

# JOINT REGIONAL PLANNING PANEL

## (Northern Region)

JRPP No	2014NTH002
DA Number	DA14/0063
Local Government Area	Tweed Shire Council
Proposed Development	Northern retail expansion of Tweed City Shopping Centre including reconfiguration and expansion of retail space to the north and west of the centre resulting in an increase of gross floor area from 57,969m <sup>2</sup> to 78,628m <sup>2</sup> , demolition of existing car park, dwellings and to the existing shopping centre building, development of basement, at grade and multi-level parking, new signage, access amendments to the centre, new loading docks and upgrade to site infrastructure.
Street Address	<p>Lots 4-5 DP 781506; Nos. 34-36 Minjungbal Drive;</p> <p>Lot 6 DP 1119624; No. 38 Minjungbal Drive;</p> <p>Lot 1 DP 781517; No. 58 Minjungbal Drive;</p> <p>Lot 2 DP 781518; No. 60 Minjungbal Drive;</p> <p>Lot 1 DP 524806; No. 62 Minjungbal Drive;</p> <p>Lot 22 DP 23659; No. 24 Kirkwood Road;</p> <p>Lot 5 DP 830973; No. 24A Kirkwood Road;</p> <p>Lots 11-13 DP 23659; Nos. 42-42 Kirkwood Road;</p> <p>Lots 19-21 DP 23659; Nos. 26-30 Kirkwood Road;</p> <p>Lot 2 DP 804871; No. 48-50 Kirkwood Road;</p> <p>Lot 8 DP 23659; No. 52 Kirkwood Road; TWEED HEADS SOUTH, NSW, 2486</p>
Applicant	DEXUS Funds Management Ltd
Owner	SAS Trustee Corporation
Number of Submissions	Four submissions were received during the exhibition period

Regional Development Criteria (Schedule 4A of the Act)	<i>General development that has a capital investment value of more than \$20 million.</i>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• <u>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</u>  State Environmental Planning Policy (SEPP) No. 1 - Development Standards  State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land  State Environmental Planning Policy (SEPP) No. 64 – Advertising and Signage  State Environmental Planning Policy (SEPP) No 71 – Coastal Protection  State Environmental Planning Policy (SEPP) (Infrastructure) 2007  State Environmental Planning Policy (SEPP) (North Coast Regional Environmental Plan) 1988  Tweed Local Environmental Plan 2000</li> <li>• <u>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</u>  Draft Tweed Local Environmental Plan 2012  Please note this was gazetted (as amended) on 4 April 2014 as the Tweed Local Environmental Plan 2014.</li> <li>• <u>List any relevant development control plan: s79C(1)(a)(iii)</u>  Tweed Development Control Plan Section A2-Site Access and Parking Code  Tweed Development Control Plan Section A3-Development of Flood Liable Land  Tweed Development Control Plan Section A4-Advertising Signs Code  Tweed Development Control Plan Section A11-Public Notification of Development Proposals  Tweed Development Control Plan Section A13-Socio-Economic Impact Assessment  Tweed Development Control Plan Section A15 – Waste Minimisation and Management  Tweed Development Control Plan Section B2-Tweed Heads</li> </ul>

	<ul style="list-style-type: none"> <li>• <u>List any coastal zone management plan: s79C(1)(a)(v)</u>  Tweed Shire Coastline Management Plan 2005  Coastal zone Management Plan for Cobaki and Terranora Broadwater</li> <li>• <u>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</u>  Clause 92(a) Government Coastal Policy  Clause 92(b) Applications for demolition  Clause 94 Buildings to be upgraded</li> </ul>
List all documents submitted with this report for the panel's consideration	Section 79C Assessment Report including proposed conditions of consent.
Recommendation	Approval with conditions
Report by	David O'Connell (Town Planner)

## Assessment Report and Recommendation Cover Sheet

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## Assessment Report and Recommendation

**FILE NO:** DA14/0063

**REPORT TITLE:**

Development Application DA14/0063 for a Northern retail expansion of Tweed City Shopping Centre including reconfiguration and expansion of retail space to the north and west of the centre resulting in an increase of gross floor area from 57,969m<sup>2</sup> to 78,628m<sup>2</sup>, demolition of existing car park, dwellings and to the existing shopping centre building, development of basement, at grade and multi-level parking, new signage, access amendments to the centre, new loading docks and upgrade to site infrastructure (JRPP) at Lots 4-5 DP 781506; Nos. 34-36 Minjungbal Drive; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal Drive; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 5 DP 830973; No. 24A Kirkwood Road; Lots 11-13 DP 23659; Nos. 42-42 Kirkwood Road; Lots 19-21 DP 23659; Nos. 26-30 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; TWEED HEADS SOUTH, NSW, 2486

**SUMMARY OF REPORT:**

Tweed Shire Council received DA14/0063 on 5 February 2014 which seeks consent for a retail expansion of Tweed City Shopping Centre located at Tweed Heads South. The estimated contract price of the development is \$134,510,000 and accordingly the application has been referred to the Joint Regional Planning Panel for determination.

The application relates to a retail expansion to the north of Tweed City Shopping Centre including reconfiguration and expansion of retail space to the north and west of the centre resulting in an increase of gross floor area from 57,969m<sup>2</sup> to 78,628m<sup>2</sup>, demolition of existing car park, dwellings and to part of the existing shopping centre building. Furthermore the proposal includes the development of basement, at grade and multi-level parking in addition to new signage, access amendments, new loading docks and upgrades to site infrastructure.



**Figure 1: Existing Tweed City Shopping Centre site**

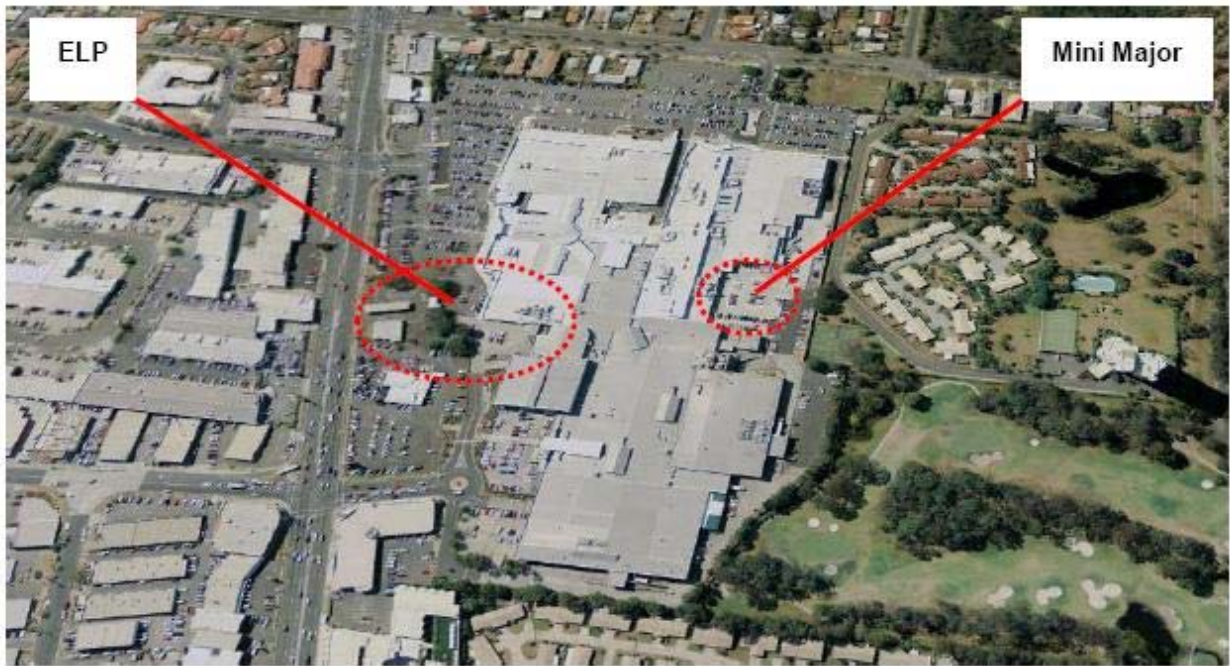
This proposal incorporates additional land parcels which have not previously been part of the Tweed City Shopping Centre site and accordingly the centre is expanding over a larger development footprint than previously considered.

The application was placed on public exhibition for a 30 day period in accordance with the Environmental Planning & Assessment Act 1979. During the exhibition period Council received four written submissions, which are addressed in detail elsewhere in this report.

The application was lodged and assessed as Integrated Development having regard to the Water Management Act 2000 with respect to dewatering to be undertaken during the construction of basement car parking. The NSW Office of Water has recommended General Terms of Approval for the proposed works.

The application was referred to the NSW Roads & Maritime Service (RMS) in accordance with SEPP (Infrastructure) 2007 as the development comprises a shop addition of greater than 2000m<sup>2</sup>. The RMS provided comments for Council's consideration with respect to the proposed development which are addressed in detail in the following report.

The Panel should be aware that this application (whilst a stand-alone application) is the second of two applications reported to the Panel in relation to development at Tweed City Shopping Centre in the past year. The previous application related to alterations and additions to the Tweed City Shopping Centre to accommodate a new Entertainment Leisure Precinct (ELP) & a new mini major extension. The development approved an increase of gross floor area of 4,178m<sup>2</sup>, the removal of an existing elevated car park, internal demolition and reconfigurations, new outdoor areas (including children's playground), revised loading docks adjoining the ELP, first-use approvals & revised car parking areas. The works to which this application related to is located to the centre of the Tweed City Shopping Centre site, to the south of the area impacted on by this application (as identified in Figure 2 below).



**Figure 2: Previous DA13/0554 scope of works (Mini Major and Entertainment Leisure Precinct Locations)**

The proposed development is considered suitable for the site as it is a permissible form of development and aligns with Council's adopted retail strategy which reinforces Tweed City Shopping Centre as a district shopping centre for the Tweed. This report incorporates recommended conditions of consent which form part of this report.

### **The Site**

Tweed City Shopping Centre is centrally located within Tweed Heads South and has its main site frontage along Minjungbal Drive extending between the blocks bounded by Kirkwood Road in the north and Machinery Drive in the south. The site has a total area of approximately 13.54ha and is located approximately 3km south of the Tweed Central Business District.





**Figure 3: Land subject to this application**

The existing centre is largely positioned within Lot 6 DP1119625 with the balance of existing improvements/proposed improvements both under this application and previously approved DA13/0554 contained within adjoining land parcels as indicated on Figure 3 above. The legal lot descriptions which comprise the site are:

SITE ADDRESS	LEGAL DESCRIPTION	SITE AREA (m <sup>2</sup> )
38 Minjungbal Drive	Lot 6 DP 1119624	121,900
34 Minjungbal Drive	Lot 4 DP 781506	588
36 Minjungbal Drive	Lot 5 DP 781506	588
58 Minjungbal Drive	Lot 1 DP 781517	935.8
60 Minjungbal Drive	Lot 2 DP 781518	935.8
62 Minjungbal Drive	Lot 1 DP 524806	1,625
24 Kirkwood Road	Lot 22 DP 23659	809.4
24A Kirkwood Road	Lot 5 DP 830973	751.1

26 Kirkwood Road	Lot 21 DP 23659	809.4
28 Kirkwood Road	Lot 20 DP 23659	809.4
30 Kirkwood Road	Lot 19 DP 23659	809.4
42 Kirkwood Road	Lot 13 DP 23659	809.4
44 Kirkwood Road	Lot 12 DP 23659	809.4
46 Kirkwood Road	Lot 11 DP 23659	809.4
48-50 Kirkwood Road	Lot 2 DP 804871	1618.8
52 Kirkwood Road	Lot 8 DP 23659	809.4
<b>TOTAL LAND AREA</b>		<b>135,417.7m<sup>2</sup></b> <b>13.54 Ha.</b>

To the east of the centre is the Coolangatta and Tweed Heads Golf Club and retirement resort complex, which is also adjacent to the Ukerebagh Nature Reserve and ecological wetlands.

To the west of Minjungbal Road is a clustering of fragmented commerce and trade uses and further to the west (adjacent to the Pacific Highway) is a large pocket of bulky goods premises including Bunning's Warehouse, Harvey Norman and Barbeques Galore.

Residential properties border the site to the north, east and to the south.

The original centre opened in 1982 with major expansions in 1986, 1997, and 2006 (DA06/0351). In 2009 (DA09/0404) Council approved a minor extension to the Big W area of the centre, however, this consent has not been acted upon to date.

Tweed City Shopping Centre is considered to be the established district shopping centre for the Tweed and the highest order centre for the Tweed Shire and the Far North Coast of NSW. It contains nationally recognised supermarkets and discount department stores, speciality shops, food outlets and a cinema with a total existing Gross Floor Area of 57,669m<sup>2</sup> and an existing Gross Leasable Floor Area of 47,865m<sup>2</sup> (these figures exclude the approved 4,178m<sup>2</sup> Gross Floor Area expansion under Da13/0554).

The shopping centre currently has three vehicular access points, two from Minjungbal Drive and the other from Kirkwood Road. It is noted that a further site access point has been approved under DA13/0554 between the two existing accesses on Minjungbal Drive.

### **Proposed Development**

#### **OVERVIEW**

The proposed development seeks approval for an expansion to the north and west of the existing shopping centre including basement and multi-deck parking. The proposed additional retail floorspace results in an increase in:

- Gross Floor Area (GFA) from 57,969m<sup>2</sup> to 78,628m<sup>2</sup> (increase of 20,695m<sup>2</sup>).
- Gross Lettable Floor Area (GLFA) 47,865m<sup>2</sup> to 67,141m<sup>2</sup> (increase of 19,276m<sup>2</sup>).



## DEMOLITION

The proposed demolition works include the former residential properties on Kirkwood Road, part of the existing car parking areas as well as internal works to the Tweed City Shopping Centre building to facilitate the connection of the northern retail expansion to the existing building.

## NORTHERN RETAIL EXPANSION

The northern retail expansion involves the reconfiguration and expansion of existing retail space to the north and west of the existing centre increasing the GFA from 57,969m<sup>2</sup> to 78,628m<sup>2</sup> and includes:

- Reconfiguration (and partial demolition as outlined above) of existing on-grade carpark fronting Minjungbal Drive and Kirkwood Road.
- An expanded basement carpark under the northern expansion and additional carparking, including 2 levels, plus small mezzanine level, of multideck parking to the north east of the site.
- Introduction of new loading docks off Kirkwood Road.
- Upgrades to site services infrastructure.
- Other ingress and egress amendments to the Centre as detailed below under Access, Traffic and Parking.

The northern retail extension is part one, part two storey and will provide new mall area with speciality shops, the relocation of the existing K-mart tenancy to the north, and an additional 12,000m<sup>2</sup> of retail area for sale of department store type merchandise. In this context a “traditional department stores’, ‘discount department store’ or ‘mini-majors department store’ simply means retail tenancy of generally over 400m<sup>2</sup> but remains a *shop* by definition for planning purposes, defined as:

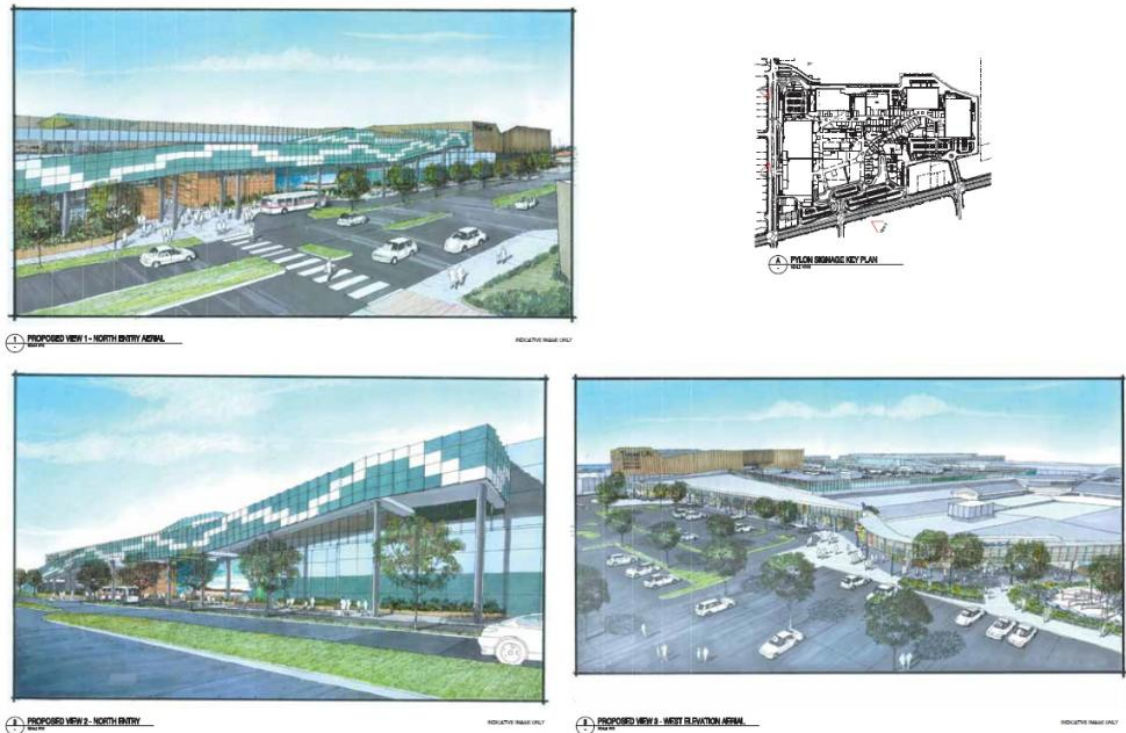
*land used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Schedule or used for a land use elsewhere specifically defined in this Schedule.*

## ACCESS, TRAFFIC AND PARKING

The proposed northern retail expansion will include the following changes in relation to access, circulation and parking:

- Relocation of the site access on Kirkwood Road from just north of Sandra Street to the north eastern corner of the site, just west of Duffy Street.
- Reconfiguration of the internal roadway and parking areas fronting Kirkwood Road to provide parking across five levels. This includes expanding and reconfiguring existing parking areas and providing express access ramps and internal circulation ramps.
- Reconfiguration of the western ‘at-grade’ parking area fronting the Minjungbal Drive/Blundell Boulevard intersection. This includes an express ramp connection to the rooftop parking area on Level 1 as well as a drop-off zone fronting the centre entry.
- Relocation of the Kirkwood Road bus stop to opposite Sandra Street including a dedicated bus lane. The bus stop will cater for three buses and include space for turning and passing movements.

- A recessed bus stop on Minjungbal Drive. The proposed bus stop will provide seating, shelter and timetable information for passengers.
- Service vehicle provisions including a dedicated Kirkwood Road loading area to service the shopping centre. In addition a loading area will be provided which is accessed by the retention of the existing ToyWorld driveway to provide a dedicated service vehicle 'in only' access from Minjungbal Drive and a new service vehicle 'exit only' onto Kirkwood Road.
- Integration of the previous development applications internal layout as part of the Entertainment and Leisure Precinct and Mini-Major expansion.



**Figure 4: 3D Views of Proposal**

## SIGNAGE

Several new signs form part of this application and include the following:

TYPE	LOCATION	NO	SIZE
Centre Sign	"Tweed City" Entry(North Elevation)	1	12000w x 2000h
Tenancy Sign (Major Sign)	North Elevation (High Level)	2	8000w x 2000h
Tenancy Sign (Centre Sign)	North Elevation	1	13500w x 3200h
Tenancy Sign (KAuto Sign)	North Elevation	1	7500w x 1500h
Tenancy Sign (Centre Sign)	South Elevation	1	13500w x 2500h
Tenancy Sign (Major Sign)	South Elevation (High Level)	3	8000w x 3500h
Tenancy Sign (KAuto Sign)	North Elevation	1	7500w x 1500h
Tenancy Sign (Centre Sign)	West Elevation	1	13500w x 2500h
Tenancy Sign (Major Sign)	West Elevation (High Level)	3	8000w x 2000h
Tenancy Sign (KAuto)	West Elevation	1	12500w x 2500h
Centre Sign "Tweed City"	Entry on Roof(West Elevation)	2	7000w x 2000h
Tenancy Sign	Fascia	8	1460w x 800d x 2050h
Pylon Signage to replace existing Pylon Signs	In existing Pylon locations Refer Dwg. TP38-001	3	5000w x1400w x 15000h

The proposed signage consists of a total of 28 signs which cover a total area of approximately 630m<sup>2</sup>. All signs will be internally illuminated or have internally illuminated individual letters, or be floodlit.

## SITE DIAGRAM:



### Locality Plan

Lots 4-5 DP 81506; Nos. 34-36 Minjungbal Drive; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal Drive; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 5 DP 830973; No. 24A Kirkwood Road; Lots 11-13 DP 23659; Nos. 42-42 Kirkwood Road; Lots 19-21 DP 23659; Nos. 26-30 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; Tweed Heads South

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Cadastral 04/06/2014  
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Boundaries shown should be considered approximate only.

