



# Preferred Project Report

& Response to Submissions  
Cabarita Mixed Use Proposal MP 07\_0179

Prepared for WA Stockwell P/L

**Planit Consulting P/L**  
**7/28/2009**

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28<sup>th</sup> July 2009

The Director General  
Department of Planning  
GPO Box 39  
Sydney NSW 2001

Attention: Mr. Sebastian Tauni

## **Preferred Project Report – Section 75H of the EP&A Act, 1979**

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### **Mixed Use Development at Cabarita Beach/Bogangar - MP 07\_0179**

Dear Sir,

## **1 Background**

By way of background and introduction, Major Project Application No 07\_0179 was lodged with the NSW Department of Planning (Department) on the 27<sup>th</sup> January 2008. The Director General's Environment Assessment requirements were issued by the Department in correspondence on the 28 March 2008. In response to same, an Environmental Assessment (EA) was prepared and lodged with the Department on the 27<sup>th</sup> February 2009.

The EA was placed on public exhibition on the 14<sup>th</sup> May 2009 until the 16<sup>th</sup> June 2009.

A meeting was held with the Department on the 25<sup>th</sup> June 2009, where submissions received during the advertising period were provided to the proponent.

On the 29<sup>th</sup> June 2009, the Department requested that a Preferred Project Report was required if changes were proposed to the project to minimize its environmental impact and as a result of matters raised by both the public and relevant authorities during the exhibition period.

This Preferred Project report responds to the submissions received, the key issues outlined in Attachments 1 & 2 contained in the Departments letter 29<sup>th</sup> June 2009 and comprises both a revised Statement of Commitments and amended design plans. A copy of the revised development Plans are attached at Appendix A to this report.

Please note that the proposed design changes are not considered to warrant re-notification of the proposal.

## **2 Response to Issues Raised by State Agencies**

## 2.1 Department of Planning – Attachment 1

### Key Issues

#### 1. Retail

- a) Impact on existing retail – Tweed Council's Resolution of 16 November 2005 – Retail Strategy (the Retail Strategy Policy) following work carried out by Council commissioned economic consultants, Core Economics. The Retail Strategy Policy contains the following point:

*"2. Where appropriate, Council will support the incremental expansion of existing centres in such a way as not to threaten or fracture those existing centres, rather than building new ones"*

### Response

In Tweed Shire Council's submission dated 17 June 2009 contained within this Preferred Development Report, Council stated in response to Item 2 of the Retail Strategy *"The proposal is not an expanse of the Village, and will not threaten or fracture other surrounding centres."* Therefore the proposed mixed use development is supported by Council.

Council's submission further reinforces this position in the following comments:

*"The development will result in a positive change of character within the central business district of Cabarita. The development will assist to reinforce this precinct as the commercial precinct";*

*"The proposal is anticipated to comprise of a smaller style supermarket and several specialty shops on the ground floor. The proposal will not detract from or be a major competitor to the Tweed Heads south shopping district";*

*"The proposal enhances the coastal environment through the use of high quality design and finishes. The proposal will compliment the surrounding existing development. The proposal will contribute to an active town centre environment";*

*"Whilst the proposal is not considered as a large scale retail centre, it is anticipated to cater for the community's chore shopping needs. Due to its location the site is highly accessible, it is anticipated residents within close proximity will walk or cycle to the development";*

*"The proposal does not comprise of a district retail shopping centre";*

*"Section B19 – Bogangar/Cabarita Beach Locality Plan has since been incorporated into the Development Control Plan (DCP). The proposal is generally consistent with the requirements of this section. The proposal enhances the coastal environment through the use of high quality urban and integrates commercial and residential uses. The proposal will contribute to an active town centre environment."*

The proposed development also reinforces Section 3.2 Policy Statements of the Core Economics Report 2005, *"to sustain the character of existing towns and villages in the Tweed Shire as well as meeting the retail needs of growth population"*.

*The Socio-Economic Report prepared by Foresight Partners Pty Ltd in the EA (the Retail Report) notes that retail impact on existing centres over 15% is cause for concern; however, an assessment of the*

*proposed centre's impact on the existing Cabarita/Bogangar and Pottsville retail areas has not been carried out.*

### **Response**

An assessment of the impact on the Cabarita/Bogangar retail area has been undertaken and is contained in Table 4.4 of the Socio-Economic Report prepared by Foresight Partners Pty Ltd.

In Table 4.4 "Other convenience centres" in the trade area (7-2-7, IGA, Foodworks) are listed, with an impact of 15%. These convenience stores are listed in Section 2.3 Existing Retail Facilities, subsection 2.3.2 Convenience Stores. The stores are as follows:

- 7-2-7 Cabarita
- IGA Pottsville Centre
- Foodworks Pottsville Waters Shopping Centre

Accordingly, an assessment has been undertaken on the proposed centre's impact of the existing Cabarita /Bogangar and Pottsville retail areas with the impact not above 15%.

*In addition, the Retail Report does not identify any amelioration measures as a result of the proposed centre's impact on other centres. In particular, the Retail Report identifies a 30% impact on the Casuarina Centre in 2011 however no amelioration measures such as staging are proposed.*

### **Response**

As outlined in Section 4.3.3 Amelioration of Impacts of the Foresight Partners Report it is stated that "population growth in the area indicates that there will be the need for an additional two supermarkets."

The report also indicates that the growth in household retail expenditure will have increased to \$156 million by the June 2011 which is within the first year of the proposed centres trading year.

The reports notes "the impacts upon Casuarina Beach would be ameliorated over time as the centre will benefit from the growth occurring both within Cabarita shopping centre's trade area as well as north of this area including Kingscliff, which would form part of the proposed Casuarina Beach centre's trade."

In a late objection received from Kings Beach No2 Pty Limited by the Department on the 13 July 2009, Macro Plan acting on behalf of the developer responsible for the Casuarina Town Centre development has indicated that "a full line supermarket at Cabarita / Bogangar would not be self sustaining on its natural catchment."

Macro Plan advise that "the proposed development of a 2,500sqm supermarket at Cabarita proposal would result in a number of outcomes, including:

- Creating an oversupply of supermarket provision in the Tweed Coast;
- Provide a supermarket in a location that does not have an adequate natural catchment in the long term, and will therefore shift the focus of retail and Village Centres away from planned centres, such as Pottsville and Casuarina.

- Will discourage multi-purpose vehicle trips as the centre is not centrally located to residential growth areas. Residents are therefore more likely to shop at a range of centres, increasing private vehicles trips, creating unsustainable outcomes.
- Delay delivery of a full line supermarket at Pottsville”

A number of these statements are contrary to the position provided by Tweed Shire Council's in their submission dated 17 June 2009 which is addressed as part of this Preferred Development Report.

Council have acknowledged *“The proposal does not comprise of a district retail shopping centre” and “whilst the proposal is not considered as a large scale retail centre, it is anticipated to cater for the community's chore shopping needs. Due to its location the site is highly accessible, it is anticipates residents within close proximity will walk or cycle to the development”.*

The centre containing “impulse retail” of 2100sqm of supermarket with 200sqm mezzanine area of office space is not a full line supermarket and is supported by 1111sqm of specialty retail in the amended scheme.

Macro Plan acknowledges that “residence of Cabarita are likely to frequent the Casuarina Beach retail centre once developed” and “that residents in Salt and Seaside City will need also to bypass a larger supermarket and retail centre at Casuarina to shop at the proposed Cabarita retail Centre”.

The Core Report states the Casuarina Beach, has a potential capacity of 3,600 people and will reach this potential in 2009; it also notes a population for Cabarita of 3,700.

The Macro Plan Report states that Casuarina Beach retail centre intends to draw on Cabarita Beach, Bogangar, Hastings Point, Seabreeze, Salt, Pottsville and the escape expenditure being lost to Tweed to sustain the planned development of 5,660sqm of retail space including a full supermarket of 2,500sqm.

The Macro Plan report also references that the -15% impact to the Woolworths located at Kingscliff together with the borrowing of residents from Pottsville will be short lived. The short lived period stated is 4yrs from 2001 to 2015.

Macro Plan Report fails to include the impacts to the 7-2-2 Cabarita/Bogangar caused by the Casuarina Beach retail center.

It is noted in the Foresight Report that *“The further increase in available spending should enable affected centres to recoup most of the impact of the impacts attributable to the Cabarita shopping centre within a year or two”.* This is due to the “Impulse Retail” size of the Cabarita Centre.

The Foresight Report indicates that the ability for the Casuarina Shopping Centre to ameliorate the impact in a shorter timeframe than a year or two will be dependent on the competitive response.

Accordingly, as stated in the Foresight Partners Report *“Level's of impact forecast are not sufficient to precipitate the failure of existing or future centres or retail areas in and near the defined trade area, or threaten their functional roles and levels of service they currently provide to the community”.*

Accordingly, no amelioration measures such as staging are warranted.

- b) Proposed hours of operation – Please provide details regarding the operation of the shopping centre with respect to proposed hours of operation and servicing requirement.

### **Response**

### Trading Hours Proposed

Mondays, Tuesdays, Wednesdays and Fridays	8.30am – 5.30pm
Thursdays	8.30am – 9.00pm
Saturdays	8.30am – 5.00pm
Sunday	9.00am – 5.00pm (if permitted by law)
Public Holidays	Closed

## 2. Interface with rear of adjoining properties

- a) Service vehicle access – *The project blocks safe service vehicle access to the rear of No.47 Tweed Coast Road and Lots 188, 189, 190 in DP 259164 along Hastings Road. The project is to be amended to facilitate appropriate 24 hour unrestricted service vehicle access to these properties. The amended scheme must demonstrate that there is sufficient space for large truck to enter and exit the site in a forward direction (using truck turning path templates), and guarantee a manageable long term solution to this issue.*

### Response

- No.47 Tweed Coast Road

Safe service vehicle access has now been facilitated for the rear of No 47 Tweed Coast Road as shown in amended Plan DA-13 G. The 6mtr wide laneway for service vehicles has been continued through the development providing continuous access to Hasting Road.

It has been confirmed by the Tweed Shire Council that the laneway access is utilized for the purpose of refuse collection and vehicle access from the rear of the mixed use developments facing Tweed Coast Road.

The TDCP prohibits direct access from Tweed Coast Road for any new developments. No 47 Tweed Coast Road which adjoins the proposed development utilizes the subject laneway for private vehicle and service loading access to beneath their premises.

Tweed Shire Council utilizes the laneway to undertake refuse collection from the rear of No 47 Tweed Coast Road each Monday between 6am and 2pm.

The only section of the laneway which has been constructed is located at the rear of No 47 Tweed Coast Road. This section of the laneway currently provides access to undertake refuse collection and private vehicle access.

A further use of the laneway is to provide access to the public carparks to be located on Hastings Road. These facilities are yet to be programmed for construction. Once constructed the carparks hours of operation would need to be determined.

Security of the rear laneway is paramount as the laneway will provide opportunity for anti-social activities. As the primary functions of the laneway are for the private vehicles access and refuse collection to the rear of No 47 Tweed Coast Road, restricting access to this section of the laneway after center trading hour would not pose an inconvenience to service vehicles who utilize the laneway during daylight hours.



24 hours access for the private vehicles can be maintained by providing a swipe card security system programmed to correspond with the system currently utilised by the occupants of the premises. It should be noted that this access would be secondary as the more direct access to Hastings Road is via the established entry.

Unrestricted 24 hour access to this section of the laneway would invite the use of the laneway for anti-social behavior. The provision of this level of security deters this type of activity.

