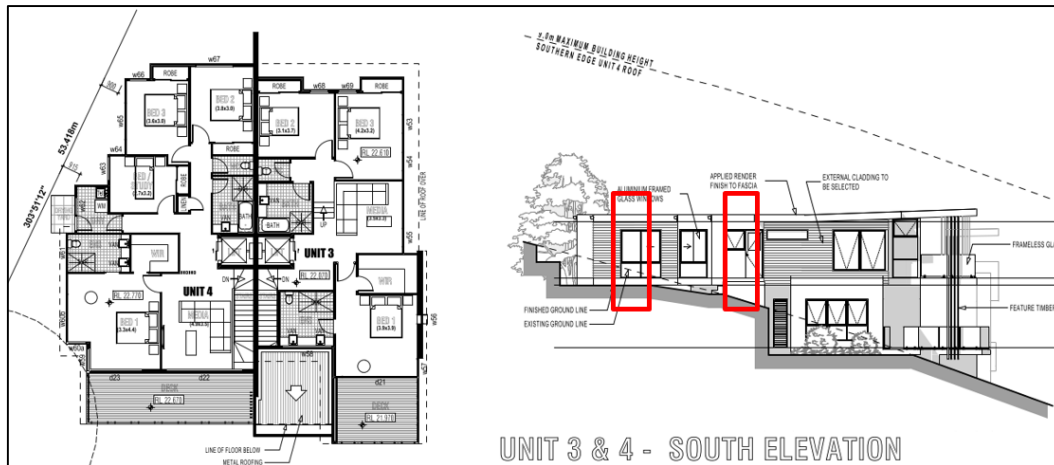


Figure 8: Setback of Unit 4 from southern boundary - upper floor

The mid-floor of Unit 4 contains a dining room window that is orientated to the southern boundary and within 1.8m of same.

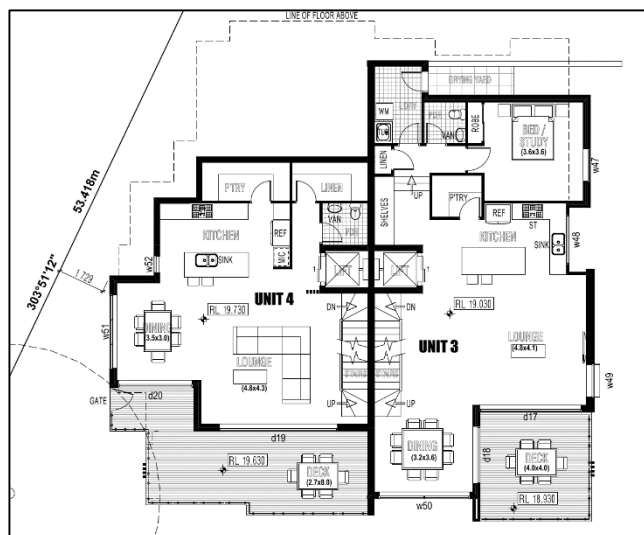


Figure 9: Setback of Unit 4 from southern boundary - midfloor

However as noted by the applicant this is not the primary window, with primary windows facing east to capture water views. Further the window is below existing ground level and will be screened by a 1.8m high boundary fence.

Rear setbacks

Given the orientation of the site, there is no defined rear boundary with both the western and eastern boundaries having street frontage, though the applicant has identified the Wharf Street setback as the rear setback. The setback from Wharf Street is addressed earlier.

Building separation

The south facing window to the living area in Unit 3 is located less than 4m from the side boundary however as above this is not considered to be the primary window to this space.

The primary windows to the living areas and bedrooms in Units 3 and 4 are also less than 4m and 3m respectively from the shared driveway, however they are on the mid floor and upper floor and above driveway level.

Natural ventilation

The proposal generally complies with the controls for natural ventilation, though a number of bathrooms and laundries are windowless (contrary to the controls). This is a result of the rooms being internal or reliant on retaining walls.

External Building elements – Fences and walls: front, side and rear

As set out earlier, a 1m high solid wall is proposed to the Adelaide Street frontage with a 500mm high open gauge fence over. This frontage is identified as the front setback. While it is acknowledged that the site slopes down from Adelaide Street and that this boundary wall screens the rear of the properties, a 1m high solid wall at this location is not supported. A condition can be included on any consent requiring that the solid section of the wall be reduced to 600mm.

The application proposes a 1.8m high timber fence on the eastern (Wharf Street) boundary. Though this is also a front setback, the boundary is set back from the road edge by a 15m plus road reserve which is landscaped and the boundary treatment will not be readily visible from Wharf Street.

The application proposes a 1.8m high timber fence on the northern (First Avenue) boundary, though a stone wall entry feature is proposed at the access from First Avenue/Philip Lane. At the entrance to the site (from First Avenue Road reserve), the applicant proposes a 1.2m- 1.8m high stone clad block wall with a 600mm open gauge fence over with a 2m high open gauge electronic fence. This is considered out of character with the area and any consent issued should require amended plans for the entrance fencing - reduced to a total height of 1.5m for the fence (maximum solid wall height of 600mm).

Section A2 – Site Access and Parking Code

Refer to the assessment against Section B2 set out later in this report.

Section A15 – Waste Minimisation and Management

The Council's DCP Section A15 aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development. It is not proposed to undertake any works as part of this development applications

As such, the proposal is considered to be acceptable having regard to waste management and the provisions of this Section of the DCP.

Section B2 – Tweed City Centre DCP

The subject site is located in the area governed by the Tweed City Centre DCP B2, being specifically located in the Ridgeline and Razorback Precinct.

The plan states that Section A of the Tweed Shire Development Control Plan continues to apply to development in the Tweed City Centre, however, in the event of an inconsistency between this section and another section of the Tweed Shire Development Control Plan, this section shall prevail. However it is noted that in the DAP meeting, the applicant was advised that the residential controls in Section A1 would apply to the development.

'Ridgeline and Razorback Precinct

The Ridgeline and Razorback Precinct is located on the western edge of the city centre, generally west of Recreation Street. Development in the precinct is predominantly single detached dwellings stepping up the escarpment to take advantage of easterly views.

The development controls anticipate minimal changes to the precinct with a two storey height limit for the majority of the precinct and some medium density buildings on the flatter areas east of Adelaide Street.'

The proposal is for three storey units contrary to the vision stated above. In response to an objection, which also raised the issue of building height the applicant provided the following response:

"One submission has raised objection to the proposed building height. The proposal is a maximum of 9 metres. Whilst the DCP does include a maximum of 2 storeys, the LEP includes a maximum of 9 metres. Council in principle support was provided in pre-lodgement meeting comments. Notwithstanding the portion of the development over 2 storeys relates only to the lower southern side of dwellings. The top level of dwellings present as 2 storeys internally to the site and as a single storey to Adelaide Street. To 68 Adelaide Street, Units 1 and 2.

View corridors are impacted to a level consistent with a large dwelling on the site as in real terms, this impacts to the adjoining site by 2 and 2.5 storeys. At Council request in any Information Request, the Applicant can provide any survey or view corridor review in specific directions. The impacts area clearly reasonable and mitigated through compliant building height in this instance."

Refer to Figures 4 and 5 earlier in this report for photomontages of the development.

The subject site is steep and to minimise excavation, the proposal is of split slab construction. The proposal will present to Adelaide Street as single storey, but as three storey to Wharf Street. However the proposal complies with the 9m height standard in the LEP and it is not considered that the proposal will be visually obtrusive at this urban location.

Building Form – Building alignment and setbacks controls

The site has an identified predominant building line setback of 6m from Adelaide Street and Wharf Street. However as above the applicant was advised in the DAP meeting that the A1 controls would apply.

The balconies are generally integrated into the buildings but for Units 1 and 2, there is a projection of approximately 600mm beyond the building line. As discussed above a variation to the building setback is supported due to the buffer to Wharf Street that is created by the First Avenue Road reserve.

Building Design and materials controls

The dwelling designs are contemporary with a mix of materials, presenting articulated facades to Wharf Street and Adelaide Street.

Landscape Design Controls

The applicant has submitted a landscape plan. Council's Sustainability and Environment Unit have reviewed the application and raised no concerns to the proposed tree removal.

Pedestrian Amenity

The applicant seeks to construct a driveway through the First Avenue road reserve to connect into Phillips Lane. As an unformed road reserve there is a pedestrian right of way through the road reserve from Adelaide Street to Wharf Street though this is not formed, or specifically identified in the DCP as a pedestrian access to be created.

The applicant is proposing cut and fill in the road reserve to create a swale drain to discharge stormwater from the western portion of the site into a stormwater inlet adjacent to the new driveway. The new driveway will also be bordered by embankments.

As part of the Request for Further Information, the applicant was requested to demonstrate that continued pedestrian access through the reserve would be facilitated and that this should include any potential obstacles and/or safety (fall) hazards which may be created as a result of the proposed works. The applicant has responded as follows (in summary):

- No safe and/or suitable pedestrian access is provided from Wharf Street to Adelaide Street;

- No retaining walls are located in the First Avenue frontage;
- The batter gradients in the reserve have been reduced to 1 in 4 and a return has been provided to the proposed safety rails; and
- Informal flow of pedestrians will not be impeded.

