

**Statement of Environmental Effects**  
**38 Tweed Street Brunswick Heads 2483**  
**LOT: 1 DP: 303546**



Figure 1: Aerial View of Site

Date: 17/07/2024

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| Author | Checked By | Revision | Revision Date | Notes                           |
|--------|------------|----------|---------------|---------------------------------|
| SY     | SY         | 1        | 15/05/2024    | Draft completed for review.     |
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## 1. Introduction

This Statement of Environmental Effects (SEE) has been prepared by SY Planning on behalf of Social Remedy and accompanies a Development Application for the change of use from an existing vehicle repair station and a vehicle body repair workshop to a food and drinks premise and a recreation facility (indoor) at 38 Tweed Street Brunswick Heads 2483.

This SEE describes the subject site and the proposed development, assessing the impacts of the development as required by Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 2. Overview of Planning Provisions

|  |  |
|--|--|
| Basic Details                                    |  |
| Address  | 38 Tweed Street Brunswick Heads 2483   |
| Real Property Description                        | LOT: 1 DP: 303546  |
| Current Use                                      | Vehicle repair station and vehicle body repair workshop  |
| Land Size  | 676.39m <sup>2</sup>   |
| Zoning   | MU1: Mixed Zone  |
| Local Government Area                            | Byron Shire Council  |
| Local Environmental Plan                         | Byron Local Environmental Plan 2014  |
| Development Control Plan                         | Byron Shire Development Control Plan 2014  |
| Applicable LEP Development Standards             | <ul style="list-style-type: none"> <li>Clause 2.3: Zone objectives and Land Use Table</li> </ul>   |
| Applicable State Environmental Planning Policies | <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> </ul> |

Table 1: Overview of Planning Provisions

### 3. Site Description and Surrounding Context

The subject site, known as 38 Tweed Street Brunswick Heads 2483 (LOT: 1 DP: 303546) is located within the MU1: Mixed Zone under the Byron Local Environmental Plan 2014. The site is a standard lot with primary street frontage to Tweed Street and frontage to Slessor Lane. The site has existing vehicular access via Tweed Street. The site is currently improved by an existing building that is approved for the purpose of a vehicle repair station and vehicle body repair workshop, noting that the front of the premise is currently being used as a food and drinks premise and a shop without development consent. Immediate surrounding land uses can be described to be predominantly single detached dwellings to the west and commercial uses such as supermarket, food and drinks premises to the east along Tweed Street. A Dial Before You Dig Search suggests that essential services such as telecommunications, electricity, reticulated water and sewer are available to the site.

