

COUNCIL ASSESSMENT REPORT
NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-219 – DA23/0209
PROPOSAL	Concept Development Application for the staged redevelopment of the Tweed Mall site comprising a site layout strategy including location of open space and landscaping, vehicle and pedestrian thoroughfares, building envelopes, and indicative uses of shopping centre, office, residential and tourist and visitor accommodation at 16 – 32 Wharf Street, Tweed Heads.
ADDRESS	<ul style="list-style-type: none"> • Lot 3 DP 520173; 36 Bay Street, Tweed Heads; • Lot 3 DP 561138; 36 Bay Street, Tweed Heads; • Lot 2 DP 561138; Wharf Street, Tweed Heads; • Lot 1 DP 245697; Wharf Street, Tweed Heads; • Lot 672 DP 755740; Wharf Street, Tweed Heads; • Lot 1 DP 820693; Wharf Street, Tweed Heads; and • Lot 1 DP 866236; • 16-32 Wharf Street, Tweed Heads
APPLICANT	Elanor Funds Management Limited C/O Sutherland & Associates Planning
OWNER	Elanor Funds Management Limited
DA LODGEMENT DATE	23 May 2023
APPLICATION TYPE	Concept Development Application
REGIONALLY SIGNIFICANT CRITERIA	<p>Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as:</p> <p>Development that has a capital investment value of more than \$30 million</p>
CIV	\$906,000,000 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i>

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Tweed City Centre Local Environmental Plan 2012</i> • <i>Tweed Development Control Plan 2008:</i> <ul style="list-style-type: none"> ○ <i>Section A1 – Residential & Tourist development (where SEPP 65 & DCP B2 are silent)</i> ○ <i>Section A2 - Site Access and Parking Code</i> ○ <i>Section A3 – Development of Flood Liable Land</i> ○ <i>Section A4 – Advertising Signs</i> ○ <i>Section A15 – Waste Minimisation and management</i> ○ <i>Section A16 – Preservation of Trees or Vegetation</i> ○ <i>Section B2 – Tweed City Centre</i>
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS	<p>59 submissions (including 3 in support)</p> <p>Key issues in submissions:</p> <p>Traffic Impact</p> <p>Excessive Scale</p> <p>Construction Noise & Dust Impact</p> <p>Overshadowing / Solar Impact</p> <p>Length of Construction</p> <p>Over Development</p> <p>Building Height</p> <p>Lack of Parking</p> <p>View Loss</p> <p>Vibration Impact</p> <p>Impact on Surrounding Retail</p> <p>Noise Impact & Odour Pollution</p> <p>Wind Tunnelling</p> <p>Public Transport Linkages</p> <p>Lack of Community Consultation</p>

	Inconsistency Between Documents
DOCUMENTS SUBMITTED FOR CONSIDERATION	Statement of Environmental Effects & RFI Response Building Envelope Plans & Elevations Urban Design Guidelines Architectural Plans – Indicative / Reference Design Preliminary Acid Sulfate Soils Management Plan Acoustic report Aboricultural Impact Assessment Preliminary Site Investigation Flood Statement Landscape and Public Domain Report Urban Design Report Public Art Strategy Sewerage and Water Network Capacity Assessment & Site Servicing Report Environmental Wind Assessment Report Environmentally Sustainable Development Report Tweed Indigenous Engagement Report Aviation Impact Assessment Economic Assessment Traffic & Parking Assessment Tweed Indigenous Engagement Plan Stormwater & WSUD
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Nil
RECOMMENDATION	Deferred Commencement
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	12 June 2024
PLAN VERSION	20 March 2024 Version No 03
PREPARED BY	Colleen Forbes – Team Leader Development Assessment
DATE OF REPORT	28 May 2024

EXECUTIVE SUMMARY

The subject site is located within the central business district of Tweed Heads, which is zoned E2 Commercial Centre under the Tweed City Centre LEP 2012. The site is currently occupied by a large single storey shopping centre, which incorporates three supermarkets and 62 specialty retail stores.

The development application (DA23/0209), pursuant to Division 4.4 'Concept Development Applications' of the Environmental Planning & Assessment Act 1979, seeks consent for the Concept proposal relating to the staged redevelopment of the existing Tweed Mall site. The application is seeking approval for the proposed building envelopes across the site and the supporting Urban Design Guidelines (UDG), both of which will inform and guide the detailed design and landscape outcomes of the subsequent future development applications within the nominated building envelopes.

The building envelope plans will establish the site's overall structure plan configuration, nominating the location, dimension, height and separation of buildings above the natural ground level, as well as identifying key points of access (pedestrian and vehicular) and areas of public domain and landscaping. No works are proposed as part of the Concept development application.

Being a 'Key Site' under the Tweed City Centre LEP 2012, and having a capital investment value over \$2 million, the provisions of cl 6.10 Design Excellence were triggered. In this regard, in lieu of a Design Competition, an alternate iterative Design Review Panel (DRP) process was endorsed.

The Concept proposal is supported by an indicative / reference design which provides detail on potential land uses within the development site. The reference design has been prepared as part of the Design Excellence / DRP process required under the TCCLEP and does not form part of the documentation being sought for approval. Four DRP sessions have occurred to date.

The envisaged land uses across the site as illustrated within the reference design includes:

- Three supermarkets;
- Fresh food market;
- Speciality retail;
- Lifestyle retail;
- Showroom retail;
- Food and beverage;
- Commercial office space;
- Entertainment and cinema;
- Childcare;
- Medical services;
- Visitor and Tourist accommodation;
- Approx 1300 residential apartments; and
- Approx 2500 car spaces.

Given that the subject site is a functioning shopping centre, the Concept proposal has had to consider the complexities of undertaking incremental redevelopment, whilst still maintaining an operational shopping centre to cater for the needs of the surrounding community. In this regard, the proponent has proposed to undertake the redevelopment in three stages, as follows:

- **Stage 1:**

- Demolition of all existing buildings in the south east corner of the site;
- Construction of podium, new buildings Fa, Fb, G, H and J and associated public domain in the south east corner, and opening of new retail; and
- Decommissioning of original supermarkets and shops and demolition of remaining buildings on site and make good.

- **Stage 2:**

- Demolition of all existing buildings along the northern edge of the site; and
- Construction of podium, new buildings A, B-a, B-b, B-c and associated public domain along the northern edge of the site facing Bay Street.

- **Stage 3:**

- Demolition of all existing buildings along the western edge of the site facing Wharf Street; and
- Construction of podium, new buildings C, D, E-a, and E-b, and associated public domain along the western edge of the site facing Wharf Street.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Energy Australia and Transport for NSW pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') were sent and no objections were raised.

The application was placed on public exhibition from 14 June 2023 to 28 June 2023 and again from 26 July 2023 to 23 August 2023, during which 59 submissions were received. The submissions raised issues relating to traffic impact; excessive scale; construction impacts such as noise, vibration and dust; overshadowing; length of construction; over development; building height; lack of parking; view loss; impact on surrounding retail; operation impacts such as noise and odour; wind tunnelling; public transport linkages; and lack of community consultation. These issues are considered further in this report.

The application is being referred to the Northern Regional Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (2) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the Concept proposal has a CIV over \$30 million.

A briefing was held with the Panel on 23 October 2023 where key issues were discussed, including: urban design / design excellence; parking / traffic; and potential impacts associated with the proposed works associated with the overall Concept proposal. The issues raised were based on an initial assumption that the proposed uses associated with the reference design were part of the application seeking approval. Since that time, the proponent has clearly indicated that the reference design is only indicative and used as way of demonstrating to the DRP that such indicative uses could be incorporated into the design to meet the Design Excellence requirements.

Based on the confirmation that the Concept proposal did not incorporate any works and that future development applications for Stages 1, 2 and 3 would address potential impacts

in detail, the following key issues associated with the Concept proposal have been addressed in the assessment of this application:

- Urban Design / Design Excellence regarding the proposed Building Envelope Plans and Urban Design Guidelines;
- Planning matters such as Building Height, Economic Impact and Future Design Competitions;
- Parking / Traffic Generation / Shared Zones;
- Sewerage and Water Network Capacity;
- Acid Sulfate Soils / Groundwater / Dewatering, Construction Noise and Vibration and Contaminated Land;
- Amenity Impact – Use;
- Waste Management;
- Ecology; and
- Public Domain / Assets.

Following a detailed assessment of the proposed Concept development application, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA23/0209 is recommended for approval subject to the draft deferred commencement conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The subject site is located within the central business district of Tweed Heads, located at 16-32 Wharf Street, Tweed Heads. The site, being the Tweed Mall Shopping Centre, is a 5ha property comprising of 7 allotments.

The property has: a 245.78m road frontage to the west, adjacent to Wharf Street and a public carpark; a 201.1m road frontage to the north, along Bay Street; and a 195.94m road frontage to the south, along Frances Street. The eastern boundary of the site is 262.31m, immediately adjacent to residential development. Refer to Figure 1 below.



Figure 1 – Subject Site

The site is currently occupied by a large single storey shopping centre, which incorporates three supermarkets and 62 specialty retail stores (refer to Figure 2 below). The majority of the site is covered by the shopping centre building or car parking structures. There is a small amount of landscaping within the at grade car park on the western frontage of the site, along the internal road along the eastern boundary and gardens adjacent to the footpaths on the Wharf Street and Frances Street frontages / public land.

The existing development involves multiple driveways on each of the road frontages, providing access to the at grade, multi level car parking areas and loading docks on the perimeter of the site.

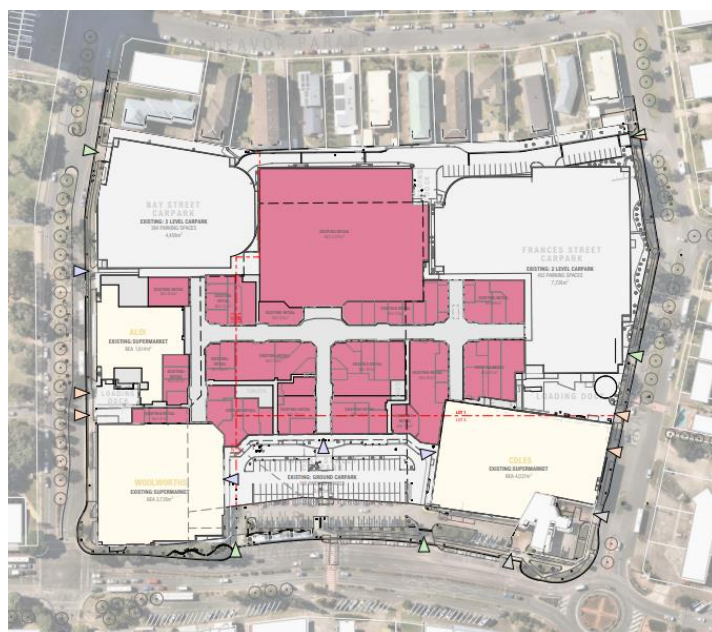


Figure 2 – Existing Site Layout

1.2 The Locality

As noted, the subject site is located within the central business district of Tweed Heads, which is zoned E2 Commercial Centre under the Tweed City Centre LEP 2012. The Tweed City Centre is made up of several precincts, of which the Tweed Mall site is located within the northern portion, specifically the City Centre Core Precinct. Refer to Figure 3 below.

The area to the west, beyond Wharf Street is a mix of commercial, retail and mixed use buildings ranging in scale from single to eight storeys. Diagonally opposite to the north west is a more recent 10 storey mixed use development.

To the north, beyond Bay Street is Jack Evans Boat Harbour and boardwalk area, as well as the Chris Cunningham Park. The open space area incorporates two single storey buildings (the former visitor information centre and fish and chip shop). To the north east of the site is the 23 storey Seascope residential apartments. The area north of the Chris Cunningham Park is the Twin Towns Club. Beyond the Twin Towns Club is the NSW / Qld border, with Coolangatta located beyond Wharf Street and Boundary Street.

Immediately to the east of the site is a row of approximately 12 residential properties that front Endeavour Parade. These properties are largely three storey walk up apartment buildings, which are generally built to the rear and common boundary with the Tweed Mall site, some with pedestrian access to the shopping centre. The Tweed River is located further to the east.

The area to the south, beyond Frances Street provides for a range of three storey apartment buildings and a service station on the south eastern corner of the intersection of Wharf Street and Frances Street.

The site immediately adjacent to the subject site at the corner of Wharf Street and Francis Street is a single storey commercial building currently occupied by a Liquorland bottle shop.



Figure 3 - Locality Plan

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for a Concept proposal for the staged redevelopment of the Tweed Mall, comprising a site layout strategy including location of open space, and landscaping, vehicle pedestrian thoroughfare, building envelopes, and Urban Design Guidelines.

Specifically, the Concept proposal involves:

- Site layout with up to 13 buildings of varying heights to a maximum of 15 storeys, separated by open space and public domain;
- Indicative total gross Floor Area (GFA) of 178,601m², incorporating:
 - Residential development – up to 1,371 dwelling equating to approximately 114,632m² GFA;
 - Retail / shopping centre – approximately 45,126m²;
 - Office use – approximately 14,306m²; and
 - Tourist and visitor accommodation – approximately 4,537m².
- Provision of approximately 1,258 car parking spaces for all components of the project.

The proposed building envelopes (as shown in Figures 4 – 6 below) will set the parameters for the future buildings, which will be subject to future development applications for the design, construction and fit out of buildings. Based on an indicative / reference design (as shown in Figures 7 – 12 below), the proponent has also prepared Urban Design Guidelines which will ensure design excellence throughout the various stages of the project.