0 0.5 1 Km  
1:50,000 @ A4 Portrait  
DO NOT SCALE  
COPY ONLY - NOT CERTIFIED  
Map Projection: Universal Transverse Mercator  
Horizontal Datum: Geoid96; Datum of Australia 1954  
Scale: Map of Australia, Zone 55  
GDA

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Circle Printed: 02 June, 2018



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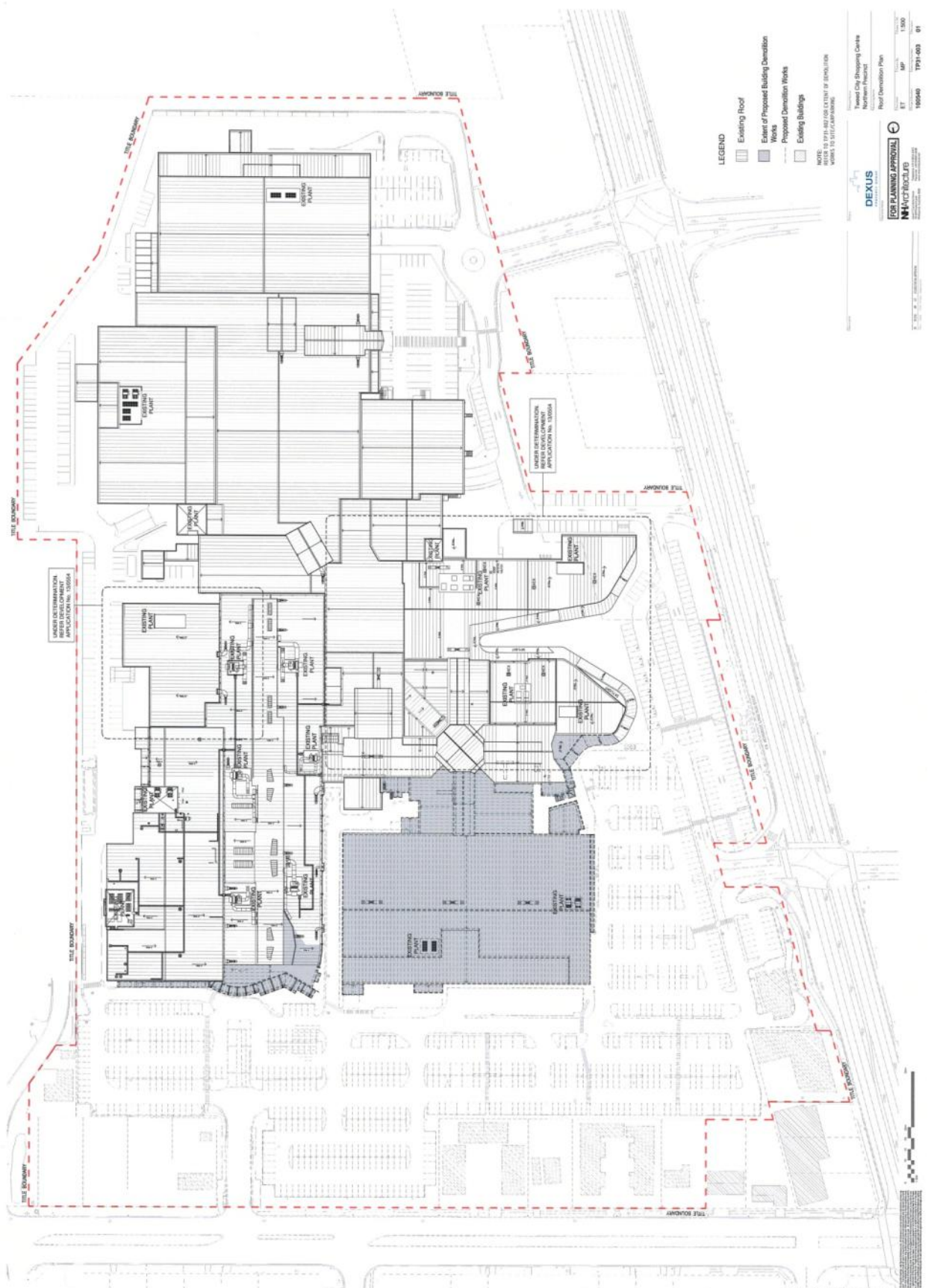
JRPP (\*\* Region) Business Paper – Item # - Date of Meeting – JRPP Reference











**Roof Demolition Plan (Drawing No. TP31-003 Revision 1) prepared by NH Architecture and dated 19 November 2013**

















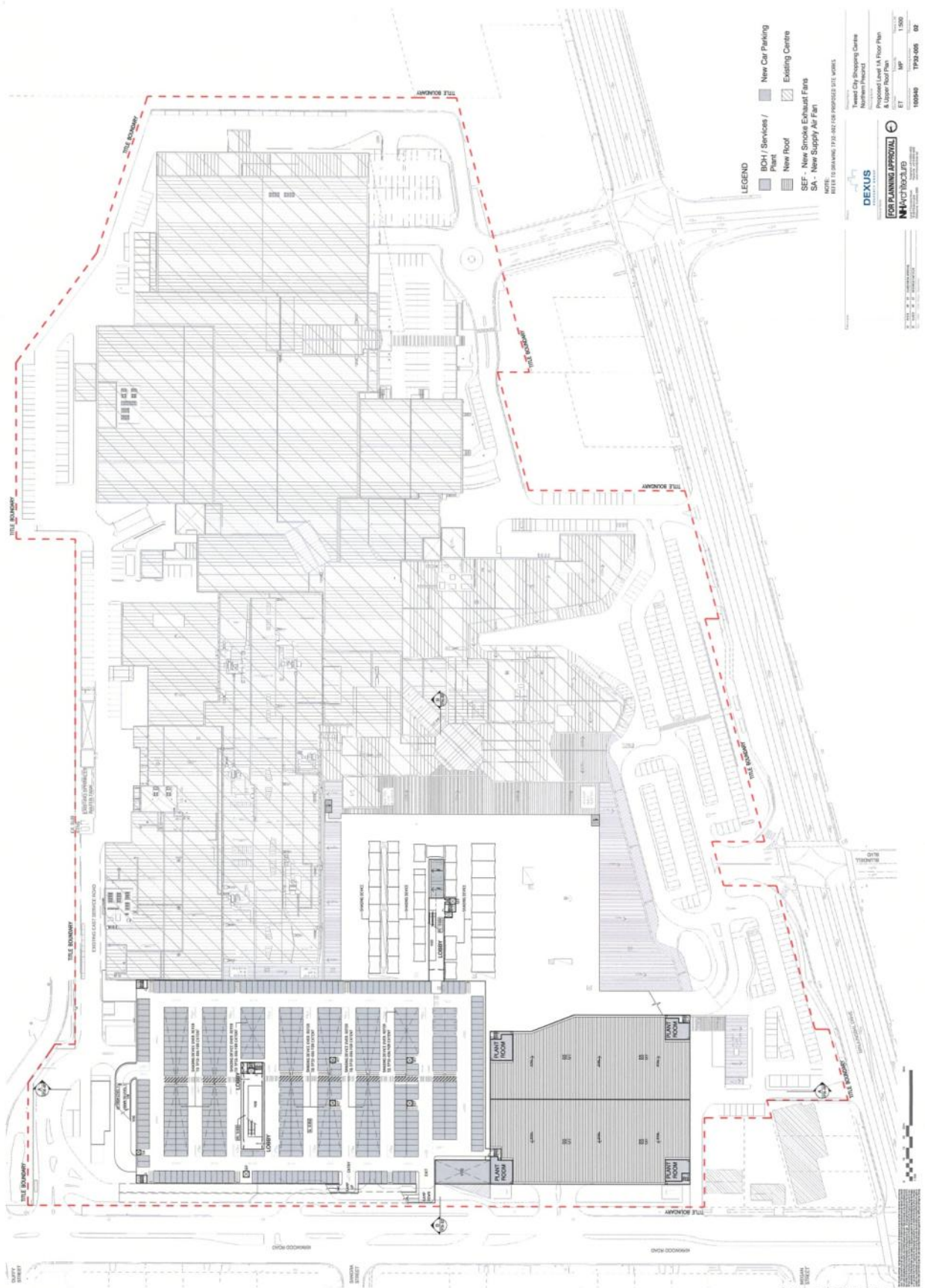
**Proposed Ground Mezzanine Floor plan (Drawing No. TP32-003 Revision 2) prepared by NH Architecture and dated 19 November 2013**







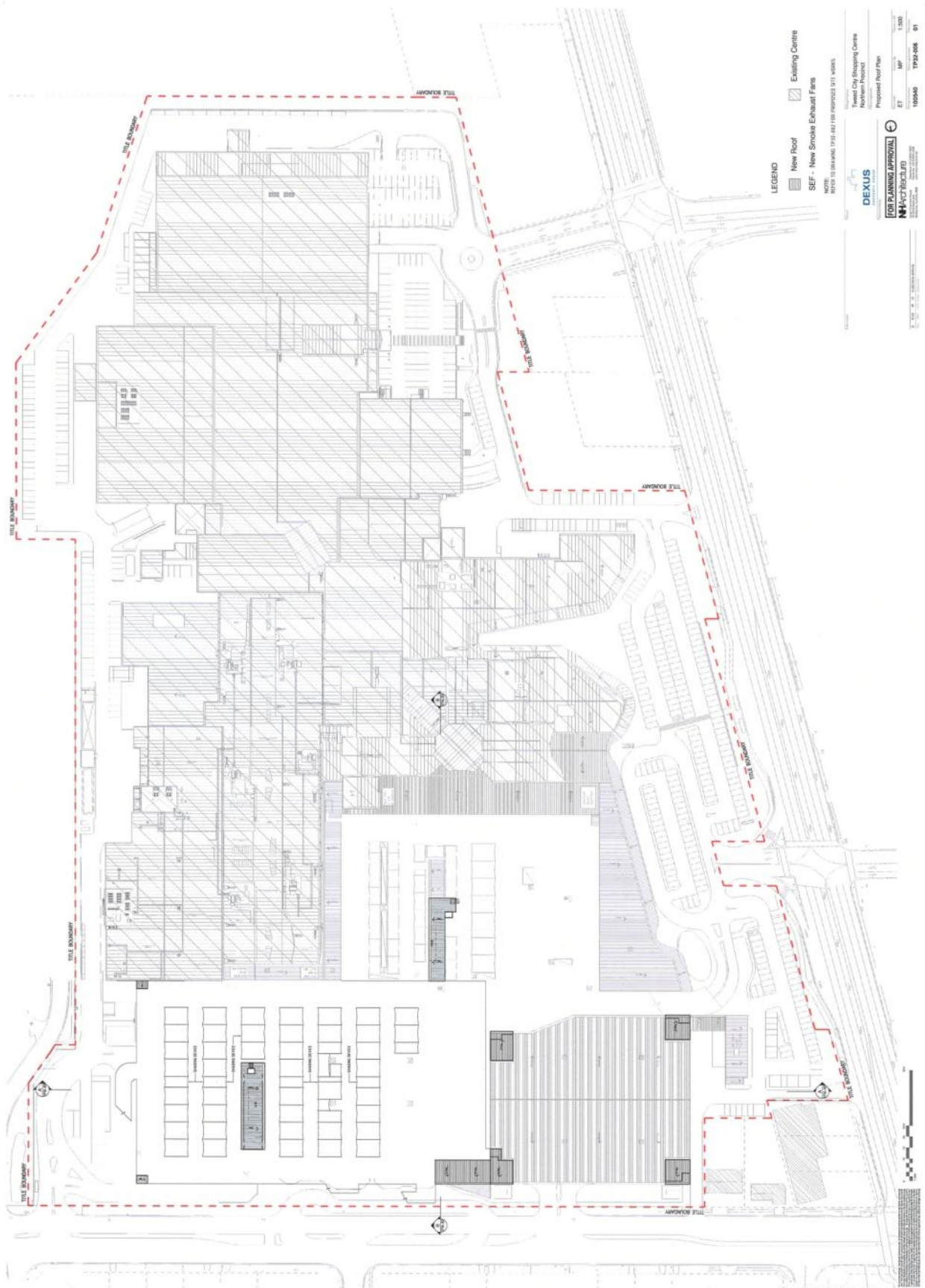




**Proposed Level 1A Floor Plan & Upper Roof Plan (Drawing No. TP32-005 Revision 2) prepared by  
NH Architecture and dated 19 November 2013**





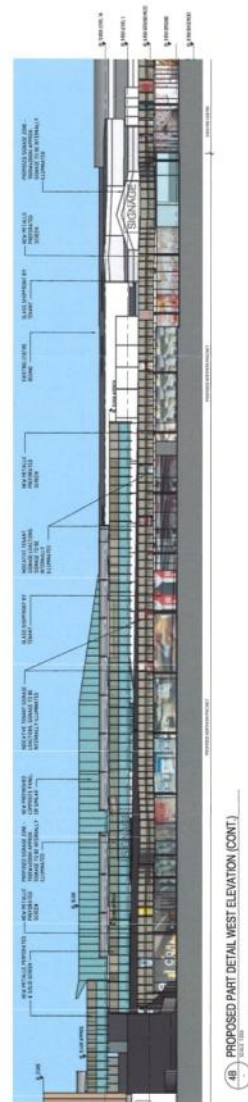
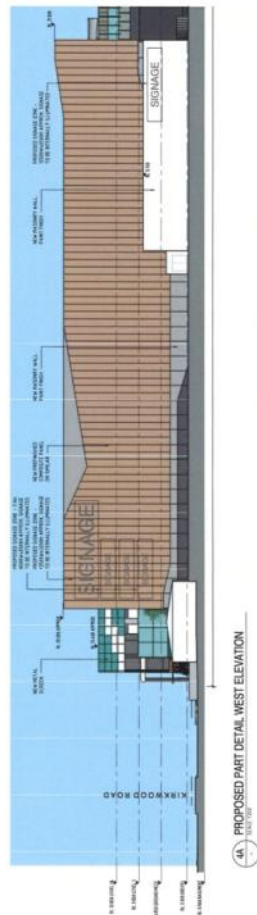
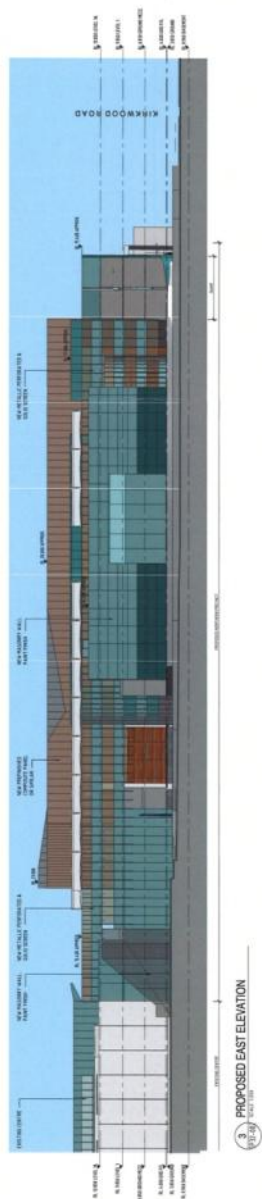


**Proposed Roof Plan (Drawing No. TP32-006 Revision 1) prepared by NH Architecture and dated 19 November 2013**



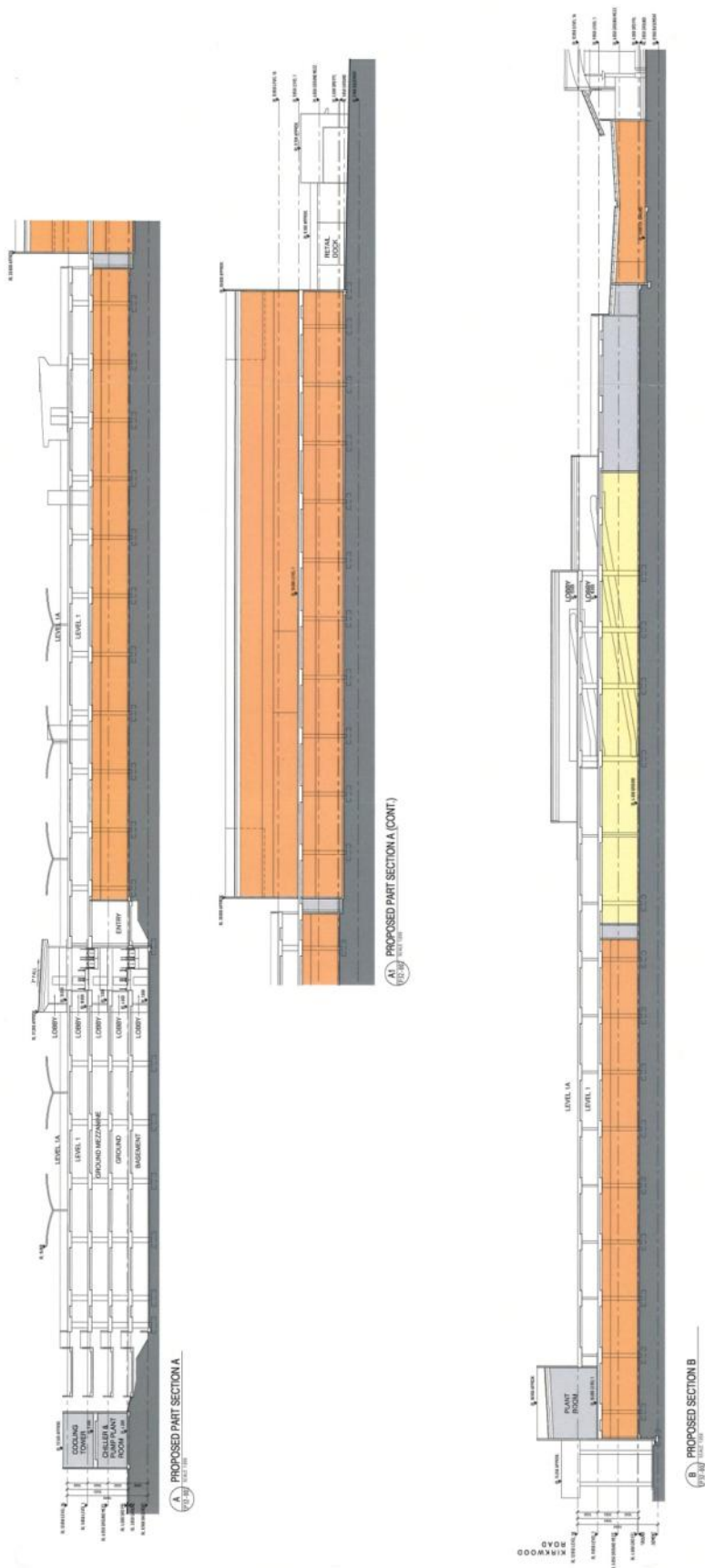












Project: Tower City Shopping Centre  
 Location: Northern Ireland  
 Projected Section:  
 Date: 19/11/2013  
 Drawn by: TP36-001  
 Scale: 1:500  
 Sheet: 01

DEXUS  
 FOR PLANNING APPROVAL  
 NH Architects

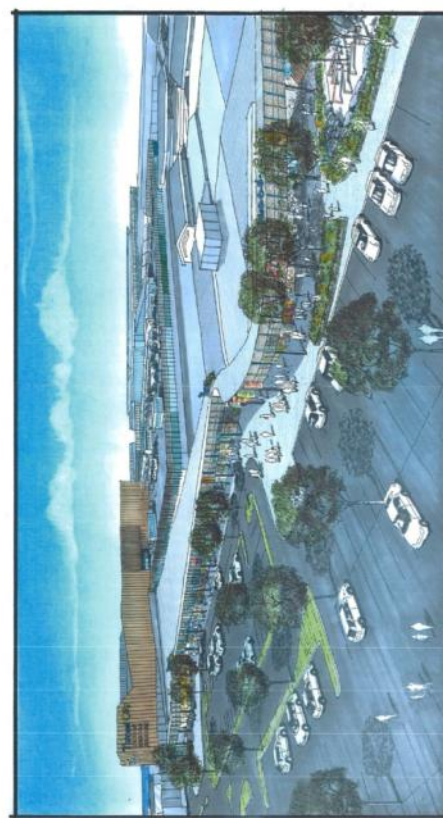
**Proposed Sections (Drawing No. TP36-001 Revision 1) prepared by NH Architecture and dated 19 November 2013**









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**Proposed 3D Views (Drawing No. TP39-001 Revision 1) prepared by NH Architecture and dated 19 November 2013**





**indicative colour palette  
canopy, facades, carpark**



**green wall  
facade**



**carpark shading  
multideck carpark**



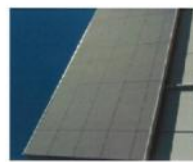
**timber / aluminium / glass  
wall / bulkhead treatment**



**timber / plywood / perforated  
canopy treatment**



**timber / plywood / perforated  
metallic screen**



**cfc cladding / prefinished composite panel / precast  
facade treatment**



The selection of materials and finishes will be selected on a fit for purpose approach suitable for high quality retail buildings. In principle selections will aim to achieve a high degree of weather resilience reducing the requirement for ongoing maintenance.

## INDICATIVE MATERIALS AND FINISHES

Project Name		Town of City Shopping Centre	
Location		Northern District	
Proposed Indicator		External	
Prepared by		NH Architecture	
ET	ML	ML	ML
100000	100000	100000	100000
Project No.		TP39-001	
Revision		01	



**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 Tweed Local Environmental Plan 2000 (LEP) 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.

On 16 November 2005 Council considered a report regarding a retail strategy for the Tweed. The report was prepared by Core Economics. Council resolved as follows:

1. *The character of existing towns and villages and the retail facilities they already have be protected.*
2. *Where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones.*
3. ***Reinforce Tweed Heads South as the major district retail centre by encouraging the expansion and when Tweed's population demands that increased range and level of shopping.***
4. *Maintain and wherever possible enhance the special appeal of the retail centre of Murwillumbah and those village centres of similar style.*
5. *Limit the scale of new large scale retail centres in the coastal region to a level which caters for the majority of chore type shopping needs. This concept to reflect the need to reduce fuel consumption and to support sustainability within each centre through discouraging vehicle use and encouraging walking and cycling.*
6. *Council does not support the establishment of another district retail shopping centre.*
7. *The retail concepts in these recommendations form the basis of locality plans in the Shire and any retail development applications which are submitted in the interim of these locality plans being prepared and approved by Council be assessed so that the above retail strategies are supported and not compromised.*

The retail strategy report recommended the following policy framework for Tweed Heads South:

Expansion of Tweed Heads south to cater to future demand. Precinct to increase as demands dictates. Retail showrooms to be accommodated at Chinderah as Tweed South areas reach capacity and demand dictates.



The proposed expansion to Tweed City Shopping Centre is considered to be consistent with Council's adopted strategies. Therefore the subject development application is considered generally in keeping with the above aims, and it is not considered to result in a reduction of amenity for nearby residential properties or the shire as a whole given the permissibility of this type of development at this location.

#### Clause 5 - Ecologically Sustainable Development

Clause 5 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. The development is proposed over land which has historically been used for commercial purposes and which is not considered to have any significant environmental impact. The proposed development is considered to be consistent with the provisions of this clause.

#### Clause 8 – Consent considerations

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 development site is entirely zoned 3(b) General Business. The objectives of the zone are:

#### Primary Objectives

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

#### Secondary Objectives

- \* *To provide for tourist oriented development.*
- \* *To encourage upper floor residential or tourist accommodation.*

The proposed development, being defined as shop under the provisions of this LEP is permissible with consent in the zone and is considered to satisfy the zone objectives by virtue of providing a centre in which the communities shopping needs can be met.

The other aims and objectives of this plan (Tweed LEP 2000) relevant to the development have been considered and addressed elsewhere within the body of this report, with no unacceptable impacts anticipated through the proposed development.

The development is not considered to have an unacceptable cumulative impact on the community or locality as it is assessed as being, subject to appropriate conditions of consent being attached to any approval, a suitable development on appropriately zoned land.

#### Clause 11 - Zone objectives

The subject development area is located within the 3(b) General Business zone. The objectives of the zone are as follows:

The primary objectives of the zone are:

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

The secondary objectives of the zone are:

- \* *To provide for tourist oriented development.*
- \* *To encourage upper floor residential or tourist accommodation.*

As detailed under the clause 8 assessment above, the proposed shop development is considered to satisfy the zone objectives by virtue of providing a centre in which the communities shopping needs can be met.

It is considered that the proposed development would be in keeping with the existing use of the site for the purposes of a shop and is consistent with the zone objectives.

