



NSW GOVERNMENT
Department of Planning

***SEPP 71 PROJECT ASSESSMENT:
17-21 Wharf Street, Tweed Heads***

Director-General's
Environmental Assessment Report
Under Part 3 of State Environmental Planning Policy
No. 71 – Coastal Protection
May, 2006

1. EXECUTIVE SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 62-2-2003.

The application seeks consent for the demolition of an existing hotel and the construction of an eleven (11) storey mixed use building with two (2) levels of basement car parking. The proposal includes thirty seven (37) tourist facility units and forty three (43) residential units with hotel, retail and convention centre facilities at ground and first floors. Salient issues raised during assessment of the proposal included height, views, bonus floor space, overshadowing, car parking, contamination, equitable access, stormwater disposal, acoustic amenity, urban design, construction, and operational management.

The proposal was exhibited and attracted three (3) submissions.

The Minister for Planning is the adoption authority under Part 5 of State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71).

It is recommended that the development application be granted consent subject to conditions nominated at **Tag A**.

2. BACKGROUND

The development application was originally lodged with the Tweed Shire Council on 31 October, 2002, in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act). The Minister called in the application pursuant to s.88A of the Environmental Planning and Assessment Act, 1979. The application was called in as Tweed Heads was identified as being part of the North Coast Urban Planning Strategy as a subregional centre. The subject site is located in a prominent part of an important urban centre, which serves as a significant gateway from Queensland into NSW.

The subject site is identified as Lot A in DP 332137 and is known as 17-21 Wharf Street, Tweed Heads in the Tweed Shire Council Local Government Area.

The site is rectangular in shape with an area of 2,510 sqm with frontages to Wharf Street and Navigation Lane. The site presently accommodates a two (2) storey masonry building used as a hotel. This hotel fronts Wharf Street and accommodates an informal bitumen car park to the rear.

Adjoining to the north is a two storey masonry building with a parapet roof. This building presently accommodates a take-away food shop and an adult book shop. Beyond this to the north is a single storey masonry and steel shop front that is part of a mixed use residential development. Beyond this is a two tower, multi-storey residential development known as Twin Towns.

Adjoining to the south is a two storey masonry building with a parapet roof. This building incorporates a second hand dealer shop and massage parlour at ground and first floors respectively.

Adjoining to the west beyond Navigation Lane is a large vacant site. This site is for the Departmentally approved Ultima Development (456/10/003). At the time of the site inspection this site appeared to be undergoing preliminary preparations for construction.

Adjoining to the east beyond a formalized street parking arrangement, is Wharf Street. Beyond this to the east is Chris Cunningham Park. A plan and photos of the site are at **Tag "B"**.

Prior to and during the assessment process, negotiations have taken place between Tweed Shire Council, the Department of Planning, and the applicant regarding height, setbacks, urban design, remediation, parking, and urban design.

The site is zoned 3(a) Sub-Regional Business under the Tweed Local Environmental Plan 2000 (TLEP).

Under State Environmental Planning Policy No. 71 – Coastal Protection, the Minister for Planning is the consent authority.

3. PROPOSED DEVELOPMENT

Consent was originally sought for the demolition of an existing two (2) storey hotel and associated informal car parking on site and the erection of a fourteen (14) storey tourist and residential development. The proposal as originally submitted comprised the following:

- Thirty-six (36) tourist facility rooms;
- Forty-four (44) residential apartments for both tourist and permanent accommodation; and
- Ground floor retail and/or refreshment rooms.

