

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 March 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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1	[PR-PC] Development Application DA18/0661 for a Change of Use and Fit-out of Portion of Managers Residence to Take Away Food and Drink Premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff	6
2	[PR-PC] Draft Kingscliff Locality Plan - Exhibition Consultation Report	41
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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA18/0661 for a Change of Use and Fit-out of Portion of Managers Residence to Take Away Food and Drink Premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff

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:

Council is in receipt of a development application for the change of use of a portion of a previously approved manager's residence to *take away food and drink premises* within the existing Gross Floor Area (GFA) of the Cudgen Surf Life Saving Club.

The food premises is to be located on the ground floor at the north western corner of the building, orientated towards the beach frontage. The Take Away Premises will generally serve coffee, cold drinks and pre-prepared snacks such as cakes, muffins, pastries, wraps, salads, acai bowls etc. Hours of operation will be from 6.00am – 3.00pm.



Figure 1 – Location of proposed take away food and drink premises within existing Surf Club

The application is being reported to Council as the proposed development has a deficiency in car parking as required by the Tweed DCP – A2, in an area (Kingscliff CBD) that is known to have a car parking shortage.

The proposed change of use from a manager's residence to a take away food and drink premises generates a requirement for 3 additional car parking spaces based on calculations as required under DCP A2. These calculations are provided later in the report under DCP A2 considerations.

Council's Traffic Engineer has reviewed the proposal and has raised no objections to the DA and its non-provision of car parking given the following justification:

- the site is incapable of providing additional parking as the subject lot is comprised of the building footprint with no space for car parking. Whilst not referred to in this DA, the whole upper level of the Club is open to the public for Restaurant and Bar activities and there is no on-site parking.
- given its physical location its primary customer would be beach foreshore users and not necessarily an attractant in its own right, additionally it is not visible from Marine Parade,
- there is no increase in GFA for the overall site,
- the operating hours of the Food & Drink Premises of 6.00am – 3.00pm do not coincide with the main operating hours of the Surf Club premises as a whole, and hence would not trigger any parking over & above what is already in demand by the development on the site.
- it would operate similarly to a kiosk which requires less parking provision than that for a Take Away premises,
- the SEE states there would be 2-3 staff and the calculations are conservative using a staff number of 3, and
- the site is not within the s94 Plan No. 23 scope and levies cannot be applied.

Further to the above car parking requirements previous DA's have been approved over this site that have accepted deficiencies in car parking to a total of 25 car parking spaces, details of these are described later in this report.

It has been brought to Council officer's attention that the Cudgen Surf Life Saving Club are currently proposing further alterations and additions to the facility that would increase GFA.

It should also be noted that the proposed fit-out works for this food and drink premises were completed prior to receiving consent but operations have not commenced. Council would ordinarily impose a penalty infringement notice for works completed without consent, however in this instance mitigating factors are:

- On 16 October 2018 the club received approved plans and a schedule of conditions from Councils Environmental Health Officer, in respect to compliance with the food safety legislation and standards.
- The SLSC was hosting a major championship event on the weekend of 2-3 February in partnership with the Tweed Shire Council and were hoping to have the take away food and drink premises operating prior to this date. To ensure that we had every opportunity to meet the event date, the SLSC building committee decided to proceed with the refurbishment of the spaces that they deemed would

not require development consent which included the replacement of the existing kitchen, the replacement of floor coverings, upgrade of existing power and lights and a repaint.

Unfortunately, prior to development consent being provided the tradesman engaged to complete the works also proceeded to complete the structural works associated with the expansion of one of the window openings on the Northern side of the space and the installation of window door shutters.

Therefore the subject development has been assessed on its merits and is recommended for approval with a condition of consent which states as follows:

- # Prior to the issue of an occupation certificate a Building Information Certificate is to be applied for and obtained from Council in respect of the take away food and drink premises. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licenced plumber relating to the food and drink premises.

RECOMMENDATION:

That Development Application DA18/0661 for a change of use and fit-out of portion of managers residence to take away food and drink premises at Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Sheet 1 of 6 Site Plan, Sheet 3 of 6 Proposed Ground Floor Plan, Sheet 4 of 6 Proposed Café Floor Plan, Sheet 5 of 6 Kitchen Elevation A-C and Kiosk Elevation A-D, and Sheet 6 of 6 Northern Elevation (open - closed) Western Elevation (open - closed) prepared by Parameter Designs and dated 14 January 2019, except where varied by the conditions of this consent.**
[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.**
[GEN0135]
- 4. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.**
[GEN0190]

5. This Development Consent authorizes the construction of a footpath as shown on Plan no. Sheet 3 of 6 Proposed Ground Floor Plan as amended by Council in blue and black ink to connect the take away food and drink premises with the existing curved path in Rowan Robinson Park. Such footpath is to be constructed prior to occupation of the take away food and drink premises.

[GENNS02]

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

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

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

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

[GENNS02]

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

[GENNS02]

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

[GENNS02]

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

[GENNS02]

10. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.

[GENNS02]

11. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council prior to the occupation of the building or issue of Interim or Final Occupation Certificate (whichever comes first), 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, an Occupation 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: Nil
Sewer: Nil

[GENNS03]

12. In accordance with Section 68 of the Local Government Act, 1993 any premises proposing to discharge wastewater into Council's sewerage system other than domestic sewage, shall submit to Council a completed Liquid Trade Waste Application for a Liquid Trade Waste Services Agreement. The Application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Building Certificate to discharge to Council's sewerage system.
13. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) by this 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.

[GENNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

14. 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).
15. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.
16. 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).
17. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0205]

[POC0225]

[POC0355]

[POC0615]

18. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.
[POC0635]
19. 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]
20. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.
[POC1055]
21. 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 water, sewerage or drainage works relating to the take away food and drink premises prior to the issue of a Construction Certificate. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licensed plumber relating to the food and drink premises.
[POCNS01]
22. Prior to the issue of an occupation certificate a Building Information Certificate is to be applied for and obtained from Council in respect of the take away food and drink premises. This application is to include work as constructed sanitary drainage plans and certification of works in respect of AS3500 prepared by a licenced plumber relating to the food and drink premises.
[POCNS01]

USE

23. 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]
24. Hours of operation of the business are restricted to 6.00am to 3.00pm, 7 days.
[USE0185]
25. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.
[USE0245]
26. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.
[USE0835]

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

[USE0965]

28. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate as outlined in the Liquid Trade Waste Services Agreement and General Conditions of Approval.

[USE1055]

29. No tables and chairs are to be erected for use by the food and drink premises.

[USENS01]

REPORT:

Applicant: Cudgen Headland Surf Lifesaving Club Ltd
Owner: Cudgen Headland SLSC Ltd & The State of New South Wales
Location: Lot 100 DP 1117102 No. 61 Marine Parade, Kingscliff
Zoning: RE1 - Public Recreation
Cost: \$60,000 (works have already been completed)

Background:

The subject site is located at Lot 100 DP 1117102 No. 61 Marine Parade and is Crown Land with a land area of 1266.5m² which is comprised almost entirely of the surf club building. An increase in the size of the building footprint is not sought by the application. Lot 100 DP 1117102 is leased by the SLSC and is surrounded by Council Managed Crown Land.

Land to the north comprises Council community buildings, caravan park and parkland, which has recently been redeveloped. Public parkland also continues to the east and south of the SLSC. This area is currently maintained in a grassed condition, with public stairways which lead to the beach. Land to the west comprises a public car park and Kingscliff Town Centre commercial/retail area.

The site does not contain any on-site car parking, and instead, a public car park is provided between the SLSC building and Marine Parade on the adjacent property known as Lot 2 DP 1122062 which is Council Managed Crown Land.

The Cudgen SLSC in one form or another has been on the subject site since 1922. Since the original commencement of its operation, the club has sought several development consents from Council for the ongoing expansion and upgrade works to the club. Most recently, DA04/1547 for alterations and additions to the surf club was issued with a modification on 12 November 2015. A list of applications is provided below:

DA04/1547 – approved 17/08/2006 - alterations and additions to surf club as modified on four occasions

0223/2001DA – approved 22/03/2001 – erection of two illuminated signs

0002/2000S96 – approved 29/09/2000 – amendment to Development Consent D96/0029 for the extension of licensed area to include ground floor of existing club and establish a caretaker's residence

D98/0117 – approved 24/08/1998 - additions and alterations to Cudgen Headland Surf Lifesaving Club

0471/98B – approved 14/09/1998 - building application - club

D96/0029 – approved 23/04/1996 - extension of licensed area to include ground floor of existing club and establish a caretaker's residence

T4/0618 – approve 16/06/1981 - erection of extensions, including assembly area, kitchen, showers and storeroom to existing surf club facilities

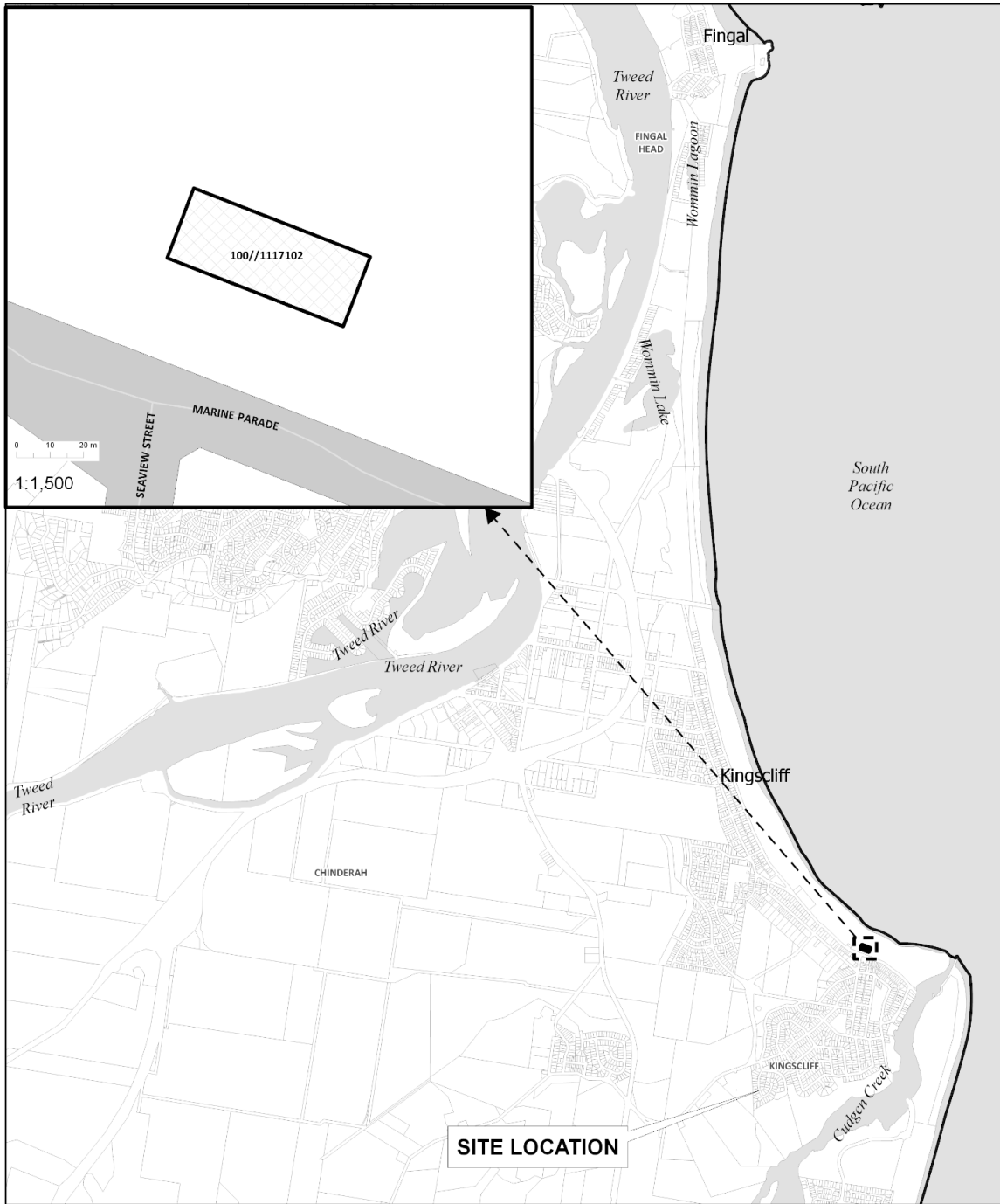
0943/90B – approved 04/01/1991 - building application - club

Of particular relevance to the subject application are DA04/1547 and D98/117, which have calculated the non-provision of car parking that has been previously accepted for this site.

