

Environmental Assessment

Part 3A – EP&A Act, 1979



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Review and Amendments Schedule – PLANIT CONSULTING PTY LTD

		Date
Author	CL/ CG	November 07
Reviewer	AS	December 2007 February 2009 April 2009

Amendments
February 2009
April 2009

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PLANIT CONSULTING PTY LTD[®]
December 2007

Certification

Submission of
Environmental Assessment (EA)

Under Section 75H of the Environmental Planning and Assessment Act
1979

**Submission of
environmental assessment (EA)**
under Section 75H of the Environmental Planning and
Assessment Act 1979

EA prepared by

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Address:

Planit Consulting Pty Ltd
PO Box 1623
KINGSCLIFF NSW 2487

In respect of:

Proposed Mixed Use Retail and Residential Development

Applicant Name:

WA Stockwell Pty Ltd

Applicant Address:

C/- Planit Consulting Pty Ltd
PO Box 1623
KINGSCLIFF NSW 2487

Land to be developed:
(lot no, DP/MPS, vol/fol etc)

Lots 184 - 187 & 191 - 194 in DP 259164, and Lots 20
- 23 in DP 31208

Proposed Development:

Proposed Mixed Use Retail and Residential Development
@ Tweed Coast Road, Bogangar

Environmental assessment

An Environmental Assessment is provided below

Certification

I certify that I have prepared the contents of this
environmental assessment and to the best of my
knowledge

- It is in accordance with Section 75E and 75F of the
Environmental Planning and Assessment Act 1979,
and
- It is true in all material particulars and does not, by
its presentation or omission of information,
materially mislead.

Signature
Name
Date



Adam Smith
25th February 2009

Executive Summary

The subject site has a frontage of 66.5mtrs to Tweed Coast Road, and a split frontage of 80mtrs on Hastings Road. The site has a depth of 70.1mtrs with a step down in level of 4mtrs from the Tweed Coast Road lots to the Hasting Road lots. The Tweed Coast Road properties are currently improved by a decommissioned motel, decommissioned petrol station and vacant retail shops previously occupied by a Post Office and newsagency. The Hasting Road properties are cleared with no significant vegetation.

Opportunity exists to configure a specialty retail precinct incorporating food/beverage outlets facing Tweed Coast Road, taking advantage of after hours trading and al fresco dining within the footpath reserve. Tweed Shire Council has advised of their support for this use. A separate application will be submitted to Council once tenants have been secured.

The specialty retail is at grade on Tweed Coast Road. This provides a seamless transition from the footpath to the internal retail space and forecourt. The forecourt will provide a sense of place for locals to meet prior to undertaking other activities.

Tweed Coast Road, Cabarita has remained relatively unchanged for many years with only sporadic development happening in recent times. Accordingly, the feel of a small coastal town which relies on an influx of tourists during holiday seasons has been maintained.

Accordingly, the lack of retail services within the immediate area forces locals to travel to undertake their major grocery and retail spending external to the Cabarita catchment. This development will create jobs and bring other services to Cabarita which previously would not have had the opportunity to exist without a major supermarket tenant to support their trade.

This application provides all the supporting documentation required to demonstrate the positive social, economic, environmentally sustainable outcomes produced by this mixed used development will bring Cabarita.

Section

1

Introduction

1.1 Brief

Planit Consulting has been commissioned by WA Stockwell Pty Ltd to prepare and submit an environmental assessment to the Department of Planning pursuant to the Major Projects SEPP and Director General's requirements dated 28th March 2008.

The proposal relates to the construction of a mixed use development consisting of a supermarket, specialty retail shops, forty residential units and associated parking and loading bays.

1.2 Approvals Sought

This application seeks Approval pursuant to Part 3A of the Environmental Planning & Assessment Act, 1979. Approvals relating to erection of the structures (Construction Certificate) and other matters relevant to both S.68 of the Local Government Act and S.138 of the Roads Act will be addressed at a later date.

The Minister is identified as the consent authority as the proposal is affected by the provisions of State Environmental Planning Policy – Major Projects. In particular, the following excerpt from the SEPP is relevant:-

Schedule 2 Part 3A projects—specified sites

1 Coastal areas

(1) Development within the coastal zone for any of the following purposes:

(g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are:

(i) greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location, or

(ii) greater than 13 metres in height, in the case of buildings in other locations outside the metropolitan coastal zone,

Comment: The building exceeds 13m in height – as such the provisions apply.

1(A) Subclause (1) (f)–(k) does not apply to development that the Minister determines is of only local environmental planning significance.

Previously a request under Clause 6 of the Major Project SEPP was made to the Department of Planning to gain the Director General's Requirements was made. In response to this request and pursuant to section 75F of the EP&A Act 1979 the Department of Planning issued these requirements on the 28th of March, 2008, in consultation with the relevant government agencies including Tweed Shire Council.

The comments and concerns originating from the initial PEA review have been incorporated in to the proposed development plans, which have been amended in a manner consistent with the superior outcomes underpinning the initial comments.

1.3 The Site & its Surrounds

The subject site comprises a total of twelve (12) properties. The properties have the following descriptions use and areas.

Legal Description	Address	Area	Use
Lot 184 DP 259164	96 Hastings Road, Bogangar	365.70 m ²	Vacant
Lot 185 DP 259164	94 Hastings Road, Bogangar	365.70 m ²	Vacant
Lot 186 DP 259164	92 Hastings Road, Bogangar	365.70 m ²	Vacant
Lot 187 DP 259164	90 Hastings Road, Bogangar	365.70 m ²	Vacant
Lot 191 DP 259164	76 Hastings Road, Bogangar	335.40 m ²	Vacant
Lot 192 DP 259164	74 Hastings Road, Bogangar	335.40 m ²	Vacant
Lot 193 DP 259164	72 Hastings Road, Bogangar	335.40 m ²	Vacant
Lot 194 DP 259164	70 Hastings Road, Bogangar	335.40 m ²	Vacant
Lot 20 DP 31208	39 Tweed Coast Road	841 m ²	Motel and Cafe
Lot 21 DP 31208	41 Tweed Coast Road	613.16 m ²	Service Station
Lot 22 DP 31208	43 Tweed Coast Road	613.16 m ²	Service Station
Lot 23 DP 31208	45 Tweed Coast Road	613.16 m ²	News Agency
Total		5484.88 m²	

Appendix A – Title Searches

The property has extensive frontage to both Tweed Coast Road and Hastings Road.

Please refer to the locality plan below for identification of the site within the surrounding environs of Bogangar/ Cabarita Beach.

The subject property is located within the centre of the Bogangar Business District which fronts Tweed Coast Road and Hastings Road. The property is zoned 3(b) General Business and surrounding land to the north, south and east is similarly zoned. The existing built form consists of recently constructed three and four storey mixed use development (including the Beach Resort and the Breakwater Views Apartments and older one and two storey commercial buildings.



The land to the west of the site is zoned for residential purposes and now contains a residential development upon it including detached dwellings and a townhouse villa development on the western side of Hastings Road.

Appendix B – Zoning Plans

1.4 Supporting Information

The following supporting documents accompany this proposal: -

- Design Plans
- Engineering Detail
- Geotechnical Detail
- Landscape Detail
- Acoustic Detail
- Photo Plates
- SEPP No. 1 Objection

Section

2

Description of the Proposed Development

2.1 Demolition

Existing structures will need to be demolished in order to facilitate construction of the proposed development. In this regard a separate development application for the complete and lawful demolition of all existing structures on site will be lodged with Tweed Shire Council at the appropriate time.

Structures to be removed are the existing newsagency, the service station and associated workshops, and a three storey motel/ café. The demolition application will detail the method, timing and scale of demolition proposed, whilst also addressing relevant matters pertaining to the removal and disposal of asbestos related materials and other like toxic / dangerous goods.

The applicant would be amiable to a condition of consent requiring a separate consent for demolition, inclusive of submission of a detailed demolition management plan.

Appendix C – Site Plan

2.2 Proposed Development – General Summary

This application proposes the erection of a three/ four storey building comprising a total of a supermarket, kiosk, retail shops, and 23 residential units. The proposal comprises the following key elements as follows:

Design Element	Details
Number of Residential Units	40 x Residential Units 16 x 2 bedroom units and 24 x 1 bedroom units
Commercial Component	Supermarket – 2310m ² Retail Shops – 1060m ² Kiosk - 90m ²
Storeys	Generally 3 storeys facing Tweed Coast Road and Hastings Road, however four storey element through the centre of the property due to the topography of the site.
Site area	5484.88 m ²
Car Parking	204 spaces - 51 Resident Spaces - 153 Customer Spaces plus Loading Bays and bicycle parking

Appendix D – Development Plans

Appendix V – Signage Plans

This integrated proposal incorporates a number of design features so as to assist in breaking up and articulating development on the site. In this regard the building possesses its own architectural character and appeal which responds well to the site having regard to its prominent position on Tweed Coast Road.

The proposed development fronts Tweed Coast Road as a three storey building then steps down with the topography of the land to maintain consistency with the intent of Council's height limits. It is acknowledged that part of the building is four storeys and a variation under State Environmental Planning Policy No.1 accompanies the application. These elements are discussed in greater detail under the heading of 'Statutory Assessment'.

The proposal represents a contemporary and streamlined addition to an existing commercial business area currently in a state of transition. The proposal incorporates a number of design features so as to assist in breaking up and articulating development on the site. In this regard the building also possesses its own architectural character and appeal which responds well to other buildings in the surrounding area while setting a new bench mark for architectural design and finish in the area.

The proposed development incorporates a maximum of four storeys with elements of the building demonstrating a maximum height of 20.3m AHD (Tweed Coast Road frontage) and 20.17m AHD (central portions).

As the proposal requiring variation to the three storey height limit a variation to the development standard by way of SEPP 1 Objection is required.

The proposed development is generally consistent with Council's relevant requirements. These elements are discussed in greater detail under the heading of 'Statutory Framework'. Following is a detailed break down of the proposal elements for Councils consideration.

2.3 Development Options

The principles of ecological sustainable development require a best use approach for the site. To carry out this assessment the following alternatives were examined.

- Not proceeding and continuing the current use of the land;
- Retail and commercial development only;
- Residential development only;
- Entertainment/ Recreation Development.

The advantages and disadvantages of these alternatives are summarised in the table below.

Alternatives	Advantages	Disadvantages
Not Proceeding - The Do Nothing Option	No cost in carrying out the development;	The site would remain undeveloped and underutilised. Lost opportunity to develop a commercial site which has good exposure to passing traffic which would assist in the ongoing upgrading and enhancement of the Cabarita CBD. Loss of employment opportunities for local residents; Loss of Income for the property owners;

		Visually the area would remain somewhat unattractive with the existing buildings aged and dated, whilst the service station and mechanics workshop detracts from the generally locality and is a hazard to pedestrian traffic using the footpath.
Retail and commercial development Only	The creation of a larger retail and commercial node would provide greater range of retail shops and commercial services for local residents; Greater competition between Shopping Centres along the Tweed Coast	Such a development would lead to an oversupply of commercial floor space in this area of the Tweed Coast. An underutilised building would appear as a “white elephant” and could lead to a negative view of the Cabarita Beach CBD and fail to invigorate the locality.
Residential development Only	Short term windfall for the landowner; Will provide additional housing stock and variety within the Cabarita Beach area.	Proposal would require the land to be rezoned for residential purposes and may not be supported by Council having regard to the strategic planning carried out to date; Loss of opportunity to provide additional life and vitality into Cabarita CBD; Underutilisation of a key commercial site within the Cabarita CBD. Fails to provide a vehicle for long term employment and income generation.
Entertainment/ Recreational Facility Pub/ cinemas etc	Would provide additional facilities for recreational purposes in Cabarita and remove need to travel to Tweed Heads Coolangatta.	A Hotel would compete directly with the recently re-opened hotel at the Beach Resort and the Bowls Club which are established facilities. The demand for another hotel in Cabarita probably doesn't exist, and NSW licensing may be loath to create another venue for drinking and gambling in close proximity to existing facilities. In recent times Cinemas to be successful generally need to contain a number of theatres showing a range of movies at varying times and located with a large population base. It is considered such a facility would not be viable in Cabarita and struggle to compete with the established Cinema complexes at Tweed Heads and Tweed Heads South.

In summary it is concluded that the alternatives are not feasible, and that the proposal can occur with identified impacts being suitably mitigated and managed.

2.4 Environmental Impacts

- **Community Networks**

The redevelopment of this site will strengthen and add further vitality to a site which is predominantly under developed at present and will assist in improving the quality and quantity of facilities for social interaction in Bogangar and Cabarita Beach. The proposal will serve as an attraction for both local residents and visitors to the areas and the general amenity will be improved as a result of the redevelopment of the site. The development will provide active shop fronts to the street and improved streetscaping to Tweed Coast Road.

- **Public Realm**

The site and the buildings upon it are not listed as items or properties of European heritage or Aboriginal significance. The mixed use development will result in a further upgrade of Tweed Coast Road by way of new foot paving, public seating and general landscaping. Having regards to the size of the property, the proposal is not considered to be an overdevelopment of the site. Also having regard to the sites location within the centre of Cabarita CBD, and the provision of a major supermarket, it is expected public support for the proposal will be positive.

- **Housing**

The proposal will add an additional 40 residential dwellings to the available housing stock in Bogangar. The designs of these units are varied and will suit a range of housing needs. In terms of the sites location, the units will be priced to attract a range of buyers whilst also providing opportunity for long term rental accommodation due to the residential zoning. However in terms of residential activity elsewhere along the Tweed Coast it is unlikely the proposal will have a noticeable impact on average house prices or rents across the Tweed Coast or in Cabarita/Bogangar.

- **Human Services**

The proposal will not change the supply of community support, welfare or health services in the region. The residential component is for standard housing units as opposed to Seniors Living development, however potential exists for a slight increase in demand for these services from the development depending upon the future owners and residents of the development. It is anticipated that Council will levy Section 94 Contributions for community facilities including, libraries, surf lifesaving facilities, parks and gardens, cemeteries, roads and cycle ways. Such funding will assist in the provision of such services by Tweed Shire Council within the locality.

- **Pedestrian Access**

The proposal will see all vehicle access to the site provided from Hastings Road which will make the Tweed Coast Road frontage a friendlier safer place for pedestrians and enable the business houses along the street frontage to engage with the public. This includes customers and window shoppers alike. The development will also facilitate disabled access and the proposal will be designed and constructed to comply with Council's requirements. The development is unlikely to have any substantial impact on public transport services in the area, however the increase in population may lead to greater demand and usage of the existing bus services provided by Surfside buses.

The development also provides a pedestrian linkage through the site from Hastings Road to Tweed Coast Road enabling residents to the west of the site to walk through the site facilitating improved access to Pandanus Parade and down to Cabarita Beach.

2.5 Vehicle Access, Parking & Manoeuvrability

Vehicular access will be provided to the car parking areas from Hastings Road. Parking will be provided across the development at two levels, and a total of 204 spaces are to be provided across the site to service the development. All parking spaces will be easily accessible and no problems are anticipated in respect to vehicle circulation. The car park is also designed to accommodate a loading bay, whilst a secure area is also nominated on the plans for bike parking.

Further comment in this regard is provided under the heading of DCP 2007 Section A2.

An area has been set aside at the rear of the building for the location of refuse bins on collection day. Confirmation from Solo Waste is currently being sought as to the suitability of the design and will be forwarded to Council accordingly.

Importantly, issues relating to ensuring compliance with the relevant provisions of Clause 38 of the Tweed LEP 2000. In this regard access arrangements have now been structured such that access will be preserved to the rear of those allotments to the north of the site (via access through the Hastings Road Car Park and to the south of the site in a manner consistent with that existing.

Further detail in this regard is provided within the Engineering assessment undertaken by Opus Engineering.

2.4 Landscaping / Open Space Provision

A detailed Statement of Landscape Intent is attached for Council's review.

It is noted that Council is in the process of formulating a landscape masterplan for Tweed Coast Road. It is understood that should the proposed landscape plan attached to this application differ from Council's design intents, an integration of Council's preferred materials and design elements will be incorporated and the current landscape design updated. Notwithstanding, the landscaping assists in integrating the development with the established urban environment.

Whilst the implication of Councils landscape masterplan will be undertaken progressively the proposed landscaping of this development will be undertaken at the time of construction in accordance with development conditions. Accordingly, this will not be a staged development, as the landscaping component is a critical element of overall function of the centre.

The current proposal improves the amenity of the public domain and seeks consent for awnings, and new paving and streetscaping within the road reserve. It is submitted these elements integrate well with the built form of the proposal and the topography of the site, whilst neither hindering public access past the site, or into the commercial tenancies facing the street. It is noted the proposed kiosk tenancy is carefully sited within the centre of the development to encourage activity within the central forecourt facing Tweed Coast Road. A translucent roof above this forecourt and kiosk area will provide natural light adding further to the ambience of this central forecourt area and encourage its utilisation customers and the public in general as a place to congregate, meet and socialise.

Planter boxes are proposed throughout the development to provide separation and privacy between the residential units. A 3mtr band of landscaping also sits upon the roof of the supermarket providing a green buffer for the units facing Hastings Road.

Appendix E – Landscaping Plans

2.5 Residential Units

The residential component comprises 16 x 2 bedroom units and 24 x 1 bedroom units. There are three (3) different unit types, primarily varying in a manner consistent with the aspect that they are able to achieve (note that units possess both an east and west orientation)

The units will be well appointed with modern finishes, textures and appliances. The residential component has also been designed to ensure compliance with Council's energy efficiency requirements and incorporate sustainable features such as water efficient tap ware and shower roses, low wattage lighting, roof and wall insulation and energy efficient hot water systems.

Section

3

The Site & its Surrounds

3.1 Property Description

The following table identifies the allotments the subject to this application and the total site area:-

Legal Description	Address	Area
Lot 184 DP 259164	96 Hastings Road, Bogangar	365.70 m ²
Lot 185 DP 259164	94 Hastings Road, Bogangar	365.70 m ²
Lot 186 DP 259164	92 Hastings Road, Bogangar	365.70 m ²
Lot 187 DP 259164	90 Hastings Road, Bogangar	365.70 m ²
Lot 191 DP 259164	76 Hastings Road, Bogangar	335.40 m ²
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Lot 193 DP 259164	72 Hastings Road, Bogangar	335.40 m ²
Lot 194 DP 259164	70 Hastings Road, Bogangar	335.40 m ²
Lot 20 DP 31208	39 Tweed Coast Road	841 m ²
Lot 21 DP 31208	41 Tweed Coast Road	613.16 m ²
Lot 22 DP 31208	43 Tweed Coast Road	613.16 m ²
Lot 23 DP 31208	45 Tweed Coast Road	613.16 m ²
Total		5484.88 m²

Detailed survey of the site is provided within the attached plans.

The site contains vacant and developed lots alike however little vegetation exists across the site other than grass and scattered trees. The existing motel, service station and newsagency will be demolished accordingly subject to a separate consent.

The site possesses frontage to Tweed Coast Road of 66.476 metres and a further split frontage to Hastings Road of 80 metres (40 + 40).

Appendix F – Survey Plan

3.2 Surrounding Area

The subject site is within the centre of the Cabarita central business district. The locality is undergoing a gradual transformation with recent developments including, The Beach Hotel and Resort, the Cabarita Surf Life Saving Club and a recently constructed mixed use development to the south of the site comprising retail shops and offices, café and residential units. Approval has also been issued for a mixed use development on the corner of Tweed Coast Road and Rosewood Avenue to the north of the site.

Development within the CBD is characterised by a range of commercial and retail activities including cafés, surf shop, doctors and dental surgeries, bakeries, a credit union chemist, real estate agents, fruit and vegetable shop, butcher and clothing outlets. Adjoining properties in Hastings Road are utilised for a range of activities including a real estate agent, solicitor's office, laundrette, computer and TV Repairs, Child Care Centre and security and blind business with upper level residential units.

With the continued interest in the Tweed Coast by the development sector, it is anticipated that the commercial precinct will continue to be redeveloped consistent with Council's requirements.

3.3 Surrounding land use zonings

The subject site is zoned 3(b) General Business pursuant to the Tweed Local Environmental Plan 2000. The properties to the immediate north, south and east are zoned 3(b) General Business.



Land to the west of the site is zoned 2(c) Urban Expansion and has been developed for residential purposes of varying densities.

3.4 Services

Water

Existing water services are within Tweed Coast Road. No capacity constraints are evident in this regard.

Stormwater

Stormwater services are currently available. Appropriate facilities will be constructed in accord with the requirements of Tweed Shire Council – Construction Specification D7.

Sewer

The site is adequately serviced by sewer. In this regard existing lines are located within Hastings Road and Tweed Coast Road. A sewer line traversing the site is also to be relocated in accordance with Council's requirements. A Sewer Diversion Plan has been prepared by Opus and is attached for Council's consideration.