3.1 Amended Plans

A number of issues were identified during the course of assessment of the development application. Accordingly the applicant was required to make significant amendments to the scheme including a reduction in height to an eleven (11) storey mixed use building with two (2) levels of basement car parking. The proposal includes thirty seven (37) tourist facility units and forty three (43) residential units with hotel, retail, and convention centre facilities at ground and first floors. The amended scheme comprises the following elements:

- *Basement*
- Two (2) levels of basement car parking providing 146 car parking spaces;
- *Ground floor*: retail tenancies, a public bar, gaming lounge, hotel reception, separate residential foyer, ancillary areas such as a refuse collection area, plant room, and loading dock;
- *Level 1*: conference facilities, conference break out space, and twenty (20) tourist facility suites;
- *Level 2*: sixteen (16) hotel rooms, managers suite, a gym for the hotel, ancillary uses such as a laundry chute and facility;
- *Levels 3 to 7*: Seven (7) residential units with lifts, ancillary plant, and refuse chutes;
- *Level 8*: four (4) residential units with lifts, ancillary plant, and refuse chutes; and
- *Level 9 to 10*: four (4) residential units, two of which are two level units with ancillary plant and lift over runs.

The dwelling mix for the residential component from levels three to eleven are reflected in the following table:

Apartment type	Dwelling numbers
One bedroom	10
Two bedroom	18
Three bedroom	14
Four bedroom	1
TOTAL	43

A site visit was undertaken in conjunction with Council officers on 14 April, 2006. Other site inspections have been undertaken by various Departmental personnel during the course of assessment.

3.2 Summary of Issues and amendments

The following issues were raised during the course of assessment. These issues resulted in amended plans, which have been discussed further in Section 5 of this report. The issues are as follows:

Height

The proposal as originally submitted was fourteen (14) storeys. This breached the Tweed Heads Town Centre Master plan, which requires a maximum of ten (10) storeys. The applicant responded by reducing the number of stories by three (3) to eleven (11) stories. In addition the proposal was stepped so that the top most level integrated into the plant level, so that the building has the appearance of a flat roof. The proposal as amended is at RL 36.45, which is 13.45 metres below the RL 49.9 AHD required to meet the obstacle limitation surface requirements for aircraft movements to the nearby Gold Coast airport. The issue of height is discussed further in Section 5.5.1 below.

View Loss

The applicant was required to address the issue of view loss in the amended scheme. A view analysis assessment for views from Razorback lookout to Point Danger and adjacent areas were required. The amended documentation provided a view analysis, which will be discussed further in Section 5.5.1 of the issues section of this report.

Justification of the proposed Floor Space

The proposal has an FSR is in excess of the maximum 2:1 FSR for the site stipulated in Clause 50(3) of Tweed Shire Council Local Environmental Plan (LEP) 2000. However pursuant to Tweed Shire Development Control Plan No. 18 (DCP 18), bonus FSR may be awarded when sites are consolidated to greater than 2,000 sqm and the integration of preferred uses such as hotels, places of assembly, tourist accommodation, escalators, community spaces, etc. The floor space proposed is allowable because it provides:

- a six hundred and thirty (630) sqm pedestrian forecourt and through link between Navigation Lane and Wharf Street;
- a range of uses allowable and encouraged under the bonus floor space provisions in Section 3.3.3 of DCP 18 – being a hotel, tourist accommodation, multi-dwelling residential above non-residential ground floor development and a retail area.

The applicant has provided calculations on the allowable bonus provisions based on hotel premises and tourist accommodation which vary between definitions in DCP 18. The bonus provisions for each scenario are still under the maximum allowable. A detailed discussion of the application of the bonus provisions is provided in the issues section of the report at Section 5.5.2 of this report.

Overshadowing

Overshadowing of Chris Cunningham Park was raised as a concern with the original scheme. This was addressed with the reduction in the height of the building, and additional documentation showing the extent of overshadowing of the existing public open space, as well as shadow information showing the proposal in relation to adjoining sites. The proposal as amended will result in acceptable overshadowing of the foreshore open space and meets the objectives of Clause 30 and the general objectives of the North Coast Regional Environmental Plan (NCREP). The proposal as amended will also meet the requirements for overshadowing of beaches and associated public areas. This will be discussed in greater detail in Section 5.5.3 of the issues section of the report.

Parking

The proposed development as submitted does not provide adequate on site car parking. In this regard the applicant was required to amend their scheme to satisfy Section 4.0 Access and Parking Demand Schedule of the Tweed Development Control Plan No 2 - Site Access and Parking Code. Additional information was submitted by the applicant addressing parking and traffic issues. This is discussed in detail at Section 5.5.4 of this report.