Council issued approval for alterations and additions to the Club in 1998 under D98/117, which acknowledge the premises as a 'Club'. The planning report having defined the premises as a club then identified that a shortfall in car parking existed and subsequently recommended the application for refusal. Despite the shortfall of 22 car parking spaces Council recognised that the club provides a valuable service to the community and waived the requirement for further car parking in approving the application.

DA04/1547 for alterations and additions to the Surf Club was approved in 2006. This application involved the filling of a void area to create a small balcony extension. Under strict application of the DCP No.2 – Access and Parking Code, this would generate the requirement for a further 3 spaces. It was the view of the Development Assessment Unit and Council's Traffic Engineer at that time, that the balcony extension will not in isolation increase the patronage of the club. As such, a further waiver of the parking spaces, taken into consideration the community benefit derived from the operation of the lifesaving club, was considered warranted in this instance.

SITE DIAGRAM:



Site Plan

Lot 100 DP 1117102
61 Marine Parade KINGSCLIFF



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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastral: 19/02/2019
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TWEED
SHIRE COUNCIL

Date Printed: 19 February, 2019

AERIAL IMAGERY:



1:500 @ A4 Portrait
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

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Aerial Photography April 2018

**Lot 100 DP 1117102
61 Marine Parade KINGSCLIFF**

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*Boundaries shown should be
considered approximate only.*

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Author: S.Scott - GIS
Date Printed: 19 February, 2019

ZONING MAP:



Subject Land

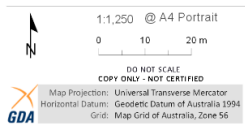
Subject Land

Tweed Local Environmental Plan 2014

B4 Mixed Use

R3 Medium Density Residential

RE1 Public Recreation



Site Plan - Local Environmental Plan

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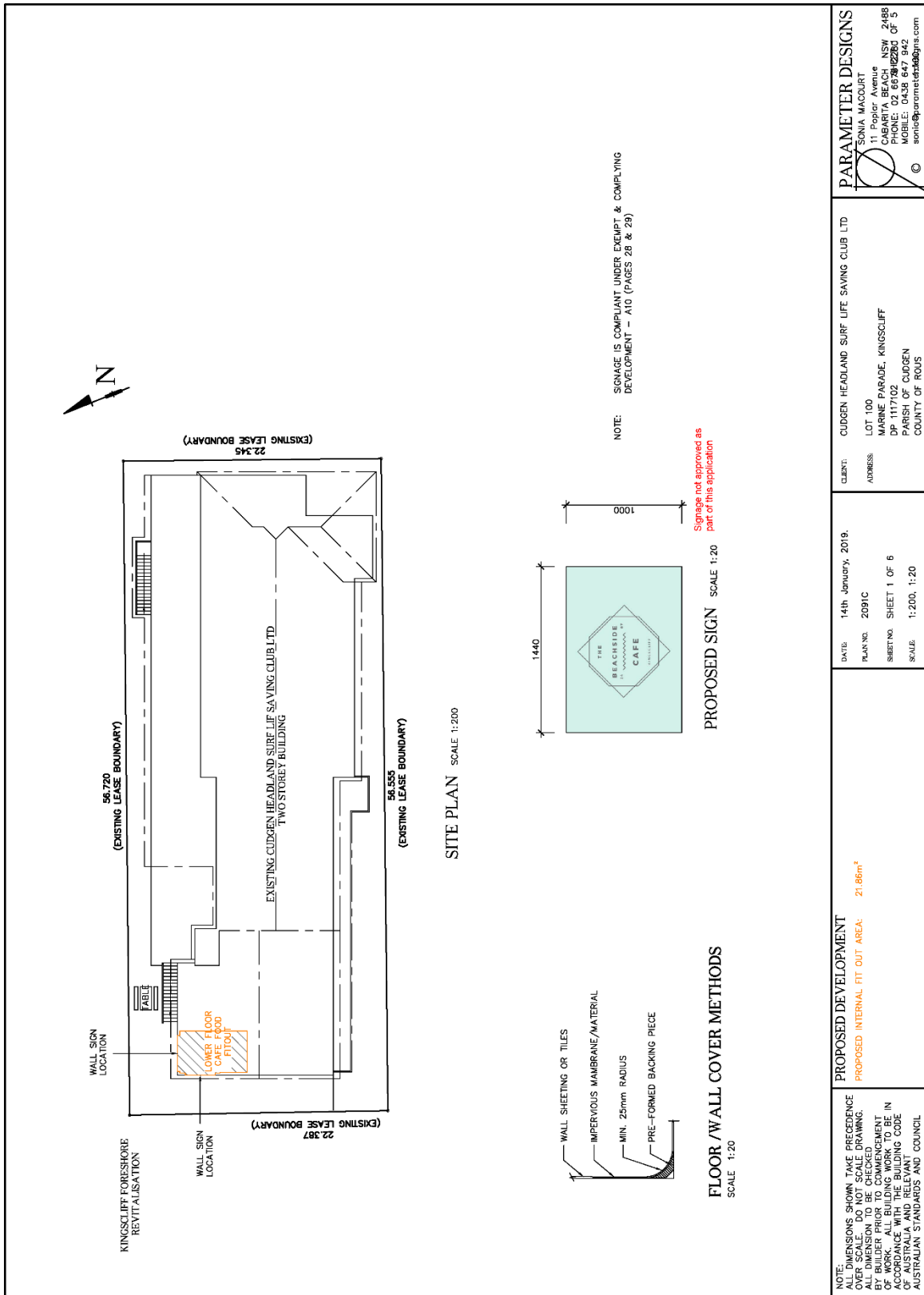


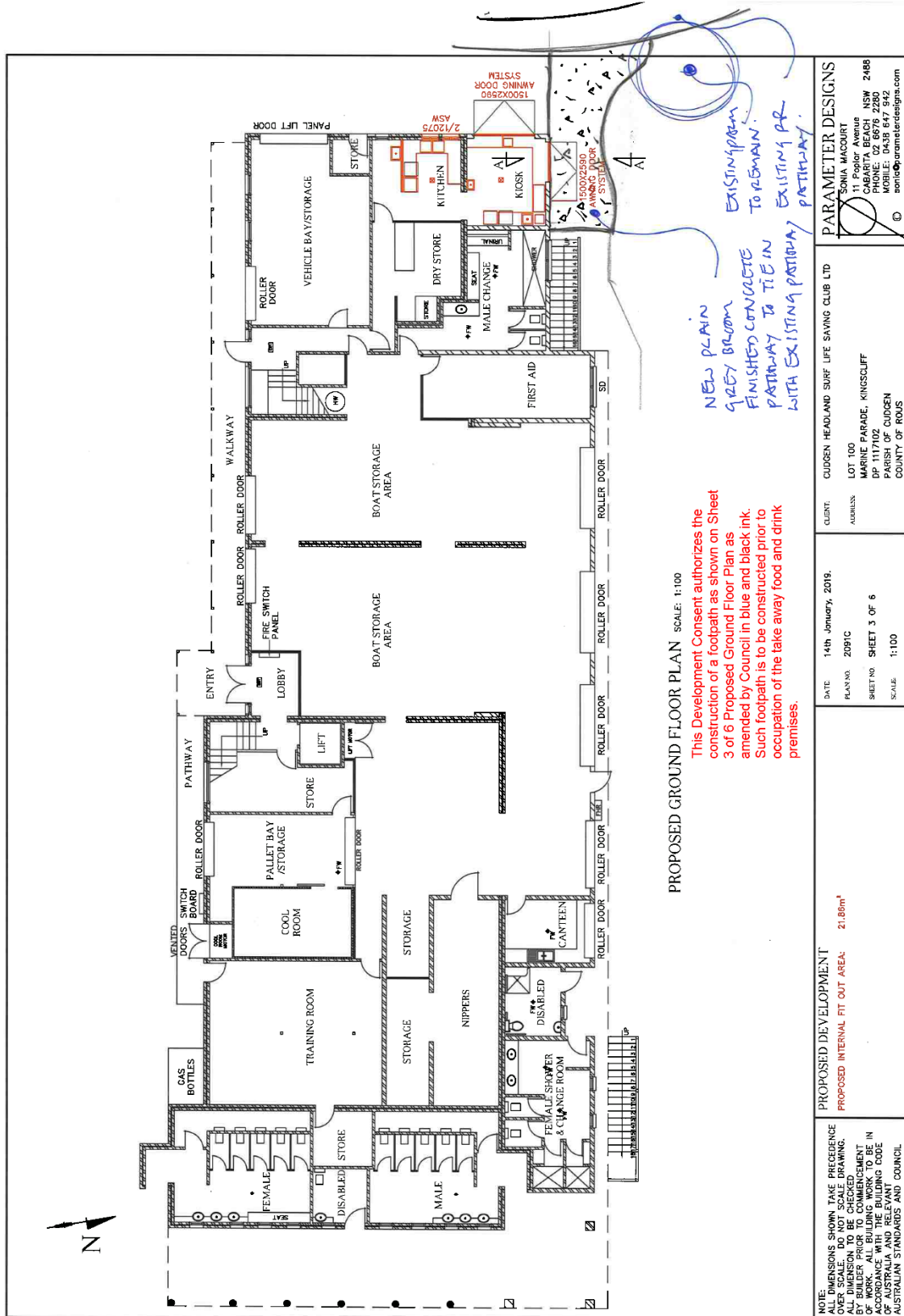
Lot 100 DP 1117102; 61 Marine Parade KINGSCLIFF

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Date Printed: 19 February, 2019

DEVELOPMENT PLANS:

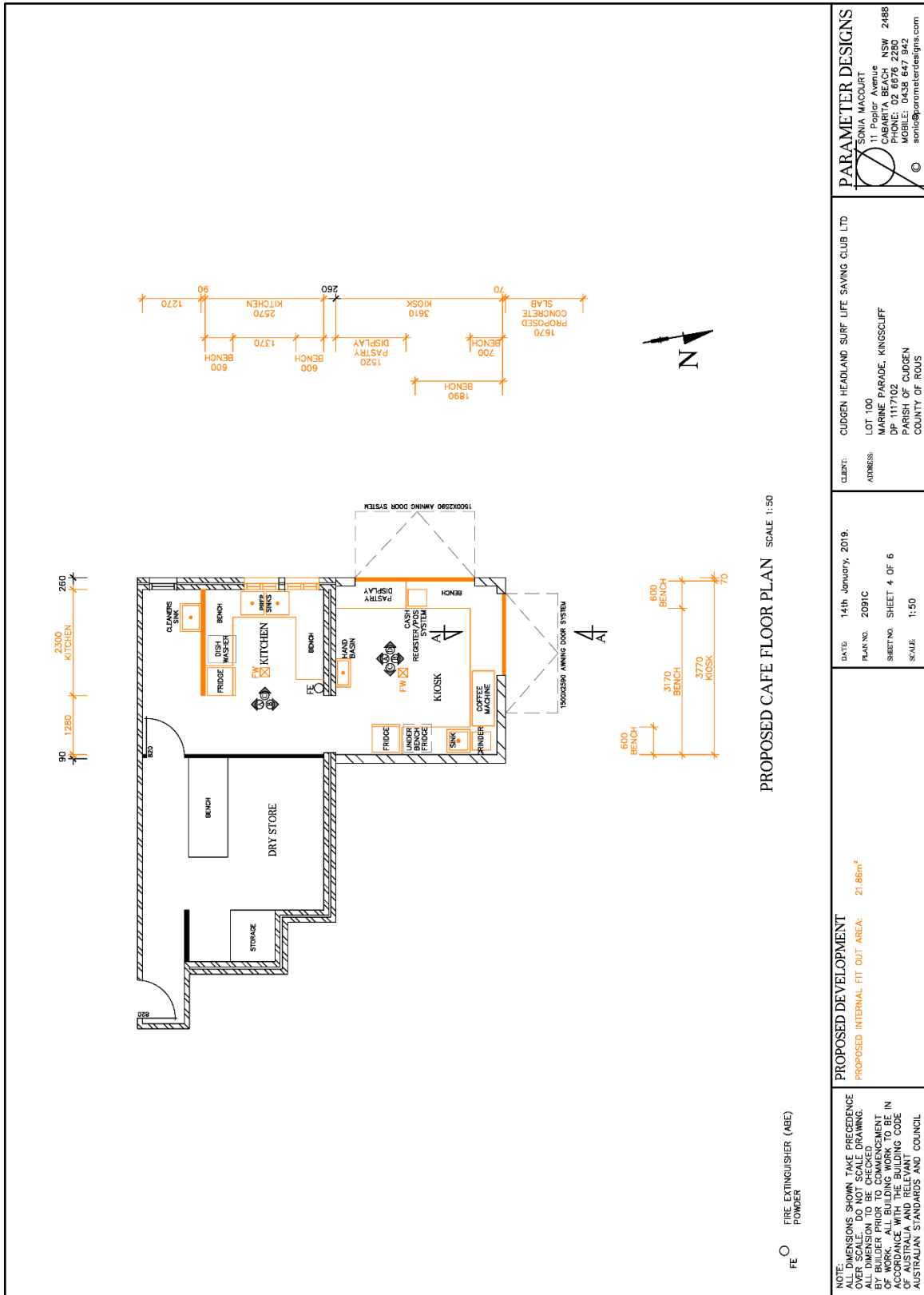


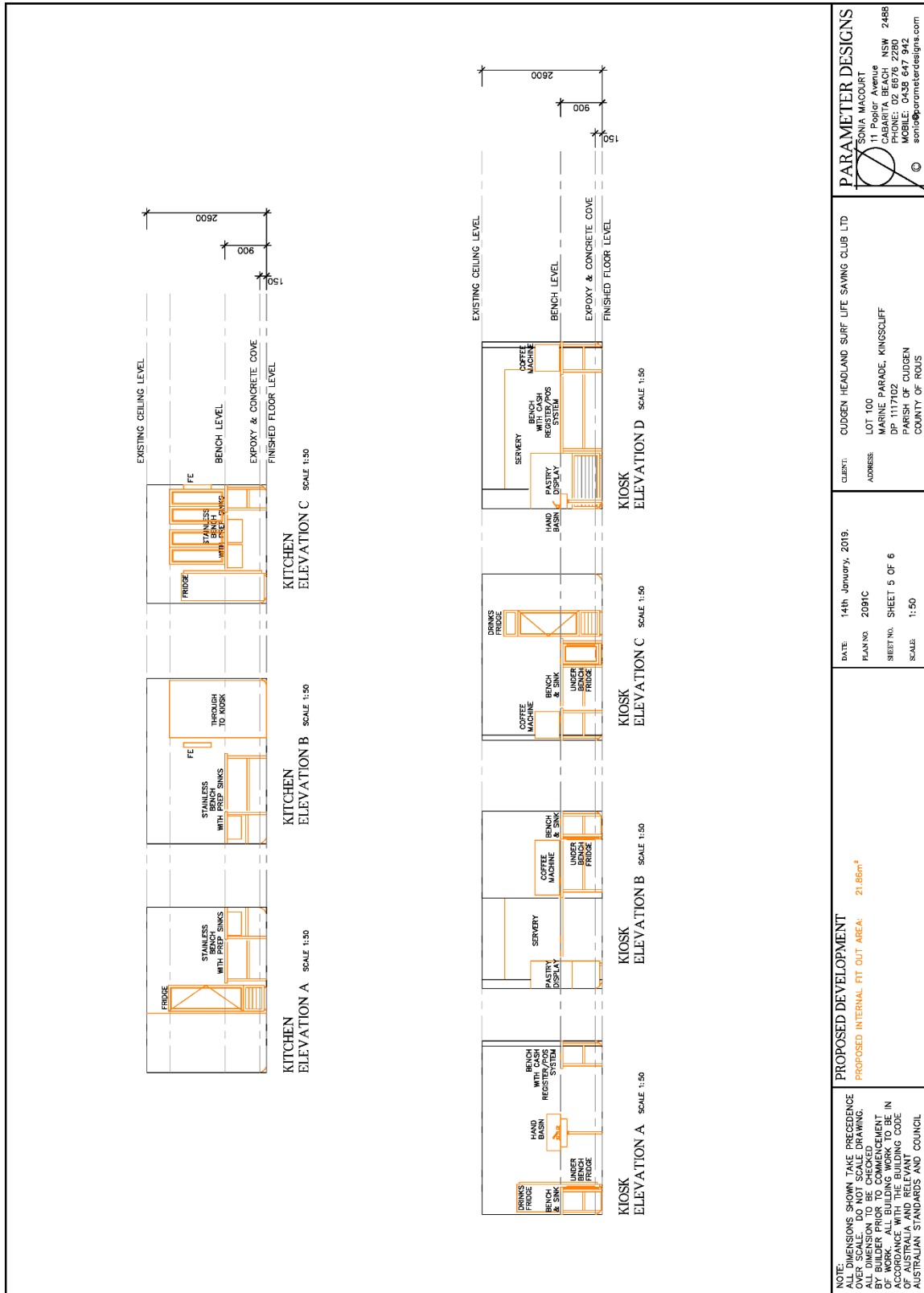


PROPOSED GROUND FLOOR PLAN SCALE: 1:100

This Development Consent authorizes the construction of a footpath as shown on Sheet 3 of 6 Proposed Ground Floor Plan as amended by Council in blue and black ink. Such footpath is to be constructed prior to occupation of the take away food and drink premises.

<p>NOTE: ALL DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALE. DO NOT SCALE DRAWING. DIMENSIONS TO BE VERIFIED BY SURVEY PRIOR TO COMMENCEMENT OF WORK. ALL BUILDING WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND ALL OTHER APPLICABLE AUSTRALIAN STANDARDS AND COUNCIL REGULATIONS.</p>	<p>PROPOSED DEVELOPMENT PROPOSED INTERNAL FIT OUT AREA: 21.85m²</p>	<p>DATE: 14th January, 2019. PLAN NO: 2091C SHEET NO: SHEET 3 OF 6 SCALE: 1:100</p>	<p>CLIENT: GUDGEN HEADLAND SURF LIFE SAVING CLUB LTD ADDRESS: LOT 100 MARINE PARADE, KINGSCLIFF DP 1117102 GUDGEN COUNTY OF ROUS</p>	<p>PARAMETER DESIGNS SONIA MACCOURT 11 Poplar Avenue NSW 2486 CABARITA BEACH PHONE: 02 447 2282 WWW.PARAMETERDESIGNS.COM</p>
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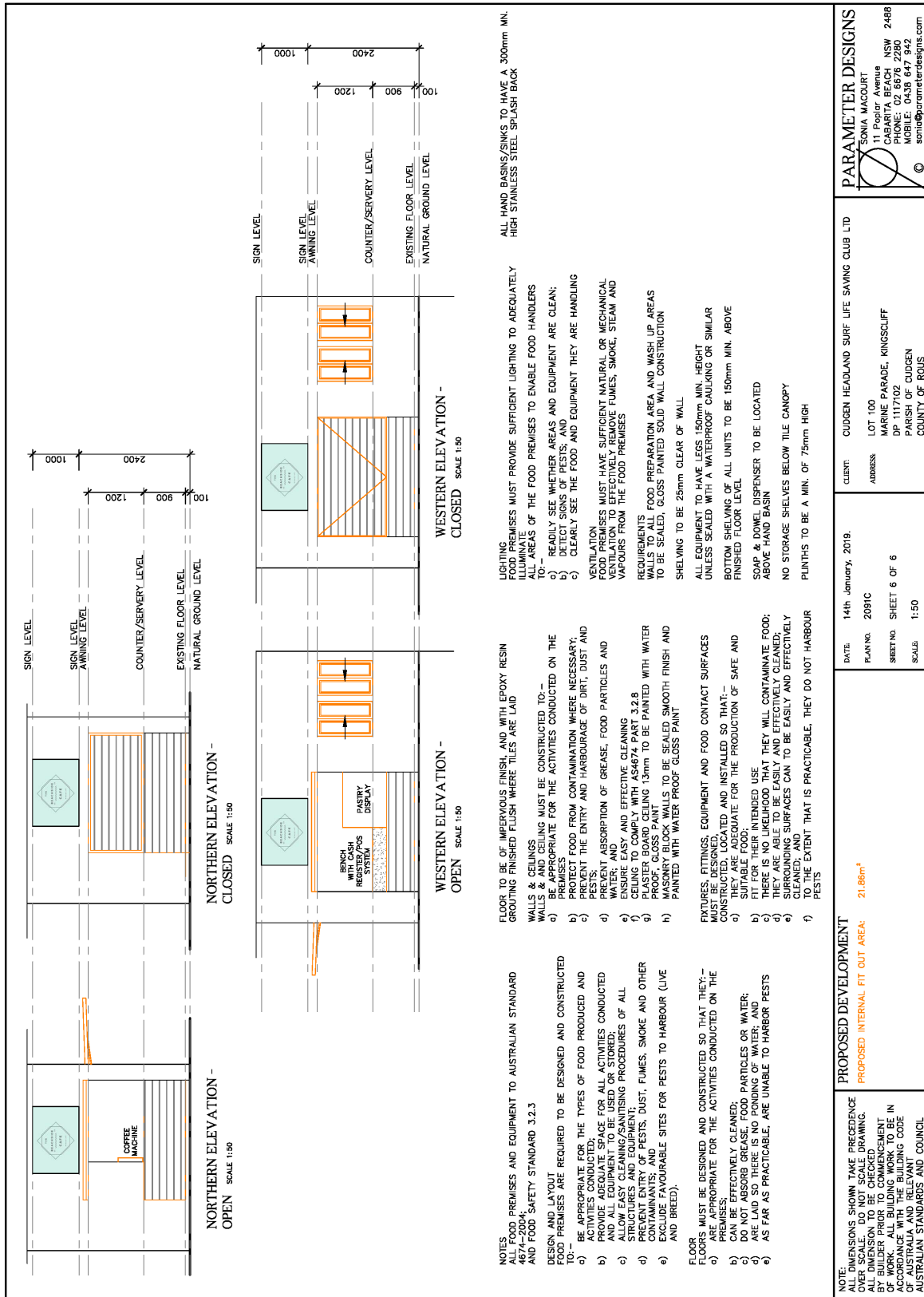
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 11 Poplar Avenue
 CABARITA BEACH NSW 2488
 PHONE: 02 8576 2280
 MOBILE: 0438 647 942
 sonia@parameterdesigns.com

