



**Planning &
Infrastructure**

***Mixed Use Residential (Tourist) Flat
Building (MP09_0016)***

***Lots 1, 2 & 3 Section 1 DP 29748 and
Lot 4 Section 1 DP 31209
Cnr TWEED COAST ROAD and CYPRESS
CRESCENT, CABARITA BEACH***

Proposed by Tweed Coast Homes Pty Ltd

Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

August 2012



Image: Existing caravan park as viewed from Tweed Coast Road

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EXECUTIVE SUMMARY

This is an environmental assessment report on a project application lodged by Darryl Anderson Consulting Pty Ltd on behalf of Tweed Coast Homes Pty Ltd (the proponent) which seeks approval for a mixed use residential and tourist development.

The project was declared a major project under *State Environmental Planning Policy (Major Projects) 2005* (MP SEPP) (as was in force at the time) being a residential or tourist facility wholly or partly in a sensitive coastal location that provides accommodation for any number of persons. The Minister for Planning and Infrastructure is therefore the approval authority.

Under the delegation dated 14 September 2011, the Minister for Planning and Infrastructure has delegated his functions under section 75J of the Act to the Planning Assessment Commission (PAC) as a political donation disclosure was made with the application.

The proposal is located at the corner of Tweed Coast Road and Cypress Crescent, Cabarita Beach. The existing site is occupied by a caravan park. The site is located in the local government area of Tweed.

The proposal comprises a 3-storey mixed use residential and tourist development for 24 residential units and includes 15 'dual use' residential/tourist apartments and 9 wholly residential apartments. Of the proposed 24 apartments, 6 are 3-bedroom apartments while 18 are 2-bedroom apartments. Basement parking is provided for 47 car spaces including 6 visitor spaces.

The estimated project cost of the development is \$8.9 million. The proposal would create 20 full time equivalent construction jobs and 2 full time equivalent operational jobs.

The subject site is zoned 2(e) Residential Tourist under the *Tweed Local Environmental Plan 2000*. The subject proposal is permissible with development consent within the zone.

The Environmental Assessment (EA) was exhibited from 3 September 2010 to 5 October 2010. The department received a total of 7 submissions from public authorities and one submission from the public. The public submission received was in objection to the proposal.

A Preferred Project Report (PPR) was received by the department on 28 May 2012. Tweed Shire Council, agencies and nearby landowners were re-notified of the application due to changes to the proposal and the period of time that had elapsed since the 2010 public exhibition.

Key issues considered in the department's assessment included:

- Dual Residential/Tourist Land Use
- Urban Design

Other issues considered included:

- Asset Protection Zones
- Neighbour Impacts
- Stormwater and Rainwater
- Car Parking
- Caravan Park Closure
- Residential Amenity and SEPP 65 compliance
- Developer Contributions

The department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the details contained within the EA, PPR, the proponent's Statement of Commitments and the department's recommended conditions of approval. The department recommends design modifications relating to elevational details, materials and colours to ensure a satisfactory level of environmental performance. On these grounds, the department is satisfied that the site is suitable for the proposed development and that the project will provide social and economic benefits to the region. All statutory requirements have been met.

The department recommends that the project be **approved** subject to conditions.

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1. BACKGROUND

1.1 SITE DESCRIPTION AND LOCALITY

The Site

The land is described as Lots 1, 2 & 3 Sec 1 DP 29748 and Lot 4 Sec 1 DP 31209, Cabarita Beach, in the Tweed local government area. The site is approximately 2,803m² in area and is owned by Tweed Coast Homes Pty Ltd.

Cabarita Beach is located in the far north coast region of New South Wales approximately 14km south of the New South Wales/Queensland border (see Figure 1). The coastal village has a population of approximately 3000 and is characterised by its coastal features, nature reserves and its quiet and recreational lifestyle which is attractive for both residents and tourists.

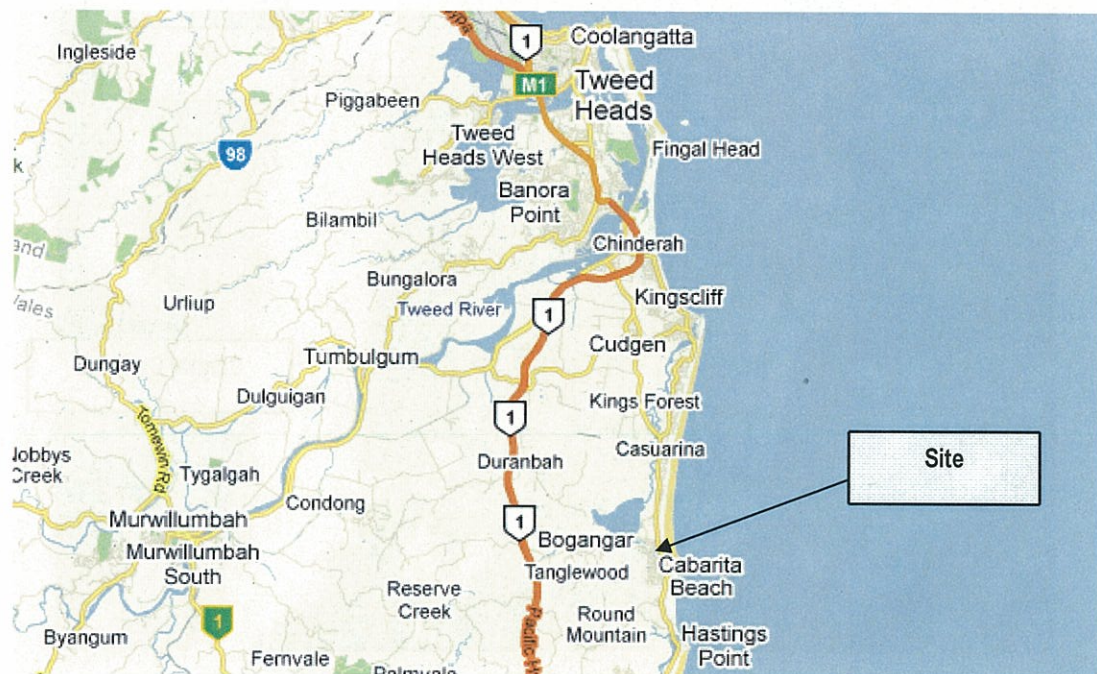


Figure 1: Site locality (Source – Google Maps 2010)

Tweed Coast Road provides the main access to Cabarita Beach which connects other coastal townships including Casuarina and Tweed Heads to the north (see Figure 1) and Hastings Point to the south. The Pacific Highway lies some 5km to the west of the site.

The site is located in the northern part of Cabarita Beach on Tweed Coast Road. Immediately north of the site lies Cudgen Nature Reserve. The beach foreshore lies some 200-250m east of the site. The main retail and service precinct of Cabarita Beach is located some 400m-500m south of the site within easy walking distance.

Site Features

The site is currently occupied by a caravan park comprising 25 caravan spaces, established in the 1960s (see Figure 2). Existing vehicular access to the site is via Cypress Crescent. The land slopes down from Tweed Coast Road from approximately 9m AHD down to approximately 6m AHD at the eastern end of the site. Good views of the site and the caravan park exist from Tweed Coast Road. There are no direct views of the beach from Tweed Coast Road.

Mature trees exist along the Tweed Coast Road footpath to the west of the site (see Figures 3 and 4). Immediately to the north of the site are scattered trees with the dense vegetation of the Cudgen Nature Reserve located further north of the site. Pedestrian access to the beach foreshore is available through this section of the Cudgen Nature Reserve. A row of mature trees exist along the eastern boundary of the site adjoining the neighbouring property in Cypress Crescent.

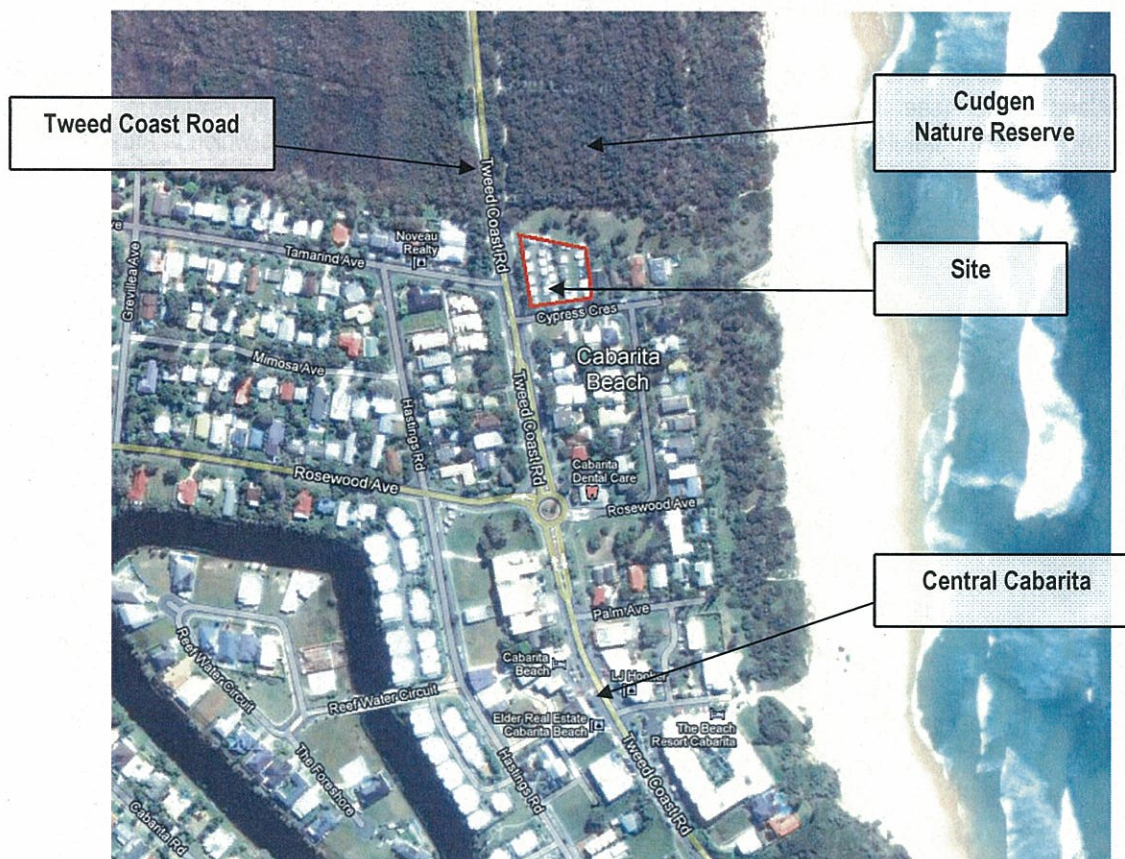


Figure 2: Site Location (Source: Google Maps 2010)

Surrounding development

The predominant land use surrounding the site is residential, typically 1-storey and 2-storey detached dwellings. Immediately adjacent to the east is a 1-storey dwelling at No.8 Cypress Crescent. A single 3-storey house lies some 50m to the south east of the site. On the other side of Tweed Coast Road are detached 2-storey dwellings.

The urban form and character for the remainder of Cabarita Beach is typical of a coastal village, being small in scale with the majority of commercial development centred on the spine of the arterial access road. The largest commercial or mixed use developments are located in the centre of Cabarita Beach at 3-4 storeys in height.