The secondary purpose is to provide access to Council's public carpark. Given this facility is yet to be constructed it is difficult to foresee what operational procedures will be established. However, 24 hour access to Hastings Road is still achieved via the established entry.

Therefore 24 hour unrestricted access is achieved in accordance with the Department's requirement through the design modifications made to the proposed development.

- Lots 188, 189, 190 in DP 259164 fronting Hastings Road

Plan DA-13 Revision G identifies the 6mtr wide laneway at the rear of Lots 188, 189 & 190 in DP 259164. The proposed development has been relocated by 3mtrs from the adjoining rear boundary to facilitate the continuation of the laneway.

A 24 hour unrestricted 6mtr wide access easement through the "at grade" carpark on Hastings Road will connect the laneway with Hastings Road. This easement will be dedicated to Tweed Shire Council and remain on Title until proposed laneway has been constructed.

Pursuant to the Tweed DCP, access from Hastings Road is not permitted, however Lot 190 in DP 259164 has vehicle and servicing access to facilitate the manufacturing business undertaken on premise as part of the Development Approval.

Photo 1 entails a view from the adjacent Hastings Road footpath showing the oversized roller door and adjacent vehicle access.

**Photo 1**





Premises located on Lots 188 & 189 in DP 259164 are built to boundary and currently gain access to the rear of their premises legally across the proponents land. Photo 2 shows the vehicle tracks leading to the subject properties.

**Photo 2**



As previously stated the primary purposes for the rear laneway is to service the properties facing Tweed Coast Road. Refuse collection for properties fronting Hastings Road is undertaken from the Hastings Road curbside.

The 6mtr wide laneway will provide a dedicated rear vehicle access to Lots 188 & 189 in DP 259164 as opposed to the current access which illegally crosses the proponents' site. Any other servicing which is specific to these individual premises can also be undertaken via the laneway. Loading should be accommodated on site as part

the existing approvals for the developments on Lots 189 and 190 in DP 259164.

Refuse collection for the subject properties is undertaken from Hastings Road curbside together with all other properties facing Hastings Road therefore use of the laneway by a servicing truck of the subject properties is not required.

Accordingly, the proponent has amended the proposed development to facilitate appropriate 24 hour unrestricted service vehicle access to Lots 188,189 & 190 in DP 259164 as required by the Department.

### **3. Urban design**

- a) *Public domain works – Further consideration needs to be given to the provision of amenities in the public domain. It is unclear from the plans as to whether facilities such as street furniture, public art, sheltered areas and interpretive signage will be provided. There needs to be adequate provision of appropriately located facilities throughout the project. The statement of commitments may need to updated regards to this.*

#### **Response**

Tweed Shire Council's submission dated 17<sup>th</sup> June 2009, which forms part of this Preferred Development Report states that the Council "currently in the process of producing a 'Streetscape Masterplan' for the center of Cabarita which incorporates this site". Once the masterplan is finalized

by Tweed Shire Council, the proponent is agreeable to incorporate the elements of the Streetscape Masterplan which apply to this development.

The Statement of Commitments has been upgraded accordingly.

- b) *Provision of landscaping areas – According to landscaping calculations provided with the EA, only 19% of the project's site area is dedicated to landscaped open space areas, with minimal provision for deep landscaping. The residential Flat Design Code (the Code) recommends 25-30% landscaping for mixed used developments. The size and layout of the upper landscape podiums and landscaped forecourt needs to be considered in order to address this issue.*

### **Response**

The landscaping for the proposed development has been increased from 19% to 25% of the sites coverage. This equates to a further 252.5sqm of deep planting added to the residential component of the development.

Landscaping on the roof deck has been increased by 120sqm and can now be easily maintained via the stair which has been extended from Hastings Road to the roof.

An area of 72sqm of landscaping has also been included on the roof deck of the specialty retail at the rear residential of walkway. This extra landscaping will provide a further buffer for the residence to the manufacturing activities being undertaken on the adjacent property.

Deep Planting has been added to the at grade carpark on Hastings Road. Landscaped beds provide a continuous buffer to the Hastings Road frontage and further shade for the vehicles utilizing the carpark.

The “rule of thumb” in the Code associated with the minimum requirement of 25% -30% of open space of a site area for deep planting zones. The Code also indicates that there areas for exceptions to this requirement in cases where in urban areas the site has been built out.

The Code also makes provision of “Planting on Structures” which is noted to be increasing common scenario in urban areas. *“It is common for landscaping on roof and podiums structures to form part of the open space amenity areas”.*

The Code makes note that *“this type of landscaping is reliant on the health, quality and choice of plants”*. The landscaping concept plans provided as part of the proponents EA incorporates a range of plants suited to the environment and position within the development.

The mounding of soil to create differing soil levels on the landscape roof area is in accordance with the Codes “Better Design Practice” which identifies this practice as providing *“optimum conditions for plant growth”*.

It should be noted that landscaping within the forecourt area has been discouraged due to the limited space and the need to ensure high levels of visibility within the area for safety reasons. Council has also indicated that the “Streetscape Masterplan” currently being finalized contains the development site and large sections of footpath landscaping.

The proponent has agreed to work with Council to incorporate the landscaping design contained within the Masterplan and marry these outcomes with design element of the forecourt and the Statement of Commitments has been amended accordingly.

Therefore, with the increase in landscaped area to 25% of the site coverage and the use of Better Design Practices as outlined in the Code for Planting on Structures, the proponent has satisfied the Department's concerns.

- c) Landscape forecourt – Clarification and further detail is sought regarding the proposed roofing structures over the landscaped forecourt (on the Tweed Coast Road level). In order to maximize solar access to the forecourt, consideration should be given means to achieve and regulate solar access to this space.

#### **Response**

Tweed Coast Road Elevation Plan No DA-15 E has been amended to note the incorporation of sections of translucent roofing material as a component of the forecourt roof structure. The introduction of this material will also create a further design element to the forecourt area. A translucent roof over the pedestrian ramp walkway from Hasting Road also provides light into the lower carpark level.

The Statement of Commitment has been amended to include this element.

- d) Upper landscaping podium – The department has the following concerns with the upper landscaped podium:

- i. overall size of common area outside unit entries;
- ii. ongoing maintenance and viability of landscaping within raised walkway overhead; and
- iii. non-compliance with SEPP 65 requirements for building separation. Note: the Code requires 12mtr separation between non-habitable rooms.

*The raised walkway presents a number of issues, mostly due to a lack of sunlight penetration to this area. It is suggested that reduction in the overall depth of the proposed units be considered as a means to improve the general amenity of this area.*

#### **Response**

The proponent has considered the Departments concerns and offers the following in response.

**1. overall size of common area outside unit entries;**

The area of deep planting adjacent to the rear bedrooms of the residential units provides privacy screening to both Levels 1 & 2.

The range of plants chosen suits the environment and light levels for the subject areas. As part of Better Design Practices for "Planting on Structure, as contained in the Code, planters should be either large square or rectangle in shape. The deep planting utilizes this type of planter.

The deep planting adjacent to the walkway also introduces a tropical environment between the two residential buildings. The planters also contribute to amenity of the internal courtyards as per the Code.

2. *ongoing maintenance and viability of landscaping within raised walkway overhead; and*

Landscape Architect Jeremy Ferrier has chosen the ranges of plants as they are well suited to the conditions and light levels which are created by the building separation.

Ongoing maintenance will be undertaken by Body Corporate in accordance with a maintenance regime recommended by the landscape architect. Access to the deep planters can be obtained from the walkway on Level 1.

3. *non-compliance with SEPP 65 requirements for building separation. Note: the Code requires 12mtr separation between non-habitable rooms.*

The Code identifies in "Designing the Controls" *that buildings over three storeys, recommends that the building separation increases in proportion to the building height*".

The residential component of the development contains only two storeys. Therefore it is arguable that this section of the Code is irrelevant to this development.

The code also identifies a suggested building separation of 12mtrs for buildings up to four storeys, in the absence of the introduction a separation buffer. In this instance, the subject two storeys residential component of the development is separated by a raised walkway providing an extensive buffer between the habitable areas.

Plans DA-15 E and DA-16 D show that only six of the sixteen units would have bedroom windows that are directly adjacent, however the pedestrian walkway provides a separation buffer. The balance of the units have internal fixtures eg, wardrobes which cause the bedroom windows to be offset.

The Code provides "Control Checks" for developments which propose less than the recommended separation distance. *"The development must consider visual and acoustic privacy together with access to daylight."* The proponent submits following to address each of these elements:

- Visual and acoustic privacy

Visual Screen Plans 1 & 2 (Refer Appendix L) detail the addition of timber blades to the walkway provides both visual and acoustic privacy by the inclusion of a further level of separation between habitable areas.

Visually the use of a natural material adds to the tropical environment provided by the differing layers of deep landscaping.

The inclusion of timber blades to the walkway provides each individual unit owner with the option of applying a further level of window treatment to the rear bedroom units. Blinds, shutters and curtains can be utilized depending upon occupants' own personal choice.

The timber blades will also assist in the containment of noise created by occupants accessing their units. Whilst this noise will be limited to pedestrian traffic and be sporadic in frequency, the proposed timber treatment will assist in limiting the sound.

- Access to Sunlight

Each unit building obtains access to sunlight by a number of ways.

- Raked ceilings with high level louvers which capture both light and breezes.
- Light voids which extend through Level 2 units to Level 1 units providing access to sunlight both in the internal living areas and main bedroom. High level windows capture sunlight in to the main bedroom of the Level 2 units and avoid overlooking & privacy issues for the units below.
- The rear unit bedrooms obtain sunlight directly from the separation space between the buildings. At the highest point the residential roof line is 7mtrs above ground. The Better Design Practice for Ceiling Heights contained in the Code has been followed with 2.7mtr floor to ceiling separations used throughout the units.
- The use of large full height windows in Level 1 units also follows Better Design Practice principles.
- The walkway provides separation between the buildings and access to sunlight into the separation space as it has been designed with a translucent roof.

*"The raised walkway presents a number of issues, mostly due to a lack of sunlight penetration to this area. It is suggested that reduction in the overall depth of the proposed units be considered as a means to improve the general amenity of this area."*

#### **Response**

Reducing the overall length of the units would provide only a small increase to the separation space between the buildings. Given the height restriction of 13.6mtrs across the site, the highest point of the units facing Mount Warning would be orientated closer to the Hastings Road frontage. This would create a visual amenity issue for the Reef Villa residential development adjacent to the site and a reduced amenity for the unit occupants themselves.

It was also considered that a reduction in the length of the units would be detrimental to the internal amenity of the units. The units are zoned "residential" providing opportunities for long term or permanent occupation. Accordingly, increased internal amenity created by greater internal spaces and functionality is deemed to be of utmost importance.

Flexible and functional design, large full height windows, raked ceiling lines, high level windows, large light voids and generous balcony spaces act so as to ensure significant access to natural sunlight all adding to the internal ambience of the units.

- e) *Landscaping of carpark – The ground level carpark is visible from Hastings Road and should be screened with vegetation. The potential to introduce more deep soil landscaping to the ground level carpark should be explored.*

#### **Response**

Extensive landscaping has been introduced into the at grade carpark on Hastings Road. A 3mtr wide deep landscaped bed will screen the blank wall created by the adjoining business. This landscaping has been continued along the full frontage of the Hastings Road carpark.

A centre landscaping bed has been included to facilitate the establishment of shade trees within the centre island of the car spaces. This deep planting bed can also act as an avenue for runoff during rain periods.

