



25 September 2012

**THE PROPOSED TOURIST AND RESIDENTIAL DEVELOPMENT  
AT CYPRESS CRESENT, CABARITA BEACH  
(MP09\_0016)**

**EXECUTIVE SUMMARY**

The application sought approval to construct a tourist and residential development at Cypress Crescent and Tweed Coast Road, Cabarita Beach. The application was referred to the Planning Assessment Commission for determination as it meets Ministerial delegation.

Following careful consideration of the Department's Assessment Report and agency and public submissions and the amended plans submitted by the proponent on 21 September 2012 the Commission found the amended plans have improved the visual appearance of the building and addressed the issues of built form and streetscape to the extent that the application should be approved with conditions.

The key amendments included:

- the deletion of one of the central unit at level 2 to allow set back and break up of the roofline;
- relocation of the swimming pool pump to minimise noise on next door neighbour;
- providing a landscaping area of 1-2m along the eastern boundary; and
- redesign the fence along Tweed Coast Way and Cypress Crescent to provide more street planting.

The report below provides further detail on the Commission's decision making process, and outlines the reasons for the amendments made to the recommended conditions.

**1 PROJECT APPLICATION**

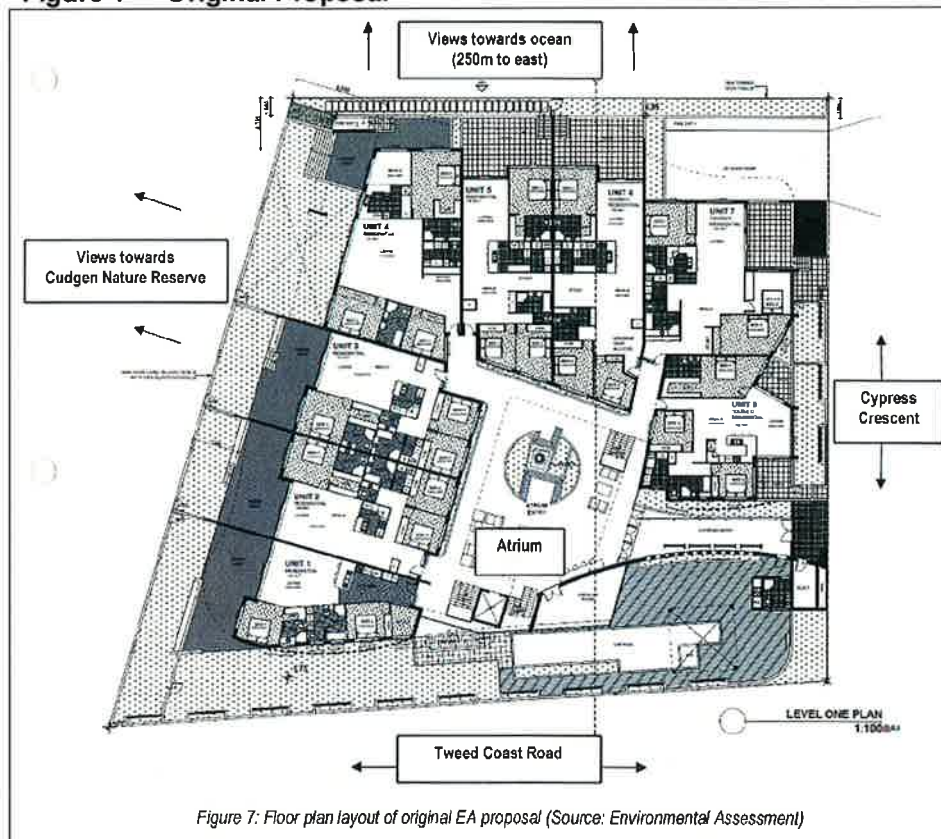
The original application sought approval for the construction of a 3 storey building with 24 units for tourist and residential development, 54 basement car parking spaces and associated landscaping including an outdoor swimming pool. Of the 24 units, 18 were residential units and the remaining 6 were dual residential/tourist units. The proposal included an atrium located at the corner of Tweed Coast Road and Cypress Crescent.