Contamination

The applicant was required to submit documentation that addresses the history of uses and associated potential contamination of the site. This documentation was submitted confirming that the subject site has always been utilized for hotel purposes. Acid sulphate soils have been identified on the site. Recommendations have been made as to the method of dealing with this during construction. Accordingly the proposal satisfies Clause 7 of SEPP 55 – Remediation of Land. This issue is discussed further at Section 5.5.5 of this report.

Inadequate Provision for Equitable Access

Equitable access provisions have been nominated at ground floor areas. The amended proposal incorporates an adaptable residential unit at each floor from level 3 to 8 of the building. In addition conditions will be imposed that ensure that the proposal will meet the relevant equitable access standards for the remaining levels and for the public uses at ground and first floors. Further discussion of equitable access is provided at Section 5.5.6 of the report.

Urban Design

The applicant modified the façade elements of the building in order to better comply with the urban design guidelines stipulated in the Sections 2.0, 9.2, and 10 of the Tweed Development Control Plan No.18 – Tweed Heads relating to the future vision of Tweed Heads and the building envelope control for the site. Further discussion of urban design is provided at Section 5.5.7 of the report.

Acoustic Amenity

Concern was raised about acoustic amenity to adjoining sites as a result of the construction and operation of the proposal. This was addressed through the provision of amended plans and documentation. Further discussion of acoustic amenity is provided at Section 5.5.8 of the report.

Construction and Building Management

Inadequate construction management documentation was provided with the original plans. Amended documentation was provided with generally addressed concerns relating to construction management. Additional safeguards will be incorporated into the recommended conditions of consent. Further discussion of construction and building management is provided at Section 5.5.9 of the report.

Apartment Storage

The applicant was required to provide details of the storage facilities for each apartment. This was provided in the form of amended plans. Further discussion of apartment storage is provided at Section 5.5.10 of the report.

Dewatering documentation

An issue of dewatering was raised by the far north regional office of the Department of Planning. The amended proposal incorporates information on dewatering of the site during and after construction. Subject to recommended conditions this documentation satisfies the issue nature of dewatering required on site during construction. This issue has been dealt with by way of recommended conditions of consent.

4.1 STRATEGIC FRAMEWORK

4.1 Legislative context

Future development of the site will be subject to the legislative requirements of the *Environmental Planning and Assessment Act, 1979* and the *Coastal Protection Act, 1979* (and its regulations), including the NSW Coastal Policy 1997 and the Coastal Development Guidelines for NSW. The application is also subject to the NSW Government Draft Far North Coast Strategy.

4.2 Statement of permissibility

The site is zoned 3(a) Sub-Regional Business under the Tweed Local Environmental Plan 2000 (TLEP). The proposed development falls under the definitions for a 'hotel', 'tourist facility', 'multi-dwelling housing', 'refreshment room' and 'shop' contained within Schedule 1 of the TLEP. The uses proposed are permissible with consent under the provisions of this plan.

4.3 Instrument of consent and other relevant planning instruments

In addition to TLEP, a number of other environmental planning instruments are applicable to the land to which the development application applies. They are as follows:

State Environmental Planning Policy No 55 – Remediation of Land;

Details of the acid sulphate soils status and potential contamination aspects of the proposal were required not initially provided with the application. Accordingly this information was required from the applicant and submitted with the amended plans. Subject to conditions the documentation submitted satisfies the relevant provisions under Section 7 and 8 of SEPP 55.

Instrument of Consent and other relevant planning instruments

The subject site is within the coastal zone as defined by the Coastal Protection Act, 1997 and accordingly the provisions of SEPP 71 apply. SEPP 71 requires that certain matters stipulated at Section 8 be considered in this assessment. These matters are assessed at **Tag "C"**.

