

Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I, the Director-General of the Department of Planning, as delegate for the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- adequately mitigate the economic impact of the project;
- preserve the amenity of the locality;
- reduce consumption of mains-supplied potable water
- achieve an acceptable level of amenity for future residents and occupants of the project;
- encourage good urban design and a high standard of architecture;
- confirm and clarify the terms of approval; and,
- advise of matters to be resolved prior to the commencement of works.

Sam Haddad
Director-General
As delegate for the Minister for Planning

Sydney, 2 December 2009

The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.

The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

CONSOLIDATED CONSENT

SCHEDULE 1

PART A—TABLE

Application made by:	WA Stockwell Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	07_0179
On land comprising:	Tweed Coast Road and Hastings Road, Bogangar, Lots 184-187, 188-190, 191-194 DP 259164, Lots 20-23 DP 31208, and Lot 1 and Lot 2 DP772172
Local Government Area	Tweed Shire Council
For the carrying out of:	Part 3 part 4 storey mixed use development entailing ground level commercial including supermarket and retail shops, upper level residential units, basement and surface car parking and landscaped areas.
Type of development:	Project Application
Capital Investment Value	\$14 million
Determination made on:	2 December 2009
Date approval is liable to lapse:	5 years from the date of determination

CONSOLIDATED CONSENT

SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
MP-07_0179-Mod-1	21 December 2011	Director, Metropolitan and Regional Projects North	<ul style="list-style-type: none"> • Amendment to size of supermarket and specialty retail area (overall decrease of 24 m²) • Relocation of pedestrian connection including installation of travelator and elevator in place of ramp • Rearrangement of parking and loading area including the relocation of loading dock access • Relocation of residential lobby • New office level and air conditioning plant replacing supermarket mezzanine • Staging the development into 2 stages (Stage 1 commercial and parking, Stage 2 residential and parking re-allocation) and associated payment of staged section 94 contributions • Amendment floor levels to account for revised flood levels (MP07_0179)
MP-07_0179-Mod-2	8 August 2012	Chair of the Commission	Amendment of the approval conditions for permitted delivery times and hours of operation for approved supermarket and other commercial uses
MP-07_0179-Mod-3	N/A	Withdrawn	N/A
MP-07_0179-Mod-4	19 December 2014	Manager Industry Assessments	Amend the approval in order to provide for the dedication of a public laneway to the Council as currently required by Condition B22(4)
MP-07_0179-Mod-5	15 April 2015	Executive Director, Infrastructure and Industry Assessments	Amendment of Condition B22(4) to correct a minor error
MP07_0179	8 October 2020	Director, Regional Assessments	Project transitioned from Part 3A
MP-07_0179-Mod-6	19 February 2021	Director, Regional Assessments	<ul style="list-style-type: none"> • Amend Condition A1 to reflect correct number of units; • Amend Condition A2 to reflect the updated plan set for Stage 2 of the development; • Delete Condition B3; • Amend Conditions B4 and B5 to remove specific unit length reduction requirement; • Amend Conditions B29 and B30 to reflect correct monetary contributions; • Minor design changes including changes to exhausts and entries, insertion of automatic doors, changes to windows/skylights and the refining of the roof form to provide a single pitched roof over each unit; and

CONSOLIDATED CONSENT

			<ul style="list-style-type: none">• Altering the Level 1 landscaped podium from inaccessible public open space to private open space courtyards behind units 1-8.
MP07_0179-Mod-7	2 September 2022	Director, Regional Assessments	<ul style="list-style-type: none">• Correction of transcription errors in MOD 6 for the Section 94 Plans (Plans 5, 11, 12, 13, 15, 16, 18, 22 & 26) ET amounts;• Correction of Section 94 Plan 18's ET to reflect changes in MOD 1; and• Correction of Section 64 contributions.

FOR INFORMATION

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 07_0179

Responsibility for other consents / agreements

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

Appeals

The proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Legal notices

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

FOR INFORMATION

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*.

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

BCA means Building Code of Australia

Certifying Authority means a person who is authorised by or under section 109D of the *Environmental Planning and Assessment Act 1979* to issue Part 4A certificates

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise.

Council means Tweed Shire Council

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Developer means anyone acting on behalf of the proponent.

Environmental Assessment means the Environmental Assessment prepared by Planit Consulting Pty Ltd and dated February 2009, including all Appendices.

Minister means the Minister for Planning.

Project means the project as described in Condition A1 to this approval.

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

Preferred Project Report means the Preferred Project Report prepared by Planit Consulting Pty Ltd dated July 2009.

Proponent means WA Stockwell Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Secretary means the **Secretary** of the Department.