Section

4

Statutory Framework

4.1 Director –Generals Environmental Assessment Requirements

Director General's Requirements		Relevant Section of this Report
Key Issues	The Environmental Assessment (EA) must address the following key issues:	
	1 Strategic Planning Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies. Demonstrate consistency with the Sustainability Criteria set out in the relevant Regional Strategy (including draft Regional Strategies).	Section 4 Section 4
	2 Socio-Economic Impacts Provide a social impact assessment for the proposal in the context of the surrounding locality considering and addressing the outcomes and principles identified in the 2005 <i>Tweed Retail Strategy</i> . Provide an economic impact assessment of the proposed development, including justification for the additional retail floor space and its effect on the Cabarita/Bogangar area.	4.8.5 4.9.6 Appendix M 4.8.5 Appendix L
	3 Urban Design, Visual Impact and Sustainability Address the design quality with specific consideration of the façade, massing, setbacks, proportions to openings, building articulation, and amenity (including amenity impacts for adjoining and surrounding development). Address impacts in relation to privacy, views and overshadowing and relevant mitigation measures, including overshadowing of adjoining and surrounding development and of adjacent open space/coastal reserve. Demonstrate the sustainability of the proposal with the surrounding area in relation to bulk, scale, amenity (including noise) and visual amenity having regard to the <i>Coastal Design Guidelines of NSW (2003)</i> and the <i>NSW Coastal Policy 1997</i> . Demonstrate compliance with SEPP 65 and BASIX. An indicative external materials and finishes schedule is to be submitted. Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address	4.8.6 DB19.15 4.5 4.8 Appendix D Appendix D Appendix J Appendix I 4.4.4 4.8.4 Submitted D 4.8.1 4.8.6

Director General's Requirements	Relevant Section of this Report
impacts on the amenity of the foreshore. Use visual aids such as scale model and photomontage to demonstrate visual impacts. Amelioration of visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed.	Clause 8(d),(e) Clause 81 Appendix D
4 Infrastructure Provision Address existing capacity and requirements of the development for sewerage, water electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works. Address and provide the likely scope of a planning agreement and/or developer contributions with Council/Government agencies. Provide details on proposed waste collection areas.	3.4 Clause 15 Appendix R 4.9.7 Section 5
5 Traffic and Access Prepare a traffic impact study in accordance with Table 2.1 of the RTA's Guide to Traffic Generating Developments which addresses, but is not limited to the following matters: ▪ The capacity of the road network to safely and efficiently cater for the additional traffic generated; ▪ Access to and within the site; ▪ Servicing and parking arrangements; ▪ Intersection site distances; ▪ Connectivity to existing developments; ▪ Impact on public transport (including school bus routes); ▪ Provision of access for pedestrians and cyclists to, through and within the site; ▪ Identify suitable mitigation measures, if required, to ensure the efficient functioning of the road network; and ▪ Provision of suitable access for garbage collection vehicles. Protect existing public access to and along the beach and coastal foreshore and provide, where appropriate, new opportunities for controlled public access. Consider access for the disabled, where appropriate.	Appendix O 2.3 Clause 8(b),(c) Clause 14 Clause 81
6 Hazard Management and Mitigation <i>Coastal Processes</i> Address coastal hazards and the provisions of the Coastline Management Manual. In particular, consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms. <i>Contamination</i> Identify any contamination on site and appropriate mitigation measures in	Clause 8(j) Clause 33 4.8.3 Clause 39

Director General's Requirements	Relevant Section of this Report
accordance with the provisions of SEPP 55 – Remediation of Land. <i>Acid Sulfate Soils</i> Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures. <i>Bushfire</i> Address the requirements of Planning for Bush Fire Protection 2006 (RFS). <i>Geotechnical</i> Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations. <i>Flooding</i> Provide an assessment of any flood risk on site in consideration of any relevant provisions of the NSW Floodplain Development Manual (2005) including the potential effects of climate change, including sea level rise and increasing in rainfall intensity. Consider the potential impacts of any filling on the flood regime of the site and adjacent lands.	Clause 35 4.9.2 Appendix M,N 4.8.3 Appendix Q 4.8.3 Appendix Q
7 Water Cycle Management Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban design principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sedimentation controls at construction and operational stages.	Appendix R
8 Heritage and Archaeology Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance (Aboriginal community consultation should be undertaken in accordance with DEC's <i>Interim Community Consultation Requirements for Applicants</i>). Identify any items of European heritage significance and, where relevant, provide measures for the conservation of such items. Address impacts on World Heritage areas, places listed on the National Heritage List and protected under the EPBC Act.	Clause 8(l),(n) Not Applicable Not Applicable
9 Flora and Fauna Outline potential impacts on aquatic and terrestrial flora and fauna and their habitats (within the meaning of the <i>Threatened Species Conservation Act 1995</i> and the <i>Fisheries Management Act 1994</i>). Provide measures for their conservation, where relevant. Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land. Address measures to protect and manage the riparian corridor and adjacent aquatic habitats. Address impacts on migratory species, RAMSAR wetlands and species listed	Clause 8(g),(h) Clause 8(i) Clause 8(h),(j),(m) Not applicable

Appendix G – Request for Provision of Details of Key Issues

The Environmental Planning and Assessment Act 1979 is the overriding legislation which governs development within NSW. Under the Act various State, Regional and Local Environmental Planning Instruments apply to the site and the development specifically. This includes SEPP No.1 – Development Standards, SEPP 71 – Development on Coastal Lands, SEPP Major Projects, North Coast REP 1988 and Tweed LEP 2000.

The Act and the various planning instruments stipulate who the consent authority is for various types of developments.

This application requires approval pursuant to Part III of the Environmental Planning & Assessment Act, 1979. Accordingly, the matters under Part IV and V do not apply. The Minister

is identified as the consent authority as the proposal is affected by the provisions of **State Environmental Planning Policy – Major Projects**. In particular, Clause 6 identifies development that is considered as a major project and references types of development under Schedule 2 of the SEPP which apply in this instance. The following excerpt from the SEPP is relevant and comments are provided as to why the development is caught by the schedule:-

Schedule 2	Part 3A projects—specified sites
1 Coastal areas	
(1) Development within the coastal zone for any of the following purposes:	
(a) extractive industries, (b) landfill facilities, (c) mining that is designated development and that is wholly or partly in a sensitive coastal location, (d) marinas that are designated development and that are wholly or partly in a sensitive coastal location, (e) the following types of industries (other than mining or extractive industries) but only if they are: (i) designated development, and (ii) in the case of the metropolitan coastal zone—wholly or partly in a sensitive coastal location: - agricultural produce industries, bitumen pre-mix industries, breweries or distilleries, cement works, ceramic or glass industries, chemical industries or works, chemical storage facilities, composting facilities or works, contaminated soil treatment works, crushing, grinding or separating works, drum or container reconditioning works, electricity generating stations, livestock intensive industries, livestock processing industries, mineral processing or metallurgical works, paper, pulp or pulp products industries, petroleum works, wood or timber milling or processing works, or wood preservation works, (f) recreational or tourist facilities (other than internal refits of, or minor alterations or minor additions to, existing facilities): (i) in the case of facilities wholly or partly in a sensitive coastal location outside the metropolitan coastal zone—that provide accommodation (or additional accommodation) for any number of persons, or (ii) in the case of facilities wholly or partly in a sensitive coastal location in the metropolitan coastal zone—that provide accommodation (or additional accommodation) for 100 persons or more, or (iii) in the case of facilities outside a sensitive coastal location that are not connected to an approved sewerage treatment work or system—that provide accommodation (or additional accommodation) for 25 persons or more, (g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are: (i) greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location, or (ii) greater than 13 metres in height, in the case of buildings in other locations outside the metropolitan coastal zone,	
Comment: <i>The building exceeds 13m in height – as such the provisions apply. Council also nominates the western portion of the property to Hastings Road as being within a sensitive coastal location. This relates to a stormwater canal further to the west and surrounded by residential housing within the Friday Island Residential Estate. On review of the definition of a sensitive coastal location under the SEPP, it is submitted the land surrounding this canal is incorrectly identified by Council. The site is also more than 100 metres from the tidal waters of the Pacific Ocean and Cabarita Beach to the east, and that part of the development site which has frontage to Tweed Coast Road is not identified as a sensitive coastal location by Council.</i>	
h) Subdivision of land that is wholly or partly in a sensitive coastal location and that will lead to development that is not connected to an approved sewage treatment work or system: (i) into more than two lots, or (ii) into 2 lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 2 lots, (i) Subdivision of land that is outside a sensitive coastal location and that will lead to development that is not connected to an approved sewage treatment work or system: (i) into more than five lots, or	

- (ii) into five lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 5 lots,
 - (j) Subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location):
 - (i) into more than 25 lots, or
 - (ii) into 25 lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 25 lots,
 - (k) Subdivision for rural-residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location):
 - (i) into more than 5 lots, or
 - (ii) into 5 or fewer lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 5 lots,
- 1(A) Subclause (1) (f)–(k) does not apply to development that the Minister determines is of only local environmental planning significance.

The purpose of this report is to satisfy the provisions of Clause 6 of the SEPP in seeking the Director General's requirements.

4.2 Draft Statement of Commitments

General

- The proposed development will be carried out generally in accordance with the plans provided with the Environment Assessment Report and accompanying Appendices. All building works is to be carried out in accord with the BCA and Workcover requirements.
- All building works will be monitored by the design architect in accord with the requirements of SEPP 65.
- Prior to the issue of a Construction Certificate, all general commitments, and all specific commitments relating to the Construction Certificate will complied with.
- A copy of the Minister's approval in accordance with Section 75J91) of the Act, a copy of the Statement of Commitments, and relevant Construction Certificates, including associated approved plans, will be kept on site at all times during construction.

Construction

Demolition

- During demolition environmental impacts will be minimised in particular noise, dust and vibration. All demolition materials will sort and stockpiled on site. All suitable material will be recycled and wasted will be disposed of in accordance with a Site Management Plan.

Contamination

- During excavation soil and groundwater samples will be taken to ensure that disposal of soils can be to the appropriate land fill. De-watering and decontamination of the site will be undertaken with a Remediation Action Plan to be formulated prior and approved to the removal of any materials or groundwater from the site.

Acid Sulphate Soil

- During construction the disturbance of acid sulphate soils will be minimised. Monitoring, testing and reporting of the excavation works will be undertaken by an approved accredited expert.

Construction of the Development

- All conditions of consent will be adhered to at all times
- Detailed construction management and geotechnical assessments will be undertaken within the detailed design phase, with all recommendations being adhered to within the construction process.
- **Minimise noise by limiting work hours to the approved timeframe and in accordance with the Construction Management Plan.**
- All acoustic and traffic management measures will be maintained at all times in accordance with the Construction Management Plan.
- **Limit dust by covering exposed areas of soil with a building fabric or other material specified in accordance with the Environmental Action Plan.** All construction works will be complimented by best practice site control (sediment and erosion control measures).
- **Ensure that vibrations caused by drilling activity are monitored closely to ensure that they do not exceed the levels outlined in the Construction Management plans.**
- **Ensure that the site is safe. The principal contractor shall prepare a Health and Safety Plan for the site in accordance with the relevant Codes and Legalisation.**
- All adjoining owners will be notified of works commencing and advised of a contact person to liaise with during construction process.
- **Limit impacts to the amenity of adjoining site by following a construction Management Plan. Ensure that adjoining properties are kept well informed with the construction program so that they are informed and any complaints can be addressed.**
- **Comply with the Building Code of Australia including Section J by ensuring that design elements identified as part of the energy and water efficiencies are implemented into the construction details.**
- Public access will remain available at all times through the rear car park for properties to the north.

Landscaping

- **Can out the landscaping of Tweed Coast Road and Hastings Road in accordance with the Approved Landscaping Plans.**

Signage

- **Integrate signage in accordance with approved signage plans. Ensure that all direction signage and any speciality signage is installed prior to trade commencing.**

Appendix S – Construction Noise Report

Appendix U - Draft Construction Management Report

4.3 Integrated Development – Division 5 of the EP&A Act, 1979

This development proposal seeks approval under the Water Management Act 2000 to dewater the site during the construction phase of the development pursuant to Section 91(1) of the Act.

Details of same are attached for review.

4.4 State Environmental Planning Policies

4.4.1 State Environmental Planning Policy No.1 – Development Standards

The proposed development seeks a variation to the three storey height limit under Tweed LEP 2000. A SEPP No.1 Objection accompanies the development Application and is attached to this report.

4.4.2 State Environmental Planning Policy (Infrastructure)

The proposed development is listed under the SEPP as a traffic generating development. The provisions of the SEPP apply in this particular instance and the development will need to be referred to the RTA for comment. A traffic assessment has been prepared by Opus for consideration.

4.4.3 State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development

The development incorporates forty residential units and as such the provisions of the SEPP apply. The proposal is considered to be consistent with the design principles underpinning this policy with the plans prepared by a registered architect as required under the SEPP. The following comments are provided for Council's consideration:

Design Principles 1 - Context

An informal site analysis has been completed with consideration for the opportunities and constraints afforded by environmental features, ie. location of the site, proximity to the Beach and the Tweed coast, lifestyle facilities and amenities in the immediate area. The proposed design responds to a number of key features of the site as follows:

- (a) Situated within the heart of the Cabarita Beach CBD.
- (b) Proximity to services, recreational opportunities, shops, bars and restaurants.
- (c) Promotion of the emerging architectural aesthetic and amenity of a redeveloping area (ie the Tweed Coast);
- (d) Proximity to Cabarita Beach, the surf club and patrolled areas and the site aspect towards the Pacific Ocean in general.
- (e) Site is not affected by natural hazards such as flooding, bushfire, landslip or coastal erosion.
- (f) Potential for view loss from residents to the west is nil due to topography of the land and height of Tweed Coast Road compared to Hastings Road.

The Tweed Coast and in particular Bogangar/ Cabarita Beach is undergoing a period of transition with numerous development approved and constructed in recent years in the general locality. This includes the adjacent three/ four storey mixed use development to the south and the Beach Resort on the opposite side of Tweed Coast Road. In this context the proposal is consistent with the built form and the desired character of the area.

Design Principle 2 - Scale

The proposed development has been designed in accordance with the provisions of the relevant planning controls, with variation only requested, where on merits, it can be justified.

The scale of the proposal, whilst not insignificant, has been articulated and minimised via the provision of a number of differing elements, each of which possess an independent design and scale.

The scale is consistent with future development in the precinct, and the breaking up of the building in to independent vertical and horizontal components enable the building to present to both Tweed Coast Road and Hastings Road in a form which does not dominate the streetscape.

Design Principle 3 – Built Form

The proposed built form incorporates significant horizontal and vertical stepping within the proposed structure. The latter facilitates both an interesting and varied aesthetic, whilst also ensuring that residents on the site have the feeling of living within their own individual complex.

The proposed design encourages active street frontages and pedestrian / resident interaction through the extension of specialty shops and the through site “shopfront” at the ground floor, the provision of balconies on all residential units, and the through site pedestrian connectivity between Hastings Road and Tweed Coast Road.

Design Principle 4 – Density

The proposed development encourages and assists in the revitalisation of this area of the Tweed Coast which has been slowly developing over the years. In this regard the density proposed raises no issues in relation to car parking, road or service capacity and having regards to its location in proximity to all necessary services and facilities in no way corresponds to an overdevelopment of the site.

Design Principle 5 – Environmental Issues

The proposal has evolved through a recognition and commitment to sustainability and the need to minimise environmental impacts.

The credentials of the proposal in this regard, are demonstrated within the attached Basix and BURs documentation and the simple design basics (such as orientation) exhibited within the attached plans.

Design Principle 6 – Landscaping

The attached plans feature significant landscape detail in accord with the desired future character of the area.

The landscaping has been designed such that it acts so as to soften the buildings at ground level and integrates the proposal into the adjacent street. The attached plans also demonstrate the level of landscape detail proposed at the podium and terrace levels, with all residents ultimately enjoying the ability to find their own space within the common recreation area.

The selection of plants, materials and colours emphasise the coastal environmental within which it is located. Local species have also been selected to minimize the use of watering requirements.

Design Principle 7 – Amenity

Each of the apartments has been designed so as to maximise available sunlight, space and ventilation. In this regard, each dwelling opens out onto sufficient open space balcony areas consistent with Council's requirements.

All apartments have been designed and positioned to ensure visual and acoustic privacy for the residents.

Public areas are landscaped and open with access to sunlight and shade as required.

Design Principle 8 – Safety and Security

The building and landscape design will adopt CPTED (Crime Prevention through Environmental Design) principles to provide the following:

- Facilitates passive overlooking of all areas due the orientation of each residential building;
- Residential component of the development is linked via a glassed walkway which frames the rear of the public courtyard providing passive surveillance to the areas below;
- Separate secure residence carparking is provided with the use of a security tag system allowing the only means of access to the basement and residential carpark;
- A separate secure residential passenger lift provides direct access to the residential carpark. Access to the passenger lift will be via a security tag system;
- Onsite management can provide 24hour monitoring of activities within the centre and forecourt;
- Opportunity exists to close off the forecourt after trading has finished for the major tenant. After hours restaurant trading in the specialty shops facing Tweed Coast Road will also create activity limiting the opportunity vandalism and safety issues;
- Removal of crime hot spots, such as narrow alleys, hiding nooks and predator havens has been achieved by closing off the main pedestrian access after hours and innovative design;
- All street frontages are active and have been designed such that the are not merely afterthoughts, but a genuine extension of the retail and residential facilities;
- The development ensures unhindered and easy access is available for able body and disabled persons respectively by creating at grade access to the retail and residential component of the development, direct access from all parking levels to either the residential or retail areas;
- Provide secure parking within the basement area and the provision of appropriate lighting facilities relative to same;
- Provide after hours lighting to public spaces and accessibility to management

The proposed development is considered to be satisfactory in this regard.

Design Principle 9 – Social Dimensions

The proposed development is a significant addition to the Cabarita Beach CBD and will add considerably to the vitality and vigour of the locality. Opportunities to provide significant social benefits within an established business zone exists with residents able to live and access a range of services, facilities and amenities without the need of a motor vehicle. The proposal addresses the public domain and aims to implement a positive addition to the streetscape.

The proposal will also ultimately assist in the provision of significant employment and service opportunities, whilst also providing for a general shift in character that will promote investment within the locality.

In conclusion, the proposed development satisfactorily considers and promotes the social dimensions of the locality and the proposal specifically.

Design Principle 10 – Aesthetics

The proposed building has been designed and sited so as to address the adjacent streetscape, without detracting from the internal aesthetic afforded by the siting of the proposed common recreation area and adjacent buildings.

In this regard, the proposed structure has been designed such that it promotes a high level of visual interest and appeal. The proposed building incorporates differing facade treatments through the use of various materials, textures and colours.

Further details in this regard are provided within the attached SEPP 65 analysis by the Architect.

Appendix H – Statement of Design Verification

The following table of compliance/non-compliance is included for review.

4.4.4 SEPP 65 – Table of Compliance

SEPP 65 STANDARD	RULE OF THUMB/ CONTROL TEST	% of NUMBER OF UNITS - 40	COMPLIANCE/NON COMPLIANCE	DESIGN SOLUTION
LOCAL CONTEXT				
Building Height				
Building Depth	Unit depth of 10m – 18m	95%	Non-Compliance 2 units are 21m due to the location of the lift shaft	Natural light & ventilation is provided directly into the main living area through large bi-fold doors and windows into the bedrooms
Building Separation	Up to 4 storeys/12m between non-habitable rooms	100%	Compliance All units non habitable areas lead from the balconies	N/A
Building Setbacks	No part of the building may encroach into a setback zone accept balconies	60%	Non-Compliance The balconies of 24 units are situated within setback zone	The balconies facing Tweed Coast Road are staged within the setback zone.
Floor Space Ratio	Determine FSR against 80%	NA	Compliance Floor Space Ratio – 74%	
SITE DESIGN				
Deep Soil Zones	A minimum of 25% of open space area – at least to deep of 1.3m	NA	Non- Compliance 20% of the site is dedicated to deep soli planting	The majority of the site is covered with retail which is the focus of the development. Further landscaping will be provided as part of Councils works.
Open Space	25% - 30% of the	NA	Non-Compliance	The area of open space is

	site		19% of the site area is dedicated as open space	provided as an open forecourt with high level roofing. It is provided as a place for the public to meet.
Planting on Structures	Minimum Standards for soil depths vary depending on the size of the plants	NA	Compliance 43% of the area of roof is covered by plants of varying sizes – from ground cover to trees of varying heights	See attached landscape plans
Safety	Carry a formal Crime Assessment – apply CPTED Principles	NA	Compliance Principles of surveillance, access control, territorial Reinforcement & space management have been applied to the design of the buildings taking into consideration site constraints	<u>Surveillance</u> Clear sight lines are available into forecourt for the street and from residential walkway at the rear of the forecourt. Lighting in carparks, forecourt area & residential connections will controlled <u>Access Control</u> Security gates closing access to the forecourt, pedestrian link and carpark. The lift system can be locked off after hours. <u>Territorial Reinforcement</u> The forecourt is designed as meeting place which does not currently exist. Al Fresco dining will also provide activity to the centre after normal trading hours. <u>Space Management</u> An onsite manager will ensure that the centre and car parks are approximately maintained
Visual Privacy	Building Separation	100%	Compliance All units non habitable areas lead from the balconies	Balconies are screened and do not over look other balcony areas. Private areas are screened and landscaped to ensure privacy.
Pedestrian Access	20% of the units require barrier free access	100%	Compliance All units have accessibility to street & common areas	All occupants of the units have a dedicated lift and at grade lobby access from Tweed Coast Road.
Vehicle Access	Minimum of 6m driveway & car parking accessible from secondary frontages	100%	Compliance Car park driveway is 6.5m, separate vehicle access has been created for the residential car park	Separate secure vehicle access has been created for the occupants of the units. Each unit has car & bicycle accommodation leading directly into private secure lift access.
BUILDING DESIGN				
Apartment Layout	Single aspect units maximum in	100%	Compliance Whilst all units are	The layout of the units incorporates living areas

	depth to window 8m & units with a cross through of more than 15m should have a depth of 4m		21mt in length including balconies the minimum with is greater than 4.5m	flowing onto private balcony spaces, spaces are flexible with some partitions movable allowing for larger living areas.
Balconies	Minimum depth of 2m	100%	Compliance All balconies are in access of 3m	All balconies are between 3.1m to 3.6m in depth are have bi-fold doors allowing full utilisation of the space.
Ceiling Heights	2.7m in habitable rooms; 2.4m non-habitable rooms	100%	Compliance All units have a ceiling height of 2.7m	Units on level 1 also have raked ceilings allowing extra light & ventilation
Internal Circulation	Limit double loaded corridors to 8 units	30%	Non-Compliance Due to the site configuration 16 units exit from a single corridor.	The double loaded corridor has a translucent roof allowing light into the corridor on Level 2. Unit entrances are staggered from the corridor and have a separation of 7m.
Storage	1 bedroom units - 6m ³ , 2 bedroom units - 8m ³	100%	Compliance All 1 bed units have in access of the minimum requirements at 7.2m ³ 2 bed units have 7.8m ³ which is just below the minimum	Storage is included within the unit and on the balcony A further 1.62m ³ of space which is identified as desk space has not been included in the calculation of storage space for the 2 bedroom units.
Daylight Access	70% of units of the units receive 3hrs mid winter	60%	Non-Compliance Balconies facing SE will receive at least 2hrs of sun during winter. Clear balustrading will also allow a greater degree of sunlight.	Light wells provide a 4sqm void into Level 1 units. 2.7m height sliding doors provide light into the living and bedroom. High level windows in the bedroom on Level 2 ensure privacy to the light void whilst raked ceiling with louvers allow further light & ventilation. Design elements provide acceptable solutions.
Orientation	10% of units South West - South West Units	40%	Non-Compliance Due to site constraints 16 of the 40 units face SW.	Design elements such as external shutters provide shading from external weather conditions whilst full height bi-fold doors provide maximum exposure to sunlight. A large landscaped area also provides a green buffer.
Natural Ventilation	Building depth 10m - 18m, 60% of units should be cross ventilate	100%	Compliance Building depth is 18mt with separation between buildings with open space of 8mts. Level 2 units have raked ceilings providing high level ventilation.	All units have louvers above bi-fold doors allowing ventilation even during unfavourable weather conditions

4.4.5 State Environmental Planning Policy No.71 – Coastal Protection

The subject site is within the coastal zone (as per the NSW Government Coastal Policy 1997) and as a result the provisions of State Environmental Planning Policy No.71 apply to the site. The property however is not within a sensitive location to the Tweed Coast and more than 100 metres landward of the Pacific Ocean. Council does however nominate part of the site on Hastings Road as being within 100 metres of Stormwater Canal fronting the Friday Island residential development to the west of the site.

