

## JOINT REGIONAL PLANNING PANEL (Northern Region)

<b>Panel Reference</b>	2016NTH014
<b>DA Number</b>	DA16/0363
<b>LGA</b>	Tweed Shire Council
<b>Proposed Development</b>	Mixed use development incorporating shop top housing, residential accommodation, ancillary swimming pool and gym, ground level commercial premises (business premises and retail premises) and associated demolition and civil works
<b>Street Address</b>	129 Wharf Street (Lot 1 in DP 867728) and 16 □ 18 Boyd Street (Lot B & C in DP 327564) Tweed Heads.
<b>Applicant</b>	Tweed Heads Property Development Pty Ltd
<b>Owner</b>	Onward Business Consultants Pty Ltd
<b>Date of DA lodgement</b>	2 May 2016
<b>Number of Submissions</b>	<p>One (1) public submission was received which raised concern with potential geotechnical issues for their adjoining property and was concerned with the treatment between 14 Boyd Street and 16 Boyd Street.</p> <p>A submission has also been received from the following Public Authority:</p> <ul style="list-style-type: none"> <li>• Department of Primary Industries □ Water (Dewatering)</li> </ul>
<b>Recommendation</b>	Approval with conditions
<b>Regional Development Criteria</b>  (Schedule 4A of the Act)	<p>Development that has a capital investment value of more than \$20 million.</p> <p>The Development has a capital investment value of \$37,844,309.</p>
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <u>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</u></li> </ul> <p>SEPP No. 44 □ Koala Habitat Protection (&amp; Associated Tweed Coast Comprehensive Koala Plan of Management)</p> <p>SEPP No. 55 - Remediation of Land</p> <p>SEPP 65 □ Design Quality of Residential Apartment Development (&amp; Associated Apartment Design</p>

	<p>Guidelines) SEPP 71 <input type="checkbox"/> Coastal Protection Tweed City Centre Local Environmental Plan 2012</p> <ul style="list-style-type: none"> <li>• <u>List any relevant development control plan: s79C(1)(a)(iii)</u></li> </ul> <p>Tweed DCP Section A2 <input type="checkbox"/> Site Access &amp; Parking Code Tweed DCP Section A3 - Development of Flood Liable Land Tweed DCP Section A11 - Public Notification of Development Proposals Tweed DCP Section A13 <input type="checkbox"/> Socio-Economic Impact Assessment Tweed DCP Section A15 <input type="checkbox"/> Waste Minimisation &amp; Management Tweed DCP Section A16 <input type="checkbox"/> Preservation of Trees or Vegetation Tweed DCP Section B2 <input type="checkbox"/> Tweed City Centre</p>
<b>List all planning legislation requirements that the consent authority <u>must</u> consider</b>	<ul style="list-style-type: none"> <li>• Clause 7 of SEPP 55 <input type="checkbox"/> Remediation of Land</li> <li>• Clause 8 of SEPP 64 <input type="checkbox"/> Granting of Consent to Signage.</li> <li>• Clause 28 of SEPP 65 <input type="checkbox"/> <i>Determination of Development Applications.</i></li> <li>• Clause 104 of SEPP (Infrastructure) 2007; and</li> <li>• Clauses 2.3 (2), 5.5 (2), 5.5(3), 5.10 (8), 6.2, 6.6, 6.8, of the Tweed City Centre LEP 2012.</li> </ul> <p>All of the applicable consent considerations associated with the abovementioned SEPPs and LEP have been addressed within the body of this report.</p>
<b>List all documents submitted with this report for the Panel's consideration</b>	<p>Section 79C Assessment Report including</p> <ul style="list-style-type: none"> <li>• Attachment 1 <input type="checkbox"/> SEPP 65 Apartment Design Guideline Assessment</li> <li>• Attachment 2 - Landscape Concept Plans</li> </ul>
<b>Report prepared by</b>	Denise Galle (Team leader Development Assessment)
<b>Report date</b>	7 April 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

**Yes**

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not Applicable**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Not Applicable**

*Note: Certain Das in the Western Sydney Growth Areas Special Contributions Areas may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**Yes**

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## Assessment Report and Recommendation

**FILE NO: DA16/0363**

### REPORT TITLE:

Development Application DA16/0363 for a mixed use development incorporating shop top housing, residential accommodation, ancillary swimming pool and gym, ground level commercial premises (business premises and retail premises) and associated demolition and civil works at Lot 1 DP 867728; No. 129 Wharf Street TWEED HEADS; Lot B DP 327564; No. 16 Boyd Street TWEED HEADS; Lot C DP 327564; No. 18 Boyd Street TWEED HEADS.

### SUMMARY OF REPORT:

The subject application was originally lodged in May 2016 and originally sought approval for;

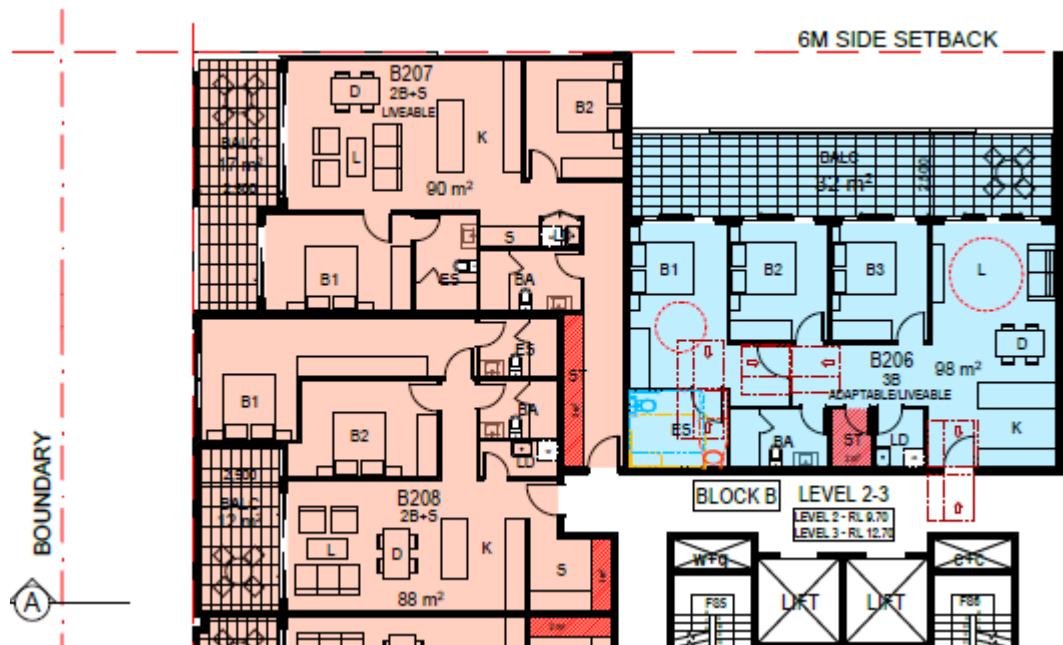
- Demolition of the existing Bayswater Motel and dwelling houses on Lots B and C;
- Construction of a two level basement car park with vehicular access from Boyd Street (198 spaces);
- Construction of Block A (Wharf Street) comprising:
  - Ground level retail ( $1377.1\text{m}^2$ ), Wharf Street pedestrian entry, swimming pool, gym, multi-purpose/cinema room, office and toilets. The swimming pool, gym, multi-purpose/cinema room and office will be used exclusively by the occupants of the residential units (ie. not open to the general public) and therefore no contributions or additional onsite car parking is required. Appropriate provisions will be included in the Strata Management Statement in relation to the use of these facilities.
  - 7 residential levels above the ground floor retail comprising 47 units
- Construction of Block B (Boyd Street) comprising:
  - 9 residential levels comprising 74 units with landscaping (which equates to 121 Units in total)
  - Relocation of existing gravity sewer line from the central portion of the site to the perimeter of the site.



The development is proposed over three allotments in a prominent location to the Tweed City Centre area, on land identified for mixed use development and medium density residential purposes.

Council’s initial assessment of the application raised concerns with many elements of the application and sought clarification on the technical engineering matters surrounding the sewer relocations, onsite storm water detention, dewatering as well as the overall architectural merit of the building, the functionality of the internal spaces, the liveability of the units and how the retail areas along Wharf Street interacted with the public domain areas.

For example the internal B1 bedroom (shown in B208 below) had long redundant corridors while B2 had a small unconventional window shown which was not considered functional or a result of good architectural design:



The applicants response in September 2016 did very little to address Council’s many concerns. Accordingly a final further information letter was sent to the applicant in December 2016 suggesting that unless some of these issues (primarily onsite storm water detention matters) were addressed to Council’s satisfaction the application should be withdrawn.

A final set of amended plans were received in February 2017.

Under the amended plans the proposed development provides the following unit mix:

Schedule of Units: Wharf Street				
	1B	2B	3B	4B
Ground	commercial			
Level 1		9		
Level 2		9		
Level 3		9		
Level 4		6		

<b>Level 5</b>		6		
<b>Level 6</b>		6		
<b>Level 7</b>			1	1
<b>Level 8</b>				
<b>Total</b>	0	45	1	1
<b>Total</b>	<b>47</b>			

<b>Schedule of Units: Boyd Street</b>			
	<b>1B</b>	<b>2B</b>	<b>3B</b>
<b>Ground</b>	3	3	3
<b>Level 1</b>	2	5	3
<b>Level 2</b>	2	5	3
<b>Level 3</b>	2	5	3
<b>Level 4</b>	1	7	0
<b>Level 5</b>	1	7	0
<b>Level 6</b>	1	7	0
<b>Level 7</b>	1	7	0
<b>Level 8</b>	0	4	0
<b>Total</b>	13	50	12
<b>Total</b>	<b>75</b>		

There is one additional unit as a result of the amended plans (now 122 Units) as one of the units is a true dual key unit with two kitchens and could be either a larger unit or two separate units. The development also includes 12% of units being adaptable and a range of dual key apartments to allow use as 2 or 3 bedrooms as required by the market.

Onsite storm water detention is now considered to work functionally in the same space as the dewatering tanks (albeit at a different phase of the development), the relocated sewer is clear of all other infrastructure and all engineering issues can now be conditioned.

This set of amended plans does not fundamentally change the development footprint but rather it changed the façade by introducing a more simplified design with more use of glass to allow light into the apartments, and introduced bench seating into the public domain area of Wharf Street.



CONCEPT 3D VIEW FROM WHARF ST

In addition the internal layout of the units were amended. The amended proposal has increased the percentage of unit mix for 1 bedroom and 3 bedrooms and above to meet the SEPP 65 Apartment Design Guidelines. The internal floor plans have been amended to reduce (not eliminate) the number of units with long narrow corridors by introducing some dual key 3 bedroom units and where corridors are still necessary they have been widened to a minimum of 1.5m with functional wardrobe spaces and improved circulation spaces.



The amended plans still demonstrate minor non compliances with SEPP 65's Apartment Design Guidelines in regards to:

- The amount of deep soil zone (6.5% instead of 7%),
- The amount of solar amenity for each of the units (57% receive 3 hours sunlight instead of 70% but those remaining 13% receive 2 hours),
- The ability for each habitable room to have an external window (12 units with elements of non-compliance for studies/multimedia rooms □ however these rooms have no doors)

- One (1) Master bedroom (Ground Level Studio Unit to Block B) is undersize (8.1m<sup>2</sup> instead of 10m<sup>2</sup>);
- Six (6) balconies are undersized in either dimension or overall size (12m<sup>2</sup> instead of 15m<sup>2</sup> and 2.6m in depth instead of 3m in depth)

Whilst the development does not have strict compliance with the design controls of the ADG, the variations proposed are generally minor, affecting only a limited number of units and are not considered to warrant refusal of the application.

There are a number of planning legislation requirements that the consent authority must consider. A detailed assessment of the relevant clauses is noted within the report. A summary is noted below:

- **Clause 7 of SEPP No 55 □ Remediation of Land.** The proponent's assessment of the subject site concluded that the land is not contaminated and is suitable for the proposed development. Council officers are satisfied that the proposed development meets the provisions of clause 7 of SEPP 55;
- **Clause 8 of SEPP 64 □ Granting of Consent to Signage.** A consent authority must not grant consent to signage unless it is satisfied that the signage is consistent with the objectives of this SEPP and Schedule 1 Assessment Criteria. No specific advertising or signage has been proposed beyond the street numbers of the building which are considered exempt development.
- **Clause 28 of SEPP 65 □ Determination of Development Applications.** A consent authority is to take into consideration the design quality of the development when evaluated in accordance with the design quality principals and the Apartment Design Guide. The amended application is considered to satisfy the provisions of the SEPP.
- **Clause 104 of Infrastructure SEPP 2007 □ Traffic Generating Development.** Clause 104 requires the consent authority to consider accessibility of the site as well as traffic / transport impacts associated with the development. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 104 of the Infrastructure SEPP (noting that RMS stated that the project did not require referral to them Under Schedule 3 of the SEPP as Wharf Street is not a Classified Road) ;
- **Clause 2.3 (2) of the Tweed City Centre Local Environmental Plan 2012 □** Clause 2.3 (2) states that the consent authority must have regard to have to the objectives for development in a zone when determining a development application in respect of land within the zone. The mixed use development satisfies the zone objectives.
- **Clause 5.5 (2) of the Tweed City Centre Local Environmental Plan 2012 □** Clause 5.5 (2) states development consent must not be granted to development on land that is wholly partly within the coastal zone unless the consent authority has considered (a) public access along the foreshore, (b) suitability of the proposed development its relationship with the surrounding area and its impact on the natural scenic quality, taking into account type of development, location, bulk, scale size, (c) the impact of the proposed development on the amenity of the coastal foreshore including (d) how the visual amenity and scenic qualities of the coast, including coastal headlands,



can be protected, and (e) how biodiversity and ecosystems, can be conserved. The proposal is not on the foreshore and will make a positive contribution to the streetscape.

- **Clause 5.5 (3) of the Tweed City Centre Local Environmental Plan 2012** □ Clause 5.5 (2) states development consent must not be granted to development on land that is wholly partly within the coastal zone unless the consent authority is satisfied that (a) the proposed development will not impede or diminish land-based right of access of the public to or along the coastal foreshore, and (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on waterways (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 (d) the proposed development will not affect or be affected by coastal hazards. The proposal utilises Council's reticulated sewer network and treats all onsite storm water to Council's specifications.
- **Clause 5.10(8) of the Tweed City Centre Local Environmental Plan 2012** □ ***Heritage Conservation.*** Clause 5.10(8) requires the consent authority to consider the effects of the proposed development on the heritage significance. Following advice from the Tweed Byron Local Aboriginal Land Council and subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 5.10(8) of the Tweed LEP 2014;
- **Clause 6.2 of the Tweed City Centre Local Environmental Plan 2012** □ ***Flood Planning.*** The provisions of clause 6.2 require the consent authority to consider potential impacts and compatibility of the proposed development in terms flooding. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 6.2 of the Tweed LEP 2014; and
- **Clause 6.6 of the Tweed City Centre Local Environmental Plan 2012** □ ***Minimum Building Street Frontage.*** The provisions of clause 6.6 state that the erection of a building on land in zone R3 and B4 must have at least one frontage of 20m. The proposed development satisfies this provision.
- **Clause 6.8 of the Tweed City Centre Local Environmental Plan 2012** □ ***Ground Floor and First Floor Development in Certain Business Zones.*** The consent authority must not approve development without ensuring the development has an active street frontage with the ground floor being used for commercial purposes. The proposed development satisfies this provision.
- **Clause 7.2(3) of the Tweed LEP 2014** □ ***Earthworks.*** Clause 7.2(3) requires the consent authority to consider effects and potential impacts on the site and surrounding locality as a result of the proposed earthworks. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.2(3) of the Tweed LEP 2014;
- **Clause 7.10 of the Tweed LEP 2014** □ ***Essential Services.*** Clause 7.10 requires the consent authority to consider essential services for the proposed development. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.10 of the Tweed LEP 2014;

In summary, the assessment of the proposed development has adequately addressed all consent considerations required by the abovementioned SEPP's and LEP clauses. It is therefore considered that the Panel can proceed with determining the application, subject to the recommended conditions of consent as the development is consistent with the future desired character of the redeveloping medium to high density precinct of the Tweed Heads area and the single objection received can be addressed by conditions of consent.

