

"DEFERRED COMMENCEMENT"

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of deferred commencement consent using the power in section 4.16(3) of the EP&A Act, subject to the conditions set out in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

1. The building envelope drawings are to be amended to include the following:
 - a. 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;
 - b. 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;
 - c. 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; and
 - d. Inclusion of a setback dimension to properties adjoining the sites eastern boundary which would be reflective of the minimum requirements under the ADG.
2. The Urban Design Guidelines (UDG) are to be amended to better align with Design Review Panel (DRP) comments, with regard to the following:
 - a. *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;
 - b. *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 1;

- c. *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;
- d. *Connecting with Country Framework* – Opportunity to integrate principles of Connecting with Country into the overall 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;
- e. *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;
- f. *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;
- g. *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;
- h. *Green Heart, Bay Street and Wharf Street 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;
- i. *Mixed-Use and Day-Night Activation* – Reference to Crime Prevention Through Environmental Design principles;
- j. *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;
- k. *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;
- l. *Wayfinding and signage* – Develop a detailed way finding and signage strategy for the site.
- m. *Street level* – Open Space Structure Plan & Section 03 – Increase the site connection width between building A and Building C to 15m;
- n. *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 the ADG 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.

3. Items 1 and 2 above will necessitate the facilitation of an addition DRP session for review of the amended UDG.
4. The UDG are to be updated to reflect the following landscaping requirements for all precincts:
 - a. Compensatory planting at a ratio of 2:1 (replace to remove);
 - b. A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees;
 - c. A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar); and
 - d. No environmental weed species.

Evidence of the above relevant matter(s) must be produced to the consent authority, within 730 days of the date of the determination, otherwise the consent will lapse.

Under section 88(3) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Note: Section 76(3) of the EP&A Regulation enables a consent authority to specify the period within which the applicant must produce evidence to the consent authority sufficient enough to enable it to be satisfied as to the relevant matter(s) that it requires before a deferred commencement consent can operate. Where a period is specified under section 76(3), a deferred commencement consent will lapse if the applicant has not produced sufficient evidence for the consent authority to be satisfied of the relevant matters on the expiration of the specified period.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that it is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

General Conditions

1	<p>Approved plans and supporting documentation</p> <p>Development must be carried out in accordance with the approved Building Envelope Plans, approved Urban Design Guidelines and the following documents, except where the conditions of this consent expressly require otherwise.</p> <table><tr><th colspan="3">Approved documents</th></tr><tr><th>Document title</th><th>Prepared by</th><th>Date of document</th></tr><tr><td>Statement of Environmental Effects</td><td>Sutherland and Associates Planning</td><td>April 2023</td></tr><tr><td>RFI Response</td><td>Sutherland and Associates Planning</td><td>1 March 2024</td></tr></table> <p>In the event of any inconsistency with the approved documents and a condition of this consent, the condition prevails.</p> <p>Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development</p>	Approved documents			Document title	Prepared by	Date of document	Statement of Environmental Effects	Sutherland and Associates Planning	April 2023	RFI Response	Sutherland and Associates Planning	1 March 2024
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2	<p>Future Applications</p> <p>Separate Development Applications are to be submitted to and approved by the consent authority in respect of each stage of the development.</p> <p>Condition reason: To ensure correct approval pathway is undertaken</p>												
3	<p>Design Process</p> <p>Future applications must be consistent with the approved Building Envelopes and Urban Design Guidelines.</p> <p>Condition reason: To ensure consistency throughout the development</p>												
4	<p>Future Staging</p> <p>The development shall be undertaken in the following sequential order:</p> <p>Stage 1:</p> <ul style="list-style-type: none">○ 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. <p>Stage 2:</p> <ul style="list-style-type: none">○ 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. <p>Stage 3:</p> <ul style="list-style-type: none">○ Demolition of all existing buildings along the western edge of the site facing Wharf Street; and												

