

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 62-2-2003

(FILE NO. 9037912-1)

**DOLPHIN HOTEL – MIXED USE RESIDENTIAL/TOURIST FACILITY, HOTEL,
AND RETAIL DEVELOPMENT**

I, 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, determine the development application referred to in the attached Schedule 1, by **granting consent** to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) ensure the creation of a high quality environment,
- (2) ensure compliance with planning controls,
- (3) ensure provision of necessary infrastructure services to the land and local community, and
- (4) protect the amenity of the local environment and land owners.

Frank Sartor MP
Minister for Planning

Sydney,

2006

SCHEDULE 1

PART A—TABLE

Application made by:	Fulton Trotter & Partners Lvl 1, 40 Frances Street, Tweed Heads NSW 2485
Application made to:	Minister for Planning
Development Application:	No. 62-2-2003
On land comprising:	Lot A on DP332137 17-21 Wharf Street, Tweed Heads
Local Government Area	Tweed Heads
For the carrying out of:	A detailed description of the development consented to is described in Conditions A1, Part A, Schedule 2
Estimated Cost of Works	\$17,500,000
Type of development:	State Significant Development
S.119 Public inquiry held:	No
BCA building class:	Basement carpark - Class 7a Retail / Shops - Class 6 Hotel including convention facilities - Class 9b Accommodation including tourist accommodation, residential units and managers residence - Class 2
Approval Body / Bodies:	Department of Planning Council
Determination made on:	
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: (1) a shorter period of time is specified by the Regulations or (2) a condition in Schedule 2, or (3) the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 62-2-2003

Responsibility for other approvals / agreements

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within **twelve (12)** months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

Section 94 Conditions

This development consent contains a levy for development imposed under Section 94 of the Act. This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies where imposed in accordance with Council's Section 94 Plans. The Section 94 Plans may be inspected at the following locations during its normal business hours:

1. Civic and Cultural Centre, Tumbulgum Road, Murwillumbah;
2. Brett Street. Tweed Heads.

The specific public amenity or service or both are identified in the monetary contributions conditions in Part B of Schedule 2.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

Applicant means Fulton Trotter & Partners or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Tweed Shire Council

DA No. 62-2-2005 means the development application and supporting documentation submitted by the Applicant on to Tweed Shire Council on 31 October 2002 and called in by the Minister on 30 January 2003.

Department means the Department of Planning or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department or the nominees of the Director.

Director-General means the Director-General of the Department.

Minister means the Minister for Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2**CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 62-2-2003****PART A—ADMINISTRATIVE CONDITIONS****A1 Development Description**

Development consent is granted only to carrying out the development described in detail below:

- (1) The demolition of the existing hotel premises;
- (2) Construction of an eleven (11) storey mixed use development comprising 37 tourist facility units, forty three (43) residential units, one (1) care takers unit, retail and convention centre facilities, and hotel with two (2) levels of basement car parking providing 146 car parking spaces.

A2 Development in Accordance with Plans

The development shall be in accordance with development application number 62-2-2003. submitted by the Applicant on 31 October, 2002, and in accordance with the following:

Statement of Environmental Effects entitled 'Development Application for a proposed mixed use development comprising a hotel, tourist facility, multi dwelling housing, and refreshment room/shop at Lot A DP 332137, known as 17-21 Wharf Street, Tweed Heads prepared by Humpreys Reynolds Perkins dated December 2004 as amended by documentation by Humpreys Reynolds Perkins dated 28 March, 2006.			
Architectural (or Design) Drawings prepared by Fulton Trotter & Patners Architects			
Drawing No.	Revision	Name of Plan	Date
DD-01/06	unrevised	Wharf Street Plots.lbk Perspectives	Undated
SD-01-101	unrevised	General Arrangement Plan Level 002 Basement	Undated
SD-01-102	unrevised	General Arrangement Plan Level 001 Basement	Undated
SD-01-103	unrevised	General Arrangement Plan Level 00 Street/Entry	Undated
SD-01-104	unrevised	General Arrangement Plan level 01 Hotel/Conference	Undated
SD-01-105	unrevised	General Arrangement Plan level 02 Hotel/Conference	Undated
SD-01-106	unrevised	General Arrangement Plan level 03 Residential	Undated
SD-01-107	unrevised	General Arrangement Plan level 04-07 Typical Residential	Undated
SD-01-108	unrevised	General Arrangement Plan level 08 Residential	Undated

