

TITLE: [PD-PC] Development Application DA06/0180 for a Retail Complex Comprising Supermarket & Seven (7) Speciality Shops at Lot 1, 2, 3, 4 DP4279; Lot 18 DP962878; Lot 1 DP443232; Lot 17 DP965658; Lot 1 DP437562; Lot 1 DP183770, No. 230 Tweed Valley Way, South

ORIGIN:

Development Assessment

FILE NO: DA06/0180 Pt1

SUMMARY OF REPORT:

Council is in receipt of Development Application comprising a supermarket and seven (7) speciality shops. The subject site is located within the 3(c) Commerce & Trade zone, where a shop is only permissible if the applicant can demonstrate compliance with Clause 8(2) of the Tweed LEP 2000.

On review of the application the applicant has failed to demonstrate compliance with Clause 8(2) and has not been able to demonstrate that the subject site is suitable for the proposed development.

Therefore the application is recommended for refusal.

RECOMMENDATION:

That Development Application DA06/0180 for a retail complex comprising supermarket and seven (7) speciality shops at Lot 1, 2, 3 & 4 DP 4279; Lot 18 DP 962878; Lot 1 DP 443232; Lot 17 DP 965658; Lot 1 DP 437562; Lot 1 DP 183770, No. 230 Tweed Valley Way South Murwillumbah be refused for the following reasons: -

- a. **The application does not comply with the 3(c) Commerce & Trade zone objectives (within Tweed LEP 2000), as approval of a shopping centre outside the central business district would jeopardise the viability and function of the Murwillumbah business centre.**
- b. **The application has failed to satisfy Clause 8(2) of the Tweed LEP 2000 specifically Clause 8(2) (b) & (d).**
- c. **The application does not provide a suitable economic analysis to support locating the proposed development outside the Murwillumbah business centre. The development will directly compete with other retail developments within the business centre and therefore could potentially jeopardise their viability.**
- d. **The application fails to satisfy Clause 22 of the Tweed LEP 2000 relating to development near designated roads as the design inadequacies both onsite and off site could result in disruption to traffic flow on Tweed Valley Way.**

- e. **The application is not considered satisfactory with regard to parking and access. Specifically the provision of the bus bay is contrary to the requirements of local traffic committee, the provision of parking is not in accordance with DCP No2; and the provision of a loading bay facility is not in accordance with DCP No2 and AS 2890; and**
- f. **The application is not considered to be based on good urban design principles.**

REPORT:

Applicant: Roadnet Pty Ltd
Owner: Mr WB Campbell
Location: Lots 1, 2, 3 & 4 DP 4279, Lot 18 DP 962878, Lot 1 DP 443232, Lot 17 DP 965658, Lot 1 DP 437562 & Lot 1 DP 183770 No. 230 Tweed Valley Way, South Murwillumbah
Zoning: 3(c) Commerce and Trade
Cost: \$3,186,600

BACKGROUND:

The subject site colloquially known as the "Norco Site" has a detailed history.

The land was formerly occupied by the Norco milk and butter factory, which operated on the site for approximately 100 years, until its closure in 1996. The Norco rural store continued to operate in an existing separate building situated on the eastern boundary whilst the remaining buildings were only utilised as storage areas since the factory closed.

More recently Council approved a development application (0119/2002DA) for a mixed-use development comprising bulky goods retailing, refreshment rooms and cultural display centre. The proposal was to redevelop the site in two (2) stages to establish a mixed-use retail development that had regard to the historic building on the site.

Council also determined an application for the first use of the approved fruit and vegetable outlet for the sale of fresh & packaged food, within stage 1 of the development.

There were a number of existing buildings and structures on site, which included:-

- the Norco rural store;
- chemical storage and staff facilities building;
- petroleum fuel dispensers (three), associated canopy and bowsers;
- the old Norco milk and butter factory building;
- cooling towers;
- existing rail platform; and an old concrete slab that was formerly supported petroleum fuel dispensers.

However, it has come to Council's attention that the existing buildings, which formed an integral part of the proposal, have been demolished, allegedly on the weekend of 10 & 11 June 2006.

Council did not authorise approval of the demolition and is pursuing the unauthorised works from a compliance perspective.