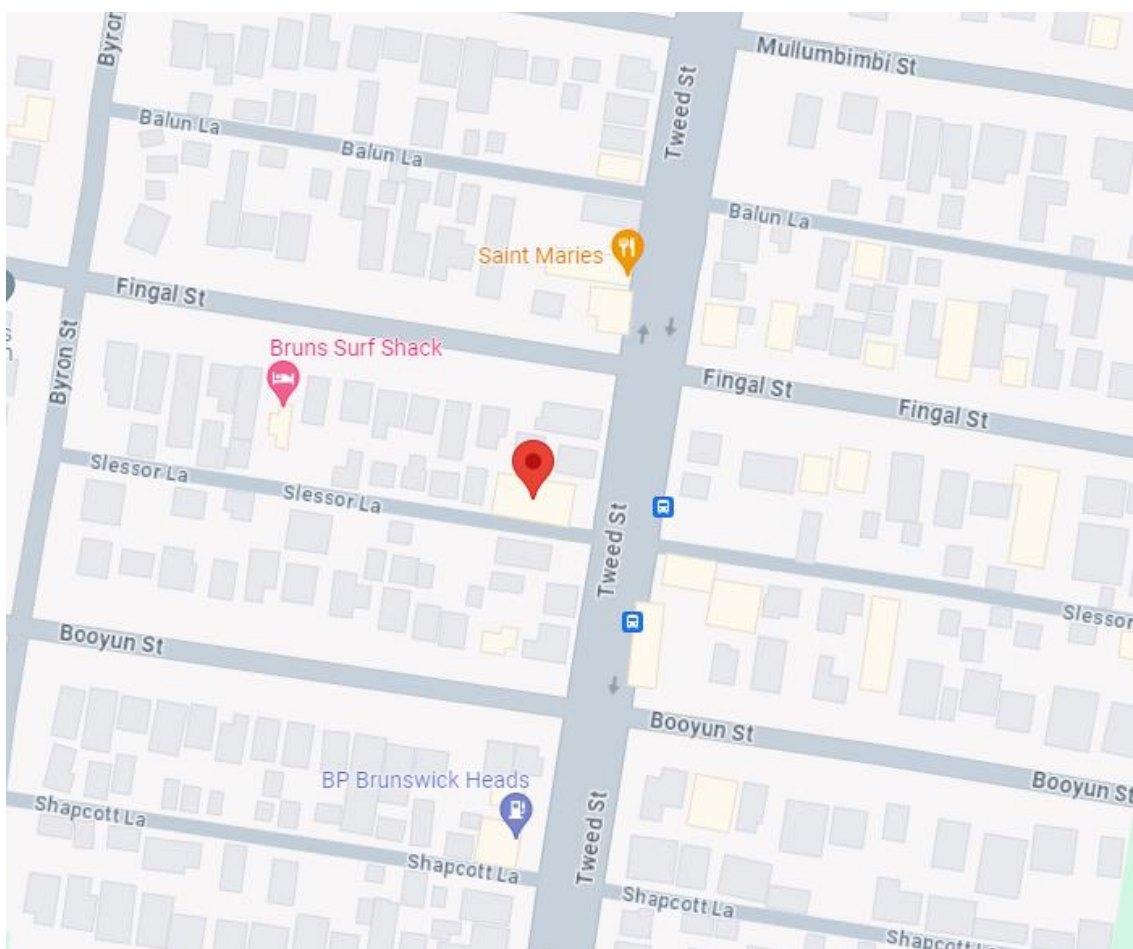


Figure 2: Locality Map of subject site (Source: Google Maps)

## 4. Site History

The table below outlines the historical approvals applicable to the site.

| Application Number | Description   |
|--------------------|---|
| BA73/2146          | <p>Construction of a two storey dwelling with parking beneath and additional covered parking area to the rear of the original garage/ service station building.</p> <p>Approved 27/09/1973</p> <p>Comments: The approved dwelling was never constructed.</p>  |
| BA75/198           | <p>Addition of two toilets within the NE of the original garage/service station building.</p> <p>Approved 5/11/1975</p> <p>Comments: These toilets were modified as part of CDC 17.2022.2079.1</p>  |
| BA76/154           | <p>Construction of the large shed to the west of the original garage/service station building.</p> <p>Approved 20/10/1976</p> <p>Comments: This approval endorsed the expansion of the service station operations to allow for additional workstations.</p> <p><b>This approval is thought to be the current lawful use for the site, noting that later development consents did not lawfully commence and have lapsed.</b></p> |
| BA93/2352          | <p>Spray Painting Booth within the NW corner of the large shed addition.</p> <p>Approved 12/07/1993</p> <p>Comments: This consent has lapsed as it did not lawfully commence.</p>   |
| BA98/2311          | <p>Removal of underground fuel storage tanks.</p> <p>Approved 24/06/1998</p> <p>Comments: Fuel tanks removed, confirmed by a previous contaminated land investigation completed in 1999.</p>  |
| DA99/0854          | <p>Change of use from motor vehicle mechanical and smash repairs to motor vehicle mechanical and smash repairs and the display and sale of motor vehicles.</p> <p>Approved 17/03/2000</p> <p>Comments: This consent has lapsed as it did not lawfully commence.</p>   |
| CDC16.2022.043.1   | <p>Construction of a new awning on the eastern side of the original garage/ service station building</p> <p>Approved 08/07/2022</p> <p>Comments: The approved building works have been completed.</p>   |

|                   |  |
|-------------------|--|
| CDC16.2022.2079.1 | <p>Creation of a kiosk and shop within the original garage/service station building.</p> <p>Approved 12/10/2022</p> <p>Comments: This kiosk is used for the purpose of a food and drinks premise. This application includes a change of use to allow for lawful use.</p> |
| CDC17.2024.2264.1 | <p>Tenancy fit out of Vehicle Repair Station</p> <p>Approved 01/07/2024</p> <p>Comments: <b>Building works currently occurring on site.</b></p>  |