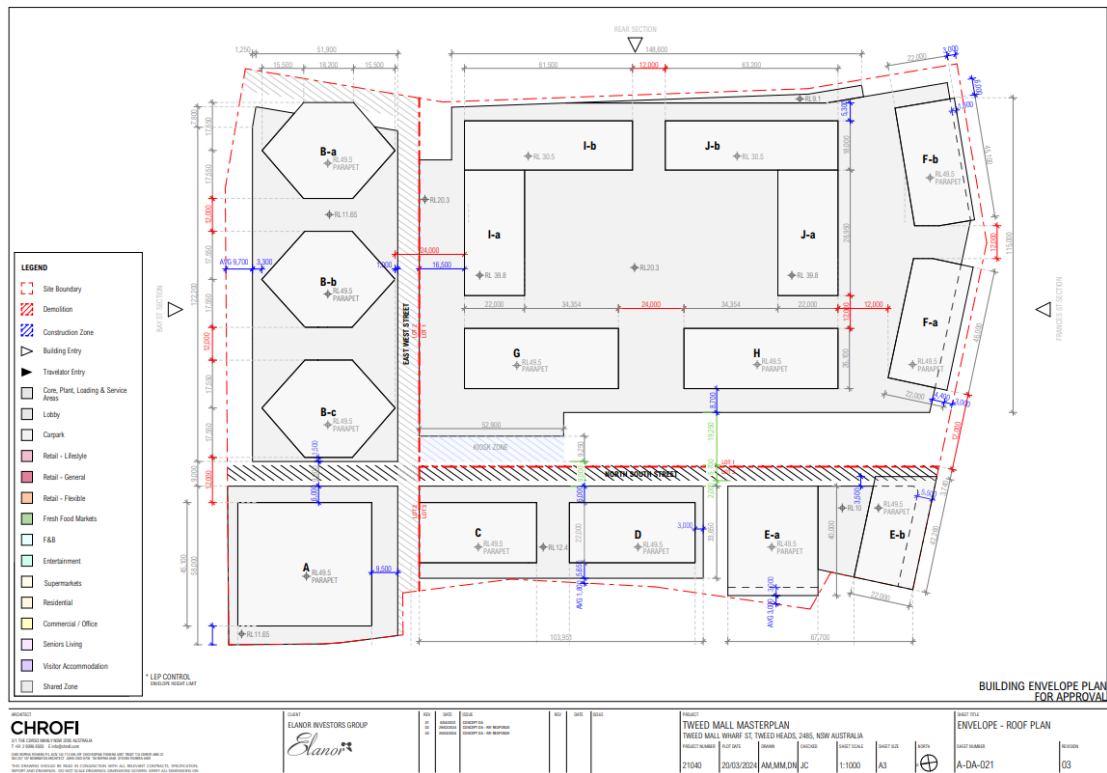


Figure 4 – Building Envelope – Roof Plan

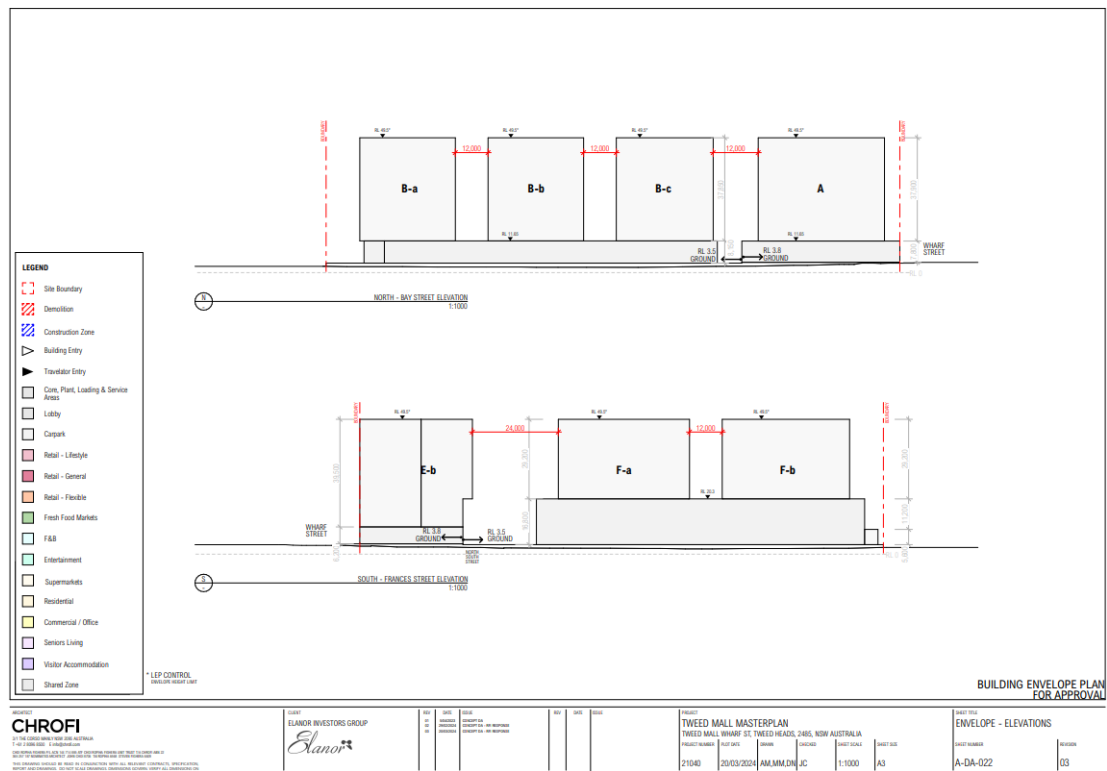


Figure 5 – Building Envelope - Elevations

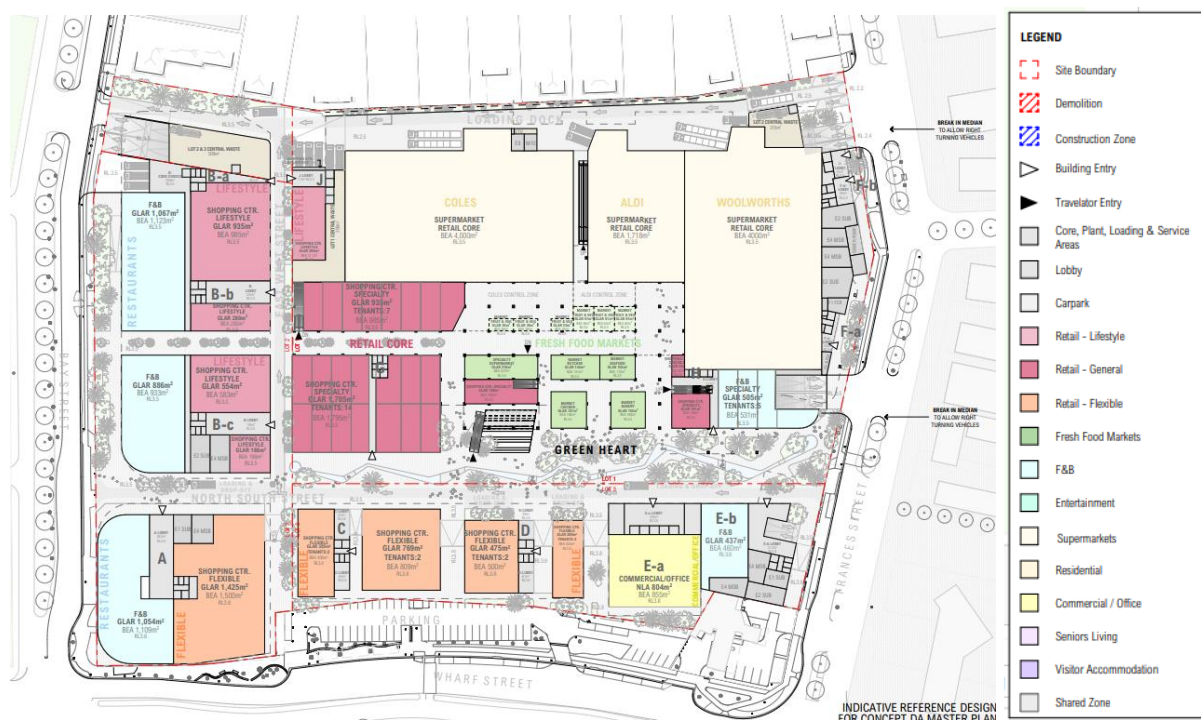
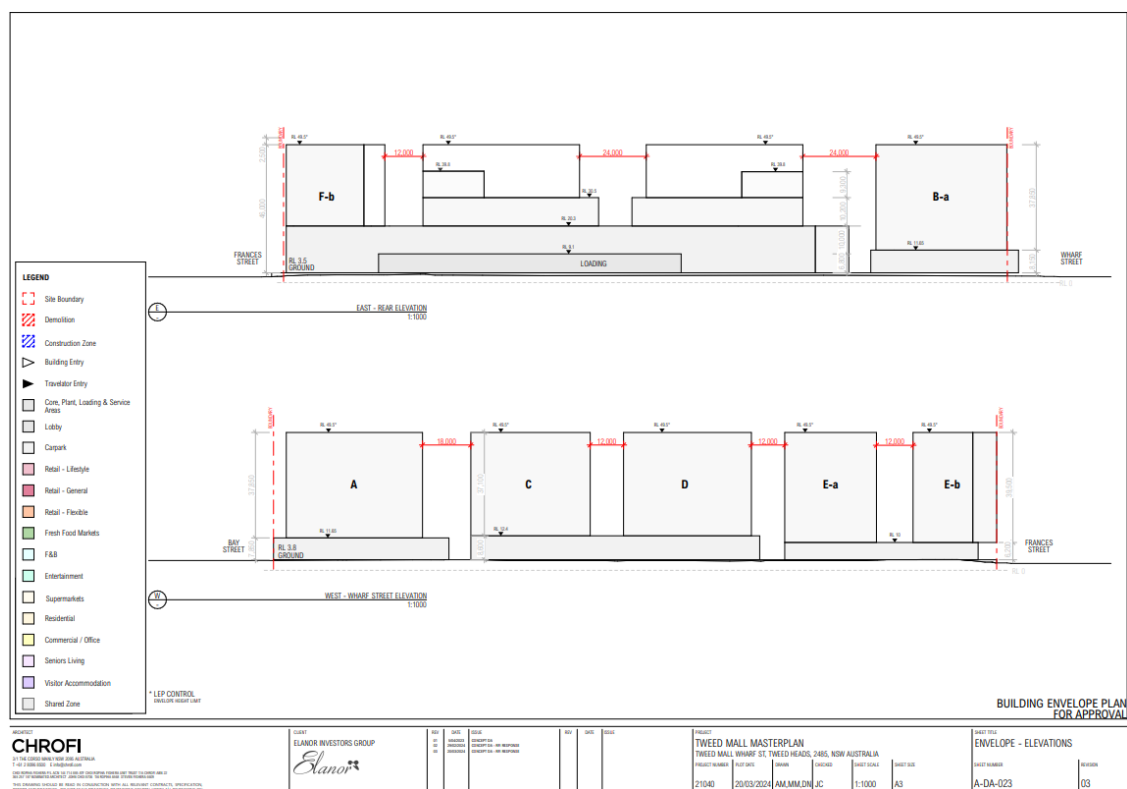




Figure 8 - Indicative Floor Plan - Level 1

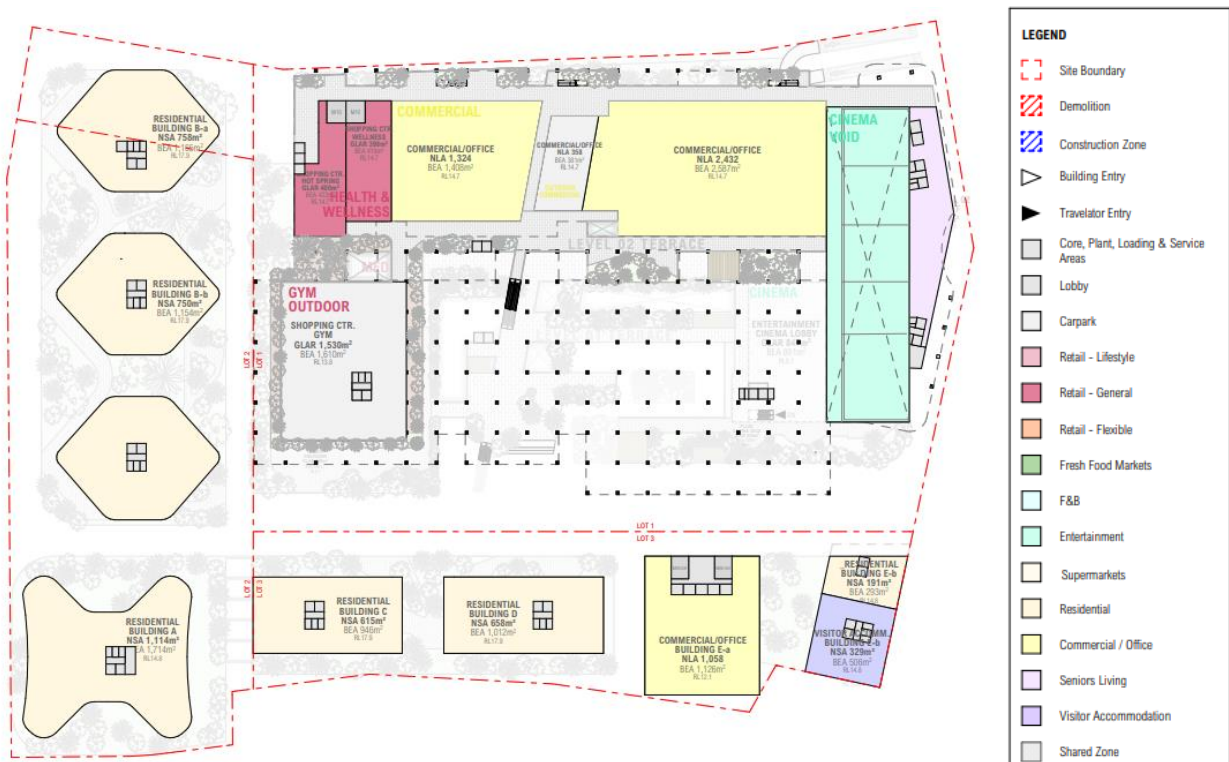


Figure 9 - Indicative Floor Plan - Level 2



Figure 10 - Indicative Floor Plan - Level 3

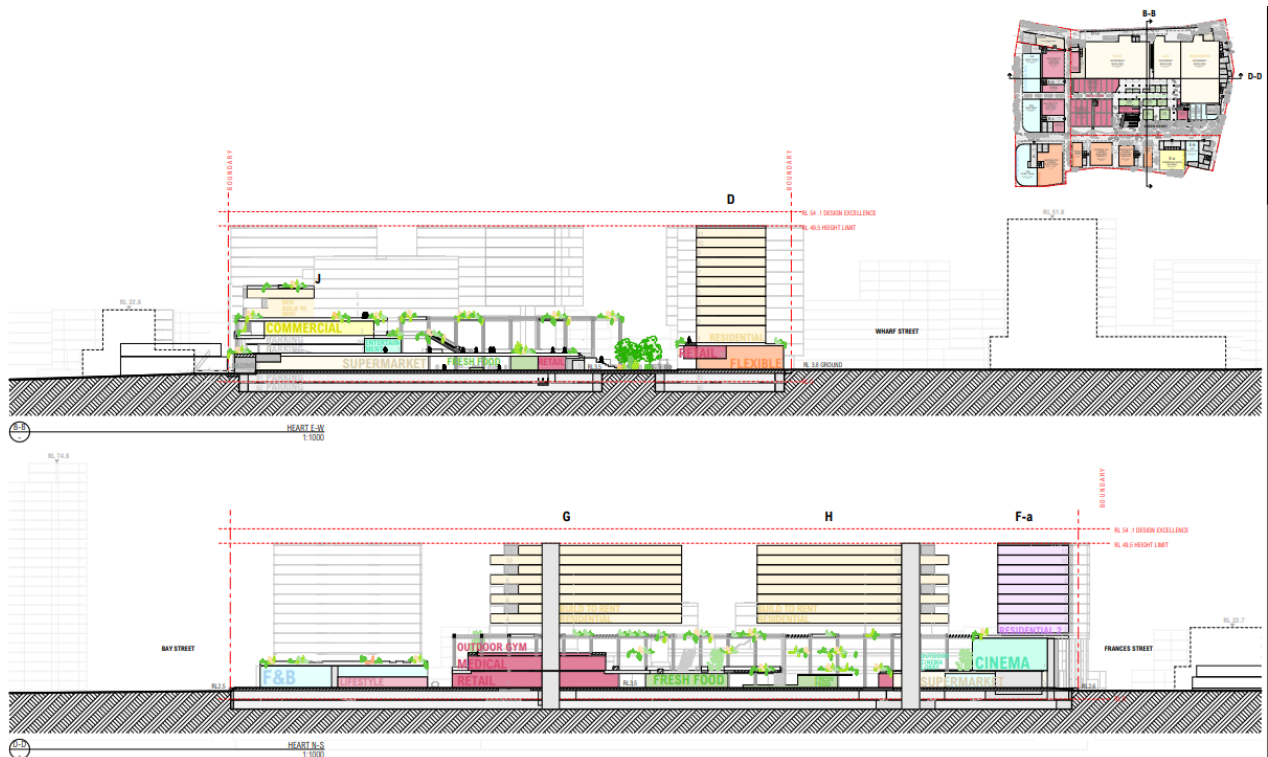


Figure 11 - Sections through site



Figure 12 - 3D Aerials

The design approach for the proposed Concept Plan is to provide for a “...*completely integrated mixed use development which comprises a complimentary mix of commercial, entertainment, retail, lifestyle, tourist and residential accommodation*”.

Given that the subject site is a functioning shopping centre, the proposal has had to consider the complexities of undertaking incremental redevelopment, whilst still maintaining an operational shopping centre to cater for the needs of the surrounding community. In this regard, the proponent has proposed to undertake the redevelopment in three stages, as follows (and as shown in Figure 13 below):

- **Stage 1:**

- Demolition of all existing buildings in the south east corner of the site;
- Construction of podium, new buildings Fa, Fb, G, H and J and associated public domain in the south east corner, and opening of new retail; and
- Decommissioning of original supermarkets and shops and demolition of remaining buildings on site and make good.

- **Stage 2:**

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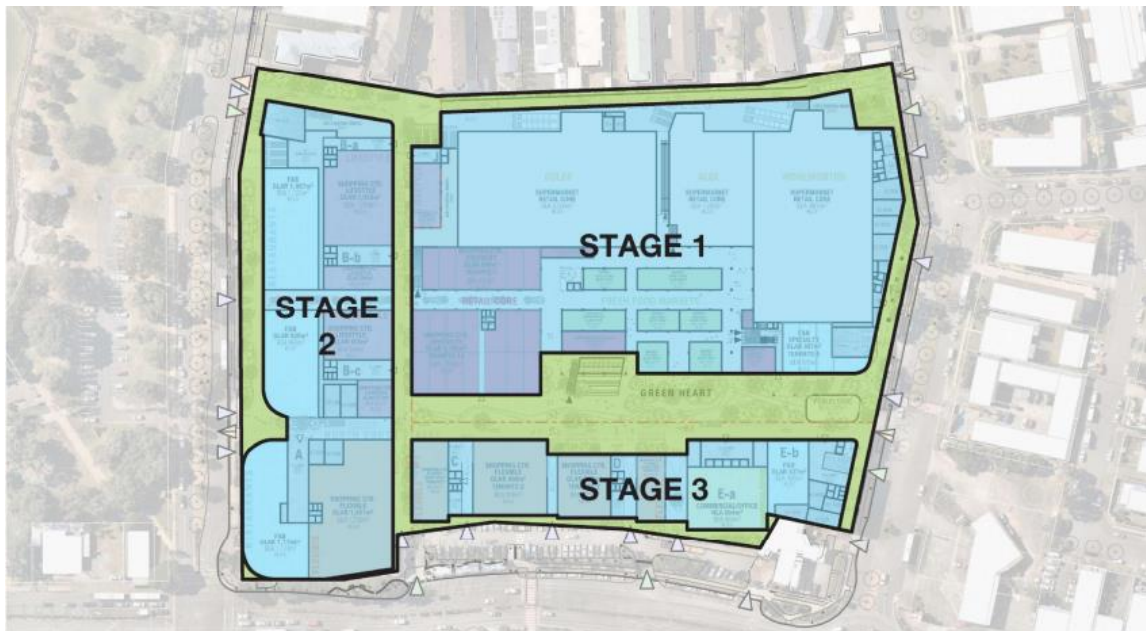


Figure 13 – Proposed staging of development

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	50,008m ²
Indicative GFA	Commercial / office – 14,306m ² Shopping Centre – 45,126m ² Residential – 114,632m ² Tourist/Visitor accommodation – 4,537m ² Total – 178,601m²
FSR	3.57:1
Clause 4.6 Requests	No
No of apartments	Up to 1371 dwellings
Max Height	Max RL 49.5m AHD
Storeys	Max 15 storeys
Indicative Uses	Commercial office uses;

	Retail (comprising three supermarkets, fresh food market, food and beverage premises, specialty retail and business uses); Large format lifestyle retail; Wellness centre and gym; Child care centre (150 – 200 children); Medical centre; Entertainment; Cinema complex; 52 room hotel; and Up to 1,371 residential units.
Indicative apartment car parking	2,500 spaces
Deep Soil	4,156m ² (8.3%)
Open space	Ground level – 15,483m ² (30.1%) Level 1 – 6,082m ² (12.2%) Level 2 – 5,894m ² (11.8%) Total – 24,665m² (49.3)

2.2 Background

The Tweed Mall site is a nominated ‘key site’ under the Tweed City Centre Local Environmental Plan 2012 (TCCLEP) and as such any proposed development with a capital investment value over \$2 million or with a building height over 35m is subject to TCCLEP 2012 Clause 6.10 Design Excellence subclause 4 which states that:

Clause 6.10 (4)

Development consent must not be granted to the following development on land to which this Plan applies unless an architectural design competition that is consistent with the Design Excellence Guidelines has been held in relation to the proposed development—

- (a) *development having a capital value of more than \$2,000,000 on land identified as “Key Sites” on the Key Sites Map,*
- (b) *development in respect of a building that is, or will be, higher than 35 metres,*
- (c) *development for which the applicant has chosen to have such a competition.*

Prior to the lodgement of the subject application (November 2021), the proponent approached the Government Architect (as delegate of the Director General) and Tweed Shire Council, seeking a waiver to the requirement for a design competition under clause 6.10 of the Tweed City Centre LEP 2012.

In May 2022, Tweed Shire Council resolved to support the request for a waiver of a design competition in lieu of an architectural design review process. The Government Architect

and Council (in consultation with the proponent) then proceeded to facilitate a Design Review Panel (DRP) involving a number of experts as Panel members and the Government Architect as Chairperson of the DRP. Following that, the proponent's waiver request was formally endorsed on 19 May 2022.

In total, four DRP sessions have been undertaken. Two DRP sessions were facilitated prior to the submission of the concept development application. The third and an additional fourth design review session were facilitated post the formal exhibition of the concept development application which enabled a review of Council officer commentary and requests for information as well as public submissions.

As an iterative process, the DRP has provided advice and guidance at key project milestones, which has resulted in a substantial improvement to key elements of the sites configuration and reference design consideration. Each of the four DRP sessions culminated a design advice summary which was issued to the proponent and design team to inform the following iteration of the concept and reference building design. Comment on the outcomes of the DRP process and outcomes are provided later in this report.

The development application was lodged on **23 May 2023**. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
26 May 2023	Exhibition of the application
6 June 2023	DA referred to external agencies
12 September 2023	Site Inspection
19 October 2023	Request for Information from Council to proponent
23 October 2023	Panel briefing
2 November 2023	Additional RFI matters (raised at Panel briefing) issued to proponent
7 November 2023	Design Review Panel (DRP03) meeting held
18 December 2023	Design Review Panel (DRP04) meeting held
5 March 2024	Proponent submitted RFI Response
19 March 2024	Proponent met with staff to run through the RFI Response and provide fly-through video
28 May 2024	Assessment Report & draft conditions completed
12 June 2024	Scheduled NRPP Determination meeting

The meeting held on 19 March 2024 was beneficial as it was confirmed by the proponent that they were only seeking approval of the proposed building envelopes and Urban Design Guidelines for the site, which are intended to inform and guide the detailed design

and landscape outcomes of the future development applications within the nominated building envelopes.

The plans provided with the building envelope is an indicative or reference design of potential land uses / building form, which was prepared by the proponent as part of the design excellence process. Whilst the reference design does not form part of the formal Concept DA, it has directly informed the proposed building envelope plan configuration and allowed Council officers to review the application in terms of what is capable of being delivered on the subject site.

2.3 Site History

The area surrounding the site was part of the Tweed River Back Channel, which was reclaimed in the late 1960's. The Tweed Mall Shopping Centre was established in the early 1970's.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46);
- Designated Development (s4.10); or

- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided.

