

Office of Sustainable Development Assessment and Approvals, Urban Assessments

## **Planning Assessment Report**

### **Development Application DA 227-09-2004**

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#### **1 SUMMARY**

This report is an assessment of the proposed development subject of Development Application number: 227-09-2004.

The application provides consent for construction of a 129 unit dwelling development and café, strata subdivision of apartments and common property; subdivision, construction and dedication of roads, pathways and public open space.

The Minister for Planning is the consent authority under Clause 10(2) of State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71).

The development of Casuarina Beach (also referred to as Kings Beach) was subject to a Land and Environment Court consent dated December 1998. Subsequently in 1999, Consolidated Properties prepared the Casuarina Masterplan which was adopted subsequent planning controls such as Tweed Shire Council DCP 11 - *Kings Beach* and DCP 51 - *Tweed Coast Strategy*. On 15 July 2004, the applicant submitted a request to waive the requirements for a draft master plan pursuant to clause 18(2) of SEPP No 71, on the basis of the nature of the development. This was granted on the 9 September 2004 (Attachment – **D**).

Issues relating to the provision of an esplanade road, logical and safe traffic movements, use of the building, potential stormwater contamination of the foreshore reserve and building sustainability have arisen during the assessment of the proposal. It is considered that these issues have now been satisfactorily resolved through the recommended consent conditions.

On the basis of the above, it is considered that the Development Application warrants approval, subject to conditions (Attachment – **B**). Accordingly it is recommended that the development application be **granted consent subject to conditions**.

#### **2 BACKGROUND**

##### **2.1 Site Context**

The site is known as Lots 29, 30 & 31 DP 1027531 and Part Lot 54 DP 1030322, Tweed Coast Road, Celerywood Drive & Casuarina Way, Casuarina Beach in the Tweed Shire local government area. Site information is at Attachment - **F**.

The development application was lodged with the Department on 16 September 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

The subject land is irregular in shape and has a total area of 7.8 Ha and forms part of the Casuarina Beach master planned community. The site is located at the southern end of the community. The land has frontage to the Tweed Coast Road, Celerywood Drive and Casuarina Way and comprises the following allotments:

Lot 29 DP1027531	14,890m <sup>2</sup>	Proposed Lot 58 (Part Lot 54 DP1030322)	6,354m <sup>2</sup>
Lot 30 DP1027531	39,750m <sup>2</sup>	Proposed CD1 (Part Lot 54 DP1030322)	685m <sup>2</sup>
Lot 31 DP1027531	16,330m <sup>2</sup>		

Lots 30, 31 and proposed Lot 58 have frontage to the open space adjoining the dunal area. Lot 31 adjoins Celerywood Drive and the proposed Casuarina Way alignment. Lot 29 is situated on the western side of the proposed Casuarina Way alignment and adjoins the Tweed Coast Road. Land forming works have been conducted over the subject site and surrounding areas in accordance with the Casuarina Beach development consent for subdivision work. A number of roads have been formed and the 'Stage 1' site has been previously cleared.

The 'Stage 1' site of Lot 31 DP 1027531 is bounded to the north by an area to be developed in subsequent stages. Beyond Lot 58 is an area comprising of detached dwellings forming the part of the southern precinct of the Casuarina Beach Development. Further to the north is the vacant land subdivision known as "Seaside City" and the master planned development known as "Salt". The township of Kingscliff is located approximately 7 km to the north. To the east the site is bounded by the coastal foreshore reserve and foreshore cycleway network and Casuarina Beach. To the south the site is bounded by existing residential an existing public car parking area, reserve and amenities. The site fronts Casuarina Way and Celerywood Drive and detached dwellings to the West.

The land to which this application relates is zoned (2(e) Residential Tourist under the provision of Tweed Local Environmental Plan 2000.

A site visit was conducted of the site on 6 June 2005.

