

**TITLE: [PE] Development Application DA04/0517 for Demolition of Existing Dwelling and Erection of Multi Dwelling Housing Comprising of Five (5) Dwellings at Lot 415 DP 755701, No. 75 Tweed Coast Road, Hastings Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0517 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for the demolition of the existing building located on the above subject land and the erection of a multi dwelling housing development comprising 1 x two (2) bedroom unit, 3 x three (3) bedroom units and a penthouse with three (3) bedrooms and a study, within a predominantly three-storey building.

The subject site is currently zoned 2(b) – Medium Density under the Tweed Local Environmental Plan 2000.

The development application is accompanied by a SEPP 1 Objection to vary Clause 32B – Overshadowing of a Reserve to the North Coast Regional Environmental Plan 1988. In addition to this formal variation request, the application has a few numerical non-compliances with Council's Development Control Plan No. 6 – Multi Dwelling Housing, in relation to landscaping and building envelope.

The application incorporates minor encroachments into the building envelope, presents overshadowing to adjoining properties to the north and south, landscaping requirements and raises privacy concerns for some adjoining residences. However, notwithstanding these issues the application is considered to warrant a recommendation for approval on the architectural merits of the building and having regard to the medium-density land-use controls in this area.

**RECOMMENDATION:**

That: -

1. The State Environmental Planning Policy No. 1 objections to Clause 32B of North Coast Regional Environmental Plan 1988 regarding the overshadowing of the adjoining reserve be supported and the concurrence of the Director-General of the Department of Infrastructure, Planning and Natural Resources be assumed.
2. Development Application DA04/0517 for the demolition of the existing dwelling and erection of multi dwelling housing comprising of five (5) dwellings at Lot 415 DP 755701, No. 75 Tweed Coast Road Hastings Point 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 P417DA01 Revision D, P417DA04 Revision E, P417DA05 Revision E, P417DA06 Revision D, P417DA07 Revision E prepared by Glen Petersen Architect and dated 18/08/2004, except where varied by these conditions.  
[GEN0010]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.  
[GEN0030]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0120]
4. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.  
[GEN0150]
5. Kerb and gutter will be required for the full frontage of the site to Coast Road. The kerb will need to be 6.5m from the existing center line to kerb face. Detailed plans will need to be submitted for approval by the Director Engineering Services prior to issue of a construction certificate.  
[GENNS01]

6. The existing cycleway is to be saw cut and removed at the driveway entrance as the path is not reinforced.  
[GENNS01]
7. The proposed rendered block fence shown extending to the front property boundary will need to be stopped 5 metres from the boundary or lowered to comply with sight lines as per Australian Standards.  
[GENNS01]
8. All wastes shall be collected, stored and disposed to the satisfaction of Director of Environment and Community Services. Wastes shall be presented at the kerb in a Council approved wheelie bin for collection. A screened, graded and drained bin storage area shall be provided within the boundary of the property.  
[GENNS01]
9. The site shall not be dewatered and acid sulfate soils shall not be exposed or disturbed.  
[GENNS01]
10. Wash water from the pervious car wash area shall not flow or percolate to any watercourse or stormwater drain.  
[GENNS01]
11. Lighting shall not be permitted to impact the amenity of any other premise.  
[GENNS01]
12. No roofing or shade structure shall be permitted on the roof terrace.  
[GENNS01]
13. Riparian vegetation shall not be removed or cut back.  
[GENNS01]
14. Stormwater runoff or wastewater shall not be permitted to discharge to Cudgera Creek.  
[GENNS01]
15. The use of EXTERNAL ground anchors, sheet piling or any other like method that extends beyond the property boundary is not permitted or approved by this consent, except where the written permission to carry out such works and the details of works have been submitted and approved with the Construction Certificate. Any such works proposed in Council's road reserve shall require the submission and approval of a separate s.138 application, which is to be accompanied with all necessary engineering detail to the satisfaction of Council's Director of Engineering and Operations.  
[GENNS01]
16. Construction shall comply with AS3959 - 1999 level 3 'Construction of Buildings in bushfire prone areas'.  
[GENNS01]
17. The entire property shall be managed as an 'Inner Protection Area' as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001.  
[GENNS01]

