

**JOINT REGIONAL PLANNING PANEL  
(Northern Region)**

<b>JRPP No</b>	<b>2011NTH038</b>
<b>DA Number</b>	<b>DA11/0582</b>
<b>Local Government Area</b>	<b>Tweed Shire</b>
<b>Proposed Development</b>	<b>Staged redevelopment of Tweed Heads Bowls Club (4 stages) including formalising detached car park, construct new multi level car park, alterations and additions to existing club and construction seniors living development comprising 91 self-contained units</b>
<b>Street Address</b>	<b>22-38 Florence Street, and No. 58-64 Wharf Street, TWEED HEADS</b>
<b>Applicant/Owner</b>	<b>Rubicon Design &amp; Construct Pty Ltd / Tweed Heads Bowls Club Pty Ltd</b>
<b>Number of Submissions</b>	<b>Nil</b>
<b>Recommendation</b>	<b>Approval, subject to conditions</b>
<b>Report by</b>	<b>Colleen Forbes, Coordinator Development Assessment</b>
<b>Report date</b>	<b>2 August 2012</b>

## Assessment Report and Recommendation

**FILE NO: DA11/0582**

### **REPORT TITLE:**

Development Application DA11/0582 for a staged redevelopment of Tweed Heads Bowling Club (4 stages) including formalising detached car park, construct new multi level car park, alterations and additions to existing club and construct seniors living development comprising 91 self-contained units (JRPP) at Lot 12 DP 803451 22-38 Florence Street, Lot 61 DP 237806, Lot 1 DP 549328, Lot 2 DP 549328 and Lot 64 DP 237806 No. 58-64 Wharf Street, TWEED HEADS

### **SUMMARY OF REPORT:**

The proposed development involves the staged redevelopment of the site incorporating the Tweed Heads Bowls Club at Wharf Street, Tweed Heads.

The subject site involves five allotments, four of which are zoned 3(b) General Business. The fifth allotment is zoned 6(b) Recreation.

A SEPP 1 objection accompanies the application in relation to Stage 4 of the development. The objection is in respect of the development standard identified within Clause 16 of the Tweed Local Environmental Plan (TLEP) 2000, specifically seeking variance to the three storey height limit.

The purpose of this report is to have the application determined by the Northern Region Joint Regional Planning Panel, due to the capital investment value of the proposed development exceeding \$20,000,000.

After consideration of the SEPP 1 Objection and all applicable environmental planning instruments, the Tweed Development Control Plan and various policies, the proposal is recommended for approval, subject to conditions of consent.

## **REPORT:**

**Applicant:** Rubicon Design & Construct Pty Ltd  
**Owner:** Tweed Heads Bowls Club Pty Ltd  
**Location:** Lot 12 DP 803451 22-38 Florence Street, Lot 61 DP 237806, Lot 1 DP 549328, Lot 2 DP 549328 and Lot 64 DP 237806 No. 58-64 Wharf Street, TWEED HEADS  
**Zoning:** 3(b) General Business  
6(b) Recreation  
**Cost:** \$36,928,572

## **BACKGROUND:**

The subject site is located over five allotments at the intersection of Wharf Street and Florence Street, Tweed Heads. The largest allotment (Lot 12) incorporates the existing Tweed Heads Bowls Club building and associated car parking, adjacent to the Tweed Heads Civic Centre and Southern Cross University. The other four allotments incorporate an existing detached car park which is utilised for over flow parking related to the Club.

The Club site is relatively flat and irregular in shape, with a western frontage of 81.95m to Wharf Street, a northern frontage of 166.44m to Florence Street, an eastern frontage of 81.08m to Powell Street and a southern frontage of 69.98m to Brett Street. This results in a total site area of 2.526ha. The detached parking allotment is 2,130.9m<sup>2</sup>, with a 58m frontage to Wharf Street.

Surrounding uses primarily consist of: the Tweed Heads District Hospital to the east (beyond Powell Street); Tweed Heads Civic Centre and Southern Cross University campus to the south; and a church and residential dwellings to the north. It is also noted that several multi storey seniors livings developments are approved / under construction to the north along Powell Street.

Council records indicate a lengthy history in terms of various development applications for the club. The following is a list of the more recent approvals:

DA05/0146 – use of a room for an educational establishment. Approved 29 March 2005;

DA06/0801 – Internal refurbishment works to the existing club. Approved 30 November 2006;

CDC11/0050 – refurbishment of the existing gaming lounge and smokers terrace. Approved 29 April 2011; and

DA12/0033 – refurbishment of the Sails Restaurant located within the Tweed Heads Bowls Club. Approved 27 June 2012.

## **PROPOSAL:**

### Stage 1

Stage 1 involves the formalisation of the existing detached car park at 58 – 64 Wharf Street, Tweed Heads. The proposed car park will provide 56 spaces and will include streetscape landscaping to Wharf Street, Florence Street and McGregor Crescent.

### Stage 2

Stage 2 incorporates the construction of a new multi level basement car park on the Tweed Heads Bowls Club site adjacent to Wharf Street. The car park will replace the

existing at-grade parking area. The new car parking will provide two basement levels with Level 1 remaining open to the air. The car park will provide a total of 179 car parking spaces. New landscaping will also be provided to Wharf Street.

### Stage 3

Stage 3 involves the expansion of the existing Stage 2 basement car park by providing a third and final car park at 'Entry Level', expansion of the existing club foyer area including: new Porte Cochere; pedestrian entry from Florence Street; and roof façade screen.

### Stage 4

Stage 4 comprises the construction of a 91 serviced self-contained seniors living dwellings on the portion of Lot 12 DP803451, adjacent to Powell & Brett Street. These dwellings are to be contained within two separate three/four storey blocks, built around a central open space core. Car parking is to be provided in the basement of each block. Ancillary medical services, a health & wellbeing centre, beauty salon, café and convenience store are also proposed.

Stage 4 development incorporates:

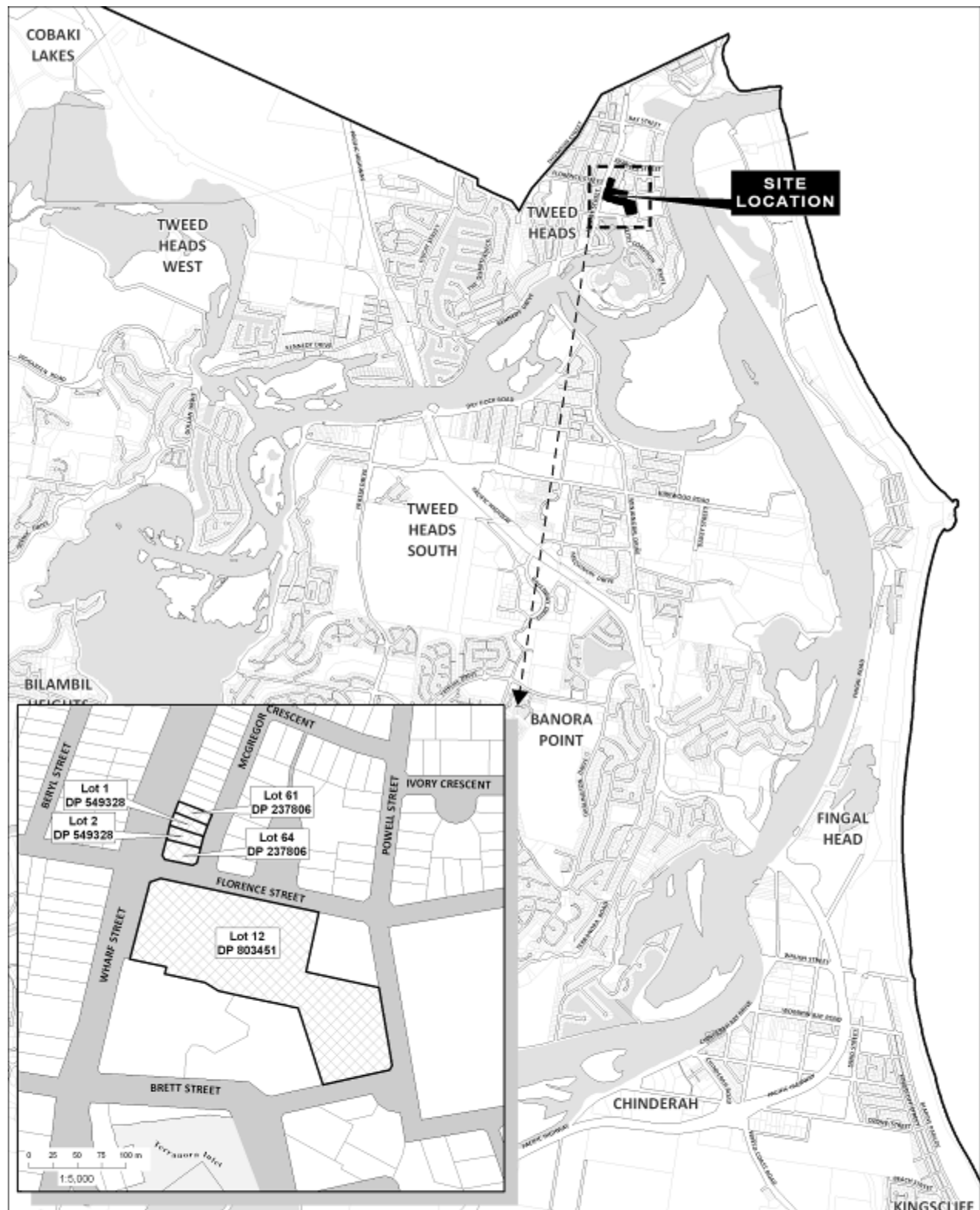
21 x Type A Units – One Bed unit;  
38 x Type B Unit – Large One Bed unit; and  
32 x Type C Unit – Two Bed unit.

Demolition required as part of this proposal will be minor and will relate solely to 'deconstruction' works associated with the Stage 3 Club Foyer Extension. All other works will be limited to site preparation.

The capital investment value of the proposed development has been estimated at, \$36,928,572 which results in this assessment report being forwarded to the Northern Region Joint Regional Planning Panel (JRPP) for determination.

Access to the site will utilise the existing access points on Florence Street, Brett Street and McGregor Crescent. The existing driveway access on Powell Street will be relocated to provide vehicular access to the basement level of the seniors living component.

## SITE DIAGRAM:



### Locality Plan

Lot 12 DP 803451 22-38 Florence Street,  
 Lot 61 DP 237806, Lot 1 DP 549328, Lot 2 DP 549328 and Lot 64 DP 237806  
 No. 58-64 Wharf Street, Tweed Heads

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Cadastral: 03 August, 2022  
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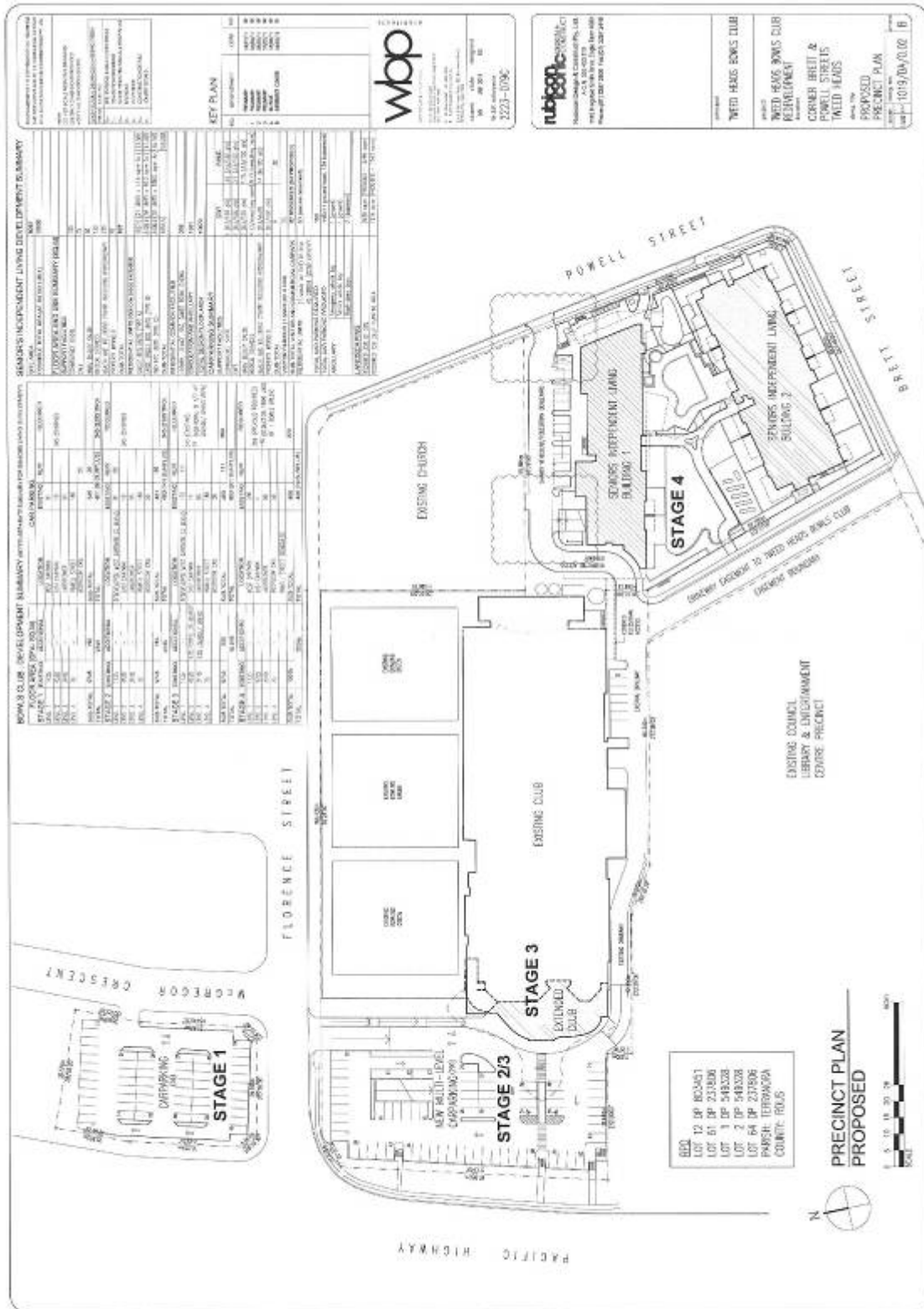
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 Horizontal Datum: Geocentric Datum of Australia 1994  
 SRS: Map of Australia, Zone 56

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Date Printed: 03 August, 2022