Following public exhibition of the proposal, the Department requested major amendments to the proposal to address concerns about streetscape, building design and residential amenity particularly noise, privacy, solar access and cross ventilation. The amended proposal:

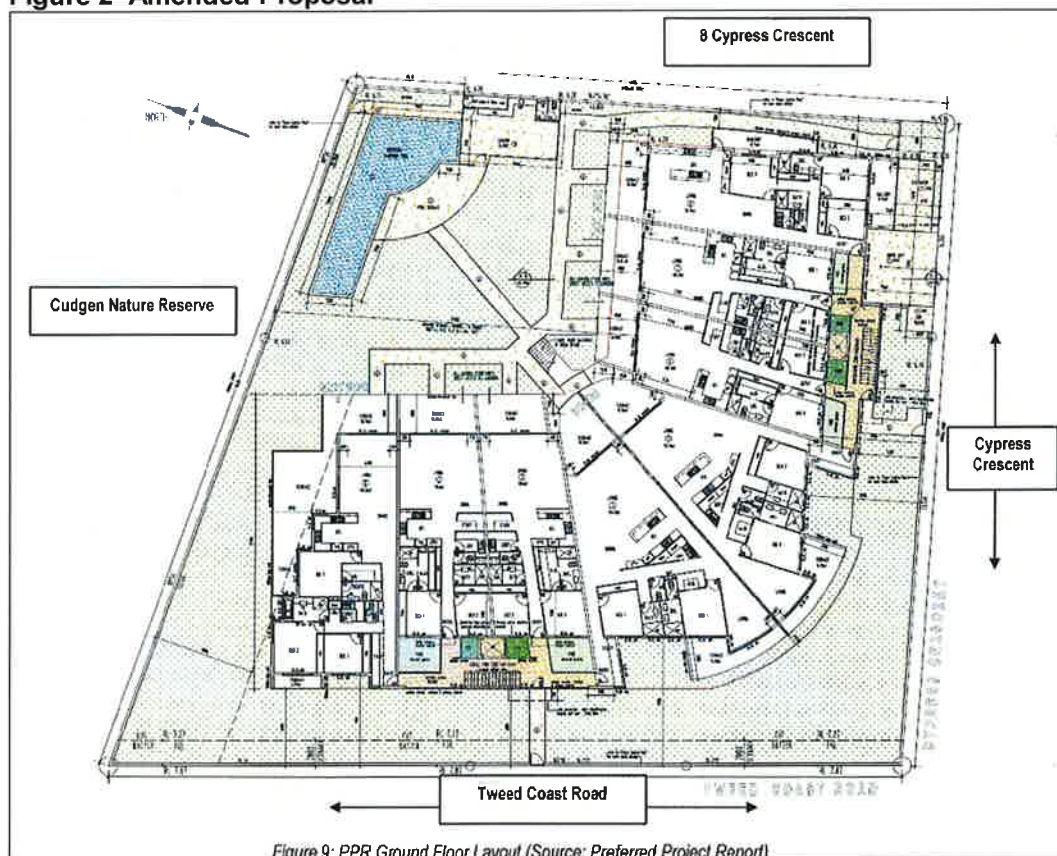
- delete the atrium;
- relocate the building footprints to along Tweed Coast Road and Cypress Crescent;
- reduce the number of units for resident from 18 to 9 and increase the number for dual use from 6 to 15;
- reduce the number of basement car parking spaces from 54 to 47;
- provide 48 bicycle spaces; and
- relocate the outdoor swimming pool from the Tweed Coast Road to the northeast corner of the site adjacent to the Cudgen Nature Reserve.

Figures 1 and 2 show the original and amended proposal.

**Figure 1 Original Proposal**



**Figure 2 Amended Proposal**



## **2. DELEGATION TO THE COMMISSION**

The application was referred to the Commission for determination under Ministerial delegation dated 14 September 2011 as the proponent has made a reportable political donation.

Ms Jan Murrell (chair) and Mr Richard Thorp were nominated to constitute the Commission to consider and determine the application. They visited the site on 18 September 2012.

## **3. DEPARTMENT'S ASSESSMENT REPORT**

The Director-General's Environmental Assessment Report ('the Assessment Report') considered the proposal, its statutory context, public and agencies submissions, and the proponent's responses to submissions. The report identified the two key issues were whether the site should be reserved for tourist uses and urban design. Other issues considered in the report included neighbour impacts, residential amenity and SEPP 65 compliance, car parking, closure of the existing caravan park, stormwater and rainwater, asset protection zones and developer contributions.

The assessment report concludes that the proposal would provide public benefits including generating economic growth and increase residential and tourist dwellings with minimal impact on the environment. Conditions have been recommended to minimise the visual impact of the proposal including materials and colour palette. A strata management plan is also recommended to manage residential amenity. The application is recommended for approval with conditions.

