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15 April 2008

Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

**Attention: Thomas Mithen – Urban Assessments**

***Our Ref: 7090***

Dear Mr Mithen,

**PRELIMINARY ASSESSMENT – PROPOSED COMMERCIAL DEVELOPMENT:  
LOT 1 DP 301489, 92 MANNING STREET, TUNCURRY**

It is proposed to erect a commercial building on land at 92 Manning Street, Tuncurry (Lot 1 DP 301489). The proposed development will comprise ground level retail and car parking, with commercial uses above.

This preliminary assessment has been provided to accompany a request on behalf of our client, JR Richards & Sons, that:

- The Minister's confirmation be provided that the proposal is a major project under Clause 6 of State Environmental Planning Policy (Major Projects) 2005 ("the Major Projects SEPP");
- the Director-General's Requirements for the Environmental Assessment for the project be issued.

The information outlined below is provided to assist in this regard.

**1. Description of the Site**

The site comprises land known as Lot 1 DP 301489, 92 Manning Street, Tuncurry.

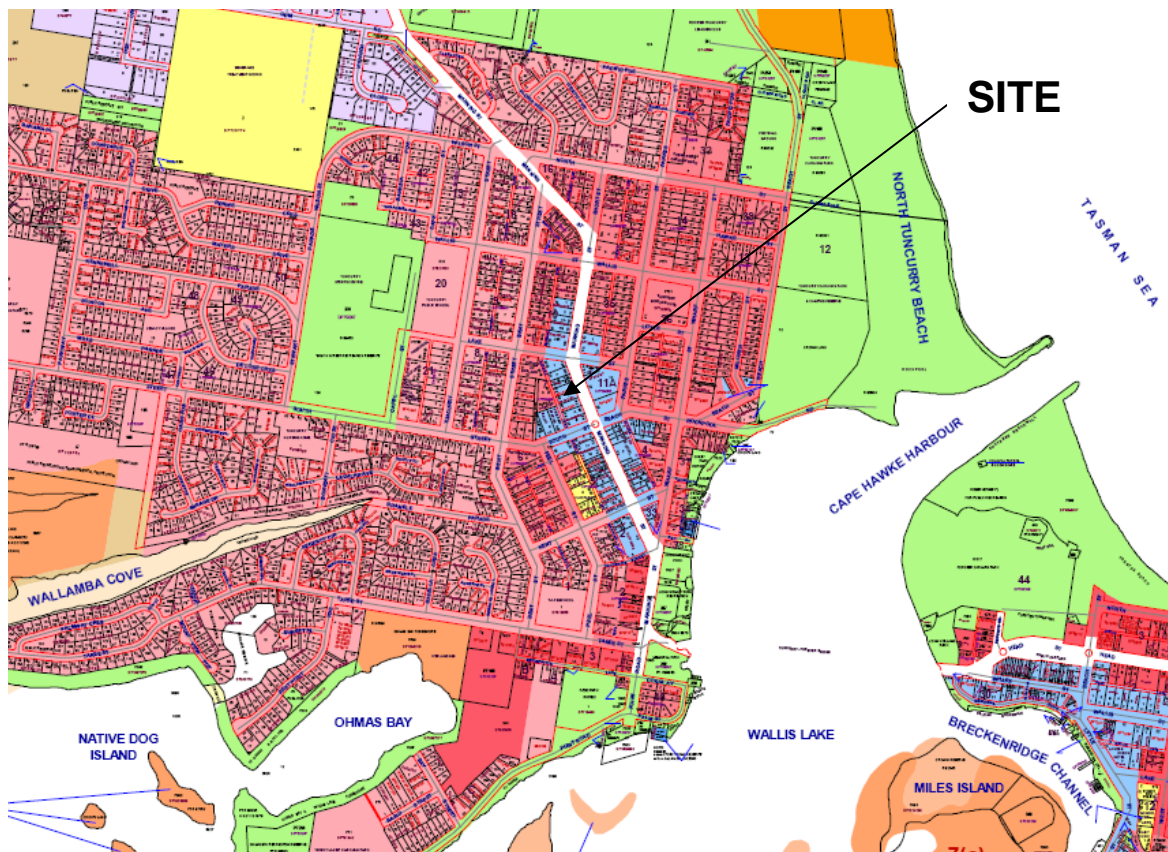
The site has an area of 1,012m<sup>2</sup> is located on the western side of Manning Street, Tuncurry, between Beach and Lake Streets.