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

CONSOLIDATED CONSENT

PART A—TABLE	2
PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 07_0179.....	5
RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS	5
APPEALS	5
APPEALS—THIRD PARTY.....	5
LEGAL NOTICES	5
PART C—DEFINITIONS.....	6
PART A—ADMINISTRATIVE CONDITIONS	9
PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE.....	12
DESIGN DETAILS AND CHANGES	12
REMEDIATION / DEMOLITION / EARTHWORKS.....	12
CONSTRUCTION MANAGEMENT	13
STORMWATER MANAGEMENT	14
TRAFFIC AND PARKING	15
HEALTH.....	17
OTHER APPROVALS	18
MONETARY CONTRIBUTIONS.....	19
PART C—PRIOR TO COMMENCEMENT OF WORKS.....	22
STRUCTURAL WORKS.....	22
POLLUTION AND WASTE CONTROL	22
CONTACT DETAILS	22
PART D—DURING CONSTRUCTION.....	23
CONSTRUCTION MANAGEMENT	23
STRUCTURAL WORKS.....	23
SITE MAINTENANCE.....	23

CONSOLIDATED CONSENT

NOISE AND VIBRATION.....	24
HERITAGE.....	25
PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE.....	26
EARTHWORKS.....	26
GEOTECHNICAL	26
SERVICES.....	27
PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE	28
DESIGN VERIFICATION STATEMENT – RESIDENTIAL FLAT BUILDINGS.....	28
STREETSCAPE WORKS	28
ENGINEERING	28
EASEMENTS	29
INTERIM STAGE 1 USE	29
PART G—POST OCCUPATION.....	30
LANEWAY	30
FIRE SAFETY	30
TRAFFIC AND PARKING	30
NOISE	31
AIR QUALITY.....	32
HAZARDOUS MATERIALS	32
PUBLIC ACCESS.....	32
ADVISORY NOTES	33

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 07_0179

PART A—ADMINISTRATIVE CONDITIONS

A1 *Project Description*

Project approval is granted only to carrying out the project described in detail below:

- 1) **part three (3) and part four (4) storey mixed use development entailing ground level commercial component encompassing a 2,479m² supermarket (including 176m² office mezzanine) and 913m² retail speciality shops;**
- 2) 40 upper level residential units (16 x 2 bedroom units and 24 x 1 bedroom units);
- 3) ground level public forecourt;
- 4) pedestrian thoroughfare;
- 5) landscaped podium;
- 6) site landscaping;
- 7) basement and surface car parking for 204 vehicles;
- 8) loading bay;
- 9) three access points from Hastings Road;
- 10) excavation works; and
- 11) signage.

A1A *Staging*

The development is to be constructed in two stages as indicated in the Section 75W application submitted on 12 October 2011 and as follows:

- 1) **Stage 1 will comprise the whole of the car parking and commercial/retail components of the development including;**
 - a. **supermarket and retail speciality shops;**
 - b. **ground level public forecourt;**
 - c. **pedestrian thoroughfare;**
 - d. **site landscaping;**
 - e. **basement and surface car parking for 204 vehicles, including interim use of future residential parking to be allocated to Stage 2;**
 - f. **loading bay;**
 - g. **three access points from Hastings Road;**
 - h. **excavation works; and**
 - i. **signage.**
- 2) **Stage 2 is to comprise the construction of the residential component of the development including;**
 - a. **38 upper level residential units; and**
 - b. **allocation of basement residential parking for 56 vehicles (for residential uses) as constructed in Stage 1.**

CONSOLIDATED CONSENT

The proponent is to review on a yearly basis and report to the Council via the Certifying Authority the anticipated timeframe for the delivery of this residential stage (Stage 2) of the development. Such review should demonstrate that the residential stage will be delivered at the appropriate time with regard to the land use and urban design objectives of Section B19 of Councils Development Control Plan - Bogangar / Cabarita Beach Locality Plan.

A2 *Project in Accordance with Plans*

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings: **include reference to the following additional "As Constructed" drawings shown in bold and underlined as follows:**

Architectural (or Design) Drawings prepared by Stockwell			
Drawing No.	Revision	Name of Plan	Date
DA-11	C	Site Plan	27/07/09
DA-12	D	Basement Lower Plan	15/10/09
DA-13	H	Basement Mezzanine Plan	15/10/09
DA-14	G	Ground Level 1 Plan	15/10/09
DA-15	E	Level 2 Plan	27/07/09
DA-16	D	Level 3 Plan	27/07/09
DA-17	B	Roof Plan	27/07/09
DA-18	D	Unit Plans	27/07/09
DA-19	B	Tweed Coast Road Elevation	27/07/09
DA-20	B	Hastings Road Elevation	27/07/09
DA-21	D	Sections	27/07/09
DA-22	C	Sections	28/08/09
DA-25	D	Area Plan	27/07/09
Landscape Drawings prepared by Jeremy Ferrier			
Drawing No.	Revision	Name of Plan	Date
29013 SK01	A	Landscaped Concept	02/20/09
29013 SK02	A	Landscape Concept	02/20/09
29013 SK03	A	Elevations & Plant Palette	02/20/09
Survey Drawings prepared by B & P Surveys			
Drawing No.	Revision	Name of Plan	Date
15128B	C	Sheet 1	10/04/08
15128B	C	Sheet 2	10/04/08
As Constructed Drawings prepared by Cameron Chisolm & Nicol			
0001	D	Site Plan	30/09/2014
1203	F	Lower Ground Floor Level Part B Floor Plan	30/09/2014