## DEVELOPMENT/ELEVATION PLANS:





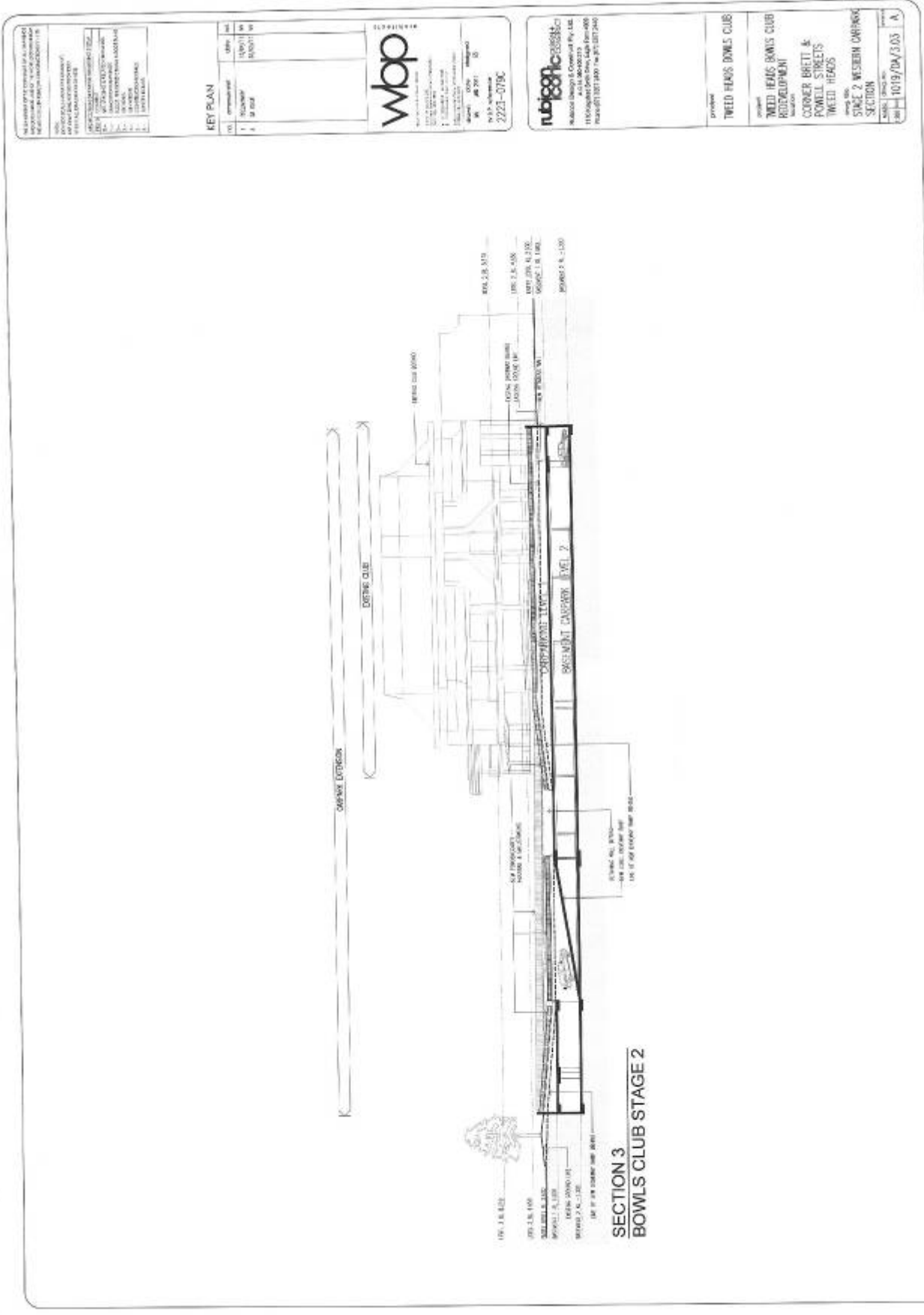


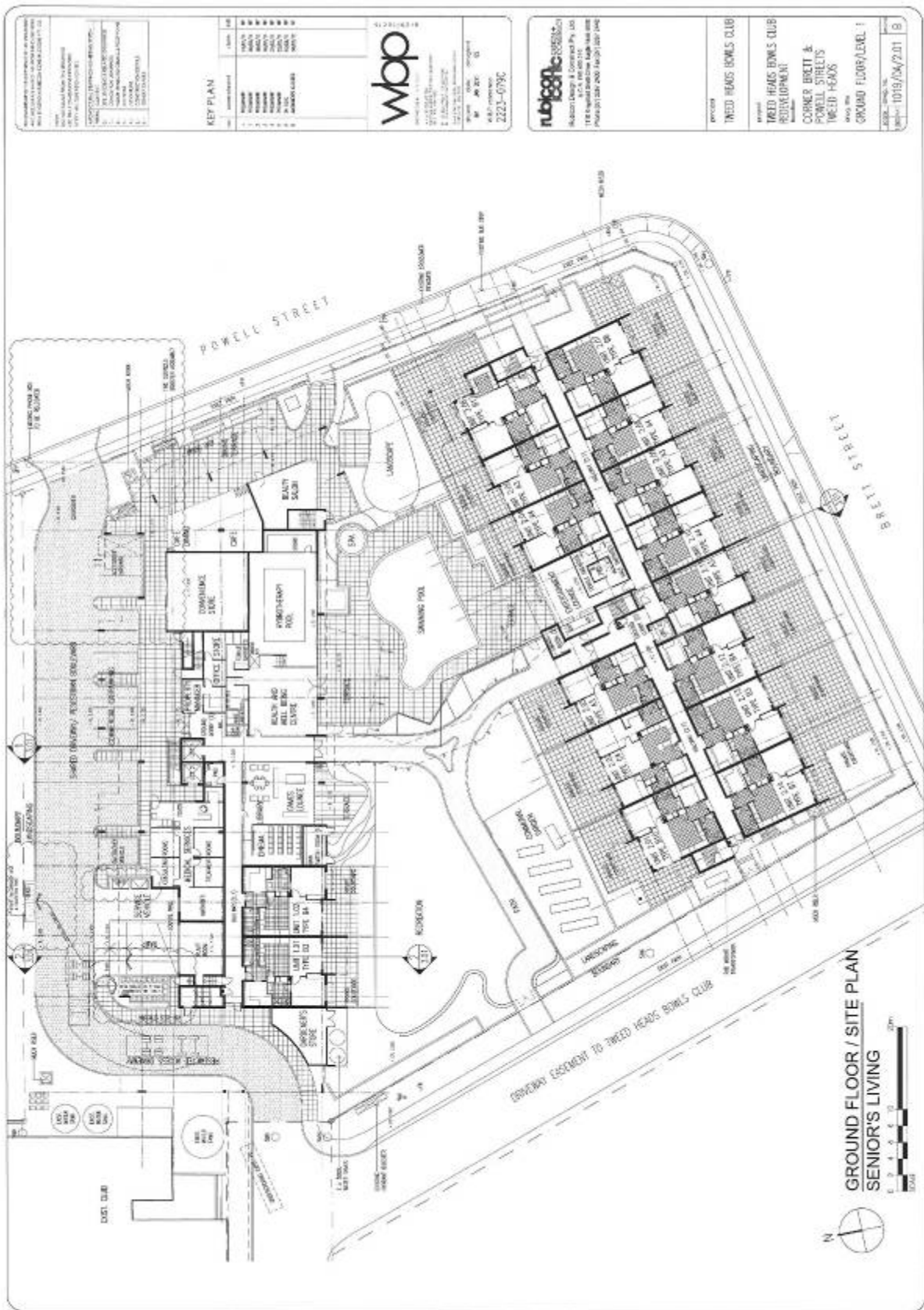




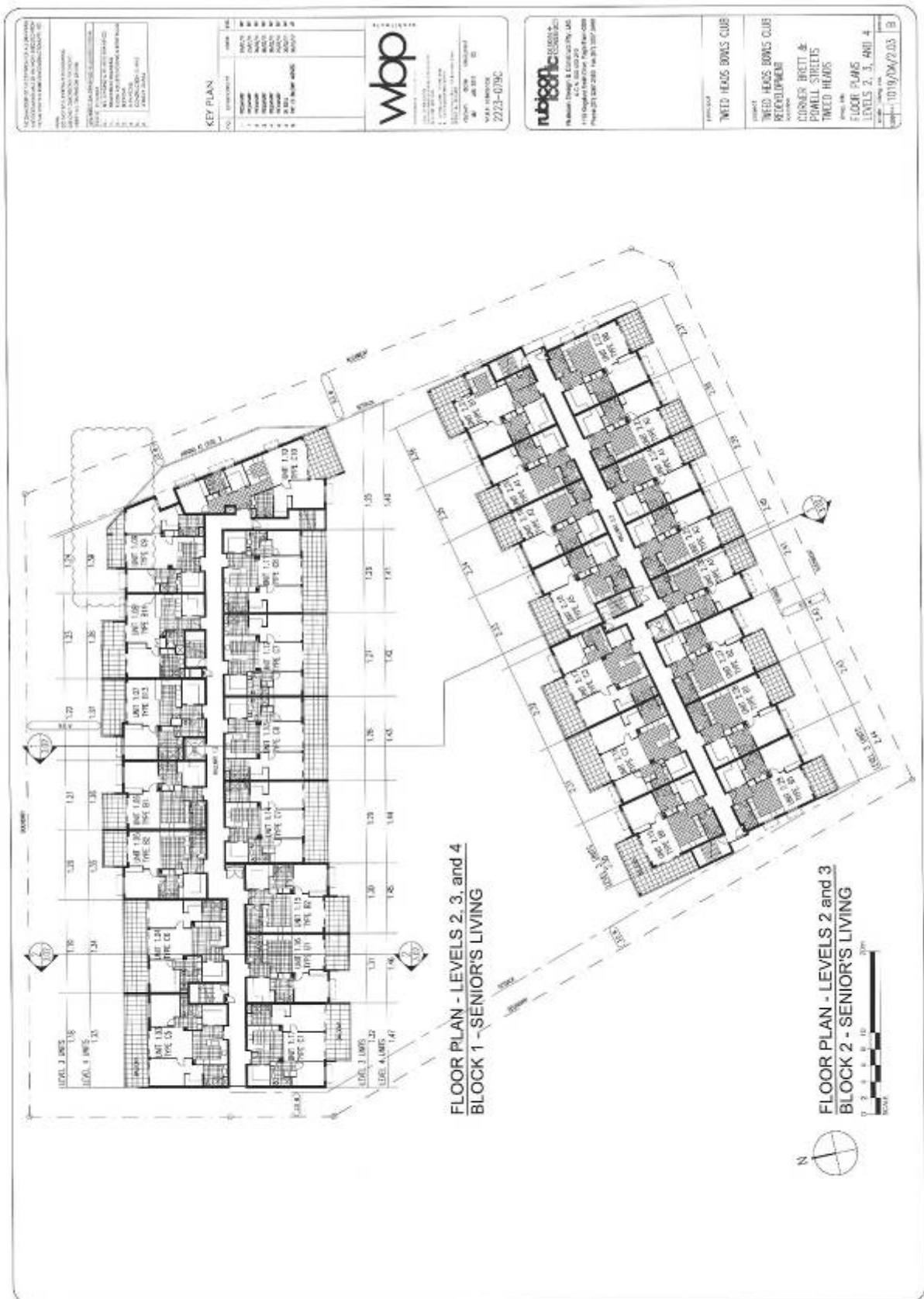


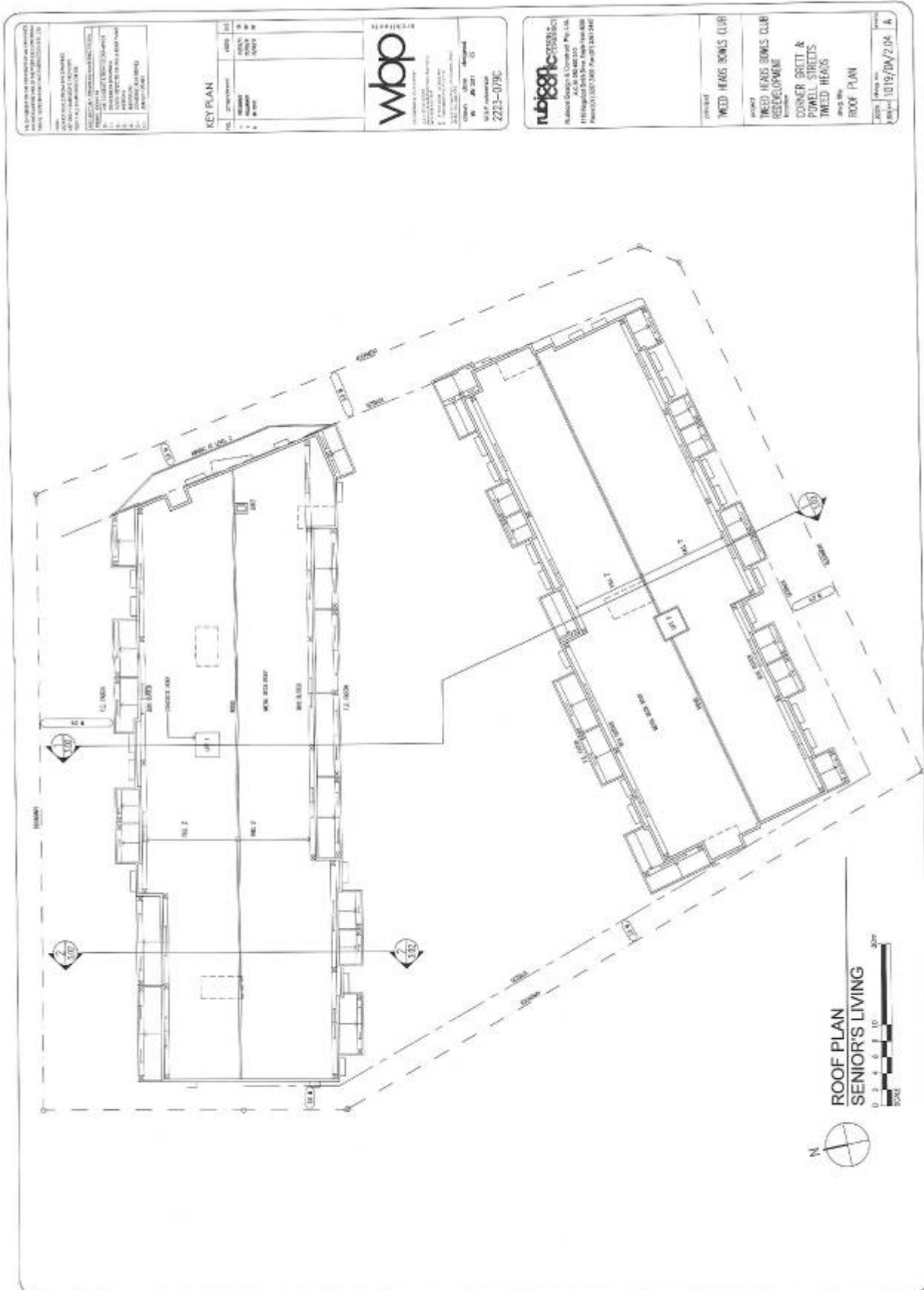






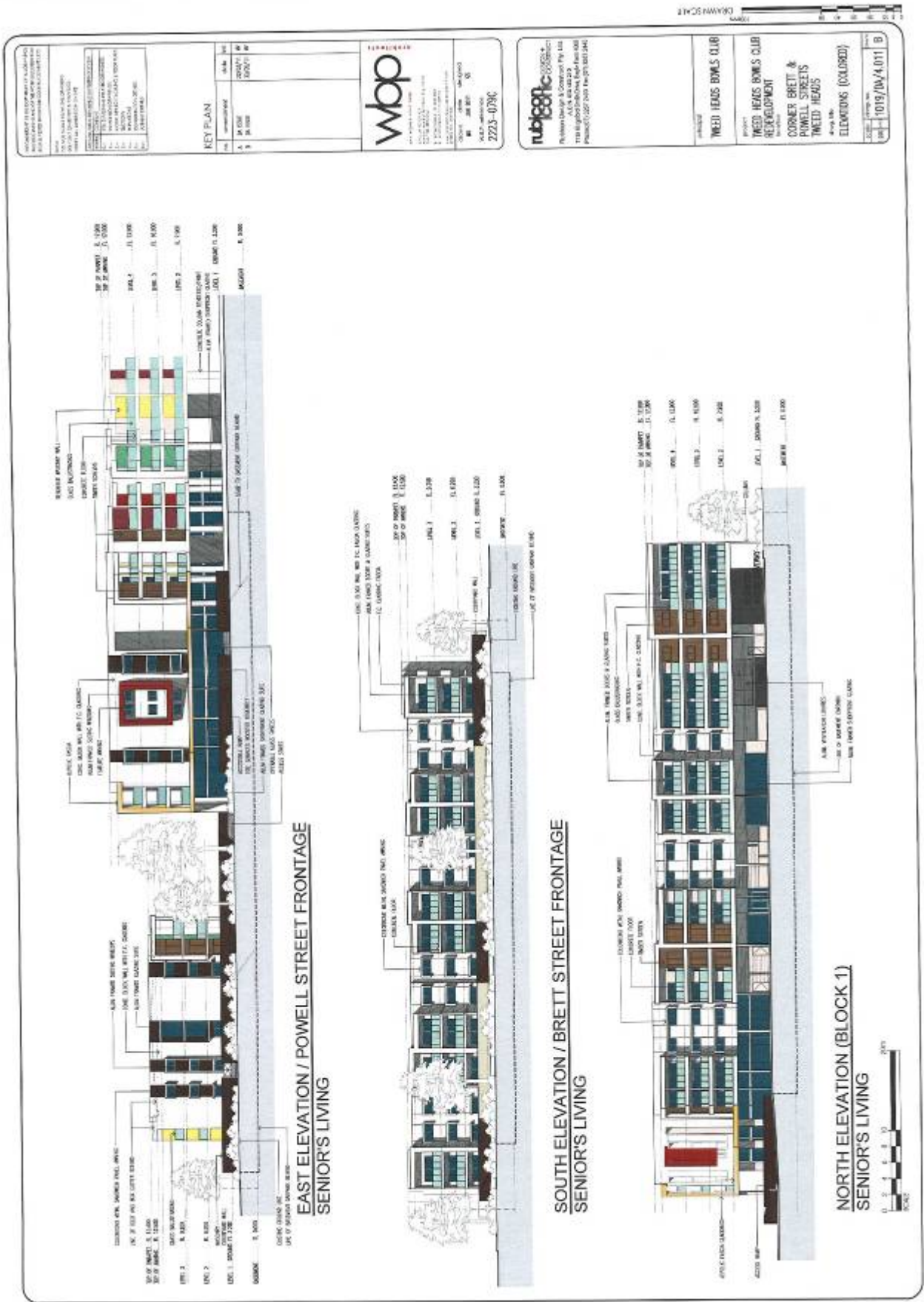


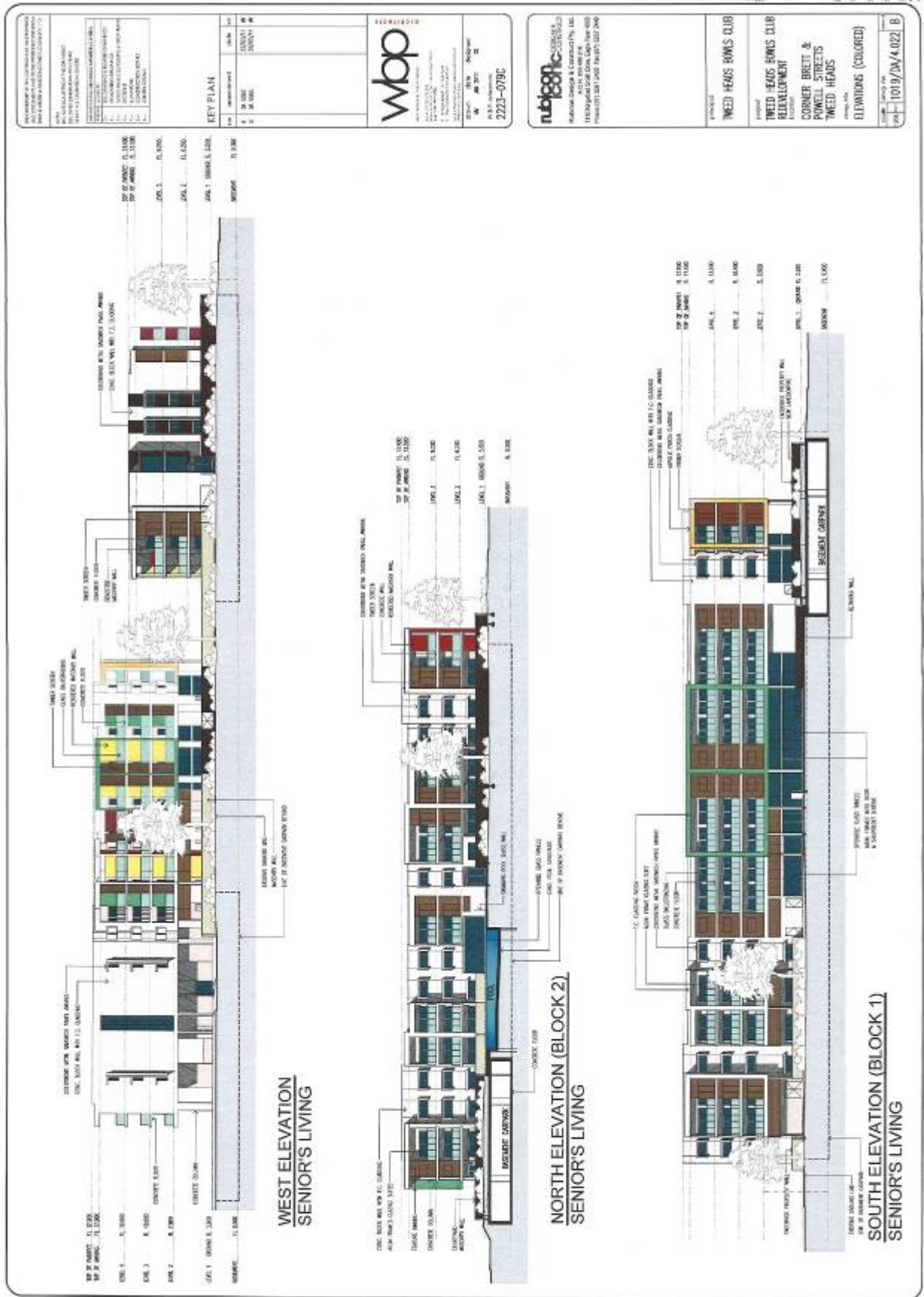






















## CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

### (a) (i) The provisions of any environmental planning instrument

#### Tweed Local Environmental Plan 2000

##### Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is *"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"*. Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire's environmental and residential amenity qualities.