CLIENT: CUDDEN HEADLAND SURF LIFE SAVING CLUB LTD
 ADDRESS: LOT 100 MARINE PARADE, KINGSCLIFF DP 1117102 PARISH OF CUDDEN COUNTY OF ROUS

DATE: 14th January, 2019.
 PLAN NO. 2091C
 SHEET NO. SHEET 5 OF 6
 SCALE: 1:50

PROPOSED DEVELOPMENT
 PROPOSED INTERNAL FIT OUT AREA: 21.86m²

NOTE: ALL DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALE. DO NOT SCALE DRAWING. ALL DIMENSIONS TO BE CHECKED IN FIELD. ALL BUILDING WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS AND COUNCIL



NOTES
 ALL FOOD PREMISES AND EQUIPMENT TO AUSTRALIAN STANDARD 4674-2004;
 AND FOOD SAFETY STANDARD 3.2.3

DESIGN AND LAYOUT
 FOOD PREMISES ARE REQUIRED TO BE DESIGNED AND CONSTRUCTED TO:-
 a) BE APPROPRIATE FOR THE TYPES OF FOOD PRODUCED AND ACTIVITIES CONDUCTED;
 b) PROVIDE ADEQUATE SPACE FOR ALL ACTIVITIES CONDUCTED AND ALL EQUIPMENT TO BE USED OR STORED;
 c) PROVIDE ADEQUATE VENTILATION USING PROCEDURES OF ALL STRUCTURES AND EQUIPMENT;
 d) PREVENT ENTRY OF PESTS, DUST, FUMES, SMOKE AND OTHER CONTAMINANTS; AND
 e) EXCLUDE FAVOURABLE SITES FOR PESTS TO HARBOUR (LIVE AND BREED).

FLOOR
 FLOORS MUST BE DESIGNED AND CONSTRUCTED SO THAT THEY:-
 a) ARE APPROPRIATE FOR THE ACTIVITIES CONDUCTED ON THE FLOOR;
 b) CAN BE EFFECTIVELY CLEANED;
 c) DO NOT ABSORB GREASE, FOOD PARTICLES OR WATER;
 d) ARE LAID SO THERE IS NO PONDING OF WATER; AND
 e) AS FAR AS PRACTICABLE, ARE UNABLE TO HARBOR PESTS

FLOOR TO BE OF IMPERVIOUS FINISH, AND WITH EPOXY RESIN GROUTING FINISHED FLUSH WHERE TILES ARE LAID
 WALLS & CEILING MUST BE CONSTRUCTED TO:-
 a) BE APPROPRIATE FOR THE ACTIVITIES CONDUCTED ON THE PREMISES;
 b) PROTECT FOOD FROM CONTAMINATION WHERE NECESSARY;
 c) PREVENT THE ENTRY AND HARBOURAGE OF DIRT, DUST AND PESTS;
 d) PREVENT ABSORPTION OF GREASE, FOOD PARTICLES AND WATER; AND
 e) ENSURE EASY AND EFFECTIVE CLEANING
 f) CEILING TO COMPLY WITH AS4674, PART 3.2.8
 g) ALL SURFACES MUST BE PAINTED WITH WATER PROOF, GLOSS PAINT
 h) MASONRY BLOCK WALLS TO BE SEALED SMOOTH FINISH AND PAINTED WITH WATER PROOF GLOSS PAINT

FIXTURES, FITTINGS, EQUIPMENT AND FOOD CONTACT SURFACES
 MUST BE DESIGNED, LOCATED AND INSTALLED SO THAT:-
 a) THEY ARE APPROPRIATE FOR THE PRODUCTION OF SAFE AND SUITABLE FOOD;
 b) FIT FOR THEIR INTENDED USE
 c) THERE IS NO LIKELIHOOD THAT THEY WILL CONTAMINATE FOOD;
 d) THEY ARE ABLE TO BE EASILY AND EFFECTIVELY CLEANED;
 e) SURROUNDING SURFACES CAN BE EASILY AND EFFECTIVELY CLEANED;
 f) TO THE EXTENT THAT IS PRACTICABLE, THEY DO NOT HARBOUR PESTS

LIGHTING
 FOOD PREMISES MUST PROVIDE SUFFICIENT LIGHTING TO ADEQUATELY ILLUMINATE THE AREAS OF THE FOOD PREMISES TO ENABLE FOOD HANDLERS TO:-
 a) READILY SEE WHETHER AREAS AND EQUIPMENT ARE CLEAN;
 b) DETECT SIGNS OF PESTS; AND
 c) CLEARLY SEE THE FOOD AND EQUIPMENT THEY ARE HANDLING

VENTILATION
 FOOD PREMISES MUST HAVE SUFFICIENT NATURAL OR MECHANICAL VENTILATION TO EFFECTIVELY REMOVE FUMES, SMOKE, STEAM AND VAPOURS FROM THE FOOD PREMISES

REQUIREMENTS
 WALLS TO ALL FOOD PREPARATION AREA AND WASH UP AREAS TO BE SEALED, GLOSS PAINTED SOLID WALL CONSTRUCTION
 SHELVING TO BE 25mm CLEAR OF WALL

ALL EQUIPMENT TO HAVE LEGS 150mm MIN. HEIGHT UNLESS SEALED WITH A WATERPROOF CHAIRING OR SIMILAR BOTTOM SHELVING OF ALL UNITS TO BE 150mm MIN. ABOVE FINISHED FLOOR LEVEL
 SOAP & DOWEL DISPENSER TO BE LOCATED ABOVE HAND BASIN
 NO STORAGE SHELVES BELOW TILE CANOPY
 PLINTHS TO BE A MIN. OF 75mm HIGH

ALL HAND BASINS/SINKS TO HAVE A 300mm MN. HIGH STAINLESS STEEL SPLASH BACK

PROPOSED DEVELOPMENT
 PROPOSED INTERNAL FIT OUT AREA: 21.66m²

NOTE:
 ALL DIMENSIONS SHOWN TAKE PRECEDENCE OVER DIMENSIONS NOTED IN THE DRAWING.
 ALL DIMENSIONS TO BE CHECKED BY BUILDER PRIOR TO COMMENCEMENT OF WORK.
 ALL BUILDING WORK TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS AND COUNCIL

DATE: 14th January, 2019.
PLAN NO.: 2091C
SHEET NO.: SHEET 6 OF 6
SCALE: 1:50

CLIENT: CUDGEN HEADLAND SURF LIFE SAVING CLUB LTD
ADDRESS: LOT 100
 MARINE PARADE, KINGSCLIFF
 DP 117102
 PARISH OF CUDGEN
 COUNTY OF ROUS

PARAMETER DESIGNS
 SONIA MACCOURT
 11 Poplar Avenue
 Ashfield NSW 2468
 PHONE: 0438 647 9280
 MOBILE: 0438 647 942
 sonia@parameterdesigns.com

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

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

Tweed Local Environmental Plan 2014

Clause 1.2 – Aims of the Plan

The Tweed Local Environmental Plan 2014 sets out local environmental planning provisions for land in the Tweed Shire in accordance with the standard environmental planning instrument under section 33A of the Environmental Planning and Assessment Act 1979. The particular aims of this Plan are as follows:

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

The proposal for ancillary facilities (take away food and drink premises) to the existing Cudgen Headland Surf Life Savings Club (SLSC) is conducive to the strategic planning principles that apply to the site, encourages a sustainable local economy, provision of additional employment opportunities, as well as improved recreational and tourist facilities without having unreasonable impacts to the local amenity or the built and natural environment. Therefore, the development is considered to comply with the objectives of the Plan.

Clause 2.3 – Zone objectives and Land use table

The subject site is zoned RE1 Public Recreation and under the plan the objectives of the zone are as follows:

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

The take away food and drink premises can be characterised as development that is ancillary to the existing use of the site as a Surf Life Savings Club.

Development for the purpose of a take away food and drink premises is a permissible form of development in the RE1 Public Recreation zone, with the consent of Council.

As such, given the nature and function of the proposed development and its permissibility in the zone, Council can be satisfied the development maintains its performance against the objectives of the zone.

Clause 4.1 to 4.2A - Principal Development Standards (Subdivision)

Not applicable as the application does not propose a subdivision.

Clause 4.3 - Height of Buildings

The subject site is mapped as having a maximum height limit of 10m. The proposed development is for a change of use and will not alter the existing building height.

Clause 4.4 – Floor Space Ratio

The subject site is not mapped to be affected by a maximum permitted floor space ratio and therefore this Clause does not apply. Additionally the proposed development is for a change of use and will not alter the Gross Floor Area (GFA) of the development.

Clause 4.6 - Exception to development standards

The subject application does not seek any variation to development standards under the LEP and therefore this Clause does not apply.

Clause 5.4 - Controls relating to miscellaneous permissible uses

There are no provision within this Clause that apply to the proposed development.

Clause 5.10 - Heritage Conservation

The subject site is not listed as a local heritage item or located within a heritage conservation area. A review of Councils GIS mapping system identified that land adjacent to the subject site (currently used as a caravan park) is listed as an item of local heritage significance.

The subject site is however mapped within a Known Area of Aboriginal Cultural Heritage.



Figure 2: Extract from Council's GIS showing site mapped as Known Area of Aboriginal Cultural Heritage

The proposed internal fit out will not disturb the soil as there is no increase in gross floor area and therefore the risk of any disturbance is minimal.

Throughout the assessment of the application it was identified that the external footpath adjoining the park to the front of the Club Building has a missing link which should be completed. A condition of consent has been imposed to undertake this work.

The application was referred to Tweed Byron Local Aboriginal Land Council (TBLALC) as required by Clause 5.10 (8) and no objection was received. Please see below excerpt from the TBLALC advice letter:

“Cudgen Surf Club is located in an area that is mapped for known Aboriginal cultural heritage (ACH) under the Tweed Shire Council (TSC) Aboriginal Cultural Heritage Management Plan. Kingscliff Headland is an Aboriginal dreaming and story place. As such it is an ‘intangible’ known ACH site. Recent monitoring and uncovering of in-situ midden material during upgrade works in Lions Park have added ‘tangible’ ACH to the area. I personally undertook the monitoring of those works and I noted that there was at least 60 cm, and typically at least 2 metres of very ‘clean’ sand in all other excavated areas throughout the park.”