CONSOLIDATED CONSENT

Except where modified by the following:

Drawing No.	Revision	Name of Plan	Date
Residential Component			
DA-05	B	Level 1 Floor Plan	29/02/20
DA-06	B	Level 2 Floor Plan	29/02/20
DA-07	B	Roof Plan	29/02/20
DA-08	B	Typical Unit Floor Plans	29/02/20
DA-09	B	Elevations	29/02/20
DA-10	B	Sections	29/02/20
Landscape Concept			
29013 SK02	A	Landscape Concept	2009/02/20
29013 SK03	A	Elevations and Plant Palette	2009/02/20

A3 Project in Accordance with Documents

The project will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Planit Consulting Pty Ltd on behalf of WA Stockwell Pty Ltd, dated February 2009; and,
- (2) *Preferred Project Report* prepared by Planit Consulting Pty Ltd on behalf of WA Stockwell Pty Ltd, dated July 2009.

A4 Inconsistency between documents

In the event of any inconsistency between conditions of this approval, the proponent's Statement of Commitments and the drawings/documents referred to in Conditions A3 and A4, the conditions of this approval prevail to the extent of the inconsistency.

A5 Building Code of Australia

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 Additional Details

In order to advise of matters to be resolved prior to the commencement of works on site, additional details in regard to the following matters shall be submitted to the Department for approval prior to the issue of any Construction Certificate:

- (1) Water recycling measures as requested in condition B15.
- (2) An amended Acid Sulfate Soil (ASS) as requested in condition B7.
- (3) An updated Stormwater Assessment as requested in condition B13.
- (4) Completed site contamination study as requested in condition B6.

~~**B2 Deleted**~~

B3 Design Verification Statement – Residential Flat Buildings

Prior to the issue of a Construction Certificate, the proponent 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*.

B4 Landscaped podium

In order to achieve an acceptable level of amenity for future residents and occupants of the project, the landscaped podium area **on level 1 shall be amended in accordance with approved plans.**

It should be noted that front setbacks from Hastings Road and Tweed Coast Road shall not be amended in order to comply with this condition.

B5 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 a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Remediation / Demolition / Earthworks

B6 Site remediation

A Site Audit Statement for the whole of the site, including both soil and groundwater assessments, is required to be submitted prior to the release of any Construction Certificate. The Statement shall demonstrate that the site has been remediated to a standard that is suitable for the proposed land use, and is not harmful to human health or the environment. The Statement shall be provided by a site auditor accredited under the provisions of the *Contaminated Land Management Act 1997* and be in accordance with the relevant Department of Environment, Climate Change and Water guidelines.

Note: This approval does not authorise any remediation works. Any such works shall require separate consent from Council.

B7 *Acid Sulfate Soil Management Plan*

A detailed Acid Sulfate Soil Management Plan for the entire site shall be prepared by a suitably qualified person in accordance with the *Acid Sulfate Soil Assessment Guidelines* (Acid Sulfate Soil Management Advisory Committee 1998). The Management Plan shall cover the entire site and be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B8 *Pre-Construction Dilapidation Reports*

The proponent 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. A copy of the report is to be forwarded to Council.

Construction Management

B9 *Construction Management Plan*

Prior to the issue of a Construction Certificate for any stage of the project, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- a) hours of work;
- b) contact details of site manager;
- c) traffic and pedestrian management;
- d) noise and vibration management;
- e) construction waste management; and
- f) erosion and sediment control.

B10 *Traffic & Pedestrian Management Plan*

Prior to the issue of a Construction Certificate for any stage of the project, a Traffic and Pedestrian Management Plan in accordance with AS 1742: *Manual of uniform traffic control devices* and RTA publication *Traffic Control at Works Sites* (Version 2) shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- a) ingress and egress of vehicles to the site,
- b) loading and unloading, including construction zones,
- c) predicted traffic volumes, types and routes, and
- d) pedestrian and traffic management methods.

The proponent shall submit a copy of the approved plan to Council.

B11 *Construction Waste Management Plan*

Prior to the issue of a Construction Certificate for any stage of the project, a Waste Management Plan shall be prepared by a suitably qualified person to the satisfaction of the Certifying Authority. The proponent shall submit a copy of the plan to the satisfaction of Council.