#### Clause 15 - Essential Services

The primary objectives of this Clause are;

- *to ensure that development does not occur without adequate measures to protect the environment and the community's health.*
- *to ensure that development occurs in a coordinated and efficient manner.*

The site is serviced with water, sewer, power and telecommunication infrastructure to cater for the proposed expansion. In this regard the proposal has been reviewed by Councils Water Unit who have provided the following advice with respect to water and sewer services:

**"Sewer:** *The proposed development is located over an existing 225mm diameter sewer at the north east of Lot 6 DP1119624. The developers have nominated four preliminary options for relocation of the sewer. Council has a preference for the sewer 2B, where the sewer is not constructed underneath the proposed building. A section 68 application shall be required for the relocation. Continual sewerage services must be maintained for all properties upstream of including the two properties connected to the affected sewer, for the duration of the works. Furthermore, road layout changes are proposed in Kirkwood Road for new entry and bus stop locations. Impacts to the existing 225mm diameter sewer in Kirkwood Road need to be addressed prior to Construction Certificate.*

**Water:** *The proposed development is located over an existing 100mm diameter water pipeline at the north west of Lot 6 DP1119624. Furthermore, the developer proposes to lower the existing 100mm diameter water main in Kirkwood Road for proposed roadworks around the development. Impacts to the existing 100mm diameter water line in Kirkwood Road need to be addressed prior to Construction Certificate."*

Recommended conditions of consent have been provided with respect to the above and are to be attached to any consent issued to service water and sewer to the proposed development.

The application is considered to be acceptable in relation to the provision of essential services for the subject development. Accordingly, the proposal is considered to comply with the provisions of this clause.

#### Clause 16 - Height of Building

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

Clause 16 of the TLEP 2000 ensures development is undertaken in accordance with the building height plan. The subject land is identified as being in an area where development of up to three storeys is allowed. For the purposes of commercial buildings a storey is defined as being up to 5 metres in height.

The proposed development is identified as having a maximum building height of 17m, which contravenes the provisions of this clause, technically being a four storey building.

A SEPP 1 Objection has been submitted with respect to this control which is addressed elsewhere in this report. In this regard the applicant contends that the objectives of the standard are achieved notwithstanding non-compliance with the clause. The applicant has provided valid justification stating that strict compliance with the standard is considered both unjustifiable and unnecessary in the context of the proposed development. The variation and justification is supported in this instance.

#### Clause 17 - Social Impact Assessment

The objective of this clause is to ensure proper consideration of development that may have a significant social or economic impact.

In this regard Council has prepared DCP Section A13 - Socio-Economic Impact Assessment which outlines development thresholds which would necessitate a Social Impact Assessment to be prepared and submitted with a development application. Under these criteria, a retail development greater than 1,500m<sup>2</sup> Gross Floor Area (GFA) necessitates the preparation of a Social Impact Assessment.

In line with this a Economic and Social Impact Assessment has been prepared which concludes that the proposed development will result in positive social and economic outcomes by providing:

- Increase in consumer choice,
- A reduction in the need to travel outside Tweed Shire for higher order shopping needs,
- A reduction in the level of spending *'escaping from the Tweed region'*
- A consolidation and strengthening of the Tweed Heads South Activity Centre.

This document also identifies that the proposed development would result in increased employment to a level of approximately 579 construction jobs (for one year) and 596 ongoing retail jobs.

This report further identifies that based on the forecast level of population growth there is an estimated demand for additional retail floorspace in the order of 116,600m<sup>2</sup> up to 2027. The proposed additional floorspace proposed under this application (18,298m<sup>2</sup>) and previously approved DA13/0554 (3,098m<sup>2</sup>) which consists of the redevelopment of the primary retail centre in the shire would therefore meet approximately 18% of the trade area's future additional requirement up to 2027. Having regard to these figures, the proposed development would not be prejudicial to further development at other centres in the area.

The submitted Economic and Social Impact Assessment is considered to adequately address relevant issues with respect to this application and the proposed development is not considered to contravene the objectives of this clause.

#### Clause 22 – Designated Roads

The subject site has frontage to Minjungbal Drive, which is a Council designated road. As such this clause applies to this site. Presently the Tweed City Shopping Centre site can be accessed from two entry points from Minjungbal Drive and one from Kirkwood Road. Under DA13/0554 an additional access point from Minjungbal Drive was approved.

This application does not propose any amendments to the access points along Minjungbal Drive from that approved under DA13/0554, with exception of an 'in only' loading area which is accessed by the retention of the existing ToyWorld driveway.

Significant amendments are proposed to the access arrangements on Kirkwood Road, with a specific loading bay access proposed approximately 80m from the junction with Minjungbal Drive and a customer access point to the north east corner of the site.

This clause states that the consent authority may grant consent to development on land to which this clause applies only if the following is satisfied:

- (a) *the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*

The proposal is not considered to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road. It is noted that the application has been reviewed by both the NSW Roads and Maritime Service (RMS) and Tweed Shire Council's Traffic Engineer with no issues raised in this regard.

- (b) *the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*

The subject site will maintain current access points from the designated road (Minjungbal Drive) with exception of an 'in only' loading area which is accessed by the retention of the existing ToyWorld driveway. This application proposes modification to access points from Kirkwood Road as identified above. It is not considered that the proposed development would impede through traffic movement on the designated road to any significant adverse measure. Proposal is considered to be acceptable in this regard.

- (c) *the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*

The subject application is not considered to prejudice any future improvements to, or realignment of, the designated road. At present there is a distance of approximately 9m between the road verge and the site boundary which is utilised as a public pathway and grassed/ landscaped area for much of the Tweed City Shopping Centre/ Minjungbal Drive interface. It is noted that this application provides for the demolition of structures in close proximity to the designated road and does not propose any development work which would result in additional encroachment towards this road. As such the proposal is considered to be acceptable having regard to the above.

- (d) *where the land is in Zone 1(a), 5(a), 7(a), 7(d), 7(f), or 7(l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*

Not applicable, the subject site is zoned 3 (b) General Business.

- (e) *the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*

The proposed retail development is not considered to constitute a development that would be particularly sensitive to traffic noise. The application is considered to be acceptable in this regard.

- (f) *the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and*

The proposal is not considered to detract from the scenic values of the locality, considering the proposal relates to a shopping centre development on land zoned for such a purpose in a developed urban environment.

- (g) *where practicable, access to the land is provided by a road other than the designated road, and*

As outlined above, the subject site contains a number of access points, from both the designated road and Kirkwood Road which borders the shopping centre to the north. Given that this application relates to an established, previously developed site it is not considered practicable to require access to be provided only from Kirkwood Road. Therefore the proposal is acceptable having regard to this control.

- (h) *in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development:*

- (i) *would not compromise the Highway's function as the North Coast's primary inter- and intra-regional road traffic route, and*
- (ii) *would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and*
- (iii) *would not compromise highway safety and efficiency, and*
- (iv) *would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientated site.*

Not applicable. The subject site is zoned 3 (b) General Business.

Having regard to the above, the proposal is considered to comply with the objectives of clause 22 and sub clause 4.

#### Clause 34 Flooding

The subject development is an extension/redevelopment of an existing commercial shopping centre. It is non-habitable, so Council's Tweed DCP Section A3 – Development of Flood Liable Land does not apply minimum habitable floor levels for commercial development. The subject application was referred to Council's Flooding Engineer with respect to flooding on the site who provided the following comment;

*"The site is flood liable, but is generally above design flood level. The development is non-habitable and an expansion of an existing facility. The basement car parking will need to be protected from inflow of flood waters up to 500mm above design flood level, which the applicant notes in the Civil Engineering Report. The proposal is acceptable in terms of flooding."*

Having regard to the provided advice, the subject application is considered acceptable in terms of flooding subject to the provision of the recommended conditions of consent. Clause 34 is considered satisfied.

#### Clause 35 - Acid Sulfate Soils

The subject site demonstrates Class 2 Acid Sulfate Soils (ASS) in accordance with the provisions of this clause.

The application was supported by an Acid Sulfate Soil Assessment Desktop Review by Soil Surveys Ref. 212-10651 and dated November 2013. This assessment concludes that both potential and actual ASS are likely to occur at the site and recommends that a detailed ASS assessment of the site is carried out and an ASS Management Plan is implemented.

The application has been reviewed by Councils Environmental Health Unit who have provided the following recommended conditions of consent:

*"Prior to issue of a construction certificate an Acid Sulphate Soil Management Plan in accordance with the provisions of the NSW Acid Sulphate Soil Management Advisory Committee Guidelines shall be prepared and provided to Council's Environmental Health Officer for consideration and approval. All works shall comply with the approved Acid Sulphate Soil Management Plan."*

*Appropriate on-site stockpile locations for the treatment of any identified acid sulphate soil shall be nominated within the Acid Sulphate Soil Management Plan and no untreated acid sulphate soil material shall be removed from the site unless appropriate off-site acid sulphate soil stockpile treatment locations have been nominated within the Acid Sulphate Soil Management Plan and such off-site locations are to the satisfaction of Council's General Manager or delegate."*

These conditions form part of the recommendation for approval. Having regard to the above advice and recommended conditions it is considered that the proposal is acceptable in terms of impact upon Acid Sulfate Soils and does not contravene the provisions of this clause.

#### Clause 39 – Remediation of contaminated land

The objective of this clause is to ensure that contaminated land is adequately remediated prior to the development occurring. In this regard it is noted that under DA13/0554 detailed assessment was undertaken in relation to the portion of the site which was previously used



as a service station. No development is proposed as part of this application at the previous service station location.

In any event, the development application has been referred to Council's Environmental Health Unit for consideration who raised no specific issues regarding the remediation of contaminated land. Conditions of consent have been provided with respect to contamination which requires a Contaminated Waste (soils/water) Management Plan to be submitted to Council prior to the commencement of work.

Furthermore, a sub-slab contamination investigation report is to be provided for the allotments subject to this application on which demolition is proposed.

It is considered that subject to the imposition of the recommended conditions of consent the proposed development would be in accordance with the provisions of this clause, having regard to the assessment undertaken by Council's Environmental Health Unit.

#### Clause 39A Bushfire Protection

The objective of this Clause is *"to minimise bushfire risk to assets and people and to reduce bushfire threat to ecological assets and environmental assets"*.

The subject development site is mapped as being partially bushfire prone with an area of approximately 2,300m<sup>2</sup> to the north eastern portion of the site located within the bush fire prone area vegetation buffer of 30 to 100 metres.

Under the proposed development this portion of the site is to be utilised as a vehicular access point from Kirkwood Road, contains two sub stations and a chiller and pump plant room and would also incorporate a minor area of the multi level car parking.

The submitted application includes a Bushfire Assessment prepared by a Certified BPD Practitioner which concludes that 'it is considered that the proposed development will be consistent with the aim and objectives of *Planning for Bush Fire Protection*. No specific recommendations are made for the proposed development in relation to bushfire protection measures.'

It is further noted that in terms of access to and from the site, the standard and capacity of public roads serving the site are such that arrangements for access for the purposes of emergency response will be under the proposed development. The proposal is considered to comply with the objective of the Clause.

#### Clause 44 Development of Land within Likely or Known Archaeological Sites

The relevant section of the Clause States:

- (1) *The consent authority may grant consent to the carrying out of development on an archaeological site that has Aboriginal heritage significance (such as a site that is the location of an Aboriginal place or a relic within the meaning of the National Parks and Wildlife Act 1974), or a potential archaeological site that is reasonably likely to have Aboriginal heritage significance only if:*
  - (a) *it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Director-General of National Parks and Wildlife, and*

- (b) *except where the proposed development is integrated development, it has notified the local Aboriginal communities (in such a way as it thinks appropriate) of the development application and taken into consideration any comments received in response within 21 days after the notice was sent, and*
- (c) *it is satisfied that any necessary consent or permission under the National Parks and Wildlife Act 1974 has been granted.*

The application was supported by a Cultural Heritage Assessment (dated November 2014) and an Aboriginal Cultural Heritage Assessment Archaeological Excavation Report (dated January 2014), both undertaken by Everick Heritage Consultants Pty Ltd. These reports outline the following:

**"Cultural Heritage Assessment (November 2013)**

*A search of applicable historic heritage registers did not identify any items of cultural heritage significance within close proximity to the proposed Development Area.*

*A search was conducted on 22 February 2012 of the OEH Aboriginal Heritage Information Management System ('AHIMS'), which identified 40 recorded sites for the broader search area. Five (5) Indigenous archaeological sites are registered on AHIMS within 1.25 km of the Development Area, with one site being located 175m from the north eastern extent of the Development Area. No AHIMS registered sites or Indigenous Places listed in other Heritage Registers were recorded or identified within the Development Area.*

*A search was conducted of the Bundjalung Mapping Project (BMP), a registry and library maintained by the Tweed / Byron Local Aboriginal Land Council which is complimentary to the AHIMS register. 19 sites were returned as being located within 500m of the Development Area, with two (2) Bora Rings, quite significant ceremonial sites, being located within 250 m of the Development Area.*

*A survey for Aboriginal and historic cultural heritage was carried out by Everick Senior Archaeologist Adrian Piper and Mr Des Williams, Chairman/Sites Officer for the Tweed Byron LALC, on 16 March 2012. No objects or places of Aboriginal or historic cultural heritage were identified within the Development Area.*

*Everick Senior Archaeologist Adrian Piper undertook detailed inspection of the Development Area with the assistance of TBLALC Sites Officer Mr Des Williams.*

*This inspection did not identify any physical evidence of Aboriginal or historic cultural heritage within the Development Area. Mr Williams formed opinions as to the cultural heritage significance of the Development Area in relation to the Kirkwood Road East Bora Ring. It is Mr. Williams' view that there are two areas of cultural significance associated in a spiritual sense with the Bora Ring. One of these areas is to the east of the 'Tweed City' precinct in the vicinity of a high rise building. The second area of significance associated with the Bora Ring is located at a residential premises on the northern side of Kirkwood Road East. Details of these two locations are at the discretion of Mr. Williams only. Mr. Williams was of the view that part of the northern portion of the Development Area was a camping ground used by groups participating in ceremonial and non-ceremonial activities (Des Williams pers comm: March 16 2012). He and other members of the AAC, are of the opinion that those parts of the*

*Development Area that have not seen substantial excavation and ground disturbance and retain the potential to contain Aboriginal Objects."*

In conclusion, the following results were noted:

- *"No Aboriginal Objects or Places were identified within the Development Area.*
- *Consultation with the Tweed LALC and the AAC identified no places of particular intangible (spiritual) significance within the Development Area. However, the Development Area is situated within an immediate cultural landscape that is of high significance to the Aboriginal people of the Tweed. This significance derives from a range of spiritual, ceremonial and occupation sites in relatively close proximity to the Development Area. Consultation with the AAC and the Tweed Byron LALC indicates that the Project would appear unlikely to have a substantial detrimental impact on the significance of surrounding landscape, including nearby Bora ground, owing to the already high levels of development over the Development Area.*
- *The members of the AAC made no objections to the development proposal provided archaeological testing was conducted prior to development works.*
- *While surface disturbance was documented in the Development Area, there is a low potential for Aboriginal Objects of high cultural significance to be located within the Development Area. It is a very low possibility that the Development Area will contain in situ (archaeologically / scientifically significant) Aboriginal Objects."*

#### **Aboriginal Cultural Heritage Assessment Archaeological Excavation Report (January 2014)**

This report contains information concerning archaeological excavations undertaken in the proposed development area, to the north of the development site.

The following is noted from this report:

*"The areas identified for excavation were assumed to be the least disturbed within the Development Area, and were viewed as most likely to contain in situ archaeological deposits at depth. The excavations are aimed at:*

- a) identifying any Aboriginal cultural within the development area; and*
- b) to provide additional information on aspects of Aboriginal life ways such as occupation patterns and technology.*

*A total of six test trenches were excavated. No cultural material (artefacts, shellfish or other faunal material) or features (post holes, fireplaces); were found. This report is intended to provide the Aboriginal community of the Tweed with important information to allow them to make an informed decision on the management of cultural heritage within the Tweed City Northern Retail Expansion Development Area.*

*In summary, based on archaeological evidence no areas were found to retain cultural material or to be culturally sensitive. There is no archaeological evidence to suggest that the proposed development will cause harm to cultural heritage."*

The proposed development application was forwarded for comment to Tweed Byron Local Aboriginal Land Council and subsequently considered at the Aboriginal Advisory Committee meeting held on 7 February 2014. The minutes of this meeting note the following:

*"Claire Davy provided the AAC with an overview of the five pits that were dug in various locations for the proposed Tweed City extension. The pits were each 2m x 1.2m. Five pits were dug over four days in various locations however no culturally significant material was located.*

*Everick had two research questions in relation to the proposal:*

- 1. Is there any evidence of cultural material on the surface?*
- 2. Is it a similar sand source as Cobaki and if they go deeper what will they find?*

*Des Williams advised that due to the location of the bora ring and initiation ground near the tower that the area wouldn't have been used for camping by Aboriginal people. However, this does not mean that the area isn't significant.*

*Tim advised that Council requires feedback from the AAC before the DA can be approved."*

At this meeting the following resolution was carried:

**"RESOLVED** that the Aboriginal Advisory Committee does not have any objection to Council issuing the Development Approval for the northern retail expansion at Tweed City Shopping Centre."

Accordingly the proposed development is considered satisfactory having regard to Clause 44, subject to standard condition of consent stating that work should cease if any article of significance is discovered.

#### Clause 47- Advertising signs

The objective of the advertising provisions is to ensure that outdoor advertising:

- a) Conveys advertisers' messages and images while complementing and conforming to both the building on which it is displayed and the character of the locality, and
- b) Does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way, and
- c) Does not lead to visual clutter through the proliferation of signs, and
- d) Does not detract from the rural character or scenic qualities of the area of Tweed.

The applicant has provided information to Council outlining the signage proposed as part of this application. The specific details of this signage is outlined elsewhere in this report however it is noted that there are a total of 28 signs proposed which cover a total cumulative area of approximately 630m<sup>2</sup>.

It is considered that the proposed signage is consistent with that expected at a larger shopping centre and would be in accordance with the objectives outlined above. The application has been referred to Councils Traffic Engineer for comment who has raised no concerns with respect to the proposal having an impact on the surrounding road network. The signage is not considered to adversely affect the locality due to its size. The proposal does not lead to a visual clutter through the proliferation of signs given the overall scale of the proposal and does not detract from the scenic qualities of the Tweed. As such the proposal is considered to be acceptable having regard to this clause.

## **State Environmental Planning Policies**

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

#### **Clause 32B – Coastal Lands**

- (1) *This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.*
- (2) *In determining an application for consent to carry out development on such land, the council must take into account:*
  - (a) *the NSW Coastal Policy 1997,*
  - (b) *the Coastline Management Manual, and*
  - (c) *the North Coast: Design Guidelines.*
- (3) *The council must not consent to the carrying out of development which would impede public access to the foreshore.*
- (4) *The council must not consent to the carrying out of development:*
  - (a) *on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or*
  - (b) *elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).*

#### **Comment**

This application relates to the redevelopment of the Tweed City Shopping Centre and is located approximately 1km from the coastal foreshore. The subject application will not impact on the coastal foreshore with respect to overshadowing or access. The proposal is considered to comply with the policy.

#### **Clause 47 Principles for Commercial and Industrial Development**

Clause 47(2) of the NCREP 1998 states “*the objective of this plan in relation to commercial and industrial development is to encourage an adequate supply of zoned land located where there are planned growth areas foreshadowed and where essential services can be provided with minimal environmental damage*”. The proposed development is located on a site which has been previously developed as a shopping centre which is serviced by public transport and accessible from urban areas. In this regard, the proposed development is considered to be consistent with the objective of this clause.

Therefore the proposal is considered to be acceptable having regard to the provisions of the Regional Environmental Plan.

#### **SEPP No. 1 - Development Standards**

State Environmental Planning Policy No. 1 provides a mechanism in which a variation to a statutory development standard can be assessed and supported.

This policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act. The subject

application contains a SEPP 1 objection in relation to clause 16 (2) (Height of buildings) of the Tweed LEP 2000.

This component of clause 16 Height of buildings of the Tweed LEP 2000 states the following:

- (2) *Consent must not be granted to the erection of a building which exceeds the maximum height or number of storeys indicated on the Height of Buildings map in respect of the land to which the application relates.*

The Height of Buildings map stipulates a maximum height of three storeys for the site.

Pursuant to Schedule 1 (Meaning of Terms) of the LEP, a storey is defined as:

- (a) *the space between two floors, or*  
(b) *the space between a floor and any ceiling or roof immediately above it, or*  
(c) *foundation areas, garages, workshops, storerooms and the like, excluding access paths to basement areas, where the height between the finished ground level and the top of the floor immediately above them exceeds 1.5 metres in height.*

*A storey which exceeds 4.5 metres for residential buildings is counted as two storeys.*

*A storey which exceeds 5 metres for commercial buildings is counted as two storeys.*

*For the purpose of counting the number of storeys in a building, the number is to be the maximum number of storeys of the building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.*

While the proposed extension does not have more than three floors, the maximum height of the proposed expansion is 17m, which equates to being greater than 3 stories based on the above definition of a "storey" for commercial buildings. The proposal therefore exceeds the technical three storey height standard. It is advised that the existing Tweed City Shopping Centre has an overall maximum building height of 18.5m.

A SEPP No. 1 submission may be supported where the applicant demonstrates that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case and specifies the grounds of that objection. The applicant must also demonstrate the consistency with the aims of the SEPP.

**In support of the proposed variation, the applicant has provided the following:**

*"The proposed variation to the building height standard is well founded and compliance with this development standard is unreasonable or unnecessary in the circumstances of the case because:*

- *The proposal meets the Council's 21m height control under the Draft Tweed LEP 2012, whose gazettal is understood to be imminent.*
- *Compliance with the standard is unreasonable because the proposal positively responds to the objectives of the standard. In particular, the proposal is consistent with the existing approved building height which contributes to the existing character of the locality.*
- *The height of the proposal will not result in any negative environmental impacts.*



- *The variation will not result in any adverse impacts on amenity of surrounding development or within the proposed development.*
- *Non-compliance with the standard does not raise any adverse matters of state or regional significance. Rather, the proposal is a positive response and will assist in achieving strategic planning goals for the site.*
- *The proposed development will provide a boost for the local economy, generating investment activity, and providing employment, both during and following construction and occupation.*
- *On balance, the public benefits of the proposal outweigh the strict adherence to the development standard."*

#### **Assessment of the applicant's submission:**

The following assessment of SEPP No. 1 is based on the principles set by Chief Justice Preston (*Wehbe v Pittwater Council* [2007] NSW LEC 827).