Anticipating that there will be very minimal ground disturbance involved in installing the missing link to the footpath, that this work will only impact a very small surface area, that the work will only entail shallow ground disturbance, that the specific location of any ground disturbance has previously been disturbed and, in the context that my recent observation in this same locale that the earth in the park is generally clear of ACH to a considerable depth, I am of the opinion that it is unlikely that ACH will be encountered or harmed by any ground disturbance proposed by this DA. Based upon this information it is our opinion that the usual detailed ACH site inspection and report is not necessary in this instance. It is the TSC's prerogative to either accept or reject our opinion in its assessment of the DA".

Therefore the application satisfies Clause 5.10 and can be conditionally approved with precautionary conditions that should any relic or artefact be discovered work is to cease immediately.

The proposed development is considered to maintain the objectives of this Clause and will not have any impact on matters of cultural, environmental or archaeological heritage.

Clause 5.11 - Bush fire hazard reduction

The subject site is cleared of vegetation and whilst it is mapped to be affected by bushfire prone land, the proposed land use (take away food and drink within a Surf Club) does not include any residential accommodation, tourist accommodation or development that is listed as Special Fire Protection Purposes pursuant to Rural Fires Act.

No building footprint alterations or clearing are proposed.

As such, the provisions of this Clause do not apply to the proposed development.

Clause 7.1 – Acid Sulfate Soils

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

The subject site is mapped to contain Class 5 Acid Sulfate Soils and therefore development consent is required for the carrying out of 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 water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. A review of the Development Application package indicates that no earthworks are proposed as part of the proposed development and therefore works will not exceed below 5 metres AHD. As such, the development will maintain consistency with the objectives of this Clause.

Clause 7.2 - Earthworks

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

A review of the DA indicates that no earthworks are required. As such the development maintains consistency with the objectives of this Clause.

Clause 7.3 – Flood Planning

The subject site is not affected by PMF or 1 in 100 year flooding and therefore the provisions of this Clause do not apply to the proposal.

Clause 7.4 - Floodplain risk management

The proposed development does not fall within a land use that is affected by this Clause.

Clause 7.5 - Coastal risk planning

The objectives of this Clause are to:

- (a) *to avoid significant adverse impacts from coastal hazards,*
- (b) *to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,*
- (c) *to enable the evacuation of land identified as coastal risk in an emergency,*
- (d) *to avoid development that increases the severity of coastal hazards.*

The subject site is mapped to be affected by 'Coastal Risk' and therefore this Clause applies.

Pursuant to Clause 7.5(3) development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) *is not likely to cause detrimental increases in coastal risks to other development or properties, and*
- (b) *is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and*
- (c) *incorporates appropriate measures to manage risk to life from coastal risks, and*
- (d) *is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and*
- (e) *provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and*
- (f) *has regard to the impacts of sea level rise.*

The area to which the existing building is located is identified on the coastal risk planning map as coastal risk. However, as the subject application relates only to a change of use within an existing approved building. Based on the above mentioned considerations, Council can be satisfied that the development meets the matters for consideration pursuant to Clause 7.5(3) and overarching objectives of Clause 7.5.

Clause 7.6 - Stormwater Management

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

The applicant has demonstrated that no ground disturbance will be required to facilitate the proposed works and therefore will be no significant changes to the existing stormwater management regime. As such, the objectives of this clause can be maintained by way of existing stormwater infrastructure and services.

Clause 7.7 - Drinking Water Catchments

The subject site is not mapped to be located within an area identified as a drinking water catchment area.

Clause 7.8 – Airspace operations

The objectives of this clause are as follows:

- (a) to provide for the effective and ongoing operation of the Gold Coast Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,
- (b) to protect the community from undue risk from that operation.

The subject site is located within the take-off/approach surface for Gold Coast Airport. In considering the provision of this Clause, the proposed development will not alter the height of the building and therefore the development is unlikely to penetrate the Limitation or Operations Surface for the Gold Coast Airport (49.5 RL height limit). As such, Council can be satisfied the development will not comprise Gold Coast airport by penetrating the OLS and is considered consistent with the provisions of Clause 7.8.

Clause 7.9 - Development in areas subject to aircraft noise

The subject site is not mapped as affected by Aircraft Noise.

Clause 7.10 - Essential Services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

The provision of water, sewer, electricity and drainage are available at the site for the existing club operations. The provision of such services are available to the proposed take away food and drink premises.

It is noted that vehicular access is provided in the adjacent crown lands carpark. It is noted that the proposed development is wholly contained within the subject site and does not encroach in any part of the adjacent car park on the adjacent lot.

Further discussion in regard to parking availability is made under Section A2 of the DCP, contained later in this report.

Other Specific Clauses

None apply.

North Coast Regional Plan 2036 (NCRP)

The North Coast Regional Plan 2036 (NCRP) is the NSW Department of Planning and Environment's visionary strategic document to guide land use planning priorities and decisions in the North Coast of NSW until 2036. It contains high level priorities for the region, and specific goals and actions for individual government areas. These include protecting the region's distinct social and cultural character, its biodiversity and environmental values, and its typical built character. It is also a goal of the plan to deliver a thriving, interconnected economy. The proposal is considered to be consistent with the Goals and Directions outlined in the Plan.

State Environmental Planning Policies

SEPP No. 55 - Remediation of Land

The objectives 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. In particular it is noted that this SEPP states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

With regards to the subject site,

Council records for the area indicate that historical sand mining occurred along the beach front. Radiation monitoring was completed as part of the recent re-development of the adjacent public park site. Radiation levels were within relevant limiting criteria.

Furthermore, no excavations are proposed as part of the proposed works and therefore the proposal is considered to be acceptable with respect to contaminated land and the provisions of SEPP 55.

SEPP (Coastal management) 2018

The subject site is mapped as being within the Coastal Environment Area/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 proposal is considered to be consistent with the objectives of each clause.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- (b) the proposed development:
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

The development is only for a change of use within an existing approved building and will therefore not alter the risk associated with coastal hazard. As such the provision of Clause 12 have been considered and are complied with.

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

There is no draft Environmental Planning Instruments applicable to the subject application.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

DCP A2 provides for the consideration of on-site access and vehicle and bicycle parking, to ensure that sufficient facilities are provided and the road network is not compromised, whilst ensuring consistency with ESD principles.

There are no additional parking spaces provided in the application and no proposed vehicular access beyond that afforded the SLSC presently.

Car Parking Calculations:

Credit

Existing manager's cottage deemed credit 1 space

Proposed

GFA of Proposed kitchen and kiosk = 27.3m²
27.3 (kitchen and kiosk) /100 = 0.273 x 3.5 = 0.96
3 staff = 3

Total 3.96 x 0.9 = 3.564 – 1 space credit = 2.564 = **3 spaces required**

The applicant has provided the following justification for this deficiency.

It is submitted that the provision of parking for the proposed take-away food and drink premises is not warranted, for the following reasons:

- There is no potential for the provision of parking at the site.
- The Food & Drink Premises is replacing a manager's residence, which would typically require the provision of one car parking space. Credit would exist for parking based on the previous Managers Residence use.
- The development will generally serve members of the public who are visiting the beach or adjacent caravan park. It is not likely to be a destination in its own right, and would therefore not trigger additional demand for car parking.
- The premises is essentially an ancillary use to the main Surf Club use of the building, and would thereby not generate additional parking demand over and above that already generated by the existing development at the site.
- The operating hours of the Food & Drink Premises of 6.00am – 3.00pm do not coincide with the main operating hours of the Surf Club premises as a whole, and hence would not trigger any parking over & above what is already in demand by the development on the site.
- The development is located adjacent to the main commercial district of Kingscliff, which has ample parking provided in the vicinity of the existing Surf Club building.

For the above reasons, Council is respectfully requested to accept the proposed development without the provision of additional parking.

Council's Traffic Engineer has reviewed the proposal and have raised no objections on the DA and its non-provision of car parking given the following justification:

- the site is incapable of providing additional parking as the subject lot is comprised of the building footprint with no space for car parking. Whilst not referred to in this DA, the whole upper level of the Club is open to the public for Restaurant and Bar activities and there is no on-site parking.
- given its physical location its primary customer would be beach foreshore users and not necessarily an attractant in its own right, additionally it is not visible from Marine Parade,
- there is no increase in GFA for the overall site,
- the operating hours of the Food & Drink Premises of 6.00am – 3.00pm do not coincide with the main operating hours of the Surf Club premises as a whole, and hence would not trigger any parking over & above what is already in demand by the development on the site.
- it would operate similarly to a kiosk which requires less parking provision than that for a Take Away premises,
- the SEE states there would be 2-3 staff and the calculations are conservative using a staff number of 3, and
- the site is not within the s94 Plan No. 23 scope and levies cannot be applied.

Council's Traffic Engineer has provided a merit based assessment of the proposal which demonstrates that the development is satisfactory having regard to matters for consideration for parking and traffic in accordance with Section A2 of the DCP.

Council's Recreation Unit has also reviewed the application and provided the following comments in regards to access:

"The proposed kiosk will interface with Council's recently developed Rowan Robinson Park. Customers are likely to move freely between the kiosk and the park as well as the beach. The DA should address the likely impact on pedestrian movement and amenity in the area. It is recommended that a path

be installed leading from the kiosk to the existing curved path in Rowan Robinson Park. The path is to be designed to match the levels and form of that existing path, and consider the likely pedestrian movement in its design and location."

The development consent will be conditioned to provide a footpath with the design to be approved by Council's Recreation Unit.

A11-Public Notification of Development Proposals

The application was notified for a period of 14 days Wednesday 12 September 2018 to Wednesday 26 September 2018. During the notification period no submissions were received.

A15-Waste Minimisation and Management

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.

The Statement of Environmental Effects has stated that the take away food and drink premises will utilize the existing bulk bin daily commercial waste service that the Surf Club currently uses. This proposal is considered acceptable with regard to Section A15 of TDCP.

B9-Tweed Coast Strategy

The subject site is located within the Tweed Coast Strategy which correlates to the West Kingscliff Precinct in terms of providing a strategic planning direction to accommodate population growth and development focus of the Tweed Shire.

The Tweed Coast Strategy sets out principles and guidelines to accommodate the anticipated development of the coast, meet the requirements of the current and future communities, protect the essential values of the coast, co-ordinate infrastructure provisions, consider sustainable development and environmental protection as well as the integration of development.

The subject site is located outside of specific growth precincts and comprises of an existing well established facility to serve both the local community as well as the tourism industry of the Tweed Coast.

Of particular relevance to the subject site and proposed development is the provisions contained under B9.5.9 (Public Car parking) for the Kingscliff area. The plan acknowledges that one of the greatest threats to the character of Kingscliff as a seaside village is traffic and the associated parking. Whilst parking is essential to the on-going trade in the village it has the danger of destroying the very thing that attracts people there, and for this reason further studies will be undertaken to ensure that additional public car parking can be provided in Kingscliff to service the growing demand generated by the growth in the area. It is expected that a public car parking will be strategically located to service the CBD of Kingscliff and therefore alleviate pressure on existing public parking (such as that which adjoins the subject site and the subject site benefits from).

In considering the availability of parking for the proposed development, Council's Traffic Engineer has provided a merit based assessment of the proposal which demonstrates that the development is satisfactory having regard to matters for consideration for parking and traffic in accordance with Section A2 of the DCP.