The development application is considered suitably in keeping with the above, as it is not considered likely to result in a reduction of residential amenity for nearby residential properties or the shire as a whole.

##### Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

Appropriate conditions of consent have been applied, which will ensure that the proposed development will not significantly impact upon the surrounding residences or locality. As such, the proposed development is considered to meet the provisions of Clause 5 of the LEP.

##### Clause 8 – Consent Considerations

- (1) This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:
  - (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
  - (b) *it has considered that those other aims and objectives of this plan (the TLEP) that are relevant to the development, and*
  - (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

In this instance, the subject site is zoned 3(b) General Business and 6(b) recreation, the primary objectives of which are outlined in Clause 11 assessment below.

The proposed development is considered to be consistent with the primary objectives of each zone.

Other relevant clauses of the TLEP have been considered elsewhere in this report and it is considered that the proposed development generally complies with the aims and objectives of each.

The proposal is not considered to contribute to any unacceptable cumulative impact in the community.

#### Clause 11 - Zone objectives

The allotments involved with this application have different zonings. That is, the detached car parking area is zoned 3(b) General Business, and the Club site is zoned 6(b) Recreation.

The four allotments incorporating the detached car park are zoned 3(b) General Business. The primary objectives for land zoned 3(b) General Business are:

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

The allotment incorporating the Club building and associated Bowling Green's is zoned 6(b) Recreation. The primary objectives for land zoned 6(b) Recreation are:

- *to designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.*

The proposed development is considered to meet the provisions of both zones as it meets the community's social needs and is being used primarily for recreational purposes.

The proposed land use in relation to the Club is permissible with consent in land zoned 3(b) General Business and land zoned 6(b) Recreation.

Stage 4 of the development (Housing for Older People or People with Disabilities) is prohibited under the provisions of the LEP. This component of the development is reliant upon the provisions of the SEPP (Housing for Seniors or People with a Disability) in terms of permissibility. Further detail is provided later in the report in this regard.

#### Clause 15 - Essential Services

Clause 15 of the TLEP requires that Council be satisfied that the subject land has the benefit of essential services before issuing consent. Connection to Council's reticulated potable water supply and reticulated sewer system is available for the proposed development. Council's Development Engineer has recommended conditions of consent which require the provision of service in accordance with Council's standards.



#### Clause 16 - Height of Building

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The subject land is identified as having a three storey height limit, with an objective to ensuring that *the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land*.

Building 1 within Stage 4 of the proposed development, being four storeys, does not comply with clause 16. A variation to clause 16(2) has been provided by the applicant and is addressed in detail later within this report under *SEPP No. 1 - Development Standards*.

#### Clause 17 - Social Impact Assessment

Clause 17 of the TLEP relates to social impact assessment, with the objective *to ensure proper consideration of development that may have a significant social or economic impact*. Further detail is provided in this regard under the DCP A13 heading.

#### Clause 22 – Development near a Designated Road

Clause 17 of the TLEP applies to the proposed development, because the subject site has frontage to a designated road (Wharf Street). Access/egress to and from the site is not proposed on Wharf Street. The nature, appearance, illumination or volume / type of traffic generated by the proposed development is not considered likely to constitute a traffic hazard or reduce the capacity / efficiency of the designated road. Council's Traffic Engineer is suitably satisfied with the proposal, as such the development is not considered to impede the through traffic movement of Wharf Street.

The only component of the proposed development that is considered to be sensitive to traffic noise is the Seniors Living (Stage 4). The proposed Seniors buildings are in excess of 200m from the designated road, with the civic centre buildings between. In any case, the proposal incorporates an acoustic wall along the western boundary of the Seniors Living component, which will mitigate potential noise impact from traffic.

The proposal is not considered to detract from the scenic value of the locality. As such, Clause 22 is satisfied.

#### Clause 23 – Control of Access

The objective of Clause 23 is to control access to designated roads. As noted above, the proposed development does not involve any access to or from Wharf Street, thereby satisfying Clause 23.

#### Clause 33 – Obstacles to Aircraft

Clause 33 of the TLEP requires that Council takes into account any Obstacle Limitation Surface (OLS) plan. Council records indicate that OLS for the Tweed Heads area is RL 49.5m AHD. As noted by the applicant, the proposed development has a maximum height of approximately RL 17.9m AHD. Therefore, the proposal complies with Clause 33.

#### Clause 34 - Flooding

Clause 34 of the TLEP provides objectives to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood

liable land. The subject site is identified as being prone to flooding subject to the PMF (Possible Maximum Flood) with the next highest Q100 flood level being 2.6m AHD with the Habitable Floor Level set at 3.1m AHD. The development proposes a ground level resident/habitable floor level of 3.20m AHD. The proposal is considered to comply with this clause. Further detail is provided later in this report on the matter.

#### Clause 35 - Acid Sulfate Soils

Clause 35 relates to Acid Sulfate Soil (ASS) management. Council's GIS indicates that the site is classified as Class 2 soils. Detailed assessment is provided later in this report.

#### Clause 39 – Remediation of Contaminated Lands

The proposal is considered compliant with the requirements of Clause 39 of the TLEP 2000. Council's Environmental Health Unit reviewed the application in relation to contamination. Further detail is provided later in this report.

#### Clause 50 – Floor Space Ratios in Zones 3(a) and 3(b) at Tweed Heads

Clause 50 of the TLEP regards floor space ratios (FSR) in Tweed Heads. The only component of the proposal located on land zoned 3(b) is the detached car park, which is directly associated with the development, as the proposal relies on carparking on that portion of the site. The proposed development does not incorporate any building works within the zone and therefore does not trigger any FSR component. No further assessment required in this required.

### **State Environmental Planning Policies**

#### **SEPP (North Coast Regional Environmental Plan) 1988**

##### Clause 32B: Coastal Lands

This Clause requires the consideration of the NSW Coastal Policy, Coastline Management Manual and the North Coast Design Guidelines for proposals on coastal lands; and also contains provisions relating to public access to the foreshore.

The proposal is considered to be generally consistent with the relevant provisions of the NSW Coast Government Policy and the Coastline Management Manual. The development is situated two hundred and fifty metres from the foreshore of the Tweed River. The development will not impede public access to the foreshore or cause any overshadowing of beaches or adjacent open space. Accordingly, the proposal fully complies with this clause of the REP.

##### Clause 43: Residential development

Clause 43 contains provisions relating to residential development. The proposed density is considered to be a reasonable response to the existing land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths are satisfactory for the proposal and a detailed sedimentation and erosion control

plan will be applied in relation to the construction. The proposal is considered to be consistent with the relevant provisions of Clause 43 of NCREP 1988.

#### SEPP No. 1 - Development Standards

The applicant's SEPP 1 Objection relates to Building 1 within Stage 4 of the proposed development being four (4) storeys within the three (3) storey height limit prescribed by Clause 16 of the TLEP.

The applicant has acknowledged that the proposed development does not accord with the TLEP's height limit provisions, noting the following:

*"The proposal has been designed to present as a four (4) storey development consistent in scale with surrounding medium density development. The building will act as a transitional phase from the six (6) storey developments to the north, to the three (3) storey developments to the sites south."*

The first principle in assessing a SEPP 1 Objection is that **the applicant must satisfy the consent authority that "the objection is well founded" and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.**

Chief Justice Preston has noted 5 ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. The applicant has stated that, the first option, being the objectives of the standard are achieved notwithstanding non-compliance with the standard has been adopted.

The objective of Clause 16 is to ensure that *the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.*

The applicant has provided the following comment:

*"As discussed above and confirmed by judgements supported by the Land & Environment Court, the ability of a proposal to attain the objective of the standard and its intent are fundamental to the appropriateness of applying the standard in the first instance. We note therefore that the variation requested is done so with particular reference to the content and wording of the objective to the standard. Accordingly, we have broken down the request for variation into two (2) specific headings, each of which is identified within the objective proper.*

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

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

- 1. What is the character of the locality;*
- 2. What elements form or shape development in the locality;*
- 3. Will the development appear out of character with surrounding development.*

*In terms of context the area includes a number of existing or under construction buildings which provide significant overall building heights.*

*The most appropriate example is that of the Tweed Heads Bowls Club which is three (3) storeys and 18.6m AFGL. The proposed four (4) storey seniors living component of the development will only reach a maximum height of 14.7m. Other buildings that exceed the height of the proposed four (4) storey development are the Tweed District Hospital (four (4) storeys and 19m AFGL), Serene Seniors Living (7 storeys and 24.4m AFGL) and the Hi-care aged Care facility (7 storeys and 23m AFGL). These buildings are identified within the below images.*



*Comparatively the proposal provides a maximum physical height of four (4) storeys and 14.7m. As demonstrated the development does not visually dominate the locality and site within the established scale.*

***Is the development appropriate to the environmental characteristics of the land??***

*It is contended that the development responds in the positive in relation to this question. As discussed in the supporting Statement of Environmental Effects the site is relatively flat and free of constraint. This enables the development to incorporate additional building height and still be fully compliant with all other relevant built form development controls, particularly those contained within Section B2 of the Tweed Development Control Plan.*

*Other matters of note in relation to the suitability of the development within the character of the area are as follows:-*

1. *Compliance has been demonstrated with all setback requirements ensuring the proposal does not impose of the street;*
2. *The proposal presents as a four (4) storey form to both Powell and Florence street;*
3. *The proposed four (4) storey area is located to address the Tweed Hospital and adjacent church which will allow fr this portion of the building to integrate with the building scale from the street;*
4. *There are a significant number of existing buildings, inclusive of adjacent structures, that incorporate a form exceeding the specified storey limits. This has a significant bearing on the character of the area and can only lead to the conclusion that the proposal will not be inconsistent with the current character.*

*Imposing the standard is clearly not required to accord with the established built heights within the area. Imposing strict compliance with the standard is clearly inappropriate and onerous of the proposal in this instance.”*

**Comment:**

As noted by the applicant, despite the proposal incorporating a portion of the development which is technically defined as four storeys, the proposal is not considered to be out of character with surrounding development (existing and approved, but not yet constructed). The four storey component is not considered likely to dominate the landscape. Rather, it achieves a transition from the surrounding six storey development down to three storeys or less.

Therefore, it is considered that strict compliance with the building height provisions of Clause 16 of the TLEP is unreasonable and unnecessary in this instance.

The second principle set by Chief Justice Preston states that **the consent authority must be of the opinion that granting consent to the development application would be consistent with the policy’s aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.**

With regard to the second principle, the applicant has noted the following:

*“The objectives specified within Section 5(a)(i) and (ii) relate to the promotion and co-ordination of the orderly and economic use and development of land, and the protection, provisions and co-ordination of communication and utility services.*

*Imposing strict compliance with Clause 16 on the development would effectively override a well established built scale within the locality, a scale which is set by existing storey limit variations and compliance with the building envelope provisions of Section B2 of the Tweed Development Control Plan 2008. Going against an established locality would not represent the orderly and economic use and development of land.*

*The SEPP No. 1 Objection is considered to warrant support in that flexibility in planning controls is achieved and imposing compliance with the development standard is clearly a hinderance to the objects as listed in s 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.”*

**Comment:**

The objects specified within Section 5(a)(i) and (ii) relate to the promotion and co-ordination of the orderly and economic use and development of land, and the protection, provision and co-ordination of communication and utility services.

The applicant's comments above are concurred with in that strict compliance with Clause 16 would preclude development which is similar in scale to the established built scale of the surrounding locality.

The SEPP1 Objection is considered to warrant support in that flexibility in planning controls is achieved and approval of the development would not hinder the attainment of the objectives of Section 5(a)(i) and (ii) of the EP&A Act.

The third principle states that **it is important to consider:**

- a. Whether non-compliance with the development standard raises any matter of significance for State or regional planning; and**
- b. The public benefit of maintaining the planning controls adopted by the environmental planning instrument.**

In terms of the third principle, the applicant has noted the following:

*“The proposed non-compliance raises no matters of significance for State or Regional Planning and no public benefit results from maintaining the development standard in this particular case. Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However in this instance, enforcing compliance with Clause 16 would effectively prevent the objective of the clause being obtained, that which seeks to ensure the height and scale of the development is appropriate to its location, surrounding development and the environmental characteristics of the land.*

*As discussed in detail above and demonstrated through the perspective images the proposal fits well within the location, surrounding development and environmental characteristics of the land.*

*In this regard, the proposals extent of compliance with all other requirements of the TLEP 2000, specifically building height and Section B2 of the TDCP -2008 are again noted. The proposed non-compliance with Clause 16 is considered to be justified in this instance and is not likely to result in any adverse planning precedent as it relates to a specific development situation presented by the local context.”*

**Comment:**

The proposed non-compliance with Clause 16 of the TLEP is not considered to raise any matter of significance for State or regional planning.

There would be little public benefit in maintaining the development standard in this particular case. As noted by the applicant, the proposed four storey building is actually lower in scale than the adjoining Bowls Club building and other surrounding development.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with Clause 16 of the TLEP is considered to be justified in this instance and is not likely to result in an adverse planning precedent as it is quite site specific. As such, the granting of this application is unlikely to impact upon public benefit.

### **Conclusion**

Given that the three principles set by Chief Justice Preston have been met, strict compliance with the development standard under Clause 16 of the Tweed LEP 2000 is considered unreasonable and unnecessary in this instance.

As such, the SEPP1 Objection warrants support, particularly as it is considered that the non-compliant building is of a scale that would not result in any significant impact upon the surrounding locality.

It is recommended that the concurrence of the Minister administering the Environmental Planning and Assessment Act, 1979 be assumed in this instance.

### **SEPP No. 55 - Remediation of Land**

In terms of SEPP 55, the applicant notes the following:

*“Detailed contamination assessment has been undertaken in respect of the subject project. In this regard the Preliminary Site Investigation undertaken identifies a site history as follows:*

- *Land reclamation was undertaken west of the Tweed River in the period between 1962 and 1971 to create the land area the site currently occupies*
- *A retirement village was constructed in the southeast corner of the allotment prior to 1971*
- *The bowls club was constructed across the northern half of the allotment prior to 1987*
- *The retirement village was demolished in the late 1980's and replaced with a bowling green and car park area.*

*Several potentially contaminating land uses have been identified through the PSI process both in the subject allotment and on land within close proximity to the site. While a number of the activities identified are minor and are unlikely to affect the suitability of the site for the proposed high density residential land use, the following potential areas of concern (POC) will need to be investigated further:*

- *Underground diesel storage beneath the southern foyer of the bowls club building*
- *Potential migration of fuel from the decommissioned service station immediately North west of the site*
- *Potential migration of fuel from the underground diesel storage of the Tweed Hospital*

- *Long-term application of pesticides to the bowling green in the area to be redeveloped*
- *Potential asbestos contamination beneath the car park and Bowling Green areas”.*

The Statement of Environmental Effects is accompanied by a contamination assessment, which assesses and recommends appropriate actions to remediate the site if necessary.

As noted in detail later in this report, Council's Environmental Health Unit was not supportive of the initial Contamination Assessment, requiring further testing to be undertaken. In relation to the potential contamination from the bowling green, Council's Environmental Health Unit could not be satisfied that the site was suitable for the proposed use or that it needed to be remediated, as per the provisions of Clause 7 of SEPP 55. As such, a Preliminary Remediation Action Plan was produced, which was ultimately accepted by Council. Appropriate conditions of consent have been applied.

#### SEPP No. 65 - Design Quality of Residential Flat Development

The applicant has submitted a Design Verification and statement which addresses the 10 design principles under SEPP 65, as noted below:

#### **Principle 1: Context**

***Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.***

Applicant's comment:

*“The context of the locality is characterized by the presence of the adjacent coastline, the Tweed River, the Razorback Hill, and existing urban development.*

*The subject site exists within an established urban fringe area with a combination of service and entertainment use buildings including a hospital, civic centre, church and bowls club, together with a neighbouring mix of low to medium density residential buildings. The wide variety of existing building styles in the immediate locality does not dictate a prescribed character of building form. However existing developments have generally maintained a reasonable residential amenity through building setback and established site landscaping and street planting.*

*The site's natural topography is generally level with long street frontages to Powell Street to the east and Brett Street to the south. A pocket of open space on the opposite street corner enhances the aspect to the south. The aspect to the west is enhanced by a wide vista across the civic centre site to parklands and waterway opposite Brett Street, and the Razorback Hill beyond. The north boundary adjoins a church site and the Tweed Heads Bowls Club directly adjoins at the north-west corner.*



*At a higher level, the aspect to the north and east comprises views over existing low rise development to the Tweed River and Reserve. Although the medium density character of this area is established, the form of such development is evolving, resulting in the replacement of many of the existing single residences erected in the 1970's and 1980's. The primary element of this identified change, relates to alternative forms of construction materials, the demand for liveable units, the increase in building articulation and the adoption of contemporary design principles. The proposal in question is modern in design and represents general compliance with the planning policies applying to the area. Accordingly, the proposal is considered to be in context with the existing and desired character of the area"*

## **Principle 2: Scale**

***Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.***

Applicant's comment:

*"Existing development in the precinct surrounding the site includes a mix of residential development that includes individual housing and a mix of medium density developments ranging in scale from 2 and 3 storeys to the south, and up to six storeys to the north. To the east, opposite the Powell Street frontage, is the Tweed Heads Hospital. And to the west is the Tweed Heads Civic Centre. The area is at the fringe of the Tweed Heads business centre.*

*The proposed development includes 2 separate buildings, of 3 storey and 4 storey, which in the context of the current and future developments is appropriate to the locality. The 4 storey building is positioned in the northern part of the site, and the 3 storey building is in the southern part. This responds to the context of established development so that there is a consistency in bulk and height while providing a transition from the more intense development existing to the north, and the lower scale development to the south".*

## **Principle 3: Built form**

***Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.***

Applicant's comment:

*"The proposed development incorporates two low rise buildings, sited and designed to maximize the advantages of the site's aspect. The building on the south part of the site takes advantage of the long Brett Street frontage with an orientation toward existing residential*

developments, and views incorporating existing open space, parkland, waterway, and long views to Razorback Hill. The building to the north part of the site takes advantage of the low intensity use of the church site, with high level views across that site, particularly to the north-east and the Tweed River beyond. The planning of the northern building reduces exposure of living areas to the part of the site directly opposite the hospital driveway entry. The building presents a relatively narrow frontage to this zone, and at ground level the placement of the site entry, driveway, and support service tenancies provides a buffer to potential negative impacts.

The building form is appropriate to the residential medium density use. Creating two separate buildings has reduced the overall development bulk. The orientation of both buildings is nominally to the north and south in order to reduce exposure to the climatically undesirable western aspect. Each building addresses the street, and contributes positively to the character of the streetscape by articulating the building façade with stepped walls, projected balconies, and varying rooflines. Setbacks from the street alignments of at least six metres to the balcony lines maintain expected residential massing, and a nine metre setback from the north boundary enhances privacy from the adjoining church. Distances between each building are well in excess of accepted practice for individual privacy, and the units facing the centre of the site take advantage of the created view of the communal landscape and recreation space”.