The relevant environmental planning instruments, draft environmental planning instruments and development control plans which may be applicable to the land to which the draft master plan relates include:

- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy No. 71 – Coastal Protection;*
- *State Environmental Planning Policy No.1 – Development Standards;*
- *North Coast Regional Environmental Plan;*
- *Tweed Local Environmental Plan 2000;*
- *Tweed Development Control Plan No. 2 – Site Access and Parking code;*
- *Tweed Development Control Plan No. 5 – Development of Flood Liable Land;*
- *Tweed Development Control Plan 18 – Tweed Heads;*
- *Tweed Development Control Plan No. 39 – Energy Smart Homes;*
- *Tweed Development Control Plan No. 45 – Socio-economic Impact of Development.*

An assessment against the general planning instruments is contained at **Tag "C"**.

The development application has provided a detailed review of the following strategic policy documents:-

- NSW Coastal Design Guidelines;
- Tweed Heads Town Centre Master Plan;
- The Far North Coast Regional Strategy;

This review is at **Tag D**.

5 CONSULTATION AND ISSUES RAISED

5.1 Public consultation

The amended development application was notified in accordance with Tweed Shire Council requirements and the Regulations including:

Notifications – landowners/occupiers	adjoining and surrounding landowners were notified of the amended plans by letter dated 14 January 2005.
Newspaper advertisements	Advertised in the Tweed Times on 21 st January, 2005.
Site notices	One (1) site notice was erected.
Exhibition dates	Start: 22 January, 2005 to 8 February 2005.
Exhibition venues	<ul style="list-style-type: none"> ▪ The Department of Planning Information Centre, 20 Lee Street, Sydney; ▪ The Department of Planning North Coast Office, 49 Victoria Street, Grafton; and ▪ Tweed Shire Council, Brent Street, Tweed Heads.

5.2 Submissions

Three (3) public submissions were received regarding the application. A summary of submissions is at **Tag "E"**. Issues raised in submissions are considered in Section 5.5 of this report.

5.3 External Referrals

The proposed development application was referred to Tweed Shire Council as the local planning authority for comment. The Coastal Council of NSW, Regional offices within the Department of Planning, the Tweed Heads Masterplan Group, the Northern Regional Office of the Roads and Traffic Authority, were also consulted regarding the application. The issues raised by the Government agencies are as follows:

5.3.1 Department of Planning – North Coast Regional Office

The development application was referred to the North Coast Regional Office of the Department of Planning. The regional office responded on 7 July, 2005 advising of the following issues:

- The proposal exceeds the ten (10) storey height limit stipulated in the Tweed Heads Town Centre Master Plan and should be reduced by a storey;
- If the number of storeys was reduced by one (1) the regional office would consider the overshadowing impacts to the adjoining park as acceptable; and
- The proposal may require dewatering of the site.

Dewatering has been considered by way of standard conditions of consent. Height has been considered in this assessment and is further discussed in Section 5.5.1 of this report.

5.3.2 Tweed Shire Council

The application was referred to Tweed Shire Council (the Council). Council responded on 14 June, 2005 providing comments in relation to the following issues:

- Acid Sulphate Soils and Contamination;
- Construction management including waste removal, recycling, noise attenuation, traffic management, and safety;
- Waste Management of the building;
- Details of the proposed land uses, including the nature of the proposed retail component;
- Parking and traffic relating to the site;
- Stormwater Quality; and
- Car wash bay to be provided.

These issues have been considered in this assessment and are further discussed in Sections 5.5.4, 5.5.5, 5.5.8, and 5.5.9 of this report.

5.3.3 Tweed Heads Masterplan Group

The application was referred to the Tweed Heads Masterplan Project Facilitation Team. This group responded on 12 July, 2005 advising as follows:

- The proposal breaches the Tweed Heads Master Plan requirements pertaining to height. The proposal requires a reduction in height to facilitate view corridors, maximise views over Jack Evans Boat Harbour, prevent overshadowing of public spaces, and define the core commercial and retail area;
- The noted however that the proposal is generally consistent with the intention of the Masterplan;

A discussion of the issues raised by the Masterplan Project Facilitation Team has been provided at Section 5.5.1 and 5.5.3 of this report.