Therefore, the likely impacts of the development on traffic and parking given the scope in which the development is proposed is negligible.

Based on the above consideration and Council's Traffic Engineers advice in regard to traffic and parking, the proposed development is considered to be consistent with the overarching objectives of this plan as far as improving the quality of existing private recreational facilities within the locality without having adverse amenity impacts on adjoining land uses and public infrastructure.

Council can therefore be satisfied the development meets the objectives of the Tweed Coast Strategy.

B25-Coastal Hazards

The subject site is located seaward of the immediate coastal hazard line and seaward of the 2050 and 2100 hazard lines and therefore this Section of the DCP applies (see Figure 3 below).



Figure 3: Overlay of coastal erosion lines on the subject site from Council GIS

The proposed development is for a change of use and will not alter any structures. Thus the proposed development is consistent with the relevant matters for consideration under Section B25 of the DCP.

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

There is no planning agreement or draft planning agreement relating to the site or the proposal.

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

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

The proposed development is consistent with the objectives of the Government Coastal Policy as identified in Clause 92(1)(a)(ii).

Clause 92(1)(b) Applications for demolition

As the works have already been completed this clause is not relevant.

Clause 93 Fire Safety Considerations

The proposal is for the change of use of the existing manager's residence in Cudgen surf club to a take away food and drink premises. With past renovations and fire upgrades to the building a fire ceiling has been provided between the existing manager's residence and the surf club above. Having regards to the requirements of clause 94 of the EP7A regulations the proposed works are considered acceptable as new building works are to comply with the BCA.

Clause 94 Buildings to be upgraded

Council's Building Services Unit have reviewed the application and advised:

"The proposal is for the change of use of the existing manager's residence in Cudgen surf club to a take away food and drink premises. With past renovations and fire upgrades to the building a fire ceiling has been provided between the existing manager's residence and the surf club above. Having regards to the requirements of clause 94 of the EP7A regulations the proposed works are considered acceptable as new building works are to comply with the BCA."

- (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 located in proximity of the coastal foreshore and is affected by coastal hazards. However, the location of the works is landward of an existing seawall and is protected by coastal inundation and only involves a change of use within an existing structure. As such, the proposed development will not impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology; and, social and economic demand. The Management Plan objectives at Clause 3.1.1 are therefore satisfied.

Tweed Coast Estuaries Management Plan 2004

The Tweed Coast estuaries of Cudgen, Cudgera and Mooball Creeks, situated south of the Tweed River mouth between Kingscliff and Wooyung, are small barrier estuaries, highly regarded by the local communities, with substantial productivity and biodiversity values.

The site is not covered by the policy.

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

Existing estuary management plans for the Cobaki and Terranora Broadwaters, implemented over the past decade, are in need of revision to incorporate new scientific knowledge, changes to the physical environment and recent legislative and policy changes. A revision of the management plans is also timely given the proposed large scale urban development planned for the catchment. The Plans have been updated in accordance with the NSW Coastal Policy 1997, consistent with all other relevant environmental planning instruments, and aim to provide strategies that will contribute to meeting relevant targets in the Northern Rivers Catchment Action Plan.

The site is not covered by the policy.

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

Context and Setting

The development only includes minor modifications to the external of the existing building to create the openings in the wall for the take away premises and will therefore have little impact on the context or setting of the surrounding area. However, the conversion of this space area to a commercial use has the potential to provide a more active frontage within the newly renovated adjacent Kingscliff Foreshore Park that will contribute to the character and amenity of this town centre location.

Access, Transport and Traffic

The proposal will not alter the current access or parking arrangements available at the subject site.

The application is considered to be acceptable in regard to this provision. For further detail refer to discussion in section DCP A2.

Flora and Fauna

The proposed development is for a change of use with only minor internal works which have been completed – no removal of onsite vegetation is proposed.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The site is occupied by the Cudgen Headland Surf Life Saving Club. Land to the north comprises Council community buildings, caravan park and parkland, which has recently been redeveloped. Public parkland also continues to the east and south of the Surf Club. This area is currently maintained in a grassed condition, with public stairways which lead to the beach.

Land to the west comprises the main street of the Kingscliff commercial/retail area.

The site does not contain any on-site car parking, and instead, a public carpark is provided between the Surf Club building and Marine Parade on the adjacent property known as Lot 2 DP 1122062.

The proposal is for the use of portion of the existing manager's residence as a take away food and drink premises. The proposed hours of operation is from 6:00am to 3.00pm.

The proposed development is considered compatible with these surrounding land uses.

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

No submissions were received.

(e) Public interest

The proposed development is generally consistent with the applicable environmental planning instruments and the Tweed Development Control Plan (with the exception of A2 – Site Access and Parking Code). The proposed development is ancillary to the use of the land as a Surf Life Savings Club and will improve the financial viability of the club as well as the amenity that the club provides for its members, guests and the general public accessing the foreshore park and beach. The development is therefore considered to be in the wider public interest by providing a commercially viable development which provides a degree of social amenity on appropriately zoned land.

Section 7.11 Contributions

TRCP

The applicant has provided the following:

¹ Also, it is not anticipated that any contributions would be payable under the CP04 - Tweed Road Contribution Plan for the following reasons:

- The development does not propose any additional floor area, as all works are within the existing footprint of the Surf Club building.
- The site would have 'credit' for the existing manager's residence, which is to be replaced by the small take away food & drink premises.
- Other parts of the manager's residence will become a surf display (with no additional traffic generation) and the existing bathroom and kitchen will be retained for general use.
- The development has a floor area of 13.6m only, with an adjacent 4m² of kitchen area.
- The Take Awa premises will not be a standalone destination. It will cater for people who are already in the area. Hence, there is no nexus to levy contributions for road upgrading.
- The development will not generate an increase in traffic flows, as the take-away premises will serve members of the public who are already visiting the adjacent caravan or beach.
- The take away premises is part of the overall use of the site by the surf club. When assessing the site as a whole, the development would not impact on traffic flows to/from the site. The development is an ancillary use to the Surf Club which occupies the building.

The above assertions are accepted and accordingly it is considered that TRCP would not be applicable in this circumstance.

Plan 18

As there is no increase in floor area Plan 18 would not be applicable.

Section 64 Contributions

Existing Section 64 Credit:

Description	Totals				10.512	15.823
	Water ET	Sewer ET	No.	m2	Water ET TOTAL	Sewer ET TOTAL
Single Residential Lots						
Multi-Dwelling Housing, includes Integrated Housing (Medium Density 1 – 2 Storey), includes small lot housing (<450m2)						
Potential of 1 bedroom each Dwelling	0.4	0.5	1		0.4	0.5
Food Preparation						
Refreshment Room – Floor Area per m2	0.008	0.013		119	0.952	1.547
Entertainment						
Pub / Bar Floor Area, (Consider Food Preparation Area separately) per m2	0.03	0.048		12	0.36	0.576
Marina – per Berth	0.6	0.9			0	0
Community Facilities						
Public Amenities Block per shower	0.4	0.6	5		2	3
Public Amenities Block per wc	0.4	0.6	17		6.8	10.2

From ECM DSI No: 5564725

Proposed Section 64 Entitlement:

Description	Totals				10.347	15.705
	Water ET	Sewer ET	No.	m2	Water ET TOTAL	Sewer ET TOTAL
Single Residential Lots						
Multi-Dwelling Housing, includes Integrated Housing (Medium Density 1 – 2 Storey), includes small lot housing (<450m2)						
Potential of 1 bedroom each Dwelling	0.4	0.5	0		0	0
Food Preparation						
Refreshment Room – Floor Area per m2	0.008	0.013		148.406	1.187248	1.929278
Entertainment						
Pub / Bar Floor Area, (Consider Food Preparation Area separately) per m2	0.03	0.048		12	0.36	0.576
Marina – per Berth	0.6	0.9			0	0
Community Facilities						
Public Amenities Block per shower	0.4	0.6	5		2	3
Public Amenities Block per wc	0.4	0.6	17		6.8	10.2

Total Section 64 Developer Contributions:

Therefore as the proposed entitlement is less than the existing credit this proposal does not have any applicable s64 charges.

Water = NIL
Sewer = NIL

OPTIONS:

1. Approves the application with conditions requiring a building information certificate and the construction of a footpath to link to the existing pathways.
2. Refuses the application for specified reasons.

Option 1 is recommended.

CONCLUSION:

The proposed development has been considered in accordance with the relevant statutory obligations under Section 4.15 of the Environmental Planning and Assessment Act 1979 and on balance is considered to be suitable for determination by way of approval.

The development is not considered to result in a significant impact to the built and environmental amenity and to secure this outcome, appropriate conditions have been applied.

The proposal is considered suitable and appropriate for the subject site, given its permissibility in the RE1 Public Recreation zone. In addition, matters of Public Interest have been considered and addressed as part of the assessment. It is considered that on balance, the development has sound planning merit and is worthy of support.

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.

2 [PR-PC] Draft Kingscliff Locality Plan - Exhibition Consultation Report

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:

This report seeks Council's endorsement of the *Kingscliff Locality Plan Community Consultation Evaluation Report* (the consultation report). The consultation report provides an analysis of the feedback comments received during the four community round table sessions held on 4 and 18 September 2018 as well as a review of the 56 written submissions received during the formal exhibition period held 20 August to 24 September 2018.

Council direction is sought on a number of key issues identified within the consultation report which have been presented as recommendations within this report. Council's direction in relation to these key issues will inform the final drafting of the Kingscliff Locality Plan and Development Control Plan (KLP&DCP) and include:

- Mapping and nomination of ecologically sensitive lands;
- Updating the KLP&DCP to include references to the Tweed Valley Hospital;
- Endorsing the exhibited building heights;
- Reviewing request to expand urban footprint areas within the Turnock and Cudgen precincts;
- Review request to update road alignments in the West Kingscliff and Cudgen Precincts (Altona Road, Crescent St and Turnock St extension);
- Review request to enable future community facilities to be nominated within the business and knowledge precinct rather than the town centre or Turnock St precinct;
- To consider master plan design principles to reduce potential to impact existing low density development immediately adjoining greenfield development sites including properties along Beach Street within the North Kingscliff Precinct;
- Review the development control for a 20m vegetative buffer along the Business and Knowledge Precinct frontage to Tweed Coast Road;
- Review planning and design principles to mitigate any potential impacts between greenfield development sites and existing R2 low density areas directly adjoining;

- Review options to facilitate rezoning from R2 low density to R3 medium density over certain sites within North Kingscliff;
- Review strategies in relation to the Council owned land along Elrond Drive;
- Review strategies over the Police station site within the Beachfront Precinct; and
- Review strategies in relation to facilitating rezoning of part Lot 169 DP1075495 fronting Bells Boulevard from SP3 Tourist to B4 Mixed Use to encourage a broader range of retail, commercial, residential uses.

Each of these issues listed above have been discussed in more detail within the consultation report where in some cases a number of different options have been identified. In the consideration of the key issues and recommendations embodied within this Council report, the consultation report should thereby be used as the principle reference in conjunction with the recommendations.

The consultation report and recommendations will be utilised to make the final amendments to the KLP & DCP which will be reported to Council for adoption following the endorsement of the consultation report.

