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3. Minutes of Water & Wastewater Infrastructure Steering Committee, Kingscliff Wastewater Augmentation held 4 February 2000

4. Minutes of the Tweed Shire Council Consultative Committee Meeting held 17 February 2000

5. Minutes of the Public Transport Working Group Committee Meeting held Tuesday, 22 February 2000

6. Minutes of the Tweed Games Committee Meeting held 22 February 2000

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**General Fund**

2. Notice of Motion - Cr Boyd 365

**Proposed Rates Increase - Roads**

3. Notice of Motion - Cr Boyd 365

**Financial Indicators**

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**Multicap Respite Centre Project**

5. Notice of Motion - Cr Luff 365

**Review of Payment/Collection Options**

# Items for Consideration of Council

## CONFIDENTIAL

### Items Deferred in Committee 5

#### 3. ORIGIN: Works Unit 5

##### **Road Relocation - Crookes Valley Road**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (e) information that would, if disclosed, prejudice the maintenance of law*

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

#### 1. ORIGIN: Development Control Unit 27

##### **Roadside stall at Lot 1 DP 592650, Pacific Highway, Fernvale**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

### Reports from Director Development Services in Committee 33

#### 1. ORIGIN: Development Control Unit 33

##### **Roadside Stall at Lot 1 DP 592650, Pacific Highway Fernvale**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

#### 2. ORIGIN: Development Control Unit 35

##### **Unauthorised Use of Land as a Depot at Lot 4 DP 260418 Urliup Road, Bilambil**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

### Reports from Director Corporate Services in Committee 39

#### 3. ORIGIN: General Manager 39

##### **Letter from Mr J Webster**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (a) personnel matters concerning particular individuals*

### Reports from Director Engineering Services in Committee 41

#### 4. ORIGIN: Works Unit 41

##### **Supply of Three (3) only Crew Cab Tipping Trucks with Rear Lifter and Tow-Bar**

## Items for Consideration of Council

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*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (d) commercial information of a confidential nature that would, if disclosed: (i) prejudice the commercial position of the person who supplied it, or (ii) confer a commercial advantage on a competitor of the council, or (iii) reveal a trade secret*

5. ORIGIN: Works Unit

47

### **Tender EC99126 - Linemarking**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (d) commercial information of a confidential nature that would, if disclosed: (i) prejudice the commercial position of the person who supplied it, or (ii) confer a commercial advantage on a competitor of the council, or (iii) reveal a trade secret*

# Schedule of Outstanding Resolutions

## 18 FEBRUARY 1998

### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

30. **Issue of Section 149 Certificates - Banora Point/Tweed Heads South**  
GA8/2/3 Pt5 900 116 104

1572

Cr Graham  
Cr Nowland

**RESOLVED** that this item be deferred pending the receipt of the new ANEF contour lines from Air Services Australia.

**Current Status:** Awaiting receipt of new ANEF contour lines from GCAL.

Letter sent to Air Services on 26/11/99 asking for new contours for new flight paths. Response from Air Services 2/12/99 that this has been referred to their Environmental Branch. They have now advised that GCAL is responsible for new ANEF plans. Letter sent GCAL requesting prompt attention.

## 1 SEPTEMBER 1999

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

6. **Draft Tweed Local Environmental Plan 1988: Permissibility of Educational Establishments in Rural 1(a) Zone**  
GT1/LEP/1998 Pt5

543

Cr Nowland  
Cr Fraser

**RESOLVED** that this item be deferred for a workshop to be held regarding this matter.

**Current Status:** Workshop to be arranged. Depends upon Minister's decision on draft Local Environmental Plan.

## Schedule of Outstanding Resolutions

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### 20 OCTOBER 1999

#### REPORTS FROM DIRECTOR CORPORATE SERVICES

**12. Use of Land - Mt Nullum**

**GL2/4 Pt3**

819

Cr Boyd

Cr Luff

**RESOLVED** that a Council inspection of the Mt Nullum site be held at an appropriate time.

**Current Status:** Inspection set for 29 March 2000.

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#### REPORTS FROM SUB-COMMITTEES

**3. Minutes of the Aboriginal Advisory Committee Meeting held 27 September 1999**

**12. Tweed Shire Council/Aboriginal Community Meeting**

**GA10/5**

841

Cr Boyd

Cr Carroll

**RESOLVED** that a suitable date be scheduled for Councillors to visit the Minjungbal Museum and surrounds and meet with members of the Aboriginal Community.

**Current Status:** Date to be determined.

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### 1 DECEMBER 1999

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

**3. Continuation and Expansion of Existing Quarry at Lot 12 DP 601427, Lot 26 DP 615931 and Lot 1 DP 34555 Eviron Road, Eviron**

**PF1960/540 Pt2**

992

Cr Brinsmead

Cr Marshall

**RESOLVED** that Council Officers prepare a Plan of Traffic Management for the potential quarry use of Duranbah Road and Eviron Road.

**Current Status:** Report being prepared. Anticipated ready for March meeting.

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## Schedule of Outstanding Resolutions

### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

#### 21. Sportsfields in Terranora Village/Area E Location

Active Recreation

1018

Cr Boyd

Cr Youngblutt **RESOLVED** that Council officers pursue urgently the matter of the development of the active sports fields required under the Terranora Village approval.

**Current Status:** Negotiations initiated.

### 15 DECEMBER 1999

#### ITEMS DEFERRED

#### 17. Point Danger Signage (Cook's Point Danger)

Geographical Names Board

1051

Cr Boyd

Cr Marshall **RESOLVED** that this item be deferred to the Council meeting of 19 January 2000.

**Current Status:** Committee has met - further report to Council.

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

#### 4. Development Application K99/1682 - Proposed 8 Lot Subdivision of Lot 117 DP 879797 Darlington Drive/Winders Place, Banora Point (Surrounding Lake Kimberley) Bradshaw Developments Pty Ltd DA5937/740 Pt1 & GT1/DCP/3 Pt8

1055

Cr Polglase

Cr Youngblutt **RESOLVED** that:-

1. This item be deferred.
2. Council appoints a panel to be party to negotiations with the Bradshaw Group.
3. The panel to consist of two councillors and council officers.
4. A report be prepared for Council consideration.

**Current Status:** To be initiated in the near future.

## Schedule of Outstanding Resolutions

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### 19 JANUARY 2000

#### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

15. **Proposed Use of Council Building for Permanent Function Licence - Cabarita Beach Surf Life Saving Club**

**PF4100/30 Liquor Licence**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)*

*(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

1186

Cr Polglase

Cr Marshall

**RESOLVED** that this item be deferred as there is no legal lease/agreement in place between Council as owner and the surf club as tenant, Council advises that it objects to the proposed licence and requests deferral of the application until such a lease/agreement is in place.

**Current Status:** Meeting organised with Manager Environment and Health and representatives from the Cabarita Beach Surf Life Saving Club.

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### 16 FEBRUARY 2000

#### ORDERS OF THE DAY

- 6c **Notice of Motion - Cr Brinsmead  
Legal Services/Tendering**

**Legal-Court Cases, Consultancy, Notice of Motion**

1309

Cr Brinsmead

Cr Beck

**RESOLVED** that Council takes steps to tender all of Council's legal services.

**Current Status:** To be finalised.

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### 1 MARCH 2000

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

## Schedule of Outstanding Resolutions

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**7. Modification of Development Consent S95/5 - Flame Tree Park Estate  
Stages 2, 3 and 5 to 10**

**GS4/95/5 Pt9**

**1338**

**Cr Luff**

**Cr Marshall**

**RESOLVED** that this item be deferred, at the request of the applicant.

**Current Status:** Workshop involving applicants is being organised.

---

### REPORTS FROM DIRECTOR CORPORATE SERVICES

**2a. Correspondence from Halliday and Stainlay**

**Legal Matters**

**1363**

**Cr James**

**Cr Luff**

**RESOLVED** that Council invites a representative from Halliday & Stainlay to address Council in a Workshop session on its options.

**Current Status:** Invitation forwarded - date to be finalised.

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### REPORTS FROM SUB-COMMITTEES

**17. Companion Animal Act/No Leash Area**

**Companion Animals, Off Leash Areas**

**1365**

**Cr James**

**Cr Luff**

**RESOLVED** that Council seeks a report from its officers and further considers the recommendation of the report.

**Current Status:** To be finalised.

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# Schedule of Outstanding Resolutions

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# Mayoral Minute

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Councillors,

**1. Kochi Prefectural Government**

**Sister Cities**

A letter was received from Daijiro Hashimoto, Japan's Kochi Prefectural Governor regarding visit by jockeys from Kochi Race Course in Kochi Prefecture Japan expressing the hope "that exchange between the Tweed Shire and Kochi Prefecture will become increasingly prolific in the future".

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# Mayoral Minute

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# Items Deferred

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## ITEM DEFERRED FROM MEETING HELD 16 FEBRUARY 2000

29. *Erection of Tepees and Associated Structures - Lot 3 CS98/72 Hopkins Creek Road, Hopkins Creek*

*DA2580/16 Pt1*

1260

*Cr Polglase*

*Cr Youngblutt* **RESOLVED** that this item be deferred to allow representatives to address the Community Access session on 8 March 2000.

**29. ORIGIN: Environment & Health Services Unit**

**FILE REF: DA2580/16 Pt1**

**REPORT TITLE:**

**Erection of Tepees and Associated Structures - Lot 3 CS98/72 Hopkins Creek Road, Hopkins Creek**

**SUMMARY OF REPORT:**

Council has received a Development Application for a dwelling and associated application for Special Licence for Placement of a Moveable Dwelling. This report addresses both applications and associated community concerns. Due to the substantial history associated with this matter the annexed documents provide details of the background.

**RECOMMENDATION:**

That Council:-

1. Approves the submitted Development Application for the erection of a single storey dwelling subject to standard conditions
2. Approves the Special Licence for Placement of Moveable Dwelling for one (1) only moveable dwelling and associated cookhouse. Conditions of consent to include:-
  - i. The proposed permanent on-site sewage management system is to be installed and operational within two (2) months of approval.
  - ii. All domestic refuse wastes are to be disposed of through Council's Garbage Collection Service.

## Items Deferred

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- iii. The period of Special Licence is to be for twelve (12) months.
3. Commences proceedings in the Land and Environment Court against the Owner and/or occupier to remedy a breach of the Environmental Planning and Assessment Act, including orders for demolition of two (2) of the three (3) tepees, and orders for costs.



## Items Deferred

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### REPORT:

This report comprises two parts:

- Part A Background
  - (i) Copy of previous report
  - (ii) Summary of events post 16 December 1998 meeting
  
- Part B Applications submitted to Council for determination
  - (i) Development Application and Construction Certificate
  - (ii) Special Licence for the Placement of a Moveable Dwelling.

### PART A

**(i) Copy of report submitted to Council meeting of 16 December 1998:**

***“HISTORY***

*Councillors are probably aware that concerns have been raised regarding the occupation of land, situated at Lot 3 DP 878542 Hopkins Creek Road, Chillingham and owned by Mr Brian Jefferies, 10 Whitelaws Street, Newtown, by a small number of people who are residing in structures better described as “tepees”.*

*A brief history of this issue as revealed by Council’s property file is set out below:-*

- 18 May 1998 Complaint received concerning illegal occupation of land by persons in tepees.*
- 25 May 1998 Site inspection carried out.*
- 1 June 1998 Letter forward to property owner requesting indication of activities occurring on site.*
- 10 June 1998 Letter received from owner advising that the land had been let for 6 years as from 1 January 1998 to Dead Gum Revival Inc. and that Council’s letter had been passed on to their representatives for reply.*
- 25 June 1998 Letter from owner advising that the leaseholders are engaged in Landcare funded camphor removal and native plant regeneration as well as baseline studies of nocturnal fauna which necessitates occasional overnight stays which may be the cause of complaint.*
- 30 July 1998 Council’s letter to owner advising of site inspection and discussion with persons on site which revealed that 3 persons were in permanent residence.*  
*Advised also that the tenants were advised that no further structures were to be erected on site and application regarding the existing structures was to be submitted to Council.*

## Items Deferred

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*Council's letter to Burn Lorenz (tenant) advising as above with additional advice that should the required application not be received, then Council will commence with proceedings to have all illegal structures removed.*

*20 August 1998 Letter received from Burn Lorenz requesting discussion re:-*

- 1. As the Dead Gum Revival Inc. has applied for funding from the Department of Urban affairs and Planning to build an expanded house and as the outcome to such application would not be known for some months, could Council extend the period required to submit a Development Application to coincide.*
- 2. Council's support for the objectives of low-cost, low-impact housing, which is the impetus for all our activities.*

*25 August 1998 Letter objecting to the "development" occurring on the site.*

*27 August 1998 Letter of concern of the occupation of the site forwarded by the Member for Murwillumbah.*

*31 August 1998 Internal memo from Environment and Health Services Unit to the Development Control Unit seeking advice regarding SEPP15.*

*2 Sept 1998 Internal memo from the Development Control Unit to the Environment and Health Services Unit advising that a Development Application should be submitted and that the matter should not be deferred until the outcome of the Department of Urban Affairs and Planning application for funding was known.*

*3 Sept 1998 Further on-site inspection by Council.*

*21 Sept 1998 Letter to Burn Lorenz advising that the request for an extension to submit the Development Application was denied and that as previously notified, Council's request for submission of the Development Application is still current and as such, relevant documentation was required within 14 days. Further advice that Council may instigate legal proceedings and advise it necessary to apply for any temporary occupation which would only be considered upon receipt of Development Application.*

*Further letter of concern regarding the occupation of the site.*

*25 Sept 1998 Advice provided to the Department of Local Government regarding current situation.*

*2 October 1998 Request to Halliday and Stainlay in regard to action open to Council especially in relation to clarification of the status of the structures (tepees, cook-house) and guidance and options as to the appropriate legal steps.*

*Further letter of concern received.*

## Items Deferred

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- 6 October 1998 Letter received from K Sta (Dead Gum Revival) advising that plans are being prepared for submission and enclosing a letter from the Department of Urban Affairs and Planning (DUAP) confirming receipt of funding application.*
- 7 October 1998 Letter from Member for Murwillumbah attaching a copy of correspondence previously forwarded and requesting advice of current situation.*
- 12 October 1998 Letter to Halliday and Stainlay with further documentation regarding this issue.*
- 13 October 1998 Letter to Kiri Sta (Dead Gum Revival) acknowledging receipt of her letter and advising of legal advice being sought regarding the erection of the structures.*
- 4 Nov. 1998 On-site inspection following complaint of further works which revealed none. Advice given by K Sta that a dam was to be constructed.*
- 17 Nov. 1998 K Sta advised by phone that following legal advise that Council was to provide prior notice to any inspection.*
- 24 Nov. 1998 On-site inspection following complaint of works revealed small area cleared for dam.*
- 25 Nov. 1998 Advice re Illegal Structure and SEPP 15 received from Halliday and Stainlay which included the following:-*
- “Council has now the option of proceeding to issue orders under Section 121 of the Environmental Planning and Assessment Act or seeking restraining orders under Section 122. Council may also wish to prosecute pursuant to Section 125 for unlawful development.*
- Initially we would suggest that Council considers either issuing orders under Section 121(b) to cease using the premises or to remove or demolish the structures, or instigates Class 4 proceedings in the Land and Environment Court.*
- Council will have to give consideration to the matters outlined in Section 121 before making the orders which includes the requirement to consider if any person would be rendered homeless, however a notice of intention to make an order may prompt the occupiers to bring the development application necessary for Council to consider the matter and perhaps resolve the issue.”*
- From further discussions with Halliday & Stainlay and the Department of Local Government it is now advised that the tepee structures are not buildings as defined in the Environmental Planning and Assessment Act but are more correctly moveable dwellings as defined in the Local Government Act 1993. “Moveable Dwellings” means:-*

## Items Deferred

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*“(a) any tent or any caravan or other van or other portable device (whether on wheels or not) used for human habitation”.*

*Under the terms of Part 68 of the Local Government Act 1993 approval must be obtained to install a moveable dwelling and or a temporary structure and it is an offence under part 626 of the Act to do so without first obtaining Council approval and it is possible to issue an Order under part 124 of the Act requiring their removal.*

### **CURRENT STATUS**

*As of 26 November 1998 a total of 5 adults and 2 children occupy the site in three (3) tepees along with a “cook-house” structure approximately 5m x 15m. Associated equipment and chicken coops still exist.*

*In the short term, there appears to be adequate, though primitive, facilities existing for water supply and wastewaters. There does not appear to be any immediate elevated risk to the environment or public health in the short term if adequate management practises are observed. Some clearing of vegetation has also occurred.*

*The tenants have submitted a development application for a dwelling, a construction certificate and application for an on-site sewage management facility. They have also submitted an application to install 3 temporary moveable dwellings.*

*The issues that currently exist are seen as:-*

- 1. Site inspections have never revealed any significant public health issues in relation to sanitation or grey water disposal, even though they could be described as less than conventional.*
- 2. There have been numerous occasions when temporary approval has been given to allow the occupation of a caravan/shed on a property where building approval has been issued and on-site works were commenced, however this has been for a single family unit.*
- 3. A search of the Internet has revealed a plan to establish an intentional community on the site and while discussions have been held, there is no formal proposal for such submitted to Council only a Development Application for a single dwelling which is permissible with consent.*
- 4. Perceived possible incompatibility of land use activities between existing farming practice and their rural land sharing community.*
- 5. Perceived inconsistency by existing landholders of Council “dealing” with illegal development.*

*With the submission of the development application for a dwelling on the site and an application for approval to install the 3 tepees, consideration of the application will address the above issues with the exception of 5.*

## Items Deferred

*As previously stated Council could proceed to prosecute for the failure to obtain an approval prior to the installation of the tepees and could issue an order requiring their removal. The latter, however, will be resolved following the determination of the development application and application to install the tepees.*

*In line with a number of Council's previous decisions to prosecute offenders who have erected building works without approval it is considered that council should proceed to prosecute those who have installed the moveable dwellings without approval."*

Council resolved at Minute No 666 of meeting held 16 December 1998 as follows:

*"...that Council proceeds to prosecute, under Section 626 of the Local Government Act 1993, for the installation of three (3) moveable dwellings (tepees) installed on Lot 3 DP878542 Hopkins Creek Road without approval."*

**(ii) Summary of events post 16<sup>th</sup> December 1998 meeting:**

Following Council's resolution of 16<sup>th</sup> December 1998 Council records indicate the following sequence of events:-

- 18 December 1998** Request by K Sta for information relating to correspondence retained on property file.
- 22 December 1998** Four (4) Letters from Tweed Shire residents detailing concerns regarding Development Application submitted.
- 23 December 1998** Letter from Tweed Shire resident detailing concerns regarding Development Application submitted.
- Letter from Tweed Shire resident detailing concerns regarding Development Application and application for installation of 3 moveable dwellings submitted.
- 24 December 1998** Letter from Tweed Shire resident detailing concerns regarding Development Application submitted.
- Letter to Dead Gum Revival Inc requesting further information so as to process development application.
- 8 January 1999** Further information submitted by Dead Gum Revival Inc as requested by Council
- 12 January 1999** Response to request by K Sta for information.
- Letter to Council's solicitors, Halliday and Stainlay, requesting instigation of legal proceedings on behalf of Council as per Council resolution of 16 December 1998.
- Letter to occupants of subject land advising of inspection of property.

