

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	2012NTH016
DA Number	DA11/0257
Local Government Area	Tweed Shire
Proposed Development	Demolition of the existing Police Station and two residences to enable the construction of a new two (2) storey Police Station (to be used for the Tweed Byron command). The proposed structure also incorporates an underground storey (basement) for carparking.
Street Address	Lot 701 DP1002309, Pearl Street and Marine Parade, Kingscliff
Applicant/Owner	UGL Services c/ New South Wales Police Force
Number of Submissions	<p>Fifty (50) which is comprised of:</p> <ul style="list-style-type: none"> • A <u>petition</u> submitted by Mr Geoffrey Provest MP containing more than <u>2000 signatures</u>; • A submission (<u>petition</u>) containing six (6) additional signatures; • A joint submission from the Tweed Chamber of Commerce, Kingscliff Chamber of Commerce and Murwillumbah Chamber of Commerce; • An individual submission from the Tweed Chamber of Commerce; • An individual submission from the Kingscliff & District Chamber of Commerce; and • 45 individual letters of objection. <p>The 50 submissions are in addition to the 5 original submissions and 3 subsequent submissions. All of which are considered in this report.</p>
Recommendation	Refusal
Report by	Denise Galle, Co-ordinator Development Assessment
Report date	21 November 2012

Assessment Report and Recommendation

FILE NO: DA11/0257

REPORT TITLE:

Development Application DA11/0257 for the demolition of the existing Police Station and two residences to enable the construction of a new two (2) storey Police Station (to be used for the Tweed Byron command). The proposed structure also incorporates an underground storey (basement) for carparking at Lot 701 DP 1002309; Pearl Street KINGSCLIFF

SUMMARY OF REPORT:

Summary

The subject application was originally lodged with Tweed Shire Council in May 2011 and sought approval for a new police station to replace the existing, smaller police station, as well as the two adjoining single storey dwellings. The project was considered a Crown Development and had an estimated cost of development of \$8 million thus requiring determination by the Joint Regional Planning Panel in accordance with the then State Environmental Planning Policy (Major Development) 2005 Clause 13B (1) (b) (i) for a Crown Development with an estimated cost exceeding \$5 million.

Council advertised the development, considered the submissions, assessed the application as lodged and also considered various amendments and additional information supplied by the applicant. Following this process the application was reported to the Joint Regional Planning Panel for determination in September 2011. Council recommended refusal of the application given the significant shortfall of on-site car parking as well as the questionable site suitability.

The 'Environmental Planning and Assessment Act 1979' (EP&A Act) does not allow a consent authority to refuse a Crown Development application, except with the approval of the Minister. It was therefore recommended that the Joint Regional Planning Panel refer the proposal to the Minister with proposed reasons for refusal.

On 12 September 2011 the Joint Regional Planning Panel resolved to defer the determination of the application to allow the proponent and Council to negotiate on the issue of carparking. Accordingly the proponent and Council entered into discussions regarding car parking. The applicant also produced a revised Transport and Traffic Assessment as well as modified basement and ground floor plan to demonstrate an additional 16 spaces on site. Council's assessment revealed that this still resulted in a shortfall of 5 spaces. In order to compensate for this shortfall, conditions of approval were recommended to require the provision of angled on-street car parking on the eastern side of Marine Parade. A draft set of conditions, including the requirement for angled on-street parking were forwarded to the applicant on 4 October 2011. As the development is a Crown Development, conditions cannot be imposed without agreement by the Crown. The applicant did not concur to critical conditions and accordingly Council again recommended refusal.

On 17 October 2011 the Joint Regional Planning Panel resolved that the application be approved in principle subject to Council and the applicant holding further negotiations to

seek agreement and both parties reporting back to the Panel. The Panel noted that the Police Force is an important community service, and that it must be accommodated somewhere, and wherever it is located it will have some local impact.

In accordance with this resolution the proponent and Council again entered into discussions regarding the three key points of contention which were payment of contributions, management and availability of onsite car parking and provision of angled parking in Marine Parade. No agreement on the three main points was able to be reached and Council accordingly recommended refusal of the application as the applicant had not agreed to conditions which would ensure compliance with the necessary provisions of the Act.

On 24 November 2011 the Panel Chair proposed approval of the application to the Panel Members subject to those conditions which the proponent had endorsed. The Panel with a majority vote (4:1) approved the development application. In accordance with this recommendation Tweed Shire Council issued the approval notice on 6 December 2011.

In February 2012 a third party appeal was lodged with the NSW Land and Environment Court against the development consent (DA11/0257) issued by Council. The appeal was made by Tweed Business and Residents Focus Group Inc who contended that:

1. The subject property was not identified correctly in the notification letter; and
2. The description of the development in the notification letter did not permit an understanding of the scale of the proposed police station.

The Class 4 appeal proceedings were held before Justice Biscoe on 19 July 2012. The first point was not successful however the Court agreed with the second claim. In summary the Court found that the notification letter should have included the demolition of the two police houses on the site and if it did the adjacent residents would have had a better understanding of the proposal.

The successful challenge means that the police station development consent is invalid and cannot be acted upon.

Whilst the determination was declared invalid the development application remains valid and the applicant has requested (3 September 2012) a reassessment and redetermination of the development application as follows.

"The declaration of invalidity in relation to the development consent does not affect the development application: it simply converts to an undetermined development application. We formally request that Council re-notify, re-assess and have the Regional Panel re-determine the development application."

Based on this request Council staff have re-notified and re-advertised the proposed development with a revised description and property address as follows.

"Development Application DA11/0257 - demolition of the existing Police Station and two residences to enable the construction of a new two (2) storey Police Station (to be used for the Tweed Byron command). The proposed structure also incorporates an underground storey (basement) for carparking (JRPP) at Lot 701 DP 1002309, Pearl Street and Marine Parade Kingscliff"

The applicant has not amended their application in any way to that ultimately determined by the Joint Regional Planning Panel in December 2011. The application still comprises a Crown Development with an estimated cost of development of \$8 million. This type of development still triggers determination by the Joint Regional Planning Panel in accordance with the now Schedule 4A of the EP&A Act as Crown Development exceeding \$5 million dollars (previously triggered by the SEPP (Major Development) 2005).

The development was placed on public exhibition between Wednesday 12 September 2012 and Wednesday 26 September 2012. The application placed on re-exhibition comprised the original application as lodged, the amended plans, the additional information lodged throughout the original assessment of the application and all supporting material as ultimately determined by Joint Regional Planning Panel in December 2011.

The re-exhibition of the application has attracted 50 additional submissions which include a petition submitted by Mr Geoffrey Provest MP containing more than 2000 signatures and submissions from Tweed Chamber of Commerce, Kingscliff Chamber of Commerce and Murwillumbah Chamber of Commerce. The 50 submissions are in addition to the 8 submissions originally considered. All of which are considered in this report.

Council Officers have re-assessed the subject application and taken into account all the submissions received during the re-notification period. The application still incorporates a shortfall of on-site car parking, still presents as a large commercial type building in a residential precinct, and still fails to adequately respond to the issues raised in the submissions. For these reasons the Council is again recommending refusal of the application. However, the EP&A Act does not allow a consent authority to refuse a Crown development application, except with the approval of the Minister. It is therefore recommended that the Joint Regional Planning refers the proposal to the Minister with proposed reasons for refusal.

Current Proposal

The application seeks consent for the demolition of the existing Police Station and the two adjoining residences to enable construction of a new two storey Police Station (with basement parking area) to be used as the Tweed Byron Command.

A detailed description of the proposal is provided below.

Basement

The basement includes:

- 16 car spaces (including 1 disabled access parking),
- 6 additional car parking spaces in tandem formation,
- 2 car wash bays,
- 1 Police Service Vehicle (Mobile Police Station) space,
- Bike storage and parking areas, and
- 145m² storage area

The basement is approximately 4 metres below the natural ground level at RL 3m.

Ground Floor Level

The development presents itself to Marine Parade and provides a disabled access ramp for pedestrian access. The development at ground level incorporates four vehicular crossovers along Kingscliff Street, one vehicular crossover to Marine Parade, and the formalisation of seven on-street parking spaces within the Marine Parade road reserve to be utilised for first response vehicles (including one disabled space). The ground floor has a gross floor area of approximately 1600m² comprising:

- Office areas,
- Storage areas,
- Staff facilities,
- Custodial areas,
- 7 car parking spaces in the holding yard garaged area (for impounded or crash victim vehicles),
- 1 trailer store space (internal),
- 1 special vehicle store space (internal),
- 2 operational car spaces in the holding yard (external),
- 1 additional operation car space,
- 1 Police service vehicle; and
- 10 car parking spaces in an outdoor unsecured parking area at the southern end of the site.