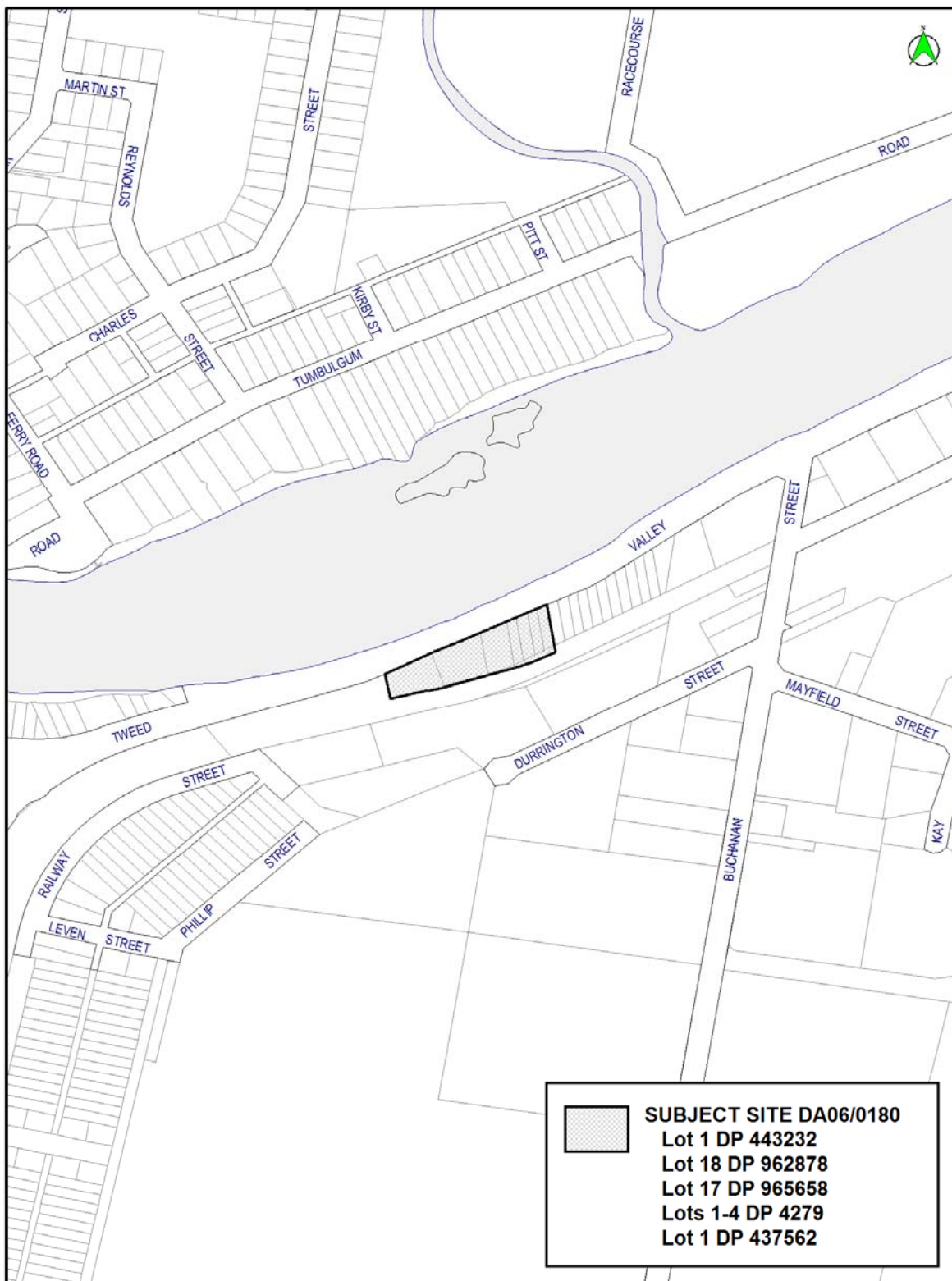
The relevance of the demolition is that development application 0119/2002DA relied on the existing buildings to form a significant component of the approved development. Their demolition has materially affected the consent by rendering it inoperative.

Notwithstanding, the subject application now seeks consent for a supermarket-based shopping centre (1712m² plus 150m² of mezzanine office space) with seven speciality