### 3 THE PROPOSED DEVELOPMENT

The proposed development sought consent for:

"Residential development and a small café (approximately 160m<sup>2</sup> GFA of dining area) on the land comprising a total of 467 dwellings in a mix of villas and apartments. Seeking approval of "The Casuarina" Master Plan comprising residential development, the proposed road layout and bulk earthworks; consent for "The Casuarina" Stage 1 being for residential development and a café ('refreshment room'); ancillary uses in the form of meeting/treatment rooms and workout areas located in the basement level underneath the sundeck; subdivision approval for "The Casuarina" Stage 1 – strata title subdivision for 129 apartments and subdivision for common property for "The Casuarina" Stage 1. It is also proposed to provide a 5 metre wide easement within a 35 metre wide landscape area through the central part of the site." Further details of the proposal are located Attachment – G.

Consent has not been granted for certain elements of this development proposal including bulk earth works for subdivision works, buildings or land use on Lots 29 & 30 1 DP 1027531 and Part Lot 54 DP 1030322 as insufficient detail was provided on the

proposal's potential impacts and the applicant was keen to expedite assessment for 'Stage 1' of the development. The Department expects applications for future stages of this development will be made in due course. The first use of the Café in Stage 1 will also require further consent.

### **3.1 Amended Plans**

On 28 September 2005 the applicant, submitted amended plans incorporating: -

- WD-03-00/C Basement level floor plan
- WD-03-01/C Ground level floor plan
- WD-03-02/C First level floor plan
- WD-03-03/C Second level floor plan
- WD-06-00/B Roof plan
- WD-04-01/B Elevations
- WD-04-02/B Elevations
- WD-05-01/B Sections
- 1561.01 The Casuarina Landscape Concept (Issue Ver. D)

These amendments differ only in minor respects from the development application submitted and do not to give rise to any additional impacts. Accordingly, these amendments were accepted as a replacement application in accordance with clauses 55 and 90 of the *Environmental Planning & Assessment Regulation 2000* (the Regulations). In accordance with clause 90 of the Regulations further notification of the application was not undertaken. The applicant was advised of the conditional acceptance of the amended plans on 30 September 2005.

## **4 STATUTORY FRAMEWORK**

### **4.1 Statement of permissibility**

A significant proportion of the site is zoned 2(e) (Residential Tourist) under the provisions of the Tweed LEP 2000 with the balance included in the 7(f) zone. The development of the site for residential purposes and a café is consistent with the intent of the 2(e) Zone. Development is restricted to that part of the site zoned 2(e).

The development is classified as State Significant Development (SSD) in accordance with State Environmental Planning Policy - 71 *Coastal Protection* (SEPP 71) and the Minister is the consent authority. A waiver of the requirement to prepare a SEPP 71 draft Master Plan was granted under delegation DOP on 9 September 2004 (Attachment - D).

### **4.2 Relevant planning instruments**

#### **4.2.1 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)**

The proposed development is located within the coastal zone, as defined in Part 1 (3) of SEPP 71.

The development application is identified as *significant coastal development – specified development* under Schedule 2(b) of SEPP 71 as it involves the development comprising subdivision of land in a residential zone into more than 25 lots. As a result,

the application is State Significant development pursuant to clause 10(1) of the Policy. Pursuant to section 76A (9) of the Environmental Planning and Assessment Act, 1979 and clause 10(2) of SEPP 71, the Minister for Infrastructure and Planning is the consent authority for State Significant development. An assessment of the proposal against the relevant provisions of SEPP 71 is located in the compliance tables (Attachment-C).

The following environmental planning instruments also apply to the site:

- *State Environmental Planning Policy No. 11 – Traffic Generating Developments (SEPP 11);*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);*
- *State Environmental Planning Policy No. 65 – Residential (SEPP 65) (DOP-Urban Design comments are at Attachment-F);*
- *North Coastal Regional Environmental Plan (NCREP 1998);*
- *Tweed Local Environmental Plan 2000;*

In addition to the zone provisions discussed in Section 4.1, the following clauses are relevant to the proposal and have therefore been considered during this assessment:

- Clause 2 – Aims, objectives, etc;
  - Clause 11 – The Zones;
  - Clause 15 – Availability of Essential Services;
  - Clause 16 – Height of Buildings;
  - Clause 17 – Social Impact Assessment;
  - Clauses 22 and 23 – Designated Roads;
  - Clause 35 – Acid Sulfate Soils;
  - Clause 36 – Coastal Erosion Outside Zone 7(f); and
  - Clause 44 – Archaeological Sites.
- *Tweed Shire Council Development Control Plan No. 2 – Car Parking Code (DCP2);*
  - *Tweed Shire Council Draft Development Control Plan No. 8 – Development of Land Liable to Coastal Erosion (Draft DCP8);*
  - *Tweed Shire Council Development Control Plan No. 45 – Socio-Economic Impact Assessment (DCP 45);*

An assessment of the proposal (DA 227-09-2004) against the relevant provisions of the abovementioned environmental planning instruments is located in the compliance tables in Attachment-C.

#### **4.3 Legislative context**

##### **4.3.1 Environmental Planning and Assessment Act, 1979**

The application and the likely impacts of the proposed development have been considered in accordance with s.79C of the Act. An assessment of the proposal against the provisions of s.79C is located in the compliance tables (Attachment -C).

##### **4.3.2 Rural Fires Act, 1997**

A "Low Hazard" bushfire area is identified on Tweed Shire Council's bushfire maps. As a result, the proposal is integrated development under the Rural Fires Act, 1997. Accordingly, a Bush Fire Safety Authority has been issued by the Rural Fire Service pursuant to section 100B of that Act. Section 6.2 of this report discusses bushfire management in more detail.

##### **4.3.3 Roads Act, 1993**

The development proposes "works" as defined by the *Roads Act, 1993*. As a result, the proposal is integrated development under the Roads Act, 1993 and accordingly a s138 permit required to be issued by Tweed Shire Council as the local roads authority. Tweed Shire Council have provided conditional General Terms of Approval (GTA's).

## **5 CONSULTATION**

### **5.1 Public consultation**

The application was notified, in accordance with the Regulations and Tweed Shire Council DCP 42 – Public Notification Policy including:

<b>Notifications landowners/occupiers</b>	– 731 adjoining and surrounding landowners and occupiers were notified
<b>Newspaper advertisements</b>	Advertised in Tweed Sun on 6 October 2004.
<b>Site notices</b>	A site notice placed on site.
<b>Exhibition dates</b>	Start: 6 October 2004. End: 6 November 2004
<b>Exhibition venues</b>	<ul style="list-style-type: none"><li>• DOP Resource Centre - Ground Floor, Henry Deane Building - 20 Lee Street, SYDNEY</li><li>• DOP North Coast Regional Office - 49 Victoria Street GRAFTON</li><li>• Tweed Shire Council, Brett Street, TWEED HEADS</li></ul>

A total of **107** public submissions and **6** Agency / Council submissions were received regarding the Application. A summary of public submissions is at Attachment **E**. Agency submissions are located in Attachment **J**. Issues are considered in Section 6.2 of this report.

### **5.2 Referrals**

#### **5.2.1 Integrated Approval Bodies (see above)**

#### **5.2.2 Tweed Shire Council**

The application was referred to the Council on 28 September 2004. Council made a resolution on 2 March 2005 recommending that the application not be supported as their preliminary assessment of the application revealed issues with:

- (1) The proposed development does not attain the provisions of Development Control Plan No2. – Parking and Access Code (Pursuant to Section 79C(1)(a)(iii) of the Act).
- (2) The proposed development is not supported by information that permits a level of satisfactory assessment in relation to the impact on the natural and built environment, socially and economically in the locality, particularly as it relates to raising the level of the land (Pursuant to Section 79C(1)(b) of the Act).
- (3) The proposed development is considered to have the potential to adversely impact upon external properties and on the whole of the Casuarina Beachside precinct and as such cannot be considered in the public interest (Pursuant to Section 79C(1)(e) of the Act).
- (4) The proposed development has not been demonstrated as attaining subclause (a)(i) & (ii) (Pursuant to Section 5 'Objects' of the Act)

Subsequent ongoing negotiations with Council by the applicant and minor design amendments have resolved a number of issues. Issues raised by Council are discussed in detail in Section 6.2 of this report. Council's submission is located at Attachment – I.

