



DARRYL ANDERSON CONSULTING PTY LTD

TOWN PLANNING & DEVELOPMENT CONSULTANTS

**PREFERRED PROJECT REPORT
MAJOR PROJECT APPLICATION NO. 06_0237**

REDEVELOPMENT OF TWIN TOWNS SERVICES CLUB

**AT LOT 1 DP 777183
WHARF STREET TWEED HEADS**

PREPARED FOR:

TWIN TOWNS SERVICES CLUB LTD

PREPARED BY:

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MAY 2009

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TABLE OF CONTENTS

1.0	BACKGROUND	3
2.0	SUMMARY OF MODIFICATIONS	3
2.1	Revisions to Architectural Drawings	3
2.2	Revised Landscaping Plans	5
3.0	RESPONSE TO ISSUES RAISED BY STATE AGENCIES	5
3.1	Department of Planning – Attachment 1	5
3.2	Department of Planning – Attachment 2	7
3.3	Submission from Halcrow MWT Dated 2 April 2009	15
3.4	Submission from Tweed Shire Council Dated 26 March 2009	15
3.5	Roads and Traffic Authority	16
3.6	Department of Environment and Conservation	16
3.7	Department of Water and Energy	17
3.8	Department of Lands	17
3.9	Urban Design and Architectural Issues (Phillip Folent)	18
3.10	Comments from Margaret Petrykowski – Senior Urban Design Specialist Department of Planning	18
4.0	SUMMARY AND CONCLUSION	18

ANNEXURES

ANNEXURE A	Amended Architectural Plans – BGD Architects
ANNEXURE B	Amended Landscaping Plans – Imagine IDG
ANNEXURE C	Response from Cardno Eppell Olsen, Dated 26 May 2009
ANNEXURE D	Amended Daft Statement of Commitments
ANNEXURE E	Response from Precise Environmental, Dated 14 May 2009
ANNEXURE F	Response from Thomas Independent Certification, Dated 1 May 2009

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PREFERRED PROJECT REPORT

TWIN TOWNS SERVICES CLUB – MP 06_0237 WHARF STREET TWEED HEADS

1.0 BACKGROUND

On 18 December 2008 Major Project Application No. 06_0237 was lodged with the Department of Planning. The Environmental Assessment was publicly exhibited from 3 March 2009 until 1 April 2009. No public submissions were received during the exhibition period, however submissions were received from:

- ♦ The Department of Planning's Design Integrity Panel
- ♦ Tweed Shire Council
- ♦ Department of Water and Energy
- ♦ Department of Lands
- ♦ Department of Environment and Climate Change
- ♦ Roads and Traffic Authority

On 8 April 2009 the Department of Planning forwarded the submissions to Darryl Anderson Consulting together with some key issues raised by the Department. The Department advised that if changes are proposed to the project to minimise its environmental impact, a Preferred Project Report is required together with a revised Statement of Commitments.

On 7 May, Sally Munk (Senior Environmental Planner, Department of Planning) confirmed by email that a Preferred Project Report is required as changes are proposed and the Preferred Project Report must address the following issues:

- ♦ Description of proposed changes to the exhibited proposal and how these respond to the issues raised.
- ♦ A response to all issues raised by Council, each Agency, the Design Integrity Panel members and the Department, including any request for additional information.
- ♦ A revised Statement of Commitments.
- ♦ Revised technical reports as relevant.
- ♦ Amended plans.

2.0 SUMMARY OF MODIFICATIONS

2.1 Revisions to Architectural Drawings

Stage 1

DA1-10.21-Rev C

- ♦ Access path to JEBH revised following Margaret Petrykowski's comments. Additional pathway added (cross-circulation route deleted) with 4 car spaces removed to improve visibility to path.
- ♦ 4 disabled car spaces indicated (1 additional carpark removed to accommodate disabled)
- ♦ Landscaped buffer increased to south-east corner of site at existing site fence
- ♦ Existing mound to Anzac Park indicated on drawings (existing landscape buffer)
- ♦ New fire stair to Millennium Core indicated with under-croft (improves and addresses pedestrian visibility)
- ♦ Wheel stops indicated to car spaces in close proximity to pedestrian access paths
- ♦ Static signage indicated on plan to existing structural column/wall between JEBH paths
- ♦ Illuminated club signage features added to pedestrian pathways
- ♦ Minor adjustments to landscape extent between car spaces to JEBH

DA1-10.22-Rev C

- ♦ Existing balcony to JEBH shown on plans

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-
- ♦ New landscaped planter box to existing Millenium building removed due to future access/maintenance issues.