18. A 1.8 metre high radiant heat shield made of non-combustible materials shall be constructed along the full length of the western boundary adjacent to the hazard. A pedestrian access gate is to be provided along this boundary. Where steel cladding material is used; all posts and rails will be constructed from steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.  
[GENNS01]
19. Access to the rear of the property shall be provided for fire fighting purposes.  
[GENNS01]
20. Reticulated water supply shall comply with AS2419. Locations of fire hydrants are to be delineated by blue pavement markers in the center of the road.  
[GENNS01]
21. All fencing shall be of non-combustible materials.  
[GENNS01]
22. Construction of the dwellings on the eastern and western aspects to comply with level 3 AS3959. Construction on the remainder of the dwelling to comply with table A3.3 of Planning of Bushfire Protection 2001.  
[GENNS01]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

23. Section 94 Contributions  
(i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

- |    |                                                                             |         |
|----|-----------------------------------------------------------------------------|---------|
| a. | Tweed Road Contribution Plan:<br>S94 Plan No. 4 (Version 4.0)<br>Sector8a_4 | \$6,740 |
| b. | Open Space (Structured):<br>S94 Plan No. 5                                  | \$1,770 |

c.	Open Space (Casual): S94 Plan No. 5	\$378
d.	Shirewide Library Facilities: S94 Plan No. 11	\$1,562
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$309
f.	Community Facilities (Tweed Coast) (South Coast) S94 Plan No. 15	\$2,336
g.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$539
h.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$963.05
i.	Cycleways S94 Plan No. 22	\$365
j.	Regional Open Space (Structured) S94 Plan No. 26	\$2,671
k.	Regional Open Space (Casual) S94 Plan No. 26	\$460

[PCC0050/PSC0005]

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

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

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

Water:	2.75 ET @ \$4325	\$11,894
Sewer:	2.75 ET @ \$3490	\$9,598

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

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

[PCC0070/PSC0004]

25. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services **PRIOR** to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC0130]

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

[PCC0160]

27. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

28. Permanent Stormwater Quality Treatment

(a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.

(b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and

nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific Requirements  
Stormwater quality control measures shall be implemented in accordance with Cozens Regan Williams Prove Drawing No. P.11.15 - Sk.2 (Issue C, dated 02/05), or subsequent amended versions approved by Council officers, unless otherwise directed by these consent conditions.

[PCC0230]

29. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

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

[PCC0240]

30. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
  - (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

31. Design of all filling and/or retaining works on the site must address drainage of the site as well as any existing stormwater flows onto or

through the site, and the likely impact on stormwater drainage in the locality. Where necessary, perimeter drainage must be installed to prevent ponding of stormwater on adjoining land. Drainage must be installed and operational prior to commencement of any building work.

[PCCNS01]

32. The basement car parking is to be protected against the inflow of water from Tweed Coast Road during storm events up to the ARI 100 year storm. This protection must be provided by construction of a permanent bund and appropriate driveway formation, not by mechanical means.

[PCCNS01]

33. Stormwater infrastructure works within Council's Road Reserve and Council's Coastal Reserve, shall be implemented in accordance with Cozens Regan Williams Prove Drawing No. P.11.15 - Sk.2 (Issue C, dated 02/05), or subsequent amended versions approved by Council officers, unless otherwise directed by these consent conditions. Full engineering details of the external drainage system, including sizing of the infiltration area, shall be provided with the Construction Certificate application, and associated s68 and s138 applications.

[PCCNS01]

34. Council's cycleway and road infrastructure must be fully reinstated to Council standards following construction and connection of the external drainage system. The concrete cycleway is to be saw cut to facilitate the construction of the system connection.

[PCCNS01]

35. Plans of all works within Council's Coastal Reserve shall be accompanied by rehabilitation/ revegetation plans to be implemented within all areas disturbed by the works, to the satisfaction of Council's Manager Recreation Services.

[PCCNS01]

36. The works shall at no time impose service interruptions on the sewer rising main located within the adjacent road reserve (Tweed Coast Road).

[PCCNS01]

37. Prior to the commencement of any demolition works all house drainage connections are to be suitably capped off by a licenced plumber and an inspection of the work obtained from Council.

[PCW0300]

38. Prior to the commencement of works sedimentation and erosion control measures shall be installed to the satisfaction of the Director of Environment and Community Services.

[PCWNS01]

### **PRIOR TO COMMENCEMENT OF WORK**

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



40. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principle Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.

Note: All cut and or fill must comply with DCP 47. The top of any battered cut, toe or battered fill and the face of any retaining wall structure supporting cut or fill cannot be closer that 900mm to the boundary where the overall height at any point exceeds 500mm.