### **5.2.3 Other Agencies**

#### ***NSW Department of Lands***

The application was referred to the NSW Department of Lands on 28 September 2004. The Department of Lands raised a number of issues regarding the siting of the development in relation to the cadastre of foreshore reserve and the potential disposal of stormwater into the Lot 500 DP 727420 foreshore management reserve. The NSW Department of Lands recommended a number of conditions which have been incorporated into proposed conditions of consent.

#### ***Department of Environment and Conservation***

The application was referred to the NSW Department of Environment and Conservation (DEC) on 28 September 2004. The DEC responded 13 October 2004 and reiterated previous comment made for the masterplan waiver request. The DEC raised the following issues that need to be addressed through the planning process:

- An integrated approach to water cycle management for the site, which minimises the proposals demands on the potable water supply, mimics predevelopment flows from the site and minimises waste water discharges;
- A detailed assessment of radioactivity on the site is undertaken and appropriate remediation strategies committed to;
- Details of dune restoration and rehabilitation proposal;
- Details of beach access points and path configuration. Paths should be designed to minimise street lighting being visible from the beach for the purposes of minimising disturbance to breeding turtles.

Relevant matters to this Stage 1 development, raised by DEC, are discussed in detail in Section 6.2 of this report and included in proposed conditions.

#### ***NSW Roads and Traffic Authority / Local Roads Authority***

The application was referred to the NSW Roads and Traffic Authority under State Environmental Planning Policy No. 11 – *Traffic Generating Developments* for discussion

by the Regional Traffic Committee. The matter was discussed on 15 September 2005 in Tweed Heads. Outcomes of this meeting included the requirement for compliance with AS2890.1: *Off-Street Car Parking* for the location of exit points to the building within the intersection of Casuarina Way and Celerywood Drive the provision of an off-street unloading area for service vehicles.

### **5.3 Internal consultations**

#### **5.3.1 DOP and DNR - North Coast Office**

The North Coast Office has been consulted regarding the application and has raised no regional issues in relation to this proposal. Clarification was sought on works proposed in the 7(f) zone and reiterated the need to obtain the concurrence of the Director General. The applicant has submitted amended plans that remove works from the 7(f) zone.

Clarification was also sought on the requirement for dewatering from DIPNR - North Coast Office. Response from the applicant indicated that no excavation will proceed below 3.0m AHD the development would not breach groundwater and thus dewatering would not be required.

#### **5.3.2 DOP - Urban design**

Internal urban design advice was also sought to resolve a number of minor issues related to building height, form and traffic flow in the port cochere` area.

These are discussed in detail in Section 6.2 of this report.

## **6 CONSIDERATION**

### **6.1 The Environmental Planning & Assessment Act**

#### **6.1.1 Section 79C**

The application and the likely impacts of the proposed development have been considered in accordance with section 79C of the Act. Significant issues are discussed below in Section 6.2, and, where relevant, a detailed assessment is provided as noted in the table below. An assessment against key planning instruments is located in the compliance tables (Attachment -C).

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 6.2. On balance, the proposed development is considered to be in the public interest.

### **6.2 Issues**

#### **6.2.1 Stormwater**

Issue:	Issues were raised regarding the proposed stormwater drainage and potential runoff into Lot 500 DP 727420
Raised by:	DOP – Urban Assessment, Council, Department of Lands.
Consideration:	Concerns were expressed by NSW Department of Lands about the potential stormwater runoff to crown land. Encroachment of property boundaries was also raised. Site visits suggested that stormwater outlets to

the swales located in the 7(f) zone exist in the vicinity of the proposed Stage 1 development and in the vicinity of Lot 500 DP 727420. Clarification was sought from the applicant as to the potential discharge of stormwater into the Lot 500 foreshore reserve from connections to this system. The applicant responded with information of prior consents for existing stormwater works and made commitment that no stormwater discharge was to be made into Lot 500 DP 727420.