#### **Principle 4: Density**

**Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.**

Applicant's comment:

*“The proposal is of medium density and is consistent with the context of the locality and within the range of established density response accepted by the local authority for the precinct. The density of development is supported by established infrastructure, public transport and community facilities”.*

#### **Principle 5: Resource, energy and water efficiency**

**Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.**

Applicant's comment:

*"The proposal has been designed in a manner that responds to the need to apply sustainable design principles to produce a development that is as effective as possible in resource and energy use.*

*The building embodies by its nature the principles of adaptable housing design to ensure long term viability for residents and is therefore expected to have a long useable lifecycle.*

*Construction materials have been selected to suit this expected lifecycle with the parameters of appropriate sustainable solutions.*

*Living areas are oriented to the north where possible, and exposure to the western summer sun is minimized. Balconies are protected by roofs and vertical louvred sunscreens, and insulation is integral to the building envelope.*

*Windows in external walls incorporate low reflectivity solar control glazing and awning sunshading. A typically shallow unit depth, and open plan design of living areas, allows good penetration of natural light and ventilation.*

*Landscaping incorporates sufficient deep soil zones, and is particularly concentrated in the large central communal recreation space, to enable a good level of rainwater absorption. Rainwater harvesting is incorporated for site landscaping, and stormwater quality is addressed in accordance with current standards.*

*Sunshading analysis illustrates good solar exposure to recreation spaces and no overshadowing of other buildings".*

#### **Principle 6: Landscape**

***Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.***

Applicant's comment:

*"The proposed development incorporates a level of landscaping that will enhance the functional usability and aesthetic quality of the site.*

*Landscaped and common areas are accessible for people with disabilities and the inclusion of a communal garden for resident's use provides opportunities for social interaction and engagement with sustainable practices.*

*Major planting will occur along the frontages of the site and will be enhanced by additional street trees to adjoining footpaths. The security fences are set back within the landscaping and impart residential character by the application of varying materials and colours.*

*The landscape design is appropriate to the local climate and the established character of the streetscape. It respects and contributes to the neighbourhood amenity by being complementary to the existing natural features and supports a more active streetscape. Planting selection provides variation in height, texture, and colour, and specimen shade trees provide a filtering canopy in selected areas. The significant landscaping to the site is expected to improve available habitat for local fauna.*

*Water management includes rainwater harvesting and significant deep soil areas to retain moisture”.*

#### **Principle 7: Amenity**

***Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.***

Applicant's comment:

*“The proposed development has been designed to provide for a functional residential long term living environment for seniors’ independent living. Individual units are self contained, with facilities and dimensions suitable for a range of abilities, and particularly to enable use by those with disabilities. Pedestrian access to all public and private areas in and around the site complies with code requirements for people with disabilities, and internal lift facilities provide suitable access to all building levels.*

*The units are complimented by outdoor living spaces in the form of private courtyards and balconies in excess of the minimum code size, and living spaces and bedrooms are located to maximize exposure to natural light and ventilation.*

*The design of the overall development enhances visual and acoustic privacy through building setback and ground level screening. Additional design elements such as acoustic barriers at floors and dividing walls, and balcony screens, impart good privacy between individual units.*

*The units are supported by communal facilities providing a high level of resident amenity including, cinema, library, entertainment lounge, games room, and pool. Additional tenancies provide support facilities in a ‘mixed use’ arrangement that includes a café, convenience store, health and beauty salon, medical services, and health centre. The proposal provides for visitor and staff carparking, and secure resident carparking. Ancillary facilities including sufficient storage (both internally and in the basement), mobility scooter parking, wash bays, and workshop enhance resident amenity.*

*Significant landscaped communal open space, including a resident ‘market’ garden, is centrally located and provides an internal view to internal oriented units”.*

#### **Principle 8: Safety and security**

**Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.**

Applicant's comment:

*"The proposed development will be consistent with the need to maximise passive observation opportunities in relation to the adjacent public spaces. Upper level units in particular provide surveillance of the public areas of Powell Street, Brett Street, the entry driveway, and the adjoining Civic Centre and bowls Club. Resident security is established by perimeter security walls and fences, generally setback within landscaped areas to provide an appropriate identifiable, secure, and accessible entry. The entry point is visible from the street frontage and has exposure to open circulation spaces and the pedestrian traffic generated by the nearby hospital. Additional passive observation is encouraged by the siting of the entry within the active zone created by support service facilities such as the café and convenience store. A management office at the foyer provides surveillance of the entry and mailboxes are located within the secure foyer area. The separation of public and private space is clearly delineated and secured entry points are limited in number. Common areas and communal recreation spaces are designed in accordance with the principles of Crime Prevention Through Environmental Design by encouraging casual surveillance, minimising opportunities for concealment, and providing appropriate illumination. Pedestrian and vehicle access and circulation are separated, and together with additional internal traffic calming measures, provide appropriate physical safety".*

#### **Principle 9: Social dimensions and housing affordability**

**Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.**

Applicant's comment:

*"The proposal responds to the social context of the local community by providing a residential development that satisfies a demonstrated need for seniors' independent living accommodation. Demographics in the region and long term social trends indicate a growing aged population that will require appropriate housing choices. This development offers a range of unit types that can equally be enjoyed by couples and individuals, and provides a choice for seniors to transition to more*

*sustainable accommodation with low maintenance demands close to services and facilities. The 'village' style of development includes generous communal and recreational facilities for residents that encourages social inclusion and personal wellbeing".*

#### **Principle 10: Aesthetics**

***Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.***

Applicant's comment:

*"The proposed development adopts a 'contemporary' design aesthetic, incorporating solid massing punctuated by varying heights and projecting elements.*

*The planning affords each unit a desirable aspect. Large protected external living spaces act as a continuation of the internal living areas. This response to environmental considerations is a major influence on the resulting external form of the buildings. The articulation of the building façade refines the overall mass affording a visually dynamic building form.*

*Material selections appropriate to residential development introduce human scale and facilitate the reduction of visual massing. Thus, by utilising depth of elevation, balance and contrast of materials, and key colour references, the buildings present as a collection of smaller forms rather than a large unit block. In this way the development responds to the desired medium density streetscape approach. The proposal will provide for a level of aesthetic suitability that will complement the existing and future residential character of the surrounding precinct".*

Having taken into consideration the above comments provided by the designer of the seniors living component, the proposed development is considered to be consistent with the provisions of SEPP 65.

#### **SEPP No 71 – Coastal Protection**

The proposed development is located within coastal zone and therefore relevant provisions of the SEPP apply.

Clause 8 of the SEPP identifies matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered suitable, given its type, location and design and its relationship with the surrounding area.

#### **SEPP (Major Projects) 2005**

As prescribed by Part 3 Regional Development, Division 2, Clause 13B(1)(a) of SEPP (Major Developments) 2005 the proposed development at a capital

investment of 37 million dollars exceeds the 10 million dollars threshold and as such is considered a regional development.

A Planning Circular issued on 30 September 2011 states that applications with a capital improvement value of more than 10 million lodged prior to 1 October 2011 will be determined by the JRPP.

The consent authority for the development will be the Joint Regional Planning Panel.

#### SEPP (Housing for Seniors or People with a Disability) 2004

Aims of the Policy:

- (1) *This Policy aims to encourage the provision of housing (including residential care facilities) that will:*
  - (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
  - (b) *make efficient use of existing infrastructure and services, and*
  - (c) *be of good design.*
- (2) *These aims will be achieved by:*
  - (a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
  - (b) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
  - (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

#### Clause 4 – Land to which Policy Applies

##### (1) General

*This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:*

- (a) *development for the purpose of any of the following is permitted on the land:*
  - (i) *dwelling-houses,*
  - (ii) *residential flat buildings,*
  - (iii) *hospitals,*
  - (iv) *development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*
- (b) *the land is being used for the purposes of an existing registered club.*

##### Comment:

That part of the site which will locate the Seniors Living component is currently utilised for the purposes of a registered club.

## **Clause 8 - Seniors**

*In this Policy, **seniors** are any of the following:*

- (a) people aged 55 or more years;*
- (b) people who are a resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided;*
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.*

Comment:

Stage 4 of the proposed development is considered to be in accordance with this Clause.

## **Clause 10 – Seniors housing**

*In this Policy, **seniors housing** is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility; or*
- (b) a hostel; or*
- (c) a group of self-contained dwellings; or*
- (d) a combination of these, but does not include a hospital.*

Comment:

The development is considered to take the form of a group of self-contained dwellings.

## **Clause 13 – Self-contained dwellings**

### **(1) General Term: “self-contained dwelling”**

*In this Policy, a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

### **(2) Example: “in-fill self-care housing”**

*In this Policy, **in-fill self-care housing** is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.*

### **(3) Example: “serviced self-care housing”**

*In this Policy, **serviced self-care housing** is seniors’ housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.*

Comment:



The applicant has noted that the proposed development is classified as 'serviced self-care housing' pursuant to the provisions of Clause 13 (3) of the SEPP.

#### Part 1 – General

#### **Clause 14 – Objective of Chapter**

*The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.*

Comment:

The proposed development is considered to be consistent with Clause 14.

#### **Clause 15 – What Chapter does**

*(b) Allows development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.*

Comment:

The land adjoining the subject site is zoned for urban purposes, being 2(b) Medium Density Residential under the provisions of the Tweed LEP 2000 and the development is serviced self-care housing. Therefore, the proposed development meets the provisions of Clause 15(b).

#### **Clause 16 – Development consent required**

*Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.*

Comment:

As noted above, development consent is required under Part 4 of the Act.

#### **Clause 17 - Development on land adjoining land zoned primarily for urban purposes**

*(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:*

- (a) a hostel,*
- (b) a residential care facility,*
- (c) serviced self-care housing.*

Comment:

The proposed development, being serviced self-care housing, is in accordance with this clause.

*(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of*

*serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:*

- (a) for people with a disability, or*
- (b) in combination with a residential care facility, or*
- (c) as a retirement village (within the meaning of the Retirement Villages Act 1999).*

Comment:

The proposed development is considered to comply with Clause 17(2).

**Clause 18 - Restrictions on occupation of seniors housing allowed under this Chapter**

- (1) Development allowed by this Chapter may be carried out for the accommodation of the following only:*
  - (a) Seniors or people who have a disability,*
  - (b) People who live within the same household with seniors or people who have a disability,*
  - (c) Staff employed to assist in the administration of and provision of services to housing under this Policy.*

Comment:

It is considered that the proposed development will be in accordance with this clause.

- (2) A consent authority must not consent to a development application made pursuant to this Chapter unless a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates.*

Comment:

The recommended conditions of consent will ensure appropriate restrictions are provided.

**Clause 19** details provision for use of senior's housing in commercial zones. This is not applicable to this application as the site is not zoned for commercial purposes.

**Clause 21 - Subdivision**

*Land on which development has been carried out under this Chapter may be subdivided with the consent of the consent authority*

Comment:

The applicant has acknowledged that it is anticipated that the portion of Lot 12, which incorporates the Seniors Living development, is likely to be subdivided (either strata or torrens title). The applicant notes that application

for the subdivision of the land incorporating the Seniors Living development will be undertaken prior to the completion of Stage 4.

**Clause 23 – Development on land used for the purposes of an existing registered club**

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that is used for the purposes of an existing registered club unless the consent authority is satisfied that:*
- (a) *the proposed development provides for appropriate measures to separate club from the residential areas of the proposed development in order to avoid land use conflicts, and*
  - (b) *an appropriate protocol will be in place for managing the relationship between the proposed development and the gambling facilities on the site of the club in order to minimise harm associated with the misuse and abuse of gambling activities by residents of the proposed development.*

**Comment:**

The proposed Seniors Living development is detached from the existing Club premises, separated by an access road. The closest residential unit is approximately 16m from the rear of the Club building. This is considered to be acceptable in terms of separation in order to avoid land use conflicts.

An appropriate condition of consent has been applied, requiring an appropriate gambling facilities protocol to be in place prior to the occupation of any residential units, thereby satisfying the clause.

- (2) *For the purposes of subclause (1)(a), some of the measures to which a consent authority may have regard include (but are not limited to) the following:*
- (a) *any separate pedestrian access points for the club and the residential areas of the proposed development,*
  - (b) *any design principles underlying the proposed development aimed at ensuring acceptable noise levels in bedrooms and living areas in the residential areas of the proposed development.*

**Comment:**

In terms of separation methods, the applicant notes that the Seniors Living development is orientated towards Powell and Brett Street. It is also noted that the Club and Seniors Living component will not share any pedestrian access points, thereby complying with the clause.

With regard to design principles to ensure acceptable noise levels in bedrooms and living areas, the applicant has stated that the proposed spatial separation between the Seniors Living development and the back of house of the Club will enable standard building treatments to be applied to meet all relevant noise criteria. It is noted that acoustic report accompanying the application recommends upgraded building shell treatments for some of the units, however these are relating to units adjoining Powell Street, which

suggests that the treatments is in relation to traffic noise as opposed to noise from the Club.

Part 1A – Site compatibility certificates

**Clause 24** and **Clause 25** relates to site compatibility certificates required for proposals on land which adjoins land zoned primarily for urban purposes, land zoned as a Special Use, land that is used for the purposes of an existing registered club, or involves buildings having a floor space ratio that would require the consent authority to grant consent under Cl 45 (Vertical Villages).

Comment:

The proposed Seniors Living development is located upon part of the existing Club site. Therefore, a site compatibility certificate is required, pursuant to the provisions of Clause 24(1)(a)(iii). The applicant has noted that a site compatibility certificate was sought from and issued by the Department of Planning and Infrastructure (DP&I).

Clause 24(2) states that a consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that in the Director-General's opinion the proposed development is...*'compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25(5)(b)'*.

Whilst the site compatibility certificate states that the site is...*'suitable for more intensive development'* and that the development is *'compatible with the surrounding environment and surrounding land uses, having had regard to the criteria specified in clause 25(5)(b)'*, there are requirements imposed on the determination of the certificate. Schedule 2 of the certificate states the following:

- "a) Consult with the State Emergency Service to determine that the property can be safely evacuated during a flood event;*
- b) Demonstrate through a development application that flood free access can be provided from the site."*

The applicant was requested to demonstrate how the abovementioned requirements have been met. The following comments were provided by the applicant:

- "a. A meeting has been held with representatives of the SES on the 4<sup>th</sup> May 2012 at the Planit Consulting Kingscliff office. SES representatives included Mr Simon Gregg, Mr Brian Seahan and Mr Ian Anderson. The issues of evacuation through the bowls club and proposed development floor levels were discussed. The SES members were supportive of the proposal.*
- b. The proposed development application is supported by plans and details of site and building heights across the Bowls Club land. These heights indicate a flood free access is available from the site of Seniors Living (Stage 4) through the existing rear access for the bowls club and out through the front car parking to Florence Street*

*and Wharf Street. This evacuation route has been discussed with SES representatives and agreed to be adequate.”*

Accordingly, the requirements of Schedule 2 of the approved Certificate of Site Compatibility are considered to have been met, thereby satisfying all relevant provisions of Clause 24 and Clause 25.

## Part 2 – Site-related requirements

### **Clause 26 - Location and access to facilities**

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with sub-clause (2) to:*
  - (a) shops, banks and other retail and commercial services that residents may reasonably require, and*
  - (b) community services and recreation facilities, and*
  - (c) the practice of a general medical practitioner.*
- (2) Access complies with this clause if:*
  - (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development and the overall average gradient along the distance is no more than 1:14, or*
  - (b) N/A , or*
  - (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:*
    - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
    - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
    - (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),*

*and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).*
- (3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to*

*the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*

**Comment:**

The applicant has stated that the subject site is located within close proximity to Tweed Heads Commercial Business District and Town centre. The town centre provides for a range of shopping, banking, retail and commercial services, medical facilities, and doctors surgeries. A 24 hour doctor's surgery is located within approx. 200 metres whilst the Tweed Heads District Hospital is located approx. 30 metres from the site.

The application is supported by a Support Services Statement (Stan Manning and Associates April 2011), which notes the following:

*"The proposed...development is located 400m from the shopping and service areas of Tweed Heads and there are three Surfside Buslines bus stops already existing which will service the site. One is in Florence Street within the road reserve opposite the Anglican Church and the second is at the Tweed District Hospital in Powell Street directly opposite the...site and the third is in Powell Street on the same side as the...site near the corner of Brett Street. **The site therefore complies with the location and access to facilities requirements set out in Clause 26 of the SEPP.**"*

In light of the above provisions, Clause 26 is considered satisfied.

**Clause 27 – Bush fire prone land**

- (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as "Bush fire prone land—vegetation category 1", "Bush fire prone land—vegetation category 2" or "Bush fire prone land—vegetation buffer" unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.*

**Comment:**

The site is not within land identified as prone to bushfire and the provisions of this clause do not apply.

**Clause 28 - Water and sewer**

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*
- (2) *Not applicable*

Comment:

The site is located within an established urban area and has adequate access to existing water and sewer infrastructure.

**Clause 29-** Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

- (1) *This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.*

Comment:

Clause 24 does apply to the proposed development. As a result, Clause 29 does not.

### Part 3 – Design requirements

#### *Division 1 – General*

**Clause 30** requires that the applicant must provide a site analysis statement with the application addressing the following points; site dimensions, topography, services, existing vegetation, microclimates, location of buildings and other structures, views to and from the site and overshadowing by neighbouring structures. The applicant has provided detailed site analysis plans and notations within the Statement of Environmental Effects to satisfy Clause 30.

**Clause 31** relates to the design of ‘in-fill self-care housing’ and is not applicable to the proposed development.

**Clause 32** refers to the design of residential development. This clause states that a consent authority must not consent to a development application unless they are satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2. An assessment against the individual design principles are noted below, which concludes that this clause is considered satisfied.

#### *Division 2 – Design Principles*

**Clause 33** - Neighbourhood amenity and streetscape

*The proposed development should:*

- (a) *recognise the desirable elements of the location’s current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area; and*

- (b) *N/A; and*
- (c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*
  - (i) *providing building setbacks to reduce bulk and overshadowing; and*
  - (ii) *using building form and siting that relates to the site's land form; and*
  - (iii) *adopting building heights at the street frontage that are compatible in scale with adjacent development; and*
  - (iv) *considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours; and*
- (d) *be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) *embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) *retain, wherever reasonable, major existing trees, and*
- (g) *be designed so that no building is constructed in a riparian zone.*

The proposed development incorporates the construction of a multi-level seniors living development consisting of a total of 91 units containing a total of 123 bedrooms. The proposal incorporates a front setback of 6.0 metres to both Powell Street and Brett Street. The front setbacks are to be landscaped with native trees and shrubs and turfed accordingly. It is considered the proposed development is of a bulk, scale and height which will not detract from the streetscape or the amenity of the neighbourhood.