The proposal will have no impact upon this canal or its ability to operate as a means of discharging stormwater into Cabarita Lake to the north of Bogangar. The application will need to be forwarded to the Department of Planning for comment under the SEPP. The Consent Authority must consider the matters listed under Clause 8 of the SEPP for consideration. The following comments are made in this regard.

Clause 8 Matters for consideration

(a) the aims of this Policy set out in clause 2,

The proposed development is considered to be consistent with the aims of the policy as set out in clause 2 of the Policy.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

The proposed development will in no way alter or restrict the public's access to the foreshore reserve areas adjacent to the Pacific Ocean. The proposal will however provide an alternative pedestrian path for the residents of Bogangar who live on the western side of the development, enabling them access through the property during business hours, and onto Pandanus Parade and down to Cabarita Beach.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Although the site is spatially separated from the beach and foreshore reserve areas, the development will provide opportunities to improve pedestrian access between the residential areas of Bogangar to the west of the site down to Cabarita Beach. The proposal will also provide improved access for the disabled with a lift able to move pedestrians from the lower ground level up to the Tweed Coast Road level. Embellishments are also proposed to the general footpath areas in the immediate vicinity of the site including new paving and streetscaping in front of the development site. It is considered the development will improve public access

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

The proposed development is sited and designed in general accord with the relevant Council controls and is considered unlikely to create any form of adverse imposition upon the immediate area in terms of size, scale or usage. The design of the development is contemporary in nature incorporating a variety of elements consistent with current design trends for the Tweed Coast Area. For further detail in this regard see the attached architectural design plans.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

The subject site is spatially separated from the coastal foreshore. The proposal will not result in any significant overshadowing impacts upon adjoining properties of Coastal foreshore areas

during the evening hours as stipulated under the North Coast Regional Environmental Plan 1987 or the NSW Coastal Policy 1997. No views of the Coast will be lost from the proposed development, with residential development to the west topographically at a lower level and views restricted by natural landforms and existing buildings.

(f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

The proposal will in no way have any detrimental impact upon the scenic quality of the NSW coast. In this regard the development is spatially separated from the Beach and Ocean and due to the built form to the east of the site it is unlikely the building will be visible from the coast, having regard to the built form of existing development in Pandanus Parade and opposite the site in Tweed Coast Road.

As previously discussed the proposal will implement a distinct architectural form and style, adding further impetus to the renewal of the Cabarita Beach Central Business District and the development of an underutilized commercial site. The building design is articulated and variations in materials and textures will ensure the proposal will have a positive impact upon the public domain when viewed from both Tweed Coast Road and Hastings Road. It is submitted the proposal will have a positive impact upon the scenic qualities of the locality and will make substantial improvement upon the existing built form on the site which is aged and at the end of its economic life.

(g) Measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats,

The proposal will not have an adverse impact upon threatened species.

(h) Measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Part), and their habitats

The proposal will not have an adverse impact upon marine environments or habitats. Stormwater is to be appropriately treated in accordance with Councils requirements.

(i) Existing wildlife corridors and the impact of development on these corridors,

The proposal will not have an adverse impact upon wildlife corridors or the like.

(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

The subject site is not located within an area affected by Coastal Erosion (WBM Coastline Hazard Definition Study), and is significantly landward of the defined Coastal Erosion Zones. The development will not have an adverse impact upon Coastal Processes or be affected by Coastal Processes

(k) Measures to reduce the potential for conflict between land-based and water-based coastal activities,

Not applicable.

(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

The subject site is not identified as a cultural place or the like.

(m) Likely impacts of development on the water quality of coastal waterbodies,

The proposal will in no way create any adverse impacts upon the water quality of nearby waterways. Appropriate erosion and sediment controls will be put in place to ensure no sediment finds its way to the local waterway to the east – The Tweed River.

(n) The conservation and preservation of items of heritage, archaeological or historic significance,

The subject site is not identified as land containing items of heritage, archaeological or historical significance.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Not applicable.

(p) Only in cases in which a development application in relation to proposed development is determined:

(i) The cumulative impacts of the proposed development on the environment, and

No cumulative impacts are likely as a result of the proposed development.

(ii) Measures to ensure that water and energy usage by the proposed development is efficient.

Appropriate measures have been adopted in terms of design to minimise energy usage including the orientation of the building to maximise solar access and allow natural light to filter into the residential units. A Basix Certificate is attached for the development demonstrating compliance with Council's Energy Efficiency requirements.

Appendix I – Basix Certificate and Approved Plans

Clause 14 – Public Access

The proposed development does not impede public access to the Coastal Foreshore. As discussed above the proposal will facilitate public access through the site improving pedestrian access between the residential areas of Bogangar to the west of the site down to Cabarita Beach. The proposal will also provide improved access for the disabled with a lift able to move pedestrians from the lower ground level up to the Tweed Coast Road level. It is submitted the development is consistent with the provisions of this clause.

Clause 15 Effluent Disposal

The proposal will be connected to Council's sewer and no onsite effluent disposal is proposed.

Clause 16 Stormwater

Stormwater will be treated in accordance with Councils requirements and will not discharge untreated into the sea, coastal water body or the like.

Conclusion

It is considered the proposed development does not offend or compromise the intent or specific provisions of State Environmental Planning Policy No.71 – Coastal Protection.

4.5 North Coast Regional Environmental Plan, 1988

The relevant clauses of the North Coast Regional Environmental Plan are described as follows:-

Overshadowing – Cl.32B of the NCREP 1988

Clause 32B – Coastal Lands

Clause 32B of the NCREP 1988 states, inter alia:

- (1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.
- (2) In determining an application for consent to carry out development on such land, the council must take into account:
 - (a) the NSW Coastal Policy 1997,
 - (b) the Coastline Management Manual, and
 - (c) the North Coast: Design Guidelines.
- (3) The council must not consent to the carrying out of development which would impede public access to the foreshore.
- (4) The council must not consent to the carrying out of development:
 - (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or
 - (b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

The following comments are provided in relation to the provisions of this clause

NSW Coastal Policy, 1997

Relevant matters for consideration in this policy are addressed below.

Coastline Management Manual, 1990

Whilst Council has prepared a Coastline Hazard Definition Study it is noted that the preparation of a Coastline Management Plan has yet to be completed.

Notwithstanding, the subject site is not identified as being affected by coastal processes in the recently completed Coastline Hazard Definition Study and is landward of the erosion zones.

North Coast Design Guidelines

The provisions of these guidelines have been incorporated into the design and form of the proposed structures, with particular reference to the articulation, variation, selected materials and sustainability principles contained within the attached design plans.

Overshadowing

The subject site is landward from the foreshore reserve by more than 100 metres and the proposed development will not overshadow the foreshore reserve.

Clause 33 – Coastal Lands

Clause 33 refers to development on coastal lands and requires the Consent Authority to take into account the provisions of the Coastline Management Manual, whilst also requiring that disturbed foreshore areas be rehabilitated and that access points across foredune areas are confined to specific points.

The proposal has no direct implications or relevance in this regard.

Clause 51 – Tall Buildings

Clause 51 of the NCREP 1988 refers to tall buildings and provides that Council shall not, without the concurrence of the Director of Planning NSW, grant consent to a development application for the erection of a building over 14m in height.

As indicated within the attached plans, the building will have a maximum height of 13.5 the roof pitch for the elevation fronting Tweed Coast Road. This is in effect a design element situated within the centre of the façade to provide vertical relief and articulation to the building. The element is also lightweight in construction and provides a roofed area over the balcony below.

It is also noted that through the centre of the building the proposal will have a height of 15.60 metres when measured to natural ground level (also finished ground level in this instance) and then steps down to a compliant height of 9.5 metres.

Pursuant to the provisions of the NCREP 1988, the Director General's concurrence is therefore required. Pursuant to Council's delegations, Council can assume the concurrence of the Director in this regard.

Clause 81 – Development Adjacent to the Ocean or a Waterway

Clause 81 refers to development within close proximity to waterways and requires Council to take into account any existing waterway within 100m of the development site and any related need to dedicate foreshore open space. This clause also requires the consent authority to consider the provisions of any foreshore management plan applicable to the area.

The proposed development in no way compromises this clause.

4.6 NSW Coastal Policy, 1997

Council's Coastal Policy maps (within Council's offices) identify the site as being within that area to which the Policy applies.

Of most relevance to the proposed development are the provisions of Table 2 of the Policy.

This table incorporates a number of strategic actions relevant to 'development control' and hence the proposed development.

Strategic Action No.	Strategic Action	Comment
1.3.2 & 1.3.8	Stormwater Quality	This issue is addressed by way of a Stormwater Management Plan for the proposal prepared in accordance with Council's requirements.
1.4.5	Coastal Hazards	The subject site is landward of the defined Coastal Erosion Zones
2.1.4	Acid Sulphate Soils	This issue is addressed under that section titled Clause 35 of the Tweed Local Environmental Plan 2000
3.2.1	North Coast Design Guidelines	Addressed within the attached architectural design plans
3.2.4	Design and Location Principles	Refer to the Architects Plans for further detail in this regard
7.1.5	Public Foreshore Access	Public access to nearby foreshore areas will not be affected by the proposal
7.2.3	Surf Life Saving Facilities	Council has adopted a Section 94 Contribution Plan for Surf Lifesaving facilities. Contributions will be levied in accordance with the plan if required.

4.7 NSW Coastal Design Guidelines

Table 9 – Coastal Design Guidelines		
PART	GUIDELINE	COMMENT
PART 1 – HIERARCHY OF SETTLEMENTS		
1.1 – Coastal Towns (includes Tweed Heads)		
4 - Streets		
4b	the Public streets or public pathways provide the boundary between development and open space and the foreshore reserves.	The boundary of the site is defined by Tweed Coast Road and Hastings Road and the adjoining developed sites. The proposed development is location of freehold property owned by Cabarita Property Investments.
4d	the Streets and public places provide quality pedestrian environments.	The proposed development will provided improved pedestrian links between Hastings Road and the Cabarita foreshore.
5 – Buildings		
5a	Predominant building types in town centres are small apartment buildings, mixed-use, shop-top housing, town houses, terraces, detached houses/commercial/retail, education and civic buildings.	The proposed development of shot-top housing is in accordance with the current development on Tweed Coast Road and meetings Councils requirements under the DCP Section B19 Cabarita Locality Plan.
5e	Housing, employment and transport are integrated into the town centre as well as in surrounding suburban centres.	The development will provide the local community with the opportunity to undertake retail activities within their local area which they currently have to travel to undertake. The development will expand the economic bases of Cabarita and provide opportunity for part-time/permanent employment during and after construction.
6 – Height		
6a	Generally heights of up to four storeys in town centres.	The building is consistent with height requirements on Tweed Coast Road and Hastings Road. Due to the topography of the site and the development exceeds the height limits in the centre of the development. This variation is not visible due to the depth of the development.
6c	Heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres before 3pm midwinter and 6.30pm Summer Daylight Saving Time. Elsewhere avoid overshadowing of public open spaces, the foreshore and beaches before 4pm midwinter and 7pm Summer Daylight Saving Time.	The proposed development meets the requirements of the DCP Section 19 Cabarita Locality Plan which seeks shop-top residential development with a height limit of 13.6mtrs. The relaxation to limit has been sought of the part of the development which exceeds this height. The overshadowing of the development is shown in Annexure ? which includes overshadowing diagrams for the relevant times.

Table 9 – Coastal Design Guidelines		
PART	GUIDELINE	COMMENT
PART 2 – DESIGN PRINCIPLES FOR COASTAL SETTLEMENTS		
2.1 – Defining The Footprint And Boundary		
Maintaining a Compact Development Footprint		
1	Centres are the primary candidates for accommodating new development. Where this occurs the objectives are to promote: B Shop-top housing along main streets.	The proposed new development is in accordance with Council Locality Plan for Cabarita which indicates that shop-top housing is encouraged.
2	Strategies for development within a settlement centre occur through place-specific urban design plans and development controls. As a minimum this results in working with the existing settlement character to have regard for: a the public domain, open spaces, streets and heritage b the subdivision, block, lot and street pattern and character c views and visual setting d bulk, scale, height and building type e extent and location of private open spaces f configuration of car parking and driveways g setbacks from the street and from side and rear boundaries h landscaping i materials and detailing of buildings	Place-specific urban design plans and development controls already exist in the Form of the Tweed Development Plan 2007, Section A1 – <i>Bogangar DCP Section B19 Cabarita Locality Plan</i> . The proposal is generally in accordance with the provisions of these plans as discussed in Section 4.8.1 and Section 4.8.6 of this report.
2.2 – Protecting The Natural Edges		
Setbacks		
12	Setbacks should also address coastal erosion hazards such as storm surge events and river flooding, long-term shoreline recession and sea-level rise, cliff retreat and catastrophic collapse, sand drift hazard, entrance stability, estuarine erosion and changes in tidal current position.	The development proposal has been designed to address storm surge events and a rise in the sea-level. All habitable floors are at RL level in access of those outlined in Council design guidelines under Section A3.6.2 - The Coastal Villages, Development of Flood Liable Land, Tweed Development Control Plan, 2007 (DCP) a freeboard allowance of 500mm has been incorporated into the ramp system which provides access into the carpark.
2.3 – Connecting Open Spaces		

Table 9 – Coastal Design Guidelines

PA RT	GUIDELINE	COMMENT
Design Guidelines for the Open-Space Network		
1	Locate and connect new and existing open spaces which protect and maintain: a nature reserves, conservation areas, park land and environmental protection areas	The proposed development does not involve the creation of any new open space areas and does not include and development with the foreshore open space area.
7	Establish edge open-spaces with streets and pedestrian pathways. These are best located within the development footprint of the settlement, rather than in an open-space zone.	Tweed Shire Council indicated the requirement for a pedestrian connection from Hastings Road to Tweed Coast Road. Currently there is no formalized and safe pedestrian link connecting these two streets. The proposed link will deliver pedestrians to the forecourt of the development allowing a safe connection to the foreshore via Pandanus Parade.
8	Provide pedestrian and cycle access that: b connects important places throughout the settlement c connects residential areas to commercial and retail locations without compromising the visual, aesthetic or ecological values of the foreshore.	Pedestrian access will be provided joining Hastings Road with Tweed Coast Road in accordance with Movement and Linkages captured in Tweed Shire Councils DCP Section B19. This access will be provided as part of the proposed development and will not compromise any ecological values or areas within the location. The pedestrian link will allow adjoining residential to connect with the retail component of the proposed development as well as the Cabarita foreshore.
2.4 – Reinforcing The Street Pattern		
Design Guidelines for Reinforcing the Street Pattern		
6	Allow for changes on private land whilst valuing the qualities of individual streets including: c carriageway, footpath and reserve alignments, building setbacks.	The development proposal incorporates part of Tweed Shire Council carriageway as indicated in DCP Section B19 – Movement and Linkages Plan. This carriageway was proposed by Tweed Shire Council to enable the servicing of properties facing Tweed Coast Road. The development provides for onsite deliveries and garage collection from Hastings Road in accordance with Council strategic plans.
10	Reinforcing main streets as the commercial and social heart of the settlement.	The development proposal reinforces Tweed Coast Road as Cabarita's main street and commercial and social heart of the settlement. The forecourt of the development will allow local's to gather and the revitalization of the streetscape will commence Council's strategic plan to re-landscape Tweed Coast Road.
14	Establishing a system of pedestrian pathways throughout the settlement and between settlements.	Currently there is no established, formalized pedestrian connection from Hastings Road to Tweed Coast Road. The

Table 9 – Coastal Design Guidelines

PA RT	GUIDELINE	COMMENT
		development will provide this connection.
15	Reinforcing streets with appropriate street vegetation planting.	The proposed development will incorporate Council's master plan landscape concept for Tweed Coast Road. The proposed development will be the catalyst for the commencement of the landscaping of Tweed Coast Road. The road reserve on Hastings Road will also be landscaped with vegetation which is appropriate for the area.
2.5 – Appropriate Buildings for a Coastal Context		
Design Guidelines for Appropriate Buildings in a Coastal Context		
Built Form Guidelines for All Sites		
2	Reinforce the clarity of the settlement structure with new buildings that are appropriate in terms of location, uses, scale, height and site configuration.	The proposed development is compatible in scale with existing buildings on adjoining sites and is consistent with relevant statutory planning controls.
3	Reinforce the desired future character of the settlement.	The proposed development reinforces the design guidelines for Coastal Regions. The scale, building material and design of the both the residential and commercial elements of the buildings ensure that provides a benchmark for future developments on Tweed Coast Road.
4	Consider the appropriateness of new buildings within the whole streetscape, rather than each building as a stand-alone object.	The development will enhance Tweed Coast Road as current buildings located on the subject site have been decommissioned and do not contribute to the desired settlement design outcomes. The integration of retail at street level continues the theme which has been created by previous development adjoining the subject site.
5	Maintain consistent street setbacks and street-edge configurations.	Under Council DCP for Cabarita shop-top housing provides for development to the boundary at street level. The proposed development is in accordance with requirement. Setbacks to the residential component have been incorporated with balconies staggered to provide greater articulation to the street. These are generally in accordance with Councils desired outcomes.
6	Ensure buildings address the street by providing direct and on-grade entries to the street for residential, commercial and retail purposes.	The development proposal provides for a public interface by providing retail at street level allow a seamless transition at grade. The public forecourt is an enhancement to the redundant buildings currently located on the site therefore and is directly accessible at grade from the footpath.