## 5. Proposed Development

The proposed development involves the change of use of the premise to a recreation facility (indoor) and a retail premise (food and drinks premise) at 38 Tweed Street Brunswick Heads 2483. The development can be summarised below as:

| Development Summary            |  |
|--------------------------------|--|
| Item                           | Details  |
| <b>Existing Use</b>            | Vehicle Repair Workshop and Vehicle Repair Body Workshop   |
| <b>Proposed Use</b>            | <ul style="list-style-type: none"> <li>Indoor Recreation Facility (Gym)</li> <li>Retail Premise (Food and Drinks Premise)</li> <li>Retail Premise (Shop)</li> </ul>  |
| <b>Building Works</b>          | <ul style="list-style-type: none"> <li>This application proposes a new mechanical ventilation system.</li> <li>Building works currently underway as approved under CDC No 20233872 issued by GMA Certification Group (saved as CDC16.2024.2264.1 under Council's system).</li> <li>Installation of a HVAC system for the premise.</li> </ul> |
| <b>Other works</b>             | <ul style="list-style-type: none"> <li>Front landscaping (See landscaped plan)</li> <li>Removal of onsite car parks</li> <li>Civil and Landscaping Works associated with the installation of new street parking on Tweed Street &amp; Fingal Street</li> <li>Installation of CCTV Cameras</li> </ul>   |
| <b>Gross Floor Area</b>        |  |
| <b>Gym</b>                     | 356.2sqm   |
| <b>Food and Drinks Premise</b> | 46.8sqm  |
| <b>Common Amenities</b>        | 1* Powder room<br>2* Standard toilet<br>1* Accessible toilet   |
|                                | Total GFA 436.8sqm   |
| <b>Building Height</b>         | 5.91m  |

| Operational Hours              |  |
|--------------------------------|--|
| <b>Gym</b>                     | Monday to Saturday<br>5:00am to 8:30pm<br><br>Sunday & Public Holidays<br>8:00am to 6:00pm |
| <b>Food and Drinks Premise</b> | Monday to Saturday<br>6:00am to 5:00pm<br><br>Sunday & Public Holidays<br>6:00am to 5:00pm |
| Number of Staff                |  |
| <b>Gym</b>                     | 1 – 3 staff during trading hours   |
| <b>Food and Drinks Premise</b> | 1 – 3 staff during trading hours   |

### 5.1 Plan of Management

A plan of management (POM) is submitted for Council's consideration. The plan of management outlines key operational management processes including waste management, security and complaints handling. The POMs for the gym and the food and drinks premise are outlined within separate documents.

## 6. Environmental Planning Assessment Overview

This section provides an environmental assessment of the proposed development in respect of the relevant matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act, 1979 (EP&A Act).

Under Section 4.15(1), the consent authority must take into consideration the provisions of:

- |    |                          |  |
|----|--------------------------|--|
| 1) | Section 4.15(1)(a)(i)    | Environmental Planning Instruments;                                  |
| 2) | Section 4.15(1)(a)(ii)   | Draft Environmental Planning Instruments;                            |
| 3) | Section 4.15(1)(a)(iii)  | Development Control Plans;   |
| 4) | Section 4.15(1)(a)(iiia) | Planning Agreements;   |
| 5) | Section 4.15(1)(a)(iv)   | The Regulations;   |
| 6) | Section 4.15(1)(b)       | Likely impacts of the development on natural and built environments; |
| 7) | Section 4.15(1)(c)       | Suitability of site for the development;                             |
| 8) | Section 4.15(1)(d)       | Submissions; and   |
| 9) | Section 4.15(1)(e)       | The public interest.   |

### 6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

The relevant environmental planning instruments applicable to this proposal include:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- Byron Local Environmental Plan 2014

### 6.1.1 State Environmental Planning Policy (Resilience and Hazards) 2021

The proposal is to be assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021. Clause 4.6 under Chapter 4 of the SEPP requires that a consent authority must not consent to the carrying out of development on land unless;

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

A combined Sub-Slab Vapour Assessment has been prepared by ENV Solutions detailing the extent of contamination and suitability of the site to be used for commercial purposes. The report suggests that all reported concentrations of COPCs in the soil vapour beneath the site fall below the relevant adopted tier 1 (NEPM) assessment criteria (with the exception of naphthalene, attributable to an elevated LOR) and that the site is considered suitable for ongoing commercial land use, as there is considered to be a negligible risk of exposure to potential volatile contaminants from the former site uses (including fuel storage). In this regard, it is considered that the provisions required to be considered under the SEPP (Resilience and Hazards) 2021 has been satisfied.