#### **1. 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 five ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. In this instance, 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 of the Tweed LEP 2000 is *'to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.'*

In this regard, the proposed development, notwithstanding the departure from the three storey height control, is considered to result in an appropriate development at this location, taking into account the existing shopping centre development and the environmental characteristics of the land. Therefore, the objective of clause 16 of the Tweed LEP is achieved despite the variation.

The applicant provided the reasons outlined above as to why the standard was considered to unreasonable and unnecessary in their particular case. With respect to the above, it is considered that the applicant's submission is well founded and is supported.

#### **2. The consent authority must be of the opinion that "granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3".**

The aims of the policy are as follows:

*"This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act".*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*

- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

The proposed development will not affect the proper management and conservation of natural resources as it is proposed within an existing developed environment. The proposed development is considered to be an orderly and economic use of the land. The proposal is consistent with the established development in the area, given the site is currently utilised as a shopping centre.

**3. *The consent authority must be satisfied that a consideration of the matters in clause 8(a) “whether non-compliance with the development standard raises any matters of significance for State or regional environmental planning; and (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.***

It is considered that the proposed non-compliance with clause 16(2) of the Tweed LEP 2000 is not considered to raise any matters of significance for State or regional planning.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with the Tweed LEP 2000 is considered to be justified in this instance and is not likely to result in an adverse planning precedent as the LEP 2000 has now been superseded by the Tweed LEP 2014 which contains increased building height provisions (21m). As such, the granting of this application is unlikely to impact upon the public benefit of maintaining the control.

With regard to the justification provided by the applicant above it is considered that the SEPP 1 objection in relation to clause 16(2) of the Tweed Local Environmental Plan 2000 is acceptable in this instance.

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**

The objectives of SEPP No. 55 is to provide a State wide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose. In particular it is noted that this SEPP states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The subject application has been reviewed by Council's Environmental Health Unit who has provided the following advice with respect to contamination:

*"Council has been unable to reasonably 'consider whether the land is contaminated' as the developer has not provided the information as requested. However the submission appears to indicate that the material would be removed as clean fill (and if any contamination is detected it would be investigated and managed). These is deemed to satisfy the intent of Clause 7(1)(C). Therefore the following condition is recommended:*

*Prior to the disturbance or removal of the slabs on the following sites the applicant shall submit to Council a sub-slab contamination investigation report prepared in accordance with Council's Pre-Demolition Testing advisory note. If contaminants above adopted health investigation levels are detected then a remediation action plan (RAP) shall be submitted to Council for approval. All works shall comply with the approved RAP. Upon completion of the remediation works (if applicable) and prior to commencement of construction works for the new development Council shall be provided with a validation report from a suitably qualified person detailing the remediation works undertaken.*

*Lot 5 DP 830973, Kirkwood Road*

*Lot 19 DP 23659, 30 Kirkwood Road*

*Lot 12 & 13 DP 23659, 42 – 44 Kirkwood Road*

*Lot 2 DP 804871, 48 – 50 Kirkwood Road*

*Lot 7 DP DP 23659, 54 Kirkwood Road*

*Lot 6 DP 23659, 56 Kirkwood Road*

*Lot 4 & 5 DP781506, 34 – 36 Minjungbal Drive)*

*Lot 6 DP 1119624, 38 Minjungbal Drive"*

Having regard to the advice provided, the subject application is considered to be acceptable with respect to contaminated land subject to the inclusion of the recommended condition of consent.

#### SEPP No. 64 – Advertising and Signage

The aims of this policy relate to ensuring that signage and advertising are compatible with the desired amenity and visual character of the subject locality. To comply with the policy, signage should be:

- (i) Compatible with the desired amenity and visual character of the area;
- (ii) Provide effective communication in suitable locations;
- (iii) Signage should be of high quality design and finish.

As outlined elsewhere in this report, the subject application proposes a total of 28 advertising signs which cover a total area of approximately 630m<sup>2</sup>.

Clause 8 requires Council to assess whether proposed signage is consistent with the objectives of the policy, and compliant with Schedule 1 of the policy.

Schedule 1 provides 8 assessment criteria, as set out below:

1. Character of the area: The proposal as submitted appears compatible with the existing commerce and trade character of the subject site and the desired future character of the 3(b) General Business zone. The signage is not considered to affect residential amenity and is necessary for the advertisement and marketing of the shopping centre.
2. Special Areas: Being located within the 3(b) zoning and in a commercial area, the subject site is not in immediate proximity to any environmentally sensitive areas, heritage areas, natural or other conservation areas, waterways or rural landscapes. As such, the proposal is not considered to detract from the amenity or visual quality of any special areas.
3. Views and vistas: The proposed signage is not considered to obscure or compromise important views. It is not considered to dominate the skyline nor reduce the quality of vistas experienced from the subject area. The location of the signage on the subject site is considered to respect the viewing rights of other advertisers occupying adjacent land.
4. Streetscape, setting or landscape: The scale of the signage, including its proportion and form is considered appropriate for the streetscape and setting of the proposal. The proposed signage is not considered to create unsightliness, nor does it protrude above buildings, structures or tree canopies in the area. It is therefore considered to be consistent with these criteria.
5. Site and building: The proposal as submitted appears compatible with the scale and proportion of both the subject site and the existing commercial developments in the area. It is considered that the proposal's size and design respects the scale of the proposed development and does not detract from any important features of the building. It is considered that the proposed advertising signage is consistent with the requirements under Schedule 1, part 5.
6. Associated devices and logos with advertisements and advertising structures: The proposed signage does not contain any safety devices or platforms. It is noted that the proposed signage is to be illuminated, as addressed under part 8 below. It is anticipated that the signage will display logos upon the various tenancies being occupied.
7. Illumination: The submitted application states that all signs are to be internally illuminated or have internally illuminated individual letters, or be floodlit. In this regard a standard condition of consent is to be applied requiring *'All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.* The proposal is considered to be acceptable in this regard.
8. Safety: The proposed signage is not considered to reduce the safety of any public road, pedestrians or cyclists. The signage is not considered to obscure any sightlines from public areas nor does it encroach onto the footpath or car park of the subject site.

It is considered that the proposal as submitted is consistent with the aims and objectives of SEPP 64 – Advertising and Signage and the requirements of Schedule 1 of the policy.

#### SEPP No 71 – Coastal Protection

#### **SEPP 71 – Matters for Consideration**

(a) *The aims of this Policy set out in Clause 2:*

The proposed development is considered to be consistent with the aims of the policy as set out in clause 2.

- (b) *Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved*

The proposal development will not alter or restrict the public's access to the foreshore reserve areas.

- (c) *Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability*

The proposal does not generate any additional opportunities to improve public access to foreshore reserve areas and the like, nor is it considered that there are any physical opportunities to do so given the spatial separation between the site and foreshore reserve.

- (d) *The suitability of the development given its type, location and design and its relationship with the surrounding area*

The proposed development is sited and designed in general accord with the relevant Council controls and is considered unlikely to create any form of adverse imposition upon the immediate area in terms of size, scale or design.

- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore*

The proposed development is not considered impact on the amenity of the coastal foreshore, given it is located approximately 1km from the foreshore. In particular there is considered to be no loss of views or overshadowing associated with this application.

- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities*

The proposal is unlikely to impact upon the scenic quality of the NSW coast, with the development being spatially separated from the coastal foreshore.

- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats;*

The proposal is not considered to impact negatively animals or their habitats. The subject development site has been previously developed as a shopping centre or for residential purposes and whilst some vegetation on the site is to be removed, it is considered that the scale of this will not impact on measures as identified above.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Par), and their habitats*

The proposal is unlikely to have an adverse impact upon marine environments or habitats.

- (i) *existing wildlife corridors and the impact of development on these corridors,*

It is considered that there are no wildlife corridors impacted by the proposed development

- (j) *the likely impact of coastal process and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards;*

The subject site is not located within an area affected by Coastal Erosion and is landward of the defined Coastal Erosion Zones. The development is unlikely to have an adverse impact upon Coastal Processes or be affected by Coastal Processes

- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities;*

The proposal is not considered to cause any conflict between land-based and water-based activities.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;*

The subject site is not identified as a cultural place or the like.

- (m) *likely impacts of development on the water quality of coastal waterbodies,*

The subject application is not considered to have any significant impact upon the water quality of coastal waterbodies.

- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*

The subject site is not identified as land containing items of heritage, archaeological or historical significance.

- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities;*

Not applicable to the subject application.

- (p) *only in cases in which a development application in relation to proposed development is determined:*

- (i) *the cumulative impacts of the proposed development on the environment; and*

The proposed development is not considered to have a negative cumulative impact on the environment.

- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

The subject application has not provided measures in relation to the minimisation of water and energy usage. It is noted that the proposed development is commercial in nature and as such a BASIX certificate is not required to be submitted. The subject application is considered to be acceptable in this regard.

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 has a minimal impact on flora or fauna and the proposed development site is not known to contain any items of Aboriginal significance. The provisions of SEPP 71 are considered satisfied.



## SEPP (Infrastructure) 2007

Clause 104 of this SEPP relating to Traffic Generating Development outlines that this clause applies to development specified in Column 1 to the Table of Schedule 3 that involves an enlargement or extension of existing premises, being an addition of the relevant size or capacity.

Schedule 3 of this SEPP further outlines traffic generating development which is to be referred to the RTA (now RMS) and includes shops of greater than 2000m<sup>2</sup>. Given the scale of the proposed development, the application was referred to NSW Roads & Maritime Service (RMS) for comment who have provided advice outlining the following"

*"Kirkwood Road will become a primary access road for the expanded shopping centre. The recommendations in the conclusion of the Traffic Impact Statement will be needed to accommodate the extra traffic on this road.*

*It is noted regulatory controls are suggested on the adjoining streets. Any regulatory devices on local streets, including the pedestrian crossing on Kirkwood Road, will require endorsement of the Local Traffic Committee and approval by Council prior to installation.*

*Buses standing to turn right are likely to obstruct eastbound traffic's vision to pedestrians using the Kirkwood Road pedestrian crossing. Consideration should be given to relocating this crossing further to the east.*

*Service vehicle access areas are designed so that heavy vehicles reverse into loading docks. This creates a potential for pedestrian / vehicle conflict. To manage this conflict it is suggested that a traffic management plan be implemented during deliveries that exclude pedestrians from areas where heavy vehicles are reversing."*

This advice has been provided to the applicant who responded by stating that the above provisions are to be dealt with through appropriate conditions of consent with detailed design undertaken at a later stage. This is considered to be acceptable in this instance.

Furthermore the application was referred to Essential Energy under the provisions of Clause 45 of this SEPP, requesting any comments within 28 days of the date of correspondence. The application has been discussed with Frederick Fouche, Planning Manager, Far North Coast, Essential Energy who has raised no objections to the proposal.

The proposed development is considered to be acceptable having regard to the provisions of this SEPP.

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

It is noted that the draft Tweed Local Environmental Plan 2012 was gazetted (as amended) on 4 April 2014 as the Tweed Local Environmental Plan 2014. The subject application is assessed against the provisions of the Tweed Local Environmental Plan 2014 below:

## **Part 1 Preliminary**

### **1.2 Aims of Plan**

The aims of this plan as set out under Section 1.2 of this plan are as follows;

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,
  - (b) to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,
  - (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,
  - (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
  - (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,
  - (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,
  - (g) to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,
  - (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,
  - (i) to conserve or enhance areas of defined high ecological value,
  - (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The proposed development is considered to be generally in accordance with the aims of this plan having regard to its nature, permissible at this location.

#### 1.4 Definitions

Under this Plan, the proposed development would be a 'commercial premises' defined as follows;

***commercial premises means any of the following:***

- (a) *business premises,*
- (b) *office premises,*

(c) *retail premises.*

It is noted that a specific tenancy plan has not been provided as part of this application, however it is considered that the majority of potential tenants would be retail premises with the potential for some business premises to be provided also. In any event it is considered appropriate to define the proposal as a commercial premises. This is permitted with consent in the B3 Commercial Core zone.

#### 1.8A Savings provision relating to development applications

This clause states that if a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

With respect to this it is noted that the subject application was lodged with Council on 5 February 2014, before the Tweed Local Environmental Plan 2014 was gazetted on 4 April 2014 and as such this clause is applicable to this development application. Notwithstanding this, the subject application must have regard to the provisions of this document as a proposed instrument pursuant to s79C (1) (a) (ii) of the Environmental Planning and Assessment Act.

## **Part 2 Permitted or prohibited development**

### 2.1 Land use zones

The proposed development area is zoned as B3 Commercial Core under the provisions of this plan.

### 2.3 Zone objectives and Land Use Table

The objectives of the B3 Commercial Core zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To encourage upper floor residential or tourist accommodation that does not compromise the commercial use of the land.

The proposed development is considered to be consistent with the objectives of the zone through the provision of a wide range of suitable land uses that serve the needs of the local and wider community. Furthermore the proposal will provide additional employment opportunities through both the construction and operational phase and the subject application, by virtue of providing an extension to the existing Tweed City Shopping Centre, is considered to facilitate additional public transport patronage.

## **Part 4 Principal development standards**

### 4.3 Height of buildings

The objectives of this clause include provisions to establish the maximum height for which a building can be designed and ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity.

This clause states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. In this instance the majority of the proposed development site is identified as having a maximum building height of 21m, however four of the allotments, located adjacent to Minjungbal Drive, are identified as having a maximum building height of 13.6m (Control N2) as identified on the building height map.

The proposed development has a maximum stated height of 17m which is entirely located within the area identified as having a 21m maximum building height, thus complying with this development control. It is noted that the area identified as having a 13.6m height control is to be utilised as at grade car parking only under this application.

As such, the proposed development is considered acceptable and the proposal does not contravene the provisions of this Clause.

#### 4.4 Floor space ratio

The objectives of this clause are as follows:

- (a) to define the allowable development density of a site and for particular classes of development,
- (b) to enable an alignment of building scale with the size of a site,
- (c) to provide flexibility for high quality and innovative building design,
- (d) to limit the impact of new development on the existing and planned natural and built environment,
- (e) to encourage increased building height and site amalgamation at key locations in Tweed.

This clause goes on to further state that the maximum floor space ratio (FSR) for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. In this instance the applicable floor space ratio is T-2 (2:1) over the entire site.

The subject site has a total area of 135,417m<sup>2</sup> and a proposed Gross Floor Area of 78,628m<sup>2</sup>. This results in a FSR of 0.58:1 which is in accordance with the above controls. The proposal is acceptable in this regard.

### Part 5 Miscellaneous provisions

#### 5.5 *Development within the coastal zone*

This clause states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following;

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
  - (i) *maintaining existing public access and, where possible, improving that access,*
  - and*

- (ii) *identifying opportunities for new public access, and*

The subject application does not propose any amendments to existing public access to or along the coastal foreshore.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*

- (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
- (ii) *the location, and*
- (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The proposed development is permissible on the subject site and is generally consistent with the prescribed development requirements as outlined throughout this report. As such the proposal is considered to be acceptable at this location.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*

- (i) *any significant overshadowing of the coastal foreshore, and*
- (ii) *any loss of views from a public place to the coastal foreshore,*

The proposed development is located approximately 1km from the coastal foreshore and it therefore not considered to impact on the amenity of the foreshore by virtue of overshadowing or a loss of views. The subject application is considered to be acceptable having regard to the above considerations.

- (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

The proposed development is not considered to compromise the scenic qualities of the coast as it represents an acceptable development on appropriately zoned land. Beyond this, the subject development is not considered to generate any specific opportunities to protect the visual amenity and scenic qualities of the coast due to its nature and scale.

- (e) *how biodiversity and ecosystems, including:*

- (i) *native coastal vegetation and existing wildlife corridors, and*
- (ii) *rock platforms, and*
- (iii) *water quality of coastal waterbodies, and*
- (iv) *native fauna and native flora, and their habitats, can be conserved, and*

The proposal is to be undertaken on a previously developed land which has been utilised for retail or residential purposes in the past. The proposed development would result in the removal of some landscaping vegetation within the existing Tweed City Shopping Centre site and to the previous residential sites to the Kirkwood Road frontage. It is considered that this vegetation provides amenity landscaping rather than having a specific ecological value. In this regard it is noted that replacement landscaping is to be provided to the site. It is

considered that the proposal will have a minimal impact on the local biodiversity or ecosystems in this regard.

- (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*

The proposed development is not considered to result in an unacceptable cumulative impact on the coastal catchment given the sites zoning and the permissibility of the development at this location.

This clause goes on to further state;

- (3) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

- (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

As outlined elsewhere in this report, the proposal will not impede or diminish the right of access of the public either to or along the public foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The subject site would maintain connection to Council's reticulated sewer system.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

It is noted that the application has been reviewed by Council's Flooding Engineer with respect to stormwater, who has advised that '*the applicant proposes to treat hardstand runoff using proprietary devices.*' Having regard to the above, it is considered that the subject application would be in accordance with the above controls, with no untreated stormwater being discharged to the sea, beach or the like.

- (d) *the proposed development will not:*
- (i) *be significantly affected by coastal hazards, or*
  - (ii) *have a significant impact on coastal hazards, or*



*(iii) increase the risk of coastal hazards in relation to any other land.*

The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

## **Part 7 Additional local provisions**

### **7.1 Acid sulfate soils**

The subject site demonstrates Class 2 Acid Sulfate Soils (ASS) in accordance with the provisions of this clause. The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

As outlined elsewhere in this report the application was supported by an Acid Sulfate Soil Assessment Desktop Review by Soil Surveys and dated November 2013. This assessment concludes that both potential and actual ASS are likely to occur at the site and recommends that a detailed ASS assessment of the site is carried out and an ASS Management Plan is implemented.

The application has been reviewed by Councils Environmental Health Section who have provided recommended conditions of consent with respect to Acid Sulfate Soils. In this regard, the proposal is considered to be acceptable.

### **7.3 Flood planning**

The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

This clause goes on to further state that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

With respect to the abovementioned matters, it is noted that the subject application was referred to Councils Flooding Engineer who reviewed the proposed development with respect to flooding and advised that subject to appropriate conditions of consent *'the proposal is acceptable in terms of flooding.'* Having regard to this advice, the proposal is considered to be in accordance with the provisions of this clause.

Having regard to the above assessment, the subject application is considered to be generally in accordance with the provisions of the Tweed Local Environmental Plan 2014.

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

Tweed Development Control Plan

Section A2-Site Access and Parking Code

The proposed development is subject to the provisions of Council's Tweed DCP Section A2 - Site Access and Parking Code with respect to site access. It is noted that in accordance with advice received by Council's Traffic Engineer, vehicular parking rates are calculated with the provisions of Section B2- Tweed City Centre, as detailed later in this report. Site access provisions are detailed below:

Access

The shopping centre currently has three vehicular access points, two from Minjungbal Drive and the other from Kirkwood Road. It is noted that a further site access point has been approved under DA13/0554 between the two existing accesses on Minjungbal Drive.



**Figure 5: Access Plan showing Thursday & Saturday access figures (prepared by Bitzios)**

The submitted application outlines that the proposed northern retail expansion will include the following changes in relation to access, circulation and parking:

- *Relocation of the site access on Kirkwood Road from just east of Sandra Street to the north eastern corner of the site, just west of Duffy Street.*

- *Reconfiguration of the internal roadway and parking areas fronting Kirkwood Road to provide parking across five levels. This includes expanding and reconfiguring existing parking areas and providing express access ramps and internal circulation ramps.*
- *Reconfiguration of the western 'at-grade' parking area fronting the Minjungbal Drive/Blundell Boulevard intersection. This includes an express ramp connection to the rooftop parking area on Level 1 as well as a drop-off zone fronting the centre entry.*
- *Relocation of the Kirkwood Road bus stop to opposite Sandra Street including a dedicated bus lane. The bus stop will cater for three buses and include sufficient space for turning and passing movements.*
- *A recessed bus stop on Minjungbal Drive. The proposed bus stop will provide seating, shelter and timetable information for passengers.*
- *Service vehicle provisions including a dedicated Kirkwood Road loading area to service the Majors. In addition a loading area will be provided which is accessed by the retention of the existing ToyWorld driveway to provide a dedicated service vehicle „in only“ access from Minjungbal Drive and a new service vehicle „exit only“ onto Kirkwood Road.*
- *Integration of the previous development applications internal layout as part of the ELP and Mini-Major expansion.*

The applicant included a Traffic Impact Assessment Report compiled by Bitzios Consulting (dated 23 January 2014) which addresses the impact of the development on the adjacent road network.

This has been reviewed by Council's Traffic Engineer and NSW Roads and Maritime Service (RMS) as part of the assessment of this application. In this regard no objections have been raised with respect to the proposed development from an access perspective. RMS comments have been reproduced elsewhere in this report. Council's Traffic Engineer has provided the following specific comments with respect to the proposal;

### ***"Traffic***

*Traffic surveys indicated that the existing site generates a total of 2180 vehicle trips per hour on a typical Thursday afternoon and 2504 trips/hr during Saturday morning. Which equate to trip generation rates of 4.55 trips/100m2 GLFA for Thursday and 5.13 trips/100m2 for Saturday. Due to trips decreasing proportionally with an increased retail precinct, the consultant estimates that trips per 100m2 GLFA will be 3.58 on Thursday and 3.95 on a Saturday. This estimation is accepted as it is based on the RMS Traffic Generating Development Guidelines.*

*The nature of the proposed expansion including shop location and parking access will lead to a redistribution of traffic distribution to the Centre. It is noted that the intersection of Kirkwood Road and Minjungbal Drive will be the main access to the Centre. Machinery Drive utilization is expected to reduce from 50% of the access to the Centre to 33%. The Kirkwood Road accesses will result in an increase from 25-30% to 44%.*

*Modelling of traffic movements to the site is based on expected additional traffic generated by this proposal and also includes expected traffic from previous but as yet*

*unbuilt approvals. All adjacent intersections are shown to operate effectively without additional upgrades apart from the Kirkwood Road Minjungbal Drive intersection which will require an additional lane for westbound traffic approaching Minjungbal Drive.*

*The modelling for the 2031 year includes all proposed works are completed on the road network as identified in the section 94 Tweed Roads Contribution Plan. Whilst these works may not be completed by this date the traffic modelling undertaken for this DA are accepted in that in the 2031 design horizon the proposed development will not adversely impact the operations of the signalised intersections along the Minjungbal Drive corridor.*

*The proposed upgrades to Kirkwood Road as below are supported in principle.*

*Upgrades required on the westbound Kirkwood Road approach to Minjungbal Drive at opening:*

- 1. 90m additional approach lane to the intersection*
- 2. Dual lane extension back to the proposed TC loading access*
- 3. Closure of the central median at Megan Street*

#### **Pedestrian Access**

*The proposed marked pedestrian crossing is unlikely to meet the RMS warrants for this device. The RMS has also identified that sight distance may not be available for pedestrians of approaching traffic may not be realised due to the buses turning right into the development.*

#### **Recommendations**

- 1. Any regulatory devices on local streets are to be referred to Council's Local Traffic Committee and approval by Council prior to installation.*
- 2. The proposed marked pedestrian crossing on Kirkwood Road is to be modified to a pedestrian refuge with kerb extensions in compliance with Austroads and Council requirements.*
- 3. Detailed design for the indented bus bay is to be referred to Council's Landscape Architect for comment.*
- 4. A traffic management plan be implemented during deliveries to exclude pedestrians from areas where heavy vehicles are reversing."*

The above recommendations are considered appropriate and are to be included as recommended conditions of consent in any approval.