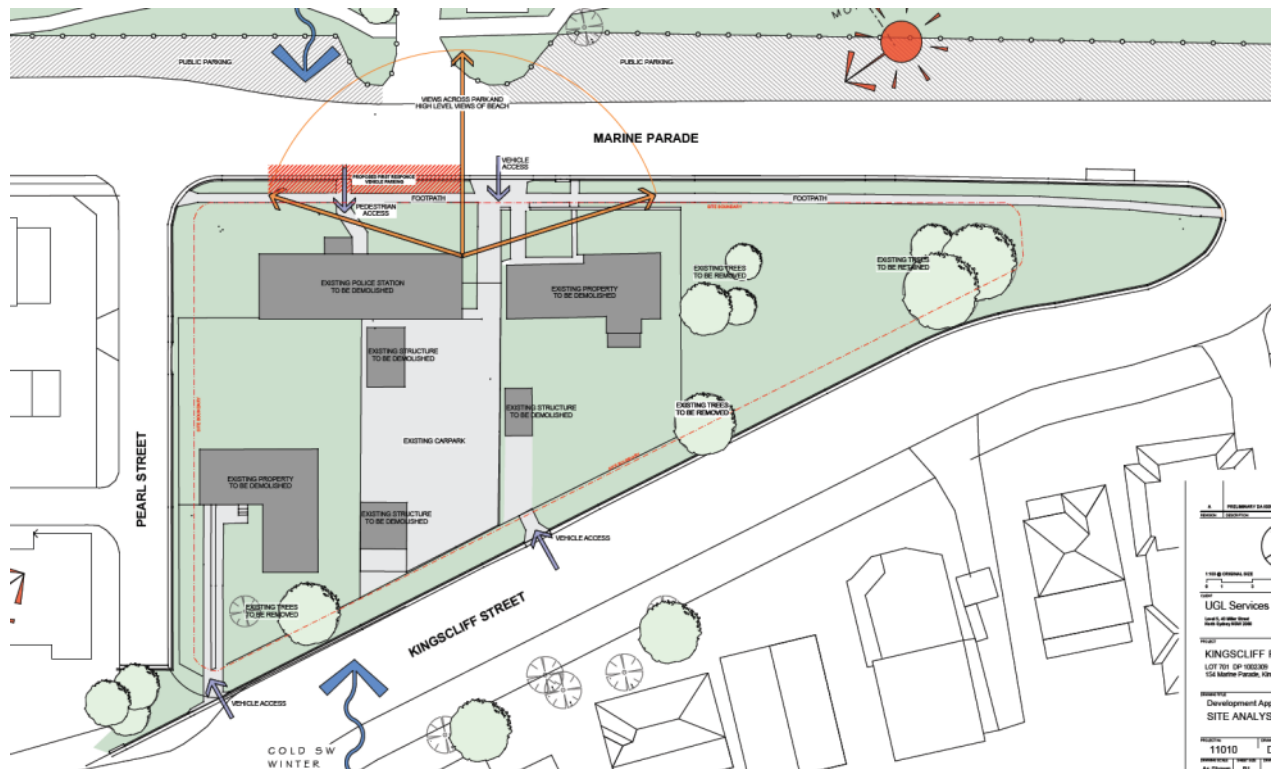
First Floor Level

The first floor includes:

- Office space,
- Storage areas,
- Training and conference area, and
- Staff facilities including lockers, meals room, nursing areas and fitness area.

Demolition

The new police station will require demolition of the existing police station and the two existing on-site dwellings currently owned by the Police.



Source: 'Statement of Environmental Effects', Newton Denny Chapelle, (May 2011, page 6)

Design

The proposed building is of contemporary appearance, constructed as a concrete framed structure. The design of the building has attempted to reflect the coastal character of surrounding residential buildings through "mono-pitched roof forms" and by modulating the facade facing Marine Parade to reflect a residential scale (refer perspective below).

It is proposed to finish the building with textured precast concrete, zinc cladding, semi-polished honed blockwork, natural aluminium framed tinted glass and stainless steel.

The building has a height of 7.2 metres (RL14.2 metres AHD).

Access/Roads

The development at ground level incorporates four vehicular crossovers along Kingscliff Street, one vehicular crossover to Marine Parade, and the formalisation of seven on-street parking spaces within the Marine Parade road reserve to be utilised for first response vehicles (including one disabled space). This will require the widening of Council's road reserve for the first response vehicle bay and reconstruction of a pedestrian path adjacent to the first response vehicle bay. If the Panel were to approve this application additional information in this regard would be needed.



Plate 2: Perspective of the Kingscliff Police Station fronting Marine Parade

Source: 'Statement of Environmental Effects', Newton Denny Chapelle, (May 2011, page 12)

Landscaping

It is proposed to retain the existing on-site Banksia species at the south-eastern corner of the site. Other existing on-site vegetation will be cleared.

Site

The subject site is located approximately 750 metres north of the commercial centre of Kingscliff located in the Tweed Shire. Kingscliff is located approximately 10 kilometres south of Tweed Heads and the Queensland / New South Wales border.

The subject site is a triangular allotment bounded by Kingscliff Street, Marine Parade and Pearl Street. It is described as Lot 701 in DP1002309. The site has an area of approximately 3,802m².

The Marine Parade frontage of the site is approximately 103 metres and faces north-east, the frontage to Kingscliff Street is approximately 116 metres and faces south-west. The Pearl Street frontage is approximately 57 metres long and faces north-west. All frontages have upright kerb and gutter.

Whilst the site appears to be relatively flat, the applicant has undertaken a survey of the site and found that levels range from RL7.15m AHD at the south-eastern end of the site to RL 4.60m AHD at the south-western corner of the site. It includes common garden species on the site as well as Banksia and Acacia species on the south-eastern corner which whilst part of the site, present as a park.

The site is currently improved with the existing Kingscliff Police Station, associated impound/car parking area and two single detached dwellings.

The surrounding land uses are residential in character consisting of new multi-dwelling residential flat buildings, as well as more traditional low –set coastal dwellings. The surrounding zoning is 2(b) Medium Density Residential. The beach foreshore and associated park dominate the streetscape, located on the eastern side of Marine Parade, across the road from the site.



Figure 1 - View of the site from the south

SITE DIAGRAM:



Locality Plan

Lot 701 DP1002309
Pearl Street, Kingscliff

<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before You Dig" enquiry must be made by calling 1100. This information contained on this document remains valid for 30 days only from the date of supply.</p> <p>Cadastre: 01 September, 2011 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p> <p>Filepath: Z:\SRP\RP\STANDARD TEMPLATES\BASEMAPS\SLMap - LocalityPlan500_A4P.mxd</p>	<p>0 0.5 1 Km 1:50,000 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p>Map Projection: Universal Transverse Mercator Horizontal Datum: Geocentric Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</p> <p>GDA</p> <p>Author: JBatchelor - Planning Reforms Unit</p>	<p>Civic and Cultural Centre 3 Tumbulghum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484</p> <p>T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planningreforms@tweed.nsw.gov.au</p> <p>TWEED SHIRE COUNCIL</p> <p>Date Printed: 01 September, 2011</p>
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Other Sites Considered

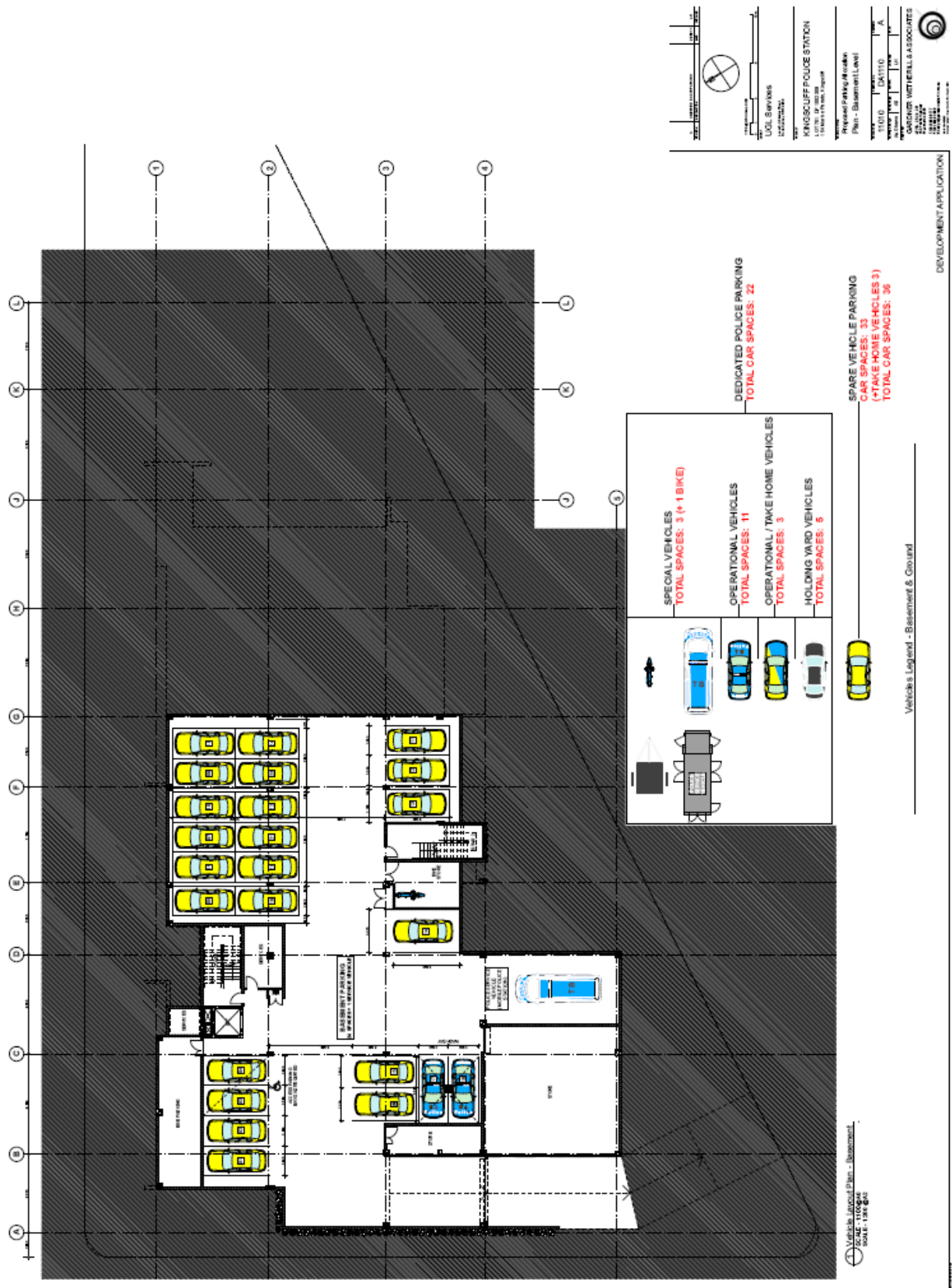
The application as originally lodged stated that the NSW Police Force had reviewed a number of different sites for the Tweed Byron Command Station, which have sizing and location requirements. The sites considered by the NSW Police are outlined below.