	<ul style="list-style-type: none"> 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.
	Condition reason: To ensure consistency with the approved documents
5	<p>Ecological Sustainable Development</p> <p>The Ecological Sustainable Development (ESD) targets and theme-based (Biodiversity and natural systems; Water resource and quality; Climate risk and resilience; Transport and mobility; Public health and community wellbeing) objectives, opportunities and initiatives contained within the Ecologically Sustainable Development Report prepared by Integral and dated 23 December 2022 (V3) are to be incorporated into the ESD outcomes for future development applications.</p>
	Condition reason: To ensure appropriate ESD targets are met
6	<p>Environmental Wind Assessment</p> <p>The numerical and physical modelling recommendations in the Environmental Wind Assessment Report prepared by ARUP and dated 6 December 2022 (Rev 01) are to be incorporated into future subsequent development applications.</p>
	Condition reason: To an appropriate level of pedestrian amenity particularly at the ground plane commensurate with proposed land uses
7	<p>Stormwater Management</p> <p>Development applications for each stage shall be accompanied by a Stormwater Management Plan prepared by a Qualified Engineer which includes details of connections to the existing drainage infrastructure, any infrastructure upgrades, realignments and stormwater quality treatment in accordance with Council's Development Design and Construction Specifications. Accurate Survey detail is to be included in the Stormwater Management Plan.</p>
	Condition reason: To ensure stormwater is managed appropriately for the site and surrounds
8	<p>Sediment and Erosion Control</p> <p>Development applications for each stage shall be accompanied by Sediment and Erosion Control Plans prepared by a Qualified Engineer.</p>
	Condition reason: To ensure stormwater is managed appropriately for the site and surrounds
9	<p>Flood Impact Assessment</p> <p>Development applications for each stage shall be accompanied by a Flood Impact Assessment prepared by a Qualified Engineer. The Flood Impact Assessment is required to address Council's Development Control Plan A3 – Development of Flood Liable Land and Tweed City Centre Local Environmental Plan 2012.</p>
	Condition reason: To ensure the development complies with all relevant flooding controls
10	<p>Sewerage and Water Network Capacity Assessment</p> <p>The submitted Sewerage and Water Network Capacity Assessment and Site Servicing Report supplied by ARUP and dated is considered to be preliminary. Detailed Engineering plans and reporting are to be supplied within all following Development Applications lodged with Tweed Shire Council (TSC) for the</p>

	relevant proposed stages as dictated within this concept approval. The detailed Engineering plans and reporting are to be in accordance with the previous given advice from TSC's Water Unit.
	Condition reason: More detailed Engineering supporting material is to be presented within every future Development Application
11	Establishment of new Sewer Pump Station and associated lot <p>The proposed development is to supply a new Sewer Pump Station (SPS) within the bounds of the subject site to replace the existing SP2017 Frances Street SPS. The new SPS is to be located within its own designated deposited lot which is to be transferred over to Council.</p> <p>Condition reason: A new SPS is to be established on the subject site to replace the old SPS located within Frances Street. The pump station site is to be independent to the development site and is to be transferred to Council's ownership at the end of the future maintenance period.</p>
12	Streetscaping Plan <p>Any future development application for the development is to include a staged streetscaping plan that proposes integration between the development and the streetscape that outlines works that extend into the adjacent road reserves. The staged streetscaping plan is to include details of all works and plantings that facilitate and integrate with the development including staging, existing and proposed levels, a planting schedule, proposed public infrastructure (e.g. seating and bike racks), materials (e.g. paving surfaces) and street trees (e.g. retained for protection and proposed). All streetscaping works are to be undertaken at no cost to Council.</p> <p>Condition reason: To ensure that the development integrates well with the surrounding streetscape</p>
13	Acid Sulfate Soil Investigation Report <p>A detailed Acid Sulfate Soil Investigation Report must be completed for the entire site area for the lodgement of the development application for Stage 1. If the acid sulfate soil assessment identifies the presence of acid sulfate soils, then an Acid Sulfate Soil Management Plan prepared in accordance with the NSW Acid Sulfate Soil Management Advisory Committee's '<i>Acid Sulfate Soil Manual</i>' is to be submitted to the relevant consent authority.</p> <p>Condition reason: To protect the local environment</p>
14	Acid Sulfate Soil Management Plan <p>If an Acid Sulfate Soil Management Plan (ASSMP) is required across more than one stage of the development, the ASSMP must be developed to address the entire site. Individual ASSMP's should then be developed for each stage of the development to address design specific ASS matters. Each ASSMP should demonstrate how and where the site can adequately provide for the treatment of ASS.</p> <p>Condition reason: To protect the local environment</p>
15	Dewatering Management Plan <p>Individual Dewatering Management Plans (DMP) should be developed for each stage of the development. The DWP to be prepared in consideration of</p>