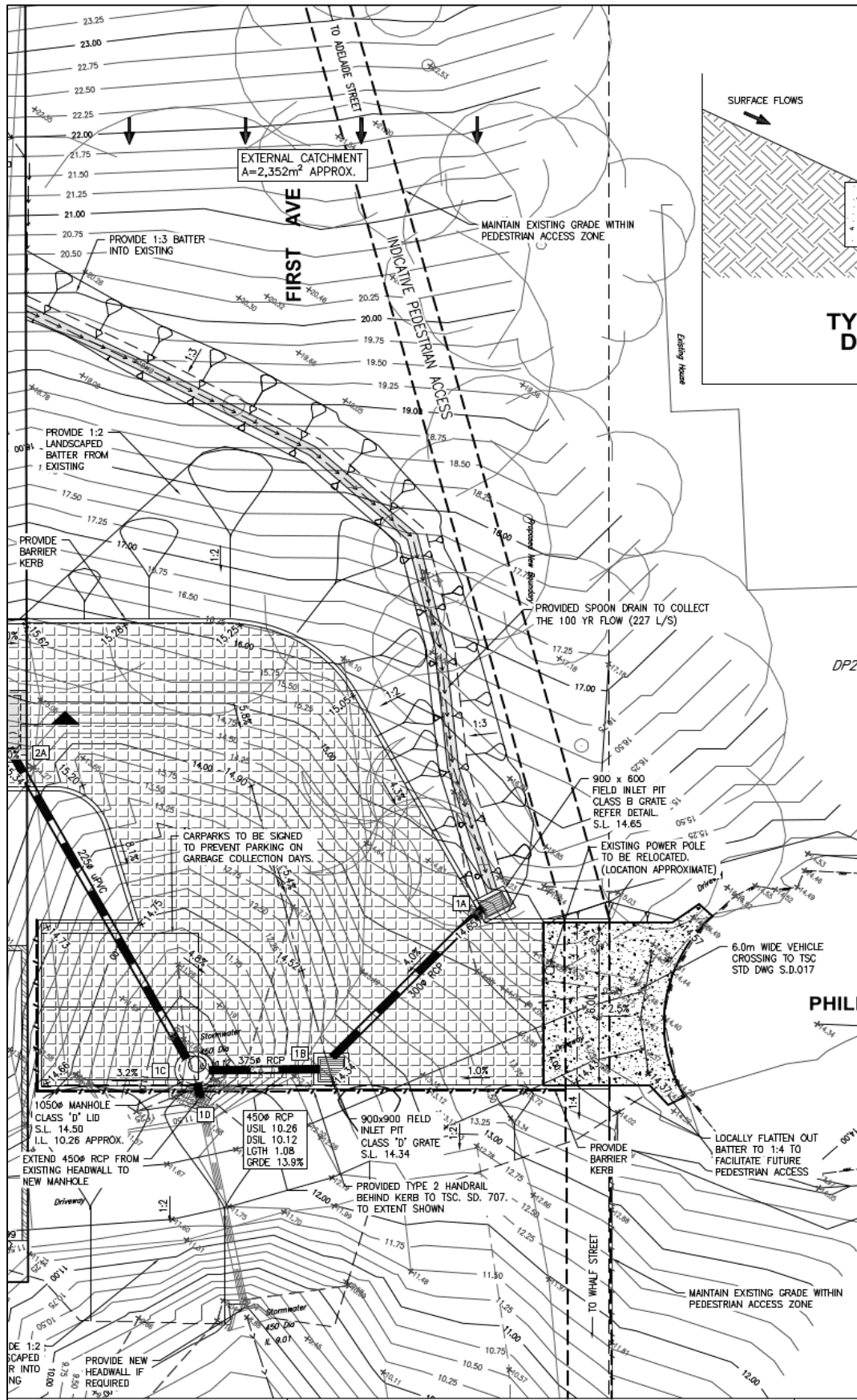


Figure 10: Identification of informal access through First Avenue Road Reserve.

The applicant has demonstrated that informal access through the site will be unimpeded and will be no more hazardous than what currently exists.

Front fences and boundary treatments controls

The fencing controls in Section A1 have been adopted here.

Vehicular driveway and manoeuvring areas controls

Access is proposed from Phillips Lane. Though one objector has suggested that access should be from Adelaide Street this is not feasible due to the topography of the site. The applicant has sized the driveway access to make provision for a turning area for the refuse collection vehicle with provision of two visitor spaces (to be accessible outside of refuse collection times).

The applicant was requested to submit a Traffic Impact Assessment (TIA) assessing the suitability of Phillips Lane to cater for the development and also considers additional parking facilities on site or on First Avenue beyond that required under Section B2 or A2. Council's Traffic Engineer advised that TIA and its conclusions are accepted.

The proposal has been reviewed by the Traffic Engineer and the Subdivision Engineer, who have raised no objection to the proposal subject to the imposition of appropriate conditions.

On site Parking Controls

In accordance with car parking table in this part (Table 5.1), the development requires 1.5 spaces per dwelling and 1 visitor space. The applicant initially proposed 2 spaces (double garage) per dwelling and one shared visitor spaces. However two additional visitors spaces which later included to address the lack of on-street car parking available to the site (no street frontage to Phillip Street).

Bicycle parking for 2 bicycles is to be provided in each garage.

Site facilities and services controls

The applicant has not identified the mailboxes, but these can be incorporated into the entry feature wall. The location of communication structures or air conditioners has not been identified but this is unlikely to be an issue at this location.

Waste (garbage) storage and collection

Bin storage is to be accommodated in the garages with bin collection from the First Avenue driveway. As above the applicant has sized the driveway to facilitate a turning area for the refuse collection truck.

Council's Traffic Engineer has advised that the turnaround area provided is suitable for the garbage truck, with a condition recommended to be included in any consent issued requiring that an application be submitted to Council's Local Traffic Committee for the proposed parking regulatory signage in First Avenue for this turn around area.

Utility Services

The application has been reviewed by Council's Stormwater Engineer and the Water and Wastewater Unit who have raised no objections subject to the imposition of appropriate conditions.

Housing Choice and mix controls

All four units are four bedrooms, though the plans identify the potential for one bedroom to be used as a study and as such suggests a mix of sizes. Nevertheless having regard to the scale of the development (4 units only), and the low density location, the proposal for 4 bedrooms is acceptable.

All dwellings are adaptable with the provision of a lift in each dwelling.

Residential design for a subtropical climate

Natural ventilation is to be provided via doors and openable windows, though it is recognised that the site is affected by traffic noise from Wharf Street which may be a limiting factor on relying on natural ventilation.

(a) (iia) Any planning agreement or any draft planning agreement under section 7.4

There is no planning agreement or draft planning agreement relevant to this proposal.

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

Clause 92(1)(b) Applications for demolition

A separate application is to be lodged for the demolition of the existing dwelling.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not impacted by this plan.

Tweed Coast Estuaries Management Plan 2004

This Management Plan applies to the estuaries of Cudgen, Cudgera and Mooball Creeks. The subject site is not located in close proximity to any of these creeks and as such this management plan does not apply to the subject application.

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

As the subject site is not located within the Cobaki or Terranora Broadwater to which this plan relates, this Plan is not considered relevant to the proposed development.

(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 proposal is compatibility with previous and existing land uses and activities in the locality.

Though the site is elevated in the area and is visible from the Tweed River and Wharf Street, the site is zoned for residential development and could be classified as an underdeveloped infill site. The sloping nature of the site is such that there is a backdrop to the development and while it will be visible in the landscape, the development will not significantly impact on the scenic qualities/landscape.

The proposal complies with the height and FSR standards for the site. Though the development exceeds the two storey limit specified in the Tweed City Centre DCP, the scale (bulk, height, mass) form, character, density and design of development is generally acceptable in the area.

The proposal is considered acceptable in terms of sunlight access (overshadowing) with no adjoining dwellings affected. There will be an increase in overshadowing of the site to the south (68 Adelaide Street) however it is considered acceptable with a minimum of 50% of the private open space area remaining unaffected.

Given the separation from the dwellings on Phillip Lane, no impact on these properties in terms of visual and acoustic privacy is anticipated. While the proposal seeks a variation to the 1.5m setback to the south site boundary, the extent of the variation is considered acceptable and is not deemed to result in adverse impacts on the adjoining property in terms of visual or acoustic privacy.

Stormwater

The proposal will result in an increase in impervious area on the site and a corresponding increase in peak discharge. There were concerns with the Stormwater Management Plan as originally submitted in response to a Request for Further Information, however these have been addressed with the submission of an amended plan.

The applicant was responded by providing a revised stormwater management plan which provides for a single GPT and detention tank in the road reserve and also upsizes the detention tank. Measures have been put in place to ensure that there are no overflows onto adjoin residential properties.

Council's Stormwater Engineer has reviewed the additional information and advised that it is acceptable subject to appropriate conditions.

Access, Transport and Traffic

As set out earlier, Council's Traffic Engineer has reviewed the TIA supported in support of the application and has advised that it is acceptable and that Phillip Lane can cater for the proposed development.

Flora and Fauna

The application has been accompanied by an ecological assessment report prepared by Element Ecology, Reference 18068-1 dated December 2018.

The report advised that that development has been designed to incorporate the retention of five trees as requested by Council in the DAP meeting.