[PCW0040]

41. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

42. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

43. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
- i. The person must, at the person's own expense:
    - a. preserve and protect the building from damage; and
    - b. if necessary, underpin and support the building in an approved manner.
  - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of

land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

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

[PCW0090]

45. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

46. Residential building work:
- (1) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
    - (a) in the case of work for which a principal contractor is required to be appointed:
      - (i) in the name and licence number of the principal contractor, and
      - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
    - (b) in the case of work to be done by an owner-builder:
      - (i) the name of the owner-builder, and
      - (ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
  - (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

## **DURING CONSTRUCTION**

47. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

- [DUR0010]
48. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.  
[DUR0040]
49. The provision of nine (9) off street car parking spaces. Two (2) spaces are to be nominated for visitor use and signposted accordingly. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.  
[DUR0050]
50. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.  
[DUR0080]
51. A garbage storage area shall be provided in accordance with Council's **"Code for Storage and Disposal of Garbage and Other Solid Waste"**.  
[DUR0090]
52. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.  
[DUR0100]
53. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.  
[DUR0130]
54. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.  
[DUR0160]
55. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.  
[DUR0170]
56. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.  
[DUR0200]
57. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

- b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0210]

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

- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- b. building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

59. Ensure adequate turfed area, or other suitable media, is incorporated and maintained into the proposed landscape of the property for use as a car wash-down area.

[DUR0230]

60. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0240]

61. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation

[DUR0670]

62. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

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

[DUR0870]

64. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.  
[DUR0880]
65. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.  
[DUR0900]
66. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.  
[DUR0910]
67. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.  
[DUR0920]
68. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.  
[DUR0930]
69. The burning of builders waste on site by open fire is prohibited.  
[DUR0940]
70. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.  
[DUR0960]
71. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.  
[DUR0980]
72. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.

[DUR1000]

73. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work and prior to occupation of the building.
- [DUR1020]
74. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.  
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR1030]
75. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR1040]
76. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR1090]
77. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
- [DUR1110]
78. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR1130]
79. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR1160]

80. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:

- i. All required erosion and sedimentation control devices have been installed and are operational.
- ii. Required toilet facilities have been provided on the site.
- iii. A sign has been erected on the site identifying:
  - Lot number
  - Builder
  - Phone number of builder or person responsible for site.
- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
- v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.

[DUR1200]

81. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1210]

82. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.

[DUR1230]

83. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0030]

84. 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.

[POC0050]

85. 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.

[POC0170]

86. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professional painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0180]

87. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POCNS01]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

88. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

### **USE**

89. The use being restricted to the floor area designated on the approved plan.

[USE0010]

90. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0040]

91. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0120]

92. 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, fumes or the like.

[USE0160]

93. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0170]



**REPORT:**

**Applicant:** Detabo Pty Ltd  
**Owner:** Detabo Pty Ltd  
**Location:** Lot 415 DP 755701 No. 75 Tweed Coast Road, Hastings Point  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$1,500,000.00

**BACKGROUND:**

Council is in receipt of a development application for the demolition of the existing building located on the subject land and the erection of a multi dwelling housing development comprising 1 x two (2) bedroom unit, 3 x three (3) bedroom units and a penthouse with three (3) bedrooms and a study, within a predominantly three-storey building.

The subject site is regular in shape and located along Tweed Coast Road, Hastings Point. The site has a 16.6m frontage to Tweed Coast Road to the east with an approximate depth of 50.3m, creating a total site area of 790.4m<sup>2</sup>.

The proposed development incorporates the provision of landscaping, a carwash bay, and three private balconies for each unit above ground level. The development also accommodates a basement carpark, located off Tweed Coast Road. The basement includes 9 car parking spaces, allowing one exclusive space per unit, with 4 visitor spaces. Access to the building can be via internal stairs from the basement area or entry pathway along the northern boundary from Tweed Coast Road.

The development application is accompanied by a SEPP 1 Objection to vary Clause 32B – Overshadowing of a Reserve to the North Coast Regional Environmental Plan 1988. In addition to this formal variation request, the application has a few numerical non-compliances with Council's Development Control Plan No. 6 – Multi Dwelling Housing, in relation to landscaping and building envelope.