Table 9 – Coastal Design Guidelines

PA RT	GUIDELINE	COMMENT
		The residential component of the development is accessible directly from Tweed Coast Road at grade or via the private vehicular and lift access.
7	Rationalise car-related uses on site, such as driveways widths and lengths.	Vehicular access to the site has been directed to Hastings Road in accordance with Council's DCP. The majority of the car parking required for the development is contained below ground therefore enhancing the streetscape on Tweed Coast Road. Vehicles are provided directed access to the basement car park with extra car parking provided on the mezzanine level which sits beneath the supermarket.
8	Protect views from public places and streets by maintaining consistent setbacks along streets and not placing buildings in view corridors.	The proposed development does not impact on views from public places.
9	Protect local views and vistas throughout and surrounding the settlement from public places by relating new buildings to the topography, reducing heights to maintain views of the surrounding landscape and maintaining consistent height, bulk, scale with the street and local context.	The proposed development does not impact on local views or vistas.
11	Ensure developments and neighbouring properties have: - a access to daylight - b access to natural ventilation - c visual privacy - d private open space 4 a pleasant microclimate	The proposed development does not adversely effect the adjoining developments.
12	Achieving amenity relates to the design of the individual buildings and, in particular, to: - a building orientation and depth - b the size of the lot - c open-space location, size and connection with the inside of the building - d carparking, location and access - e pedestrian access from the street - f street edge configuration and building separation - g mature trees, vegetation and soil areas.	The proposed development is compatible in scale with existing buildings on adjoining sites and is consistent with relevant statutory planning controls.
Built Form Guidelines for Specific Locations Within a Settlement		

Table 9 – Coastal Design Guidelines

PA RT	GUIDELINE	COMMENT
Along Main Streets		
2	Activate the main street by ensuring the ground floor of buildings generally aligns with street level.	The retail component of the proposed development is at grade and provides a seamless transition from the footpath to the shops. The forecourt also feeds directly from the footpath at grade making pedestrian accessibility for able/non-able body patrons easy.
3	Activate the main street with ground floor uses such as retail, cafes, professional offices and ground floor entries to residences.	The proposed development will provide a variety of uses which engage the street and encourage human interaction. Council has also indicated their support for these uses to spill on the footpath in a managed format to reinforce and reinvigorate activity on Tweed Coast Road. The design of the retail reinforces these values.
4	Minimise on-grade car related uses on the street front, including on-site parking and driveways.	All vehicular access is provided from Hastings Road in accordance with Council traffic requirements. Driveway access leads directly to the underground car park or the minimal at grade car parking spaces provided on Hastings Road.
5	Plan buildings within the streetscape built form design through consistent heights and setbacks.	The proposed buildings facing Tweed Coast Road engage the street and the use of full height glazing enhances the seamless transitions from footpath to shop. The development also meets the height restrictions on Tweed Coast Road and Hastings Road.
6	Reinforce the streetscape with well articulated building elevations consistent in scale, proportion and detail (ie awnings and cornice lines).	The retail component of the proposed development is shaded by awnings which provide interest at street level. The residential units incorporate design elements such as external moveable screens which provide a variation to the façade depending on the weather whilst providing privacy to the occupant of the units.
7	Ensure new buildings contribute to the amenity of public open spaces adjacent to the main street.	The forecourt of the proposed development is shaded by a level roof system and footpath awnings. The forecourt is also open to the public providing area of public amenity which is directly adjacent the main street.

4.8 Local Environmental Plan 2000 (LEP 2000)

Clause 8 – Consent Considerations

The subject site is located within the - **3(b) General Business Zone**.

The objectives of the 3(b) zone are identified as follows:

Primary objective

- to provide business centres in which the community's shopping, business, welfare and social needs can be met.
- to provide business locations within residential areas, and to ensure that the scale and type of development is compatible with the character and amenity of the surrounding residential areas.

Secondary objectives

- to provide for tourist orientated development.
- to encourage upper floor residential or tourist accommodation.

The proposed development includes a mix of residential accommodation on the upper levels, and commercial tenancies on the ground floor facing Tweed Coast Road.

The proposal also seeks consent specifically for a supermarket and a Kiosk area, while the remaining tenancies are to be used for specialty retail stores. Development consent will be sought in the future for the fit-out of these retail units. The proposed development is one that clearly complies with the objectives and underlying intent of the 3(b) zone, whilst the uses proposed are permissible with consent.

Cumulatively, the development will not have an unacceptable impact on the community, locality or area of the Tweed Coast. The development is consistent with the character of the Cabarita Beach CBD and will not have a detrimental impact upon atmosphere of the Bogangar/ Cabarita Beach locality and provide further impetus to the areas renewal.

The following Clauses (of the Tweed Local Environmental Plan) are also relevant to this application:

Clause 15 – Availability of Essential Services

All relevant services are available to the site and possess neither capacity nor siting constraints that would preclude the proposed development.

The subject land has access to water, sewer, electricity and telephone services. The proposed development is able to be serviced by the existing connections to the subject land. It is noted a sewer main is to be diverted around the site. Preliminary Engineering Plans have been prepared by Opus Qantec McWilliam detailing how the sewer is to be diverted.

Appendix R – Stormwater Management Report

Clause 16 – Height of Building

Council's statutory heights map indicates that a maximum building height of 3 storeys applies to this site.

The proposed development is in part three storey but also includes four storey elements through the centre of the site. This is primarily a result of the topography of the area and the steep drop off from Tweed Coast Road. The development as such will front Tweed Coast Road as a three Storey building, whilst vertical articulation ensures the building steps down to three storeys on the western elevation facing Hastings Road. A variation is sought to the height limit and an objection pursuant to State Environmental Planning Policy No.1 is attached to this report for Council's consideration.

Clause 17 – Social Impact Assessment

In accordance with the provisions of this Clause and Development Control Plan No. 45, an Economics Report and Social Impact Assessment accompany this application. In summary the proposed development is considered to have a positive impact upon the locality with the creation of both short and long term employment opportunities, whilst the provision of additional accommodation units within Cabarita will have positive impacts upon the local economy in terms of the multiplier effect.

Appendix K – Social Economic Report

Appendix L – Social Impact Assessment

Clause 35 – Acid Sulphate Soils

Council's Acid Sulphate Soil Planning maps indicate that the site is located in an area identified as Class 3. An Acid Sulphate Soils Management Plan and Dewatering Management Plan have been prepared in accordance with Councils requirements and the EPA guidelines. A copy of the management plans are attached for consideration.

Appendix M – Acid Sulphate Soils Report

Clause 38 Future Road Corridors

The subject land has a future road corridor across the rear of the properties facing Hastings Road. The road corridor would provide a 3 metre wide service lane along the boundaries of these and the adjoining properties linking with two proposed car parks located in Hastings Road.

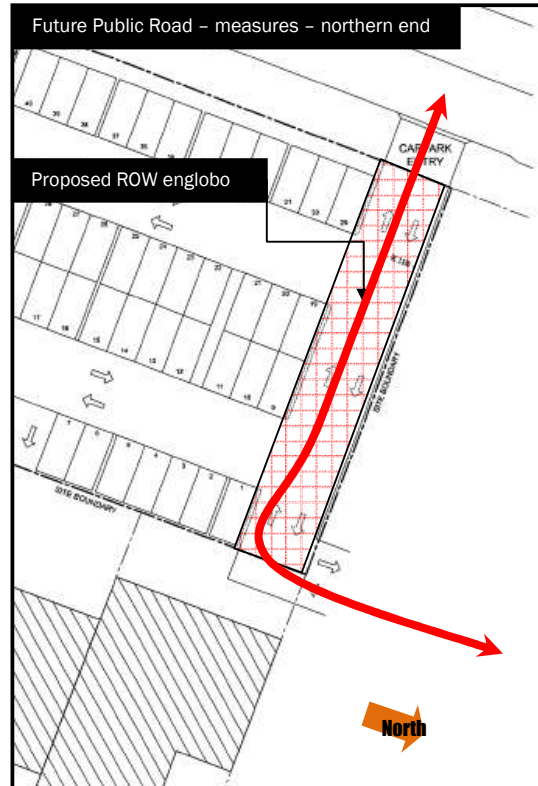
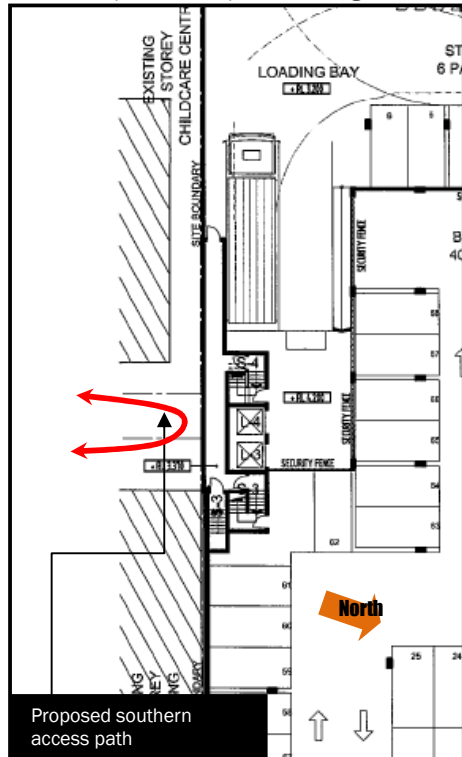
The provisions of the clause state

(1) Objective

- to cater for the alignment of, and development in proximity to, future roads.
- (2) Development, other than exempt development or agriculture, must not be carried out on land in or adjoining a future road corridor shown on the zone map, except with development consent.
- (3) The consent authority must not grant consent unless it has considered the effect of that development on the future alignment of the road corridor.

The proposed road corridor is not owned by Council or by any other public authority, but is nominated on title as a right of Carriageway across private allotments under Deposited Plan DP259164. It is submitted the need for this rear laneway as a means of gaining access to the subject site is no longer required as demonstrated in the architectural plans submitted with the application.

Access can still be provided to the rear of those lots to the north of the up to Rosewood Avenue, with the plan excerpt to the right showing a



site

physical link to this future road from Hastings Street and through to Rosewood Avenue. Where the physical link is provided over the proponents land, a ROW englobo (giving

full public access) will be created.

Similarly, the existing access provisions to those properties to the north will remain as is, with the proposed development not restricting continued access in a manner consistent with both previous approvals and the intent of Clause 38.

It is submitted this development by way of its design and area does away with the need for the construction of this future laneway, whilst surrounding properties are still guaranteed access from the two proposed public car parking areas to the north and south of the site and or through this development as demonstrated on the plans. Letters of support for abandonment of this easement are being obtained and will be submitted to Council accordingly.

Clause 39 Remediation of Contaminated Lands

Appropriate investigations have been carried out across the site in accordance with the requirements of SEPP 55 Remediation of Contaminated Lands. The property contains a service station and the potential for contamination exists. A detailed soil contamination report was undertaken by GeoEnvironmental Consultants and is attached for consideration.

Appendix N – Contamination Reports

The report concludes that:

- There is no significant soil contamination in the UST tank and bowser area of the upper Service Station forecourt. Being an operational service station there is potential for localized contamination around bowser bases and within UST tank pits that may not have been intersected by the completed investigation.
- Evidence of significant shallow soil contamination was identified in the lower site area assessed by Borehole No.CB1.TPH in the longer C15 to C36 carbon chain lengths ranges, indicative of oil or grease and total lead was identified in the top 0.2m. The total lead concentration was below adopted criteria for commercial/industrial land use. Results for a sample collection at 0.3m to 0.5m depth were low, indicating that the identified contamination is localized surface occurrence related to the storage and spillage of petroleum products and workshop waste in the area.
- Sample collection and analysis from under slab area identified low arsenic concentrations beneath the service station building. Copper, lead and zinc were identified at concentrations above environmental criteria and below commercial/industrial at one location under the service station building. The identified metals may be the result of wash from plumbing activities outside the plumbers store and/or from the nearby in ground pit. Lead was sufficiently leachable under acidified TCLP testing to confirm that shallow soil from areas assessed by Borehole No. CB1 and US2 would be classified solid waste for offsite disposal purposes. There was no significant contamination identified under the motel or newsagency buildings.
- Sampling collection and analysis of groundwater from three wells monitoring wells confirmed that there is no indication of significant groundwater contamination.

A further letter received from GeoEnvironmental on 17 February 2009 advise that:

Comparison of the new development designs with the previous design indicates that changes have been made to above ground configurations and the basement design is almost the same. Both old and new basement designs include excavation to the eastern property boundary along Tweed Coast Road to create a two level basement carpark area. The current design includes a basement finished RL 1.8m AHD. The design changes does not alter the way in which any contaminated material would need to be handled and the environmental outcomes will be the same.

It is submitted that the site can be remediated and developed as proposed.

4.8 Development Control Plan 2007

4.8.1 Section A1 – Part C – Shop Top Housing Part C – Residential Flat Building and Shop Top Housing

Design Controls (DC)	Compliance
Development Application relates to Shop-top Residential Building	
Chapter 1 – Building Type Design Controls	
1.1 Residential Flat Buildings	N/A
1.1.1 Small Residential Flat Building	
DC1.1a. The main pedestrian entry to the building is to be provided, facing the street, accessible directly from the street and clearly visible from the street.	N/A

Design Controls (DC)	Compliance
DC1.1b. Ground level dwellings with a street frontage are to have a pedestrian access from the street.	N/A
DC1.1c. The internal space of the ground floor is to have pedestrian connection to ground level external spaces.	N/A
DC1.1d. Unusable ground level spaces are to be avoided by ensuring that all ground level external spaces are either part of a gardens or an external living area for ground level dwellings unless designed for a specific communal function such as; communal utility areas, communal circulation spaces or communal recreational spaces.	N/A
DC1.1e. Deep soil areas are to be provided at the rear and the front of sites in accordance with this Part.	N/A
DC1.1f. Small Residential Flat Buildings are to be designed in accordance with the Site and Building Design controls found in this Part.	N/A
DC1.1g. Front fencing and landscaping is to be provided within the front setback and is to enhance the residential character of the street and the building.	N/A
1.3 Shop-top Residential Buildings	
DC1.3a. Shop-top development is to have a street elevation consistent with other buildings in the street in terms of height and vertical and horizontal proportions. The buildings street elevation is to be designed to give emphasis to enclosing the street space along the street boundary.	Complies - The street elevation is consistent with other building in the street and creates and improved streetscape appearance with a continuous activated retail frontage.
DC1.3b. Colonnades are generally not acceptable along main streets unless there is a historic precedent of colonnades along the street.	N/A
DC1.3c. Uses on ground level are to be commercial (generally retail). Circulation spaces used to access upper level dwellings may occupy up to 15% of the lot frontage.	Complies - Ground floor uses are commercial.
DC1.3d. Uses on the first floor can be either residential or commercial.	Complies - The first and second floor levels above ground level are residential.
DC1.3e. The internal space of the ground floor of the development is to be at the ground level of the street.	Complies - Ground floor development is at ground level with Tweed Coast Road
DC1.3f. Basement car parking is to be fully underground.	Complies
DC1.3g. Footpath trading must comply with the procedures and guidelines contained in the Tweed Footpath Trading Policy.	Complies
DC1.3h. The design and layout of commercial spaces is to demonstrate: - the intended type of commercial uses proposed and the suitability of the building design to accommodate these uses, - the immediate and long term economic feasibility of proposed commercial space,	Complies - The design and layout is consistent with the type of commercial use.

Design Controls (DC)	Compliance
- the way in which the proposed commercial space compliments and extends the quality and attractiveness of the existing centre.	
Chapter 2 – Site and Building Design Controls	
2.1 Public Domain Amenity	
2.1.1 Streetscape	
DC2.1a. Site design, building setbacks and the location and height of level changes are to consider the existing topographic setting of other buildings and sites along the street, particularly those that are older and more established.	Complies - The proposal creates a continuous built to frontage setback which reinforces a strong retail main strip along Tweed Coast Road. The street front to the full extent of the buildings is shaded by fixed awnings that follow around the shopfronts and continue into the Courtyard. This pedestrian space is then sheltered by a higher level lightweight roof to provide sun shade and weather protection but allow the flow of cooling breezes through the space.
DC2.1b. The design of the front deep soil zone and boundary interface to the public domain is to complement or enhance streetscape character by: - providing for landscaping; lawn, trees or shrubs characteristic with existing properties or of such design as to enhance the quality and appearance of the dwelling and surrounding area, - reflecting the character and height of fences and walls along the street, or of such design as to enhance the quality and appearance of the dwelling and surrounding area, - reflecting the character and layout of established front gardens of other allotments in the street, particularly older and well established garden landscapes, - retaining, protecting or replacing existing vegetation and mature trees,	Complies –The proposal provides for an urban environment of front street dining with a generous depth between the kerb line and building frontage. This area will be landscaped according the enclosed landscape statement of intent.
DC2.1c. Carports and garages visible from the public street are to; - be compatible with the building design, including roofs, be setback behind the dwellings front elevation.	Complies - Basement car accommodation
DC2.1d. Minimise driveways and hardstand areas to increase the area for deep soil zones and landscaping and to reduce the visual impact of driveways and hard surfaces from the street.	Complies - The existing hardstand areas are not proposed to be altered.

Design Controls (DC)	Compliance
DC2.1e. Facades visible from the public domain are to be well designed by: - having important elements such as front doors and building entry areas prominent in the building facade and clearly identifiable from the street, - coordinating and integrating building services, such as drainage pipes, with overall facade design, - integrating the design of architectural features, including stairs and ramps, and garage/carport entries with the overall facade design, and by locating car parking structures on secondary streets where possible, - ensuring corner buildings have attractive facades which address both streets frontages, including the careful placement and sizing of windows, - ensuring entrance porticos are single storey.	Complies – Facades visible from the street are well designed. Refer to Architectural Design Statement, and the architectural drawings provided in the Project Application. It responds to each of the ten SEPP 65 Design Quality Principles in the Residential Flat Design Code (RFDC), and responds to the relevant 'Rules of Thumb' contained within the Residential Flat Design Code.
2.1.2 Public Views and Vistas	
DC2.2a. The location and height of new developments is not to significantly diminish the public views to heritage items, dominant landmarks or public buildings from public places.	N/a
DC2.2b. The location and height of new development is to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland.	Complies
DC 2.2c. The location and height of new development is to be designed so that it does not unnecessarily or unreasonably obscure public view corridors, for example, down a street.	Complies
DC 2.2d. The location and height of new development is to be designed to minimise the impact on public views or view corridors between buildings.	Complies
2.2 Site Configuration	
2.2.1 Deep Soil Zones	
a. Deep Soil Zones must be provided for all new developments and existing development, except on non urban land with site areas greater than 5000m2 and development with ground level commercial floor space.	N/A – The proposal has ground level commercial floor space.
b. All sites are to provide two Deep Soil Zones, one to the rear and one to the front of the property.	N/A – The proposal has ground level commercial floor space.
c. Rear Deep Soil Zones are to have minimum width of 8m or 30% of the average width of the site whichever is the greater and a minimum depth of 18% of the length of the site up to 8m but not less than 4m. Greater than 8m may be provided if desirable.	N/A – The proposal has ground level commercial floor space.
d. Rear Deep Soil Zones are to have soft landscaping; refer to Landscaping Section.	N/A – The proposal has ground level commercial floor space.

Design Controls (DC)	Compliance
e. Front Deep Soil Zones are to be the width of the site boundary minus the driveway width and the pathway width by the front setback depth.	N/A - The proposal has ground level commercial floor space.
f. Front Deep Soil Zone areas are to have soft landscaping, vegetation and at least one tree.	N/A - The proposal has ground level commercial floor space.
g. Deep Soil Zones cannot be covered by impervious surfaces such as concrete, terraces, outbuildings or other structures.	N/A - The proposal has ground level commercial floor space.
h. Deep Soil Zones cannot be located on structures such as car parks or in planter boxes.	N/A - The proposal has ground level commercial floor space.
i. The Deep Soil Zone is to be included in the total permeable area for the allotment.	N/A - The proposal has ground level commercial floor space.
2.2.2 Impermeable Site Area	
a. An allotment's runoff shall be dispersed onto grassed, landscaped or infiltration areas, of the allotment, unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.	N/A - The proposed 42 car parks on Lots 184 - 187 are graded such that surface drainage is intercepted by inlet pits and discharged via a piped system into a gully pit located in Hastings Road. The proposed drainage system can be seen in Figure 7.0 of the Opus The proposed building development will increase the impervious area from 70% to 95% and the proposed car parking development will increase the impervious area from 0% to 97%. The calculations presented in tables 8.2.1 and 8.2.2 are based on a 5 minute time of concentration.
b. The concentration, collection and piping of runoff to the street gutter or underground stormwater system shall be minimised unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.	N/A - As above
c. Rain water shall be collected in tanks and reused.	Complies - A 10 000L rain water tank has been provided for the landscaped areas of the residential component for re-use for these areas.
d. Site surface depressions in landscaping are to be utilised for on-site detention and infiltration unless this is inconsistent with the geotechnical stability of	N/A

Design Controls (DC)	Compliance
the site or adjacent/downstream land.	
e. Runoff is to be minimised, delayed in its passage and where possible accommodated within the landscape of the development site unless this is inconsistent with the geotechnical stability of the site or adjacent/downstream land.	N/A
f. A schedule of the breakdown/calculation of impermeable site area must be submitted with the development application.	Complies - Refer to Opus Engineering Assessment Report
g. The maximum areas for impervious surfaces are: - 70% of the allotment - On lot sizes less than 500m ² . - 65% of the allotment - On lot sizes between 500m ² and 750m ² inclusive. - 60% of the allotment - On lot sizes greater than 750m ² .	N/a - As the proposal includes a large supermarket floor plate area this space is considered applicable to the shop-top and residential DCP controls.
2.2.3 External Living Areas	
a. External living areas are best located adjacent to the internal living (dining rooms, living room, or lounge room) areas so as to extend the overall living space.	Complies - External living areas are located on the first and second floors and are adjacent to internal living areas.
b. External living areas should be suitably screened to achieve visual privacy if located less than 4m from a side boundary.	N/A - External living areas are located to the front boundary.
c. External living areas are to be no closer to the side boundaries than 900mm.	N/A - External living areas are located to the front boundary.
d. External living areas are to be designed to ensure water does not enter the dwelling.	N/A - External living areas are located to the front boundary which is east facing to encompass the beach views.
e. External living areas should be oriented to north where possible.	Complies - Units are oriented to north where possible.
2.2.4 Above Ground External Living Spaces, Balconies and Terraces	
a. Above ground external living areas are to have a minimum depth of 2.5m and a minimum area of 10sq.m.	Complies
b. Balconies and terraces off minor rooms have no minimum depth or width.	N/A.
c. Above ground external living areas are to be; - located adjacent to the main living areas, such as living room, dining room, kitchen to extend the dwelling living space, - sufficiently large and well proportioned to be functional and promote indoor/outdoor living to fit a dining table and our chairs.	Complies
2.2.5 Communal Open Space	