It is noted that a number of submissions received have identified the proximity between the proposed site access on Kirkwood Road to the north eastern corner of the site, just west of Duffy Street as an area of concern. This has been discussed with Council's Traffic Engineer who has raised no concerns in relation to this matter. As such, the site access provisions are considered to be generally acceptable and in accordance with this DCP.

Clause C11 of the DCP applies to the proposed development as a 'Large Developments (greater than 5,000m<sup>2</sup> GFA).' This section of the DCP outlines the following;

C11. Proposals for large developments shall include a public transport impact statement. This statement shall contain:

- Locality plan showing development site in relation to nearest practical public transport route and bus stops;
- Proposed means and standard of pedestrian access from nearest bus stop to development site;
- Where development site is more than 50m from the nearest bus stop, evidence of negotiations with public transport operator to obtain bus route and stop adjacent to or closer to development;
- Proposed bus stop seating arrangements;
- Proposed arrangements for provision of bus stop within the development site (where applicable)

The proposed development is serviced by two bus stops, with one located to Minjungbal Drive and one to Kirkwood Road.

It is proposed to relocate the Kirkwood Road bus stop to opposite Sandra Street including a dedicated bus lane. The bus stop will cater for three buses and include space for turning and passing movements. A recessed bus stop is proposed on Minjungbal Drive. The proposed bus stop will provide seating, shelter and timetable information for passengers. In this regard the submitted application is considered to adequately address the above criteria by virtue of providing improved public transport infrastructure in the area.

Furthermore it is noted that with respect to internal site movement, Council's Development Engineering Unit has provided advice stating:

*"Generally the layout and manoeuvring capability of the new parking areas appears satisfactory, although they have not been fully dimensioned to verify that appropriate aisle widths and parking space dimensions are appropriate. This will be covered by standard conditions of consent."*

It is considered that the proposed development has adequate access arrangements as outlined above and as such the proposal is consistent with DCP Section A2.

#### Section A3-Development of Flood Liable Land

The subject development relates to an extension/redevelopment of an existing commercial shopping centre. It is non-habitable, so Council's Tweed DCP Section A3 – Development of Flood Liable Land does not apply minimum habitable floor levels for commercial development. The subject application was referred to Council's Flooding Engineer with respect to flooding on the site who provided comment (reproduced under Tweed LEP 2000 clause 34 assessment above) advising that the proposal is acceptable in terms of flooding. A recommended condition of consent has been provided to protect the basement car parking against inflow of water to a level of 500mm above the design flood level.

Having regard to the provided advice and the recommended condition of consent, the development is considered acceptable having regard to the provisions of this section of the DCP.

#### Section A4-Advertising Signs Code

This plan sets out the signage requirements for business premises, including the different types and sizes of acceptable advertising signage. The aims of this Section of the DCP are to:

- Promote a high standard of signage quality and prevent excessive advertising and visual clutter by encouraging the rationalisation of existing and proposed signs.
- Ensure that advertising signs do not detract from the scenic beauty and amenity of the Shire.
- Ensure that advertising and advertising structures are compatible and compliment the character of a building site or area.
- Promote adequate and effective advertising and recognise the legitimate need for signs to provide for directions, business identification and promotion.
- Provide appropriate opportunities for advertising signs for the Tourist Industry to give effect to the Tweed Shire Tourism Strategy.
- Ensure that advertising signs do not reduce the safety of any road, pedestrian path or navigable waterway.
- Ensure that advertising signs are constructed and maintained in a safe and tidy condition.
- Ensure that a fair and consistent approach is taken by Council in dealing with advertising sign applications.

The proposed signage has been outlined elsewhere in this assessment with the proposal including a total of 28 signs which cover a total area of approximately 630m<sup>2</sup>.

The proposed signage is considered to be in keeping with the amenity of the area and generally minimises the visual impact of signs in the area due to the scale of the signage, consistent with the overall development proposal scale. The proposed development does not contravene the above objectives and would allow for appropriate advertisement of the shopping centre development.

DCP Section A4 specifies that a maximum of five business identification signs shall be permitted per business premise. In this instance it is noted that this application relates to both Tweed City Shopping Centre signage and individual tenancy signage, with the future business premises being designated as a business premises in their own right and therefore allowed five sign each under the DCP.

Furthermore, it is noted that under A4.2.4 there is a maximum area of signs per business outlined which is calculated by multiplying the first 10 metres of the frontage of the premises by 1 and each metre thereafter by 0.5 and then expressing this figure in square metres.

With respect to the above it is noted that an internal layout or tenancy breakdown for the proposed development has not been provided to determine if this signage would comply with the above standards on a per business basis. It is however considered that the proposed signage, when assessed on merit is considered to be acceptable and in accordance with a large scale shopping centre of this development type and with the provisions of development in this zone and at this location.

Having regard to the above assessment, the proposal is considered to be generally acceptable having regard to the provisions and objectives of this Section of the DCP.

#### Section A11-Public Notification of Development Proposals



The application was placed on public exhibition for a 30 day exhibition period in accordance with the Environmental Planning & Assessment Act 1979. During the exhibition period Council received four written submissions. These are addressed in detail elsewhere in this report.

#### Section A13-Socio-Economic Impact Assessment

A Socio-Economic Impact Assessment is required by the applicant as the development represents a retail development in excess of 1,500m<sup>2</sup> GFA.

The aims of the plan are to:

- *Ensure that Development Applications for certain developments that are likely to have a significant social and/or economic impact are properly considered in accordance with Section 79C of the Environmental Planning & Assessment Act 1979, the Tweed Shire 2000+ Strategic Plan (policies 46 and 125) and the Tweed Local Environmental Plan 2000.*
- *Set out Council's requirements for Socio-Economic Impact Assessments as identified in Clause 17 of the Tweed Local Environmental Plan 2000.*
- *Achieve maximum benefit for the community from development activity, and mitigate negative impacts.*
- *Achieve economic growth through employment generating activities that adopts the concepts of Ecologically Sustainable Development.*

Having regard to the above an Economic and Social Impact Assessment has been prepared which concludes that the proposed development will result in positive social and economic outcomes by providing:

##### *"Increase in consumer choice*

*From a consumer perspective, it is preferable that shoppers have easy access to the widest range of retail facilities at the earliest possible time. If this objective is not met, and existing higher order centres do not continue to evolve, current and future residents of the trade area will become increasingly disadvantaged as the quantity and quality of retailing falls behind other locations. The proposal will result in a net addition of 19,276m<sup>2</sup> off floorspace in the Tweed Heads South Activity Centre. This floorspace will accommodate a range of new retailers and services; most of which are likely to have a general preference to locate in modern, higher order shopping locations. If the subject proposal does not proceed, it is likely that many retailers/services may not locate in the trade area due to the lack of suitable, high quality shop space.*

##### *A reduction in the need to travel outside Tweed Shire for higher order shopping needs*

*The provision of a modern quality facility would lessen the requirement for local residents to travel further distances to shop for higher order retail goods and services. As a result, there will be a reduced need for longer car trips and hence the cost to undertake a shopping trip will also be reduced.*

##### *A reduction in the level of spending 'escaping from the Tweed region'*

*Expenditure leakage is a common attribute in all markets, although it is possible to reduce leakage by improving the quantity and/or quality of retail available to local*

*residents. In this regard, the subject proposal will assist in reducing the outflow of expenditure outside the Tweed region by improving the range of retailing available locally.*

*A consolidation and strengthening of the Tweed Heads South Activity Centre*

*The subject proposal will expand the provision of modern, high quality retail facilities in the local area. This will enhance the profile and attractiveness of Tweed Heads South as a major retail and employment location, and could be a catalyst for additional new development within the Activity Centre. Further, the additional visitation to Tweed Heads South generated by the subject proposal should benefit existing businesses in the area in the form of increased exposure."*

This document also identifies that the proposed development would result in increased employment to a level of approximately 579 construction jobs (for one year) and 596 ongoing retail jobs.

This report further identifies that based on the forecast level of population growth there is and estimated demand for additional retail floorspace in the order of 116,600m<sup>2</sup> up to 2027. The proposed additional floorspace proposed under this application (18,298m<sup>2</sup>) and previously approved DA13/0554 (3,098m<sup>2</sup>) which consists of the redevelopment of the primary retail centre in the shire would therefore meet approximately 18% of the trade area's future additional requirement up to 2027. Having regard to these figures, the proposed development would not be prejudicial to further development at other centres in the area.

The above statements generally imply the proposed development will be beneficial by providing additional services to the community without significantly comprising any other existing businesses or centres. The proposed application is considered to satisfy the aims of this Section of the DCP.

Section A15 – Waste Minimisation and Management

Council's DCP Section A15 aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development.

The applicant has provided a Construction Management Plan and advised the following with respect to ongoing waste management at the shopping centre:

*"As the individual occupants of the new tenancies have not been selected, it is difficult to estimate the anticipated waste to be generated by this application. Despite this, the operation of the proposed development is to be in accordance with the existing Tweed City Shopping Centre waste removal and recycling practices. This includes:*

- All paper and cardboard is recycled with Visy.*
- Plastics are removed by Solo Waste.*
- Food and drink premises with deep fryers are required to recycle used oil (Cookies waste picks up from the tenancy).*

*The proposal will include an appropriate number and size of storage bins to support an expanded Tweed City Shopping Centre, to ensure that the amenity of the centre and the surrounding properties is maintained."*

The application has been referred to Council's Waste Management Unit for comment with respect to the proposed development who have advised that *due to the size of this development, a waste management plan as per s15 of the DCP should be submitted and considered by Council.*

This is considered appropriate and a condition requiring the above, to the written approval of Council's General Manager or delegate is recommended to be attached to any consent in the event of approval. As such, the proposal is considered to be acceptable having regard to waste management and the provisions of this Section of the DCP.

#### Section B2-Tweed Heads

The subject site is located in the Tweed South Retail Precinct in the southern city centre character area of the above policy. This Section of the DCP outlines the following with respect to this precinct:

*"The Tweed South Retail Precinct comprises the Tweed City Shopping Centre which is the main retail centre within the region. The development controls for the precinct provide for the expansion of the existing centre up to Minjungbal Drive and Kirkwood Road frontages. Opportunities exist for Minjungbal Drive to be revitalised into a dynamic street with a mixture of new retail, showcases and articulated facades fronting Minjungbal Drive and Kirkwood Road as an extension to Tweed City Centre. As redevelopment / expansion proceeds towards the Minjungbal Drive frontage, a new public plaza that provides connectivity between the Centre and areas adjacent can be created. The pedestrian access to the shopping centre will be clearly defined. All carparking will be readily identifiable and should incorporate articulated street frontages/screening which can enhance the future visual character of Minjungbal Drive and Kirkwood Road."*

DCP Section B2 also has controls in regards to building form, pedestrian amenity and access parking and servicing which are relevant to this application. Additionally, there are specific controls for Tweed City Shopping Centre which the applicant has addressed.

#### *3. Building Form*

It is noted that this section of the DCP outlines a 4m setback along Kirkwood Road and a 0m setback to Minjungbal Drive at the Tweed City Shopping Centre location. In this regard it is noted that the proposed development provides for a setback of approximately 10m to Kirkwood Road and minimum 27m setback to Minjungbal Drive. With respect to this it is noted that whilst the proposal does not meet the controls outlined above, the development would represent a substantial improvement to those evidenced at the existing centre

More detailed provisions with respect to building form are assessed under the special area provisions below.

#### *4. Pedestrian Amenity*

The provisions of this portion of the DCP relate to permeability, active street frontages, safety and security, awnings and vehicle footpath crossings and advertising and signage which are considered to be relevant to this application. Many

of these are addressed in detail under the special areas provision, however where relevant these issues are discussed below.

Site permeability is discussed in more detail under the special area provisions below, with this section of the DCP noting that there is a desirable mid-block pedestrian connection proposed to the entrance opposite Blundell Boulevard.

It is noted that active street frontages and awnings are only required to the southern section of the site (up to the site entrance opposite Greenway Drive) to which this application does not proposed any development works. In any event, these are discussed generally as design considerations elsewhere in this report.

It is considered that the proposal will generally improve safety and security as the development is to consolidate an internal site linkage to the leisure and entertainment precinct as well as improving external pedestrian site access. Vehicle footpath crossings have been reviewed by both Council's Traffic Engineer and NSW Roads & Maritime Service (RMS) with recommended conditions of consent provided. It is considered that the advertising and signage proposed as part of this application is acceptable, as outlined under the relevant section of this report, in particular SEPP 64.

#### *5. Access, Parking and Servicing*

The subject application was referred to Council's Traffic Engineer with respect to parking and access provisions. The access provisions are outlined in detail under the DCP Section A2 assessment above and are considered acceptable.

This Section of the DCP contains specific vehicular parking rates which are applicable to the proposed development. Council's Traffic Engineer has provided the following comments:

*"Parking utilisation surveys were undertaken at park demand times for the existing Centre. Currently there are 2,266 spaces available which the surveys indicate are more than adequate for demand.*

*Council's Tweed City Centre DCP indicates a parking rate for retail land use as 4 spaces per 100m<sup>2</sup> GFA. No reference is made regarding shopping centres and the application of GLFA as opposed to GFA. Therefore 75% of GFA the DCP rate would equate to 5.3/100m<sup>2</sup> GLFA.*

*The RTA Guide to Traffic Generating Developments identifies that if the proposed development is an extension of an existing retail development, additional parking demand could be less than proportional to the increase in floor area.*

*The proposal is to construct an additional 1,027 car parking spaces for a net increase in GLFA of 19,276 which equates to 5.33 spaces for equate 100m<sup>2</sup> of GLFA which is compliant with the DCP."*

The proposed development is considered to provide adequate parking on site.

#### *8. Controls for special areas*

The Tweed City Shopping Centre is listed as a special area within the Section B2 area. The following objectives apply to this site:

*"To allow for the long term growth and staged expansion of Tweed City Shopping Centre, transitioning the existing shopping centre into a precinct that*

*engages both Minjungbal Drive and Kirkwood Road. This may involve the expansion of the existing shopping centre and/or construction of new retail/commercial buildings, rationalisation of parking and service areas so as not to dominate the public domain, and the creation of a public plaza."*

A number of development controls apply with respect to land ownership, links and connections, built form and public domain interface. Furthermore an indicative design for the potential development of the site has been provided. These controls are addressed in detail below:

### **Controls**

#### **Land ownership**

- a) *The majority of the land necessary to revitalise this area is in the ownership of Tweed City Shopping Centre. In order to ensure that the desired built form outcome is achieved, a number of small land holdings should be rationalised and consolidated.*

Tweed City Shopping Centre has acquired a number of the surrounding land parcels from the current centre footprint. In this manner the subject application relates to 16 separate allotments. Consistent with the requirements of DA13/0554 it is recommended that a condition of consent be applied requiring these allotments to be eventually consolidated.

#### **Links and connections**

- b) *Provide multiple, direct, legible and safe pedestrian connections into and through the site, from both Kirkwood Road and Minjungbal Drive to the Shopping Centre.*
- c) *Resolve existing conflicts between the currently dominant vehicular movement and more vulnerable pedestrian movement.*

The applicant has provided the following justification with respect to the above criteria:

*"The proposed expansion includes internal pedestrian crossing facilities connecting entry points to parking areas, bus stops and the external pedestrian network. The new entry points and pedestrian pathways provide linear connections to Kirkwood Road and Blundell Boulevard.*

*Pedestrian walkways through parking areas with priority crossing points are provided to concentrate pedestrian movements through the parking areas and direct pedestrian to entry lobbies. Pedestrian crossing points have been positioned to provide adequate sight lines for drivers and capacity for queuing traffic.*

*A pedestrian crossing is proposed on Kirkwood Road to improve connectivity to the centre and the bus station for residential areas to the north."*

It is noted that specific design comments from Councils Planning Reform Unit requested an additional pedestrian corridor from Kirkwood Road to the shopping centre within immediate proximity to the Kirkwood Road/Minjungbal Drive intersection. The applicant responded in this regard identifying that:

*"Two key pedestrian links are identified in the Tweed City Centre DCP and these have been provided and enhanced by the proposed development.*

*An additional key pedestrian link in this location is not considered necessary and again a dilution of pedestrian movements is not desired. We note that there is no intention within Councils planning controls for the locality to significantly increase residential densities to the immediate north of to the centre which would have the effect of facilitating increased pedestrian activity in the locality."*

The applicant's justification is accepted with respect to the above. It is considered that whilst an additional pedestrian corridor may be preferable in the ultimate design, Council's DCP Section B2 (See Figure 6 below) does not include provision for this and the proposal as submitted, which is compliant with this Section of the DCP is assessed as being acceptable.

#### *Public space*

- d) *Provide a public plaza along Minjungbal Drive associated with primary pedestrian access points to the existing shopping centre (as indicated in Fig 8-8). The plaza is to contain active street frontages and consist of high quality materials, finishes and street furniture. Outdoor dining areas will be encouraged.*
- e) *Streetscape improvements and safe pedestrian crossing points will be required, particularly where adjacent to the public plaza.*

The applicant has advised that public space has been achieved through the provision of the Entertainment and Leisure Precinct under DA13/0554 and the northern retail expansion integrates with this approved development. The applicants justification is concurred with and it is further noted that the proposed development works are not located in the area proposed for a 'New Public Plaza' under this DCP.

#### *Built form*

- f) *Any extensions to the shopping centre are to address their respective street frontages*
- g) *New buildings should address Minjungbal Drive.*
- h) *Parking including a mixture of surface, multi-deck and where appropriate, basement level parking areas are to provide appropriate urban responses to both Minjungbal Drive and Kirkwood Road in the form of articulated street frontages as indicated in Figure 8-8*
- i) *Service areas are to be located at rear of buildings where practical or appropriately screened from the public domain.*

The submitted application included the following justification with respect to the above criteria:

*"The northern retail expansion extensions, while at this stage not extending the full way to Minjungbal Road, provides an improved street oriented component that will provide an enhanced address to the street frontage. This is seen as one incremental step in the expansion of the TCSC, and one that is appropriate at this point in time in terms of the capacity and need of the trade area.*

*A reduction of at grade parking and an increase in basement and roof parking is provided as a part of this DA, improving the overall presentation. Services areas are appropriately located and screened."*

In assessing the above criteria it is considered that the proposal represents an increase in development towards the Kirkwood Road and Minjungbal Drive street frontages. These frontages are addressed by a large-scale retail building to the north-west corner of the site,

with multi-level car parking and a loading dock to the remainder of Kirkwood Road. Minjungbal Drive is also addressed by increased retail development, although it is noted that this is setback from the actual street frontage. The justification put forward by the applicant above is considered to be acceptable in this regard.

With respect to the subject application addressing Minjungbal Drive, it is considered that this application must be considered in conjunction with DA13/0554 which represented the first stage of the Tweed City Shopping Centre upgrade and provided for a Entertainment and Leisure Precinct to the south of the proposed development area. In this regard, it is considered that the focus of the centre towards Minjungbal Drive is derived from this location.

Proposed car parking includes a mixture of surface, multi-deck and basement level parking areas and is considered to provide an appropriate urban response to both Minjungbal Drive and Kirkwood Road. In this manner it is noted that multi-level parking is located adjacent to Kirkwood Road, whilst surface parking is to be maintained adjoining Minjungbal Drive. These frontages are considered to be adequately articulated through a mixture of setbacks and, materials and graphic design which is considered to comply with the above.

Service areas are to be accessed from Kirkwood Road, at a point approximately 150m from the junction with Kirkwood Road. Comments received from Councils Planning Reform Unit requested that this service area be relocated further east along Kirkwood Road. The applicant has provided the following advice:

*"The current proposal represents a considered design approach taking into consideration various opportunities, requirements and constraints within the site. Retail precincts within centres, which contain like for like shopping categories is preferred by customers. The retail design and layout has been designed with this in mind and as a result the optimal location for the two storey box is at the front of the centre."*

The justification put forward by the applicant is considered to be acceptable in this instance. It is further noted that the proposed service entry location is identified as an 'Articulated Street Frontage/Screening' rather than as a 'Active Frontage.' The proposal is therefore considered to be generally consistent with the provisions of this Section of the DCP with respect to the treatment of the Kirkwood Road elevation at this location.