It is however noted that the proposal is considered to require referral as per s4.13, as considered further in this report.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Tweed City Centre Local Environmental Plan 2012*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas There are a number of trees proposed to be removed as part of the overall development	N/A to Concept DA. Future DA's will need to suitably address the SEPP, and include Tree Survey and arboriculture report
Sustainable Buildings SEPP 2022	Chapter 2: Standards for Residential Development - BASIX Chapter 3: Standards for Non-Residential Development	N/A to Concept DA. Future DA's will need to suitably address standards for both Chapters 2 and 3
State Environmental Planning Policy (Housing) 2021	Chapter 2: Affordable Housing Chapter 3: Diverse Housing	N/A to Concept DA. Future DA's will need to suitably address Housing

	Chapter 4: Design of Residential Apartment Development	SEPP requirements with regard to the various housing typologies proposed
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage <ul style="list-style-type: none"> Section 3.6 – granting consent to signage Section 3.11(1) – matters for consideration 	N/A to Concept DA. Future DA's will need to suitably address advertising and signage requirements.
SEPP 65 – Design Quality of Residential Apartment Development	<ul style="list-style-type: none"> Clause 30(2) - Design Quality Principles <p>The applicant has provided an assessment against the principles of the SEPP.</p>	N/A to Concept DA. Will need to be addressed at future DA stages.
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6. 	Yes
SEPP (Resilience & Hazards)	Chapter 2: Coastal Management <ul style="list-style-type: none"> Section 2.10(1) & (2) - Development on land within the Coastal Environment Area Section 2.11(1) - Development on land within the Coastal Use Area Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 – A Preliminary Site Investigation report has been provided by the proponent, as well as an Interim Audit advice letter confirming that if remediation is required it could be feasibly implemented and managed during the development 	<p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>Yes</p> <p>Future DA's will be required to provide further detail</p>
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> Section 2.48(2) The application was referred to Essential Energy (EE) for comment. Section 2.121(4) – Being traffic-generating development, the application was referred to Transport of NSW for comment. 	<p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>N/A to Concept DA. Will need to be addressed at future DA stages.</p>
Tweed City Centre Local Environmental Plan 2012	<ul style="list-style-type: none"> Clause 2.3 – Permissibility & Zone Objectives Clause 4.3 – Height of buildings (RL 49.5m AHD) Clause 4.4 – Floor space ratio (4:1) <p>The proposed development complies, having an FSR of 3.57:1.</p> <ul style="list-style-type: none"> Clause 4.6 – Exceptions to development standards 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

	<ul style="list-style-type: none"> • Clause 5.10 – Heritage • Clause 5.21 – Flood planning The site has a Design Flood level of RL 2.6m AHD and a Planning Flood Level of RL 3.1m AHD. The proposal incorporates a Finished Floor Level of RL 3.5m AHD. • Clause 6.1 – Acid sulfate soils (Class 2) • Clause 6.3 – Floodplain risk management • Clause 6.5 – Restriction on certain uses in Zone E2 • Clause 6.6 – Minimum building street frontage A minimum road frontage of 20m is required in the E2 zone • Clause 6.8 – Ground Floor and first floor development in certain business zones • Clause 6.9 – Airspace operations • Clause 6.10 – Design Excellence 	<p>N/A</p> <p>Yes</p> <p>Future DA's will be required to provide Flood Impact Assessment</p> <p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
DCP	<ul style="list-style-type: none"> • Section A1 – Residential & Tourist development (where ADG & B2 are silent) • Section A2 – Site Access & Parking • Section A3 – Development of Flood Liable Land • Section A4 – Advertising Signs • Section A13 – Socio Economic Impact Assessment • Section A15 – Waste Minimisation & Management 	<p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>B2 & ADG requirements prevail over A2</p> <p>Yes</p> <p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>N/A to Concept DA. Will need to be addressed at future DA stages.</p>

	<ul style="list-style-type: none"> • Section A16 – Preservation of Trees or Vegetation • Section B2 – Tweed City Centre (where ADG is silent) 	<p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>N/A to Concept DA. Will need to be addressed at future DA stages.</p> <p>Yes</p> <p>Will need to be addressed at future DA stages.</p>
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Consideration of the relevant SEPPs is outlined below:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The provisions of the Biodiversity and Conservation SEPP will need to be addressed by future applications for Stages 1, 2 and 3, demonstrating compliance with all relevant controls for the development.

State Environmental Planning Policy (Sustainable Buildings) 2022

The Concept proposal does not include detailed design or floorplans of residential components of the development, as approval is only sought for three-dimensional building envelopes and Urban Design Guidelines for the future stages. However, the provisions of the Sustainable Buildings SEPP will apply to Stages 1, 2 and 3. BASIX certificates will be required (as per Chapter 2 of the SEPP) to accompany the future stages to demonstrate the list of commitments which are proposed to achieve appropriate building sustainability. It is noted that Chapter 3 of the SEPP incorporates standards for non-residential development, which future stages will also need to address.

In addition, the Concept proposal is supported by an Ecologically Sustainable Development Report, which highlights that the “...two key commitments for the redevelopment are: to target net zero emissions in operations; and to achieve a Green Star Buildings 4-Star rating at a minimum and aim for a 5-star rating”.

State Environmental Planning Policy (Housing) 2021

Similarly, the provisions of the Housing SEPP are not applicable to the Concept proposal, as approval is only sought for three-dimensional building envelopes and Urban Design Guidelines for the future stages. However, the provisions of the Housing SEPP will apply to relevant Stages 1, 2 and 3, such as Affordable Housing, Build to Rent, Housing for Seniors etc. Future stages with such housing types will need to address the various standards of the SEPP to demonstrate compliance.

State Environmental Planning Policy (Industry and Employment) 2021

The Advertising and Signage provisions of the Industry and Employment SEPP will need to be addressed by future applications for Stages 1, 2 and 3, demonstrating compliance with all relevant controls for the commercial components of the development.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

Stages 1, 2 and 3 incorporate residential development to which the provisions of SEPP 65 are applicable. The proponent has noted that the “...*proposed building envelopes have been designed to be capable of accommodating future buildings which can achieve high residential amenity, consistent with the design guidance in the Apartment Design Guide (ADG)*”. In addition to providing some indicative floor planning and solar testing (to demonstrate the ADG’s can be satisfied), the proponent addressed the 9 principles of SEPP 65.

Council’s initial review of the Concept proposal raised concerns with building separation and solar access for future stages of the development. In addition, the Design Review Panel (DRP) raised similar concerns.

Whilst the proponent has prepared Urban Design Guidelines and made improvements to the design following Council’s RFI and the four DRP sessions which are generally supported, there are some additional amendments being requested as deferred commencement conditions – refer to Urban Design / Design Excellence comments later in this report.

It is noted that since the lodgement of the Concept proposal, the provisions of SEPP 65 have been consolidated into Chapter 4 of the Housing SEPP. Any future application will need to address Chapter 4 of the Housing SEPP, including the design principles of Schedule 9 of the SEPP, the ADG requirements and any advice from the DRP associated with that particular stage of the development.

State Environmental Planning Policy (Planning Systems) 2021 (‘Planning Systems SEPP’)

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP in that the proposal is development that has a capital investment value of more than \$30 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2: Coastal Management

Section 2.10(1) & (2) - Development on land within the Coastal Environment Area

The provisions of Chapter 2 have been considered in the assessment of the development application. Section 2.10 of the SEPP requires consent authorities to consider whether the proposed development is likely to cause an adverse impact on: the integrity and resilience of the biophysical, hydrological and ecological environment; coastal environmental values

and natural coastal processes; water quality of the marine estate; marine vegetation, native vegetation; existing public open space and safe access to and along the foreshore; Aboriginal cultural heritage; and use of the surf zone. In granting consent, the consent authority must be satisfied that: the development is designed, sited and managed to avoid adverse impact; or, if that impact cannot be reasonably avoided, the development must be designed, sited and managed to minimise such impact; or, if the impact cannot be minimised, the development will be managed to mitigate that impact.

Given that the Concept proposal does not incorporate any works, the provisions of section 2.10 of the SEPP are not considered to be applicable but will need to be satisfactorily addressed in future applications. In this regard, it is noted that Council officers are satisfied with the proposed stormwater management associated with the Concept proposal.

Section 2.11(1) - Development on land within the Coastal Use Area

Similarly, the provisions of Section 2.11 of the SEPP have been considered in the assessment of this application. In this regard, the consent authority must consider whether the proposed development is likely to cause an adverse impact on: existing safe access to and along the foreshore; overshadowing, wind funnelling and loss of views; visual amenity; Aboriginal cultural heritage; and cultural and built environment heritage. In granting consent, the consent authority must be satisfied that: the development is designed, sited and managed to avoid adverse impact; or, if that impact cannot be reasonably avoided, the development must be designed, sited and managed to minimise such impact; or, if the impact cannot be minimised, the development will be managed to mitigate that impact; and has taken into account the surrounding coastal and built environment, and the bulk and scale and size of the proposed development.

Given that the Concept proposal does not incorporate any works, the provisions of section 2.11 of the SEPP are not considered to be applicable but will need to be satisfactorily addressed in future applications. In this regard, it is noted that Council officers have reviewed the application in terms of bulk and scale – refer to urban design / design excellence comments later in this report.

Chapter 4: Remediation of Land

The provisions of Chapter 4 of have been considered in the assessment of the development application. Section 4.6 of the SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The PSI, prepared by EI Australia and dated 12 April 2023, concluded that the site can be made suitable for the proposed uses, subject to its recommendations, including the preparation of a Detailed Site Investigation to conclusively characterise the said fill material and if potential contaminants are identified, the preparation of a Remediation Action Plan to be implemented during works, followed by a validation report to be prepared on completion of the remediation.

Upon initial review of the PSI, Council officers requested further information in the form of a letter of interim advice from a Site Auditor be provided for Council's further consideration,

with the Site Auditor to confirm that they are satisfied that from the potential risk posed by previous land uses, the site can be made suitable for the proposed uses.

The proponent's RFI Response included an Interim Audit Advice letter, prepared by Julie Evans (NSW EPA Accredited Site Auditor 1003) and dated 28 February 2024. The letter noted the following:

"There is a risk of contamination due to previous land use, and remediation may be required to render the site suitable. The proposed development includes construction of two basement levels across the majority of the site footprint, necessitating excavation and off-site disposal of material associated with the previous reclamation. On this basis, and in consideration of the information reported to date, if remediation is required, this could feasibly be implemented and managed during the development program, and I agree with the conclusions and recommendations documented in the PSI, subject to the following conditions:

- 1. Preparation of a sampling, analysis and quality plan (SAQP) to outline the proposed methodology and sampling plan for the DSI. The SAQP must include the outstanding site history information and address the potential for HMSR due to reclamation activities at the site. The SAQP must be reviewed and approved by a NSW EPA Accredited Site Auditor prior to implementation.*
- 2. Completion of a detailed site investigation (DSI). The DSI must either (1) conclude that the site is suitable or (2) if contamination is encountered, provide recommendations for remediation. The DSI must be reviewed and approved by a NSW EPA Accredited Site Auditor.*
- 3. If remediation is required, a remediation action plan (RAP) must be prepared. The RAP must be reviewed and approved by a NSW EPA Accredited Site Auditor prior to implementation.*
- 4. Following completion of the DSI or remediation (if required), issue of a site audit statement and site audit report prepared by a NSW EPA Accredited Site Auditor certifying that the site is suitable for the proposed use.*

The development is to be staged and detailed design and construction for each stage will be subject to individual DA's. I recommend that:

- The DSI is completed for the entire site area prior to approval of the detailed design for Stage 1.*
- If remediation is required across more than one development stage area, the RAP must be developed to address the entire remediation area. Individual remedial work plans (RWP) should then be developed for each development stage to address design specific remediation matters.*
- A site audit statement and site audit report prepared by a NSW EPA Accredited Site Auditor certifying that the site is suitable for the proposed use, would be required at completion of remediation within each development stage.*

Consistent with the NSW EPA requirement for staged 'signoff' of sites that are the subject of progressive assessment, remediation, and validation, I advise that:

- This advice letter does not constitute a Site Audit Report or Site Audit Statement and does not pre-empt the conclusions that will be made at the conclusion of the site audit process.*

- *At the completion of the audit, I will provide a Site Audit Statement and supporting documentation.*
- *This interim audit advice will be documented in the Site Audit Report.'*

Having regard for the PSI and Interim Audit Advice letter, the Concept proposal is considered to be consistent with Chapter 4 of the Resilience and Hazards SEPP, subject to imposition of relevant conditions of consent in relation to remediation works during future construction works on any consent granted.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2: Infrastructure

Clause 2.48 - Development likely to affect an electricity transmission or distribution network (referral to Essential Energy)

The Concept proposal was referred to Essential Energy (EE) pursuant to the provisions of S 2.48 of the Transport & Infrastructure SEPP. EE provided general comments (refer to Attachment F), which the proponent has acknowledged will be addressed in future detailed development applications.

Clause 2.122 Traffic Generating Development

The Concept proposal was also referred to Transport for NSW (TfNSW) pursuant to s 2.122 of the SEPP. TfNSW provided comments on the application (refer to Attachment G), which the proponent has addressed in their RFI Response. The specific traffic related issues are discussed in more detail later in this report.

In summary, being a Concept proposal with no actual works being proposed, the application is considered to satisfy the abovementioned provisions of Chapter 2 of the Transport & Infrastructure SEPP, noting that future Stages of the development will need to adequately address any EE or TfNSW requirements.

Tweed City Centre Local Environmental Plan 2012

The relevant local environmental plan applying to the site is the *Tweed City Centre Local Environmental Plan 2012* (TCCLEP). The aims of the TCCLEP include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) *to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,*

- (c) to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,
- (d) to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,
- (e) to promote building design which considers food security, water conservation, energy efficiency and waste reduction,
- (f) to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,
- (g) to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,
- (h) to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,
- (i) to conserve or enhance areas of defined high ecological value,
- (j) to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.

The application is consistent with these aims as the proposal will encourage a sustainable local economy and small business, employment, and much needed housing for the region. In addition, the proposal promotes development that is consistent with the principles of ecologically sustainable development, including building designs which will consider water conservation, energy efficiency and waste reduction.

Zoning and Permissibility (Part 2)

The site is located within the E2 Commercial Centre Zone pursuant to Clause 2.2 of the LEP, as shown in Fig 14 below.

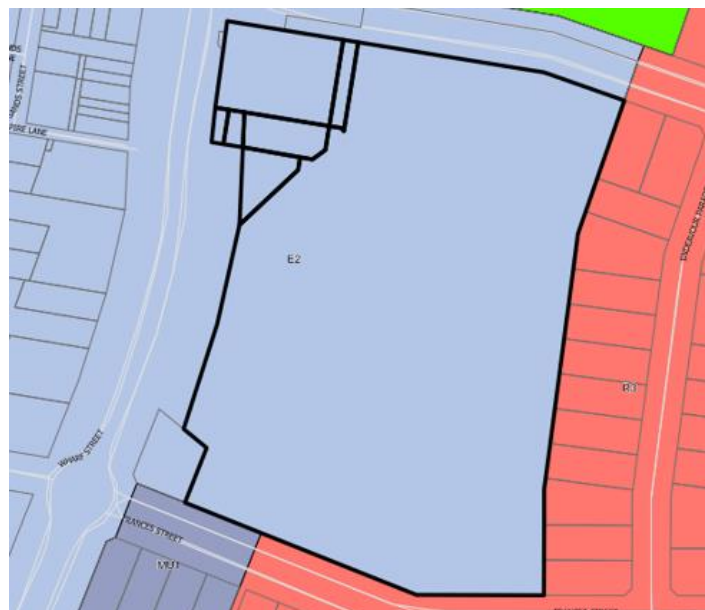


Figure 14 – Zoning of the subject site

The proponent has noted that the proposed mixed-use development incorporates a broad range of potential future uses, including:

- shop-top housing;

- tourist and visitor accommodation;
- commercial premises (which includes retail, office and business premises);
- health services facility;
- centre based child care facility;
- entertainment facilities; and
- recreation facility (indoor).

All of the above-mentioned land uses are permissible uses with consent in the Land Use Table in Clause 2.3.

It is noted that any proposed Seniors Housing is a form of Residential Accommodation, which is prohibited development under TCCLEP 2012. However, the Housing SEPP permits Seniors Housing in the E2 zone.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To encourage upper floor residential or tourist accommodation that does not compromise the lower or ground floor commercial use of the land.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The Concept proposal is considered to strengthen the role of the commercial centre of Tweed CBD and subsequently will encourage investment in commercial development in the Tweed CBD, which will generate employment opportunities;
- Subject to detail design, the Concept proposal is considered to have a high level of accessibility and amenity, particularly for pedestrians;
- The Concept proposal is considered to be consistent with the Council's strategic planning for residential development;
- The Concept proposal is considered to provide an opportunity for diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces; and
- Subject to detail design, the Concept proposal is considered capable of achieving upper floor residential or tourist accommodation which does not compromise the lower or ground floor commercial use of the land.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The TCCLEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	<i>RL 49.5m AHD</i>	RL 49.5m AHD	Yes
FSR (CI 4.4(2))	<i>4:1 (200,032m²)</i>	3.57:1 (178,601m ²)	Yes
Heritage (CI 5.10)		Subject site is not mapped as being an area of known or predictive Aboriginal cultural heritage	N/A
Flood Planning (CI 5.21)	<i>Design Flood Level (DFL) = RL 2.6m AHD Planning Flood Level (PFL) = RL 3.1m AHD PMF = RL 5.3m AHD</i>	Basement 2 = RL -3.2m AHD Basement 1 = RL -0.1m AHD Ramp crests = RL 3.5m AHD GF Francis & Bay St = RL 3.5m GF Wharf St = RL 3.8m AHD Mezzanine = RL 7 – 7.3m AHD L1 and above = RL 8.9m +	Yes Refer to detailed flooding comments below
Special Flood Considerations (CI 5.22)		At the time of lodgement, the provisions of CI 5.22 were not applicable – only coming into effect on 10 November 2023. With respect to Special Flood Considerations, refer to CI 6.3 comments below.	N/A
Acid sulphate soils (CI 6.1)	<i>Class 2 ASS ASSMP required</i>	The proposal is Concept only. Future applications will need to address CI 6.1 in detail	N/A to Concept DA. Will need to be addressed at future DA stages.
Flood planning (CI 6.3)	<i>(2) This clause applies to— (a) land above the flood planning level and up to the level of the probable maximum flood shown on the Flood Planning Map, and (b) land surrounded by the flood planning area.</i>	This clause applies to the subject site. Any proposed Residential Accommodation or Tourist and Visitor Accommodation in future stages will need to address this Clause. Having reviewed the RL's associated with the reference design, Council officers are confident that the future stages	N/A to Concept DA. Will need to be addressed at future DA stages.

	<p>(3) <i>Development consent must not be granted for development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development incorporates appropriate measures to manage risk to life from flooding—</i></p> <p>(a) <i>caravan parks,</i> (b) <i>correctional facilities,</i> (c) <i>emergency services facilities,</i> (d) <i>group homes,</i> (e) <i>hospitals,</i> (f) residential accommodation <i>(except for dwelling houses, secondary dwellings or dual occupancies in Zone R2 Low Density Residential or Zone R3 Medium Density Residential),</i> (g) <i>residential care facilities,</i> (h) tourist and visitor accommodation.</p>	will be able to satisfy the provisions of CI 5.22 (which will be the applicable clause for future applications).	
Restriction on Certain Uses in Zone E2 (CI 6.5)	<i>Development consent must not be granted to development for the purposes of backpackers' accommodation or serviced apartments on land in Zone E2 Commercial Centre, unless the development is part of a mixed use development.</i>	The proponent has confirmed that the proposal does not include backpackers' accommodation or serviced apartments	N/A
Minimum Building Street Frontage (CI 6.6)	<i>Development consent must not be granted to the erection of a building on land in Zone R3 Medium Density Residential, Zone E1 Local Centre, Zone E2 Commercial Centre or</i>	The subject site's street frontages well exceed the minimum 20m frontage requirement	Yes

	<i>Zone MU1 Mixed Use that does not have at least one street frontage of 20 metres or more.</i>		
Ground Floor & First Floor development in Zones E2 & MU1 (CI 6.8)	<p><i>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—</i></p> <p><i>(a) the building will have an active street frontage after its erection or change of use, and</i></p> <p><i>(b) the ground floor of the building will be used for the purpose of commercial activities, and</i></p> <p><i>(c) if the building is, or will be, located on land in Zone E2 Commercial Centre, the first floor of the building will also be used for the purpose of commercial activities.</i></p>	<p>The applicant has noted the following:</p> <p><i>“The proposed Concept Plan is only for building envelopes. However, the indicative or reference design illustrates active frontages to Wharf Street and Bay Street. Due to the nature of the site with three street frontages, it is not possible to activate every street frontage, and so the northern and western frontages have been prioritised and the southern Francis Street will contain the infrastructure necessary to service the overall development.</i></p> <p><i>There is no residential on the ground or first floor of the indicative scheme. The ground floor or mezzanine levels, and levels above for some buildings, are all occupied by commercial activities”.</i></p> <p>The proponents comments are concurred with.</p>	<p>N/A to Concept DA.</p> <p>Will need to be addressed at future DA stages, but based on the reference design, this clause will be complied with.</p>
Aerospace Operations (CI 6.9)	<p><i>(2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.</i></p> <p><i>(3) The consent authority may grant development consent for the development if the relevant</i></p>	<p>The initial refence design drawings indicated that the Obstacle Limitation Surface (OLS) of RL 49.5m AHD was going to be penetrated by the development. Accordingly the application was referred to Gold Coast Airport Limited (GCAL) for comment. GCAL provided comment whereby a condition was recommended for inclusion, requiring an application be made to GCAL for structures exceeding the OLS.</p> <p>The proponent’s RFI Response acknowledged that there was an error in some elevations and confirmed that the development will comply with the height limit of RL49.5m AHD, and therefore will not penetrate the OLS.</p>	Yes

	<p><i>Commonwealth body advises that—</i></p> <p><i>(a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or</i></p> <p><i>(b) the development will not penetrate the Limitation or Operations Surface.</i></p>	<p>GCAL's recommended condition applies to cranes associated with the construction of the towers and will need to be applied to future DA's seeking approval for the construction of buildings in this regard.</p>	
Design Excellence (CI 6.10)	<p><i>(2) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</i></p>	<p>Refer to detailed Design Excellence comments below, which conclude that the proposed development exhibits design excellence</p>	Yes

CI 5.21 Flood Planning

The subject site is completely covered by the PMF and partially covered by the 1% AEP flood (DFL), as shown in Figure 15 below.