DA1-10.41-Rev B

- ♦ Feature ceiling treatment revised to address 2 pedestrian pathways

DA1-10.42-Rev A

- ♦ Additional information indicating raised pedestrian pathway, RL's, Illuminated signage intent and further ceiling treatment details.

DA1-20.01-Rev B

- ♦ Landscaped planter box to Millennium Building façade removed (refer DA1-10.22)

DA1-20.02-Rev B

- ♦ "Static signage" note added to clarify intent for billboard signage

DA1-20.04-Rev B

- ♦ New building glazing colour revised to "Grey tint" in response to comments regarding blue glass

Stage 2

DA2-10.23-Rev C

- ♦ Drawing Legend revised to indicate Patron vs Back of House balcony extents
- ♦ "Per room" notes added to Cinema and Meeting Rooms to clarify queries regarding patron numbers

DA2-20.01-Rev B

- ♦ Landscaped planter box to Millennium Building façade removed (refer DA1-10.22)

DA2-20.02-Rev B

- ♦ "Static signage" note added to clarify intent for billboard signage

DA2-20.03-Rev B

- ♦ "Static signage" note added to clarify intent for billboard signage

DA2-20.04-Rev B

- ♦ New building glazing colour revised to "Grey tint" in response to comments regarding blue glass

Stage 3

DA3-10.24-Rev C

- ♦ Drawing Legend revised to indicate Patron vs Back of House balcony extents
- ♦ Patron vs BOH balcony areas amended to suit extents indicated
- ♦ Item 13 amended to read "New Foyer / Pre-Function space"

DA3-20.01-Rev B

- ♦ Landscaped planter box to Millennium Building façade removed (refer DA1-10.22)

DA3-20.02-Rev B

- ♦ "Static signage" note added to clarify intent for billboard signage

DA3-20.03-Rev B

- ♦ "Static signage" note added to clarify intent for billboard signage

DA3-20.04-Rev B

- ♦ New building glazing colour revised to "Grey tint" in response to comments regarding blue glass

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The amended Architectural Plans are attached at **Annexure A**.

2.2 Revised Landscaping Plans

- ♦ Changes to landscaping adjacent to Jack Evans Boat Harbour.
- ♦ Changes to Planting Schedule.

The revised Landscaping Plan is attached at **Annexure B**.

3.0 RESPONSE TO ISSUES RAISED BY STATE AGENCIES

3.1 Department of Planning – Attachment 1

Dot Point 1

"The location of the new fire stairs creates a blind spot and makes the pedestrian route potentially very dangerous for public trying to negotiate it."

Response

The Application Plans have been amended to provide two separate pedestrian pathways from Jack Evans Boat Harbour to the Club entry (see Plan DA1-10.42 Revision A, DA1-10.24 Revision A and DA1-10.21 Revision C).

A new fire stair to the Millenium core has also been provided with undercroft which improves and addresses pedestrian visibility.

In addition, the design has addressed comments regarding aesthetics and revised the fire stair to be more transparent by incorporating vertical aluminium screening elements.

Dot Point 2

"The overly curved vehicular driveway at the entry to the Club diminishes the access for pedestrians."

Response

As above.

Dot Point 3

"The Department suggest two options for the Club to consider."

Response

See comments above, the Department's preferred option has been adopted.

Public Domain Interface

Dot Point 1

"There are still unresolved issues about the activation of Wharf Street edge of the Club in the third stage of the project. There does not appear to be any intention to create a better public interface and to activate the edges of the public domain at all."

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Response

The current application does not propose any development on the Wharf Street frontage. However, Twin Towns Services Club would accept a condition of approval requiring the Wharf Street edge of the Club to be "activated" as part of Stage 3. The draft Statement of Commitments has been amended to include an appropriate commitment.

Dot Points 2 and 3

"The visual impact of the loading area and decorative screening requirements."

Response

This issue is addressed in the attached submission from BGD Architects and Amended Landscape Plans at **Annexures A and B**.

Traffic and Car Parking Assessment (Annexure 8)

Dot Point 1

"There are some inconsistencies between the proposal definition in the Environmental Assessment Report and the Traffic Assessment Report."

Response

The attached submission from Cardno Eppell Olsen at **Annexure C**.

Dot Point 2

"There is a lack of existing site traffic flow and parking demand surveys to support/quantify sample patron travel behaviour surveys."

Response

See attached submission from Cardno Eppell Olsen at **Annexure C**.

Dot Point 3

"Please clarify the following in relation to Table 1 – Car Parking Requirements (relates to Cinema/ Meeting Room capacity and Lounge and Auditorium GFA)."

Response

See attached submission from Cardno Eppell Olsen at **Annexure C**.