It should be noted that this report and the recommendations contained within have been completed in light of the current Government of the day's position on the Tweed Valley Hospital site. Council's resolved position does not support the location as proposed by the State Government for the Tweed Valley Hospital. Given the impending State election and the fact that the opposition has a different policy on the location of the Hospital it is open to Council to defer consideration of this report until after the State election to resolve the position on the Tweed Valley Hospital site and its relationship to the Locality Plan.

RECOMMENDATION:

That Council:

- 1. Endorses the attached draft Kingscliff Locality Plan and Development Control Plan Exhibition Community Consultation Report 20 August – 24 September 2018;**
- 2. Notes that the endorsed Community Consultation Report will inform the final drafting of the Kingscliff Locality Plan and Development Control Plan which will be reported to Council for adoption;**
- 3. In consideration of the key issues within the evaluation report resolve to:**
 - a) Utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land' within the final Kingscliff Locality Plan & Development Control Plan. 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;**
 - b) Include reference to the Tweed Valley Hospital as a major land use, social and economic anchor within the final Kingscliff Locality Plan & Development Control Plan which involves:**

- **Updating diagrams and references to the Tweed Valley Hospital Site throughout the Kingscliff Locality Plan and Development Control Plan documents;**
 - **Including narrative references to the Tweed Valley Hospital across each of the Kingscliff Locality Plan & Development Control Plan documents particularly in terms of locality wide strategies, economic, employment and social context sections;**
 - **Expand the Kingscliff Hill Precinct to include the Tweed Valley Hospital Site and update the narrative within that section to discuss the planning and design implications of the Tweed Valley Hospital including a discussion on land uses on the immediate adjoining sites; and**
 - **Continue ongoing consultation with NSW Health and the Department of Planning and Environment with regards to hospital planning and design issues.**
 - **Working with Department of Planning and Environment and Department of Primary Industry to ensure policy and planning controls are in place to protect remaining State significant farmland on the Cudgen plateau including those directly adjacent to the Hospital and Kingscliff TAFE.**
- 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 Kingscliff Locality Plan & Development Control Plan 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;**
- 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;**
- e) Defer consideration of land owner request for the extension of nominated ‘urban footprint’ areas within the Cudgen Precinct (lands adjoining future lake resulting from sand extraction operation) from the current Kingscliff Locality Plan & Development Control Plan 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;**
- f) Updated diagrams within relevant sections of the final current Kingscliff Locality Plan & Development Control Plan to represent the approved alignment of Altona Road alignment and provide in principle support for the Crescent St realignment and Turnock Street 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;

- 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;
- h) Retain the planning and design principles to locate key community facilities within either the Town Centre or Turnock Street 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) Amend the final current Kingscliff Locality Plan & Development Control Plan 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;
- 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;
- k) Amend the final current Kingscliff Locality Plan & Development Control Plan to retain Council owned land along Elrond Drive as RE1 Private 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;
- l) Amend the final current Kingscliff Locality Plan & Development Control Plan 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;
- m) Amend the final current Kingscliff Locality Plan & Development Control Plan 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; and

- n) Update the final current Kingscliff Locality Plan & Development Control Plan to including a number of minor editorial and diagrammatic amendments and corrections.**

REPORT:

A preliminary review of tabulated feedback recorded as an outcome of the four community roundtable workshops and written submission received during the public exhibition period (20 August and 14 September 2018) was reported to the 12 December 2018 Council meeting where it was resolved that Council:

1. *Receives and notes this report and the attached community round table comment tabulations and written submission review;*
2. *Notes that a further future report will provide a more detailed and analytical review of the key issues as an outcome of the consultation process, with recommendations to inform the final drafting of the Kingscliff Locality Plan and DCP in the form of KLP Community Consultation Evaluation Report.*
3. *Forward a copy of the KLP Community Consultation Evaluation Report with the adopted Kingscliff Locality Plan, subject to Council approval, to the Department of Planning and Environment.*
4. *Consider a future supplementary report on the status of the E-Zone review as it applies to the Kingscliff locality including Gales Holdings sites.*

In response to resolution 2 above, the consultation report as attached to this report (Attachment 1) now provides an analysis of feedback received from the four workshop sessions as well as a review of the 56 written submissions received during the formal exhibition period. In response to resolution 4 above, whilst consideration of the status of the e-zone review is identified in the context of the submission review contained within this report and its attachments, a separate Natural Resource Management Unit initiated status update will be reported to Council.

The consultation report has been broken into three broad sections:

Engagement Program – Describes the consultation which involved several approaches and tools to ensure a wide reach of community and stakeholder groups and gather feedback;

Roundtable feedback – Provides an overview of the key issues that were raised during the four round table workshop with a tabulated analysis of the key issues under each of the five nominated themes and a description of how the KLP&DCP addresses each of these issues. A copy of the tabulated results are attached to Appendix 1 of the consultation report; and

Written submission review – Provides an overview of the key issues identified in the analysis of the 56 written submissions received. The detailed written submission review is attached at Appendix 2 of the consultation report.

The key issues which emerged from both the round table workshops and written submissions are listed below however are discussed in more detail, including the discussion of options on which Council direction is sought, within the consultation report.

Round table Feedback

As previously reported 3,407 comments were received as an outcome of the four roundtable workshop sessions. These comments received have been tabulated into related thematics and ordered in terms of the frequency of the comment (or similar comment) made across the four round table workshop sessions. These tabulations have been attached to the consultation report appendix 1.

This tabulation and recording of comments provided an opportunity to re-evaluate the most pressing themes and issues as raised by workshop attendees which in generic terms included:

- Protecting locality character;
- Improving transport, traffic and car parking;
- Protecting and strengthening the environment;
- Supporting existing or exhibited building heights;
- Support and objection to the Tweed Valley Hospital;
- Value and provision of open space;
- Support of strategies on economic development and employment;
- General comments on population growth, planning and governance;
- Comments relating to improving community infrastructure and social issues;
- Concern in relation to flooding, fill impacts and potential for flood impact;
- Support of strategies to improve housing diversity;
- Comments in support of local agriculture and agri-tourism; and
- Comments relating to improving education infrastructure and opportunities with local industry including the hospital.

The consultation report tabulates the key issues raised within each of the five thematics explored and provides an analysis against the exhibited provisions within the KLP&DCP. This analysis indicated that in most cases the key issues had been specifically addressed by way of strategy, planning principle or development control. These summaries of the stated issues and how the KLP&DCP address them are provided on pages 16-20 of the consultation report.

Despite the general concurrence between round table workshop outcomes and the current plan, there were a number of comments made which would 'value add' to the and will be integrated as part of the final drafting. These comments included:

- Greater acknowledgement of the role which agri-tourism and agri-business can play in locality economic development and employment which is also reflected in Councils draft Rural Land Strategy;
- The need to integrate the Tweed Valley Hospital into the locality plan;
- Include a strategy to investigate the heritage of remnant sugar mill buildings and infrastructure; and
- Opportunities to expand on nature based recreation and education.

Round table workshop limitations

The nature of the feedback recorded during the round table workshops was focussed on the broader thematics and broader issues rather than a more detail or critical evaluation of the strategies, planning and design principles and development controls contained within the exhibited documents. As such the more general and open format of the workshops resulted

in a large portion of more generic feedback and feedback on matters that are beyond the scope or intent of a KLP&DCP. This feedback will be redirected to relevant divisions of Council, including where concurrent strategies and public consultation activities are underway.

Written Submission Feedback

The 56 written submissions were received during the formal exhibition period which came from a broad cross section of the community including individuals; landowners and land owner consultants; business groups including the Chamber of Commerce, State agency including NSW Health Infrastructure and resident groups including the Kingscliff Rate Payers and Progress Association. The nature of the written submissions ranges from detailed and specific comments against various strategies, planning principles and controls to a broader consideration of locality based issues.

Given the more detailed nature of some of the written submissions, they warranted a closer review and coordinated planning comment. As such each of the written submissions received has been tabulated and reviewed in terms of recording the comment or submission issue(s), a planning comment in association with the stated issue and a recommendation in terms of amending the context of the KLP&DCP. This detailed written submission review table has been attached at Appendix 2 of the consultation report.

Review and proposed amendments to the final KLP & DCP

The table below provides a summary of the key issues and planning recommendations for Council's consideration and direction. Each of the issues or themes has been broken down into either a tier 1, tier 2 or tier 3 consideration based on a review of the impact on the intent and final drafting of the KLP&DCP. In addition to these key issues, there are a number of other recommendations including proposed amendments in relation to the final drafting of the KLP&DCP which are contained within the written submission review table attached at Appendix 2 of the consultation report.

Issue / Theme	Planning Comment	Recommendation
Tier 1 – Most Impact		
E-Zone review and conservation footprint (Refer page 21 of the consultation report)	Submission(s) seeking amendments to lands nominated as being 'ecologically significant' within certain diagrams within the KLP & DCP in pending an ongoing vegetation assessment undertaken by the land owner. Council to date has undertaken preliminary e-zone mapping against DP&E criteria and guidelines in consultation with land holder. Whilst there is general concurrence across the majority of lands nominated as ecological significant there are a number of sites which the land owner disputes. In addition Council is not yet in receipt of an offset planting plan nominating areas to be replanted to offset other areas to be cleared.	For the purposes of the diagrams within the KLP & DCP utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land'. 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.

Issue / Theme	Planning Comment	Recommendation
<p>Tweed Valley Hospital</p> <p>(Refer page 22-23 of the consultation report)</p>	<p>A number of comments from the round table workshops and written submissions have indicated a strong desire for the Tweed valley Hospital to be acknowledged and included in the consideration of the KLP&DCP.</p>	<p>In acknowledgment of the significance of the Tweed Valley Hospital as a major land use, social and economic anchor, it will be necessary to review the KLP & DCP to:</p> <ul style="list-style-type: none"> • Update diagrams and references to the TVH Site throughout the KLP & DCP documents; • Include 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; • Expand the Kingscliff Hill Precinct to include the TVH Site and update the narrative within that section to discuss the planning and design implications of the TVH including a discussion on land uses on the immediate adjoining sites; and • Continue ongoing consultation with NSW Health and the DP&E with regards to hospital planning and design issues and protecting Cudgen State significant farmland.
<p>Building height</p> <p>(Refer page 24-25 of the consultation report)</p>	<p>The majority of roundtable comments supported retaining the three storey building heights limit in Kingscliff and generally endorsed the proposed building height amendments as exhibited. A total of 8 written submissions expressed a preference for the exhibited buildings heights and generally retaining the 3 storey status quo. Outside of the Gales Holdings submission, (3) three individual submissions including one from the Kingscliff Chamber of Commerce (KCC) indicated support for increased building heights in some locations.</p>	<p>Endorse the exhibited building heights as an outcome of the KLP&DCP exhibition and initiate a planning proposal to amend the TLEP 2014 to reflect the exhibited building heights. Acknowledge that as greenfield sites undergo more detailed site specific master plan processes, a review of building heights against proposed land uses and design led outcomes will form part of that master planning process.</p>
<p>Extension of the Turnock St Urban Footprint</p> <p>(Refer page 26-27 of the consultation report)</p>	<p>Representations that some of the land within the Turnock St precinct, which has been diagrammed as 'ecological significant land', is not significant but 'cleared grass land.</p>	<p>Not extending the urban footprint within the Turnock Street precinct. For the purposes of the diagrams within the KLP & DCP utilise Council's current draft E-Zone criteria mapping as the basis for the nomination of 'ecologically significant land'. 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. Consider the 'cleared' or 'unvegetated' area of land within the Turnock St precinct as a candidate 'offset planting site' or as passive open space.</p>