5.4 CONSIDERATION

5.4.1 The Environmental Planning & Assessment Act

5.4.2 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. An assessment under the relevant provisions and requirements is found at **Tags "C" and "D"**.

The application has been subject to revision during the assessment process. Significant issues are discussed in detail as follows:

5.5 Issues

5.5.1 Height and Views

Issue: The proposal is excessively high given the context of the site.

Raised by: The Department of Planning, the Tweed Heads Masterplan Group,

Consideration: The application as originally submitted was fourteen (14) storeys high (RL 50 AHD). This height was reduced to eleven (11) storeys at RL 36.45. The reduction in height is still in excess of the ten (10) storey height limit required under the Tweed Heads Centre Master Plan. The proposed additional storey in excess of the maximum height is composed of a part floor, with a connection to level 10 below. The remainder of the upper level has been allocated to plant and lift over runs. In considering height the following contextual analysis is relevant:

- The proposed building is of a similar height to approved, adjoining buildings. The proposed development adjoins two taller buildings approved as part of the 'Ultima' and Twin Towns developments.

'Ultima' is situated to the north and west of the site across Navigation Lane and comprises three towers, whilst Twin Towns south tower is situated to the north-east of the site. 'Ultima' west tower, adjoining the site to the west is 0.65 metres higher with a finished height of RL38.65, whilst the Twin Towns development to the east is significantly higher. The contextual diagram at **Tag "F"** illustrates this point;

- View corridor documentation provided with the amended application demonstrates that the proposal will result in the reduction of views to the west tower of the 'Ultima' development towards Chris Cunningham Park and the bay. However it is noted that this building will have oblique views to the coast between the subject site and the Twin Towns development. The so called north tower of 'Ultima' will have a view corridor at its southern apex to Chris Cunningham Park. It will also have views towards to the west and north. This view loss is considered reasonable given the street frontages and site characteristics, zones, and allowable development illustrated in the Tweed Council Controls to the south of the Ultima Development. The amended scheme has considered view loss by providing the proposed tower element slightly off set on the podium. This allows for view corridors for buildings to the north to be incorporated in the design;
- The Twin Towns development will maintain views to Chris Cunningham Park and Jack Evans Boat Harbour beyond, partly due to the curved shape and design of the building;
- Shadow diagrams have been provided with the application. These show that the proposal will result in overshadowing of the open space area known as Chris Cunningham Recreation Park. Shadow information provided shows that the shadows will be cast over the park at 6:30pm in midsummer and 3:00pm in mid winter. It is noted that this park contains various components including public amenities, play equipment, grassed areas, and a Services Memorial. The shadow diagrams show that the shadow impacts of the proposal will be largely subsumed by the existing approved adjoining buildings to the north, east, and west. It is also noted that the relatively small amount of additional shadow that falls on the park, will not fall on the Services Memorial, which is considered more significant than within the context of the recreational open space area;
- The amended plans incorporate a 'stepped' design with levels below being stepped in beyond the line of levels below to achieve a 'capping' of the building, above a defined podium level. The proposed height should also be considered within the context of the proposed pedestrian circulation space incorporated into the design. The pedestrian space will improve pedestrian permeability between Wharf Street and the park to development along Navigation Lane to the north and complements a similar matching setback provided with the Ultima development to the west.

Resolution:

The height as amended is within the height range allowable under the controls and is in fact lower than a number of buildings in the immediate vicinity. The amended design with a podium level, and slim line building adjacent an expanse of pedestrian open space linking Wharf Street to Navigation Lane, enables the building to fit into its context, whilst minimising issues such as view loss, and overshadowing. The design of the building minimises overshadowing impacts to significant parts of the adjoining park, whilst providing reasonable views to adjoining buildings.

5.5.2 Floor Space Ratio and the application of bonus floor space provisions

Issue: The proposed floor space ratio for the development is in excess of the base floor space allowable. Additional floor space is allowable in certain circumstances.

Raised by: The Department of Planning.