## Items Deferred

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- 18 January 1999** Letter from Tweed Shire resident requesting applications be brought before full Council for determination.
- 20 January 1999** Letter from Tweed Shire resident detailing concerns regarding Development Application submitted.
- 22 January 1999** Return of application to Install an Associated Structure due to incorrect and inadequate information submitted.
- 29 January 1999** Letters of acknowledgment sent to all objectors.
- 1 February 1999** Letter to Dead Gum Revival Inc requesting further information by Council.
- 10 February 1999** Letter from Halliday and Stainlay requesting further instruction and need for an appointment with Council Officers to discuss matter.
- 15 February 1999** Further information submitted by Dead Gum Revival Inc as requested by Council.
- 12 March 1999** Letter from Halliday and Stainlay advising the need to determine when tepees were erected. Also advised Council should issue Order under Section 124 of the Local Government Act to remove tepees.
- 17 March 1999** Letter to Dead Gum Revival Inc by Council requesting further information as result of on-site meeting 16 March 1999 and outstanding information as requested previously.
- 25 March 1999** Further information submitted by Dead Gum Revival Inc as requested by Council.
- 31 March 1999** Further information submitted to Council by Dead Gum Revival Inc.
- 6 April 1999** Letter from owner of property regarding historical land usages.
- 12 April 1999** Letter from Halliday and Stainlay confirming Council has only 6 months to commence proceedings in respect of Local Government matters which do not involve the offence of erecting a building without approval or erecting a building in accordance with an approval prior to 1 July 1998. As no first hand knowledge was available from Council officers nor neighbours Halliday and Stainlay does not recommend bringing these proceedings. Instead recommend issue Order or commence Class 4 proceedings to remedy a breach of the Environmental Planning and Assessment Act.
- 28 April 1999** Letter from Halliday and Stainlay advising action for prosecution cannot be taken for erecting tepees without approval as statute barred. Therefore advise Council may either undertake Class 4 proceeding or issue appropriate Order.
- 3 May 1999** Internal Memo from Environment and Health Services Unit to Building Services Unit advising further clarification of historical land use required.

## Items Deferred

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- 13 May 1999** Internal Memo from Environment and Health Services Unit to Building Services Unit advising inadequacy of design proposal for management of on-site waste-waters.
- 14 May 1999** Letter to Dead Gum Revival Inc advising unacceptable information submitted.
- 26 May 1999** Letter from Dead Gum Revival Inc requesting confirmation of telephone conversation of 20 May 1999.
- 7 June 1999** Letter from owner of property regarding further information required to clarify historical land use.
- Internal Memo from Environment and Health Services to Building Services Unit advising information submitted by applicant is still inadequate for complete assessment and need for preliminary site investigation due to incomplete land use history. Environment and Health Services Unit also raised concerns for the length of time taken to assess application and the potential for adverse environmental and health impacts to increase.
- 17 June 1999** Letter to Dead Gum Revival Inc advising of unresolved issues with strong recommendation to resolve quickly.
- 28 June 1999** Letter from Dead Gum Revival Inc advising Ecograph will be conducting preliminary site investigation and request extension of time so as the required analysis can be undertaken.
- 6 July 1999** Letter to Dead Gum Revival Inc advising of extension of time to resolve outstanding matters, as requested to 6<sup>th</sup> August 1999.
- 6 August 1999** Submission of preliminary site investigation report from Ecograph.
- 23 August 1999** Internal Memo from Environment and Health Services Unit to Building Services Unit advising information submitted still incomplete.
- 30 August 1999** Letter to Dead Gum Revival Inc advising deficient items.
- 18 October 1999** Letter to Dead Gum Revival Inc advising of item still outstanding.
- 8 November 1999** Letter to Dead Gum Revival Inc advising of on-site inspection.

### **PART B**

#### **(i) Background**

Both a Development Application and a Construction Certificate Application have been lodged with Council for consideration.

The applications have been submitted by a group of people with the property owner's consent seeking Council approval to construct a new single storey mud dwelling containing all the required facilities but with no defined bedrooms.

## Items Deferred

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The Building Code of Australia does not require that separate bedrooms be nominated on plans.

In accordance with Council's notification policy, twelve (12) property owners considered likely to be affected by this proposal were notified and six (6) objections were subsequently received.

All objection letters have been considered with the main objections summarised below:

### Main Objections

1. Potential for the site to be developed as a multiple occupancy.
2. Septic effluent disposal may have potential to pollute.
3. Zinalume roof sheeting may cause reflectivity problems.
4. Planning for Bushfire Protection.
5. Size of the dwelling.
6. Location of the proposed dwelling in relation to property boundaries.

During the course of assessing the proposal, Council Building Surveyors visited the subject site on several occasions.

The investigations involved on-site discussions with two (2) of the applicants at which time the main objections were discussed at length.

The following comments are offered in response to the above objections numbered 1 to 6:

1. The submitted Development Application is for a single dwelling and will be assessed accordingly.
2. The proposed septic system has been assessed by Council's Environment and Health and Building Units and is considered satisfactory.
3. The use of zinalume roofing is considered to have minimal impact on the adjoining properties.
4. Planning for Bushfire Protection has been assessed by Council's Fire Control Officer and is considered satisfactory.
5. The size of the proposed dwelling is considered satisfactory as the BCA only stipulates the required facilities to be installed in a dwelling and not the minimum size for a dwelling.
6. The submitted site plan detailing boundary setbacks is considered satisfactory.

It is not considered that the erection of the dwelling will adversely impact on the surrounding landholders and their carrying out of their current land use practices.

### *(ii) Special Licence for Placement of Moveable Dwellings:*

An application has been submitted for the placement of three (3) moveable dwellings (tepees) for a period of up to 12 months so as to live on the property whilst the proposed dwelling is under



## Items Deferred

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construction. It has been generally considered acceptable in rural areas to permit occupants to live on their property during construction of their homes. Conditions of approval have been imposed which relate to waste management, on-site sewage management and the provision of adequate water supply.

Section 68 Part A of the Local Government Act 1993 requires a person to obtain the prior approval by Council to:

*“1 Install a manufactured home, moveable dwelling or associated structure on land”*

and Part C of the Act,

*“5 Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility”.*

The subject land parcel has currently three (3) unapproved tepees installed with an associated cookhouse. (Council previously resolved to prosecute for the installation of the tepees. This has been addressed in Part A (i) and (ii) of this report.)

Whilst no legislative requirements limit the number of moveable dwellings to be installed during the construction of applicants' homes it has generally been accepted practice to limit the number of moveable dwellings to one per site.

Should Council resolve to approve the development application for the dwelling and grant approval for the application for Special Licence for Placement of Moveable Dwelling, it is recommended that Council also limits any such approval to one moveable dwelling on-site and allow the associated cookhouse to remain. It is further recommended that Council proceeds with all necessary legal measures to result in the removal of the other two (2) moveable dwellings.

Additional conditions of consent should also be imposed to include:-

- (i) The proposed permanent on-site sewage management system is to be installed and operational within two (2) months of approval.

***Reason:***

*Current on-site sewage management is via a home-built composting system. The adequacy of the system has not been fully assessed. However, it is unlikely that the system will meet the needs of the current NSW Health Guidelines for home-built composting toilets. Grey-water is discharged through an open swale system to domestic fruit trees. This practice does not comply with current requirements.*

- (ii). All domestic refuse wastes are to be disposed of through Council's Garbage Collection Service.

***Reason:***

*Council's Garbage Service is available to the residents on Hopkins Creek Road. To avoid the accumulation of garbage on the property, solid wastes should be disposed of to an approved landfill facility.*

## Items Deferred

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- (iii) The period of Special Licence is to be for twelve (12) months.

***Reason:***

*To provide adequate time to complete dwelling construction.*

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# Reports from Director Development Services

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## **MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

### **MATTERS FOR CONSIDERATION**

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
  - (a) the provisions of
    - (i) any environmental planning instrument; and
    - (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and
    - (iii) any development control plan, and
    - (iv) any matters prescribed by the regulations,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 of 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.

### **EXTRACT FROM TWEED LOCAL ENVIRONMENTAL PLAN 1987**

#### **SCHEDULE 3 - Principles and Criteria of Assessment in Respect of Development in Rural and Environmental Protection Zones**

## Reports from Director Development Services

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1. The ratio of frontage to depth of each allotment is to be assessed having regard to the purpose for which the allotment is to be developed and the need to minimise the creation of vehicular access point to any road and particularly to designated roads.
1. Arrangements satisfactory to the Council are to be made for the provision of water and on-site disposal of wastes.
1. A road access consistent with the Council's current standards should be provided between the proposed development and a convenient commercial centre.
1. In areas with slopes predominantly in excess of 25% (1 in 4) or 18% (1 in 5.56) on potentially unstable soils such as kraxnozems, chocolate soils and yellow podzolics, identification and investigation of areas of potential erosion landslip or mass movement may be required.
1. In areas identified by the Council as having significant bushfire hazard risk sufficient design consideration is to be given to the reduction of the potential hazard.
1. In areas where potentially significant geological resources have been identified by the Council, investigation is to be carried out into the desirability of preserving access to such resources and the effects of possible future extraction of the resource on both existing and future development in the locality.
1. In areas identified by the Council as being of particular scenic value, the effect that the carrying out of development would have on the retention of existing vegetation on the land and the impact that any proposed building or structure would have on the scenic quality of the locality are to be assessed.
1. In areas identified by the Council as being flood liable, design consideration is to be given to flood liability in accordance with the Council's current policy.
1. An assessment is to be made of the likely impact that will result upon the Council's road system as a consequence of the development being carried out.
1. An assessment is to be made of the impact of proposed drainage works on adjoining lands.
1. An assessment is to be made of identified prime agricultural lands, to include:
  - (a) an assessment of the quality of agricultural land, including existing farm layout and infrastructure as well as neighbouring uses; and
  - (b) recognition of the impact on existing and neighbouring uses regarding loss of prime land and potential for conflict requiring appropriate buffering;and all applications for subdivision on land identified as Class 1, 2 and 3 or unique horticultural on the Department's Classification Agricultural Land Maps shall be referred to the Department of Agriculture for comment.
12. The vulnerability of the proposed development to coastal erosion to be assessed and design consideration given to the reduction of the potential hazard.

## Reports from Director Development Services

### MATTERS FOR CONSIDERATION UNDER SECTION 90 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 90 of the Environmental Planning and Assessment Act 1979 in assessing a development application.

#### MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
  - (a) the provisions of
    - (i) any environmental planning instrument;
    - (ii) any draft environmental planning instrument that is or has been placed on exhibition pursuant to section 47(b) or 66(1)(b);
    - (iii) any draft State environmental planning policy which has been submitted to the Minister in accordance with Section 37 and details of which have been notified to the consent authority; and
    - (iv) any development control plan in force under Section 51A or 72 that applies to the land to which the development application relates;
  - (a1) the provisions of
    - (i) any conservation agreement entered into under the National Parks and Wildlife Act 1974 and applying to the whole or part of the land to which the development application relates; and
    - (ii) any plan of management adopted under that Act for the conservation area to which the agreement relates;
  - (b) the impact of that development on the environment (whether or not the subject of an environmental impact statement) and, where harm to the environment is likely to be caused, any means that may be employed to protect the environment or to mitigate that harm;
  - (c) the effect of that development on the landscape or scenic quality of the locality;
  - (c1) the effect of that development on any wilderness area (within the meaning of the Wilderness Act 1987) in the locality;
  - (c2) the effect of that development on critical habitat;
  - (c3) whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats;

## Reports from Director Development Services

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- (c4) any relevant recovery plan or threat abatement plan;
- (c5) the effect of that development on any other protected fauna or protected native plants within the meaning of the National Parks and Wildlife Act 1974;
- (d) the social effect and the economic effect of that development in the locality
- (e) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of that development.
- (f) the size and shape of the land to which that development application relates, the siting of any building or works thereon and the area to be occupied by that development;
- (g) whether the land to which that development application relates is unsuitable for that development by reason of its being, or being likely to be, subject to flooding, tidal inundation, subsidence, slip or bush fire or to any other risk;
- (h) the relationship of that development to development on adjoining land or on other land in the locality;
- (i) whether the proposed means of entrance to and exit from that development and the land to which that development application relates are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles within that development or on that land;
- (j) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system;
- (k) whether public transport services are necessary, and if so, whether they are available and adequate for that development;
- (l) whether utility services are available and adequate for that development;
- (m) whether adequate provision has been made for the landscaping of the land to which that development application relates and whether any trees or other vegetation on the land should be preserved;
- (m1) whether that development is likely to cause soil erosion;
- (n) any representations made by a public authority in relation to that development application, or to the development of the area, and the rights and powers of that public authority;
- (o) the existing and likely future amenity of the neighbourhood;

## Reports from Director Development Services

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- (p) any submission made under Section 87;
- (p1) without limiting the generality of paragraph (a), any matter specified in an environmental planning instrument as a matter to be taken into consideration or to which the consent authority shall otherwise have regard in determining the development application;
- (q) the circumstances of the case;
- (r) the public interest; and
- (s) any other prescribed matter.

90(2) A reference in this section to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application.

### **EXTRACT FROM TWEED LOCAL ENVIRONMENTAL PLAN 1987**

#### **SCHEDULE 3 - Principles and Criteria of Assessment in Respect of Development in Rural and Environmental Protection Zones**

1. The ratio of frontage to depth of each allotment is to be assessed having regard to the purpose for which the allotment is to be developed and the need to minimise the creation of vehicular access point to any road and particularly to designated roads.
1. Arrangements satisfactory to the Council are to be made for the provision of water and on-site disposal of wastes.
1. A road access consistent with the Council's current standards should be provided between the proposed development and a convenient commercial centre.
1. In areas with slopes predominantly in excess of 25% (1 in 4) or 18% (1 in 5.56) on potentially unstable soils such as kraxnozems, chocolate soils and yellow podzolics, identification and investigation of areas of potential erosion landslip or mass movement may be required.
1. In areas identified by the Council as having significant bushfire hazard risk sufficient design consideration is to be given to the reduction of the potential hazard.
1. In areas where potentially significant geological resources have been identified by the Council, investigation is to be carried out into the desirability of preserving access to such resources and the effects of possible future extraction of the resource on both existing and future development in the locality.
1. In areas identified by the Council as being of particular scenic value, the effect that the carrying out of development would have on the retention of existing vegetation on the land and the impact that any proposed building or structure would have on the scenic quality of the locality are to be assessed.
1. In areas identified by the Council as being flood liable, design consideration is to be given to flood liability in accordance with the Council's current policy.

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1. An assessment is to be made of the likely impact that will result upon the Council's road system as a consequence of the development being carried out.
1. An assessment is to be made of the impact of proposed drainage works on adjoining lands.
1. An assessment is to be made of identified prime agricultural lands, to include:
  - (a) an assessment of the quality of agricultural land, including existing farm layout and infrastructure as well as neighbouring uses; and
  - (b) recognition of the impact on existing and neighbouring uses regarding loss of prime land and potential for conflict requiring appropriate buffering;and all applications for subdivision on land identified as Class 1, 2 and 3 or unique horticultural on the Department's Classification Agricultural Land Maps shall be referred to the Department of Agriculture for comment.
12. The vulnerability of the proposed development to coastal erosion to be assessed and design consideration given to the reduction of the potential hazard.



## Reports from Director Development Services

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**1. ORIGIN: Strategic Town Planning Unit**

**FILE REF: GT1/LEP/A129 Pt1**

**REPORT TITLE:**

**Finalisation of Tweed Local Environmental Plan 1987 (Draft Amendment No 129) - Seventh Day Adventist Church Hall, Racecourse Road, Tyngah**

**SUMMARY OF REPORT:**

The draft LEP will enable use of an existing basketball court in the SDA Church Hall by persons not associated with the SDA Church.

There is no evidence available to suggest that the likely increase in use of the facility will adversely impact upon adjoining agricultural activities.

There were no public submissions against the proposal.

Precise details of the proposed use of the facility will need to be addressed at the Development Application stage.

**RECOMMENDATION:**

That Council submits Draft Amendment No 129 to Tweed Local Environmental Plan 1987 to the Department of Urban Affairs and Planning and requests that the Minister for Urban Affairs and Planning make the Plan.