The proposed development was advertised for a period of two weeks, during this period two written submissions were received. The main issues raised within the submission period included; the size and scale of the proposal – particularly in relation to non-compliance with Council's building envelope requirements, overshadowing of adjoining properties, loss of visual and acoustic privacy, potential structural damage to adjoining properties, stormwater concerns, loss of amenity and potential impacts to underground water supply as a result of the basement carpark.

The issues raised by the proposal have been assessed in full and it is considered that on merit the proposal warrants approval.



**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 land is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The primary zone objective relates the provision of medium density housing, achieving good urban design outcomes. The proposed development is permissible with the consent of Council and is considered to be consistent with the primary objective of the zone.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The subject land has the benefit of services and is considered able to support the proposed development.

Clause 16 of the TLEP requires development to be undertaken in accordance with a building height plan, which identifies the site as being limited to three storeys with an objective to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. The proposed development is considered to meet the provisions of Clause 16. The proposal involves a roof top terrace, however this not constitute a fourth storey under the definition of a storey within the Tweed LEP 2000. Appropriate conditions of development consent have been recommended regarding any future roof structures.

Clause 35 of the TLEP requires that an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is mapped as possessing Class 3 Acid Sulphate Soil levels. Council's Environment & Community Services Division, has reviewed the application, in light of the proposed depth of excavations, and the ASS testing submitted, no objections were raised.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 32B of the NCREP provides that in determining an application the consent authority should have consideration for documents such as the NSW Coast Government Policy and further should consider the impact that potential shadow may have on open space before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

The proposed development is generally consistent with the design guidelines contained in the documents listed in subclause (2), many of which have been incorporated into DCP 6. The development has been designed generally having regard to these requirements.

However, the proposed development does result in the overshadowing of the open space reserve immediately adjacent to the subject site. In this regard the overshadowing plans indicate that some overshadowing will occur at and

before 6.30pm mid summer (EDST) whilst no overshadowing will occur before 3pm mid winter. The expected shadow cast will be in the order of 185m<sup>2</sup> in area and will affect land immediately adjacent that the applicant contends is not currently used for either passive and active recreation.

Subsequently, the applicant has lodged a SEPP 1 Objection to this standard, which reads as follows:

*“The extent of overshadowing at the prescribed time (approx 185m<sup>2</sup>) is considered to be minor in scale relative to the overall size of the Coastal Reserve;*

*That area subject to overshadowing provides for primary roadside verge and low-lying coastal vegetation and weeds. The area affected provides for little in terms of recreational or scenic amenity as it is located immediately adjacent to the Coast Road.*

*The open space area in question (Tweed Coast Reserve) is extremely large and extends for a depth of approximately 150m and a distance of approximately 1.5km. Accordingly, several alternative areas will remain available for the use of the public in the unlikely event that overshadowing does adversely impact upon users of the area;*

*The proposed overshadowing in no way precludes the future use or classification of the adjacent reserve;*

*No overshadowing will occur before 3pm in midwinter;*

*No overshadowing of the adjacent beach will occur; and*

*Given the timeframes of overshadowing expected, no impacts will occur in relation to existing or future landscaping or specific stands of vegetation in the adjacent open space area.”*

It may be concluded that achieving the objective of no overshadowing of open space in urban environments may not be attainable in all circumstances. Having regard to Council's planning controls over the subject land it is considered that in order to achieve the development potential of the land a level of overshadowing will occur. It is not considered that the third-storey component of the building is the cause for the level of overshadowing and therefore in this instance, the objective of clause 32B cannot be fully realised without adversely impacting upon the development yield of the site, which would be inconsistent with Council's controls.

Therefore, having regard to the applicant's arguments above and the objectives of the REP the SEPP 1 objection is considered to have merit.

Clause 43 of NCREP requires density of development to be maximised without impacting on the environment. The proposed density is considered to be a reasonable response to the land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths are not excessive for the function of the

proposal and a detailed sedimentation and erosion control plan will be enforced in relation to construction works.

### State Environmental Planning Policies

#### **State Environmental Planning Policy (SEPP) No.1 Objection**

The applicant has submitted a SEPP No.1 Objection to vary the two-storey height limit under the provisions of Clause 32B of North Coast Regional Environmental Plan 1988. This issue has been discussed earlier in this report. The SEPP 1 objection is considered to have merit.

#### **State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

Clause 30 of SEPP No. 65 requires the consent authority to consider each of the ten (10) design quality principles when determining a development application for a residential flat building.