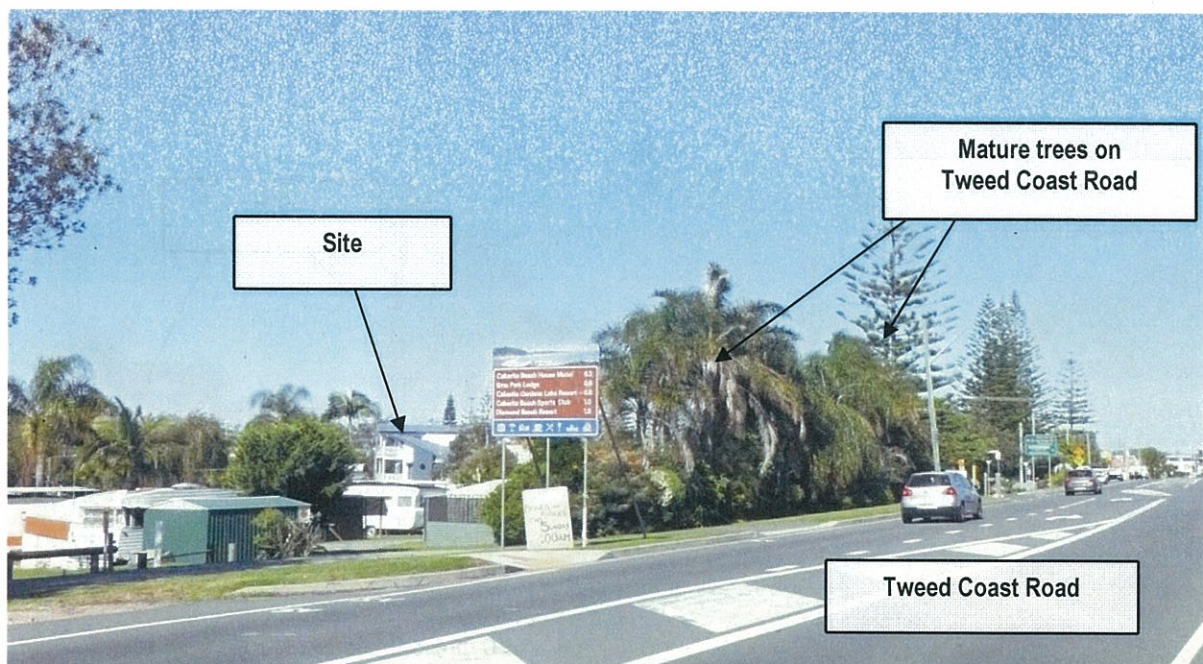


Figure 3: Existing site facing south-east

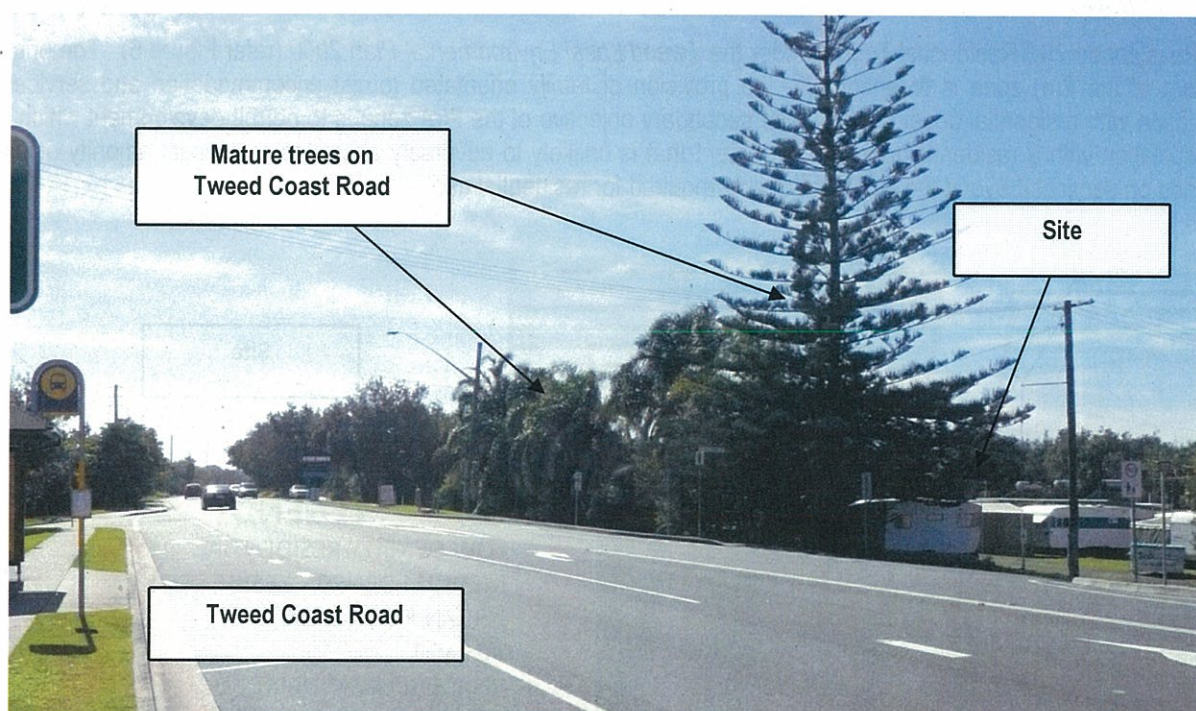


Figure 4: Existing site facing north east

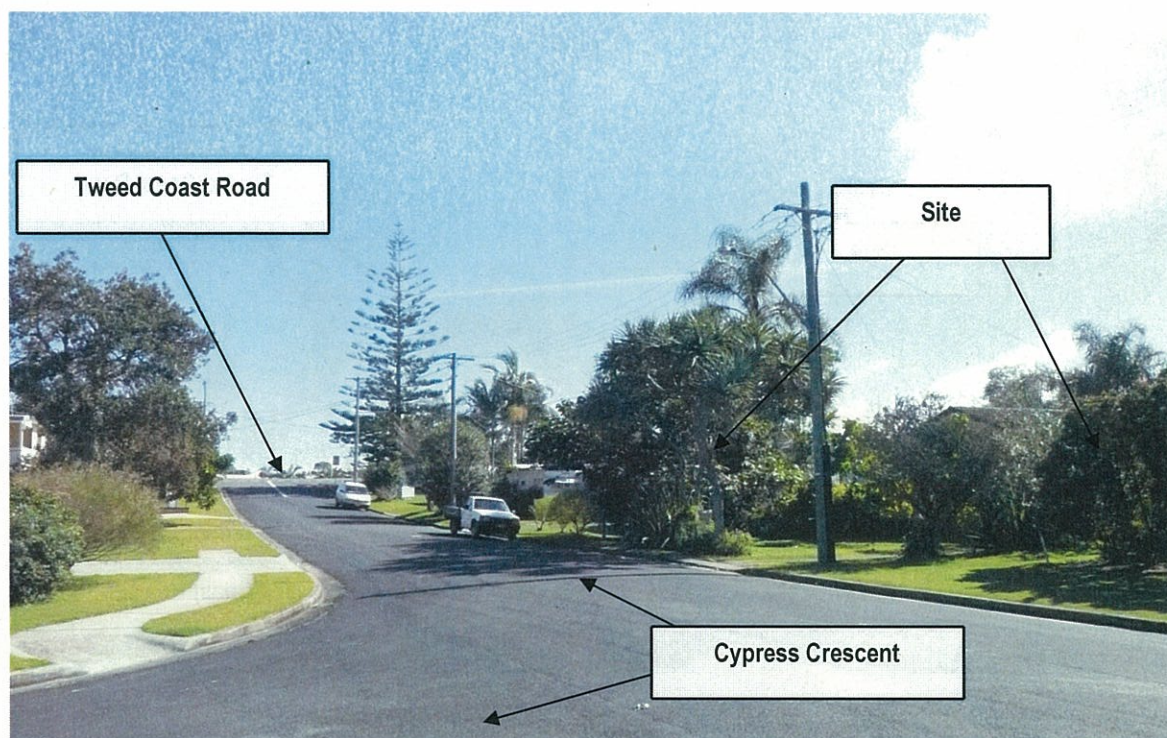


Figure 5: Existing site facing west

1.2 ZONING

The site is zoned 2(e) Residential Tourist under the *Tweed Local Environmental Plan 2000* (refer Figure 6). The primary objective of the 2(e) zone is to encourage the provision of family orientated tourist accommodation and services in association with residential development. The secondary objective of the 2(e) zone is to permit development which has an association with a residential/tourist environment that is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.

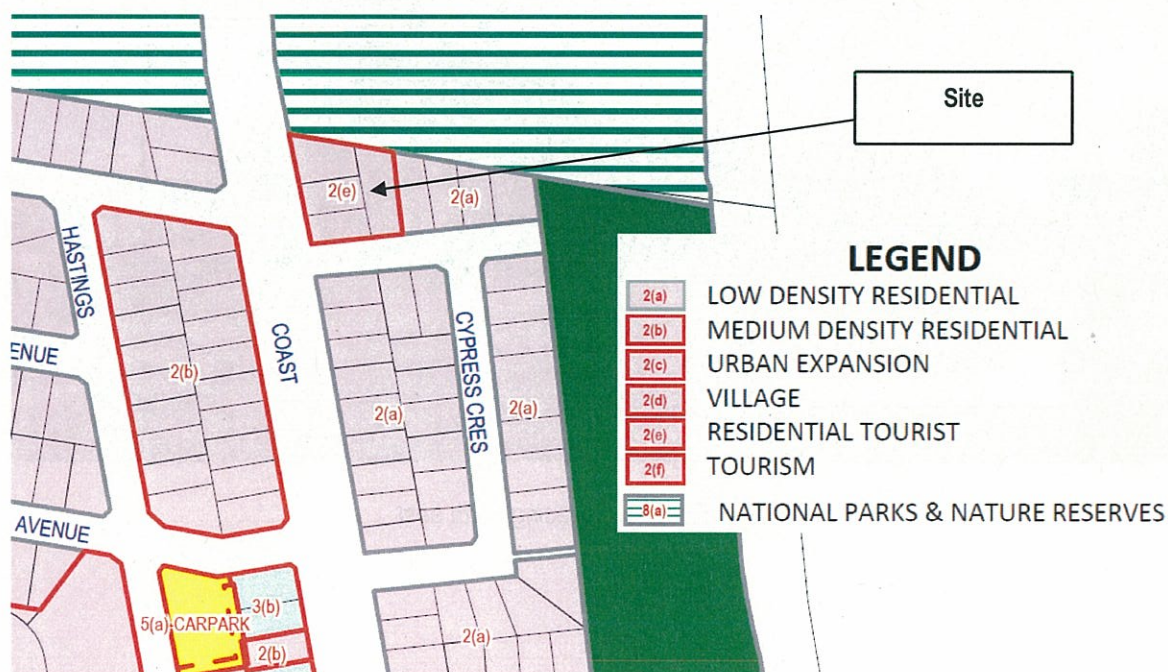


Figure 6: Site Zoning (Source: Tweed Local Environmental Plan 2000)

2. THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION (ORIGINAL EA)

The original EA sought project approval for the construction of 24 units in a 3-storey tourist and residential development comprising:

- 6 tourist/residential units
- 18 residential units
- 54 basement level car parking spaces
- associated landscaping including outdoor pool.

An indicative floor plan layout and photomontage of the original EA proposal is provided in Figure 7 and Figure 8 respectively. The proposal included an atrium located on the corner of the site on Tweed Coast Road and Cypress Crescent. The residential/tourist units were to be accessed from the atrium providing living areas with views to Cudgen Nature Reserve and easterly towards the beach foreshore.