The application was reviewed by Council's Sustainability and Environment Unit who provided the following advice (in summary):

- The entire site is mapped under the Tweed Vegetation Management Strategy as 'Substantially Cleared of Native Vegetation';
- No known records of threatened flora or fauna on-site;
- No ordered streams transverse the site;
- The majority of the site is heavily vegetated with predominately non-native weed species and landscape species however local native trees providing ecological and aesthetical value are located on-site and immediately adjacent to the site in Council road reserve including:
 - Two x large Grey Ironbark's (*Eucalyptus siderophloia*) and one semi mature Grey Ironbark (*Eucalyptus siderophloia*).
 - One semi-mature Brushbox (*Lophostemon confertus*).
 - One large Hard Quandong (*Elaeocarpus obovatus*).Other native trees on-site included:
 - Approximately four sapling and juvenile Three-vein Laurel (*Cryptocarya triplinervis*).
 - Multiple sapling and one semi mature (~4m in height and 20cm diameter at breast height - dbh) Red Kamala (*Mallotus philippinensis*).
 - Multiple sapling and one semi mature (~4 m in height and 10cm dbh) Macaranga (*Macaranga tanarius*).
 - One semi-mature (~4m in height and 15cm dbh) Guioa (*Guioa semiglauca*).
- The proposed development involves the removal of:
 - Approximately four sapling and juvenile Three-vein Laurel (*Cryptocarya triplinervis*).
 - Multiple saplings and one semi mature (~4 m in height and 20cm diameter at breast height - dbh) Red Kamala (*Mallotus philippinensis*).
 - Multiple sapling and one semi mature (~4 m in height and 10cm dbh) Macaranga (*Macaranga tanarius*).
 - One semi-mature (~4 m in height and 15cm dbh) Guioa (*Guioa semiglauca*).
 - Non-native tree species.
 - Two large old and non-active Australian Brush-Turkey mounds.
 - One large camphor laurel stag.

- The proposal will result in a minor incursion into the Tree Protection Zone of a mature Hard Quandong (*Elaeocarpus obovatus*).
- The proposed development has prepared an arborist report which identifies significant trees to be retained on-site and recommends a suite of arboricultural management measures which appear appropriate for the site;
- Proposed landscaping generally appears satisfactory and has been designed to accommodate the above mature Hard Quandong (*Elaeocarpus obovatus*).
- Providing conditions of consent are adhered to the proposed development is not anticipated to have a significant impact on the environment.

(c) Suitability of the site for the development

The site is zoned for low density residential development and would be considered an infill site. Though the site falls below the minimum lot size specified in the DCP for town housing, the scale of the development is limited to four units and the minimum area per unit specified in the DCP is provided.

The site is steeply sloping, but the applicant has designed the proposal to adapt to this and to minimise the extent of excavation reduced.

The location of the site in close proximity to Wharf Street has impacts in terms of traffic noise. However the applicant has submitted a traffic noise report which includes mitigation measures to address this.

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

The application was notified from 6 March to 20 March 2019. During this period three submissions were received.

The main issues raised were as follows:

- Extent of earthworks and lack of respect for existing flora and fauna;
- Access from Phillips Lane is unacceptable – cul-de-sac, no line marking, unregulated car parking on lane, limited refuse collection vehicle access;
- Development will impact on the residential amenity of existing Phillip Lane residents;
- Lack of details as to who is undertaking works in road reserve (public land);
- No details of how pedestrian access through road reserve is to be maintained, access should not be relocated closer to Phillips Lane properties;
- Visual impact of development from Boyds Bay Bridge due to reduced setback from Wharf Street frontage and 9m height;
- Concern raised with traffic noise impacts and useability of balconies;
- Any consent should require at least 4 additional visitor car parking spaces due to lack of street frontage;
- No replacement tree planting proposed despite proposed tree removal;
- Waste collection from Phillips Lane currently an issue;
- Stormwater Management - potential for swale to block/overflow, collection of water from upper area of road reserve;
- Provision should be made for vehicle access from First Avenue Road Reserve to adjoining property on Phillips Lane;
- Council should be certifier of development given works on public land;

- Survey land is incorrect and appears to show a boundary realignment of road reserve;
- Additional tree on boundary with 68 Adelaide Street should be removed to facilitate future development of that site (from owner of this site);
- No details of fencing – requests fence between subject site and 68 Adelaide Street;
- Given extent of earthworks, dilapidation reports should be required on adjoining properties with same made available to property owners; and
- Potential loss of public water views and private water views from 68 Adelaide Street due to height which contravenes two storey control in DCP.

The applicant requested a copy of the submissions at the expiry of the notification period and provided a response to the issues raised (prior to the issue of a request for further information). The response provided was as follows under.

First Avenue access location/refuse collection

Applicant's response:

1. The proposed access to Philips Land and First Avenue is suitable and appropriate. Preliminary Engineering assessment in this regard were tabled demonstrating that access via Adelaide or Wharf Street were not feasible, nor was the creation of First Avenue as a road carriageway.
2. Council in principle support was provided for retaining the access location in pre-lodgement meeting comments.
3. Any existing refuse and parking issues relating to Philips are outside of the scope of this Development Application and Application assessment. As part of the pre-lodgement meeting discussions, the Council preference for the site to provide Refuse manoeuvring was outlined. As suggested by Council in pre-lodgement meeting discussions, the provision of RCV Manoeuvring on the First Avenue Road Reserve would allow servicing of the subject site as well as provide relief for the existing Refuse Collection in Philips Lane. The RCV currently reverses some 110 metres up Philips Lane and leaves in a forward gear. The manoeuvring area on First Avenue has been demonstrated to allow for the collection of bins from the subject site as well as allow manoeuvring for the Refuse Collection Vehicle. Council preliminary comment was supportive, though the proposed detailed design is currently being assessed by Council Engineers. If deemed as required, additional Traffic assessment may be provided in response to Council's Information Request. There is benefit to the proposed development with this arrangement, though there is significant benefit to Philips Lane beyond the standard requirements of the proposed development and this should be appreciated by Council and the residents of Philips Lane.
4. No safe and suitable Pedestrian pathway is provided along First Avenue from Adelaide Street to Wharf Street. This is not a required design element for the proposed development and accordingly is not proposed as part of the proposed development, nor should it be.

5. It is noted that no safe or formal access is provided from First Avenue to either 64 or 71 Philips Lane, accordingly none is proposed. Any additional access to these sites may be arranged, approved and constructed by the landowners of these lots.
6. The proposed development provides compliant visitor parking and accordingly, no additional visitor parking is proposed on the First Avenue road reserve or on Philips Lane. The existing driveway is around 3 metres in width. The proposed driveway is 5 metres in width at the end of a cul de sac head. The claimed removal of existing on street parking is not founded.

In short, the proposed works in First Avenue for access and RVC manoeuvring are adequate for the subject site development, maintaining all necessary access and pathways, and provide significant benefit for the Refuse Collection arrangements for the entire of Philips Lane, beyond the scope of the proposed development.

Officer's comments:

Following a request for further information, the applicant provided a Traffic impact Assessment Report addressing the acceptability of using Phillip Lane for access which Council's Traffic Engineer has deemed to be acceptable. Provision was also made for two additional visitors spaces above that specified in DCP Part A2 or B2.

The applicant has also demonstrated that informal pedestrian access through the site will be maintained. There is no remit to require the applicant to formalise this access with the construction of a path or similar through what is Council land. The applicant has demonstrated that informal access through the site will be unimpeded and will be no more hazardous than what currently exists.

An expectation that the applicant might provide access from the First Avenue road reserve to adjoining residential properties is unreasonable.

First Avenue earthworks/tree clearing

Applicant's response:

In addition to the above, earthworks and vegetation clearing are proposed to the extent of works in the road reserve. The Application Material included:

1. Engineering assessments including Stormwater Management and Cut and Fill Plans and Earthworks Plans;
2. Ecological Assessment of the values of the site, including the vegetation proposed to be removed as well as outlining the protection of the vegetation to be retained; and
3. Landscaping Plans identifying the proposed landscaping within the site.

These are considered a complete response and assessment to the comments provided in relation to earthworks and vegetation removal as part of the development. Any clarification or additional information to be provided in these assessments deemed relevant in Council's Information Request will be provided in

response by the Applicant. The recommendations and outcomes of the tree removal and replacement landscaping shall be included in the conditions of approval and shall be adhered to as part of the construction of the development.

Officer's comments:

The application was reviewed by Council's Sustainability and Environment Unit who raised no objection to the vegetation removal (refer to comments earlier). Similarly the Subdivision Engineering Unit raised no issue with the proposed earthworks (refer to assessment earlier in this report).

Traffic impact

Applicant's response:

If deemed as required, additional Traffic assessment may be provided in response to Council's Information Request to confirm the design requirements of the proposed RCV manoeuvring area. If required, the Traffic Assessment may also address the provision of resident and visitor parking provided within the site, as well as traffic generation proposed. This has not been provided as the access is maintained as currently servicing the site, Council assessment on the detailed design is being currently undertaken on their suggested RCV arrangement, and the proposed dwelling density and supporting resident and visitor parking is provided is compliant with the DCP provisions.

Officer's comments:

As above the applicant subsequently submitted a TIA which was deemed to be acceptable in terms of its conclusions.