## REPORT:

**Applicant:** Tweed Heads Property Development Pty Ltd  
**Owner:** Onward Business Consultants Pty Ltd  
**Location:** Lot 1 DP 867728; No. 129 Wharf Street TWEED HEADS; Lot B DP 327564; No. 16 Boyd Street TWEED HEADS; Lot C DP 327564; No. 18 Boyd Street TWEED HEADS.  
**Zoning:** Part B4 Mixed use and Part R3 Medium Density  
**Cost:** \$37,844,309

## BACKGROUND:

### The Site

The subject land is described as Lot 1 DP 867728 No. 129 □ 131 Wharf Street, Tweed Heads and Lots B & C DP 327564 No. 16 □ 18 Boyd Street, Tweed Heads. The site is of an irregular shape, has an area of 4690m<sup>2</sup> and a frontage to Wharf Street of 40.65m and a frontage to Boyd Street of 46.935m.

The Bayswater Motor Inn, comprising a two storey, brick building with Colorbond roofing, is located on Lot 1, which includes extensive paved car parking and manoeuvring areas and an in ground pool. Detached dwelling houses exist on Lots B & C.

To the north of the site is a medical clinic fronting Wharf Street and to the south of the site is a multi-storey commercial building fronting Wharf Street. To the south of the site fronting Boyd Street is a dental surgery which contains two residential units at the rear of the property. To the north of the site fronting Boyd Street is a detached dwelling house.

The immediate area is characterised by a mix of low and medium density residential accommodation, various commercial developments and public facilities. The Tweed Shire Council offices, Tweed Hospital, Tweed Heads Bowling Club are within 500m of the site, and the Tweed River foreshore is approximately 700m to the east.

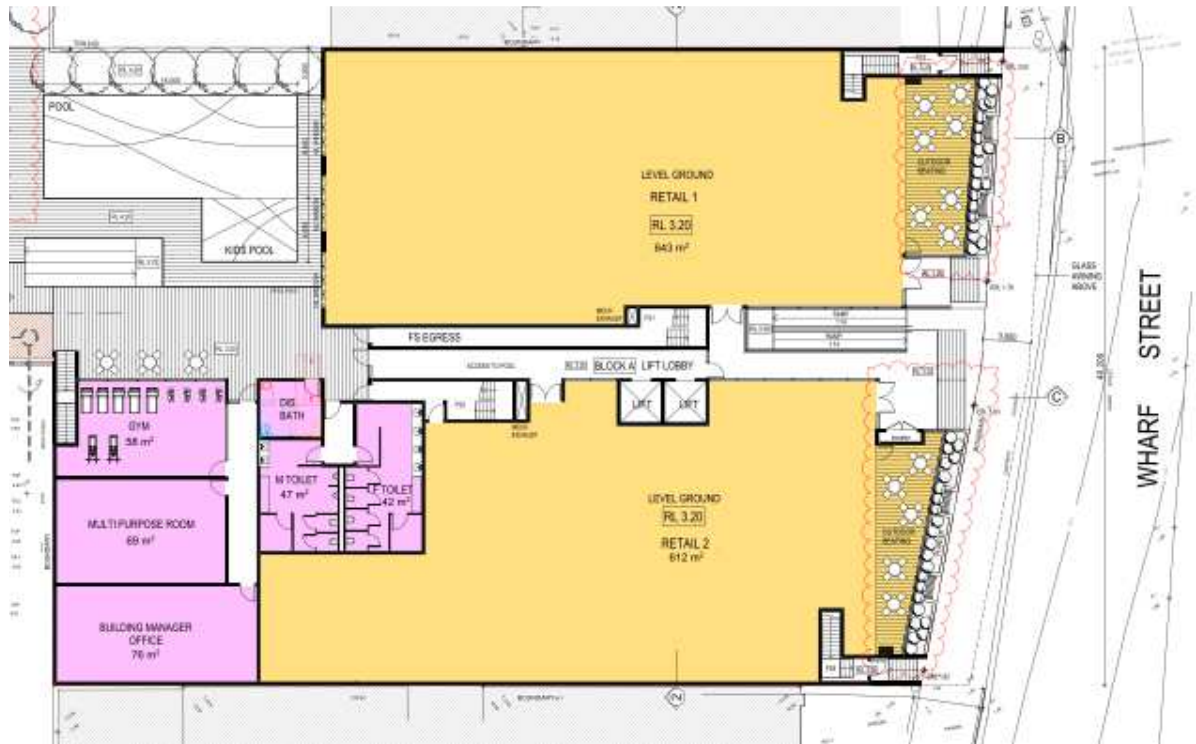
The site is within the boat harbour precinct of the Tweed City Centre DCP which is the southern gateway to Tweed Heads just north of the Boyds Bay Bridge and Terranora Terrace. To make an entry statement as people enter the precinct over the Boyds Bay Bridge landmark buildings up to 13 storeys are encouraged on key sites on the northern side of Terranora Terrace and on Monastery Hill and could accommodate a mixture of business and residential uses and tourist accommodation. A continuation of the mixed retail and residential development from the northern end of the City Centre along Wharf Street is promoted with buildings of eight storeys stepping down to six storeys on the eastern side of Recreation Street.

### The Proposal

The amended development now seeks approval for:

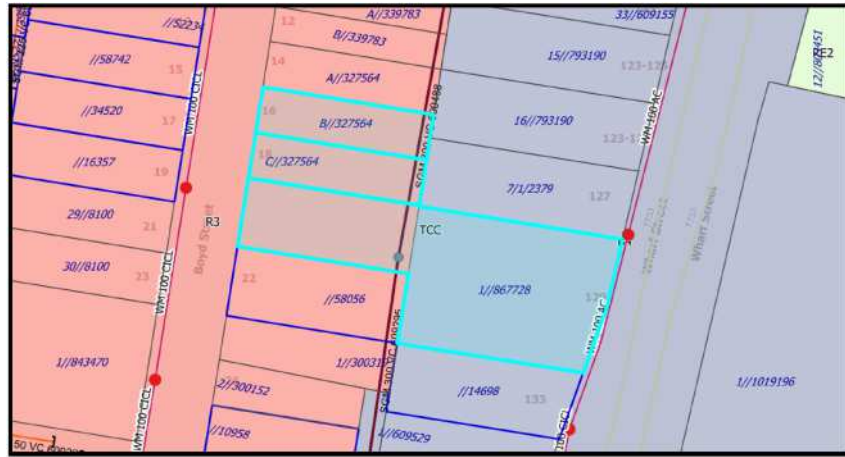
- Demolition of the existing Bayswater Motel and dwelling houses on Lots B and C;
- Construction of a two level basement car park with vehicular access from Boyd Street (107 Residential spaces in basement 2, and then at basement 1 there are 22 Resident Spaces, 11 Visitor Spaces, and 54 Commercial spaces);
- Construction of Block A (Wharf Street) comprising:

- Ground level retail/office space (1337.1m<sup>2</sup>), Wharf Street pedestrian entry, swimming pool, gym, multi-purpose/cinema room, office and toilets. The swimming pool, gym, multi-purpose/cinema room and office will be used exclusively by the occupants of the residential units (ie. not open to the general public) and therefore no contributions or additional onsite car parking is required. Appropriate provisions will be included in the Strata Management Statement in relation to the use of these facilities.

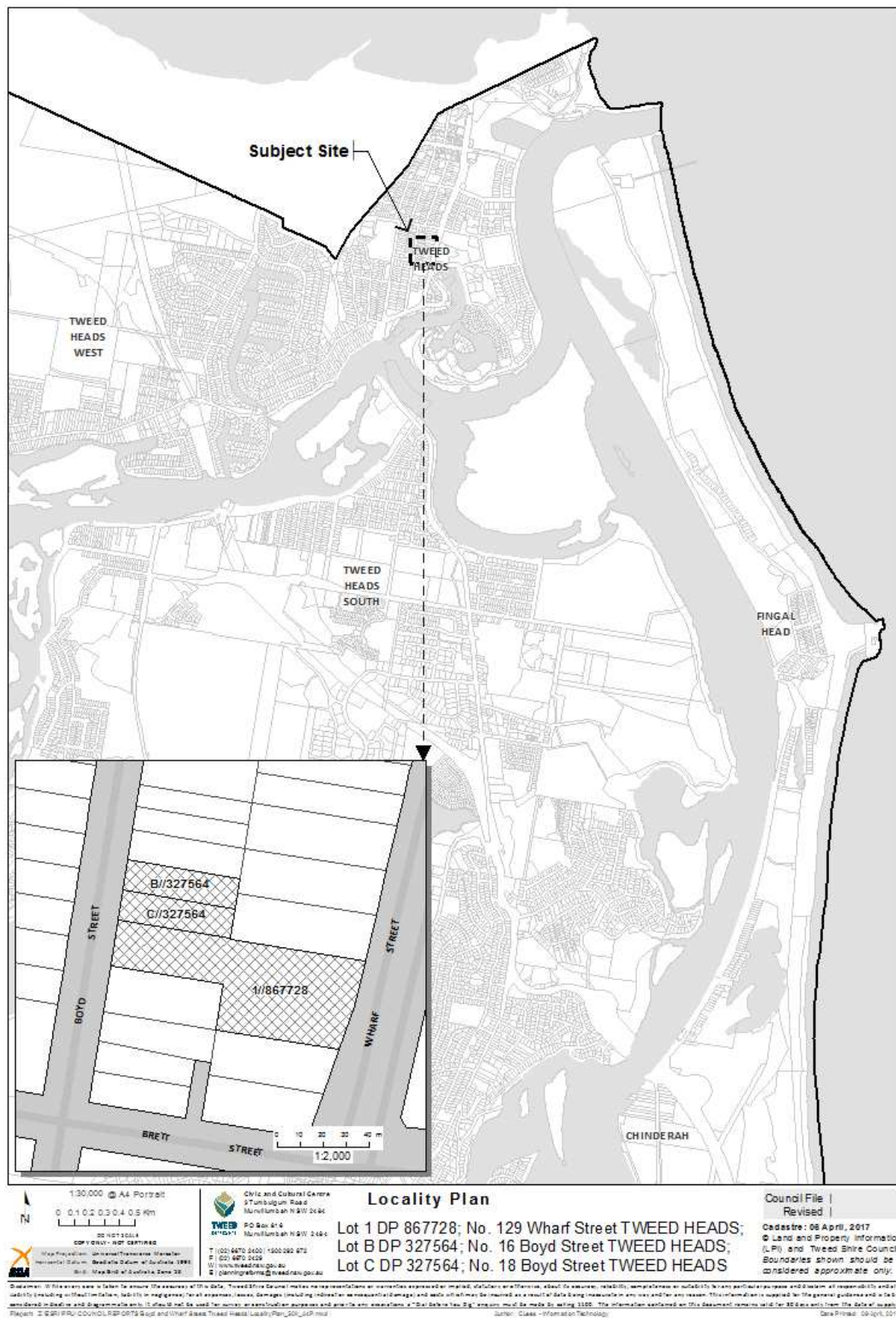


**Note:** The two (2) retail spaces are large >600m<sup>2</sup> and show outdoor seating out the front. The future uses are not nominated however it is anticipated that these large spaces would need to be split into smaller tenancies into the future and some of the uses may incorporate restaurants/café. Accordingly the car parking assessment later in this report reviews this aspect for assessment purposes.

- 7 residential levels above the ground floor retail comprising 47 units
- Construction of Block B (Boyd Street) comprising:
  - 9 residential levels comprising 75 units with landscaping (which equates to 122 Units in total)
  - Relocation of existing gravity sewer line from the central portion of the site to the perimeter of the site (see below image to show the current sewer alignment).



**SITE DIAGRAM:**





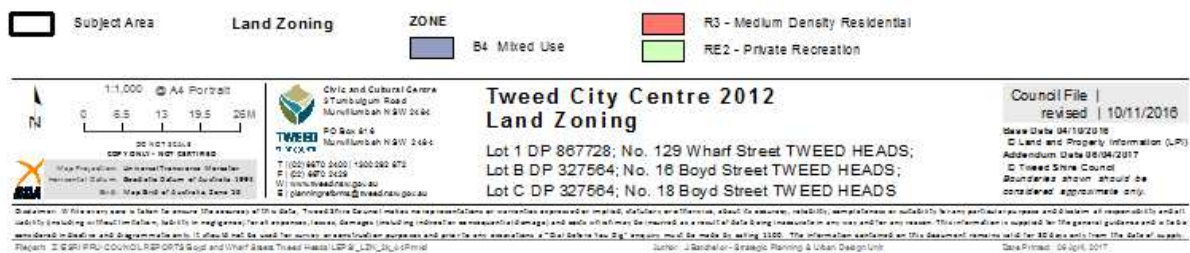
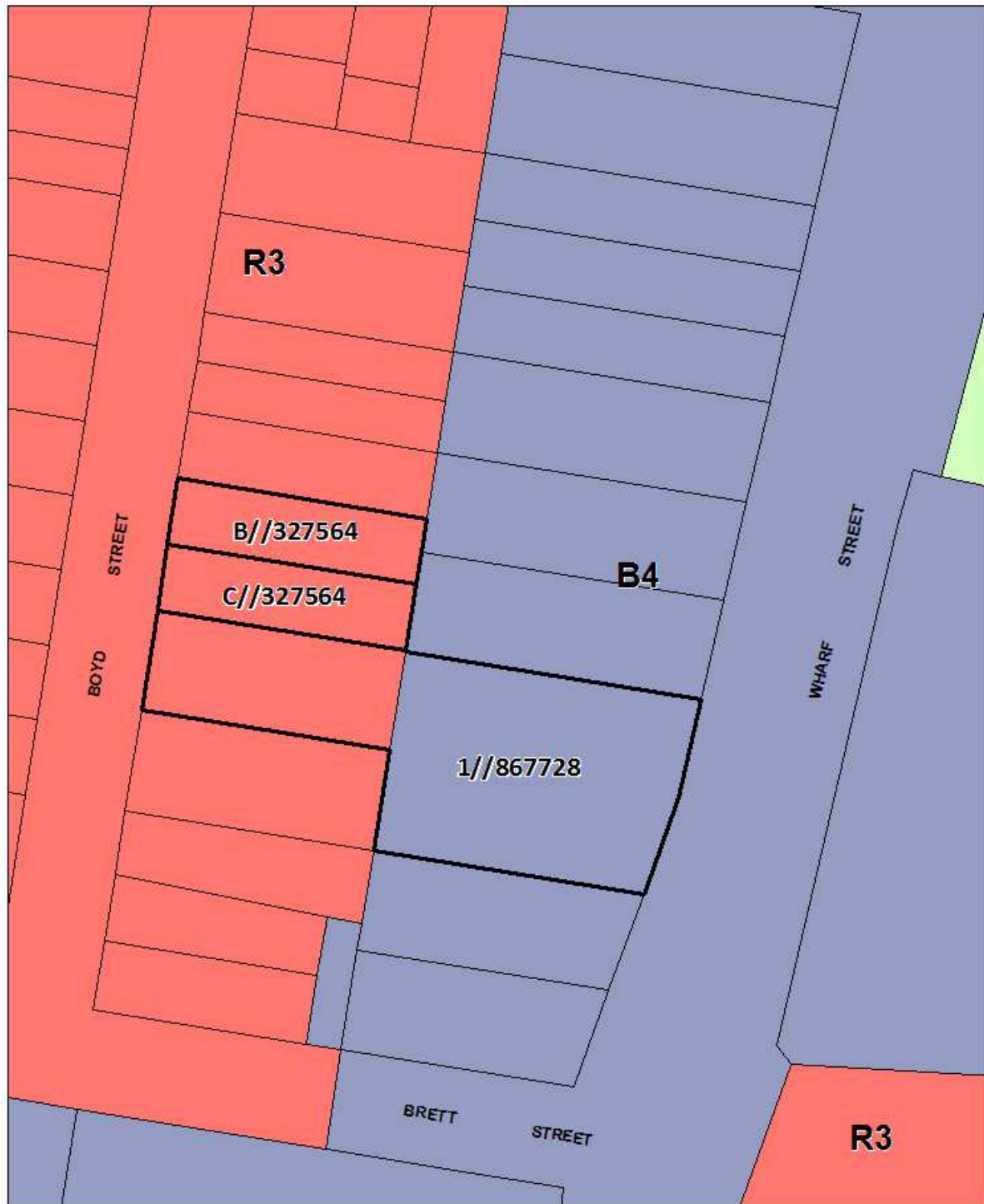
## AERIAL