B12 *Erosion and Sediment Control Plan*

An Erosion and Sediment Control shall be provided in accordance with the following:

- (1) The Construction Certificate Application for each stage of the project must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of Council's *Development Design Specification D7 - Stormwater Quality*.
- (2) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - Code of Practice for Soil and Water Management on Construction Works.

Stormwater Management

B13 Stormwater systems and on-site detention

- (1) The final design plans of the stormwater drainage systems within the proposed development, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council shall be submitted to and approved by Council prior to issue of any Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.
- (2) The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by on-site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust *On-Site Stormwater Detention Handbook* except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted prior to the issue of any Construction Certificate and to the satisfaction of Council.

- (3) The final stormwater system is to consider water sensitive urban design measures in accordance with the Department of Environment and Conservation 2006 Guideline *Managing urban stormwater: harvesting and reuse*.
- (4) A Construction Certificate application for works that involve any of the following:-
 - (a) connection of a private stormwater drain to a public stormwater drain;
 - (b) installation of stormwater quality control devices; or
 - (c) erosion and sediment control works;

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

Applications for these works must be submitted on Council's standard section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

Where Council is requested to issue a Construction Certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under section 68 of the *Local Government Act 1993* will then not be required.

B14 Stormwater Quality

Permanent stormwater quality treatment shall be provided in accordance with the following:

- (1) The Construction Certificate Application for each stage of the project shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with section D7.07 of Council's *Development Design Specification D7 - Stormwater Quality*.
- (2) Permanent stormwater quality treatment shall comply with section 5.5.3 of the *Tweed Urban Stormwater Quality Management Plan* and Council's *Development Design Specification D7 - Stormwater Quality*.
- (3) All runoff from car parking, driveway and hardstand areas must be treated to remove oil and sediment pollutants prior to discharge to the public drainage system. Proprietary treatment devices must be sized in accordance with section D7.12 of Council's *Development Design Specification D7 - Stormwater Quality*, with engineering details (including maintenance schedules) to be submitted with the s68 stormwater application. Roof water does not require treatment and should be discharged downstream of treatment devices to minimise sizing requirements.

B15 Water recycling

In the interest of ecologically sustainable development and to reduce consumption of mains-supplied potable water, a Water Recycling Scheme for the site is to be prepared in accordance with the Department of Environment and Conservation 2006 Guideline *Managing urban stormwater: harvesting and reuse* to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate. The Scheme is to be prepared in consideration of the final stormwater system for the development and investigate the reuse of stormwater runoff from the site post-development for:

- (1) rainwater tanks;
- (2) toilet flushing; and
- (3) landscape watering

B16 Flooding

Basement car parking shall be protected against the ingress of flood water in accordance with Council's *Development Control Plan Part A3 - Development of flood liable land*.

The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL **3.0m** AHD in accordance with Council's *Development Control Plan Part A3 - Development of Flood Liable Land*. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate. 24 of 28 Installed pumps must be designed and installed in accordance with Section 9 of *AS/NZS3500.3.2 1998 National Plumbing and Drainage Part 3.2: Stormwater Drainage Acceptable Solutions*

Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should be suitably treated to withstand continuous submergence in water.

Traffic and Parking

B17 Number of Car Spaces

CONSOLIDATED CONSENT

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.

Car parking allocation	Number
Residential Car parking spaces	56
Number of residential car spaces to be disabled spaces	1
Number of residential car spaces to be visitor spaces	8
Retail car parking spaces	148
Number of retail car spaces to be disabled spaces	3
Number of retail car spaces to be staff spaces	28
TOTAL	204

B18 Number of Bicycle Spaces

A minimum of 20 bicycle spaces are to be provided for the development. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B19 Number of Loading Bays

A minimum of two (2) loading bays are to be provided for the development. At least one (1) of these bays shall be capable of accommodating 12.5 metre trucks. Details of the loading arrangements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B20 Car Park and Service Vehicle Layout

- (1) The layout of the car park shall comply with Australian Standard AS2890.1: 2004 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be line-marked.
- (2) The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 2002 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of Construction Certificate.

B21 Public Space & Centre Management Plan

To ensure the general safety of members of the public during trading and after hours operation of the shopping centre and to provide adequate safety to residents of the development's residential component, a Public Space & Centre Management Plan is to be prepared to the satisfaction of Council prior to release of any Construction Certificate. The plan should address the following:

- (1) provide measures for reducing pedestrian and vehicle conflict along Hastings including the facilitation of safe pedestrian crossing of Hastings Road;
- (2) include a copy of the Flood Evacuation Plan submitted with the Preferred Project Report;
- (3) ensure adequate security outdoor lighting along Tweed Coast Road, Hastings Road and the northern carpark area;

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- (4) provide measures to secure the pedestrian thoroughfare and landscaped forecourt area after trading hours/ and or night time;
 - (5) ensure safe and adequate separation between residential and non-residential areas of the development;
 - (6) provide measures to ensure rapid graffiti removal to the shopping centre;
 - (7) investigate use of CCTV security cameras; and
 - (8) use of security patrols on Thursday, Friday and Saturday nights as a minimum.