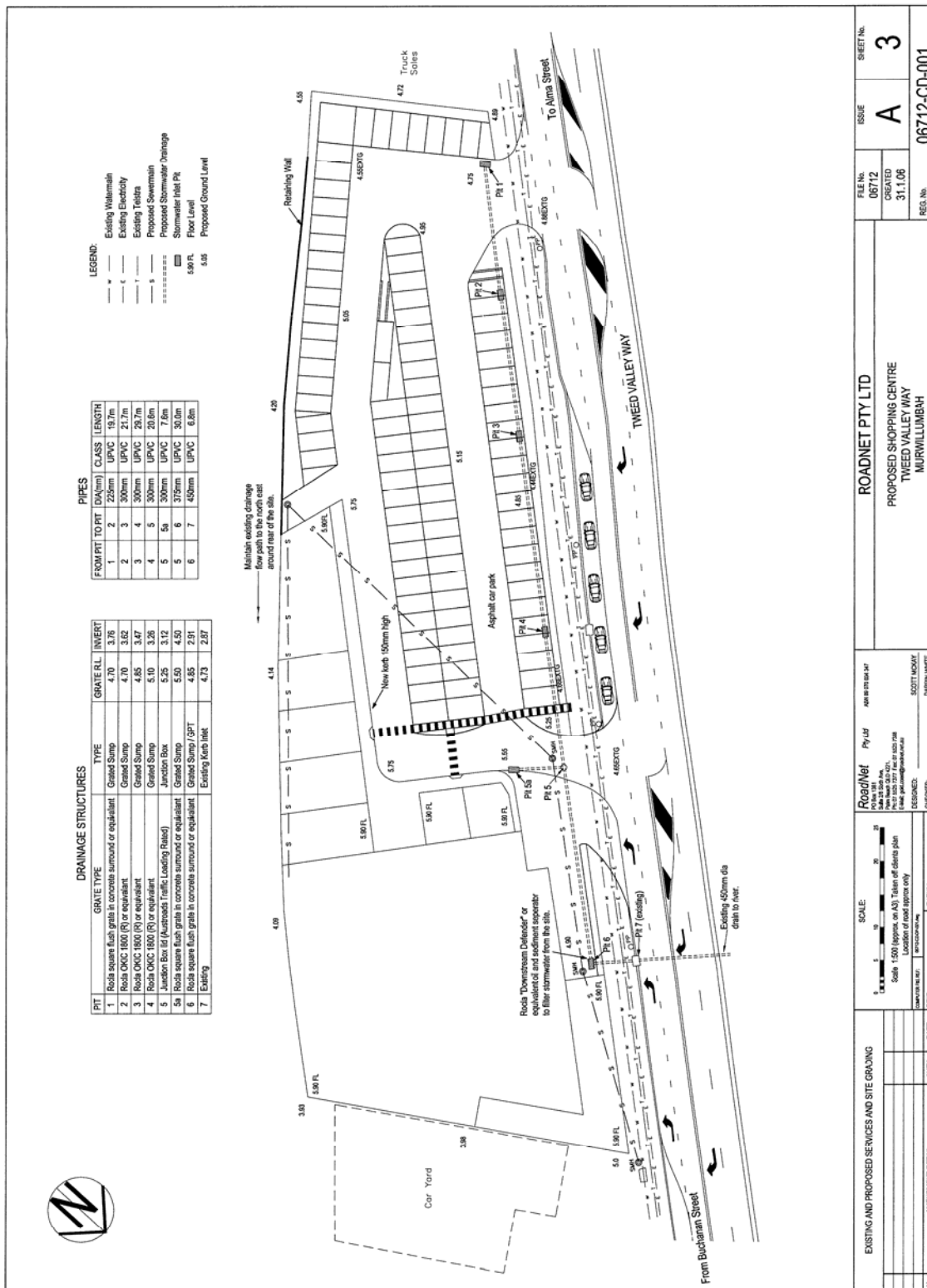
shops varying in size from 50m² to 190m² for a total floor area of 675m². The development provides for an off street car park of 96 spaces as well as two loading bays in the main dock area and a separate loading bay and waste disposal area near the proposed bottle shop.

The subject site is zoned 3(c), which is a nominated commerce and trade zone. In this zone a shop is only considered permissible development if the application can satisfy the provisions contained within Clause 8(2) of the Tweed LEP 2000. This assessment is detailed in the report and concludes that Clause 8(2) is not considered satisfied.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2006 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Subject Site DA06/0180</p>	<p>STRATEGIC PLANNING UNIT  Site Plan File: N:\MapInfo 7...A4P Site Plan.Wor Author: C.Davis Date: 07/Aug/2006 Scale: 1:5,000 Sheet: 1 of 1</p>
---	---	--



DRAINAGE STRUCTURES

PIT	GRATE TYPE	TYPE	GRATE RL	INVERT
1	Rolla square flush grate in concrete surround or equivalent	Grated Sump	4.70	3.76
2	Rolla OKIC 1800 (R) or equivalent	Grated Sump	4.70	3.62
3	Rolla OKIC 1800 (R) or equivalent	Grated Sump	4.85	3.47
4	Rolla OKIC 1800 (R) or equivalent	Grated Sump	5.10	3.26
5	Junction Box lid (Austroads Traffic Loading Rules)	Junction Box	5.25	3.12
5a	Rolla square flush grate in concrete surround or equivalent	Grated Sump	5.50	4.50
6	Rolla square flush grate in concrete surround or equivalent	Grated Sump / OPT	4.85	2.91
7	Existing	Existing Kerb Inlet	4.73	2.87