Design Controls (DC)	Compliance
a. Communal open space must be provided for with any developments of more than 10 dwellings to provide recreational or relaxation uses for residents.	Complies - Internal landscaped areas and planters are provided in the landings and walkways of each level of the residential component of the building. Communal open space for the residential area in this proposal is restricted to the podium area on level 2 due to the nature of the location of the residential portion of the development, positioned over a commercial use on the Ground Floor. At Level 2 is an open area of approx 330sqm, 24% of the total requirement for open space. In addition to this area are private balconies totalling approx 620sqm, representing an area of 206sqm greater than the minimum balcony area requirement. This additional area and the open space equal 536sqm, or 9.5% of the site. Deep Soil Zone Because of the construction extent over a full Basement carpark there is no deep soil zone on this proposal. Private Open Space There are no Ground Floor apartments within the development. Balcony Design All apartments have at least one balcony which is in excess of 3.0m deep, exceeding the 2.0m minimum depth required. A large percentage of balconies incorporate sliding louvered screens to allow flexibility of use given the exposure to winds. Balustrades are designed to provide privacy through

Design Controls (DC)	Compliance
	screening but still enable casual surveillance of the street.
b. Communal open space is not to be located such that solar access, privacy and outlook to dwellings are reduced.	Complies
c. The design of communal open space must demonstrate how it achieves specific functions that enhance the livability and residential amenity of the development and how it will serve the needs and number of people within the development.	Complies
d. The location and design of communal open space must not compromise achieving the minimum separation distances and minimum areas for external living areas.	Complies
e. Communal open space is to be designed such that its size and dimensions allow for particular uses.	Complies
2.2.6 Landscaping	Refer to Landscape Plans
a. Retain existing landscape elements on sites such as natural rock outcrops, watercourses, dune vegetation, indigenous vegetation and mature trees.	N/a
b. On lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant species for a distance of 10m from any lot boundaries adjoining bushland.	N/a
c. Locate and design the building footprint to enable the retention of existing trees.	N/a
d. Buildings are not to be sited under the drip line of an existing tree.	N/a
e. Provide useful outdoor spaces for liveability by coordinating the design of external living areas, driveways, parking areas, communal drying areas, swimming pools, utility areas, deep soil areas and other landscaped areas with the design of the dwelling.	
f. Where the ground floor level of a dwelling is above the finished external ground level reached through a door or doorways, there is to be a physical connection made between these levels. Examples of a physical connection include stairs, terraces, and the like.	
g. Provide a landscaped front garden.	N/A
h. A pathway with a minimum width of 900mm is to be provided along one side of the dwelling so as to provide pedestrian access from the front garden to the rear yard. This access is not to be blocked by such things as landscaping features, rainwater tanks, hot water heaters and retaining walls. The pathway does not need to be provided on allotments which have rear lane access.	N/A
i. Landscape elements in front gardens such as plantings are to be compatible with the scale of	N/A

Design Controls (DC)	Compliance
development.	
j. The front garden is to have at least 1 canopy tree with a minimum mature height of 10 metres.	N/A
k. Where the backyard does not have a mature tree at least 15m high, plant a minimum of one large canopy tree in the back yard. The tree is to be capable of a mature height of at least 15m and is to have a spreading canopy.	N/a
l. Locate and design landscaping to increase privacy between neighbouring dwellings.	N/A – The development adjoins neighbouring buildings
2.2.7 Planting on Structures	• Refer to Landscape Plans
a. Planting on structures is not to occur in areas that cannot be easily accessed either from dwelling external living areas or communal areas.	Complies
b. Optimise plant growth by: - providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, - providing appropriate soil conditions and irrigation methods, - providing appropriate drainage.	Complies
Design Guidelines <i>Design planters to support the appropriate soil depth and plant selection by:</i> - ensuring planter proportions accommodate the largest volume of soil possible. [minimum soil depths will vary depending on the size of the plant however, soil depths greater than 1.5 metres are unlikely to have any benefits for tree growth], - providing square or rectangular planting areas, rather than long narrow linear areas. <i>Increase minimum soil depths in accordance with:</i> - the mix of plants in a planter for example where trees are planted in association with shrubs, groundcovers and grass - the level of landscape management, particularly the frequency of irrigation - anchorage requirements of large and medium tree soil type and quality. <i>Provide minimum soil depths in accordance with the following:</i> - large trees such as figs (16 metres canopy diameter at maturity); minimum soil volume 150 cubic metres, minimum soil depth 1.3 metre, minimum soil area 10 metre x 10 metre area or equivalent. - Medium trees (8 metre canopy diameter at maturity); minimum soil volume 35 cubic metres, minimum soil depth 1 metre. - Shrubs; minimum soil depth 500-600mm. - Ground cover; minimum soil depth 300-450mm. - Turf; minimum soil depth 100-300mm.	

Design Controls (DC)	Compliance
- Any subsurface drainage requirements are in addition to the minimum soil depths quoted above.	
2.2.8 Topography, Cut and Fill	
a. Building sitting is to relate to the original form of the land.	Complies - Earthworks will primarily involve excavating Lots 191 – 194 and 20 – 23 to achieve the design basement levels. Works on Lots 184 – 187 will involve re-grading to achieve the car park design levels. In addition, unsuitable materials (if present) will be removed and replaced as compacted fill. Approximately 8520m ³ (solid volume) of cut material will be excavated to achieve the basement level design of RL 1.8m AHD.
b. Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab, construction would be inappropriate. Example of alternative construction includes: Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design.	N/A
c. On sloping sites step buildings or utilise site excavation and suspended floors to accommodate changes in level rather than leveling the site via cut and fill.	N/A
d. Dwellings must not be designed to be on a contiguous slab on ground type if the building site has a slope of greater than 10%. Development on such land is to be of pole or pier construction or multiple slabs or the like that minimise the extent of cut and fill.	N/A
e. Site excavation / land reforming is to be kept to a minimum required for an appropriately designed site responsive development.	Complies
f. The maximum level of cut is 1m and fill is 1m except for areas under control j.	N/A
g. Retaining walls maximum 1.2m.	N/A
h. Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m.	N/A
i. Cut and fill batters shall not exceed a slope of 1:2	N/A

Design Controls (DC)	Compliance
(v:h) unless geotechnical reports result in Council being satisfied with the site stability. All batters are to be provided with both short term and long term stabilisation to prevent soil erosion.	
j. Excavations in excess of 1.0 m within the confines of the building and on driveways may be permitted, to allow for basement garages providing the excavations are adequately retained and drained, in accordance with engineering details.	N/A
k. Filled areas are to be located where they will not impact on the privacy of neighbors.	N/A
l. Stormwater or surface water runoff shall not be redirected or concentrated onto adjoining properties so as to cause a nuisance and adequate drainage is to be provided to divert water away from batters.	N/A
m. The top of any battered cut (or retaining wall) and the toe of any battered fill (or retaining wall) is not to be closer than 900mm to any property boundary, where the overall height at any point exceeds 500mm.	N/A
<i>Variations to Cut and Fill Design</i> m. Variations to the requirements above will be permitted to create a flat yard space not exceeding 15% of the area of the lot for the purposes of outdoor living, recreation, clothes drying, swimming pool and the like. n. Proposed variations to the controls must demonstrate that the excavation or filling of the site is in harmony with the natural landform/environment and will not adversely affect the adjoining properties. o. Where a property is burdened by stormwater or water and sewerage mains then Council will generally preclude any excavation or filling within that easement.	N/A
2.3 Setbacks	
2.3.1 Front Setbacks (Building Line)	
a. In new areas Shop-top Housing and Shop-top Residential Flat Buildings are to be built to the street boundary.	Complies
b. In new areas Residential Flat Buildings are to have a street setback of 6m.	N/a
c. On corner sites in new and existing areas the setback along the secondary street (the street to which the dwelling has its secondary frontage) is 3m.	N/a
d. Where a site has dwellings with frontages to two or more streets, the street setbacks for these frontages are to be considered as front setbacks and there be 6m.	N/a
e. In established areas Shop-top Housing and Shop-top Residential Flat Buildings are to be built to the	Complies

Design Controls (DC)	Compliance
street boundary.	
f. In established areas Residential Flat Buildings are to be setback from the street boundary by 6m with a variance of up to plus or minus 1m (i.e. between 5m to 7m).	N/a
g. Basement garages cannot be located forward of the building footprint.	N/A
h. On grade parking must be located a minimum of 6m setback from the buildings front elevation or to the rear of the site.	Complies
2.3.1 Side Setbacks	
a. Shop-top Housing and Shop-top Residential Flat Buildings must have zero side setbacks for at least 5m back from the street boundary.	Complies
b. Residential Flat Buildings can have minimum of 1.5m setbacks.	N/A
Primary windows of living rooms facing the side boundaries	Complies
c. Shop-Top Housing with walls containing the primary windows of living rooms facing the side boundaries are to be setback a minimum of 4m from the boundary and be screened.	
d. Shop top Residential Flat Buildings and Residential Flat buildings with the primary windows of living rooms facing the side boundaries are to be setback a minimum of 6m and meet the distances as set out in the Separation Controls.	
Garages and basement parking	Complies
e. Garages may be located within 450mm of a side boundary.	
f. Carports may be located adjacent to a side boundary.	
g. Basement garages are to be set back a minimum of 1.5m from the side boundaries but preferably in line with the building above.	
h. Driveways may be located adjacent to the side boundaries only where front fences have 60% openness ratio for the first 2m along the boundary adjacent to the driveway to achieve sight lines as set out in AS2890.	
2.3.2 Rear Setback	
a. The minimum rear boundary setback is 8m or the deep soil zone whichever is the greater. The minimum building separation distances must be met.	Complies
b. For Shop-top Housing and Shop-top Residential Flat Buildings the rear setback can be a minimum of zero.	Complies – Shop-top Housing.
c. For Residential Flat Buildings existing mature trees within 6m of the rear boundary are to be retained.	N/A
d. Garages and car parking may be located adjacent to the rear setback.	
Canal Frontages	N/A
d. The setback from a canal frontage is: - 5.5m where the boundary is on the canal side of a revetment wall, or 3.4m from the revetment wall where the wall is on the	

Design Controls (DC)	Compliance
boundary, except: (i) For those allotments with canal frontages and facing Gollan Drive and Jacaranda Avenue, Tweed Heads West where the setback line to the canal frontage shall be 2.5m, (ii) Lots 1, 2 3 and 4 Crystal Waters Drive, Tweed Heads West where normal building setbacks shall apply along the canal frontage.	
e. No structures are to be built in the setback area other than fences to 1.2 metres high, swimming pools, retaining walls, suspended decks that do not exceed the level of the allotment at the top of the batter and boat ramps except: (i) For those allotments with canal frontages and facing Gollan Drive and Jacaranda Avenue, Tweed Heads West where the setback line to the canal frontage shall be 2.5m (ii) Lots 1, 2 3 and 4 Crystal Waters Drive, Tweed Heads West where normal building setbacks shall apply along the canal frontage.	N/A
f. The underside of any suspended deck fronting a canal is to be suitably screened, except in cases where giving effect to this control would result in adverse impact to flood waters.	N/A
2.4 Car Parking and Access	
2.4.1 Car Parking Generally	
a. Car parking is to be in accordance with Section A2 of the Tweed Shire Development Control Plan.	Complies
b. Car parking number concessions may be given to small sites to allow car parking to be fully under the buildings footprint.	N/A
c. Car parking can be either in an enclosed structure (a garage or basement) or an open roofed structure (a carport).	Complies.
d. Car parking cannot be located within the front setback.	Complies.
e. Car park entries are to be located off secondary streets and laneways where these occur.	Complies. Car parking entry is located off Hastings Road, the secondary street frontage.
f. The driveway width from the street to the property boundary is to be minimised.	Complies – The driveway between the street and the property boundary is minimised.
g. Vehicular movement and parking areas are to be designed to minimum dimensions; - to reduce hard surfaces on the lot, and - to increase the area available for landscaping.	Complies
h. On grade car parking cannot occur within 12m of the primary street boundary for flat buildings and 6m for Shop-top.	Complies
2.4.2 Basement Car Parking	
a. Basement car parking cannot extend more than 1m above ground where it faces a public street or public space, 1.5m above ground level can be achieved to	Complies

Design Controls (DC)	Compliance
the side and the rear of the lot where it does not face a public street or public space.	
b. A ramp entering off a public street must start behind the boundary. Ramps cannot be located on public land.	Complies
c. Ramps are to be minimised in width.	Complies
d. The walls of basement car parks are best located in line with the buildings footprint. Basement car parking is not to extend outside the external line of terraces, balconies and porches.	Complies
2.4.3 Garages and Carports	
a. The design and materials used for garages must be in keeping with the main dwelling.	Complies – The materials used and the design is in keeping with the main dwelling.
b. Shop-top on-grade car parking cannot be located closer than 6m from the street boundary. On-grade car parking can be located on a laneway boundary.	Complies
c. For Residential Flat buildings garage doors and entries to basement car parks along the street cannot be more than 7m wide or 50% of the lot width whichever is the lesser.	N/A
d. Laneways may have up to 75% of their frontage as garage doors.	Complies
e. For Shop-top housing and Shop-top Residential Flat buildings garage doors along the street are to be located either in line with the buildings street elevation or at least 1m behind the buildings street elevation.	Complies
f. Where a development has a carport refer to the Carport Controls in Part B – Dual Occupancy Houses, Granny Flats, Town Houses and Row Houses.	Complies
g. A pedestrian access way from the laneway is encouraged.	Complies – Pedestrian access is proposed through the site from Tweed Coast Road to Hastings Road.
2.5 Building Footprint and Attics, Orientation and Separation	
2.5.1 Building Footprints	
a. For buildings that only have daylight access to two and opposite sides of the building the back wall of a room cannot be greater than 10 metres from a window.	Complies
b. Attic spaces cannot be more than 50% of the building footprint.	N/A
c. The majority of the volume of an attic is to be	N/A

Design Controls (DC)	Compliance
contained within the roof space.	
2.5.2 Building Orientation	
a. All dwellings with a street frontage(s) are to be oriented to and address the street(s).	Complies – The building is orientated to the street.
b. Ensure that the pedestrian entry to the development is clearly visible and accessible from the street.	Complies – Pedestrian entries, forecourt and arcade are clearly visible.
c. Where possible orientate bathroom, laundry and other ancillary room windows to the side boundaries.	Complies
d. Where possible orient the primary windows of living rooms to the front or the rear of lots.	Complies – Primary living room windows are located to the front to take in the coastal views.
e. Orient living areas to employ passive solar design principles.	Complies
2.5.3 Building Separation	
a. Three storey buildings require a 10m minimum separation between the wall containing primary windows/doors of living rooms (on any level of the building) to the wall of an adjacent building containing primary window/doors of living rooms.	N/A
b. Two storey buildings require an 8m minimum separation between the wall containing primary windows/doors of living rooms (on any level of the building) to the wall of an adjacent building containing primary window/doors of living rooms.	N/A
c. 6m minimum separation distance between primary windows/doors (on any level of the building) of living rooms to windows other than the primary windows of living rooms.	N/A
d. 4m min separation between walls containing primary windows/doors of living rooms (on any level of the building) the side boundaries.	N/A
e. 4m minimum separation between the primary windows of living rooms (on any level of the building) and walls containing no windows.	N/A
f. 4m minimum separation between walls containing primary windows/doors of living rooms (on any level of the building) to shared driveways.	N/A
g. 4m minimum separations between walls containing primary windows/doors of living (on any level of the building) to carports and garages.	N/A
h. 3m minimum separation between walls containing primary windows/doors sleeping rooms (on the ground level only) to shared driveways, carports and garages.	N/A

Design Controls (DC)	Compliance
i. 2m min separation distance between the windows/doors of non-habitable rooms (on any level of the building). This distance can be measured diagonally.	N/A
2.6 Height	
2.6.1 Building Height	
a. 13.6m is the maximum overall building height for Shop-top Housing and Shop-top Residential Flat Buildings.	Non-compliance – The maximum height of the building is approximately 14.95m. • Refer to SEPP 1 Variation Report
b. 11m is the maximum wall plate height for Shop-top Housing and Shop-top Residential Flat Buildings.	• Refer to SEPP 1 Variation Report
c. 12.2m is the maximum overall height building height for Residential Flat Buildings.	• Refer to SEPP 1 Variation Report
d. 9.6m is the maximum wall plate height for Residential Flat Buildings.	N/a
e. Detached garages are to have an eave height of no more than 2.7m and a maximum overall building height of 3.5m for a flat roof and 4.5m for a pitched roof.	N/a
f. Carports maximum height 3.5m for a flat roof and 4.5m for a pitched roof.	N/a
2.6.2 Ceiling Height	
a. Provide minimum ceiling heights of 2.7m min. finished floor level to finished ceiling level for habitable rooms. For habitable rooms with a raking ceiling at least 30% of the ceiling is to be at 2.7m high.	Complies
2.7 Building Amenity	
2.7.1 Sunlight Access	
a. Living spaces are to be located predominantly to the north where the orientation of the allotment makes this possible.	Complies – Internal layout allows for light to penetrate from the front and rear living areas and from roof top to below via internal void areas through the units.
b. Dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas. In these cases a minimum side setback of 4 metres is required.	N/a
c. Private open space of the subject dwelling is to receive at least two hours sunlight between 9am and 3pm on June 21.	N/a

Design Controls (DC)	Compliance
d. Windows to north-facing habitable rooms of the subject dwelling are to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface.	Complies
e. For neighbouring properties ensure: - sunlight to at least 50% of the principal area of private open space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and - windows to living areas must receive at least 3 hours of sunlight between 9am and 3pm on 21 June.	Complies
f. Where existing overshadowing by buildings is greater than this, sunlight is not to be further reduced by more than 20%.	Complies
2.7.2 Visual Privacy	
a. Terraces and balconies off living areas are generally not to be located above ground floor if they overlook neighbours.	Complies – Balconies do not overlook neighbors.
b. Living room and kitchen windows, terraces and balconies are avoid a direct view into neighbouring dwellings or neighbouring private open space.	Complies – Balconies do not overlook neighbors.
c. Side windows are to be offset by distances sufficient to avoid direct visual connection.	N/A – The development adjoins neighbouring buildings via a zero setback built to the boundary treatment. No conflict is evident given the latter.
d. windows of the subject dwelling and those of the neighbouring dwelling.	N/A
2.7.3 Acoustic Privacy	
a. The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure.	Noted – could be conditioned
b. Dwellings located on designated or classified roads are to have double glazed windows where these windows face the road and provide light to living rooms or bedrooms. This is the case whether or not the dwelling has a solid masonry wall to the arterial road.	N/A
c. Dwellings located on arterial roads are to have an acoustic seal on the front door to reduce noise transmission.	N/A
2.7.4 View Sharing	
a. Building siting is, as far as it is practical, to be	Complies

Design Controls (DC)	Compliance
designed to minimize the impact on view sharing between properties.	
2.7.5 Natural Ventilation	
a. All dwellings are to have operable windows to habitable rooms.	Complies
b. Non habitable rooms including kitchen, bathroom & laundry are encouraged to have operable windows.	Complies
c. The plan layout, including the placement of openings, is to be designed to optimise access to prevailing breezes and to provide for cross-ventilation.	Complies
2.8 Internal Building Configuration	
2.8.1 Use	
a. Permanent and temporary accommodation uses are interchangeable throughout all building types covered in this Part.	Complies
2.8.2 Dwelling Layout and Design	
a. Design the internal layout of dwellings to: - accommodating a variety of furniture arrangements, - providing for a range of activities and privacy levels between different spaces within the dwelling, - utilising flexible room sizes and proportions or open plans, - ensuring circulation by stairs, corridors and through rooms is planned as efficiently as possible thereby increasing the amount of floor space in rooms.	Complies – The internal layout is designed in compliance with this control.
b. The back of the kitchen should be no more than 10m from a window.	Complies – The back of the kitchen is 5.5m from a window.
2.8.3 Storage	
a. In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio 3m³ - one-bedroom 3m³ - two-bedroom 4m³ - three plus bedroom 5m³	Complies – refer attached SEPP 65 report
b. The above minimum storage areas shall be excluded from dwelling size calculations.	
c. Locate storage conveniently for dwellings.	Complies – Storage is conveniently located
2.8.4 Internal Circulation	
a. Limit the number of units accessible from a single core/corridor to eight.	Refer to attached SEPP 65 assessment.
b. Increase amenity and safety in circulation spaces by; ▪ providing generous corridor widths (preferred min. 2.5m) and ceiling heights (preferred min. 2.7m), particularly in lobbies, outside lifts and apartment	Complies

Design Controls (DC)	Compliance
entry doors, - providing appropriate levels of lighting, including the use of natural daylight, - minimising corridor lengths to give short clear sight lines.	
2.9 External Building Elements	
2.9.1 Fences and Walls; Front, Side and Rear	
a. Front and return fences are to reflect the design of the dwelling.	N/A
b. Front and return fences and walls are to be constructed of materials compatible with the house and with other fences and walls within the streetscape.	N/A .
c. Return fences are to be the same height and design as front fences.	N/A
d. Front and return fences can be up to maximum height of 1.5m high with a maximum solid fence height of 600mm, above the solid wall the fence is to have a min. openness ratio of 60%.	N/A
e. Front and return fences may be solid up to 1.5m if located on an arterial road.	N/A
f. No Colorbond or timber paling for front or return fences, except were integrated into a design theme that is consistent with the character of the dwelling and streetscape and incorporates appropriate articulation to allow for landscaping.	N/A
g. Fences and walls are not to impede the natural flow of stormwater runoff.	N/A
h. If located in a bushfire prone area fences and walls are to comply with AS3959 and Planning for Bush Fire Protection 2006, as amended from time to time.	N/A
i. A solid front wall may be higher than 0.9m where the topography means a retaining wall is necessary. The height of the retaining wall is to be minimised and is to be compatible with the positive characteristics of the existing streetscape.	N/A
2.9.2 Side and Rear Fences	
a. Side fences are measured from behind the building line to the rear boundary. Maximum fence height of 2.0 metres.	N/A
b. No chain wire fences are to exceed 1.2m in height.	N/A
c. May include timber paling, metal or Colorbond material.	N/A
d. For tennis courts or other similar areas, chain wire fences shall be black or dark green plastic coated	N/A