## **4. MEETING WITH STAKEHOLDERS**

### **4.1 Department of Planning and Infrastructure**

The Department briefed the Commission on 27 August 2012. The meeting discussed the following issues:

- Timing of the draft Local Environmental Plan;
- Built form, particularly architectural design, roof line, façade articulation;
- The application of colour and material to control building bulk and scale;
- Location of pool pump and Cabana; and
- Landscaping.

### **4.2 Proponents – Tweed Coast Homes Pty Ltd**

The Commission met with the proponent and the designer on 4 September 2012 to discuss the urban and architectural design of the proposal. The Commission's key concerns included:

- Monolithic image of a solid continuous wall along the 2 street frontages;
- Minimal articulation and modulation to reduce the building bulk and scale of the proposal;
- Lack of details on landscaping proposal to demonstrate that planting can screen or break up the continuous wall effect and improve streetscape;
- Potential noise of the pool pump and amenity impact on adjacent neighbour;

The Commission requested significant improvement to the design of the proposal that included:

- breaking up the continuous roof line (consideration be given to change the roofline of the unit at both ends and/or breaking it into 3 wings, east, west and centre, and/or deleting one of the central unit at level 2);

- providing more visual interest by more substantial vertical and horizontal articulation to break up the continuous wall;
- giving consideration to relocate the pool pump and Cabana to the northern side of the site adjacent to the nature reserve;
- a detail landscaping plan including a variation of fence line.

The Commission also requested a set of final plans that are consistent and include a sample board and schedule of materials and colours.

The proponent provided a set of amendment plans to the Commission on 21 September 2012 as well as its comments on the Department's recommended conditions. (See Appendix 1.)

## 5 COMMISSION'S COMMENTS

The Commission has carefully reviewed the Department's assessment report and associated documents, including submissions from the Tweed Shire Council, agencies and the public. It has also considered the amendment plans provided by the proponent on 21 September 2012 and its comments on the Department's recommended conditions.

### 5.1 Land use

The proponent contended that the site should be approved residential use. In supporting its contention, it directed attention to the following:

- Multi dwelling housing is permissible in the 2(e) zone and features in the objectives of the zone;
- There is an oversupply of tourist accommodation on the Tweed Coast;
- Precedents have been set by both the Council and the Department of Planning and Infrastructure by approving residential developments on nearby 2(e) zoned lands;
- Potential land use conflicts between guests and residents would result in lower residential amenity;

However, if the Commission were to accept the Department's recommendation for dual use, the proponent requested the condition that requires s88B registration on title be removed. Also the condition should make it clear that the short term use should be at the discretion of the owners with no limitation on the length of stay.

The Commission has carefully considered the issue and has concluded that given the plentiful supply of tourist accommodation in the area, this should be an option if owners wish to lease for short term holiday use but not mandatory and therefore a s88B restriction on title is not necessary.

It is important that the 9 units fronting Tweed Coast Way should not be used for short term holiday letting as they do not meet the APZ requirements. The remaining 14 units can be let for short term holiday use at the discretion of the unit owners. However, there is a need to manage short term use to maintain residential amenity for permanent residents. The Strata Management Plan is the best mechanism to manage the holiday letting and maintain residential amenity. The recommended conditions have been amended accordingly.

### 5.2 Amendment Plans

The amendment plans dated 21 September included:

- the deletion of one of the central unit at level 2 to allow set back and break up of the roofline;