B22 Servicing Arrangements

The following amendments must be made to the service vehicle and loading dock area to ensure the safe and effective movement of all vehicle class users within and surrounding the development:

- (1) Rear service vehicle access shall be provided in general accordance with Drawing DA-13 H. Detailed design shall ensure adequate turn paths are provided in laneway and carparking areas.
- (2) The section of laneway through the loading dock area shall be contained within a 6m wide easement benefitting Council.
- (3) A 6m wide easement benefitting Council shall be created over the nominated vehicle aisle in the northern car park area in general accordance with Drawing DA-25 D.
- (4) **The 3m wide section of laneway adjacent to and within lots 188, 189 and 190 in DP 259164 and lots 1 and 2 in DP 772172 shall be constructed to Council specifications or as otherwise accepted by Council and dedicated to Council as a public road.**
- (5) The 3 metre portion of the car park access aisle running along the eastern boundary of lots 184, 185, 186 and 187 DP 259164 is to be dedicated to Council as public road.
- (6) Land dedication and registration of easements shall be completed prior to occupation of the development.
- (7) Closure of the laneway area through the loading dock area is conditional on the agreement of Council for the terms and the hours of closure. Future variation to those terms and/or hours shall also be subject to Council agreement. Arrangements for the provision of after hour's emergency access to this section of the laneway must be made to the satisfaction of Council.
- (8) Deliveries to the loading dock shall be restricted to small rigid vehicles (maximum 12.5m), and deliveries by semi trailer are not permitted. The developer shall pay a cash bond of \$20,000 to Council for the purpose of future traffic control devices in Hastings Road, should delivery arrangements be deemed by Council to be unsatisfactory. The bond shall be paid prior to occupation, and the balance of this bond shall be refunded 12 months after the date of occupation.

Design details of the proposed servicing arrangements shall be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Health

B23 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 Certifying Authority prior to the issue of a Construction Certificate.

B24 Noise Management Plan

A Noise Management Plan is to be prepared addressing the following as a minimum:

- (1) Identification of each work area, site compound and access route (both private and public);
- (2) Identification of the specific activities that will be carried out and associated noise sources at each work area, site compounds and access routes;
- (3) Identification of the primary potentially affected sensitive receivers;
- (4) An assessment of likely noise generation levels for key construction phases of the development;
- (5) Description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction;
- (6) Procedures for notifying residents of construction activities that are likely to effect their noise and vibration amenity;
- (7) Measures to receive, record and respond to complaints;
- (8) Measures to monitor and report against noise performance; and
- (9) Mitigation measures and treatments in accordance with relevant Australian Standards including the use of acoustic-absorptive finishes and perimeter treatments to dwellings and loading bay areas.

The Noise Management Plan is to be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate for the project.

B25 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, *AS/NZ1158.3 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 each stage of the project.

Other Approvals

B26 Section 68 Approval

- (1) Notwithstanding the issue of this project approval, separate consent from Council under section 68 of the *Local Government Act 1993*, must be obtained prior to any works taking place that involve any of the following:-
 - (a) connection of a private stormwater drain to a public stormwater drain;
 - (b) installation of stormwater quality control devices;
 - (c) relocation of existing sewer mains; and
 - (d) erosion and sediment control works.
- (2) Pursuant to section 68 of the *Local Government Act 1993* an approved Application for these works must be submitted on Council's standard section 68 stormwater drainage application form accompanied by the required attachments and the

prescribed fee. Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

- (3) In accordance with section 68 of the *Local Government Act 1993*, any premises proposing to discharge into Council's sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Council prior to the issue of a Construction Certificate.
- (4) Pursuant to section 68 of the *Local Government Act 1993* an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Council's Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with *AS 3500 Plumbing and Drainage* shall be submitted to Council for approval.

B27 Section 138 Approval

Notwithstanding the issue of this project approval, separate consent from Council under section 138 of the *Roads Act 1993*, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access) kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths. Applications for consent under section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee. Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

B28 Dewatering Approval

Prior to issue of a Construction Certificate, an approval under Part 5 of the *Water Act 1912* must be obtained from the Department of Environment, Climate Change and Water. The application for the approval must contain sufficient information to show that the project is capable of meeting the objectives and outcomes specified in these conditions.