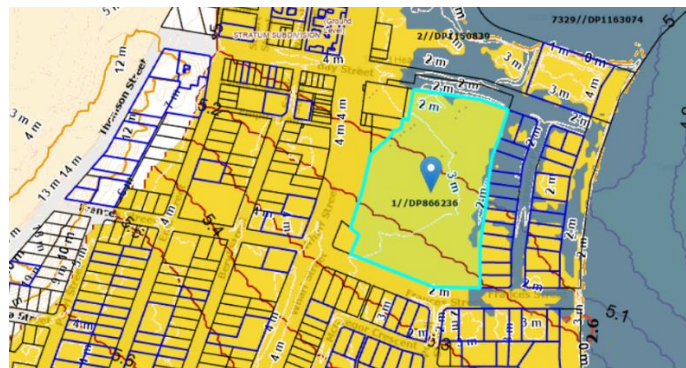


Figure 15 - Flood mapping across the site

TCCLEP 2012 Clause 5.21(2) and (3) requirements are noted below:

- (2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*
- (a) is compatible with the flood function and behaviour on the land, and*
 - (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*

- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
 - (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*
- (3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*
 - (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
 - (b) *the intended design and scale of buildings resulting from the development,*
 - (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
 - (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

In support of the Concept proposal, the proponent submitted a Flood Statement (prepared by Molino Stewart Pty Ltd, dated 15 November 2023). Based on the reference design, the Flood Statement notes that the development incorporates: a ground floor level at RL 3.5m AHD (which is above the PFL of RL 3.1m AHD); basement entry ramps at RL 3.5m AHD; and residential component at RL 8.9m AHD or higher.

The Flood Statement also noted the following with regard to Clause 5.21, based on the reference design associated with the Concept proposal:

Control	Considerations for the Site
<i>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</i>	
<i>(a) is compatible with the flood function and behaviour on the land, and</i>	The site is almost completely above the 1% AEP flood extent, and so is compatible with the flood function and behaviour on the land.
<i>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</i>	The site is almost completely above the 1% AEP flood extent, and so will not impact other properties up to this flood level. Council's Flood Engineer has confirmed that flood modelling is not required to demonstrate this.
<i>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</i>	The development is replacing an existing development that would already contribute to local evacuation traffic. Further, the site's residential towers are above the PMF and can be designed to allow residents shelter in place, reducing evacuation requirements.
<i>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</i>	The development exceeds minimum requirements for floor levels, and includes residential areas above the PMF, reducing risk to life in the event of a flood.
<i>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</i>	Any development on this site would not impact riparian areas, river banks or water courses. Any potential environmental impacts during construction can be managed with appropriate construction environmental management measures.
<i>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</i>	
<i>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</i>	The redevelopment of the site is unlikely to have much more of an impact on flood behaviour as a result of climate change compared to the existing development, which occupies the majority of the site. In addition, ground floor levels of the development will be above the Climate Change Design Flood Level of 3.1 m AHD.

<i>(b) the intended design and scale of buildings resulting from the development,</i>	While the scale of the redevelopment is larger than the current development, the majority of the additional area is above the PMF level, which reduces the risk to life from flooding.
<i>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</i>	This is covered in Table 2 under DCP clause A3.2.6. Emergency Response Provisions. The site will need to provide a Flood Response Assessment Plan and can provide PMF refuges to reduce risk to life and reduce evacuation requirements.
<i>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</i>	It may not be possible to modify, relocate or remove the development as a response measure.

Council officers have reviewed the Concept proposal in terms of flood impacts and are satisfied that the development meets the provisions of clause 5.21, noting that Shelter in Place is being proposed for the future residential components, which have been confirmed as being above the PMF level. All future applications will need to address in detail the provisions of this clause.

CI 6.10 Design Excellence

As noted previously, the provisions of CI 6.10 require a Design Competition for development over \$2 million on Key Sites, unless a waiver is obtained.

In May 2022, Tweed Shire Council resolved to support the request for a waiver of a design competition in lieu of an architectural design review process. The Government Architect and Council (in consultation with the proponent) then proceeded to facilitate a Design Review Panel (DRP) involving a number of experts as DRP members. Four DRP sessions have taken place to date.

A detailed review of the integration of DRP advice into the Concept design and UDG's has been undertaken by Council officers (refer to Attachment D). The review summarises the design advice provided at each design review panel session along with commentary of how the current concept development application design aligns with that advice, as well as notation on recommended conditions of consent.

The improvements to the sites overall urban design as a result of the DRP process and design teams' progression can be summarised as follows:

Tweed City Context and Urban Structure

- Recognition that the overall site vision of a genuine mix use precinct which achieves design excellence would serve as a catalyst for transformative change and improvement across the city centre precinct.
- Recognition of the regions rich ecological and cultural history investigated in consultation with the Tweed Byron Local Aboriginal Land Council (TBLALC) and integrated strategies to celebrate ecology and culture within the landscape and public domain design across the site.

- Detailed review of existing urban interfaces and design of the site structure plan where building envelopes and laneway entries represent desire lines from surrounding edges.
- Clear priority to improve site accessibility and porosity with multiple points of access and entry and a pedestrian priority focus across the site.
- A shift from a 'closed box' shopping centre typology to one which is more of an open extension of the city centre which enables a more integrated public benefit and sub-tropical design response.
- Consideration of active edges around the site will transform edges which are currently closed off blank elevations to shopfronts and permeable entrances, laneways, and landscaped areas more befitting if the sites CBD location.

Public domain and landscape

- Based on DRP feedback, there has been an increase in the overall area of public open space (10,909m²) and deep soil zone (3,624m²). Based on the reference design and considering landscape areas at the ground, podiums and roof tops, the site could accommodate approximately 35,000m² of planted area representing approximately 70% of the 50,003m² site area.
- The reference design resulted in the formation of a series of different scale and character precincts across the site including:
 - i. Green heart – large central public open space area with series of landscape opportunities and central stair well with architecturally defining canopy structure.
 - ii. Blue Green Street (North South Street) – Internal north-south single direction shared street / pedestrian street which links Florence Street in the south to Bay Street in the north and intersects with the Green Heart public domain area.
 - iii. Rainforest Room – Opportunity for denser urban forest planting which combined with 'water storey' to tie to the indigenous culture of the site.
 - iv. Bay Street Frontage – Series of smaller scale active land use tenancies front and engage with the Bay Street road reserve through opportunities for outdoor dining and landscaping.
 - v. East-West – Series of east west connections from Wharf Street linking with the Blue Green Street and Green Heart.
- This network of connected spaces contributes to the diversity of public domain and spaces across the site across the Tweed City CBD more broadly.

Building envelope and form

- The iterative design process provided an opportunity to test a range of different building elevation and form considerations across the site with the DRP's confirmed preference for the current scheme.
- Although Council direction has reaffirmed the prevailing maximum building height (RL 49.5m AHD), a range of different building envelopes and heights across the site will provide a framework for future building design diversity.

- The structure plan in concert with building envelopes now achieves a better balance between height, scale, density, public domain with amenity base considerations such as natural sunlight access, and shade to public domain areas and separation between buildings.

Land use and Housing

- Although the land uses as indicated within the reference design do not form part of the formal concept development application, the distribution of land uses as related to the structure plan have progressed significantly. This includes:
 - i. Relocation of the large floor plate uses which inherently have blank elevation to the southeast corner of the site rather than the most visible and strategically important northwest corner.
 - ii. Focus of food and beverage precinct on the Bay Street edge with northern access and views across to Jack Evans Boat Harbour and coast reserve areas.
 - iii. Integration of the more casual fresh food market with the primary 'Green Heart' public domain area.
 - iv. Opportunity for smaller scaled specialist retail lining the primary pedestrian circulation areas including the north-south and east-west links.
- The inclusion of 114,632m² of residential GFA which could support approximately 1300 new residential dwellings within the heart of the Tweed CBD. This would also include a proportion of affordable housing tenure and tourist and visitor accommodation. On site residential density will contribute to the activation of the retail spaces below and Tweed CBD more broadly.

The following **Table 5** is a review of the Concept proposal against the design excellence of clause 6.10(3).

Table 5: Consideration of the CI 6.10(3) Design Excellence Controls

TCCLEP 2012 -Clause 6.10 (3) <i>In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</i>	
Matter for consideration	Urban Design Comment
(a) <i>whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</i>	<p>The building envelope plans which are core to this concept development application do not delve into design detail or material palette. However, the submitted reference design and 3d fly through provide an indication of the design which could be achieved within the framework of the proposed building envelopes. Based on this reference design, the DRP have indicated that the proposal represents a high standard of architectural design commensurate with the Tweed City Centre location and proposed mix land use.</p> <p>The Urban Design Guidelines (UDG), which would form part of the stamped concept development application approval, include sections on building expression and materials and seeks to integrate the advice outcomes from the DRP process. Further, subsequent</p>

	<p>more detailed design stages will be the subject of further DRP process.</p>
<p><i>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</i></p>	<p>Designing the sites' urban structure has been a key focus of the DRP process and advice with many of the outcomes identified in the comments above.</p> <p>Overall, the site configuration centres around a defining 'green heart' and landscape structure canopy and the open north-south street with network of laneways primarily on a north-south and east-west arrangement. A series of tower building envelopes form a perimeter to the site and a more central series of buildings activates the ground level and podium levels with a range of land uses with residential above.</p> <p>The urban structure of the site can be described as one which is 'open' to the surrounding city centre context with multiple points of access, pedestrian priority, and defined character zones which will all contribute to a significantly higher level of amenity compared to the existing centre configuration.</p> <p>While the site would remain privately owned, this increased openness and porosity would result in an extension of the city centres' public domain network with access to many parts of the site proposed to remain open 24/7.</p>
<p><i>(c) whether the development detrimentally impacts on view corridors,</i></p>	<p>The proposed building envelope diagrams indicate the height of those building envelopes being within the RL 49.5m AHD maximum height of buildings under the TCCLEP 2012.</p> <p>A review of Council's Scenic Landscape Interactive Mapping Tool indicates the site forms part of 10 view sheds including 3 priority 1 view sheds and 7 priority 2 view sheds. A specific scenic impact statement was not submitted as part of the concept development application but was addressed in the SEE (5.4.1) where it is concluded:</p> <p><i>The location and height of the development is suitable for the site and not expected to significantly obscure views of major natural features to water, ridgelines or bushland.</i></p> <p>Given overall the proposal represents a significant increase in height compared to the existing building form across the site, it is likely that some view corridors and views will be impacted from the topographically elevated sites to the west (properties along Thomson St) looking east towards the Tweed River and from elevated properties in the southwest looking northeast. The increased number of building envelopes and height would in some instances restrict some water views of the Tweed River / Ocean beyond Fingal Head peninsular.</p>

	<p>These potential view and view corridor impacts however need to be balanced against the site's city centre location, prevailing maximum building height development standard and land use intent for the site (E2 Local Centre). This is reflected within the TDCP B2 - City Centre Core Precinct character statement which in part states:</p> <p><i>The future character of the City Centre Core Precinct will be of a dynamic centre with a mix of land uses comprising retail uses at ground level activating the street frontage and podium levels comprising commercial offices topped by residential high rise buildings ranging from 10 to 14 storeys in height. The main two streets in the precinct are Bay Street and Wharf Street.</i></p> <p>The Tweed Mall site is in the heart of the Tweed City Centre where this higher order development has been part of the long-term planning framework. In this regard view loss because of the increased building height and forms is justifiable.</p> <p>To mitigate some of the view impacts the building envelopes have sought to be relatively slender in floorplate envelope above the podium level with a minimum 12m building separation between. Whilst this will not result in the preservation of all existing views and view corridors, it will enable some opportunity for view fields between buildings depending on standing point aspect and be consistent with accepted view sharing principles.</p>
(d) <i>the requirements of the Tweed City Centre DCP,</i>	A detailed review of the development proposal against the provisions of the Tweed DCP Section B2 – Tweed City Centre has been undertaken in the context of the overall merits assessment. The proposal is considered to align in terms of land use intent and overall building mass and envelope requirements.
(e) <i>how the development addresses the following matters—</i>	
(i) <i>the suitability of the land for development,</i>	The subject site is located within the heart of the Tweed City Centre and is zoned E2 Commercial Centre. The proposal, which is only for above ground building envelopes and UDG to guide the future staged development of the site, is consistent with the land use intent. Based on prevailing land use and constraints analysis, it is considered that the site is suitable for the proposal.
(ii) <i>existing and proposed uses and use mix,</i>	The proposal is for the approval of a building envelope plan and associated UDG. The detailed design, including details of proposed land uses will be the subject of future subsequent development applications.

	<p>However, based on the submitted reference design, the land uses as set out in the reference design are consistent with the mixed-use intent for the site. The land uses which form the basis of the reference design align with the E2 Commercial Centre land use zoning.</p>
<p>(iii) <i>heritage issues and streetscape constraints,</i></p>	<p>The subject site is not the subject of any heritage lists or conservation zone and is not mapped as either a known or predicative location associated with the Tweed Aboriginal Cultural Heritage Management Plan.</p> <p>Although the site is located on two primary streets within the Tweed City Centre, there are no specific streetscape constraints which impact the proposal. TSC owns a portion of the car parking area which fronts Wharf Street. This area of car parking would be retained.</p> <p>From an urban design perspective, the proposed reconfiguration of the site would result in more opportunities for buildings and shop fronts to better engage with each of the street frontages. For example, the existing street interface to the Wharf and Bay St intersection, is currently two blank elevations. The proposal would instead be seeking to activate this frontage with shop fronts and more of an active food and beverage frontage extending down Bay Street.</p>
<p>(iv) <i>the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i></p>	<p>The proposed concept development application represents the staged redevelopment of the existing Tweed Mall retail centre. In doing so the proposal will be increasing the overall retail and commercial GFA across the site and introduce residential GFA to the multi-storey towers above.</p> <p>The proposed building envelopes have had regard to the envelope requirements of the TDCP B2 with stepping elevations / envelopes to each of the street edges. The nominated building separation dimensions currently represent the minimum building separation requirements within the ADG. It is noted that these separation dimensions may need to increase when based on proposed room interfaces which will be considered at future more detailed building development applications. In this regard, it is recommended that a note be included on each of the building envelope plans which states:</p> <p><i>Building separation requirements are to comply with the Apartment Design Guideline for buildings nine-storeys and above.</i></p>
<p>(v) <i>bulk, massing and modulation of buildings,</i></p>	<p>The concept development application is essential for building envelopes across the site. As such, the design merits of building design including bulk, mass and modulation of buildings cannot yet be determined.</p>

	<p>However as outlined in (a) above, the submitted UDG includes guidelines for building expression and materials, and the reference design demonstrated a high level of building articulation and modulation across the site. Future, more detailed development applications which deal with individual buildings / stages of the proposal will require separate design excellence appraisal through a DRP process.</p>
(vi) <i>street frontage heights,</i>	<p>The proposed building envelopes have had regard to the street frontage requirements as set out within the TDCP Section B2, which nominates the Bay and Wharf Street frontages as street frontage Type A. This includes a podium height between 12m-24 with a 4-6m setback for levels above. The building envelope plans (A-DA-021 and 022) illustrate compliance with these street frontage height provisions. Frances Street does not have a street frontage height requirement within the DCP.</p>
(vii) <i>solar access controls,</i>	<p>There are no prevailing solar access controls which specifically relate to mixed use / retail centres however the future more detailed building designs which include residential uses will need to comply with the ADG solar control requirements.</p> <p>The reference design architectural drawing set includes solar access diagrams during the equinox, summer and winter solstice at three-hour intervals (see A-DA-404 Solar Access by Hour) based on the reference design scheme. The varied building form across the site will inevitably result in overshadowing of public domain areas at various times of the day and year.</p> <p>The north-south alignment of the main pedestrian spaces will receive solar access in the middle of the day in the middle of winter. Elevated communal open spaces on roof tops (such as Building J) also ensure that there is always an element of natural sunlight access during winter months. Conversely, the building form, including double volume canopy structure will provide much needed shade during summer months.</p> <p>Individual sunlight access diagrams will be required for each building approval demonstrating compliance with the ADG requirements for the residential components of those buildings</p>
(viii) <i>environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i>	<p>The reference design architectural drawing set includes solar access diagrams during the equinox, summer and winter solstice at three-hour intervals (see A-DA-404 Solar Access by Hour) based on the reference design scheme which demonstrates that whilst there will be</p>

	<p>extensive cross site overshadowing, building separation will result in natural light spilling across the site at different times of the day and year.</p> <p>An Environmental Wind Assessment report (prepared by Arup) was also submitted as part of the development application. The assessment in part states:</p> <p><i>Qualitatively, integrating the expected directional wind conditions around the site with the wind climate for assessment with the Lawson criteria, it is considered that the majority of locations would be classified as suitable for pedestrian standing, increasing to pedestrian walking around the outer corners of the development: Buildings A, B-a, E-b, and Fb. The open laneways between these buildings would be appropriate for transient activities, but they would need additional amelioration if used for more sedentary use such as café or window shopping. The open market area would be expected to be suitable for pedestrian sitting.</i></p> <p><i>All locations would be expected to pass the safety criterion. These conditions would be considered appropriate for such a development in this location.</i></p> <p>Based on this assessment, it is recommended that the numerical and physical modelling be imposed as a condition of consent for future subsequent development applications to ensure an appropriate level of pedestrian amenity particularly at the ground plane.</p> <p>In terms of reflectivity, building materials, roof and façade systems are not yet known and will be the subject of more detailed review as part of future development applications and DRP processes. It is however noted that within the reference design, many of the building's roofs will be planted out / landscaping.</p>
<p>(ix) <i>the achievement of the principles of ecologically sustainable development,</i></p>	<p>An ESD report (prepared by Integral V3) was submitted as part of the concept development application. In summary the report identifies two key commitments for the redevelopment being:</p> <ul style="list-style-type: none"> • <i>To target zero emissions in operation.</i> • <i>To achieve a Green Star Building 4-star rating at a minimum and aim for 5-star rating.</i> <p>The report also provides a series of targets under the themes of:</p> <ul style="list-style-type: none"> • <i>Biodiversity and natural systems</i> • <i>Water resource and quality</i> • <i>Climate risk and resilience</i> • <i>Transport and mobility.</i>

	<ul style="list-style-type: none"> • <i>Public health and community wellbeing.</i> <p>It is recommended that each of these theme-based objectives, opportunities and initiatives are identified within the development consent to guide future more detailed development applications.</p>
(x) <i>pedestrian, cycle, vehicular and service access, circulation and requirements,</i>	<p>The opening up of the site through a series of cross site shared space streets, laneways and arcades improve the overall circulation to and across the site, benefiting pedestrian and cycle connectivity. The proposed configuration would also seek to separate the higher volumes of vehicle and service movements from pedestrian areas.</p> <p>The reference design proposal allocates basement carparking which in effect liberates much of the ground plane as pedestrian realm. The UDG references the need to integrate a variety of cycle parking options around the site thereby promoting active transport.</p> <p>While the ground plane is for a large proportion pedestrian space, the exception is the north-south and east-west street which would have limited vehicle movements (delivery, ride share) and would be controlled via bollards. The primary service, loading and unloading movements would be consolidated into one service corridor which runs along the eastern edge of the site. This corridor would be enclosed to reduce impacts of light, noise emanating from those service areas.</p>
(xi) <i>the impact on, and any proposed improvements to, the public domain.</i>	<p>As an overall proportion of the 50,008m² site, 10,909m² would be categorised as open space, including deep soil zone 3,624m².</p> <p>As outlined above, the proposal's building envelope plan will provide the sites structure planning framework for improvements to public domain areas across the site. The current Tweed Mall development represents a 'closed box' style retail development. Whilst retained in private ownership, the proposed development seeks to 'open up' the site with multiple points of access and a series of public domain areas which are open to the sky. This network of pedestrian spaces would thereby contribute to the broader network of public domain and open space areas within the Tweed City Centre.</p> <p>Many of these areas across the site including the north-south street, east west street and green heart would essentially remain open for public access on a 24/7 basis. As demonstrated within the reference design, there will also be a significant uplift in the amount of deep soil zone and landscape planting areas across the site compared to the existing condition.</p>

Having regard to the above Design Excellence comments, it is considered that the provisions of CI 6.10 have been met, subject to the recommended deferred commencement condition requiring: amendments to the building envelope plans; an addition DRP session; and amendments to the UDG, to ensure that the proposal aligns with DRP comments and provides a strong framework for future stages of the development. Future detail design applications for Stages 1, 2 and 3 of the development will need to address this clause in detail as well.