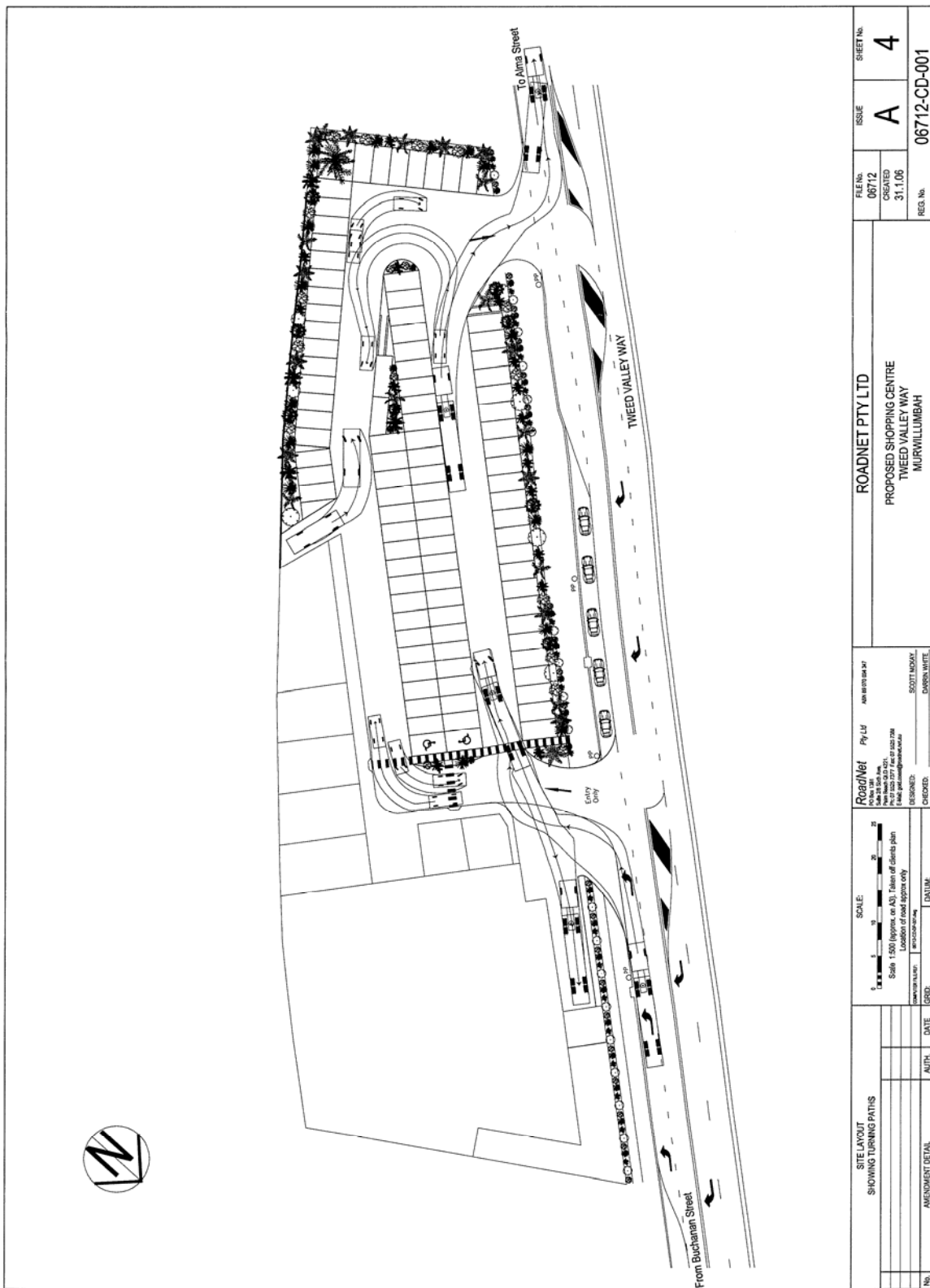
PIPES

FROM PIT TO PIT	DIAM (mm)	CLASS	LENGTH
1	225mm	UPVC	19.7m
2	300mm	UPVC	21.7m
3	300mm	UPVC	20.6m
4	300mm	UPVC	7.6m
5	375mm	UPVC	30.0m
6	450mm	UPVC	6.8m

LEGEND:

- Existing Watermain
- Existing Electricity
- Existing Teletra
- Proposed Sewermain
- Proposed Stormwater Drainage
- Stormwater Inlet Pit
- Floor Level
- Proposed Ground Level