<p><b>Subject Area</b></p> <p>1:1,000 A4 Portrait</p> <p>0 6.5 13 19.5 25M</p> <p>25 METERS</p> <p>Map Projection: Universal Transverse Mercator Horizontal Datum: Geoid 2000 Units: Metres</p> <p><b>DISCLAIMER:</b> It is acknowledged that the accuracy of this data, Tweed Shire Council makes no representation or warranty expressed or implied, whether in writing or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and to the extent of any liability and all liability is hereby excluded. It is acknowledged that the accuracy of this data, Tweed Shire Council makes no representation or warranty expressed or implied, whether in writing or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and to the extent of any liability and all liability is hereby excluded. It is acknowledged that the accuracy of this data, Tweed Shire Council makes no representation or warranty expressed or implied, whether in writing or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and to the extent of any liability and all liability is hereby excluded.</p>	<p><b>Tweed Shire Council</b> City and Cultural Centre 5 Tunbulung Road Murrumbidgee NSW 2684</p> <p><b>TWEED</b> PO Box 416 Murrumbidgee NSW 2684</p> <p>T (02) 6670 2400 F (02) 6670 2402 E info@tweedshire.nsw.gov.au W www.tweedshire.nsw.gov.au</p>	<p><b>Aerial Photography 2015</b></p> <p>Lot 1 DP 867728; No. 129 Wharf Street TWEED HEADS; Lot B DP 327564; No. 16 Boyd Street TWEED HEADS; Lot C DP 327564; No. 18 Boyd Street TWEED HEADS</p>	<p><b>Council File</b> revised</p> <p>Issue Date 04/10/2016 © Land and Property Information (LPI) Addendum Date 05/04/2017 © Tweed Shire Council Boundaries shown should be considered approximate only.</p>
<p>Prepared by: J. Sandell - Strategic Planning &amp; Urban Design Unit Date Printed: 04 April 2017</p>			



## ZONING PLAN





DEVELOPMENT/ELEVATION PLANS:



CONCEPT 3D / VIEW FROM WHARF ST



CONCEPT 3D / VIEW FROM 1550 ST

**Drawing List**

No.	Name
DA-00	COVER SHEET
DA-01C	DEVELOPMENT STATISTICS
DA-02A	SITE CONTEXT
DA-03A	SITE ANALYSIS
DA-04B	SURVEY
DA-10C	ROOFSITE PLAN
DA-11C	BASEMENT 2 FLOOR PLAN
DA-12C	BASEMENT 1 FLOOR PLAN
DA-13C	GROUND FLOOR PLAN
DA-14C	LEVEL 1 FLOOR PLAN
DA-15C	LEVEL 2-3 FLOOR PLAN
DA-16C	LEVEL 4 FLOOR PLAN
DA-17C	LEVEL 5-6 FLOOR PLAN
DA-18C	LEVEL 7 FLOOR PLAN
DA-19C	LEVEL 8 FLOOR PLAN
DA-21C	NORTH & SOUTH ELEVATION
DA-22C	EAST & WEST ELEVATION
DA-31C	SECTION A, B & ENTRY RAMP
DA-32C	SECTION C, 1 & 2
DA-41A	SHADOW DIAGRAM
DA-42A	SHADOW DIAGRAM
DA-43B	SOLAR ACCESS BUILDING A
DA-44B	SOLAR ACCESS BUILDING B
DA-45A	SITE SOLAR ACCESS
DA-51B	AREA CALCULATION
DA-52B	NATURAL VENTILATION
DA-53B	GFA CALCULATION
DA-61A	FENCE DETAILS
DA-62A	COURTYARD DETAILS

129-131 Wharf St & 16-18 Boyd St.

**tweed heads**



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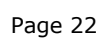
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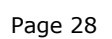


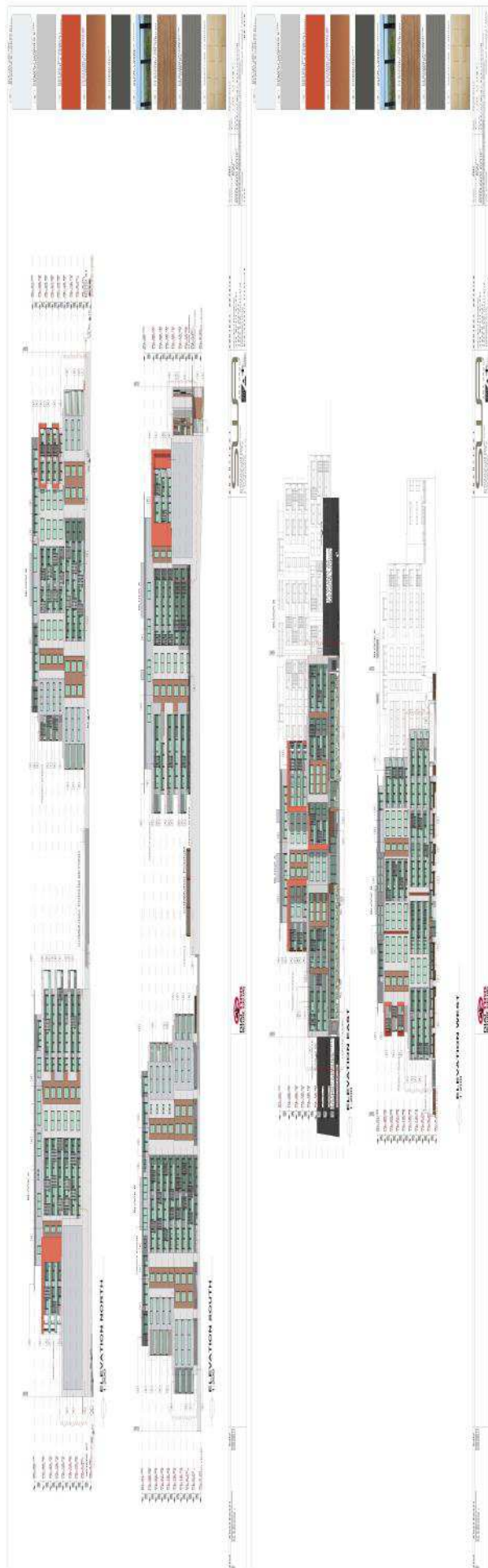








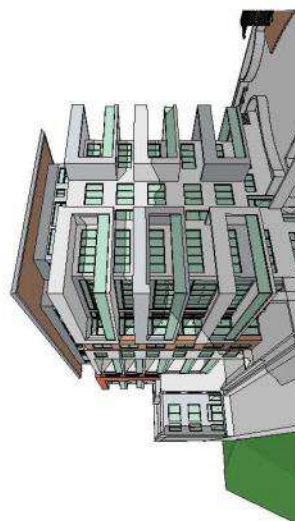
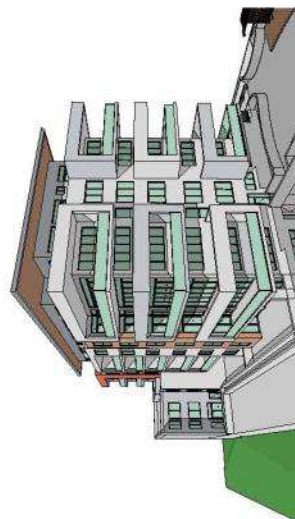
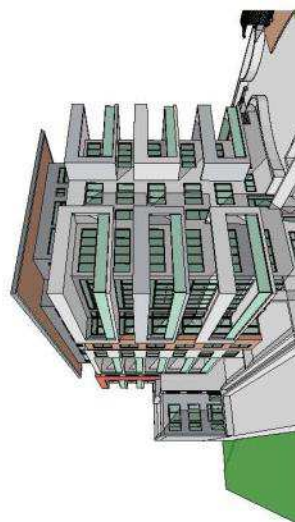
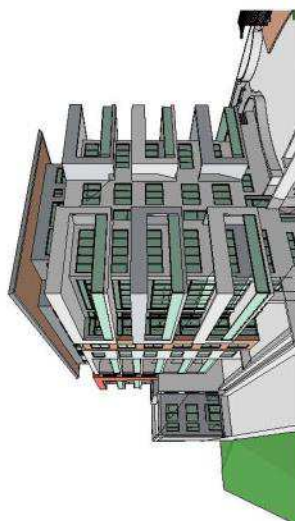
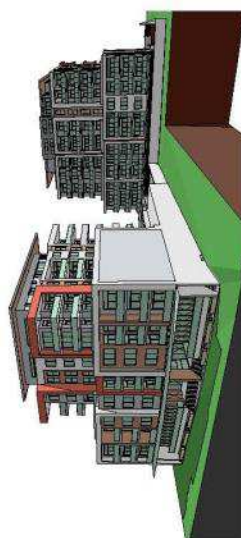
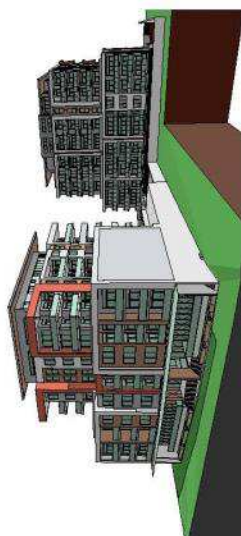
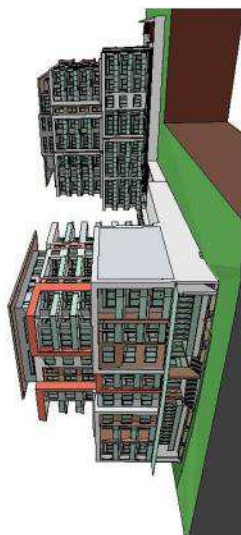
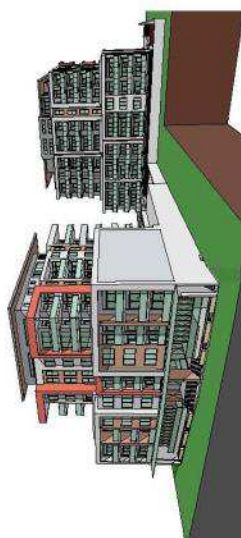




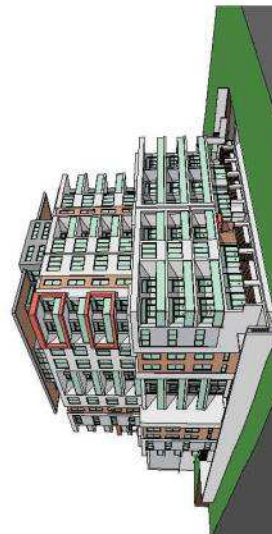
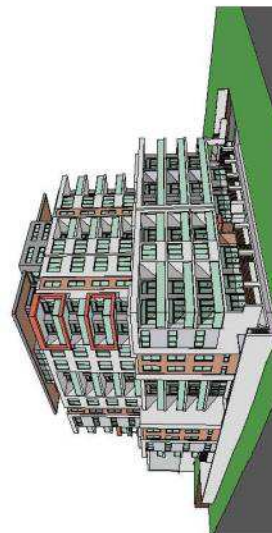
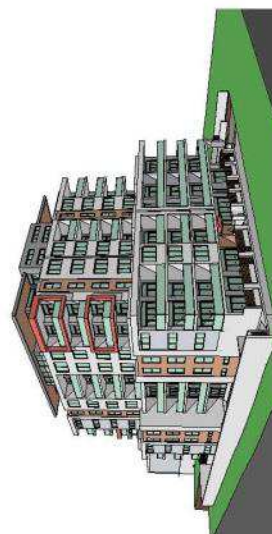
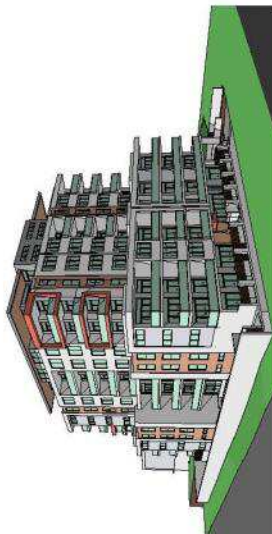
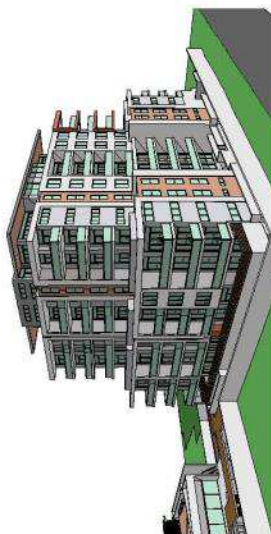
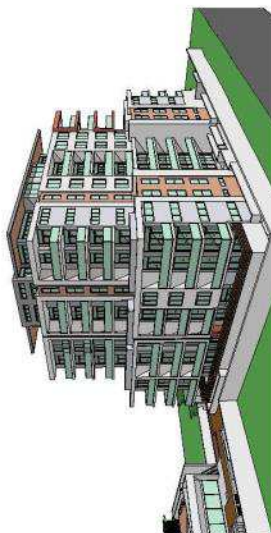
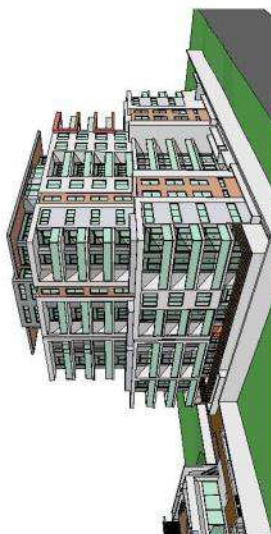






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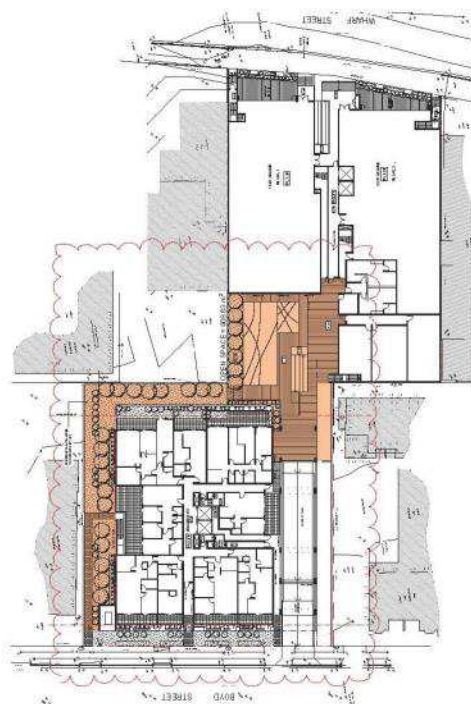
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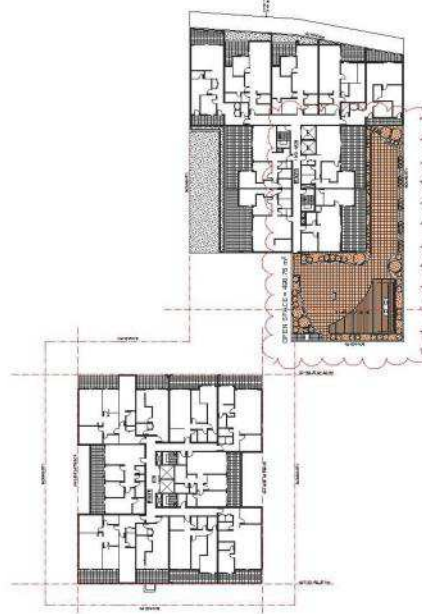