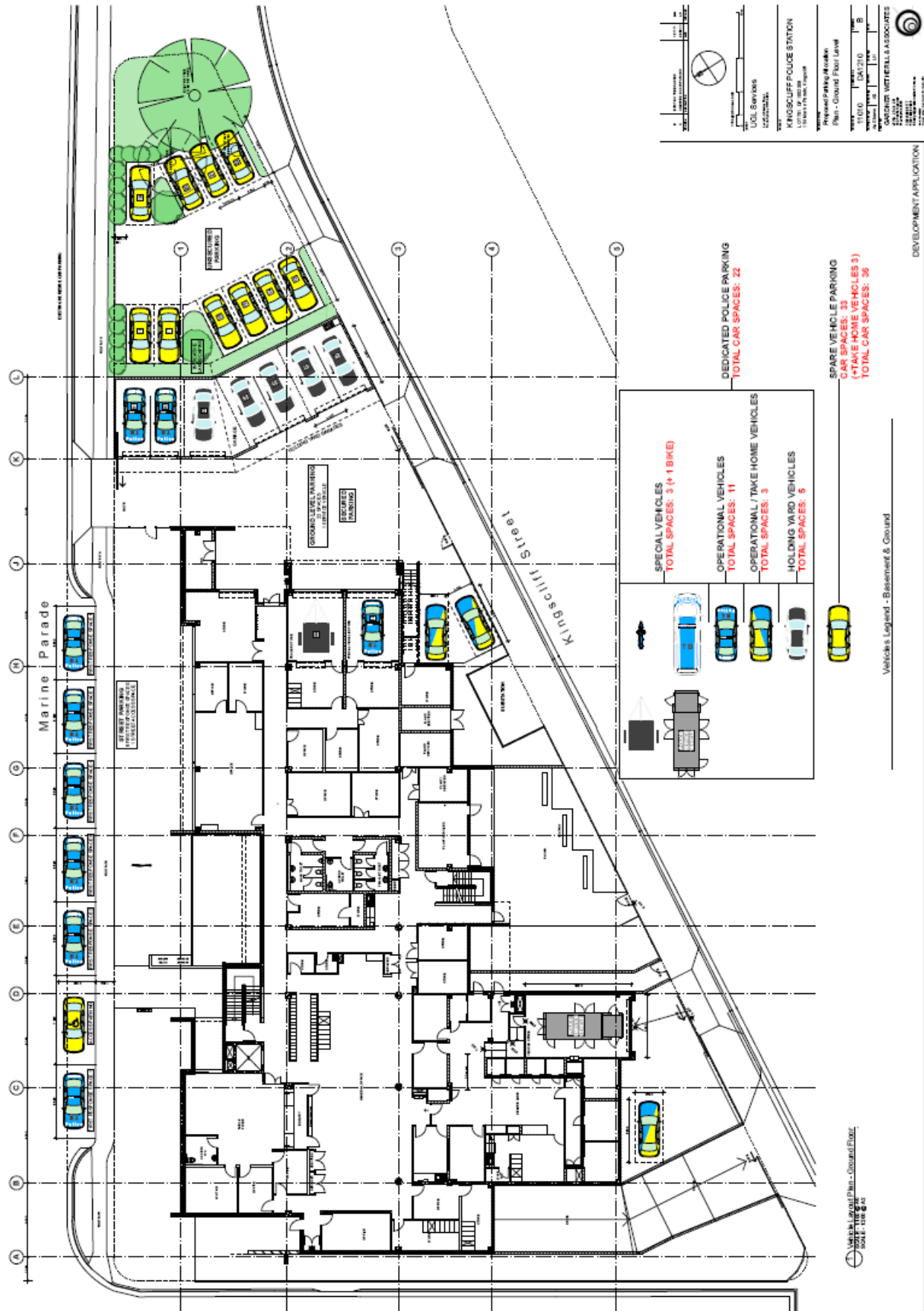
OPTIONS	COMMENTS
Option 1 – 254 Old Bogangar Road (Tweed Coast Road) King Forrest	<ul style="list-style-type: none"> ▪ Smallest site investigated (2,653sqm). ▪ Location was too far away from a major commercial/residential area, which impacts not only Police Operational Requirements (such as response times, access to areas north, south and west). ▪ Although potential for development in the area, the timescale for this did not fit into the Police's timescale requirements.
Option 2 – Cudgen Road Site	<ul style="list-style-type: none"> ▪ Central location with good access to freeway, Kingscliff, Casuarina, Cabarita and Tweed Heads. Therefore allowing the Police Response Time Requirement to be easily met. Enhancing the current/future Policing Operations in the region. ▪ Public Access (Buses etc) readily available due to the close proximity of the TAFE. ▪ Site available provides the NSWPF to meet current and future Police requirements for the whole region. ▪ Significant issues raised by government agencies to farmland protection classification over the land.
Option 3 – Tweed Coast Road, Cabarita (Corner of Sandal Wood Road)	<ul style="list-style-type: none"> ▪ Owned by Dept of Lands and was earmarked for subdivision and sell as residential. Dept of Lands against selling to NSWPF. ▪ Also the location has only reasonable access to the freeway, the above point was the deciding factor.
Option 4 – Dept of Lands Site in North Pottsville	<ul style="list-style-type: none"> ▪ Same reasons as for Option 3.
Option 5 – Dept of Lands Site in Central Pottsville	<ul style="list-style-type: none"> ▪ Same reasons as for Option 3. ▪ Other options were considered and reviewed in the Pottsville area, but direction came from NSWPF that Pottsville was simply too far away from where they need to operate in a central location.

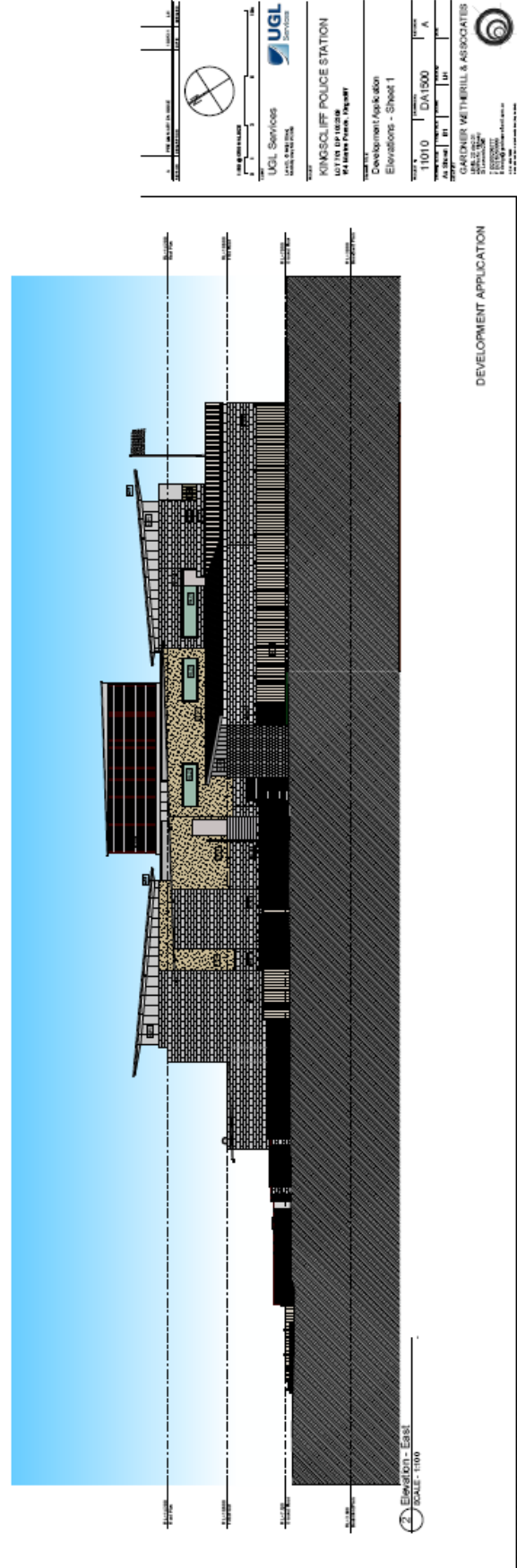
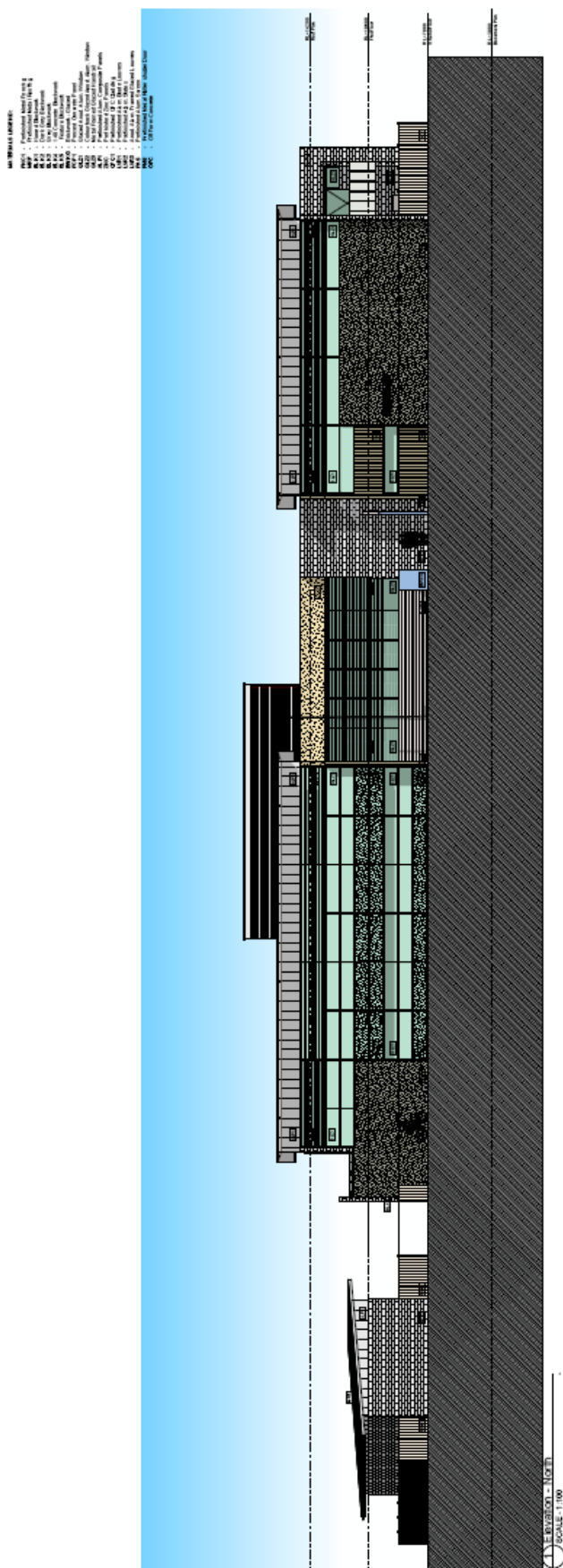
Source: 'Statement of Environmental Effects', Newton Denny Chapelle, (May 2011, page 9)