With respect to the above planning assessment, the proposal is considered to be consistent with the TCCLEP 2012.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which have been the subject of public consultation under the EP&A Act which are relevant to the proposal.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- ***Tweed Development Control Plan 2008 ('TDCP')***

TDCP 2008 came into effect on 30 April 2008 and aims to:

1. *Achieve development that is consistent with the social, economic and environmental values of the shire;*
2. *Promote ecologically sustainable development and aims to provide a safe living and working environment;*
3. *Form part of a range of documents that provides a guide towards a more sustainable future for the Tweed Shire; and*
4. *Provide design issues, performance criteria and standards for development both on a shire wide basis and those that relate specifically to particular development areas.*

TDCP 2008 operates in two parts to account for development controls that apply on a shire wide basis and to account for development controls that are applicable to specific sites or localities.

The proponent has addressed the relevant Sections of the TDCP 2008 which apply to the proposal having regard to the site locality and various aspects of the proposal. Councils' assessment of the proposal against those sections is contained herein.

Section A1 Part C – Residential Flat Buildings and Shop-top Housing

The proponent has noted that “...Whilst this part of the DCP technically applies to the subject proposal, the many specific components of this part of the DCP do not properly relate to the subject site circumstances” and that “...Residential controls are addressed in the site specific TDCP 2008 Section B2 for Tweed City Centre”.

Council officers concur that the site specific residential design controls of Section B2 of the DCP prevail over Section A1, which is a shire wide control. The provisions of Section A1 apply where Section B2 and the ADG controls are silent. Given that the Concept proposal is applying for building envelopes only, the future Stage 1, 2 and 3 DA's will need to address any applicable provisions of Section A1.

Section A2 Site Access and Parking Code

The proponent has noted that *"...Whilst this part of the DCP technically applies to the subject proposal, the access, parking and servicing controls in the site specific TDCP 2008 Section B2 for Tweed City Centre are more relevant to the subject proposal"*.

Council officers concur that the site specific access / parking controls of Section B2 of the DCP prevail over Section A2, which is a shire wide control. It is also noted that ADG parking requirements (where relevant) prevail over Section B2 and A2 parking requirements.

Section A3 Development of Flood Liable Land

The proponent has supported the Concept proposal with a Flood Statement (prepared by Molino Stewart Pty Ltd, dated 15 November 2023), which confirms that *"...the site is almost completely above the 1% AEP flood extent but is impacted by the Probable maximum Flood (PMF)"*.

Having regard for the reference design, it is noted that a floor level of RL 3.5m AHD is proposed for the ground floor of the development. This is above the Planning Flood Level. The basement entry ramps are also proposed at RL 3.5m AHD (provided ventilation inlets, fire escapes and other openings) are also designed to prevent water entering below RL 3.5m AHD, is supported for greater flood immunity. The residential component of the development is located at RL 8.9m AHD which is higher than the PMF.

DCP A3 requires all new development to have permanent high level road / pedestrian route(s) to land above PMF or provide a suitable PMF refuge subject to the recommendations of an acceptable Flood Assessment Plan. The development will provide a PMF refuge in place for the residential towers. The site also has a road evacuation route to land above PMF through Bay Street and west to Thomson Street, Tweed Heads.

The Flood Statement prepared by Molino Stewart dated 15 November 2023 provides the following summary of the development against Section A3 controls:

Control	Considerations for the Site
A3.2.4. Design Flood Levels and Minimum Habitable Floor Level	<p>The Design Flood Level for the site is 2.6 m AHD (as per Council's Flood Report).</p> <p>This clause sets the Minimum Habitable Floor Level or Flood Planning Level (FPL) as 3.1 m AHD (i.e. 0.5 m + 2.6 m AHD). The climate change flood level does not apply to the site because it is not a greenfield residential subdivision exceeding 5 ha.</p>
A3.2.5. High Flow Areas	Does not apply to the site, as it is not a high flow area.
A3.2.6. Emergency Response Provisions	<p>These clauses apply to future residential use of the site:</p> <ul style="list-style-type: none"> • <i>Residential accommodation (except for dwelling houses , secondary dwellings or dual occupancies in Zone RUS Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R5 Large Lot Residential), tourist and visitor accommodation, caravan parks (including moveable dwellings), correctional facilities, as defined by the Tweed LEP:</i> <ul style="list-style-type: none"> ○ <i>Control: All new development to have permanent high level road/pedestrian evacuation route(s) to land above PMF level and/or adequate PMF refuge, subject to the recommendations of an acceptable Flood Response Assessment Plan. Note 3</i> ○ <i>Major expansion of existing development below PMF level must meet new development criteria above.</i> • <i>All Other Habitable Development (except for dwelling houses, secondary dwellings or dual occupancies in Zone RUS Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R5 Large Lot Residential):</i> <ul style="list-style-type: none"> ○ <i>Control: Flood Response Assessment Plans are required to be submitted with Development Applications for all habitable land uses in the floodplain. Note 5</i> <p>A Flood Response Assessment Plan will be required for the site that details the nominated flood risk management approach for the development (evacuation, shelter in place) and how that will be achieved. Note 3 states that, "if the above (evacuation) requirements are not able to be satisfied for all future occupants of the development, a PMF refuge shall be provided in accordance with design criteria in Note 4."</p> <p>All dwellings would be above the PMF level (5.3 m AHD). Council's Flood Engineer has confirmed in written correspondence that residential towers above the PMF that comply with shelter in place requirements can serve as PMF refuges. This is subject to size, accessibility, and emergency management</p>

	considerations. See Appendix A (Note 4). Support structures below PMF level must be capable of withstanding flood forces (water flow, debris impact, and buoyancy) and continuous submergence for up to one week.
A3.2.7 High Flood Hazard Areas	Does not apply to the site, as it is not a high hazard area.
A3.3.2 Development Generally on Flood Liable Land (Lower Tweed)	<p>The considerations for the site are:</p> <ul style="list-style-type: none"> • <i>All Building Materials used below Council's adopted design flood level must not be susceptible to water damage.</i> • <i>Electrical Supply Subject to the requirements of Northern Rivers Electricity, all electrical wiring, power outlets, switches, etc., should, to the maximum extent possible, be located above the design flood level. All electrical wiring installed below the design flood level should be suitably treated to withstand continuous submergence in water.</i> • <i>Car Parking Car parking in the form of basement parking will not be approved below the design flood level unless it is protected against the inflow of water to a level of 500 mm above the design flood.</i> • <i>All filling is to be graded so that it drains to the street or other approved permanent drainage system.</i> <p>The development will be above or protected to (in the case of the basement parking) a level higher than the Design Flood Level, and so will meet the electrical and building material requirements.</p> <p>All ramps from the street to the basement car parking levels are set to a level of 3.5 m AHD. This is 0.9 m above the Design Flood Level, and 0.4 m above the minimum requirement.</p> <p>Any filling on site will have to be graded to drain to the street or a drainage system.</p>
A3.3.3 Residential Development on Flood Liable Land (Lower Tweed)	<p>This sets the habitable areas of all residential buildings to be at a level of not less than Council's adopted minimum floor level for development.</p> <p>The proposed ground floor is set to 3.5 m AHD, which is 0.4 m above the Minimum Habitable Floor Level (Flood Planning Level) or 3.1 m AHD. All residential areas are higher than this level.</p>
A3.3.4 Commercial and Industrial Development on Flood Liable Land (Lower Tweed)	<p>This requirement states that:</p> <p><i>Commercial and industrial development will be required to make adequate provision of flood free storage areas for stock and equipment susceptible to water damage.</i></p> <p>In written correspondence, Council's Flood Engineer has confirmed that this means having a location to store stock in a location protected from the 1% AEP flood level. The ground floor is 0.9 m above the Design Flood Level, and so all retail area meets this requirement.</p>

Having reviewed the application, it is considered that the Concept proposal complies with Section A3 of the TDCP 2008. Future applications will need to address Section A3 in detail and be accompanied by a Flood Impact Assessment prepared by a suitably qualified engineer. A condition of consent has been recommended in this regard.

Section A4 Advertising Signs

Given that the application is a Concept proposal, the provisions of Section A4 are not applicable. Each future stage will need to detail how advertising is being addressed as a whole of site strategy.

Section A13 Socio Economic Impact Assessment

The proponent has provided the following comments with regard to Section A13:

“The proposal demonstrates a commitment to improving housing diversity in the locality and providing housing that responds to the needs, lifestyle and values of the local community. The Concept Plan application will facilitate future development providing high density housing in close proximity to transport nodes. By providing housing close to transport nodes within an existing city centre, residents will benefit from reduced commuting times, improved access to employment opportunities and a greater range of services achieving the NSW Governments objective for a walkable and 30 minute city.

The proposal will also provide for additional employment floor space which will promote both business activity and private sector investment within the centre providing for the growth and evolution of the centre. The increased residential population on the site will support the viability of local businesses. The proposal will also generate employment during the construction phase of the development.

The proposal will facilitate the redevelopment of the site in a manner which will have positive social impacts in terms of urban renewal in an existing urban context that will create a vibrant cosmopolitan culture within Tweed CBD. In summary, the social and economic impacts include:

- Multiple through site links*
- Significantly improved local amenity including new retail and commercial uses and business opportunities, new medical centre, gym, child care centre, and entertainment facilities*
- Significantly increased employment opportunities for local residents*
- Access to high quality new housing including a range of 1, 2 and 3 bedroom dwellings, and*
- High quality podium top communal open space within the development.*

An Economic Impact Assessment accompanies this application which quantifies the economic benefits which will result from the redevelopment of the site as envisaged by this Concept Plan application”.

The proponent’s Economic Assessment, prepared by Think Economics and dated April 2023 is considered to be, in essence, a summary of “economic benefits” as measured by changes in GDP, gross value added, employment and the like. It does not properly address the retail component of the proposed development or Council’s Retail Strategy.

Council’s Request for Further Information (RFI) specifically noted that the report does not address the need for, and impact of, what is a very substantial increase in retail floorspace (+23,232 m² or +167%). In this regard, the proponent was requested to amend the Economic Assessment to address a number of matters, including an analysis of the demand for additional retail floorspace and a detailed review of the extent to which the

proposed development is consistent with the Tweed Retail Strategy - particularly policies 2&3.

In response to Council’s RFI, the proponent noted the following:

“This application is not for a Planning Proposal for any change to the existing planning controls, and instead is simply a proposal that is permissible on the site and within the permitted floor space. Therefore it is not incumbent upon the applicant to demonstrate a “need” for the floor space, as this is a commercial consideration for the applicant.

The economic report was provided with the application only for the purpose of demonstrating that there is a net and significant positive overall economic outcome as a result of the proposal.

It is not agreed that it is necessary to provide any further economic assessment, and in particular it is noted that several items requested are commercial in confidence”.

Given that the Concept proposal is seeking approval for building envelopes and UDG’s only and design detail of the future uses within various components of the development site are not yet known, the provisions of section A13 are not considered to be applicable to the Concept proposal. An appropriate condition has been recommended requiring future applications to address Section A13 and include a review against Council’s Retail Strategy.

Section A15 Waste Minimisation and Management

The proponent has supported the Concept proposal with a Waste Management Strategy (prepared by AREUP, dated 3 April 2023) with respect to the operational aspect of waste management for the mixed use development.

Whilst it was recognised that the Waste Management Strategy was a high level plan, looking at a number of options and proposed methodologies for waste management, including options for chutes and the potential to install an automated waste collection system, compaction systems and a number of bin storage and management options without committing to any.

The proponent was requested to provide a more detailed Strategy for the proposed development in order for Council officers to determine if it is acceptable with regard to Council’s Section A15 requirements.

The proponent’s RFI Response incorporated an Amended Waste Management Strategy Report prepared by ARUP which outlines the specific waste collections arrangements that are proposed for the future redevelopment of the site.

Having reviewed the Amended Strategy, the following comments are noted:

“The development is currently proposed to include the operations listed in the below table:

<i>Areas use</i>	<i>Premises type</i>	<i>Indicative Area (m2)</i>	<i>Floor</i>		
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<i>Restaurant, specialty F&B, F&B</i>	<i>Restaurant, Cafe</i>	<i>6,643</i>		
<i>Lifestyle, medical, wellness, specialty, retail</i>	<i>Shop > 100m</i>	<i>13,671</i>		
<i>Retail</i>	<i>Supermarket</i>	<i>9,788</i>		
<i>Fruit and Veg</i>	<i>Green grocers</i>	<i>387</i>		
<i>Butcher, Chicken</i>	<i>Butcher</i>	<i>300</i>		
<i>Seafood</i>	<i>Fish shop</i>	<i>150</i>		
<i>Bakery, Specialty</i>	<i>Delicatessen</i>	<i>390</i>		
<i>Commercial</i>	<i>Offices</i>	<i>12,743</i>		
<i>Public Lobby</i>	<i>Lobby</i>	<i>156</i>		
<i>Childcare</i>	<i>Child care centres and facilities with kitchens</i>	<i>1,976</i>		
<i>Cinema Entertainment</i>	<i>Entertainment venues</i>	<i>4,699</i>		
<i>Gym retail</i>	<i>Gym</i>	<i>1,620</i>		
<i>Hotel Residential</i>	<i>Hotels</i>	<i>3,947</i>		
	<i>Total</i>	<i>56'470</i>		
<i>Residential apartments</i>	<i>Multi-unit residential development</i>	<i>1,238 units</i>		

The scale of this concept is unlike any other development in the Tweed Shire and therefore has been evaluated as much as possible based on how things are done in other major capitals and at larger style developments.

They have used Councils Green Star building requirements and best practice standards set by City of Sydney as well as the NSW EPA Better Practice guide for resource recovery in residential developments and the waste streams addressed in the waste generation modelling include:

Residential waste

- *Landfill*
- *Commingled recycling,*
- *Food and organic waste,*
- *Bulky and problem waste*

Commercial Waste

- *Landfill*
- *Commingled recycling*
- *Paper and cardboard*

- *Food and organic matter*

They also recognise the opportunities that exist for other waste streams including the container deposit scheme, commercial reusable item, commercial bulky and problem waste, e-waste, cooking oil and other potential future waste streams.

Waste volumes are estimated as follows in their submission report:

Commercial waste volumes

<i>Lot</i>	<i>Landfill Volume l/day</i>	<i>Recycling volume l/day</i>	<i>Organics volume l/day</i>	<i>Paper & cardboard l/day</i>
<i>1</i>	<i>37,766</i>	<i>6,456</i>	<i>2,755</i>	<i>29,163</i>
<i>2</i>	<i>37,951</i>	<i>3,852</i>	<i>906</i>	<i>5,836</i>
<i>3</i>	<i>6,657</i>	<i>1,053</i>	<i>842</i>	<i>3,443</i>
<i>Total daily</i>	<i>82,374</i>	<i>11,361</i>	<i>4,503</i>	<i>38,442</i>
<i>Weekly</i>	<i>577 m3</i>	<i>79.5 m3</i>	<i>31.5 m3</i>	<i>269 m3</i>

Domestic waste volumes

<i>Lot</i>	<i>Landfill volume l/day</i>	<i>Recycling volume l/day</i>	<i>Organics volume l/day</i>
<i>1</i>	<i>5,323</i>	<i>7,097</i>	<i>1,774</i>
<i>2</i>	<i>7,084</i>	<i>9,446</i>	<i>2,361</i>
<i>3</i>	<i>3,523</i>	<i>4,697</i>	<i>1,174</i>
<i>Total daily</i>	<i>15,930</i>	<i>21,240</i>	<i>5,309</i>
<i>Weekly</i>	<i>111.5 m3</i>	<i>149 m3</i>	<i>37.1 m3</i>

Domestic waste volume assessment using the DCP

Waste volumes calculated by Council per property for the domestic properties using the DCP A15 multiplier are 99.04 m3 per week of waste, and 49.52 m3 per week of recycling. We do not currently include a separate calculation for organics as these are usually not collected separately in multi unit development as this is usually hard to estimate given all sites have different arrangements and property.

It would therefore seem that the domestic estimates for the quantities of waste being generated in this plan are extremely high given our experience within Tweed Shire, however even if the quantities are closer to what is being generated based on Councils DCP, the site would require 34 three metre bins for waste per week and 138 by 360 litre recycling bins. Council does not currently provide a bulk bin recycling service and if we wished to do so, here would be a good place to start with 1.5 front lift vehicles able to be collected from here a week.

Commercial waste volume management

The volumes as stated in their estimates for the commercial properties are significantly higher than those generated by the 1,238 units with waste being 5.8 times as much, and recycling, organics and paper and cardboard generating 7.7 (approx.) times the quantity of the residential units. These quantities if generated will need full time resources, that is everyday service with hundreds of bulk bins needed to be serviced every week.

To put some scale on this proposal, the figures provided show that using their estimates for commercial property and our more conservative estimates for general waste they would generate 688.5 cubic m per week, and the Tweed Shire collection of bulk waste is currently 93 cubic m of waste. The domestic component of this building (99 m³) will generate more residual waste than what we currently collect per week.

With the estimates for waste generation that have been provided, Council officers would want to be working very closely with the development to ensure we understood the impact of service vehicles and presentation areas, as servicing the development has potential to impact residents and traffic flows in the area, and service points would not be possible at kerbside.

Chute arrangements and bin storage areas

The arrangements indicate many tiers of development and proposed levels of separation between commercial and domestic operations, but it is impossible to fathom the complexity of the designs without some more details. The designers have mentioned common collection areas and materials being collected from location close to loading docks, but without drawings and design detail it is impossible to fully evaluate what is submitted.

The quantities of waste calculated above will entail a large storage area and this will depend on the types of services proposed, eg bulk bins, compactor bin arrangements. All bins on this site should be collected from within the boundary given the scale of the development and the likely impact bins in public areas and services would cause”.

In summary, the proponent’s Amended Waste Management Strategy associated with the proposed Concept Plan is considered to be acceptable with regard to the provisions of Section A15. However, the proponent will need to work closely with Council officers to ensure that future staging incorporates adequate waste management areas within the development for both domestic and commercial waste. As previously noted, the proposed building envelopes do not include any basement levels below ground, which is where the reference design has identified various waste storage and collection areas.

Section A16 Preservation of Trees or Vegetation

The proponent has supported the Concept proposal with a Preliminary Arboricultural Impact Assessment (AIA) report (prepared by Modern Tree Consultants, dated March 2023) which identified the likely removal of all 141 trees and palms “...within and surrounding the site”.

Whilst the provisions of section A16 are not considered to be applicable to the Concept proposal, it is noted that the AIA was considered incomplete and failed to identify and assess all ‘prescribed vegetation’ occurring onsite and including street trees occurring

within the road reserve. In order to: a) comprehensively assess tree impact associated with each future stage of the development; b) ensure urban canopy cover is maintained; and c) promote the use of local native species through onsite landscaping, the following is recommended:

1. *The Urban Design Guidelines – Bay Wharf Tweed Heads are updated to reflect predominant composition of local native landscape species for all precincts and compensatory planting ratio of 2:1 (replace to remove); and*
2. *An Arboricultural Impact Assessment is to accompany future applications for each stage of the development.*

Section B2 Tweed Heads

The following **Table 6** is a summary of the assessment of the Concept proposal against the relevant controls of Section B2 of the TDCP.