A 2mtr wide walkway has been included to facilitate pedestrian movements from Hasting Street and also within the carpark. Plan DA – 13E identifies the landscape areas.

- f) *Residential design – The proposed unit layout raises potential amenity issues with regards to noise transmission, solar access and natural ventilation, particularly in the central walkway area. The architectural plans should include further detail pertaining to proposed window openings (i.e. louvers, shutters, clerestory windows, opaque glazing), balustrading, and of acoustic preservation measures.*

### **Response**

The Code, 'Better Design Practice for Acoustic Privacy' states that grouping like uses eg. "Bedroom with bedrooms" achieves best practice acoustic outcomes. This design outlay has been applied to this development. Heavily landscaped zones adjacent rear bedroom windows also provides both a visual and noise buffer between the buildings and to the walkway.

The introduction of screening to the walkway via natural timber blades also limits the transmission of the sound through this area and provides unit owners with extra individual options for window treatments.

The complete separation of residential buildings allows natural ventilation through this area. The walkway separating the buildings is flanked by landscaping providing a tropical environment between the buildings.

Plan DA-21 C shows a cross section of the units. Noted on this plan is the use of high level louvers below the raked ceilings. The Rule of Thumb has been used when designing the Unit Layouts.

- The units are not greater in length than 18mtrs
- All of the units are cross ventilated with security doors fitted to the rear entry. Therefore creating cross ventilation.
- A bi-fold door to the balcony creates and promotes natural ventilation. High level louvers allow this ventilation to be maintained regardless of the requirement to close these doors due to poor weather conditions.
- Full high doors from the living room to the internal sun deck also provides cross ventilation.

## **4. Safety and Security**

- a) *Safety of pedestrian link – While the proposed pedestrian link (between Hastings Road and Tweed Coast Road) begins with a generous width and gradual slope from Hastings Road, the clarity of circulation is lost as the path kinks 90 degrees and becomes a narrow ramp before joining the public forecourt.*

*In order to make this link more direct and legible it is suggested that a stair could be added on axis with the Hastings Road entry, providing a choice between the proposed ramp and more direct route for able bodied users.*



### Response

As clarified in discussions with Officers from the Department of Planning, the proposed development offers able bodied users alternative more direct routes to the retail level which includes the ramp.

Adjacent to the ramp is a high speed oversized lift allocated for use by patrons of the centre. Adjoining the lift is stairs which exit directly into the forecourt area. The ramp, stairs and lift will be clearly signed to provide patrons with the link options available. The residential units have a separate dedicated lift.

- b) *Safety of landscaped forecourt – The layout of the proposed landscaped forecourt has potential to create opportunities for anti-social behavior.*

*In order to improve the general layout and legibility of the landscaped forecourt, it is suggested that consideration be given to deletion of a specialty retail unit from the plan and the layout of this area reconfigured to reflect a square shaped courtyard.*

### Response

As indicated within the submitted Visual Forecourt Surveillance Plan (Appendix C) the design of the forecourt provides an extensive visual surveillance range across the majority of the forecourt. Sightlines are visually uninterrupted from all the exit points from the pedestrian link and car parking levels below.

A direct sightline to the supermarket entrance from Tweed Coast Road is provided with the use of an open stair to the residential above. The use of clear materials will provide an added architectural feature to this staircase.

The pedestrian ramp connecting Hastings Road to the forecourt of the centre will be isolated after trading hours via security gates at both entrances prohibiting anti-social behavior. Access to the forecourt from Tweed Coast Road will also be limited after hours via a security gate across the entrance. A keyed opening within the gate can be provided to allow access to the amenities within the forecourt for potential food traders seeking to trade after centre hours.

- c) *Pedestrian safety – Concerns are raised with regards to pedestrian safety along Hastings Road as a result of the site's redevelopment. Pedestrian access management measures should be carried out to prevent opportunities for pedestrian/vehicle conflict along Hastings Road.*

### Response

The proponent would be agreeable to a condition that is reasonable and relevant regarding to the provision of a pedestrian crossing at an appropriate location on Hastings Street. It is also suggested that a condition be imposed requiring the provision of tactile surfaces to the entrances and in proximity to vehicle cross overs on Hastings Road. Furthermore, this condition could also reflect the need to provide for adequate lighting in all areas associated with the Hastings Road interface.

The location on Hastings Street would need to provide a safe and convenient access for pedestrians crossing to access the shopping centre. The pedestrian crossing and refuse should form part of the proposed traffic island for Hastings Road. The provision of a traffic island will enable both traffic and pedestrian management along Hastings Street.



- d) Public space management – No detail have been provided in the EA pertaining to the provision of the appropriate safe management plan of proposed public/private areas within the development. A public space management plan should be provided to facilitate adequate management of semi-public areas of the site including managing the pedestrian thoroughfare, landscaped forecourt, carpark areas and separation from residential areas. The public space management plan should also investigate illumination of public common areas.

### **Response**

A public/private space management plan will be provided prior to the operation of the center. This will include hours of access to the centre, whom has access, Body Corporate and Centre Management contacts, the operation of the residence secure carpark and lift. It would be reasonable to ensure that this condition require the council or the DOP to authorize this plan once prepared.

Noted on the plans are the following:

- Security gate provided at the access to the dedicated pedestrian walkway preventing access to the forecourt after trading hours
- Security gate at the entrance to the pedestrian ramp from the forecourt
- Security gate at the access to the basement residential carpark accessible by the residences via a security swipe tag
- Security gate at the access to the loading dock from Hastings Street preventing access to the dock facilities after trading hours.
- Security gate across the rear laneway preventing access after trading hours of the centre therefore limiting the opportunity for vandalism and anti-social behavior.
- Security gate across the access to the laneway from Hastings Road. Secure after hours access will be provided to the tenants and occupants of No 47 Tweed Coast Road via a swipe card.

Vehicles access No 47 Tweed Coast Road will be provided swipe access should they seek to utilize the laneway through the center to Hastings Road. The swipe card security cards can be programmed to the existing system currently utilized by the tenants and occupants of No 47 Tweed Coast Road for convenience.

Refuse service vehicles collect refuse via the rear laneway and require access on a Monday from the hours of 6am to 2pm. However the laneway through the centre can remain open during trading hours and be resisted outside these hours to discourage anti-social behavior.

- Security gate across the entrance to the forecourt to limit access after trading hours. Potential restaurant traders seeking to trade after hours will be provided with access to the amenities via a side door fitted within the security gate.

## **5. Amenity Impacts**

- a) Noise – Concern is raised with regards to noise impacts on the surrounding residential area resulting from delivery truck including late night deliveries taking place.

**Response**

As the proponent we are agreeable to the attachment of a condition which is reasonable and relevant regarding the hours for deliveries via trucks to the center. It should be noted that the loading dock area accessed from Hasting Street will be secured after trading of the center therefore limiting these deliveries to during business hours only.

- b) Light Spill – No design detail regards to minimizing light spill on adjoining residential areas has been proposed as part of the proposal.

**Response**

Lux levels will be in accordance with Australian Standards for external car park lighting.

The proponent is agreeable to the imposition of a condition which is reasonable and relevant regarding levels lighting for the at grade car park on Hastings Road and across the centre where it adjoins residential property.

**6. Stormwater and water quality**

- a) Stormwater catchment – The Stormwater Assessment in the EA does not sufficiently identify the site's surrounding catchment area or locate the final destination for Stormwater run-off. In light of the site's flood risk, assessment of the surrounding catchment capacity must be carried out.
- b) Water sensitive urban design – No detail has been provided in the EA with regards to proposed stormwater treatment devices. Due to the substantial increase in hardstand areas on site post-development, the project should investigate stormwater absorption measures for the outdoor carpark area.
- c) Stormwater monitoring – The EA makes no provisions for the protection water quality to Cudgen Creek, Cudgen Lake and the ocean. It is recommended that an appropriate Stormwater monitoring program is established. The monitoring program should identify pollutant loads discharged from the site during construction and post-development.
- d) Recycled water use – Parts of the EA indicate that 10,000L of water will be stored on-site, however, no water tanks have been included in the project plans. The project should consider measures for recycled water use on-site including the potential for use of recycled water for toilet flushing. On-site water storage must be incorporated as part of the project's Stormwater Assessment calculation and plans.

**Response**

The following comments in this regard have been provided by the consulting engineer on this project:-

*Stormwater*

- a) The catchment area is described pictorially in Figures 2.0, 6.0 and 7.0 and also in the Section 8 of the Engineering Impact Assessment (EIA) report. In essence the catchment is the Site as the upstream area is intercepted by existing drainage in the Coast Road. We understand that Council is aware that existing stormwater drainage in Hastings Rd is deficient and causes local flooding. In such a situation they require any new development to restrict stormwater discharge to 200 L/Ha for the 100yr recurrence interval storm. For this development with a total area of 0.5487Ha this equates to 109 L/s. This is significantly less than the estimated existing runoff rate of approximately 300L/s from the site. (refer to Table 8.1.1 and 8.1.2 of the Engineering Impact Assessment ). In order to limit discharge to 109 L/s the stormwater from the site would discharge to the existing Hastings Rd underground Drainage via a Discharge Control Pit as described in Tweed Council Development Manual. A stormwater detention tank of 142kL capacity would be required. This detention capacity is in addition to any on site reuse requirements and the storage is not available for reuse purposes.
- b) The EIA specifically addresses stormwater treatment in section 9 for the operational Phase and Appendix A for the construction Phase. The runoff from the outside Car park is proposed to be treated by a GPT device of similar capacity to a Humeceptor STC3 as depicted in Figure 7.0. The Basement drainage would be treated by an oil and grit arrestor as described in AS3500.3:2003 Plumbing and Drainage Code. Notwithstanding that the proposal does comply with Council Guidelines there is no technical reason why pervious pavement cannot be provided in all or part of the outside Car park.
- c) Council's development Guidelines D7 makes no provision for monitoring of runoff from a development of the size proposed when treatment devices comply with their deemed to comply requirements as is proposed. The requirements for construction runoff monitoring are prescribed by TSC and are reproduced in Section 21.4 of Appendix A of the EIA.
- d) Stormwater reuse does not in itself reduce peak run off rate. It does reduce the need for reticulated potable water and therefore has regional value rather than the local stormwater impacts. Consequently there is no technical constraints in providing on site reuse tanks provided the tank is located hydraulically upstream of the detention tank. That is to say any overflow from the rainwater tank is into the detention system. This is a detail design issue.

*In conclusion we are of the opinion that the issues raised can be adequately dealt with by conditions using the information supplied and the supplementary calculations provided above.*

## 2.2 Department of Planning – Attachment 2

### Additional Information

#### 1. Contamination

*In view of the potential for site contamination as a result of past storage, engine works and service station use, a preliminary investigation for the entire site needs to be carried out by an appropriately qualified person in accordance with the provisions of State Environmental Planning Policy No. 55 – Site Remediation.*

## 2. Heritage Assessment

*Further assessment regarding potential Aboriginal use of the subject site prior to its current use must be investigated. A preliminary investigation prepared by an qualified person is to undertaken in accordance with the Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment & Community Consultation (DEC 2005) and interim Community Consultation Requirements for Application (DEC, 2004)*

## 3. Flooding

*a) Flood evacuation plan – As part of the subject are affected by the 1:100 year flood event, the proposed flood evacuation plan must have consideration to all areas of the site including the outdoor carpark and building entry points affected during a flood event.*

### Response

1. Correspondence from the consulting environmental scientist relating the concerns raised within respect to contamination is provided at Appendix D to this report.
2. The subject site is highly and extensively disturbed with respect to previous earthworks and land uses. As such, the presence of any material (or attachment) relative to cultural heritage is considered highly unlikely. In this respect, an AHIMS search thorough the DECC has been undertaken and confirms that there are no aboriginal objects or places within proximity to the subject site. A copy of this search is provided at Appendix E to this report.
3. An updated flood evacuation plan has been prepared and is attached at Appendix F to this report.