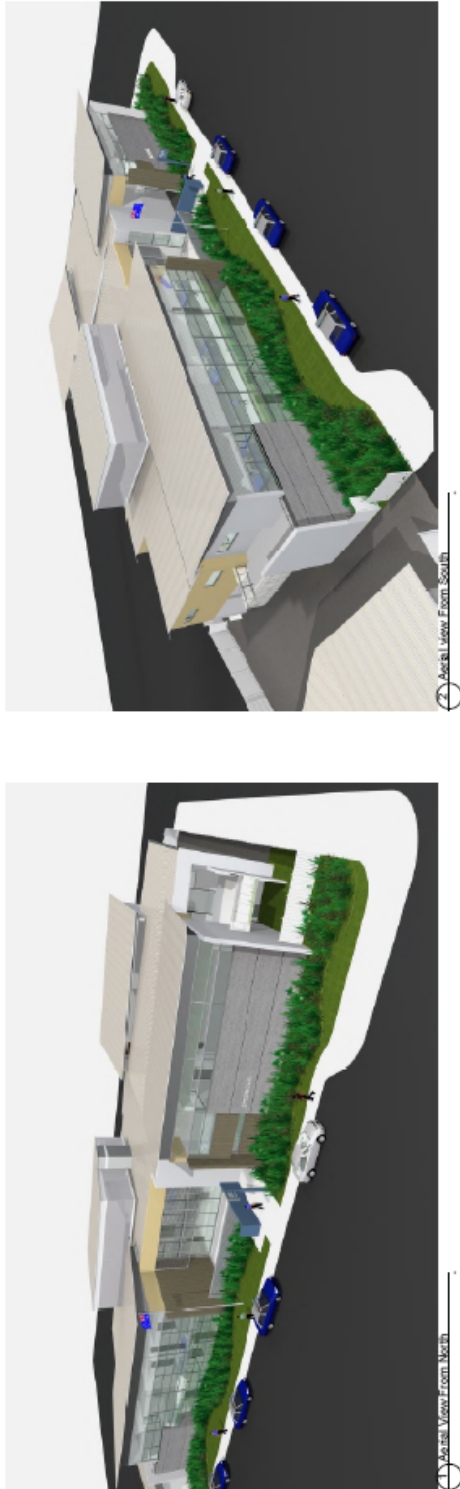
It is noted that the applicant previously lodged an application for subdivision at Cudgen Road, Cudgen (Lot 13 DP868620). The subdivision application was proposed to allow the proposed construction of the Kingscliff West Police Station. This site is predominately zoned 1 (b1) Agricultural Protection and concurrence from the Department of Planning was required for subdivision (and SEPP 1 objection). The Department of Planning did not provide concurrence and accordingly the applicant has since withdrawn this application.

JRPP (** Region) Business Paper – Item # - Date of Meeting – JRPP Reference











DEVELOPMENT APPLICATION


UGL Services
 UGL Services Pty Ltd
 Level 10, 100 Market Street
 Sydney, NSW 2000

KINGSCLIFF POLICE STATION
 LOT 101 & 102
 84 Kingscliff Parade, Kingscliff

Development Application
 PERSPECTIVE VIEWS

Project No: 11010
 DA No: DA1700
 Date: 10/10/2017

Prepared by: GARDNER WETHERILL & ASSOCIATES
 10/10/2017
 10/10/2017
 10/10/2017



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

The aim of the Tweed Local Environmental Plan 2000 (LEP) is to manage growth so that the natural and developed character of the Tweed Shire is retained and economic vitality, ecological integrity and cultural fabric is enhanced, in accordance with the 'Tweed Shire 2000+ Strategic Plan'.

The aims of the plan also seek to provide planning provisions for land management whereby certain development should be restricted or encouraged in different zones.

The zone contemplates a police station at the site however there is concern that development is inconsistent with the character of Kingscliff given its large size, commercial appearance and nature of the use.

Clause 5 - Ecologically Sustainable Development

The development is considered to comply with clause 5 which seeks to promote the four principles of ecological sustainable development.

Clause 8 – Consent Considerations and Clause 11 Zone Objectives

Clause 8(1) States:

- (1) 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 those other aims and objectives of this plan 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.

The subject site is zoned 5(a) Special Purposes and includes red lettering 'Police'.

The primary objective of the Special Purposes zone is as follows:

“to identify land which is developed or is proposed to be developed, generally by public bodies, for community facilities and services, roads, railways, utilities and similar things”.

The secondary objective is to “*provide flexibility in the development of the land, particularly if it is not yet or is no longer required for the relevant special use*”.

The zone contemplates a police station at the site however there is concern that development is inconsistent with the character of this section of Kingscliff given its large size, commercial appearance and nature of the use.

To consider the possible cumulative impact the Panel must have regard for the impact of similar developments to the one being proposed and the accumulation of such developments, were such developments to be duplicated along Marine Parade.

The proposed development is to occur over a site nominated for a special use purpose which the SEPP (Infrastructure) 2007 authorises. The duplication of this development is unlikely however there is concern that development is inconsistent with the character of this section of Kingscliff given its large size, commercial appearance and nature of the use.

Clause 15 - Essential Services

The site is currently adequately serviced with water, sewer, power and telecommunications.

Clause 16 - Height of Building

The maximum height permissible at the site is three storeys. The proposed building has a height of two storeys, with each level having a floor to ceiling height of 3.6 metres. The proposal also includes a rooftop plant and associated screening. The rooftop plant adds 3.6 metres to the height of the building, however the building is defined as a two storey building and complies with the three storey height limit.

The overall height of the building is 11.5 metres (including rooftop plant and equipment).

Clause 17 - Social Impact Assessment

The purpose of Clause 17 is to ensure that development does not have an adverse social or economic impact. The consent authority is required to consider a socio-economic impact statement if there may be an impact.

Tweed DCP Section A13 – Socio Economic Impact Assessment provides guidance on when a socio-economic impact assessment should be submitted and what it should address.

Whilst the Statement of Environmental Effects (SEE) submitted with the application states that a socio-economic impact (SEI) is not required, A13 states that a SEI should be submitted when a place of employment for over 25 persons is provided. The proposal could result in employment of 108 staff members (as stated in the Addendum Traffic and Transport Assessment dated August 2011), thus a SEI should be submitted.

Notwithstanding, it is noted that the proposal will provide public benefit through provision of local jobs and an essential community service. Besides these benefits, it is considered that there are impacts on the public realm as the proposal exhibits overdevelopment and large scale development. This is discussed in greater detail below.

Clause 35 - Acid Sulfate Soils

The site is identified on Council's mapping as having Class 5 potential acid sulfate soils. Council's Environmental Health Officer has reviewed the proposal and considers that the proposed works are not anticipated to lower the water table below 1 metre AHD on the adjacent Class 2 land and the proposal is considered to comply with Clause 35.

Clause 22 – Development Near Designated Roads

The subject site is bounded on its south-western frontage by Kingscliff Street which is identified as a Council designated road.

The intent of clause 22 is to ensure the safety of designated roads as well as the scenic attractiveness of the area of the Tweed, as well as reduce the potential impact from traffic noise on development adjacent to designated roads.

The applicant has submitted a Traffic Impact Assessment addressing these issues.

The traffic analysis undertaken by the applicant has demonstrated that the traffic impacts on the external road network are minimal and the performance of intersections will remain under the required thresholds.

Whilst Council's Engineers have raised concern with car parking, concern has not been raised with the proposed access points to the site, traffic generation or traffic noise.

The proposal is considered consistent with this clause.

Clause 34 – Flooding

The aim of this clause is to minimise future potential flood damage by ensuring that compatible development occurs on flood liable land and to minimise the adverse effect of flooding on the community.

The proposed site is identified in Council's mapping as being affected by Probable Maximum Flood (PMF) inundation areas.

The proposal is defined as a critical development and is required to be located on land above PMF RL7.9m AHD level. The ground floor of the proposal is at RL 7 metres AHD.