Table 6: Summary of Assessment against Section B2

Development Control	Proposal / Comments
2.0 City Centre Character Areas	
<p><i>2.1 Character Statements – City Centre Core Precinct</i></p> <p>The City Centre Core Precinct is the ‘heart of the city’ and is well located to accommodate the bulk of future residential and business development necessary to fulfil the regional centre role of Tweed Heads while connecting with the existing urban form of Tweed Heads and Coolangatta.</p> <p>The future character of the City Centre Core Precinct will be of a dynamic centre with a mix of land uses comprising retail uses at ground level activating the street frontage and podium levels comprising commercial offices topped by residential high rise buildings ranging from 10 to 14 storeys in height. The main two streets in the precinct are Bay Street and Wharf Street.</p> <p>The visual and functional character of Bay Street and Wharf Street will be improved through enhancements to the public domain in the form of integrated planting, paving, lighting and street furniture schemes framed by high quality buildings. Streets will have continuous awnings to provide weather protection to pedestrian street activity.</p>	<p>The SEE notes that the subject site is well located to accommodate the bulk of future residential and business development necessary to fulfil the regional centre role of Tweed Heads while connecting with the existing urban form of Tweed Heads and Coolangatta.</p> <p>It also states that the proposal is consistent with the desired future character for the City Centre Core Precinct in that it will provide a dynamic mix of land uses comprising retail uses at ground level activating the street frontage and podium levels comprising commercial offices topped by residential high rise buildings up to 15 storeys in height.</p> <p>The proposal specifically activates the main two streets in the precinct of Bay Street and Wharf Street.</p> <p>The SEE notes that the proposal will facilitate the improvement of the visual and functional character of Bay Street and Wharf Street through enhancements to the public domain in the form of integrated planting, paving, lighting and street furniture schemes framed by high quality buildings.</p>
3.0 Building Form	
<p><i>3.1 Building Alignment & Setbacks</i></p> <p>a) Street building alignment and setbacks requirements are to comply with Figures 3-1 (0m setback)</p> <p>b) The external façade of buildings are to be aligned with the streets that they front.</p>	<p>The DCP suggests a nil front boundary setback for the site to reinforce the urban character and improve pedestrian amenity and activity at street level.</p> <p>The SEE notes that in relation to Bay Street, the proposal provides a nuanced approach to street setback, with Building A at the north-western corner of the site having a nil setback to reinforce and</p>

c) Balconies may project up to 1.2m into the front building setback in the Medium Density Residential Zone and up to 600mm in all other zones, provided that the cumulative width of all balconies at that particular level has a total of no more than 50% of the horizontal width of the building façade, measured at that level.

d) Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible (see also Building Design and Materials at Section 3.5 of this Plan).

(e) Notwithstanding the setback controls, where development must be built to the street alignment (see Figures 3.1 and 3.2), it must also be built to the site boundaries (0m setback) where fronting the street. The minimum height of development built to the site boundary must comply with the minimum street frontage height requirement. Corner Lot: Adopt principle street setback. Secondary street setback is 6.0m irrespective of height.

3.2 Street Frontage Heights

- a) Buildings are to comply with Figure 3-4 street frontage heights and as illustrated in Figures 3-5 to 3-10

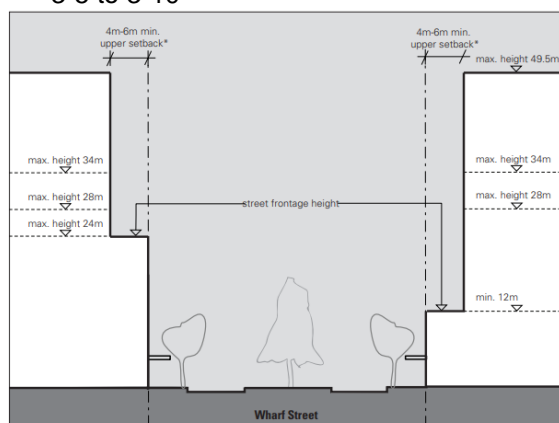


Figure 3-5: Street frontage height 'A'

strengthen the corner. However, the remainder of the buildings along Bay Street are setback approximately 9.7 metres. The purpose of this setback is to create a generous zone for outdoor dining for ground floor restaurants, as this is the ideal location for outdoor dining due to its northerly aspect and outlook over Chris Cunningham Park and Jack Evans Boat Harbour beyond. Whilst this setback involves a variation to the suggested nil setback control, it is specially proposed to meet the objective of the setback control to reinforce the urban character and improve pedestrian amenity and activity at street level.

The SEE also notes that in relation to Wharf Street, Building A at the north-western corner of the site has a nil setback to reinforce and strengthen the corner the front property boundary. However, the remainder of the front property boundary to Wharf Street does not relate to any physical delineation, noting that the front property boundary awkwardly dissects the existing at-grade car park. The proposed setbacks from the Wharf Street property boundary are variable and designed to align closely to the front Statement of Environmental Effects - 16-32 Wharf Street, Tweed Heads 64 Section Comment property boundary, but also to provide a pedestrian footpath along this frontage between the at-grade car park and the building facades.

In addition, the SEE states that the southern elevation to Frances Street will contain the servicing elements of the proposal, which liberates the Bay Street and Wharf Street frontages and allows maximum activation of these streets. As a result, it is proposed to provide a street setback of 3 metres.

The SEE notes the following:

Figure 3.5 of the DCP identifies a street frontage height for Bay Street and Wharf Street of a minimum of 12 metres and maximum of 24 metres, with a 4 metre minimum upper setback for buildings with a total height of 34 metres or less, and 6 metres minimum upper setback for buildings a total height greater than 34m.

The proposal has deliberately adopted only a 2 storey scale and a height of between 7.8-8.15 metres for the podiums facing Bay Street and Wharf Street for the following reasons:

- The 2 storey scale is intended to achieve a human scale for the street wall which is less dominant to the pedestrian experience and allows for a more comfortable street environment for pedestrians in terms of daylight, scale, and less of a sense of enclosure.*
- Due to the particularly large scale of the site, the podiums are relatively large and not well suited to*

3.3 Building Depth & Bulk

a) The maximum floor plate size and depth of buildings are specified in Table 3-1 and illustrated in Figure 3-11.

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 ²	25m
	Residential and serviced apartments	Above SFH	900m ²	18m
	Non-residential	Above SFH	900m ²	25m
Mixed use	Residential and serviced apartments	Above SFH	700m ²	18m
	All uses	Above SFH	700m ²	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.

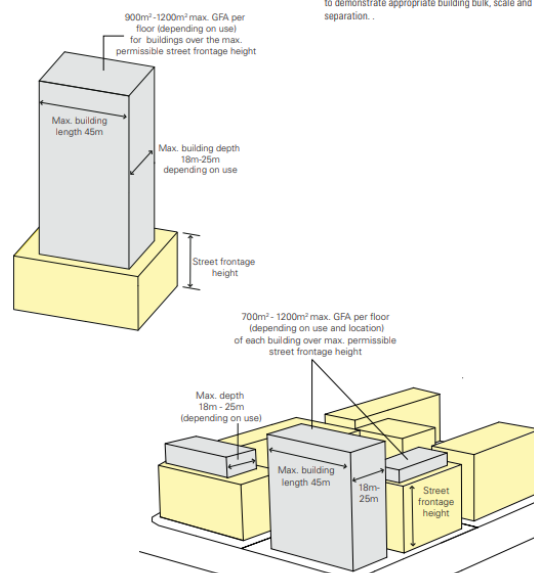


Figure 3-11: Building bulk and depth controls

b) Notwithstanding control (a) above, no building above 24 metres in height in the Commercial Core and 22 metres in height in all other zones, is to have a building length in excess of 45 metres.

c) Where no street frontage is specified in Figure 3-4 and the building height exceeds 22 metres, the maximum GFA per floor

residential or office accommodation and so it is preferred to start the towers, with their smaller floorplate, from a lower level.

- There is no consistent character of street wall around the site, and so it is possible for the subject proposal to establish a new and lower podium scale which provides for greater generosity for the street.

The setbacks above the street frontage are variable due to the differing shapes for the tower building envelopes, however, they are generally above 6 metres and usually significantly greater than 6 metres.

In summary, the proposed street frontage heights and setbacks above will contribute to a strong definition of the street and public domain, and the overall proposal will reflect the city's status as a regional centre and achieve well framed streets around the site.

The SEE notes the following:

The DCP suggests the following GFA, building depth and building length for towers in the commercial core:

- Non-residential: 1200sqm; 25m; 45m
- Residential: 900sqm; 18m; 45m

The objectives of the building depth and bulk are as follows:

- 1) To promote the design and development of sustainable buildings.
- 2) To achieve the development of living and working environments with good internal amenity, and minimise the need for artificial, heating, cooling and lighting.
- 3) To provide viable and useable commercial floor space.
- 4) To achieve a usable and pleasant public domain at ground level by controlling the size of upper level floorplates of buildings.
- 5) To achieve a city skyline sympathetic to the topography and context.
- 6) To allow for view sharing and view corridors.
- 7) To reduce the apparent bulk and scale of buildings by breaking up expanses of building walls with modulation of form and articulation of façades.
- 8) To encourage building designs that meet the broadest range of occupants' needs possible, and which can accommodate whole or partial changes of use.

The residential building envelopes vary in size but are greater than 900 square metres. However, this is considered acceptable for the subject proposal for the following reasons:

- The subject proposal is for a Concept Plan and provides for building envelopes, not actual

d) All points on an office floor should be no more than 10 metres from a source of daylight (eg windows, atria or light wells in buildings less than 24 metres in height, and no more than 12.5 metres from a window in buildings over 24 metres in height).

buildings. In accordance with Section 2B of the Apartment Design Guide building envelopes should be 25-30% greater than the achievable floor area to allow for building components that do not count as floor space but contribute to building design and articulation such as balconies, lifts, stairs and open circulation space. The proposed envelopes range in size and shape and are deliberately generous to provide flexibility for future building designs which are nuanced and modulated to maximum architectural expression, visual interest and amenity. The future detailed buildings will likely be smaller than the building envelopes and will need to demonstrate compliance with the maximum building depth and bulk requirements.

- *The proposal has elected to minimise the number of residential towers across the site to the perimeter of the site to allow for a lower scale of development centrally within the site. This achieves a significantly improved urban design outcome when compared to the alternative where residential towers which strictly adhere to ADG separation and maximum floorplate size are stacked across the site in rows. However, the proposed approach, which limits the number and location of towers, requires slightly larger tower floorplates in order to facilitate a feasible floor space outcome.*

- support future buildings with a high level of amenity;
- do not compromise the achievement of a usable and pleasant public domain at ground level, noting that the concept includes only a two storey podium height to maximise ground floor amenity;
- will achieve a city skyline sympathetic to the topography and context.
- will not compromise view sharing
- will not result in excessive bulk and scale, noting that the future detailed design of the buildings will include façade modulation and articulation to provide visual relief and a high level of visual interest for the development.

- a) Provide flexible building layouts which allow variable tenancies or uses on the first two floors of a building above the ground floor.
- b) Minimum floor to ceiling heights are 3.3 metres for commercial offices, 3.6 metres for active public uses, such as retail and restaurants, and 2.7 metres for residential.
- c) Separate commercial service requirements, such as loading docks so as not to interfere with residential access, servicing needs and primary outlooks.

The DCP prescribes a side/rear setback requirement of 0m up to the street frontage height (i.e. 12m-24m), and 6m setback up to 40m in height. The proposed podium has a variable setback from 0m to approximately 6m, whilst the towers above have a side setback from the eastern boundary of approximately 6m+.

- d) Locate clearly demarcated residential entries directly from the public street.
- e) Clearly separate commercial and residential entries and vertical circulation.
- f) Provide security access controls to all entrances into private areas, including car parks and internal courtyards.
- g) Provide safe pedestrian routes through the site, where required.
- h) Front buildings onto major streets with active uses.
- i) Avoid the use of blank building walls at the ground level.



Figure 3-13: Mixed use buildings sketch

3.5 Building Design & Materials

3.6 Landscape Design

3.6 Planting on Structures

The proposed building envelopes are intended to facilitate a 2 storey podium which provides for future buildings with a flexible building layout in the podium to allow variable tenancies or uses on the first two floors of the buildings above the ground floor.

The building envelopes provide sufficient height in the podium to achieve minimum floor to ceiling heights of 3.3 metres for commercial offices, 3.6 metres for active public uses, such as retail and restaurants.

The future buildings will be designed to achieve a minimum 2.7 metres floor to ceiling heights for residential levels.

The indicative or reference scheme demonstrates that:

- *separate commercial service requirements, such as loading docks, can be provided in a manner which does not interfere with residential access, servicing needs and primary outlooks.*
- *residential entries can be provided either directly from the external or internal streets.*
- *commercial and residential entries and vertical circulation can be separated*
- *safe pedestrian routes through the site will be provided via the new north-south primary link and various east-west links*
- *buildings along both major streets (Wharf and Bay Streets) will be addressed with active uses.*

N/A to Concept Proposal. Future DA's will need to address these controls.

N/A to Concept Proposal. Future DA's will need to address these controls, noting the Urban Design


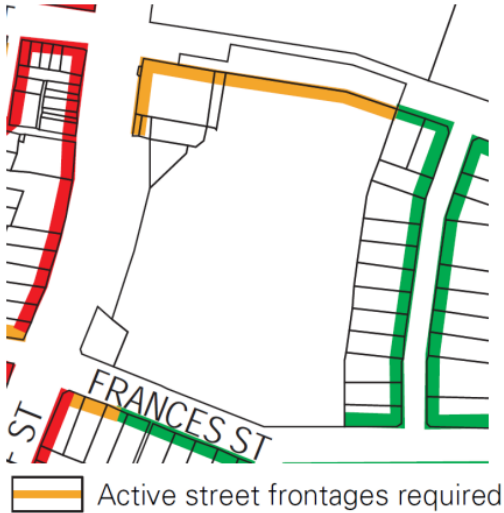
	<p>Guidelines include landscaping design requirements.</p> <p>N/A to Concept Proposal. Future DA's will need to address these controls.</p>
4.0 Pedestrian Amenity	
<p>4.1 Permeability</p> <p>Through site links provide connections between the long sides of street blocks. The existing lanes and through site links are an integral component of the pedestrian movement system, providing direct access between the street frontage and rear parking areas. With the north/south oriented grid of the northern portion of the city centre, through site links are important to improve accessibility. Additionally, lanes also provide for site servicing in a manner that protects the public domain quality of the main street frontages of the city centre.</p>  <p>Figure 4-3: Example of an active pedestrian link</p> <p>4.2 Active Street Frontages</p> <p>Active street frontages promote an interesting and safe pedestrian environment. Busy pedestrian areas and non-residential uses such as shops, studios, offices, cafés, recreation and promenade opportunities promote the most active street frontages (refer to Figure 4-4).</p> <p>Residential buildings contribute positively to the street by providing a clear street address, direct access from the street and outlook over the street.</p>	<p>The SEE notes the following:</p> <p><i>Whilst the site is not identified as requiring through-site links, arcades, shared ways or laneways in Figures 4-1 and 4-2, the creation of a highly permeable ground floor plane throughout the site is a central and key element to the proposed structure plan for the site. The proposed links will significantly improve the current site and ensue that it is connected with the broader urban context and with maximum pedestrian amenity.</i></p> <p><i>The north-south link also aligns with the north-south link opposite across Frances Street to the south.</i></p> <p>The SEE states:</p> <p><i>The DCP identifies the Bay Street frontage and the northern end of the Wharf Street frontage as requiring an active street frontages. The proposed building envelopes have been specifically designed to facilitate active frontages in these locations, and generous outdoor dining space along the Bay Street frontage, as illustrated in the indicative or reference design.</i></p> 



Figure 4-4: Active street frontage sketch

4.3 Safety & Security

The design of buildings and public spaces has an impact on perceptions of safety and security, as well as actual opportunities for crime. A safe and secure environment encourages activity, vitality and viability, enabling a greater level of security.

4.4 Front Fences & Boundary Treatments

4.5 Awnings

Awnings increase the useability and amenity of public footpaths by protecting pedestrians from sun and rain. They encourage pedestrian activity along streets and, in conjunction with active edges such as retail frontages, support and enhance the vitality of the local area. Awnings, like building entries, provide a public presence and interface within the public domain and contribute to the identity of a development.

The SEE notes the following:

The building envelopes and site structure plan have been designed to support a high level of permeability throughout the site and an enhanced level of activation throughout the site. This activation, combined with considered detailed design, will ensure that safe and secure environment is capable of being achieved in the future. Future development applications will be accompanied by a safer by design assessment in accordance with CPTED guidelines.

N/A to Concept Proposal. Future DA's will need to address these controls.

The SEE notes the following:

The DCP requires that awnings will be provided along the entire street frontage of the site to Bay Street, Wharf Street and Frances Street.

It is intended that the detailed design will provide awning along the majority of the street frontages of the site to achieve a high level of weather protection for pedestrians. Deeper awnings are intended along Bay Street over the outdoor dining areas to provide a very high level of amenity and shading for this north facing dining precinct.