Design Controls (DC)	Compliance
mesh. Solid fences enclosing these facilities shall not be permitted over 3.6m and shall be a min. off the side boundaries of 600m and off any front boundary by 1m.	
e. Fences and walls are not to impede the natural flow of stormwater runoff.	N/A
f. Controls for front fences and walls also apply to secondary street frontages on corner lots measured for the length of the dwelling.	N/A
Fences and walls for Greenbank Island g. Approval is to be obtained from Council prior to the erection of any fencing on Greenbank Island. h. Fencing behind the six (6) metre building line shall not exceed 2000mm in height. i. The fencing is to be constructed of brick, stone, masonry block or such other material as is approved by Council.	N/A
2.9.3 Roofs, Dormers and Skylights	
a. Relate roof design to the desired built form by: - articulating the roof, - providing eaves, - using a compatible roof form, slope, material and colour to adjacent buildings; and - ensuring the roof height is in proportion to the wall height of the building.	Complies
b. The main roof is not to be a trafficable terrace.	Complies – The roof is not a trafficable area.
c. Skylights are: - not to reduce the structural integrity of the building or involve structural alterations, - to be adequately weatherproofed, - to be installed to the manufacturer's instructions.	N/A
2.9.4 Elevations Visible from the Public Domain	
a. Design important elements such as front doors and building entry areas to have prominence in the building elevation and to be clearly identifiable from the street.	Complies – Entry and front doors have visual prominence.
b. Use proportions, materials, windows and doors types that are residential in type and scale.	Complies – Proportions and materials are residential in scale.
c. Design elevations to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls.	N/A - Building exists
d. Coordinate and integrate building services, such as drainage pipes, with overall elevation and balcony design.	Complies
e. Coordinate grills/screens, ventilation louvres, car park entry doors with the elevation.	Complies

Design Controls (DC)	Compliance
f. Integrate the design of garage entries with the building elevation design.	N/a
2.9.5 Corner Building Elevations	
a. Corner building (buildings with two street frontages) elevations are to reflect the architecture, hierarchy and characteristics of both streets.	N/A - The proposed is not located on a corner allotment.
b. Building elevations on corner sites are to be oriented to both streets by having windows and doors addressing both streets.	N/A - The proposed is not located on a corner allotment.
c. Landscaping, fence and wall treatments on the secondary street frontage are to be similar to the primary street frontage for the length of the building.	N/A - The proposed is not located on a corner allotment.
2.9.6 Awnings, Canopies, Pergolas, Storm Blinds, Sails and Signage	
Awning on commercial main streets a. For the commercial component of Shop-top Housing and Shop-top Residential Flat Buildings provide awnings along the commercial main street. b. Awnings are to provide adequate protection from sun and rain.	Complies - An awning is provided with adequate protection from the sun.
Residential components of the building c. Awnings are to follow the general alignment and pattern of existing awnings in the street and complement the height, depth and form of the desired character or existing pattern of awnings. d. Awnings are to enhance pedestrian safety by providing under-awning lighting. e. Awnings, canopies and storm blinds are to be wholly within the lot boundaries at least 900mm from the site boundaries. f. Must observe and maintain existing building line setbacks. g. If erected in a bushfire prone area, they are to comply with the requirements of AS3959 and Planning for Bushfire Protection 2006. h. Pergolas must not be located closer to a boundary than 900mm. i. Ensure that signage provides clear and legible way-finding for residents and visitors.	Complies - The residential component is compliant.
2.9.7 Minor Elements	
a. Air Conditioning Units - Noise levels from air conditioning units are not to exceed 5dB(A) above ambient background noise levels measured at the property boundary. - Air conditioning unit installation must not reduce the structural integrity of the building. - Openings created by the installation of air conditioning units must be adequately weatherproofed. - Air conditioning units are not to be visible from streets.	Noted

Design Controls (DC)	Compliance
b. Aerials, antennae, microwave antennae are to be: - for domestic use only, - a maximum of one per single dwelling house,	N/A – No aerials are proposed.
c. Ground mounted satellite dishes are to be: - a maximum height of 2.4 metres, - limit of one per dwelling house on lots less than 5,000 square metres, - located so as not to be visible from a public place, - a minimum of 900mm from a property boundary.	N/A – No satellite dishes are proposed.
d. Roof Mounted satellite dishes are to be: - suitably coloured to blend in with the building, - structurally stable, - one per dwelling house on lots less than 5,000 square metres, - No higher than the ridge line	N/A – No satellite dishes are proposed.
e. Barbeque areas are to be: - used for domestic purposes only, - no closer than 900mm to a property boundary, - located in the rear yard or no closer to the front of the property than 900mm behind the buildings front elevation, - located with consideration to the impact upon adjoining properties.	N/A – There are no BBQ areas proposed.
f. Aviaries are to be: - used for domestic purposes only, - located no closer than 10 metres from a dwelling house on any adjoining property, - located in the rear yard and not closer than 900mm to an adjoining property boundary measured to any part of the building, - structurally sound.	N/A – There are no aviaries proposed.
g. Clothes hoists/lines are to be: - located in the rear yard or no closer to the street than the front elevation of the building, - if located on the side of the dwelling they are to be screened from view from all dwellings and the street.	N/A – There are no outdoor Clothes lines areas proposed. Internal clothes drying to suffice.
h. Flagpoles are to be: - structurally sound, - wholly within the property boundary.	N/A – There are no flag poles proposed.
i. Letterboxes: - are to be a maximum height of 1.2m above the ground, - are to have street numbering corresponding with that allocated to the dwelling, - are to be structurally sound, - are to be designed as part of the building and its landscaping using similar materials and finishes, - in multi-dwelling developments letterboxes must be located on common property; be contained in one	N/A – There are no letter boxes proposed – within lobby.

Design Controls (DC)	Compliance
structure, contain sufficient boxes, on for each dwelling, including one for the body corporate.	
j. Outdoor security lighting is to be located and designed: - so as to avoid light spill into the living and sleeping areas of the dwelling, - to confine light spill to the source property.	N/A
2.10 Building Performance	
2.10.1 Energy Efficiency	
a. Developments are to obtain BASIX certification where required.	Complies – BASIX certification is provided.
2.10.2 Waste Management	
a. Any application for development that involves the demolition of existing structures is to provide a Demolition work plan in accordance with the provisions of AS2601 and Councils work plan requirements.	N/A – to be undertaken as a separate consent.
b. Excavation that will result in waste material having to be transported off-site must be minimised through the use of site response building design. Where practical excavated material should be reused on-site.	Noted.
2.10.3 Water Conservation	
a. All developments are to obtain BASIX certification where required and comply with the relevant requirements of the Building Code of Australia.	Complies - BASIX certification is provided.
2.10.4 Maintenance • To ensure long life and ease of maintenance for the development.	Complies
2.11 Floor Space Ratio (FSR)	
a. Shop-top housing and Shop-top Residential Flat Buildings 2:1 maximum FSR.	Complies – Total GFA = 6 895.6 m ² Site Area = 5 484.88m ² FSR = 1.3:1
b. Residential Flat Buildings is 1.2:1 maximum FSR.	N/A

4.8.2 Section A2 – Car Parking Code

The proposed development incorporates a total of 204 car parking spaces.

This number is consistent with the minimum requirement (pursuant to Section A2).

Following is a table of requirements pursuant to Section A2:

Parking Table		
Residential Units	24 x 1 bedroom units (1 per unit) 16 x 2 bedroom units (1.5 per unit) 1 Visitor Space/ 4 units	24 spaces 24 spaces 10 spaces (see variation requested below)
Total Required		48 spaces
Total Provided		51 spaces
Supermarket 2310 m ²	5.4 Spaces/ 100 m ² less 20% as per Cl. A2.4.1	99.592 Spaces
Retail Shops 1060 m ²	5.4 Spaces/ 100 m ² less 20% as per Cl. A2.4.1	45.59 Spaces
Kiosk 90 m ² (take away only) Therefore calculated at retail rate.	5.4 Spaces/ 100 m ² less 20% as per Cl. A2.4.1	3.88 Spaces
Total Required (retail)		149 spaces
Total Provided (retail)		153 spaces
Total Required (overall)		199 spaces
Total Provided (overall)		204 spaces
Compliant		Yes

The table above demonstrates compliance with respect to the requirements of Council with the exception of visitor parking. In this respect and given the significant cross utilisation likely to occur in such a mixed use project, it is suggested that there is sufficient customer car parking to cover residential visitor requirements within the proposal. This is particularly so after hours when the retail tenancies would have closed and there will be an abundant surplus of car parking. Whilst this scenario would result in the absence of specifically identified residential visitor spaces, it is also possible, again in the basis of cross utilisation, that the retail spaces could be reduced and remarked as residential visitors. Likewise a split of five (5) residential visitors and a reduction in five (5) retail spaces could also be pursued. A condition of consent could be applicable in this regard.

The development also includes a large loading bay consistent with Council's requirements. This loading bay will be able to accommodate two (2) conventional or smaller vehicles at most times during the day. A copy of correspondence from Woolworths is attached demonstrating their willingness to enter into arrangement with Council (bonding) so as to ensure the ability for Council to maintain acceptable traffic arrangements in this area.

The residential parking areas will be within a secured area, whilst adequate area is available within the general development for visitor's cars.

Significant bicycle car parking is proposed within the parking areas, inclusive of 43 spaces at the ground level (associated with the retail uses and consistent with Council's DCP requirements) and a further accommodation of spaces above residential spaces by way of Australian standard bicycle storage hooks. This would equate to 1 bicycle space above each residential space giving a total of 50 spaces.

No constraints are evident in terms of gradient to the car park and accords with Council's Access to Property requirements and AS 2890.1. The proposal also includes a car wash bay for resident's vehicles within the basement area.

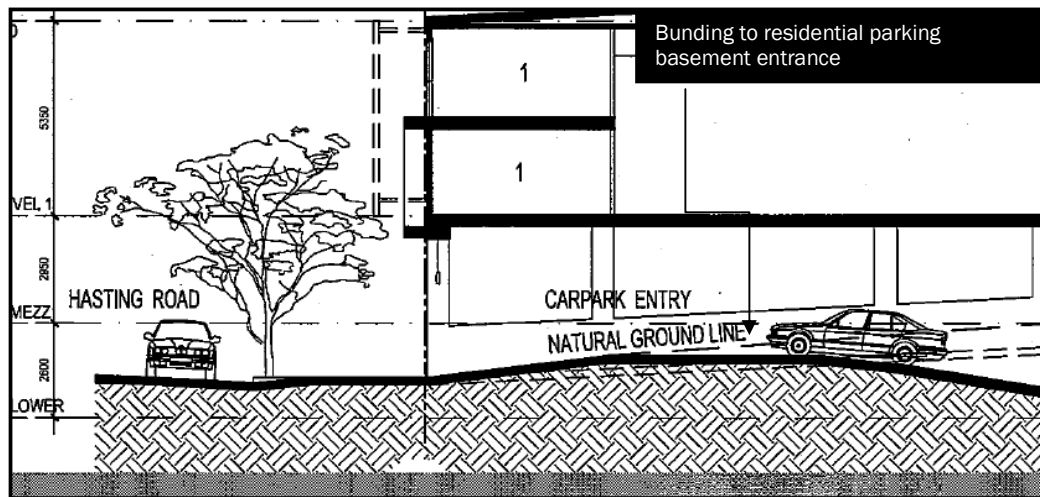
It is submitted that the car parking proposed satisfies Section A2 of the DCP.

Appendix O – Traffic Report
Appendix P – Woolworths Letter

4.8.3 Section A3 – Development on Flood Liable Land.

Bogangar is identified under Section A3 as containing a design flood level of 3.4 metres AHD with a minimum floor level of 3.7 metres AHD for residential development. The residential components are set at 13m AHD, whilst the commercial component is set at a minimum height of RL 7.65 m AHD or greater and is not affected by flood waters.

Part of the car park however is considered as a basement and is set at a height of RL 2.18m AHD which is below the height of Hastings Road. Survey detail indicates the



centreline of the road varies from 2.71 m AHD to 3.18 m AHD. Without amelioration, in the event of a major flood event (eg 1:100 year event) the basement area would be inundated.

Under Section A3 there is a requirement for basement car parks to be protected from flood waters. The provisions state:

Car Parking in the form of basement parking will not be approved below the design flood level unless it is protected against the inflow of water to a level of 500 mm above the design flood level.

To ensure that the residential component of the basement carpark meets Council design guidelines under Section A3.6.2 - The Coastal Villages, Development of Flood Liable Land, Tweed Development Control Plan, 2008 (DCP) a freeboard allowance of 500mm has been incorporated into the ramp system which provides access into the carpark.

The ramp at its highest point is at RL 3.9m AHD therefore providing the 500mm above the 1:100 year flood level of RL 3.4m AHD as the adopted Design Flood Level for Bogangar.

In this regard the attached traffic report prepared by OPUS outlines options to mitigate flooding of the basement car park. Two options are provided, 1. bunding measures and 2. increase of the ramp gradient to RL 3.9m incorporating the 500mm freeboard required. Again option 2 has been employed so as to protect the residential car parking areas from inundation (refer diagram below).

Consideration has also been given to the DECC 2007 Guideline, Practical Consideration of Climate Change which indicates a potential rise in the sea levels of up to 0.91m by 2100.

Based 3.70m AHD the Adopted Minimum Floor Level for Residential Development for Bogangar as per A3.6.1 of the DCP plus the maximum predicted increase sea level of 0.91m the residential component of the development would require a minimum floor level of RL 4.61m.

Level 1 of the residential component of the development has a floor level of RL 13m which is well in excess the minimum design requirements. As the basement residential carpark is not a habitable area and not covered by the DECC guidelines the current DCP Design Guidelines have been used. These have been adopted on the bases that those residence allocated a car space would have adequate time to relocate vehicles to a higher location.

Appendix Q – Flood Level Plans

4.8.4 Flood Access and Evacuation Plan

The following evacuation plan should be made accessible to each of the speciality retail shops within the development, form part of the Body Corporate manual and also provided to each of the residential units for fixing to an internal wall.

EVACUATIONPLAN

APPLICABLE GAUGE is the Chinderah Flood Gauge.

GENERAL LEVEL of the land is between 3.2m AHD on Hastings Road and 7.6m AHD on Tweed Coast Road.

EXPECTED NUMBER OF OCCUPANTS is between 40 to 100 which would include families with children

RECOMMENDED FLOOD WARNING EVACUATION ROUTE north to Rosewood Avenue, travel east to connect to Clothes Creek Road which will connect to the Pacific Motorway using private vehicles located within the property.

FLOOD WARNING – When a flood warning is current you should:

1. Purchase spare batteries for radio
2. Purchase spare food supplies
3. Listen to the local radio station for updated flood information

BASEMENT CARPARK Vehicles either private and or customer should be moved from the basement carpark and moved to Tweed Coast Road.

EVACUATION OF SITE - When the flood reaches a gauge reading of 1.5 and further rises are expected secure any items stored on private balconies, used for al fresco dining or within the public forecourt against high winds. Items within the retail and commercial tenancies which are affected by water should be located to a higher area within the tenancy or moved off site. Your destination should be notified to the local SES.

NOTES Level 1 of Habitable Areas is located at 13mtrs. It is unlikely that an evacuation of the residential units will be required. Evacuation of vehicles or personal belongings stored in the basement carpark should be undertaken as a priority.

If required to evacuate evacuees should stay with friends or find motel accommodation or similar. (SES welfare centres are makeshift and do not offer a high degree of comfort).

If a Welfare centre is your only option bring a water proof container or plastic bag containing

- A change of clothes

- A sleeping bag
- Any required medication

Conclusion

Flooding is not a significant constraint as the residential component of the development being well above the required floor height of 3.7m ADH. The only section of the development which is below the flood level of 3.4 mtrs is the basement carpark. To mitigate the risk of flooding the ramp system which provides access to the basement carpark has been designed to incorporate 500mm of freeboard raising the AHD level to 3.9mtrs.

4.8.5 Section A9 Energy Smart Homes Policy

Basix and BERs Pro Certificates are provided demonstrating the proposal satisfies Council's energy efficient requirements.

4.8.5 Section A13 – Socio-Economic Impact Assessment

The development is considered unlikely to have a significant adverse social or economic impact. An Economics Report and Social Impact Assessment Report are attached for Councils consideration in accordance with the requirements under Section A13. It is submitted the proposal will have a positive impact upon the locality.

4.8.6 Section A1 – Bogangar DCP Section B19 Cabarita Locality Plan

The subject site is identified as being within the Tweed Coast Road and Hastings Road Commercial Precincts within the locality plans.

Aside from the clear compliance of the proposal with intent for pedestrian accessibility through the site, the proposal also achieves strict compliance with the objectives of the plan as it relates to the precincts identified above.

Following is an assessment of the proposal against the design code within the Cabarita Locality Plan.

DB 19.15 Residential Design Guidelines

All multi-dwelling development must comply with the provisions of Section A1 - Multi-Dwelling Housing of this DCP. Notwithstanding the provisions of Section A1 the following design guidelines are to be observed as well.

Design Guidelines	Compliance
B19.15.1 Building Mass Buildings that comprise of large, unbroken expanses of walls can appear as visually imposing and aesthetically unattractive. The apparent bulk of a large building can effectively be reduced by breaking the building into smaller component parts, thereby achieving visual variation and encouraging design innovation. The face of a building can be divided into smaller	This development will contribute to the streetscape as a positive addition and provide a focal point for further development of surrounding sites. Overall building mass is also within the guidelines and is further broken down by the use of differing materials and overall fenestration. The proposed development has been designed to interact with the streetscape

components by a combination of varied setbacks in the line of the external building, the inclusion of balconies and window shade elements. Any wall or face of a residential building should not have a continuous, unbroken length of more than 15m. Indentations in the line of a wall will not achieve the desired outcome. There must be a clear break in the building line.

by providing basement carparking therefore allowing the retail component of the development to present directly to Tweed Coast Road. The Ace Plaza to the north is dominated by the driveway and carparking.

The bulk and scale the recently completed 4 storey Cabarita Hotel is comparable if height and scale to the proposed development. However, the separation of the buildings forms and roof articulation ensure the visual bulk of the proposed development are greatly reduced in comparison the adjacent development.

The bulk and height of the buildings facing Tweed Coast Road and Hastings Street are within the guidelines established in the DCP. In the upper levels the fenestration is purposely fragmented to reduce scale, minimize the appearance of bulk and create visual interest.

At street level is a similar fragmentation of shop fronts but with the inclusion of a unifying element in the shop front awning which extends the full length of the Tweed Coast Road frontage. The separation created between the buildings defines a clear access to the courtyard, an area designated for public use and providing access to the pedestrian link with Hastings Street.

The Courtyard is essentially an open space covered by a lightweight roof at a high level (approx. 8 meters high) and allowing the ingress of filtered light and flow through of cooling breezes. The use of different building materials will create a textual and visual interest.

The introduction of awnings and internal roof structures at differing levels provides interest and breaks the vertical height of the buildings, whilst the complete separation of the buildings and use of external screens introduces horizontal elements which draw the eye back to street level.

Shop fronts predominately of glass provide street activation by drawing your eye to the internal retail activity, whilst the sheltered naturally light courtyard will provide a place to meet. These elements

	together with the glassed residential links at the rear above the internal courtyard ensure visual activity and human scale to the proposed development.
B19.15.2 Energy Efficiency Ventilation Natural ventilation is preferable for a high quality living environment and energy efficiency. Adequate ventilation requires cross ventilation. Cross ventilation is easily achieved in apartments that extend the full building depth and have window and door configurations that allow unimpeded air movement through the full depth of the apartment. Changes in height between incoming and existing air also encourage cross ventilation. Cross ventilation is best achieved through narrow floor plans. In situations where apartments cannot extend the full width of the building, ventilation shafts and courtyards can make it possible for cross ventilation to occur. Daylight Access Daylight provides better amenity and is more energy efficient than artificial light. Buildings should be designed to ensure sufficient daylight access to habitable rooms, without the need for artificial lighting. Glazed areas should predominantly face north to optimise sun and daylight access. Shallow floor plans allow good daylight access. Split-level plans can enhance environmental quality.	Development Complies – refer to BASIX report. Intelligent use of passive solar design principals, including correct orientation, deep balconies, shade pergolas and screening further enhance the livability of this development. Units generally are orientated to maximize the ingress of cooling sea breezes. Internal decked courtyards enhance the ability for the unit to capture light and breezes via cross ventilation through the Living and Bedrooms of all units on both levels. The necessity for reliance on air-conditioning is minimized as a result. Deep balconies with high level glass louvers provide natural ventilation regardless of the bi-fold balcony doors being closed due to poor weather conditions. The movable external screens also provide the ability to regulate the weather, sunlight and indoor temperature therefore negating the need to utilize air-conditioning. Water captured from the roof structure will be stored onsite and utilized for irrigating the internal landscaping. On-demand hot water systems will be installed in each of the units to maximize efficiencies. Voids in the roof structure create light wells allowing natural light to filter into internal spaces reducing the need for artificial light during the day. Daylight Access The proposed development exceeds the requirement for providing daylight access to 70% of living rooms and private open space between 9.00am and 3.00pm in mid-winter. Natural Ventilation 100% of Apartments achieve cross-ventilation, exceeding the requirement of 60%.