Dot Point 4

"Critical review of Traffic and Car Parking Assessment by Halcrow MWT, dated 2 April 2009."

Response

See attached submission from Cardno Eppell Olsen at **Annexure C**.

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3.2 Department of Planning – Attachment 2

Section 8 – Statutory Planning

Dot Point 1

"The proposal falls within Column 2 of Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, being the extension of a commercial premises greater than 2500m² in area with access to a classified road (Wharf Street)."

Response

The term "commercial premises" is not defined in State Environmental Planning Policy (Infrastructure) 2007. Clause 7 of the Policy provides that words or expressions used in the Policy have the same meaning as the Standard Instrument. The Standard Instrument does not contain a definition of commercial premises.

The proposal is properly characterised as a "club" rather than a "commercial premises". Column 1 of Schedule 3 includes reference to premises licensed under the Registered Clubs Act 1976. Roads and Traffic Authority referral requirements are the same as those identified in Section 8.7 of the Environmental Assessment.

In any case, it is noted that the Roads and Traffic Authority were consulted and have provided a response to the Department of Planning dated 20 March 2009.

Section 9 – Development Control Plans

Dot Point 1

"The animated sign on the northern elevation may be prohibited under Council's DCP A4, Section A4.5. Has any consideration been given to the potential amenity/visual impacts on those residents on the northern side of Boundary Street and the recreational users of the Jack Evans Boat Harbour foreshore area?"

Response

The billboard is intended to promote the Twin Towns Services Club facilities and events. The billboard will be constructed using a minimal powder coated steel frame complementary to the architecture of the building. The signage is intended to be static.

Section A4.5 of Tweed Development Control Plan 2007, Part A4 – Advertising Signs, purports to prohibit certain animated signs. A Development Control Plan cannot, of course, prohibit development which is permitted under an Environmental Planning Instrument. Clause 47 of Tweed Local Environmental Plan 2000 prohibits flashing or animated signs other than as exempt development. Business identification signs are exempt. As the electronic sign is static it would not be prohibited under the Local Environmental Plan but in any case the Minister can approve a Major Project notwithstanding the provisions of the Local Environmental Plan.

The sign comprises an integral part of the northern elevation and is an important promotional tool for the Club.

Amenity impacts are unlikely to be significant given that residential properties to the north (in Queensland) are approximately 50m away and the sign will only be activated between 9.00am and 12.00 midnight seven days per week.

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Dot Point 2

"Table 8 states that the proposal includes embellishment of the Jack Evans Boat Harbour foreshore and uses this as justification for being consistent with the vision for Tweed Heads (refer Section B2.3.4 – Preferred Outcomes). It is understood that the proposal no longer includes embellishment of the Jack Evans Boat Harbour foreshore. Please review this assessment."

Response

Table 8 (of the Environmental Assessment) incorrectly includes reference to Jack Evans Boat Harbour foreshore embellishment works. The Major Project Application does not, in fact, propose any development within the Jack Evans Boat Harbour foreshore reserve.

Section B2.3.4 of Tweed Development Control Plan 2007, Part B2 – Tweed Heads identifies preferred outcomes for the central precinct.

The following table demonstrates how the Project Application is consistent with those requirements.

TABLE 1 – CENTRAL PRECINCT PREFERRED OUTCOMES	
PREFERRED OUTCOMES	COMMENT
The vision for Tweed Heads as described in Clause B 2.2 (the adopted vision is <i>"to protect Tweed Heads as a residential and tourist mecca providing a variety of cultural, recreational and retail experiences, people friendly streetscapes, attractive buildings and a choice of accommodation in a naturally beautiful environment."</i>)	The preferred project is consistent with the vision as it will contribute towards recreational and cultural experiences for residents and tourists and the architecture and urban design of the proposed redevelopment is considered to be compatible with the existing Twin Towns building.
The precinct objectives as stated in Clause B 2.3.2.2 which are as follows: <ul style="list-style-type: none">• Develop the core business areas role as a subregional business centre.• Provide development incentives that result in a high standard of mixed use commercial and residential development.• Strengthen the town centre by creating an environment for a niche tourism and retail market.• Encourage tourism and residential uses to reinforce the local economy and provide life and vitality to the town centre.• Cater for the retail, business, welfare and social needs of the community.• Provide a safe and attractive pedestrian environment by creating active building frontages at street level, awnings for sun and rain protection, the appropriate provision of street furniture, and improved linkages to the Jack Evans Boat Harbour.	<p>The proposed redevelopment will strengthen the core business area as a subregional centre.</p> <p>No development incentives apply to land zoned 6(b).</p> <p>The proposed redevelopment is consistent with this objective in that it will provide a greater range of facilities for tourists and guests including, in particular, conference facilities.</p> <p>The proposed redevelopment is consistent with this objective in that it will provide a contemporary and broader range of facilities for tourists including a conference facility.</p> <p>The proposal is consistent with this objective in that it will make improved provision for the social needs of the community.</p> <p>For the reasons identified in the Response to Dot Points 3 and 4, it is not feasible to activate the existing building frontage at street level as part of this current application.</p> <p>The amended proposal does provide for improved linkages to the Jack Evans Boat Harbour from the Club entry point.</p>