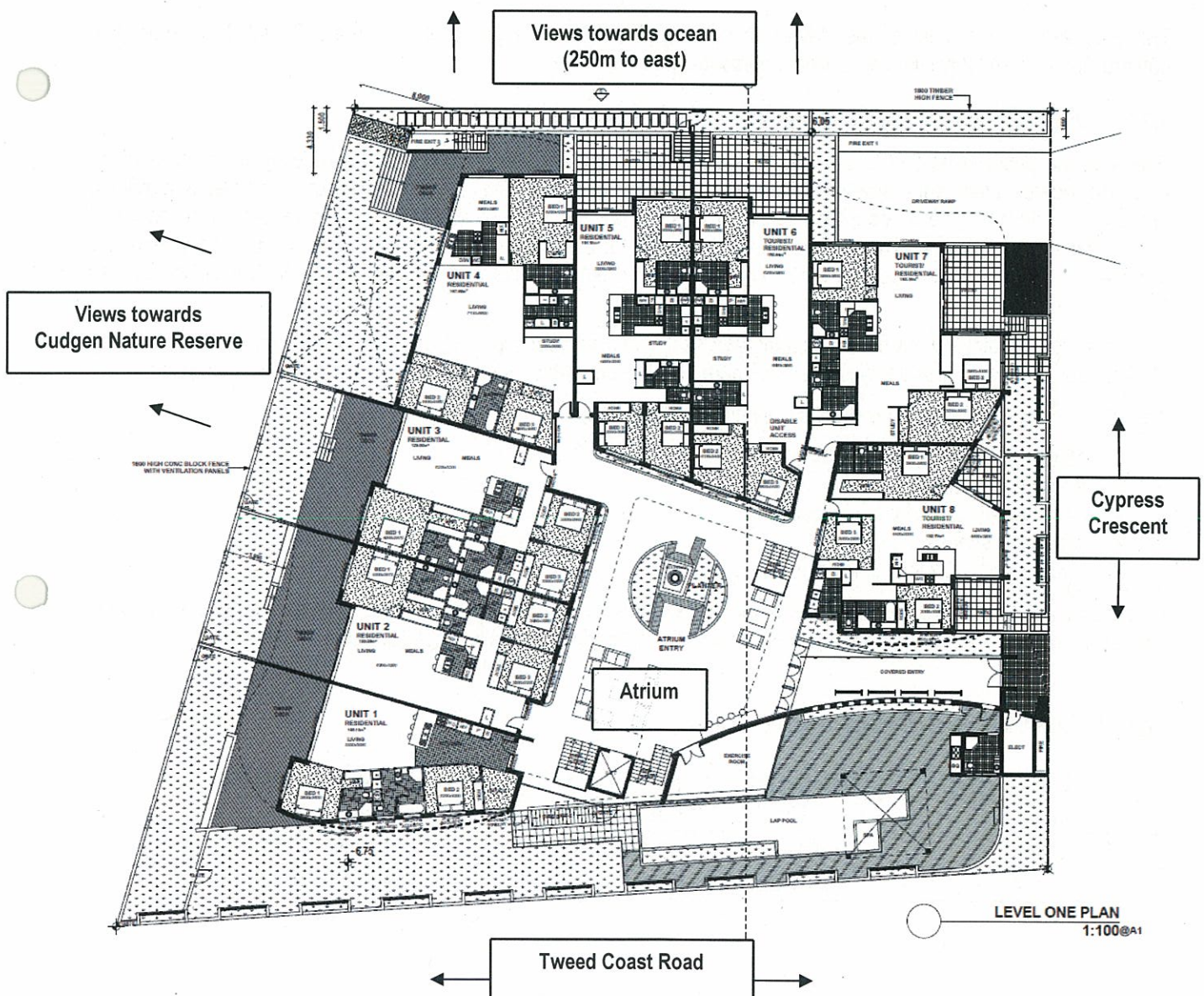


Figure 7: Floor plan layout of original EA proposal (Source: Environmental Assessment)



Figure 8: Photomontage of original EA proposal (Source: Environmental Assessment)

The estimated project cost of the development is \$8.9 million. The proposal will create 20 full time equivalent construction jobs and 2 full time equivalent operational jobs.

2.2 PROJECT AMENDMENTS (PREFERRED PROJECT REPORT)

Following the public exhibition of the EA, the department requested key changes to the building design to address concerns regarding residential amenity. The department considered that the inclusion of the atrium resulted in a building layout which did not achieve acceptable levels of acoustic privacy, daylight access and cross ventilation for individual units. The atrium design also raised streetscape concerns for the prominent corner site. The proponent subsequently prepared a PPR which included the removal of the enclosed atrium. This was received by the department on 28 May 2012.

The amended building layout differs substantially to the original proposal and can be seen in Figure 9 overleaf. A photomontage of the proposal is illustrated in Figure 10. The proportion of tourist apartments were also increased.

The PPR proposal for 24 apartment units is summarised as follows:

- 15 tourist/residential units
- 9 residential units
- 47 basement level car parking spaces
- 48 bicycle spaces
- associated landscaping including outdoor pool.

Proposed is for 18 x 2-bedroom apartments and 6 x 3-bedroom apartments. The gross floor area is 3,192m² and the floor space ratio is 1.13:1. The land use split between tourist and residential uses is illustrated in Table 1 below.

Table 1: Tourist and residential land use breakdown

Level	Tourist/residential apartments	Residential apartments
Ground	Units 4, 5, 6, 7, 8	Units 1, 2, 3
Level 1	Units 12, 13, 14, 15, 16	Units 9, 10, 11
Level 2	Units 20, 21, 22, 23, 24	Units 17, 18, 19
Total	15	9

8 Cypress Crescent

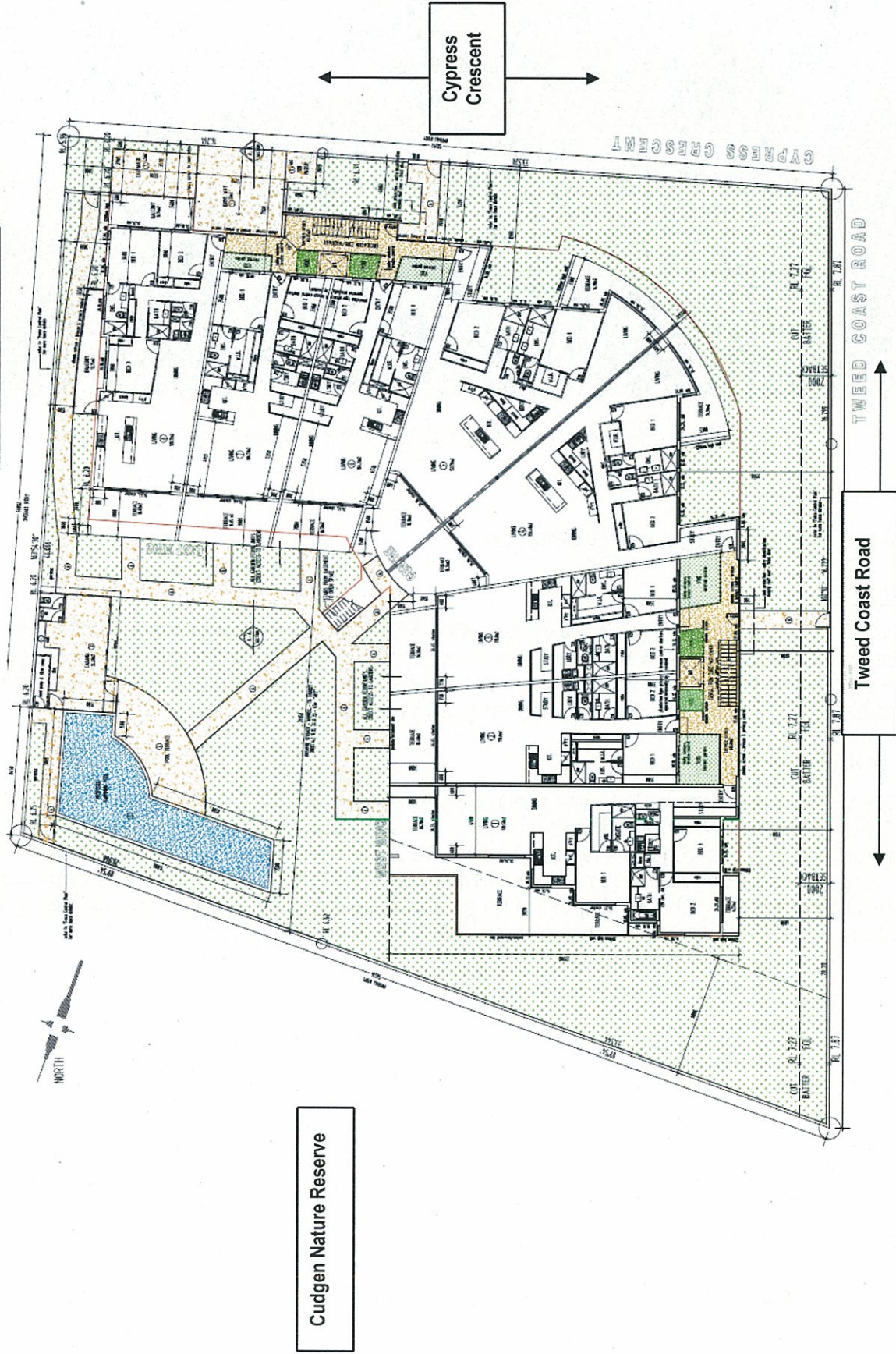


Figure 9: PPR Ground Floor Layout (Source: Preferred Project Report)



Figure 10: Photomontage of PPR proposal (Source: Preferred Project Report)

2.3 PROJECT NEED AND JUSTIFICATION

NSW 2012

NSW 2021: A Plan to Make NSW Number One is the NSW State government's strategic 10 year plan. The proposal supports the plan's aim to restore economic growth in NSW including the goal to double tourist visitor expenditure by 2020. The proposal also supports goal number three to drive regional economic growth in regional NSW through the construction of residential and tourist accommodation.

Far North Coast Regional Strategy

The site is located within a 'Town and Village Growth Boundary' identified in the *Far North Coast Regional Strategy 2006-2031* and the project would contribute to the sustainable growth of the region through the provision of additional dwellings and tourist facilities within the coastal area (generally east of the Pacific Highway) without impacting on the environmental assets and natural resources of the region. Tourism creates significant economic and employment benefits for the Region and the development of land reserved for tourism purposes by Tweed Shire Council is consistent with the aims of the strategy.

3. STATUTORY CONTEXT

3.1 MAJOR PROJECT DECLARATION AND DETERMINING AUTHORITY

The project was declared a Major Project to which Part 3A of the Act applies under *State Environmental Planning Policy (Major Projects) 2005* (MP SEPP) (as was in force at the time) under Clause 1(1)(f)(i) – being a residential or tourist facility wholly or partly in a sensitive coastal location that provides accommodation for any number of persons. The opinion was formed by the then Minister for Planning on 29 January 2007. The Minister for Planning and Infrastructure is therefore the approval authority.

Despite its repeal on 1 October 2011, Part 3A continues to apply to certain projects, described as transitional Part 3A projects, pursuant to Schedule 6A of the Act. The subject project application is such a project as the Director-General's Requirements were issued before 8 April 2011.

Under the delegation dated 14 September 2011, the Minister for Planning and Infrastructure has delegated his functions under section 75J of the Act to the Planning Assessment Commission (PAC) where the local council has objected to the proposal, or if there were more than 25 public objections to the proposal, or if there were political donations received associated with the applicant.

As a political donation disclosure was made with the application, the application shall be determined by the PAC.

3.2 PERMISSIBILITY

The site is zoned 2(e) Residential Tourist under the *Tweed Local Environmental Plan 2000* (see Figure 6). The proposed land uses and works outlined in the project description wholly accord to those land use zonings identified in the LEP and are permissible with development consent. Both residential and tourist uses are permissible. This is discussed in more detail in Section 5.1 of this report.

3.3 OBJECTS OF THE ACT

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats*
 - (vii) *ecologically sustainable development.*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The assessment of this application has had regard to the above objects of the Act. The restriction of direct pedestrian access to Cudgen Nature Reserve ensures the proper management of natural resources for the benefit of the environment. The construction of residential and tourist accommodation is consistent with the zoning of the site and results in the orderly and economic use of the land. In granting project approval, the needs of future generations will be met, the department having ensured sustainable development principles were considered in the assessment of the application while the needs of the community have been considered through public participation in the decision making process.

3.4 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
 - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment*
 - (ii) *an assessment of the risk-weighted consequences of various options.*
- (b) *inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.*
- (c) *conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.*
- (d) *improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*
 - (i) *polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement.*
 - (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.*
 - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

Precautionary Principle

The EA and PPR identified and assessed the range of environmental impacts of the project. The proponent has proposed appropriate measures in its Statement of Commitments that will manage the potential environmental impacts of the development including sediment and erosion control. The impact of potential acid sulfate soils has been considered and the appropriate precautionary measures included for the excavation stage of development.

Inter-Generational Principle

The Project will contribute to the supply of housing choices to meet the needs of current and future generations and provides a range of accommodation opportunities for various household sizes now and into the future.

Biodiversity Principle

The proponent has provided an assessment of the impacts on existing flora and fauna on and adjacent to the site. Mitigation measures and management strategies will be implemented to prevent any potential environmental impacts including the erection of signage during and post development, the management of weeds on the development site and landscaping with suitable indigenous plant species.

Valuation Principle

Valuation Principles have been applied through measures recommended by the department to ensure stormwater quality leaving the site is improved thereby minimising the impact on the environment.

3.5 STATEMENT OF COMPLIANCE

In accordance with Section 75I of the Act, the department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4. CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The EA was exhibited for 32 days from 3 September 2010 to 5 October 2010. Advertisement of the exhibition was given in the following local papers:

- Tweed Daily News, on Wednesday, 1 September 2010
- Tweed Sun, on Wednesday, 1 September 2010
- Tweed Border Mail, on Friday, 3 September 2010
- Tweed Link, on Tuesday, 31 August 2010.