	Single South Aspect Apartments No single south aspect apartments are proposed within the development. Natural Ventilation to Kitchens The proposed development achieves 100% natural ventilation to kitchens, exceeding the requirement of 25%
B19.15.3 Roof Lines Roofs are strong visual elements in residential design. Purely functional, flat roofs, with protruding lift over-runs or service plant rooms have little visual interest and do not contribute to the streetscape. Imaginative roof structures are encouraged, to produce a visually interesting skyline while retaining important views from adjoining developments. Lift over-runs and service plants should be concealed within well designed roof structures that are integrated with the overall design of the building. New development must maintain diversity in the design of roofed areas and avoid the construction of a “monotonous” roofscape. Roofed areas should not adversely impact on neighbouring properties and not detract from the existing roofline character. Potential impacts include ancillary structures such as solar heating panels, satellite dishes and kitchen exhaust shafts/cowls; and the intended uses of the area for activities such as viewing platforms and outdoor recreational areas. Development, to comply with the goals set by the roof design performance criteria, will: • Combine roofing elements including gable, flat, hipped and/or curved roof forms; • Be constructed using materials that are non-reflective and /or have minimal visual impact; • Screen or position ancillary structures and/or activity areas having potential impact from view or the sightlines of neighbouring properties and public spaces; • Avoid the addition of pergolas or other covered structures unless that part of the development is considered allowed by Clause 16 of Tweed Local Environmental Plan 2000; and • Be designed having a roof pitch no greater than 45 degrees to the horizontal.	The development provides variety in roof lines and pitches, whilst the lift overrun is hidden from view from the street. Roof material will be non reflective colourbond consistent with Council's requirements.

B19.15.4 Privacy The provision of visual privacy is an important consideration for residential amenity in urban housing. The degree of privacy required in each part of a development depends on the following: • the activities of each of the areas between which overlooking may occur; • the times when people are using them and the frequency of occupation; • the occupants' expectations of privacy and their ability to control overlooking by screening devices. Separation and screening are the main ways of achieving visual privacy. Direct overlooking of main internal living areas of other dwellings is to be minimised by building layout, location and design of windows and balconies, screening devices and landscaping. Direct views between living area windows of adjacent dwellings should be screened or obscured, or windows should be offset to ensure maximum privacy. Staggered building elements within a development improve privacy between units.	Great care and consideration have been given to the provision of appropriate room sizes and relationships, efficient layouts and the full integration of internal and external living spaces. Deep balconies provide useable outdoor living spaces and also enable a high level of visual and acoustic privacy between adjoining units. Bi-fold balcony doors provide the ability to invite the outside in and extend the internal living spaces during warmer months. All units have been designed to maximize amenity for all residents by providing open plan rooms ensuring a ease of movement throughout the units. The use of internal courtyards, particularly for the lower level units, and raked ceilings to the upper levels enhance the ingress of natural light and breezes.
B19.15.5 Security Urban housing developments should be designed such that they are safe and secure for residents and visitors. Developments should be designed to reduce opportunities for anti-social behaviour and to reinforce residents' sense of security. Particular attention should be given to the layout of all public and semi-public areas, including entrances, foyers, lift wells, hallways and car parking areas. In all these areas the design should: • promote lively public and semi-public areas; • ensure public and semi-public areas are well lit at night; • promote casual surveillance; • minimise crime opportunities through careful design and layout; • clearly define threshold areas between public and private realms to promote residents' sense of security by demarcating their private spaces.	The DCP requires the inclusion of a pedestrian access way from Hastings Street to Tweed Coast Road. It is inherent in the design that should be safe and secure for all users. The pedestrian entry from Hastings Street provides a clear and highly visible entry to the site and with concise signage will indicate easy access to Tweed Coast Road. The pedestrian access elevates from Hastings Street to the Retail Court via a naturally lit ramp. From the ramp a clear view through the Courtyard to the street is available. This access will closed off after business hours. A separate lift services the basement and mezzanine carpark levels. This lift and vehicle access can be locked off after trading hours to limit any opportunity to gather or vandalise. For residents, the street level entry to the apartments is clearly defined by an arbor and subtle articulation of paving finishes from the street. Also provided is direct secure access from the Basement Carpark, via dedicated lift and stairs, to

These can be achieved by ensuring that developments incorporate the following elements: Entrances • Orientate building entrances towards the public street and ensure visibility between entrances, foyers and the street; • Encourage ground level apartments to open directly to the street rather than through a common foyer; • Provide direct and well lit access between car parks and dwellings; between car parks and lift lobbies, and to all unit entrances; • Provide group entrances to dwellings or adjoining apartments in a commonly visible area; • Arrange apartments in clusters to a maximum of eight around a common lobby, to optimise security; • Allow for quick and easy access to the building by occupants and visitors; • Mixed use buildings should be provided with separate entrances and internal access for the residential component to ensure safety of residents. Surveillance • Provide outlook over public open spaces and streets from at least one room other than the bathroom or bedroom; • Create opportunities for unobtrusive surveillance of common internal areas, such as lobbies and foyers, hallways, recreation areas, and car parks. Concealment and Illumination • Avoid blind or dark alcoves which might conceal intruders. Clear lines of sight and well lit routes throughout the development are the main criteria. • Provide appropriate levels of illumination for all common areas. Unsupervised Access • Prevent uncontrolled access to apartments from car parks, fire exits and the balconies and roofs of neighbouring buildings. Communications • Provide an audio or video intercom system at the entry or in the lobby for	the residential levels and linking with the Street front access. This access is within the designated secure residential carpark and will be accessed by a security tag system. Excellent casual surveillance of adjacent public areas is achieved as a result of almost 60% of units overlooking the street and the internal walkway at the residential level overlooking the Courtyard. Voids from the podium provide natural light into the mezzanine and basement levels of carparking. Should dining be included in retail component of the development toilet facilities will be available within the courtyard area by request of the patron from the particular restaurant. The forecourt can still be closed after hours with a keys provided on request by patrons. Onsite management will also provide 24 hours surveillance of the public and private areas.
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visitors to communicate with residents.	
B19.15.6 Materials and Colours Materials In general, expansive glazed areas should be avoided as these do not provide visual relief, are not energy efficient, and create problems with reflection. Glass with a reflection index greater than 20% will not be permitted. Other highly reflective materials should also be avoided. Buildings should be finished to a high standard, incorporating rendered and painted surfaces. Innovative use of materials is encouraged. Building products made from renewable resources and recycled materials are also encouraged, in the interests of environmental sustainability. Colours Lighter colours and shades are preferred as these harmonise with colours of the coastal environment and surrounding development. Acceptable dominant colours of buildings are white, cream, light sandstone, pastel shades of blue, brown and purple/magenta. A combination of colours can provide visual interest to the urban landscape. Dark colours such as black and charcoal and expansive areas of dark tinted glazing should be avoided, as these are not characteristic of the locality. All shades of grey should be avoided as they appear unattractive during overcast weather conditions.	The use of glass, movable screens and different balustrade treatments on the Tweed Coast Road units creates a façade sympatric to the Cabarita village atmosphere. Textual elements introduced through the use of vary building material provide depth and shading to ordinarily flat surfaces. This innovative design of the proposed development encompassing an open public forecourt and a sense of place as a focal point rather than a carpark as the dominate feature. The building is to be constructed from a range of materials including concrete panels, colourbond, timber louvres, aluminium framed glass doors and panels, powder coated aluminium screens, rendered blockwork and steel elements. The building will be painted in non reflective colours consistent with Council's requirements. Whilst consistency in detailing and materials are important to achieve an overall cohesiveness to the buildings, the controlled interplay of details and materials proposed develop a language more reminiscent of a traditional coastal village and develop an aesthetic for the development that will provide a soft human scale. It is anticipated that this will then act as a standard for further development of this central precinct. The Hastings Street façade is also developed as a more complex façade to reduce the massing and present a reduced scale to the neighboring residential area. The finishes proposed are a mixture of timber battens, shaded and screened glazing and a 'green wall' area to enable the growth and spread of climbing plants. This will provide both depth and complexity to the façade. The street front to the full extent of the buildings is shaded by fixed awnings that follow around the shopfronts and continue into the Courtyard. This pedestrian space is then sheltered by a higher level lightweight roof to provide sun shade and weather protection but allow the flow of cooling breezes through the space.
B19.15.7 Access and Parking	Pedestrian access is from Tweed Coast Road and clearly identified for easy

The provisions of Section A2 - Site Access and Parking Code of this DCP apply, in addition to the requirements detailed below.

Access

Where achievable, access to on-site parking areas is encouraged via lanes and secondary streets. Vehicular access to properties situated on western side of Tweed Coast Road and the eastern side of Hastings Road must be obtained from the laneway situated between Hastings Road and Tweed Coast Road. Access to properties situated on the eastern side of Tweed Coast Road will be limited to rear access.

During initial site design, the location and type of vehicle crossings must be carefully considered, to ensure that street character and pedestrian safety are maintained. Wide and dominating access points detract from both the streetscape and the active use of street frontages.

Parking

Car parking is to be provided either in a basement level car park or to the rear of the building. Parking located at ground level, underneath a residential or commercial building, and is visible from a main street frontage will not be permitted.

The following requirements must be met by all new developments:

- Safe and convenient access to car parks must be provided for people with disabilities;
- Car parking should not be visible from main streets;
- Where parking levels are visible from minor streets, they should be screened with solid walls or with dense planting.

Car Wash Areas

All new residential development must provide car wash areas. This will improve water quality in the Shire's waterways by controlling the disposal of nutrient laden car wash runoff.

The following requirements must be met by all new developments:

- An identifiable car wash area is provided in conjunction with each multi-dwelling

recognition. The unit carpark is accessed separately from the minor road, Hastings Street and is designed to comply with Australian Standard AS 1428 (parts 1 and 2).

All parking for the units is located in a secured area, thereby exceeding the requirements of 20%.

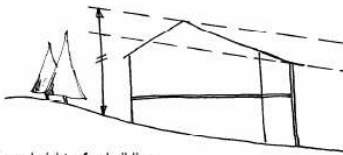
Vehicular access to on-site car parking and basement carparking is via Hastings Road which is a secondary street. A separate lift services the basement and mezzanine carpark levels. This lift and vehicle access can be locked off after trading hours to limit any opportunity to gather or vandalise.

Also provided is direct secure access from the Basement Carpark, via dedicated lift and stairs, to the residential levels and linking with the Street front access. This access is within the designated secure residential carpark.

housing development and reserved for use as a car wash area only; • The car wash area has a pervious surface e.g., a turfed area; • An adequate water supply is made available to the car wash area; • Surface run-off from the area must not discharge directly into the stormwater system; • Car wash areas to be provided at the rate of 1 per every 10 dwelling units, with a minimum of one wash area being provided for each multi-dwelling housing development; • Car wash areas are not to be included in the calculations for on-site car parking.	
B19.15.8 Open Space and Balconies Developments should provide landscaped open space according to the following minimum requirements: - Dwellings under 85m² in floor area – 20m² per dwelling. - Dwellings over 85m² in floor area – 25m² per dwelling. Where open space is provided at ground or podium level, it should have a minimum dimension of 4m and be appropriately landscaped. Dwellings located above ground level or without direct access to the landscaped podium shall provide private open space in the form of a balcony (or roof terrace where appropriate), having a minimum area of 8m² and a minimum dimension of 2m, with direct access from a main living room of the dwelling. Detailed balcony design also has a significant effect on the architectural character of an apartment block. Recessed balconies give visual solidity to the façade. Projecting balconies articulate the façade. Balcony railings may be solid, transparent or semi-transparent. Solid balconies with brick balustrades ensure good privacy and environmental protection for the residents and provide visual solidity in the building façade. Transparent balconies made from toughened glass allow physical protection and views for residents, but are less private. Metal railings have the potential to add architectural character to the building.	Balcony Design All apartments have at least one balcony which is in excess of 3.0m deep, exceeding the 2.0m minimum depth required. A large percentage of balconies incorporate sliding louvered screens to allow flexibility of use given the exposure to winds. Balustrades are designed to provide privacy through screening but still enable casual surveillance of the street. Open Space In the context of building type and location, soft landscaping is utilized on the residential podium to provide visual privacy and shade to unit entrances. Units facing Mount Warning benefit from landscaping located on the roof deck created by the supermarket below. This green band provides a visual break leading to the mountain views beyond. At street level soft landscaping will be used to provide shade and screening therefore reducing the visual impact of the on grade carparking area on Hasting Street. The alignment of Tweed Coast Road provides are opportunities to develop the footpath zone with a combination of paving and soft landscaping, including an avenue of deciduous trees. Future possible development of al fresco dining will add to the village atmosphere and sense of place. The rear of the development will be

	shaded by statement footpath trees which will provide a vertical visual element to texturise structural finishes. Communal Open Space Communal open space for the residential area in this proposal is restricted to the podium area on level 2 due to the nature of the location of the residential portion of the development, positioned over a commercial use on the Ground Floor. At Level 2 is an open area of approx 330sqm, 24% of the total requirement for open space. In addition to this area are private balconies totalling approx 620sqm, representing an area of 206sqm greater than the minimum balcony area requirement. This additional area and the open space equal 536sqm, or 9.5% of the site.
B19.16 Building Height B19.16.1 Building Height All buildings are governed by the maximum building height limits set under Tweed LEP 2000. All proposed developments must comply with:- • the building envelope controls contained in this section of the DCP; • the maximum height limits imposed under Tweed LEP 2000; and	The proposed building height exceeds the DCP building height and a SEPP 1 Variation report has been prepared to reflect this non-compliance.
B19.16.2 Application Requirements Applicants should provide block models, visual impact statements, shadow diagrams and perspective drawings to demonstrate compliance with the objectives of the building envelope control.	
B19.16.3 Building Envelope Objectives The objectives of the building envelope control are to: • ensure the maximum building height provisions for the area are observed; • ensure that building setbacks to property boundaries increase relative to any increase in building height; • minimise the visual and physical impact and apparent bulk of buildings on adjoining developments and public streets and spaces; • facilitate adequate sunlight access to and minimise shadow impact on adjoining	

properties and public streets and spaces.	
B19.16.4 Maximum Building Height The height and scale of development within the study area is generally limited to three storeys. To maintain the character and amenity of the region it is encouraged that these height limits continue. New development should minimise the visual and physical impact and apparent bulk that it has on adjoining development and public streets and spaces. New development should also not detrimentally impact on identified important view corridors. Development, to comply with the goals set by the building height performance criteria, will measure the height in relation to a building to the uppermost ceiling or top plate of the highest external wall as follows: • 2 storey commercial development - 8 metres • 2 storey residential development - 6 metres • 3 storey residential development - 9 metres • 3 storey mixed development (commercial on ground floor and 2 storeys of residential above) - 10 metres WITH A CEILING WITH NO CEILING Example: Building height to the uppermost ceiling or top plate of the highest external wall. Whilst the maximum height of buildings measured to the highest point on the ridge of the roof and including all ancillary structures such as, but not limited by, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls is a further 2.5 metres above these nominated heights. This additional 2.5 metres does not provide for any additional rooms for habitation, it is strictly for roof and ancillary roof structures.	The proposed building height exceeds the DCP building height and a SEPP 1 Variation report has been prepared to reflect this non-compliance. The bulk and scale the recently completed 4 storey Cabarita Hotel is comparable if height and scale to the proposed development. However, the separation of the buildings forms and roof articulation ensure the visual bulk of the proposed development are greatly reduced in comparison the adjacent development. The bulk and height of the buildings facing Tweed Coast Road and Hastings Street are within the guidelines established in the DCP. In the upper levels the fenestration is purposely fragmented to reduce scale, minimize the appearance of bulk and create visual interest. The two primary buildings presented to the street front of Tweed Coast Road are separated by a full height opening linking through to the central covered shopping Courtyard.

 Example: Maximum height of a building. The maximum height of a building is to be 12.5 metres. The height of building is to be measured from the Natural Ground Level (NGL). The height in relation to a building is the greatest distance measured vertically from any point on the building to the natural ground level immediately below that point. The following Building Height Limit Map is an extract from the Tweed LEP 2000 and prescribes the maximum building height (in storeys) for all parts of Bogangar/Cabarita Beach.	
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4.9 Miscellaneous Controls and Strategies

4.9.1 Tweed 2000 + Strategic Plan

In December 1996 Council adopted this Plan, the purpose of which is to “provide a broad overview of Council’s intentions and directions for the future in relation to development, the environment and infrastructure provision. In particular, Shire Wide Strategic Principle No.6 provides for an increased emphasis on economic, employment generation and retention in the Tweed whilst Strategic Principle No.4 requires ecological sustainable development principles to be included in the decision making process. It is submitted the proposed development will generate significant short and long term employment opportunities, no environmental impacts are evident in relation to the proposed development, whilst the proposal will also assist in adding further vitality to the regeneration of Bogangar and the surrounding business district.

It is concluded the proposal is consistent with the principles and relevant policies and actions contained within the Strategic Plan.

4.9.2 Rural Fires Act 1997 and the EP&A Act, 1979 - Bush Fire Risk

The site is not within 100 m of an area defined as high or medium hazard or within 30 m of low hazard areas on Council’s Bush Fire Hazard Maps.

The proposal does not require a permit under Section 100B of the Rural Fires Act.

4.9.3 Tweed Urban Stormwater Quality Management Plan

In accord with the provisions of the above stated plan, a detailed Stormwater Management Plan has been prepared and is attached to this submission.

The Stormwater Management Plan provides for appropriate measures to manage and mitigate potential adverse impacts arising from stormwater runoff both during the construction phase and the occupational phase such that impacts on downstream water quality are reduced.

Appendix R – Stormwater Management Report

4.9.4 Ecologically Sustainable Development

Ecologically sustainable development is included in the objects of the Environmental Planning and Assessment Act.

In summary, ecologically sustainable development relates to managing development and the consumption of resources to a level which is sustainable in the long term. Schedule 2 of the Environmental Planning and Assessment Regulations, 2000 includes the following principles of ecologically sustainable development:

- a. 'The precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation'.

In the application of the precautionary principle, public and private decisions should be guided by:

- i) Careful evaluation to avoid, where practicable, serious or irreversible damage to the environment, and
 - ii) An assessment of the risk-weighted consequences of various options,
- b. Inter-generational equity, namely, that the present generation should ensure that the health diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.
- c. Conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.
- d. Improved valuation, pricing and incentive mechanisms, namely, that environmental factor should be included in the valuation of assets and services such as:
- i. Polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
 - ii. The users of goods and services should pay prices based on the full life cycle of cost of providing goods and services, including the use of natural resources and the ultimate disposal of waste
 - iii. Environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems."

The application plans and specialist reports accompanying this development application demonstrate the proponents' commitment to ecologically sustainable development principles. In particular, the planning, design and construction of the development is based on the following approach:

- Completion of detailed site surveys, and soil investigations and data capture to ensure that the ecological values and physical characteristics of the site are quantified and documented as base line data;
- Identification of potential adverse impacts and establishing appropriate measures in the planning, design and construction phase to mitigate those impacts;
- Achieving urban design outcomes consistent with contemporary practice and based on sustainable outcomes, particularly in relation to:
 - Managing potential degradation of downstream water bodies and wetlands;
 - Creating a building which is compatible with energy efficiency objectives;
 - Creating a development which is consistent with sustainability principles;
 - Enhancing the public domain;
 - Maintaining public access within the street.

The application plans achieves a balance between the commercial objective of producing a viable development and the environmental constraints and opportunities of the site.

4.9.5 Seven Year Plan

An estimated \$133M of projects, programs and services has been included in the 7 Year Plan for the Tweed Shire. To fund this it has been estimated that a rate increase (above CPI) of around 6% per annum for the next 7 years would be required to deliver the program in full. Council have advised that the increase in rate revenue will fund 60% of the total program costs of \$133M. The plans also seeks to change the way rates are calculated for commercial properties with rates likely to increase by as much as \$250 per year in addition to the other increases. This will no doubt place increasing pressure on commercial land owners to seek a greater return on investment, and it is anticipated older commercial properties, and or vacant land within the Bogangar/ Cabarita CBD will be redeveloped more intensively in accordance with Council's planning controls.

4.9.6 Retail Strategy

Council Engaged Core Economics to prepare a Retail Strategy for the Tweed Shire which was finalised in September of 2005.

This strategy is intended to inform Council in terms of making strategic planning decisions in relation to future regional shopping centres and to provide guidance in relation to the availability of commercial purposes to facilitate such a development. The strategy does not specifically provide recommendations in relation to development on land already zoned for retail and commercial purposes and the size of the development is one which can best described as a local shopping centre aimed primarily at servicing the local population of Cabarita Beach and Bogangar.

The strategy notes there is a limited range of retail (with no full-line supermarket) in Cabarita Beach/ Bogangar resulting in the need for local residents to travel in order to shop. The proposal will provide a suitable alternative to this current arrangement and will enable residents to shop locally and avoid the need to drive to Tweed Heads Banora Point, or Kingscliff to access a major supermarket.