#### **Clause 34 - Visual and acoustic privacy**

*The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) *appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) *ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Due to the design of the building and materials proposed to be used, suitable noise insulation measures are proposed to be installed between each unit to ensure acoustic privacy is maintained. Balconies have been orientated to increase privacy and reduce overlooking. Fencing between courtyards will also maintain privacy from the communal open space areas.

#### **Clause 35 - Solar access and design for climate**

*The proposed development should:*

- (a) *ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) *involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*



As a result of the northern orientation of the site, adequate solar access is available to the main living areas of each unit through the provision of suitably sited windows and orientation of those rooms to receive sun throughout the day. Appropriate shading devices are also proposed. This clause is considered satisfied.

#### **Clause 36 - Stormwater**

*The proposed development should:*

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Appropriate conditions of consent have been applied to ensure that the development complies with Clause 36 of the SEPP.

#### **Clause 37 - Crime Prevention**

*The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:*

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

The proposal provides for good visual surveillance of the two streets, internal driveway areas and private open spaces to assist in the prevention of crime. This clause is considered satisfied.

#### **Clause 38 - Accessibility**

*The proposed development should:*

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The site is readily accessible to local facilities, the town centre, parks and other recreational opportunities with good public bus service linking the neighbourhood to the town environs. It is noted that all of the required services and facilities are within walking distance from the subject site. As such this clause is considered to have been satisfied.

#### **Clause 39 - Waste Management**

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

Each Unit will have access to its own rubbish receptacle with a rubbish storage area identified within the attached plans. Council's Waste Management Unit has assessed the waste management plan with no objections, subject to conditions of consent. This clause is considered satisfied.

**Part 4 – Development standards to be complied with**

**Clause 40** - Development standards – minimum sizes and building height.

- (1) **General** *A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) **Site size** *The size of the site must be at least 1,000 square metres.*
- (3) **Site frontage** *The site frontage must be at least 20 metres wide measured at the building line.*
- (4) **Height in zones where residential flat buildings are not permitted**  
*If the development is proposed in a residential zone where residential flat buildings are not permitted:*
  - (a) *the height of all buildings in the proposed development must be 8 metres or less, and*
  - (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

**Note.** *The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*
  - (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

The total area of the site is 8094m<sup>2</sup>, exceeding the minimum requirement of 1000m<sup>2</sup>.

The site has frontage of 81.075m to Powell Street and 69.995m to Brett Street, exceeding the minimum requirement of 20m.

As noted by the applicant, the site is zoned 6(b) Recreation, in which residential flat buildings (in terms of tourist accommodation) are permissible with consent. Therefore the 8m standard is not applicable to this development.

Clause 40 is considered satisfied.

*Division 3 – Hostels and Self-Contained Dwellings: Standards concerning access and usability*

**Clause 41** - Standards for hostels and self-contained dwellings.

The SEPP notes that development standards concerning accessibility and usability for self contained dwellings require the development to be assessed against the standards specified in Schedule 3. An assessment against the provisions of Schedule 3 is noted below.

***Siting Standards – Wheelchair access and Common areas***

Access throughout the entire site is to be in accordance with Australian Standards for wheelchair access. The applicant has noted that all units are designed with freely available wheel chair access to the common areas of the properties.

***Security – Acceptable pathway lighting must be provided***

The applicant has noted that the proposed development will comply with the SEPP's requirements for pathway lighting, noting that...*"Suitable garden lighting is to be installed at the entrance to the property and adjacent to the driveway for security purposes."*

***Letterboxes – must be situated on a hardstand area with wheelchair access, must be lockable and located together in a central location adjacent to the street entry***

The Ground Floor plan indicates that mailboxes are located within the secure foyer area, adjacent to the Property Managers office.

***Private car accommodation – Resident car parking provisions must comply with the Australian Standards disability requirements; 5% of the spaces must be increased to a width of 3.8m; and any garage must be capable of being power operated.***

The applicant states that...*"The proposal has been designed to comply with disability requirements outlined within AS2890."* The basement incorporates a security gate between the visitor / commercial parking and the private residential parking. A condition of consent will require the gate to be power operated.

***Accessible entry – Every entry (whether a front door or not) to a dwelling must comply with clauses 4.3.1 and 4.3.2 of AS4299.***

The applicant has noted that stated that...*"all units are designed to comply with the gradient requirements. Entrances to comply with the relevant clauses to AS4299 and AS1428 as stipulated."*

***Interior: general – widths of internal corridors and circulation at internal doorways must comply with AS1428.1.***

The applicant has noted that the proposal has been designed to comply with the provisions of the SEPP for Kitchen fitout for the units, with further details to be provided at construction certificate stage.

***Bedroom – at least one bedroom must have sufficient area to accommodate a queen size bed, a clear area at the foot and beside the bed, 2 double power points (at the head of the bed), 1 general power point opposite the head of the bed, a telephone outlet next to the bed (on side closest to door and next to power outlet), & wiring for potential illumination of 300 lux.***

The applicant has noted that the proposed development complies with this component of the SEPP and that...*"the main bedroom in each unit is of satisfactory size to accommodate a queen size bed. Wiring to be installed for telephones, power and lighting."*

**Bathroom** – at least 1 bathroom within a dwelling must have required facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS1428.1. They must have slip resistant floor, washbasin with clearances that comply with AS1428.1, shower that complies with AS1428.1, except that a grab rail, portable shower head & folding seat must be accommodated. A wall cabinet must be provided with sufficient illumination to enable labels of stored items to be read. A double power outlet must be provided beside the mirror.

The applicant has noted that bathrooms have been designed to comply with the provisions of the SEPP, with further detail to be provided at Construction Certificate stage. An applicable condition of consent has been applied in this regard.

**Toilet** – dwellings must have at least 1 toilet and be a visitable toilet that complies with the requirements for sanitary facilities of AS4299.

The applicant has noted that toilets have been designed to comply with the provisions of the SEPP. Further detail is to be provided at Construction Certificate stage. An applicable condition of consent has been applied in this regard.

**Surface finishes** – balconies and external paved areas must have slip-resistant surfaces.

The applicant stated..."all external paved areas are to have slip resistant surfaces."

**Door hardware** – door handles and hardware for all doors must be provided in accordance with AS4299.

The applicant has stated that..."door handles to be sited 900 to 1100 mm above the floor level and to be operated by one hand."

**Ancillary items** – switches and power points must be provided in accordance with AS4299.

The applicant has stated..."switches to be sited 900 to 1100 mm above the floor level and all power outlets to be a minimum 600 mm above the floor level."

**Living room and dining room** – a living room must have a circulation space in accordance with clause 4.5.2 of AS4299 & a telephone adjacent to a general power outlet. A living and dining room must have wiring to allow potential illumination level of at least 300 lux.

The applicant stated that..."each Unit has been designed with generous proportions in the living and dining room to comply with these requirements. A telephone and power outlet to be installed adjacent to each other and sited accordingly in the Living Room."

**Kitchen** – kitchens must have a circulation space in accordance with clause 4.5.2 of AS4299, a complying door width as well as benches, tap set, cook tops & oven in accordance with clause 4.5 of AS4299. 'D' pull cupboard

*handles are to be provided as well as a double power outlets within 300mm of the front work surface and a power outlet for a refrigerator.*

The applicant stated that...*“the proposal has been designed to comply with the provisions of the SEPP for Kitchen fitout. Further detail to be provided at construction certificate stage.”*

***Lifts in multi storey buildings*** – for multi storey developments containing separate dwellings on different storeys, lift access must be provided to dwellings above ground level, compliant with BCA requirements.

The applicant has noted that the proposal has been designed with lift access to dwellings above the ground floor level, which is compliant with clause E3.6 of the BCA.

***Laundry*** – dwellings must have a laundry that has a compliant width, provision for the installation of an automatic washing machine & clothes dryer, a clear space in front of the compliances (at least 1.3m), slip resistant floor surface & an accessible path to any clothes line.

The applicant has noted that the development is compliant in that each dwelling has been designed with a laundry space to fit a laundry tub and washing machine.

***Storage for linen*** – provision for linen storage within each dwelling must be in accordance with clause 4.11.5 of AS4299.

The applicant stated that suitably sized Linen Presses are proposed for each residential unit and compliant with the provisions of the clause.

***Garbage*** – a garbage storage area must be provided in an accessible location.

The applicant has noted that a common garbage facility is proposed in the basement in addition to a refuse chute. A condition of consent has been applied requiring details of the refuse chute.

In terms of the overall provisions of Clause 41, the proposed development is considered to be consistent with the SEPP.

## Part 6 – Development for Vertical Villages

### **Clause 45 – Vertical Villages**

The applicant notes that Clause 45 is not applicable to the proposal and that all currently adopted environmental planning instruments applicable to the site do not specify a FSR limit.

## Part 7 – Development standards that cannot be used as grounds to refuse consent

### *Division 4 – Self contained dwellings*

***Clause 50*** – Standards that cannot be used to refuse development consent for self contained dwellings

**(a) Building Height:** if all proposed buildings are 8 metres or less in height.

This clause stipulates that Council cannot refuse a residential care facility on the grounds of height, if the building height is less than 8m.

The proposal is a multi level development that exceeds 8m. The height of the proposal is not considered to warrant refusal.

**(b) Density and Scale:** *if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.*

Although an FSR control does not apply to the development, the applicant states that the proposed development incorporates an FSR of 3.23:1.

**(c) Landscaped area:** *if a minimum of 30% of the area of the site is landscaped.*

The development proposes 3748m<sup>2</sup> of landscaped area over a site area of 8094m<sup>2</sup>, equating to 46.3% of the Stage 4 site.

**(d) Deep soil zones:** *15% of the site area, with two-thirds of the area to be located at the rear of the site, each having a minimum dimension of 3m.*

15% of the site area equates to 1214 m<sup>2</sup>, with two-thirds of this area equating to 809m<sup>2</sup>.

The proposal incorporates 1342m<sup>2</sup> of deep soil zones in Stage 4, with the majority of that considered to be located at the rear of the development site. The deep soil zone complies with the minimum distance of 3m.

**(e) Solar access:** *living rooms and private open spaces for a minimum of 70% of the dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.*

The applicant notes that due to the orientation of the site, the living rooms of each dwelling will receive the minimum amount of direct sunlight during midwinter.

**f) Private Open Space:** Ground Floor Dwellings 15 m<sup>2</sup> with Dimensions of 3 metres and Upper level Dwellings a balcony of 10 m<sup>2</sup> with Dimensions of 2 metres.

The ground floor dwellings all incorporate complying private courtyards, with the smallest courtyard being 28m<sup>2</sup>. All upper level dwelling have access to a balcony which exceeds the minimum dimension requirements.

**(h) Parking:** *if at least the following is provided:*

*(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider.*

The development proposes 123 bedrooms, which equates to 62 spaces for the residents. The development proposes 91 resident spaces. As such, the proposal is considered to comply with this clause.

Therefore, having considered all of the abovementioned criteria, the proposed development is considered to meet the aims and requirements of the SEPP

(Housing for Seniors or People with a Disability) 2004, subject to applicable conditions of consent.

#### SEPP (Infrastructure) 2007

The proposed development is considered to be a traffic generating development. As such, referral to the Roads and Traffic Authority (now known as Roads and Maritime Services (RMS)) is triggered, in accordance with Column 2 of Schedule 3 of the SEPP.

Previous advice from RMS is that referrals to them under Schedule 3 of the Infrastructure SEPP are only integrated when relating to the Motorway (Classified Road). All other referrals under Schedule 3 go to the local Development Traffic Assessment Group (DTAG), as the Regional Traffic Committee does not exist anymore. However, non-integrated referrals can be made to the RMS (as advice only).

A copy of the application was sent to RMS for comment, as well as a copy being referred to DTAG. No response has been received from RMS. DTAG comments are discussed later in this report.

Clause 104(3) of the SEPP notes the following:

- (3) Before determining a development application for development to which this clause applies, the consent authority must:*
  - (a) give written notice of the application to the RTA within 7 days after the application is made, and*
  - (b) take into consideration:*
    - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
    - (ii) the accessibility of the site concerned, including:*
      - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
      - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
    - (iii) any potential traffic safety, road congestion or parking implications of the development.*

As noted above, the RMS was provided with written notice of the development application. No submission has been received in this regard. In terms of accessibility, traffic safety, road congestion and parking implications, Council is satisfied that the proposed development is acceptable, subject to conditions of consent. Access issues are discussed in further detail later in this report.

Overall, it is considered that the provisions of the Infrastructure SEPP have been met.

#### **(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

##### Draft Tweed City Centre Local Environment Plan 2009

The Draft Tweed City Centre Local Environment Plan 2009 zones the subject site as B4 – Mixed Use on the detached car parking area and RE2 – Private Recreation on the Club site. Registered Clubs are permissible within both zones. Stage 4 of the proposed development is best defined as Seniors Housing, which is prohibited development. However, the Senior Living component relies upon the provisions of the Seniors SEPP in terms of permissibility.

Clause 4.3 of the Draft LEP is related to building height. The maximum height for the subject site under the Draft LEP is 13.6m. Building 1 within Stage 4 of the development exceeds this height limit, having a maximum height of 14.7m. A SEPP 1 Objection accompanies the application with regard to the proposal exceeding building height provisions.

Clause 4.4 relates to floor space ratio. The FSR map does not apply to the existing Club site. The detached car parking area has a maximum FSR of 2:1. However no building works are proposed on this component of the site.

Clause 6.6 regards minimum street frontage of land for buildings in Zones R3, B2, B3 and B4 [local]. Part of the site is situated in zone B4 – Mixed Use, however, no building works are proposed in this zone. As such, Clause 6.6 is not considered to be applicable.

The draft LEP identifies the subject site as a ‘Key Site’. Accordingly, Clause 6.9 of the draft LEP applies. Clause 6.9 requires Council to be satisfied that the proposed development has design excellence and lists the matters to take into consideration when assessing design excellence. Clause 6.9 notes that development consent must not be granted to such development unless an architectural design competition has been held in relation to the proposed development, or the Director-General certifies in writing that the development is one for which an architectural design competition is not required.

Given that the gazettal of draft LEP is not imminent, the provisions relating to the architectural design competition are not considered to be applicable.

Notwithstanding this, the applicant has noted the following:

*“The proposal in full is considered to to be an appropriate use of the land that will benefit the Tweed Shire financially and will increase the likelihood of future investment in the area. From a community aspect, the development will provide a social venue that will be readily accessible to the residents of the Tweed Shire and will offer a greater level of choice within the registered club market. The seniors living component will provide all of the necessary services and recreational facilities to continue to support the Tweed’s reputation as an ideal retirement and seniors living destination.”*

**(a) (iii) Development Control Plan (DCP)**

Tweed Development Control Plan

A2-Site Access and Parking Code

The applicant has provided a detailed assessment of the existing and proposed car parking provisions for the Club, concluding that 79 spaces will be surplus.



Stage 1	Existing	Additional	Location	Existing	New	Required
Level 1	1735	-	West Car park	91		345 (Existing)
Level 2	4530	-	East Car park	10		
Level 3	3410	-	Undercover	56		
Level 4	70	-	Powell Street	188		
			McGregor Cres		56	
Subtotal	9745	Nil	Subtotal	345	56	
Total		9745	Total	401 (56 Surplus)		345 (Existing)

Stage 2	Existing	Additional	Location	Existing	New	Required
Level 1	1735	-	Redeveloped West Car park (2 level)	91	88	345 (Existing)
Level 2	4530	-	East Car park	10		
Level 3	3410	-	Undercover	56		
Level 4	70	-	Powell Street	188		
			McGregor Cres	56		
Subtotal	9745	Nil	Subtotal	401	88	
Total		9745	Total	489 (144 Surplus)		345 (Existing)

Stage 3	Existing	Additional	Location	Existing	New	Required
Level 1	1735	-	Redeveloped West Car park (3 level)	179	111	345 (Existing) 24 (additional @1/7m2 lounge/dining area)
Level 2	4530	135 Foyer, 35 Lounge	East Car park	10		
Level 3	3410	130 Lounge/Dining	Undercover	56		
Level 4	70	-	Powell Street	188		
			McGregor Cres	56		
Subtotal	9745	300	Subtotal	489	111	369
Total		10045	Total	600 (231 Surplus)		

Stage 4	Existing	Additional	Location	Existing	New	Required
Level 1	1735	-	West Car park	290	-	369 (Previous required). -40 (reduction from removal of 1 Bowls Green)
Level 2	4700	-	East Car park	6	-	
Level 3	3540	-	Undercover	56	-	
Level 4	70	-	McGregor Cres	56	-	
			Powell Street (Removed)		-	
Subtotal	10045	Nil	Subtotal	408	-	329
Total		10045	Total	408 (79 Surplus)		

The applicant's assessment process is concurred with, with the exception of the surplus spaces. It does not appear that the applicant has taken into consideration the use of 33 spaces within the over flow parking area.

A recent approval for the Sails Restaurant within the Club concluded that 16 spaces were required for a previous approval and the Sails refurbishment required an additional 17 spaces. This equates to 33 spaces being allocated to approved development, leaving only 23 surplus spaces on the detached car parking area at McGregor Crescent. Therefore, over the total Club site, there is a **surplus of 46 spaces** (rather than 79).

Council's Development Engineer has made the following comment, specifically in relation to the car parking for the seniors living development within Stage 4 of the proposal, which includes a commercial component:

*"The provision of on-site car parking for 'Seniors Living' developments has been an argumentative issue on similar development proposals over recent years, particularly with regard to the lack of any mandated requirement for visitor car parking.*

*TSC DCP A2 (Table 4.9a) merely defers the parking assessment to the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD), with no extra requirement for visitor parking.*

*The SEPP HSPD requires:*

- 0.5 car spaces per bedroom, and makes no mention of visitor parking or ancillary uses within the development site.
- car parking spaces (not for employees) must comply with the requirements for parking for persons with a disability as set out in AS2890 (now specifically AS/NZS 2890.6: 2009). It is noted that this standard only describes the dimensions of the required car spaces, not how many are required.
- 5% of the total number of car parking spaces must be 3.8m wide. (Note that this no longer complies with the 'disabled' dimension requirements of AS 2890 – specifically AS2890.6).