Exhibition locations were at:

- Department of Planning and Infrastructure, 23-33 Bridge Street, Sydney
- Tweed Shire Council, Civic & Cultural Centre, Murwillumbah
- Tweed Shire Council, Tweed Heads Branch
- Kingscliff Public Library, Kingscliff.

The EA was also displayed on the department's website.

Letters were sent to Council, relevant government agencies and to 28 adjoining landowners inviting a written submission. A total of 7 submissions were received from public authorities being:

- Tweed Shire Council (council)
- Office of Environment and Heritage (OEH)
- Department of Primary Industries (DPI)
- NSW Office of Water (NOW)
- Roads and Maritime Services (RMS)
- Land and Property Management Authority (LPMA)
- Rural Fire Service (RFS)

One submission by way of objection was received from the public.

The PPR was lodged on 15 May 2012. Due to the nature of the submissions received during public exhibition, the PPR was forwarded to Tweed Shire Council, OEH, NOW and RFS for further comment on 30 May 2012. The original 28 adjoining landowners were notified by mail on the same date. The PPR was also displayed on the department's website.

4.2 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following matters were raised by public authorities:

Tweed Shire Council

Tweed Shire Council provided submissions for both the original EA and PPR proposal. Council does not object to the proposal, however raised concerns relating primarily to engineering detail. Below are the key issues raised by council at EA and PPR stage as relevant.

Land Use

- The proposed dual use tourist/residential accommodation does not meet the primary objective of the 2(e) Residential Tourist Zone unless it is utilised exclusively for tourist accommodation purposes in perpetuity. As such, council does not support proposed units 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 20, 21, 22, 23 and 24 for dual residential/tourist use and requests that a Section 88b restriction be placed upon the title to denote exclusive use for tourist accommodation.
- Similarly, council did not support the EA land use proposal, which identified 6 units for dual tourist/residential use and requested that a Section 88b restriction be placed upon the title to denote exclusive use for tourist accommodation.
- At EA stage, council also referred to the draft RE2 zoning of the site in the Draft Tweed LEP 2010, which prohibits residential accommodation on the site.

Car Parking

- The PPR proposes 15 dual tourist/residential apartments and should include a provision for the tourist car parking component. Accordingly, an additional two car spaces should be provided for staff associated with the management of the tourist facility and for delivery vehicles.
- Each of the proposed 8 sets of tandem car parks must be allocated to individual units, ideally the 3-bedroom units should be allocated two spaces each.
- Council raises technical engineering concerns regarding the basement car parking and the relevant Australian Standards. It is recommended that the proposal not be endorsed until the technical matters are adequately addressed.

Landscaping

- The PPR landscaping proposal is not 90% comprised of native species as required (cultivated varieties are not local species) and includes known environmental weed species. Species shall be selected from council's Native Species List and Planting Guide. The applicant should commit to the removal of environmental weed species present, including Cocos palms.

Urban Design

- The PPR proposal, despite its pattern of balconies and recessed sections of the floor plate, presents as a large continuous building form. The continuous roof form and limited material palette does not achieve the coastal village design objectives.
- There is limited opportunity for cross ventilation with the majority of units having a single aspect. The long and narrow configuration of many of the units results in limited natural sunlight access across the floor plate.
- The proposal presents considerable scale, mass and bulk. This is largely due to the repetition of the same stacked floor plan and the interrupted elevation extending from Tweed Coast Road into Cypress Crescent. This results in a continuous, long and unbroken elevation of almost 80m in length. The steps and recesses in the building footprint around circulation and core areas serve to articulate the long elevation but it does not appropriately reduce the overall visual bulk and scale. Similarly there is little variation within the roof line in terms of change in height, pitch and form. This may have served to reduce visual bulk and assist in breaking down the continuous building form.
- Physically separating the building into separate pavilions would assist in breaking down overall bulk and increasing compatibility with a small coastal village context. This introduces further opportunity for landscaped courtyards and/or links between buildings and provision of alternate access from private outdoor areas to the street rather than around the perimeter of the site.
- The concrete-heavy material palette is more appropriate in a dense urban context rather than a small coastal village on the edge of a coastal heath bushland reserve and ocean beach. The aluminium screen with landscape motif appears as an unintegrated element of the overall design.

Caravan Park Closure

- Council requested the inclusion of a planning condition to ensure a plan of management will be implemented to ensure all existing occupants of the caravan park have access to reasonable and adequate community facilities and services as required under the *Local Government Act 1993*. The proponent's Statement of Commitments should be strengthened to address the requirements of the above Act for the benefit of any long term residents of the caravan park.

Sewerage

- The position of the existing sewer and sewer junction is not suitable. An application to council is required for the disconnection and termination of the existing sewer and installation of a sewer junction in a suitable location.

Rainwater

- Council adopted its Rainwater Tanks in Urban Areas Policy in September 2011 which encourages the provision of rainwater tanks connected to a substantial part of the roof (80 – 90% for multi-unit dwellings) for use for toilet flushing, cold water taps to washing machines and external uses. The PPR proposal includes a rainwater tank connected to 300m² of roof (approx. 20% of roof) and is connected only to external uses including the car wash. Council encourages the proponent to consider further measures to improve this facet of the project.

Stormwater

- The PPR proposes on site detention of stormwater at 11.4m³ to ensure post-development stormwater flows is limited to existing flows. Council's Development Design Specification D5 (Stormwater Drainage Design) requires an on site detention capacity of 100m³, if a 200 litres per second maximum discharge rate is achieved for the Q100 storm event. Given the sandy nature of local soils, there are many opportunities to

reduce the 100m³ detention requirement and manage off-site flows effectively. This can be adequately addressed during the construction certificate process.

Koala Habitat

- Following a site visit council confirmed that Cudgen Nature Reserve does not constitute a Primary Koala Habitat. Council previously raised concerns at EA stage as council GIS mapping identified the reserve as such.

Office of Environment and Heritage (formerly DEECW)

The OEH requested changes to the EA proposal and a strengthening of the proponent's original statement of commitments to protect biodiversity and Aboriginal cultural heritage. All requested changes to the EA proposal were included in the PPR. The issues raised by OEH are as follows.

Asset Protection Zones

- The OEH confirms it is responsible for the management of the Cudgen Nature Reserve including the need to rehabilitate native vegetation and to protect the reserve from ongoing edge effects. The proposal seeks to use a portion (20m) of the Cudgen Nature Reserve for asset protection purposes, located outside the subject site. Should the department consider that a 20m APZ is sufficient for asset protection, OEH confirms that a 20m APZ within the Cudgen Nature Reserve may be used. Notwithstanding, the OEH shall not be responsible for providing fire protection for the new development.
- It will be the proponent's responsibility to negotiate with the National Parks and Wildlife Service (OEH) regarding the management of fuel loads in Cudgen Nature Reserve, bearing in mind any additional costs associated with any management regimes that are substantially different to the Cudgen Nature Reserve Fire Management Strategy.
- The OEH also raised concerns regarding the proposed use of mature shade trees within the northern boundary of the proposal. Species selection is vital as the vegetation could undermine the fire protection requirements of the development.

Beach Access

- The construction of a formalised path providing access to the beach within Cudgen Nature Reserve is not supported and should be removed from the proposal.

Aboriginal Cultural Heritage

- The OEH included two planning conditions relating to Aboriginal cultural heritage.

NSW Office of Water

The NOW originally raised concerns at the EA stage however these issues were adequately addressed in the PPR. The concerns raised related to groundwater, stormwater management and water supply.

Rural Fire Service

The RFS advised that at the commencement of building works and in perpetuity, a 20m minimum asset protection zone adjoining the northern boundary within Cudgen Nature Reserve should be maintained.

4.2 SUBMISSIONS FROM THE PUBLIC

One submission was received from the public and was a letter of objection raising the issue of overdevelopment. The proponent responded to this submission in the PPR (see Appendix E).

5. ASSESSMENT

Key issues considered in the department's assessment of the proposal include the following:

- Dual Residential/Tourist Land Use
- Urban Design.

Other issues considered by the department include:

- Neighbour Impacts
- Residential Amenity and SEPP 65 Compliance
- Car Parking
- Caravan Park Closure
- Stormwater and Rainwater
- Asset Protection Zones
- Developer Contributions.

5.1 DUAL RESIDENTIAL/TOURIST LAND USE

The PPR proposes 15 'dual use' tourist/residential apartments, with the remaining 9 units for a wholly residential use. Tweed Shire Council does not support dual use apartments and considers that the proposal should contain a quantum of apartments to be exclusively used for tourist uses. The department considers subject to conditions that the dual use proposal to be acceptable. The following is a review of relevant matters.

Tweed LEP 2000

As stated in Section 3.2, the proposal is wholly consistent with the land use zonings identified in the Tweed LEP 2000 and is permissible with development consent. The site is zoned 2(e) Residential Tourist, of which the primary objective is:

"to encourage the provision of family-orientated tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motel, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities."

The secondary objective is:

"to permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use."

The PPR proposal for 24 apartments, of which 15 apartments are proposed to be used as either tourist or residential accommodation, is permissible under the LEP. Wholly residential development is not prohibited under the 2(e) zoning, and the LEP does not contain any mandatory quantum of tourist use in the zone.

Draft Tweed LEP 2010

The draft Tweed LEP 2010 was exhibited from January 2010 to April 2010. Under the draft document, the site is zoned RE2 Private Recreation. The objectives of the zone are:

- *to enable land to be used for private open space or recreational purposes;*
- *to provide a range of recreational settings and activities and compatible land uses;*
- *to protect and enhance the natural environment for recreational purposes."*

Under the draft LEP, tourist uses are permissible and residential uses would be prohibited on the site. Accordingly, under the draft document the proposal is not permissible on the subject site. This effectively down-zones the site.

Tweed DCP 2008

The Tweed DCP (B19 Bogangar/Cabarita DCP) identifies the site being within the 'Residential Tourist Precinct' within the Bogangar/Cabarita locality. The precinct objectives are to:

- *Retain the level of amenity for adjacent residential areas and users of nearby recreation areas including Cudgen Lake;*

- Ensure that an appropriate density of development is retained, which reflects the existing development in the precinct and surrounding residential areas;
- Contain any tourist development within the bounds of the precinct, ensuring the consolidation of tourist accommodation within this area of Bogangar."

The strategic policies for the Residential Tourist Precinct include the following statement:

"The sites identified within the Tourist Residential Precinct are intended to be developed as integrated tourist facilities consisting of predominantly accommodation units with attendant facilities to cater for the needs of short-stay guests."

The DCP document provides the only council guidance as to the preferred quantum of tourist units on the site. Accordingly, the PPR proposal for 15 dual use tourist/residential apartments, if used for tourist purposes, would satisfy the intent of the DCP being comprised predominantly of tourist accommodation. Conversely, if the 15 dual use apartments were used wholly for residential purposes, then the intent of the DCP would not be satisfied. A key issue is therefore the operational management of the dual use apartments, which is discussed below.

Proposed management of tourist uses

The management of tourist apartments will be predominantly handled by a third party following the future strata subdivision of the building. As outlined in the Building Management Report contained within the EA, the future owners of the dual use apartments would most likely contact an outside letting agency for tourist letting arrangements. This arrangement would be predicated on a restriction of title via a section 88b covenant to be included in any project approval, specifying the dual tourist and residential uses of apartments 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 20, 21, 22, 23 and 24. In reality, under this arrangement, future owners of dual use apartments could also manage their own private letting arrangements without need for a third party, so the number of apartments operating as tourist units could not be controlled in any way.

The proponent considers that the PPR proposal is wholly permissible under the existing LEP and argues that the market will decide the level of tourist use on the site. The use of dual use apartments for tourist uses would fluctuate through the year and would increase during peak holiday season, and would be occupied by the owners (or vacant) during the low season or in more quiet times. The quantum of apartments operating as tourist uses at any given time would not be known, but could be as high as over 62% (15 of 24 units) of the site. Conversely, the site at any given time could potentially be used wholly for residential purposes in perpetuity. Again, there would be no planning mechanism to control the quantum of tourist uses on site.

Potential purchasers of wholly residential apartments would be made aware of the tourist component of the site via the restriction of title, ensuring full disclosure of future tourist uses on the site. Residential amenity would be managed by a future strata management company, which would ensure all occupants whether permanent or short term tourists comply with relevant by-laws relating to the use and quiet enjoyment of the site.