With respect to s4.6, the SEE notes the following:

The DCP requires that vehicular access is to be limited from major streets including Wharf Street and Bay Street. Where practicable, vehicle access

<p>4.6 Vehicle Footpath Crossings</p> <p>Vehicle crossings over footpaths disrupt pedestrian movement and threaten safety. The design of vehicle access to buildings also influences the quality of the public domain. Overly wide and high vehicle access points detract from the streetscape and the active use of street frontages.</p> <p>The design and location of vehicle access to developments should both minimise conflicts between pedestrians and vehicles on footpaths (particularly along pedestrian priority walkways), and visual intrusion and disruption of streetscape continuity.</p> <p>Design of driveways and vehicle access is to be in accordance with the provisions of Section 5-2 of this Plan.</p> <p>4.7 Pedestrian Overpasses & Underpasses</p> <p>4.8 Advertising & Signage</p>	<p><i>is to be from lanes and minor streets rather than primary street frontages or streets with major pedestrian activity.</i></p> <p><i>The indicative proposed has consolidated vehicle entry and exit points to the eastern edge of the site. Whilst there is a vehicle access and egress point on the Bay Street frontage, this is necessary to facilitate access to the multiple car parking areas and to provide a one way loading arrangement along the eastern edge of the site. The proposal will achieve a significant improvement and rationalisation when compared with the multiple vehicle footpath crossings that current serve the site.</i></p> <p>N/A</p> <p>N/A to Concept Proposal. Future DA's will need to address these controls.</p>
<p>5.0 Access, Parking & Servicing</p>	
<p>5.1 Pedestrian Access & Mobility</p> <p>Any new development must be designed to ensure that safe and equitable access is provided to all, including people with a disability.</p> <p>5.2 Vehicular Driveways & Manoeuvring Areas</p> <p>The location, type and design of vehicle access points to a development can have significant impacts on the streetscape, site layout and building façade design.</p>	<p>The SEE notes the following:</p> <p><i>The indicative or reference scheme demonstrates that the proposed site structure plan and buildings envelopes are capable of accommodating future buildings with a clarity of building address main building entry points which are clearly visible from the external and internal street network. The Design Report prepared by CHROFI includes way-finding discussion to demonstrate how this has been considered and will be achieved by the proposed site structure plan.</i></p> <p>The SEE notes the following:</p> <p><i>The indicative proposed has consolidated vehicle entry and exit points to the eastern edge of the site. Whilst there is a vehicle access and egress point on the Bay Street frontage, this is necessary to facilitate access to the multiple car parking areas and to provide a one way loading arrangement along the eastern edge of the site. The proposal will achieve a significant improvement and rationalisation when compared with the multiple</i></p>

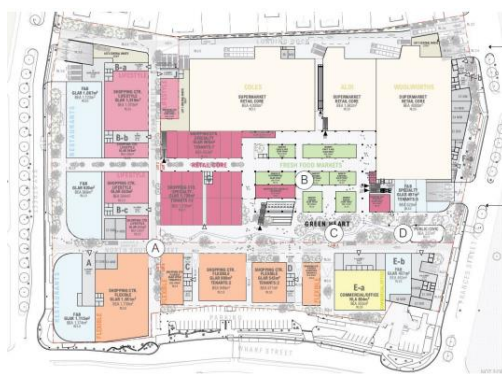
<p><i>5.3 On-site Parking</i></p> <p>On-site parking includes underground (basement), surface (at-grade) and above ground parking, including parking stations.</p> <p>There are particular constraints in certain areas of Tweed City Centre on the provision of car parking in underground structures. Due to the high watertable, excavation on certain sites may become difficult beyond one level of basement parking. This may necessitate site design which locates the parking above ground. In these cases, minimising the impacts of above ground parking on the public domain is important.</p> <p><i>5.5 Site Facilities & Services</i></p>	<p><i>vehicle footpath crossings that current serve the site.</i></p> <p><i>The future detailed design will ensure that all vehicles can enter and exit the site in a forwards direction, and all car parking areas and driveways will be designed in accordance with AS 2890.1.</i></p> <p>The SEE notes the following:</p> <p><i>The proposal is for a Concept Plan application with a range of indicative uses and quantum's. A Traffic and Parking Assessment prepared by CBRK accompanies this application and provides that based on the indicative uses and sizes/number of apartments, the development would require some 2,500 to 3,000 parking spaces. The current scheme includes some 2,500 spaces. Due to the mixed use nature of the use of the site, there will be some overlap in users of the site, as well as significant variations to peak times for various uses, which means that there is capacity to reduce the total provision of parking. Notwithstanding, the subject application does not seek consent for a specific parking provision and the final provision of an appropriate amount of parking will be addressed at the detailed development application stage.</i></p> <p>N/A to Concept Proposal. Future DA's will need to address these controls.</p>
<p>6.0 Environmental Management</p>	
<p><i>6.1 Energy Efficiency & Conservation</i></p> <p><i>6.2 Water Conservation</i></p> <p><i>6.3 Climate Change & Floodplain Management</i></p> <p><i>6.4 Reflectivity</i></p>	<p>N/A to Concept Proposal. Future DA's will need to address these controls.</p> <p>It is noted that the proponent's application includes an Ecologically Sustainable Development Strategy which details how ESD principles are intended be incorporated in the design, construction and ongoing operation of the development.</p> <p>It will be conditioned that the recommendations and targets specified in the ESD report will inform detailed development requirements for future DA's.</p> <p>N/A to Concept Proposal. Future DA's will need to address these controls.</p> <p>Refer to detailed flooding assessment elsewhere in this report.</p> <p>N/A to Concept Proposal. Future DA's will need to address these controls.</p>

6.5 Wind Mitigation	<p>N/A to Concept Proposal. Future DA's will need to address these controls.</p> <p>As noted in the CI 6.10 Design Excellence assessment, the proponent's application is supported by an Environmental Wind Assessment Report.</p> <p>It will be conditioned that the recommendations and targets specified in the Wind Assessment report will inform detailed development requirements for future DA's.</p>
6.6 Waste & Recycling	<p>Refer to detailed Waste Management assessment (Section A15) elsewhere in this report.</p>
7.0 Residential Development Controls	
7.1 SEPP 65 & Residential Flat Design Code	<p>N/A to Concept Proposal. Future DA's will need to address these controls.</p> <p>As noted in the CI 6.10 Design Excellence assessment, the proposed building envelopes have been designed to be capable of accommodating future buildings which can achieve high residential amenity, consistent with the design guidance in the Apartment Design Guide (ADG).</p>
7.2 Housing Choice & Mix	<p>N/A to Concept Proposal. Future DA's will need to address these controls.</p>
7.3 Residential Design for a Subtropical Climate	<p>N/A to Concept Proposal. Future DA's will need to address these controls.</p>
8.0 Controls for Special Areas	
8.1.3 Centro Shopping Centre Objectives: 1) To transform the area from a mono-functional shopping centre with blank façades and service areas fronting adjoining streets, to a welcoming and attractive mixed use precinct based on active street frontages to Bay, Wharf and Frances Street. This will involve the redevelopment of the existing shopping centre site and the incorporation of new mixed use buildings with new street frontages of retail/commercial functions. 2) To create a new pedestrian friendly and active street along Bay Street which complements proposed improvements to Jack Evans Boat Harbour.	<p>The proponent's SEE notes the following:</p> <p><i>"The subject site is one of 5 identified special areas, with its own set of objectives linked to the relevant development controls, which must be considered in addition to the general controls addressed previously in this Plan.</i></p> <p><i>The principles identified for the site in Section 8.1.3 of the DCP are predicated on an assumption that the existing shopping centre is being retained and seeks to encourage incremental improvements to the existing facility.</i></p> <p><i>However, the proposed concept plan and site structure layout achieves a profound improvement when compared with the aspirations identified for the site in the DCP and in particular Figure 8-5 (which is produced below) because it completely replaces the existing shopping centre and moves toward a deconstructed model based on a new public domain and street network throughout the site and an externalised and 'high street' approach towards a shopping centre experience.</i></p>

- The concept plan provides for a 2 storey street wall/podium in favour of the suggested 3-6 storeys identified in the DCP which will improve the pedestrian environment and human scale to the ground floor plane around and within the site.



Figure 8-5 of the DCP with suggested improvements to the site



Indicative scheme for the site which represents a profound improvement in comparison".

<p>8.2 Design Excellence</p>	<p>Refer to the TCCLEP 2012 Clause 6.10 Design Excellence assessment.</p>
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Having reviewed the Concept proposal and the DRP comments in terms of Urban Design / Design Excellence and UDG requirements for future stages, it is considered that the application complies with the relevant provisions Section B2 of the TDCP 2008.

Overall, the Concept proposal is considered to be consistent with the TDCP 2008, subject to the recommended conditions of consent.

Developer Contributions

Given that the proposal is a Concept Plan only, contributions pursuant to Section 7.18 of the EP&A Act are not applicable. The future stages of the development will trigger contributions as applicable for the various uses proposed.

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Being a Concept proposal only, the provisions of Section 61 of the 2021 EP&A Regulation are not applicable. Future stages will need to address demolition in order to satisfy this component of the Regulations.

Similarly, Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not applicable to this application, being a Concept proposal only. Future Stages of the development will be assessed in this regard.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- *Context and setting* – The proposal is considered to be generally consistent with the context of the site, in that the Concept proposal for the redevelopment of the existing Tweed Mall site is of an appropriate scale for the site. It is considered that the Building Envelopes and UDG's associated with the Concept proposal will ensure the character and amenity of the locality is maintained. The future applications for the development of the site will need to have regard for potential impact on adjoining properties and surrounding land uses.
- *Access and traffic* – The Concept proposal associated with the proposed redevelopment of the Tweed Mall site will result in additional parking requirements and an increase in traffic generation, as discussed in the key issues section of this report. The future applications for the development of the site will need to provide detailed assessments, having regard to parking requirements and potential impact on the surrounding road network.
- *Public Domain* – it is considered that the proposed redevelopment of the Tweed Mall site will have a positive impact upon the public domain. Whilst the assessment of the Concept proposal has focussed on the internal public domain (refer to Design Excellence comments), the future applications will provide an opportunity for the proponent to work with TSC to integrate the external public domain with the development.
- *Utilities* – The scale of the development will require significant upgrades to Council's existing reticulated water and sewer infrastructure, as discussed in the key issues section of this report. In terms of water supply, the existing Razorback reservoir does not have adequate capacity to service proposed development and augmentation will be required. In addition, the existing water trunk mains between the reservoir and the subject site will likely require significant upgrades. It is noted that the onus will then be on the developer to provide firefighting requirements within the site via internal infrastructure. Several sewerage works are required in order to accommodate the sewerage flows generated by the proposed development. These include: upgrade of existing sewer pumps; new dedicated sewer rising mains; and new sewer pump station at the southern side of the site (Francis Street), which needs to be incorporated into the development design. The future applications for the development of the site will need to provide detailed assessments, having regard to water and sewer infrastructure.
- *Heritage* – There are no heritage items located on the site contain or on any adjoining or nearby sites. Aboriginal cultural heritage is considered under TCCLEP section of this report and is adequately addressed.
- *Water/air/soils impacts* – The potential for contaminated land has been considered in the assessment of the Concept proposal under the *Hazards & Resilience SEPP* and the site is affected by acid sulphate soils (refer to key issues section). Appropriate conditions have been recommended requiring future applications to provide detailed assessments with regard to ASS, groundwater, dewatering and contamination issues associated with the subject site. Council officers undertook

an analysis of the stormwater management plan associated with the Concept proposal, with no objections raised. Future applications will need to address stormwater requirements in detail.

- *Flora and fauna impacts* – The removal of existing trees within the subject site has been considered under the Concept proposal (refer to key issues), with recommended conditions for future applications to address in detail.
- *Natural environment* – The subject site (being an existing shopping centre) is extensively developed. Whilst existing trees are being proposed for removal (refer to comments above), it is considered that the proposal will have minimal impacts on the natural environment.
- *Noise and vibration* – The Concept proposal has been assessed with regard to potential noise and vibration impacts (refer to key issues section). Appropriate conditions have been recommended requiring future applications to provide detailed assessment reports on how such impacts will be managed / mitigated for construction purposes as well as operational uses.
- *Natural hazards* –The site is affected by flooding (refer to key issues section). Appropriate conditions have been recommended requiring future applications to provide detailed assessment reports, noting that shelter in place is being adopted for all residential components of the development.
- *Safety, security and crime prevention* – The future applications for the site will need to address the UDG and ADG requirements for safety, security and crime prevention. Refer to Design Excellence comments.
- *Social impact* –The future applications for the site will need to address the UDG and ADG requirements to ensure any potential social impacts are appropriately addressed.
- *Economic impact* – The future applications for the site will need to address potential economic impacts (refer to key issues section).
- *Site design and internal design* – The assessment of the Concept proposal has focussed on the overall site design and internal design (refer to key issues section), with appropriate conditions being recommended.
- *Construction* –Relevant conditions have been imposed to ensure that future application adequately address reduce construction impacts.
- *Cumulative impacts* – Given that the subject application is conceptual only and does not approve any works, it is considered that the proposal will not result in any adverse cumulative impacts. Future applications will need to provide sufficient detail to demonstrate that construction works will not result in cumulative impacts.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is considered to be suitable for the development given the Concept proposal is for the redevelopment of the Tweed Mall development on the existing shopping centre site within the Tweed CBD. The site is zoned E2 – Commercial Centre which is considered to be appropriate for the land uses being considered (in the reference design) by Concept proposal. The proposal accords with the relevant objectives of the E2 – Commercial Centre zone.

The site is capable of providing all the essential services and associated infrastructure necessary to undertake the proposed development, subject to appropriate upgrades of infrastructure to cater for the increase in density. The site is mapped as flood prone land, which has been considered and is considered satisfactory subject to conditions.

The site's attributes are conducive to the development in that the proposal will provide additional employment and housing needs for the Shire. There are not any adjoining uses which are prohibitive of the proposal.

While future applications will need to address potential issues (such as infrastructure, traffic, construction impacts) in detail, it is considered that the subject site is suitable for the proposed development.

3.4 Section 4.15(1)(d) - Public Submissions

The submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal is considered to generally be in the public interest as the Concept proposal broadly aligns with and satisfies the intent of the advice provided by the DRP and the provisions of the TCCLEP 2012 in terms of design excellence. The Concept proposal will set the framework for future applications to provide the necessary detail to demonstrate that potential impacts associated with the staged development can be adequately mitigated, as discussed in the key issues section of this report.

The proposal is also generally consistent with the applicable planning controls as outlined in this report. Subject to further detail at future DA stages, the Concept proposal is generally considered to result in positive social and economic impacts (as outlined above). Future applications would be assessed in detail to ensure that the health and safety of the public is appropriately addressed.

The site is located in the Northern Rivers and is subject to the provisions of the *North Coast Regional Plan 2041*. The proposal is generally consistent with the regional strategy. The Concept proposal is considered to be consistent with the principles of Ecologically Sustainable Development, with future applications required to incorporate the same principles throughout the detail design.

Accordingly, on balance, it is considered that the proposal is consistent with the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/referral as required by the EP&A Act and outlined below in **Table 7**.

There are no outstanding issues arising from these referral requirements.

Table 7: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A			
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Whilst not proposing any works, the Concept proposal was referred to Essential Energy for comment. Generic comments were provided, which will be applied to the detailed DA's for future stages.	Yes
Transport for NSW (TfNSW)	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	Whilst not proposing any works, the Concept proposal was referred to TfNSW for comment. Comments were provided for Council's consideration, and is further discussed in the Traffic assessment and the Key Issues section of this report.	Yes
Design Review Panel	<i>CI 6.10 – TCCLEP 2012</i> Design Excellence Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed in the Design Excellence assessment and the Key Issues section of this report.	Yes
Integrated Development (S 4.46 of the EP&A Act)			
Water NSW	<i>Water Management Act 2000</i> (Dewatering Permit)	N/A at Concept Stage. Future DA stages will trigger referral due to dewatering for basements.	Yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

Table 8: Council Officer Referrals

Officer	Comments	Resolved
Urban Design	<p>Council's Urban Design assessment has taken into consideration the feedback from the four sessions with the Design Review Panel (DRP), which has guided the proponent in terms of Design Excellence and the preparation of Urban Design Guidelines (UDG) which will set the framework for the vision of the ultimate development on the subject site.</p> <p>It is considered that an additional DRP session is warranted, along with some amendments to the UDG.</p>	<p>Yes - subject to a deferred commencement condition</p> <p>Refer to Key Issues</p>
Planning	<p>Council's initial Planning assessment raised concerns with regard to building height and potential economic impacts. The proponent's RFI Response satisfactorily addressed the building height concerns, confirming that the proposal is fully compliant with the allowable building height (RL 49.5m AHD). Later in the assessment it was made clear that the Concept proposal will not approve any specific land uses and that the reference design was only to demonstrate what type of development could occur on the site.</p> <p>Any future DA's would need to provide a robust assessment in terms of potential economic impacts, as well as a review of Council's Retail Strategy.</p>	<p>Yes</p> <p>Refer to Key Issues</p>
Traffic	<p>Council's initial Traffic assessment raised considerable concerns with parking and traffic impacts generated by the proposed development, based on the reference design and proposed land uses. Later in the assessment it was made clear that the Concept proposal will not approve any specific land uses and that the reference design was only to demonstrate what type of development could occur on the site. The Concept would only relate to the above ground building envelopes.</p> <p>Future DA's would provide specific detail on the various land uses within each stage and the applications would need to demonstrate compliance with the appropriate controls for such land uses.</p>	<p>Yes</p> <p>Refer to Key Issues</p>
Water & Wastewater	<p>Council's initial Water and Wastewater assessment raised significant concerns with regard to the impact upon the existing water and sewerage network capacity. Later in the assessment it was made clear that the Concept proposal will not approve any specific land uses and that the reference design was only to demonstrate what type of development could occur on the site. The Concept would only relate to the above ground building envelopes.</p> <p>Future DA's would provide specific detail on the various land uses within each stage and the applications would need to demonstrate compliance with the appropriate controls for such land uses.</p>	<p>Yes</p> <p>Refer to Key Issues</p>

Environmental Health	<p>Council's initial assessment of the Concept proposal raised concerns with: Acid Sulfate Soils / groundwater and dewatering; construction noise; contaminated land; and amenity impacts associated with the proposed uses. Later in the assessment it was made clear that the Concept proposal will not approve any specific land uses or construction works and that the reference design was only to demonstrate what type of development could occur on the site.</p> <p>Any future DA's would need to provide a detailed assessment in terms of the issues raised.</p>	<p>Yes</p> <p>Refer to Key Issues</p>
Waste Management	<p>Council's Resource & Recovery (Waste Management) Officer reviewed the proposal in relation to waste management and minimisation. These issues are considered in more detail in the Key Issues section and Section A15 of this report.</p>	<p>Yes</p> <p>Refer to Key Issues</p>
Ecology	<p>Council's initial review of the Concept proposal raised issues regarding the need for a Tree Survey to accurately identify the location, size and species of all trees across the site.</p> <p>Any future DA's would need to provide a detailed assessment in terms of the issues raised.</p>	<p>Yes</p> <p>Refer to Key Issues</p>
Public Domain/ Assets	<p>Council's initial review of the Concept proposal raised concerns in relation to: public domain v public land; street tree removal; public land encroachment; and expansion of the adjoining Chris Cunningham Park. The proponent's RFI Response satisfactorily addressed the issues raised, as detailed in the Key Issues of this report.</p>	<p>Yes</p>
Engineering – Flooding & Stormwater	<p>Council's Flooding and Stormwater assessment reviewed the proponent's submitted stormwater concept plan and Flood Statement and considered that there were no objections subject to conditions.</p>	<p>Yes</p>
Building	<p>Given the application is a Concept proposal with no works involved, no issues were raised from a Building perspective.</p> <p>Future applications will need to demonstrate compliance with relevant National Construction Code requirements.</p>	<p>Yes</p>
Development Engineer	<p>No objections raised.</p>	<p>Yes</p>

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with Council's Community Participation Plan from 14 June 2023 until 28 June 2023 as was required under legislation. Following complaints from the community about the lack of time to review given the significance of the proposal, the application was again placed on public exhibition for a period of 28 days from 26 July

to 23 August 2023. Unfortunately the second round of notices made reference to Council being the consent authority instead of the NRPP. As such, a third round of notices were issued from 9 August 2023 (for 14 days), also finishing on 23 August 2023.

The notification included the following:

- An advertisement in the local newspaper (Tweed Link);
- A sign placed on the site, on each road frontage;
- Notification letters sent to adjoining and adjacent properties;
- Notification on the Council's website (DA Tracker).