DEEP SOIL GROUND LEVEL



COMMUNAL OPEN SPACE GROUND LEVEL



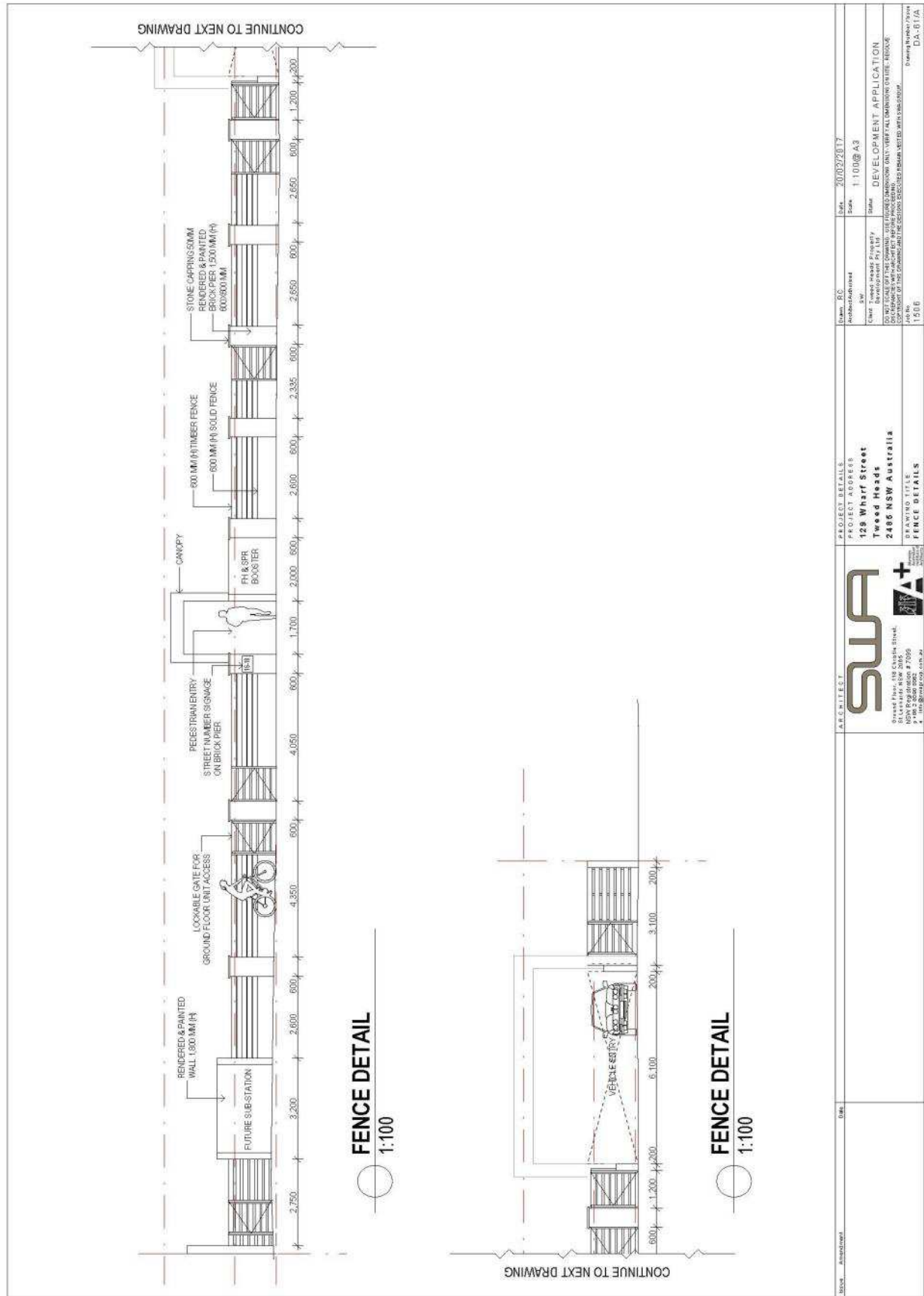
COMMUNAL OPEN SPACE LEVEL 1

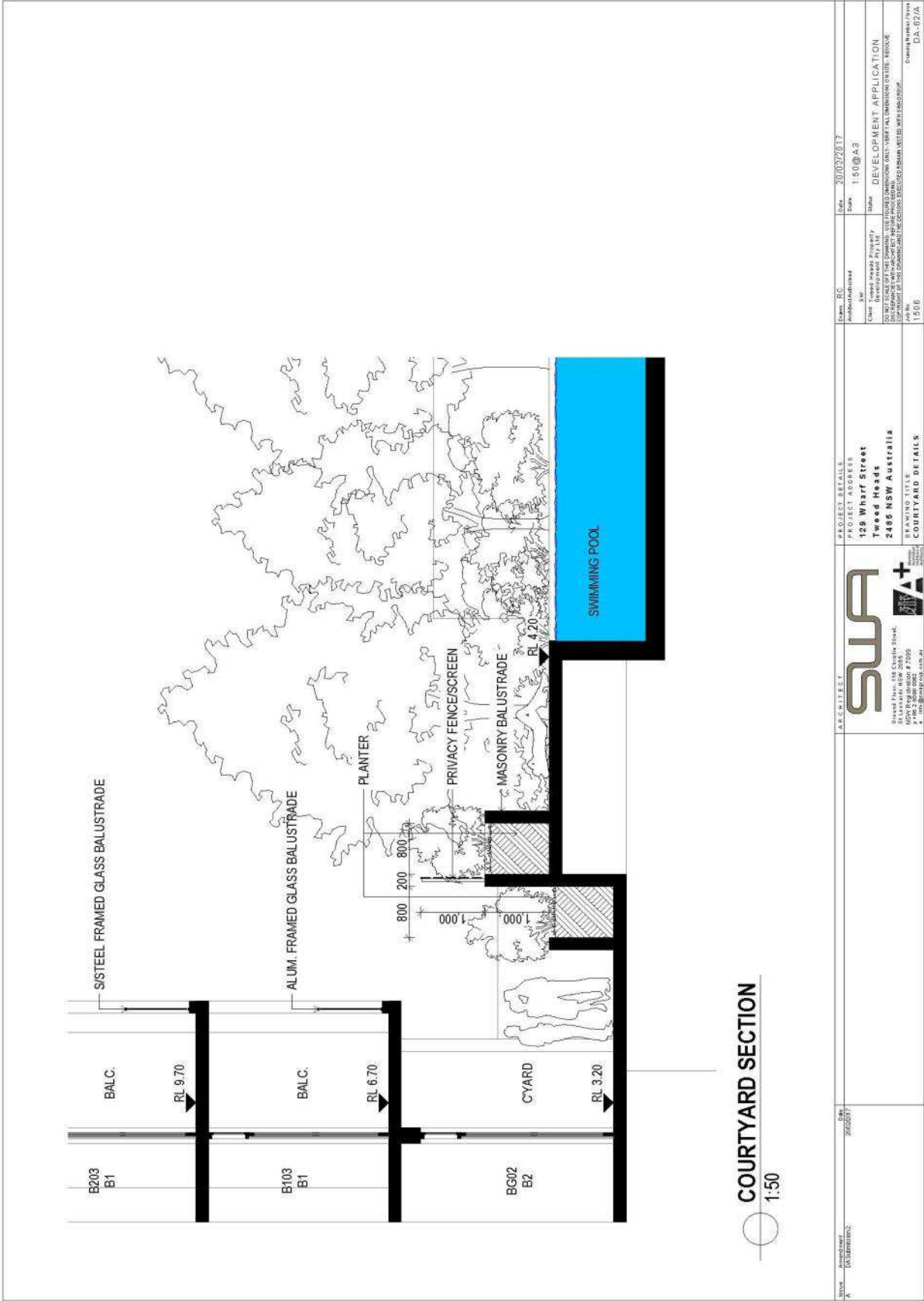
<p>PROJECT DETAILS</p> <p>PROJECT ADDRESS</p> <p>129 Wharf Street</p> <p>Tweed Heads</p> <p>2486 NSW Australia</p> <p>DRAWING TITLE</p> <p>AREA CALCULATION</p> <p>1506</p>	<p>ARCHITECT</p> <p>SWA</p> <p>Ground Floor, 129 Wharf Street, Tweed Heads NSW 2486</p> <p>129 Wharf Street, Tweed Heads NSW 2486</p> <p>129 Wharf Street, Tweed Heads NSW 2486</p>	<p>DATE</p> <p>20/02/2017</p> <p>DATE</p> <p>20/02/2017</p> <p>DATE</p> <p>20/02/2017</p>	<p>STATUS</p> <p>Development Application</p> <p>Development Application</p> <p>Development Application</p>	<p>DATE</p> <p>20/02/2017</p> <p>DATE</p> <p>20/02/2017</p> <p>DATE</p> <p>20/02/2017</p>
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## CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

#### Tweed City Centre Local Environmental Plan 2012

##### Clause 1.2 - Aims of the Plan

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;*
- (b) *to promote employment, residential, recreational, arts, social, cultural and tourism opportunities in Tweed City Centre;*
- (c) *to encourage the responsible sustainable management and conservation of Tweed City Centre's natural and environmentally sensitive areas, the built environment and cultural heritage;*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development;*
- (e) *to promote the economic revitalisation of Tweed City Centre;*
- (f) *to strengthen Tweed City Centre as a multi functional and innovative regional centre that encourages employment and economic growth;*
- (g) *to protect and enhance the vitality, identity and diversity of Tweed City Centre; and*
- (h) *to facilitate building design excellence appropriate to a regional city in Tweed City Centre*

The erection of a residential flat building on the subject site is consistent with the strategic principles for the locality as it will result in an increased residential density and provide additional housing choice.

The mixed use component will provide additional services and employment opportunities, thus strengthening the Tweed Heads area as a regional centre particularly with respect to economic growth. The ground floor food and retail premises will activate the street frontage and add to the vibrancy and life of Wharf Street.

##### Clause 2.3 □ Zone objectives and Land use table

The consent authority must have regard to the objectives for development in a zone when determining an application in respect of land within that zone.



The development site has two zonings, with the portions fronting Boyd Street subject to R3 Medium Density Residential and the portion fronting Wharf St being B4 Mixed Use.

The objectives of the R3 zoning are:

- To provide for the housing needs of the community within a medium density residential environment;
- To provide a variety of housing types within a medium density residential environment; and
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed residential flat building is consistent with the first and second objectives of the R3 zone, by virtue of the provision of medium density housing choice through delivery of 1, 2 and 3 bedroom apartments and studio style smaller units.

The objectives of the B4 zone are:

- To provide a mixture of compatible uses; and
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The proposed development includes over 1000m<sup>2</sup> of retail space at the ground floor on the Wharf Street frontage along with 122 residential apartments. This is considered a suitable mix of compatible uses given the site's location in close proximity to public services, public transport, recreation and entertainment facilities.

#### Clause 4.3 Height of Buildings

The objectives of this clause are as follows:

- (a) to establish the maximum height for which a building can be designed,
- (b) to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,
- (c) to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,
- (d) to encourage greater population density in less car-dependant urban areas,
- (e) to enable a transition in building heights between urban areas comprised of different characteristics,
- (f) to limit the impact of the height of a building on the existing natural and built environment,

- (g) to prevent gross overshadowing impacts on the natural and built environment.

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*, which for the subject site is 34m from existing ground level.

The proposed development consistent of two buildings.

Building A is 30.7m high to the roofline.

Building B is 31.55m high to the roofline

Both buildings have a lift well projecting approximately 1m over the roofline. Notwithstanding, they are both within the maximum building height limit and are acceptable with respect to this clause.

#### 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 the area of Tweed City Centre.

The development site is 4960m<sup>2</sup> in area, with approximately 2330m<sup>2</sup> zoned B4 and approximately 2630m<sup>2</sup> zoned R3. The site is mapped as having a maximum FSR of 3.25 : 1.

Sub-clause 2B provides for FSR bonuses on land zoned B4 where the site area is more than 600 square metres but less than 2000 square metres. The subject site does not meet the site area requirements for such bonuses as the B4 site area is over 2000 square metres.

Subclause 2C directs floor space ratio for the residential component of a building that is mixed use development that includes shop top housing to be calculated as follows:

- (b) if the building is in Zone B4 Mixed Use:

$$[(\text{MaxFSR} \times (\text{NR})/100) + (2.5 \times \text{R}/100)]:1,$$

where:

**MaxFSR** is the first term of the maximum floor space ratio permitted for the building under either subclause (2), (2A) or (2B).

**NR** is the percentage of the building's floor space to be used for purposes other than shop top housing or serviced apartments.

**R** is the percentage of the building's floor space to be used for the purpose of shop top housing or serviced apartments.

$$\{(3.25 \times (22)/100) + (2.5 \times 78/100)\} : 1$$

$$0.715 + 1.95 = 2.665$$

Thus 2.665 : 1 shall apply to the residential component of Block A, whilst 3.25 : 1 shall apply to the ground floor component and the remainder of Block B.

The amended plans show the following GFAs:

Level	Block	GFA
Ground Residential	A	1553
Ground Commercial	A	328
Ground	B	858
1	A	893
1	B	1011
2	A	893
2	B	1011
3	A	893
3	B	1011
4	A	560
4	B	719
5	A	560
5	B	719
6	A	560
6	B	719
7	A	350
7	B	719
8	B	433
Total	A	6262
Total	B	7200

Therefore the following calculations apply to the proposal:

*For Block A :*

Residential FSR =  $5934 / 2330 = 2.54 : 1$  complies with max FSR (in accordance with 2C) of 2.665 : 1

Overall B4 FSR = 2.68 : 1 complies with max FSR control for site of 3.25 : 1

*For Block B* =  $7200 / 2630 = 2.73 : 1$  complies with max FSR control of 3.25 : 1

The proposal thus meets the Floor Space Ratio controls of this clause.

Clause 4.6- Exceptions to development standards

No exceptions to Development Standards are sought.

Clause 5.4 ☐ Controls relating to miscellaneous permissible uses

No miscellaneous permissible uses as listed in this Clause are sought.

Clause 5.5 ☐ Development within the Coastal Zone

The subject site is within the *Coastal Zone*.

The objectives of this clause are, broadly, to implement the principles of the NSW Coastal Policy. The clause goes on to list 12 matters for consideration, and 6 matters for which specific outcomes must be achieved prior to any consent being granted. These matters are addressed below.

- (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 site does not impact on the provision of any public access to coastal lands nor does it represent an opportunity for a new public access given there is no through link from the site to public open space.

- (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 meets Council's minimum requirements with respect to minimum lot size and anticipated built form. The proposal is acceptable at this location with respect to the above criteria.

- (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 would not impact the coastal foreshore by way of overshadowing or loss of views, by virtue of sufficient physical separation from the coastal foreshore.

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

Little opportunity to protect the visual amenity and scenic qualities of the coast is available within the current proposal.

- (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 proposed development is unlikely to result in significant environmental impacts. It does not specifically consider the conservation of native flora and fauna, or their habitats within the proposal, however little opportunity for this exists.

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

The proposed development is in keeping with the intended desired future character and has no negative impact over the coastal catchment.

- (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 proposed development proposes extension to and full utilisation of Council's reticulated sewerage infrastructure for disposal of effluent and waste.

- (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*

(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 acceptable having regard to coastal hazards as outlined above.

In summary, the proposal is consistent with the broad principles of the NSW Coastal Policy, is deemed suitable with respect to the matters for consideration specific development outcomes as identified under this Clause.

#### Clause 5.9 □ Preservation of Trees or Vegetation

No significant vegetation as identified within the TELP 2014 and that would trigger this clause, is proposed to be removed from the site.

#### Clause 5.10 □ Heritage Conservation

The site is not identified as a known heritage item and is not within a heritage conservation area.

The site is not mapped as a known or predictive site on Council's Cultural Heritage map. Council's Community Development Officer □ Aboriginal advised that there was no need for the proposal to be referred to the Aboriginal Advisory Committee.

#### Clause 5.11 □ Bush fire hazard reduction

Not applicable

#### Clause 6.1 □ Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is mapped as Class 2 Acid Sulfate Soils, and the proposal involves works below the natural ground level. Subclause 3 requires an Acid Sulfate Soils Management Plan to be prepared and provided in accordance with Council specifications. Such a plan has been provided and reviewed by Council's Environmental Health Unit, with supporting comments given. These are outlined in detail later in this report. The information provided has sufficiently addressed the provisions of this Clause.

#### Clause 6.2 □ Flood planning

The site identified as within the Flood Planning Area. It was referred to Council's Flooding and Stormwater Engineer, with appropriate conditions of

consent and comments of support given for the development to be approved with regards to flood management.

#### Clause 6.3 □ Floodplain risk management

The proposed development incorporates appropriate measures to manage risk to life from flooding, in that it is a multi storey building where sufficient refuge could be had by residents during times of flood. The site also has vehicular and pedestrian access that is above the design flood level.

#### Clause 6.4 □ Terrestrial biodiversity

The proposal will not affect any terrestrial biodiversity.