SD-01-109	unrevised	General Arrangement Plan level 09 Penthouse	Undated
SD-01-110	unrevised	General Arrangement Plan level 10 Penthouse	Undated
SD-01-301	unrevised	Roof Plan	Undated
SD-01-302	unrevised	Roof Plan – site coverage	Undated
SD-01-401	unrevised	Schematic street elevation	Undated
SD-01-401	unrevised	E1 – North Elevation	Undated
SD-01-402	unrevised	E2 – West Elevation	Undated
SD-01-403	unrevised	E3-East Elevation	Undated
SD-01-404	unrevised	E4-South Elevation	Undated
SD-01-501	unrevised	S1- East West Elevation	Undated
SD-01-502	unrevised	S2-Ramp Section	Undated
SD-01-003	unrevised	Site plan – view corridors	Undated
SD-01-004	unrevised	Site plan – view corridors	Undated
Survey Drawings prepared by Bennett & Bennett Consulting Surveyors			
Drawing No.	Revision	Name of Plan	Date
211670E.dwg	2	Detail survey of Lot A on DP 332137	16/10/01

except for:

- (1) any modifications which are 'Exempt Development' as identified in Tweed Local Environmental Plan 2000 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this consent.

A3 *Inconsistency between documents*

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A4 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

ABOVE GROUND WORKS

Design Details and Changes

B1 *Details of Materials, Colours and Finishes*

Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours, shall be submitted to and approved by the Council prior to the issue of a Construction Certificate for above ground works.

B2 *Reflectivity*

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

B3 *Outdoor Lighting*

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

B4 *Design Verification Statement – Residential Flat Buildings*

Prior to the issue of a Construction Certificate for above ground works, the Applicant shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

B5 *Traffic Control Devices*

In order to ensure that vehicles exit the site in a safe manner, a traffic signal shall be installed and shall be clearly visible at the upper threshold of the driveway. Details of the type, location and operation of the device are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for above ground works.

B6 *Disabled Access*

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate for below ground works, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Ecologically Sustainable Development (ESD) – Residential

B7 *NatHERS Rating – Multi-Unit Housing*

The following NatHERS rating requirements shall be complied with:

- (1) an average rating for all dwellings of 4 stars or better,
- (2) at least 20% of all dwellings shall achieve better than 4.5 stars,
- (3) at least 80% of all dwellings shall achieve better than 3.5 stars, and
- (4) no apartment shall achieve less than 3 stars.

Prior to the issue of a Construction Certificate, the Applicant shall submit to the Certifying Authority a NatHERS certificate, prepared by an accredited NatHERS assessor, demonstrating compliance with the requirements of this condition.

B8 SEDA Rating

The design of the building shall achieve a 4.5 star rating under the Sustainable Energy Development Authority's (SEDA's) Australian Building Greenhouse Rating. Prior to the issue of a Construction Certificate for above ground works, the Applicant shall submit to the Director the following information:

- (1) Evidence that a Commitment Agreement has been entered into with SEDA, to deliver this star rating for the base building (central services such as air conditioning, lifts and common lighting and common areas of the building) or for the whole building where the Applicant is to occupy the building; and
- (2) An independent energy assessment that follows the guidelines in SEDA's *Australian Building Greenhouse Rating Scheme Design Energy Efficiency Review* and the *Energy Efficiency Design Review.xls* (spreadsheet) (the Applicant should contact SEDA to obtain the current version of these documents.)
- (3) A computer building simulation prepared in accordance with the guidelines of SEDA's Validation Protocol for the Use of Computer Building Simulation in Commitment Ratings (Applicants should contact SEDA to obtain the current version of this document.) The computer building simulation is required to demonstrate to the satisfaction of the Principal Certifying Authority that the building can reasonably be expected to achieve the proposed rating under realistic operating conditions.

Health

B9 Mechanical Ventilation

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate for above ground works.

B10 Design of Food Premises

The fitout of the food premises shall be subject to separate development consent to Tweed Shire Council and must be carried out in accordance with *The National Code for the Construction and Fitout of Food Premises*. Details of compliance with the relevant provisions of the Code shall be prepared by a suitably qualified person and submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate for the food premises.

Waste Management

B11 Storage and Handling of Waste

The design and management of facilities for the storage and handling of waste must comply with the relevant Council Policy for waste storage and handling. Details are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate.

B12 Supply of Water and Sewerage

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 DSP4: 23.15666 ET @ \$4230 | \$97,953 |
| ▪ Sewer Banora: 33.39812 ET @ \$2634 | \$87,971 |

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.