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TABLE 1 – CENTRAL PRECINCT PREFERRED OUTCOMES	
PREFERRED OUTCOMES	COMMENT
<ul style="list-style-type: none"> • Encourage a local building aesthetic that responds favourably to the subtropical climate, retains important view corridors and reflects the maritime location and history of the locality. • Any relevant strategic policies detailed in Clause B 2.3.3. • The building envelope requirements of Clause B 2.9 where applicable. • The commercial façade guidelines provided in Clause 2.10. • Any relevant residential design or streetscape work guidelines as stipulated in Clause B 2.11 and Appendix A respectively. 	<p>It is considered that the Preferred Project is compatible with the existing Club building aesthetic and sensitive to the surrounds and subtropical climate.</p> <p>There are no specific strategic policies relating to the Twin Towns site.</p> <p>Building envelope requirements are not applicable to the Twin Towns Services Club site which is zoned 6(b) Recreation.</p> <p>These provisions are not applicable as they apply to commercial facades and the proposed alterations and additions to Twin Towns do not front a public street.</p> <p>These guidelines are not applicable as they only apply to residential buildings of four or more storeys.</p>

Dot Points 3 and 4

"Table 9 provides an assessment against the NSW Coastal Design Guidelines. The proposal is inconsistent with the built form design guidelines for buildings in settlement centres adjacent to the coastal edge or the foreshore reserve. It does not reinforce public and active uses on the ground floor of the building adjacent to the public open space. Further justification of this inconsistency should be provided.

In relation to the Tweed Heads Town Centre Master Plan discussion, it should be noted that Sections 60 and 60A of the Gaming Machines Act, 2001 have been repealed. Section 37B of Act now addresses this issue. Please consider this new section of the Gaming Machines Act, 2001 and provide a revised justification for not activating the ground floor area of the Club if this is still not proposed."

Response

The Club does not intend to provide an active/commercial interface with the adjoining foreshore lands. The Club has previously set out a variety of reasons for its position which have been the subject of extensive discussions with the various stakeholders. In summary and in addition to those comments;

- The Clubs operations are from the first floor and above and feature a variety of food, beverage and entertainment operations which would compete with any commercial or retail operation at grade.
- The Club's services may only be provided to members and their guests. This entails all persons entering our facilities to either show evidence of membership or residential identification which allows them to sign in as visitors. To have open access from the foreshore would not accommodate this requirement.
- The Club is excluded at law from holding a hoteliers licence which would allow free access to the facilities. This would mean that any licensed operation at grade could be neither a club or hotel licence and would need to be of another licence category.
- The Club does not wish to develop retail/commercial space on our property for operation of potentially competitive operations, by itself or others. Retail spaces developed in our resort operation under the same urban ethos have been spectacular economic failures when competing with the Clubs operations.

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- ♦ The location where activation is sought is not ideal in terms of it being under the building in a car park environment. It would be directly competitive with full sun beachfront locations within 50 metres.
- ♦ The car parking under the building is considered premium to our business. To sacrifice spaces for a competing use impacts on our viability and further must support higher demand which has not been considered.
- ♦ There will be a considerable height difference between the parkland and the Club's car park. Activation facing the parkland would by necessity either be complex in terms of internal levels and be less than ideal functionally for one side or the other.
- ♦ The Council and Department of Lands are proposing retail and amenities built against the Club boundary in their master plan on Crown Land. It remains open and planned by these entities to further develop opportunities on the public domain which will impact negatively on any activation undertaken at grade on the Clubs' land.
- ♦ The design being proposed includes landscape screening to the boundary of the property and its internal uses other than the pedestrianised zone linking the Club to the foreshore.
- ♦ The Club operation, following extensive consultation, will remain focused to Wharf Street. The conceptual relocation of our major entry point may have supported more activity in the parkland precinct and business opportunity. This is no longer proposed.
- ♦ Following the exhibition of this proposal there was no submissions from the public seeking further facilities at grade fronting the foreshore. There is an abundance of under performing retail/commercial space within easy walking distance of the proposed development which has failed to attract the support of the community. It is not our intention to add to this oversupply which we maintain is commercially without any merit.