**Resolution:** A detailed stormwater plan and demonstrated compliance with the provisions of Council and Australian Standards is to be submitted and accepted by Tweed Shire Council. Consideration of this issue is through the use of Condition (B10).

### **6.2.2 Building Sustainability**

**Issue:** The water and energy efficiency of the proposed development was not established to the satisfaction of the consent authority in the initial application.

**Raised by:** DOP – Urban Assessments, Sustainability Unit, Council

**Consideration:** The application was not accompanied by a NatHERS assessment as required by Tweed Shire Council DCP 39-Energy Efficient Homes though commitments under SEPP 65 to energy efficiency were made. A number of concerns were also expressed about the potential potable mains water consumption of the 27 pools and associated water features proposed and lack of offset measures to mitigate this use within the stage 1 development. Clarification was sought from the applicant as the measures proposed to achieve water efficiency onsite. The applicant has committed to the provision of a detailed water cycle management plan.

**Resolution:** The department considers that an overall reliance on the use of portable mains water through redesign of facilities, provision of rainwater harvesting and use of water efficient fixtures and appliances should aim to meet an overall reduction of 40%.

Condition (B23) is proposed to this effect

The inclusion of a NatHERS assessment to demonstrate the energy efficiency of the building and a continued commitment to the reduction of energy usage in terms of energy efficient appliances, mechanical fixtures and facilities / building maintenance services has been sought.

Condition (B21 and B22) are proposed to this effect.

### **6.2.3 Building Height**

**Issue:** Building is potentially over the height limit for the area and could affect coastal amenity.

**Raised by:** DOP- Urban Assessments, DIPNR-North Coast

**Consideration:** The Department considers views from the coastal foreshore, overshadowing and neighbouring amenity important considerations and



justification on this basis was sought from the applicant. An initial assessment of the application and supporting documentation suggested the building may exceed the height limit (stated as 3 storeys or 12m in SEE) in several places creating a need for a SEPP 1 objection to the development standard in the *Tweed Local Environmental Plan 2000*. Discrepancies in the height of contours in relation to building height levels (3m) also required clarification from the applicant. DIPNR-North Coast subsequently highlighted that a SEPP 1 objection to the standard was not needed as it is only expressed as 3 storeys and not a 12m numerical standard in the Tweed LEP Building Heights map.

*Resolution:* Corrected information was provided to the Department and in consultation with Council's requirements, a visual assessment and site visit including inspection of the onsite observation platform indicative of building height, the Department is satisfied that the reasonable expectation of building height in the area has been met and will not give rise to any additional impacts.

#### **6.2.4 Road Design – Pedestrian Safety**

*Issue:* The design of the port cochere` area has not demonstrated a reduction in the potential for pedestrian and vehicular conflict.

*Raised by:* DOP- Urban Assessments and Tweed Shire Council

*Consideration:* DOP considers the safety of pedestrian traffic utilizing Casuarina way adjacent to the Stage 1 development has not been established. The applicant has committed to a redesign of the internal pedestrian / vehicle traffic flow of the port cochere` area. However, DOP considers that three (3) vehicular entry/exits points and the lack of clear treatment measures delineating pedestrian priority along Casuarina Way does not meet Council's or DOP's expectations.

*Resolution:* In consultation with Council's requirements for a redesign of local and site vehicular traffic movements in the Casuarina, Celerywood Drive intersection area, the applicant will be required, to submit a detailed design response, that establishes the safe movement of pedestrians along Casuarina Way to the satisfaction of Tweed Shire Council. Conditions (B12 – B14, H3) are proposed to this effect.

#### **6.2.5 Restriction on Use**

*Issue:* Clarity as to the potential amenity issues associated with the short term accommodation use of the building.

*Raised by:* DOP

*Consideration:* Clarification was sought from the applicant as to the intended use of the building. The applicant has sought consent, in part, for a 129 unit dwelling building and ancillary uses that can be utilized for permanent strata living, individual short term accommodation and group holiday accommodation

uses. At the time of assessment no clarification had been provided on the proposed management framework for general residential amenity, security of tenure, visitor safety and long-term strata management of usage impacts of such a mix of uses. Negotiation with the applicant had not resolved this issue. The details of any proposed management scheme was again sought from the applicant.