### 6.1.2 Byron Local Environmental Plan 2014

The table below outlines the applicable clauses relevant to the proposed development.

| Clause                                 | Provision   | Proposed  | Comment  |
|--|---|---|----------|
| 2.3 Zone Objectives and Land Use Table | Consistent with zone objectives and land use permissibility | The site is zoned MU1: Mixed Use to which a recreation facility (indoor) and a food and drinks premise are permitted with consent under the zone.<br><br>Given that the development incorporate a variety of measures to improve street scape, amenity and to reduce land use conflict, it is considered that the development meets the objectives of the zone. | Complies |
| 4.3 Height of Buildings                | Maximum building height of 9m.                              | With the installation of the HVAC system, the building will result in a maximum height of 5.91m   | Complies |
| 4.4 Floor Space Ratio                  | 0.5:1   | Given that the proposed development does not increase the gross floor area of the site, there is no change to the floor space ratio.  | N/A      |

## 6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments which apply to the development.

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

The Byron Development Control Plan 2014 (BDCP 2014) applies to the site. Given the nature of the proposed development, the following BDCP 2014 chapter applies.

- Chapter B4: Traffic Planning, Vehicle Parking, Circulation and Access
- Chapter B6: Buffers and Minimising Land Use Conflict
- Chapter D4: Commercial and Retail Development
- Chapter E4: Brunswick Heads

| <b>Chapter B4: Traffic Planning, Vehicle Parking, Circulation and Access</b><br><br>A Traffic and Parking Impact Assessment Report has been prepared and submitted for Council's Consideration. It is considered that the report sufficiently addresses Chapter B4 of the BDCP 2014<br><br><b>Complies</b>   |   |   |            |
|--|---|---|------------|
| <b>Chapter B6: Buffers and Minimising Land Use Conflict</b><br><br>This application acknowledges that the site adjoins to residential properties that are zoned R2 where a recreational facility (indoor) may result in negative environmental impacts on those properties including: <ul style="list-style-type: none"> <li>• Noise</li> <li>• Social</li> <li>• Traffic</li> <li>• Visual</li> </ul> In order to mitigate these impacts, the application is accompanied by a plan of management that ensures that impacts to nearby residential properties are minimised.<br><br><b>Complies</b> |   |   |            |
| <b>Chapter D4: Commercial and Retail Development</b>   |   |   |            |
| <b>D4.2.1 Design and Character of Retail and Business Areas</b>  |   |   |            |
| Control  | Requirement   | Proposal  | Compliance |
| PC 1   | Business, commercial and retail development must be designed to promote and encourage safe, convenient pedestrian and cycle access to and from the development itself and the surrounding precinct. Development must be designed to integrate well with the locality's pedestrian and cycle network and to contribute to the aesthetics, landscape design and usage of adjoining streets. | The proposed development will be fully within the lot boundary with ample parking on the street along Tweed Street and Fingal Street. The development will also provide for ample bicycle parking space on site to encourage the use of active transport. | Y          |

|     |  |   |   |
|-----|--|---|---|
| PC2 | The design of development must be compatible with the diversity and multi-functional character of its locality. In retail areas development must be designed to promote visual interest, to maximise shopfront window access, and to minimise blank walls along street frontages.  | While the proposed development does not alter the existing design of the building, the development will install seating areas and landscaping features front of the building line to promote visual interest and to minimise blank walls along Tweed Street.  | Y |
| PC3 | Design of development must respect the Shire's subtropical climatic conditions and must make provision for winter sunlight, summer shade and weather protection in adjoining streets and pedestrian areas.   | Ample shading provisions have been included in the development to ensure that space remains usable and practical.   | Y |
| PC4 | Development must be compatible with and reinforce the role of the centre in the commercial centres hierarchy. Development within coastal centres must reflect a lowscale, tourist-beach image. Development in rural centres or localities must be compatible with the atmosphere and character of the centre or locality.              | The proposed seating and landscape features aim to improve the streetscape of the immediate commercial area.  | Y |
| PC5 | Pedestrian areas, community spaces, vehicle parking and manoeuvring areas must be paved, furnished and landscaped in accordance with the provisions of Chapter B9 Landscaping, and with any landscape and streetscape themes adopted by Council for the locality.  | Pedestrian areas and community spaces will be appropriately furnished and landscaped.   | Y |
| PC6 | Development applications must demonstrate that the establishment and operation of the proposed development will not adversely affect:<br><br>a) The social and economic robustness, diversity and vitality of retail, business and community areas and precincts.<br><br>b) The social amenity of the precinct in which it is located. | The proposed development involves the use of the premise for the purpose of an indoor recreation centre and a food and drinks premise. Such uses are compatible within the zone and is considered to contribute to the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.<br><br>Furthermore, significant upgrades is currently being undertaken for the building to ensure that the new use will not adversely impact on the social amenity of the precinct in which it is located. | Y |