EXISTING AND PROPOSED SERVICES AND SITE GRADING		ROADNET PTY LTD PROPOSED SHOPPING CENTRE TWEED VALLEY WAY MURWILLUMBAH	ISSUE A	SHEET No. 3
FILE No. 06712		CREATED 31.1.06		REG. No. 06712-CD-001
ROADNET Pty Ltd PO Box 188 New Lamb 2312 NSW Phone: 02 6571 1000 Fax: 02 6571 1001 Email: info@roadnet.com.au Website: www.roadnet.com.au		DESIGNER: SCOTT MOAY CHECKED: DARREN WHITE		DATE:
AMENDMENT DETAIL		DATE:		DATE:



SITE LAYOUT SHOWING TURNING PATHS		SCALE: 1:500 (approx. as AB) Taken off district plan Location of road signs only		ROADNET Pty Ltd 100/102 Sturt Street PERTH WA 6000 PHONE: 08 9447 7777 FAX: 08 9447 7777 PROJECT: 06712 DRAWN: SCOTT MCGRAE CHECKED: DOBBS/WHITE		ROADNET PTY LTD PROPOSED SHOPPING CENTRE TWEED VALLEY WAY MURWILLUMBAH		FILE No. 06712	ISSUE A	SHEET No. 4
AMENDMENT DETAIL		DRAWN BY:	CHECKED:	DATE:	REG. No. 06712-CD-001					

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

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

Tweed Local Environmental Plan 2000

The subject site is located within the 3(c) Commerce & Trade Zone pursuant to the provisions of TLEP 2000.

The zone objectives are as follows:

Primary objective

- *To provide for commercial, bulky goods retailing, light industrial and trade activities which do not jeopardise the viability or function of the sub-regional or business centres.*

Secondary objectives

- *To provide for those retailing activities which are not suited to, or desirable in, the other business zones or which serve the needs of the other businesses in the zone.*
- *To allow for other development that is compatible with the primary function of the zone.*

The proposed development is best defined as a shop under the Tweed LEP 2000. A shop of this nature would normally be best suited to the 3(b) Business zone, however, this application seeks approval for a shop in the 3(c) zone which is only permissible if the proposed development can satisfy Clause 8(2).

Clause 8(2) of Tweed Local Environmental Plan 2000, specifies that:

- (2) *The consent authority may grant consent to development specified in Item 3 of the Table to clause 11 only if the applicant demonstrates to the satisfaction of the consent authority that:

 - (a) *the development is necessary for any one of the following reasons:

 - (i) *it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,*
 - (ii) *it meets an identified urgent community need,*
 - (iii) *it comprises a major employment generator, and**
 - (b) *there is no other appropriate site on which the development is permitted with consent development (other than as advertised development) in reasonable proximity, and*
 - (c) *the development will be generally consistent with the scale and character of existing and future lawful development in the immediate area, and**

- (d) *the development would be consistent with the aims of this plan and at least one of the objectives of the zone within which it is proposed to be located.*

The applicant originally provided a brief assessment against Clause 8(2) that was later enhanced with the lodgement of Economic Need & Impact Assessment (**attached** under separate cover) for the proposed Shopping Centre. This report, amongst other things, reviewed alternative sites in the allowable 3(b) zoning. The applicants report claims that all suitable sites are occupied with buildings, with no significant vacancies. The applicant also advises that he has attempted to purchase several sites within the allocated 3(b) zoning within Murwillumbah but the asking prices made the proposed development economically unfeasible for the following reasons:

- *High entry property prices and current construction costs would result in uneconomical returns on a completed development such as the proposed;*
- *Above industry standard rental rates would be necessary to justify high entry costs. These may be unsustainable, as rents would be considerably higher than those of surrounding retail premises.*

This applicant's proposal was forwarded to Council's Economic Planner for review. The following comments in regard to Clause 8(2) were received on 24 March 2006:

"I have reviewed the DA for a 1,712 M2 supermarket and 675 M2 of speciality retailing in seven (7) individual shops.

The DA claims that the site is too small for bulky goods retailing. This is not considered to be the case. Other successful retail enterprises are operating within close proximity of the site. These include farm supplies, car dealership and service stations.

It is also claimed in the DA that the requirements of Clause 8(2) are satisfied because it will meet an urgent community need and it will be a major employment generator. It is granted that the supermarket will generate competition, which could increase amenity, and it would increase employment. However Clause 8(2)(b)& (d) have not been satisfied. These have been addressed below;

8(2)(b) *There are other areas within the Business Centre of Murwillumbah where the development can suitably be located. Specifically, these areas are within a 3(b) zone. The objectives of this zone are more suited to chore based supermarket retailing. This is in keeping with the findings of the Retail Strategy and Council resolution of 16 Nov 2005 which both support the CBD remain as the main shopping centre precinct of Murwillumbah.*

8(2)(d) *It is considered that the proposed development is not consistent with any of the 3(c) zone objectives. The development will directly compete with other retail*

developments within the Business Centre and therefore could potentially jeopardise their viability. The DA does not provide a suitable economic analysis to support this claim. As discussed previously the development is suited to the Murwillumbah Business Centre.