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

B13 Section 94 Contributions

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.

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

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.

Tweed Road Contribution Plan: \$26,909

S94 Plan No. 4 (Version 4.9)

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con TRCP - Heavy} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

\\$Con TRCP - Heavy heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

Open Space (Structured):	\$21,928
S94 Plan No. 5	
Open Space (Casual):	\$7,162
S94 Plan No. 5	
Shirewide Library Facilities:	\$19,351
S94 Plan No. 11	
Eviron Cemetery/Crematorium Facilities:	\$3,870
S94 Plan No. 13	
Emergency Facilities (Surf Lifesaving)	\$5,633
S94 Plan No. 16	
Extensions to Council Administration Offices & Technical Support Facilities	\$56,882.97
S94 Plan No. 18	
Cycleways	\$13,698
S94 Plan No. 22	
Shirewide Car Parking	\$804,540

S94 Plan No. 23 Regional Open Space (Structured)	\$65,400
S94 Plan No. 26 Regional Open Space (Casual)	\$33,134
S94 Plan No. 26 Tweed Heads Master Plan:	\$45,021.00
S94 Plan No. 27	

(1) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for above ground works.

(2) Indexing

The contribution for land will be adjusted in accordance with the latest annual valuations.

BELOW GROUND WORKS

Remediation / Demolition / Earthworks

B12 Remediation of Land

- (1) Prior to the issue of a Construction Certificate for below ground works, the Applicant shall submit to the Certifying Authority a Remedial Action Plan and a Hazardous Materials Survey. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue site audit statements.
- (2) Upon completion of the remediation works on the site, the Applicant shall submit a detailed Site Audit Summary Report and Site Audit Statement and Validation Report to the Principal Certifying Authority. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

B13 Acid Sulphate Soil Management Plan

An Acid Sulphate Soil Management Plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998). The Management Plan shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate for below ground works.

B14 Erosion and Sedimentation Control

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction Volume 1 (2004)* by Landcom. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for below ground works.

B15 Pre-Construction Dilapidation Reports

The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for below ground works.

A copy of the report is to be forwarded to the Director and Council.

Traffic & Parking

B16 Number of Car Spaces

The maximum number of car spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for below ground works.

Car parking allocation	Number
The total number of Residential, retail, commercial, visitor, and car wash spaces	146

B17 Car Park and Service Vehicle Layout

- (1) The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.
- (2) The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 1989 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Principal Certifying Authority prior the issue of a Construction Certificate.

B18 Energy Star Ratings

All classes of appliances that are available with an energy label or a Minimum Energy Performance Standard to be installed within the premises are to have an energy star rating of 3 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more). The Applicant shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

B19 Water Ratings

All water fixtures installed within the premises are to have a AAA water rating or more. The Applicant shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

Ecologically Sustainable Development (ESD) – Commercial**B20 Security Bond – Protection of Works**

A Security Bond of \$100,000 for the protection of the Wharf Street footway road pavement and on street car parking spaces and the Navigation Lane road pavement, shall be deposited with Tweed Shire Council prior to the issue of a Construction Certificate. If any damage is caused to Wharf Street or Navigation Lane, Council or the Department shall deduct from the Security Bond the reasonable cost of replacement of the road pavement, kurb, guttering, footway, and parking spaces or rectification of the works.

B21 Road Design

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All Roads shall be designed in consultation with the relevant requirements of Tweed Shire Council and the RTA. Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate.

NB: This condition needs to be modified if road works require s138 approval under the Roads Act 1993 by the road authority (Council).

Compliance**B22 Compliance Report**

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Demolition Works

C1 Statement of Compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the PCA prior to the commencement of works.

Excavation Works

C2 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

Structural Works

C3 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Construction Management

C4 Construction Management Plan

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work;
- (2) 24 hour a day contact details of site manager;
- (3) traffic management (see also C5 below);
- (4) noise and vibration management (see also C6 below);
- (5) waste management (see also C7 below);
- (6) erosion and sediment control (see also B11);
- (7) dust emissions;

The Applicant shall submit a copy of the approved plan to the Department and Council.

C5 Traffic & Pedestrian Management Plan

Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods; and
- (5) times of deliveries to the retail, tourist facility, and conference uses so as to minimise disruption to residential occupants of the building.

The Applicant shall submit a copy of the approved plan to the Department and Council.