Consideration: The proposed development has an FSR of 3.89:1 over the site, with an area of 2,510.12 sqm. The proposal has an FSR in excess of the maximum 2:1 FSR for the site stipulated in Clause 50(3) of Tweed Shire Council Local Environmental Plan (LEP) 2000, and Tweed Shire Development Control Plan No. 18. Bonus FSR may be awarded when sites are consolidated to greater than 2,000 sqm and the integration of preferred uses such as hotels, places of assembly, tourist accommodation, escalators, community spaces, etc. The floor space is allowable because it provides:

- A pedestrian through link between Navigation Lane and Wharf Street;
- It proposed the range of uses allowable under Section 3.3.3 of DCP 18 – being a hotel, tourist accommodation, multi-dwelling house above non-residential ground floor development and a retail area;

The proposed works are in accordance with the relevant controls in the LEP and DCP and provide for a bonus floor space of 4,739 sqm. The maximum allowable FSR under the bonus provisions is 5,686 sqm. The proposal is 925 sqm under the maximum bonus requirements. This is in part due to other constraints relating to the site and proposal, such as height, overshadowing, view corridor, the extent of public works required etc.

Resolution: The amended documentation provided a detailed description of how the proposal addresses the bonus provisions. In particular the documentation demonstrates:

- The existing FSR controls for the site;
- How much FSR in addition to the base FSR is sought;
- How the proposed development applies the bonus provisions; and
- What benefits to the public will be gained by the application of the bonus provisions.

The proposal will incorporate a 630 sqm pedestrian through link between Navigation Lane and will provide a series of uses within the building that allow the triggering of bonus provisions within the LEP and associated DCP. This pedestrian link improves permeability through the site, and also provides increased connectivity from the north towards Chris Cunningham Park and the Boat Harbour Beyond. In this regard the proposal is consistent with the matters for consideration under SEPP 71. These are outlined in further detail at **Tag “C”**.

It is noted that the bonus provisions sought are under the maximum bonus FSR allowable for this site. On balance, it is considered that the public forecourt area, in combination with the proposed uses for the buildings, will meet the relevant objectives of the bonus provisions and are satisfactory.

5.5.3 Overshadowing

Issue: The proposal will result in overshadowing to Chris Cunningham Park.

Raised by: Regional office of the Department of Planning, Tweed Heads Masterplan Group.

Consideration: The application as originally submitted was fourteen (14) storeys high (RL 50 AHD). This height was reduced to eleven (11) storeys high at RL 36.45. The

reduction in height is still in excess of the ten (10) storey height limit required under the Tweed Heads Centre Master Plan. The proposed development will result in overshadowing to the Chris Cunningham Park and Boat Harbour to the south-east. Overshadowing of public open space must be considered pursuant to Control 32B(4) of the North Coast Regional Plan, which reads as follows:

(4) *The council must not consent to the carrying out of development:*

- (a) *on urban land at **Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie**, if carrying out the development would result in beaches **or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time)**, or*
- (b) *elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time). (Our emphasis).*

The proposal will result in some overshadowing at 3:00pm at midwinter and again after 5:30pm in mid summer. Accordingly a SEPP 1 objection was required and duly submitted by the applicant requesting variation to this control. In considering overshadowing the following contextual analysis is relevant:

- The proposed building is of a similar height to approved, adjoining buildings. The proposed development adjoins two taller buildings approved as part of the Ultima and Twin Towns developments. Ultima is situated to the south and west of the site across Navigation Lane, whilst Twin Towns south tower is situated to the north-east of the site. 'Ultima is 0.65 metres higher with a finished height of RL38.65, whilst the Twin Towns development is significantly higher;
- Shadow diagrams have been provided with the application. These show that the proposal will result in overshadowing of the open space area known as Chris Cunningham Recreation Park. Shadow information provided shows that the shadows will be cast over the park at 6:30pm in midsummer and 3:00pm in mid winter. In making an assessment of these shadow impacts it is noted that this park contains various components including public amenities, play equipment, grassed areas, and a services memorial at various positions within the park. The shadow diagrams show that the shadow impacts of the proposal will be largely subsumed by the existing approved adjoining buildings to the north, east, and west. It is also noted that the additional shadow that falls on the park, will not fall on the Services Memorial, which is considered more significant within the context of the recreational open space area;

Shadowing is also discussed in Section 5.5.1 within the context of the height control.