In this regard, the applicant has provided a comprehensive assessment of the proposal against the relevant design quality principles. It is considered that the design of the proposed development exhibits suitable regard for these principles and demonstrates good practice in urban design. The modern appearance of the building is in keeping with the evolving character of the area.

#### **State Environmental Planning Policy No. 71 – Coastal Protection**

The proposed development is not State Significant development, and as such, Council is the consent authority. A SEPP 1 accompanies the application, however, the development is only 10.67m in height and therefore, the state significant development provisions are not triggered.

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered compatible with the intent for the development of the locality.

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

The proposal is not considered to be affected by any draft environmental planning instruments.

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

##### Development Control Plan No. 2 – Site Access and Parking Code

Off street car parking needs to be supplied in accordance with DCP2. The following table assesses the proposed development in relation to the requirements of the DCP.

Standard	Requirement	Complies/variation
On site car	1.5 per dwelling (25% for	The basement includes 9 car

parking	visitors) = 7.5 spaces with 1.9 marked for visitors	parking spaces. This allows for each unit to have one exclusive space with 4 visitor car parking spaces. This complies with the requirements of DCP 2. However, two unburdened spaces in the basement will need to be marked as visitor car parking spaces and maintained accordingly.
---------	-----------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The proposed development is considered to comply with DCP 2 (subject to the recommended conditions of consent) and ensures that there is adequate parking on site for each unit and their visitors.

#### Development Control Plan No. 6 – Multi Dwelling Housing

The requirements for the proposed development in relation to DCP 6 are assessed in the following table:

Standard	Requirement	Variation/complies
Floor Space Ratio	0.5:1.0	The total floor area of the units excluding the basement, internal stairs and common foyer areas is 678.6m <sup>2</sup> . The site area is 790.4m <sup>2</sup> . The floor space ratio is 0.86:1 While this exceeds the allowable floor space ratio it is considered that in the medium density zone the proposed development is reasonable.  <u>See further assessment</u>
Landscaped Area	80m <sup>2</sup> per unit = 400m <sup>2</sup>	The proposed development provides approximately 360m <sup>2</sup> and therefore does not comply with this criterion.  <u>See further assessment</u>
Setbacks from street boundary	6.0m to Coast Road	The main building is setback 6m from Tweed Coast Road with open balconies also at a minimum of 6m from this frontage.  <u>Complies.</u>
Side setbacks	3.0m from side boundaries	The proposed setbacks comply with the 3m requirements. The

Standard	Requirement	Variation/complies
		proposed balconies do not encroach beyond the allowable 1.5m in accordance with Clause 3.3.3 (A2) of DCP No. 6.  <u>Complies.</u>
Minimum Private Open Space	20% of site area (158.1m <sup>2</sup> ) with minimum dimension of 3m	>20% of site area, with minimum dimension of 3m <u>Complies</u>
	One part min 25m <sup>2</sup> with min dimension of 4m	>25m <sup>2</sup> with min. dimension of 4m <u>Complies</u>
Front fences and walls	1.2m max if solid	The proposed development does not incorporate a fence along the front boundary of the site, proposing a landscaped area instead. The proposed rendered blockwall along the southern and northern boundaries reduces from 1.8m to 1.2m in accordance with the building line policy.  <u>Complies</u>
Building Envelope	45° from 3.5m high at the boundary	Substantially complies, however there is an encroachment at the front and rear of the building.  <u>See further assessment below.</u>
Car Wash Areas	1 required per 10 units.	The car wash bay is proposed at the ground level, which is accessible from Tweed Coast Road. A condition shall be imposed to identify the space as a car wash bay.  <u>Complies.</u>

### Floor Space Ratio

Council Development Control Plan No. 6 nominates that multi-dwelling housing shall not have a FSR of greater than 0.5:1. However this criterion has

not been applied for assessment for residential flat buildings exceeding 2 units. However, the total floor area of the units excluding the basement, stairwell and common foyers is 678.6m<sup>2</sup>. The site area is 790.4m<sup>2</sup>. The floor space ratio is 0.86:1. While this exceeds the allowable floor space ratio it is considered that in the medium density zone the proposed development is reasonable and consistent with other recently approved development in the vicinity.

### Landscaping

In accordance with the Acceptable Solutions contained within DCP No. 6 each unit is required to have a minimum landscaped area of 80m<sup>2</sup> per unit. This equates to 400m<sup>2</sup> in total.