## 3 Response to Agency Submissions.

- Tweed Shire Council
- Roads and Traffic Authority
- Department of Water and Energy
- Northern Rivers CMA

Responses to each of these Agency submissions are presented below.

### 3.1 Tweed Shire Council

Tweed Shire Council lodged a submission dated 17<sup>th</sup> June 2009 in response to the publicly exhibited Environmental Assessment.

Tweed Shire Council advised that the proposed development is consistent with Council's adopted Retail Policy and in response to the need for a major supermarket facility in this part of Tweed Coast.

Tweed Shire Council indicated their general support for the development provided further information was forwarded to Department of Planning. Council indicated one of their major concerns was the proposed developments inconsistency with Tweed Local Environment Plan (TLEP) Clause 38.

Since the issuing of Council's submission, further meetings have been held with Council Officers and the proponent believes that the amendments made to the proposed development now satisfy Council concerns.

These amendments and further information are the subject of this Preferred Development Report.

### **Tweed Local Environmental Plan 2000**

*1. The proposal does not incorporate a satisfactory future road corridor as identified within Clause 38 of the Tweed LEP. The corridor is identified to run parallel between Tweed Coast Road and Hastings Road starting at Rosewood Ave and continuing to the Council car park site in Hastings Road.*

*The intention of the proposed laneway is to develop a service laneway providing access for car parking facilities and service vehicles to the rear of properties fronting Tweed Coast Road and Hastings Road.*

*The laneway provides a desirable planning outcome as it enables the servicing of developments out of the public view and enables pedestrian movements along the streets without interferences from vehicles.*

*Clause 38 of the TLEP 2000 requires consideration of the effect of development on the future alignment of the road corridor. The development will essentially fragment the laneway as its footprint is proposed to extend over the area intended for the laneway. The development will restrict the continuation of the laneway to the south of the site and restrict its operation to the north.*

### **Response**

The dedication of the proposed laneway was undertaken in 1978 as part of the subdivision of Lot 179 in DP 250211. Hansen Development Pty Ltd provided the funds for the construction of the 3mtr wide section of the carriage way as a condition of the release of the survey plan. This right of carriageway is noted on the Title deeds for Lots 184 – 187 and 191 – 194 in DP 259164.

Council's intention is to develop the laneway for the servicing of properties facing Tweed Coast Road and Hastings Road. However, since 1978 there has been only one section of the laneway developed to facilitate this activity.

The laneway was also to provide a connection between the public car parks dedicated over Lots 180 & 195 in DP 259164 as part of the 1978 subdivision. As late as 2008 Council sought to dispose of Lot 180 in DP 259164 now described as Lot 3 in DP 842350.

Clause 38 of TLEP requires "consideration of the effect of development on the future alignment of the road corridor". In this regard, Council has not determined when the proposed laneway will be developed and when critical sections will be acquired by Council.

To accommodate the functional intent of the laneway, a redesign of the proposed development's loading dock area has reinstated the 6mtr wide laneway to the south through Lot 194 in DP 259164, thereby providing access to Hastings Road.

The basement, mezzanine and part of the retail facilities have also been redesigned and relocated 3mtrs to the east to accommodate the 3mtr wide easement over Lots 20 & 21 in DP 31208. This will enable the continuation of the 6mtr laneway over Lots 188, 189 & 190 in DP 259164. Whilst the laneway will be terminated at Lot 190, servicing of properties for refuse collection is undertaken from Hastings Road curb side.

The 6mtr wide laneway will provide a second access for Lot 188 in DP 259164 and vehicle and rear loading facilities for Lots 189 & 190 in DP 259164. Direct access from Hastings Road is also feasible as part of any future redevelopment of these properties.

The following plan attachments are provided at Appendix G to this report:

- Survey plan – Plan of subdivision 1978.
- Plan A identifies the areas of the laneway which have been constructed.

*2. The development is proposed to be four storeys and the TLEP 2000 identifies the site as being a three storey limitation.*

### **Response**

The proposed development is deemed four storeys due to inclusion of a basement carpark which is not visible from either Tweed Coast Road or Hastings Road frontages, being confined to the central section of the site where the pronounced slope flattens out towards Hastings Road.

The proposed development is viewed as two storeys from Hastings Road with the residential component of the development stepped inwards 19mtrs from the Hastings Road boundary.

Tweed Shire Council's Development Control Plan for Shop-top Housing identifies height in meters not storeys as the governing factor. Under this Plan a limit of 13.6mtrs from the natural ground level is used as the basis of measurement.

The proposed development sits at 12.65mtrs on Tweed Coast Road and 10.4mtrs on Hastings Road. The building is at its highest point of 14.65mtrs in the centre of the site, some 29mtrs from Hastings Road. The roof structure at this point would only be visible from the roof of the residential development on the opposite side of the Hastings Road.

Accordingly, whilst the TLEP 2000 identifies three storeys as the development limit the proposed development is four storeys due the natural ground level and the inclusion of a basement carpark which not visible from any of the adjoining sites.

The proposed development is viewed as three storeys from Tweed Coast Road and two storeys from Hastings Road. The basement carpark satisfies Council requirement for further developments to ensure that parking is not visible from Tweed Coast Road, unlike the precedents set by the attached examples.

**Photo Plates to Follow:**

Continues next page.....

**Photo 1**



- Photo 1 – The adjoining Mixed Use Development situated on Lot 5 in DP 1102016 clearly illustrates a four storey building which is visible from Hastings Road. The proposed development will assist in sleeving the lower level of this building however the building is clearly four storeys above ground.

**Photo 2**



- Photo 2 – The adjoining Mixed Use Development on Lot 5 in DP 1102016 viewed from the rear lane way clearly shows a four storey building. This view will remain post development. This development has minimal architectural articulation.



Photo 3



- Photo 3 – The adjoining Mixed Use Development on Lot 5 in DP 1102016 viewed from Tweed Coast Road.

Photo 4



- Photo 4 – The recently approved “Beaches” development clearly illustrates four storeys which are visible from Tweed Coast Road.

## Tweed Development Control Plan

1. *The proposed development is inconsistent with the Tweed DCP Section B19 - Bogangar/Cabarita Beach Locality Plan. Should the laneway not extend to serve No. 84, 86 and 88 Hastings Road, their direct vehicular access will inevitably be from Hastings Road which is not permitted as per the DCP. It is noted the proposed development's vehicular access is proposed directly from Hastings Road.*

## Response

A redesign of the development footprint has now reinstated the 3mtr wide laneway situated on the rear boundary of Lots 20 & 21 in DP 31208 fronting Tweed Coast Road. This will enable the continuation of the full 6mtr wide laneway across the rear of No 84, 86 and 88 Hastings Road (Lots 188, 189 and 190 in DP 259164).

It should be noted that direct access from Hastings Road currently exists for Lot 188 in DP 31208 (84 Hastings Road) as part of their Development Approval dated 5 March 2002.

Council has also included in this report "Whilst this restriction (no access from Hasting Road) is supported in terms of traffic and pedestrian management along The Tweed Coast Road and should be enforced, it is not considered essential for properties fronting Hastings Road. In this regard 'controlled' access to lots is not seen as a traffic problem provided the driveways are sufficiently spaced and not provided at every lot."

The buildings currently constructed on 84 & 86 Hastings Road are built to boundary. The tenants of these premises currently access illegally across Lot 194 and through 191 – 193 in DP 259164.

## Photo Plates to Follow:

### Photo 1



- Photo 1 – Illegal access over Lot 194 and through 191 – 193 in DP 259164 currently being utilised by the tenants of 84 & 86 Hastings Road.

Photo 2



- Photo 2 - Illegal access through 191 – 193 in DP 259164 currently being utilised by the tenants of 84 & 86 Hastings Road.

It is further noted that Plan DA-13 G - Shows the 6mtr wide laneway that has been accommodated within the proposed development adjacent to the loading dock. Given that this proposal did not form part of the original application lodged with NSW Planning Department, as the applicant, we would accept the Department including a condition requiring the inclusion of the laneway as shown on the plan referenced.

*2. Section B19 of the Tweed DCP states 'Lots situated on the western side of Tweed Coast Road will be accessed via the Laneway situated between Tweed Coast Road and Hastings Road.' Should access for the proposal be granted via Hastings Road as opposed to the laneway, it is considered imperative that the development's treatment along Hastings Road is to a pedestrian scale and attention is paid to minimising the vehicular-pedestrian conflict. In addition, a condition of consent should be included requiring Council approval of the final detailed screening treatment (including colour and material board) along Hastings Road prior to issue of a Construction Certificate.*

### **Response**

Section B19.7.3 of the Tweed Development Control Plan states 'Access to properties along Tweed Coast Road is to be limited to the rear of each allotment. Vehicular access directly off Tweed Coast Road will not be permitted'.

The proposed development provides both basement and mezzanine level car parks. The "at grade" car park situated on Hastings Road is not visible from Tweed Coast Road.

The proposed development relies on direct access from Hastings Road. It has clearly segregated pedestrian and vehicle entrances and also has allocated a separate access to the loading dock and back of house activities.

Attached is correspondence dated 24 March 2008 from Ken Hansen responsible for the subdivision of Lot 179 in DP 250211 in June 1978. The correspondence outlines the history relating to the dedication of the Right of Way (laneway) and the Council car parks to be constructed on Lots 180 and 195 in DP 259164. Reference is drawn to the documents contained within Appendix G in this regard.

This correspondence also outlines the purpose of the laneway was to connect the car parks located at either end of Hastings Road. Since 1978 the purpose of the laneway has been expanded to accommodate the servicing and access of properties facing Tweed Coast Road and access to properties facing Hastings Road.

The DCP has not contemplated lots facing Tweed Coast Road with lots on Hastings Road being amalgamated therefore negating the need for the Tweed Coast Road sites to be serviced via the proposed laneway. If a decision is made to reinforce the intent of the DCP, the proposed development would be severed into three parcels, thereby acting in contrast to the objectives and aims of the DCP itself. In effect such a decision would be self defeating.

If sole access to the proposed development is limited to the laneway as per the intent of the DCP all vehicles seeking access to the centre will be required to enter at either of Councils proposed car parks at Rosewood Drive or to the south of the centre and traverse via the laneway, instead of utilising Hastings Road. Hastings Road is classified as an Urban Collector and has been designed to accommodate this traffic.

#### Photo Plates to Follow:

##### Photo 1



- Photo 1- Mixed Use Development situated on Lot 1 in DP 772172 demonstrates approved constructed access from Tweed Coast Road.

##### Photo 2





- Photo 2 – Mixed Used Development “Southern Cross” situated on Lot 15 in DP 31208 demonstrates approved constructed access from Tweed Coast Road.

Photo 3



Photo 4



- Photos 3 & 4 – These photos are the sections of the laneway which have been constructed.

Appendix G contains the following documents associated with the comments provided above.

- Plan A shows the laneway and identifies properties with direct access from Tweed Coast Road and Hastings Road. The plan also shows the area of the laneway which has been constructed.
- Correspondence dated 24 March 2008 from Ken Hansen
- Plan of subdivision attached.