The applicant was requested to provide a case for exceptional circumstances to justify non-compliance with this requirement. This justification has been

provided in the SEE which states that “given the elevated nature of the subject land, the proposed building is unlikely to implicate the existing nature of the flood hazard or amplify the risk associated with property damage or human life within the surrounding vicinity”.

It is recognised that the site is zoned for a Police Station and the proposal is replacing an existing facility. A relaxation of 0.9 metres is accepted on these grounds.

Clause 36 – Coastal Erosion Outside Zone 7 (f)

The objective of this clause is to protect land that may be subject to coastal erosion. The consent authority is required to consider the likelihood of the proposed development being affected or affecting the behaviour of the sea, beach or dune and the likelihood of the proposed development adversely affecting the landscape or scenic quality of the locality and the potential impacts of the climate change including sea level rise.

Since consideration of the previous application Council has adopted the Tweed DCP Section B25 Coastal Hazards and accordingly a portion of the site is within the 2100 Hazard Zone.



Part 3.3.2 of TDCP sB25 requires a Coastal Risk Management Report to be provided in accordance with the Coastal Risk Management Report Guidelines. This need not be an onerous task as the proposed development is entirely outside the 2050 Hazard Zone, however Coastal Hazards need to be reported on and the Hazard Zones identified on a plan of the proposed development.

The submitted SEE does not address this clause.

If the Panel were to approve this application any consent should have the following condition imposed:

Prior to commencement of work a Coastal Risk Management Report is to be provided to Council to the satisfaction of the General Manager (or his delegate).

Clause 39 Remediation of Contaminated Land

The objective of this clause is to ensure that site is adequately remediated prior to development occurring.

The SEE was supported by a Preliminary Site Assessment prepared by Precise Environmental Pty Ltd dated December 2010. The report does not identify any historical potentially contaminating land uses.

Council's Environmental Health Officers have identified that the existing structures were built on site prior to the 1990s and potential contamination may exist from building materials (lead paint and asbestos) and from the application of organo-chlorine pesticides beneath structures.

If the proposal is approved, conditions will be required to ensure that further investigations are undertaken prior to removal of the slab material and disturbance of the soil. In the event of contamination is found a remediation action plan is to be prepared and provided to Council for approval.

If the application is approved, conditions in this regard are required to ensure compliance with the State Environmental Planning Policy 55 – Remediation of Land (addressed below).

Clause 39A Bushfire Protection

Since the original assessment of this application the bushfire mapping has been updated. The entire eastern section of the site is now mapped as being Bushfire Prone (buffer) area, due to the adjoining vegetation along the ocean foreshore.

The intent of this provision is to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets.

It is not considered that the development is likely to impact on implementation of bushfire control strategies. Whilst it proposes a greater amount of infrastructure and built form, the proposal is not considered to increase fuel areas significantly. It does not include any residential component.

It is considered that the proposal complies with the bushfire protection clause.

Clause 47 Advertising Signs

The applicant has indicated that a single pole sign and wall sign is proposed which does not adversely affect the locality in terms of appearance, size, illumination or overshadowing. Dimensions of the proposed signage have not been provided and it has not been assessed in this regard.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

The proposal has been assessed against the North Coast Regional Environmental Plan and is considered to comply with the objectives. Relevant clauses are discussed below.

Clause 32B: Coastal Lands

The proposal is considered to comply with clause 32B as it does not impede on access to the foreshore and does not result in any shadow on the foreshore.

Clause 33: Coastal hazard areas

Whilst the site is affected by Coastal Erosion Hazard lines, the proposal does not include any disturbance to the adjoining foreshore area.

SEPP No. 55 - Remediation of Land

As identified above, the proposal includes demolition of buildings constructed prior to 1990 and there is a risk that contaminated materials may be exposed during construction. In the event of approval, conditions are recommended to ensure that risk is limited in this regard.

SEPP No 71 – Coastal Protection

The site is within the Coastal Zone and Clause 8 matters for consideration are relevant.

The proposal is generally consistent with the matters for consideration as it does not impede public access to the foreshore nor result in any unacceptable loss of view or overshadowing. The proposal will not have any impact on flora or fauna.

There is concern that the scale and nature of the proposal are incompatible with the surrounding area as discussed in greater detail below.

The SEE does not address the coastal hazard constraints as identified above.

SEPP (Major Projects) 2005

The application is no longer affected by this SEPP as the EP&A Act now calls up Crown Applications with an estimated cost of works that exceed \$5 million dollars and accordingly the development is to be determined by the Joint Regional Planning Panel.

SEPP (Infrastructure) 2007

The applicant has addressed SEPP (Infrastructure) and identified that the proposal is defined as a 'public administration building', which specifically includes police station as part of the definition. Clause 76 of this SEPP requires that development consent is obtained.

The proposal could also fall into the category of an 'emergency service facility' under the SEPP, however due to the specific mention of 'police station' in the

definition of 'public administration building', the later definition is considered more suitable.

In accordance with the provisions of SEPP Infrastructure the proposed development was referred to the Development Traffic Advisory Group as development potentially incorporating more than 50 motor vehicles. Accordingly DTAG stated that:

DTAG advice supports Council officer's prior assessment that raised concerns with the development with regard to inadequate provision of onsite staff and customer car parking, and appropriate measures to formalise on street car parking to ensure the safety of staff and customers wanting to access the development.

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

Council's Draft Local Environmental Plan 2010 has been publicly exhibited and is applicable to the site.

The draft zone is SP2 – Infrastructure - Emergency Services Facility.

A police station is permitted with consent under the Draft Local Environmental Plan which allows for development for the purpose of emergency services.

Notwithstanding the Draft LEP, the SEPP (Infrastructure) sets out levels of assessment required for infrastructure projects.

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

Relevant sections of the DCP are addressed below.

A2-Site Access and Parking Code

Council's initial assessment of the proposal identified a major shortfall of car parking for the proposal as 80 spaces were considered necessary for staff, customers and servicing. This was consistent with the car parking estimates provided by the applicant at that time. The initial plans indicated that only 12 spaces were proposed on site for operational vehicles in the basement with a further 7 spaces in enclosed garages at ground level. Additional storage areas were shown but it was unclear how these areas were to be used.

Since this time the applicant has submitted an amended Transport and Traffic Assessment dated August 2011 with an amended basement and ground level plan to increase the availability of onsite parking. The amended report can be summarised as follows:

- The development's "practical parking demand" supersedes the incompatible rates contained in Table 4.9 of Tweed DCP Section A2;
- For security and safety reasons, Police policy precludes on site customer parking;
- A total of 106 staff will be employed, with a maximum "major shift" of 48 concurrent staff on a weekday;

- Assuming 75% of staff drive to work, the development has a practical demand of 36 parking spaces for staff;
- A parking assessment has also been completed using the “office” staff parking rate from DCP-A2, based on a GFA that excludes unstaffed areas, and applying the 20% reduction for ESD. This also equates to 36 staff parking spaces;
- 48 on site spaces have been provided, plus an indented bay on Marine Parade for 6 First Response spaces and 1 Disabled space, to a total of 55 spaces. Of these 55 spaces, 19 are for special, operational and holding yard vehicles, leaving 36 spaces for "spare vehicles", which matches the 36 space requirement;
- There is abundant kerbside and public off street parking in the area, with capacity for approximately 215 vehicles;
- While weekend demand for public parking is higher, practical demand of the development is reduced with decreased staffing levels on weekends (requiring 16 spaces, which are provided on site);
- It is within the Local Area Commander's (LAC) discretion as to whether staff may park within the police site. The LAC could also issue a direction restricting staff parking in Marine Parade.

Staff Car Parking Assessment

It is agreed that the proposed police station development does not fit easily into the various definitions of DCP-A2 (the most relevant being “office” or “public building”), and that provision of staff car parking based on the maximum number of staff concurrently present on the site at any time is an appropriate alternative.

It is difficult to verify the staffing levels provided by the applicant, and the maximum "major shift" of 48 concurrent staff is accepted. However the assumption of increased alternate modes of public transport is not accepted, and 80% car utilisation by staff should be assumed as per the referenced 2006 census data. This equates to 38.4 spaces, rounded to the required provision of 39 on site spaces.

Similarly the DCP-A2 parking demand calculations based on GFA are not agreed. The consultant has excluded the conference and training rooms, on the basis that they are unstaffed areas "not typical to an office environment". The other nominated areas such as the meals room, locker rooms, and fitness rooms are reasonable exclusions, however 122m² should be added to the GFA for the training and conference rooms. This increases the demand from 34.98 spaces to 37.42 spaces (applying the 0.8 ESD factor). The consultant has also excluded the custodial area from the GFA calculations, which is reasonable, and has added one additional parking space, which is agreed. This provides a total demand of $37.42 + (1 \times 0.8) = 38.22$, rounded up to the required provision of 39 on site spaces. Note this figure agrees with the above figure derived from peak staff demand, but is 3 more than the applicant's figure of 36 spaces.

Total on site staff parking demand = 39 spaces

The submitted design plans depict the following on-site parking provisions:

Basement Level

Total 25 marked car spaces
2 marked car spaces within wash bay for operational vehicles
2 marked car spaces / 1 disabled access space
1 Police Service Vehicle (Mobile Police Station)
Bike Parking
Bike Store (1 Operational Motor Bike)

Ground Floor Level

Total 23 marked car spaces
5 impounded vehicles in the holding yard
1 special vehicle (trailer store) in the holding yard
2 "take home" operational vehicles in the holding yard
1 "take home" operational vehicles in the gated yard
10 unsecured parking spaces in landscaped area

Of this total of 48 spaces, 10 spaces in the landscaped area plus 21 spaces in the basement (counting the disabled space as 1) can be considered to be on site staff car parking, but noting that the use of basement parking is at the discretion of the Local Area Commander. The 3 "take home" operational vehicles can also be considered as staff parking. This adds up to 34 spaces.