C6 Noise and Vibration Management Plan

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Principal Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources;
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment;
- (3) The construction noise objective specified in the conditions of this consent;
- (4) The construction vibration criteria specified in the conditions of this consent;
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver;
- (6) Noise and vibration monitoring, reporting and response procedures;
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions;
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction;
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this consent;
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency;
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration;
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints;
- (13) The Applicant shall submit a copy of the approved plan to the Department and Council.

C7 Construction Waste Management Plan

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the PCA a Waste Management Plan prepared by a suitably qualified person in accordance with

Council's relevant Construction Management Policy. The Applicant shall submit a copy of the plan to the Department and Council prior to the issuance of the Construction Certificate.

C8 Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number of the construction manager for the duration of the construction works.

Hazardous Materials

C9 Removal of Hazardous Materials

All hazardous materials shall be removed from the site and shall be disposed of at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works. Details demonstrating compliance with the relevant legislative requirements, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the PCA prior to the issuance of the Construction Certificate.

C10 Site Audit

Prior to the commencement of building works, a Site Audit conducted by a suitably qualified person shall be undertaken to ascertain that all identified hazardous materials have been removed from the site and shall be submitted to the Certifying Authority.

Compliance

C11 Compliance Report

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with Condition B11, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D2 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

Structural Works

D3 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

Construction Management

D4 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council, or the PCA.

D5 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Principal Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D6 Contact Telephone Number

The Applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

D7 External Lighting

External Lighting shall comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the Applicant shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

D8 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

D9 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions;
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed;
- (3) All materials shall be stored or stockpiled at the best locations;
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs;
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration**D10 Hours of Work**

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;

- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D11 Construction Noise Objective

The construction noise objective for the Project is to manage noise from construction activities (as measured by a L_{A10} (15minute) descriptor) so it does not exceed the background L_{A90} noise level by:

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5th week to the 26th week (inclusive) of the construction period, not more than 10dB(A); and,
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

Background noise levels are those identified in the Statement of Environmental Effects or otherwise identified in the approved Construction Noise and Vibration Management Plan. The Applicant shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D12 Construction Noise Management

The Applicant shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Noise and Vibration Management Plan.

D13 Vibration Criteria

Vibration caused by construction at any residence or structure outside the subject site must be limited to:

- (1) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and

- (2) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

D14 Vibration Management

Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

D15 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required before further works can continue in that area.

D16 Impact of Below Ground (Sub-surface) Works – Aboriginal Relics

If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the National Parks and Wildlife Service and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

Ecologically Sustainable Development

D17 Water Conservation

Water saving showerheads shall be fitted to all showers within the development to reduce water consumption and promote energy efficiency.

D18 Recycling of Concrete

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the PCA.

Compliance

D19 Compliance Report

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three (3) monthly report addressing compliance with all relevant conditions of this consent.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION**NIL****PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE*****Design Verification Statement – Residential Flat Buildings******F1 Design Verification Statement***

Prior to the issue of any Occupation Certificate, the Applicant shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

F2 Treatment of Vehicular Entry

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible.

Engineering***F3 Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

F4 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within twelve (12) months after the date on which the consent authority initial Fire Safety Certificate is received.

F5 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) The development consent and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

F6 *Structural Inspection Certificate*

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificates.

F7 *Road Damage*

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is be met in full by the Applicant/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

Easements**F8 *Registration of Easements***

Prior to the issue of any Occupation Certificate, the Applicant shall provide to the PCA evidence that all easements required by this consent, approvals, and other consents have been or will be registered on the certificates of title.

Second Dilapidation Report**F9 *Post-construction Dilapidation Report***

- (1) The Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- (2) The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
 - (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required by Condition B11, and
 - (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
- (3) A copy of this report is to be forwarded to the Director and Council.

PART G—POST OCCUPATION

Fire Safety

G1 Annual Fire Safety Certification

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking

G2 Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

G3 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Fit out of Premises

G4 Limits of this Consent

This consent does not include consent for the fit out of food premises within the hotel and convention centre premises, nor for the fit out of the premises identified as 'retail tenancies', as identified on Drawing No. SD-01-103 'General Arrangement Plan Level 00 Street / Entry' prepared by Fulton Trotter and Partners and referred to in Condition A2. Separate development applications are required to be submitted to Tweed Shire Council seeking consent for the fit out of these premises, or for any use of the 'retail tenancies' other than a 'shop'.

G5 Noise Control – Licensed Premises

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 7:00am and 12 midnight and 12 midnight to 7:00am at the boundary of any affected residence.