Having regard for the above comments it is considered that the proposed development completely contradicts the primary objective of the zone as approval of a shopping centre outside the CBD would jeopardise the viability and function of the Murwillumbah business centre.

In addition the application has failed to satisfy Clause 8(2) (b) & (d) as detailed above.

These arguments contribute to the recommendation for refusal.

Clause 15 Availability of Essential Services of TLEP 2000 requires adequate services to be available for the proposed development. Centralised water, sewer and drainage services service the subject site, no constraints are envisaged in this regard.

Clause 16 Height of Buildings requires compliance with the three-storey statutory height limit that is applicable to the site. The proposed development satisfies Clause 16

Clause 17 Social Impact Assessment requires Council to consider the potential social and economic impact that a development will have. This proposal would directly compete with other retail developments within the Murwillumbah business centre and therefore could potentially jeopardise their viability. The DA does not provide a suitable economic analysis to support this development.

Clause 22 Development Near Designated Roads requires the consent authority to have regard to a number of matters. The following two points are relevant to the proposal:

The consent authority may grant consent to development on land to which this clause applies only if it is satisfied that:

- (a) The development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*
- (b) The location, standard and design of access points, and onsite traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded.*

The application was reported to the Local Traffic Committee and was reviewed by both Council's Traffic & Transport Engineer and Council's Development Engineer.

Council's Development Engineer has recommended that the application should be refused on the following grounds:

- The provision of the bus bay is contrary to the requirements of local traffic committee;
- The provision of parking not in accordance with DCP No2; and
- The provision of a loading bay facility is not in accordance with DCP No2 and AS 2890

These inadequacies onsite and off site could result in disruption to traffic flow on Tweed Valley Way and therefore the application fails to satisfy Clause 22 of Council LEP.

Clause 34 Flooding requires Council to minimise future potential flood damage. If approval were granted to this proposal a condition of consent would be required to ensure flood free storage is available.

Clause 35 Acid Sulphate Soils, the subject site is identified as possessing Class 4 Acid Sulfate Soils on Council's ASS Planning Maps. The proposed development will not result in the carrying out of works greater than 2m below the ground surface, nor will the shopping centre result in the lowering of the water table by more than 2 metres below the natural surface.

North Coast Regional Environmental Plan 1988

Clause 47 of REP 1988 relates to plan preparation for commercial development. The proposal is considered to be consistent with the provisions of the North Coast Regional Environmental Plan 1988.

State Environmental Planning Policies

SEPP 11 – Traffic Generating Development

An assessment of the subject application has been undertaken in accordance with the provisions of State Environmental Planning Policy No. 11 (SEPP 11) – Traffic Generating Developments. In accordance with the SEPP the proposed development requires referral to Council's Local Traffic Committee as development listed in Schedule 2 (c) as follows:

"The erection of a building for the purpose of shops and commercial premises where the gross floor area of the building is or exceeds 1000m² or the enlargement or extension of a building used for the purposes of shops and commercial premises where the gross floor area of that enlargement or extension is or exceeds 1000m²"

The proposed gross floor area (GFA) of the complex is approximately 2537m² with 96 on-site parking spaces.

The application was therefore referred to the Committee to provide comment on, access to the site, the impact that the proposed centre will have on the road network; and the proposed provisions for service vehicles.

The Local Traffic Committee reviewed the application on 16 March 2006 and provided the following comments:

- *Relocate bus zone to the approach side of the development.*
- *Reversing vehicles at the loading bay should not be near pedestrian activity.*
- *Loading impacts on entry to site and has a potential for pedestrian conflict.*
- *Potential conflict for right turn traffic to turn into the southern exit.*
- *No pedestrian links, including disabled, through the car park to the shopping area.*
- *Consideration of a taxi drop off / pick up area adjacent to the shops.*

These comments contribute to the recommendation for refusal.

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

There are no Draft Environmental Planning Instruments applicable to this application.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No. 2 – Car Parking

The following table details the non-compliance of the proposed development with the on site car parking provisions contained in DCP 2. It should be noted that the car parking rates have been worked out by dividing each individual use contained within the centre.

The proposed development does not support ESD principals and actually encourages dependency on the motor vehicle and therefore the 20% discount has been applied.