Issue / Theme	Planning Comment	Recommendation
<p>Extension of the Cudgen Precinct Urban Footprint</p> <p>(Refer page 28 of the consultation report)</p>	<p>Representations that some of the land within the Cudgen precinct (west of Crescent St), to be identified as 'residential' rather than 'tourist' nomination within the strategies and diagrammatic representations.</p> <p>Lands immediately adjoining this site have an approval for sand extraction operation until 2047. As such the final location of the artificial lake remains unknown.</p> <p>Detailed investigations into fill and flood impacts have not been undertaken to determine the appropriateness of this site for residential development.</p>	<p>Retain the strategy to investigate future 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. Do not nominate the extension of residential urban footprint in this location as part of the current KLP & DCP.</p>
Tier 2 – Moderate Impact		
<p>Design of Altona, Crescent and Turnock St</p> <p>(Refer page 28 of the consultation report)</p>	<p>Representations that the diagrams within the KLP & DCP do not currently reflect the current approved road alignment of Altona Road or consider the potential to realign Crescent St in consideration of a future intersection with Tweed Coast Road and Turnock St extension.</p>	<p>Diagrammatic references to the future Altona Road alignment to be updated to reflect the current approved road alignment. In principle support be provided in reference to potential to realign Crescent St, location of intersection on Tweed Coast Road and alignment of Turnock St extension.</p> <p>Notwithstanding the in principle support for the preliminary road alignment and intersection location, 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.</p>
<p>Community Facilities Location</p> <p>(Refer page 30 of the consultation report)</p>	<p>Representations that the identified Kingscliff wide civic uses such as multipurpose community building, library, incubator workspace and preschool are more appropriately provided in the Business and Knowledge Precinct so that they can serve as a catalyst for the development of that precinct rather than additional traffic and parking pressures being placed on the Kingscliff Town Centre.</p> <p>The KLP & DCP currently advocates for locating key community services including but not limited to a library and multipurpose community centre within or within proximity to the town centre. This is based on the significant amount of Greenfield development</p>	<p>Retain the planning and design principles to locate key community facilities within either the Town Centre or Turnock St Precincts due to co-locational advantages with the existing business centre and availability of well-located Greenfield development land.</p> <p>Notwithstanding, the final location of required community infrastructure is best pursued through more detailed developer led master plans in consultation with Council's Community and Cultural Services Unit and the development of the Community Infrastructure Network Plan. This master plan process may also identify the need for additional community facilities to service the Business and Knowledge Precinct.</p>

Issue / Theme	Planning Comment	Recommendation
<p>Land forming and Flooding</p> <p>(Refer page 28 of the consultation report)</p>	<p>adjoining the town centre and colocation advantages of combining community facilities with retail and commercial activities.</p> <p>26 written submissions including 20 proforma letter submissions (Beach St residents) raise concern about the potential flood impact on existing residential areas resulting from additional Greenfield development land fill areas within the North Kingscliff Precinct.</p> <p>Council's current flood plain modelling indicate that the North Kingscliff Greenfield Development area could be filled to a commensurate level with adjoining residential areas with legible impact on localised flood levels.</p> <p>Whilst the Greenfield development site fill levels have not yet been determined, and only would be as part of a more detailed master plan / subdivision design, a number of land forming objectives and controls to mitigate potential fill, flood and interface issues are specified in KLP Vol 3 DCP Objective 4.</p>	<p>Any future master plan process over this and any other Greenfield development site in Kingscliff, would need to undertake appropriate flood modelling and demonstrate compliance with the provisions of Tweed DCP A3 – Development of Flood Liable Land and Tweed Valley Floodplain Risk Management Strategy (Control 1C1 Design Principle 11: Hazards and Resilience).</p> <p>Update KLP Vol 3 DCP 2.5 Land forming development control C2 to state:</p> <p>C2. Where Greenfield development sites directly interface with existing settlement areas, fill levels shall be consistent where both are above design flood level. Where existing settlement sites are below design flood level heights, new development areas are to be constructed at design flood levels. <u>Interface between new and existing and settlement areas are to be carefully designed to not result in any exacerbated flooding and drainage issues to the existing settlement areas and level differentials are to be appropriately setback, landscaped and/or retained on the development site to reduce the visual and amenity impacts of retaining walls and level differential.</u></p>
<p>North Kingscliff Greenfield site</p> <p>(Refer page 32-22 of the consultation report)</p>	<p>20 proforma written submissions have been received from residents of Beach St area all of which identify similar themes / issues including concern about amenity impacts of R3 zoning with 12.2m height limit adjoining existing R2 low density with 9.0m building height.</p> <p>The North Kingscliff greenfield development site is currently zoned R1 with a building height of 13.6m. This land use and building height nomination has been in place since TLEP 1987 (3 storey nomination).</p> <p>Notwithstanding the long standing zoning and building height associated with this site, the KLP would require that the process of development this site would firstly need to undergo a developer led structure and master planning design process. This would review the site opportunities and</p>	<p>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.</p>

Issue / Theme	Planning Comment	Recommendation
<p>North Kingscliff R3 Medium density</p> <p>(Refer page 34 of the consultation report)</p>	<p>constraints which include potential development site interface issues.</p> <p>2 written submissions make representations against strategies within the North Kingscliff Precinct to investigate opportunities to expand R3 Medium density zoning. Basis for objection includes potential for impact on existing residents by way of congestion and increased building heights.</p> <p>The KLP & DCP North Kingscliff Precinct strategies identifies certain properties along the western side of Kingscliff Street, western side of Sand Street and south side of Shell street to transition from R2 low density residential to R3 medium density residential. The strategic principle behind this transition is acknowledging these properties are either along a key transport route, are within walking distance or directly adjoining significant areas of passive and active open space, directly adjoin areas of R3 medium density and are of a lot size and building stock age which presents redevelopment opportunity to achieve a more diverse housing types.</p>	<p>Retain strategies to facilitate 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.</p>
<p>Council owned Elrond Drive Site</p> <p>(Refer page 35 of the consultation report)</p>	<p>A written submission purporting to represent the interests of 20 residents of Beach St make objection to a strategy to investigate Council owned land fronting Elrond Drive for residential land use options including affordable housing. The nature of the objection relates to a lack of existing usable open space within a walkable catchment of the existing residential areas around Elrond Drive which will be exacerbated with additional Greenfield development surrounding.</p> <p>In pursuit of Council's interests in delivering more affordable housing types, this land was identified as being a potential candidate site for investigating affordable housing as a strategy within the KLP&DCP. Affordable housing could take many forms ranging from low density residential subdivision to a more multi-unit development where a proportion would be subsidised as affordable accommodation managed by an affordable housing provider.</p> <p>Notwithstanding the identified overall causal open space surplus within the</p>	<p>Amend the final KLP&DCP to retain Council owned land along Elrond Drive as RE1 Private Recreation (refer option 1 in the consultation report) in review of the lack of appropriately sized 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 current Open Space Strategy.</p>

Issue / Theme	Planning Comment	Recommendation
	<p>locality, Council's draft Open Strategy indicates that residents in West Kingscliff (in the vicinity of Elrond Ave), north of McPhail Ave and the south end of Sand St, Kingscliff are undersupplied with quality neighbourhood playgrounds. In recognition of this, there is also merit in retaining this site as open space to be embellished to an appropriate level in the immediate future.</p>	
Tier 3 – Minor Impact		
<p>Buffer zone to Tweed Coast Road</p> <p>(Refer page 30 of the consultation report)</p>		<p>Retain reference to the 20m vegetation buffer screen within the KLP & DCP. There is opportunity for future landowner / developer proponents to demonstrate how the intent of this is being met as part of design led master planning processes over Greenfield development sites. This would provide the opportunity to provide more site specific detail on the relationship between proposed urban structure, built form and providing landscaping to enhance and strengthen the landscape character.</p>
<p>Nomination of B4 land in Salt Precinct</p> <p>(Refer submission 4 item 51 in Appendix 2 of the Consultation report)</p>		<p>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.</p>
<p>Kingscliff Police Station Site</p> <p>(Refer submission 5, 7, 9 & 10 in Appendix 2 of the Consultation report)</p>	<p>Three submissions objected to a strategy within the KLP&DCP to facilitate the rezoning of the current Kingscliff Police Station site to B4 Mixed Use with a building height of 13.6m. Objection include potential amenity impacts of increased traffic and noise associated with retail and commercial uses and impact on view by way of a potential higher building.</p> <p>Throughout the KLP process, the NSW Police have not expressed an intent to relocate. The draft strategy sought to explore opportunity to provide alternate housing types as well as opportunity to integrate low scale retail and commercial uses to serve the residents of surrounding predominantly residential flat building.</p> <p>Upon review, a wide range of housing types, including shop top housing could be pursued within the current R3 Medium Density Land Use, thereby negating the intent of the draft nomination of a B4 Mixed Use land use.</p>	<p>Amend the final KLP&DCP to remove reference to the strategies to investigate the rezoning of the 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.</p>

Issue / Theme	Planning Comment	Recommendation
KLP & DCP editorial changes	A number of editorial amendments across each of the three KLP & DCP volumes to correct errors and ensure consistency between each of the sections including diagrams, strategies, objectives, planning and design principles and development controls.	Review and update the final KLP & DCP to make editorial and diagrammatic amendments to ensure consistency across each volume.

OPTIONS:

1. To accept the *Kingscliff Locality Plan and Development Control Plan: Community Consultation Evaluation Report* and identified recommendations as outcomes of that analysis and evaluation contained within this report to inform the final drafting of the KLP & DCP.
2. Council nominates alternative recommendations and amendments to inform the final drafting of the KLP & DCP.
3. Council defers consideration of this report until after the State election in order for a position to be resolved about the site of the proposed Tweed Valley Hospital.
4. Council defers consideration of all references to the Tweed Valley Hospital site and proceeds with endorsement of the remaining recommended amendments to the Locality Plan as identified in Option 1, noting that any future review of the planning controls for this site will necessitate the re-exhibition of the Locality Plan and Development Control Plan.

Option 1 is recommended.

CONCLUSION:

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 included a substantial number of comments from the four round table workshops and (56) written submissions received during the public exhibition period. These submissions have now been collated and analysed within the attached *Kingscliff Locality Plan and Development Control Plan: Community Consultation Evaluation Report*.

In evaluating each of the comments and submissions made, the consultation report identifies the key issues which emerged and makes a number recommendations in relation to those key issues to inform the final drafting of the KLP & DCP.

Council resolution to endorse the consultation report and provide direction in relation to these key recommendations is now sought.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Whilst the development of the KLP & DCP is in the final stages of review, any additional community consultation which may be required as an outcome of consideration of the attached Community Consultation Evaluation Report would require a budget allocation.

Further, any Council nominated further reviews, workshops or investigations would require additional staff resource allocation which may have an impact on the project management and delivery of other projects on Strategic Planning and Urban Design units work program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Empower-We will give the community greater opportunity to participate in a transparent flow of information and feedback to Councillors who have been empowered as the Community representatives to make decisions in accordance with the Local Government Act 1993.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Kingscliff Locality Plan and Development Control Plan –
Community Consultation Evaluation Report (ECM 5779373)

3 [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 January 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.