Council position

Tweed Shire Council did not support the proponent's dual use proposal for 15 tourist/residential apartments, instead it requested that a section 88b restriction is placed on the title to denote exclusive use for tourist accommodation. Council does not consider that the development meets the primary objective of the zone unless it is utilised exclusively for tourist accommodation purposes, and in perpetuity. At EA stage, council requested that the proposed 6 dual use apartments be used exclusively for tourist uses for the same reasons.

Council's stated position however contrasts with consent DA10/0160 granted under delegated authority by council in a 2(e) zone. On 21 September 2010, council approved a change of use application for 44 (of 50) motel units to change to wholly residential units at a nearby site in Bogangar (900m to the west of the site on Tamarind Avenue). Together, these are the only two sites in the Cabarita/Bogangar locality zoned as 2(e). Approval was granted on the basis that the amenity impacts of residential units upon the locality would be acceptable. The remaining 6 motel units were retained for tourist use however the land use issue was not discussed in any great detail in the planning report.

It is noted that council does not object to the PPR proposal, rather, it is stated that it does not support the dual use apartments in relation to land use and requests a section 88b restriction for a exclusive tourist use on site.

Department position

The department considers the dual use proposal to be acceptable in the 2(e) zone, on the basis that it is a wholly permissible land use. The department supports the proponent's argument that market conditions will dictate the availability of tourist apartments available within the site, which will fluctuate between periods of high and low demand in the area as a whole. In periods of higher demand, a dual use tourist/residential proposal would allow owners to rent their apartments for tourist usage and it is likely that a financial incentive would exist to do so. In periods of lower demand, it is possible that tourist accommodation would not be available on the site. Over the long term, it is likely that apartments may be used for tourist purposes consistent with the 2(e) zone, given its location on Cabarita Beach and the holiday-style design of the apartments.

Regardless, a wholly residential proposal would be consistent with the 2(e) zone. The LEP 2000 does not provide a development standard recommending the appropriate quantum of tourist uses and whilst the draft 2010 LEP suggests a policy direction towards wholly tourist uses on site, the proposal remains permissible on the site. The department has in other approvals (Cotton Beach development, Casuarina 2004-09-227) granted wholly residential developments in the 2(e) zone on the basis that it is permissible in the zone, and as such any approval for the subject proposal would be consistent with previous approvals.

The department also previously approved a dual use tourist and residential development in 2003 (Tweed Ultima Resort, Tweed Heads DA 456-10-2003) and it is satisfied that the two land uses can co-exist in the same development. The department's main concern with dual use tourist and residential developments is to ensure that the amenity impacts of short-term stays are appropriately managed for the benefit of long term residents. In this regard it is recommended that a strata management plan be prepared that details the management functions of the body corporate that will ensure the preservation of residential amenity for both short term and long term occupiers of the development. A planning condition is recommended in the draft project approval to this effect.

Subject to this condition, the department considers the proposal to be acceptable, and recommends that the title be restricted via a section 88b covenant for dual tourist and residential uses for Units 5, 6, 7, 8, 12, 13, 14, 15, 16, 20, 21, 22, 23 and 24.

5.2 URBAN DESIGN

The proposal for a 3-storey residential tourist flat building is consistent with DCP guidance relating to the site. The proposal is consistent with the key development control requirements including building height, setbacks, access, basement car parking, building separation, fencing and deep soil zones as required by Tweed Shire Council. The PPR proposal is consistent with those urban design principles set out in SEPP 65 and the Residential Flat Design Code (RFDC). Appendices C and D contain compliance tables which provide details of urban design controls relating to the site.

Two areas of non-compliance to the RFDC have been identified, these relate to residential amenity and are discussed later in Section 5.3.2 of this report.

The PPR proposal included significant urban design changes from that publically exhibited. The key design amendment has been the removal of the atrium (see Figure 7) and the corresponding reconfiguration of the building layout. These changes resulted in a building frontage which better addresses the street corner at Tweed Coast Road and Cypress Crescent and which better articulates the street hierarchy. The building frontage, which includes external balconies, now serves to activate the street which vastly improves this aspect of the proposal which was formerly set back from the street corner.

A key issue is the visual impact of the building in its coastal village setting. Despite its compliance with the DCP height and storey limit, the visual impact of the flat building must be minimised given that the surrounding dwellings are typically one and two storey detached houses. Council requested key changes to the building elevations and roof structure to break down what council considered a large continuous building form which presented as considerable scale, mass and bulk. It was also suggested that physically separating the building into separate pavilions would assist in breaking down the overall bulk, as would greater variations in the height, pitch and form of the roof.

The department has noted council's concerns regarding visual impact however does not consider that further changes to the building form is warranted at this stage of the application. The department played a key role in seeking changes to the original EA proposal and the final design was informed by design input from the department's urban design team. Council's original submission to the EA did not contain urban design comments and having progressed to PPR stage the department considers that further fundamental changes to the proposal would be unreasonable. Instead, it is considered that the bulk and scale of the proposal can be minimised through a more appropriate use of building materials and colours to better articulate the façade of the building.

Building articulation is provided through a series of steps and recesses along the street frontages and decorative external screens are provided on both street frontages around core and circulation areas which provide variety to the elevation. However it is considered that further articulation may be achieved through the materials treatment of panelling, balustrades, balconies and solid fin walls. Similarly, roof drainage structures such as gutters and downpipes should be carefully considered. Recesses in the building could be emphasised with darker colours while projecting elements could be lighter. The external screening could be made a decorative feature and be coloured to complement the cladding and solid panels.

Accordingly, the department has recommended design modifications in the project approval seeking further details of the proposed materials and colour palette for the building elevations and the roof. Final approval of these aspects will ensure that the visual impact of the building in its coastal village setting would be minimised and would be consistent with the urban design objectives raised in council's submission.

The recommended planning condition B2 is as follows:

B2 In order to adequately mitigate the environmental impacts of the project, the design of the proposal must be amended to include further details of:

- (1) Materials pertaining to the building elevations and the roof. The solid panels enclosing the circulation core shall be an alternative material to painted fibre cement and should be coloured to be integral with the overall development. Balustrades are to be more varied and should include a solid portion with smaller glass portion, rather than all glass balustrades. Details of roof drainage structures shall be provided and should tone with roof material and colour, or be coloured more strongly than the roof and tone with window frames.*
- (2) Colours pertaining to the building elevations and the roof. A single element should be painted the same colour on all its surfaces, different colours for different surfaces shall be avoided. Recesses in the building shall be emphasised with darker colours while projections shall be lighter colours. The laser cut screens are an interesting part of the façade and shall be retained and emphasised with a fairly strong and dark colour to complement the solid panels enclosing the stairs.*
- (3) The amended elevations and sample boards of materials is to be submitted for the approval of the Director General prior to the issue of a Construction Certificate.*

5.3 OTHER ISSUES

5.3.1 NEIGHBOUR IMPACTS

The department raised concerns regarding the original EA proposal as it was considered to raise privacy impacts to dwellings in Cypress Crescent to the east of the site. 8 Cypress Crescent is setback some 2m from the common boundary as seen in Figure 11 below. Although no neighbour objections were received, the proposal would introduce a 3 storey building into an area characterised by one and two storey dwellings and immediately adjacent a single storey detached house.

The PPR proposal subsequently addressed the privacy concerns with a realignment of the building layout. The apartments located closest to the eastern common boundary now have a northerly aspect, which substantially reduces overlooking into 8 Cypress Crescent. Privacy screens are proposed on ground, first and second floors facing 8 Cypress Crescent. To ensure privacy to 8 Cypress Gardens is maximised, the department recommends an additional planning condition restricting the downward view from the kitchen windows on the first and second floors facing east. The proposed PPR layout is seen below in Figure 12.

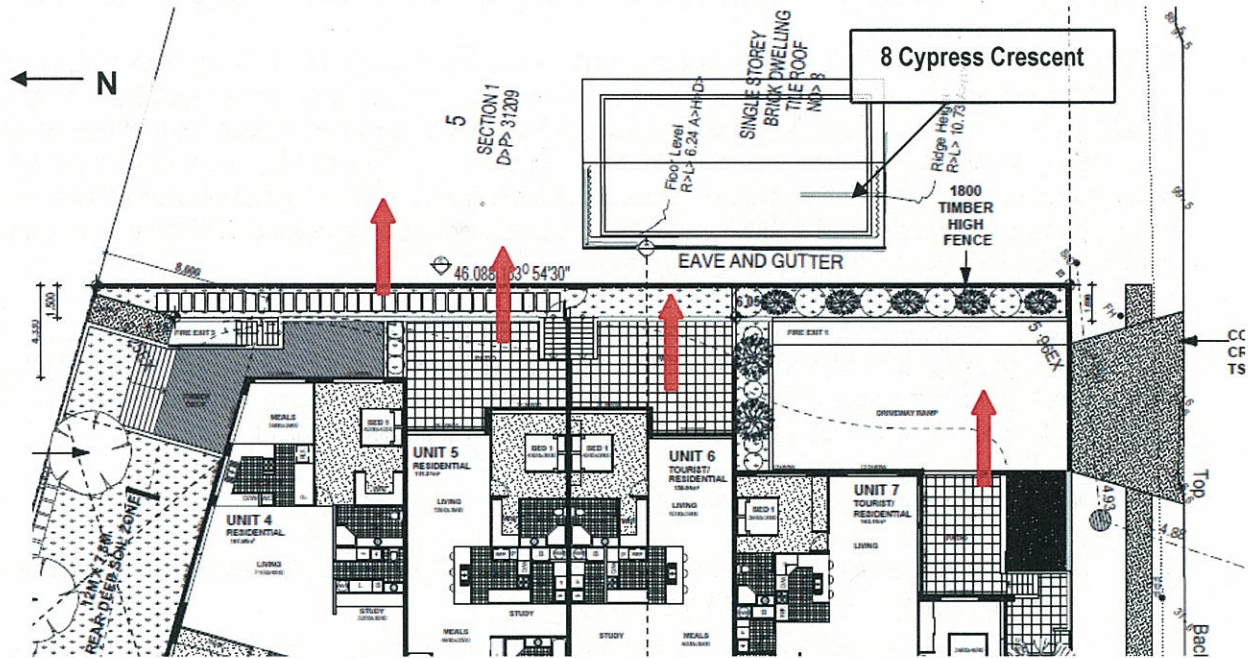


Figure 11: Privacy impacts of EA proposal on 8 Cypress Crescent (Source: Environmental Assessment)

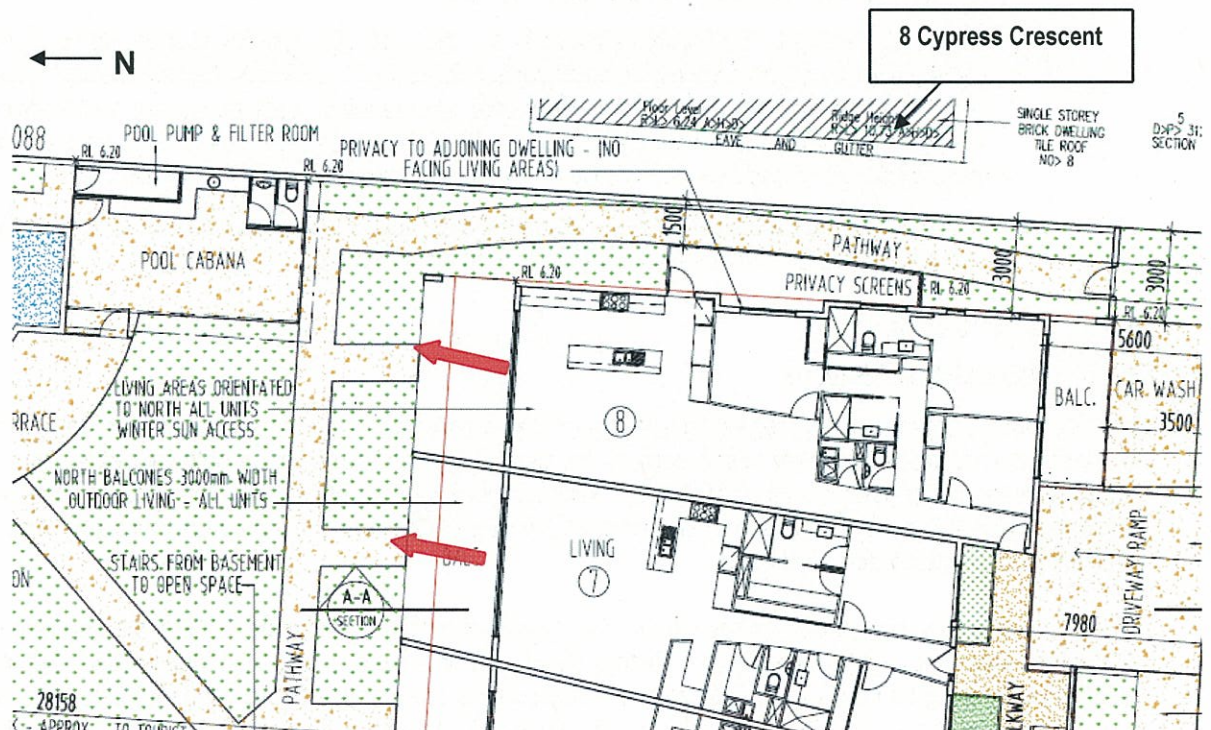


Figure 12: Privacy impacts of PPR proposal on 8 Cypress Crescent (Source: PPR)

5.3.2 RESIDENTIAL AMENITY AND SEPP 65 COMPLIANCE

The PPR proposal satisfactorily addressed the residential amenity concerns raised by the department at EA stage. Significant concerns were raised in relation to cross ventilation, internal circulation and acoustic privacy which were subsequently addressed.