The site is located within the Tuncurry CBD and is adjoined to the north and south by commercial and retail uses.

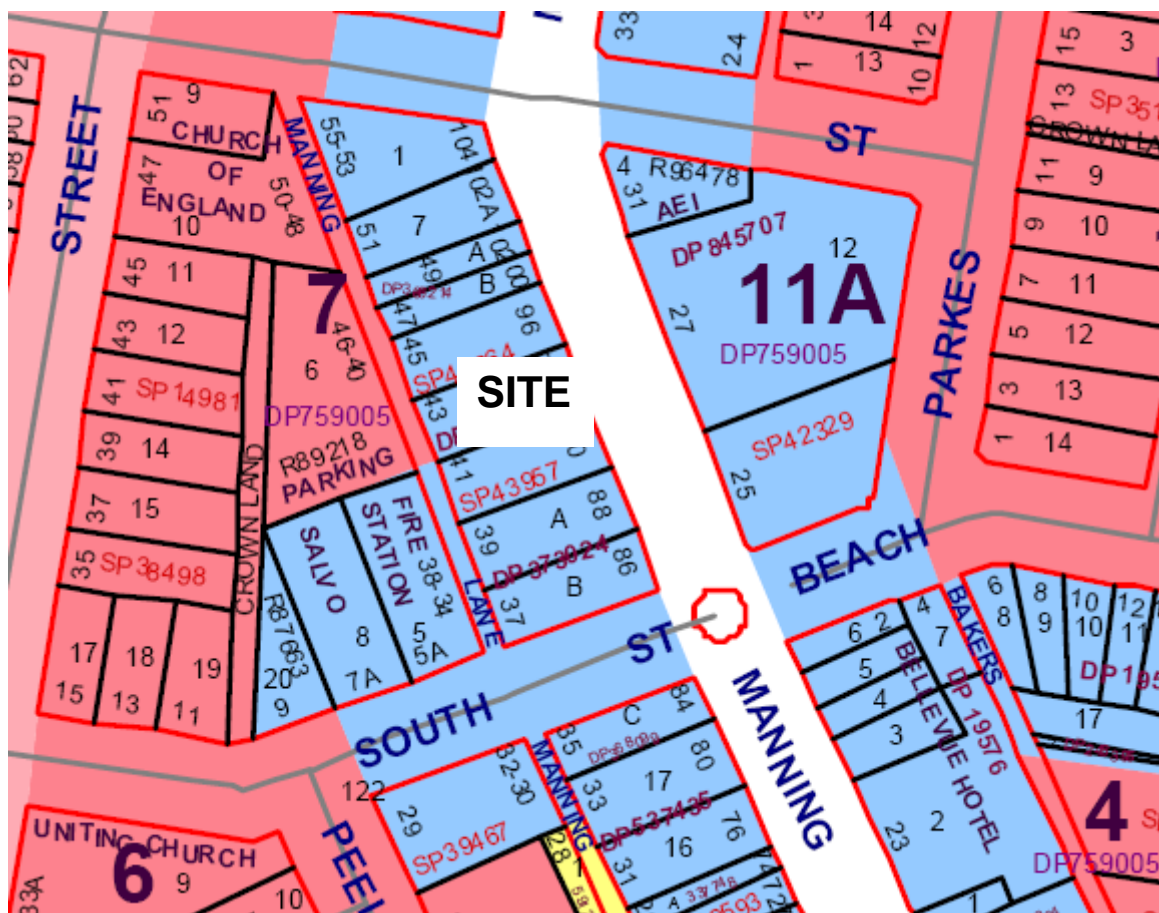
The Tuncurry Plaza shopping centre is located on land to the east of the site, on the opposite side of Manning Street.

The land to the west of the site, on the opposite side of Wharf Lane from the site, is presently vacant and has been earmarked for construction of an open deck parking station by Great Lakes Council to provide additional parking for the Tuncurry CBD.

Map 1 on the following page shows the overall location of the site. Map 2 on the following page shows a close-up view of the site, with the blue colour indicating the 3(a) General Business zone under Great Lakes Local Environmental Plan 1996. The pink colour indicates the 2(b) Medium Density Residential zone.