Building Height

Applicant's response:

One submission has raised objection to the proposed building height. The proposal is a maximum of 9 metres. Whilst the DCP does include a maximum of 2 storeys, the LEP includes a maximum of 9 metres. Council in principle support was provided in pre-lodgement meeting comments. Notwithstanding the portion of the development over 2 storeys relates only to the lower southern side of dwellings. The top level of dwellings present as 2 storeys internally to the site and as a single storey to Adelaide Street. To 68 Adelaide Street, Units 1 and 2.

View corridors are impacted to a level consistent with a large dwelling on the site as in real terms, this impacts to the adjoining site by 2 and 2.5 storeys. At Council request in any Information Request, the Applicant can provide any survey or view corridor review in specific directions. The impacts area clearly reasonable and mitigated through compliant building height in this instance.

Officer's comments:

The issue of building height is addressed earlier in this report.

Private Open Space

Applicant's response:

The private open space area provided include outdoor landscaped areas for use by residents as well as the proposed balconies and patio areas as part of the proposed dwellings. The Acoustic assessment demonstrates suitable mitigation of issues on the site, being predominantly from Traffic Noise from Wharf Street, and the Planning assessment outlines the compliant provision of private open space for residents.

Officer's comments:

The objection raised the issue of the usability of the balconies given the traffic noise from Wharf Street, and suggested that relying on air-conditioning and closed windows and doors will minimise energy efficiency.

The acoustic report submitted with the application demonstrates that the proposal meets the acceptable noise threshold standards for residential development. It is acknowledged that there will be noise impacts from traffic audible in the balconies, however this is unavoidable and does not necessarily diminish the amenity of the units which are afforded water views and spacious balconies.

Setbacks and Landscaping

Applicant's response:

The setbacks to the First Avenue frontage are reduced from normal frontage setbacks. As the First Avenue road reserve is not currently, and is not capable or becoming a road reserve, the development design has treated these as side setbacks, with frontage setbacks being orientated to Wharf Street and Adelaide Streets. The site is heavily constrained in this regard and not reflected in the DCP design provisions. Council provided in principle support in the pre-lodgement DAP meeting discussions.

In specific response to the submission, the setback to First Avenue road reserve is setback 1.5 metres, though is completely landscaped. The specific species proposed are able to easily grow in this width of deep planting to ensure they are able to service in this location and provide a green screening impact. To respond, the landscaping proposed for the subject site shall be contained in the confines of this lot.

Officer's comments:

The issue of setbacks is addressed earlier in this report.

Dilapidation assessments

Applicant's response:

As requested in 1 submission, the Applicant is accepting of Council imposing Conditions of Approval to include dilapidation reports as part of the construction phase of the site development.

Officer's comments:

The application was reviewed by the Building Unit who have recommended a dilapidation report be required by condition for the adjoining properties at 64 and 68 Adelaide Street and 71 Recreation Street.

Proposed fencing

Applicant's response:

As requested in 1 submission, the Applicant is accepting of Council imposing Conditions of Approval to include shared and agreed fencing where reasonable, required, and practicable.

Officer's comments:

The applicant is now proposing a 1.8m high fence on the boundary with 68 Adelaide Street as requested.

(e) Public interest

The proposal is in accordance with the objectives of the Tweed City Centre LEP and the development standards for the site. The proposal will provide for family homes in an established residential area zoned for low density residential development within close proximity to town centre facilities. While there have been three submissions made in relation to the development, it is considered that the issues raised have either been resolved in the assessment process or not relevant.

The development of the site for multi-dwelling housing in a designated urban centre increases the criteria mass necessary to support public services and reduces the pressure for housing in unserviced areas.

Section 64 Contributions

The proposal benefits from existing Section 64 credits associated with the existing dwelling on the site. Based on this and the proposal for 4 units (3 or more bedrooms), the total Section 64 Developer Contributions are estimated as follows:

Water = 2.68 ET – 1.0 ET = 1.68 ET @ \$13,926 = \$23,395.70

Sewer = 4.0 ET – 1.0 ET = 3.0 ET @ \$6,690 = \$20,070.00

Section 7.11 Development Contributions

The proposal would be subject to Section 7.11 Development Contributions with regards to the following plans:

Plan 4 – Tweed Road Contribution Plan;
Plan 5 – Local Open Space;
Plan 11 – Shirewide Library facilities;
Plan 12 – Bus shelters;
Plan 13 – Environ Cemetery;
Plan 15 – Development Contributions for Community Facilities;
Plan 18 – Council Admin Offices and Technical Support Facilities
Plan 22 – Cycleways; and
Plan 26 – Shirewide/Regional Open Space.

A breakdown of the contributions liable are as follows:

TRCP Plan 4 – Sector 1 Tweed Heads

Proposed trip generation

The trip rate for multi-dwelling housing is 3.9 trips per unit

With 4 units, the residential trip generation is 15.6 trips

Credit

There is an existing single detached dwelling on the site which represents a credit of 6.5 trips.

Total proposed trip generation to be levied = 15.6 trips – 6.5 trips = 9.1 trips

Plans 5, 11, 12, 13, 15, 18, 22, 26

4 x 4 bedroom unit = 2.4 persons (1 ET) x 4 = 4 ET – 1 ET credit (existing dwelling)
= 3 ET applied per plan.

OPTIONS:

1. That Council approve the application subject to conditions for the following reasons:
 - a) The development proposal has been considered in accordance with the relevant provisions of the NSW Environmental Planning and Assessment Act 1979 and on balance is suitable to be determined by way of approval.
 - b) Community views were considered as part of the assessment in accordance with Council's Development Control Plan and the NSW Environmental Planning and Assessment Act 1979 requirements for public notification.
2. Refuse the application and provide reasons.

CONCLUSION:

This application seeks approval for the construction of four townhouses and construction of an access road to service the development from Phillips Lane (to be constructed in the First Avenue Road reserve). The proposed development also involves tree removal.

The application also seeks the following variations to the Tweed Development Control Plan 2008 (DCP) Part A1 Part B:

- Minimum lot size of 1,233m² where the DCP requires a minimum lot size of 1,350m² in zone R2 (Low Density Residential) for town housing (multi-dwelling development);
- No ground level habitable rooms for units 3 and 4;
- Impervious area of 60.2% where a maximum of 60% is specified;
- Variations to the front, rear and side setback requirements;
- Retaining wall height and proximity to property boundaries in three locations for retaining cut and fill external to the building confines; and
- Variation to the fencing height and solid ratio.

The variations are considered to be generally minor in nature and can be supported.

The application was notified from 6 March 2019 to 20 March 2019. During this time, three submissions were received. It is considered that the matters raised have been addressed in the assessment process or can be managed by way of a condition of any consent issued.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The applicant has a right of appeal in the NSW Land and Environment Court in respect of any Council determination of this application, such an appeal may have budget implications for Council.

c. Legal:

The applicant has a right of appeal in the NSW Land and Environment Court in respect of any Council determination of this application.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

2 [PR-PC] Planning Proposal PP19/0001 for Additional Permitted Uses at Halcyon House - Lot 100 DP 1208306 and Lots 1 and 2 Section 4 DP 29748, Cypress Crescent, Cabarita Beach

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: **Leader**

SUMMARY OF REPORT:

The Planning Proposal (PP19/0001) for additional permitted uses at Halcyon House, Cabarita was publicly exhibited from 27 August to 27 September 2019 in accordance with the resolution of Council and the conditions of the Gateway Determination.

A total of 10 submissions were received in response to the exhibition, two in support and eight objecting the Planning Proposal.

The objective of this planning proposal is to resolve existing compliance issues allowing Council to consider future applications on planning merits. The Planning Proposal will not result in any change to the existing development in itself, however, it will enable the owners to submit future development applications for the additional permitted uses.

Any future application will have to assess potential impacts such as general amenity, noise, waste management, traffic and parking, as raised by the objectors and will be assessed by Council on its merits. As such, it is recommended the Planning Proposal proceed.

RECOMMENDATION:

That the attached Planning Proposal P19/0001 for additional permitted uses at Halcyon House - Lot 100 DP 1208306 and Lots 1 and 2 Section 4 DP 29748, Cypress Crescent, Cabarita Beach be referred to the Minister for Planning and Environment to be made under Section 3.36 of the *Environmental Planning and Assessment Act 1979*.

REPORT:

Background

Halcyon House was established through an approval granted by Tweed Shire Council in 2013 to upgrade an existing hotel, known as Hideaway Hotel. The Hideaway Hotel had been onsite and operating for more than 50 years before Halcyon House took over the premises.

During the operation of the Hideaway Hotel the planning framework for the subject site changed which resulted in Tourist and Visitor Accommodation becoming prohibited in the R2 Low Density zone. Notwithstanding, due to the nature of the ongoing operations; the use of the premises as a Hotel is enabled via existing use rights provision under the Environmental Planning & Assessment Act (EP&A Act) 1979.

Over recent years Halcyon House's 'Paper Daisy' restaurant has evolved its operations to expand beyond the development approval and compromise the existing use right provisions of the EP&A Act. There have been ongoing compliance issues following concerns raised by the public in regard to the amenity impacts resulting from the use of the restaurant for patronage by the general public.