The removal of the internal atrium from the EA proposal provided each dwelling with greater access to prevailing cross breezes and improved cross ventilation. It also ensured that the secondary bedrooms did not adjoin the internal pedestrian thoroughfare which was considered to compromise acoustic privacy to all secondary bedrooms in the development. The use of a secondary pedestrian access in the PPR proposal provides a greater separation between permanent residents and short-stay tourist guests which is supported by the department.

A non-compliance issue arises regarding private open space for ground level apartments. SEPP 65 requires that private open space is provided for ground floor apartments with the provision of a terrace of at least 4m in depth. As seen in Figure 13, the proposed ground floor apartments have a terrace depth of 3m. Non-compliance with the SEPP is considered acceptable in this instance however, as the design of the building does not allow for ground floor terraces to exceed 3m. If the depths of Units 3 & 6 were to be extended, this would result in an unacceptable reduction to the balcony amenity to Units 4 & 5.

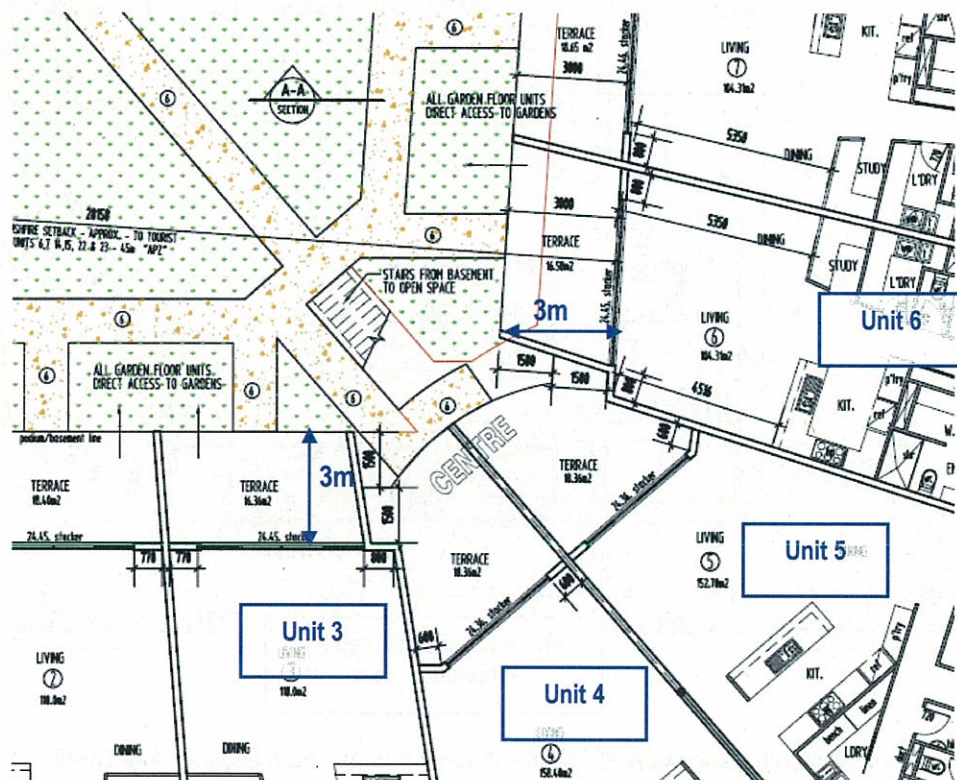


Figure 13: Non-compliance with SEPP 65 – Ground Floor Terraces (Source: PPR)

SEPP 65 also seeks that ground floor units have access to the street. The design intent is to activate the streetfront however the PPR proposal does not provide such street access. The proponent argues that the two circulation cores proposed for each street frontage effectively restricts ground level access, while the car wash and basement car parking on the Cypress Crescent frontage prevents further opportunities for street access (see Figure 14). Accordingly, as 5 of 8 ground floor units (Units 2, 3, 6, 7 & 8) have their street level access restricted by the building design, it was considered undesirable to incorporate street level access into the final design. The department agrees that the provision of street level access to the remaining 3 units (Units 1, 4 & 5) would be incongruous to the overall design.

Despite two areas of non-compliance with SEPP 65 design guidance, the department supports the PPR proposal. Overall, the requirements of SEPP 65 are met or exceeded and residential amenity is ensured for both occupants and neighbouring properties. A detailed table outlining compliance against the requirements of SEPP 65 is contained within Appendix C.

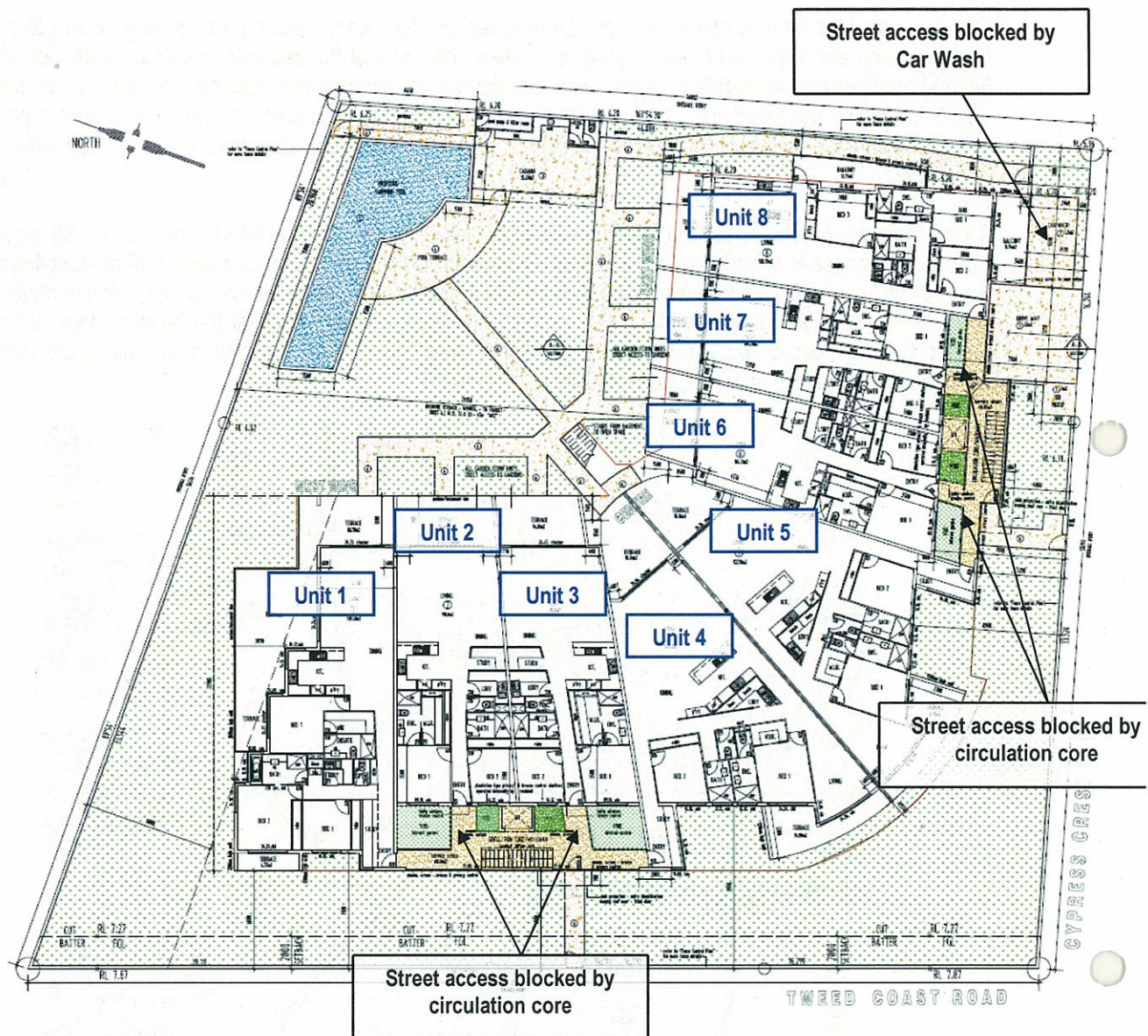


Figure 14: Non-compliance with SEPP 65 – Access to Street from Ground Floor Dwellings (Source: PPR)

5.3.3 CAR PARKING

The PPR proposal provides sufficient parking in accordance with council's Site Access and Parking Code. The minimum car parking required for the development is 45 parking spaces under the code, while 47 spaces are provided by the proposal. A more detailed per dwelling breakdown is contained within Appendix D.

In council's PPR submission, an additional car parking space was requested for service vehicles associated with the tourist component of the development. The department does not consider this to be necessary given the nature of the proposed dual use tourist/residential development and does not consider that deliveries will be required on a regular basis. Notwithstanding, two car spaces are available for such a service/delivery use. Council also raises concerns regarding the allocation of tandem car parking spaces to individual units. Accordingly, the department does not recommend restricting parking by way of condition and recommends the

proponent resolve car parking matters by appropriate allocation during the future strata subdivision of the building.

5.3.4 CARAVAN PARK CLOSURE

The existing caravan contains 25 caravan sites which are predominantly occupied by permanent vans with fixed annexes. Many of the existing caravans are utilised as occasional weekend accommodation by the owners with only three of the sites permanently occupied.

Under the *Local Government Act 1993*, Tweed Shire Council has responsibility for the operation of caravan parks. The operation of the caravan park during its potential closure is subject to the provisions of the abovementioned Act which ensures that all occupants have reasonable and adequate community facilities and services during the period of its closure.

The proponent has stated they will meet their obligations under the *Local Government Act 1993*. The department considers the closure of the caravan park acceptable subject to an appropriate plan of management for the closure being developed in consultation with Housing NSW and the Office of Fair Trading prior to being provided to council.

5.3.5 STORMWATER AND RAINWATER

Stormwater

The EA stormwater proposal was amended in the PPR to ensure that post development stormwater discharge flows do not exceed pre-development flows via the use of an on-site detention structure. The required volume of detained water was stated to be 11.14m³ by the proponent, having considered the 100 year storm event. Detention is proposed in a tank using a 'leaky storage system' to ensure the tank maintains adequate detention capacity.

Tweed Shire Council referred to its D5 Development Design Specification, which limits discharge rates to 200l/s/ha for all storm events including the 100 year storm event on redevelopment sites. To limit discharge rates to 200l/s/ha, this would require an on-site detention of 100m³ of stormwater, which far exceeds the 11.14m³ proposed in the PPR. A maximum discharge rate applies to the subject site Tweed, unless it can be demonstrated that the downstream drainage systems have sufficient capacity to cope with the discharge. An assessment of the downstream drainage system was not undertaken by the proponent. Accordingly, Council has requested a planning condition that requires further on site detention structures to meet its discharge specifications.

The PPR proposal appears to meet the pre-development flows for the site however does not address Council's maximum discharge rates for the 100 year storm event. Accordingly, the department has included Council's requested planning condition to meet its engineering specifications. Tweed Shire Council acknowledges that due to the nature of the sandy soils (being located only 250m from the beach foreshore) that there is scope for reduced on-site storage i.e. less than the stated 100m³ and as such the detailed design of stormwater infrastructure may be clarified at construction certificate stage.