#### *Public domain interface*

- j) Active or articulated street frontages are to be provided along all buildings on Minjungbal Drive on at least the ground and first floor, along the ground floor at Kirkwood Road, and around the new public plaza*
- k) Uses associated with a high level of activity, such as cafés and restaurants with outdoor dining areas, are encouraged in the public plazas.*
- l) Where future retail areas have an active street frontage, pedestrian awnings should be provided.*
- m) Parking areas should be clearly identifiable to ensure safe and efficient access and incorporate articulated street edge treatments to enhance streetscape and visual character.*

The application was reviewed with respect to public domain interface by Council's Planning Reform Unit who have provided the following advice pertinent to this application:

#### *"Relationship to Kirkwood Road*

*The proposal seeks to treat the Kirkwood Road frontage through a variety of means, namely a loading bay, bus stop, pedestrian entry, multi-deck car park and associated*



*access ramp. With the exception of the pedestrian entry and bus stop, the remaining activities result in a poor street address, which as per the DCP controls, should be located away from the public domain. The proposal seeks instead to screen these areas, presumably due to the existing site configuration and retailers needs.*

*By pursuing these uses and internalising the retail floor space, the proposal results in expansive areas of 'dead elevation'. The effect of which is pronounced by the height of the built form being pursued along the elevation, its relationship to an established low density housing area north of Kirkwood Road and the intended future active frontage to the west. In this regard, the proposal includes a building height ranging between 11.5 - 16.15m, whereas development to the north predominately comprises single storey detached dwellings of approximately 5m.*

#### *Relationship to Minjungbal Drive*

*The proposal includes the demolition of three existing buildings from the Minjungbal Drive frontage, construction of at-grade car-parking with associated landscaping. The expansion of the shopping centre is setback approximately 50m from Minjungbal Drive and includes a generous public domain treatment. The proposal also includes a substation, MSD room and retail floorspace separate to the main building form in the west-north-western corner of the site, though the application is scarce on the role, design and function of this floorspace. In response to the significant setback of development from Minjungbal Drive, the submitted SEE details:*

*While it is acknowledged that a key objective and vision for the TCSC includes built form and activity to Minjungbal Road, the proposed expansion represents an incremental expansion in response to needs of the TCSC and the capacity of the trade area to sustain additional retail floorspace. The northern retail expansion will improve the streetscape presentation to Minjungbal Road and does move and focus activity to this frontage and improves pedestrian links. Importantly it does not preclude further expansion towards Minjungbal Drive in the future and as demand allows and as indicated in Figure 8-8 of the DCP.*

*Whilst not ideal to continue pursuing expansive areas of at-grade parking fronting Minjungbal Drive, again it is acknowledged that the proposal involves a logical and economically reasonable expansion of the existing shopping centre towards Minjungbal Drive, which retains future development potential. It is critical however that the extents of this proposal do not adversely affect the ability of the at-grade parking space to be utilised for alternate purposes in the future."*

*In response to this the applicant has provided the following advice:*

*"The DCP requires articulation of Kirkwood Road but the focus of activity has always been to Minjungbal Drive. Kirkwood Road does not command the retail footfall or presence as does Minjungbal Drive. Consequently the approach to the facade along Kirkwood Road relies on the layering of larger forms with simple materials, green screens and soft landscaping.*

*Planting, seating and natural materials are used extensively at ground level to soften the public domain.*

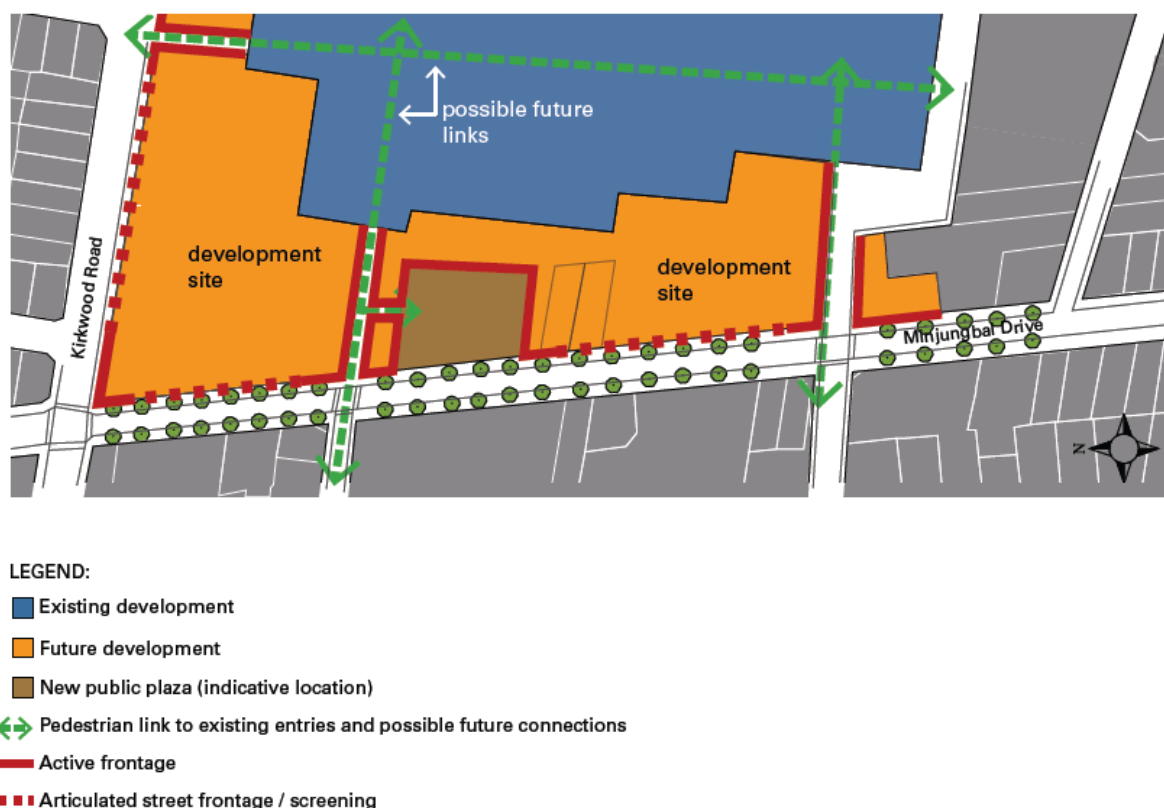
*To attempt to provide activation along both Kirkwood and Minjungbal would dilute the activity across this large site and this was a key issue discussed with Council during the*

*formulation of its Special Area controls that resulted in an agreement to focus on opportunities to activate Minjungbal over the longer term and articulate any frontages to Kirkwood, recognising the need to provide an interesting and architecturally meritorious streetscape.*

*While it is acknowledged that the properties on the opposite side of Kirkwood Road are single storey, the character of the TCSC is also established and recognised as one capable of further evolving over the longer term as reflected in the special area controls in Tweed DCP and more recently now supported by the recently gazetted built form controls that now apply to the site under TLEP 2014. Having regard to this evolving character and the role of the Kirkwood Rd frontage under the Special Area controls, close attention has been paid to ensure that this large frontage strikes a reasonable balance between operational and aesthetic requirements.*

*It should be noted that presently the pedestrian entrance to the Centre from Kirkwood Road is setback from approximately 100m from the street alignment. The proposal will bring this physical entrance to within 15m providing a more visible pedestrian link into the Centre."*

The submission outlined above is considered acceptable and refusal of the application is not considered to be warranted on public domain interface grounds. Whilst Council officers have provided advice that an amended design could improve these elements of the proposal, it is accepted that the applicant has prepared a design that is generally satisfactory on the above grounds.



**Figure 6: Tweed City Shopping Centre from DCP Section B2 Figure 8.8**

The development as proposed does not utilise the site's maximum development potential as identified in Tweed DCP Section B2, however the proposed development greatly increases the development footprint consistent with this Section of the DCP.

The proposed design also does not restrict future expansions beyond the current envelopes when market forces require additional floor area. Generally the application is considered in keeping with the intent of DCP Section B2.

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

Clause 92(a) Government Coastal Policy

The proposed development is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is not considered that the proposed development contradicts the objectives of the Government Coastal Policy, given its permissible nature on a site identified for development works.

Clause 92(b) Applications for demolition

The proposed development includes demolition and as such this clause is relevant to the subject application. Council Building Unit have reviewed the application with respect to this and advised that *'The proposal does include demolition works therefore appropriate conditions will be included.'* Standard conditions of consent have been provided in this regard which are to be attached to any consent. The proposal is considered acceptable in this regard.

Clause 94 Buildings to be upgraded

The existing shopping centre is the subject of;

- A) Two separate hydrant systems existed in the 1990's; one installed prior to Building Application No.829/96 comprises of Type 'D' copper pipework with a maximum operating pressure of 900kPa and the hydrant system associated with works contained within BA 829/96 complies with AS2419.1 – 1994 .
- B) Additions to the shopping centre which were approved under Building Application 829/96 included a section 82 objection under the Local Government Act, 1993 against the application of Clause C2.3(b)(i) of the BCA. This was supported by the Department of Local Government on 18 April 1997 subject to the following conditions;
  - 1. *Observance for the life of the building of all the parameters, conclusions and recommendations as to the use of the building and safety features contained within the Report (Job No. 4603208X) dated 4 March, 1997 of Connell Wagner and accompanying Drawing No SE-01, Revision 4 and the facsimiles dated 10 and 11 April, 1997 also from Connell Wagner.*
  - 2. *An appropriate system for monitoring both authorised and unauthorised shutdown of the Sprinkler and Smoke Exhaust Systems shall be established and maintained for the life of the building to the satisfaction of the Council:*
    - (a) *During authorised shutdown or failure of the Sprinkler or Smoke Exhaust Systems suitable precautions shall be implemented to:*
      - (i) *restrict the likelihood of fire outbreak in the area served by the system/s; and*

- (ii) *limit the effect to the occupants of the building, of any fire that may occur in the building.*
    - (b) *Suitable precautions, referred to in item 2 (a) above, during authorised shutdown or failure of the system/s, shall include:*
      - (i) *restricting access to the area served by the fire safety systems to maintenance or construction personnel only;*
      - (ii) *provision of suitably trained staff to continuously monitor for fire starts;*
      - (iii) *provision of additional portable fire extinguishers relevant to the risk to the subject area; and*
      - (iv) *suitable restrictions to ensure authorised shutdown is kept to a minimum and returned to normal operation without delay.*
    - (c) *The monitoring systems for unauthorised shutdown shall include:*
      - (i) *initiation of appropriate audible and visual warning signals upon unauthorised shutdown of the system/s to a personnel area which shall be staffed at all times whilst the building is occupied; and*
      - (ii) *procedures to ensure that upon unauthorised shutdown there will be an immediate investigation of the system/s by suitably trained personnel and immediate restoration of the system/s.*
  - 3. *The matters relating to the safe operation of the building, including the smoke detection system, Emergency Warning and Intercommunication System (EWIS), smoke exhaust system and sprinkler system shall be listed as essential services and shall be subject to the provisions of clause 27 of the Local Government (Approvals) Regulation, 1993.*
  - 4. *The building work shall comply with the BCA in all respects other than those for which a variation under section B2(3) has been granted.*
- C) Development Application No. 06/0351 for additions and alterations to the existing shopping centre. The associated construction certificate included an alternate solution contained in Fire safety Engineering Report (3699FSER) Rev.1 January 2007 by BCA Consultants (Qld) Pty Ltd.

The building has been the subject of two separate hydrant systems, BCA concessions and alternate solutions. Therefore, a condition will be included requiring that an appropriately qualified fire engineer be engaged to review the proposed building works the subject of this development application taking into account; the two separate hydrant systems which have different maximum operating pressures, the conditions imposed by the Department of Local Government and the above mentioned Fire Safety Engineering Report.. At completion of this review the fire engineer is to submit his/her Fire Safety Engineering Report to the PCA for assessment and determination prior to issue of the Construction Certificate.

Definitions:

**Category 1 fire safety provision** means the following provisions of the Building Code of Australia, namely, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

**Category 2 fire safety provision** means the following provisions of the Building Code of Australia, namely, CP9, EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 in Volume One of that Code.

**Category 3 fire safety provision** means the following provisions of the Building Code of Australia, namely, EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 in Volume One of that Code.

The Building Code of Australia.

(Clause 98 Environmental Planning & Assessment Regulation 2000)

The Classification of this Building under the Building Code of Australia is Class 5, 6 & 7a.

Council Officer (Building Unit) Comments

Since the shopping centre has been the subject of two alternate solutions it is recommended that the following condition of consent be included as a prior to release of the construction certificate as follows:

*An appropriately qualified fire engineer is to be engaged to review the proposed building works the subject of this development application taking into account; the two separate hydrant systems which have different maximum operating pressures, the conditions imposed by the Department of Local Government on 18 April 1997 associated with BA 829/96 and Fire safety Engineering Report (3699FSER) Rev.1 January 2007 by BCA Consultants (Qld) Pty Ltd. Associated with DA06/0351. At completion of this review the fire engineer is to submit the Fire Safety Engineering Report to the PCA for assessment and determination prior to issue of the Construction Certificate.*

*Note: The Department of Local Government on 18 April 1997 imposed the following conditions:*

1. *Observance for the life of the building of all the parameters, conclusions and recommendations as to the use of the building and safety features contained within the Report (Job No. 4603208X) dated 4 March, 1997 of Connell Wagner and accompanying Drawing No SE-01, Revision 4 and the facsimiles dated 10 and 11 April, 1997 also from Connell Wagner.*
2. *An appropriate system for monitoring both authorised and unauthorised shutdown of the Sprinkler and Smoke Exhaust Systems shall be established and maintained for the life of the building to the satisfaction of the Council:-*
  - (a) *During authorised shutdown or failure of the Sprinkler or Smoke Exhaust Systems suitable precautions shall be implemented to:*
    - (i) *restrict the likelihood of fire outbreak in the area served by the system/s; and*
    - (ii) *limit the effect to the occupants of the building, of any fire that may occur in the building.*

- (b) *Suitable precautions, referred to in item 2 (a) above, during authorised shutdown or failure of the system/s, shall include:*
    - (i) *restricting access to the area served by the fire safety systems to maintenance or construction personnel only;*
    - (ii) *provision of suitably trained staff to continuously monitor for fire starts;*
    - (iii) *provision of additional portable fire extinguishers relevant to the risk to the subject area; and*
    - (iv) *suitable restrictions to ensure authorised shutdown is kept to a minimum and returned to normal operation without delay.*
  - (c) *The monitoring systems for unauthorised shutdown shall include:*
    - (i) *initiation of appropriate audible and visual warning signals upon unauthorised shutdown of the system/s to a personnel area which shall be staffed at all times whilst the building is occupied; and*
    - (ii) *procedures to ensure that upon unauthorised shutdown there will be an immediate investigation of the system/s by suitably trained personnel and immediate restoration of the system/s.*
3. *The matters relating to the safe operation of the building, including the smoke detection system, Emergency Warning and Intercommunication System (EWIS), smoke exhaust system and sprinkler system shall be listed as essential services and shall be subject to the provisions of clause 27 of the Local Government (Approvals) Regulation, 1993.*
  4. *The building work shall comply with the BCA in all respects other than those for which a variation under section B2(3) has been granted.*

Subject to the approval of the application, the recommended conditions of consent proposed are considered to be acceptable having regard to the provisions of this Clause.

**(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 primary objectives of the Coastal Management Plan are to protect development; to secure persons and property; and to provide, maintain and replace infrastructure.

The proposed development is not considered to impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology and, social and economic demand.

The subject site is located within the Point Danger- Fingal Head Area identified under the Plan at Clause 3.1.3. The subject site is not identified for specific development or issues within this plan and it is not considered to be directly impacted upon by the issues identified for that area.

Under this plan, the subject site is not identified as having any key management actions or specific management strategies. The proposal is assessed as being consistent with the objectives of the Management Plan.

Coastal Zone Management Plan for the Tweed Coast Estuaries 2013

The subject site is not located within an area that is affected by the Coastal Zone Management Plan for the Tweed Coast Estuaries 2013.

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

The subject site is located approximately 400m from the Terranora Inlet to which this management plan relates. It is noted that the site is not located within any of the broadwater catchment areas identified under this plan.

The proposal is not considered to result in a significant or unacceptable impact on the Broadwater given its spatial separation from the areas identified in this plan. Furthermore the application relates to a development in an area identified for this type of development, being currently utilised for the purposes of a shopping centre. The proposal is not considered to impact upon coastal zone management strategies for Cobaki and Terranora Broadwater.

**(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**

Flora and Fauna

The subject application will necessitate the removal of some vegetation in order to facilitate the works proposed as part of this application. In this regard it is noted that this consists mainly of internal site landscaping within the existing Tweed City Shopping Centre and boundary landscaping to the previous residential or greenfield allotments adjoining Kirkwood Road. This vegetation is not considered to have any specific ecological value and would in any event be replaced through future landscaping of the site. As such the proposal is considered acceptable in this regard.

Construction

The construction of the proposed development will be subject to conditions being included on any consent issued. It is noted that Council's Building Unit have reviewed the application and had no objection to its development subject to conditions of consent in this regard. The development phase of the proposal will present some interruption to the ambience of the surrounding area but this is temporary in nature and it is considered that amenity can be adequately protected via conditions of consent in the event of approval.

Stormwater

The subject application was reviewed by Council's Planning and Infrastructure Engineering Section who have provided the following comments with respect to stormwater management for the proposed development:

*"The applicant proposes to treat hardstand runoff using proprietary devices. This is acceptable under the deemed to comply provisions of D7.*

*The existing site is developed and mostly impervious. The applicant's information indicates that the catchment fronting Minjungbal Drive will experience an increase in*



*peak runoff due to the development. The applicant proposes to provide onsite detention to mitigate this.*

*The stormwater aspects of the proposal are acceptable."*

As outlined above the proposal is considered to have little impact on overall generation of stormwater runoff from the site, as the areas subject to redevelopment are in the main roof or carparking catchments, to be replaced by similar hard surfaces.

Having regard to the above advice and recommended conditions of consent, the proposal is considered to be acceptable with respect to stormwater provision on the site.

#### Landscaping

There are two elements to be considered concerning landscaping associated with the proposed development.

The first is internal landscaping around the car park and northern retail expansion area. In this regard Council has recommended standard conditions of consent to ensure that plant species comprise at least eighty percent local native species.

The second is the landscaping of the adjoining road reserve between the site and both Minjungbal Drive and Kirkwood Road. In this regard Council has requested the applicant submit a concept plan for this area, consistent with the requirements of DA13/0554, which would require approval by Council's Manager Recreation Services. Appropriate conditions are recommended.

#### Lot Consolidation

The existing centre is largely positioned within Lot 6 DP1119625, however both the expansion to the Tweed City Shopping Centre under consideration as part of this development application and those works approved under DA13/0554 relate to a number of surrounding allotments which have been acquired by the shopping centre in recent times. In this regard it is noted that this DA has been lodged over 16 allotments, reproduced below;

Lot 4 DP 781506; No. 34 Minjungbal Drive;

Lot 5 DP 781506; No. 36 Minjungbal Drive;

Lot 6 DP 1119624; No. 38 Minjungbal Drive;

Lot 1 DP 781517; No. 58 Minjungbal Drive;

Lot 2 DP 781518; No. 60 Minjungbal Drive;

Lot 1 DP 524806; No. 62 Minjungbal Drive;

Lot 22 DP 23659; No. 24 Kirkwood Road;

Lot 5 DP 830973; No. 24A Kirkwood Road;

Lot 21 DP 23659; No. 26 Kirkwood Road;

Lot 20 DP 23659; No. 28 Kirkwood Road;

Lot 19 DP 23659; No. 30 Kirkwood Road;

Lot 13 DP 23659; No. 42 Kirkwood Road;

Lot 12 DP 23659; No. 44 Kirkwood Road;

Lot 11 DP 23659; No. 46 Kirkwood Road;

Lot 2 DP 804871; No. 48-50 Kirkwood Road; and,

Lot 8 DP 23659; No. 52 Kirkwood Road.

It is considered appropriate that these allotments eventually be incorporated into a single title to regularise the development on the site, consistent with the conditions of approval relating to DA13/0554. It is therefore recommended that the applicant be given five years to undertake amalgamation to avoid any problems associated with site contamination from the existing service station site (as per DA13/0554 recommendation). Appropriate conditions have been recommended in this regard.

#### Dewatering

The subject application incorporates dewatering in relation to the proposed basement car park which is to be developed. In this regard it is noted that the application incorporated an Integrated referral to New South Wales Office of Water in this regard. General Terms of Approval for works requiring a license under Part 5 of the Water Act have been received in this regard which are to be attached to any consent.

The application has also been reviewed by Council's Environmental Health Unit in this regard who have provided a number of recommended conditions with respect to dewatering on the site. The proposal is considered to be acceptable subject to the inclusion of these conditions on any consent.

#### Noise

An Acoustic Assessment by Renzo Tonin and associates (Ref. TF792-02F04 Rev 4) and dated November 2013 has been prepared and submitted with the application. The findings of this assessment outline the following:

- *"Noise emission from all components of the development, including loading dock activities, car parking, speed ramp, alfresco dining and outdoor entertainment, with the current design is predicted to comply at all locations during the day and evening periods, being 7:00am to 10:00pm.*
- *Compliance after 10:00pm is predicted provided that the retail dock does not operate between 10:00pm and 7:00am.*
- *As per DA No. 13/0554, noise from the Alfresco Dining area with the open shop fronts and outdoor entertainment is predicted to comply with the relevant noise criteria up to the proposed operating time of midnight. Recommendations have been made with regard to entertainment noise levels.*
- *Potential noise emission from mechanical services equipment will be managed through the detailed design development stage. The design will need to ensure the cumulative impact of all noise emission satisfies the relevant noise goals.*
- *Noise impact from additional road traffic on the local road network is generally limited to residential premises to the east of the existing northern entrance, as a result of the proposed relocation of the main car park entry."*

This assessment has been reviewed in more detail by Council's Environmental Health Unit who have provided a number of recommended conditions of consent in

order to mitigate any potential noise impacts arising from the construction or operational phase of the development. In this regard the proposal is considered to be acceptable.

#### Hours of Operation

Council's Environmental Health Unit have reviewed the application and provided the following recommended condition of consent for the Tweed City Shopping Centre hours of operation:

*The trading hours are restricted to:*

- *Monday to Friday: 7:00am - 9:00pm*
- *Saturday: 7:00am - 8:00pm*
- *Sunday: 8:00am - 6:00pm*
- *The existing supermarkets and department stores - 7:00am to 9:00pm Saturday and 7:00am to 6:00pm Sunday.*
- *Cinemas and Entertainment and Leisure Precinct - up until midnight seven days per week.*
- *All deliveries of goods to occur between ☐Monday to Friday 7:00am - 6:00pm and ☐Saturday, Sunday and Public Holidays 8:00am - 6:00pm, except deliveries to the loading docks exited to Kirkwood Road which are restricted to 7:00am and 10:00pm 7 days per week.*

It is noted that these are in accordance with those identified in the submitted application and also consistent with previously approved DA13/0554 for the Entertainment and Leisure Precinct. The proposal is considered to be acceptable in this regard.

#### Amenity

Amenity issues have been considered in the submitted Acoustic Assessment and will be considered further in respect to a number of management plans that are required to be prepared under the provisions of the Construction Management Plan. A condition has been recommended to provide Council with copies of a number of these management plans. The proposed development, for a shopping centre expansion on appropriately zoned land is considered to be acceptable in this regard subject to appropriate conditions of consent.

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

##### Surrounding Landuses/Development

The subject site is located in an area where there is a diverse range of surrounding land uses and development with residential, commercial, and recreational uses as well as environmentally sensitive land all within a relatively short distance of the site.

The proposed development represents an expansion to an existing shopping centre in accordance with Council's adopted Retail Strategy. The proposed works are not considered to result in an unacceptable impact on any surrounding development by virtue of being located on appropriately zoned land and maintaining adequate separation distances.

Accordingly the application has been recommended for conditional approval.