Council resolved to proceed with a Planning Proposal (PP19/0001), which seeks to enable additional permitted uses at Halcyon House, Cabarita at its Planning Committee meeting on 2 August 2018 as follows:

- "1. *The proposed Development Application be rejected as it is prohibited in the R2 Zone and provide written advice to the proponent providing a 14 day option to agree to update their request for a smaller scale Planning Proposal that only deals with the immediate compliance issues relating to the use of the Halcyon House site, situated principally off Tweed Coast Road and Cypress Crescent Cabarita.*

The request for a Planning Proposal is to be updated to only include an amendment to Schedule 1 of Tweed Local Environmental Plan for Lot 100 DP 1208306 to enable additional permitted use for a restaurant at Lot 100 DP1208306 and a carpark for the restaurant on Lot 1 and Lot 2 Section 4 DP 29748. This amendment would potentially resolve the existing prohibition for the 'Paper Daisy' restaurant to the extent that it is currently operating outside of the development consent. The updated request would be referred for a 'Gateway' determination, as administered by the NSW Department of Planning and Environment and;

- a. *The Minister for Planning and Environment is advised that Tweed Shire Council is not seeking plan making delegations for this planning proposal;*
- b. *The Minister for Planning and Environment is advised that the minimum exhibition period for the Planning Proposal should be for a period of 28 days;*
- c. *Upon receiving an affirmative Gateway Determination Notice all additional studies or work is to be completed prior to and made available with the public exhibition;*
- d. *Following public exhibition of the Planning Proposal a report is to be submitted to Council at the earliest time detailing the content of submissions received and how those, if any, issues have been addressed."*

A Gateway Determination was issued on 6 August 2019 authorising the planning proposal to proceed subject to the following conditions:

1. *Public exhibition is required under section 3.34(c) and schedule 1 clause 4 of the Act as follows:*
 - a. *The planning proposal is classified as low impact as described in “A guide to preparing local environmental plans” (Department of Planning, Industry and Environment 2016) and must be made publicly available for a minimum of 14 days; and*
 - b. *The planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of “A guide to preparing local environmental plans” (Department of Planning, Industry and Environment 2016).*
2. *Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.*
3. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
4. *The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:*
 - a. *The planning proposal authority has satisfied all the conditions of the Gateway determination;*
 - b. *The planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and*
 - c. *There are no outstanding written objections from public authorities.*
5. *The time frame for completing the LEP is to be 9 months following the date of the Gateway determination.*

Public exhibition and submissions

In accordance with the Council resolution and the conditions of the Gateway Determination, the planning proposal was publicly exhibited from 27 August to 27 September 2019. The exhibition material was made available on Council's website and in hard copy at the Tweed Heads Civic Centre and Murwillumbah Civic Centre.

Notification of the planning proposal was made through the Tweed Link on 27 August 2019. In addition, 47 notification letters were sent out to residents adjoining the subject site and along neighbouring streets to advise them of the exhibition.

A total of 10 submissions were received in response to the exhibition, two in support and eight objecting the Planning Proposal. A summary of the submissions is provided below.

No.	Submission	Response
1	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - The development will adversely affect the unique coastal village atmosphere and is premature. - The development does not comply with the zoning ie no Tourism & Accommodation. - The development exceeds the height limits. - The development will greatly increase traffic flow in Cypress Crescent, a quiet residential area. 	<p>Halcyon House (formerly Hideaway Hotel) has been onsite and operating for over 50 years. During this time the planning framework changed which resulted in Tourist and Visitor Accommodation becoming prohibited and new building height being applied in the R2 Low Density zone. Notwithstanding, due to the nature of the ongoing operations; the use of the premises as a Hotel is enabled via existing use rights provision under the <i>Environmental Planning & Assessment Act 1979</i> and the planning proposal will not result in any change to the building height.</p> <p>The Planning Proposal will not result in any increase to traffic flow in Cypress Crescent in itself, however, it will enable the owners to submit future development applications for the additional permitted uses. Traffic and parking impacts will be required to be addressed as part of any future development application.</p>
2	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - The development is imposing on the amenity of the beach area. - Noise impacts (including sleep disturbance). - Inconsistent with the R2 Low Density Residential zone and peaceful character. If not a low density residential area, consider rezoning the area from the surf club to the Glamping site. 	<p>As above, the use of the premises as a Hotel is enabled via existing use rights provision.</p> <p>The Planning Proposal will not result in any change to the existing buildings or use, however, it will enable the owners to submit future development applications for the additional permitted uses. Noise, including traffic noise and sleep disturbance and amenity impacts will be required to be addressed as part of any future development application.</p>
3	<p>Opposed on the following grounds</p> <ul style="list-style-type: none"> - History of unlawful operations and non-compliance. Losing patience with a Council who does not enforce compliance and ignores complaints. - Residential zoning – land use conflict exists between the large public function area and restaurant immediately adjacent the residential area. - Noise impacts from the outdoor bar, restaurant and function area – Noise complaints have been made to the venue, to Council, the police and licensing authorities. Council has refused to act. Intensification of usage will create further problems. 	<p>The objective of the Planning Proposal is to remove the uncertainty in relation to the “existing use” status of the existing restaurant, in particular and enable Council to assess future Development Applications on their merits.</p> <p>As above, the use of the premises as a Hotel is enabled via existing use rights provision.</p> <p>The Planning Proposal itself will not result in any change, however, it will enable the owners to submit future development applications for the additional permitted uses, which may then be assessed under the relevant development controls. Noise,</p>

No.	Submission	Response
	<ul style="list-style-type: none"> - Resident's values and amenities – Cabarita already has restaurants and function facilities elsewhere. - Rubbish collection/truck noise – lack of commercial waste management plan, 4 rubbish truck pick-ups each day, 3 times a week from 5am. - Scale of the development – Noise can be heard in neighbouring bedrooms and exceeds the permitted decibel limit of the liquor licence. Council, if it should approve this, will be in the position of assisting the venue to breach its liquor licence conditions once it has legitimised its illegal operation. - Intensification of usage – We previously forwarded Council legal advice pointing out that any intensification may give rise to claims against Council. - Inadequate parking – the existing parking is insufficient and this proposal will probably only exacerbate the issue. 	<p>including traffic and parking, rubbish collection (including traffic noise) and amenity impacts will be required to be addressed as part of any future development application.</p>
4	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - History of unlawful operations and non-compliance. Surprised and disappointed that the proponents are being rewarded by Council altering the permitted use of the land to accommodate their non-compliant operation. - Day Spa DA requires it will not be open to the general public. The associated parking, waste generation, traffic increases etc have never been accounted for. - Inadequate waste management plan - does not take into account current operations. Based on 2.5m³ per week and should be based on 17.7m³ per week. This volume should require on-site waste management. - Noise– large commercial waste trucks 3 times per week, often very early morning. An average 15 delivery vans/trucks per day manoeuvring along a small residential street with on-street parking and alcohol influenced patrons waiting for taxis at night. - Traffic - 'function centre', buses etc in a narrow residential street. - Parking is sufficient for approved use Halcyon House guests only - No onsite parking for restaurant guests, function centre guests, day spa and staff. - Must consolidate lots so future parking cannot be sold. 	<p>As above, the objective of the Planning Proposal is to remove the uncertainty in relation to the “existing use” status and enable Council to assess future Development Applications on their merits.</p> <p>Any future application will have to address any potential impacts including waste management, noise and amenity, traffic and parking impacts and will be assessed by Council on its merits.</p>

No.	Submission	Response
	<ul style="list-style-type: none"> - Traffic impact assessment report has errors and must be revised to address any future development application. 	
5	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - History of unlawful operations and non-compliance – complaints made to the operators and police. Council has not instructed solicitors to commence compliance action against Halcyon House for not having operated in accordance with its DA for about 5 years. The current activities such as, provision of liquor, restaurant use by the public and hosting of significant functions were never 'existing use rights'. - Inconsistent with current R2 Low Density Residential zoning and amenity. - A full review of Section B19 must be completed prior to any planning proposal proceeding. The planning proposal seeks to avoid this process and may result in a significant uplift of activities on the site without this essential review of the Locality Plan being completed. - Inconsistent with DCP Section 19 'a peaceful quiet beach lifestyle'. This vision is under threat by the existing activities and the planning proposal envisages more activities that will clash with this vision into the future. - Inconsistent with North Coast Regional Plan Goal 4 -'Great housing choice and lifestyle options'. - Inconsistent with CSP 'desirable lifestyle' - detracts from the residential amenity and will result in a less attractive or desirable place to live. - Planning Proposal not supported as a means of addressing compliance problems. 	<p>As above.</p> <p>Section B19 of the DCP was adopted following extensive community consultation. As above, the use of the premises as a Hotel is enabled via existing use rights provision and is considered consistent with the outcomes anticipated for this Precinct in Section B19 – Bogangar / Cabarita Beach Locality Plan which contemplates a mix of land uses. The subject site is mapped as being partly within the 'Tweed Coast Road Commercial Precinct' and the 'Residential 'B' Precinct' under the Locality Plan. Section B19 specifically identifies an opportunity to boost tourist accommodation on the subject site.</p> <p>The subject site is already being used for tourism accommodation purposes and the proposed amendment to Schedule 1 of Tweed LEP 2014 would contribute to current operations, improving development outcomes over the site and provide new tourist and commercial opportunities consistent with the North Coast Regional Plan.</p> <p>Council is proposing to undertake a full review of the Section B19 – Bogangar/Cabarita Beach Locality Plan (and associated Structure Plan) in consultation and collaboration with the local community however this review has not as yet been programmed by Council. This planning proposal formalises the existing use. Further expanded development of the site would occur as part of a wider locality planning process and update.</p>
6	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - Not compatible with adjoining residential properties – public functions are not welcome adjacent to residential homes. Only in-house guests were to use the car park, restaurant and function room. - Noise complaints – regular complaints made to the police. It is deceitful that council makes no mention of noise in its report. Council refuses to act on complaints regarding noise and waste. - History of unlawful operations and non-compliance. - Parking – onsite parking cannot handle the volume of cars. 	<p>As above, the objective of the Planning Proposal is to remove the uncertainty in relation to the "existing use" status and will not in itself result in any changes to the development, however, enables Council to assess future Development Applications on their merits.</p> <p>Any future application will have to address any potential impacts including residential amenity, noise impacts and parking and will be assessed by Council on its merits.</p>