Rainwater

Council's Rainwater Tanks in Urban Areas Policy (adopted in 2011) encourages the use of substantial rainwater tanks to be connected to 80-90% of the roof for multi-unit dwellings to provide for landscaping irrigation, car washing and to be connected to cold water taps for washing machines. The PPR proposal only connects to approximately 20% of the roof and is not connected to cold water taps for washing machines. However, given that the PPR satisfies the BASIX requirements for rainwater for a 22,500 litre rainwater tank, and that the original EA was submitted prior the adoption of the recently adopted policy, the department considers it unreasonable to require strict adherence to council's 2011 policy.

5.3.6 ASSET PROTECTION ZONES (APZs)

The proposal seeks to utilise land outside the site within Cudgen Nature Reserve for asset protection purposes. Cudgen Nature Reserve is managed by the National Parks and Wildlife Service arm of the OEH.

The OEH initially raised concern at EA stage regarding asset protection, as although it was responsible for the fire management of Cudgen Reserve under the *Rural Fires Act 1977*, the OEH did not wish to be the party responsible for asset protection for neighbouring properties, which includes the subject site. The proponent subsequently referred to the duties and obligations of the OEH contained within the *Cudgen Nature Reserve Bushfire Management Strategy 2006* (prepared by the OEH) regarding bushfire management, which required that the National Parks and Wildlife Service maintain a 20m APZ adjoining the subject site.

The OEH subsequently confirmed that the PPR sufficiently satisfied its original concerns relating to the APZ. Accordingly, the department confirms that 20m of land outside the subject site within Cudgen Nature Reserve may be utilised for asset protection purposes.

5.4 DEVELOPER CONTRIBUTIONS

Section 94 Contributions

The proponent is to contribute \$89,410 in developer contributions to council pursuant to section 94 of the Act as detailed in Table 2. This figure is calculated on the basis that the proposed 15 dual tourist/residential apartments are considered as residential dwellings to reflect the highest land use for the apartments. The breakdown of relevant contributions in accordance with Tweed Shire Council's contributions plans is detailed below.

Table 2 – Section 94 Contributions

Name of Contribution Plan	Sub-Total
Tweed Road Contribution Plan	\$28,200.48
Open Space (Casual)	\$1,312.64
Open Space (Structured)	\$6,068.16
Shirewide Library Facilities	\$2,036.72
Bus Shelters	\$624.96
Eviron Cemetery	\$1,219.68
Community Facilities (Tweed Coast - North)	\$3,374.56
Extension to Council Administration Offices	\$4,524.16
Cycleways	\$1,148.00
Regional Open Space (Casual)	\$2,655.52
Regional Open Space (Structured)	\$37,975.12
Total	\$89,140.00

Section 64 Contributions

The proponent is to contribute \$81,924 in developer contributions under section 64 of the *Local Government Act 1993* as detailed in Table 3. Calculations include credits for the existing uses currently on site.

Table 3 – Section 64 Contributions

Name of Contribution Plan	Sub-Total
Development Servicing Plan for Water Supply Services	\$49,815
Development Servicing Plan for Sewerage Services	\$32,109
Total	\$81,924

Payment for Section 94 and Section 64 contributions to Tweed Shire Council will be required prior to the issue of construction certificate as outlined in the recommended project approval.

6. CONCLUSION

The proposal is for the construction of a 3-storey, residential flat building comprising 24 apartments, including 15 dual-use tourist/residential apartments and 9 wholly residential apartments.

The department has assessed the EA and PPR and has considered the submissions in response to the proposal. The key issues relate to the proposed dual-use tourist/residential apartments and whether or not tourist uses shall be reserved on the site zoned 2(e) Residential Tourist in perpetuity, and issues relating to urban design.

Other issues raised included matters relating to asset protection zones, neighbour impacts, stormwater and rainwater, car parking, caravan park closure and residential amenity, however these matters were satisfactorily resolved by the proponent. The proposal demonstrates general compliance with the relevant environmental planning instruments.

The project is considered to provide public benefits in the economic growth of the Far North Coast of NSW and would contribute to sustainable growth of the region through the provision of additional dwellings and tourist facilities without impacting on the environmental assets and natural resources of the region. The proposal is consistent with the broader sustainability aims of the Far North Coast Regional Strategy.

The department has prepared recommended conditions of approval in respect to the project approval contained within Appendix A to minimise the visual impact of the proposal consistent with the department's vision for coastal villages. Recommended design modifications relate to:

- the proposed materials palette
- the proposed colour palette

A condition requiring the preparation of a strata management plan is also recommended to manage residential amenity.

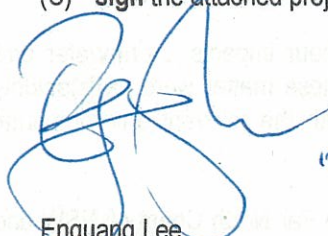
On these grounds, and subject to the other recommended conditions of approval, the department considers the proposed development to be suitable for the site and that the project is in the public interest. Subject to the recommended conditions, the department is also satisfied that all impacts of the proposal have been satisfactorily addressed within the EA, PPR and the proponent's Statement of Commitments.

Consequently, the department recommends that the Planning Assessment Commission **approve** the project under delegation, subject to the recommended conditions contained within the project approval and the proponent's Statement of Commitments.

7. RECOMMENDATION

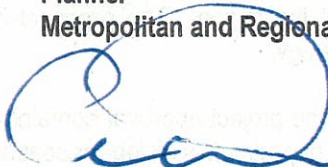
It is recommended that the Planning Assessment Commission:

- (A) consider the findings and recommendations provided in this report;
- (B) **approve** the Project Application for the project, under section 75J of the *Environmental Planning and Assessment Act 1979*, subject to recommended planning conditions, and
- (C) **sign** the attached project approval (**Tag A**).



15.8.12

Enguang Lee
Planner
Metropolitan and Regional Projects North



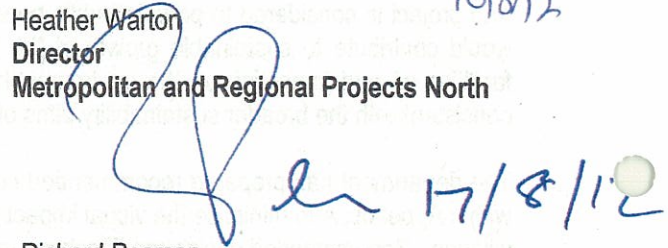
16.8.12

Chris Wilson
Executive Director
Major Projects Assessment



16/8/12

Heather Warton
Director
Metropolitan and Regional Projects North



17/8/12

Richard Pearson
Deputy Director-General
Development Assessment & Systems
Performance

APPENDIX A. INSTRUMENT OF APPROVAL

APPENDIX B. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

See enclosed compact disk or weblink below:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=2861

APPENDIX C. COMPLIANCE WITH ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes reference to the provisions of the environmental planning instruments that substantially govern the carrying out of the proposal that have been taken into consideration in the environmental assessment of the proposal. The provisions, including development standards of local environmental plans and development control plans, are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the Proponent to address such standards and provisions. In summary, the relevant EPIs for the proposal include:

State Environmental Planning Policy (Major Development) 2005

The proposal is a major project under *State Environmental Planning Policy (Major Projects) 2005* (as in force at the time) being development of a kind described in Schedule 2 namely Clause 1(1)(f)(i) – residential or tourist facility wholly or partly in a sensitive coastal location that provides accommodation for any number of persons. The opinion was formed on 29 January 2009 by the then Minister of Planning.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider the potential for a development site to be contaminated and therefore whether it is suitable for the use for which development is proposed. If the land is unsuitable, remediation must take place before land is developed. The EA includes a baseline contamination assessment on the site and has confirmed that the site is suitable in its current state for residential development. The department has considered the contamination assessment in accordance with the SEPP and is satisfied that contamination issues have been addressed.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

SEPP 71 applies generally to development in the NSW coastal zone, as defined in the Coastal Protection Act 1979. SEPP 71 provides aims (clause 2) and matters of consideration (clause 8) by a consent authority when determining a development application. The proposal satisfies SEPP 71 and provides for the following:

- the protection of Cudgen Nature Reserve
- overall height and scale in accordance with surrounding context limiting visual impact to coastline
- desirable urban design outcomes and use of materials and colours sympathetic to the surrounding coastal context
- adoption of measures to manage construction, stormwater, erosion and sediment
- the project does not impact on any items, places, customs or beliefs of Aboriginal cultural value

State Environmental Planning Policy 65 – Design of Residential Flat Buildings (SEPP 65)

The aim of SEPP 65 is to improve the design quality of residential flat development in NSW. SEPP 65 recognises that the design quality of residential flat development is of significance in NSW due to the economic, environmental, cultural and social benefits of high quality design. An assessment of the proposal against the Residential Flat Design Code is set out below:

	RFDC requirement	PPR Proposal	Compliance
Part 1 Local Context			
Building depth	Maximum 18m depth	17m-18m	Yes
Street setbacks	5m – 9m	4m – 6m. The PPR responds to the local context despite partial compliance with RFDC	Yes

Part 2 Site Design			
Deep soil zones	All sites to provide two DSZs, one to rear and one to the front of the property	One DSZ proposed to rear	
	Rear DSZs to have minimum width of 8m or 30% of average width of site, whichever the greater	DSZ has width of 8m	Yes
	Rear DSZs to have minimum depth of 18% of the length of the site but no less than 4m	Rear DSZ is 8m wide and covers over 60% of length of site	
Landscape Design	Objectives: To add value to quality of life of residents in the forms of privacy, outlook and views; To provide habitat for native plants and animals; To improve stormwater quality and reduce quantity	Landscape plans satisfactory	Yes
Fences and walls	To add value to residents' quality of life within the development in the forms of privacy, outlook and views.	Fences provided	Yes
Open space		49% of site area	
	Open space to be 25 – 30% of site area 25m ² for each ground floor apartment with minimum depth of 4m	Ground floor apartments have 3m depth with average area 18m ² Increased balcony depths would result in decreased solar access for Units 4, 5, 12, 13, 20, 21	No Discussed in Section 5.3.5
Orientation	Objectives: To minimise the impacts of development on the health and amenity of natural waterways; To minimise discharge of sediment and other pollutants to the urban stormwater drainage system during construction activity	Main living spaces orientated to the east and north	Yes
Stormwater Management	Objective: To ensure developments are safe and secure for residents and visitors	Oil and Grit separator and on-site water detention proposed	Yes
Safety	Objectives: To provide reasonable levels of visual privacy externally and internally, day and night; To maximise outlook and views from principle rooms and private open space without compromising visual privacy.	The proposal provides passive surveillance to both common areas and the street	Yes
Visual privacy	Objectives: To provide reasonable levels of visual privacy externally and internally, during the day and night To maximise outlook and views from	The proposal does not raise visual privacy concerns for either occupants of the development or neighbouring dwellings The privacy impact was significantly	Yes

	principle rooms and private open space without compromising visual privacy	lessened on neighbouring dwelling with orientation of apartments to the north, not east	
Building entry	Objectives: To create entrances which provide a desirable residential identity; To orientate the visitor; To contribute positively to the streetscape and building façade.	Two entrances are provided to each street frontage. The entrances are integrated into the façade design and provide separate entrances for residential/tourist units and permanent residents	Yes
Parking	Objectives: To minimise car dependency; To provide adequate car parking for the building's users and visitors; To integrate the location and design of car parking with the design of the site and building	Adequate parking for cars and bicycles are provided in the basement. Visitor parking is provided	Yes
Pedestrian access	Objectives: To promote residential flat development which is well connected to the street and contributes to the accessibility of the public domain; To ensure that residents are able to reach and enter their apartment and use communal areas via minimum grade ramps, paths, access ways or lifts	Two entrances are provided for pedestrian access one on Tweed Coast Road and the other on Cypress Crescent. Entrances are accessible for mobility impaired people and wheelchair users	Yes
Vehicle access	Maximum width of driveway of 6m	Driveway is 5.7m wide	Yes
Part 3 Building Design			
Apartment layout	Single aspect apartments should be limited in depth to 8m from a window; Kitchens should be no more than 8m from a window	There are no single aspect apartments All kitchens are less than 8m from a window	Yes
Apartment mix	Objectives: To provide a diversity of apartment types, which cater for different household requirements now and in the future; To maintain equitable access to new housing by cultural and socio-economic groups	A mixture of 2-bedroom and 3-bedroom apartments are proposed. The proposal accords to the tourist accommodation zoning for the site	Yes
Balconies	Primary balconies to have minimum depth of 2m	Primary balconies to have minimum depth of 3m	Yes
Ceiling heights	2.7m minimum height	2.7m minimum height	Yes
Flexibility	Objectives: To encourage housing designs which meet the broadest range of the occupant's needs as possible;	The proposal accords to the tourist accommodation zoning for the site	Yes