Resolution:

The shadows cast by the proposed development are consistent with those cast by the pattern of development approved on surrounding sites and are largely within these shadows. A SEPP 1 objection was submitted with the original application supporting this departure. Additional information was submitted with the amended application justifying the overshadowing. It is considered that the degree of overshadowing and the nature of the areas overshadowed by the proposal, do not warrant strict application of this control. Accordingly strict compliance with Clause 32B(4) of the North Coast Regional Environmental Plan is considered unreasonable and unnecessary in the circumstances of the case.

5.5.4 Car Parking

- Issue:** The basement car parking proposed is less than the stated requirements in the parking DCP.
- Raised by:** The Department of Planning, Land owners, Council.
- Consideration:** Tweed Shire council DCP No. 2 requires a total of 296 on site car spaces to accommodate the development. The proposal only includes 146 on site spaces.
- Resolution:** Additional parking and traffic information was submitted by the applicant. This information notes that Council's DCP No. 2 allows for a relaxation by up to 70% in parking numbers in the Tweed CBD area where it may be justified in terms of cross utilisation and temporal relaxations. The existing development on site has a parking shortfall of approximately 70-80 spaces. This shortfall has resulted in parking demand requiring distribution to other areas. This shortfall will be improved by the proposed development.

The applicant has provided extensive research into the traffic and parking demands for similar developments. This research shows that the proposal will result in temporal variations expected for each of the development uses results in the requirement of only 131 spaces. The proposal provides 146 spaces, providing an excess of 15 surplus spaces.

5.5.5 – Contamination

- Issue:** Contamination and acid sulphate soils
- Raised by:** Tweed Shire Council, Department of Planning
- Consideration:** The applicant was required to submit information pertaining to the acid sulphate soils and contamination status of the site. This information confirmed that the site has previously been continuously used for hotel purposes since land release. No railway siding or rail related use ever existed on the site. The study did however determine that the existing building on site was likely to have lead based paint and asbestos. Removal of this during demolition and construction will be subject to strict standard conditions of consent.

Acid sulphate soils documentation was provided in the amended plans. This documentation shows that the site had varying levels of acidity. The report recommended lime treatment of the site in order to neutralise the acid content of the soil. During the application of lime, recommendations for strict testing to avoid over application will be imposed.

- Resolution:** The subject site has been identified as subject to acid sulphate soils. A report requested with the amended plans identifies the methods of ameliorating this impact. Accordingly these recommendations and those relating to amended plans have been incorporated into the recommended conditions of consent.

5.5.6 Equitable Access

- Issue:** The original plans did not demonstrate adherence to equitable access provisions.
- Raised by:** The Department of Planning.
- Consideration:** The proposed uses for a hotel, retail outlet, convention centre with residential accommodation all require consideration of access provisions for people with disabilities.
- Resolution:** The applicant has submitted amended plans outlining the access arrangements to the ground floor hotel premises. In addition amended plans have been provided showing one adaptable unit in the south-east corner of the first floor hotel/conference level of the development. Adaptable units are also provided on Levels 4 to 7. These are nominated as Type 'G' units on the

amended plans. These access arrangements are satisfactory, subject to the imposition of standard conditions of consent relating to accessibility complying with the relevant Australian Standards.

5.5.7 Urban Design

- Issue:** Urban design of the building, particularly as it relates to the podium size and building setback.
- Raised by:** Land Owners
- Consideration:** The proposal incorporates a two storey podium to a height of eight (8) metres. This podium complied with Section 3.4 of Tweed DCP No.18 in that it complies with the building envelope controls stipulated in Section 9 of the plan.
- Resolution:** The applicant has provided architectural plans in the amended documentation that show the podium complies with the building envelope controls for the site.