3. *An objective of Section B19 of the Tweed DCP states 'Strengthen the village centre through high quality urban design and streetscape improvements.' It is noted that the application involves streetscape works however defers final design to a later stage, in consultation with Council. It is requested that a condition be imposed on any consent issued that a streetscape and landscaping plan be approved by Council prior to the issue of a Construction Certificate. This matter is discussed in further detail within the streetscape section of this report.*

### Response

It is noted within this report under section "Planning Comment", Council has provided the following comment "Section B19 - Bogangar/Cabarita Beach Locality Plan has since been incorporated into the Tweed DCP. The proposal is generally consistent with the requirements of this section. In this regard, the proposal enhances the coastal environment **through the use of high quality urban design**

integrating both commercial and residential development. The proposal will contribute to an active town centre environment.”

*4 It is noted that the application does not address all relevant and applicable areas of Section B19 of the Tweed DCP. The applicant should be requested to provide a full assessment of the application against the Tweed DCP.*

A copy of an assessment addressing the Commercial Façade Design Guidelines table is attached at Appendix H to this report.

## Design Considerations

*1. The development could be improved with regards to State Environmental Planning Policy No. 65 Design Quality Guidelines. The number of units being serviced per lift could be reduced. The natural ventilation and sun exposure of the units could also be improved. The single aspect nature of the design contributes towards reduced natural ventilation and access to natural daylight for a number of units. It is desirable that the Department investigate further layout options to improve the amenity levels afforded to units throughout the development.*

## Response

The following comments respond to aspects of design raised by Council.

- Number of units being serviced per lift could be reduced

It is noted in the EA that 16 units per floor exit to one lift. Given that this attention has been paid to the amenity of the corridor, the corridor will remain open on both sides to allow natural airflow, light and tall planting on either side. This will create a tropical environment for the occupants of the units.

The translucent roof over the connecting corridor on the second level will also enhance this tropical environment.

Adjacent to the lift an open stair provides a secondary access to the two levels above. It is considered two levels as an easy walk up for occupants entering at ground level.

- Natural ventilation

Natural ventilation was considered vital to this development during the design process. Accordingly, features such as high level louvers which can be opened to provide a natural airflow even when the large bi-fold doors need to be closed during poor weather conditions.

The connecting corridor whilst open on each side will be roofed to provide shelter during poor weather conditions. This structure will assist with the natural circulation of air.

- Sunlight exposure

External movable shutters provide protection against sun exposure. These shutters will enable the units facing Mount Warning oriented to the west to control any exposure to the sun. The occupants can follow the sun's movements while still enjoying the view and airflow.



These shutters also provide a privacy element to the balconies. Occupants are able to utilise their balconies regardless of outside activities with the screens adding a level of privacy not afforded to open balconies.

- Single aspect

Due to the depth of the site and other constraints, single aspect units did not provide the best planning outcome. Accordingly, the units were designed to capture the best of views afforded to each aspect.

Those units facing Tweed Coast Road have been orientated to capture the limited view remaining of the ocean. Units have also been orientated to face Hastings Road as they capture views of Mount Warning and the hinterland.

The open sided interconnecting corridor ensures natural airflow is maintained and acts so as to provide clear spatial separation between the buildings. As demonstrated by the roof structure, these buildings are completely separated with the only connection being the roofed corridor.

- Access to natural daylight

Access to natural daylight has been achieved through large sky lights, voids, high level windows and a variety of roof pitches. The open sided corridor also provides a spine of natural light, whilst full height bi-fold doors connecting the living areas with the oversized balconies provide a seamless transition between the inside and outside living areas.

It is considered that the current design and use of different materials do not warrant further investigation or redesign. In this regard we note that the plans attached at Appendix A demonstrate the effectiveness of the proposal in this context (refer plans DA-20 & DA-17).

*2. The provision of upper storey communal space/s, for example a roof terrace, communal courtyard areas and the like could be incorporated into the development's design.*

## **Response**

The previous Development Application lodged with the DOP in December 2007 included roof top terraces. It was highlighted during consultation with the Cabarita Residents Association that the inclusion of this type of roof top space would only accentuate the height of the building on Tweed Coast Road.

The heavily landscaped roof garden is provided to soften the view across the structure and provide a fore view to the mountains beyond. Opening this area as a communal space was considered. However, given the close proximity to the established residential community adjacent overlooking, privacy and noise issues would not create a conducive environment for this use.

*3. The unit type mix accommodates only 1 and 2 bedroom units. It would be considered advantageous to include a small number of larger 3 bedroom family units. Opportunity exists for the expansion of unit terraces on Level 2 fronting Hastings Road to potentially achieve this objective. In addition, the inclusion of at least one unit which can be adapted for disabled access is also recommended.*

### Response

The previous application lodged with the Department of Planning in November 2007 incorporated a number of 3 bedroom units. There were only a total of 23 units in this application due to size and configuration.

During consultation with the Cabarita Beach/Bogangar Residents Association Inc, objection was raised to the "large and overpriced" units which had replaced the accommodation, provided by the Cabarita Beach Hotel. Further, it was deemed that there was already an oversupply of this type of accommodation provided by developments in Cabarita and Casuarina.

The Cabarita Business Association has also provided support for the mix and size of accommodation. It was identified that due to the loss of much of the budget accommodation this development would assist in filling this void. The proposed development also offers a broader opportunity to both owner occupiers seeking to down size and also to investors who are able to obtain revenue stream from long term and short term rental.

Accordingly, after researching the current market for the unit stock available and considering the comments made by both Associations the mix of unit types and size will provide a product that is lacking in Cabarita due to the closure of the Cabarita Beach Motel, The Cabarita Lakes resort and the Backpackers.

Council has also made comment regarding the inclusion of at least one unit which could be adapted for a disabled person. Opportunity exists for any of the units to be adapted if a potential buyer sought to request these changes. The units are serviced by a lift dedicated solely to unit owners therefore providing direct access from their secure underground car park via the lift to their unit.

The following attachments are provided at Appendix I to this report:

- Correspondence dated 13 June 2009 from Cabarita Beach/Bogangar Residents Association, Inc reinforcing this position.
- Correspondence from the Cabarita Business supporting the mix of unit type.

*4. The applicant is strongly encouraged to improve permeability and legibility of the site by creating improved through site link/s.*

### Response

A dedicated pedestrian access has been incorporated into the design of the proposed development. This access is highly visible on Hastings Road with architectural elements providing an entrance statement. The entrance will be secured after the centre's trading hours to minimize the opportunity for vandalism and maximise safety.

Site constraints were considered during the design of the access. The entrance on Hastings Road is at RL 3.2 with the footpath on Tweed Coast Road at RL 7.65. A change in level of over 4 meters.

Accordingly, a ramp system with grades of 1:20 has been designed to cater of the elderly, disabled and those with prams in the community. This gradual change in level over the distance of the ramps will deliver pedestrians into the forecourt on Tweed Coast Road with little effort.

Opportunity also exists for the elderly to enter from Hastings Road up the first ramp than access the lift for delivery into the forecourt.

The following plan is provided at Appendix J to this report.

- DCP Map 4 – Pedestrian and Cycle Linkages. The development has met the requirement of the DCP by incorporating a dedicated pedestrian link at the desired location.

#### Engineering Comment:

##### **Future Laneway**

1. As previously discussed, the Tweed LEP 2000 identifies a service laneway road corridor parallel to the Tweed Coast Road and Hastings Road.

The laneway provides a desirable planning outcome as it allows the primary frontages of the properties to the Tweed Coast Road to be designed without driveway penetrations across the pedestrian footpaths at regular intervals which detracts from the amenity of the CBD and is a safety concern for pedestrians.

Portions of the proposed laneway are already dedicated in compliance with the TLEP 2000. The proposed mixed use development has been designed so that the car park and service vehicle access is from Hastings Road.

TLEP Clause 38 Future road corridors reads as follows;

- (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.

#### **Response**

The proposed development achieves the desired outcome of the TLEP 2000 with no access or car parking on Tweed Coast Road. This provides an un-interrupted distance of about 66.5mtr dedicated to pedestrian traffic.

It is clear that Clause 38 did not anticipate the possibility for amalgamation of properties which face both Tweed Coast Road and Hastings Road and therefore providing the opportunity for the servicing of the Tweed Coast Road sites via Hastings Road rather than the laneway.

#### **Photo Plates to follow:**

Tweed Shire Council's Figure 2 indicates the areas that have been formally transferred to Council as part of the laneway. However, only the area outlined in green has been formed (Refer Appendix K).

Photo 1



Photo 1 – Shows the area which has been formed

Continues next page.....

Photo 2



Photo 2 – Shows the balance of the unformed laneway.

Concern is raised by the applicant that areas of the laneway which adjoin the proposed development and form a critical section of the laneway have not been formally transferred to the Council. It is likely that these areas will not be transferred until the subject owners seek a development approval over their properties.

2. *As discussed the proposal is likely to result in an inconsistency with Section B19 of the Tweed DCP. The Section states that properties fronting The Tweed Coast Road and Hastings Road will not have direct vehicular access to these properties which are planned to be serviced from the proposed central laneway shown in the TLEP 2000. Whilst this restriction is supported in terms of traffic and pedestrian management along The Tweed Coast Road and should be enforced, it is not considered essential for properties fronting Hastings Road. In this regard 'controlled' access to lots is not seen as a traffic problem provided the driveways are sufficiently spaced and not provided at every lot.*

### **Response**

Council approved direct access from Hastings Road to Lot 188 in DP 259164 as part of the owner's development application in March 2002. Council also conditioned under this DA that transfer of the land, at no cost to council, would be undertaken prior to the release of the operation certificate. However, Council did not condition the construction of this portion of the laneway.

Direct access has also been provided to Lot 3 in DP 831582 which backs onto the formed section of the laneway. Parking for Lot 3 in DP 831582 is also directly off and fronting Hastings Road.

The Tweed DCP did not contemplate the amalgamation of sites fronting both Tweed Coast Road and Hasting Road which renders redundant the section of the laneway through the amalgamated parcels.

*3. The implications of Council permitting a change from the TLEP 2000 that reduces the development potential on Lots 188, 189, 190 DP259164 should be further investigated or an agreement from the owners of these properties should be obtained. If this aspect can be resolved, and with some modification of the access easement proposed to accommodate truck turning paths, the northern section of the laneway as proposed may be acceptable.*

### **Response**

Contact has been made with the owners of Lots 188, 189 & 190 in DP 259164 to gain their understanding and position on the proposed development utilising the 3mtrs of the laneway situated in Lots 20 & 21 in DP 31208 as part of the centre.

The Owner of Lot 188 in DP 259164 advised that they would object on the basis that they were denied approval to build within the 3mtr wide section of the laneway at the rear and therefore this same condition should apply to the proposed development. Lot 188 in DP 259164 has direct access from Hastings Road.

The Owner of Lot 189 in DP 259164 was not available to comment however the advice received from the owners' partner was that they were looking forward to the development and were happy if the laneway was constructed and their access secured.

The Owner of Lot 190 in DP 259164 advised that they would be providing a submission to the Department objecting to the development if the full 6mtr laneway was not constructed.

All Owners have now been contacted to advise that the proposed development has been relocated 3mtrs to the East to enable the full 6mtr wide laneway to be constructed.

Refuse collection by the Council is undertaken from Hastings Road, therefore the requirement to provide a turn around for a truck within Lot 190 in DP 259164 at the laneway is not required.

Any individual loading or servicing these properties required as part of their business activities can be undertaken directly at the rear of the premises.

