

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

SUPPLEMENTARY REPORT

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

Supplementary 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:

Since writing the main report on DA11/0257 which appears on the 21 November 2012 Joint Regional Planning Panel (Northern Region) Agenda, Tweed Shire Council has updated the proposed zoning maps associated with Draft Tweed LEP 2012. The original report now reflects outdated proposed zonings for the subject site.

The original report stated at page 24 that

“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.”

This is now outdated and should now read:

“Council’s Draft Local Environmental Plan 2012 is presently on exhibition and is applicable to the site.

The draft zone is R3 Medium Density.

*A police station is best defined as a public administration building (public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station) **which will be prohibited in the zone.**”*

The original report also provided commentary against SEPP (Infrastructure) 2007 at Pages 23 -24 which stated:

“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.”

This is now outdated and should read as follows:

“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.

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.

Clause 76 of this SEPP requires that development consent is obtained for this use only in prescribed zones. At the moment Tweed LEP 2000 zones the subject site Special Use 5(a) Police Station. An equivalent zone in the Standard Instrument could be SP2 – Infrastructure, and therefore presently a Police Station could be considered permissible by virtue of SEPP Infrastructure.

However, in the future if the Draft LEP 2012 is adopted in its current format the site will be R3 Medium Density. Within Clause 76 of the SEPP this zone is not a prescribed zone and therefore, in the future, a public administration building may not be not permissible under SEPP (Infrastructure) 2007.”

CONCLUSION:

The proposed construction of a new Police Station at the subject site is currently considered permissible by virtue of the;

- Tweed LEP 2000 (as an emergency service facility in the Special Use 5(a) Police Zone); and
- SEPP (Infrastructure) 2007 (as a public administration building in a prescribed zone being SP2 – Infrastructure)

Section 79C(1)(a)(ii) of the Environmental Planning & Assessment Act 1979 (EP&A Act) states that in determining a development application, a consent authority is to take into consideration any proposed instrument that is or has been the subject of public consultation (for example the Draft Tweed LEP 2012). Therefore the Panel is to have regard for the Draft LEP 2012 before determining the subject application.

If Draft LEP 2012 is adopted in its present format a police station will be prohibited at the subject site in the future (under the provisions of Tweed LEP 2012). Furthermore, SEPP (Infrastructure) 2007 will not authorise a public administration building in the R3 Medium Density zone.

Therefore the only way a police station could be considered in the future is by virtue of the existing use right provisions as contained within the EP&A Act. Under these provisions a police station could continue at the site either in its existing format or an amended format subject to consent.

The proposed changes to Draft LEP 2012 do not change Council's previous recommendation in regard to DA11/0257 and accordingly the application is still recommended for refusal as the site is not considered suitable to accommodate the size and scale of police station as 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.**