The Strategy has identified that Tweed Heads and Tweed Heads South will continue to function as the regional centre for retail and commercial activities. As such and having regard to the size of the development proposed in terms of commercial floor area and the clear compliance with the objectives of the 3(b) General Business Zone, it is submitted the development will not compromise the Retail Strategy and the recommendations contained within.

A detailed economic impact analysis has been carried out and is attached for review.

Appendix T – Market Analysis Report

4.9.7 Developer Contributions

Section 94 contributions are payable for the proposed development pursuant to Tweed Shire section 94 Contributions Plan 2008. This payment will enable Council to provide any public amenities and services required as a result of the proposed development.

Section 94 nominates a number of Contribution Plans which the proposed development will attract. The final amount of the contribution will be determined as part of the development process and issued prior to the construction certificate.

4.9.8 Public Benefits

The proposed development will provide substantial benefits including but not limited the following:

Provision of public forecourt accessible to the open which will enable the local community to gather in safety.

Improve the streetscape of Tweed Coast Road with the landscaping of footpath adjacent to the development as part of the construction process.

Provision of a formed, integrated, attractive and safe pedestrian through-site link from Hastings Road to the forecourt which leads to Tweed Coast Road.

The demolition of existing redundant and de-commissioned facilities which are architecturally detracting to the coastal environment of Cabarita.

The provision of a retail centre which enables the local community to undertake their weekly grocery shopping within their town.

Creation of substantial employment opportunities during both construction and operation of the proposed development.

Commence the revitalisation of Cabarita by broadening the economic base of Cabarita.

Section

5

Environmental Assessment

Section 5A – Environmental Planning & Assessment Act 1979

Clauses 1(d) & 1(e) to part 1 of schedule 1 of the Environmental Planning & Assessment Regulations (2000) provide that a development application must include an indication as to whether the land is, or is part of, critical habitat and an indication as to whether the development is likely to significantly affect threatened species, populations or ecological communities or their habitat.

The land to which this application relates is not identified as 'critical habitat'. No significant vegetation remains on the site and as such it is concluded that the proposal will in no way have a significant or any effect on threatened species, population or ecological communities or their habitats and therefore, a Species Impact Statement is not required.

Development Application Requirements – Environmental Assessment

Clause 50(1)(a) of the Environmental Planning and Assessment Regulations, 2000 provides that a Development Application must contain the information and be accompanied by the documents specified in part 1 of schedule 1 of the Regulations. Clause 2(4) of part 1 of schedule 1 provides that a Development Application must be accompanied by a statement which must indicate the following matters:

- The environmental impacts of the development;
- How the environmental impacts of the development have been identified;
- The steps to be taken to protect the environment or to lesson the expected harm to the environment;
- Identification of Potential Environmental Impacts;
- Potential adverse impacts arising from the proposed development are summarised as follows;
- Loss of employment opportunities;
- Loss of low cost rental accommodation;
- Disturbance of contaminated land;
- Alienation of public access to the beach and foreshore areas;
- Disturbance of acid sulphate soils;
- Environmental wind effects;

- Land, soil and water degradation;
- Diminution in downstream water quality;
- Adverse visual impacts;
- Adverse impacts on the landscape; and
- Overshadowing.

A range of measures have been used to identify potential adverse impacts and these include:

- Completion of a detailed land survey to identify key topographic features;
- Completion of soil investigations to determine the location of potential acid sulphate soils;
- Completion of a preliminary visual assessment of the landscape values of the development site;
- Completion of investigations into the capacity of existing infrastructure and services;
- Analysis of appropriate car parking requirements, access and manoeuvrability provisions and necessary pedestrian linkages;
- Preparation of shadow diagrams;
- Preparation of a Socio Impact Assessment and Economics report.

Proposed Measures to Mitigate Potential Adverse Impacts

Mitigation and management of potential adverse impacts arising from the proposed development are identified in relevant sections of this assessment and the various annexures.

In summary, those measures include:

- Design of the buildings to reflect contemporary standards and guidelines including the Coastal Design Guidelines for NSW – (Coastal Council of NSW, 2003);
- Preparation of appropriate management plans to ensure that the proposed development during both the construction phase and subsequently is appropriately managed and monitored to achieve desired commercial and environmental outcomes;
- Substantial compliance with Council's codes, Development Control Plans and relevant environmental planning instruments;
- Provision of on site car parking in accordance with Development Control Plan 2007;
- Inclusion in the design of key elements to achieve sustainability principles;
- Provision of all normal urban infrastructure;
- Limiting the height and bulk of the buildings to reduce visual impacts and minimise potential overshadowing of public areas;
- Limiting work hours during the construction phase in accordance with normal Tweed Council standards.

Garbage Storage and Removal

It is proposed to situate refuse storage within the car park area facing Hastings Road.

A defined kerb cross over from Hastings Road will be provided to enable the waste contractor easy access to the bins for collection. For details in this regard please refer to the attached architectural plans. The matter has been discussed with Council's Waste Officer and the application has been referred to Solo Resource Recovery (Solo Waste) for comment on the proposed waste arrangements.

A copy of their correspondence is to be forwarded accordingly.

It is also pertinent to note that residential tenancies will also have keyed access to the centralised refuse area.

Crime Prevention through Environmental Design Assessment (CPTED)

The proposal seeks to ensure safety and confidence with all users and adjoining residents. In this regard the proposal has been designed in accord with CPTED principles and demonstrates the following:-

1. Separate secure residential parking, lift and lobby areas
2. After hours access from commercial car parking to ground floor tenancies via the central lift area
3. Access to at grade toilet facilities by way of locked secure access via tenancies (after hours) and open all day during daylight operations
4. Passive overlooking of forecourt area by way of residential bridge and manoeuvring areas at the upper level
5. Direct lift access to staff car parks, loading and service areas via liftwells on southern boundary.
6. Lighting will be provided in accord with Australian Standards and include security lighting at both Hastings Road and Tweed Coast Road frontages.

Section

6

Conclusion

As reflected in this Environmental Assessment, the proposal is unlikely to result in any significant adverse impacts on the built or natural environment. The proposed development is generally consistent with all relevant statutory planning requirements and is permissible with the consent of the consent authority.

In particular, the development satisfies the objectives of Tweed LEP 2000, Development Control Plan No.2008 including the controls under B19 Bogangar Cabarita Beach Locality Plan. Furthermore, the various state and regional policies and plans applicable to the land have been complied with. It is considered that this balance has been met, thereby only improving the ability of the proposed development to assist in the long term rejuvenation and revitalisation of the Bogangar Cabarita Beach CBD area.

This Environmental Assessment identifies potential adverse impacts (of which there are few), assesses their magnitude and significance and proposes measures to mitigate and manage those impacts such that the development remains sustainable and commercially viable.

Significant public benefits will result from redevelopment of the site, inclusive of the reinvigoration of the town centre and its peripheral areas. The latter can be achieved through the implementation of contemporary buildings incorporating sustainable employment opportunities and an improved urban aesthetic. Importantly the proposal shows an incentive for the development industry to continue to invest in Bogangar/ Cabarita Beach, an area of the Tweed Coast which has been generally ignored to date. With the changing demographics of the Tweed, the proposed development will provide further employment opportunities for locals, whilst multiplier effects are anticipated from increased spending in the village.

Having regard to the above considerations and others within this submission, it is submitted that the grant of Development Consent in relation to the proposed development is warranted, subject to reasonable and relevant conditions of approval.

Annexure **A**

SEPP 1 Objection

State Environmental Planning Policy No.1 provides for the mechanism by which variation to 'statutory' development standards can be both assessed and supported.

Relevantly, the policy provides for the following:-

Clause 3 of the policy states, inter alia:

"3. This policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act."

The specified objects of the **Environmental Planning and Assessment Act, 1979** state inter alia:-

"to encourage:

- (i) the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land".*

Clause 6 of the policy states, inter alia:-

"6. Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefore) the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection".

Section 79C(1)(a)(ii) of the Act provides for the requirement that the consent authority must take into account any draft environmental planning instrument that has been placed on exhibition of which it has been notified. In this regard, the SEPP 1 Policy has been prepared an exhibited.

It is pertinent to note that Draft Amendment No. 1 states that a SEPP No. 1 Objection must include:

- (a) a written objection that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and which specifies the grounds of the objection, and*
- (b) evidence which demonstrates that the development will be consistent with any express aims or objectives of any environmental planning instrument (including this policy) applying to the development.*

Accordingly, this objection pursuant to SEPP No.1 is made with regard to the adopted and draft versions of SEPP No.1. The objection is in respect of the planning standard identified within Clause 16 of the Tweed Local Environmental Plan 2000, specifically seeking variance to the three (3) storey development standard prescribed for the site.

Clause 7 of SEPP 1 provides the discretion and power to a consent authority to support SEPP No. 1 Objections and grant development consent. This clause states inter alia:-

"7. Where the consent authority is satisfied that the objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of this Policy as set out in Clause 34, it may, with the concurrence of the Director, grant consent to that development application notwithstanding the development standard the subject of the objection referred to in Clause 6."

Accordingly, the applicant seeks the support of the Shire Council in respect of the **SEPP No. 1 Objection** set out herein and requests that the **application** be approved, notwithstanding non-compliance with the standard prescribed within Clause 16 of the Tweed Local Environmental Plan 2000.

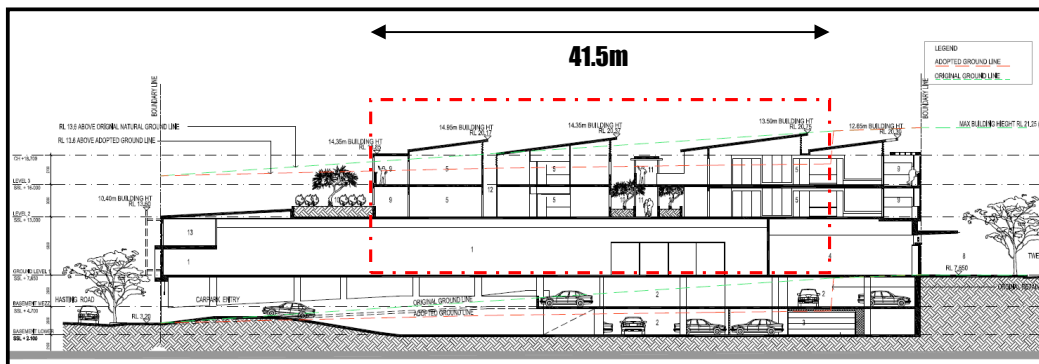
EXTENT OF STATUTORY VARIATION

Within the attached Architectural plans are diagrams depicting the horizontal extent of the building that can be statutorily defined as 4 storeys (refer except below also). The Department's attention is drawn to the attached section diagrams which depict the natural ground line (in red).

The variation requested relates to the residential units above that area where the property significantly drops off from Tweed Coast Road. We note in this regard that the steep drop off is a result of excavations carried out in the 1960's, resulting in a n artificial landform that nonetheless provides for what is now referred to under the Tweed LEP as the 'finished ground level'. The current topography is clearly shown in the attached plans by way of red dashed line.

The area of encroachment largely relates to the upper level of residential apartments to the rear of those fronting Tweed Coast Road, with the proposal exhibiting a compliant three (3) storey form to Tweed Coast Road. Furthermore it is pertinent to note that the proposal demonstrates a compliant three (3) and in some instances, two (2) storey form to Hastings Street.

Please refer to the submitted drawings prepared by WA Stockwell.



ASSESSMENT OF APPLICATION FOR VARIATION

The appropriate manner of dealing with a SEPP 1 objection is found in the judgment of Lloyd J in Winten Property Group Limited v North Sydney Council (2001) NSWLEC 46, where a number of questions are posed. These are addressed below.

DEVELOPMENT STANDARD

The first question in Winten asks whether the subject planning control is a development standard.

The relevant controls are set out in Clause 16 of the Tweed Local Environmental Plan 2000 which states, inter alia:-

16 Height of buildings

(1) Objective

- **to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.**
- (2) Consent must not be granted to the erection of a building which exceeds the maximum height or number of storeys indicated on the Height of Buildings map in respect of the land to which the application relates.
- (3) If an application for development consent made to the consent authority prior to the commencement of Tweed Local Environmental Plan 2000 (Amendment No 46) is not determined by the consent authority before that date:
- (a) the amendments made to Schedule 1 to this plan by Tweed Local Environmental Plan 2000 (Amendment No 46) do not apply to the determination of the application, and
 - (b) the application is to be determined under this plan as if those amendments had not been made (that is, having regard to the definitions of **height** in relation to a building and **storey** in force under this plan immediately before that commencement).

Unlike many other development standards, the objective supporting the prescribed requirements of Clause 16 are defined and outlined above in bold type.

The control in relation to number of storeys is clearly a development standard.

OBJECTIVES OF THE STANDARD

The second question in **Winten** asks what is the underlying object or purpose of the standard.

The matters relating to the objectives of a Planning Standard are the most fundamental element to the proper consideration of a SEPP No. 1 Objection. The importance in this regard was identified by the NSW Land & Environment Court by Justice Talbot (Lavender View Regency Pty Ltd – v – North Sydney Council, unreported) in which he states, inter alia:-

“When considering an objection made pursuant to SEPP 1, it has been well established that it is necessary to have regard to a number of matters. Firstly, the aim and objective of the development standard must be understood. Once that has been appreciated, the effect of the non-compliance upon the purpose of the development standard needs to be assessed. The assessment takes account of whether the aim and objective will be achieved notwithstanding that the standard will not be complied with. In other words, it is not the standard itself that is important, but rather it is the purpose which it is designed to achieve. The circumstance of the case that renders the imposition of a development standard unreasonable or unnecessary is that the development will nevertheless meet the identified planning purposes of the standard”.

“the purpose of the standard may be determined from the planning instrument or from an examination of the planning considerations which led to its formulation”.

JUSTIFICATION FOR VARIATION OF THE STANDARD AND MATTERS FOR CONSIDERATION

The objective providing foundation for the three (3) storey height limit affecting the subject site states, inter alia:-

- **to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.**

As discussed above and confirmed by judgments supported by the Land & Environment Court, the ability of a proposal to attain the objective of the standard and its intent are fundamental to the appropriateness of applying the standard in the first instance. We note therefore that the variation requested is done so with particular reference to the content and wording of the

objective to the standard. Accordingly, we have broken down the request for variation in to three (3) specific headings, each of which is identified within the objective proper.

An analysis in this context has been carried out as follows:-

Is the development appropriate to its location and surrounding development??

It is contended that the development responds in the positive in relation to this question. In this regard, the key elements to consider are defined as follows:-

1. What is the character of the locality;
2. What elements form or shape development in the locality;
3. Will the development appear out of character with surrounding development; and
4. Will the development translate into excessive or avoidable impacts?

With reference to the above objective, it is noted that the site is located within the 3(b) General Business Zone, in which the objectives of the zone encourage mixed use development with residential and tourist accommodation above ground floor commercial development. The site is also nominated under DCP 2008 Section B19 Bogangar/ Cabarita Beach Locality Plan and again the objectives governing the site indicate mixed use development as suitable form of development.

Development within the locality is varied with older sites being redeveloped in a manner consistent with Council approvals. Recent proposals which have been completed include the Cabarita Resort redevelopment (which incorporated significant elements four (4) stories), the adjacent Breakwater Views Building at No.47 Tweed Coast Road (which provided for overwhelmingly four stories and no stepping to the rear boundary), and the Mixed Use residential/ commercial development at No.38 Tweed Coast Road (which also incorporated elements of four stories). Whilst the form of each of these developments varies, it is important to note that Council has acknowledged that the slope within the area is such that strict compliance is not only difficult, but given the form of existing developments, would also be out of character with the surrounding built form.

The future character of area will largely be dictated by both the continued development of mixed use forms, however in terms of scale, the future character will be more likely defined by the provisions of DCP 2008 – Section B19 which encourages mixed use development in the Tweed Coast road and the Hastings Road Precinct at a maximum height of 13.6m.



It is anticipated as additional sites along Tweed Coast Road are being developed, they will be designed with street level shop fronts with two levels of residential units above (as proposed here), with car parking in one or more levels at the lower level. Given the narrow strip available before the land drops off towards Hastings Road, it is not a stretch to assert that all new developments along Tweed Coast Road will continue to provide for four storey components. Council appear to have acknowledged this moving away from a stories designation to one that is dictated by an actual dimension (13.6m).

It is of course acknowledged that this proposal also incorporates element of non compliance with the 13.6m control within the DCP, however there are mitigating circumstances in this regard given the nature of the development. In this regard, the following key elements are of relevance:-

1. The form and nature of the proposal is consistent with the desired future outcome as identified by Council in its locality plan.
2. The proposal, by linking through to Hastings Road acts so as to activate both streets. This element, along with the nature of the proposal (supermarket) also causes the structural form to extend through on a longer plane unlike other properties in the locality which have a single frontage only (i.e. Hastings Road or Tweed Coast Road);
3. The proposal physically presents as a compliant three (3) storey form to Tweed Coast Road and Hastings Road, with the non compliant forms limited only to the central section of the building where the supermarket floor plate lengths determine a higher structural element for the residential above;
4. The incorporation of a supermarket and the need to accommodate large head clearances within loading areas relating to same, dictates that the central floor will be in excess of 5.3m in height. This element is unavoidable and results in a pushing of the upper level residential through the 13.6m envelope shown within the attached plans;
5. The fourth storey elements of the development will not be visible from public land and therefore difficult to depict or visualise, let alone be nominated as an area of non compliance. The latter is particularly relevant upon redevelopment of adjoining parcels to a height of 13.6m;
6. The bulk of the building is one that includes substantial vertical articulation as the building steps down the site, inclusive of varied roof pitches within the residential element, assisting in breaking down the horizontal scale of the proposal;
7. Recently approved and constructed buildings within Cabarita and elsewhere along the Tweed Coast incorporate a form of three (3) storeys or more. The latter has a significant bearing on the character of the area as it currently stands and can only lead to the conclusion that the proposal, with its minor 4 storey elements, will not be inconsistent with the current or future character of the locality.
8. The topography of Cabarita Beach is such that the areas to the rear and back towards the western fringe of the village, will not have any impacts imposed upon them in respect of



view loss, visual obstruction (particularly as removal of the rear upper level units would only result in their replacement by the front upper level units.

9. The offending section of the building relates to the upper level units overlooking the central residential courtyard. These units do not have any impact upon surrounding properties (in terms of amenity, loss of view or otherwise) nor do they add to any adverse imposition on the Hastings Road (given their setback) or Tweed Coast Road frontages, rather they will act so as to assist in implementing and facilitating a vibrant and active addition to the Cabarita CBD area by way of permanent residents who are able to interact with both proposed and existing commercial enterprises. The latter is a particularly important element as it represents a clear and direct consistency with the objectives of the Cabarita DCP, the urban consolidation policies of the State Government and the wishes of the Cabarita Business community.

Is the proposal appropriate to the environmental characteristics of the land?

The form of the proposed development and indeed the introduction of the four (4) storey element is directly related to the slope of the land. In this regard, the proposed site falls away sharply from Tweed Coast Road towards Hastings Road. This area is to be utilised as a basement car park. The narrow depth from Tweed Coast Road to the rear drop off point renders this fact as effectively unavoidable.

The basement could be pushed further into the ground and therefore the building lowered to ensure a greater degree of compliance with the height controls, however this will result in further problems as the shop fronts would not be level with the street frontage of Tweed Coast Road and the facilitation of a large 'supermarket' floor plate would be impossible. In particular the design of the development is to encourage pedestrian interaction, and any step down from the footpath into the commercial tenancies would result in problems of compliance with the Building Code of Australia and the Disability Discrimination Act, let alone a practical implementation of the streetscape and vibrancy objectives of the DCP.

In terms of the urban or built environment the proposed fourth storey does not adversely impact upon surrounding residents to the west in Hastings Road from overshadowing, loss of sea views, privacy or amenity. This is in part due to the topographical characteristics of the site and adjacent properties in Tweed Coast Road and the spatial separation afforded between the development and these properties by Hastings Road. Furthermore the height of the residential units opposite the site in Hastings Road are two storey in nature and at present have no access to ocean views or the like to the east.

CONSISTENCY WITH AIMS OF SEPP1

The third question in Winten asks whether compliance with the development standard is consistent with the aims of SEPP 1. The aims state:

'This policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable and unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act.'

This question also asks does compliance with the development standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the EPA Act. These objects state:

The objects of this Act are:

- to encourage - the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
- the promotion and coordination of the orderly and economic use and development of land.

It is submitted the proposal will have a positive social and economic impact upon the community, and will not generate deleterious impacts upon natural areas, waterways and the

environment. The proposal will result in the orderly and economic development of a property which is currently best described as an underutilised commercial land. It is also submitted the development will make a positive contribution to Hasting Road, whilst the shopping opportunities to be provided (eg major supermarket, specialty retail stores etc) will cater for the retail needs of the local Cabarita Beach/ Bogangar community, and the wider population along the Tweed Coast.

Importantly the proposed variation sought will not seek a dangerous precedent nor compromise the intent of Council's planning controls having regard to the adjacent building at No.47 Tweed Coast Road, the Beach Resort opposite the site, and the recent approval for a mixed use development on the corner of Tweed Coast Road and Rosewood Avenue (See DA06/0800), each of which were importantly related to the topography of the site and an intent to facilitate a revitalisation of the Cabarita CBD area.

It is concluded that strict compliance with the development standard is unreasonable and unnecessary in this instance and a variation under State Environmental Planning Policy No.1 to the height limit is warranted.

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Annexure

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Photo Plates