DA plans, DA-12C (Basement Lower Plan), DA-13G (Basement Mezzanine Plan), DA-14F (Ground Level 1) have all been amended to incorporate the 3mtr wide laneway situated at the rear of the proposed development. The upper residential floor plans require only minimally changes which do not affect the unit layout or sizes.

**Photo Plates to follow**



**Photo 1**



Photo 1 – Garbage bins placed on Hastings Road for collection by Tweed Shire Council. Bins relating to occupants of Lots 189 & 190 in DP 259164 and placed on the footpath in front of Lot 191 in DP 259164.

**Photo 2**



Photo 2 – Garbage bins stored ready for collection from Lot 3 in DP 259164 on Hastings Road.



Photo 3



Photo 3 – Bins stored ready for collection from Lot 182 in DP 259164 Hastings Road.

Photo 4



Photo 4 – Bins stored ready for collection from Hastings Road.

4. *The proposed discontinuation of the laneway to the southern Council car park site is more problematic. Council approved a mixed use building on SP 77616 (No 47 Tweed Coast Road) which has all its vehicular including service vehicle access from the lane. This was required on the basis that the laneway corridor would continue to be acquired. The proposed development cuts the proposed laneway at the common boundary of this existing development and the proposed development leaving the constructed section of the laneway to terminate with no turn area for service vehicles to utilise to exit the laneway.*

*The applicant was requested to provide a continuation of the laneway westward along the southern boundary of the subject site to Hastings Road to enable the laneway to continue to function or, to investigate the impact of the laneway in consultation with the owners of SP 77616 Tweed Coast Road as to how service trucks could utilise the basement car park to turn so they could exit via the laneway on a forward direction. The applicant advised a redesign is not possible, no advice regarding negotiations with the owners of SP 77616 has been received.*

*The applicant's suggested solution was for the trucks to reverse back to the Council car park site and use the Council land to turn to exit back onto Hastings Road. This is unacceptable for safety reasons as reversing trucks along a laneway whilst cars are accessing two private car parks and Councils car park. Furthermore it would restrict Councils development potential on the Council land by sacrificing public land for a turnaround area that is not required if the TLEP 2000 laneway was enforced. It should also be noted a design for the public Council car park has already been completed. This is seen as the most critical issue, which is not addressed within the EA.*

*The northern section of the proposed public laneway can remain functional should the proposal be constructed, subject to the owners of Lots 188, 189, 190 DP259164 providing written agreement to relocate the laneway on their properties or legal advice is obtained stating Council has no liability for impact of such relocation.*

*The issue with the southern section of the laneway, which is constructed, in regards to service vehicle access/egress to Lot 5 DP1102016 Tweed Coast Road could be resolved if the applicant obtains an agreement from the owner stating it is possible for the type and size of vehicle servicing Lot 5 DP1102016 to utilise the basement carpark area to make a three point turn to egress the site in a forward direction. The development potential of Lot 1 DP831592 Tweed Coast Road is also affected.*

*The applicant should seek agreement from the affected property owners as discussed above. Whilst the development appears to have some planning merit, it is recommended that the Department of Planning staff contact the affected property owners identified in this report seeking their written acceptance of the impacts on their properties.*

## **Response**

During consultation with Senior Officers from the Tweed Shire Council it was apparent that providing rear laneway access for the development situated on Lot 5 in DP 1102016 was critical. Approval of the mixed use development located on Lot 5 in DP 1102016 fronting Tweed Coast Road was based on accessibility from the laneway for service vehicles and those occupying the development.

Initial investigations indicated that providing the 6mtr wide laneway through the proposed development would not be achievable. Given the importance of this matter, the loading dock has been re-engineered to incorporate the 6mtr wide laneway which can also be utilised by the trucks seeking to use the dock area.

Clarification was also sought from Tweed Shire Council Design Department on what type of service vehicle was intended to utilise the laneway. It was advised that a standard truck of 10.6mtrs would be traversing the laneway to collect refuse from the rear of Lot 5 in DP 110216.

In this regard, Plan DA-13G has been provided to Tweed Shire Council and Councilors for their comment.

Whilst there is a reduction to the loading dock width which precludes two x 12.5mtr trucks unloading at the same time, a small ridged vehicle has been accommodated in the dock area. Capacity exists for a second truck to stand in the laneway until the dock area is available.

Accordingly, Council's comments regarding the need for the garbage truck to reverse along the laneway creating an unsafe situation for private vehicles seeking to access the adjoining car parks, and the use of the Council's car park as a truck turn around, have now both been negated by the provisioning of the laneway as part of the proposed development.

This most critical issue has now been resolved.

Plan DA-13G indicates the 6mtr wide laneway shown in red on the attached boundary between the proposed development and Lot 5 in DP 1102016 and Lot 3 in DP 831562 (Refer Appendix A).

### **Car Parking and Access**

*1. The proposed car park access to the proposed development off Hastings Road is considered acceptable provided the access to the loading bay is made to be inaccessible to semi trailer trucks, unless the loading bay is upgraded to cater for such vehicles. Semi trailers maneuvering on the public road reversing onto the site is not acceptable. It is recommended that 'physical barrier' options such as balustrades and mature landscaping be constructed along this frontage within Hastings Road to ensure this cannot occur.*

### **Response**

Noted

*2. It is noted that the proposed access into the ground level car park and upper level car park of the development are located close to the existing intersection of Hastings Road and Reef Water Circuit.*

*The applicant is asked to demonstrate that the two proposed access points into the car park do not have any impact on the intersection of Hastings Road and Reef Water Circuit. Detail of any proposed traffic management due to the additional traffic and access points on Hastings Road is to be provided to Council.*

### **Response**

It is noted that access to the development has been relocated so as to comply with the Australian Standards. This can be addressed as part of the detailed design process and hence could be covered by way of a condition of consent. In addition, the Statement of Commitments has been upgraded in this respect.

3. The proposal provides on-site parking for 194 vehicles and 2 HRV spaces. The applicant is currently short 56 car parking spaces and 3 HRV spaces (this includes the 20% reduction for the commercial component as specified in section 2.4.1 of the DCP Section A2).

The shortfall in car parking numbers is considered significant and it is recommended the applicant provide the required car parking numbers to Council's standards. Further details regarding calculations can be forwarded to the Department under separate cover.

### **Response**

Following is a review of car parking numbers relevant to the proposal:-

#### **Shops**

Customer	- 3221 sqm x 4.4/100 x 0.8(ESD red)	= 113.37
Staff	- 3221 sqm x 1.0/100 x 0.8(ESD red)	= 25.76

#### **Office (Supermarket Mezzanine)**

Customer & staff	- 200 sqm x 1/40 x 0.8(ESD red)	= 4.0
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#### **Residential**

1 bed	- 24 x 1/bed	= 24.0
2 bed	- 16 x 1.5 /bed	= 24.0
Visitor	- 40 x 1/4 units	= 10.0

**TOTAL = 202. Rounded up**

**Number provided = 203**

In addition two (2) x Heavy Rigid Vehicle and 1 x Small Rigid Vehicle spaces. These will be provided in the available laneway.

4. Due to insufficient car parking provided, the seven small car parking spaces within the retail parking area are not supported.

### **Response**

Noted – deleted as part of the new design.

5. It is recommended that the 6 x tandem parking spaces within the residential parking area are allocated to units in the strata plan to avoid future parking problems.

### **Response**

Noted

6. *The applicant should demonstrate that the existing accesses to adjoining Lot 2 DP 772172 (2 storey brick dwelling) and Lot 1 DP 772172 (2 storey concrete rendered units) are unaffected or otherwise by the proposed development. It is noted that Lot 2 DP 772172 does not currently benefit from the existing 3m right of carriageway.*

### **Response**

The proposed development does not in any way affect the existing access to either Lot 2 in DP 772172 or Lot 1 DP in 772172. The following photographs clearly demonstrate the access provided by the proposed development will only benefit these properties.

### **Photo Plates to Follow:**

#### **Photo 1**



Photo 1 - Lot 2 in DP 772172 facing Tweed Coast Road with access clearly visible.

Continues next page.....



Photo 2



Photo 2 – The rear of Lot 2 in DP 772172. This critical section of the 3mtr laneway has not been constructed nor dedicated to Council. It is not until an application is lodged for the redevelopment of Lot 2 in DP 772172 that the Council can condition the applicant to provide this section of the laneway.

As shown on Plan No. DA-13G the 3mtr wide laneway has been provided in accordance with LEP 2000.

Continues next page.....

**Photo 3**



Photo 3 – Lot 1 in DP 772172 has approved access directly from Tweed Coast Road under DA No.95/213 dated 29 September 1995. Item 16 of this DA advises “The area affected by the proposed laneway being transferred to Council in fee simple at a nominal fee of \$1. Proof of transfer and registration of the linen plan of subdivision to be submitted prior to any occupation of the building.”

**Photo 4**



Photo 4 – The rear of Lot 1 in DP 772171. The laneway transferred to Council has not been formed and is situated within the fenced area.



### **Maneuvering Issues**

1. *The proposed development has the following problems with traffic maneuverability;*
  - *Turning templates show that vehicles turning into the ground level car park are turning into one way oncoming traffic.*
  - *Turning templates show vehicles turning left from the ground level car park to the upper level basement car park are turning into oncoming traffic from the access ramp. If the ground level car park is full, vehicles will make a left turn into the upper level basement car park for parking spaces.*

*An amended layout is required to provide a safe maneuverability in the car parks, with turning templates to demonstrate compliance.*

### **Heavy Vehicle Loading Bay**

- *The 12.5m heavy vehicle shown on plan no. DA13 revision F prepared by Stockwell does not demonstrate adequately that the vehicle can maneuver on site and enter and leave the site in a forward direction.*

*The applicant is requested to clearly demonstrate with turning templates for a 12.5m heavy vehicle that the vehicle can adequately manoeuvre on site and enter and leave the site in a forward direction. The detail is to be provided at a maximum scale of 1:200.*

### **Response**

Noted

### **Garbage Truck**

- *Turning templates for a garbage truck are to be provided to demonstrate that the vehicles enter and leave the site in a forward direction.*

### **Response**

It is noted that refuse collection is to be undertaken from the curb side. A collection point has been designed on Hastings Road to enable the side loading garbage truck the ability to collect the refuse directly from the curb.

### **Heavy Vehicles**

- *Woolworth's supermarkets generally have a standard size delivery truck which services all stores and this is usually a semi trailer. It is noted that correspondence has been provided by Woolworths stating a smaller vehicle of 12.5m in length will service the development. It is noted in the correspondence from Woolworths that metropolitan stores have been mentioned only. Concern is raised that a semi trailer will still use Hastings Road for deliveries.*

### **Response**

Noted.

Woolworths has advised that the delivery vehicle that will be utilised for this centre serves the MacArthur Chambers Centre in Brisbane. It should also be noted that a semi-trailer will not fit into the loadings dock area.