Amendments the Gaming Machine Act 2001 were set out to clarify the Governments position in respect of mixing Gaming Operations with retail operations. The amendments may technically provide an opportunity for limited retail spaces on the clubs property subject to a variety of requirements. The revised legislation remains clear in its intent of discouraging gaming and retail operations from co-habiting in close confines.

Retail premises operated on the site would still remain captured by the provisions of Section 41J of the Registered Clubs Act 1976 in respect of leasing and sale restrictions applying to Registered Clubs. To this extent the normal commercial options which exist on non Club owned land would only prevail with the approval of all members at a General Meeting. These provisions are costly in financial and time terms and a development of this nature would not be considered without fully exploring the members views prior to commencement.

Relevant provisions of the Gaming Machines Act and Regulations are reproduced as follows:

"GAMING MACHINES ACT 2001 - SECT 37B

Restriction on gaming machine thresholds for venues in retail shopping centres

37B Restriction on gaming machine thresholds for venues in retail shopping centres

- (1) The gaming machine threshold for a hotel or premises of a registered club cannot be increased if the hotel or premises are part of a retail shopping centre or proposed retail shopping centre.*
- (2) If a hotel licence or club licence is granted under the Liquor Act 2007 for premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.*

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-
- (3) *If an application is granted under the Liquor Act 2007 that results in the removal of a hotel licence, or the extension of a hotel, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.*
- (4) *If an application is granted under the Liquor Act 2007 that results in the removal of a club licence, or the extension of the premises of a registered club, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.*
- (5) *However, subsection (4) does not apply if:*
- (a) the retail shopping centre comprises or will comprise less than such number of shops as may be prescribed by the regulations, and*
 - (b) patrons will not be able to gain access to the club's premises directly from the retail shopping centre, and*
 - (c) in the case where the club licence is being removed to other premises-the other premises are situated in the same suburb or town as the previous premises, and*
 - (d) in the case where the club's premises are being extended-the club's premises remain predominantly where they were before the extension, and*
 - (e) the gaming machine threshold for the club's premises is no more than the gaming machine threshold for the club's premises immediately before the club licence was removed or the premises were extended, and*
 - (f) such other requirements as may be prescribed by the regulations have been complied with.*
- (6) *For the purposes of this section, a hotel or the premises of a registered club are taken to be part of a retail shopping centre if the hotel or club premises are located within the retail shopping centre or physically adjoin any part of the retail shopping centre.*
- (7) *This section has effect despite any other provision of this Division."*

"retail shopping centre" means a cluster of premises promoted as, or generally regarded as constituting, a shopping centre, shopping mall or shopping arcade, but does not include anything excluded from this definition by the regulations.

"GAMING MACHINES REGULATION 2002 - REG 138A

Exclusion of retail shopping centres with less than 40 shops

138A Exclusion of retail shopping centres with less than 40 shops

- (1) *A retail shopping centre is excluded from the definition of "retail shopping centre" in section 4 (1) of the Act if:*
- (a) the retail shopping centre comprises less than 40 shops, and*
 - (b) the retail shopping centre contains or adjoins no more than one hotel or one registered club (or no more than one of each), and*
 - (c) any such hotel or registered club:*
 - (i) was part of (or was adjoining) the retail shopping centre as at 18 October 2002, or*
 - (ii) has become part of (or has become adjoined to) the retail shopping centre as a result of the granting of an application under the Liquor Act 1982 or the Registered Clubs Act 1976 (being an application that was made on or before 28 March 2000 but not determined by that date).*
- (2) *Any threshold increase application under section 34 of the Act in respect of any such hotel or premises of a registered club must be accompanied by a class 2 LIA under section 35 of the Act.*
- (3) *Subclause (2) has effect despite anything to the contrary in section 35 of the Act."*

Section 12 – Statement of Commitments

Dot Point 1

"The Statement of Commitments should also include who is responsible for each action, if it is not the proponent."

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Response

See amended Statement of Commitments at **Annexure D**.
Dot Point 2

"Point 7 of the Statement of Commitments is incomplete."

Response

The amended Statement of Commitments completes Point 7.

Annexure 2 – Architectural Design Statement

Dot Point 1

"Please provide sample images of what the proposed reflected ceiling plan will look like. What materials are proposed to be used?"

Dot Point 2

"What are the blue circles on Drawing No. DA1-30.03?"