	<p>Council's <i>Dewatering in The Tweed</i> guideline and submitted to the satisfaction of Council's General Manager or delegate. The Plan shall include the following:</p> <ul style="list-style-type: none"> • A site plan drawn to scale which indicates the extent of the excavation area and estimated zone of influence of the dewatering activity relative to any adjoining buildings together with an assessment of any impacts likely to occur to any adjoining buildings as a result of the dewatering activities. • Should demonstrate how and where the site can adequately provide for treatment for dewatering. • The location to be indicated on the site plan of the area that will be utilised for the positioning of any treatment tank or sedimentation pond on the site including any reserve area to be used for such purpose in the event of the need for additional treatment facilities to be incorporated on the site. • Details of the proposed method of mechanical aeration to be used in the event that it is necessary to aerate the groundwater to achieve an acceptable Dissolved Oxygen level prior to the offsite discharge of groundwater and where this will be incorporated on the site. • The provision of written advice from the operator of any on site groundwater treatment system stating that the system to be used will be able to treat the groundwater to the required treatment level prior to discharge. Note. Particular attention is to be given to achieving the required detention times prior to discharge of the groundwater. Advice that the system is simply capable of achieving the necessary treatment will not be acceptable • Should demonstrate adequate management of noise from potential noise impacts of dewatering operations.
	<p>Condition reason: To protect the amenity of the local area</p>
16	<p>Construction Noise and Vibration Management Plan</p> <p>Future development applications for each stage of the development shall be accompanied by a Construction Noise and Vibration Management Plan prepared by a suitably qualified consultant, to the satisfaction of the Principal Certifier. Each plan should be prepared in accordance with the NSW EPA Interim Construction Noise Guideline. A quantitative assessment in accordance with the NSW EPA Interim Construction Noise Guideline should be carried out. An assessment of all feasible and reasonable work practices is to be applied to mitigate amenity impacts during the construction stage. The applicant is to document predicted levels, determined impacts and work practices and mitigation measures to be applied to minimise noise.</p> <p>Condition reason: To protect the amenity of the surrounding area</p>
17	<p>Dust Management Plan</p> <p>Future development applications for each stage of the development shall be accompanied by a Dust Management Plan prepared by a suitably qualified consultant, to the satisfaction of the Principal Certifier. The Dust Management Plan shall identify suitably sited dust monitoring stations and describe a quantitative dust monitoring program in accordance with AS3580.10.1 Determination of particles/deposited matter gravimetric method, and Approved</p>

	<p>methods for the sampling and analysis of air pollutants in New South Wales. The Dust Management Plan shall include contingency measures in the event of non-compliances.</p> <p>Condition reason: To protect the amenity of the local area</p>
18	<p>Noise Impact Assessment (external)</p> <p>The development application for each stage of the development must provide a report from a suitably qualified acoustical consultant assessing the impacts noise likely to be generated by proposed development. The assessment report shall include any recommended noise amelioration measures to be carried out by the applicant.</p> <p>Condition reason: To protect the amenity of the surrounding area</p>
19	<p>Noise Impact Assessment (internal)</p> <p>The development application for each stage of the development must provide a report from a suitably qualified acoustical consultant assessing the impacts of existing noise levels on the buildings proposed in the respective stage. The report shall include acoustic measures to ensure internal noise levels within the proposed buildings are in accordance with Australian Standard 'AS 2107 – 2000 Acoustics – Recommended design sound levels and reverberation times for building interiors'</p> <p>Condition reason: To protect the amenity of the surrounding area</p>
20	<p>Detailed Site Investigation</p> <p>A detailed site investigation (DSI) report must be completed for the entire site area prior to the lodgement of the development application for Stage 1. 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.</p> <p>Condition reason: To ensure the site is suitable for the proposed land use and is safe for future occupants</p>
21	<p>Sampling, Analysis and Quality Plan</p> <p>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 Heavy Mineral Sandmining Residue due to reclamation activities at the site. The SAQP must be reviewed and approved by a NSW EPA Accredited Site Auditor prior to implementation.</p> <p>Condition reason: To ensure the site is suitable for the proposed land use and is safe for future occupants</p>
22	<p>Remediation Action Plan</p> <p>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 the lodgement of the development application 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 stage of the development to address design specific remediation matters.</p>