	To promote 'long life loose fit' buildings which can accommodate whole or partial changes of use		
Ground floor apartments	Provide ground floor apartments with access to private open space Ground floor apartments should have separate ground floor access	All ground floor apartments have access to private open space No ground floor apartments have access to ground floor due to location of main pedestrian accesses, location of basement access and restrictions for access in Cudgen Nature Reserve	No Discussed in Section 5.3.5
Internal circulation	The number of units accessible from a single core/corridor should be limited to 8	4 units are accessed from a single core/corridor	Yes
Storage	6m ³ for 1-bedroom apartments 8m ³ for 2-bedroom apartments 10m ³ for 3-bedroom apartments	Storage provided for linen, in laundry, in study and in garage for over 8m ³ of storage	Yes
Acoustic privacy	Objective: To ensure a high level of amenity by protecting the privacy of residents both within the apartments and in private open spaces	The PPR proposal amended the original EA proposal which raised acoustic privacy concerns. These concerns have been satisfied due to rearrangement of internal layout	Yes
Daylight access	70% of apartments to have minimum of 3 hours of sunlight in living rooms between 9am and 3pm in the winter; Maximum 10% of single-aspect apartments shall have a southerly aspect	75% of apartments have either and northerly or easterly aspect and the living rooms will benefit from adequate daylight. There are no single aspect apartments	Yes
Natural ventilation	60% of residential units should be naturally ventilated; 25% of kitchens should have access to natural ventilation	100% of apartments are naturally ventilated 25% of kitchens should have access to natural ventilation	Yes

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The purpose of this Policy is to ensure consistency in the implementation sustainable measures for residential development throughout NSW. An application for development consent in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out.

The proponent has completed a BASIX certificate for the proposed residential building. All water, thermal and energy targets are met.

North Coast Regional Environmental Plan 2008

The *North Coast Regional Environmental Plan* (North Coast REP) applies to the coastal local government areas between Hastings Shire and Tweed Shire and as of 1 July 2009 was considered a deemed SEPP. The assessment of the Project has had regard to the relevant provisions of the North Coast REP as it relates to the Project including: the protection of water quality of the coastal environment; the retention and regeneration of natural areas; the provision for the orderly and economic release of urban land; and to locate urban and tourism development on land that is free from flooding, land instability, bush fire risk and other environmental hazards.

Tweed Local Environmental Plan 2000

The *Tweed Local Environmental Plan 2000* (LEP) outlines the local environmental planning provisions for the area. The assessment of the Project has had regard to the vision of the LEP which is for 'the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced'. It is considered that the project achieves this vision while encouraging sustainable economic development in the Tweed area compatible with the area's environmental and residential amenity qualities.

APPENDIX D: COMPLIANCE WITH OTHER PLANS AND POLICIES

Other plans and policies considered in the assessment of the proposal:

Tweed Development Control Plan 2008

DCP requirement		PPR Proposal	Compliance
Section A1, Part C – Residential Flat Buildings and Shop-Top Housing			
Design Control			
Deep soil zones	2 DSZs required, one to front and one to rear	One DSZ provided to side and rear	Yes
	Rear DSZ - minimum width 8m or 30% of the average width of site Minimum depth no less than 4m or 18% of length of site	Rear DSZ is 8m wide and covers over 60% of length of site	Yes
External Living Areas	Balconies not to face adjoining neighbours and should be screened if closer than 4m to boundary Balconies to have minimum depth of 2.5m and minimum area of 10 m ²	Balconies do not face adjoining property at 8 Cypress Crescent Balconies have minimum depth of 3m and exceed minimum area of 10m ²	Yes
Communal Open Space	Residential flat buildings with over 10 dwellings shall have communal open space	Communal open space is provided	Yes
Setbacks			
Front Setbacks	Corner sites shall have a 3m setback on its secondary frontage Sites with two or more frontages shall have a setback of 6m on the main street At grade parking shall have a 6m setback	3.5m setback on secondary frontage 6m frontage on main street Basement parking provided	Yes
Side Setbacks	At least 1.5m from side boundary Primary windows shall be setback 6m from side boundaries Basement garages shall be at least 1.5m from side boundary	1.5m from side boundary Primary windows do not face side boundaries Basement garages at least 1.5m from side boundary	Yes
Rear Setbacks	8m	8m	Yes
Car Parking and Access			
Basement Carparking	Basement car parking to be no more than 1.5m above ground to the rear of the building	Basement car parking no more than 1.5m above ground to rear of building	Yes

	Ramps shall start behind the building line Basement entries to be no more than 7m wide	Ramps start behind the building line Basement entry is 6m wide	
Building Footprint and Attics, Orientation and Separation			
Building Footprint	The distance between the back wall and a window should be no more than 10m in dual aspect buildings	Average distance is 8m	Yes
Building Separation	3-storey buildings require a 10m separation between walls containing primary windows/doors to the wall of an adjacent building with containing primary windows/doors 6m setback between primary windows and doors of living rooms to windows other than the primary windows of living rooms 2m setback between windows/doors of non-habitable rooms	8 Cypress Crescent does not contain primary windows or doors of living rooms which face the development. The eastern most apartments of the proposal do not face 8 Cypress Crescent. The building separation distance between the proposal and 8 Cypress Crescent is 6m where the DCP requirement is 2m.	Yes
Height	12.2m maximum 9.6m maximum wall plate height	12.2m 8.5m	Yes
Ceiling Height	2.7m minimum	2.7m	Yes
Building Amenity			
Sunlight Access	Dwellings to be orientated to the north Northern boundary to have 4m setback Windows to north-facing habitable rooms shall receive 3 hours sunlight between 9am and 3pm on June 21 Neighbouring dwellings shall receive sunlight to 50% of private open space and is not reduced to less than 2 hours between 9am and 3pm on June 21	Dwellings to be orientated to the north and east Northern boundary to have 8m setback Windows to north-facing habitable rooms receive more than 3 hours sunlight Neighbouring dwelling shall not lose sunlight from private open space to less than 2 hours	Yes
Visual Privacy	Terraces and balconies off living areas are generally not to be located above ground floor if they overlook neighbours Living rooms and kitchen windows, terraces and balconies are to avoid	There are no balconies or terraces facing 8 Cypress Crescent Living rooms and kitchen windows on the first and second floor facing 8 Cypress Crescent shall be restricted by way of condition	Yes

	a direct view into neighbouring dwellings or neighbouring private open space		
Acoustic Privacy	Plant equipment must not exceed background noise by more than 5dB(A) when measured in any premises or dwelling Dwellings located adjacent designated, classified or arterial road shall be acoustically treated	The operational noise from the pool pump will be subject to standard noise conditions Units facing Tweed Coast Road will be acoustically glazed in accordance with acoustic report	Yes
Natural Ventilation	All rooms are to have operable windows to habitable rooms The plan layout is to be designed to optimise access to prevailing breezes and allow for cross ventilation	All rooms have operable windows to habitable rooms	Yes
Internal Building Configuration			
Dwelling Layout	The back of a kitchen should be no more than 10m from a window	Back of a kitchen is to window is 8m	Yes
Storage	2-bed apartments shall have 4m ³ of storage Storage should be conveniently located	Storage provided for linen, in laundry, in study and in garage for over 4m ³ of storage	
Internal Circulation	Limit the number of apartments from single core/corridor to 8 Corridor widths min 2.5m Corridor height min 2.7m	4 apartments off single core/corridor Corridor widths 2.5m Corridor heights 2.7m	Yes
External Building Elements			
Front Fences	Front and return fences max 1.5m height, max solid fence of 600mm, min openness of ratio of 60% above the solid wall Solid walls allowed if located on arterial road No colourbond or timber paling fences	Fences 1.5m in height Openness ratio satisfactory Tweed Coast Road is an arterial road Fences to be rendered blockwork and aluminium	Yes
Side Fences	Maximum height 2m May include colourbond or timber paling fences	Fence height 2m	Yes
Roof	Roof design to be articulated, with eaves and should be compatible to building and wall heights The roof is not to be a terrace	Roof is articulated, is compatible to building and wall heights Roof is not a terrace	Yes

Elevations from domain	Building entry to have prominence in elevations Use proportions, materials, windows and door types that are residential in type and scale Co-ordinate and integrate building services such as drainage pipes into elevation	Building entry is prominent in elevations Elevations articulated with balconies, windows and door types are residential in scale Building services integrated into elevation design	Yes
Corner Building Elevations	Elevations are to reflect the architecture, characteristics and hierarchy of both streets Building elevations are to be orientated to both streets by having windows and doors addressing both streets	Elevations reflect hierarchy of streets with vehicle access via Cypress Crescent Elevations address the street and corner site, windows and doors address the street	Yes
Minor Elements			
Air Conditioners	Air conditioners are not to be visible from the street	Air conditioners located within basement	Yes
BBQ areas	BBQ areas must not be less than 900mm from adjoining properties	No BBQ area provided	Yes
Energy and Water Efficiency			
Basix	BASIX certification required	BASIX certification provided	Yes
Floor Space Ratio			
Floor Space Ratio	Maximum FSR 1.2:1	1.13:1	Yes

Section A2 – Site Access and Parking Code			
Car Parking Requirement	1.5 spaces per 2-bed unit, 2 spaces per 3-bed unit, 1 visitor space per 4 units Minimum 45 spaces required	47 car spaces provided including 6 visitor spaces	Yes
Bicycle Parking	2 spaces per unit	2 spaces per unit	Yes

Section B19 – Bogangar/Cabarita Beach Locality			
Building height	12m	12m	Yes
Car Parking	Basement or rear car parking	Basement car parking	Yes
Access	Via secondary streets	Via secondary street	Yes
Glazing	Reflection no more than 20%	No reflectivity details	Yes
Material Colours	Lighter colours to blend with coastal environment	Colours and materials to be required by condition	Yes

Far North Coast Regional Strategy

The Far North Coast Regional Strategy will guide local planning in the six local government areas of Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed, and inform decisions on service and infrastructure delivery. The 25 year strategy is based on a projected regional population increase of 60,400 by 2031. The Strategy identifies Bogangar as a "Coastal Village". The project is consistent with the following principles of the Strategy:

- Promote the need to efficiently use land allocated for urban development without sacrificing area identity resulting in infill development with greater housing choice and affordability.
- New development will include a range of well designed housing, within easy access to services and facilities, preferably in walking. This will result in better places to live and attractive, adaptable and self-reliant settlements that foster a strong sense of community.
- The built form of new development will reflect the existing positive design and character, streetscape and landscape setting of the settlement and be based on Neighbourhood Planning Principles.
- New development should be designed to respond to the subtropical climate of the Region through best practice in water and energy efficient design, and use of landscaping and building materials.
- New development should be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.

Coastal Policy 1997

Table 2 of the Coastal Policy identifies a number of strategic actions relevant to development control, including stormwater quality, coastal hazards, acid sulfate soils and design and locational principles. It is considered that the proposal adequately addresses each of these actions satisfactorily

Coastal Design Guidelines

The NSW Coastal Design Guidelines aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. Cabarita Beach/Bogangar is identified as a coastal town in the Coastal Design Guidelines. The proposal is consistent with the desired future character of a coastal town as set out below:

- Streets and public places to provide quality pedestrian environments
- Predominant building types in town centres are small apartment buildings, mixed-use, shop top housing, town houses, terraces, detached houses/commercial/retail, education and civic buildings
- Generally heights of up to four storeys in town centres
- New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres.

North Coast Design Guidelines

The principles of the North Coast Design Guidelines have been incorporated into the overall design of the proposal. The design features a large communal garden with deep soil zone, rear balconies provide surveillance over rear garden, basement parking is off street and within the building footprint, while front balconies provide private open space and contributes to the liveliness of the street.

APPENDIX E: PREFERRED PROJECT REPORT

See enclosed compact disk or weblink below:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=2861

APPENDIX F: ENVIRONMENTAL ASSESSMENT

See enclosed compact disk or weblink below:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=2861