Dot Point 3

"Is the pedestrian walkway through the car park raised? It is not clear on the plans. The ADS states that it will be raised, but the plans do not reflect this. If it is to be raised, please provide a cross section that illustrates the proposed RLs."

Dot Point 4

"All new access points to and within the new building should provide appropriate access for people with a disability having regard for Section 23 of the Disability Discrimination Act 1992. Disabled parking should also be provided in appropriate locations and in number."

Dot Point 5

"What does the white rectangle in Drawing No. DA3-20.03 represent?"

Dot Point 6

"It is unclear whether guests will be able to circulate from the waterfront side of the building to the Wharf Street side of the building via the external terraces/balconies."

Dot Point 7

"It is not clear how pedestrians access the external terrace/balcony on the Wharf Street elevation."

Response to Dot Points 1 to 7

These issues are addressed in the attached submission from BGD Architects at **Annexure A**.

Dot Point 8

"The North Coast Regional Environmental Plan states that development should not overshadow the foreshore before the specified time. There has been no consideration of the cumulative impact of the overshadowing of Jack Evans Boat Harbour foreshore taking into account that part of the Club already overshadows a considerable amount of the foreshore."

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Response

The following table summarises the area in m² of shadow cast by the existing and proposed buildings at the relevant times.

TABLE 2 – SHADOW COMPARISON (M²)					
Drawing #	Date and Time	Existing Shadow Impact to JEBH Foreshore only (m²)	Proposed Shadow Additional Impact to JEBH Foreshore only (m²)	Total Shadow to JEBH Foreshore only (m²)	% Increase
Stage 1					
DA1-10-51	Mid Winter - 21 June 3:00pm	3545	470	4015	13.26
DA1-10-52	Mid Summer – 21 Dec 6:30pm	4155	912	5067	21.94
DA1-10-53	Mid Summer – 21 Dec 9:00am	0	0	0	-
DA1-10-54	Mid Summer - 21 Dec 12:00pm	0	0	0	-
DA1-10-55	Mid Summer – 21 Dec 3:00pm	441	32	473	7.26
DA1-10-56	Mid Winter – 21 June 9:00am	145	0	145	-
DA1-10-57	Mid Winter – 21 June 12:00pm	737	0	737	-
Stage 2					
DA2-10-51	Mid Winter - 21 June 3:00pm	3545	938	4483	26.46
DA2-10-52	Mid Summer – 21 Dec 6:30pm	4155	1870	6025	45
DA2-10-53	Mid Summer – 21 Dec 9:00am	0	0	0	-
DA2-10-54	Mid Summer - 21 Dec 12:00pm	0	0	0	-
DA2-10-55	Mid Summer – 21 Dec 3:00pm	441	32	473	7.26
DA2-10-56	Mid Winter – 21 June 9:00am	145	0	145	-
DA2-10-57	Mid Winter – 21 June 12:00pm	737	0	737	-
Stage 3					
DA3-10-51	Mid Winter - 21 June 3:00pm	3545	1265	4810	35.68
DA3-10-52	Mid Summer – 21 Dec 6:30pm	4155	2590	6745	62.33
DA3-10-53	Mid Summer – 21 Dec 9:00am	0	0	0	-
DA3-10-54	Mid Summer - 21 Dec 12:00pm	0	0	0	-
DA3-10-55	Mid Summer – 21 Dec 3:00pm	441	32	473	7.26
DA3-10-56	Mid Winter – 21 June 9:00am	145	0	145	-
DA3-10-57	Mid Winter – 21 June 12:00pm	737	0	737	-

As reflected in Table 2 the largest increase in overshadowing occurs with Stage 3 at 3.00pm midwinter and 6.30pm midsummer. Increases also occur with Stages 1 and 2 however Stage 3 is the worst case scenario.

In the context of the total area of foreshore open space surrounding the Jack Evans Boat Harbour and given the current statutory planning controls applicable to the Twin Towns site (which permit buildings up to RL 50m AHD or approximately 18 storeys) it is considered that the increase in overshadowing is reasonable in the circumstances. This is particularly the case because the more significant increases do not occur until relatively late in the evening.

In addition, the proposed building is limited to six storeys in height as a means of mitigating shadow impacts and in the circumstances it is therefore considered that the cumulative impact is reasonable and consistent with the outcomes resulting from existing planning controls.

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Annexure 5 – Landscaping Plans

Dot Point 1

"The proposed medium screen trees may block views of pedestrians approaching the site from the JEBH foreshore pathway. Landscaping in this area should ensure visibility of pedestrians/cars is not obstructed."

Dot Point 2

"The proposed entry from the JEBH foreshore is very narrow. A more distinctive entry should be provided. A previously submitted drawing prepared by Imagine, Drawing No. LCP-03 entitled Landscape Perspective Study dated February 2007 is a preferred entry statement."