*While the SEPP HSPD is silent on visitor car space numbers, I consider this to be an essential factor to be considered in the assessment of this proposal. Other 'Seniors Living' developments approved in the Shire under the SEPP HSPD have all provided extra car parking to cater for visitors. The same approach will be adopted here.*

***The applicant has satisfied the above-mentioned SEPP HSPD car parking requirements, and has also provided reasonable visitor parking as per the assessment hereunder;***

*A total of 91 disabled parking spaces for residents are provided. A further 23 visitor spaces have been nominated, however due to the shortfall in parking for the commercial facilities on the site, there will only be 15 visitor spaces available. This is deemed appropriate.*

*Bedroom numbers:*

*The application is for a 91 unit development incorporating 123 bedrooms. On the basis of the SEPP HSPD, the applicant will provide well in excess of the required 62 resident spaces (0.5 spaces per bedroom).*

*However, most of the 59 single bedroom units include a 'study' area that can be easily utilised as a second bedroom. They are suitably sized, can be easily closed off, and most have built-in wardrobes (note that the studies in the two bedroom units are less flexible and have no built-in wardrobes). In this scenario the development provides a total of 182 bedrooms – which equates to a requirement for 91 car parking spaces as per the SEPP HSPD. Even in this scenario the proposal still complies.*

*Also, the resultant 15 visitor parking spaces equate favourably to the 'one space per 10 units' requirement as nominated in Council's draft Tweed City Centre DCP.*

*Car parking rate comparisons:*

- ***RTA Guide to Traffic Generating Developments***  
*Section 5.4.4 of this document recommends the following rate for Resident Funded Aged Housing:*  
*Residents: 2 spaces per 3 units (61 spaces); Visitors: 1 space per 5 units (18 spaces).*  
*Application of these rates yields a requirement of 79 car spaces for residents and visitors.*

*The submitted proposal falls short of the parking requirements under this comparative assessment.*

- **Gold Coast City Council Planning Scheme**

*The GCCC Car Parking, Access and Transport Integration Code specifies the following car parking rate for Aged Persons Accommodation (Self Contained Dwelling):*

*Residents: 1 space per dwelling (= 91 spaces); Visitors: 1 space per 10 dwellings (9 spaces).*

*Application of these rates yields a requirement of 100 car spaces for residents and visitors.*

*The submitted proposal falls well short of the parking requirements under this comparative assessment.*

- **Brisbane City Planning Scheme**

*This requires 1 space per unit (91 spaces) plus visitor parking at the rate of 50% of resident parking (45 spaces). This includes staff parking.*

*Application of these rates yields a requirement of 136 car spaces for residents and visitors.*

*The submitted proposal falls well short of the parking requirements under this comparative assessment.*

- **Similar recent DA approvals in Tweed Shire**

*DA08/1225 – Kingscliff Retirement Village: 200 units (429 beds) with 256 car spaces (includes 200 for residents; 12 for staff; service vehicles and visitors).*

*DA08/0138 – opposite corner of Powell & Florence Streets: 77 units (137 beds) with 70 car spaces (includes staff).*

*As can be seen from the above comparisons, there is considerable variation in how car parking requirements can be assessed for similar developments.*

*It is generally considered that the GCCC example (1 space per unit for residents + 1 visitor space per 10 units) provides the most appropriate assessment criteria - which is comparable with the 'Tweed City Centre Draft DCP 2009' (1 car space per attached 1-or-2 bedroom dwelling [1.5 spaces per 3 bedroom dwelling] + 1 visitor space per 10 dwellings) The proposal is compliant with (exceeds) the car parking requirements under these guidelines.*

**Car Space Allocation**

*In acknowledgement of the likelihood that some of the future residents will not have a motor vehicle, it is recommended that each unit should not be sold / leased with an accompanying space - but that car spaces are individually attributed to units as they are occupied. Allocation of parking spaces in this manner should also assist in creating extra visitor parking.*

**Delivery / service vehicles;**

*Adequate parking has been provided for a service vehicle. It is noted that there is also a dedicated emergency vehicle parking space.*

**Car wash bays:**

*There are two designated car wash bays in the basement parking area. This is considered appropriate and is consistent with similar recent approvals in the Shire.*

#### Commercial Facilities

*The ‘Seniors Living’ portion of the proposed development includes several associated commercial facilities – which are visible from the street and therefore are likely to attract non-resident customers. Car parking must therefore be found.*

*The commercial facilities include a Convenience Store, Café, Hair & Beauty Salon, Medical Services (4 consulting rooms), Health & Well Being Centre (includes a hydrotherapy pool), and a Manager’s Office.*

*The above-mentioned uses generate a requirement for 39 car parking spaces, which the applicant has provided.*

*Note that the applicant’s car parking assessment groups the commercial facilities with a non-applicable (ie – not in the SEPP HSPD) Council guideline for visitor parking of 23 spaces (1 space per 4 units), and concludes with a shortfall of 8 spaces. As the visitor parking requirements is not mandated in the SEPP, Council have previously accepted a rate of 1 space per 10 units, which equates to 9 spaces for this development. After deducting the shortfall from the commercial parking allocation, there are still 17 visitor spaces able to be attributed solely to the ‘Seniors Living’ portion of the development, which is satisfactory.*

***The total number of parking spaces for the Club redevelopment, ‘Seniors Living’ and associated Commercial Facilities, is considered adequate.***

#### Manoeuvrability

*Turning circles have been applied to the basement and ground level parking areas. The submitted plans are acceptable for car accessibility as well as a small rigid truck”.*

### A3-Development of Flood Liable Land

Minor portions of the subject site are flood prone, with a Design Flood Level (DFL) of RL 2.6m AHD. The site is also subject to Probable Maximum Flood (PMF) flooding. Council’s Planning & Infrastructure Engineer has provided the following comment with regard to flooding:

*“There are no flooding issues relating to Stage 1 works.*

*Stage 2 basement works must ensure that basement ingress points are protected to a level of 3.1m AHD (Design Flood Level + 0.5m freeboard) against flooding. This is readily achievable with surface levels of RL 4.5m AHD proposed.*

*Stage 3 works consists of “minor” extensions to the existing building so do not require further flooding considerations. In any case the floor level of RL 4.65m AHD exceeds DFL of 2.6m AHD.*

*Stage 4 must meet a number of requirements under DCP-A3 relating to basement protection, habitable floor levels, and emergency response.*

*The basement driveway is shown to be bunded to RL 3.1m AHD as required. Consent conditions should ensure that other egress points are similarly protected. Habitable floor level of the two buildings is set at RL 3.2m AHD which also complies. Emergency response requires either a high level evacuation route or shelter in place facilities above PMF level. While portions of Brett and Powell Streets do not meet the DFL levels required to be a high level evacuation route, the internal connection through the site is shown to be at or above 2.6m AHD and as such, the aged care facility could be evacuated through the bowling club site to the Wharf and Florence frontages, which rise above DFL to flood free land to the west. As the buildings are also multi-storey they could provide high level refuge area, however as a senior living complex, would need to provide high level services. It is considered that based on the above, no further requirements based on emergency response provisions are necessary”.*

Appropriate conditions of consent have been applied with regard to flooding requirements. Council’s Development Engineer has also provided the following comment in terms of PMF provisions.

*“With regard to PMF affection, while evacuation through the site to elevated land in Wharf Street is available, the applicant has submitted a Flood Response Assessment Plan that nominates ‘refuge in place’ provisions. This is in apparent consideration of the age of most of the intended residents – many of whom may have mobility problems, making evacuation difficult.*

*This is an acceptable solution but will require enforcement via an 88B Restriction on Title. This will be a condition of consent”.*

#### A4-Advertising Signs Code

The applicant has noted that no new signage is proposed with respect to the proposed development and that it is likely that signage will comprise a separate application once branding has been rationalised. An applicable condition of consent has been applied in this regard.

#### A11-Public Notification of Development Proposals

The proposed development was placed on public exhibition for a period of 30 days, during which time no objections were received.

#### A13-Socio-Economic Impact Assessment

The applicant has made an assessment of the proposed development against Council’s standard checklist of social and economic issues. It is considered that the positive outcomes from the development (i.e. creation of employment during construction and ongoing use of the development) far outweigh any potential negative outcomes created by the development.

#### B2-Tweed Heads

The existing Club is located within the Civic Precinct, immediately to the north of the Southern Boat Harbour. The Civic Precinct *incorporates the key civic uses of Tweed Heads, which include the Civic Centre, library, hospital and*

*University Campus. In addition, the DCP notes that the Tweed Heads Bowls Club also forms part of the Precinct and provides an important social focus in the town.*

#### **Civic Precinct**

##### ***B2.5.2 Precinct Objectives***

*The objectives of the Civic Precinct are to:*

- Provide a civic focus for Tweed Heads;*
- Cater for the social, cultural, educational and health needs of the population;*
- Facilitate interaction between compatible land uses in the interests of local community and economic development.*

##### ***B2.4.3 Strategic Policies***

###### ***Land Use Interaction***

*The sharing of resources between compatible landuses is encouraged. This may facilitate positive interaction between organisations, to the benefit of the local community and economy.*

The proposal is considered to meet the objectives of the precinct, providing a mixed use development which introduces a residential component to the locality, will provide for additional general medical facilities and will provide urban design improvement. It is considered that the proposal is consistent with the strategic direction set for the Civic precinct.

Other relevant provisions contained within this Section are addressed as follows:

###### ***Building Envelopes***

The building envelope controls relate to the Business zones, Special Use zones and residential zones, none of which relates to the Club site, which is zoned Recreation.

###### ***B2.10 Commercial Façade***

The facade controls relate to the Business zones, which does not relate to the Club site.

###### ***Building Mass***

The applicant has noted that the design has achieved the requirements of building mass under Section B2, with no walls continuous or unbroken in length of more than 15 metres. The applicant has also noted that the articulation in the façade is particularly important in relation to the building and its impact on the public realm; in this regard the building utilises variations within the building setback. In addition, design includes the use of alternate texture, materials and colours to provide interest to the building.

###### ***Energy Efficiency***

The applicant notes that the proposed development has been designed to comply with Council's energy efficiency requirements. In this regard the Development Application is accompanied by a NatHERS Energy Rating Assessment and BASIX certificate which achieves the Council's requirements in terms of energy and water efficiency.

### *Daylight Access*

The proposed design incorporates private balconies and substantial glazed areas into each of the units thereby achieving access to natural light.

### *Wind Mitigation and Overshadowing*

The DCP requires that down draft be avoided in tall buildings and for this to be achieved that podiums be provided. The proposal includes a podium at street level. The proposal also includes deep balconies areas to reduce down draft. The effects of overshadowing have been assessed with a shadow diagram submitted with the application. The proposed development doesn't result in any overshadowing of adjoining property.

### *Roof Lines*

The applicant has noted that Stage 1 to 3 will not result in a change to the roof form of the existing club. Stage 4 will see two new buildings adjacent to Powell Street and Brett Street. The applicant has noted that the use of a three storey and four storey building as part of the Stage 4 development provides the required variation in roofing lines, achieving a 'stepped' effect for building height and ultimately roof lines between the proposal and adjoining taller structures.

### *Privacy*

The applicant has noted that Stage 4 of the proposed development is afforded various private areas, with balconies and private courtyards being either spatially separated or divided by a solid wall to maintain privacy.

### *Security and Surveillance*

The proposed development has been designed so as to present a safe and secure environment for residents and the general public. In this regard, the proposal addresses the street and provides significant passive overlooking opportunities.

### *Private Open Space*

Under this Section, upper level units are required to have a balcony with a minimum area of 8 m<sup>2</sup> and a dimension of 2 metres. Ground level or podium units are required to have an open space area with minimum dimensions of 4 metres. The proposal has been designed to comply with the balcony dimension requirements of the SEPP (housing for aged or people with a disability) 2004 and exceeds the minimums specified by Section B2 of the TDCP 2008.

### *Materials and Colours*

The building will essentially be constructed of concrete and block work with a range of external finishes including:

- Rendered masonry finishes and textures;
- Varying colours;
- Glass elements;
- Aluminium windows and louvers; and
- Landscaping and green space.



Overall, the proposed development is considered to comply with the relevant provisions of DCP B2.

**(a) (iv) Any Matters Prescribed by the Regulations**

Clause 92(a) Government Coastal Policy

The subject land is affected by coastal policy. The proposed development is not considered to be in conflict with the policies and strategies contained within the NSW Coastal Policy 1997.

Clause 92(b) Applications for demolition

The applicant has noted that demolition required for the development application will be minor and would relate solely to 'de-construction' works associated with the Stage 3 Club Foyer Extension, with all other works limited to site preparation. Suitable conditions of consent have been applied with regard to the demolition works proposed in Stage 3.

**(a) (v) Any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#))**

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not mapped as being within the current or draft coastal hazard lines. As such, the Tweed Shire Coastline Management Plan 2005 is not applicable to the proposed development.

Tweed Coast Estuaries Management Plan 2004

This Plan relates to the Cudgen, Cudgera and Mooball Creeks and is therefore not applicable to the proposed development.

Coastal zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

This Plan relates to the Cobaki and Terranora Broadwater and is therefore not applicable to the proposed development.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Compatibility with Adjoining Land Uses

The area surrounding the development site is a mix of residential, commercial businesses and public buildings. In terms of future development, the Draft Tweed City Centre Plan identifies the surrounding area as mixed use to the west and immediately to the south; and medium density residential (beyond Florence Street to the north, Powell Street to the East and Brett Street to the

south). Therefore, as the area is redeveloped and changes character, the proposed development is expected to be of similar character to the surrounding locality.

#### Access, Transport and Traffic

Council's Traffic Engineer has provided the following comment with regard to the local road network:

##### "Stage 1

- *Existing driveway access on Florence Street is to be removed and kerb and guttering reinstated.*
- *The existing three driveways in McGregor Crescent are to be removed and kerb and guttering reinstated.*
- *Concrete footpaving (1.2m minimum) is to be installed for the length of the site on McGregor Crescent and remaining nature strip remediated to Council standards.*
- *The new proposed driveway accessing McGregor Crescent is to be installed to Council's standards.*
- *Car park lighting should be installed to AS1158 Streetlighting - Carparks and to AS4282 Control of the obtrusive effects of outdoor lighting.*

##### Stage 2

*No concerns.*

##### Stage 3

*No concerns.*

##### Stage 4

- *The proposed driveway to Powell Street is not orthogonal to the road carriageway and does not conform to Council's standards. It needs to be redesigned internally to meet this requirement or the existing Telstra phone box should be relocated to enable compliance.*
- *Installation of "no parking" zones to improve sight distance from driveway is not supported.*
- *All disused crossovers are to be reinstated.*

*In general the surrounding road network has been assessed as capable of supporting the development".*

#### Stormwater

The following stormwater comments have been provided by Council's Planning & Infrastructure Engineer:

*"The site is serviced by piped stormwater drainage on all frontages, and the development will not result in significant changes in impervious site area, so there are no issues regarding lawful point of discharge or downstream capacity in this area. As such, the development need only*

*address the stormwater quality control requirements under D7. The developer will install proprietary treatment devices on each of the carpark catchments. Few details have been provided however this can be conditioned and assessed with a future s68 application.*

*Erosion and sediment control requires standard measures and consent conditions.”*

### Sewer

The following Water Unit comments have been provided by Council's Network Engineer:

*“The sewerage reticulation in this area is considered adequate to permit the development to proceed. Records indicate that there may be an existing connection available at 1/25. If it is available, both sections of the seniors living development should be connected to it. If not, the proponent will have to apply for the installation of a new junction at a suitable location.*

*It is noted that there are sewer mains within the road reserve on Brett Street frontages and Driveway Easement to Tweed Heads Bowling Club. None of the drawings supplied in the application indicate that the proponent is aware of the presence of the sewer main so close to the proposed excavation.*

*It is a distinct possibility that the excavation could result in damage to these sewers, or that if sheet piling is used, the piling operation may damage the sewers. If the sheet piling does not become a permanent part of the installation and is removed, the action of removal may also damage Council's sewer, accordingly please apply the following condition:*

*The proponent shall submit to Council for approval details of measures that will be used to prevent any damage to Council's sewer mains adjoining the site in Powell and Florence Streets and shall provide to Council before and after video surveys of the sewer mains to demonstrate that no damage has been caused by the work in close proximity to the sewer. The proponent shall be responsible for making good any damage caused to the sewer main.”*

### Waste Management

The original application for the Seniors Living component incorporated an Operational Waste Management Plan. Council's Waste Management Unit did not support the Plan, requiring an amended version which incorporated: additional recycling volumes; an amended bulk bin collection point (ensuring that the garbage service truck enters and exits the property in a forward motion); and a clear outline (on a site plan) of the method and path of travel of recycling and waste bins from storage location to service point.

A revised Waste Management Plan was submitted by the applicant. Council's Waste Management Unit has assessed the revised document with no objection, subject to conditions of consent.

### Acid Sulfate Soils:

The applicant provided an Acid Sulfate Soils (ASS) Investigation Report. Council's Environmental Health Unit provided the following comments with regard to Acid Sulfate Soils (ASS):

*"In relation to the Western double basement car park, the Report concludes that sampling undertaken for this area was insufficient to properly characterise ASS within this area below a depth of 2.3m. The report recommends the construction of an additional two boreholes prior to commencement of the excavation of this area and analysis of the samples. The preparation of an ASS Management Plan would then depend on the results of this additional investigation.*

*The recommended approach in respect to the investigation of ASS associated with the western double basement car park **does not** satisfy the provisions of Clause 35 4a) and b) of council's LEP 2000. in so far as the preliminary ASS investigation has failed to ascertain the presence or absence of ASS within the area of the proposed works of the double basement car park and as a consequence an ASS management plan has not been prepared."*

As a result the applicant was requested to carry out further investigation of the proposed works associated with the construction of the western double basement carpark.

In response to this request the applicant provided an Acid Sulphate Management Plan prepared by HMC Environmental Consulting Reference HMC 2012.052 ASSMP and dated May 2012. The Management Plan recommends that additional investigation be undertaken in the area of the proposed western basement car park to determine the lateral and vertical extent of ASS in this area prior to any excavation below 2.5 m depth.

Councils' Environmental Health Unit noted the following:

*"It is considered that standard condition DUR 1065 amended to reference the Acid Sulphate Soil Management Plan prepared by HMC Environmental Consulting Reference HMC 2012.052 ASSMP and dated May 2012 will satisfactorily address the issue of ASS associated with this application."*

#### Contamination:

A Stage 1 Preliminary Site Assessment was submitted by the applicant, which identified land-use activities associated with the site which have the potential to affect the suitability of the site for the proposed residential development. These include: underground fuel storage both on-site and in close proximity off-site on two surrounding properties; pesticide application to bowling greens and landscaped areas; and potential asbestos contamination from the previously demolished retirement village buildings.