The applicant's assessment also identifies the provision of 6 First Response spaces and 1 disabled access space in an indented parking bay on the Marine Parade frontage as a credit towards parking provisions for the development. This is not supported as this replaces an existing parking zone for police vehicles, and there is no net increase in parking space provision as the indented parking bay maintains the same parallel parking arrangement. The disabled space may also not meet current geometrical requirements, and could conflict with the location of first response spaces adjacent.

As such, the applicant's calculation of 36 "spare" spaces should be reduced by 2 to discount 1 space due to the disabled parking arrangement in the basement, and 1 on street disable parking space.

Maximum staff parking provided = 34 spaces.

Customer Car Parking Assessment

No figures for expected customer numbers have been provided with the Transport and Traffic Assessment. The application cites a Police Policy, whereby customer car parking is not to be provided on site for safety and security reasons. While these concerns are understandable, this should not automatically equate to provision of customer car parking in the public realm. Such provisions should still be made on private land, either in a reconfigured site which adequately addresses the safety and security arrangements, or on a separate parcel. Due to the location of the development site, surrounding land uses, and the proposed development extent, provision of onsite customer

car parking does not appear feasible, and therefore, the development cannot satisfy the requirements of DCP-A2.

In assessing the required number of customer parking spaces, the development can either be assessed under the DCP-A2 rates (for “office” or “public building” categories), or can be determined by way of assessment of expected patronage or of similar developments. As no analysis of customer carparking has been provided by the applicant, only the DCP-A2 rates can be applied.

DCP-A2 Table 4.9 combines staff and customer parking rates for “offices” and “public buildings”. As above, and based on the applicant’s GFA calculations, the site requires 39 combined on site parking spaces. Given provision of 34 on site spaces, the development’s total parking shortfall remains at 5 spaces.

The “availability” of 215 on street car spaces in the vicinity of the development site is disputed, as many of the areas identified in Marine Parade and Kingscliff Street are street frontages for residential development, and the areas on the eastern side of Marine Parade are considered to provide parking for members of the public to utilise the foreshore parks and the beach, as well as surrounding development. “Privatisation” of these public parking areas in favour of the development is not supported, and is contrary to DCP-A2.

The site is also outside of the area covered by Contributions Plan CP23 – Offsite Car Parking, so payment of developer contributions in lieu of providing on site parking is not an available option. In previous discussions, the applicant has clearly stated that no parking contribution would be paid regardless.

One option is to consider the application of time limited parking in the 10 space car park in the landscaped area of the site, to limit staff usage and provide for some availability for customers.

Another option, which was previously explored with the applicant, is the provision of a pedestrian refuge and street light in front of the development to cater for staff and customers who, due to the shortfall of/restriction to parking on site utilise the on street carparking available on the opposite side of Marine Parade. In previous correspondence, included as an attachment to the application, the applicant stated that they would accept a condition requiring them to construct the pedestrian refuge (although acceptance was later withdrawn by the applicant and no such condition was imposed by the JRPP).

The pursuit of upgrades to the parking area on the eastern side of Marine Parade is no longer recommended, as the nexus arguments are limited and the applicant has clearly stated previously that such upgrades will not be forthcoming.

Car Parking - Conclusion

Based on the above assessment, the development has a **shortfall of 5 on site car parking spaces**, and is non-compliant with Development Control Plan Section A2 – Site Access and Parking Code. This shortfall is considered

a minimum, given basement parking access may be restricted to staff for operational reasons. With no such certainty, and based on Council requirements imposed on all other development types, **refusal of the development is recommended.**

Given the Joint Regional Planning Panel (JRPP) is the determining authority for this application, consideration is given to the situation whereby conditional approval may be granted.

When this occurred previously with an earlier version of this development application, the JRPP required negotiations on carparking between Council and the applicant. The minutes of these negotiations form part of the current application.

With regard to on site car parking provision, the stated Council position was that a condition or written statement was required to ensure the availability of on site staff and customer carparking, except in emergency situations. The applicant's response was that "due to security and operating requirements, the allocation of staff parking must be at the discretion of the Local Area Commander. The applicant stated they cannot agree to a condition or a written statement in this regard.

A3-Development of Flood Liable Land

As stated above, the proposal is considered an 'essential community facilities and critical services development' in accordance with Section A3.

The site is identified as being affected by the Probably Maximum Flood and should be located above PMF (RL7.9mAHD).

It is recognised that the site is zoned for a Police Station and the proposal is replacing an existing facility. A relaxation of 0.9 metres is accepted on these grounds.

A4 – Advertising Signs Code

The proposal includes a building identification sign, a pole sign and a flag pole.

The proposed number of signs are acceptable.

The dimensions of the signs are not specified and assessment against Section A4 has not been undertaken. If the proposal is approved, conditions will be required to ensure compliance with the signage size limitations in Section A4.

The proposed flag pole should not extend higher than the proposed roof.

A11-Public Notification of Development Proposals

The proposal was originally notified for a period of 14 days from 8 June 2011 to 23 June 2011.

During this time, a total of five submissions were received, one in support of the proposal and four submissions objecting to the proposal.

The issues raised by these objectors are summarised and addressed in the table below.

Issue	Officer Comment
<p>Strategic Location – It is considered that the police station should be located at Chinderah or another place that would enable police to have a better response time to all surrounding areas.</p> <p>Another submitter has concerns that the direct routes out of Kingscliff north or south may be congested during special events, adding several minutes to response times.</p> <p>It is considered that more suitable, sites are available, with better access to the Pacific Highway.</p> <p>It is also considered that sale of the current police, ambulance and fire sites would bring sufficient revenue to provide for an ‘emergency super centre’.</p> <p>The emergency services should be located in a more central, accessible location to the whole coastal hinterland and Tweed area.</p>	<p>Strategic planning of emergency services, particularly with regards to location and scale and function of facilities is a matter for State Agencies.</p> <p>Notwithstanding, despite the existing zoning, it is considered that the site is not large enough to accommodate the proposed station and it’s regional function. Furthermore, given that the facility is proposed to service a wide area (Tweed Byron Local Area command Police Station operating 24 hours 7 days a week for ‘major shifts’) it would seem logical to provide the station closer to the Pacific Highway to service a wider area.</p>
<p>Scale and Appearance – The building is considered commercial in nature, too large and “unattractive” for Marine Parade. Concern is raised with the air conditioning units on the top of the building. The proposal will impose on the existing green space provided at the south-eastern corner of the site with the ‘holding bay’.</p>	<p>Council officers do not consider that the proposed air conditioning units will result in an unacceptable amenity to the adjoining residential area.</p> <p>The scale and nature of the proposal is of concern, as discussed in greater detail below.</p>
<p>Holding Bay - It is considered that the holding bay will have a visual impact on the streetscape and will have impacts on amenity and safety.</p>	<p>The holding bay will present as a garage and will be fenced and gated. Details on the elevations indicate that fencing would be approximately 1.8 metres high. The proposed holding area will intrude into a portion of the existing landscaped area, although the south-eastern most part of the corner will remain as is.</p>
<p>Traffic and Access – There is concern that the traffic assessment is flawed. There is concern that the access to the</p>	<p>Council's Engineers have not raised concerns with regard to traffic and access impact.</p>

Issue	Officer Comment
<p>basement from Pearl Street is dangerous.</p> <p>There is also concern that increased traffic on local streets due to the police station will result in safety issues for pedestrians.</p>	
<p>Parking – There is concern that the parking assessment is unsatisfactory as it does not take into consideration parking for special events, investigations or training. Nor does it take into consideration future expansion.</p> <p>There is concern that parking does not account for customers and relies on on-street and other public car spaces. There is concern that this will impact on the ability of the public to access the foreshore and foreshore parks.</p> <p>There is also concern that increased use of the adjoining unsealed, on-street parking spaces will require constant maintenance at cost to rate payers.</p>	<p>There is a shortfall of car parking provided on-site and the impact of this is considered to be unacceptable.</p>
<p>Local Amenity - There is concern that the sound of sirens will have an impact on Kingscliff and quiet coastal and tourist amenity.</p> <p>There is concern that the proposal is out of character and not suitable for surrounding residential use.</p>	<p>Whilst the impact of sirens has not been assessed, as identified above, the building scale combined with the nature of the use is considered to be out of character with the surrounding land uses.</p>
<p>Flooding – One objector considers that the site is unsuitable due to flooding and has witnessed the isolation of Kingscliff due to flooding in previous floods (when Wommin Bay Road cut north and south bound traffic).</p>	<p>The applicant has not addressed PMF flooding issues.</p>
<p>Beach locality– There is concern that the beachfront location is not appropriate for this type of building.</p> <p>There is concern with risk of coastal erosion.</p>	<p>The applicant has not addressed risk of coastal erosion, however if the Panel were to approve the application a condition would need to be imposed.</p>
<p>Site Suitability - As above, there is concern that the site does not provide sufficient room for future expansion.</p>	<p>The proposal is large for the available land on site and does not allow for on-site car parking or future expansion.</p>

After the JRPP meeting on 12 September 2011, Council received three additional submissions.

Issues raised in these submissions are outlined and addressed below.