*Resolution:* Resolution was sought through the use of conditions, however the applicant, in response the Departments concerns over onsite short and long term accommodation has provided, on the 26 October 2005, a product disclosure statement of a management rights scheme for prospective purchasers and draft strata scheme Bylaws to manage, amongst other issues, matters that deal with short – term accommodation uses, safety and amenity of residents and visitors. The relevant sections of the proposed Bylaws that satisfy the Departments concerns are to be directly subject to the conditions in this consent. Condition (E4) is proposed to this effect. Also demonstrated compliance with the provisions of the Building Code of Australia is to be submitted and accepted by the Principal Certifying Authority. Consideration of this issue is through the use of Conditions (A6, C2 and F3).

## **6.2.6 Road Design – Removal of Esplanade Road and Realignment of Casuarina Way**

*Issue:* The removal of the esplanade road, originally shown as fronting the foreshore coastal reserve and replacement with only 124 public car spaces and a realignment of Casuarina Way.

*Raised by:* DOP- Urban Assessments, Tweed Shire Council and Local Community

*Consideration:* Tweed Shire Council's initial resolution and submissions received from the community has raised significant concerns with the removal of the esplanade road (approved in development consent 0850/2000DA (DA 1180/668 Pt7)) from this proposal and its replacement with only 100 public car parking spaces adjacent to Lots 30, 31 DP 1027531 and Lot 58 (Part Lot 54) DP 1030322) and 20 public car spaces (adjacent to Lots 29 and 30 DP 1027531 located on the realigned Casuarina Way. Tweed Council asserted that the elimination of the esplanade road and the associated public car spaces in favour of a revised configuration would have an adverse impact, not only on the future public access and amenity of the site but also on the amenity of existing property owners and the applicant's reports do not appear to have adequately addressed all the impacts associated with the proposed road re-alignment. In response the applicant was directed to respond to Councils resolution. A workshop was held (13 April 2005) with the applicant, Council (elected and officials) and members of the public from Casuarina Beach. DOP was unable to attend. Tweed Shire Council elected members indicated their support for the amendment to the proposed realignment of Casuarina Way after a detailed presentation and clarification from the applicant's traffic engineers (Eppell Olsen & Partners) and support of members of the community present. However the Department and community representatives still held concerns about public foreshore access in the area fronting Lot 30 DP 1027531. The applicant has been requested to respond to these concerns.

*Resolution:* The Department has accepted Council's support for the re-alignment of Casuarina Way. After discussions with the applicant about improving public

access to the foreshore area and in response to the removal of the esplanade road, the applicant has agreed to amend their proposal to provide additional public car parking and access adjacent to the foreshore lands. The removal of pocket parks to create additional car parking spaces would result in negligible outcomes including the loss of amenity and recreational opportunities for residents and visitors to this area. The layout of roadways incorporating 124 public car spaces (adjacent to Lots 30, 31 DP 1027531 and Lot 58 (Part Lot 54) DP 1030322) and 20 public car spaces (adjacent to Lots 29 and 30 DP 1027531 located on the realigned Casuarina Way) are generally consistent with the layout shown on Cardno MBK sketch DA02 (06-80-04) and consent condition B14. The amended road network layout and the provision of adequate public car parking establishes a safe, efficient and logical movement of vehicles and pedestrians to and from the site and immediate surrounds. The provision of foreshore parking and the retention of public parks will provide a sense of public ownership and improve public access to the coastal cycleway/boardwalk and Casuarina Beach. The provision of adequate public car parking and sufficient road network, constructed to Council and other relevant standards, and the full dedication of roads at final stage occupation for the development will be conditioned as part of this consent. Conditions (A2, B5, B13, B14 and E7) are proposed to this effect.