	Condition reason: To ensure the site is suitable for the proposed land use and is safe for future occupants
23	Site Audit Statement & Report <p>Following completion of the DSI and RAP (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, must accompany the lodgement of each future application.</p> <p>Note - 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.</p> Condition reason: To ensure the site is suitable for the proposed land use and is safe for future occupants
24	Demolition Work Plan <p>The development application for each stage of the development must provide a Demolition Work Plan prepared by a suitably qualified consultant that considers AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2017.</p> Condition reason: To ensure compliance with relevant standards
25	Food premises <p>The development application for each stage must provide details about the extraction discharge points for mechanical ventilation from any proposed food premises.</p> Condition reason: To ensure compliance with relevant standards
26	Lighting <p>The development application for each development stage must provide a lighting impact study prepared by a suitably qualified consultant that considers AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting and includes recommendations for light attenuation.</p> Condition reason: To ensure there are no lighting impacts on adjoining properties
27	Traffic Signal Upgrades <p>The existing traffic signals at the intersection of Wharf Street and Bay Street have filtered right turn movements without dedicated phases. The increased pedestrian movements associated with the development would result in required upgrades to the signals and it is unclear whether this has been modelled. It is recommended that the applicant in consultation with TfNSW upgrade the signals in consideration of the additional pedestrian movements at this intersection to include dedicated right turn phases on all legs.</p> Condition reason: To ensure compliance with relevant standards
28	Traffic Impact Assessment <p>Prior to submission of a Development Application for each stage, an updated traffic impact assessment is required using current traffic volume data collected over a representative period to ensure that the data is reliable.</p> Condition reason: To ensure accurate data is being utilised

29	<p>Car Parking</p> <p>Each stage of development is to provide on-site car parking as required under the ADG's, Development Control Plan Section B2 Tweed City Centre and/or Development Control Plan Section A2 Site Access and Parking Code, whichever is applicable for the proposed use and be compliant with Australian Standard 2890.</p> <p>Residential parking provision is to be physically separated and not accessible by Commercial users.</p> <p>Any parking spaces reserved for a specific user group or premises are to be in addition to the quantum required under the ADG's, DCP Section B2 or A2.</p> <p>Condition reason: To ensure the development complies with all relevant parking controls</p>
30	<p>Construction Traffic Management Plan</p> <p>Each stage of development is to provide a Construction Traffic Management Plan detailing predicted construction vehicle routes, access and parking arrangements for workers, coordination with other construction occurring in the area, and how impacts on existing traffic, pedestrian and bicycle networks would be managed and mitigated.</p> <p>The CTMP is to be prepared by an appropriately qualified person (Roads & Maritime Services-accredited) with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742. and the RMS publication "Traffic Control at Work Sites" (current version).</p> <p>Condition reason: To ensure the development complies with all relevant traffic management controls</p>
31	<p>Traffic Management Upgrades</p> <p>The outcomes of the Traffic and Transport Impact Assessment prepared by ARUP and dated 12 April 2023 and the Traffic and Transport Impact Assessment RFI Response prepared by ARUP and dated 29 November 2023 note that the intersection of Wharf Street and Frances Street will require signalisation during Stage 3 of the development. Referral to TfNSW will be required to be undertaken well in advance of that stage, or at any stage of the development where an intersection is required to be upgraded to traffic control signals.</p> <p>Condition reason: To ensure the appropriate approvals are obtained in a suitable timeframe</p>
32	<p>Waste Management</p> <p>The Amended Waste Management Strategy Report prepared by ARUP and dated 1 December 2023 (Rev 03) is to be developed into a site wide management plan in consultation with Council and commercial operators, looking at the various operational aspects of the site to ensure that it addresses the key issues of waste generation, waste storage and waste collection for each operational element of each stage of the development, detailing how these are all integrated together. The Plan should also address potential impacts on the surrounding locality.</p>

	Condition reason: To ensure proper handling of waste
33	Signage
	Each stage of development is to provide a Wayfinding and Signage Strategy for the site.
	Condition reason: To ensure appropriate signage is provided without clutter
34	Service Infrastructure
	The development application for each stage shall be accompanied by documentation from service and telecommunication providers which details the available network capacity and upgrades required and which confirms that satisfactory arrangements can be made for the provision of services to the development, including the payment of any contributions towards necessary upgrades.
	Condition reason: To ensure appropriate infrastructure is provided
35	Construction Environmental Management Plan (CEMP)
	The development application for each stage shall be accompanied by a Construction Environmental Management Plan (CEMP). The CEMP shall be consistent with the <i>Guideline for the Preparation of Environmental Management Plans</i> (DIPNR, 2004).
	Condition reason: To ensure compliance with relevant standards
36	Essential Energy Requirements
	The development application for each stage of the development is to demonstrate compliance with setback requirements from Essential Energy infrastructure, with regard to SafeWork clearance requirements and ensuring there is no safety risk from the 11KV underground powerlines, low voltage underground power lines or the 11KV pad mount transformer.
	Condition reason: To ensure compliance with Essential Energy requirements