Table 1 – Car Parking Rates in accordance with DCP 2

<u>Use</u>	<u>GFA</u>	<u>DCP 2 Classification</u>	<u>Staff Requirement</u>	<u>Customer Requirement</u>
Supermarket	1895m ²	Item C19 Retail	0.5 spaces per 100m ² = 9.475	3.5 spaces per 100m ² = 66.325
Shop 1	108m ²	Item C19 Retail	0.5 spaces per 100m ² = 0.54	3.5 spaces per 100m ² = 3.78
Shop 2	100m ²	Item C19 Retail	0.5 spaces per 100m ² = 0.5	3.5 spaces per 100m ² = 3.5
Shop 3	92m ²	Item C19 Retail	0.5 spaces per 100m ² = 0.46	3.5 spaces per 100m ² = 3.22
Shop 4	84m ²	Item C19 Retail	0.5 spaces per 100m ² = 0.42	3.5 spaces per 100m ² = 2.87
Shop 5 Bottle-shop	190m ²	Item C4 Retail	0.5 spaces per 100m ² = 0.95	3.5 spaces per 100m ² = 6.65

Shop 6	51m ²	Item C19 Retail	0.5 spaces per 100m ² = 0.255	3.5 spaces per 100m ² = 1.785
Shop 7	50m ²	Item C19 Retail	0.5 spaces per 100m ² = 0.25	3.5 spaces per 100m ² = 3.78

Total Staff Spaces Required = 12.85

Total Customer Spaces Required = 91.91

Grand Total of On-Site Car Spaces Required = 104.76

The applicant has provided 96 on site parking spaces and a bus drop off zone on Tweed Valley Way.

The bus drop off zone is not in a suitable location and the development is short 9 on site parking spaces.

These deficiencies contribute to the reasons for refusal.

Development Control Plan No. 5 – Flood Liable Land

The subject site is identified as flood prone pursuant to the provisions of DCP No.5. In this regard, DCP No.5 identifies the sites 1% flood event at 5.9m AHD. Commercial development is not subject to this criterion, however, the applicant has confirmed that the land could be filled and finished floor levels could be 0.3m above the 1% flood event. The DCP requires commercial development to be capable of providing flood free storage. If approval were to be granted condition of consent could be imposed to mitigate flooding.

Development Control Plan No. 45 – Socio Economic Impact Assessment

Having regard to the provisions of DCP No.45, a detailed social impact assessment technically required for a retail development exceeding 1500m².

The applicant has provided the Economic Need & Impact Assessment prepared by Foresight Partners.

Council's Economic Planner reviewed this document and provided the following:

"I have reviewed the Economic Need and Impact Assessment (Foresight Partners, June 2006) report submitted by the proponents of the proposed shopping centre on Tweed Valley Way, South Murwillumbah.

The proponents economic report has been prepared in response to comments made in a memo (24 March 2006 DW: 1366158) to you regarding the economic impacts of the proposed shopping centre.

It is noted that my comments made in the 24 March memo were forwarded to the proponents. In particular it was identified that the DA

was divergent to Council's resolution (16 Nov 2005) to maintain and enhance the retail centre of Murwillumbah.

This DA was lodged after Council had considered the Tweed Retail Strategy and resolved a set of guiding points for retail development. The proponents have supposed that the existing approval and the proposed development should not be considered on the same basis as Council had made also its position on the Murwillumbah retail centre clear prior to the DA being lodged.

The economic impact report identifies that there will be limited impact on demand and therefore limited negative impact on amenity. The Tweed Retail Development Strategy has already acknowledged the outstanding retail demand in Murwillumbah and that there is immediate potential for a second supermarket. However, this immediate demand does not identify that the 3(c) Commerce and Trade zone is an appropriate zone for the proposed development. It is maintained that there are areas suitable for development within the Business Centre of Murwillumbah.

As my previous memo recommended this DA should not be supported because it does not comply with LEP Clause 8(2), Tweed Retail Strategy (November 2005) and Council's resolution of 16 November 2006."

The above comments contribute to the reason's for refusal.

Draft Retail Strategy

The strategy states that:

"Murwillumbah serves the local residents with supermarket and convenience retail, as well as higher order needs such as homewares and employment uses, such as regional and local office-based businesses. This town also serves the shopping needs of outer lying rural areas.

The Shire is largely 'in balance' any change will be driven by incremental increases in population and expenditure or evolving retail concepts that have the capacity to a population catchment in the order of 20,000 to 22,000 people. This may include a second major supermarket in Murwillumbah.