#### **6.2.7 Loss of View**

- Issue:* Loss of view from adjoining properties
- Raised by:* Local community
- Consideration:* Adjoining properties to the west of the development currently enjoy panoramic views. The proposed development will reduce the horizon view though significant views to the east will still exist. Views to the south, west and north are unaffected.
- Resolution:* The loss of partial view can not be avoided and maintaining partial view and the incorporation of view sharing is a reasonable outcome.  
A condition has been imposed to control outlets on the roof top with adequate screening to ensure no further loss of view in the future.

#### **6.2.8 Waste disposal**

- Issue:* Storage and collection of waste for commercial premises and dwelling units
- Raised by:* DOP- Urban Assessments and Tweed Shire Council
- Consideration:* The vehicular movement requirements of the waste service vehicles were not accommodated in the original design of the development. DOP and Tweed Shire Council expressed concern that the location of bulk removal area and waste management for the café was not adequate and the approval of a local waste disposal contractor had not been established.
- Resolution:* An amended design of the port cochere` area has been undertaken by the applicant and Solo waste, as the nominated waste contractor has advised that the development can adequately serviced. Subject to the final design of the vehicle entry / exit points to the development in consultation with Council, the amended location of the disposal area and arrangement for servicing have been accepted by the department. Clarification on waste

management for the café has also been accepted by the department and can be adequately facilitated within the development. A condition (see condition B28) has been imposed to provide further details to Council and the waste disposal contractors regarding design and management of facilities for the storage and handling of waste should the current servicing arrangement change due to an amended layout of the port cochiere` area at the front of the building.

#### **6.2.9 Disabled Access and Adaptive units**

Issue:	Concern that access and adaptive units for persons with a disability were not able to be accommodated within the development.
Raised by:	DOP – Urban Assessment, Council.
Consideration:	DOP considers that, in accordance with the relevant standards, equitable access to all facilities should occur. The applicant has committed to non-discriminatory access and the provision of adaptable units (identified as B1 and C1 on Designinc plans). The department considers the provision of Two (2) dedicated units, adapted for use by persons with a disability, clearly identified in the strata plan of management and included in those delineated as short term accommodation, as appropriate.
Resolution:	The proposed development will be accessible to people with disabilities to comply with part D3 of the BCA's Access Policy. Condition (B19) is proposed to this effect.

In addition to the issues discussed above, DOP – Urban Assessments also considered several minor issues during the assessment of the DA which include:

- incorrect plan details;
- removal of development in the 7(f) zone;
- details of landscaping for the site and immediate surrounds and embellishment roadways, pathways, and parks;
- street, public car park and external building lighting;
- waste and trade management; and
- bicycle facilities;

A number of standard conditions have been recommended to minimise the potential environmental impacts of the development and enable to the provision of high standard development.

Where necessary, additional details have been requested to be submitted to either, the Director – Urban Assessments or Council or the Principal Certifying Authority, for approval through recommended conditions of consent. Such details are subject to final design and engineering specifications as per operator requirements and will not impact on the final design of the development.

## **7 CONCLUSION**

The Minister for Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the Act and the Rural Fire Service and Tweed Shire Council who were consulted and provided general terms of approval under the Integrated Development Provisions within the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be determined by **granting** consent.

## **8 CONSULTATION WITH THE APPLICANT – DRAFT CONDITIONS**

The applicant was asked to comment on preliminary draft conditions of consent on 30 August 2004. These conditions were preliminary due to the lack of response from Tweed Shire Council and the outcomes of the Traffic Committee. The applicant responded on 28 September 2005 and suggested a number of amendments related to the restriction of uses, stormwater and monetary s94 contributions. Commitments have been also been made to assist with issues of building sustainability particularly water sensitive urban design and road design. A second set of draft conditions was issued to the applicant on 14 October 2005. A full copy of applicant's response to preliminary draft conditions is at Attachment - **H**.

## **9 RECOMMENDATION (CONSENT)**

It is recommended that the Minister for Planning pursuant to sections 80 (1) (a) and 80A of the *Environmental Planning & Assessment Act, 1979*, and clause 10 (2) of *State Environmental Planning Policy No. 71 – Coastal Protection*:

- (A) grant **consent** to the application subject to conditions (Attachment **B**), and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial Endorsement

Prepared by:

Endorsed by

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