Issue	Council officer comment
The Panel should have allowed further questions from the public during the public meeting.	This is a matter for the Panel Chair to decide.
Vehicles can remain in the holding yard for years and this area should not be used for staff parking.	This area has not been included in parking calculations, with the exception of two spaces indicated as 'operational / take-home' vehicles.
Traffic data should have been collected over a longer period of time and during peak seasons.	There is considered to be merit in this point. Council officers are aware that the area becomes highly congested during events and at different times of the year, as such, car parking requirements have been upheld in the officer assessment.
Public transport does not pass Marine Parade.	Noted.
The Commander stated that there may be three customers at the police counter at any one time, indicating a need for customer parking.	Council officers consider that customer parking should be provided, which is why the DCP rate has been adopted for assessment as it incorporates staff and customer requirements.
Limited public consultation by the police.	This is a matter for the State government.
The RTA site at Chinderah is a better location for the station and should be combined with other emergency services due to improved response times.	Strategic planning for a police station location is outside the jurisdiction of this development application assessment.
The Tweed Heads Police Station has 'outgrown itself'.	This is a Police matter that is beyond the jurisdiction of this development application assessment.
A suitable site is available for the police station in the Kings Forest development.	As above, the strategic planning of State police service location is beyond Council's jurisdiction although it is noted that other site options are available and should be explored given the constraints of the current site.

Based on the applicant's request to re-consider DA11/0257 the application was re-notified and re-advertised with a revised description and property address as follows:

"Development Application DA11/0257 - demolition of the existing Police Station and two residences to enable the construction of a new two (2) storey Police Station (to be used for the Tweed Byron command). The proposed structure also incorporates an underground storey (basement) for carparking (JRPP) at Lot 701 DP 1002309, Pearl Street and Marine Parade Kingscliff"

The development was placed on public exhibition between Wednesday 12 September 2012 and Wednesday 26 September 2012. The application placed on re-exhibition comprised the original application as lodged, the amended plans, the additional information lodged throughout the original assessment of the application and all supporting material as ultimately determined by Joint Regional Planning Panel in December 2011.

The re-exhibition of the application has attracted 50 additional submissions which include

- A petition submitted by Geoff Provest containing more than 2000 signatures which states:

“NOT proceed with consent for DA11/0257 in the coastal residential village of Kingscliff and reinvestigate suitable sites, as previously identified by Newton Denny Chapelle, to facilitate the Police and better service the expanding population in the communities of the Tweed Byron Local Area Police Command”

- A petition containing 6 signatories;
- A joint submission from the Tweed Chamber of Commerce, Kingscliff Chamber of Commerce and Murwillumbah Chamber of Commerce;
- An individual submission from the Tweed Chamber of Commerce;
- An individual submission from the Kingscliff & District Chamber of Commerce;

The issues raised in these submissions are summarised below:

Issue	Officer Comment
<p>Strategic Location</p> <p>It is considered that the police station should be located at Chinderah or another place that would enable police to have a better response time to all surrounding areas.</p> <p>The direct routes out of Kingscliff north or south may be congested during special events, adding several minutes to response times.</p> <p>It is considered that more suitable, sites are available, with better access to the Pacific Highway.</p> <p>It is also considered that sale of the current police, ambulance and fire sites would bring sufficient revenue to provide for an ‘emergency super centre’.</p> <p>The emergency services should be</p>	<p>Strategic planning of emergency services, particularly with regards to location and scale and function of facilities is a matter for State Agencies.</p> <p>Notwithstanding, despite the existing zoning, it is considered that the site is not large enough to accommodate the proposed station and it’s regional function. Furthermore, given that the facility is proposed to service a wide area (Tweed Byron Local Area command Police Station operating 24 hours 7 days a week for ‘major shifts’) it would seem logical to provide the station in a more accessible location to service a wider area.</p> <p>The panel is required to consider the suitability of this site for the proposed development. Whilst other sites may be more suitable it is the subject site that requires consideration in this instance.</p>

Issue	Officer Comment
<p>located in a more central, accessible location to the whole coastal hinterland and Tweed area.</p> <p>A police presence is needed in Kingscliff but this could be done with a shop front.</p> <p>Land at Cudgen should be regraded to avoid the agricultural protection provisions.</p>	<p>Council has recommended refusal of the application as this site is not considered suitable for the proposed use.</p>
<p>Site is not suitable for such a development</p> <p>The use is too intensive for the site and inconsistent with the character and amenity of the adjoining area.</p> <p>The buildings size will permit accommodation of significant staff numbers in a residential and tourist area (unacceptable scale).</p> <p>The extended hours of operation would be difficult to control as police work requirements will prevail.</p> <p>The proposed development is a regional command centre which will generate significant traffic.</p> <p>This new command centre has a smaller working space than the Tweed Heads building they are leaving.</p> <p>As visitors to the area the proposal will affect our enjoyment of the facilities in and around the proposed development.</p> <p>This is a residential area and should not be used for large commercial operations.</p>	<p>The building scale combined with the nature of the use is considered to be out of character with the surrounding land uses.</p>
<p>Bulk and Scale</p> <p>The building is huge and will be an eyesore on the foreshore of Kingscliff.</p> <p>Whilst only two storey's it will be greater in height than some of the existing 3 storey residential developments.</p> <p>The building will cause significant loss of amenity to surrounding buildings and residents including loss of view.</p>	<p>The building scale combined with the nature of the use is considered to be out of character with the surrounding residential land uses.</p>

Issue	Officer Comment
<p>The holding yard (for wrecked vehicles) is tantamount to an industrial use</p> <p>Many vehicles could remain for extended periods and would result in an unsightly scenario.</p>	<p>Storage of wrecked vehicles would be uncharacteristic with the existing character</p>
<p>The site lacks suitable car parking and places unacceptable demands on outside facilities and local roads.</p> <p>Use of local streets for 80 staff vehicles is unacceptable.</p> <p>The Traffic report was undertaken at a time of the applicants choosing to understate current parking demand.</p> <p>The traffic report should consider operational police matter such as training days etc.</p> <p>Marine Parade has speed humps and 40km speed limits due to large number of pedestrians in the area.</p> <p>The proposed one way traffic at Kingscliff will further impede safe traffic movement for the proposed development.</p> <p>The access to the site is situated on the wedge of Marine Parade, Pearl Street and the commencement of Kingscliff Street. This is a dangerous area.</p> <p>There is inadequate public transport in this location to cater for the proposed development.</p>	<p>Council have recommended refusal of the application based on insufficient on site parking.</p> <p>The nature of the use is considered to be out of character with the surrounding residential land uses.</p>
<p>Significant negative community impact.</p> <p>There will be conflict between policing activities and community safety.</p> <p>Police cars will move through the local area at speed.</p> <p>The generation of traffic noise will be unacceptable.</p> <p>The prisoner holding facility will create an additional noise within a quiet residential area.</p>	<p>The nature of the use is considered to be out of character with the surrounding land uses.</p>

Issue	Officer Comment
<p>Released prisoners will enter the Kingscliff community.</p> <p>Noise from Police change over shifts and noise generally (including sirens) will be excessive.</p> <p>The lighting at night will affect my property.</p> <p>The development will have a negative impact on tourism.</p> <p>The development will have negative impacts for pedestrians generally, children and the elderly.</p> <p>Police Officers are opposed to the proposal.</p>	
<p>Coastal Erosion</p> <p>The beach is eroding and the foreshore endangerment line is moving closer to Marine Parade.</p>	<p>Conditions of consent have been recommended to ensure compliance with Council's Coastal Erosion DCP.</p>
<p>The facility is not in the public interest.</p> <p>The facility will be the largest building in Kingscliff detracting from the character.</p> <p>The building is undersized for current day Police requirements.</p> <p>The application is contrary to the "Parsons Report" which in effect recommends that Police revert back to previous command structures.</p> <p>The positioning of this building on beach front land is not in the best interest of all concerned.</p> <p>Crime will increase in Tweed Heads given the reduced Police presence.</p> <p>To enable police to be most effective they need the public on their side, such support would not be forthcoming for the development at this location.</p> <p>The current open space at the southern end of the site (park) will be lost to car parking.</p>	<p>It is acknowledged that the proposal provides an important community facility and serves the public interest, however, there is concern that the impact on the locality in terms of character and car parking will be detrimental to the local public interest.</p>
<p>The proposal will have a negative</p>	<p>This is not a matter that can be</p>

Issue	Officer Comment
<p>impact on property values</p> <p>The residents of the surrounding properties should be compensated by the applicant should this development be permitted as it will have a detrimental effect on their right to quiet enjoyment, views and quality of life.</p> <p>I have been unable to sell my property and assume this is a direct result of the proposed development.</p>	<p>considered under the EP&A Act 1979.</p>
<p>The proposal is inappropriate in planning policy</p> <p>This high intensity commercial development is not in keeping with planning policy and does not pass the common sense test.</p> <p>The development fails to consider the Coastal Design Guidelines & North Coast Design Guidelines which are relevant in terms of bulk and scale and local character.</p> <p>The application fails to adequately consider acoustic impacts as it does not include assessment of any vehicles relative to the broader routes linking the site to external access points.</p> <p>The application (SEE) fails to consider or acknowledge the requirements set out in Clause 8 of the Tweed LEP 2000 including cumulative impact.</p> <p>The development is not considered to be located in the correct spot having regard to the Department of Urban Affairs and Planning document Right Place for Business Policy.</p> <p>I would suspect that such a development is not in accord with the Tweed Shire Strategic Plan 2000+.</p> <p>Justice Biscoe made the following observation: <i>“the proposed development in the present case is of a large police station, on large site in a prominent position in a prominent street and likely to have significant impacts on any people, whether they own or reside on land in the</i></p>	<p>The proposed use is permissible in accordance with SEPP (Infrastructure) 2007 subject to development consent if the merits of the application can be substantiated.</p> <p>Council have recommended refusal of this application as the site is considered unsuitable for the proposed use.</p> <p>The building will be inconsistent with the existing character of the area and should be refused.</p>

Issue	Officer Comment
<p><i>vicinity or pass by or enter the site</i>". Although Justice Biscoe was not deciding on the merit of the application, he nevertheless made this very telling observation.</p> <p>The application has not been substantiated by the security measures that will be in place at the site and the impact this may have on the community.</p>	
<p>Inappropriate use of public funds</p> <p>This is a "built to suit" proposal and its alternative use value to the community is "de minimus".</p> <p>It does not reflect the current necessity for fiscal prudence with NSW taxpayers funds given these austere times.</p>	<p>This is not a matter for Council's Assessment.</p>
<p>Inadequate public consultation</p> <p>There is no information to state that the current facility in Tweed Heads will be removed from the public and located in a harder to access location on Marine Parade and their police service will be restrained to a shop front.</p>	<p>The application as lodged has been appropriately advertised to all Tweed Shire Residents via The Tweed Link. In addition the description of the development was changed to reflect the advice of the NSW Land & Environment Court.</p> <p>Public exhibition is considered to have been undertaken lawfully.</p>

Council Officers have re-assessed the subject application and taken into account all of the new submissions received during the re-notification period. The application still incorporates a shortfall of on-site car parking, still presents as a large commercial type building in a residential precinct, and still fails to adequately respond to the issues raised in the submissions. For these reasons the Council is again recommending refusal of the application. However, the EP&A Act does not allow a consent authority to refuse a Crown development application, except with the approval of the Minister. It is therefore recommended that the Joint Regional Planning refers the proposal to the Minister with proposed reasons for refusal.