Council's Environmental Health Unit noted the following:

*"From the results of the Stage 1 Preliminary Investigation it is clear that a Detailed Investigation needs to be carried out in order to establish if the*

*site is suitable for the proposed uses. In the absence of the results of such a Detailed Investigation Council is not in a position to firstly consider if the site is contaminated and if it is contaminated, Council cannot determine or be satisfied that the site is suitable in its contaminated state or needs to be remediated before the site can be used for its intended uses as per the provisions of Clause 7(1) of SEPP55.”*

The applicant was therefore required to carry out a detailed contamination investigation of the site in accordance with the findings (conclusions and recommendations) of the Stage 1 Preliminary Investigation in order to establish if the site is contaminated or requires remediation in order to determine if the site is suitable for its proposed uses.

In response to this request the applicant submitted a Detailed Site Contamination Investigation prepared by HMC Environmental Referenced HMC 2012.052 CL and dated May 2012.

This Investigation concludes that further soil sampling for Organo Phosphate and Organo Chlorine Pesticides will need to be undertaken prior to the removal of the Bowling Green and car park associated with the Eastern development works associated with proposed Stage 4 of the development as well as the need for detailed visual assessment for asbestos fragments and fibres also in the area.

Council's Environmental Health Unit noted the following:

*“It is considered that council is **not in a position** to determine that the provisions of Clause 7 of SEPP 55 have been satisfied based upon the conclusions as submitted within the HMC Detailed Investigation.”*

The applicant was again requested to provide additional information to address the provisions of Clause 7 of SEPP 55 prior to the issue of any Consent. In response to this request the applicant provided a Preliminary Remediation Action Plan (RAP) prepared by HMC Environmental Consulting Report Ref.HMC2012.052 RAP and dated June 2012.

Council's Environmental Health Unit noted the following:

*“This RAP has been reviewed and is considered satisfactory.*

*It is noted that a discussion with Council's Waste Management Unit on 28 June 2012 revealed that soil that may be subject to contamination with asbestos fragments may be disposed of at Council's Stott's Island waste facility subject to proper handling and transportation conditions.”*

#### Dewatering:

A Dewatering Management Plan was submitted by the applicant, which states that the results of the preliminary groundwater and background receiving water investigation have revealed that the water quality of the extracted groundwater has the potential to adversely impact the receiving waters.

After a detailed analysis of the Dewatering Management Plan, Council's Environmental Health Unit provided the following comment:

*“Following a review of the Dewatering Management Plan it is considered that further information is required before the plan can be considered appropriate for the site works proposed.”*

The applicant was requested to provide additional information, which included additional groundwater investigation being undertaken in the area of the proposed double basement car park to investigate and characterise groundwater quality in this area associated with the identified indurated sand layer and in respect to the potential presence of hydrocarbon contamination. In addition, a revised site plan was requested which clearly identified the location of the required pre-treatment areas on the sites where dewatering pre-treatment is proposed.

In response to the above request the applicant submitted a Dewatering Management Plan Addendum prepared by HMC Environmental reference HMC 2012.052 dated May 2012, to accompany the original Dewatering Management Plan submitted by Precise Environmental.

Council’s Environmental Health Unit noted the following:

*“The Addendum Management Plan has been assessed in respect to the abovementioned additional information request and the following comments are provided:*

*The Addendum has not made any reference to the further information request item No 4, this information therefore remains outstanding and accordingly this information will be requested via the following condition to be placed on any consent issued.*

*Prior to the commencement of excavation works on site, an amended Dewatering Management Plan shall be prepared and submitted to council’s Environmental Health Officer for consideration and approval addressing the following:*

- *Review the contingency section of the Dewatering Management Plan provided by Precise Environmental dated February 2011 in relation to the feasibility of the discharge of treated groundwater to the sewer. This review shall be undertaken with the relevant section of council and the results reported in the Management Plan. Where it is concluded that discharge to the sewer is not feasible as contingency then other options shall be examined and reported within the Management Plan.*
- *Provide an amended Groundwater Treatment Layout Plan which clearly identifies the location of all reserve treatment areas that are available for the treatment of waters from the dewatering process prior to discharge.*
- *Provision of details regarding post construction monitoring of the groundwater if groundwater is to be discharged to the stormwater system post construction of the basement car parks.*
- *The provision of further details in consideration of the discharge point in relation to the dewatering operations where the discharge point of the dewatering operations is identified*

*as being into the Southern Boat Harbour and the requirement for any additional treatment of groundwater from the dewatering operations as a consequence of any discharge to the Southern Boat Harbour.*

*The Applicant shall comply with the provisions of the following Dewatering Management Plans ..... except where varied by conditions of this consent.”*

#### Noise

Council’s Environmental Health Unit provided the following comment with regard to noise:

*“An Environmental Noise Impact Report has been submitted with the application prepared by CRG Traffic and Acoustical Consultants reference crgref: 10542a and dated 19 May 2011. The Report has been reviewed and is considered satisfactory. Section 6 of the Report lists a series of recommendations referenced 6.1 to 6.4 for acoustic treatments in respect to the identified and considered noise impacts associated with the application.*

*It is considered that these recommendations can be incorporated into conditions of consent in relation to the application.”*

#### Food Handling:

Council’s Environmental Health Unit provided the following comment with regard to food handling issues:

*“It is noted that a café and convenience store are proposed associated with the seniors living stage. No floor plan layouts have been provided in relation to these facilities to assess in respect to compliance with the Food Safety Standards or AS 4674-2004 Design construction and fit-out of food premises.*

*It is considered that appropriate conditions can be placed on any consent requiring the provision of fit out plans for these areas.”*

After discussion with Council’s Environmental Health Unit, it was agreed that food handling conditions of consent were not considered necessary at this point in time. A condition of consent will be applied, requiring a First Use development application for the Convenience Store, Café and Beauty Salon. The abovementioned food handling conditions would then be applied to the future first use applications.

#### Clinical Waste Disposal:

Council’s Environmental Health Unit provided the following comment with regard to the disposal of clinical waste:

*“It is noted that medical services including treatment rooms are proposed associated with the seniors living stage.*

*It is considered that appropriate conditions can be placed on any consent in relation to the disposal of clinical and or contaminated waste from the operation of these services.”*



### Public Health Issues:

Council's Environmental Health Unit provided the following comment with regard to potential public health issues in relation to pools and legionella:

#### *"Pools:*

*It is noted that a hydrotherapy pool and swimming pool are proposed associated with the seniors living stage. As these pools are incorporated within the seniors living site, it is uncertain if the pools will be used solely by residents of the senior living or used by guests as well. The definition of a Public Swimming Pool under the provisions of the Public Health Act 2010 (not yet commenced) and the Public Health Swimming Pools and Spa Pools Regulation 2000 do not include pools that are used solely by residents of the proposed senior living. Therefore compliance with the provisions of the Regulation is not strictly required. However it is considered that Council can impose conditions from a duty of care perspective to require that the pools are maintained and operated to an acceptable standard to mitigate potential public health risks associated with the use of the pools by the occupants of the senior living establishment or their guests.*

*It is considered therefore that appropriate conditions can be placed on any consent in relation to the maintenance and operation of the proposed pools.*

#### *Legionella:*

*It is unknown whether regulated systems under the provisions of the Public Health Act 1991, the (Public Health Act 2010 not having as yet commenced) will be incorporated in the seniors living establishment. However it is not unreasonable to expect that given the type of seniors living establishment proposed that a warm water system will possibly be installed. A warm water system is included as a regulated system under the provisions of section 43 of the Public Health Act 1991.*

*Accordingly it is considered that appropriate conditions can be placed on any consent in relation to the operation of any such regulated systems in general in respect to Legionella."*

### Lighting:

Council's Environmental Health Unit provided the following comment with regard to potential lighting impact:

*"It is likely that security lighting and amenity lighting will be installed associated with the proposed car parks and senior living establishment. There are existing residential premises adjacent to the Stage 1 car park in McGregor Crescent and in opposite the site of the proposed senior living establishment in Brett Street.*

*It is considered that appropriate conditions can be placed on any consent with respect to lighting."*

### Landscaping:

The proposed development incorporates landscaping plans, which propose street tree plantings within the road reserve. Further detail is required in this regard and an applicable condition of consent has been applied which also requires approval from Council's Landscape Architect in terms of the plant species and possible location (if at all).

Stage 4 of the development proposes a masonry wall around the perimeter of the site, set among landscaping. The scale of the plans has made assessment of the wall / fence difficult. A condition of consent has been applied requiring further detail to ensure the walls comply with Council's standards.

**(c) Suitability of the site for the development**

Having assessed the proposed development against the applicable policies the proposal is considered to be suitable for the site, subject to compliance with all conditions of consent.

**(d) Any submissions made in accordance with the Act or Regulations**

No submissions were received during the public exhibition period, which ran from 7 December 2011 to 9 January 2012.

Development Traffic Advisory Group (DTAG)

DTAG is chaired by Council's Traffic Engineer, and also involves representatives from the RTA and NSW Police. The proposed development was referred to DTAG for consideration. Minutes from the DTAG meeting held on 23 February 2012 note the following advice:

1. *The swept path movements for service delivery vehicles be assessed for both internal movements and access to and from the site.*
2. *Pedestrian movements be considered with a view to providing pedestrian facilities on Powell Street between the proposed development and the Hospital.*

The applicant was requested to respond to the issues raised by DTAG. Plans were provided showing swept path vehicle movements for buses and service vehicles. Council's Development Engineer has noted that these plans are poor and show multiple overlaps and conflicts. As such, a condition of consent has been applied requiring the submission of revised plans for swept path movements. The second issue raised by DTAG does not appear to have been addressed by the applicant. As such, an appropriate condition of consent has been applied in this regard.

DECCW (NSW Office of Water)

The proposed development requires dewatering for the construction of the basements in Stages 2 and 3. As such, the application was referred to the NSW Office of Water (NOW) as Integrated development. NOW has since issued General Terms of Approval (GTA), which have been incorporated into the recommended conditions of consent.

Now was provided with a copy of the revised Dewatering Management Plan. However, no changes were required to the GTA's.

**(e) Public interest**

It is considered that the proposed mixed use development does not compromise the public interest. The proposal is generally considered to reflect the provisions of all applicable development control plans and intended development for the locality, subject to conditions of consent.

**CONTRIBUTIONS:**

The applicant's Engineering Impact Assessment incorporated contribution calculations for water, sewer and TRCP. However, these were not found to be correct, with some ET rates being higher than that used by Council and some ET rates being lower. In order to avoid future modifications in this regard, a thorough assessment of the development was undertaken, using rates applied consistently to this type of development, noting that contributions are applicable to Stage 3 and Stage 4 only. A copy of the breakdown for the contribution calculations is on the file. Standard conditions of consent have been applied for staged S94 and S64 contributions.

**OPTIONS:**

1. Approve the application, subject to the recommended conditions of consent
2. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has the option to appeal the matter in the NSW Land and Environment Court, should they be dissatisfied with the Panel's resolution.

**POLICY IMPLICATIONS:**

Nil

**CONCLUSION:**

The proposed development is consistent with the applicable environmental planning instruments, with an acceptable variation to Clause 16 of the Tweed LEP 2000. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

**UNDER SEPARATE COVER:**

Nil

**RECOMMENDATION:**

That:

1. State Environmental Planning Policy No. 1 objection to Clause 16 of the Tweed Local Environmental Plan 2000 regarding building height be supported

and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.

2. Development Application DA11/0582 for a staged redevelopment of Tweed Heads Bowling Club (4 stages) including formalising detached car park, construct new multi level car park, alterations and additions to existing club and construct seniors living development comprising 91 self-contained units (JRPP) at Lot 12 DP 803451 22-38 Florence Street, Lot 61 DP 237806, Lot 1 DP 549328, Lot 2 DP 549328 and Lot 64 DP 237806 No. 58-64 Wharf Street, TWEED HEADS, be approved subject to the following conditions: -

## GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans:
  - **Dwg 1019/DA/0.02 (Rev B)** - Proposed Precinct Plan, prepared by WBP Architects and dated 4 May 2012;
  - **Dwg 1019/DA/2.01 (Rev B)** - Seniors Living Site / Level 1 (Ground Floor), prepared by WBP Architects and dated 4 May 2012;
  - **Dwg 1019/DA/2.02 (Rev B)** - Seniors Living Basement Plan, prepared by WBP Architects and dated 4 May 2012;
  - **Dwg 1019/DA/2.03 (Rev B)** - Seniors Living Level 2, 3, 4 Floor Plans, prepared by WBP Architects and dated 8 May 2012;
  - **Dwg 1019/DA/2.04 (Rev A)** - Seniors Living Roof Plan, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/2.05 (Rev A)** - Seniors Living Units Details Plans - Type A, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/2.06 (Rev A)** - Seniors Living Units Details Plans - Type B, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/2.07 (Rev B)** - Seniors Living Units Details Plans - Type C, prepared by WBP Architects and dated 8 May 2012;
  - **Dwg 1019/DA/2.08 (Rev C)** - Stage 2 : West Carpark Layout, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/2.09 (Rev A)** - Stage 3 : West Carpark and Club Extension - Ground Floor Plan, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/2.10 (Rev A)** - Stage 3 : West Carpark Basement Plans, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/2.11 (Rev A)** - Stage 3 : Club Extension - Upper Floor Plan, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/3.01 (Rev A)** - Sections: Senior Living, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/3.02 (Rev A)** - Stage 3: West Carpark and Club Extension - Sections & Elevations, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/3.03 (Rev A)** - Stage 2: West Carpark and Club Extension - Sections, prepared by WBP Architects and dated 30 May 2011;
  - **Dwg 1019/DA/4.011 (Rev B)** - Coloured Elevations: Senior Living, prepared by WBP Architects and dated 30 May 2011; and
  - **Dwg 1019/DA/4.022 (Rev B)** - Coloured Elevations: Senior Living,

prepared by WBP Architects and dated 30 May 2011,  
except where varied by the conditions of this consent.

[GEN0005]

2. The proposed Convenience Store, Café and Beauty Salon within Stage 4 must each be the subject of a future first use application.  
[GEN0035]
3. Advertising structures/signs to be the subject of a separate development application (where statutorily required).  
[GEN0065]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
5. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the developer's expense.  
[GEN0135]
6. Sewer manholes are present on this site. These manholes are not to be covered with soil or other material.  
Should adjustments be required to the sewer manholes, then application shall be made to Council's Community and Natural Resources Division for approval of such works.  
[GEN0155]
7. The applicant shall arrange for a site inspection to be carried out with Council's Environmental Health Officer and key representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General Manager or his delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.  
[GEN0180]
8. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.  
[GEN0190]
9. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.  
[GEN0265]
10. The owner is to ensure that the proposed buildings are constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]
11. Staging of the development is approved as follows:

Stage 1 - formalisation of the existing detached car park at 58 - 64 Wharf Street, which will provide 56 spaces.

Stage 2 - construction of a new multi level basement car park on the Tweed Heads Bowls Club site, to replace the existing at grade parking area. The new car parking will provide two basement levels, with a total of 179 car parking spaces.

Stage 3 - the expansion of the existing Stage 2 basement car park, by providing a third car park at entry level, the expansion of the existing club foyer area, including new Porte Cochere, pedestrian entry from Florence Street and roof façade screen.

Stage 4 - construction of a 91 unit serviced self-contained seniors living development, adjacent to Powell Street and Brett Street. The units will be in two separate blocks, built around a central open space core. Car parking will be provided in the basement of each block.

12. Only the following kinds of people may occupy the development with Stage 4:
  - Seniors or people who have a disability (in accordance of the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
  - People who live within the same household with seniors or people who have a disability;
  - Staff employed to assist in the administration of and provision of services to housing provided under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.[GENNS02]
13. No street tree plantings or landscaping in general is permitted within any road reserve, without the written approval from Council's Landscape Architect.

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

14. The developer shall provide modified / further parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code, as per the following schedule:
  - Stage 1: 56 spaces in the upgraded McGregor Crescent parking area.
  - Stage 2: 88 spaces in the redeveloped western car park (2 levels).
  - Stage 3: 111 spaces in the redeveloped western car park (3<sup>rd</sup> level).
  - Stage 4: 145 spaces (11 ground level and 134 basement) plus 4 ancillary spaces for the Seniors Living development fronting Powell Street; as well as modifying the existing eastern car park by removing 4 spaces.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a construction certificate.

[PCC0065]

## 15. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

**A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT**

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

### **Stage 3**

- (a) Tweed Road Contribution Plan:
- |                                    |          |
|------------------------------------|----------|
| 180 Trips @ \$822 per Trips        | \$147960 |
| (\$815 base rate + \$7 indexation) |          |
| S94 Plan No. 4                     |          |
| Sector1_4                          |          |
- (b) Extensions to Council Administration Offices & Technical Support Facilities
- |   |          |
|---|----------|
| 0.1459 ET @ \$1812.62 per ET              | \$264.46 |
| (\$1759.9 base rate + \$52.72 indexation) |          |
| S94 Plan No. 18                           |          |

### **Stage 4**

- (a) Tweed Road Contribution Plan:
- |                                    |          |
|------------------------------------|----------|
| 278.7 Trips @ \$822 per Trips      | \$229091 |
| (\$815 base rate + \$7 indexation) |          |
| S94 Plan No. 4                     |          |
| Sector1_4                          |          |
- (b) Shirewide Library Facilities:
- |                                     |         |
|-------------------------------------|---------|
| 54.6259 ET @ \$816 per ET           | \$44575 |
| (\$792 base rate + \$24 indexation) |         |
| S94 Plan No. 11                     |         |

- (c) Bus Shelters:  
54.6259 ET @ \$62 per ET \$3387  
(\$60 base rate + \$2 indexation)  
S94 Plan No. 12
- (d) Eviron Cemetery:  
54.6259 ET @ \$121 per ET \$6610  
(\$101 base rate + \$20 indexation)  
S94 Plan No. 13
- (e) Community Facilities (Tweed Coast - North)  
54.6259 ET @ \$1352 per ET \$73854  
(\$1305.6 base rate + \$46.4 indexation)  
S94 Plan No. 15
- (f) Extensions to Council Administration Offices  
& Technical Support Facilities  
54.9104 ET @ \$1812.62 per ET \$99531.69  
(\$1759.9 base rate + \$52.72 indexation)  
S94 Plan No. 18
- (g) Cycleways:  
54.6259 ET @ \$460 per ET \$25128  
(\$447 base rate + \$13 indexation)  
S94 Plan No. 22
- (h) Regional Open Space (Casual)  
54.6259 ET @ \$1064 per ET \$58122  
(\$1031 base rate + \$33 indexation)  
S94 Plan No. 26
- (i) Tweed Heads Master Plan:  
91 MDU @ \$1047 per MDU \$95277  
(\$1047 base rate + \$0 indexation)  
S94 Plan No. 27

[PCC0215]

## 16. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate for works under Stages 2 or 4 shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in



the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

### Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod.      projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist.      average haulage distance of product on Shire roads  
(trip one way)

$\text{\$Unit}$       the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

Admin.      Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

17. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

### Stage 3

Water DSP4:    9 ET @ \$12150 per ET      \$109350

Sewer Banora: 14.4 ET @ \$5838 per ET      \$84067.2

### Stage 4

Water DSP4: 47.68 ET @ \$12150 per ET \$579312

Sewer Banora: 61.915 ET @ \$5838 per ET\$361459.8

**A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT**

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0265]

18. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the (public infrastructure - insert / delete as applicable) works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

19. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

20. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate for each relevant stage.