- 1) A Dewatering Management Plan for all dewatering activities to be carried out on the site shall be submitted to and approved by Council prior to release of any Construction Certificate. The plan is to give consideration to the acid sulfate soil issues on site and the impact that this may have on groundwater and dewatering activities proposed.
- 2) A license fee calculated in accordance with the *Water Act 1912* must be paid before a license can be granted.
- 3) Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.

Monetary Contributions

B29 Section 94 Monetary Contributions

- 1) Prior to the endorsement of a Subdivision Certificate for each stage of the subdivision, the proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to section 94 of the *Environmental Planning and Assessment Act 1979*:

CONSOLIDATED CONSENT

(1) Amount of Contributions

For Stage 1

Tweed Road Contribution Plan No. 4			
	No. of Trips	\$ per trip	Sub-Total
	321.773	\$868 + \$87	\$307293.21

For Stage 2

Tweed Road Contribution Plan No. 4			
	No. of Trips	\$ per trip	Sub-Total
	148.2 Trips	\$ 1,145 base rate + \$250 indexation	\$206,739
S94 Plan No. 5 Open Space (Casual)			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$502 base rate + \$171 indexation	\$9,589
S94 Plan No. 5 Open Space (Structured)			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$575 base rate + \$196 indexation	\$10,985
S94 Plan No. 11 Shirewide Library Facilities:			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$792 base rate + \$215 indexation	\$14,348
S94 Plan No. 12 Bus Shelters S94 Plan No. 12			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$60 base rate + \$16 indexation	\$1,083
S94 Plan No. 13 Eviron Cemetery			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$101 base rate + \$42 indexation	\$2,037
S94 Plan No. 15 Community Facilities (Tweed Coast - South)			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$1,305.60 base rate + \$355.40 indexation	\$23,666
S94 Plan No. 16 Emergency Facilities (Surf Lifesaving)			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$113 base rate + \$0 indexation	\$1,610
S94 Plan No. 18 Extensions to Council Administration Offices & Technical Support Facilities			
	No. of ET	\$ per ET	Sub-Total
	15.9471	\$1,759.90 base rate + \$492.21 indexation	\$35,914
S94 Plan No. 22 Cycleways			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$447 base rate + \$121 indexation	\$8,093
S94 Plan No. 26 Regional Open Space (Casual)			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$1,031 base rate + \$280 indexation	\$18,679
S94 Plan No. 26 Regional Open Space (Structured)			
	No. of ET	\$ per ET	Sub-Total
	14.248	\$3,619 base rate + \$982 indexation	\$65,555

2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Tweed Shire 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 Subdivision Certificate for each stage of the project.

3) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Tweed Shire Council, Civic & Cultural Centre, Tumbulgum Road, Murwillumbah NSW 2484.

B30 Section 64 Monetary Contributions

- 1) Contributions plans relevant to the subdivision include:
 - a) *Development Servicing Plan for Water Supply Services* (July 2007)
 - b) *Development Servicing Plan for Sewerage Services* (July 2007)
- 2) Prior to the endorsement of a Subdivision Certificate for **stage 2** of the subdivision, the proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to section 64 of the *Local Government Act 1993*.

	ET	Fee	Total
Water Developer Charges	5.7772	\$11,728	\$67,755
Sewer Developer Charges	13.692	\$7,585	\$103,853

- 3) These charges to remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.
- 4) A copy of the section 64 contribution plans may be inspected at Tweed Shire Council, Civic & Cultural Centre, Tumbulgum Road, Murwillumbah NSW 2484.

B31 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.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Structural Works

C1 Structural Details

Prior to the commencement of construction at each stage of the project, the proponent shall submit to the satisfaction of the Certifying Authority 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 project approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

C1A Stage 1 is to incorporate a structural concrete podium roof over the retail and supermarket areas where these would be required for the construction of the Stage 2 residential apartments. The structural design of all elements of Stage 1, including the concrete podium roof and structural vertical service ducts, must be designed and built so as to enable the subsequent construction of the Stage 2 residential apartments provided for in this approval without the need to demolish the concrete roof or to generate the need for new structural elements to be subsequently added to Stage 1.

C2 Retaining Walls

Prior to commencement of works for any stage of the project a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height, must be provided to the Principal Certifying Authority. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and must be supported by a geotechnical assessment of the founding material.

Pollution and Waste Control

C3 Waste

A Waste Management Plan prepared to the satisfaction of Council shall be prepared and lodged with Council prior to the commencement of works.

C4 Erosion and Sediment Control

Prior to commencement of work on the site for each stage of the project, all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Certifying Authority.

Contact Details

C5 Contact Telephone Number

Prior to the commencement of the works for each stage of the project, the proponent shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

PART D—DURING CONSTRUCTION

Construction Management

D1 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.

D2 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:

- (1) Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;
- (2) The approved hours of work;
- (3) 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) To state that unauthorised entry to the site is not permitted.

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 Certifying Authority certifying that structural works are in accordance with the approved project application.