## Reports from Director Development Services

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### REPORT:

Council resolved at its meeting of 7 July 1999 to advise the Department of Urban Affairs and Planning of its intention to prepare a draft Local Environmental Plan (LEP) to permit Lot 2 DP 735226 (which contains the Seventh Day Adventist (SDA) Church Hall) to be used as a 'recreation facility'.

The intent of the proposed LEP amendment is to allow the indoor basketball court located in the Church Hall to be used by people other than those directly associated with the SDA Church.

### BACKGROUND

This matter originally arose from a complaint received by Council in March 1998 that the SDA Church Hall was being used as a basketball facility by groups other than those directly associated with the SDA Church. The Church complex, associated amenities and caretaker's residence were approved via Development Consent 86/147. The consent was modified on 29 March, 1994 to allow for enlargement of the approved Church hall and its use for sport and social gatherings. The SDA Church confirmed that the basketball court in the Church Hall was made available for community use.

Council at its meeting of 16 December, 1998 resolved that the use of the indoor basketball court by groups other than those associated with the Church constituted a 'recreation facility', which was a prohibited use in the 1(b2) Agricultural Protection Zone. Council also resolved to advise the owners that they should make a submission to Draft Tweed Local Environmental Plan 1998 seeking a site specific amendment to that Plan to allow for the use of the basketball court other than in conjunction with Church activities. This was done, and the Draft Local Environmental Plan 1998 submitted to the Minister includes the subject land under Schedule 3, which will permit the use of the land as a 'recreational facility'.

Council's Solicitors advised that in their opinion the use of the Church Hall as a recreation facility was not ancillary to the existing use of the Church complex, and that such use was not permissible. This advice was presented as a confidential item to Council's meeting of 17 March, 1999 where it was subsequently resolved, amongst other things, that:

*"Council continue to work with both parties as required to ensure the uninterrupted use of the facilities by the basketballers."*

### PUBLIC SUBMISSIONS

The draft Local Environmental Plan Amendment No 129 was placed on public exhibition for a period of 42 days from 20 December 1999 to 31 January 2000.

Adjoining landholders and the NSW Sugar Milling Co-operative were also notified of the draft Plan and invited to provide their views on the proposal. No submissions were received from adjoining landholders, NSW Sugar Milling Cooperative or the general public.

## Reports from Director Development Services

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### GOVERNMENT AUTHORITIES CONSULTATION

#### Department of Urban Affairs and Planning.

The Department advised Council that there was no need for an environmental study to be undertaken prior to preparation of the draft LEP.

#### NSW Agriculture

As the subject land adjoins sugar cane plantations, NSW Agriculture suggested that Council seek the views of adjoining landholders and the NSW Sugar Milling Co-operative, prior to determining the proposal. As mentioned under "Public Submissions" above, Council did not receive any replies to its invitations to adjoining landholders and NSW Sugar to comment on the proposal.

NSW Sugar noted that while limited use of the basketball facility was not of significant concern, wider and more frequent use of the facility could alter the potential for conflict with agriculture and the potential for sterilisation of agricultural land around the Church Hall. NSW Agriculture has recommended that development in the 1(b2) zone be compatible with the zone objectives and permitted land uses. It was also stated that there was no evidence available to suggest that the SDA Church Hall was creating or likely to create a problem for adjoining agricultural activities.

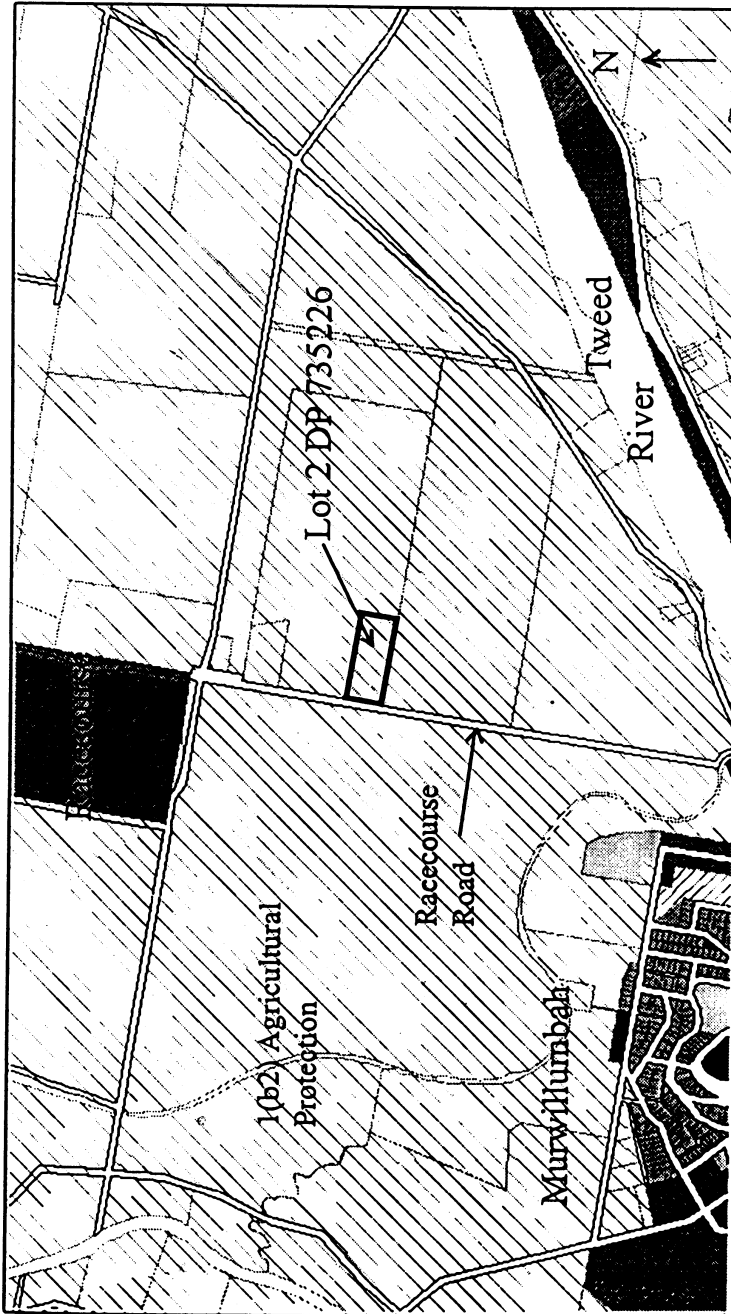
In the absence of any contrary evidence or opinion, it is considered that a limited increase in use of the basketball facility will be unlikely to place in jeopardy adjoining agricultural activities. Issues relating to increased intensity of use can best be addressed at the Development Application stage. A Development Application will be required to be lodged with and approved by Council prior to commencement of any use of the basketball court as a 'recreation facility' ie. Use by person not associated with the SDA Church.

### CONCLUSION

The draft Tweed LEP 1998 will permit the use of an existing basketball facility by persons not associated with the SDA Church, subject to Development Approval. Approval timing of the draft Tweed LEP 1998 is still uncertain, so it is recommended that this draft amendment proceed.

There is no evidence available to suggest that some increase in use of the facility will jeopardise adjoining agricultural activities. No objections have been raised from adjoining landholders or NSW Sugar, all of whom were individually notified of the proposal. The extent of increased usage of the facility will be addressed at the Development Application stage.

# Reports from Director Development Services



**Locality Plan - SDA Church Hall - Lot 2 DP 735226, 116 Racecourse Rd, Tyngalga**  
**Note:** This map is for information purposes only; it does not form part of the LEP

## Reports from Director Development Services

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### 2. ORIGIN: Subdivision Unit

**FILE REF: DA3880/60 Pt3**

#### **REPORT TITLE:**

**Proposed 560 Lot Urban Subdivision at Lot 46, 199-202, 205, 228 and 305 DP 755740 and Lot 2 DP 566529 and Lot 1 DP 823679 Piggabeen Road and Sandy Lane, Cobaki Lakes**

#### **SUMMARY OF REPORT:**

This application proposes the subdivision of the Cobaki Lakes site into 560 lots. The proposal consists of conventional allotments with a minimum size of 650m<sup>2</sup> and larger residential "A" and "B" management lots for low and medium density residential development which will be subject to future development applications for subdivision.

This application is for the remainder of the Cobaki Lakes site excluding parcel 21, which will be subject of a separate development application, and the value of works involved is estimated at \$17 million.

A key issue arising is the connection of Cobaki Parkway to Piggabeen Road and the impacts of any connection on traffic volumes on Kennedy Drive. Having regard to the issues canvassed in the report from the Director Engineering Services to Council's meeting on 15 December 1999 and the discussion at the Workshop on 8 March 2000 it is considered that Cobaki Parkway should not be connected to Piggabeen Road until the Tugun Bypass and Boyd Street interchange are operational. A \$2.5 million bond is recommended as a Condition of Consent (56(ii)(b)) in relation to connecting Cobaki Parkway to Piggabeen Road.

It should also be noted that the application proposed the dedication of approximately 80 hectares of land because of its conservation value, 54 ha of which is zoned 2(c)..

The application is accompanied by a Species Impact Statement and therefore Council may only consent to the application with the concurrence of the Director General of the National Parks and Wildlife Service

Larger plans will be available in the Council Chambers from 12 noon on 15 March, 2000, and the Director of Development Services can give a presentation on the Application if Council wishes.

#### **RECOMMENDATION:**

That:-

- A. The development application submitted by Cardno MBK (QLD) Pty Ltd for the subdivision of Lot 46, 199-202, 205, 228 and 305 DP 755740 and Lot 2 DP 566529 and Lot 1 DP 823679 Piggabeen Road and Sandy Lane, Cobaki Lakes into 560 lots be approved **subject** to the concurrence of the Director General of the National Parks and Wildlife Service and the following conditions:-

## Reports from Director Development Services

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### **PRE-REQUISITES conditions that must be complied with prior to the release of a construction certificate**

1. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director, Development Services.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

2. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
  - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
  - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
3. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
4. Consent from the Department of Land and Water Conservation is to be obtained for the drainage of stormwater onto the Crown Land between this subdivision and the NSW - QLD border. A copy of the consent shall be submitted to Council PRIOR to the issue of a Construction Certificate.
5. Details of all entry statements are to be submitted and approved by the Manager Works and the Manager Recreation Services prior to the release of the Construction Certificate. All entry statements are to be designed and constructed to provide for low maintenance. Council will not accept statements that require a significant maintenance contribution.
6. In conjunction with the release and registration of the linen plan for each stage, the applicant shall dedicate and embellish all areas of proposed public open space in accordance with detailed embellishment plans to be submitted for approval to Council's Manager, Recreation Services. The plans are to be submitted and approved prior to the release of the Construction Certificate. The plans are to show final levels for the neighbourhood parks.

## Reports from Director Development Services

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### GENERAL

7. The development shall be completed in general accordance with Plan Nos 6BAA, 6BA, 6CA & 6DA prepared by Cardno and Davies (QLD) Pty Ltd and dated July 1999, except where varied by these conditions.
8. Compliance with all conditions of Development Consent 94/438 (earthworks).
9. In the event that site works expose any archaeological or cultural material, all work is to cease and officials of the National Parks and Wildlife Service, Tweed Byron Aboriginal Land Council are to be notified immediately.
10. The only vegetation that can be removed is that directly required to be removed by earthworks, servicing of the development or providing a house site. No other vegetation is to be removed.
11. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
12. No soil, sand, gravel, clay or other material shall be disposed of off the site.
13. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate.
14. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual and Development Control Plan No. 17 - Cobaki Lakes, except where varied by these conditions.
15. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No K99/1124 have been complied with.
16. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

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

17. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control

## Reports from Director Development Services

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- Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
18. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.
  19. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
  20. Submission of further Development Applications for Residential "A" and "B" Management lots.
  21. The network of public bushwalking trails shall be constructed within each stage in accordance with DCP No 17 and detailed engineering plans to accompany the Construction Certificate application for each stage.
  22. Useable open space is to be provided in Stage 1 with a minimum area of 2000m<sup>2</sup> and be within 300 metres of all lots. The creation of neighbourhood parks as part of the Wildlife corridors is subject to approval from National Parks and Wildlife Services.
  23. The pathways in Stage 3 between proposed lots 331, 332, 347 and 348 is to be deleted. This is also the case for the pathway between lots 439, 440, 448 and 449. The pathway between lots 481 and 482 is also to be deleted.
  24. No works or disturbance shall occur within 200m of Turner's Cattle Dip Site unless a detailed Plan of Management for remediation of the dip site is submitted and approved by Council and the EPA. The plan shall reference previous Council and EPA concerns and include an Occupational Health and Safety Plan acceptable to the NSW WorkCover Authority. In any case the dip site shall be rehabilitated in accordance with an approved Management Plan prior to the issue of any further development consents for development within 200m of the Dip Site.
  25. The firetrails are to be constructed in accordance with the plans referred to in Condition 6 and the Bushfire Protection Management Plan prepared by Cardno and Davies dated November 1997. Details on the design and construction of these trails are to be submitted to with the construction certificate application for each stage.

### CONTRIBUTIONS

26. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority



## Reports from Director Development Services

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

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

### (ii) GST

1.1 In this Clause 1:

"GST means any tax, impost or duty, including any goods and services, consumption, value added or similar tax applying on goods, services or other things introduced by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and associated legislation (as amended), or under legislation passed by a State or Territory Parliament which is charged or levied on goods, services or other things.

1.2 Any monetary contributions and levies payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979 (NSW)* (as amended), and all other moneys payable by and on behalf of the applicant are exclusive of GST.

1.3 Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979 (NSW)* (as amended), including, but not limited to, the dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.

1.4 Liability for GST (payable in respect of any taxable supply under this contributions plan whether monetary or non-monetary) is additional. It is payable by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.

1.5 In respect of any non-monetary contribution or levy referred to in clause 1.3 above, the GST payable shall be calculated as follows:

GST payable = The GST inclusive market price of the asset x  $\frac{1}{11}$ .

1.6 The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets

## Reports from Director Development Services

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transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.

### Stage 1

- a. Tweed Road Contribution Plan: 5 lots @ \$2544/lot      \$12,720.00

S94 Plan No. 4 (Version 4.0)

(Tweed Heads West - Residential)

Alternatively, prior to the issuing of the Subdivision Certificate, documentary evidence shall be submitted demonstrating that the condition is deemed to be satisfied by virtue of works carried out. The value of the works carried out shall be calculated based on the rates in force in Section 94 Plan No. 4 at the date of issue of the Subdivision Certificate.

Credits are to be determined using the following formulae:

$$\frac{\text{Value of works at Section 94 Plan Rates}}{\text{Contribution rate per lot}} = \text{number of lots credited}$$

- b. Street Trees: 5 lots @ \$42.90 per lot      \$214.50

S94 Plan No. 6

Alternatively, the applicant may provide street trees on site to an equivalent standard that would be required by Section 94 Plan No. 6. The location and species is to be approved by the Manager, Recreation Services. The trees are to be maintained by the applicant for a period of 2 years or until such time as eighty percent of the lots in the street have dwellings erected on them.

- c. Shirewide Library Facilities: 5 lots @ \$300      \$1,500.00

S94 Plan No. 11

- d. Eviron Cemetery/Crematorium Facilities: 5 lots @ \$126      \$630.00

S94 Plan No. 13

- e. Bus Shelters: 5 lots @ \$23      \$115.00

S94 Plan No. 12

In lieu of the contribution the applicant may construct the bus shelters prior to the issue of the Subdivision Certificate for each stage subject to the agreement of bus operators in terms of the location.

## Reports from Director Development Services

- f. Emergency Facilities (Surf Lifesaving) 5 lots @ \$80 \$400.00  
S94 Plan No. 16
- g. Extensions to Council Administration Offices  
& Technical Support Facilities: 5 lots @ \$344.81 \$1,724.05  
S94 Plan No. 18
- h. Shire Wide Cycleways: 5 lots @ \$160 \$800.00  
S94 Plan No. 22

### Stage 2

- a. Tweed Road Contribution Plan: 111 lots @ \$2544/lot \$282,384.00  
S94 Plan No. 4 (Version 4.0)

(Tweed Heads West - Residential)

Alternatively, prior to the issuing of the Subdivision Certificate, documentary evidence shall be submitted demonstrating that the condition is deemed to be satisfied by virtue of works carried out. The value of the works carried out shall be calculated based on the rates in force in Section 94 Plan No. 4 at the date of issue of the Subdivision Certificate.

Credits are to be determined using the following formulae:

$$\frac{\text{Value of works at Section 94 Plan Rates}}{\text{Contribution rate per lot}} = \text{number of lots credited}$$

- b. Street Trees: 111 lots @ \$42.90 per lot \$4,761.90  
S94 Plan No. 6

Alternatively, the applicant may provide street trees on site to an equivalent standard that would be required by Section 94 Plan No. 6. The location and species is to be approved by the Manager, Recreation Services. The trees are to be maintained by the applicant for a period of 2 years or until such time as eighty percent of the lots in the street have dwellings erected on them.