No.	Submission	Response
7	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - Not compatible with adjoining residential properties - use of restaurant and day spa significantly impact on the neighbourhood. - Refuse management - multiple noisy services each week along a narrow residential road with cars parking on both sides. Quantities of rubbish far exceed the figures quotes in the original DA. - Car parking congestion and noise. The original carpark is based on providing spaces for accommodation guests only. - DCP B19 should be reviewed and updated prior to any planning proposal 	<p>As above, the Planning Proposal will not in itself result in any changes to the development, however, enables Council to assess future Development Applications on their merits.</p> <p>Any future application will have to address any potential impacts including refuse management, noise (including traffic noise), parking and residential amenity and will be assessed by Council on its merits.</p>
8	<p>Opposed on the following grounds:</p> <ul style="list-style-type: none"> - On-street parking impacts - severely impacting other nearby businesses - Request parking sharing arrangement be agreed 	<p>As above, the Planning Proposal will not in itself result in any changes to the development, however, enables Council to assess future Development Applications on their merits.</p> <p>Any future application will have to address any potential impacts including traffic impacts and parking requirements.</p>
9	<p>In support on the following grounds:</p> <ul style="list-style-type: none"> - The Tweed has and will benefit from a restaurant of this calibre. 	Noted.
10	Support – no comments provided.	Noted.

Rural Fire Service

In accordance with the Gateway determination NSW Rural Fire Service was also notified in writing of the Planning Proposal on 22 August 2019. On 9 September 2019 the NSW Rural Fire Service provided a submission stating “*The New South Wales Rural Fire Service has considered the information submitted and has no specific recommendations in relation to bush fire protection.*”

OPTIONS:

1. Proceed by referring the attached Planning Proposal to the Minister for Planning, Industry and Environment to be made under Section 3.6 of the *Environmental Planning and Assessment Act 1979*.
2. Not proceed with the Planning Proposal and provide the reason why to the Department of Planning, Industry and Environment.
3. Defer the resolution of the Planning Proposal for further consideration.

Option 1 is recommended.

CONCLUSION:

The Planning Proposal (PP19/0001) for additional permitted uses at Halcyon House, Cabarita has been publicly exhibited in accordance with the resolution of Council and the conditions of the Gateway Determination.

A total of 10 submissions were received in response to the exhibition, two in support and eight objecting the Planning Proposal.

The Planning Proposal will not result in any change to the existing development in itself, however, it will enable the owners to submit future development applications for the additional permitted uses, which may then be assessed under the relevant development controls. The objective of this planning proposal is to resolve existing compliance issues allowing Council to be able to consider future applications on planning merits. The concerns raised by objectors in relation to traffic, parking, waste management, noise and general amenity will be required to be addressed and managed as part of any future development application. As such, it is recommended the Planning Proposal proceed.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable. The finalisation of the planning proposal is able to be accommodated within the existing budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Planning Proposal (PP19/0001) to permit additional permitted uses with consent at Halcyon House Cabarita - Version 3 for Making (ECM 6112855)

3 [PR-PC] Re-exhibition of the draft Kingscliff Locality Plan and Development Control Plan

SUBMITTED BY: Strategic Planning and Urban Design

mhm



Leaving a Legacy
Looking out for future generations

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Leaving a Legacy
- 1.4 Managing Community Growth
- 1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: **Leader**

SUMMARY OF REPORT:

The purpose of this report is to seek Council's endorsement to re-exhibit the revised *draft Kingscliff Locality Plan and draft Tweed Development Control Plan 2008 Section B29 – Kingscliff* (dKLP&DCP). The dKLP & DCP has been updated to include proposed amendments and recommendations as resolved by Council at its meetings of 12 December 2018 and 17 April 2019.

The key revisions to the dKLP & DCP now include reference to the Tweed Valley Hospital as a major new land use as well as the use of Council's draft environmental zone mapping as the basis to define environmentally significant land throughout the dKLP & DCP.

The use of the draft E-Zone mapping in turn influences the overall conservation and developable footprints of the locality. The previously exhibited dKLP & DCP did not include all land areas which have since been identified under the Coastal SEPP, all candidate E-Zone (consistent with the Northern Councils E Zones Review Final Recommendations Report) or areas nominate areas within the locality for offset planting. Offset planting areas provide a balance to areas likely to be cleared at a ratio in alignment with offset benchmarks set by the Biodiversity Offset Scheme (BOS) under Part 7 of the Biodiversity Conservation Act 2016. Whilst the net development areas have decreased, the revised nominated development footprint is now more in step with current statutory and legislative requirements as well as previous Council resolutions.

With an increase in the overall conservation footprint there is a proportionate decrease in the overall development footprint equating to approximately 6.5ha. This recalibration between the conversation and developable footprints thereby necessitated a recalculation of indicative density and housing targets.

Other amendments include general editing of text and diagrams throughout the document to refine and clarify intent as well as improve readability. This also includes a structural change in the way the documents are formatted. For simplicity and ease the three separate volumes have been consolidated into two volumes; the *draft Kingscliff Locality Plan* and the *draft Kingscliff Development Control Plan*.

Given changes made to development and conservation footprints will influence the overall conservation and development footprints and likely master planning outcomes across all Greenfield development sites, it is appropriate to re-exhibit the draft documents for a 42 day period. This extended exhibition period considers the exhibition period will fall over the Christmas and New Year holiday period and is in accordance with Council's current Community Engagement Strategy and draft Community Engagement and Participation Plan.

RECOMMENDATION:

That Council:

1. **Endorses the *Draft Kingscliff Locality Plan* and draft *Tweed Development Control Plan 2008 Section B26 Kingscliff* to be publicly re-exhibited for a minimum period of 42 days, in accordance with Section 18 of the *Environmental Planning Assessment Regulation 2000*;**
3. **Gives notice of its intent to repeal *Section B4 West Kingscliff* of the *Tweed Development Control Plan 2008* and the reasons for doing so, in accordance with Section 23 of the *Environmental Planning and Assessment Regulation 2000*; and**
3. **Undertakes consultation during the public exhibition period to include an advertisement within the Tweed Link and a 'drop-in' community conversation to be undertaken by Council staff at a venue in Kingscliff; and**
4. **Brings back a further report detailing the content and response of submissions following the public exhibition.**

REPORT:

Following the initial public exhibition of the draft Kingscliff Locality Plan and draft Development Control Plan (20 August and 14 September 2018) Council considered consultation feedback at its meeting of 12 December 2018. Subsequently a more detailed *Community Consultation Evaluation Report* was endorsed at the Planning Committee meeting of 17 April 2019.

The dKLP & DCP has now been updated to include the amendments and recommendations as endorsed by Council at those previous meetings. The revised documents have been attached to this report at Appendix 2 – Draft Kingscliff Locality Plan and Appendix 3 – Draft Kingscliff Development Control Plan.

Each of the revisions which have been made to the documents are tabulated and commented on below against the relevant Council resolution and also mapped for reference at Appendix 1 – Amendment reference map:

Council resolution 17 April 2019	dKLP & DCP Revision
<p><u>Use of draft E-Zone Mapping</u></p> <p>a. <i>Utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land' within the final KLP & DCP. Provide Gales Holdings with the opportunity to make representations of their ongoing BAM assessment and offset planting strategy as part of Council's forthcoming E-Zone Review process.</i></p>	<p>The DKLP & DCP has now been updated to utilise the draft e-zone mapping and data to form the basis of a relevant conservation footprint throughout the documents maps, diagrams and narrative including, where relevant, strategies and controls. The mapped area of ecologically significant land now has an overall area of 295.7ha. The conservation footprint in turn defines the developable footprint of the greenfield development sites.</p> <p>In addition, the diagrams and corresponding strategies and controls now also reference potential offset planting areas (26.8ha) and areas likely to be cleared (5.9ha). These offset planting areas have been indicatively nominated to offset areas which are likely to be cleared within the defined developable footprints. The resultant 'offset planting' to 'cleared' ratio would thereby equate to approximately 4.5:1 deemed by Council's Sustainability and Environment Unit to be generally acceptable against the benchmark set by Biodiversity Offset Scheme (BOS) under Part 7 of the Biodiversity Conservation Act 2016.</p> <p>Council staff will continue to work with Gales Holdings as they further develop and refine their master plan across their greenfield development sites which will ultimately provide the final quantities on proposed cleared and offset planting areas.</p>