The subject application has provided approximately 360m<sup>2</sup> of landscaping at ground level, which is 40m<sup>2</sup> short of the required landscaping. The calculated landscaped area excludes all concrete paving throughout the site including the driveway and the private terraces and decks.

Following is a list of reasons why in this instance the landscaping non compliance is acceptable:

- The proposed development incorporates extensive balcony areas and a roof top terrace that add to the open space available to residents;
- These balcony spaces are considered more than adequate to ensure the intent of the landscaping criteria is satisfied. They do not necessarily add to the bulk of the building but rather add interest and articulation to the design;
- The application generally complies with the nominated setbacks and therefore the non compliance with landscaping has no direct affect on adjoining properties
- Council's Engineering and Operations Division is satisfied with the submitted storm water management plan;
- The residential flat building presents well to Tweed Coast Road, with landscaping incorporated into the street frontage.

Whilst compliance with the numerical controls contained within DCP No. 6 is generally desirable, the circumstances of this case (considering the merits of the application) warrant relaxation of this criterion.

### Building Envelope

The proposal includes some encroachment of the building envelope prescribed within DCP 6. The areas of encroachment include elements as viewed from the western elevation, namely, the 1<sup>st</sup> level vergola and the proposed stairs, laundry and main bedroom at the penthouse level. Accordingly, the applicant has requested a variation in this regard, submitting the following information to justify the request:



*“Where encroachment is noted, it is evident that the proposed design does not exacerbate the issue by way of facilitating overlooking opportunities, whilst also limiting the primary areas of encroachment to the northern elevation.*

*The proposed development will not result in the loss of views associated with adjacent properties.*

*The proposed development does step in on both horizontal and vertical planes. Importantly, this stepping result in a reduced encroachment on the southern elevation, thereby restricting the extent of additional shadow cast on the adjacent property.*

*Furthermore, it is submitted that the proposal results in no ‘significant’ loss of amenity to adjoining properties and their residents relevant to the expected overshadowing/ amenity/ privacy impacts.”*

In light of the above, it is supported that the proposed design is considered to be adequate in its current form, particularly in regard to the desired development yield and context of the site. The proposed design exhibits high levels of articulation when viewed from Tweed Coast Road, masking the bulk and scale of the proposal. The siting and length of the proposal is not considered to lead to a significant loss of amenity to adjacent dwellings or land, complimented by the internal design of the proposal minimising potential overlooking to dwellings to the north and south. Accordingly, the proposal is considered to satisfactorily address P1 of DCP 6 Section 3.3 and warrants approval in its current form.

### Summary

In all other aspects the proposed multi dwelling housing development is considered to have adequately considered and addressed the objectives and acceptable solutions contained within DCP 6.

### Development Control Plan No. 39 – Energy Efficient Housing

The applicant has submitted a NatHERS certificate for the proposed development that outlines compliance with the requirements DCP 39 as follows;

Standard	Requirement	Proposal	Complies
Unit Energy rating	3.5 stars minimum	Unit 5 = 3.5 stars Units 2 & 4 = 4.5 stars Units 1 & 3 = 5 stars	YES

A condition of consent shall be imposed that the proposed development meets all relevant requirements of DCP 39.

### Development Control Plan No. 47 – Cut & Fill

The plan limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties while achieving the objectives of the plan.

The proposed development involves excavation for the basement and will extend beyond 1 metre, however this is considered consistent with recently approved developments. The applicant has substantiated the request with an erosion and sedimentation control plan, and a stormwater management plan that have been assessed and considered appropriate. Council's Environmental Health Officer, Council's Infrastructure Engineers and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

In all other regards the applicant provides that appropriate measures will be in place to ensure that the proposal is consistent with the objectives of the plan.

#### Development Control Plan No. 48 – Tweed Coast Building Heights

The subject land is identified as being affected by DCP 48 – Tweed Coast Building Heights, which was in draft form when the application was lodged. In this regard the proposal is considered to comply with the majority requirements contained within the document. The proposal requires a relaxation from the prescribed building envelope, however this has been addressed within the DCP 6 of the application and is considered to warrant approval in its current form. The proposal involves a minor encroachment of the prescribed maximum height (as detailed within Section 2.2 A2) and 9m from the finished ground level to the top plate of the highest external wall. Whilst the proposal involves areas of minor non-compliance, the proposal is considered to adequately address the relevant performance criteria and warrants approval in its current form.