#### Clause 6.6 □ Minimum building street frontage

This clause states that Development consent must not be granted to the erection of a building on land in Zone R3 Medium Density Residential, Zone B2 Local Centre, Zone B3 Commercial Core or Zone B4 Mixed Use that does not have at least one street frontage of 20 metres or more.

The subject site has two street frontages measuring over 30 and 40 metres. Thus the provisions of this clause are met.

#### Clause 6.8 □ Ground floor and first floor development in certain business zones

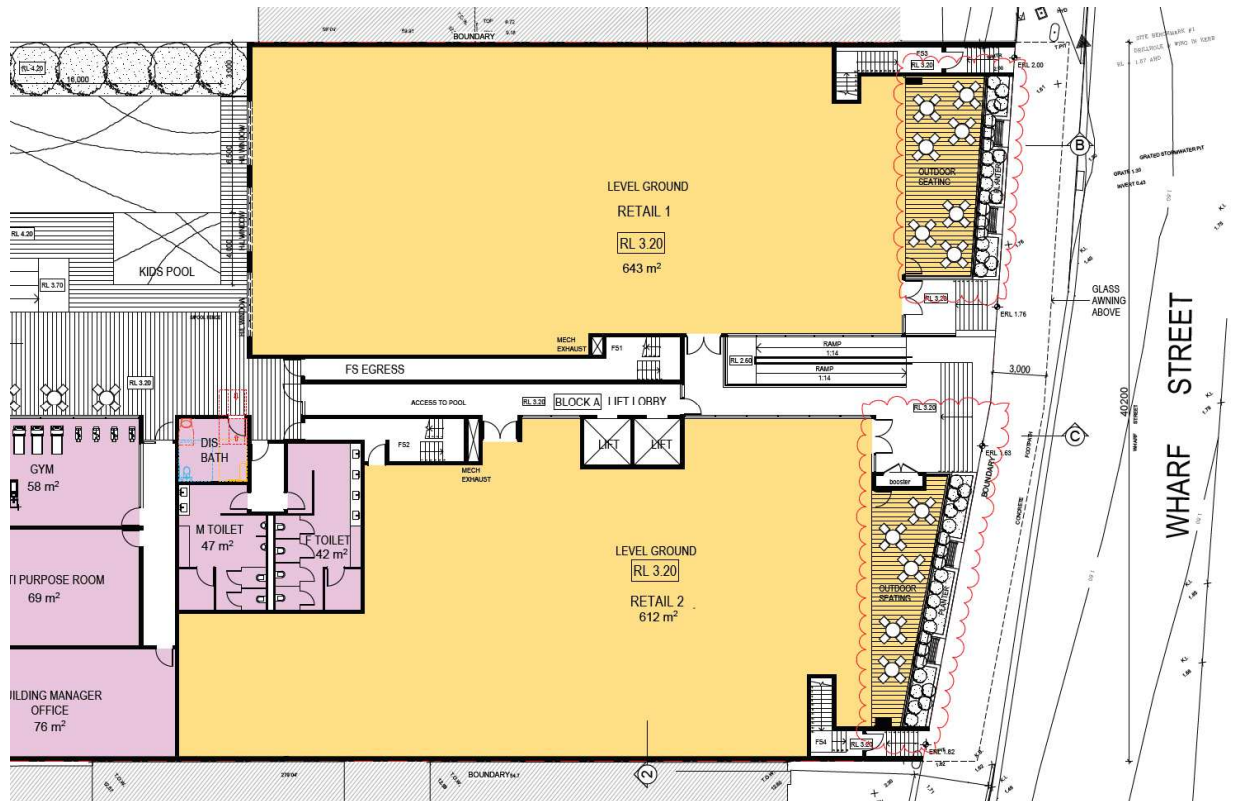
The objective of this clause is to promote ground floor uses that attract pedestrian traffic along certain ground floor street frontages in certain business zones.

The clause goes on to state that development consent must not be granted to the erection of a multi storey building, or a change of use of a multi storey building, on land to which this clause applies unless the consent authority is satisfied that:

- (a) *the building will have an active street frontage after its erection or change of use, and*
- (b) *the ground floor of the building will be used for the purpose of commercial activities, and*
- (c) *if the building is, or will be, located on land in Zone B3 Commercial Core, the first floor of the building will also be used for the purpose of commercial activities.*
- (4) *Subclause (3) does not apply to any part of a building that is used for any of the following purposes:*
  - (a) *entrances and lobbies (including as part of a mixed use development),*
  - (b) *access for fire services,*
  - (c) *vehicular access*

The proposed development is located on land that is part zoned B4 and fronts Wharf Street. This frontage incorporates a substantial area of ground floor retail space that is deemed to satisfy the above requirements with regard to

activating the street and attracting pedestrian traffic as shown on the below plans.



This Clause is considered satisfied.

Clause 6.9 □ Airspace operations



The proposed development is unlikely to cause any impact on the safe and efficient ongoing operation of the Gold Coast Airport.

### **State Environmental Planning Policies**

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

SEPP (Remediation of Land) aims to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment by specifying when consent is required; by specifying certain considerations in determining development applications and by requiring remediation work to meet certain standards and notification requirements

The SEPP requires the consent authority to consider whether the site is contaminated and / or if the land requires remediation to be made suitable for a proposed development prior to issuing consent.

A Pre-Demolition Underslab Soil Contamination Investigation HMC Environmental April 2016 (HMC2015.0163.3) has been submitted. The dwellings are bearer and joist construction. Samples were taken from six locations under the motel slab and composited for analysis. All test results were below NEPM HIL A and the Report indicates that no remediation is required and the site is suitable for residential use.

A Preliminary Site Investigation HMC Environmental April 2016 (HMC2015.163.1) has been submitted for consideration. The Report indicates:

A desktop assessment of available information, a detailed site inspection, and interviews with long-term residents familiar with the site, did not record any evidence of potential contaminating activities being undertaken on the site.

In relation to potential site contamination associated with current and former land use on the site and, based on the information provided within this report, and a site inspection carried out on 23 February 2016, it is concluded that Lot 1 DP 867728, 129 – 130 Wharf Street, and Lots B & C DP 327564 16 -18 Boyd Street, Tweed Heads is suitable for the proposed residential and commercial land use.

After consideration of these findings, it is concluded that further sampling and laboratory analysis is not required. A remediation action plan is not required.

#### **Recommendation**

1. Prior to demolition, the potential asbestos containing material within the existing motel and dwellings be identified and removed by a Workcover NSW licensed contractor and transported to Stotts Creek Resource Recovery Centre, or other approved facility, to be placed in the existing landfill in accordance with the landfill management plan.

The Report is considered comprehensive and no objection to the report conclusion is raised. Standard conditions to be applied with respect to demolition of the older dwellings, removal and certification of asbestos materials.

The provisions of the SEPP are considered satisfied.

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

No specific advertising or signage has been proposed beyond the street numbers of the building which are considered exempt development. Any advertising or signage associated with the commercial component of the building that are not identified as exempt under the Codes SEPP would require future separate development consent.

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

SEPP 65 applies to the proposal. The Policy aims to improve the design quality of residential flat development and aims:

- (a) *to ensure that it contributes to the sustainable development of New South Wales:*
  - (i) *by providing sustainable housing in social and environmental terms, and*
  - (ii) *by being a long-term asset to its neighbourhood, and*
  - (iii) *by achieving the urban planning policies for its regional and local contexts, and*
- (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and*
- (f) *to contribute to the provision of a variety of dwelling types to meet population growth, and*
- (g) *to support housing affordability, and*
- (h) *to facilitate the timely and efficient assessment of applications for development to which this Policy applies.*

This policy applies to the proposed development by virtue of consisting of the erection of a new residential flat building in accordance with the definition under the SEPP. SEPP 65 states that development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

SEPP 65 establishes nine design quality principles to be applied in the design and assessment of residential apartment development. This Apartment

Design Guide provides greater detail on how residential development proposals can meet these principles through good design and planning practice. The proposed residential flat building has been designed by Registered Architect, Steve Wu who has included a Design Verification Statement that states that the development was designed in accordance with the nine key principles of the SEPP.

Clause 29(2) requires an assessment against the design quality principles, this is provided below with a summary of the Apartment Design Guidelines also below while Attachment 1 to this report contains a detailed assessment against the ADG:

### **Principle 1: Context and neighbourhood character**

The site is within the boat harbour precinct of the Tweed City Centre DCP which is the southern gateway to Tweed Heads just north of the Boyds Bay Bridge and Terranora Terrace. To make an entry statement as people enter the precinct over the Boyds Bay Bridge landmark buildings up to 13 storeys are encouraged on key sites on the northern side of Terranora Terrace and on Monastery Hill and could accommodate a mixture of business and residential uses and tourist accommodation. A continuation of the mixed retail and residential development from the northern end of the City Centre along Wharf Street is promoted with buildings of eight storeys stepping down to six storeys on the eastern side of Recreation Street.

The surrounding properties are generally developed for mixed commercial and residential purposes comprising of varying size, scale, height and density. To the north of the site is a medical clinic fronting Wharf Street and to the south of the site is a multi-storey commercial building fronting Wharf Street. To the south of the site fronting Boyd Street is a dental surgery which contains two residential units at the rear of the property. To the north of the site fronting Boyd Street is a detached dwelling house.

The immediate area is characterised by a mix of low and medium density residential accommodation, various commercial developments and public facilities. The Tweed Shire Council offices, Tweed Hospital, Tweed Heads Bowling Club are within 500m of the site, and the Tweed River foreshore is approximately 700m to the east.

The proposed development is considered to be representative of the desired future character of the area, as represented by the planning controls for the mixed commercial and residential development.

### **Principle 2 ☐ Built Form and Scale**

The amended proposal has incorporated more treatment to the facades by introducing more simplified design with selected material such as glass that allows light into each apartment and warmer toned material.

To improve the Wharf Street frontage the applicant proposed the use of bench seating arrangements with raised landscaped planters to create opportunities for casual interaction within the public domain space. This will work well with the proposed outdoor seating at the front of the retail spaces.

The proposal complies with Council's height and floor space ratio controls under the Tweed City Centre Local Environmental Plan 2012.

The choice to have two buildings across the one development keeps the bulk and scape in keeping with other tall buildings in the precinct. The roof profile of the building is minimal, which further reduces the scale of the building and keeps the apparent overall height to a minimum.

### **Principle 3 □ Density**

The 8 storey building will result in an increased number of residents in the locality that has satisfactory access to a variety of large commercial, community and recreational facilities. The proposal complies with the height limits and building lines. This development is consistent with the stated desired future density through the Tweed City Centre LEP 2012. The proposal is acceptable in this regard.

### **Principle 4: Sustainability**

A BASIX certificate has been provided for the development.

The architect has outlined the following energy efficiency measures incorporated into the development design:

*The depth of the apartments is significantly less than the recommended SEPP 65 Apartment Design Guide.*

*The kitchen orientation in the apartments is in line with ADG of 8m to a window, which complies with its design guidelines.*

*81 % of the apartments receive a minimum of two or more hours of sunlight between 9am-3pm in mid- winter. Overall, the apartments will have sufficient daylight penetration and solar access to reduce heating and artificial lighting requirements.*

*The lift lobbies are naturally ventilated with window and door openings in the lobby and entry.*

*Proposed selection of low embodied-energy materials is to be used.*

*Sun-screening devices and strong shuttering elements to reduce solar gains and increase control of the internal environment.*

*Cross ventilation to habitable rooms, assisted by the architecturally and environmentally sustainable building design and the articulated exterior of the apartment building, most efficient transfer of thermal heat loads for subtropical climates.*

Given the above design considerations, the building is considered acceptable in this regard.

### **Principle 5: Landscape**

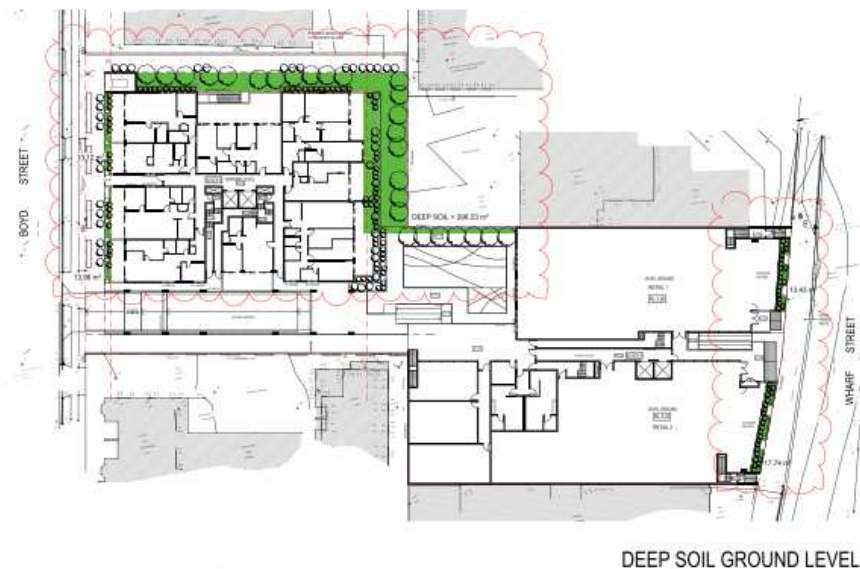


*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours amenity and provides for practical establishment and long term management.*

The proposal has been accompanied by a Landscape Concept Plans (See Attachment 2)

The subject application included the provision of a landscape concept plan and the below (as amended) DSZ plan.



The site is comprised of approximately 6.5% DSZ (when including all nominated areas shown below, however as noted above the area to the north does not comply with dimensions for large tree plantings as discussed under the ADG) □ the ADG requires 7% DSZ and a minimum dimension of 6m.

However when considering the location, proximity to Public Open Space, the proposed landscaping located along both street frontage and planter boxes on multiple levels as detailed in the concept plan, it is considered that conditions with this regard may be applied to ensure that all landscaping proposed will be viable and sustainable.

The general arrangement of planting is considered to adhere to the above principles and, subject to detailed information being received with respect to species and planting numbers, proposed landscaping is considered acceptable. Suitable conditions have been recommended.

## **Principle 6: Amenity**

Good design positively influences internal and external amenity for residents and neighbours. .

The development incorporates good communal areas including a pool, gymnasium, podium deck, which all add to the future residents overall amenity



In addition most units optimise the views from the site with most units enjoying balconies facing easterly toward the Tweed River and Pacific Ocean and/or westerly over Recreation Ground public open space. The units are of a varied design considering privacy and generally allowing good cross ventilation. Each room is generally appropriately sized with has windows for breezes and natural light penetration. Each unit will also have individual car parking within the basement.

In regards to amenity below are some statistics on the minor non compliances that will affect amenity of the units affected:

- The amount of solar amenity for each of the units (57% receive 3 hours sunlight instead of 70% but those remaining 13% receive 2 hours),

- The ability for each habitable room to have an external window (12 units with elements of non-compliance for studies/multimedia rooms □ however these rooms have no doors)
- One (1) Master bedroom (Ground Level Studio Unit to Block B) is undersize (8.1m<sup>2</sup> instead of 10m<sup>2</sup>);
- Six (6) balconies are undersized in either dimension or overall size (12m<sup>2</sup> instead of 15m<sup>2</sup> and 2.6m in depth instead of 3m in depth)

Whilst the development does not have strict compliance with the design controls of the ADG, the variations proposed are generally minor, affect a limited number of units and are not considered to warrant refusal of the application given the other overall positive amenity outcome discussed above.

### **Principle 7: Safety**

*Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

The development design provides:

- casual surveillance of the public street and common open space.
- clear visibility of the main pedestrian entry point from Florence Street.

### **Principle 8: Housing diversity and social interaction**

The local neighbourhood currently consists of a variety of differing building stock that caters to the need of many different user groups.

The oldest structures are 1 & 2 storey houses and a number of 3 storey face brick walk- ups. More modern 3 storey walk-ups or townhouse developments and higher density apartments have been constructed in more recent times.

This development seeks to enhance this urban neighbourhood by increasing the modern apartment product to the existing building stock. The development offers a mix of 1, 2 & 3 bedroom units. The effect of this will be greater differential in the blend of age and social demographics to the local area.

### **Principle 9: Aesthetics**

The proposal features a varied material composition which provides interest to the built form whilst being appropriate for the residential seaside location. The building is suitably articulated.