Map 1 (Source: Great Lakes Council) North to top of page



Map 2 (Source: Great Lakes Council) North to top of page

2. Details of existing development consent for the land

Great Lakes Council granted development consent to Development Application 1253/2003 on 4 December 2003 for a six (6) storey development on the land comprising fourteen (14) residential units (3 x 1, 10 x 2, and 1 x 3 bedrooms) and car parking for twenty (20) vehicles and 218m<sup>2</sup> of shops at ground floor level.

### 3. **Description of project**

The project proposes the erection of a commercial and retail building on the site. The proposed building will comprise ground level car parking for nineteen (19) vehicles, three (3) retail shops (at ground level), five (5) levels of commercial/office floor space and a plant room.

The project is shown on plans prepared by Morris Bray Architects (Project Number 06055, dated 18 October 2007). The following plans are attached (see Attachment F) for your consideration:

- DA-01 Title
- DA-04 Site plan
- DA-05 Level 01-02
- DA-06 Level 03-05
- DA-07 Plant and Roof Levels
- DA-11 Section A and B.

The proposed building will exceed 13 metres in height.

### 4. **Capital Investment Value & Direct Employment**

It is estimated that the project will have a capital investment value of approximately \$3,500,000. It is estimated that employment during construction will be equivalent to 20 full time jobs. While not certain, it is estimated that the proposed retail and commercial businesses that will occupy the building will provide at least 60 full time jobs and possibly more. It is expected that the jobs will comprise a mixture of management administration, professional, retail, caretaking and cleaning positions.

### 5. **Overview of planning provisions that apply to the site**

The site is subject to the provisions of Great Lakes Local Environmental Plan 1996 and is zoned 3(a) General Business under that instrument.

The objectives of the 3(a) zone are:

- (a) **Objective (a)** to enable the development of a range of retail and commercial uses which:
- (i) do not adversely impact on traffic movements in the locality, and
  - (ii) could reasonably be expected to service existing or identified future trade area populations, and
  - (iii) are of a scale and type compatible with the amenity of any surrounding residential area, and
- (b) **Objective (b)** to enable residential or other similar development which:

- (i) is within the same building as, or on the same allotment of land as, shops, commercial premises or any other non-residential use, or*
- (ii) is unlikely to significantly prejudice the supply of retail and commercial floor space within contiguous land zoned 3 (a) or other nearby areas zoned 3 (a).*

The proposal is permissible with consent within the 3(a) zone.

The Hunter Regional Environmental Plan 1989 applies to the site. Clause 58 (Policies for control of development) of the Hunter REP provides as follows:

- 1. A council shall not, without the concurrence of the Director, consent to any development application for the erection of a building over 14 metres in height.*
- 2. In deciding whether to grant concurrence to a development application in respect of a development referred to in sub-clause (2), the Director shall take into consideration the likely regional implications of the development as regards its social and economic effect and the effect which it will or is likely to have on the amenity of the area.*
- 3. The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purpose of a building over 14 metres in height in the same way as those provisions apply to and in respect of designated development.*
- 4. ...*

The draft Mid North Coast Regional Strategy applies to the site.

The site is located within the coastal zone and, therefore, the relevant provisions of State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71) apply. The site is not located within a “sensitive coastal location” as defined by SEPP 71.

The project, being for the purposes of a building that will exceed 13 metres in height within the coastal zone, is subject to the provisions of the Major Projects SEPP.

The relevant provisions of Clause 1 (Coastal Areas) of Schedule 2 (Part 3A Projects – specified sites) of the Major Projects SEPP identify the following projects as being major projects for the purposes of Part 3A of the Environmental Planning & Assessment Act 1979:

- (1)(g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are:*
  - (i) ...*
  - (ii) greater than 13 metres in height, in the case of buildings in other locations outside the metropolitan coastal zone, excluding any building that complies with all development standards relating to the height of such a building set by a local environmental plan that applies to the land on which the building is located.*

The proposed building will exceed 13 metres in height, and the Great Lakes LEP 1996 does not contain any development standards relating to the height of buildings such as that proposed.

Tall building development in the Great Lakes local government area is presently subject to the provisions of Great Lakes Development Control Plan No.21 (Tall Buildings). The DCP identifies a maximum height for buildings on the site of 20.2 metres to the top of structure.