5.5.8 Acoustic Amenity

- Issue:** Acoustic amenity has been raised an issue both during construction and operation of the mixed use building.
- Raised by:** The Department of Planning, Council.
- Consideration:** The proposal is for the construction of an eleven (11) storey building with uses for a hotel, retail outlet, convention centre with residential accommodation. An acoustic assessment was provided with the amended documentation. This documentation provided acoustic data and concluded that the proposal could be constructed and operated in compliance with the relevant acoustic requirements, subject to conditions.
- Resolution:** The applicant has submitted amended documentation from a suitably qualified acoustic engineer. This report assesses both the construction and operational phases of the development. Recommendations have been made relating to the acoustic treatments and observation of management principles detailed in the Report. Acoustic amenity will be maintained around the site by conditions limiting construction activity within appropriate times, utilising particular materials in construction and limiting the noise levels of amplified music. It is noted that separate approval would be required for the fit out of the hotel, retail, and conference facilities. At this time, Council could be in a position to assess the acoustic impacts of specific applications in more detail when issues such as live music, and fit out locations, attenuation methods, and materials could be considered in more detail.

5.5.9 Construction and Building Management

- Issue:** Construction and building management
- Raised by:** Department of Planning, Council
- Consideration:** The applicant was required to provide additional information describing how the construction of the site was to be managed to reduce impacts to adjoining sites. In this regard the following information was submitted:
- A construction traffic management plan prepared by qualified traffic engineers;
 - The provision of engineering advice that confirmed that ground anchors would not be used in the construction of the building, thus negating the need to seek owners consent from adjoining neighbours;

In relation to on going building management, the following additional documentation was provided by the applicant:

- waste management documentation was provided by the applicant's preferred contractor, demonstrating the waste removal methods proposed for the site;
- amended plans were provided showing the garbage collection details for the collection bay;

- a request by the applicant that all food preparation areas be subject to development applications when the fit out of the building takes place;
- car wash bays have included bunded areas within basement of level two (2) as shown on amended architectural plans;
- details of traffic movements and a loading bay were provided in amended documentation. This was required in order to demonstrate compatibility with adjoining development. This information was provided in the form of additional information from the traffic engineer.

Resolution: The additional information and plans satisfactorily addresses concerns raised about the construction and operational features of the proposal.

5.5.10 Storage to apartments

Issue: The proposal does not provide adequate on site storage for apartments.

Raised by: Department of Planning.

Consideration: The applicant was required to provide additional information demonstrating storage requirements for apartments. This was done by way of amended plans.

Resolution: The additional information and plans satisfactorily addresses concerns raised about apartment storage. The amended plans show storage both internal to the units, and external, in the basement areas of the proposal.

Inadequate construction Management Plans were provided with the original plans. Amended documentation was provided which generally addressed concerns relating to construction management. Additional safeguards will be incorporated into the recommended conditions of consent.

5.6 DELEGATION

The Minister for Planning, pursuant to section 80(1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and Clause 22 of *State Environmental Planning Policy No. 71 – Coastal Protection* has the function and authority to approve this development application.

6. CONCLUSION

The application has been considered with regard to the matters raised in section 79C of the Act, Tweed Shire Council, Department of Environment and Conservation, and the North Coast Regional Office of the Department of Planning, 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 development application is acceptable subject to the adherence to the recommended conditions of consent. The applicant has satisfactorily demonstrated through amended plans and documentation that the development application satisfies the provisions of the relevant controls. The proposal is also consistent with the Draft Far North Coast Regional Strategy. Accordingly this development application should be approved.

7. CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was asked to respond to the proposed and recommended conditions of consent. They responded by letter dated 28 March, 2006, outlining how the amended development application has addressed these recommended conditions of Tweed Shire Council, and the issues identified by the Department and other stake holders. The amended documentation has been the subject of this assessment.

8 CONCLUSION

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in **Section 5.5**. On balance, the proposed development is considered to be in the public interest.

9. RECOMMENDATION

It is recommended that the Minister for Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended):

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

For Ministerial Approval.

Prepared by

Endorsed:

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