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

The application was placed on public exhibition for a 30 day exhibition period as an Integrated Development in accordance with the Environmental Planning and Assessment Act. During the exhibition period Council received four written submissions, detailed as follows:

Submission No. 1- Chairman Dutchmead Pty Ltd, Manager of private road, large open space for recreation, fences, tennis courts and irrigation network at Tweed Gardens Complex, Kirkwood Road (immediately to east of site)

This submission raises three main concerns with respect to the proposed development, being noise, traffic and amenity. These concerns are further detailed below:

"Noise (Acoustic)

*No long term noise measurements were done at 22B Kirkwood Road (26 units) even though the TCSC boundary is less than 8m away and the service road used by heavy trucks is less than 14m away.*

*Table 2 in the assessment OEH's Industrial Noise Criteria db(A) does not include 22B Kirkwood Road even though it is the part of Tweed gardens closest to the northern expansion.*

*Dutchmead has been told that measurements were undertaken at the property described as Lot 5 DP 830973 recently purchased by DEXUS and rezoned by Council. If this took place where are the measurements?*

*Table 6 - Predicted Noise Levels for INP Assessment shows a daytime reading of 39db(A) at A1 (Gleneagles and St Andrews) which is immediately adjacent the redevelopment and a reading of 41 db(A) at A2 (Pinehurst) even though the report itself says A2 is 260m to the south-east of the car parking decks.*

*Page 24 of the assessment says "Noise emissions from all components of the development including loading dock activities, car parking, speed ramp, alfresco dining and outdoor entertainment with the current design is predicted to comply at all locations during the day and evening periods being 7.00am to 10.00pm. This is a huge prediction from the authors of the assessment who at no stage during the period they were gathering information thought it necessary to access Dutchmead property, 22 Kirkwood Road, 22A Kirkwood Road or 22B Kirkwood Road.*

*A 3m fence is totally inadequate protection from noise from a 5 level carpark.*

*No mention of impacts made by alarms on residents in Tweed Gardens. There is an alarm near Coles on the north east corner of the site which activates any time of the day or night, and stays on for extended periods especially at night. A further issue is car alarms.*

*The proposed heavy truck access to loading docks on the site boundary and there will be increased truck movements. There is a boom gate to restrict truck movement times, however many trucks arrive before 7am and leave their engines running until the gate is opened. It would be beneficial if the boom gate was relocated 50m towards Kirkwood Road.*

*Concerns about noise from the generator and air conditioning plant. Some assurance that this noise will be minimised would be appreciated."*

#### Applicant's response

*"Renzo Tonin (applicants Acoustic Consultant) have provided a consolidated response to Council Acoustic queries.*

*Alarms are considered a management issue, is not relevant to this DA. Car alarms are out of the control of management*

*The boom gate has been installed to manage the delivery times to the centre as required by earlier approvals for the site. The arrival of trucks prior to approved operating times cannot be directly controlled by DEXUS and does not relate to the merits of this particular application. It should be noted that the new major loading docks proposed to Kirkwood Rd are to service non-food tenancies meaning that no refrigerated delivery vehicles will be utilising these new areas. That said, DEXUS will commit to instructing its tenants to manage delivery arrangements in a manner that minimises opportunity for standing on surrounding streets to occur."*

#### Council Officer Assessment of Submission

The subject application has been reviewed by Council's Environmental Health Unit with respect to amenity and noise impacts. In this regard it is noted that the proposal is considered acceptable and a number of conditions of consent are to be applied to any consent to ameliorate such impacts on the surrounding area. The proposal is not considered to warrant refusal in this regard.

#### *"Traffic*

*Current entry/exit point from TCSC to Kirkwood Road has never been safe with traffic from the shopping centre entering Kirkwood Road without stopping. A resident of Tweed gardens recently had her car written off by a vehicle exiting from Tweed City.*

*The DA shows a new entry/exit near the point where private road meets Kirkwood Road. This seems unbelievably dangerous.*

*Tweed Gardens already has vehicles entering its private road by mistake and this endangers vehicular traffic and pedestrians on our road. This traffic is certain to increase with the proposed entrance.*

*Dutchmead's directors feel the congested traffic area in close proximity to this private road, especially during construction will be extremely dangerous."*

#### Applicant's response

*"The proposed access intersection has been designed in accordance with Austroads requirements and in liaison with Council. The location of the proposed site access intersection is off-set to Duffy Street in a complimentary configuration with enables rights to operate without impedance. The operation of the site access intersection and carrying capacity of Kirkwood Road will be within acceptable limits in accordance with Austroads and RMS standards.*

*Council's long term planning for Kirkwood road includes the potential for the extension of Davey Street to the south to Sorley Street. This future connection has the ability to*

*increase traffic flow on the eastern extent of Kirkwood Road. In this regards, the site access intersection will continue to operate within acceptable limits.*

*It would be expected that the detailed design of the site access intersection and surrounding roadworks would include improved signage and line-marking to improve existing deficiencies along Kirkwood Road relating to access to the centre.*

*Operational Works for upgrades to Kirkwood Road will include further liaison with Council and the Local Traffic Committee through the normal construction process."*

#### Council Officer Assessment of Submission

The proposed access arrangements to the Tweed City Shopping Centre have been reviewed as satisfactory by Council's Traffic Engineer. In this regard the proposal is considered to be acceptable and does not warrant amendment of the proposal based on this submission.

#### "Amenity

*Dutchmead has been provided with assurance that DEXUS will carry out certain undertaking as per letter date 6 August 2012 (Acoustic fence, trees, security gate, TV reception), and hope these undertakings are fully implemented.*

*Impact on existing solar panels is unclear - will there be any overshadowing."*

#### Applicant's response

*"As demonstrated in the shadow diagrams submitted with the DA, there will be no overshadowing of any surrounding residential properties. DEXUS confirms that it will honour the letter dated 6 August 2012 the contents of which are:-*

*In response to some concerns raised by you on behalf of the owners of Dutchmead, we can confirm our intentions and design response to any potential development of 24a Kirkwood Road will include the following:*

- The existing acoustic fence on 24a Kirkwood road is to be removed from the western boundary line of the property. A new acoustic fence will be installed within the eastern boundary line.*
- The location of the fence is to be set back from the existing road which services the residential communities to the east of the Tweed City site. The minimum distance of setback will allow enough room for an extension to the existing footpath to join with the Kirkwood Avenue footpath plus screen planting in front of the new acoustic wall.*
- Where the setback of the acoustic wall from the existing road becomes larger, closer to Kirkwood Road, it is proposed that existing trees will be retained or new trees will be planted as replacement where retention is not possible. The new trees would be of a species chosen to minimise maintenance issues such as the dropping of leaves and root interference with any underground services.*
- The construction of the acoustic fence will be aimed at maintaining existing amenity for neighbouring residents whilst being of a superior design and construction to the existing.*

- *The keyed security gate that provides access for residents to the Tweed City site is proposed to be maintained along with the pedestrian crossing and clear footpath entry to the shopping centres interior.*
- *As owners of 24a Kirkwood Road, it is our responsibility to ensure access is granted to the required authorities to services contained within the easements on our land.*
- *In relation to any future development of Tweed City, if TV reception is diminished as a direct result of an expansion of the centre, the building owner will seek to rectify the interference, at their cost.*

#### Council Officer Assessment of Submission

The issues raised in the correspondence between the applicant and the objector is not considered to warrant the refusal of the subject application. In the main these issues relate to private agreements between the residents and the applicant.

#### Submission No. 2- Resident at Kirkwood Road, Tweed Heads South (Tweed Gardens Complex immediately to east of site)

*"The proposed new entry on Kirkwood Road would appear to be immediately adjacent to the existing intersection of Duffy Street and Kirkwood Road and the driveway entry to both the Tweed Gardens Complex and the Minjungbal Aboriginal Centre.*

*The Tweed gardens Complex contains about 130 apartments, many of which are 3 bedroom, and thus likely 2 vehicle residences. The Minjungbal Aboriginal Centre can attract large groups of visitors including bus parties of school children.*

*The confluence of traffic at this intersection will become complex and dangerous unless well managed.*

*Anyone who has tried to exit from Aldi on Machinery Drive will know the folly of allowing major developments with high traffic flows without adequate planning for traffic movement.*

*There are already minor skirmishes between traffic entering and leaving Tweed City via the existing driveway on Kirkwood Rd, and traffic on Kirkwood Road from the East of that entrance, mostly caused by shoppers not expecting or looking for traffic come from what appears to be a dead end street.*

*Perhaps the proposed new entry should be restricted to delivery vehicles and buses, and the main shopping entry placed further West on Kirkwood road, after all they have about 400 metres of frontage to choose from."*

#### Applicant's response

*"The entry point will be well signposted which would limit potential confusion. Please refer to the above traffic comments (comments to submission No. 1)."*

#### Council Officer Assessment of Submission

As outlined under the assessment of the above submission, the proposed access to the Tweed City Shopping Centre has been reviewed as satisfactory by Council's Traffic Engineer. In this regard the proposal is considered to be acceptable and does not warrant amendment of the proposal.



Submission No. 3- Resident at Kirkwood Road, Tweed Heads South (Tweed Gardens Complex immediately to east of site)

*"We refer to the proposal to extend Tweed City shopping centre and write to express our concern about one important aspect of the current plans. The proposed new access to Tweed City from Kirkwood Road would be dangerously close to the private road which is the only vehicular access for the occupants of more than a hundred residences at No 22 Kirkwood Road."*

Council Officer Assessment of Submission

As outlined under the assessment of the above submissions, the proposed access to the Tweed City Shopping Centre has been reviewed as satisfactory by Council's Traffic Engineer. In this regard the proposal is considered to be acceptable and does not warrant amendment of the proposal.

Submission No. 4- Resident at Cooloon Crescent, Tweed Heads South (approx 200m north of site)

*"I have no objection to the concept of the overall development DA14/0063. However given the nature of the development in particular the multi level car parks and other development along Kirkwood Road building noise and building vibration will be a significant issue for the amenity of my property. Therefore I object to any night building works, works on Sunday and on public holidays. In addition I wish to be notified of any application by the developer to amend building work hours from the original application DA14/0063."*

Applicant's response

*"Hours of construction are proposed within the Construction Management Plan (CMP) as 7:00am-7:00pm Monday to Friday and 7:00am-5:00pm on Saturday.*

*DEXUS understand that Council intends to attach its standard construction hours condition, but permitting one-off variances to allow for specific works when necessary to avoid disruption to retail activities. An amended CMP will be submitted to Council prior to the issue of the first CC for the project."*

Council Officer Assessment of Submission

Council staff have recommended the following condition relating to construction/demolition site work hours as follows:

*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.*

*The proponent may, with the written approval of Councils General Manager or delegate vary the above hours on a one-off basis in order to facilitate works to avoid disruption to the ongoing retail activities on the site. Any such request should be provided in writing (including details of the work to be undertaken and reasoning for*

*this to occur outside the above hours) to Council a minimum of one week prior to the proposed hours to be varied.*

If Council is in receipt of a future S96 application to modify the above condition to allow ongoing night or Sunday works it is likely the objector would be advised of this through the exhibition process and have an opportunity to make a submission at that time. In the case of one-off variations as provided for in the condition it is considered that Council cannot practically undertake to notify individual members of the public with respect to amendments to hours of operation. However the decision as to whether or not to allow the variation would be taken having regard to the amenity of surrounding properties.

The proposal is not considered to warrant refusal or amendment of the application based on the contents of these submissions and possible impacts can be addressed through the recommended condition above.

#### **Public Authority Submissions**

##### NSW Department of Primary Industries (Office of Water)

The subject application was lodged as a nominated Integrated development with a permit required from New South Wales (NSW) Office of Water under Sections 89, 90 and 91 of the Water Management Act 2000 for dewatering. General Terms of Approval have been received from NSW Office of Water which would be placed on any consent in the event of approval.

#### **(e) Public interest**

The proposed development is generally consistent with the applicable environmental planning instruments and the Tweed Development Control Plan. The development is therefore considered to be in the public interest by expanding retail services to the general community.

#### **DEVELOPER CONTRIBUTIONS**

##### S64 Charges: Water & Sewer

The applicants Statement of Environmental Effects states:

*For the purposes of calculating s.64 water and sewer charges, it is proposed that these be determined by the net increase in GLFA. In this regard total net increase in GLFA for the project is 19,276m<sup>2</sup>.*

It is considered appropriate to calculate these contributions based on GLFA, consistent with DA13/0554.

S64 Water and Sewerage Developer Contributions.	Water	Sewer
Shopping Centres including 10 or more tenancies (floor area per m2 )	0.005 ET	0.008 ET

- Water = 19276 x 0.005 = 96.38 ET
- Sewer = 19276 x 0.008 = 154.208 ET

Accordingly water and sewer have been charged on 19,276m<sup>2</sup> as follows:

Water: 96.38 ET @ \$12,575 per ET = **\$1,211,978.50**

Sewer 154.208 ET @ \$6,042 per ET = **\$931,724.70**

#### Tweed S94 Plan No. 4 – Tweed Road Contribution Plan

The proposal was referred to Council's Traffic Engineer with respect to the applicable trips chargeable for the proposed development. Comments have been received as outlined below (note table referred to if produced at Figure 7 below):

*Table 4.1 in Appendix E Traffic Assessment Report Part 1 provides an assessment of estimated contributions under the Plan. The Plan allows for a departure from the prescribed rates subject to substantiation through as detailed Traffic Study which is provided in this DA.*

*Generally the calculations provided are accepted however the 2% reduction for the whole shopping Centre due to improved public transport facilities is not well justified and the 1% reduction applied to the whole shopping centre for improved bicycle facilities is also not well justified. However, these deductions are accepted in the interests of attempts to reduce car dependency for the Centre's customers who reside in close proximity.*

*Therefore, as per Table 4.9 of the submitted Traffic Impact Assessment Report, total trips levied for the proposed development is **1,884 trips/day**.*

<b>Factor</b>	<b>Thursday</b>	<b>Saturday</b>	<b>Average</b>
RMS Trip Rates total site area	3.58/hr/100m <sup>2</sup> GLFA	3.95/hr/100m <sup>2</sup> GLFA	3.765/100m <sup>2</sup> /GLFA
Trips/hr for net increase of 19,276m <sup>2</sup> GLFA	690/hr	761/hr	726/hr
Daily Trips (average RMS factor = 8.1)	5,589 veh trips/day	6,164 veh trips/day	5,876.5 veh trips/day
2% trip reduction factor applied to the whole centre for improved Public Transport Facilities.			-428.3 trips/day
1% reduction factor for walk and cycle improvements (i.e. cycle storage facilities + crossing facilities on Kirkwood Road) applied to the whole centre. (i.e. 70,226sqm).			-214.6 trips/day
<b><i>SUBTOTAL (before TRCP Concessions)</i></b>			<b><i>5,233.6 trips/day</i></b>
40% reduction for commercial / employment development (TSC's Road Contributions Plan) = (5,435.8 – 2,093.4)			3,140.2 trips/day
40% for diverted trips (TSC's Road Contributions Plan) = 3,140.2 – 1,256.1			1,884 trips/day
<b><i>RESULTANT TRIPS/DAY (after TRCP concessions)</i></b>			<b><i>1,884 trips/day</i></b>

**Figure 7: Applicants TRCP Calculation**

These figures have been accepted by Council as being accurate and accordingly have been used to calculate the applicable developer contributions in accordance with Tweed S94 Plan No. 4 TRCP as follows:

- \* Total daily trips = 5,223.6 x 0.6 (40% discount employment generating business) = 3,140.2 daily trips chargeable.
- \* New daily trips = 3140.2 x 0.6 (0.6 (Modification Factor for shared trips) = 1,884 daily trips chargeable.

\* 1,184 daily trips at \$1,365 per trip = Total TRCP contributions of **\$2,571,660**

Tweed S94 Plan No. 18 – Council Administration

The Plan states large commercial, retail or industrial uses should be charged per 300m<sup>2</sup> of floor area. The additional gross floor area is 20,713m<sup>2</sup> (from 57,969m<sup>2</sup> to 78,682 m<sup>2</sup>).

Therefore  $20713/300 \times 0.1503ET = 10.377ET = \mathbf{\$19,304.44}$

**OPTIONS:**

1. Approve the application in accordance with the recommendation; or
2. Refuse the application with reasons for refusal.

**CONCLUSION:**

The proposed development is considered suitable for the site as it is a permissible form of development and aligns with Council's adopted retail strategy which reinforces Tweed City Shopping Centre as a district shopping centre for the Tweed.

**RECOMMENDATION:**

That:

- A. State Environmental Planning Policy No. 1 objection to Clause 16(2) of Tweed Local Environmental Plan 2000 regarding heights of buildings be supported and the concurrence of the Director-General of the Department of Planning be assumed.
- B. Development Application DA14/0063 for a Northern retail expansion of Tweed City Shopping Centre including reconfiguration and expansion of retail space to the north and west of the centre resulting in an increase of gross floor area from 57,969m<sup>2</sup> to 78,628m<sup>2</sup>, demolition of existing car park, dwellings and to the existing shopping centre building, development of basement, at grade and multi-level parking, new signage, access amendments to the centre, new loading docks and upgrade to site infrastructure (JRPP) at Lots 4-5 DP 781506; Nos. 34-36 Minjungbal Drive; Lot 6 DP 1119624; No. 38 Minjungbal Drive; Lot 1 DP 781517; No. 58 Minjungbal Drive; Lot 2 DP 781518; No. 60 Minjungbal Drive; Lot 1 DP 524806; No. 62 Minjungbal Drive; Lot 22 DP 23659; No. 24 Kirkwood Road; Lot 5 DP 830973; No. 24A Kirkwood Road; Lots 11-13 DP 23659; Nos. 42-42 Kirkwood Road; Lots 19-21 DP 23659; Nos. 26-30 Kirkwood Road; Lot 2 DP 804871; No. 48-50 Kirkwood Road; Lot 8 DP 23659; No. 52 Kirkwood Road; TWEED HEADS SOUTH, NSW, 2486 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:
  - Basement Demolition Plan (Drawing No. TP31-001 Revision 1) prepared by NH Architecture and dated 19 November 2013;
  - Site & Ground Floor Demolition Plan (Drawing No. TP31-002 Revision 1) prepared by NH Architecture and dated 19 November 2013;
  - Roof Demolition Plan (Drawing No. TP31-003 Revision 1) prepared by NH Architecture and dated 19 November 2013;
  - Proposed Basement Plan (Drawing No. TP32-001 Revision 2) prepared by NH Architecture and dated 19 November 2013;

- Proposed Site & Ground Floor Plan (Drawing No. TP32-002 Revision 5) prepared by NH Architecture and dated 13 December 2013;
- Proposed Ground Mezzanine Floor plan (Drawing No. TP32-003 Revision 2) prepared by NH Architecture and dated 19 November 2013;
- Proposed Level 1 Floor Plan & Lower Roof Plan (Drawing No. TP32-004 Revision 2) prepared by NH Architecture and dated 19 November 2013;
- Proposed Level 1A Floor Plan & Upper Roof Plan (Drawing No. TP32-005 Revision 2) prepared by NH Architecture and dated 19 November 2013;
- Proposed Roof Plan (Drawing No. TP32-006 Revision 1) prepared by NH Architecture and dated 19 November 2013;
- Proposed Elevations Sheet 1 (Drawing No. TP35-001 Revision 1) prepared by NH Architecture and dated 19 November 2013;
- Proposed Elevations Sheet 2 (Drawing No. TP35-002 Revision 1) prepared by NH Architecture and dated 19 November 2013;
- Proposed Sections (Drawing No. TP36-001 Revision 1) prepared by NH Architecture and dated 19 November 2013;
- Proposed Pylon Signs (Drawing No. TP38-001 Revision 1) prepared by NH Architecture and dated 19 November 2013;
- Proposed 3D Views (Drawing No. TP39-001 Revision 1) prepared by NH Architecture and dated 19 November 2013;
- Proposed Indicative External Finishes & Colour (Drawing No. TP39-001 Revision 1) prepared by NH Architecture and dated 19 November 2013;

except where varied by the conditions of this consent.

[GEN0005]

2. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.

[GEN0075]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

4. The development is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.

[GEN0125]

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.

[GEN0135]

6. Should dewatering be required 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]

7. 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]

8. Any air-handling system, hot water system, humidifying system, warm-water system, water-cooling system or any other 'regulated system' as defined in Section 26 of the Public Health Act 2010 shall be installed in accordance with the relevant requirements of Part 2 Clause 6 of the Public Health Regulation 2012.

[GEN0315]

9. The development sites that now form part of the Tweed City Shopping Centre (Lot 4 DP 781506, Lot 5 DP 781506, Lot 6 DP 1119624, Lot 1 DP 781517, Lot 2 DP 781518, Lot 1 DP 524806, Lot 22 DP 23659, Lot 5 DP 830973, Lot 21 DP 23659, Lot 20 DP 23659, Lot 19 DP 23659, Lot 13 DP 23659, Lot 12 DP 23659, Lot 11 DP 23659, Lot 2 DP 804871 and Lot 8 DP 23659) are to be consolidated into 1 lot under 1 title. The plan of consolidation shall be registered with the Land Titles Office prior to 31 December 2018.

[GENNS01]

10. The future use of any proposed food and beverage outlet tenancies must be the subject of a separate Development Application or Complying Development Application (as statutorily required) prior to fit out and use of the tenancy.

[GENNS01]

11. Due to the extensive and varied public infrastructure works required to be undertaken, it is recommended that such works be approved and managed via a construction certificate process in lieu of separate Sec.138 and Sec.68 approval processes as nominated in this consent. All public infrastructure works can then be addressed by a single set of plans.

This is relevant for all road, access, path paving, stormwater connection and associated works normally covered by a Sec.138 approval, as well as sewer infrastructure reconstruction works.

12. It is recommended that the bus bay works in Kirkwood Road that encroach into the site, should be dedicated as public road. This would be necessary if any public infrastructure or services in the relocated footpath area would be located on private property.

Further consultation with Council on this matter will be required prior to the issue of any Sec.138 approval or construction certificate for public infrastructure works.

13. A six (6) months Defects Liability Period for new sewer infrastructure and public road works is applicable, and will commence on the date of issue of the Occupation Certificate.

14. Any traffic regulatory controls / devices on adjoining streets will require endorsement of the Local Traffic Committee and written approval by Council prior to installation.
15. The proposed development is to be undertaken generally in accordance with the recommendations of the Traffic Impact Assessment Report prepared by Bitzios Consulting and dated 23 January 2014.

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

16. Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority **PRIOR** to the issue of a Construction Certificate.

17. 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.

18. **Prior** to the issue of a Construction Certificate for civil infrastructure works, 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.

19. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

20. 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.



21. 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.

[PCC0585]

22. The 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. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

24. 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) Vehicular access
- (b) All roadworks within Kirkwood Road and Minjungbal Drive, including road widening, median works and bus bay works.
- (c) All modification of vehicular access driveways.

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]

25. 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]

26. 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]

27. Prior to the issue of a **Construction Certificate** for subdivision works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include but are not limited to the following:
  - earthworks
  - roadworks/furnishings
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), *as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

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.

[PCC1105]

29. A 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 Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for subdivision works, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[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. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be no greater than pre-development. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted with the S68 stormwater application.

[PCC1165]

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 a construction certificate.