At its highest point, the height to the top of structure of the proposed building is 27.85 metres.

Great Lakes Council has recently placed on exhibition a document entitled Forster/Tuncurry Town Centres Multi-Unit Residential DCP. The draft DCP will not apply to the proposed development as the proposed building does not constitute any of the following:

- Multi dwelling housing;
- Residential Flat Buildings;
- Serviced apartments; or
- Mixed use development incorporating residential development.

The draft DCP identifies a maximum height of buildings on the site (and in the immediate area) of 30 metres. The height of the proposed building is less than 30 metres. While the provisions of the draft DCP will not apply to the proposed development, as it contains no residential component, the maximum height that is sought to be established by the DCP for the land on and around the site, at 30 metres, indicates that the height of the proposed building is likely to be consistent with the general height of development in the area. It is expected that the maximum height of 30 metres will be translated into the provisions of the draft Great Lakes Local Environmental Plan 2008 (yet to be exhibited) as a development standard for all development on land on and around the site.

## **6. Views of Great Lakes Council**

The project has been the subject of various meetings and correspondence with Great Lakes Council between 17 November 2006 and 31 October 2007 (so far). Brief details of these meetings are:

- a) 17 November 2006  
Meeting between Morris Bray Architects, Great Lakes Council's Director of Planning & Environmental Services and Manager Development Assessment. General support from the Council officers for the proposed conversion of approved residential floor space to commercial floor space, subject to considerations of different requirements for floor to floor height and car parking impacts. Council officers advised that changes proposed would require a new development application and could not be dealt with under an application to modify the development consent under Section 96 of the Environmental Planning & Assessment Act 1979.
- b) 5 February 2007  
Meeting between Morris Bray Architects and Great Lakes Council's Director of Planning & Environmental Services. Discussions related to short fall of car parking and options to modify the balance of floor space & the proposed parking on site
- c) 20 February 2007  
Letter from Morris Bray Architects to Great Lakes Council in relation to meeting of 5 February 2007 (see Attachment A).
- d) 6 March 2007  
Letter from Great Lakes Council to Morris Bray Architects in reply to letter of 20 February 2007 (see Attachment B).
- e) 4 June 2007  
Letter from Morris Bray Architects to Great Lakes Council in relation to previous discussions about short falls in car parking and the options for payment of contributions under Council's Section 94 plan.
- f) 9 July 2007  
Meeting between Morris Bray Architects and Great Lakes Council's Director of Planning & Environmental Services, Glenn Handford.  
This meeting responded to Morris Bray Architect's plans Option 2 (OPT02-SK-01)

(see Attachment C) which proposed a six level building incorporating four office levels and two parking levels behind a retail frontage. Glenn Handford advised that:

- The car parking decks were not acceptable; and
- fewer cars should be accommodated on grade on site; and
- a contribution should be provided for the shortfall; and
- suggested that an extra office level be provided to assist with the economics of the project.

In addition, a sketch (see Attachment D) was provided to indicate suggested setbacks and a 'U' shaped floor plate for consideration.

Terry Morris explained the site is too narrow to allow side setbacks of 3m each side and the 'U' shaped floor plate concept could not be achieved.

It was agreed that Morris Bray Architects would produce another scheme for discussion which addressed less cars on site and reorganised office floors.

A scheme, Option 5 (OPT05 SK-01) was prepared and provided to Glenn Handford from Great Lakes Council on the 19 July 2007 for him to consider and have further discussions with Council's Urban Design Consultant, City Plan Services.

g) 20 July 2007

Meeting between proponents (JR Richards & Sons Pty Ltd) and Great Lakes Council's Mayor and Director of Planning & Environmental Services.

The Council officers raised some concerns in relation to:

- the urban design & streetscape & rear & side setbacks
- the functionality, usability & cross ventilation

The scheme for the proposed development has been revised to address Council's concerns since the meeting.

The Council officers advised that the proponents cannot use the existing DA (see Section 2 of this correspondence) as it relates to residential design.

Council mentioned possibility of a 9 storey limit being applied to this area for larger developments. This would involve purchasing neighbouring block(s).

Car parking short falls could be dealt with by contributions toward parking development off-site.