### **Pedestrians / Footpaths / Cycleway**

1. *A footpath is required along the frontage of the site on both Tweed Coast Road and Hastings Road.*

### **Response**

Noted – Agreed

### **Sewer Relocation**

1. *The proposed sewer relocation is problematic as the report makes the assertion that the sewer can be diverted along the wall of the basement to another sewer in Hastings Road. No sketch plans showing pipe grades or the route have been included in the EA. The report warns that there may be a clash with existing services. Within Hastings Road, there is a 450 mm diameter trunk water main, a 250 mm diameter distribution main and a 100 mm reticulation main, as well as a 375 mm diameter stormwater main. The matter of temporary servicing of the upstream properties during construction has also not been addressed.*

*The applicant is required to submit an application under Section 68 for sewerage works for the relocation of the sewer main and provide an appropriate easement to drain sewage within the building.*

*However, approval of the development should be dependent upon the applicant demonstrating in detail that the sewer can be satisfactorily relocated.*

### **Response**

Noted

### **Flooding Issues**

1. *The applicant was required to amend the basement carparking to provide 500mm freeboard above design flood level (RL 3.4m AHD) for the inflow of water, as per DCP Section A3 - Development of Flood Liable Land.*

*The applicant has now graded the basement driveway to bund the lower level to RL 3.9m AHD, as required, having abandoned previous options for installing hydraulic flood protection devices, which are generally not acceptable.*

*Provided other openings are similarly protected, particularly the stairwell at the southern end of the ground floor, the development is considered to comply with the flooding DCP. Conditions of consent can be applied in this regard.*

*Section 4.8.4 of the EA provides a Flood Access and Evacuation Plan for the site. High land in Cabarita Beach reduces the need to evacuate, even in the probable maximum flood. It is noted that the plan directs residents to drive along Clothiers Creek Road to the Pacific Motorway when evacuating. The portion of Clothiers Creek Road adjacent to the Motorway is highly flood prone, and one of the first local roads to be closed in a flood event. As such, the plan should be amended to direct people wishing to access the Motorway to use Tweed Coast Road and try to rejoin the Motorway at Chinderah or Pottsville.*

### **Response**

The comment by Council is noted and an amended Flood Access and Evacuation Plan including the requested change have been included at Appendix F.

### **Stormwater Management**

*1. The applicant was previously requested to undertake a detailed engineering assessment of the capacity of the downstream drainage network to accept post-development flows from the development. If the public system was found to be insufficient, the developer must provide upgrades to the receiving system to cater for the additional demand, and/or provide an onsite stormwater detention system (OSD) to limit site discharges to a maximum of 200L/s/ha for the Q100 storm. A Stormwater Impact Assessment has been provided in Appendix R of the EA.*

*There are a number of concerns raised regarding this impact assessment:*

- a. Pre-development impervious areas appear to be over-estimated at 70%, which understates the impact of the development.*
- b. Based on Council's GIS, the catchments to which the development will discharge are incorrect. The site is serviced by two separate piped systems in Hastings Rd. Lots 20-23 and Lots 184-187 discharge to the northern system, and Lots 191-194 discharge to the southern system. The Stormwater report assesses Lots 20-23 and 191-194 as a single catchment, and Lots 184-187 as another catchment as the basis for comparing pre and post development flows, which is incorrect.*
- c. There are no supporting calculations for the assessment of existing capacity of the street drainage systems, and only one of the street drainage systems has been considered.*
- d. No water sensitive urban design (WSUD) measures have been incorporated into the development to try and mitigate the impacts of the development.*
- e. There is no consideration of the 450mm diameter public stormwater main that traverses the site through Lots 184-185.*
- f. Engineering drawings were not submitted with the EA.*

## Response

In lieu of an amended stormwater management plan, conditions of consent shall be recommended for the provision of onsite detention of stormwater (OSD), to limit peak discharges to 200L/s/ha for the 100 year ARI intensity storm. If the Department of Planning request a revised SWMP, which is Council's preferred approach, it should be forwarded for Council officer's comments.

According to the report, stormwater treatment devices will be provided for basement and driveway catchments, as required by Council standards, with trade waste areas separate.

Erosion sediment controls rely on installation of barriers and other devices. Management of basement stormwater/ground water will be a central concern for the development.

Furthermore, comments by the consulting engineer for this project in respect of the above have been sought and are provided below:-

### Recreation Services and Community and Cultural Services Comment:

#### **Streetscape**

1. *Tweed Shire Council is currently in the process of producing a 'Streetscape Masterplan' for the centre of Cabarita which incorporates the subject site. It is estimated the Streetscape Masterplan will be completed within six months including the exhibition period. The proposal and all streetscape works including street tree location and species type, alfresco dining, paving finishes, furniture suite and the like must comply with Tweed Shire Council proposed streetscape masterplan. It is noted this has been discussed with the applicant and Department of Planning.*

- *There is to be no advertising signage on the footpath within the road reserve. Public art is acceptable provided consultation with Council occurs.*
- *Underground power is encouraged as Council is proposing to install conduit underground for all future developers to utilise.*
- *The existing Telstra phone box will need to be relocated to accommodate the development, final location will be determined within the masterplan.*
- *Trees planted within the external car park are to be on a 1:6 ratio (1 tree:6 bays) to provide natural shade.*
- *To discourage the use of double B trucks on-site it is recommended that centre median planting along Hasting Street in isolated areas is provided to prevent a reversing manoeuvre, but still allowing pedestrian access across the Street.*
- *A pedestrian pathway exits along Hasting Street (on the Eastern side) this pathway must be shown on any plans submitted*
- *Hastings Street is to have trees planted along the development length within the road reserve at approximately 8 metre centres.*

## Response

Noted - Agreed

Building Comment:

1. Council's Building Services Unit raised no objection regarding the proposal subject to conditions of consent (refer to attachment for draft conditions of consent).

**Response**

Noted

Waste Management Comment:

1. Insufficient information is provided within the EA pertaining to waste management for the proposed development. Further information in the form of a waste management plan should be requested from the applicant. Further details may be provided to the Department upon request.

**Response**

Noted, however it is considered acceptable that a detailed Waste Management Plan be conditioned as a requirement such that the key player, being Woolworths and centre management can be actively involved in its preparation.

Environment and Health Service Comment:

**Contamination**

1. the Applicant has submitted a Limited Environmental Site Assessment, Service Station, 39-45 Tweed Coast Rd, CABARITA NSW, dated March 2008 and provided comment as above. The Environment Health Unit has not undertaken an assessment to establish the adequacy of the report however:
  - Any assessment, remediation, validation and audit of a contaminated site shall be undertaken in accordance with the Guidelines for Consultants Reporting on Contaminated Sites (NSW EPA 1997) and relevant guidelines and standards.
  - It should be noted that dewatering will be required during construction and the quality of ground water discharged needs to be addressed.
  - A Site Audit Statement for the whole of the site, including both soil and groundwater assessments, is required to be submitted prior to the release of any construction certificate. The Statement shall demonstrate that the site has been remediated to a standard that is suitable for the proposed land use, and is not harmful to human health or the environment. The Statement shall be provided by a site auditor accredited under the provisions of the Contaminated Land Management Act 1997 and be in accordance with the relevant Department of Environment and Climate Change guidelines.

The Draft Statement of Commitment referring to demolition of the existing structures onsite appear to be irrelevant as the application is not seeking approval for demolition works but is to be subject of a separate application.

**Response**

Noted

### Acid Sulfate Soils

1. *The Applicant has submitted an Acid Sulfate Soil Investigation (207-7864) prepared by Soils Survey dated Jan 2008. The TSC Environment Health Unit has not undertaken an assessment to establish the adequacy of the report however submits:*
  - *The report is based on the understanding that a multilevel building with single basement is proposed. Earthworks are understood to consist of excavations of up to 5.0m for the proposed carparks, tapering to no excavations on the western borders. This does not appear to reflect the proposed submission.*
  - *The report states that field investigations were not carried out in accordance with the ASSMACC ASS Manual nor AS 1726-1993 Geotechnical Site Investigations.*

### Dewatering

*The applicant has submitted an Acid Sulfate Soil Investigation Report and Council's Acid Sulfate Soil Planning maps indicate that the site is located in an area identified as Class 3. An Acid Sulfate 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 Sulfate Soils Report

*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.*

### Response

*The Applicant has submitted an Acid Sulfate Soil Investigation (207-7864) prepared by Soils Survey dated Jan 2008. The Dewatering Management Plan is embedded within that report. The Plan is not in accordance with Council's requirements and therefore submits:*

- *No dewatering shall be permitted on-site without prior written approval from the General Manager, or his delegate, of Tweed Shire Council. Any submission for approval shall include a Dewatering Management Plan and accompanied by a copy of the licence issued by the Department of Water and Energy for such activity. The Dewatering Management Plan shall include but not be limited to:*
  - (i) *A site plan drawn to scale which indicates the extent of the excavation area and estimated zone of influence of the dewatering activity relative to any adjoining buildings together with an assessment of any impacts likely to occur to any adjoining buildings as a result of the dewatering activities.*
  - (ii) *The location to be indicated on the site plan of the area that will be utilised for the positioning of any treatment tank or sedimentation pond on the site including any reserve area to be used for such purpose in the event of the need for additional treatment facilities to be incorporated on the site.*
  - (iii) *Details of the proposed method of mechanical aeration to be used in the event that it is necessary to aerate the groundwater to achieve an acceptable Dissolved Oxygen level prior to the offsite discharge of groundwater and where this will be incorporated on the site.*



- (iv) *The provision of written advice from the operator of any on site groundwater treatment system stating that the system to be used will be able to treat the groundwater to the required treatment level prior to discharge. Note. Particular attention is to be given to achieving the required detention times prior to discharge of the groundwater. Advice that the system is simply capable of achieving the necessary treatment will not be acceptable*

*The applicant shall arrange for a site inspection to be carried out with Council's Authorised Officer and all representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General Manager or delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.*

*Council's Authorised Officer shall be advised within 24 hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.*

### **Response**

Noted - Agreed

### **Construction Noise/Dust Matters**

#### **Draft Statement of Commitments includes:**

#### **Construction of the Development**

- *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.*

### **Comment**

The Applicant has submitted a Construction Noise Management Plan prepared by Carter Rytenskild Group dated 20 Feb 2009. The Plan prepared does not consider the Draft Construction Noise Guidelines prepared by the Department of Environment and Climate Change which revises the existing guideline on which Council's current requirements are based. It is considered that once construction design details are finalised an amended Construction Noise Management Plan should be submitted for approval.

- The Construction Management Plan shall include but not be limited to the management of noise and dust generated on site and details of erosion and sediment control measures. The Plan shall require the approval of the General Manager, or his delegate, prior to issue of any construction certificate.

### **Operational Noise Amenity**

#### **Comment**

The Applicant has submitted a Preliminary Environmental Noise Impact Assessment prepared by Carter Rytenskild Group dated 13 Dec 2007. The TSC Environment Health Unit has not undertaken an assessment to establish the adequacy of the report as it is considered that it is not the appointed assessment authority however submits:

*Evidence exists that unacceptable noise nuisance is experienced by surrounding residents of shopping precincts from mechanical plant and loading areas. Adequate detail should be provided and assessed by Tweed Shire Council at design stage and prior to the release of any construction certificate.*

*Operational hours to be stipulated within any consent issued.*

### **Food Premises Construction and Footpath Dining**

The applicant has submitted that 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 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.

#### **Comment**

No detail provided. Food premises construction shall comply with the Food Act, relevant Code and Australian Standard.

- Any premises used for the storage, preparation or sale of food are to comply with the Food Act 2003, FSANZ Food Safety Standards, AS 4674-2004 Design, Construction and Fit-out of Food Premises.
- The details of any kitchen exhaust system are to be provided and approved prior to the release of the construction certificate, if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle filters. The system shall comply with AS1668.2 Ventilation Requirements.