Notwithstanding the requirements of this condition, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00am.

G6 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

G7 Noise Monitoring

The Applicant shall undertake a noise monitoring program for a minimum period of twelve (12) months following the commencement of operations on the site. The monitoring program shall be undertaken by an appropriately qualified person and monitoring reports shall be submitted to the Principal Certifying Authority and the Department at intervals of one (1) month.

Air Quality**G8 Air Quality Monitoring**

The Applicant shall undertake an air quality monitoring program for a minimum period of twelve (12) months following the commencement of operations on the site. The monitoring program shall be undertaken by an appropriately qualified person and monitoring reports shall be submitted to the Principal Certifying Authority, the Department, and Tweed Shire Council, at intervals of three (3) months.

Hazardous Materials**G9 Storage of Hazardous or Toxic Material**

Any hazardous or toxic materials must be stored in accordance with Workcover Authority requirements and all tanks, drums and containers of toxic and hazardous materials shall be stored in a bunded area. The bund walls and floors shall be constructed of impervious materials and shall be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area.

Public Access**G10 Public Way to be Unobstructed**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

G11 Occupation Period

The tourist facility units approved by this consent will not be occupied by any proprietor or occupier of the unit for longer than forty two (42) consecutive days or an aggregate one hundred and fifty (150) days in any twelve (12) month period. Such periods are to be calculated from the date of the first occupation of the tourist facility.

G12 Occupancy Register

A register will be kept by the owner or proprietors to record the occupancies and will be available at any time for inspection by an authorised officer of Council.

G13 Occupancy Restrictions

The occupancy restrictions will be incorporated into a Management Agreement for the Tourist Facility. A copy of the Management Agreement will be provided to Council prior to occupancy of the development.

ADVISORY NOTES

AN1 Compliance Certificate, Water Supply Authority Act, 2000

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the consent authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the consent authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

AN2 Requirements of Public Authorities for Connection to Services

The Applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN3 Compliance with Building Code of Australia

The Applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN4 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN5 Application for Hoardings and Scaffolding

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design in accordance with relevant Council Policy,
- (2) Structural certification prepared and signed by a suitably qualified practising structural engineer.

The Applicant shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the PCA prior to the commencement of works.

AN6 Use of Mobile Cranes

The Applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN7 Movement of Trucks Transporting Waste Material

The Applicant shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN8 Construction Inspections

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN9 Noise Generation

Any noise generated during the construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN10 Excavation – Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the National Parks and Wildlife Service shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN11 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.

AN12 Application under Part 4A of the Act

An application under Part 4A of the Act shall be submitted to the consent authority or the council along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

AN13 Application under Section 37 of Strata Schemes (Freehold Development) Act, 1973

Section 37 and 37A of the *Strata Schemes (Freehold Development) Act, 1973* require an application to be submitted to the council or accredited certifier for approval prior to the issue of the certified strata plan of subdivision.

AN14 Compliance with Conditions

The Applicant will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 062-02-2003 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to the issuing of Strata Plan of Subdivision.

AN15 Remediation and Validation Report

Following the completion of remediation works on the site a Remediation and Validation Report is to be prepared by a suitably qualified environmental consultant. This report, together with a final site audit statement by an Environmental Protection Agency accredited environmental consultant, including Notice of Completion statement, pursuant to clauses 17(2) and 18 of *State Environmental Planning Policy No.55—Remediation of Land*, is to be submitted to the satisfaction of the consent authority prior to occupation of the building.

AN16 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act 1997*, or exceed approved noise limits for the site.

AN17 Street Numbering

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with the relevant Council policy, prior to the occupation of the building(s) or commencement of the use.

If street numbers or a change to street numbers are required, a separate application shall be made to Council.

AN18 Compliance with National Code for Construction and fitout of food premises

An Applicant shall obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the *National Code for the Construction and Fitout of Food Premises*. The Applicant shall provide evidence of receipt of the certificate to the satisfaction of the PCA prior to the occupation of the building(s) or commencement of the use.

AN19 Stormwater drainage works or effluent systems

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN20 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

AN21 Place of Public Entertainment

An approval from the Council under Section 68 of the Local Government Act 1993 must be obtained for a "Place of Public Entertainment Licence" prior to the use of the premises commencing. The Applicant shall provide evidence of receipt of the approval to the satisfaction of the PCA prior to the occupation of the building(s) or commencement of the use.

AN22 Disability Discrimination Act

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

AN23 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.