Council proposes to develop the land to the west of the site with a decked car park with 150 spaces. Estimated cost per space of \$18,000 for this project with ground level cost around \$5000.

Council indicated current car park contribution rate is CPI linked and they will need to determine the contribution to be made per space (somewhere between \$11 & \$18k) for the proposal.

h) 6 August 2007

Meeting between Morris Bray Architects and Great Lakes Council's Director of Planning & Environmental Services, Glenn Handford (in Sydney) where a summary of feedback from City Plan Services was discussed. A copy of the drawing with annotated comments is provided herewith (see Attachment E).

At this point, Council's advice was to shorten the floor plate length and step the upper sections to provide visual relief. At the same time on the ground level car parking was accepted, as was the 'through site pedestrian link'. In return Glenn Handford



considered the displaced office space could be achieved by an extra floor with some 'bonus' floor space – refer notes on sketch in Attachment E.

Morris Bray Architects then produced another scheme to respond to the ongoing advice and submitted this scheme (attached as Option 6) (see Attachment F) for comment by Great Lakes Council and City Plan Services.

i) 7 September 2007

Meeting between Morris Bray Architects and Great Lakes Council's Director of Planning & Environmental Services discussed the revised scheme (Option 6 attached) (see Attachment F), which was submitted mid-August, and received general agreement from Glenn Handford and City Plan Services.

This building concept of six levels of shortened floor plates, reduced on-site parking and a through site link was accepted by Council and Glenn Handford advised that this scheme could be used to develop into a Development Application to Great Lakes Council.

j) 31 October 2007

Meeting between Morris Bray Architects and Great Lakes Council's Director of Planning & Environmental Services The agreed scheme was developed further and these drawings were presented and discussed with Glenn Handford and Wayne Burgess of Great Lakes Council.

At this meeting many small technical items were identified for further attention, such as garbage storage and truck access details, CPTED and BCA Part J, aspects to be addressed within the Development Application

A model and montage was also required.

## **7. Key Issues**

The following key issues are relevant to the proposal:

- a) The proposed building will exceed 13 metres in height, and the Great Lakes LEP 1996 does not contain any development standards relating to the height of buildings such as that proposed.
- b) Tall building development in the Great Lakes local government area is presently subject to the provisions of Great Lakes Development Control Plan No.21 (Tall Buildings). The DCP identifies a maximum height for buildings on the site of 20.2 metres to the top of structure. At its highest point, the height to the top of structure of the proposed building is 27.85 metres.
- c) Great Lakes Council has recently placed on exhibition a document entitled Forster/Tuncurry Town Centres Multi-Unit Residential DCP. The draft DCP will not apply to the proposed development as the proposed building does not contain any residential component, but it would apply if, for example, the development comprised 99% commercial floor space and 1% residential floor space. Nevertheless, the provisions of the draft DCP, if adopted, will apply to other development within the Tuncurry CBD. The draft DCP identifies a maximum height of buildings on the site (and in the immediate area) of 30 metres.
- d) The compatibility of the proposal with other existing and approved tall building development within the Tuncurry CBD, particularly that at 23 Manning Street and 104 Manning Street.

## **8. Conclusion**

This project has had a long history of consultation between the architects, proponents and Great Lakes Council.

The site has the benefit of an existing development consent for a six (6) storey development on the land comprising fourteen (14) residential units (3 x 1, 10 x 2, and 1 x 3 bedrooms) and car parking for twenty (20) vehicles and 218m<sup>2</sup> of shops at ground floor level.

The project proposes the erection of a commercial and retail building on the site. The proposed building will comprise ground level car parking for nineteen (19) vehicles, three (3) retail shops (at ground level), five (5) levels of commercial/office floor space and a plant room.

Schedule 2 of the Major Projects SEPP identifies the proposal as a major project, given its height (greater than 13 metres) and the location of the site within the coastal zone. The site is not located within a sensitive coastal location.

The site is located within the Tuncurry CBD and is located on land that is zoned 3(a) General Business (under the provisions of Great Lakes LEP 1996).

Therefore, it is requested that confirmation be provided that the proposal is a Major Project. If so, then it is also requested that the Director-General's Requirements for the Environmental Assessment also be issued.

Please advise us if you require any further information.

Yours faithfully



**SIMON CARROLL**  
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