- c. Shirewide Library Facilities: 111 lots @ \$300 \$33,300.00  
S94 Plan No. 11
- d. Eviron Cemetery/Crematorium Facilities: 111 lots @ \$126 \$13,986.00  
S94 Plan No. 13

## Reports from Director Development Services

- e Bus Shelters: 111 lots @ \$23 \$2,553.00  
 S94 Plan No. 12  
 In lieu of the contribution the applicant may construct the bus shelters prior to the issue of the Subdivision Certificate for each stage subject to the agreement of bus operators in terms of the location.
- f Emergency Facilities (Surf Lifesaving) 111 lots @ \$80 \$8,800.00  
 S94 Plan No. 16
- g. Extensions to Council Administration Offices  
 & Technical Support Facilities: 111 lots @ \$344.81 \$38,273.91  
 S94 Plan No. 18
- h. Shire Wide Cycleways: 111 lots @\$160/lot \$17,760.00  
 S94 Plan No.22

### Stage 3

- a. Tweed Road Contribution Plan: 178 lots @ \$2544/lot \$452,832.00  
 S94 Plan No. 4 (Version 4.0)  
 (Tweed Heads West - Residential)  
 Alternatively, prior to the issuing of the Subdivision Certificate, documentary evidence shall be submitted demonstrating that the condition is deemed to be satisfied by virtue of works carried out. The value of the works carried out shall be calculated based on the rates in force in Section 94 Plan No. 4 at the date of issue of the Subdivision Certificate.  
 Credits are to be determined using the following formulae:  

$$\frac{\text{Value of works at Section 94 Plan Rates}}{\text{Contribution rate per lot}} = \text{number of lots credited}$$
- b. Street Trees: 178 lots @ \$42.90 per lot \$7,636.20  
 S94 Plan No. 6  
 Alternatively, the applicant may provide street trees on site to an equivalent standard that would be required by Section 94 Plan No. 6. The location and species is to be approved by the Manager, Recreation Services. The trees are to be maintained by the applicant for a period of 2 years or until such time as eighty percent of the lots in the street have dwellings erected on them.

## Reports from Director Development Services

- c. Shirewide Library Facilities: 178 lots @ \$300 \$53,400.00  
S94 Plan No. 11
- d. Eviron Cemetery/Crematorium Facilities: 178 lots @ \$126 \$22,428.00  
S94 Plan No. 13
- e. Bus Shelters: 178 lots @ \$23 \$4,094.00  
S94 Plan No. 12
- In lieu of the contribution the applicant may construct the bus shelters prior to the issue of the Subdivision Certificate for each stage subject to the agreement of bus operators in terms of the location.
- f. Emergency Facilities (Surf Lifesaving) 178 lots @ \$80 \$14,240.00  
S94 Plan No. 16
- g. Extensions to Council Administration Offices  
& Technical Support Facilities: 178 lots @ \$344.81 \$61,376.18  
S94 Plan No. 18
- h. Shire Wide Cycleways: 178 lots @ \$160/lot \$28,480.00  
S94 Plan No. 22

### Stage 4

- a. Tweed Road Contribution Plan: 79 lots @ \$2544/lot \$200,976.00  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads West - Residential)

Alternatively, prior to the issuing of the Subdivision Certificate, documentary evidence shall be submitted demonstrating that the condition is deemed to be satisfied by virtue of works carried out. The value of the works carried out shall be calculated based on the rates in force in Section 94 Plan No. 4 at the date of issue of the Subdivision Certificate.

Credits are to be determined using the following formulae:

$$\frac{\text{Value of works at Section 94 Plan Rates}}{\text{Contribution rate per lot}} = \text{number of lots credited}$$

- b. Street Trees: 79 lots @ \$42.90 per lot \$3,389.10

## Reports from Director Development Services

### S94 Plan No. 6

Alternatively, the applicant may provide street trees on site to an equivalent standard that would be required by Section 94 Plan No. 6. The location and species is to be approved by the Manager, Recreation Services. The trees are to be maintained by the applicant for a period of 2 years or until such time as eighty percent of the lots in the street have dwellings erected on them.

- c. Shirewide Library Facilities: 79 lots @ \$300 \$23,700.00

### S94 Plan No. 11

- d. Eviron Cemetery/Crematorium Facilities: 79 lots @ \$126 \$9,954.00

### S94 Plan No. 13

- e. Bus Shelters: 79 lots @ \$23 \$1,817.00

### S94 Plan No. 12

In lieu of the contribution the applicant may construct the bus shelters prior to the issue of the Subdivision Certificate for each stage subject to the agreement of bus operators in terms of the location.

- f. Emergency Facilities (Surf Lifesaving) 79 lots @ \$80 \$6,320.00

### S94 Plan No. 16

- g. Extensions to Council Administration Offices  
& Technical Support Facilities: 79 lots @ \$344.81 \$27,239.99

### S94 Plan No. 18

- h. Shire Wide Cycleways: 79 lots @ \$160/lot \$12,640.00

### S94 Plan No.22

## Stage 5

- a. Tweed Road Contribution Plan: 6 lots @ \$2544/lot \$15,264.00

### S94 Plan No. 4 (Version 4.0)

(Tweed Heads West - Residential)

Alternatively, prior to the issuing of the Subdivision Certificate, documentary evidence shall be submitted demonstrating that the condition is deemed to be satisfied by virtue of works carried out. The value of the works carried out shall be calculated based on the rates in force in Section 94 Plan No. 4 at the date of issue of the Subdivision Certificate.

## Reports from Director Development Services

Credits are to be determined using the following formulae:

$$\frac{\text{Value of works at Section 94 Plan Rates}}{\text{Contribution rate per lot}} = \text{number of lots credited}$$

- b. Street Trees: 6 lots @ \$42.90 per lot \$257.40  
S94 Plan No. 6

Alternatively, the applicant may provide street trees on site to an equivalent standard that would be required by Section 94 Plan No. 6. The location and species is to be approved by the Manager, Recreation Services. The trees are to be maintained by the applicant for a period of 2 years or until such time as eighty percent of the lots in the street have dwellings erected on them.

- c. Shirewide Library Facilities: 6 lots @ \$300 \$1,800.00  
S94 Plan No. 11

- d. Eviron Cemetery/Crematorium Facilities: 6 lots @ \$126 \$756.00  
S94 Plan No. 13

- e. Bus Shelters: 6 lots @ \$23 \$138.00  
S94 Plan No. 12

In lieu of the contribution the applicant may construct the bus shelters prior to the issue of the Subdivision Certificate for each stage subject to the agreement of bus operators in terms of the location.

- f. Emergency Facilities (Surf Lifesaving) 6 lots @ \$80 \$480.00  
S94 Plan No. 16

- g. Extensions to Council Administration Offices  
& Technical Support Facilities: 6 lots @ \$344.81 \$2,068.86  
S94 Plan No. 18

- h. Shire Wide Cycleways: 6 lots @ \$160/lot \$960.00  
S94 Plan No. 22

### Stage 6

- a. Tweed Road Contribution Plan: 147 lots @ \$2544/lot \$373,968.00  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads West - Residential)

## Reports from Director Development Services

Alternatively, prior to the issuing of the Subdivision Certificate, documentary evidence shall be submitted demonstrating that the condition is deemed to be satisfied by virtue of works carried out. The value of the works carried out shall be calculated based on the rates in force in Section 94 Plan No. 4 at the date of issue of the Subdivision Certificate.

Credits are to be determined using the following formulae:

Value of works at Section 94 Plan Rates = number of lots credited  
Contribution rate per lot

b. Street Trees: 147 lots @ \$42.90 per lot \$6,306.30

S94 Plan No. 6

Alternatively, the applicant may provide street trees on site to an equivalent standard that would be required by Section 94 Plan No. 6. The location and species is to be approved by the Manager, Recreation Services. The trees are to be maintained by the applicant for a period of 2 years or until such time as eighty percent of the lots in the street have dwellings erected on them.

c. Shirewide Library Facilities: 147 lots @ \$300 \$44,100.00

S94 Plan No. 11

d. Eviron Cemetery/Crematorium Facilities: 147 lots @ \$126  
\$18,522.00

S94 Plan No. 13

e. Bus Shelters: 147 lots @ \$23 \$3,381.00

S94 Plan No. 12

In lieu of the contribution the applicant may construct the bus shelters prior to the issue of the Subdivision Certificate for each stage subject to the agreement of bus operators in terms of the location.

f. Emergency Facilities (Surf Lifesaving) 147 lots @ \$80 \$11,760.00

S94 Plan No. 16

g. Extensions to Council Administration Offices  
& Technical Support Facilities: 147 lots @ \$344.81 \$50,687.07

S94 Plan No. 18



## Reports from Director Development Services

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h. Shire Wide Cycleways: 147 lots @ \$160/lot \$23,520.00

S94 Plan No. 22

27. A **certificate of compliance** (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

### **GST**

- 1.1 In this Clause 1:

"GST means any tax, impost or duty, including any goods and services, consumption, value added or similar tax applying on goods, services or other things introduced by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and associated legislation (as amended), or under legislation passed by a State or Territory Parliament which is charged or levied on goods, services or other things.

- 1.2 Any monetary contributions and levies payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (NSW) (as amended), and all other moneys payable by and on behalf of the applicant are exclusive of GST.
- 1.3 Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (NSW) (as amended), including, but not limited to, the dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.
- 1.4 Liability for GST (payable in respect of any taxable supply under this contributions plan whether monetary or non-monetary) is additional. It is payable by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.
- 1.5 In respect of any non-monetary contribution or levy referred to in clause 1.3 above, the GST payable shall be calculated as follows:

## Reports from Director Development Services

GST payable = The GST inclusive market price of the asset x  $\frac{1}{11}$ .

- 1.6 The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.

### Stage 1

Water:	5 lots @ \$3420	\$17,100.00
Sewer:	5 lots @ \$2820	\$14,100.00

### Stage 2

Water:	111 lots @ \$3420	\$379,620.00
Sewer:	111 lots @ \$2820	\$313,020.00

### Stage 3

Water:	178 lots @ \$3420	\$608,760.00
Sewer:	178 lots @ \$2820	\$501,960.00

### Stage 4

Water:	79 lots @ \$3420	\$270,180.00
Sewer:	79 lots @ \$2820	\$222,780.00

### Stage 5

Water:	6 lots @ \$3420	\$20,520.00
Sewer:	6 lots @ \$2820	\$16,920.00

### Stage 6

Water:	147 lots @ \$3420	\$502,740.00
Sewer:	147 lots @ \$2820	\$414,540.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

## Reports from Director Development Services

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### FURTHER APPROVALS

28. In accordance with Section 109F(1) of the Environmental Planning & Assessment Act, 1979 (as amended) a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.
29. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for works required by this consent.

The following information must accompany applications for a construction certificate subdivision work.

#### (i) Subdivision Work

In the case of an application for a construction certificate for **subdivision work** required by this consent:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
  - earthworks
  - roadworks
  - road pavement
  - road furnishings
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, Northpower and Telstra)
  - the approved Traffic Control Plan
  - the relevant maintenance manuals (eg. G.P.T's, water pump station)
- (c) The Construction Certificate application shall include a provision for pavement design. The final design shall be approved by Council OR an accredited certifier prior to the placement of any road pavement material.

## Reports from Director Development Services

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Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

30. Subdivision work in accordance with a development consent must not be commenced until:-
  - (a) a construction certificate for the subdivision work has been issued by:
    - (i) the consent authority; or
    - (ii) an accredited certifier; and
  - (b) the person having the benefit of the development consent;
    - (i) has appointed a principal certifying authority; and
    - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.
31. Where tree clearing is to be undertaken and the exclusions and exemption under the Native Vegetation Conservation Act 1997 do not apply, a consent will be required from the Department of Land and Water Conservation for tree removal prior to commencing work.
32. A Section 3A permit under the Rivers and Foreshores Improvement Act 1948, is required for any works within 40 metres of a watercourse with defined banks in a natural condition or of natural origin artificially altered with either a permanent or intermittent flow. This licence shall be obtained from the Department of Land and Water Conservation prior to carrying out any work pursuant to this consent.
33. An application is to be made to the Department of Land and Water Conservation to have the Crown Public Road closed and incorporated into adjoining freehold property. This Crown Public Road is located to the south of Lot 46 DP 755740 (Stage 6).
34. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.
  - (i) The following information must accompany an application:
    - original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$110 per lot.

## Reports from Director Development Services

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Stage 1 - 13 lots @ \$110/lot = \$1,430.00

Stage 2 - 115 lots @ \$110/lot = \$12,650.00

Stage 3 - 183 lots @ \$110/lot = \$20,130.00

Stage 4 - 83 lots @ \$110/lot = \$9,130.00

Stage 5 - 11 lots @ \$110/lot = \$1,210.00

Stage 6 - 155 lots @ \$110/lot = \$17,050.00

- relevant development consent or complying development certificate
  - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
  - for a deferred commencement consent evidence that the applicant has satisfied the consent authority on all matters which must be satisfied before the consent can operate
  - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
  - a certificate of compliance from the relevant water supply authority (where applicable)
  - if a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council
  - for subdivision involving subdivision works evidence that:
    - the work has been completed, or
    - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
    - security given to the consent authority with respect to the completion of the work
  - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

## Reports from Director Development Services

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**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

35. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Sewerage Pump Station
- (v) Compliance Certificate - Drainage

**Note:** 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

### **Roadworks**

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

## Reports from Director Development Services

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### Water Reticulation, Sewer Reticulation, Drainage

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

### Sewer Pump Station

- a. Excavation
- b. Formwork/reinforcement
- c. Hydraulics
- d. Mechanical/electrical
- e. Commissioning - on maintenance
- f. Off maintenance

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

3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Supply Authorities Act, 1987 to be certified by an "accredited certifier".
36. Prior to the issue of a **Subdivision Certificate**, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

The plans are to be endorsed by a Registered Surveyor **AND** a Consulting Engineer Certifying that:

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

## Reports from Director Development Services

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

37. Prior to the issue of a **Subdivision Certificate** a maintenance bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

38. (i) **PRIOR** to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.
- (ii) To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.

The names shall be approved **PRIOR** to lodgement of any plan of subdivision in respect of the development.

Names which duplicate existing and approved street names will not be approved.

39. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
  - b. That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)
  - c. That the pavement layers have been compacted to RTA specifications.
  - d. That site fill areas have been compacted to the specified standard.
  - e. That supervision of Bulk Earthworks has been to Level 1 and/or Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
  - f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
40. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent



## Reports from Director Development Services

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erosion from wind and/or water to the satisfaction of the Director, Development Services.

### **OPEN SPACE**

#### **Active Open Space**

41. (i) In conjunction with release and registration of the first linen plan of subdivision, the applicant shall dedicate 2.61ha (522 lots@50m<sup>2</sup> per lot) as Active Open Space in accordance with S94 Plan No. 10.
- (ii) Prior to release of any linen plan, the applicant shall embellish on a proportionally staged basis the active open space referred to in Condition (I) above to the satisfaction of Council. Alternatively, Council will accept a bond on a proportionally staged basis for the embellishment on the approved estimate of cost for the work

Such embellishment shall include (but not be limited to):

- a) Filling
- b) Drainage
- c) Topsoiling
- d) Grassing
- e) Irrigation
- f) Fencing
- g) Carparking
- h) Amenities block
- i) Pavilion/Grandstand

The applicant and Council shall jointly prepare an Active Open Space Master Plan and Cost estimate for embellishment which shall form the basis of bonding and works required.

#### **Casual Open Space**

42. The Vegetation Rehabilitation Plan required by Condition 36 of Development Consent 94/438 is to be submitted and approved prior to commencing earthworks and prior to release of the Construction Certificate for Stage 1 of the proposed development. All recommendations of the Vegetation Rehabilitation Plan are to be complied with prior to the release of the linen plan to ensure that the rehabilitation is maintained by the developer for a period of 1 year or until the landscaping is established, whichever occurs first. The amount of bond shall be 20% of the estimated cost of the rehabilitation works.

# Reports from Director Development Services

## Community Facilities

43. Prior to release of the first linen plan of subdivision, the applicant shall construct on a proportionally staged basis the community facilities nominated in S94 Plan No. 10 for Cobaki Lakes for a lot threshold of 1,000 lots (ie. Table 3). Alternatively, Council will accept a bond on a proportionally staged basis for the facilities required up to 1000 lots based on the approved estimated cost of the work. After 1000 lots have been created, the applicant shall construct on a proportionally staged basis the community facilities nominated in S94 Plan No. 10 for Cobaki Lakes for a threshold of 2000 lots (ie. Table 3). Alternatively, Council will accept a bond on a proportionally staged basis for the facilities required up to 2000 lots based on the approved estimated cost of the work.

After 2000 lots have been created, the applicant shall construct on a proportionally staged basis the community facilities nominated in S94 Plan No. 10 for Cobaki Lakes for a threshold of 3000 lots (ie. Table 3). Alternatively, Council will accept a bond on a proportionally staged basis for the facilities required up to 3000 lots based on the approved estimated cost of work. After 3000 lots have been created, applicant shall construct on a proportionally staged basis the community facilities nominated in S94 Plan No. 10 Cobaki Lakes for a threshold of 4000 lots (ie. Table 3). Alternatively, Council will accept a bond on a proportionally staged basis for the facilities required up to 4000 lots based on the approved estimated cost of work.