Response to Dot Points 1 and 2

These issues are addressed in the amended Landscaping Plans at **Annexure B** and the amended plans from BDG Architects at **Annexure A** (10.42, 10.24 and 10.21).

Annexure 15 – Construction Management Plan

Dot Point 1

"The Construction Management Plan refers to MUTC. What does this acronym stand for?"

Response

MUTC is an acronym for the Manual of Uniform Traffic Control.

Dot Point 2

"It is not clear whether the proposed temporary access road is located within the site boundary or on Crown land."

Response

The temporary access road is located within the Club land. No development is proposed on the adjoining Jack Evans Boat Harbour foreshore reserve (Crown land).

Annexure 17 – Preliminary (Stage 1) Site Contamination Investigation

Dot Point 1

"Further information is required regarding site uses based on the Preliminary Cultural Heritage Assessment."

Response

This issue is addressed in the response from Precise Environmental at **Annexure E**.

Annexure 21 – Draft Preliminary BCA Compliance Report

Dot Point 1

"To avoid the need for a Section 75W Modification the applicant should ensure that the current design reflects all BCA requirements."

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Response

This issue is addressed in the response from Thomas Independent Certification at **Annexure F**.

3.3 Submission from Halcrow MWT Dated 2 April 2009

Halcrow MWT were commissioned by the Department of Planning to review the Traffic and Parking Assessment accompanying the Environmental Assessment. The issues raised by Halcrow MWT are addressed in the response from Cardno Eppell Olsen at **Annexure C**.

3.4 Submission from Tweed Shire Council Dated 26 March 2009

Relevant items in Council's letter are addressed in the following response.

1. Planning Comments

Council's letter includes planning comments (and Appendix 1 – full report of Council's Urban Designer) raising urban design issues. Subsequently, on 17 April 2009 Tweed Shire Council wrote to the Department of Planning and advised that the above sections of Council's previous submission should only be read as suggested design actions, rather than an overall definitive Council view of the proposal.

In view of the above, and given the history of discussions in relation to urban design and built form issues, it is considered that the response from BGD Architects and the amended plans at **Annexure A** adequately address this issue.

2. Building Comments

It is submitted that the issues raised by Council in this section can be dealt with by way of appropriate conditions of consent. The Draft Statement of Commitments has been amended to include appropriate provisions.

3. Engineering Comments

Items 3.1, 3.2 and 3.3 of Council's letter can be addressed as conditions of consent. Appropriate provisions have been included in the revised Draft Statement of Commitments.

Items 3.6 and 3.7 are addressed in the submission from Cardno at **Annexure C**.

4. Environmental Health Comments

4.2 Contamination

It is submitted that the issues raised concerning contamination can be dealt with by way of an appropriate condition. The Statement of Commitments includes an appropriate provision to address this issue.

4.3 Demolition

As far as can be determined, all asbestos was removed from the site in 2004 in conjunction with construction of the Harbour Towers. An Asbestos Registration System Report was prepared by AE Shaw and Associates Pty Ltd on 11 May 2004 in relation to asbestos removal.

However, for abundant caution, it is proposed to amend the Construction Management Plan (**Annexure 15**) prior to the issue of a Construction Certificate to include appropriate management procedures in relation to asbestos. The proponent would accept an appropriate condition to this effect and the Draft Statement of Commitments has been amended to reflect this undertaking.

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4.4 Lighting

Given that the Club setting is within a highly urbanised location with existing street lights and building lighting it is considered that lighting controls are not necessary.

4.5 Dewatering

The proponent would accept a condition to address this issue and an appropriate provision has been included in the revised Draft Statement of Commitments.

4.7 Food

The proponent would accept a condition to address this issue and an appropriate provision has been included in the revised Draft Statement of Commitments.

4.8 Smoke Free Areas

The proponent would accept a condition to address this issue and an appropriate provision has been included in the revised Draft Statement of Commitments.

4.9 Cooling Towers

The proponent would accept a condition to address this issue and an appropriate provision has been included in the revised Draft Statement of Commitments.

4.10 Waste Disposal and Management

Annexure 10 comprises a Demolition Report, **Annexure 15** comprises a Construction Management Plan and **Annexure 16** comprises a Safety Management Plan. It is considered that these Management Plans provide sufficient information at the Environmental Assessment stage to enable the consent authority to be satisfied that appropriate waste management can be achieved.