Site Maintenance

D4 Erosion and Sediment Control

Erosion and Sediment Control shall be provided in accordance with the following:

- (1) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with *Section D7.07 of Development Design Specification D7 - Stormwater Quality*.
- (2) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - Code of Practice for Soil and Water Management on Construction Works*.

D5 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.

D6 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) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (4) 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,
- (5) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (6) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (7) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

D7 Hours of Work

The hours of construction for all stages of the project, 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.

D8 Construction Noise Objective

- 1) The construction noise objective for all stages of 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 more than 5dB(A).
- 2) Background noise levels are those identified in the Environmental Assessment or otherwise identified in the approved Construction Management Plan. The proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- 3) Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Management Plan.
- 4) 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.

D9 Construction Noise Management

For all stages of the project, the proponent 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 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 Management Plan.

D10 Vibration Criteria

For all stages of the project, vibration resulting from construction of all stages of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC 2006).

Heritage

D11 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects

- (1) In the event that future works during any stage of the project disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Department of Environment and Climate Change, the local police, the relevant Local Aboriginal Land Council (LALC) and all relevant Aboriginal communities must be informed. These groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the the Police, Department of Environment and Climate Change, the relevant LALC and the relevant Aboriginal communities.
- (2) If the remains are found to be Aboriginal origin and the police consider the site not an investigation site for criminal activities, the DECC is to be contacted and notified of the situation. Works must not resume at the location without the prior written consent of the Department of Environment and Climate Change, the relevant LALC and the relevant Aboriginal communities.
- (3) If Aboriginal cultural evidence is uncovered due to the project activities, the site is to be registered in the AHIMS and the management outcome for the site also included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives for the project be included in any management outcome decided for the site with all information required for formal consent being given to the representatives for this purpose.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

E1 Part 4A Certificate

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision.

E2 Compliance Certificate

Prior to the application for a Subdivision Certificate for each stage of the subdivision a Compliance Certificate or Certificates shall be obtained from Council or an accredited certifier for the following:-

- a) Compliance Certificate - Roads
- b) Compliance Certificate - Water Reticulation
- c) Compliance Certificate - Sewerage Reticulation
- d) Compliance Certificate - Drainage

Earthworks

E3 Retaining Walls

All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Subdivision Certificate application for each affected staged of the subdivision and shall state that the retaining walls have been designed and constructed in accordance with *AS4678-2002 Earth Retaining Structures* and are structurally sound.

Geotechnical

E4 Dilapidation Report

A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of the works for each stage of the project to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the Certifying Authority, prior to issue of the Subdivision Certificate for each stage of the project.

E5 Registration of Easements / Restrictions to use / Right of carriageway

- (1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
 - b. Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the section 88B instrument.
 - c. Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas

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- (2) Any section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.
 - (3) Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the *Community Land Development Act 1989*, *Strata Schemes Management Act 1996*, *Conveyancing Act 1919*, or other applicable legislation.

E6 Car parking restrictions

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (1) restrictive covenant placed on title pursuant to section 88B of the *Conveyancing Act 1919*,
- (2) restriction on use under section 68 of the *Strata Schemes (Leasehold Development) Act 1986* to all lots comprising in part or whole car parking spaces, and
- (3) sign visible at exits (excluding fire stairs and individual unit entries) from car parking areas.

These requirements are to be made to the satisfaction of Council. All costs associated with the above requirements are to be borne solely by the proponent.

E7 Common areas and facilities

No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant Council.

These requirements are to be made, at no cost to Council, and to the satisfaction of Council and a restrictive covenant placed on title pursuant to section 88E of the *Conveyancing Act, 1919*.

Services

E8 Utilities –Telephone and Electricity Services

The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Subdivision Certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the proponent.

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 proponent 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*.

Streetscape works

F2 *Streetscape works*

All final streetscape works including public art, paving finishes, street furniture, alfresco dining, street tree locations and species type are to be submitted to Council for approval prior to release of any Occupation Certificate.

Engineering

F3 *Fire Safety Certificate*

A Fire Safety Certificate shall be furnished to the Certifying Authority 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 approval authority and Council by the Certifying Authority.

F4 *Annual Fire Safety Statement*

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

F5 *Mechanical Ventilation*

Following completion, installation and testing of all the mechanical ventilation systems, the proponent shall provide evidence to the satisfaction of the Certifying Authority, 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 project approval 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 Certifying Authority 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 approval authority for specific electronic format) shall be submitted to the approval 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 Certificate/s.

F7 Public Space & Centre Management Plan

Prior to the release of any Occupation Certificate for the project, the Public Space & Centre Management Plan is to have been implemented to the satisfaction of Council in accordance with condition B21.