## ROADS/STREETS

44. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans referred to in Condition 6 **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.
45. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction of the roads in the subdivision generally in accordance with Figures 6BA, 6CA, 6DA, 10A and 10B prepared by Cardno MBK Pty Ltd as follows:-

Figure Number	Road Number	Road Reserve & Carriageway Width
6BA	14, 15, 16, 21, 22, 23, 26	13.0m RR, 6m carriageway
6BA	4, 7, 8, 20, 24, 25	15.0m RR, 7m carriageway
6BA	2	18.0m RR, 11m carriageway
6CA	37, 38	13.0m RR, 6m carriageway
6CA	62, 66, 67, 69	15.0m RR, 7m carriageway
6CA	35, 36	16.0m RR, 9m carriageway

## Reports from Director Development Services

- |     |                            |                           |
|-----|----------------------------|---------------------------|
| 6DA | 70, 71, 76                 | 13.0m RR, 6m carriageway  |
| 6DA | 60, 61, 64, 67, 68, 69, 72 | 15.0m RR, 7m carriageway  |
| 6DA | 32, 33, 34, 39             | 18.0m RR, 11m carriageway |
46. Road No. 6 shall be connected to Road No. 7 via a public road located adjacent to proposed Lot 223. This public road shall have a minimum road width of 13.0m.
  47. The guard rail as shown on Figure 10(B) which is located above the retaining wall at chainage 200 shall be relocated so that it is located 300mm behind the nominal face of the kerb and gutter. A pedestrian fence shall be constructed above the retaining wall.
  48. Roundabouts shall be constructed at the following intersections in accordance with Austroads Part 6, Roundabouts;
    - road No. 1 and road No. 2;
    - road No. 1 and road No. 32;
    - road No. 32 and road No. 2;
    - road No. 1 and road No. 33 and;
    - road No. 33 and road No. 32
  49. Prior to the issue of the construction certificate the applicant shall demonstrate that the access gradients to proposed Lots 261 and 262 are in accordance with Council's Access to Property pamphlet. Alternatively, proposed allotments 261 and 262 may be amalgamated to form one allotment.
  50. The road access points from Road No. 1 (Sandy Lane) to the future development lots 500, 505, 507 and 105 shall be:
    - Lot 500 - maximum of two (2) access points
    - Lot 505, 507, 105 - maximum of one (1) access point
  51. The applicant shall construct two (2) additional car park spaces in the head of the cul-de-sac in road No. 14. Details of this construction work shall be included in the application for the construction certificate.
  52.
    - i. All multi-purpose trails, concrete cycleways and concrete footpaths shall be constructed in accordance with Plan No. 2764/7, Figure 18A 'Footpaths and Cycleways' prepared by Cardno MBK and dated October 1999 and the requirements of DCP No. 16.
    - ii. Alternatively, the developer may pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

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- iii. If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on. The maintenance bond shall be lodged prior to release of the subdivision certificate.
53. All proposed cycleways shall have a minimum clearance of 800mm from the edge of the cycleway to the property boundary or any other physical obstruction within the footpath area.
54. All pathways and cycleways located within public road with road reserves be constructed from 20Mpa concrete, 100mm thick and placed on a compacted subgrade. The width of the pathway or cycleway shall vary depending on the expected pedestrian or cycle usage.
55. All multi purpose trails not located within public road reserves shall be constructed from 100mm gravel (CBR 45 min) and overlaid with 20mm asphaltic concrete. Controlled drainage shall be provided where necessary.
56. (i) Cobaki Parkway shall **not** be connected to Piggabeen Road until the proposed Tugun Bypass and Boyd Street interchange are opened to traffic.  
(ii) To secure the ultimate connection of Cobaki Parkway to Piggabeen Road the developer shall:-
  - a. dedicate in conjunction with the Stage 1 linen plan that section of Cobaki Parkway between Piggabeen Road and Roundabout No 4 (Sandridge Roundabout) as public road reserve at no cost to Council. The alignment and width of the proposed road reserve shall be approved by the Director Engineering Services; and
  - b. A Bank Guarantee shall be lodged **prior** to release of the Stage 1 linen plan for an amount of \$2,500,000 as security for the construction of the section of Cobaki Parkway and Cobaki Bridge referred to in condition 56(ii)(a).
57. Integrated design of streets, footpaths, landscape strips, carriageways, intersections of streets and other features of residential streets to be generally in accordance with the "typical street design" plans and the "planning building and landscape code" code submitted by Sinclair Knight Merz (January 1995), such details to be shown in Engineering Plans submitted with the construction certificate for each residential subdivision, to achieve increased visual amenity and reduce vehicle speed, and to be approved by the Director Development Services in consultation with the Council's Manager Recreation Services. Such approved plans for streetscape, street landscaping and carriageway treatment to be implemented in conjunction with subdivision engineering works to the satisfaction of the Director Development Services and Manager Recreation Services prior to release of linen plan for each stage.

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### DRAINAGE/FLOODING

58. All fill is to be graded at 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate application. Drainage must be installed and operational prior to commencement of any work.
59. The land to be filled to the design flood level of RL 2.8m AHD with provision to ensure that all habitable floors are 30mm above this level ie. 3.1m AHD.
60. The earthworks shall be carried out in accordance with AS 3798-1996, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.
61. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.
62. Prior to final acceptance of the Stormwater system and release of the maintenance bond a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.
63. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
64. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that abutts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.  
  
No filling of any description is to be deposited, or remain deposited, within adjacent properties.
65. A bond or bank guarantee of 5% is to be lodged with Council prior to placement of any fill on the site. This bond will be drawn on by Council to undertake any rectification work directed but not completed or progressing to the satisfaction of the Director, Engineering Services within seventy two (72) hours from the date of serving any notice. The bond to be released upon completion of all work to the satisfaction of the Director, Engineering Services.
66. Inter allotment drainage shall be provided to **ALL** lots where roof water from dwellings, driveways and paved accesses cannot be conveyed to the street gutter by gravitational means. Where inter-allotment drainage has not been provided, Certification by a duly

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qualified Engineer is to be provided stating that roof water from the building envelope can be conveyed to the street gutter by gravitational means.

67. Prior to issuing a Construction Certificate, a Water Quality Management Plan and a Stormwater Treatment Management Plan are to be submitted to Council for approval which is to detail the following as a minimum
- i. Baseline Water Quality parameters/criteria applicable to Cobaki Broadwater for the protection of the aquatic ecosystem of Cobaki Broadwater.
  - ii. Monitoring points (number and location).
  - iii. Frequency of monitoring and reporting.
  - iv. The nomination of the responsible person monitoring, reporting maintenance and corrective measures.
  - v. Corrective measures to be employed should monitoring indicate that unsatisfactory compliance with the adopted baseline parameters/criteria.
  - vi. Monitoring period to be employed.
  - vii. Stormwater discharge quality parameters/criteria consistent with DCP17 objectives or other criteria as may be approved by Council.
  - viii. Frequency of inspection of all selected and installed stormwater treatment systems.
  - ix. Specific maintenance measures and procedures to be used in the event of maintenance to stormwater treatment devices.
  - x. Maintenance and inspection period.

Compliance with these Plans once approved and adopted is required.

In addition these plans shall also include the Drainage and Stormwater Management Principles - see Schedule A attached.

68. The design of all Extended Detention Basins is to incorporate litter removal., pre-treatment mechanisms for where outlet clogging is likely to occur and as well as the use of energy dissipaters at the inlet side to minimise the re-suspension of deposited material where considered necessary.
69. All Pollution Control Ponds are to be inspected following the conclusion of construction activities and de-silting operations conducted if necessary. The planting of macrophytes shall generally be in accordance with the provisions of the NSW EPA Managing Urban Stormwater Treatment Techniques dated November 1997.
70. Appropriately worded signs are to be erected around all pollution control ponds advising that as a minimum the ponds are unsuitable for swimming purposes.

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71. The design of all Vegetated Filter Strips is to incorporate flow spreaders at the upstream end to evenly distribute runoff across the filter strip and all filter strips are not to receive discharges directly from stormwater pipes without energy dissipaters or flow spreaders being installed.

### SERVICES

72. The provision of reticulated water and sewerage supply to the Cobaki Lakes site is to be undertaken in accordance with the Sewerage and Water Infrastructure Strategy prepared by Sinclair Knight Merz dated June 1996. Any variations from this Strategy will be subject to approval by the Director of Engineering Services.

### Sewer

73. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

**Note:**The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

74. i. The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
- ii. An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate (form 13) to allow the land to be classified.

**Note:**The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

### Water

75. Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

### Telephone

76. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

### Electricity

77. i. The production of written evidence from Northpower certifying that reticulation of underground electricity has been completed; and
- ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

### ENVIRONMENT PROTECTION

78. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
79. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
80. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
81. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
82. An Environmental Officer shall be engaged to implement this consent and monitor and oversee the environmental effects of development during construction phases. Such officer to be appropriately (professionally) qualified environmentalist; tasks to be as set out in the Management Plan accompanying the Statement of Environmental Effects by Sinclair Knight Merz that was submitted with DA S94/194, as amended by conditions of consent:
- i. All significant old growth trees which are to be retained as identified in the Species Impact Statement prepared by Peter Parker dated August 1999 (Figure 4.4) are to be clearly marked prior to commencement of works. This is to be monitored by the Environmental Officer to ensure that the trees are not damaged, destroyed or removed.
- ii. The flora and fauna survey, (Section 4 of the Species Impact Statement prepared by Peter Parker dated August 1999) identifies and maps a number of threatened species at the site (Figure 4.2). No development shall occur at the site and in areas proximate to these locations and buffer plantings of suitable native plant species shall be provided between the locations and nearby urban development or roads.



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This work is to be to the satisfaction of the Director General of the National Parks and Wildlife Service and shall be completed prior to release of the linen plan for the relevant stage.

- iii. Stock that currently graze over the site shall be removed prior to the issue of a Subdivision Certificate.
  - iv. A monitoring report shall be provided to Council and the National Parks and Wildlife Service six (6) months after the commencement of works and then at twelve (12) monthly intervals and continue for two (2) years after all works are completed. This report will identify the protection afforded to threatened plant species, buffer and corridor plantings, the occupation of the Osprey of its nest site and any breeding results and bushfire impacts.
83. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
84. A buffer area of at least 100 metres radius is to be provided around the Osprey Nesting Site as shown on Figure 6BA prepared by Cardno and Davies dated July 1999 (proposed public reserve lot 201 in Stage 2). No development works are to be carried out within this buffer area.
85. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>o</sup> or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) Contours and terraces where the height exceeds 1m.
- ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
- v) The landscaping shall be completed to the satisfaction of the Director Development Services **PRIOR** to the issue of a Subdivision Certificate.
- vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

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86. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
87. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
88. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
89. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
  - A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
90. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: **'DUMP NO RUBBISH, FLOWS INTO CREEK'** or similar wording to the satisfaction of the Director of Development Services.

### SCHEDULE A

#### DRAINAGE AND STORMWATER MANAGEMENT PRINCIPLES

##### (a) Point of Drainage Discharge

The ultimate point of drainage discharge for this development shall be Cobaki Creek.

Legal continuity of reserves or easements and physical capacity for the Q100 year discharge must be provided in the drainage path from the point of discharge of this subdivision to the ultimate discharge point at Cobaki Creek. Progressive subdivision of the site must provide lawful points of discharge with legal and physical continuity to Cobaki Creek at each stage of title creation, despite the discharge being into the applicants own (for the time being) land.

No works on the land being the subject of this application shall commence until:

- All trunk drainage and stormwater quality control devices are constructed from the subject property to the ultimate point of discharge

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- Easements or drainage reserves in favour of Council are obtained over all downstream drainage infrastructure (including stormwater quality devices and meadow drainage ) and accesses to such infrastructure from the subject property boundary to the point of discharge.

**(b) Management Lots**

This refers to all proposed management lots and includes:

<b>Residential B Management Lots</b>	<b>Residential A Management Lots</b>
313, 387, 391, 389, 481, 482, 401, 402, 102, 109, 482 again, 481 again, 480, 479, 478, 434, 629, 748, 613, 602, 500, 504	404, 105, 508, 507, 505

Prior to the application for a subdivision certificate to create management lot(s) the following shall be required:

**(i) Infrastructure**

Sufficient permanent infrastructure must be constructed in the subdivision that creates the management lots so that they may be capable of being developed to their ultimate capacity by subsequent applicants without any requirements for provision or augmentation of external infrastructure. All proposed infrastructure that crosses management lot boundaries or runs adjacent to management lot boundaries must be constructed in the subdivision that creates the management lots.

Public roads through site that connect with public roads in adjoining sites and roads adjacent to and accessing master lots are to be constructed.

**(ii) Interfaces with adjoining land**

Engineering plans and specifications are to accompany the construction certificate application which fully define in 3 dimensions the interface of management lots with other land.

**(iii) Ultimate and Interim Drainage**

The interim period is defined as that time between the creation of a management lot and the ultimate completion of the subdivision creating small lots within the management lot.

Management lots shall be provided with interim and ultimate drainage inlets on the lots or at lot boundaries. The management lots shall be shaped to ensure all interim Q5 concentrated drainage and surface runoff from slopes longer than 40m is discharged to these inlets. Provision shall be made outside the management lots

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for acceptance and transport of ultimate and interim Q100 flows from the management lots. Drainage and stormwater water quality features required for the ultimate development of the subdivision shall be constructed from each management lot boundary downstream to the point of discharge

**(iv) Easements**

Where infrastructure required to serve a management lot, passes through another that creates the management lots, easements in favour of Council shall be granted over the infrastructure and necessary access roads to such infrastructure.

**(c) Stormwater Quality Treatment**

Unless stated otherwise, references in brackets refer to sections on devices in NSW EPA publication "Managing Urban Stormwater - Treatment Techniques, November 1997".

**(i) General Criteria for Stormwater Treatment Devices**

Stormwater treatment devices to be installed in the public realm shall conform with the following general criteria:

- The type, number and location of devices shall be selected to ensure minimum long term asset ownership costs.
- Trunk drainage (excepting the section of meadow drainage), constructed wetlands and extended dry detention basins are to be located in reserves.
- Devices shall be located for easy cleaning and maintenance access by vehicles and personnel.
- Devices (except meadow drainage and filter strips) located off street are to be provided with sealed access and manoeuvring areas (located on easements) for cleaning/maintenance vehicles and equipment. Meadow drainage and filter strips shall be provided with a 3m wide, all weather, heavy vehicle maintenance access track down on side.
- Best quality materials and construction methods shall be used to ensure maximum life expectancy of device components.
- Litter racks, baskets and metal components in contaminated or corrosive areas shall be fabricated from stainless steel or marine grade aluminium. Use of other non corrosive materials will be subject to Council approval.
- Litter racks and non proprietary GPTs shall be designed for self cleansing and automatic movement of litter to storage bins. Litter/gross pollutant storage bins shall be constructed of reinforced concrete and designed for convenient access and cleaning by mechanised means (eg. excavator, backhoe, suction truck).

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- Where access for cleaning is required by means of hatches, doors or lids they shall be constructed in high strength/lightweight materials with lockable/easy opening fastening devices
- All devices shall be designed to minimise risk to operators and the public and shall be in accordance with the requirements of the Occupational, Health and Safety Act. Devices where there is risk to the public or the operation of the device is at risk from interference from the public shall be enclosed by a person proof fence.
- The sizing of devices shall be increased (where necessary in excess of the size obtained using the EPA publication “Managing Urban Stormwater - Treatment Techniques, November 1977”) to ensure cleaning out is required on average no more than 6 times per year

*Note: Research by Gold Coast City Council has established that the rainfall intensity in this region for a design ARI of 3 months is 0.50 of the 1 year ARI intensity. The reduction of intensity (from 11 year to 1 3 months) will also reduce the runoff coefficient by around 20% resulting in Q3 months being approximately 40% of Q1 year. For the purpose of these conditions Q3 months shall be deemed to be 40% of Q1 year. For the Tweed Shire area, this **amends** the proposition in Dept of Housing and EPA manuals which seem to be based on low rainfall areas and suggest that Q3months is 25% of Q 1 year.*

### (ii) Ultimate System

The proposal as defined in the report by WBM Oceanics Australia “Cobaki Lakes Water Quality Assessment (1999) - Document 12221.1.1” in Section 5 “Stormwater Treatment Systems” is to be implemented as the permanent stormwater quality control system subject to the following:

- Location and sizing of trunk drainage and stormwater quality control devices is to be in general accordance with section 5.2, Table 5.1 and Figure 5.1 of the WBM report and Cardno MBK drawing Job No.2764/7 Figure 12A, December 1999.
- The area designated as “meadow drainage” is to be minimum 9.4ha. This area is to be located generally as shown on Figure 12A above, but, its exact location and shape may vary due to topographical factors and detailed design. Required design Criteria:
  - The cross section shall be designed as a wide, flat trapezoidal channel with sufficient capacity to accommodate Q100 flows. Batter slopes are not to exceed 25%.

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- The base of the trapezoidal channel shall be flat in cross section and designed as a filter strip (Ref 5.1). The base and batters shall be established with appropriate grass species.
- A 3m wide all weather, heavy vehicle, maintenance access track (with access at both ends to Sandy Lane) shall be established on one side of the meadow drainage system. Where necessary for access continuity, all weather access or bridging across tributaries shall be provided.
- An easement for drainage, benefiting Council shall be established over the meadow drainage system and access track. The easement shall be fenced out to prevent unauthorised access.
- All stormwater entering the meadow drainage system shall be screened for gross pollutants and litter by means of litter racks (Ref 4.2).
- Road and street drainage and gross pollutants. Where consistent with other land use requirements grassed swale drainage (Ref 5.2) is to be used in preference to pipes or hard lined channels. Litter and gross pollutants greater than 50mm are to be retained for flows up to the ARI 3 month storm (deemed to be 40% of the ARI one year event ) by means of litter baskets or pits (ref 4.1) or litter racks (ref 4.2). These devices are to be sized to require cleaning on average not more than six times per year, based on a yield of 1cu.m /ha/year. Whilst a sufficient number of litter/gross pollutant collection devices shall be provided to ensure all road stormwater is screened for litter and gross pollutants, the number of devices shall be minimised. Where practical, devices will be located downstream of entry pits at locations servicing a minimum 50 lots.