The applicant would accept a condition requiring a Detailed Waste Management Plan to be prepared prior to the issue of a Construction Certificate. This is considered necessary as the detail relating to waste management will be dependent upon the specific requirements of the building contractor, who is yet to be appointed. An appropriate provision has been included in the revised Draft Statement of Commitments to address this issue.

5. Recreation Services Comments

The Amended Landscaping Plans at **Annexure B** include appropriate species identified by Council.

3.5 Roads and Traffic Authority

Issues raised by the Roads and Traffic Authority in their submission dated 20 March 2009 are addressed in the attached submission from Cardno at **Annexure C**.

3.6 Department of Environment and Conservation

The provisions contained in Attachments 1 and 2 of the Department of Environment and Conservation submission are agreed and have been included in the revised Draft Statement of Commitments. It should be noted that the project does not apply to Crown land and therefore any native title claim is not relevant to the project.

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3.7 Department of Water and Energy

In the event that dewatering is in fact required, the revised Draft Statement of Commitments includes a provision requiring the proponent to obtain appropriate approvals from the Department of Water and Energy.

3.8 Department of Lands

No development is proposed on Crown land.

Issues relating to boundary identification and Safety and Environmental Management Plans can be addressed by appropriate conditions of consent and the revised Draft Statement of Commitments includes appropriate provisions addressing these issues.

Overshadowing

Insofar as overshadowing is concerned, it is submitted that it is not open to a landowner to decline to accept any increase in the extent of overshadowing arising from a development on adjoining land. This is on the basis that, inevitably, most development will overshadow adjoining land to some extent and landowners cannot refuse to accept overshadowing. Rather, it is a matter of a merit assessment as to whether or not the additional overshadowing is reasonable in the circumstances.

Given that a statutory building height limit of RL 50m AHD applies (approximately 18 storeys) and having regard to the highly urbanised nature of Tweed Heads, it is inevitable that any development on the site is likely to cause some overshadowing. The proposed building is very modest in scale and is in effect limited to six storeys and as such all reasonable steps have been taken to minimise additional overshadowing of the Jack Evans Boat Harbour foreshore area.

If the Department's requirement that no increase in shadowing as a result of the redevelopment were to be applied to other sites on and adjacent to the Jack Evans Boat Harbour, no further development would be able to occur. This is clearly an unreasonable and inappropriate outcome having regard to relevant statutory planning controls in Tweed Local Environmental Plan 2000 and Tweed Development Control Plan 2007, Part B2 – Tweed Heads.

Landscaping

Appropriate provisions have been included in the revised Draft Statement of Commitments to address this issue.

Car Parking

Twin Towns Services Club continues to lease the Jack Evans Boat Harbour foreshore area through Tweed Shire Council on a month to month basis. Council holds a \$47,500.00 bond in respect to this use and for the rehabilitation of the area. It is proposed that the use of the area will be terminated following completion of construction of this current redevelopment proposal.

Demolition Work

No access roads or work is proposed outside the property boundaries of the Twin Towns site.

Social and Economic Impact

The application is accompanied by a Socio-Economic Impact Assessment at **Annexure 13** and it is submitted that that Assessment adequately addresses all relevant issues.

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Inevitably, there will be some adverse impacts during the construction phase in particular, however it is submitted that the redevelopment and proposed linkages from the Club to Jack Evans Boat Harbour will ultimately provide positive impacts for the general public and users of the Jack Evans Boat Harbour foreshore area.

3.9 Urban Design and Architectural Issues (Phillip Folent)

The issues raised have been addressed in the attached submission from BGD Architects at **Annexure A**.

3.10 Comments from Margaret Petrykowski – Senior Urban Design Specialist Department of Planning

The issues raised by Margaret Petrykowski are addressed in the attached submission from BDG Architects at **Annexure A**.

4.0 SUMMARY AND CONCLUSION

All relevant issues raised in the submissions have been addressed and where appropriate, the Application Plans have been amended to mitigate potential impacts and address the specific issue.

In addition, the Draft Statement of Commitments has been revised to include further measures to mitigate and manage potential adverse impacts.

In summary, the amendments to the project do not significantly change its scale and nature, but are considered to properly address the relevant issues.

Approval of the revised project is therefore considered to be sustainable and in the public interest based on the revised Draft Statement of Commitments.

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ANNEXURE A Amended Architectural Plans – BGD Architects

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ANNEXURE B Amended Landscaping Plans – Imagine IDG

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ANNEXURE C Response from Cardno Eppell Olsen, Dated 26 May 2009

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ANNEXURE D Amended Daft Statement of Commitments

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ANNEXURE E Response from Precise Environmental, Dated 14 May 2009

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ANNEXURE F Response from Thomas Independent Certification, Dated 1 May 2009

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