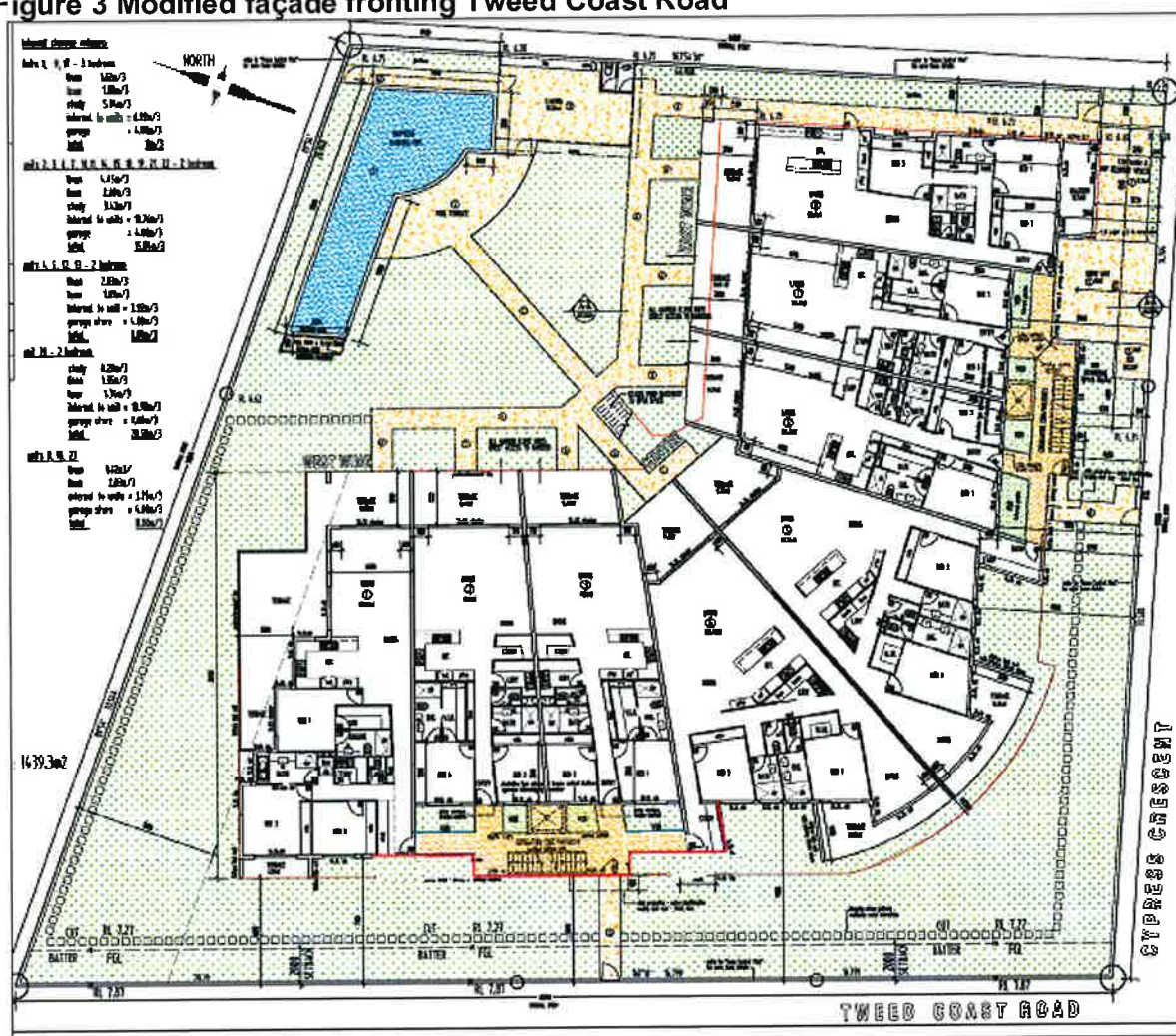


- relocation of the swimming pool pump to minimise noise on next door neighbour;
- relocation of the footpath along the eastern boundary to adjacent to the building so as to provide a 2 metre wide landscaping area; and
- redesign the fence along Tweed Coast Way and Cypress Crescent to provide more street planting.

Although the amendment plans have improved the appearance of the built form, the Commission considers further improvement can be achieved by:

- deleting the roof terrace, the spiral stairs case to roof terrace and the over-hanging roof element;
- amending the circulation core/walkway fronting the Tweed Coast Way to provide additional modulation to the building façade (See Figure 3 below); and
- the cabana be set back at least one metre from the eastern boundary so as to provide a continuous landscaping area along the eastern boundary.

**Figure 3 Modified façade fronting Tweed Coast Road**



As to the amended landscape plan, the Commission considers Drawing No 3163-LC02 unsatisfactory and a final detail landscape plan is required. Hence condition B14 is retained.

## 6 COMMISSION'S DETERMINATION

Following careful consideration of the issues raised in written submission and documents relevant to the application, the Commission is satisfied that the assessment report has adequately canvassed most of the issues raised in public submissions, and where required, recommends conditions of consent to address/mitigate residual impacts.

The Commission has concluded that on balance, the project be approved subject to the following amendments to the conditions as recommended by the Department. These include:

1. A3 and A6 been merged into one condition;
2. B1 been amended to include the Commission's required modifications;
3. B3(2) been amended to include "alternate solution";
4. D13 been deleted as it is covered in D19;
5. E2 been amended to delete s88B requirement; and
6. minor amendments to conditions A1(1), B2, B21, D2, D6, D8, and E5(1).

Attachment 1 is the proponent's comments on the Department's recommended conditions and amendment plans. Attachment 2 is the instrument of approval.



Jan Murrell  
PAC Member (chair)



Richard Thorp  
PAC Member