*Note: Swales are not preferred as a substitute for kerb and gutter*

- *where on street parking is required, unless cars can be excluded from swale area*
- *on roads serving small lots with numerous driveways*
- *where gradients are <1% or >5% )*
- Pollution Control Ponds C1, C2 and C3 are constructed wetlands and are to be designed in accordance with *The Constructed Wetlands Manual* (Department of Land and Water Conservation NSW, 1998). General configuration is to be in accordance with section 16.2 and figure 16-2 of the manual and contain the following basic components in series from upstream to downstream:
  - Inlet zone (as well as inlet structures, to contain litter rack for final removal of litter and gross pollutants)
  - Deep water zone (to remove sediments -gravel, sand, silt)
  - Macrophyte zone (to remove fine pollutants and nutrients)

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- Outlet zone
- and around the edges:
- Littoral zone (edge water plants, bank protection, maintenance access)

Constructed wetlands are to conform to the following additional design criteria:-

- Length: width ratio >3
- Wetlands are primarily to be designed to capture the ARI 3 month storm (deemed to be 40% of the ARI one year event), however overflow structures and flow paths are to be provided to pass ARI 100 year storms ensuring no damage to the wetland or associated drainage or other ancillary works and no re-mobilisation of captured sediments.
- Constructed wetlands, where possible, are to be located off stream with flows above the ARI 3 month storm (deemed to be 40% of the ARI one year event) being bypassed.
- Surface area and storage volume to be in accordance with Cardno MBK drawing Job No.2764/7 Figure 12A, December 1999.
  - Depths
    - Deep water zone, average depth 1.5m
    - Macrophyte zone. average depth 0.7m
  - Littoral zone - to contain perimeter all weather maintenance access road
  - Wetlands are to be enclosed in security fence
- Extended dry detention basins B1, B2, B3, B4, B5, B8, B9, B10, B11, B13 are to be designed in accordance with (Ref 5.3) and sized in accordance with Cardno MBK drawing Job No.2764/7 Figure 12A, December 1999.
- Vegetated filter strips are to be designed in accordance with (Ref 5.1). They are to be sized to provide 9 minutes average residence time for a design storm of 3 months (deemed to be 0.5 of the Q1 year event).
- Swale Drains shall be designed in accordance with (Ref 5.2).

### **(iii) Staging of Subdivision and Stormwater Quality Treatment**

Where the subdivision is to be staged (including the progressive creation of allotments):

- The meadow drainage shall be provided as a prerequisite for any staged subdivision

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- For each subdivision stage all stormwater quality management devices, designated in (b) above for the ultimate system, required within and downstream of the subject stage are to be provided for that stage.

### (d) Erosion and sediment control

#### General

Stormwater quality works in the construction phase are focused on erosion and sediment control.

The aims of erosion and sediment control are:

- Minimise soil erosion and exposure
- Minimise transportation of eroded soil by air and water
- limit suspended solids concentration in stormwater to not more than 50mg/l
- Limit/minimise the amount of site disturbance
- isolate the site by diverting clean upstream “run on” water around the development
- Control runoff and sediment at its point source rather than at one final point
- Stage ground disturbance/earthworks and progressively revegetate the site where possible to
- reduce the area contributing sediment
- Retain topsoil for revegetation works
- Locate sediment control structures where they are most effective and efficient

The owner of land being developed is responsible for erosion and sediment control on the site and the actions of all persons (including employees, plant operators, contractors, subcontractors, delivery drivers etc) who may cause erosion and sediment generation. This also includes responsibility for erosion and sediment generation on adjacent land where construction activities or materials have encroached on the adjacent land.

The **primary** reference manual for erosion and sediment control works in this code of practice shall be “Managing Urban Stormwater, Soils and Construction” NSW Dept of Housing 1998.

The **secondary** reference manual shall be “Soil and Sediment Control - Engineering Guidelines for Queensland Construction Sites 1996” The Institute of Engineers, Australia, Queensland Division. Construction works must also comply with the requirements of Tweed LEP 1998 clause 7.4 which regulates works (including drainage) on areas identified as having acid sulphate soils and the provisions of the “Acid Sulphate Soil Manual, 1998 - Assmac”.



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Reference numbers in brackets [Ref1..] refer to sections of the **primary** reference manual, reference numbers in brackets [Ref2..] refer to sections of the **secondary** reference manual .

The objectives for erosion and sediment control and acid sulphate soil management provided on construction sites are:

- Minimise soil erosion and exposure
- Minimise transportation of eroded soil by air and water
- Limit suspended solids concentration in stormwater to not more than 50mg/l

Design Average Recurrence Interval (ARI): Unless advised elsewhere in this consent, works to capture sediment laden water will be designed to accommodate a design storm of the ARI 3 month storm (deemed to be 40% of the ARI one year event), however overflow/bypass arrangements are to be designed to accommodate an ARI 100 year storm without erosion, scouring or structural damage to erosion or sediment control devices, or re-mobilisation of previously captured sediment.

***Note:** Research by Gold Coast City Council has established that the rainfall intensity in this region for a design ARI of 3 months is 0.50 of the 1 year ARI intensity. The reduction of intensity (from 11 year to 1 3 months) will also reduce the runoff coefficient by around 20% resulting in Q3 months being approximately 40% of Q1 year. For the purpose of these conditions Q3 months shall be deemed to be 40% of Q1 year. For the Tweed Shire area, this **amends** the proposition in Dept of Housing and EPA manuals which seem to be based on low rainfall areas and suggest that Q3months is 25% of Q 1 year.*

(e) **Preparation of Erosion and Sediment Control Plan (ESCP)**

An Erosion and Sediment Control Plan (ESCP) is to be submitted with the construction certificate applications and shall include:

- (i) Plans of external and internal catchments
- (ii) Site layout to include
  - plans showing existing site topography and final contours with cut and fill locations identified. property boundaries and lot lines
  - staging of works, including staging of site clearing and topsoil stripping
  - location of all site access points, parking areas, site facilities and on site roadways/tracks
  - location of site storage and stockpile areas (sand, gravel, topsoil, building materials, fuel etc)
  - Utility plans

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- erosion risk mapping - identification of low, medium, high and extreme erosion risk areas
  - topographic site limitations which may include:- excessive slope gradients; unstable or hazardous terrain; flood inundation areas; rock outcrops; active coastal dune systems; land subject to wave attack; existing erosion; water bodies; drainage problem areas; areas of potential mass movement.
- (iii) Vegetation layout
- general location, nature and condition of existing vegetation
  - location plan of protected trees and bushland, non disturbance areas, buffer zones, disturbance control fencing and limits of clearing
  - Revegetation landscape plan (including staging)
- (iv) Soil properties
- location and limitations of major soil types on site
  - identification of all known areas of dispersive soils (more than 10% being dispersive)
  - the R and K factors for the RUSLE and Soil Loss Classes (delineated where more than one class occurs)
  - soil hydrologic group ["Managing Urban Stormwater, Soils and Construction" NSW Dept of Housing 1998 - Appendix F]
  - soil texture group (Type C, F or D)
- (v) Drainage
- plans of both temporary and permanent drainage, including design/capacities, identification of all proposed temporary and final overland flow paths, and any proposed diversions of overland flow paths or watercourses from the site
- (vi) Erosion and sediment control proposal including
- site specific text overview and design philosophy of erosion and sediment control proposal
  - location (on plans), type, function, and timing (instigation and decommissioning) of all drainage, erosion and sediment control measures (the location plans must include areas external to the site where these areas impact or are impacted upon by the drainage or ESCP of the subject site). Preliminary calculations of sedimentation pond sizing.

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- timetable, integration/sequencing of ESCP with staging of works,
- detailed RUSLE calculations to evaluate current annual soil loss and likely annual soil losses from the proposed development incorporating the proposed ESCP
- water quality monitoring program with water quality criteria goals, parameters to be monitored, monitoring locations, monitoring frequency
- proposed response to failure of system and non compliance with discharge quality standards, reporting procedures

### Steps in preparation of ESCP

To prepare an ESCP the following steps are to be considered:-

- (i) Location of disturbance and non-disturbance zones, minimising extent and duration of disturbed areas
- (ii) Location of fencing and signage for non-disturbance and buffer zones
- (iii) Location and controls on construction entry/exit points
- (iv) Location of site office, parking, stockpile and material storage areas
- (v) Determine and locate drainage and sediment controls for d)
- (vi) Location temporary construction roads
- (vii) Division of site into manageable drainage sectors
- (viii) Staging, and programming (soil loss class constraints) of construction works for compatibility with ESCP in each drainage sector
- (ix) Clean water management strategies for each drainage sector (diversion around disturbed, stockpile and risk areas)
- (x) Controls for channelised flow velocities
- (xi) Erosion controls on each disturbed area
- (xii) Control of sediment laden runoff
- (xiii) Control of sediment in surface runoff at site boundaries
- (xiv) Trapping of sediment within the development
- (xv) Location and operation of sediment basins
- (xvi) Dust control measures
- (xvii) Revegetation program

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- (xviii) Installation and decommissioning schedule
- (xix) Maintenance and monitoring program
- (xx) Assessment of effectiveness of ESCP in terms of soil loss (RUSLE) and impact on receiving waters

### Application of Soil Loss Class

The soils on the development site shall be classified as follows

<b>Soil Loss Class</b>	<b>Calculated soil loss (tonnes/ha/year as calculated by RUSLE)</b>
1	0 to 250
2	251 to 300
3	301 to 375
4	376 to 500
5	501 to 750
6	751 to 1,500
7	1,501 to 3,750

The ESCP shall use soil loss class data ensure that works are seasonally programmed to keep soil loss below the rate of 37.5 tonnes/hectare/year in any 2 week period. The times when a regular suite of BMPs are normally adequate to keep soil loss within this range are:

<b>Period</b>	<b>Soil Classes That May Be Developed</b>
January and first half February	1 - 4
Second half February and March	1 - 3
April and first half May	1 - 4
Second half May and first half June	1 - 5
Second half June and July, August, September and first half October	1 - 6
Second half October, November and December	1 - 5

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at other times the ESCP must ensure soils in these classes are revegetated or otherwise protected

ESCP plans shall use standard drawing symbols in [Ref 2, A8]

**(f) Clearing Vegetation, Soil Disturbance**

The removal or disturbance of trees, shrubs and ground covers shall be minimised.

Buffer zones consisting of corridors of undisturbed vegetation adjacent to waterways or disturbed area are to be retained to reduce nutrient levels in runoff, unless these areas are protected by other means. Buffer zones are to have the following minimum widths:-

Slope %	Buffer Width in Metres
2	15
4	20
6	30
8	40
10	50
12	60
14	70

On construction/building sites:

- (i) the footpath or nature strip must not be disturbed by construction activities other than shown on the plan for:
  - access to the site
  - installation of services
  - other works specifically approved by Council; and
- (ii) removal and disturbance of vegetation must be confined to:
  - the approved envelope area and/or permanent access ways
  - areas within 3 metres of the outermost projection of approved works and storage areas (or as required by other authorities).

Retained vegetation and buffers must be protected by a suitable fence barrier. Fenced areas shall be clearly signposted "No Access Area".

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For subdivision work:

- (i) clearing for works must be limited to 2 metres from the edge of any essential construction activity as shown on the engineering plans
- (ii) where practical, development must be phased, with clearing undertaken only with the development of each stage; and
- (iii) understory ground cover vegetation may be slashed, except in areas shown on the plan, providing ground surface disturbance is minimised and a rubber tyred vehicle is used.

All reasonable care must be taken to protect other vegetation from damage during construction. This will involve:

- clearly marking trees to remain
- avoiding compaction of ground or filling within the dripline of trees to be retained
- clearly delineating the area of disturbance and keeping all vehicles, building materials and refuse within that area
- limiting the number of access points to the site
- clearly restricting access to “no go” areas.

No vegetation is to be removed prior to approval of Council to start work on any stage, and not before the approved sediment control measures are in place.

Where practicable vegetative debris must be salvaged either as logs or woodchip for later reuse to control erosion or to rehabilitate the site. Non salvageable material, such as stumps and roots, can be removed.

Soil disturbance activities are to be in accordance with [Ref 1] Chapter 4.2 of the manual, slope lengths on batters are not to exceed those in [Ref 1] fig 4.4 and fig 4.5.

### **(g) Access and Roads**

Vehicular access must be confined to a maximum of two locations. Such locations will be shown on the ESCP and subject to the approval of Council.

Accesses to construction sites of 1 hectare or more shall be fitted with a shakedown device

A shakedown device shall be either:-

- a shaker grid (metal bar cattle grid minimum length 7m), placed to ensure vehicles crossing the grid have sufficient speed to shake off mud and contaminants from vehicles or
- a 10m long shake down area constructed with 50mm diameter crushed rock

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The shakedown device shall be located along the haul route, immediately before the intersection with the public road.

Regular maintenance of shake down devices is required to ensure no material is deposited on public roads. Metal shall be cleaned/replaced when the exposed height of aggregate is less than 30mm.

Shaker grids are required on sites where more than 1,000m<sup>3</sup> of material per month is hauled off site. If material is deposited on a public street, it shall be swept up and removed before the end of that working day.

If after using shakedown device, material is still adhering to truck wheels and being deposited on public roads, a wheel washing device must be installed and used at site exit locations to ensure no further material is carted off site and deposited on public roads.

Runoff from access surfaces must be drained into an adjacent sediment trapping device before leaving the site. Where appropriate, devices to remove soil particles from vehicles must be placed at site exit locations.

On subdivision work, priority must be given to road and shoulder stabilisation based on erosion hazards. Where circumstances preclude the sealing of road shoulders and/or the construction of kerb and gutter, and:

- (i) where grades permit grass shoulder (less than 5%), the shoulders and associated table drains must be topsoiled and turfed, having dimensions that simplify maintenance mowing; and
- (ii) where grades do not permit grass shoulders (more than 5%), the shoulders and associated table drains must be stabilised with appropriate erosion control measures (e.g. jute mesh and bitumen, cross drains, erosion matting etc.) and revegetated.

On subdivision work newly sealed hard stand areas must be swept thoroughly after sealing/surfacing to prevent excess aggregate or gravel entering street drains.

### **(h) Site Works, Erosion Control**

Site disturbance must not be undertaken before the issue of appropriate approvals

Construction sequence shall be generally in accordance with [Ref 2] A4.8.

Schedule the construction program to minimise the potential for soil loss so that at the time from the beginning of land disturbance activities to rehabilitation is minimised.

Further on lands with a high erosion hazard:

- (i) confine land disturbance to those times of the year designated in 2.2 for each soil loss class
- (ii) or show special measures on the *Plan* to address the high erosion hazard

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Site excavation must be designed and located to minimise cut and fill.

Runoff and erosion controls must be installed before clearing and shall include:

- (i) Diversion [Ref 1] manual 5.2.3, 5.2.4) of upslope runoff around cleared and/or disturbed areas or areas to be cleared and/or disturbed, providing that:
  - such diverted water will not cause erosion
  - the upslope catchment area is more than 2,000 square metres
  - waters are diverted to a legal point of discharge

Diversion works are to be designed to carry peak flows at non erosive velocities in bare soil, vegetated or lined drains/banks. Generally, the channel should be lined with turf. However, where velocities are designed in excess of 2m per second, non erosive linings such as concrete, geotextiles, grouted rock etc or velocity reducers (check dams etc) are required.

- (ii) Sediment control fences or other measures at the downslope perimeter of cleared and/or disturbed areas to prevent unwanted sediment and other debris escaping from the land; and
- (iii) maintenance of all erosion control measures at operational capacity until land is effectively rehabilitated.

On sites where more than 1,000 square metres are to be disturbed, runoff and erosion controls must also include:

- (i) protection of areas to remain undisturbed through the erection of barrier fencing; and
- (ii) The maximum length of exposed (disturbed) slope shall be  

$$\text{Max Slope length} = 90 - 48[\log(\% \text{slope})] \text{ metres}$$

% Slope	Max Slope Length (m)	% Slope	Max Slope Length (m)	% Slope	Max Slope Length (m)
1	90	10	42	19	29
2	75	11	40	20	28
3	67	12	38	25	23
4	61	13	37	30	19
5	56	14	35	35	16
6	52	15	34	40	13
7	49	16	32	45	11
8	47	17	31	50	8
9	44	18	30	60	5



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Where possible, topsoil must be stripped only from those areas designated on the approved *Plan*, and must be stockpiled for later use in rehabilitation and landscaping. Site topsoil shall be isolated from subsoil material in separate stockpiles.

Stockpiles (topsoil, spoil, subsoil, bricklayers loam, sand or other) must :

- (i) *not* be located on public footpaths, nature strips, roads, road shoulders or any other public land;
- (ii) be located at least 2 metres from any hazard areas, including surfaces with grades greater than 15%, zones of concentrated flow, gutters, drains, driveways, tree drip zones, swales or standing vegetation;
- (iii) be protected from upslope surface flows;
- (iv) be provided with sediment filters downslope; and
- (v) be provided with a protective cover that reduces the C-factor (see [Ref 1]) on bare surface areas to 0.15 or less where they are unlikely to be worked for more than 20 working days.

Fill batters should be located to avoid established trees, where this is not possible a tree surgeons advice is to be followed to minimise damage. Where retention is not possible affected trees are to be removed to reduce risk to slope stability.

Unless directed otherwise by approved plans and specifications, trenches must be backfilled and compacted to 95% standard compaction and capped with topsoil up to adjoining ground level and must be turfed or sown with an approved seed and fertiliser mix.

Excess spoil may be retained on site provided the stockpile area is prepared by stripping topsoil from beneath the fill site and respreading it later over affected areas.

All sedimentation control measures must be maintained at, or above their design capacity.

High efficiency dust control techniques must be employed on site on an as needs basis to prevent the emission of dust from the site see [Ref 1]6.3.6. Such techniques must be applied to the movement of soil, sand, all excavated areas, stockpiles, haul roads and ramps, and to any other areas or applications where the potential for dust generation exists. These control techniques may include the use of water sprays, application of dust suppressants, surface stabilisation or covering exposed surfaces. Dust control techniques must be employed on site at all times including outside normal working hours. All permanent roads and trafficable areas must be sealed or hard surfaced to minimise dust generation. Unless an exemption from Council is obtained, all sites where over 1,500 sq m are to be disturbed must be provided with a barrier fence wind break [Ref 1] 6.3.6(b)(iii).