	<p>In parallel, Council will also continue to consult with Gales Holdings and other land owners more broadly in the development of Council's E-Zone review process.</p>
<p><u>Tweed Valley Hospital</u> <i>b. Include reference to the Tweed Valley Hospital as a major land use, social and economic anchor within the final KLP& DCP which involves:</i></p> <ul style="list-style-type: none"> • <i>Updating diagrams and references to the TVH Site throughout the KLP & DCP documents;</i> • <i>Including narrative references to the TVH across each of the KLP & DCP documents particularly in terms of locality wide strategies, economic, employment and social context sections;</i> • <i>Continue ongoing consultation with NSW Health and the DP&E with regards to hospital planning and design issues and protecting Cudgen State significant farmland.</i> 	<p>The dKLP & DCP documents now reference the Tweed Valley Hospital both in terms of the site's location within the Kingscliff Hill Precinct and a narrative description of the potential planning implications. This includes a description that the Hospital site combined with the TAFE and Kingscliff High School forms a 'health and education' precinct within the broader Kingscliff locality.</p> <p>Additional strategies within the revised dKLP & DCP promote opportunity to further grow and diversify the health care industry and ancillary health care businesses. This includes utilising existing zoned land or greenfield development sites to accommodate other ancillary health care uses, specialist services and education. There is also opportunity for the broader service industry and other indirect health care industry associations in relation to retail, commercial, residential and tourist accommodation to leverage new business off the development and operation of the Tweed valley Hospital.</p> <p>The improvement of an existing pathway/cycleway between the hospital and TAFE sites to the existing Kingscliff town centre along Turnock Street has also been included as a strategy within the locality plan and identified on the indicative locality master plan.</p> <p>Council has made representations through the Tweed Valley Hospital Coordination reference panel and formal comments provided as part of the approvals process. In terms of site planning and built form issues those comments have included but not limited to:</p> <ul style="list-style-type: none"> • Acknowledge the surrounding land use interfaces and nominate appropriate building form and envelopes which will be of an amenable scale which would include reducing height at edges; • Identify opportunities for street edge and interface land uses which will have mutual benefits for the hospital and surrounding

	<p>residential and education precinct catchment;</p> <ul style="list-style-type: none"> • Design the urban structure of the site as an extension of the existing urban fabric to consider road and pedestrian networks, activity nodes, connections, areas of public domain, landscape corridors, legible access and egress points that will inform current and future stages of development across the site; and • Include impact assessment of affected views from those significant viewing sites of more distant, elevated and panoramic.
<p><u>Building heights</u> <i>c. Endorse the proposed building heights as exhibited and initiate a planning proposal to amend the Tweed Local Environmental Plan 2014 to reflect those building heights once the final KLP & DCP has been adopted by Council. Acknowledge that as greenfield sites undergo more detailed site specific master plan processes to inform future planning proposal(s), a review of building heights against proposed land uses and design led outcomes, as initiated by landowners, will likely form part of that master planning process.</i></p>	<p>The dKLP & DCP continues to include the Council resolved building heights which were previously exhibited.</p> <p>As previously reported whilst a planning proposal to amend the TLEP 2014 to reflect the buildings heights was initiated, the Department of Planning, Industry and Environment (DPIE) indicated they would not progress such a planning proposal until such time as the dKLP & DCP concluded the public exhibition process and the final documents endorsed by Council. The planning proposal will be re-initiated once the final plan is endorsed and implemented.</p>
<p><u>Expansion of Turnock St Development Footprint</u> <i>d. Not pursue the land owner request for the extension of nominated 'urban footprint' areas within the Turnock St Precinct (area the subject of DA17/0554) in consideration of environmental constraints but acknowledge ongoing investigations through a developer led master planning process regarding opportunity for either passive open space or offset planting.</i></p>	<p>The dKLP & DCP does not include any expanded developable areas within the Turnock Street Precinct. However a parcel of land which is located between two areas of identified ecologically significant land with a frontage to Quigan Street has been identified as an area for potential offset planting.</p> <p>Offset planting within this area would have the effect of linking the two areas of environmental significance. There would also remain the opportunity to include a linking pathway between Quigan Street and the nominated developable greenfield site fronting Turnock Street.</p>
<p><u>Expansion of Cudgen Village Development Footprint</u> <i>e. Defer consideration of land owner request for the extension of nominated 'urban footprint' areas within the</i></p>	<p>The dKLP & DCP does not include any expanded developable areas within the Cudgen Precinct west of Crescent Street but does identify the opportunity for the land owner to pursue private recreation uses</p>

<p><i>Cudgen Precinct (lands adjoining future lake resulting from sand extraction operation) from the current KLP & DCP but retain strategies to investigate opportunity to establish a holiday park or tourist accommodation adjoining the future artificial lake (private recreation) as part of the precincts master planning process which should also address key constraints including flood impact. Acknowledge the future land use consideration of this site will be more appropriate at the cessation of the sand extraction industry which has an approved operational life until 2047.</i></p>	<p>which may include a holiday park or tourist accommodation at the cessation of the sand mining operations.</p>
<p><u>Altona Road alignment</u> <i>f. Updated diagrams within relevant sections of the final KLP & DCP to represent the approved alignment of Altona Road alignment and provide in principle support for the Crescent St realignment and Turnock St extension preliminary road alignment and intersection location with Tweed Coast Road. Acknowledge the detailed design including final alignment and dimensions, road pavement design and cross sections including fill levels, batters, drainage, integration of shared pathways and detailed intersection design along with consideration of potential impacts on the adjoining sites is deferred to a more detailed developer led master plan process for consultation and review by Council.</i></p>	<p>Diagrams within the dKLP & DCP have now been updated to reflect the approved Altona Road alignment associated with Cudgen Lakes Sand Extraction Project P05_0103.</p> <p>Given the revised alignment sweeps further north and is quite narrow in part against the northern boundary of Lot 21 DP1082482, the area between the revised road alignment and this boundary has been nominated as a potential offset planting area.</p>
<p><u>Vegetation buffer to Tweed Coast Road</u> <i>g. Retain reference to the 20m vegetative buffer as a development control along the business and knowledge precinct road frontage to Tweed Coast Road noting that the development control plan is a guideline with landscape measures to achieve the vegetative buffer objective to be addressed through a more site specific master plan.</i></p>	<p>The dKLP & DCP continues to nominate a 20m vegetative buffer along Tweed Coast Road to reinforce the localities landscape character. Some of this area has been identified as potential offset planting area to serve the dual role of strengthen the visual and landscape character as well as providing a local offset planting area to, in part, balance areas of vegetation which are likely to be cleared.</p>

<p><u>Community Facilities</u></p> <p><i>h. Retain the planning and design principles to locate key community facilities within either the Town Centre or Turnock St Precincts in consideration of the beneficial co-locational advantages with the existing business centre and availability of well-located Greenfield development land. Acknowledge the evidence based need and location of such community facilities to be reappraised as an outcome of Council's Community Infrastructure Network Plan in coordination with developer led master plan processes.</i></p>	<p>The dKLP & DCP continues to nominate the potential development sites both within the Town Centre Precinct and the Turnock Street Precinct for needed community infrastructure which may include a relocated and expanded library and community centre. The plan however acknowledges that the location and spatial requirements will be ultimately determined as part of Council's Community Infrastructure Network Plan.</p>
<p><u>North Kingscliff low density interface</u></p> <p><i>i. Amend the final KLP & DCP planning principles relating to the North Kingscliff greenfield development site to mitigate potential interface issues raised between the residents of Sand St and the North Kingscliff Greenfield development site by nominate a combination of both R3 medium density residential with 12.2m building height with the exception of land adjoining existing low density interface allotments which would have a building height of 9.0m (refer option 2 in the consultation report). It is acknowledged that the final structure plan including nomination of building typologies would be the outcome of a future developer initiated site specific master plan.</i></p>	<p>The dKLP & DCP nominated greenfield sites which directly interface with existing low density development have been revised to ensure similarly low scale development at these interfaces. Matching development types between new and existing settlement areas will mitigate potential amenity impacts such as building height, building separation, overshadowing, and privacy related issues associated with different scaled development types.</p>
<p><u>North Kingscliff Medium Density</u></p> <p><i>j. Retain strategies to investigate rezoning from R2 low density to R3 medium density to identified sites along the western side of Kingscliff and Sands Street but with a reduced building height of 9.0m (refer option 2 in the consultation report) and delete references to properties along Shell Street.</i></p>	<p>The dKLP & DCP has been revised to rezoning certain allotments from R2 low density to R3 medium density but with a 9.0m building height to promote a greater density and diversity of low rise medium density housing types without compromising the character and scale of existing and adjoining low density residential areas. The adjustment from 12.2m to a 9.0m building height will reduce potential for amenity impacts, such as building height, building separation, overshadowing, and privacy related issues associated with different scaled development types.</p>