The Council received a total of 59 unique submissions, comprising 56 objections and 3 submissions in favour of the proposal. The issues raised in these submissions are considered in **Table 9**

Table 9: Community Submissions

Issue	Council Comments
Traffic impact on the local road network	As noted elsewhere in this report, Council's Traffic Engineer has undertaken a detailed assessment of the Concept proposal. Appropriate conditions are recommended, requiring future stage applications to include detailed analysis of parking requirements and impact upon the local road network, acknowledging that the intersection of Wharf Street and Francis Street will be require signalisation (likely at Stage 3 of the development). Construction Traffic Management Plans would also be required for each stage of the development.
Excessive scale	Whilst the scale of the project may be considered excessive when compared to the existing site, the land uses proposed with the reference design are all permissible with consent and compliant with height restrictions. The overall scale of the development is considered to be in keeping with the provisions of Section B2 of the TDCP and acceptable within the Commercial Core of the CBD area, particularly to meet the envisaged residential densities for the Shire.
Construction noise and dust impact	Potential construction noise and dust impact is raised as a significant concern of submitters. It should be noted that this application is Concept only and future DA's for Stages 1, 2 & 3 will need to address these issues in detail and demonstrate how such impacts will be mitigated.
Overshadowing / solar impact	The reference design has incorporated overshadowing diagrams which do indicate that the development will result in overshadowing of adjacent residences in winter. It is difficult to determine at this stage the amount of solar impact, given the reference design is indicative only. The future applications will need to address this issue in detail, noting that overshadowing is common in higher density areas. The urban design assessment also highlighted a need for future applications to consider overshadowing impacts internally within the site.
Length of construction over the three stages	The applicant has acknowledged the length of construction time (approximately 10 years) for the 3 stages of development. Whilst this time frame is considerable, it is realistic of the time required to undertake the demolition and construction in each stage for such a

	large developemnt, to allow the site to remain open to the community for their everyday needs.
Over development	Some submissions have raised concerns with the proposal being an over development. In comparison to the current site, the proposal is extensive. However, it is compliant in terms of building height and FSR. The future detailed DA's will need to ensure that the design is compliant with parking requirements etc to ensure that the proposal is not an over development for the subject site.
Height of the development	Although concerns have been raised by submissions in terms of the proposed height of the development, the Concept proposal is fully compliant with height limits for the Tweed CBD.
Lack of parking	The issue of adequate parking will need to be addressed at future DA stages. The Concept proposal is only seeking approval for the above ground building envelopes and associated Urban Design Guidelines for the development. Car parking requirements for the proposed uses will need to be addressed in detail, to ensure that the surrounding road network is not impacted.
View loss	As noted within the Urban Design assessment, the proposal will potentially impact upon existing views of surrounding residences. This impact will need to be addressed in detail with future DA's, noting that it is expected that viewing sharing principles will be satisfied in that the development incorporates individual towers of varying heights (up to a maximum of RL 49.5m AHD).
Impact from vibration	Future DA's will need to address this issue, detailing how the matter will be managed to mitigate impact upon surrounding residences.
Impact on surrounding retail	As noted elsewhere in this report, the future applications will need to address potential economic impacts associated with the overall development and how the development complies with Council's Retail Strategy, noting that commercial competition is not a planning consideration.
Impact on surrounding streets during construction due to lack of parking	Future DA's will need to address impacts upon the local road networks associated with the development and provide compliant parking requirements for the proposed uses. This will include a Construction Traffic Management Plan, which will need to address parking for construction workers.
Operational noise impact and odour pollution	In addition to construction noise and odour, the future applications will need to address potential impacts associated with the operational stage of the development, particularly for the residences in Endeavour Parade immediately adjacent to the loading dock / waste area identified on the reference design plans.
Wind tunnelling	As noted elsewhere in this report, the Concept proposal was supported by an Environmental Wind Assessment Report, which incorporated recommendations to ensure the ground level / pedestrian areas are not impacted by wind effects associated with the proposed towers within the development. Future applications will need to address this issue in detail.
Public transport linkages	The existing car park at the western side of the subject site is Council owned land. The proponent initially enquired if the site could be bought from Council to include in the overall design. Such a request

	was denied, in the knowledge that a future light rail link could be required in this location. Council will work with the proponent to ensure that the proposed development incorporates appropriate public transport linkages.
Lack of community consultation	Several submissions raised concerns with the 14 day time frame for the initial notification period, stating that the size of the proposed development warranted an extended period of notification. The application was re-notified for an addition 28 day period, which is considered to suitably address this matter.
Inconsistency between documents	Council's initial review identified a number of inconsistencies between the various documents supporting the Concept proposal, including a discrepancy with potential car parking numbers. The applicant has acknowledged such inconsistencies and amended as appropriate, noting that only approval of building envelopes and UDG's is being sought.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Urban Design

Council's initial review of the Concept proposal focussed on the outcomes of the first two Design Review Panel (DRP) sessions (held prior to the lodgement of the application), highlighting the recommendations from the DRP. During the assessment process, a further two DRP sessions were held, whereby there was distinct focus on the 'Green Heart' / public domain components of the proposal, as well as building separation distances to achieve desired outcomes.

5.1.1 Building Envelope Plans

The building envelope drawing set is central to the concept development application 'stamped approval' documents. In effect these drawings establish the site's structure plan configuration including the location of buildings and podiums, points of access with the spaces between building envelopes and over podiums and certain roof tops being the primary areas of public domain including deep soil zone and landscaping.

The merits of the overall building envelope plan have been discussed above under 'design excellence process' which fundamentally relate to achieving an appropriate quantum of retail, commercial and residential floor space commensurate with the City centre location balanced with an appropriate amount of public domain and landscape areas. To achieve this balance, the sites' structure plan and envelope plan has been refined and updated as part of the iterative design review process.

The key elements of the building envelope plan now include:

- 16 towers of varying height (maximum 49.5m AHD height) which sit atop a series of podium level. This includes:
 - i. Building A – 49.5m AHD on the corner of Wharf and Bay St;

- ii. Buildings B-a, B-b and Bc - 49.5m AHD fronting Bay St;
 - iii. Buildings C,D,E-a and E-b – 49.5AHD fronting Wharf St;
 - iv. Buildings F-a and F-b – 49.5m AHD fronting Francis St;
 - v. Buildings G and H – 49.5m AHD internal to site;
 - vi. Building I-a and Ja – 39.8m AHD internal to site; and
 - vii. Buildings I-b and J-b – 30.95m AHD internal to site / adjoining eastern boundary.
- Primary north-south access which connects Francis Street to the south with Bay Street to the north as well as an East-West Street running parallel to Bay Street.

Whilst the current envelope plans have received general support from the DRP, there are several items that are considered to require amendment to the purposes of achieving additional clarity and alignment with DRP further advice. As such the following are required changes to the building envelope plans which are recommended as a deferred commencement requirement:

- Inclusion of a 'ground level' building envelope plan which documents ground level building separation / laneway widths and delineation of public domain and deep soil zone areas. This will ensure the balance of built form to open space and primary circulation around the site is clearly established at the ground plane;
- Inclusion of a minimum 15m laneway width where the North-south Street interfaces with Bay Street and where the East West Street interfaces with the Wharf Street frontage. This recognises the need for a more generous pedestrian point of entry off Bay Street and the primary entry off Wharf Street;
- Inclusion of a note on each drawing sheet which states that all building separation requirements are to comply with the Apartment Design Guideline (ADG) for buildings nine-storeys and above. In some cases, the building separations dimensioned represent the minimum requirements (12m - non-habitable to non-habitable). However, future design of buildings may have room interface combinations which require a much greater separation distance (habitable-non-habitable rooms -18m; and habitable-habitable rooms - 24m); and
- Inclusion of a setback dimension to properties adjoining the sites eastern boundary which would be reflective of the minimum requirements under the ADG.

5.1.2 Urban Design Guidelines

The Urban Design Guidelines (UDG) serve to accompany the building envelope plans and provide a framework and design guidance to inform future stages of development which will be subject to subsequent design review and development application processes.

The format and structure generally align with suggested heads of consideration identified within DRP advice. The UDG document is structured around the following sections:

- Introduction;
- Urban Structure;
- Public Domain and Landscaping; and
- Architecture.

Each of the UDG sections provide a series of themed objectives and guidelines with accompanying diagrams which in effect will be used to inform, guide future DRP advice, and assess future development applications.

As the intent of the UDG is to fulfil a multi-purpose role, there are a number of amendments that are considered to be required to make the UDG more robust and more in alignment with DRP advice which are recommended as a deferred commencement requirement. These recommended amendments to the UDG include:

- *Purpose, Vision and Objectives* - Re-prioritising the projects overriding objectives to be more in alignment with the proposal as explored within the reference scheme and strategic intent of the Tweed Regional City Action Plan. The priority of the sites redevelopment being the transformation of this key retail precinct within the heart of the Tweed Heads CBD as a world class and genuine mixed use precinct combining retail, commercial, food and beverage, fresh food, entertainment, health care, childcare and residential uses set with a character defining network of public domain and site landscape opportunities. The sites' redevelopment has the potential to elevate design excellence and integration of sustainable systems and a City Precinct scale.
- *Design excellence Strategy* – Clarify that all future development applications / project stage applications would be subject to separate design review panel processes. Clarity of when the public domain network would be considered in the context of the table of project stages. The preference is that this stage of design, being the defining and unifying part of the project, is done as Stage 01.
- *Urban Context* – Opportunity to redraft to capture the intent of the Tweed Heads Regional City Action Plan and opportunities which the sites urban context provides.
- *Connecting with Country Framework* – Opportunity to integrate principles of Connecting with Country into the over context or have a stand-alone section. This should articulate how cultural learnings and opportunities to integrate and celebrate the local Aboriginal Culture can be articulated across the site.
- *Site Permeability* – Indicate dimensional widths of each of the circulation pathways which reflect DRP advice. This includes 15m width between buildings A-B and A-C and also potentially D-E.
- *Active Edges* – Opportunity to include a new section which details the building interfaces with public domain areas across the site which includes primary, secondary and service frontages. The inclusion of a section which delineates where the important active edges will be located will then inform future land uses and building design to those edges.
- *Way finding and building entries* – Inclusion in the guidelines that more detailed and co-ordinated consideration of building access and circulation will be required as part of future stages applications. Previous DRP advice has highlighted that building access and circulation, particularly to upper-level residential areas, has not yet been adequately resolved.
- *Green Heart, Bay St and Wharf St Precinct section* – Supplement with a diagram which maps those areas and further clarify the intended defining characters and land uses between each precinct. Opportunity to expand on these precincts as well by including Fresh Food Market and Entertainment Precincts.

- *Mixed-Use and Day-Night Activation* – Reference to Crime Prevention Through Environmental Design principles.
- *On-site Parking* – Indication of car parking and active transport strategies including envisaged carparking metrics based on the reference design. Opportunity to include / consolidate information around cycling and cycle parking.
- *Public domain and Landscape* – Opportunity to consolidate some sections and make the objectives and guidelines more concise. Opportunity for each of the different public domain and landscape precincts to be more defined in terms of key elements and character aspirations. Opportunity to refine certain tree species including Moreton Bay Figs which require a significant canopy zone with root structure that maybe difficult to manage with other hard and soft scapes.
- *Street level* – Open Space Structure Plan & Section 03 – Increase the site connection width between building A and Building C to 15m.
- *Architecture* – Include an upfront section on building form and character. This should seek to correlate the building envelope's location (precinct character), land use, interface and orientation with building form, façade design and articulation. Reorder to bring building setbacks and height and expression and materials forward. Amend AGS section to reflect in the guidelines that the building separation requirements will be required to be met. Amend the diagram in the transition section to delete the upper-level cantilevers which bring the building edge close to the eastern boundary.

Based on the above recommended amendments, and the pivotal role the UDG will play in establishing the framework and guiding future development, it is recommended an additional DRP session is facilitated to review and endorse an amended version of the UDG, as part of the deferred commencement condition.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.2 Planning

5.2.1 Building Height

Whilst Council's initial review of the proposed Concept plans note that the majority of documentation referred to a compliant design of RL 49.5m AHD, it was highlighted to the proponent that elevations clearly indicated minor components (lift over runs etc) that exceeded the height limit, which would trigger a clause 4.6 variation and OLS impacts.

The proponent's RFI Response resolved this issue, noting that the Sections had been corrected and that there was no longer a breach of the TCCLEP height control.

5.2.2 Economic Impact

The application was supported by an Economic Report, which was considered to be a summary of economic benefits, as opposed to an assessment against both the position and negative impacts associated with the proposed expansion of the retail component, as well as the new commercial and residential components of the overall development.

The proponent's RFI Response noted that the economic report was provided with the application "...only for the purposes of demonstrating that there is a net and significant positive overall economic outcome as a result of the proposal".

Given that the application is a concept only, with no land uses or works approved, it is considered appropriate that future development applications address the positive and negative economic impacts associated with each stage of the development.

5.2.3 Future Design Competitions

Council's initial review of the application highlighted that the future Stages of the development would trigger Design Competitions under the provisions of clause 6.10(4) of TCCLEP 2012. It is noted that since the lodgement of this application, clause 6.10(5) has been amended to no longer require the written approval from the Director General, to waive the design competition requirement. Instead, the provisions of clause 6.10(5) state the following:

(5) Subclause (4) does not apply if—

- (a) the consent authority certifies in writing that a competitive design process is not required, and
- (b) a design review panel reviews the development, and
- (c) the consent authority takes into account the advice of the design review panel.

Accordingly, the NRPP (consent authority) will need to provide written approval for a waiver of a design competition for future applications and the proponent would be required to seek guidance from the DRP for each stage, to ensure that the application is consistent with the Urban Design Guidelines associated with the Concept proposal. The proponent has acknowledged the requirements for future detailed applications,

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.3 Traffic

5.3.1 Parking

Council's initial review of the Concept proposal raised significant concerns with the proposed car parking for the overall development, requiring all residential areas to be clearly identified and separated from all commercial parking. In addition, Council noted that access to the various parking areas need to be legible and not circuitous. Council's review highlighted that the proposed car parking numbers was confusing in that various documents noted different totals for parking. It was also noted that the proposal incorporated 120 Build to Rent apartments, all of which would require car parking provisions.

The proponent's RFI Response clarified that the land uses associated with the reference design were indicative only, but did acknowledge an error in the SEE and noted that the "...forecast likely car parking will be approximately 2,500 to 3,000". To this end, it is noted that the Concept proposal relates only to building envelopes above ground. The majority of the car parking generated by the proposed development will be incorporated into basement level car parking and will be subject to detailed assessment for the future DA's for Stages 1, 2 and 3. In this respect, while the reference design has noted two basement

levels, if the future applications require say three basement levels, then the proponent will be required to construct all three levels. There is no maximum number of spaces being applied to the Concept proposal. The number of spaces / car parking basement levels will ultimately depend on the proposed uses associated with each future stage of the development. The proponent has acknowledged Council parking comments, noting that they will be addressed in the subsequent detailed DA's.

5.3.2 Traffic Generation

Council's initial review of the Concept proposal highlighted concerns with SIDRA intersection modelling and baseline traffic survey data.

The proponent's RFI Response incorporated amended Traffic & Transport assessment noted that updated SIDRA models were undertaken (to include amended lane lengths and turning movements), whereby the results *"...show some minor changes to the results but the level of service and overall outcome of the modelling has not changed"*.

With regard to Council's concerns regarding out of date survey results (from 2021), the amended Traffic & Transport assessment noted that *"...SCATS data was obtained at the time of the assessment to verify the traffic count data use in the assessment. The comparison of the volumes shows the volumes in 2022 were between 5-10% lower than in 2021"* and that *"...therefore, the 2021 survey data was deemed to be the more conservative volumes to model and assess"*.

Given that the application is a concept only, with no land uses or works approved, it is considered appropriate that future development applications need to consider in detail traffic impacts associated with each stage of the development. In this regard, it is also noted that the proponent's Traffic & Transport assessment indicates that the intersection of Wharf Street and Frances Street will require signalisation during Stage 3 of the development. Referral to TfNSW will be required at that stage, or at any stage of the development where an intersection is required to be upgraded to traffic control signals.

5.3.3 Shared Zones

Concern was raised with regard to potential impacts / risks to pedestrians associated with the proposed casual loading for small commercial vehicles and vans within the shared pedestrian zone.

As noted in the Urban Design comments above, the proponent's Urban Design Guidelines will have specific requirements for the shared zones and the future detailed applications will need to satisfactorily address the issue.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.4 Water & Wastewater

5.4.1 Sewerage and Water Network Capacity

Council's initial review of the Concept proposal noted that the proponent's documentation primarily focussed on acknowledging pre-lodgement advice from Council and included

preliminary estimates of water and sewer loading and associated flows. Council officers requested a revised *Sewerage and Water Network Capacity Assessment* to demonstrate compliance with the sewer and water requirements provided by Council at the pre-lodgement phase, as opposed to simply acknowledging the requirements without addressing them.

Whilst the proponent's RFI Response did provide a revised *Network Capacity Assessment*, it did not go to the detail required by Council. However, the meeting held between Council officers and the proponent following the RFI Response was beneficial in that it was highlighted that the Concept proposal did not incorporate any uses or works. Accordingly, it is acknowledged by both the proponent and Council officers that the future detailed DA's will need to suitably address network capacity, noting that a new sewer pump along the western site boundary will need to be incorporated into detail design applications, along with any other upgrades of existing water / sewer infrastructure.

5.4.2 Civil Engineering Services Report

Similar to the above, the future applications will need to incorporate a detailed Civil Engineering Services Report, which includes: survey of all existing water and sewer assets within the site and any other infrastructure beyond the site boundaries which are impacted by the proposal; location of water services / meters / fire and sprinkler services; and location of sewer connections. The report will need to have due consideration of protection of all live sewer connections, noting that properties on Endeavour Street and Bay Street are serviced by sewers within the subject site.

It is also noted that future development may be limited by water capacity with regard to fire fighting requirements for the overall development. Future applications will need to suitably address this requirement.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.5 Environmental Health

5.5.1 Acid Sulfate Soils / Groundwater / Dewatering

Whilst the application was supported by a Preliminary Acid Sulfate Soil Assessment Report, Council's initial review raised concerns with regard to the management of groundwater (dewatering) and Acid Sulfate Soils (ASS), in that further detail was required to demonstrate how dewatering and the treatment of ASS could be achieved within the subject site for each stage of the development.

As noted above, given that the application is a concept only, with no land uses or works approved, it is considered appropriate that future development applications need to consider in detail the management and treatment of groundwater and ASS, associated with each stage of the development.

5.5.2 Construction Noise and Vibration

Similarly, future applications will need to adequately address impacts associated with the construction of the proposed development. This will include the management of noise,

dust and vibration associated with the construction of the proposed development, particularly given the extended timeframe associated with the three stages of the development.

5.5.3 Contaminated Land

As detailed earlier in the report, the proponent's RFI Response included an Interim Audit Advice letter which incorporated recommendations for remediation / audit requirements associated with the future stages of the development. Appropriate conditions have been recommended in this regard.

5.5.4 Amenity Impact - Use

Council's initial review of the application raised concerns with potential noise impacts associated with the loading dock / waste areas (which are shown immediately adjacent to Endeavour Parade residences on the reference diagrams), highlighting the need for further detail on how the loading dock area will be acoustically treated to mitigate noise impacts.

As noted above, the proponent has clarified that the application is a concept only, with no land uses / works involved. The loading dock area shown on the reference design is indicative only. In this regard, the proponent has acknowledged that detailed plans of the loading dock / waste areas will be included in future applications, to demonstrate how acoustic treatment will mitigate noise impacts for adjoining residences.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.6 Waste Management

As detailed earlier in this report, the proponent's Waste Management Strategy originally submitted with the application was not satisfactory. The proponent's RFI Response included a revised Strategy, which upon review was considered acceptable, subject to the proponent working closely with Council officers to ensure that future staging incorporates adequate waste management areas within the development for both domestic and commercial waste.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.7 Ecology

As detailed earlier in this report, the proponent's Preliminary Arboricultural Impact Assessment was considered incomplete and failed to identify and assess all 'prescribed vegetation' occurring onsite and including street trees occurring within the road reserve. Future applications will need to address this requirement in detail.

Whilst it is acknowledged that the UDG's incorporate landscaping requirements, amendments are considered appropriate to ensure urban canopy cover is maintained and local native species are used through onsite landscaping.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

5.8 Public Domain / Assets

5.8.1 Public Domain / Public land

Council's initial review of the application requested clarification on the reference to public domain and whether these areas would be dedicated as public land. It was also highlighted that the Public Domain Structure Plan did not address the external public domain areas beyond the boundaries of the site.

The proponent's RFI Response highlighted that the UDG's provide a clear understanding of the hierarchy of Public Domain and Landscape, with no proposal to dedicate internal streets or public domain to Council. It is also noted that the proponent has expressed a willingness to work with Council on the future stages with regard to the proposal's interaction with the external public domain areas.

5.8.2 Street Tree Removal

Council's initial review of the application highlighted concern that street trees external to the subject site were proposed to be removed. In this regard, the proponent has confirmed that the application "*...does seek nor authorise the removal of any trees outside the boundary*" and also acknowledged that any future applications would need to take into consideration any impact upon adjacent street trees to ensure that they do not require removal.

5.8.3 Public Land Encroachment

Council's initial review of the application noted an encroachment of the proposed development into the adjoining Crown Reserve. The proponent subsequently confirmed that the design has been amended to clarify that there are no encroachments beyond the subject site's boundary.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the *EP&A Act* and the *Regulations* as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application is worthy of support.

As discussed throughout this report, the Concept proposal is considered to be appropriate for the site given its location within the Tweed CBD. The development is consistent with the strategic vision for the area, subject to future applications aligning with the UDG being recommended for deferred commencement approval. Further, the subject site is considered to be suitable for the proposed development, with future DA's required to address in detail how potential impacts upon the surround locality will be managed.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA23/0209 for a Concept Development Application for the staged redevelopment of the Tweed Mall site comprising a site layout strategy including location of open space and landscaping, vehicle and pedestrian thoroughfares in the form of above ground Building Envelopes, and Urban Design Guidelines at 16 – 32 Wharf Street, Tweed Heads be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft Deferred Commencement conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Deferred Commencement conditions of consent;
- Attachment B: Building Envelope Plans / Elevations;
- Attachment C: Draft Urban Design Guidelines;
- Attachment D: DRP Advice Integration Review;
- Attachment E: Indicative / Reference Design;
- Attachment F – Essential Energy comments; and
- Attachment G – Transport for NSW comments.