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(i) **Stormwater Control**

When roof structures and piped or artificial stormwater systems are in place, discharge water is to be managed in a manner that reduces the likelihood of erosion. Roof water systems must be functional and discharge to the stormwater system before roof runoff begins. The stormwater system must prevent sediment from being eroded from the site and deposited downstream.

(j) **Sediment Control**

All sediment control measures and facilities must be installed and stabilised before other site earthworks or measures are commenced, including stormwater diversion facilities.

Sediment basin(s) must be constructed where the area to be developed exceeds 1 hectare. Where it is less than 1 hectare, other sediment control devices may be accepted.

Silt fences, hay bales and other sediment traps. Design shall generally be in accordance with [Ref 1] Chapter 6.3.4 of the manual and manual standard drawings SD6.6 - 6.9 except as varied by the following criteria:-

- Maximum flow in the ARI 3 month storm (deemed to be 40% of the ARI one year event), is not to exceed 1.6l/sec/metre (or the maximum catchment per metre of fence etc is not to exceed 45 m<sup>2</sup>), and
- The fence or structure must be structurally viable and able to support hydraulic pressures during the ARI 100 year storm.
- Maximum post spacing 2m or 3m with wire mesh backing
- In fences or structures longer than 30m, spill through weirs shall be installed at 20-30m spacing
- Spill through weirs shall consist of a rock filled wall contained between an enclosed steel mesh fence retaining wall. Weir length 1.2m, thickness 0.6m, height 0.5m. Rock shall be 25-50mm aggregate.
- Sediment is to be removed after each rainfall event and weirs are to be regularly maintained and cleaned to ensure effective operational condition.
- Straw bales and silt fence geotextiles are to be replaced when damaged or permanently blocked and fully replaced at not more than six monthly intervals.

Where sediment ponds are required these are to be constructed upstream of any wetponds/wetlands or receiving waters and preferably off line.

A marker must be placed within each sediment retention basin to show the level above which the design capacity occurs. Plans shall indicate whether basins are to be temporary or permanent.

Where sediment retention basins are required, they must be designed to treat the design rainfall event sediment-laden stormwater emanating from the site during land

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development works. They must remain in place and fully operational until removal is authorised or required by Council (usually at the end of the maintenance period). Where required as part of a permanent, public stormwater management system, basins located on public land (or land to be dedicated to the public), may be accepted for Council ownership. Where required as part of a permanent, site stormwater management system, basins located on the site must be retained, operated and maintained in perpetuity by the landowner.

Sedimentation Basins - Design shall generally be in accordance with [Ref 1] Chapter 6.3.3 of the manual and manual standard drawings SD6.1 - 6.4 except as varied by the following criteria

Overflow/bypasses are to be designed for 100 year ARI storm. Basins are to be designed so that flows greater than the ARI 3 month storm (deemed to be 40% of the ARI one year event) are transmitted in a manner that does not remobilise and remove existing settled sediment.

- Type C basins settling zone capacity design storm, the ARI 3 month storm (deemed to be 40% of the ARI one year event).
- Type F/D basins settling zone capacity, that necessary to contain the 75th percentile, 5 day rain event (41.5mm)
- Type C basin sediment storage zone capacity, the greater of 100% of the settling zone capacity or the average 2 month soil loss as calculated by the RUSLE.
- Type F/D basins sediment storage zone capacity, the greater of 50% of the settling zone capacity or the average 2 months soil loss as calculated by the RUSLE.
- Basins shall be surrounded by a manproof fence with lockable gates.
- Proprietary devices (Humceptors etc) will only be accepted in lieu of conventional sedimentation basins where they are sized in accordance with the above criteria.

Where eroding soils contain more than 10% of dispersible fines:

- (i) all waters captured in sediment basins must be treated with an approved flocculating agent. This treatment is to ensure that discharges from such basins contain no more than 50 milligrams per litre of non filtrable residues (or as specified in Council's Stormwater Management Plan). Following settlement of soil materials, the structure must be pumped out using a floating skimmer collection device.
- (ii) sediment retention basins must be maintained at a low water level in readiness for treatment and discharge of further runoff. All sediment captured in basins must be treated and discharged within 5 days of the cessation of a rainfall event; and
- (iii) a minimum stockpile of flocculating agents must be retained onsite to provide for at least three complete treatments. It must be stored in a secure undercover location.

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All sediment control structures must be operated and maintained in an effective operational condition following good engineering practice. These structures must not be allowed to accumulate sediment volumes in excess of 70% sediment storage design capacity. Materials removed from sediment retention basins must be disposed of in a manner approved by Council that does not cause pollution.

All weather compacted gravel vehicular access must be provided to all wetlands, sediment basins, detention basins, trash racks and gross pollutant traps etc.

Where practical surface waters from undisturbed lands must be diverted away from pollution control equipment to prevent contamination of clean runoff.

Appropriate measures must be provided to ensure that erosion and sediment control works themselves do not cause flooding, erosion or scour.

### **(k) Pollution Control**

Petroleum and other chemical products and must be prevented from entering the stormwater system or contaminating the soil. Impervious bunds must be constructed around all fuel, oil or chemical storage areas with an enclosed volume large enough to contain 110% of the volume held in the largest tank.

Adequate trade waste and litter bins must be provided onsite and serviced regularly.

Concrete wastes or washings from concrete mixers must not be deposited in any location where those wastes or washings can flow, or can be washed into any areas of retained vegetation or receiving waters.

### **(l) External Site Requirements**

In some circumstances it may be necessary to locate sediment control devices or stabilising works outside the construction site .

Where increased stormwater run-off is likely to accelerate erosion of any downstream watercourse, the necessary remedial work shall be provided concurrently with other sediment and erosion requirements.

Where sediment is likely to be transported from the site, all immediate downstream drainage inlets shall have appropriate controls installed.

If such works require entry onto private property, written permission shall be obtained prior to the entry and commencement of such works. Documentary evidence to be submitted with the development application.

All disturbed areas on other property to be reinstated to original condition and to the satisfaction of the owner. All works to be complete prior to the release of the linen plan of subdivision or building certificate.

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### **(m) Rehabilitation and Landscaping**

All ground disturbed must be progressively stabilised and rehabilitated so it no longer acts as a source of sediment.

The C-factor [Ref 1] is to be reduced to less than 0.15 (e.g. greater than 50% grass cover) on all lands, stockpiles and other exposed materials scheduled to remain unattended for a duration of more than 20 working days.

The final rehabilitation or landscaping program is to be scheduled so that a duration of less than 20 working days will elapse from final land shaping to permanent rehabilitation.

All landscaping and rehabilitation must be completed before occupation or use of buildings or premises.

Topsoil shall be used in accordance with [Ref 1] Chapter 4.3 of the manual.

Revegetation shall be in accordance with [Ref 1] Chapter 7 of the manual.

All temporary erosion and sedimentation control works are to be removed when works are completed and revegetation is successfully established on formerly disturbed areas. All redundant materials used for temporary erosion and sedimentation control works are to be removed from the site and all affected areas reinstated.

### **(n) Operation, Maintenance**

All erosion and sediment controls must be operated in accordance with the ESCP and maintained to be fully operational at all times. Worn, damaged or otherwise defective materials and components are to be repaired, refurbished or replaced as they become ineffective for their design purpose.

Where more than 2,500 square metres of land are disturbed, a self auditing program must be developed for the site. A site inspection self audit and monitoring program must be undertaken by the land developer:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

The self audit must be undertaken systematically on site (e.g. walking anticlockwise from main entrance) and recording:

- installation/removal of any erosion and sediment control device
- the condition of each device employed (particularly outlet devices), noting whether it is likely to continue in an effective condition until the next self audit
- circumstances contributing to damage to any devices, accidental or otherwise

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- storage capacity available in pollution control structures, including:
  - ⇒ waste receptacles and portable toilets
  - ⇒ trash racks
  - ⇒ sediment barriers and traps
  - ⇒ gross pollutant traps
  - ⇒ wetlands/water quality control ponds
- time, date, volume and type of any additional flocculants
- the volumes of sediment removed from sediment retention systems, where applicable, and the site where sediment is disposed
- maintenance or repair requirements (if any) for each device
- circumstances contributing to the damage to device
- repairs affected on erosion and pollution control devices

Signed, completed self audits, original test results, weekly and other result sheets shall be kept on site and are to be available on request to Council officers and other relevant statutory authorities.

**(o) Monitoring**

Stormwater monitoring shall take place at all locations where drainage or surface water leaves the site or enters any natural or artificial receiving waters and at other locations as directed by Council or other statutory authority. Samples shall be taken and tested as follows:

Parameter	Frequency	Reporting
Suspended Solids, Non Filterable Residue (NFR)	monthly or during discharge event(defined as >25mm in any 24 hour period)	as per 11.4. Non complying test results are to be notified within 24 hours to Council officers
Total P, Total N	3 monthly	as per 11.4

**(p) Response to Monitoring, Non Compliance with ESCP, Amelioration Measures**

Non compliance with approved *plans* and conditions of consent must be dealt with immediately. If there is a breach or infringement of conditions, action will be taken consistent with the nature and seriousness of the breach or infringement. Action may include:

- issue of “stop work notice”

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- a fine under the provisions of the Protection of the Environment Operations Act 1997
- notice to comply pending reinspection of the site.

### Standard responses to Non Compliance

The following responses are required by the developer to non complying monitoring test results:

Indicator	Response	Comments
Suspended Solids (NFR) >50mg/litre	Identify if non compliance is due to storm event greater than design storm of control devices. If so accept non compliance. If not then:- <ul style="list-style-type: none"> <li>• If possible stop discharge and store runoff on site</li> <li>• Use flocculation agents to lower NFR or</li> <li>• Pump contaminated water over grassed filter strips or buffer areas to lower NFR</li> <li>• Identify (by inspection and/or analysis) if non compliance is due to damage of ineffectiveness of erosion and sediment control devices. Repair or redesign/replace if necessary (or required by Council) to ensure future compliance.</li> </ul>	Non compliance may occur, by design, in > 3month ARI event

- B. Leda be requested to lodge Section 96 applications to allow Council to modify development consents S94/194 and S97/54 such that connection of Cobaki Parkway to Piggabeen Road does not occur until the Tugun Bypass and Interchange are operational.
- C. That draft amendments be prepared to Development Control Plan No 17 - Cobaki Lakes be amended where appropriate to reflect the outcome of this report as follows:
- (i) Cobaki Parkway shall not be connected to Piggabeen road until the proposed Tugun Bypass and Boyd Street interchange are opened to traffic;
  - (ii) To secure the ultimate connection of Cobaki Parkway to Piggabeen Road the developer shall:
    - (a) dedicate that section of Cobaki Parkway between Piggabeen Road and Roundabout 4 (Sandridge Roundabout) as public road reserve at no cost to

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Council. The alignment and width of the proposed road reserve shall be approved by the Director of Engineering Services; and

- (b) bond the connection of the Cobaki Parkway between Piggabeen Road and Roundabout 4 (Sandridge Roundabout) on any future subdivision approvals for Cobaki Lakes, which issue prior to opening of the interchange with the Tugun Bypass.



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### REPORT:

<b>Applicant:</b>	Cardno MBK (QLD) Pty Ltd
<b>Owner:</b>	Leda Manorstead Pty Ltd
<b>Location:</b>	Lot 46, 199-202, 205, 228 and 305 DP 755740 and Lot 2 DP 566529 and Lot 1 DP 823679 Piggabeen Road and Sandy Lane, Cobaki Lakes
<b>Zoning:</b>	2(c) Urban Expansion Zone, 6(c) Recreation (Special Purposes) zone and 7(d) Environmental Protection (Scenic/Escarpment) zone and 7(l) Environmental Protection (Habitat) zone
<b>Est. Value:</b>	\$17,000,000

### BACKGROUND

Council has received a development application (K99/1124) for subdivision of the subject land into 560 lots which consists of 522 residential lots, 32 open space lots, 2 business lots, 1 community facilities lot and 3 residue lots. Of the 522 residential lots there are 27 residential A and residential B management lots. These management lots are proposed for single detached housing and unit development respectively. These management lots will be subject to future development applications for subdivision. The residue lots consist of Lot 110 in Stage 1 being the balance of the 6(c) zoned land and Lot 200 in Stage 2 being 2(e) and 2(c) zoned land, the final use of which is yet to be determined. Separate development applications will be necessary for any future use. It is proposed to construct the subdivision in 6 stages. The subdivision is proposed on land described as parcels 6, 11, 12, 14, 15 and 17 to 19 of the Cobaki Lakes development site. This land is located in the northern and western parts of the Cobaki Lakes site. A Species Impact Statement (SIS) accompanies this application. The concurrence of the Director General of the National Parks and Wildlife Service is required to enable the application to be approved. The land, the subject of this application has an area of approximately 264ha of which approximately 80ha is proposed to be dedicated as open space. The application seeks consent to subdivide the remaining residential zoned land on the site excluding Parcel 21 (residue Lot 200). All other residential land which forms part of the Cobaki Lakes site has development consent for subdivision. The site was zoned in 1992 for future development following the preparation of a Local Environmental Study.

The following is a history of the development consents relating to the entire Cobaki Lakes site.

- \* On 5 January 1993 Council issued Development Consent 92/315 for the extension of Boyd Street, Tugun for approximately 1.3km into the site. Construction of this road commenced and is subject to a legal agreement between Council and the owners of the land and also between the owner and Gold Coast City Council.
- \* On 22 January 1995 Council issued Development Consent 94/438 for bulk earthworks over the site. The bulk earthworks approval envisages disturbance of approximately 1.2 million cubic metres of fill material and some of the elevated areas of the site and relocating the material to adjacent low lying areas enabling future residential development. The subject land contains two approved cut and two approved fill areas.
- \* On 19 September 1995 Council issued Development Consent S94/194 for the subdivision of the Cobaki Lakes site into 730 residential lots and 13 englobo parcels. The 730 residential

## Reports from Director Development Services

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lots to be developed on five of the englobo parcels being parcels 1-5. This part of the proposal is described as Stage 1A.

- \* On 21 October 1997 Council issued Development Consent S97/54 for the subdivision of parcels 7-10 into 430 residential lots plus open space lots and one lot for a shop. This subdivision is to be constructed in 7 stages and is described as phase 1B.

Council has also issued an approval for construction of all lead in infrastructure. This includes water and sewer trunk mains along Piggabeen Road.

- In 1997 Council received a development application S97/83 for the subdivision of the subject land into 1421 lots which consisted of 1382 residential lots, 37 open space lots and two residue lots. It was proposed to construct the subdivision in 13 stages. This application was subsequently withdrawn by the applicant as there were significant issues involved with the proposal and it was considered that they had not been satisfactorily resolved to enable a conditional consent to be issued. These issues include such matters as water quality control, flora and fauna impact, internal road layout, open space provision and the status of the Piggabeen Road bypass proposal. A development application and Environmental Impact Statement had also been submitted for the construction of a golf course on the Cobaki Lakes site. The proposed golf course incorporated a series of lakes and ponds which form part of the water quality control system for the proposed subdivision (S97/83). The application for the golf course was also withdrawn by the applicant.

### **DCP. No. 17 - Cobaki Lakes**

DCP No. 17 - Cobaki Lakes applies to the proposal. This DCP provides for a maximum of approximately 4740 dwellings being accommodated on the entire Cobaki Lakes site with associated recreation and commercial activities as well as community facilities and environmental protection areas. DCP17 identifies various precincts and the current application incorporates Precincts 4, 5, 6, 7, 8, 13 and 14. Precinct 4 is the foothills, Precinct 5 is the plateau, Precinct 6 is valley west, Precinct 7 is valley east, Precinct 8 is valley ridge, Precinct 13 is open space (escarpment) and Precinct 14 is open space (Mt Woodgee).

The master plan was prepared and submitted in conjunction with the first residential subdivision which identifies the overall development concept for the site. A revised master plan has been submitted with the current development application. The revised master plan incorporates changes to the original which had been approved by way of the previous development consents. It also incorporates changes as a result of the current proposal.

In addition, a request from the applicant has also been received to rezone parts of the Cobaki Lakes site. The request involves rezoning of 53.36ha of 2(c) zoned land to Environmental Protection and 6(c) Open Space and rezoning approximately 14.97ha of 6(c) land to 2(c). A separate report on this request is included in this Council meeting agenda.

The subdivision application was advertised and all adjoining owners notified and no submissions were received during the advertising period.

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## DESCRIPTION OF THE PROPOSAL

The current subdivision application seeks development consent for the subdivision of the land at Cobaki Lakes identified as Parcels 6, 11, 12, 14, 15 and 17-19. The application proposes to develop the land over 6 stages as summarised in the following table.