It is considered that the design of the proposed development exhibits suitable regard for the SEPP 65 design quality principles and demonstrates good

practice in urban design. The modern appearance of the building is in keeping with the desired future character of the area.

#### SEPP No 71 □ Coastal Protection

The twelve aims of this Policy are set out in Clause 2, and relate broadly to the protection and management of the Coast with respect to environmental, visual, cultural, recreational and economic values. The proposed development does not conflict with these aims.

Part 2 of the SEPP sets out 16 matters for consideration that should be taken into account by Council when it determines a development application, with the following matter being of particular relevance to the current proposal:

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

As addressed elsewhere in this report, the proposed development is considered suitable for the site given it is a residential flat building and shop top housing development within a mixed use precinct of Tweed Heads. It is not located on the foreshore and will have no anticipated direct or indirect impacts on the foreshore beyond increasing the number of people living in the area who would have the opportunity to recreate along the Tweed River. The buildings will not overshadow the foreshore, and will not unduly impact on fish, habitat, wildlife, heritage or water bodies.

The provisions of the Coastal SEPP are considered satisfied.

#### SEPP (Building Sustainability Index: BASIX) 2004

The application included a BASIX certificate and plans stamped with

A condition of consent will require a revised and updated Basix certificate prior to issue of a CC to address the amended plans.

#### SEPP (Infrastructure) 2007

Clause 104 requires the consent authority to consider accessibility of the site as well as traffic / transport impacts associated with the development. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 104 of the Infrastructure SEPP (noting that RMS stated that the project did not require referral to them Under Schedule 3 of the SEPP as Wharf Street is not a Classified Road) ;

#### SEPP (State and Regional Development) 2011

This SEPP was gazetted on 1 October 2011 and nominates a range of developments for which the Minister or the local Council is the consent authority and the circumstances where the Joint Regional Planning Panel may have the role of determining an application, depending on the class of development (type of use and value).



The estimated cost of the proposed development is \$37,844,309.00 which is above the \$20 million threshold for general development as specified by the Environmental Planning & Assessment Act .

Therefore in this case Tweed Shire Council is the consent authority for this Development Application but the JRPP will have the determining powers of the Consent Authority and will be responsible for determining the application.

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

Draft State Environmental Planning Policy (Coastal Management)

This Policy was recently on public exhibition, and gives effect to the planning objectives outlined in the Draft Coastal Management Act, which was also recently exhibited. The two documents combined provide an integrated approach to land use planning in the Coastal zone.

In relation to the proposed development, the draft SEPP aims to manage development in the coastal zone and protect the environmental assets of the coast. Similarly to the response to SEPP 71, the proposed development is unlikely to have any unacceptable impacts on the coastal environment.

Draft North Coast Regional Environmental Plan

The North Coast Regional Environmental Plan has been finalised and adopted, however was not in force when this application was lodged, therefore is addressed here as in Draft form.

The plan identifies Tweed Heads as a Regional City and points to it as the area for significant growth and increases in density.

The proposed development responded to this direction by providing medium density residential development in proximity to the city centre and other services and facilities that are required by residents. The proposal is in accordance with objectives and directions of the Draft (now in force North Coast Regional Plan).

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

TDCP 2008 Section A1 is not considered to apply to this development as residential development controls for this development type (residential flat building) are addressed in the site specific TDCP 2008 Section B2 for Tweed City Centre as well as SEPP 65 Design Quality of Residential Flat Development. In this regard, a detailed assessment of the proposal against the abovementioned controls is provided elsewhere in this report.

## A2-Site Access and Parking Code

The proposed development is not 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 vehicular parking rates are calculated with the provisions of Section B2- Tweed City Centre, as detailed later in this report. It is assessed that the parking provisions under Section B2 for the proposed development are considered to be acceptable in this instance.

With regard to access to the basement car park, the application has been reviewed by Council's Development Engineering Unit and Council's Traffic Engineer with respect to access who have raised no concerns to the proposed new driveway crossover located at the eastern side of the site which will be required to comply with Council's Access to Property Guidelines and will be subject to Section 138 application and approval.

## A3-Development of Flood Liable Land

DCP A3 sets out detailed standards for development in order to minimise the adverse effect of flooding on the community. It applies to all flood liable land within the Tweed.

Section A3.3.2 relates to development generally on flood liable land, and specifies that for residential subdivision, all land, other than public roads and reserves, is to be filled to a minimum level of the design flood where an allotment is created.

All building materials below the design flood level will be flood compatible and car parking in the form of basement parking will be protected against inflow of water to a level of 500mm above the DFL.

## A4-Advertising Signs Code

No specific advertising or signage has been proposed beyond the street numbers of the building which are considered exempt development. Any advertising or signage associated with the commercial component of the building that are not identified as exempt under the Codes SEPP would require future separate development consent.

## A11-Public Notification of Development Proposals

The proposal as submitted was advertised in the Tweed Link and notified to nearby and adjoining land owners for a period of 30 days from Wednesday 25 May 2016 to Friday 24 June 2016, in accordance with the advertising and notification requirements of DCP A11.

Council received one submission from an adjoining landowner expressing concern relating to damage to their property during construction, and ongoing impacts from noise and light from the development. This submission is discussed in detail later in this report.

### A13-Socio-Economic Impact Assessment

Section A13 aims to provide requirements for assessments for certain developments that are likely to have a significant social and/or economic impact for the benefit of the community and to achieve economic growth through employment generating activities that adopts the concepts of Ecologically Sustainable Development.

All applications of more than 50 units require a Social and Economic Impact. The applicant has provided an Assessment of Social and Economic Impact of Development consistent with Table 1 which concludes that no negative effects are anticipated and as such, Section A13 is considered satisfied.

### A15-Waste Minimisation

The subject application has been reviewed by Council's Waste Management Unit with respect to the provisions contained in this Section. A Waste Management Plan was submitted by the applicant (prepared by *HMC Environmental Consulting dated April 2016*). Standard conditions of consent have been recommended.

Therefore, the provisions of Section A15 are considered satisfied.

### B2-Tweed City Centre

The applicant has provided a detailed assessment of the proposal against the provisions of TDCP Section B2 - Tweed City Centre where SEPP 65 is silent.

The site is within the boat harbour precinct of the Tweed City Centre DCP which is the southern gateway to Tweed Heads just north of the Boyds Bay Bridge and Terranora Terrace. To make an entry statement as people enter the precinct over the Boyds Bay Bridge landmark buildings up to 13 storeys are encouraged on key sites on the northern side of Terranora Terrace and on Monastery Hill and could accommodate a mixture of business and residential uses and tourist accommodation. A continuation of the mixed retail and residential development from the northern end of the City Centre along Wharf Street is promoted with buildings of eight storeys stepping down to six storeys on the eastern side of Recreation Street.

## Section 3.0 Building form

### *3.1 Building Alignment and Setbacks*

Figure 3-1 requires a 0m setback to Wharf Street and a *4 metres - Predominant building line* to Boyd Street. The development complies with this control

## 3.0 Building form

FIGURE 3-1: SPECIFIC STREET ALIGNMENT AND STREET SETBACKS – NORTH



### 3.2 Street frontage heights

Street frontage heights are to be in accordance with Frontage Height A & D applies (See Figure 3.5 and 3.8 below).



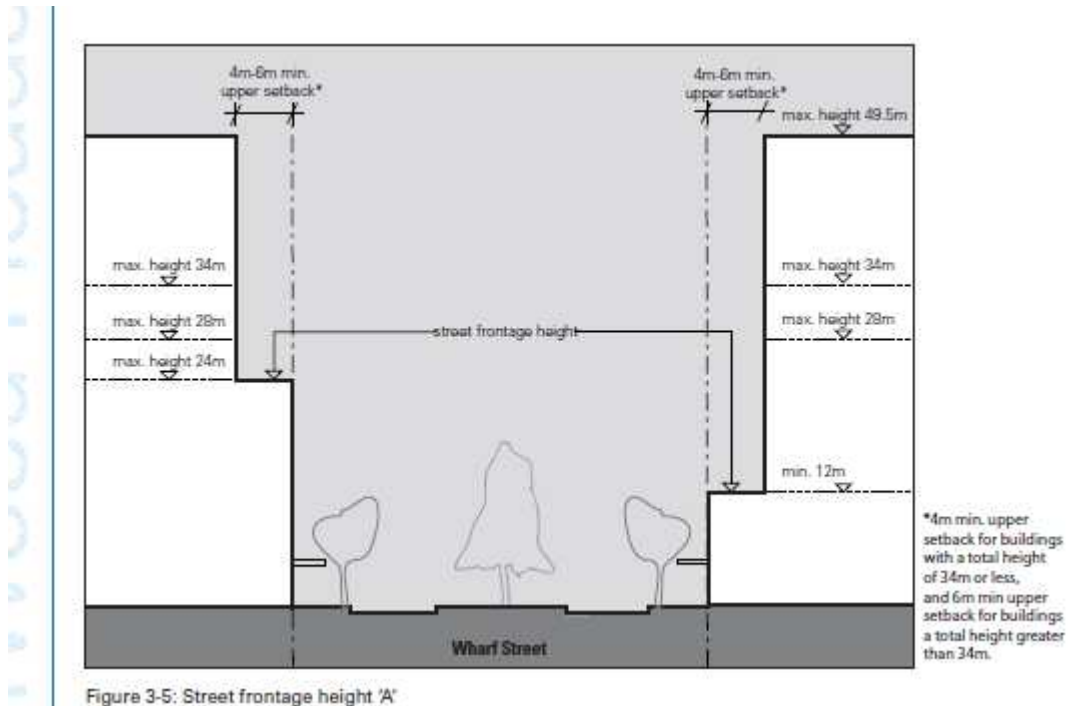


Figure 3-5: Street frontage height 'A'

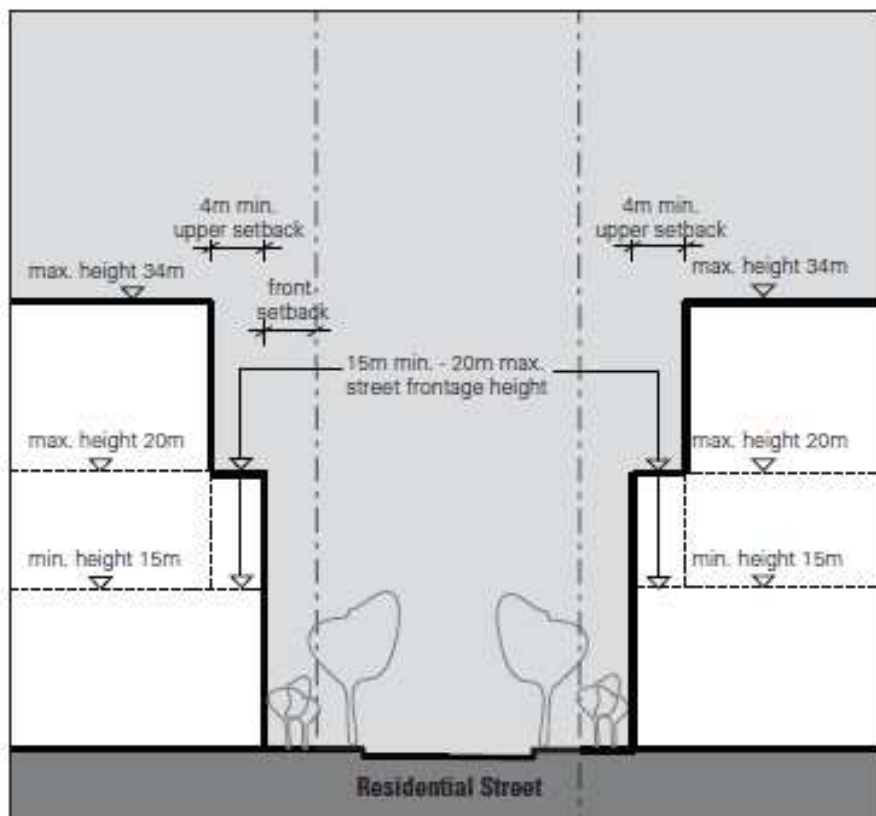


Figure 3-8: Street frontage height 'D'

Wharf Street image equates to a minimum of 12m and a maximum of 24m height which the proposed development complies with.

In respect of Boyd Street, a minimum street frontage height of 15m and a maximum height of 20m applies. The proposed street frontage height is 12.75m, however compliance with the 15m minimum limit cannot be achieved

because the SEPP65 Apartment Design Guidelines setback requirements preclude compliance.

### 3.3 Building Depth and Bulk

TABLE 3-1: TABLE OF MAXIMUM BUILDING DEPTH AND GFA PER FLOOR

LAND USE ZONE	BUILDING USE	CONDITION	MAXIMUM GFA PER FLOOR	MAXIMUM BUILDING DEPTH (EXCLUDES BALCONIES)
Commercial core	Non-residential	Above SFH	1,200m <sup>2</sup>	25m
	Residential and serviced apartments	Above SFH	900m <sup>2</sup>	18m
Mixed use	Non-residential	Above SFH	900m <sup>2</sup>	25m
	Residential and serviced apartments	Above SFH	700m <sup>2</sup>	18m
Residential and other zones	All uses	Above SFH	700m <sup>2</sup>	18m

SFH: Refers to maximum permissible Street Frontage Height

Note: On large, consolidated allotments, where multiple structures may be constructed above the street frontage height, development applications need to demonstrate appropriate building bulk, scale and separation.

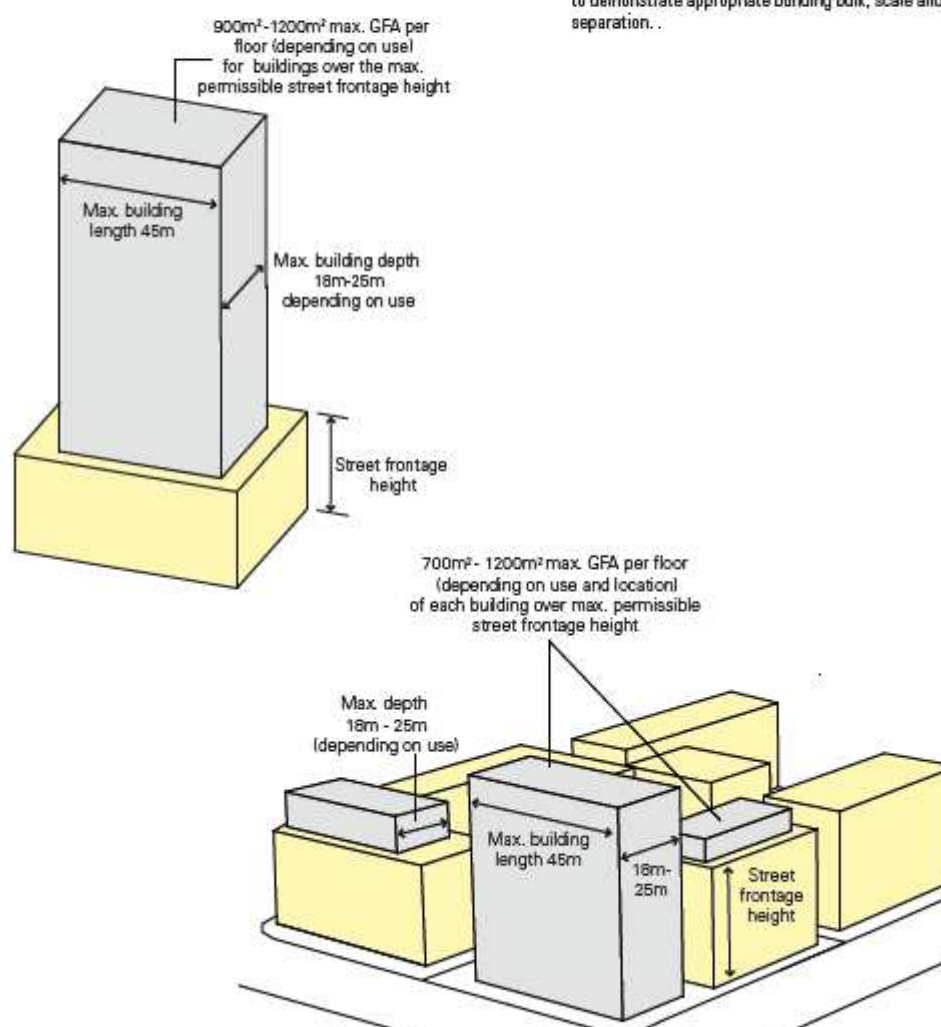


Figure 3-11: Building bulk and depth controls

Level	Block	GFA
Ground Residential	A	1553
Ground Commercial	A	328
Ground	B	858

1	A	893
1	B	1011
2	A	893
2	B	1011
3	A	893
3	B	1011
4	A	560
4	B	719
5	A	560
5	B	719
6	A	560
6	B	719
7	A	350
7	B	719
8	B	433
Total	A	6262
Total	B	7200

There are minor variations to the GFA areas however this is a large amalgamated site where the development meets the FSR and height controls. The bulk and scale on this site is considered acceptable.