[PCC1195]

33. In accordance with Section 68 of the Local Government Act, application shall be made to Council to alter water supply and sewerage systems. Detail shall include hydraulic drawings, pipe sizes, details of materials and discharge temperatures.

[PCC1225]

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.

[PCC1235]

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.

[PCC1255]

36. 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.

[PCC1265]

37. 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.

[PCC1275]

38. Continual sewerage services must be maintained for all properties upstream of or connected to the affected sewer, for the duration of the works.

39. Continual water supply must be maintained for all properties connected to the affected water main, for the duration of the works.

40. Applications shall be made to Tweed Shire Council for water service disconnections and include the payment of fees in accordance with Councils adopted fees and charges where required.

41. Prior to the issue of any Construction Certificate a landscape concept plan must be prepared to address the proposed landscape treatment for the entire street frontage in Minjunbal Drive and Kirkwood Road where they adjoin the Tweed City Shopping Centre's future redevelopment plans. Such a concept plan will guide individual landscape plans prepared for each stage of the shopping centre redevelopment, including those described in DA14/0063. The concept plan must be prepared by a qualified landscape architect and be approved by the Manager, Recreation Services, Tweed Shire Council. Plantings are to include street trees and turf only, no garden bed type plantings will be considered. Street tree species are to be native to the local area.

42. Prior to the issue of any Construction Certificate a detailed landscape plan prepared by a qualified landscape architect must be submitted for the road reserve of Minjunbal Drive and Kirkwood Road where it adjoins the redevelopment proposed in DA14/0063. This plan must be consistent with an approved landscape concept plan for the broader streetscape adjoining the Tweed Valley Shopping Centre. Such a plan must be approved by the Manager, Recreation Services, Tweed Shire Council and be consistent with Development Design Specification (D14) and related Standard Drawings. The plans must indicate all underground services and indicate any implications or constraints at or beyond the boundary that will affect ongoing management of the public land.

[PCCNS02]

43. Prior to issue of a construction certificate an Acid Sulphate Soil Management Plan in accordance with the provisions of the NSW Acid Sulphate Soil Management Advisory Committee Guidelines shall be prepared and provided to Council's Environmental Health Officer for consideration and approval. All works shall comply with the approved Acid Sulphate Soil Management Plan.
44. Prior to the issue of any construction certificate, a detailed acoustic assessment of mechanical plant, compactors and acoustic lining of access ramps and parking decks is to be undertaken as a component of the design and development stage. This detailed acoustic assessment shall be undertaken by an appropriately qualified acoustic engineer and any recommendations contained within the acoustic assessment shall be implemented in respect to the design, location and use of the respective building components.

[PCCNS02]

45. An appropriately qualified fire engineer is to be engaged to review the proposed building works the subject of this development application taking into account; the two separate hydrant systems which have different maximum operating pressures, the conditions imposed by the Department of Local Government on 18 April 1997 associated with BA 829/96 and Fire safety Engineering Report (3699FSER) Rev.1 January 2007 by BCA Consultants (Qld) Pty Ltd. Associated with DA06/0351. At completion of this review the fire engineer is to submit his/her Fire Safety Engineering Report to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

Note: The Department of Local Government on 18 April 1997 imposed the following conditions;

1. Observance for the life of the building of all the parameters, conclusions and recommendations as to the use of the building and safety features contained within the Report (Job No. 4603208X) dated 4 March, 1997 of Connell Wagner and accompanying Drawing No SE-01, Revision 4 and the facsimiles dated 10 and 11 April, 1997 also from Connell Wagner.
2. An appropriate system for monitoring both authorised and unauthorised shutdown of the Sprinkler and Smoke Exhaust Systems shall be established and maintained for the life of the building to the satisfaction of the Council:-
  - (a) During authorised shutdown or failure of the Sprinkler or Smoke Exhaust Systems suitable precautions shall be implemented to:

- (i) restrict the likelihood of fire outbreak in the area served by the system/s; and
    - (ii) limit the effect to the occupants of the building, of any fire that may occur in the building.
  - (b) Suitable precautions, referred to in item 2 (a) above, during authorised shutdown or failure of the system/s, shall include:
    - (i) restricting access to the area served by the fire safety systems to maintenance or construction personnel only;
    - (ii) provision of suitably trained staff to continuously monitor for fire starts;
    - (iii) provision of additional portable fire extinguishers relevant to the risk to the subject area; and
    - (iv) suitable restrictions to ensure authorised shutdown is kept to a minimum and returned to normal operation without delay.
  - (c) The monitoring systems for unauthorised shutdown shall include:
    - (i) initiation of appropriate audible and visual warning signals upon unauthorised shutdown of the system/s to a personnel area which shall be staffed at all times whilst the building is occupied; and
    - (ii) procedures to ensure that upon unauthorised shutdown there will be an immediate investigation of the system/s by suitably trained personnel and immediate restoration of the system/s.
3. The matters relating to the safe operation of the building, including the smoke detection system, Emergency Warning and Intercommunication System (EWIS), smoke exhaust system and sprinkler system shall be listed as essential services and shall be subject to the provisions of clause 27 of the Local Government (Approvals) Regulation, 1993.
4. The building work shall comply with the BCA in all respects other than those for which a variation under section B2(3) has been granted.

[PCCNS02]

46. The proposed marked pedestrian crossing on Kirkwood Road is to be modified to a pedestrian refuge with kerb extensions and relocated to the east in compliance with Austroads and Council requirements. Prior to the issue of a Construction Certificate revised plans and particulars are to be submitted to Council to the satisfaction of the General Manager or delegate.
47. Prior to the issue of a Construction Certificate landscaping and urban design detail for the indented bus bay is to be provided to Council for the satisfaction of the General Manager or delegate.

[PCCNS03]

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

48. 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.

[PCW0005]

49. An application is to be made to Council to disconnect the existing building from Council's sewerage system, prior to any demolition work commencing.

[PCW0045]

50. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work 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
  - (iii) 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]

51. 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]

52. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 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]

53. 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]

54. 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]

55. Prior to the commencement of building work, a certificate signed by a registered professional engineer is to be submitted to the Principal Certifying Authority to certify that adequate consolidation of foundation material has been achieved to support the proposed structure.

[PCW0755]

56. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

57. 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 the approved 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.

[PCW0985]

58. A Dewatering Management Plan shall be prepared and submitted to Council's General Manager or his delegate for consideration and approval prior to commencement of any dewatering for placement of sub ground basement structures which details the following:

- \* A detailed groundwater quality report which provides sampling results from a NATA accredited laboratory on the following parameters, pH, Electrical Conductivity, Dissolved Oxygen, Temperature, Dissolved Iron, Suspended Solids, Turbidity, Chloride, Sulphate, Chloride:Sulfate ratio and Dissolved Aluminium.



- \* A site plan drawn to scale which indicates the extent of the excavation area and estimated zone of influence of the dewatering activity relative to any adjoining buildings together with an assessment of any impacts likely to occur to any adjoining buildings as a result of the dewatering activities.
- \* The location to be indicated on the site plan of the area that will be utilised for the positioning of any treatment tank or sedimentation pond on the site including any reserve area to be used for such purpose in the event of the need for additional treatment facilities to be incorporated on the site.
- \* Details of the proposed method of mechanical aeration to be used in the event that it is necessary to aerate the groundwater to achieve an acceptable Dissolved Oxygen level prior to the offsite discharge of groundwater and where this will be incorporated on the site.
- \* The provision of written advice from the operator of any on site groundwater treatment system stating that the system to be used will be able to treat the groundwater to the required treatment level prior to discharge. Note. Particular attention is to be given to achieving the required detention times prior to discharge of the groundwater. Advice that the system is simply capable of achieving the necessary treatment will not be acceptable.

[PCW1015]

59. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

60. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW1085]

61. Prior to the commencement of any works on the site all required plumbing and drainage inspection fees are to be submitted to Council.

[PCW1095]

62. 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 prior to commencing any building works.

[PCW1135]

63. Prior to the issue of a construction certificate, documentary evidence of creation of the required 3.0 metre easement over the proposed sewer within Lot 6 DP1119624 shall be submitted to Tweed Shire Council.
64. Any alterations to approved plans shall be confirmed by Council W&S Systems Engineer prior to construction.
65. Any access required to neighbouring blocks will need to be negotiated by applicant to the property owner and Council's satisfaction.

66. Prior to demolition work commencing a sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm by 300mm shall be erected in a prominent visible location on the site in close proximity to each relevant structure. The signs shall remain in place until all asbestos has been removed from the site.
67. Prior to the commencement of construction of the new structure a ‘clearance inspection’ shall be conducted for the site and a ‘clearance certificate’ issued by a licensed asbestos assessor or competent person which states that the site ‘does not pose a risk to health and safety from exposure to asbestos’ in accordance with Clause 474 of the Work Health and Safety Regulation 2011. A copy of this certificate shall be forwarded to the principal certifying authority and Council.
68. Council’s Environmental Health Officer shall be provided with copies of the following specific management plans prior to commencement of construction under the provisions of the Construction Management Plan prepared by Lend Lease and dated October 2013 - Hazardous Substances and Dangerous Goods Management Plan, Asbestos and Hazardous Building Material Management Plan, Contaminated Waste (soils/water) Management Plan, Concrete Waste Management Plan, Paint Waste Management Plan, Noise and Vibration Management Plan, Air Quality Management Plan and Stakeholder Engagement Management Plan.
69. Prior to the disturbance or removal of the slabs on the following sites the applicant shall submit to Council a sub-slab contamination investigation report prepared in accordance with Council’s Pre-Demolition Testing advisory note. If contaminants above adopted health investigation levels are detected then a remediation action plan (RAP) shall be submitted to Council for approval. All works shall comply with the approved RAP. Upon completion of the remediation works (if applicable) and prior to commencement of construction works for the new development Council shall be provided with a validation report form a suitably qualified person detailing the remediation works undertaken.
- Lot 5 DP 830973, Kirkwood Road
  - Lot 19 DP 23659, 30 Kirkwood Road
  - Lot 12 & 13 DP 23659, 42 - 44 Kirkwood Road
  - Lot 2 DP 804871, 48 - 50 Kirkwood Road
  - Lot 7 DP DP 23659, 54 Kirkwood Road
  - Lot 6 DP 23659, 56 Kirkwood Road
  - Lot 4 & 5 DP781506, 34 - 36 Minjungbal Drive)
  - Lot 6 DP 1119624, 38 Minjungbal Drive

[PCWNS02]

#### DURING CONSTRUCTION

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

[DUR0005]

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

[DUR0025]

72. 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.

The proponent may, with the written approval of Councils General Manager or delegate vary the above hours on a one-off basis in order to facilitate works to avoid disruption to the ongoing retail activities on the site. Any such request should be provided in writing (including details of the work to be undertaken and reasoning for this to occur outside the above hours) to Council a minimum of one week prior to the proposed hours to be varied.

[DUR0205]

73. 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.

$L_{Aeq, 15 \text{ min}}$  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 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]

74. 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]

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

[DUR0235]

76. 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]

77. 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]

78. 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]

79. 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]

80. 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 Work Health and Safety Regulation 2011.

[DUR0415]

81. 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]

82. 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 Council's road reserve.

[DUR0435]

83. 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, Work Health and Safety Regulation 2011.

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]

84. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.

[DUR0675]

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

[DUR0815]

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. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

88. 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]

89. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

90. 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]

91. 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]

92. 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]

93. 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]

94. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.

[DUR1805]

- (c) During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (d) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- (e) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

95. 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]

96. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

### **Roadworks**

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, cycleways - formwork/reinforcement
- (h) Final Practical Inspection - on maintenance
- (i) Off Maintenance inspection

**Water Reticulation, Sewer Reticulation, Drainage**

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final Practical Inspection - on maintenance
- (i) Off maintenance

**Stormwater Quality Control Devices (other than proprietary devices)**

For detail refer to Water By Design - Technical Guidelines

- (a) Earthworks and filter media
- (b) Structural components
- (c) Operational establishment
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all civil infrastructure works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

97. 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]

98. 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]

99. 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]

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

[DUR2195]

101. 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]

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

[DUR2245]

103. 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]

104. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: '**DUMP NO RUBBISH, FLOWS INTO CREEK**' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

105. 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]



106. 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 Division to arrange a suitable inspection.

[DUR2445]

107. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.

[DUR2475]

108. 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]

109. 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 Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

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

[DUR2505]

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

[DUR2525]

112. 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]

113. 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]

114. 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:-

- \* 45°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]

115. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required

[DUR2565]

116. The structure is to be sited at least 1.0 metres horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not affect or be affected by the sewer main and that the design meets the Council Sewers - Works in Proximity Policy.
117. 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]

118. 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

[DUR2685]

119. Cut-ins to live sewer shall be conducted in the presence of a Council Officer.
120. Any cleaning of the sewer line shall be undertaken without transferring large quantities of materials or sand downstream of the repair area. The use of suction to remove sand build-up is expected.
121. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2011. Prior to demolition of any structures is commenced all asbestos material shall be identified and removed from the site by an asbestos removalist who is licensed to carry out the work by WorkCover NSW. All asbestos laden waste shall be disposed at an approved licensed waste facility (all receipts detailing method and location of disposal must be kept on site and provided to a Council Authorised Officer upon request).
122. Appropriate on-site stockpile locations for the treatment of any identified acid sulphate soil shall be nominated within the Acid Sulphate Soil Management Plan and no untreated acid sulphate soil material shall be removed from the site unless appropriate off-site acid sulphate soil stockpile treatment locations have been nominated within the Acid Sulphate Soil Management Plan and such off-site locations are to the satisfaction of Council's General Manager or delegate.
123. Any groundwater derived from dewatering for placement of 'humceptor' stormwater treatment devices shall be removed from site by a licensed liquid waste contractor and delivered to a licensed liquid waste treatment facility. Documentary evidence of this process shall be retained on site and provided to Council's Environmental Health Officer upon request.

[DURNS02]

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

124. 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]

125. Prior to the issue of an Occupation Certificate a defect liability bond (in cash **or** unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the public infrastructure works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (as set out in Councils Fees and Charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

126. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

127. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

128. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

129. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have 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 include indexation provided for in the S94 Plan and 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.

(a) Tweed Road Contribution Plan:

1884 Trips @ \$1365 per Trips \$2,571,660

(\$1,318 base rate + \$47 indexation)

S94 Plan No. 4

Sector2\_4

(b) Extensions to Council Administration Offices

& Technical Support Facilities

10.377 ET @ \$1860.31 per ET \$19,304.44

(\$1,759.90 base rate + \$100.41 indexation)

S94 Plan No. 18

[POC0395]

130. 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.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have 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:

Water DSP4:96.38 ET @ \$12575 per ET \$1,211,978.50

Sewer Banora: 154.208 ET @ \$6042 per ET \$931,724.70

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.

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

[POC0675]

131. 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]

132. 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]

133. Upon completion of all subdivision works on the site, Work as Executed plans are to be provided to Council in accordance with Councils Development Design Specification, D13 as well as a CCTV inspection of the stormwater pipes and sewerage system that are to be dedicated to Council as public infrastructure including joints and junctions to demonstrate that the standard of the system is acceptable to Council.
134. The plans are to be endorsed by a Registered Surveyor OR Consulting Engineer certifying that:
- a) The plans accurately reflect the work as executed.
  - b) All stormwater lines, sewer lines, services and structures are wholly contained within the relevant easements or boundaries.

**Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.**

[POC0765]

135. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.

[POC0805]

136. 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]

137. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

138. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

139. A validation report shall be provided to Council prior to issue of an occupation certificate which confirms that all mechanical plant, compactors, acoustic lining of access ramps and parking decks, and the 2.5m high acoustic wall to the north eastern speed ramp have been designed and installed in accordance with the relevant acoustic assessments.

[POCNS01]

140. A bond (for the landscaping within the road reserve) to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the Developer prior to the issue of any Occupation Certificate. The bond shall be held by Council for a minimum period of 12 months from the date of issue of the Occupation Certificate (or longer if required by the approved Landscaping Plan) and may be utilised by

Council during this period to undertake essential plant establishment or related plant care works, should non compliance occur. Any balance remaining at the end of the 12 months establishment period will be refunded.

The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

141. Prior to issue of a Occupation Certificate, Work as Executed Plans (WAX) must be submitted for the landscaping within the road reserve. These must show the location of underground services and any infrastructure such as pathways, bus stops, power lines or similar.

The plans are to be certified by a registered surveyor or consulting engineer.

Two categories of WAX plans are to be provided:

- a) The original approved plan with any variation to this indicated.
- b) Plan showing only the actual as constructed information,

The plans are to be submitted in the following formats:

- c) 2 paper copies of the same scale and format as the approved plan.
  - d) A PDF version on CD or an approved medium.
  - e) An electronic copy in DWG or DXF format on CD or an approved medium.
142. Prior to the issue of an Occupation Certificate Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. This is required to nominate all new public infrastructure works, including road and stormwater works, bus shelters and sewer infrastructure.
143. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate **PRIOR** to the issue of an Occupation Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
144. All public sewer infrastructure located on private property is to be covered by an appropriate easement.

[POCNS02]

## USE

145. 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]

146. The  $L_{Aeq, 15 \text{ min}}$  noise level emitted from the premises shall not exceed the background noise level ( $L_{Aeq}$ ) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends. Further noise from delivery trucks and unloading activities within the loading docks located off Kirkwood Road shall not be audible within any habitable room in a residential premise between the hours 10pm and 7am.

[USE0165]

147. 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]

148. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

149. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

[USE0245]

150. The development shall be carried out in accordance with the provisions of the acoustic assessment report prepared by Renzo Tonin & Associates titled Tweed City Shopping Centre Northern Retail DA Acoustic Assessment, dated November 2013.

[USE0305]

151. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

152. All commercial/industrial/residential wastes shall be collected, stored and disposed of in accordance with the provisions of Tweed Shire Council Development Control Plan Section A15 - Waste Minimisation and Management and to the written satisfaction of the General Manager or his delegate.

[USE0875]

153. Any air-handling system, hot water system, humidifying system, warm-water system, water-cooling system or any other 'regulated system' as defined in Section 26 of the Public Health Act 2010 shall be operated and maintained in accordance with the relevant requirements of Part 2 Clauses 7, 8 & 9 of the Public Health Regulation 2012. A certificate to confirm that the regulated system is being maintained shall be submitted to Council on a 12 monthly basis.

[USE0945]

154. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

155. The applicant and occupier of the premises is alerted to the requirements of the Smoke-Free Environment Act 2000 and the Smoke Free Environment Regulation 2007 and the guidelines in the Regulation for determining what is an enclosed public place. Enquires may be directed to the NSW Department of Health. The legislation may be viewed on the following website:

156. The hours of operation of Tweed City Shopping Centre are restricted to:

- Monday to Friday: 7:00am to 9:00pm.
- Saturday: 7:00am to 8:00pm.
- Sunday: 8:00am to 6:00pm.
- The existing supermarkets and department stores - 7.00am to 9:00pm Monday to Saturday and 7:00am to 6.00pm Sunday.
- Cinemas and Entertainment and Leisure Precinct - 9.00am to midnight seven days per week.
- All deliveries of goods to occur between ☐ Monday to Friday 7:00am to 6:00pm and Saturday, Sunday and Public Holidays 8:00am to 6:00pm, except deliveries to the loading docks exiting to Kirkwood Road which are restricted to between 7:00am and 10:00pm seven days per week.

157. Delivery vehicles utilising the loading docks located off Kirkwood Road shall be located within the loading docks whilst delivery and unloading is undertaken, and shall not be partially within the dock or on Kirkwood Road.

[USENS01]

158. The developer is to undertake care and maintenance operations of the streetscape landscaping for a minimum of 12 months after completion of the works and they are approved by Council. This is the establishment period for new plantings. Such maintenance will include all soft landscaping including plant care, mowing and weed control. Any power and water consumption costs during this period must also be met by the developer

[USENS02]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

159. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate **PRIOR** to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

160. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

161. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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.



162. A surveyed Work-as-executed (WAE) Plan shall be provided to Council along with Asset Creation Form for Council Asset Management Records. The plan shall include manhole location and depths, sewer line lengths and gradients shown in percentage, dimensions to structures and junction points with details.
163. A junction sheet including depth, distance to downstream manhole and offset type and distance shall be submitted to Council.
164. A post video of the sewer line shall be completed with WinCAN DVD and datafile and submitted to Council for review prior to practical completion.
165. All WAE information shall meet Council's Approval prior to the release of certificate of practical completion.

**GENERAL TERMS OF APPROVAL FOR WORKS REQUIRING A LICENSE FOR DEWATERING UNDER THE WATER ACT 1912**

1. Before commencing any works or using any existing works for the purpose of dewatering an approval under Part V of the Water 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
8. 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.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
10. 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.

11. Works for construction of a bore must be completed within such period as specified by the Department.
12. 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.
13. 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.
14. 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:
  1. inspecting the said work
  2. taking samples of any water or material in the work and testing the samples.
15. 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.
16. 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.
17. The maximum term of this licence shall be twelve (12) months.
18. The volume of groundwater extracted from the work authorised by this licence shall not exceed 5 megalitres for the term of the licence.
19. 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.
20. 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'.
21. The work shall be managed in accordance with the constraints set out in an Dewatering Management Plan approved by the Department.
22. 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.

**GENERAL TERMS OF APPROVAL FOR WORKS REQUIRING A LICENSE FOR MONITORING BORES  
UNDER THE WATER ACT 1912**

1. The license shall lapse if the work is not commenced and completed within three years of the date of the issue of license.
2. The licensee shall within two months of completion or after the issue of the license if the work is existing, furnish to NSW Office of Water:-
  - (a) details of the work set out in the attached form "a" (must be completed by a driller).
  - (b) a plan showing accurately the location of the work, in relation to portion and property boundaries.
  - (c) a one litre water sample for all licenses other than those for stock, domestic, test bores and farming purposes.
  - (d) details of any water analysis and/or pumping tests.
3. The licensee shall allow NSW Office of Water or any person authorised by it, full and free access to the works, either during or after construction, for the purpose of carrying out inspection or test of the works and its fittings and shall carry out any work or alterations deemed necessary by the department for the protection and proper maintenance of the works, or the control of the water extracted and for the protection of the quality and the prevention from pollution or contamination of sub-surface water.
4. If a work is abandoned at any time the licensee shall notify NSW Office of Water that the work has been abandoned and seal off the aquifer by:-
  - (a) backfilling the work to ground level with clay or cement after withdrawing the casing (lining); or
  - (b) such methods as agreed to or directed by NSW Office of Water.
5. If the bore authorised by this license is lined with steel or plastic casing the inside diameter of that casing shall not exceed 220mm.
6. Water shall not be pumped from the bore authorised by this license for any purpose other than groundwater investigation.