|  |   |   |   |
|--|---|---|---|
| PC 7   | Development applications must demonstrate that the proposed development will be consistent with the requirements of this DCP, including (but not limited to) Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access, B8 Waste Minimisation and Management, B10 Signage and B11 Planning for Crime Prevention. | Chapter B4: Addressed<br><br>Chapter B8: See attached waste management plan for Council's consideration.<br><br>Chapter B10: No signage being proposed.<br><br>Chapter B11: Chapter B11 does not apply to the proposed use.   | Y |
| <b>D4.2.2 Design Detail and Appearance</b>   |   |   |   |
| Not applicable as development does not make changes to building design detail and appearance   |   |   |   |
| <b>D4.2.3 Vehicle Access and Parking</b>   |   |   |   |
| See attached Traffic and Parking Assessment Report   |   |   |   |
| <b>D4.2.4 Loading Dock</b>   |   |   |   |
| See attached Traffic and Parking Assessment Report   |   |   |   |
| <b>D4.2.5 Street Setbacks</b>  |   |   |   |
| Not applicable as the development does not change the existing building setbacks. However, the development is envisioned to significantly improve the streetscape due to the installation of landscape features and furniture. |   |   |   |
| <b>D4.2.6 Plumbing</b>   |   |   |   |
| Not Applicable as S68 application under the <i>Local Government Act 1993</i> has been granted for the premise.   |   |   |   |
| <b>D4.2.7 Arcades</b>  |   |   |   |
| Not applicable as the development does not involve an arcade.  |   |   |   |
| <b>D4.2.9 Restaurants/ Cafes in Rural Areas</b>  |   |   |   |
| Not applicable as the site is not located within a rural area  |   |   |   |
| <b>D4.2.10 Restaurants, Cafes, Small bars, Pubs Registered Clubs, Function Centres and other Licensed Premises in the Urban Areas of Byron Shire</b>   |   |   |   |
| PC1  | The hours of operation of restaurants or cafes, small bars, pubs, registered clubs and function centres and other licensed premises or venues are not to affect the amenity of the neighbourhood or surrounding properties.   | The proposed food and drinks premise can be described to be a café that predominantly sells coffee and light food such as sandwiches. The café does not currently hold a liquor licence nor does it intend to sell alcohol. To ensure that the amenity of the surrounding properties are maintained, a plan of management is prepared to ensure that operational aspects of the café is considered. | Y |

|  |  |  |     |
|--|--|--|-----|
| PC2  | Restaurants or cafes, small bars, pubs, registered clubs and function centres and other licensed premises or venues are to be suitably located in relation to residential properties, shop top housing and other development that may be sensitive to offensive noise. | The proposed food and drinks premise is located along the eastern side of the site away from the residential dwellings located to the east. In this regard, it is considered that noise impacts from the proposed café is minimal. | Y   |
| PC3  | Development applications are to be submitted with sufficient information detailing how the development will be managed in relation to noise, patron behaviour, staffing, crime prevention measures and other operational requirements.                                 | See attached plan of management for more details.  | Y   |
| <b>D4.2.11 Building forms (south eastern end of Jonson Street only, refer to Map D4.1)</b> |  |  |     |
| Not Applicable   |  |  |     |
| <b>D4.2.12 Street Trees (south eastern end of Jonson Street only, refer to Map D4.1)</b>   |  |  |     |
| Not Applicable   |  |  |     |
| <b>D4.2.13 Footpath Construction (Byron CBD)</b>   |  |  |     |
| Not Applicable as the site is not located within the Byron CBD                             |  |  |     |
| <b>Chapter E4 Brunswick Heads</b>  |  |  |     |
| <b>E4.3 General Provisions</b>   |  |  |     |
| <b>E4.3.1 Character, Bulk and Scale of Development</b>                                     |  |  |     |
| PM 1   | Excavated parking basements are not permitted within Brunswick Heads.  | No basement parking being proposed   | Y   |
| PM 2   | Additional vehicle footpath crossings are to be minimised in the business and mixed use zones.   | The proposed development does not include new footpath crossings.  | Y   |
| PM3  | The built form is to be limited to two storeys within the 9 metre height limit to reflect the low rise character of Brunswick Heads.   | The maximum building height will be 5.1m   | Y   |
| PM 4   | To maintain residential privacy, roof top decks are not permitted.   | No rooftop decks being proposed  | Y   |
| PM 5   | Front setbacks are to be maintained in accordance with Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones, with front yards landscaped with lawn, and garden vegetation.   | Not applicable as the development is not a residential accommodation.  | N/A |