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

##### NSW Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies contained in the coastal policy.

##### Demolition

There is an existing single storey dwelling located on the subject site. Part of the development application involves the demolition of this dwelling. The applicant has lodged a demolition work plan, to the satisfaction of Council's Environment and Health Services Unit. Appropriate conditions will be applied in relation to the demolition.

##### Bushfire Hazard

The subject site has been identified as being located within a bushfire prone area, pursuant to the Tweed Shire Bush Fire Prone Land map (Feb 2004). The applicant has submitted a bushfire assessment, which was forwarded to the Far North Coast office of the NSW Rural Fire Services for comment. The

Rural Fire Services responded by providing relevant conditions to be incorporated into any proposed consent.

**(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**

It is considered the proposed development will not have an adverse impact upon the natural environment as the site is currently developed for residential purposes. In terms of the built environment the proposed residential flat building will replace an existing dwelling, and as such the development will have an impact upon the built environment. In relation to the potential likely impacts the following matters have been considered:

Character of the area

The area is made up of a mix of low-medium density development comprising primarily of single dwelling houses. The area is currently undergoing a transition phase as these older dwellings come under market pressures to be redeveloped for higher density residential development as encouraged under the applicable planning controls. The proposal is considered not to be out of character with the area and is consistent with the future built form as per Tweed LEP 2000 and applicable DCPs.

Loss of amenity – Overshadowing, visual and acoustic privacy

Neighbouring residences have raised concern that the proposal will adversely overshadow adjoining properties, particular the adjoining southern lot. Submitted shadow diagrams display overshadowing the adjoining northern lot at the prescribed 6pm Dec 22 and overshadowing of the adjoining southern lot at the prescribed 9am Jun 22 and 3pm Jun 22.

Detailed investigations have been made regarding potential shadow impact upon adjoining properties, particularly direct comparisons between the proposed 3-storey development and a similar 2-storey development. Results indicated minimal difference between the 2 and 3 storey developments. Submitted shadow plans are attached to this report for your reference.

The proposed development will result in overshadowing of the adjacent allotment, however the amount of overshadowing to be created is considered satisfactory and consistent with that to be expected in an area possessing a 3-storey height limit and a 2(b) medium density zoning. The proposal is considered to comply with the daylight and sunlight requirements within DCP 6. It should also be acknowledged that any proposal seeking to meet the desired development yield and context of the site is likely to adversely overshadow the adjoining property to the south given the orientation and positioning of the existing dwelling on the lot.

Concerns regarding loss of visual and acoustic privacy were also raised within the notification period. In an attempt to mitigate loss of privacy concerns the proposal incorporates adequate building orientation and setbacks, as detailed within DCP 6, 1.8m high fencing along side boundaries and privacy screens at

a first storey level to minimise the opportunity of overlooking into areas of private open space.

It is considered that the proposal has had adequate regard to maintaining the amenity of adjoining properties and whilst some impact to the existing amenity levels may be experienced, the impacts generated are considered satisfactory and consistent with that to be expected with the desired development yield and context of the site.

The proposal is therefore considered to warrant approval in its current form.

### Stormwater

The following comments regarding stormwater concerns have been detailed by Council's assessing infrastructure Engineer:

*"As detailed in previous memos, Tweed Coast Road acts as a weir for stormwater runoff from the subject land and neighbouring allotments, which ponds and inundates the front portion of these lots. Due to an absence of drainage infrastructure in the locality, this water must then be infiltrated.*

*It is now proposed to construct a pipe under Tweed Coast Road to convey stormwater to the coastal reserve to the east. The latest plan indicates that construction of this pipe is feasible in terms of levels and minimising conflict with existing services. Similar drainage pipes have been constructed at other locations along Tweed Coast Road to rectify local drainage problems. These pipes discharge to excavated infiltration pits in the dunal sands within the road reserve and the adjoining Council owned coastal reserve. Implementing such a system will reduce ponding levels at the front of the affected lots, while efficiently infiltrating minor storms. Larger storm events will surcharge to minor watercourses through the dunes, without adverse impacts on Council's road infrastructure. It is considered that provision of this service will more than cater for the impacts on stormwater runoff from the subject development, and will provide a benefit to the neighbouring properties, some of whom have submitted objections to the project.*