- *The use of the footpath for footpath trading is not permitted without an appropriate Lease Agreement being entered into with Tweed Shire Council. No lease agreement shall be entered into unless the proposed use complies with Council's Footpath Trading Policy.*

#### **Lighting**

*The applicant proposes secure parking within the basement area and the provision of appropriate lighting facilities relative to same.*

*The applicant proposes after hours lighting to public spaces and accessibility to management.*

#### **Comment**

*Light spill should not create a nuisance for surrounding residents and therefore design detail should be required to be submitted and approved prior to release of any construction certificate issued.*

#### **Conditions of Consent**

*Should the Department resolve the above issues and prepare to grant consent for the development, Council officers may draft appropriate conditions of consent including those relating to contribution charges.*

#### **Response**

Noted. Each of the points raised above are effectively related to the need to undertake detailed design consideration with respect to the points raised.

### **3.2 Roads and Traffic Authority**

By letter dated 16 June 2009, the Road and Traffic Authority (RTA) lodged a submission in response to MP07-0179 for the Mixed Use Development on Tweed Coast Road, Cabarita.

The RTA advised that they have no objection to the proposed development in principle and the following comments were provided for consideration:

1. *There is no direct access to the off-street parking from Tweed Coast Road. This will increase the demand for on-street parking for customers unfamiliar with the area and the development.*

#### **Response**

Direct access from Tweed Coast Road is not permitted under Tweed Shire Council's DCP Section 19 B. Directional signage will be provided to ensure that visitors and those unfamiliar with be aware of the car park locations and access points

2. *The proposed development will encourage on-street parking in Hastings Road.*

#### **Response**

The convenience of car parking spaces available at grade and directly accessible from Hastings Road provides patrons with a safe and efficient alternative to parking on the street.

Ease of access to the underground and mezzanine car parks with direct pedestrian links to the retail shops will also discourage those wishing to use the centers facilities.

3. *Consideration needs to be given to catering for pedestrian crossing Hasting Road.*

**Response**

As the proponent we would be agreeable to a condition that reasonable and relevant regarding to the provision of a pedestrian crossing at a location on Hastings Street.

The location on Hastings Street would need to provide a safe and convenient access for pedestrians crossing to access the shopping centre. The pedestrian crossing and refuse should form part of the proposed traffic island for Hastings Road.

4. *Turning paths for heavy vehicles should be shown in order to assess their impact on Hastings Road.*

**Response**

Access to the loading dock for the centre has been restricted to heavy vehicles with a length of 12.5mtrs. Access and exit to the loading dock by these vehicles is in a forward motion.

5. *A condition needs to be imposed to restrict the use of the service area by heavy rigid vehicles to a length no greater than what is demonstrated by turning paths.*

**Response**

The proponent would be agreeable to a condition that is reasonable and relevant, which restricts the use of the service area by heavy rigid vehicles which are no greater in length than those demonstrated by the turning paths submitted.

6. *What provisions are made for vehicles that exceed the clearance provided such as removalist trucks and the servicing of smaller shops?*

**Response**

Space within the loading dock area has been allocated to smaller vehicles to unload. Clear access is provided from Hastings Road up the ramp to the oversized lift to the forecourt.

7. *Will the underground car park permit access for emergency vehicles such as ambulance and the fire brigade?*

### **Response**

As the underground car park would be fitted with the appropriate fire protection devices to meet Australian Standards it is not envisaged that a fire truck would seek access to a basement or underground car park.

Depending on what ambulance vehicle is dispatched would depend on whether access to the underground car park could be obtained. In an emergency it is most likely that the emergency crew will seek the most direct route to the situation. Accordingly, it is most likely that the emergency vehicle will access through the forecourt.

### **3.3 Department of Water and Energy**

By letter dated 16 June 2009, Department of Water & Energy advised that there were no major concerns with the proposed development. Comments were provided on the management of groundwater, dewatering and Stormwater.

The proponent would be amiable to provide the information requested on Acid Sulfate Soils, groundwater monitoring results and will prepare a Stormwater monitoring program for discharge during construction as a condition of consent.

Accordingly, the proponent will agree to the attachment of reasonable and relevant conditions in this regard.

### **3.4 Northern Rivers Catchment Management Authority**

By letter dated 9 June 2009, the Northern Rivers Catchment Management Authority lodged a submission regarding the proposed development.

The Authority advised that they had assessed the application in accordance with community aims to be achieved during the term of the Capital Action Plan (CAP) targets.

The Authority raised concern regarding the quality of Stormwater runoff, including levels of gross pollutants, Cudgen Creek, Cudgen Lake and the ocean if not adequately address during construction and operational phase of the development.

The proponent is happy to commit to undertake to ensure that the quality of any runoff into the water bodies, during construction and after construction of the development will be equal to, or better than current levels. This undertaking has been included into the Statement of Commitments.

## **4 Response to Public Submissions**

The Environmental Assessment for the proposed Mixed Used Development was publicly exhibited from 14<sup>th</sup> May 2009 to 16<sup>th</sup> June 2009.

A summary of public submissions and response to the issues raised are provided below.

### **3.1 Public submissions:**

#### ***Objections***

- Councilor Milne
- Derek Howarth – Tweed Coast Security and Blinds
- Peter Hodgkinson Resident Reef Villas
- Belinda Catanzariti
- Reef Villas East
- Reef Villas North
- Resident Reef Villas
- Turnbull Planning International Pty Limited on behalf of John & Virginia Boniface and Ashley & Anita Fernandez
- John & Virginia Boniface and Ashley & Anita Fernandez
- Pottsville Beach Business Association
- Anonymous Letter x 2

#### ***Support***

- Kim Dixon
- Anonymous Letter
- Cabarita Beach Business Association Inc
- David Stoneman
- Cabarita Beach/Bogangar Residents Association, Inc.

### **Response to Issues Raised**

#### **Study Area**

An objection was raised to the aerial photo contained in the EA. The subject photo showed a vacant land where the Reef Villa Development is constructed. Accordingly, an updated aerial photo is attached for reference.

Continues next page.....



## Updated Aerial Photo



## Four Storey Height

Submitters have raised objection to the four storey building height. As shown in the section diagrams submitted, the four storey component of the proposed development is contained in the basement car park (central to the building).

The mezzanine level of the car park is deemed as a storey due to the topography of the site. The “natural ground” level on the site varies from RL 7.36 on Tweed Coast Road to RL 3.2 on Hastings Road.

The building is viewed as three storeys from Tweed Coast Road and two storeys from Hastings Road. No component of the fourth storey is visible as it below ground level.

The proposed development is within the height limit of 13.6mtrs which applies to Tweed Coast Road and Hastings Road. A portion of the development in the site exceeds the 13.6mtrs due to the “natural ground” which is an artificial level and the internal ceiling height of the supermarket.

## Bulk and Scale

Turnbull International states that the proposed development “*Put simply, the proposal is not ‘compatible with the character and amenity of the surrounding residential’ and ‘the excessive height of the proposal when compared to neighboring developments.’*”

This assertion is based on limited knowledge of the site and its context and in no way acknowledges that a consistent and compliant scale is maintained in those areas visible and thus discernable to both neighbours and the passing public. In this regard compliant scale is provided at the street interfaces, whilst roof forms are broken down and separated when viewed from either of the side vistas (where not obscured by existing four storey buildings).

This interpretation can only be reinforced by reference to the photo plates provided below.

**Photo 1**



Photo 1 provides a view of the developments situated on Lots 188, 189 and 190 in DP 259164.

**Photo 2**



Photo 2 is a view of the four storey mixed used development adjacent and to the rear of Lots 188, 189 & 190 in DP 259164

**Photo 3**



Photo 3 provides a view of the mixed used development facing Tweed Coast Road which clearly demonstrates the type, height and scale of neighboring developments

### **Over Shadowing**

Plan DA-23 Revision A provides overshadowing diagrams. At 9am 21<sup>st</sup> June a shadow is cast across to the footpath on Hasting Road which is adjacent to the proposed development.

The adjacent Reef Villas development is set back 6mts from the Hasting Road frontage. Accordingly, the shadow cast at this specific time and date by the proposed development does not obstruct sunlight into the adjacent Reef Villas.

The owners of Lots 188 & 190 in DP 259164 have raised an objection to the overshadowing of their properties. Plan DA -23 Revision A provides a diagram showing the extent of overshadowing on the subject sites.

Given the position of the premises on the subject properties level of shadowing is minimal.

### **Traffic Movements**

Traffic movements are outlined in Section 6.2.5 Traffic Impacts and Mitigating Measures of Opus Qantec McWilliam Report dated December 2008.

The report states that on the 9<sup>th</sup> August 2006, a traffic flow of 932 was counted utilizing Hastings Road. Hastings Road is an Urban Collector road designed with a capacity of 8000 vehicles per day. On the 9<sup>th</sup> August 2006, Hastings Road was running at 11.65% capacity.

The introduction of the proposed development will increase traffic to 4009 per day which will increase the Hastings Road usage to 50.11% of capacity.

The entrance to the at grade car park has been relocated to ensure that the distance from the intersection of Reef Water Circuit and the Hastings Road car park meets all Australian Standards.

### **Opening Hours**

The proposed opening hours of Woolworths are outlined under the heading of Key Issues raised by the Department in *Proposed hours of operation*.

### **Delivery Hours and Vehicles**

Deliveries to the proposed development will be undertaken during standard business hours. The loading dock which will be acoustically treated will be secured after hours to prevent access.

Delivery vehicles will be limited in length to 12.5mtrs.

### **Safety**

Safety concerns have been addressed under the heading of Key Issues raised by the Department of Planning.

### **Laneway**

The provision of the 6mtr wide laneway has been addressed in the Key Issues raised by the Department and the submission dated 17<sup>th</sup> June 2009 provided by the Tweed Shire Council and within the body of this report.

### **Stormwater**

The concerns raised regarding Stormwater runoff from the proposed development has been addressed within the 'Key Issues' raised by the Department and by the Tweed Shire Council and which are the subject of this Preferred Development Report.

### **View**

Turnbull International Pty Limited states in their report that "The proposed development is visually bulky and of a scale that will cause loss to any development further to the West. These vistas are of importance as they contain iconic elements of the ocean which are considered to be highly valuable."

Photo Plate 2 contained in the Turnbull International Report is the current view from their clients' premises to the East.

### **Landscaping**

The provision of landscaping on the Hastings Road car park has been addressed under the heading of Key Issues raised by the Department and the submission dated the 17<sup>th</sup> June 2009 provided by the Tweed Shire Council and which has been addressed in this report.

### **Parking**

Concern has been raised with respect to the provision of car parking. In this regard, the proposal now meets Tweed Shire Council's Car parking Code.

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We trust that the information provided satisfies the concerns raised and that determination of the proposal at the earliest opportunity can now proceed.

Should you have any queries in respect of the proposal, please do not hesitate to contact the proponent (Sharon Waddell (07) 30046856) or our office at any time.

Yours faithfully

Adam Smith  
**Director**  
**PLANIT CONSULTING P/L**

## **APPENDIX A – Revised Development Plans**



## **APPENDIX B – Amended Statement of Commitments**

## **APPENDIX C – Visual Forecourt Surveillance Plan**

## **APPENDIX D – Land Use Investigation – SEPP 55**

## **APPENDIX E – AHIMS search (DECC 2009)**

## **APPENDIX F – Flood Evacuation Report**

**APPENDIX G - Survey plan – Plan of subdivision 1978 & Plan A identifies the areas of the laneway which have been constructed.**



## **APPENDIX H – Commercial Design Façade Guidelines**

## **APPENDIX I – Cabarita Residents Association Correspondence & Cabarita Business Association Correspondence**

## **APPENDIX J – DCP Pedestrian Connectivity Diagram**

## **APPENDIX K - TSC Laneway Diagram**

## **APPENDIX L - Upper Level Visual Screen Plans**