<p><u>Elrond Drive Open Space</u> <i>k. Amend the final KLP & DCP to retain Council owned land along Elrond Drive as RE1 Public Recreation (refer option 1 in the consultation report) in review of the lack of appropriately sized and embellished passive open space areas within walking distance of surrounding established residential areas. It is acknowledged that the evidence based need and likely future embellishment of this site will be better understood following the completion of Council's draft Open Space Strategy.</i></p>	<p>The dKLP & DCP has been revised to retain Council owned land along Elrond Drive as RE1 Public Recreation rather than investigate affordable housing options. Retention of this land as RE1 Public Recreation is also consistent with Council's endorsed Open Space Strategy.</p>
<p><u>Kingscliff Police Station site</u> <i>l. Amend the final KLP&DCP to remove reference to the strategies to investigate the rezoning of the NSW Police site from R3 to B4 Mixed Use with a 13.6m building height. The proposed 12.2m building height to R3 zones within Kingscliff would apply to this site.</i></p>	<p>The dKLP & DCP has been revised to remove reference to the Police Station site which was proposed for rezoning from R3 to B4 mixed use. The original intent was to investigate opportunities for a mixed use development across this site which can currently be achieve with the R3 zoning. This site would now has a height reduction from the current 13.6m maximum building height to 12.2m.</p>
<p><u>Salt Precinct mixed use</u> <i>m. Amend the final KLP&DCP in relation to the Salt Precinct to reference opportunity to rezone part of Lot 169 DP1075495 fronting Bells Boulevard from SP3 Tourist to B4 Mixed Use to encourage a broader range of retail, commercial, residential uses which would serve the broader Salt precinct residential catchment.</i></p>	<p>The dKLP & DCP has been revised to nominate part of Lot 169 DP1075495 fronting Bells Boulevard from SP3 Tourist to B4 Mixed Use. The intent will be to encourage a broader range of business uses that will fulfil the needs of surrounding permanent residents as well as Salt tourist precinct.</p>
<p>Other amendments made in addition to Council resolved amendments</p>	
<p><u>Document editing</u></p>	<p>The revision of the dKLP & DCP has included a general editing of text and diagrams throughout the documents to refine and clarify intent as well as improve readability.</p> <p>More notably however is the amendment to the structure of the documents. The previously exhibited dKLP & DCP included three volumes. This revised version has now been consolidated into two documents:</p> <ul style="list-style-type: none"> • <i>Kingscliff Locality Plan</i> which combines the previously exhibited Volume 01

	<p>Context and Locality Wide Strategies and Volume 02 Precinct Plans; and</p> <ul style="list-style-type: none"> • <i>Kingscliff Development Control Plan</i> which remains as a separate document.
<p><u>Revised Development and Conservation footprints</u></p>	<p>With an increase of the overall conservation footprint there is a proportionate decrease in the overall 'development footprint' equating to approximately 6.5ha.</p> <p>This is directly in relation the inclusion of land nominated under the coastal SEPP, land which meets the E-Zone criteria and land nominated for offset planting. Offset planting areas provide a balance to areas likely to be cleared at a ratio in alignment with offset benchmarks set by the Biodiversity Offset Scheme (BOS) under Part 7 of the Biodiversity Conservation Act 2016. Council resolved at the 7th December 2017 meeting that any required offsets are delivered within the Kingscliff locality area.</p> <p>As such, whilst the net developable areas have decreased, the revised nominated conservation and development footprints are now more in step with current statutory and legislative requirements as well as previous Council resolution.</p>
<p><u>Recalculated density targets</u></p>	<p>Additional amendments to the project density and yield targets have also been recalibrated based the revised conservation and developable footprint areas, revisions to the indicative structure plans and revised application of density rates for development types.</p> <p>Previous density rates particularly for low rise medium density housing (such as residential flat buildings) with a building height of 12.2m were nominated at 30dw/ha however on review this would be an representation of yields which could be generated across development lots which have been illustrated on the indicative master plan.</p> <p>Given that roads, and open space are separately calculated, density over greenfield sites nominated for medium density development (including residential flat buildings) would more likely to be in the range of 80dw/ha. This has been based on</p>

	<p>3d modelling and density calculations as well as and contemporary density guides (BCC - Residential Form Handbook). As such the density target calculations for each of the greenfield development sites have been updated accordingly.</p> <p>Further some developable greenfield areas which previously formed part of the density calculations have since been released for development. This includes Drift Court within the Turnock Street Precinct and Denman Drive and Murraya Way in Cudgen. As such these lands have now been deleted from updated greenfield density calculations.</p>
<p><u>Residential flat building setback controls</u></p>	<p>A previous Council resolution (15th February 2018) following an appeal and negotiated outcome for a residential flat building (RFB) along Marine Parade sought an alignment between those negotiated setback outcomes and DCP controls. The revised dKLP & DCP has now been updated to reflect this resolution and includes an increase of side setback for RFBs from 1.5m to 3.0m and increase of setbacks for levels over three stories to increase to 5.0m for side setbacks and 9.0m for front and rear setbacks thereby reducing building bulk at the upper levels.</p>
<p><u>Updated references to open space sections of the plan</u></p>	<p>A number of terminology amendments, calculation of open space areas and general editing of text have been made to the dKLP&DCP which are now in alignment with the Council endorsed Shire Wide Open Space Strategy 2019-2029.</p>
<p><u>Updated references to community infrastructure sections of the plan</u></p>	<p>A number of terminology amendments, strategy updates areas and general editing of text have been made to the dKLP&DCP which are now in alignment with the draft Community Infrastructure Framework plan. Most notably reference to an expanded library within the town centre has been removed and replaced with reference to a more general multi-purpose community facility.</p>

<u>Updated reference to flood sections of the plan</u>	Inclusion of reference to the need of a flood evacuation route to be nominated from greenfield development sites subject to flood inundation including the West Kingscliff and Business and Knowledge Precinct in alignment with DCP A3 – Development of Flood Liable Land.
<u>Updated reference to Table 8 Kingscliff Public Domain and Civic Improvements</u>	Updated reference to the construction rate for footpaths and inclusion of footpath and lighting works to the western side of Marine Parade north from Turnock St intersection.

Current Tweed Development Control Plan 2008 Section B4 – West Kingscliff

The current *Tweed Development Control Plan 2008 Section B4 – West Kingscliff* (Section B4) is superseded by the draft KLP & DCP and therefore will no longer be required.

Subject to adoption by Council, it is intended that Section B4 is repealed upon commencement of the draft KLP & DCP.

As such, a notice of intent to repeal Section B4 and the reasons for doing so, is required to be placed in the local paper (the Tweed Link).

Re-exhibition Consultation

To date the KLP & DCP has been developed through a multi-stage iterative process which involved extensive community and stakeholder engagement. Feedback received during the public exhibition period from Date to Date included a substantial number of comments from the four round table workshops as well as written submissions received during the public exhibition period. The feedback and submissions were then collated and analysed within the *Kingscliff Locality Plan and Development Control Plan: Community Consultation Evaluation Report* (reported to Council date) which in turn informed subsequent actions and amendments to the re-draft KLP & DCP.

In response to the previous feedback and submissions the dKLP & DCP has been substantially revised and as such the plans require re-exhibition. Given the advanced status of the dKLP & DCP and extensive community consultation undertaken to date, it is proposed that the proposed re-exhibition includes:

- Extended 42 day exhibition period acknowledging the exhibition period would extend over the Christmas and New Year holiday period;
- Customer service briefing;
- Tweed Link advert;
- Media release;
- Social media;
- Tweed Website update and document link;
- Your Say Tweed update and document link;
- Email notification to previous submitters and attendees; and
- A 'drop-in' community conversation at a suitable Kingscliff venue.

The above consultation process is in alignment with Council's current Community Engagement Strategy and the draft Community Engagement and Participation Plan.

Following the re-exhibition period a further report detailing submissions, review and recommendations will be prepared for Council for consideration and adoption.

OPTIONS:

That:

Option 1

1. Council endorses the *Draft Kingscliff Locality Plan and Tweed Development Control Plan draft Section B26 – Kingscliff*, as revised consistent with the resolutions of the Council (regarding *Kingscliff Consultation Evaluation Report*) dated 17 April 2019 to be publicly exhibited for a minimum period of 42 days, in accordance with Section 18 of the *Environmental Planning Assessment Regulation 2000*;
2. During the public exhibition period conduct a public 'drop-in' community conversations at Kingscliff; and

OR,

Option 2

That Council further defers this matter for further consideration.

Option 1 is recommended to seek the community's feedback in progressing the plans.

CONCLUSION:

Following previous exhibition and the comprehensive submission review the dKLP & DCP has now been revised consistent with the key recommendations within the *Kingscliff Community Consultation Evaluation Report* and Council resolutions dated 17 April 2019.

Given the scope of changes made to the plan, including most notably the revision of the conservation footprint and development footprints, it is appropriate that the dKLP & DCP be re-exhibited to enable further community and stakeholder review prior to Council finalising the plans.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

There will be costs associated with the re-exhibition which includes placing an advertisement within the Tweed Link and venue hire for a 'drop-in' community conversation at a venue within Kingscliff. These costs can be met through the existing Kingscliff budget.

Should Council determined to undertake a more comprehensive form of notification and consultation process other than what is proposed within the '*Re-exhibition Consultation*' section of this report significantly greater costs would need to be allocated additional budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

Inform - We will keep you informed.

Refer to the '*Re-exhibition Consultation*' section with the body of the report.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Amendment reference map (ECM 6114503)

Attachment 2. Draft Kingscliff Locality Plan (ECM 6114799)

Attachment 3. Draft Tweed Development Control Plan Section B26 - Kingscliff (ECM 6114844)

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

SUBMITTED BY: Director

mhm



Making decisions with you
We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: Provider

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 October 2019 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.