*Construction of the new drainage service and its connections will require excavation and reinstatement of Council's cycleway and the Tweed Coast Road formation and seal. These must all be completed according to Council specifications. Construction must not affect the sewer rising main located within the road reserve.*

*Council's Manager Recreation Services has no objection to the construction of the pipe outlet and/or the infiltration area within the coastal reserve, provided appropriate revegetation plans are provided for all disturbed areas within the dunes. Council's Traffic & Transport Engineer has no objections to the proposal, subject to a s138 approval to carry out the works within the road reserve.*

*The applicant has previously advised that the driveway can be adequately graded to protect the basement from stormwater ingress from the road reserve. Basement stormwater will be treated in accordance with Council's specifications."*

Council's assessing officer has accordingly included a number of conditions of development consent to ensure compliance with the supported stormwater management plan.

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

Suitability of the Lot for Multi-Dwelling Development

The subject site has a land area of 793m<sup>2</sup> and is of a regular shape. The topography of the slopes gently from southwest (high) to east (low) and neighbours residential lots to the north and south, public reserve to the west and Tweed Coast Road to the east. The site enjoys a 16.6m frontage to Tweed Coast Road and is approximately 50.29 metres deep. Neighbouring development comprises primarily of single dwellings, however, the majority of adjoining land parcels are currently zoned 2(b) – Medium Density development. Accordingly the context and setting of the area, whilst established, is progressing towards modern multi-dwelling developments. Council's GIS system indicates that the lot is well above the required prescribed minimum habitable floor levels and is not considered to possess any other significant environmental constraints.

The site is considered suitable for multi-dwelling development with the land possessing limited hazards and limitations in terms of topography, lot size, shape, layout and surrounding development.

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

The development application was advertised and notified to surrounding properties for a period of two weeks closing on 17 June 2004.

<b>Issue</b>	<b>Assessment</b>
Size & Scale of the Development - <i>Concern was raised regarding the size and scale of the proposal, and compliance with relevant provisions within DCP 6 – Multi Dwelling Housing.</i>	This issue has been addressed in the above report. This objection does not warrant further amendment or refusal of the application.
Overshadowing - <i>Concern was raised regarding the level of overshadowing of adjoining properties (particularly to the south) as result of the proposal.</i>	This issue has been addressed in the above report. This objection does not warrant further amendment or refusal of the application.
Privacy Impacts - <i>Concern was raised regarding visual and acoustic impacts to adjoining properties as a result of the proposal.</i>	This issue has been addressed in the above report. This objection does not warrant further amendment or refusal of the application.

Possible Structural Damage – <i>Concern was raised regarding potential structural damage to adjoining properties as a result of the proposal.</i>	Council's technical officers have reviewed the proposal with no objections raised. Appropriate conditions of development consent have been included to ensure no structural damage to adjoining dwellings will occur as a result of the proposal.
Stormwater - <i>Concern was raised regarding stormwater impacts likely to be generated by the proposal.</i>	Council's assessing Infrastructure Engineer has extensively assessed the proposed development, with no objections raised, subject to appropriate conditions of development consent being applied. An appropriate approval is required from Council in addition to this application (Section 68 Approval) and this will provide Council a further opportunity to ensure that the proposed system is appropriate.
Sandspear/Groundwater – <i>Concern was raised regarding the depth and structure of the proposed basement carpark on groundwater.</i>	The application included an appropriate geotechnical report, concluding that no dewatering of the site was required as a result of the proposal. The submitted report was reviewed by Council's assessing technical officers with no objections or concerns raised.
Sundeck/Roof Terrace - <i>Concern was raised regarding the sundeck/roof terrace forming a fourth storey within a 3-storey height zone.</i>	The proposed roof terrace is considered to comply with Council's definition of a storey and as permissible in its current form.

**(e) Public interest**

Despite the objections received to this application the proposal is not considered to be in conflict with the general public interest in the locality. The proposed development adequately reflects the provisions of the controls and the intended development for the locality

**OPTIONS:**

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has a right of appeal to the Land and Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposal has been thoroughly investigated and is considered to be suitable to the site; unlikely to cause any significant negative impacts to the surrounding built and natural environment and satisfies all of Council's applicable requirements within the TLEP and relevant DCPs. The application has been assessed by Council's technical officers; with no objections being raised subject to the attached conditions of

development consent. The proposed multi dwelling housing development is therefore considered to warrant approval.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Shadow Diagrams (DW 1207191, 1207196, 1207197)
-