### 5.3 On-site parking

The objectives of this control include provisions to provide adequate space for parking and manoeuvring of vehicles, to encourage economic growth in the city centre and to recognise the complementary use and benefit of public transport and non-motorised modes of transport such as bicycles and walking.

#### Residential/Commercial Component

Development	Required Parking	Provided Parking
Attached Dwellings	<p>1 per each 1 and 2 bedroom unit, 1.5 per 3 bedroom unit, and Plus 1 space per 10 units for visitor parking.</p> <p>Based on the amended plans and the new dual key room with two kitchens which counts as an extra unit Council has calculated that</p> <p>Wharf Street Building has</p> <p>45 x 2 bedroom units = 45  1 x 3 bedroom unit = 1.5  1 x 4 bedroom unit = 1.5</p> <p>Boyd Street Building has</p> <p>13 x 1 bedroom Units= 13  50 x 2 bedroom Units = 50  12 x 3 bedroom unit = 18</p> <p>Visitor 122 Units/10 = 12.2</p>	

Development	Required Parking	Provided Parking
	<b>Residential needs 141.2 spaces</b>	<b>Residential 140 spaces provided.</b>
Retail	1 Space per 25m <sup>2</sup> 1255 m <sup>2</sup> /25 = 50.2 spaces needed	54 spaces
Office	1 Space per 40m <sup>2</sup> 76 m <sup>2</sup> /40 = 1.9 spaces needed	
Combined Commercial Needed 52.1 spaces		
		Therefore commercial surplus of 1 can be allocated to residential and then the development still has one parking space surplus to the requirements.
Bicycle parking 2 per unit 1 = 244 ample storage		
Motorbike parking 1/25 car = 7 complies		

Having regard to the above, the proposed development is considered to be generally consistent with the controls outlined above.

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

Clause 92(a) Government Coastal Policy

The subject land is within the coastal policy area affected by the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*. The proposed development is consistent with the objectives, strategies and actions of the policy.

Clause 92(b) Applications for demolition

Council's Environmental Health Unit have applied standard conditions to the consent to ensure the demolition phase is undertaken in accordance with the Protection of the Environment Operations Act.

Clause 93 Fire Safety Considerations

Council's Building Services Unit have applied appropriate conditions to address the concerns 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 subject site is not located on the coastal foreshore and is not affected by coastal hazards. The proposed development is located approximately 850m from the coastal foreshore.

### **Coastal Zone Management Plan for the Tweed Coast Estuaries 2013**

The proposed development is not within Cudgen, Cudgera or Mooball Creeks. This Plan is therefore not relevant to the application.

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

The subject site is not located within the Cobaki or Terranora Broadwater (within the Tweed Estuary), with this Plan therefore not relevant to the proposed development.

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

### **Bulk, Scale & Design**

The proposal has been assessed against the *State Environmental Planning Policy No. 65 □ Design Quality of Residential Flat Development* as detailed above, along with TDCP 2008 Section B2.

The proposed development is considered to contribute to the locality's identity, with the development nature of the Tweed Heads area changing from lower density residential to medium and high density residential character, consistent with this proposal and the prescribed development controls for the site.

The scale of this development is appropriate for the site and the nominated zoning. The built form of the building is considered acceptable with adequate setbacks, articulation and areas for private and communal open space, as assessed against the relevant TDCP 2008.

### **Groundwater and Dewatering**

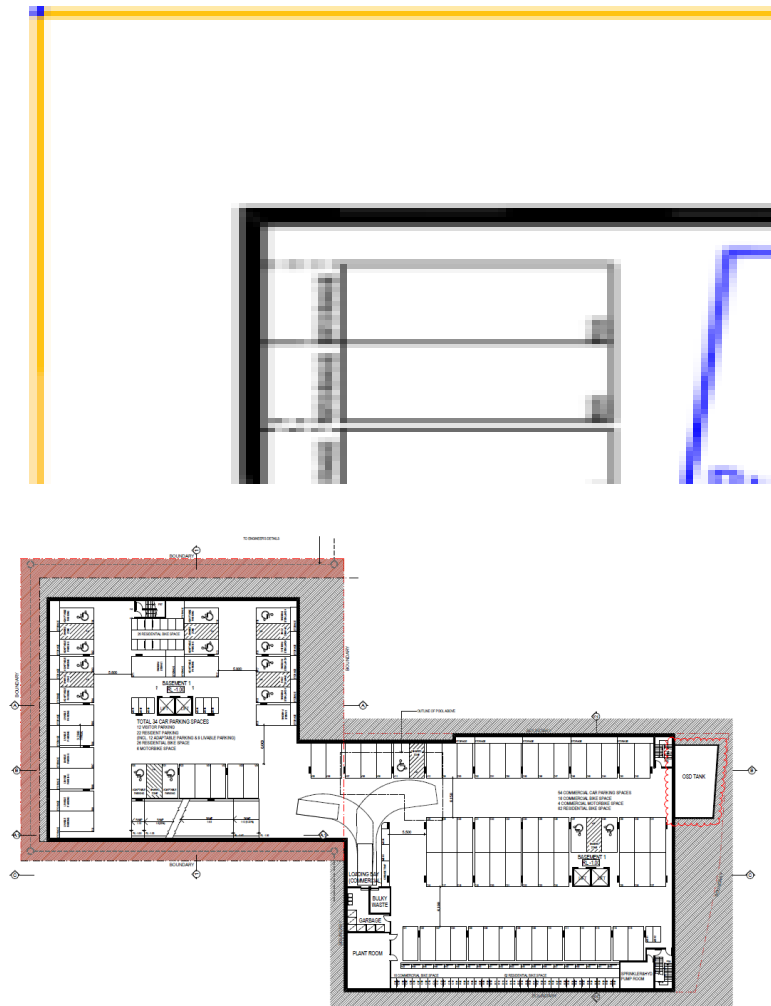
An Acid Sulfate Soil Management Plan and Dewatering Management Plan prepared by HMC Environmental and dated April 2016 (HMC 2015.163.2) has been submitted. Extensive excavation and dewatering is proposed however the plan, once amended, now details suitable monitoring and contingency planning.

Further to the above, it is noted that the location of the holding tanks required for dewatering are situated in the same location as the future onsite stormwater detention system (OSD), see below images.

The abovementioned Acid Sulfate Soil Management Plan and Dewatering Management Plan (as amended) advises that upon completion of excavation works (and dewatering), the replacement and end-compaction of the basement sand material will be undertaken as required. Accordingly, there



are no concerns raised with this regard as the OSD will be constructed following completion of dewatering.



The report and plan have been reviewed by Council Officers and are deemed acceptable.

The proposal was referred to the NSW Office of Water as Integrated Development in accordance with Section 91 of the EP&A Act 1979 for review of proposed dewatering, with appropriate terms of approval provided.

### Amenity

A high potential for amenity impacts exists during construction □ dust, equipment (pumps, vibratory equip, beepers etc), hours, noise, odour and visual amenity. The SEE Part 5.3 indicates that □normal□construction hours will be applied and a CMP will be developed prior to issue of the CC □ condition to be applied (include construction noise).

With respect to amenity impacts from future uses the adjacent land uses are largely commercial with a medical centre to the north; and to the south a multi storey commercial building and a two storey building containing a dentist and

two residential apartments. To the north of the site fronting Boyd Street is a single dwelling house.

The access driveway to basement car parking is adjacent to the south-western boundary and abuts the existing dental surgery. Minimal noise impacts are deemed likely from this configuration (potential exist to raise the height of the boundary wall if noise conflict occurs). The swimming pool abuts the northern Wharf Street boundary adjacent to the medical centre, and is shielded by a high wall on the boundary. The retail components face onto Wharf Street and are unlikely to impact amenity. The gym and multi-purpose room (cinema) are internal and also unlikely to impact amenity.

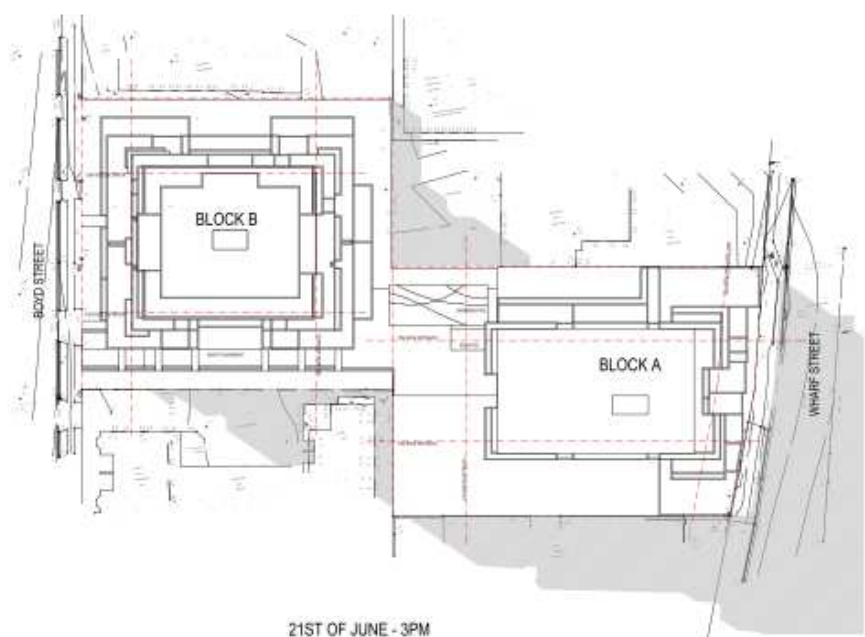
There is a waste bin storage area on the south western boundary adjacent to the dental surgery. Application of suitable conditions of consent (should consent be granted) would allow assessment and amelioration should unreasonable impact/conflict occur in the future.

### Land Use Conflict

A cinema, gymnasium and pool are proposed on the ground floor, adjacent to the public access and through walkway. The opportunity may therefore present for members of the public to enter the building and make use of these spaces. Should consent be granted it is recommended that a condition limiting the use of these facilities to residents and their immediate guests, with appropriate security measures to restrict public access, is applied.

### Shadow

The subject application includes partial overshadowing of the subject site adjoining to the north. This is expected between the hours of 2 and 3pm. The area is currently comprised of a sealed carpark (see image below).





To the south of the subject site is an existing commercial building. Accordingly, the site is not comprised of any internal living or associated private open space. The proposed development is not considered to have any negative impacts on the running of the commercial business.

The site to the south will receive some overshadowing, however given the setbacks and stepped upper levels the overshadowing is considered minimal.

The adjoining site does not have any formal private open space areas. The living areas, will receive solar access in accordance with sections 3D Communal and public open space (minimum 3 hours, to 70%) and the subject site with 4A Solar and daylight access of the ADG.

The subject application is compliant with the overshadowing requirements of the ADG.

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

Surrounding Landuses/Development

This the site is well located for the proposed mixed use development with a range of public services, public transport, health, recreation and entertainment facilities within walking distance.

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

The application was publically notified between 25 May 2016 and 24 June 2016. During this period Council received one submission that stated:

*My wife and I are the owners of the residence at 14 Boyd St. The geotechnical report states that ground movement may occur on our property due to construction of this development. This has the potential to cause damage to our property which does not seem to have been addressed within the application. We would like to know what will be done to prevent this occurring. In addition, there is nothing in the plans to show what, if anything, will be constructed as a boundary barrier between this development and our existing residence. Although we do not oppose the development, these issues require addressing before approval of works. Should these issues not be adequately addressed, we will oppose the development based on potential for damage to our property from construction, and future light and noise pollution to our property.*

The applicant responded to this submission by stating that:

The submission raises issues in relation to the potential for damage to adjoining properties during demolition and construction work.

*These issues would normally be addressed by the imposition of standard conditions requiring the submission of a Pre Development Dilapidation Report and a Post Development Dilapidation Report.*

*A suitable condition is as follows:*

- "i. Prior to the commencement of work on site, a Dilapidation Report shall be prepared by a suitably qualified Structural Engineer. The report shall identify any existing defects in existing adjoining buildings. A copy of the report shall be provided to the Council and the Principal Certifying Authority.*
- ii. Prior to the issue of an Occupation Certificate, a further Dilapidation Report shall be prepared by a suitably qualified Structural Engineer. The report shall identify any additional defects in existing adjoining buildings. A copy of the report shall be provided to the Council and the Principal Certifying Authority.□*

A dilapidation condition has been recommended.

In regards to the proposed treatment between 14 Boyd Street and 16 Boyd Street the plans do not show the future intended boundary fencing.

It should be noted that side boundary fencing is exempt development under SEPP (Exempt & Complying Code) 2008 provided the following controls are met:

- (a) not be higher than 1.8m above ground level (existing), and*
- (b) not be of masonry construction to a height that is more than 1.2m above ground level (existing), and*
- (c) if it includes an entrance gate□ not have a gate that opens outwards, and*
- (d) if it is located in a core koala habitat or potential koala habitat within the meaning of [State Environmental Planning Policy No 44](#)□ [Koala](#)*

*Habitat Protection* or in a movement corridor used by koalas□ be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and

- (e) *if it is located on bush fire prone land□ be constructed of non-combustible materials or hardwood, and*
- (f) *if it is constructed of metal components□ be of low reflective, factory pre-coloured materials, and*
- (g) *not be an electrical fence or use barbed wire.*

The reasons for the objection are not considered to warrant refusal or further amendment to the application. 14 Boyd Street is located to the north of the subject site and will not be affected by overshadowing as a result of this development.

**(e) Public interest**

The proposed development is generally consistent with relevant environmental planning instruments and Council policy requirements. The proposal is considered suitable for the subject site, given its permissibility at this location. The subject site is zoned to provide a mixed use and medium density residential use which is considered to be provided by this development. As such the proposal is considered to be in the public interest.

**OPTIONS:**

1. Approve the application as recommended
2. Refuse the application with reasons

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**CONCLUSION:**

The proposed development represents a medium to high density mixed use development in a transitioning area of the southern Tweed Heads Business area. The development addresses the dual zones for the site, has adequately moved the essential sewer services from the centre of the site to accommodate the basements, and has incorporated onsite storm water detention basins to assist with local drainage issues. The amended plans are considered to represent a better urban design outcome overall and have adequately integrated the public domain areas along Wharf Street. The application is considered suitable for approval.

**UNDER SEPARATE COVER:**

- Attachment 1 □ SEPP 65 Apartment Design Guideline Assessment



- Attachment 2 - Landscape Concept Plans

## RECOMMENDATION:

Development Application DA16/0363 for a mixed use development incorporating shop top housing, residential accommodation, ancillary swimming pool and gym, ground level commercial premises (business premises and retail premises) and associated demolition and civil works at Lot 1 DP 867728; No. 129 Wharf Street TWEED HEADS; Lot B DP 327564; No. 16 Boyd Street TWEED HEADS; Lot C DP 327564; No. 18 Boyd Street TWEED HEADS be **approved** in accordance with the following conditions:

## GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans listed in the below table, as amended in red, prepared by SWA Group, except where varied by the conditions of this consent.