F8 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 to be met in full by the proponent/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

F9 Registration of Easements

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

Interim Stage 1 use

F10 The Automatic Teller Machines installed in the Stage 2 residential lobby area are permitted for the duration of the implemented Stage 1 up until the completion of Stage 2 (residential apartments component). The residential lobby is to be reinstated prior to the issue of an occupation certificate for any Stage 2 residential occupation.

F11 Areas nominated on the approved plans for residential parking in Stage 1 may be used for retail purposes as an interim use pending the occupation of the Stage 2 residential development. The residential parking comprising 56 spaces, as nominated on the approved plans, is to be allocated to residential uses prior to the issue of any occupation certificate for Stage 2 residential occupation.

PART G—POST OCCUPATION

Laneway

G1 *Unobstructed laneway*

The section of laneway/right-of-carriageway traversing the site from north to south is to remain unobstructed and clear of any physical impediments.

Fire Safety

G2 *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

~~**G3 *Deleted***~~

G3A *Delivery Hours, Loading and Unloading*

- (1) Delivery vehicles may service the site only between the hours of 7am and 6pm, Monday to Saturday, inclusive.
- (2) Notwithstanding part (1), the proponent may seek approval from the Director General, or his delegate, to allow delivery vehicles to service the site on Sundays or public holidays between the hours of 10am and 12noon. Such approval may only be sought following a three (3) month trial period of such deliveries, commencing after occupation of the supermarket and following written notification of the commencement of the trial to the Director General. During the trial the proponent shall keep:
 - a) a register of all Sunday deliveries to the site during this time, including the number, time and type of vehicle; and
 - b) a complaints register which documents all complaints received from the public in relation to such deliveries.
- (3) Immediately following the trial, the proponent shall submit the registers to the department. The continuation of Sunday deliveries during the time the department is considering the registers is at the Director General's discretion. The Director General may require the proponent to address certain matters in response to the review of the registers, which may include a requirement for a further trial period(s). Any action required to be undertaken must be completed within such period as the Director General may agree. Deliveries on Sundays and public holidays may not continue on a permanent basis unless prior written approval has been given by the Director General.
- (3) Deliveries to the loading dock shall be restricted to small rigid vehicles (maximum 12.5m), and deliveries by semitrailer are not permitted. The proponent shall pay a cash bond of \$20,000 to council for the purpose of future traffic control devices in Hastings Road, should delivery arrangements be deemed by council to be

CONSOLIDATED CONSENT

unsatisfactory. The bond shall be paid prior to occupation, and Tweed Heads balance of this bond shall be refunded 12 months after the date of occupation.

G4 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.

Noise

G5 Deleted

G5A – Hours of Operation

Subject to the requirements of G5D, the hours of operation of the commercial component including the supermarket shall be restricted to between 7.30am to 9.00pm 7 days per week, including Sundays and public holidays.

G5B No Interference with Amenity of Neighbourhood

The proposed use must not be conducted in such a manner as would interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise. In particular the noise level emanating from the use of the development must not exceed the background level by more than 5 dB(A) when measured at the boundary of the allotment.

G5C Idling of Delivery Vehicles

Delivery vehicles shall not be left idling during loading or unloading. Refrigeration compressors shall be turned off during unloading.

G5D Noise Compliance Test

- (1) Within 3 months of commencement of the operation of the supermarket, a noise compliance test of the development shall be undertaken by a suitably qualified person that demonstrates that the hours of use complies with the NSW Industrial Noise Policy (NSW INP). Details of the noise testing procedure and results shall be reported to the department for consideration or approval, whereupon the Director General may, if the requirements of NSW INP are not met, require further tests or alter the provisions of the Table in Condition G5A, if such is warranted to meet the requirements of the NSW INP and taking into account any recommended mitigation measures in the report.
- (2) In relation to the consideration of the procedure and results of the noise test, a further noise test may be required to be carried out at a time when the development is fully occupied by commercial tenants, including the supermarket, if the initial test identifies that there are more than two vacant tenancies (not including the supermarket) when the supermarket noise test is conducted.

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 proponent shall undertake a noise monitoring program for a minimum period of 24 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 Certifying Authority at intervals of every 3 months.

Air Quality

G8 *Air Quality Monitoring*

The proponent shall undertake an air quality monitoring program for a minimum period of 24 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 Certifying Authority at intervals of every 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.

ADVISORY NOTES

Compliance Certificate, Water Supply Authority Act 2000

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project 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 approval authority before the release of the Subdivision Certificate, and
- (3) the principal certifying authority prior to occupation.

Requirements of Public Authorities for Connection to Services

The proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, 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 proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Compliance with Building Code of Australia

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

Structural Capability for Existing Structures

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

Use of Mobile Cranes

The proponent 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 Certifying Authority:

- (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.

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 (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
 - (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.

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.

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 proponent/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.

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 approval 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.