Retain and reinforce the Murwillumbah CBD as the main shopping centre precinct to serve the Rural West area of the Shire. (P.18)"

Council's Economic Planner has provided the following comments regarding the Draft Retail Strategy

"The Strategy does identify that there is demand for a second supermarket in Murwillumbah. But does recommend reinforcing the existing CBD."

Furthermore, at the Council meeting of 16 November 2005 the Council resolved to:

Maintain and wherever possible enhance the special appeal of the retail centre of Murwillumbah and those village centres of similar style.

The Retail Strategy and the Council Resolution of 16 Nov 2006 support the strengthening of the Murwillumbah CBD. The site is not part of the Murwillumbah Business Centre and is zoned accordingly.

These arguments form part of the recommendation for refusal.

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

There are no additional matters prescribed by the Regulations that are considered to apply.

(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

Bulk Scale & Design

Council's Strategic Planner has commented on urban design and provided the following comments:

"This development in my opinion does not provide a positive outcome for Murwillumbah on urban design grounds.

The development as proposed does not meet the requirements of good urban centre design, as it is not:

- *pedestrian friendly or accessible,*
- *street activating,*
- *of a good visual quality,*
- *providing a mix of uses,*
- *at a human scale,*
- *designed well for climate,*
- *providing places for social interaction,*
- *reducing the impact of car parking to the streetscape*
- *Is not contiguous with the town centre of Murwillumbah and therefore does not provide for a compact urban centre for Murwillumbah*

Due to the reasons above, in my opinion the development should be refused.

Traffic/Access

The proposed development fails to satisfy numerous Council requirements and Australian Standards and also fails to obtain concurrence from Council's Local Traffic Committee and Council's Development Engineer. The application in its current form cannot be supported on traffic grounds alone.

Flora & Fauna

The subject site is absent of any significant vegetation.

Social & Economic

As detailed above the application does not provide a suitable economic analysis to support locating the proposed development outside the Murwillumbah business centre. The development will directly compete with other retail developments within the business centre and therefore could potentially jeopardise their viability.

(c) Suitability of the site for the development

The site is within 40m of the Tweed River, however the applicant did not nominate the development as Integrated Development for works within 40m of a waterway. If Council wanted to approve this application the Department of Natural Resources (previously Department of Land and Water Conservation) under the Rivers & Foreshores Improvement Act 1948 would need to issue a 3A prior to commencement of any site works.

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

The proposal was originally advertised and notified for a period of 14 days from 15 March 2006 to 29 March 2006. During this period one objection was received. However, in July 2006 Council received a second objection to the proposed development. The following details the nature of the objections:

- *The proposal conflicts with the zone objectives in terms of the intended type of retail. The establishment of a retail supermarket and other speciality shops has the potential to undermine the long term viability of the Murwillumbah's recognised central business district;*
- *The application has not demonstrated that this proposal meets the requirements of Clause 8(2) of Tweed LEP 2000;*
- *The application encourages a continued reliance on private vehicles to travel to the centre and a reduction in the opportunity for shared shopping visits;*
- *The application relies on data that shows a leakage of customers to Tweed Heads. This is unavoidable to a certain degree as some people work in Tweed Heads or alternatively people seek other services in Tweed Heads that are not available in Murwillumbah such as bulky goods outlets;*
- *The application further relies on the Draft Retail Strategy that suggests Murwillumbah may be able to support a second major supermarket in the future. Appropriate re-development sites exist within the CBD that could then act as a driver to town centre re-vitalisation;*

- *It would threaten the viability of the existing established retail centre within the Murwillumbah CBD;*
- *Murwillumbah does not need a second shopping centre;*
- *Approval of another IGA store would hurt the existing businesses in the CBD.*

These objections have contributed to the reasons for refusal as per the recommendation.

(e) Public interest

This application is not considered to be in the public interest. Approval of this development would undermine the importance of the central business district, create a dangerous precedent for Clause 8(2) of the Tweed LEP 2000 and not result in a good planning outcome. For these reasons the application is recommended for refusal.

OPTIONS:

1. Refuse this application
2. Approve this application

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Should this application be approved it will set a dangerous precedent for interpretation of Clause 8(2) of the Tweed LEP 2000, and additionally any approval for a shop outside the central business district (as controlled by the zoning of the land in accordance with Tweed LEP 2000) would compromise the integrity of Council's Retail Strategy.

CONCLUSION:

The proposal before Council is not considered to be a satisfactory use for the site. The site constraints and zoning of the land make it imperative that whatever development occurs on the site will create an attractive design that will function efficiently and obviously be economically successful. The proposed design does not address these constraints effectively despite Council's requests for further information. The proposed use and design is not considered satisfactory thus warranting refusal of the application.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Economic Need & Impact Assessment prepared by Foresight Partners (DW 1440072)
-