A13-Socio-Economic Impact Assessment

A socio-economic impact assessment was not provided with the proposal.

The proposal provides a community service and employment for 108 staff.

There are concerns about the scale and size of the proposal given size of the site and surrounding residential/tourist and coastal character. This is discussed in greater detail below.

B4-West Kingscliff

This section of the DCP is concerned with higher order, strategic planning issues including road hierarchy for West Kingscliff, residential density areas, pedestrian networks, open space designation and drainage issues.

Section B4.3.2 of B4 addresses matters to be considered in assessing non-residential development within residential areas. One of the relevant matters identified is provision of adequate car parking, which as identified above, is not considered adequate.

B9-Tweed Coast Strategy

Section B9 is a broader planning strategy for the Tweed Coast seeking to accommodate anticipated development, protect the environmental and coastal values and ensure coordination of infrastructure provision.

Section B9.6.6 deals with emergency services and identifies that with growing population along the Tweed Coast, there will be a need to increase emergency services, including police services. It is anticipated in the plan that the longer term needs of these will have to seek upgraded facilities as their current sites are limited. It is stated that “the major site determinant is accessibility”.

Various objectors have raised concerns that the current site does not have optimal accessibility to serve the broader area intended. The SEE does not adequately demonstrate that B9 has been addressed in this regard.

Strategy TSC.S.6.11 states “investigate site emergency services adjacent to Tweed Coast Road on present Sewerage Treatment Plant site.”

It does not appear that this site has been considered in the SEE.

B25-Coastal Hazards

As detailed above a portion of the site is within the 2100 Hazard Zone. The site is therefore subject to coastal hazards and the Tweed Development Control Plan Section B25 (TDCP B25) applies.

Part 3.3.2 of TDCP sB25 requires a Coastal Risk Management Report to be provided in accordance with the Coastal Risk Management Report Guidelines. This need not be an onerous task as the proposed development is entirely outside the 2050 Hazard Zone, however Coastal Hazards need to be reported on and the Hazard Zones identified on a plan of the proposed development.

The submitted SEE does not address this clause.

If the Panel were to approve this application any consent should have the following condition imposed:

Prior to commencement of work a Coastal Risk Management Report is to be provided to Council to the satisfaction of the General Manager (or his delegate).

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

Clause 92(b) Applications for demolition

The proposal includes demolition. If the proposal is approved, appropriate conditions in relation to demolition will be required.

Clause 93 Fire Safety Considerations

This clause is not applicable as the proposal does not result in a change of use in an existing building.

Clause 94 Buildings to be upgraded

This clause does not apply as the proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building.

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

Tweed Shire Coastline Management Plan 2005

The Tweed Shire Coastline Management Plan provides Council with an integrated management planning framework that aims for a balance between the long term use of the coastline and its conservation. Whilst this management plan requires new development at South Kingscliff foreshore area to provide public parking spaces along the foreshore, this has no specific bearing on the subject application.

Tweed Coast Estuaries Management Plan 2004

This plan covers the estuaries of Cudgen, Cudgera and Mooball Creeks situated south of the Tweed River mouth between Kingscliff and Wooyung. The proposal does not directly impact on these waterbodies.

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

The proposal does not directly impact on these waterbodies.

(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

Context and Setting

The subject site is located on Marine parade, which is the main entry access into Kingscliff from the north.

The streetscape displays a predominately coastal character on the eastern side of Marine Parade due to the foreshore parks, coastal vegetation, pedestrian footpaths and beach access.

Development on the western side of Marine Parade displays a distinctive residential / tourist character. Whilst some of the existing residential buildings are three storeys and of relatively large scale, they do not front Marine Parade at this location and their long axis is perpendicular to Marine Parade, rather than parallel with Marine Parade.



Figure 2 - Marine Parade approaching Kingscliff. Site to the right of the photo.



Figure 3 - View of Marine Parade looking North (site to the left)

It is noted that the design for the building has attempted to respect the surrounding coastal residential fabric through incorporation of different roof modulations on the Marine Parade façade. It features fenestration of building and roof forms to break down the scale, height, form and mass of the building. The facade includes features such as a recessed public entry, semi open slatted privacy screen and textured materials.

Whilst these design features are acknowledged, the east, west and south elevations depict articulated expanses of blockwork and cladding. When combined with the non-residential nature of the use, orientation of the building (long axis parallel with Marine Parade) fencing, signs and vehicle holding

yard, it is considered the proposal will impose significantly on the existing streetscape character.

Access, Transport and Traffic

Despite the concerns with car parking raised above, Council's Engineers have not raised issue with the traffic impacts and proposed access arrangements.

Flora and Fauna

No significant clearing is proposed and the proposal and it is proposed within a highly disturbed area. It is not likely to have an impact on flora or fauna in this regard.

Stormwater

Whilst the stormwater concept is satisfactory, the discharge points to Marine Parade require re-design. If the proposal is approved, conditions are required in this regard.

S94 and S64 Development Contributions

It is noted that the applicant does not agree to conditions imposing section 64 or 94 contributions. Whilst it is agreed that a police station provides a community service, it is considered unreasonable that the State Government does not pay contributions for provision of roads, water and sewer supporting the facility which will service an area beyond the boundaries of the Tweed local government area.

The development is a trip generator, and as such developer contributions under the Tweed Road Contribution Plan should be applied. It is noted that as the applicant is the Crown, it has the discretion to accept or require removal of consent conditions that impose developer contributions.

During earlier negotiations with the applicant with regard to s64 and s94 contributions, the stated Council position was that payment was required. The applicant's response was that *"police stations are public buildings and house a public service. They are therefore regarded to be a material of public benefit and satisfy the provisions of s94. It is government policy that contributions are not paid. This is non-negotiable."*

Council and the applicant were unable to reach agreement, and it therefore remains a decision of the JRPP.

(c) Suitability of the site for the development

Scale

It is considered that the site is not large enough to accommodate the proposed development given the inability of the applicant to provide for adequate staff parking or customer parking on or adjacent to the site.

Context

It is considered that the large, non-residential building is out of character with the surrounding residential character.

Flooding

The application has been granted a 0.9m variation in regards to the finished floor level.

Coastal Hazard

The applicant has not demonstrated that the site is suitable in terms of potential threat of future coastal erosion, however appropriate conditions of consent are recommended if the Panel determines to approve the application.

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

Council received a total of 58 submissions (one of which was in support) and which incorporated a petition with over 2000 signatories. The issues raised in the objections are outlined above.

(e) Public interest

It is acknowledged that the proposal provides an important community facility and serves the public interest. There is concern that the impact on the locality in terms of character and car parking will be detrimental to the local public interest.

OPTIONS:

1. The Joint Regional Planning Panel refers the application to the Minister with reasons why the proposal should be refused; or
2. The Joint Regional Planning Panel approves the proposal with conditions. Note that the consent authority must not impose a condition on its consent to a Crown development application except with the approval of the applicant or the Minister.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In the event of a recommendation for refusal, section 89 of the EP&A Act states that the consent authority must not refuse a Crown development but must refer it to the Minister with reasons for the proposed determination.

In the event of a recommendation for approval, section 89 of the EP&A Act also states that conditions must not be imposed on a Crown development application without approval of the applicant or the Minister.

POLICY IMPLICATIONS:

Not applicable.

CONCLUSION:

Council has received a development application for demolition of the existing Police Station and two residences to enable the construction of a new two (2) storey Police Station (to be used for the Tweed Byron command).

The proposal is not supported due to insufficient on-site car parking. It is considered that the site is not suitable to accommodate the size and scale of police station proposed.

RECOMMENDATION:

That Development Application DA11/0257 for demolition of the existing Police Station and two residences to enable the construction of a new two (2) storey Police Station (to be used for the Tweed Byron command). The proposed structure also incorporates an underground storey (basement) for carparking at Lot 701 DP 1002309; Pearl Street, Kingscliff be refused for the following reasons:

- **The applicant has not agreed to conditions which would ensure compliance with Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979 as it relates to Tweed Development Control Plan (Section A2 – Site Access and Parking Code) by providing on-site car parking spaces which are available for use by staff and customers.**
- **The application does not comply with Section 79C (1) (b) of the Environmental Planning and Assessment Act 1979 as it relates to the likely impacts of the development – there is no certainty that the development will not have an adverse impact on the locality.**
- **The application does not comply with Section 79C (1) (d) of the Environmental Planning and Assessment Act 1979 as it relates to submissions – it is not considered that matters in the submissions have been adequately addressed.**