[PCC0585]

21. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.

22. All basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.6m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Principle Certifying Authority prior to the issue of a Construction Certificate.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS3500.3.2 1998 *"National Plumbing and Drainage - Part 3.2: Stormwater Drainage - Acceptable Solutions"*

[PCC0685]

23. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

(a) Stage 1:

- The three existing driveways in McGregor Crescent and the existing driveway access in Florence Street are to be removed and kerb and guttering reinstated to match existing.
- Concrete footpaving (1.2m wide minimum) is to be installed for the length of the site on McGregor Crescent and remaining nature strip remediated to Council standards.
- The new proposed driveway accessing McGregor Crescent is to be installed to Council's standards.
- Car park lighting should be installed to AS1158 Streetlighting - Carparks and to AS4282 Control of the obtrusive effects of outdoor lighting.

(b) Stage 4:

- The proposed driveway to Powell Street conflicts with an existing telephone booth. Either the driveway is to be relocated (providing opportunity to improve the tight bend near the front boundary), OR the existing telephone booth is to be relocated. This must be resolved to the satisfaction of Council prior to the issue of any construction certificate for Stage 4 works.
- The existing driveway access is to be removed and kerb and guttering reinstated to match existing.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings

- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

24. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

25. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

26. Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enter into a contract regarding liability for the ground anchors and lodges an application under Section 138 of the Roads Act together with an application fee of \$10,000 and a bond of \$25,000 for each road frontage. This bond will be refunded upon the removal of the ground anchors. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

27. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority **PRIOR** to the issue of any construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

28. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.

- (d) Specific Requirements to be detailed within the Construction Certificate application include:
- (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

29. Any construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

30. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

31. This condition is relevant to Stage 4:

Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act, 2000 to be certified by an Accredited Certifier.

[PCC1185]

32. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of any construction certificate.

33. In accordance with Section 68 of the Local Government Act, application shall be made to Council for any proposed sewerage drainage system. Detail shall include hydraulic drawings, pipe sizes, details of materials and discharge temperatures.

34. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

35. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

36. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

37. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Tweed Shire Councils Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with AS 3500 shall be submitted to Council for approval.

38. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.

39. The club building has been the subject of an alternate solution therefore an appropriately qualified fire engineer is to review the existing Fire Engineered solution by ARUP Fire June 2007 relating to the club building and the proposed building works in light of the recommendations and requirements of the aforementioned report. This engineer is to provide a report in respect of his/her recommendations ensuring an adequate level of fire safety to the building in accordance with the relevant performance criteria of BCA 2011, which is to be submitted to the nominated PCA for assessment and approval prior to the issue of the relevant Construction Certificate.

40. The club building has been the subject of an alternate solution by ARUP Fire June 2007 therefore any building works relating to portions of the existing building are to incorporate relevant fire upgrading as required by

the aforementioned report. Details of these fire upgrading works are to be submitted to the nominated PCA for assessment and approval prior to the issue of the relevant Construction Certificate. Alternatively a new alternate solution prepared by a suitably qualified fire engineer may be submitted to the nominated PCA for assessment and approval prior to the issue of the relevant Construction Certificate.

[PCCNS02]

41. Prior to the issue of a construction certificate for any works associated with the Stage 3 Club extension works, it must be verified by survey that the building extension will not encroach into the existing Right of Carriageway 12m wide and variable that encumbers the site, as created by DP596371. Any encroachment will require extinguishment or relocation of the Right of Carriageway, prior to the issue of a construction certificate.

[PCCNS03]

42. Prior to the issue of a construction certificate for any work associated with Stage 4, the availability of a sewer connection must be determined.

Records indicate that there may be an existing connection available at manhole 1/25, and if so, both sections of the Seniors Living development are to be connected to it. If not, the proponent will have to apply for the installation of a new junction at a suitable location

[PCCNS04]

43. This condition is relevant to Stage 4:  
The proponent shall submit to Council for approval details of measures that will be used to prevent any damage to Council's sewer mains adjoining the site in Powell and Brett Streets and shall provide to Council before and after video surveys of the sewer mains to demonstrate that no damage has been caused by the work in close proximity to the sewer. The proponent shall be responsible for making good any damage caused to the sewer main.
44. This condition is relevant to Stage 4:  
The swept path vehicle movements for service delivery vehicles and buses be assessed and verified for compliance, for both internal movements and access to and from the site, prior to the issue of any construction certificate for Stage 4 works.

[PCCNS05]

45. Details on possible pedestrian movements are to be investigated and possible pedestrian facilities on Powell Street between the proposed development and the Hospital are to be submitted to and approved by Council's General Manager or his delegate prior to the issue of a construction certificate for Stage 4.
46. Front wall / fence details (along the Brett Street and Powell Street frontages) are to be submitted and approved by Council's General Manager or his delegate prior to the issue of a construction certificate for

Stage 4. The details are to demonstrate a compliant design in terms of height and transparency provisions for residential development.

47. Details on the proposed garbage chute for the Seniors Living development are to be submitted to and approved by Council's General Manager or his delegate prior to the issue of a construction certificate for Stage 4.
48. Prior to the issue of a construction certificate for Stage 4, detailed documentation shall be submitted to the satisfaction of the Principal Certifying Authority, demonstrating strict compliance with all relevant provisions of the accessibility and usability standards for self contained dwellings (under Schedule 3 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004).
49. Prior to the issue of a construction certificate for Stage 4, a construction waste management plan is to be provided to and approved by Council's General Manager or his delegate. The waste management plan is to include:
  - a. Construction
    - i. The type of waste generated during construction
    - ii. The method and location of waste storage on site
    - iii. How many recyclable materials will be managed
    - iv. The location of the disposal facility for residual waste

During the demolition and construction phases it is the responsibility of the applicant (via site manager or similar) to ensure that all waste management measures are inspected and maintained on a daily basis.

#### **PRIOR TO COMMENCEMENT OF WORK**

50. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.
51. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations. [PCW0005]
52. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work in any relevant stage has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:



- (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
- (e) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

53. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0225]

54. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - \* in the name and licence number of the principal contractor, and
    - \* the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - \* the name of the owner-builder, and
    - \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

55. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

56. **Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

57. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

58. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

59. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:
- (a) The person must, at the person's own expense:
    - (i) preserve and protect the building / property from damage; and
    - (ii) if necessary, underpin and support the building in an approved manner.
  - (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

60. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and roads are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site. The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining/adjacent owners confirming agreement that no damages have occurred/repairs carried out are acceptable.

61. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with any erosion and sedimentation control plan and adequately maintained throughout the duration of the development. In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

62. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

63. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

64. An Approval to Install a Waste Treatment Device shall be obtained prior to the commencement of the installation of the facility.

65. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on

Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

66. Prior to the commencement of excavation works on site, an amended Dewatering Management Plan shall be prepared and submitted to Council's Environmental Health Officer for consideration and approval addressing the following:

- *Review the contingency section of the Dewatering Management Plan provided by Precise Environmental dated February 2011 in relation to the feasibility of the discharge of treated groundwater to the sewer. This review shall be undertaken with the relevant section of council and the results reported in the Management Plan. Where it is concluded that discharge to the sewer is not feasible as contingency then other options shall be examined and reported within the Management Plan.*
- *Provide an amended Groundwater Treatment Layout Plan which clearly identifies the location of all reserve treatment areas that are available for the treatment of waters from the dewatering process prior to discharge.*
- *Provision of details regarding post construction monitoring of the groundwater if groundwater is to be discharged to the stormwater system post construction of the basement car parks.*
- *The provision of further details in consideration of the discharge point in relation to the dewatering operations where the discharge point of the dewatering operations is identified as being into the Southern Boat Harbour and the requirement for any additional treatment of groundwater from the dewatering operations as a consequence of any discharge to the Southern Boat Harbour.*

[PCWNS01]

## **DURING CONSTRUCTION**

67. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, approved management plans, drawings and specifications.

[DUR0005]

68. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

69. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

*L<sub>Aeq, 15 min</sub>* noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the

nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

70. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

71. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

72. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

73. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

74. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
- (b) The chute shall be located in a position approved by the Principal Certifying Authority.
- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

75. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

76. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

77. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise

unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

78. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

79. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

80. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

81. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

82. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines

on working with asbestos.

[DUR0645]

83. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

84. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

85. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

86. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

87. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

88. All works shall be carried out in accordance with the Acid Sulfate Soils Investigation and Management Plan prepared by HMC Environmental Consulting Reference HMC 2012.052 ASSMP , dated May 2012.

[DUR1065]

89. This condition is relevant to Stage 4:

A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that the habitable floor levels of the buildings to be at a level of not less than RL 3.1m AHD.

[DUR1445]

90. All walls in the food preparation and storage areas shall be of solid construction. For this purpose walls in such areas may be of masonry or stud wall construction. If stud wall construction is used then the wall shall be lined as a **minimum** with 9mm thick high impact resistant material eg. Villaboard or Versilux lining or other suitable material(s) approved by Council's Environmental Health Officer **and** tiled to a height of at least 2 meters.

Masonry walls where not tiled may be cement rendered to provide a smooth faced impervious finish up to the underside of the ceiling.

Metal stud wall framing in lieu of timber framing shall be used in areas where the walls and floor surfaces will be subjected to high levels of moisture or alternatively as directed by Council's Environmental Health Officer.

All penetrations of the wall surface in food preparation areas shall be effectively sealed to the satisfaction of Council's Environmental Health officer.

[DUR1495]

91. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.

[DUR1505]

92. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[DUR1515]

93. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

94. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be installed in accordance with the requirements of Part 2, Clauses 6, 7 and 8 of the Public Health (Microbial Control) Regulation 2000.

[DUR1645]

95. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

96. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

97. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

98. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[DUR1725]

99. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all



warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

100. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

101. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

102. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

103. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

104. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

105. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2007 & AS 1926.3 -2003. (Refer Council's web site [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au))
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

106. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

107. The spa pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS1926-2007 (Refer Council's web site [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)).

[DUR2115]

108. Spa pools shall have suitable means for the drainage and disposal of overflow water.

[DUR2125]

109. The spa filter and any pumps or aerators are to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

[DUR2135]

110. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.

[DUR2185]

111. A garbage storage area shall be provided in accordance with Council's **"Code for Storage and Disposal of Garbage and Other Solid Waste"**.

[DUR2195]

112. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

113. Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the NSW Department of Environment and Climate Change.

[DUR2215]

114. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR2245]

115. Council's Environmental Health Officer shall be advised within 24 Hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.

[DUR2315]

116. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

117. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

118. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

(a) internal drainage, prior to slab preparation;

- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

#### 119. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

120. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

121. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

122. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

123. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

124. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

125. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- \* 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

126. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR2675]

127. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement

128. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located and installed so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the **NSW Protection of the Environment Operations (Noise Control) Regulation 2008**.

[DUR2835]

129. In the event that Remediation of identified contaminated material is necessary as a consequence of Stage 4 development works then such contaminated material shall be managed in accordance with the Preliminary Remediation Action Plan prepared by HMC Environmental Consulting Reference HMC 2012.052 RAP and dated June 2012 or as amended and approved by Councils Environmental Health Officer.

[DURNS01]

130. The proposed security gate within the basement level of Stage 4 is to be power operated, in accordance with the provisions of the SEPP (Housing for Seniors or People with a Disability) 2004.

[DURNS02]

131. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment and Climate Change are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DURNS03]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

132. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

133. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

134. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

135. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

136. This condition is relevant to Stage 4 and must be satisfied prior to occupation or use of Stage 4 works:

A Flood Response Assessment Plan is required for the 'Seniors Living' portion of the site. The information in this plan will need to be conveyed to all future residents and staff, to ensure they are all aware of their required actions and responsibilities in the event of an extreme flood.

Section 88B (Conveyancing Act 1919) Covenant(s) shall be placed over the land to ensure that all measures in the 'Flood Response Assessment

Plan' shall be enforced in perpetuity, in compliance with the flood emergency response provisions of Council's DCP Section A3 and Flood Risk Management Policy.

[POCNS01]

137. This condition is relevant to Stage 4:

In acknowledgement of the likelihood that some of the future residents will not have a motor vehicle, it is recommended that each unit should not be sold / leased with an accompanying car parking space - but that car spaces are individually attributed to units as they are occupied. The applicant is required to formally address this issue prior to occupation or use of the 'Seniors Living' portion of the development.

[POCNS02]

138. A protocol is to be established and maintained to manage the relationship between the Seniors Living development and the gambling facilities provided by the Club. The protocol is to demonstrate how harm associated with the misuse and abuse of gambling activities by residents of the Seniors Living development is to be minimized. The protocol is to be incorporated into the management responsibilities of both the Club and the Seniors Living development. A copy of the protocol is to be provided to Council.

**USE**

139. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

140. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

141. All deliveries to the premises are to occur only within the hours of 7am to 6pm Monday to Sunday, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted.

[USE0195]

142. All deliveries to the premises are to occur only within the hours of 7am to 6pm Monday to Sunday, unless otherwise approved by Councils General Manager or his delegate. Urgent or medical related deliveries exempted.

[USE0195]

143. The development shall be carried out in accordance with the provisions of the Environmental Noise Impact report prepared by CRG Traffic and Acoustical Consultants reference crgref: 10542a and dated 19 May 2011.

[USE0305]

144. The use being restricted to the floor area designated on the approved plan. Use of the Stage 4 development does not include tourist development or tourist accommodation.

145. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

146. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

147. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be maintained in accordance with the requirements of Part 4, Clauses 11, 12 and 13 of the Public Health (Microbial Control) Regulation 2000, and a certificate to confirm that the regulated system is being maintained shall be submitted to Council on a 12 Monthly basis.

[USE0945]

148. Any person carrying out skin penetration on the premises shall cause a copy of the NSW Health Guidelines on Skin Penetration and also a copy of the NSW Health, Skin Penetration Code of Best Practice to be kept on the premises.

[USE0955]

149. The carrying out of any skin penetration procedure as defined in Section 51(3) of the Public Health Act 1991 is prohibited without the prior approval of Council's Environmental Health Officer.

[USE0960]

150. The premises shall be operated in accordance with the *Public Health (Skin Penetration) Regulation* 2000 and current NSW Health Skin Penetration Code of Best Practice and Guidelines.

[USE0975]

151. The premises shall be operated in accordance with the *Public Health (Swimming Pools and Spa Pools) Regulation* 2000 and the current NSW Health Public Swimming Pool and Spa Pool Guidelines.

[USE0985]

152. Clinical wastes shall be separated from the general waste stream and disposed via a clinical waste collection and disposal service. Suitable arrangements shall be made for the collection and disposal of clinical wastes to the satisfaction of the General Manager or his delegate.

[USE0995]

153. The premises must be provided with facilities that are adequate for the purpose of keeping towels, appliances, utensils and the like clean.

[USE1005]

154. Suitable receptacles with close fitting lids must be provided and maintained in a clean and serviceable condition for soiled towels and trade wastes.

[USE1015]

155. A sharps container shall be provided for the storage of used disposable needles in any skin penetration process. The sharps container shall be collected by an authorised medical waste collection service to the satisfaction of Council's General Manager or his delegate.

[USE1025]

156. Suitable road access shall be maintained so as to ensure waste service vehicles may traverse in a forward motion at all times

[USE0901]

157. Prior to commencement of use of the Stage 1 upgraded car park, the four lots comprising the McGregor Crescent site are to be consolidated into a single allotment under one title. Documentary evidence of

registration of the consolidation plan is to be submitted to Council and the Principal Certifying Authority.

[USENS01]

158. This condition is relevant to Stage 1:  
Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[USENS02]

## **GENERAL TERMS OF APPROVAL FOR WORK REQUIRING A LICENSE UNDER THE WATER ACT 1912**

159. Before commencing any works or using any existing works for the purpose of dewatering an approval under Part V of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
160. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
161. When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.
162. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
163. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
164. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
165. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
166. The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
167. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
168. If and when required by the Department, suitable devices must be installed to accurately measure the quality of water extraction or diverted by the works.
169. All water measuring equipment must be adequately maintained. It must be tested as and when required by the department to ensure its accuracy.
170. The water extracted under the approval to be granted shall be used for the purpose of dewatering and for no other purpose. A proposed change in purpose will require a replacement license to be issued.
171. Works for construction of a bore must be completed within such period as specified by the Department.
172. Within two months after the works are completed the Department must be provided with an accurate plan of the location of the works and

notified of the results of any pumping tests, water analysis and other details as are specified in the approval.

173. Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
174. Any water extracted by the works must not be discharged into any watercourse or groundwater if it would pollute that watercourse.
175. The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
176. The licensee must allow authorised officers of the Department, and it's authorised agents reasonable access to the licensed works with vehicles and equipment at any time for the purposes of:
  - inspecting the said work
  - taking samples of any water or material in the work and testing the samples.
177. The licensee shall within 2 weeks of being notified install to the satisfaction of the Department in respect of location, type and construction an appliance(s) to measure the quantity of water extracted from the works. The appliance(s) to consist of either a measuring weir or weirs with automatic recorder, or meter or meter(s) of measurement as may be approved by the Department. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to the Department upon request. The licensee when requested must supply a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person duly qualified.
178. The authorised work shall not be used for the discharge of polluted water into a river or lake otherwise than in accordance with the conditions of a licence granted under the protection of the Environment Operations Act 1997. A copy of the licence to discharge is to be provided to the Department.
179. The maximum term of this licence shall be six (6) months.
180. The volume of groundwater extracted from the work authorised by this licence shall not exceed 50 megalitres for the term of the licence.
181. The authorised work shall not be used for the discharge of water unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
182. The licensee shall test the ph of any water extracted from the work prior to the commencement of discharge and at least twice daily thereafter and record the date, time and result of each test in the site log. A copy of the records of the ph testing is to be returned with the form 'AG'.
183. The work shall be managed in accordance with the constraints set out in an Acid Sulfate Soil Management Plan and Dewatering Management Plan.
184. The retention or holding pond must be lined with an impermeable material (such as clay or geotextile) to prevent seepage, leakage or infiltration of treated water.