|   |   |  |     |
|---|---|--|-----|
| <b>E4.3.3 Development Adjoining and Near the Brunswick River</b>                  |   |  |     |
| Not applicable as the site is not adjacent or near the Brunswick River.           |   |  |     |
| <b>E4.3.4 Pedestrian and Cycle Access</b>   |   |  |     |
| PM 1  | A minimum setback of 10m is required from the Brunswick River to any pedestrian or cycle pathway.   | The development is not located adjacent to the Brunswick River | N/A |
| PM 2  | Where feasible, riparian corridors adjacent to pedestrian or cycle pathways are to be protected and enhanced by appropriate plantings of locally indigenous vegetation. | The development does not impact any riparian areas.            | N/A |
| <b>E4.3.5 Biodiversity Conservation</b>   |   |  |     |
| Not applicable as the development does not involve the removal of flora or fauna. |   |  |     |

#### **6.4 Section 4.15 (1) (a) (111a) – Any Planning Agreement or Draft Planning Agreement**

The site is not subject to any existing voluntary planning agreements.

#### **6.5 Section 4.15(1)(a)(iv) –The Regulations**

The site currently benefits from CDC17.2024.2264.1 where approves the internal fit out of the premise. Therefore, it is considered that the premise will be compliant with the relevant provisions under the National Construction Code and the Environmental Planning and Assessment Regulation 2021 prior to the commencement of the new use.

#### **6.6 Section 4.15(1)(b) Likely impacts of the development on natural and built environments;**

##### **Natural and Built Environment**

The proposed development is within an existing built form and is unlikely to introduce new impacts on the natural or built environment.

##### **Social Impacts and Economic Impacts**

Given that the proposed development will retain non-residential use of the premise without adversely impacting on acoustic, odour, visual and the like, it is considered that the development is unlikely to result in significant negative amenity impacts.

#### **6.7 Section 4.15(1)(c) – The Suitability of the Site for the Development**

Given that the proposed development is generally consistent with the requirements under the relevant SEPP, BLEP 2014 & the BDCP 2014, it is considered that the proposed development is suitable for the site.

## **6.8 Section 4.15(1)(d) – Any Submissions made in relation to the Development**

Not applicable prior to public notification of application.

## **6.9 Section 4.15(1)(e) –The Public Interest**

The proposed development is consistent with the objectives of the Environmental Planning & Assessment Act 1979 in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. Given this, the development is consistent with the public interest.

# **1. Conclusion**

This DA seeks consent for the change of use from an existing vehicle repair station and a vehicle body repair workshop to a food and drinks premise and a recreation facility (indoor) at 38 Tweed Street Brunswick Heads 2483 (legally described as LOT: 1 DP: 303546).

The proposal is supported from a town planning perspective for reasons set out in this report, summarised as follows:

- The proposal is a permitted land use under the LEP and is consistent with all relevant clauses required under the LEP;
- The proposed development remains consistent with the development standards and/or objectives within the DCP;
- The proposal adopts a plan of management to mitigate environmental impacts on nearby residential uses, thus resulting in minimal impacts on adjoining owners.

Based on the reasons outlined in this report, it is our position that the proposal is consistent with the objectives and controls of the relevant planning framework and so therefore we recommend this DA be granted consent.

We trust that the SEE has addressed all the relevant sections as required by the state and local planning provisions and that the proposal is deemed to be compatible, appropriate and fit for purpose for the surrounding area.

Yours Sincerely,



Shaun Yong  
Development Assessment Planner