Plan Number	Plan Title	Dated
DA-00	Cover Sheet	-
DA-01/C	Development Statistics	20/02/2017
DA-02/A	Site Context	20/04/2016
DA-03/A	Site Analysis	20/04/2016
DA-04/B	Survey	20/04/2016
DA-10/C	Roof/Site Plan	20/02/2017
DA-11/C	Basement 2 Floor Plan	20/02/2017
DA-12/C	Basement 1 Floor Plan	20/02/2017
DA-13/C	Ground Floor Plan	20/02/2017
DA-14/C	Level 1 Floor Plan	04/08/2016
DA-15/C	Level 2-3 Floor Plan	20/02/2017
DA-16/C	Level 4 Floor Plan	20/02/2017
DA-17/C	Level 5-6 Floor Plan	20/02/2017
DA-18/C	Level 7 Floor Plan	20/02/2017
DA-19/C	Level 8 Floor Plan	20/02/2017
DA-21/C	North & South Elevations	20/02/2017
DA-22/C	East & West Elevations	20/02/2017
DA-31/C	Section A, B & Entry Ramp	20/02/2017
DA-32/C	Section C, 1 & 2	20/02/2017
DA-41/A	Shadow Diagram	20/04/2016
DA-42/A	Shadow Diagram	20/04/2016
DA-43/B	Solar Access Building A	20/02/2017
DA-44/B	Solar Access Building B	20/02/2017
DA-45/A	Site Solar Access	20/02/2017
DA-51/A	Area Calculation	20/02/2017
DA52/B	Natural ventilation	20/02/2017
DA-53/B	GFA Calculation	20/02/2017
DA-61/A	Fence details	20/02/2017
DA-62/A	Courtyard details	20/02/2017

[GEN0005]

2. Any proposed future Strata Subdivision must be the subject of a separate approval and does not form part of this consent.  
[GEN0035]
3. Advertising structures/signs to be the subject of a separate development application (where statutorily required).  
[GEN0065]
4. 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]
5. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
6. 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]
7. A Construction Certificate approval is to be obtained for all proposed pre-cast concrete panel fencing of any height and masonry fencing in excess of 1.2 metres in height, prior to any construction of the fence being commenced.

Site specific design details or approved generic details prepared by a practicing structural engineer are required to be submitted and approved as part of the Construction Certificate application.

Such structural engineers design details are to confirm that the fence proposal has been designed to take account of all site issues including the site's soil and load bearing characteristics, wind and other applied loadings, long term durability of all components particularly in relation to corrosion and compliance with Tweed Shire Council's policies for "Sewers - Building in Proximity" and provision of appropriate pedestrian sight clearances to footpaths in accordance with Australian Standard AS2890 "Parking Facilities".

[GEN0145]

8. Any business or premises proposing to discharge wastewater containing pollutants differing from domestic sewage must submit a Liquid Trade Waste Application Form to Council. The application is to be approved by the General Manager or his delegate prior to any discharge to the sewerage system. A Liquid Trade Waste Application fee will be applicable in accordance with Council's adopted Fees and Charges.  
[GEN0190]
9. The development is to be carried out in accordance with Council's Development Design and Construction Specifications.  
[GEN0265]
10. The Deep Soil Zone (DSZ) identified on approved plans shall not incorporate any hard impervious surfaces, unless otherwise approved by the General Manager or his delegate.  
[GEN0285]

11. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.  
[GEN0300]
12. 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. The sign shall remain in place until all asbestos has been removed from the site.  
[GEN0345]
13. Prior to the commencement of construction of the new structure or use of the site 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 within 7 days of completion of the 'clearance inspection'.  
[GEN0350]
14. Where easements in favour of Council are provided through private property no structures or part thereof may encroach into the easement. This includes (but is not limited to) awnings or eaves, substations, rainwater tanks, and fences / retaining walls. Provision of any approved sections of removable fencing (masonry walls not permitted), paved pedestrian paths and driveway areas (concrete slabs are not permitted) spanning over a sewer line must conform to the requirements of Council's *Sewers - Work in Proximity Policy*.
15. Use of the cinema, gymnasium and pool areas is to be restricted to residents and their immediate guests only. Appropriate security measures to restrict public access shall be applied.  
[GENNS01]
16. Access to the commercial car park shall be assessable 24 hours per day and shall not be limited only to the hours of the commercial operation.  
[GENNS02]

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

17. Prior to issue of Construction Certificate the applicant is to submit to Council's General Manager or his delegate a list of the finished building materials and colours (including colour product photo images) for approval.  
[PCC0175]
18. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying

Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges 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.

**Retail tenancies**

- (a) Tweed Road Contribution Plan:  
209.4632 Trips @ \$866 per Trips \$108,837  
  
(\$815 base rate + \$51 indexation)  
***(\$72,558 has been subtracted from this total as this development is deemed an 'Employment Generating Development')***  
  
S94 Plan No. 4  
Sector1\_4
- (b) Extensions to Council Administration Offices  
& Technical Support Facilities  
0.845355 ET @ \$1909.57 per ET \$1,614.26  
(\$1,759.90 base rate + \$149.67 indexation)  
S94 Plan No. 18

**Residential units**

- (a) Tweed Road Contribution Plan:  
383.682 Trips @ \$866 per Trips \$332,269  
(\$815 base rate + \$51 indexation)  
S94 Plan No. 4  
Sector1\_4
- (b) Open Space (Casual):  
66.8306 ET @ \$557 per ET \$37,225  
(\$502 base rate + \$55 indexation)  
S94 Plan No. 5
- (c) Open Space (Structured):  
83.7056 ET @ \$638 per ET \$53,404  
(\$575 base rate + \$63 indexation)  
S94 Plan No. 5
- (d) Shirewide Library Facilities:  
66.8306 ET @ \$859 per ET \$57,407  
(\$792 base rate + \$67 indexation)

S94 Plan No. 11		
(e)	Bus Shelters: 83.7056 ET @ \$67 per ET (\$60 base rate + \$7 indexation) S94 Plan No. 12	\$5,608
(f)	Eviron Cemetery: 83.7056 ET @ \$125 per ET (\$101 base rate + \$24 indexation) S94 Plan No. 13	\$10,463
(g)	Community Facilities (Tweed Coast - North) 66.8306 ET @ \$1425 per ET (\$1,305.60 base rate + \$119.40 indexation) S94 Plan No. 15	\$95,234
(h)	Extensions to Council Administration Offices & Technical Support Facilities 66.8306 ET @ \$1909.57 per ET (\$1,759.90 base rate + \$149.67 indexation) S94 Plan No. 18	\$127,617.71
(i)	Cycleways: 66.8306 ET @ \$485 per ET (\$447 base rate + \$38 indexation) S94 Plan No. 22	\$32,413
(j)	Regional Open Space (Casual) 66.8306 ET @ \$1119 per ET (\$1,031 base rate + \$88 indexation) S94 Plan No. 26	\$74,783
(k)	Regional Open Space (Structured): 83.7056 ET @ \$3928 per ET (\$3,619 base rate + \$309 indexation) S94 Plan No. 26	\$328,796
(l)	Tweed Heads Master Plan: 119 MDU @ \$1047 per MDU (\$1,047 base rate + \$0 indexation) S94 Plan No. 27	\$124,593

[PCC0215/POC0395/PSC0175]  
[PCC0215]

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying



Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.

**BELOW IS ADVICE ONLY**

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: 51.086 ET @ \$13386	= \$683,837.19
Sewer: 82.944 ET @ \$6431	= \$533,412.86

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.

[PCC0485]

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. A Traffic Control Plan in accordance with AS1742 and the latest version of the NSW Government Roads and Maritime Services (RMS) publication "Traffic Control at Work Sites" shall be prepared by an RMS accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for Subdivision Works. Safe public access shall be provided at all times.

[PCC0865]

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

(a) Vehicular access

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

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

[PCC0895]

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

[PCC0935]

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

[PCC0945]

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

[PCC0955]

27. 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) 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
  - 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. The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.
- b) Where Council is requested to issue a Construction Certificate for subdivision works associated with this consent, 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 200 l/s/ha. 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. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

33. 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]

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. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first. Applications for these works must be submitted on Council's standard Section 68 Application to Carry out Water Supply or Sewerage Work form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

36. Prior to the issue of a Construction Certificate:

- (a) Application shall be made to Council under Section 305 of the Water Management Act 2000 for a certificate of compliance for development to be carried out - i.e: the provision of water and sewerage to the development.
- (b) Following this, requirements shall be issued by Council under Section 306 of the Water Management Act 2000.

- (c) Following this, any works needing to be undertaken will require a further application to be made to Council under Section 68 of the Local Government Act for the relevant water/sewer works. Approval of this application will be required prior to/in conjunction with issuing the Construction Certificate.

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.

[PCC1335]

37. Prior to the issue of a construction certificate an amended BASIX certificate shall be submitted to Council in accordance with the plans referenced in this consent and approved by the General Manager or his delegate.

[PCCNS01]

38. Prior to issue of the construction certificate a construction management plan shall be developed for the project. All works shall comply with the approved Management Plan.

[PCCNS01]

39. The proposed water and sewer infrastructure on the Civil Works Plan submitted are considered to be preliminary and are subject to change to meet Council requirements.

40. Any future development of this site will require an updated civil work plan to be submitted be approved by the General Manager or his delegate for approval prior to construction. The plans 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 and sewer works.

## **PRIOR TO COMMENCEMENT OF WORK**

41. 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]

42. 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]

43. 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]

44. 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]

45. Residential building work:

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

46. 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]

47. **Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

48. 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]

49. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:
  - (i) preserve and protect the building / property from damage; and
  - (ii) if necessary, underpin and support the building in an approved manner.
- (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

50. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

[PCW0775]

51. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority.

[PCW0955]

52. 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]

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

[PCW1005]

54. 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]

55. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

## DURING CONSTRUCTION

56. 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]

57. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2011.

[DUR0165]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

59. 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]

60. 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]

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

[DUR0235]

62. 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]

63. Prior to demolition of the structure 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 waste shall be disposed at a facility that is licensed to receive asbestos waste (all receipts related to disposal must be kept on site and provided to a Council Authorised Officer upon request).  
[DUR0335]
64. 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]
65. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
  - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.  
[DUR0385]
66. 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]
67. 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]
68. 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]
69. 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]



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

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

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

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

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

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

[DUR0435]

71. 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]

72. 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]

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

[DUR0815]

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

[DUR0905]

75. 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]

76. 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]
77. All works shall be carried out in accordance with the Acid Sulfate Soil Management Plan and Revised Dewatering Management Plan HMC Environmental September 2016 (HMC 2015.163.2.1) to the satisfaction of the General manager or his delegate. The frequency of monitoring regimes shall be modified at the instruction of Council's Environmental Health Officer. A copy of the Plan shall be kept onsite while dewatering operations are being carried out.
- [DUR1065]
78. 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]
79. 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]
80. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.
- [DUR1705]
81. 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]
82. 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]
83. 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]

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

[DUR1905]

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

[DUR1925]

86. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

87. 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]

88. Swimming Pools (Building)

(a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.3 -2010 & AS 1926.2-2007, the Swimming Pool Act 1992 and the Swimming Pool Regulation 2008.

(b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.

(c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

(d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

(e) Once your pool or spa is complete please register it at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

[DUR2075]

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

[DUR2085]

90. A garbage storage area shall be provided in accordance with Council's "Development Control Plan Section A15 - Waste Minimisation and Management".

[DUR2195]

91. 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]

92. 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]

93. 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]

94. 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]

95. 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]

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

[DUR2505]

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

[DUR2525]

98. 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]

99. 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]

100. 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]

101. The Applicant shall submit the bulk water meter [Application for Water Service Connection] to Council's Water Unit to facilitate a property service water connection for the development, from the location specified in the engineering plans. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

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

[DUR2835]

103. Prior to commencement of dewatering the applicant shall arrange for a site inspection with Council's Environmental Health Officer and all representatives involved in the dewatering activity.

104. The names and 24 hour contact phone numbers of the site manager and project manager shall be provided to Council's Environmental Health Officer prior to the commencement of dewatering operations.

105. Prior to the commencement and following completion of dewatering operations closed circuit television (CCTV) footage and report examining sediment deposits in the drainage network shall be provided to Council's Stormwater Maintenance Engineer.

106. If the combined stormwater and dewatering flows during rainfall events are exceeding the capacity of the stormwater network, dewatering must temporarily cease until the peak flows from the catchment have subsided.

107. Prior to commencement and upon completion of the dewatering operations, the applicant shall arrange for an inspection of the dewatering connection point to Council's stormwater system with Council's Stormwater Maintenance Engineer. The applicant shall comply with any directions issued by Council's Stormwater Maintenance Engineer in respect to the dewatering connection point.

[DURNS01]

108. The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Office of Environment and Heritage [Waste Classification Guidelines]. If retained in NSW excavated material shall be neutralised for acid sulfate on site and disposed of at an approved landfill facility unless material has been demonstrated

to be the subject of a resource recovery exemption under Clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*. Records of excavated material and disposal location to be maintained on site and provided to Council upon request.

109. Where excavated spoil is transported to QLD it shall be deposited and treated as stipulated in the approved Acid Sulfate Management Plan.

[DURNS02]

110. Works in the vicinity of public infrastructure must comply with the following requirements;

- a) No portion of any structure may be erected within any easement for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure
- b) Surface treatment over the sewer pipe shall be limited to soft landscaping, non-interlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
- c) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located outside of the sewer easement.
- d) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted within the sewer easement to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping within sewer easements shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.

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

111. 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]

112. Prior to the issue of an Occupation Certificate, design verification from a qualified designer must be submitted to the certifying authority. The statement must verify that the residential flat development achieves the urban design / architectural design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles within *State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development*

[POC0015]

113. 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]



114. 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]

115. 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]

116. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

117. 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]

118. 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]

119. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the condition including the structural condition of the adjoining buildings/sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and advise if any damages have occurred that could be attributed to the work the subject of this development consent. If damages have occurred the PCA is to be provided with evidence that the damages have been satisfactorily repaired prior to the issue of an Occupation Certificate (including interim).

A copy of the dilapidation report is to be provided to the Principle Certifying Authority/Council.

[POC0825]

120. The lots are to be consolidated into one lot under one title. The plan of consolidation shall be registered with the Land and Property Information (LPI) (formerly the Lands Titles Office), prior to issue of an Occupation Certificate.

[POC0855]

121. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) The use of any accommodation shall be limited to only the people permitted by the restrictions of occupation provisions under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

[POC0860]

122. Upon completion of the pool the builder is to submit to the Principal Certifying Authority a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010.

[POC0905]

123. 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]

124. 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]

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

[POC1055]

126. A suitably qualified engineer is to provide certification that the basement car parking complies with AS2890 - Off Street car parking prior to the issue of an Occupation Certificate.

[POCNS01]

## USE

127. 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]

128. 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]

129. 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]

130. 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]

131. All commercial / industrial / residential wastes shall be collected, stored and disposed of to the satisfaction of the General Manager or his delegate.

[USE0875]

132. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by the General Manager or his delegate. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy.

[USE1105]

133. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
- (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

134. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

135. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the **NSW Protection of the Environment Operations (Noise Control) Regulation 2008**.

[USE1510]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

136. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) Easements for sewer, water supply and drainage over **ALL** public services/infrastructure on private property.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway / easement by the owners from time to time

of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

**GENERAL TERMS OF APPROVAL UNDER SECTION 10 OF THE WATER ACT 1912  
(Licence to construct and use a work and to take and use water if any conserved or obtained by the work and to dispose of the water for the use of occupiers of the land)**

1. Before commencing any works or using any existing works for the purpose of dewatering in excess of 3ML within 12 months an approval under Part V of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
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 its 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 licensee must make a determination of the requested licence volume and time frame
19. The authorised work shall not be used for the discharge of water unless the pH of the water is between 7 and 8.5, or the water has been treated to bring the pH to a level between 7 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
20. The work shall be managed in accordance with the constraints set out in an Acid Sulfate Soil Management Plan & Dewatering Management Plan approved by DPI Water.

21. 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.
22. The consent holder must ensure that post construction dewatering is not required.

#### **GENERAL TERMS OF APPROVAL UNDER THE WATER MANAGEMENT ACT 2000**

1. Before commencing any works or using any existing works for the purpose of dewatering in excess of 3ML an approval under the Water Management Act 2000 (WMA) 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 WMA.
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 WMA 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 its 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 licensee must make a determination of the requested licence volume and time frame
18. The authorised work shall not be used for the discharge of water unless the pH of the water is between 7 and 8.5, or the water has been treated to bring the pH to a level between 7 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
19. The work shall be managed in accordance with the constraints set out in an Acid Sulfate Soil Management Plan & Dewatering Management Plan approved by DPI Water.
20. 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.
21. The consent holder must ensure that post construction dewatering is not required.