**Table 1**

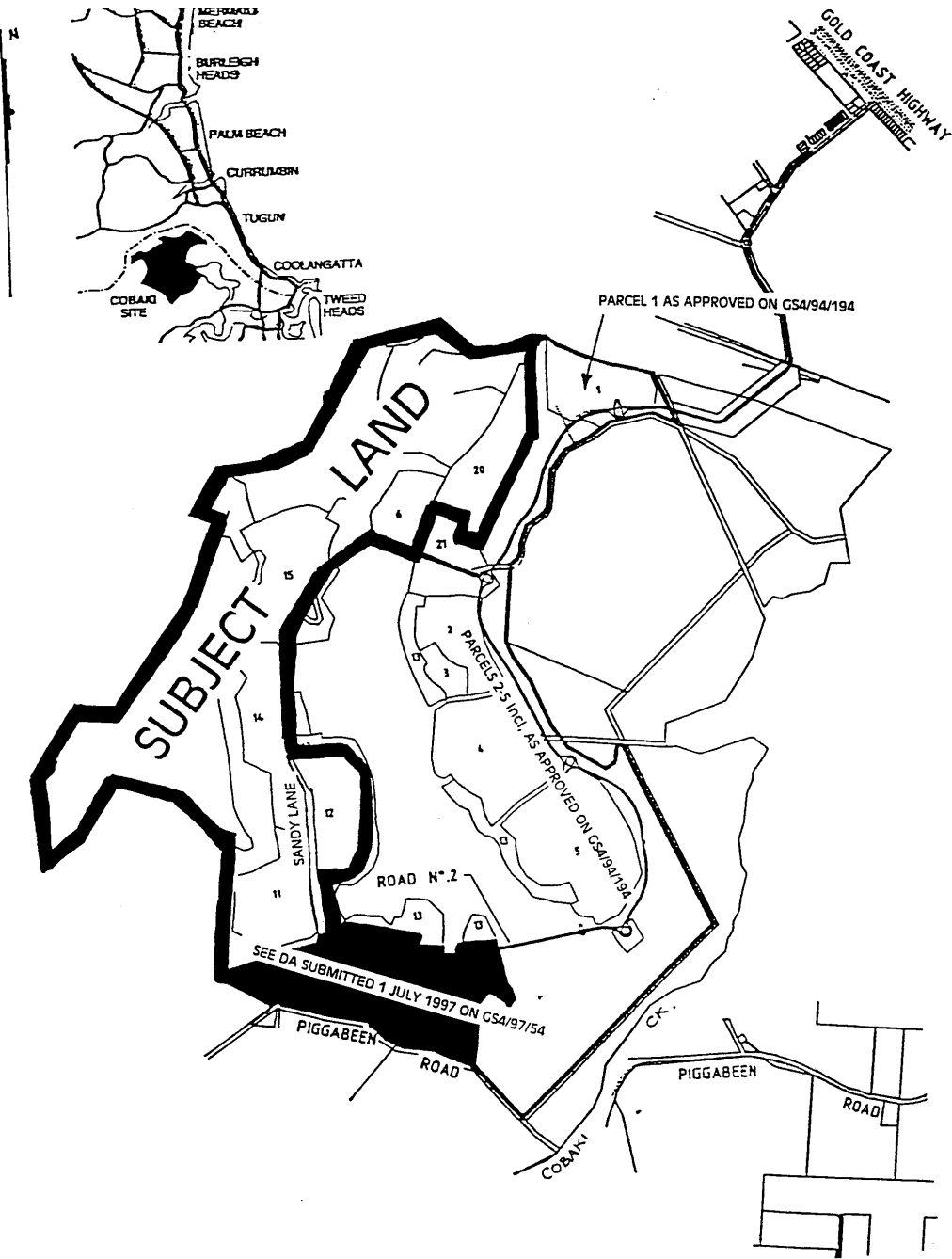
Stage No	Res A Lots	Res A Management Lots	Duplex Lots	Res B Management Lots	Other Lots	Public Open Space		Residue Lots	Total No. Lots
						Structured	Casual		
1	Nil	1	Nil	2	Nil	2	6	2	13
2	91	Nil	18	1	Nil	Nil	4	1	115
3	145	Nil	27	5	1 (NBus)	Nil	5	Nil	183
4	53	1	17	8	Nil	Nil	4	Nil	83
5	Nil	3	nil	2	1 (Community)	1	4	Nil	11
6	111	Nil	32	4	1(NBus)	Nil	6	Nil	155
<b>Total</b>	<b>401</b>	<b>5</b>	<b>94</b>	<b>22</b>	<b>3</b>	<b>3</b>	<b>29</b>	<b>3</b>	<b>560</b>

- i. The "A" lots refer to all residential lots that are not identified as being management lots or duplex lots. These lots will be a minimum of 650m<sup>2</sup> in area.
- ii. The applicant has nominated duplex (dual occupancy) lots these lots have a minimum area of 850m<sup>2</sup>. This is not a Council requirement and Council can consider applications for dual occupancies on other 2(c) zoned lots that are greater than 450m<sup>2</sup>.
- iii. The applicant has also nominated a number of Res A and Res B management lots. These lots will be subject to future development applications intended for low and medium density housing.

Figure 1 below shows the location of the subject land in relation to the overall Cobaki Lakes development site and Figure 2 shows the proposed subdivision layout. A large copy of the proposed subdivision layout and the master plan will be available at the Council meeting.

# Reports from Director Development Services

Figure 1



**Cardno & Davies**  
NSW Pty. Ltd.  
Consulting Engineers  
& Planners

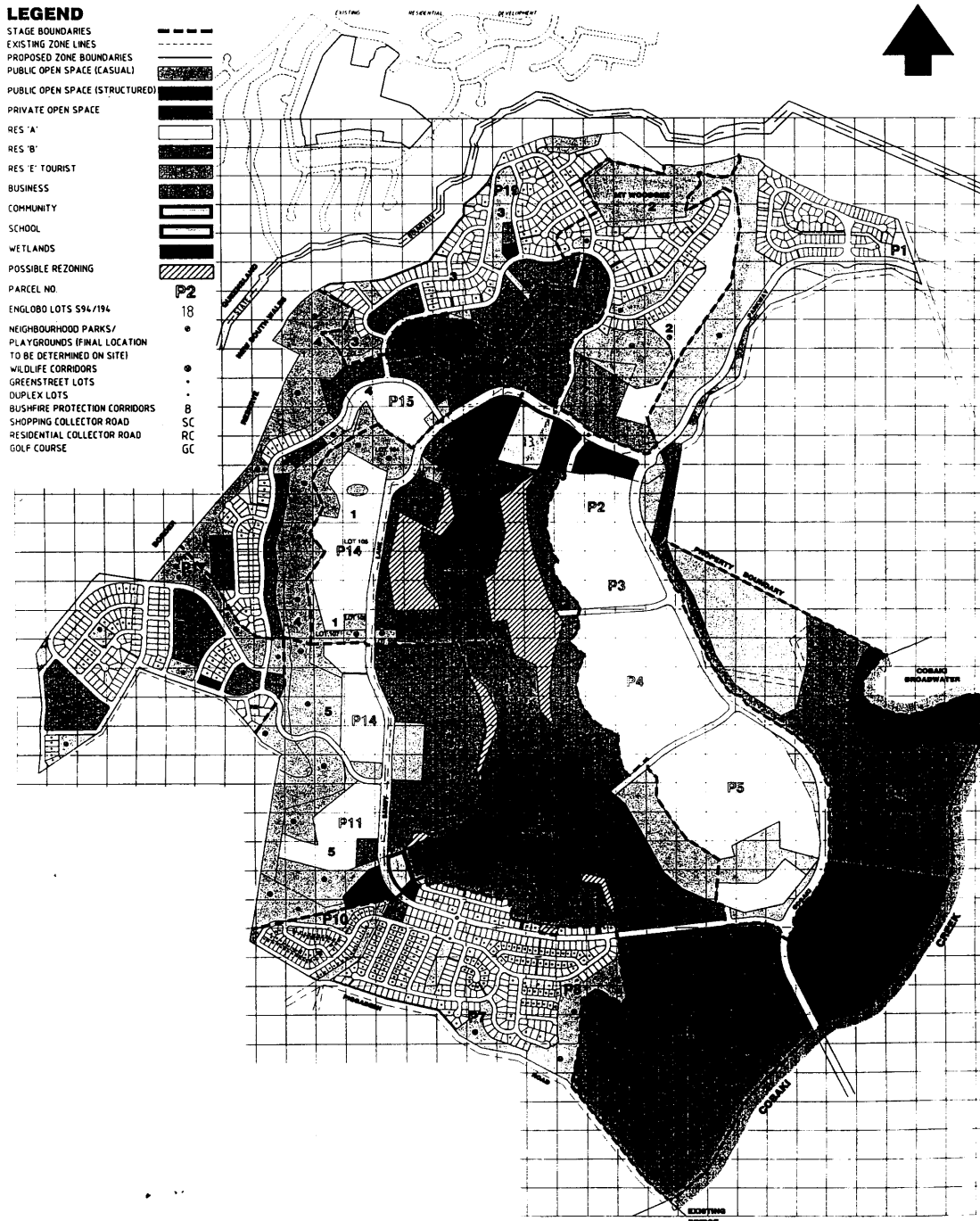
FIGURE 1

LOCALITY PLAN

CLIENT <b>LEDA MANORSTEAD PTY LTD</b>		SCALE -
DESCRIPTION COBAKI LAKES PROJECT PARCELS 6, 11, 12, 14, 15 & 17 to 20 (inclusive)		DATE -
		2000 2766/7
		FIGURE 1

# Reports from Director Development Services

Figure 2



LEDA MANORSTEAD PTY LTD  
**COBAKI LAKES**

FIGURE 6BAA  
**DETAILS OF STAGE 1**  
 GRID INTERVAL = 100m



## Reports from Director Development Services

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### CONSULTATION

This application was referred to the following Government Authorities.

1. National Parks and Wildlife Service
2. Department of Urban Affairs and Planning
3. Environment Protection Authority
4. Roads and Traffic Authority (Regional Advisory Committee)
5. NSW Agriculture
6. NSW Fisheries
7. Department of Land and Water Conservation

Gold Coast City Council was also advised that Council had received this application.

In addition, the application was publicly exhibited for a period of 14 days. Advertising of this application was not statutorily required. Adjoining owners were also notified. **No submissions were received during this period.**

A summary of the Government Authority submissions is provided below with comments where appropriate.

#### 1. Roads and Traffic Authority

- There should be no direct lot access to Sandy Lane.
- Junctions along Sandy Lane and Road No. 33 should be assessed to provide appropriate treatments, particularly to cater for right turns.
- Cycleways will need to be provided to the standards outlined in Austroads Guide to Traffic Engineering Practices Part 14.
- Pedestrian movement will need to be provided and catered for. This will be particularly necessary for Sandy Lane and Road No. 33 due to the predicted traffic volumes along this road.
- Bus stops should be identified in consultation with local bus operations.
- Details of traffic management are not shown for Residential A and B precincts. This detail should be required as part of the detailed design. Future referral to the Local Traffic Committee may be required.
- Access to Sandy Lane from Residential A and B precincts should be limited. Access points on opposite sides of Sandy Lane should be staggered. This would remove the hazardous cross movement at the junctions.

## Reports from Director Development Services

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### Comments

Direct lot access to Sandy Lane is not proposed. Only the Residential A and B management lots component will have access to Sandy Lane. These management lots will have either one or two access points to Sandy Lane with no direct lot access. These management lots will be subject to future development applications.

Details for the treatments of the junctions along Sandy Lane and Road No. 33 will be conditioned in any consent which will require the details to be submitted with the construction certificate application.

The location and construction of the cycleways and footpaths are generally in accordance with the details in DCP17. It will be a condition of any consent that the location and standard of the paths will be provided with the construction certificate application.

The location of the bus stops will be provided with the construction certificate application. Any consent will be conditioned requiring details to be provided identifying the location of bus stops in consultation with the local bus company and Council officers.

The development of the Residential A and B management lots will be subject to future development applications and if necessary traffic reports will be submitted with these applications. The applicant has provided yield estimates for the proposed Residential A and B management lots and these estimates are generally in accordance with the yield requirements of DCP17. Accordingly, it is unlikely that these management lots will create any adverse traffic implications on the site. The traffic report submitted with the application has taken into consideration the yields likely to be generated by the management lots which generally indicates that there is no likely adverse impacts on the road network or the traffic thereon.

### 2. NSW Agriculture

Issues raised by NSW Agriculture are:-

- The lands of the subject proposal consist primarily of Class 5 agricultural lands dominated by estuarine and erosional soil landscapes. Class 5 lands typically have low agricultural production potential.
- Potential conflict between residential development and adjoining agricultural activities may not be a major issue but this has not been adequately addressed in the application.
- Decommissioning and/or remediation of Turner's Dip site.
- Disturbance of acid sulfate soils.

### Comments

Stage 6 otherwise known as the "plateau" has agriculture land adjoining to the south. This land consists primarily of Class 5 agricultural land and has low agricultural production potential. The applicant has also submitted that only a small, isolated section of the adjoining property to the south, adjacent to Road No. 39 would be in any way topographically suitable for agriculture. However, even this small area of comparatively level bushland, is separated by a rock escarpment

## Reports from Director Development Services

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for the main body of the adjoining land from 90m below, and the likelihood of any future agricultural use is virtually nil. This fact is confirmed by site inspection which indicates that the land is unlikely to be suitable for any agricultural use.

The applicant has provided a 20m wide road along this boundary which is likely to be a suitable buffer between the proposal and the agricultural land to the south. In addition there is also a 10m wide crown reserve within the land to the south which would also provide a suitable buffer. Accordingly, given the low agricultural potential of the land to the south and its topographical constraints it is considered that the buffers provided by the applicant by way of formed road and unformed road (crown road) should form a suitable buffer for the proposal in this instance.

The application does not propose to have any dwellings or residential allotments within 200m of the dip site. However, the proposal will provide some residential management A and B lots within 200m of the dip site. These management lots will be subject to future development applications as previously discussed. It is considered that any consent should be conditioned that no dwelling house is to be erected within approximately 200m of the existing dip site until the dip has been remediated to the satisfaction of Council and Environmental Protection Authority.

With regard to acid sulfate soils the application does not propose to disturb any land likely to be affected by acid sulfate soils. The applicant has prepared and submitted an acid sulfate soil management plan prepared by Gilbert and Sutherland which is satisfactory.

### 3. NSW Fisheries

- No additional information has been provided on the nature and extent of works of a dredging and reclamation nature that are to be undertaken during the construction of the lake system.

#### Comment

The current proposal does not propose a lake system. This was proposed as part of a previous application for subdivision and a golf course which were withdrawn.

- NSW Fisheries is not satisfied with the proponents proposed water quality monitoring and management during construction of the subdivision.

#### Comment

Water quality proposals were submitted with the documentation accompanying the application. The applicant also submitted a copy of the Water Quality Management Plan submitted with the original application for the subject land in September 1997. The applicant indicated that the concept and criteria for water quality control and monitoring within this management plan remains the same.

The submission of this plan was to the satisfaction of NSW Fisheries. In addition, Council has also pursued additional information in relation to Water Quality Management, which has also been satisfied and this will be included as a condition of any consent.

- A statement on the level of assessment of potential impacts on threatened species must be included, even if the proponent is of the opinion that threatened species do not occur within the study area.



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### Comment

The applicant's Environmental Consultant Mr Peter Parker provided an assessment of the potential impacts on threatened species at the site. The assessment indicates that there is no possibility that threatened fish would occur at the site.

The potential fishery habitats at the site include farm dams and ephemeral waterbodies. These were inspected and the mosquito fish was the only fish species recorded at the site, which is not a threatened species.

### 4. Department of Land and Water Conservation

- The provisions of the Native Vegetation Conservation Act 1997 apply to proposed tree clearing on all the proposed development at Cobaki Lakes, other than where the exclusions or exemptions apply.

### Comment

Any consent will be appropriately conditioned that where tree clearing is to be undertaken and the exclusions and exemptions do not apply under the Native Vegetation Conservation Act, a licence will be required from the Department of Land and Water Conservation for tree removal.

- One area to be developed as residential lots west of Reserve B site 6 involves the filling of a water course with defined bed and banks.

### Comment

Any consent will be appropriately conditioned that a 3A permit under the Rivers and Foreshores Improvement Act, is required for any works within 40 metres of a watercourse with defined banks in a natural condition or of natural origin artificially altered with either a permanent or intermittent flow. This licence shall be obtained from the Department of Land and Water Conservation.

- There is a Crown Road on the southern boundary of Lot 46 DP 755740. It is unclear as to whether the proposed access road on the south western boundary of the proposed subdivision is to be constructed on or within this Crown Public Road. If it is, the road will need to be transferred to Council's control. If the proponent does not construct the subdivision road on or within the Crown Public Road it will become redundant and the Department of Land and Water Conservation requires, in that case, that the proponent makes application to the Department of Land and Water Conservation to have it closed and incorporated into adjoining freehold property.

### Comment

The subdivision does not propose any road or work within the Crown Public Road to the south of Lot 46 DP 755740.

Any consent will be conditioned so that the applicant makes an application to the Department of Land and Water Conservation to have the Crown Public Road closed and incorporated into adjoining freehold property.

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- On 18 November 1996 the Department of Land and Water Conservation provided consent to Sinclair Knight Merz to the draining of stormwater from Cobaki Lakes onto Crown Land. This consent was provided on the basis that those proposed works were carried out in accordance with the management plans.

The Department of Land and Water Conservation does not believe that consent related to the vacant Crown Land between this subdivision and the NSW-QLD border.

### Comment

Any consent will be appropriately conditioned so that the applicant seeks consent from the Department of Land and Water Conservation for the drainage of stormwater onto the Crown Land.

- Much of the information provided relating to the implementation of erosion and sediment control lacks detail/specifics.

### Comment

Council's Engineers have sought information from the applicant in relation to erosion of sedimentation control and stormwater management. These details have been provided by the applicant to Council's satisfaction and are considered to also satisfy the Department of Land Water Conservation's concerns. These details will be incorporated into the appropriate management plans and any consent will be conditioned appropriately.

## 5. Environment Protection Authority

- The EPA have generally indicated that the managing of urban stormwater should be consistent with Council's Stormwater Management Plan (SMP) for this area. If Council's SMP has not progressed stormwater management should be consistent with the draft Managing Urban Stormwater Council Handbook.
- EPA recommends the adoption of a no net increase in annual load of pollutants leaving the site. The proposal does not achieve this. Council should further investigate options to reduce this potential load.
- Stormwater management should be considered as an integral factor when developing the lot layout rather than being adapted to fit the lot layout. This should achieve the outcome of no net increase in load from the site.
- The proposed stormwater treatment train is not adequate to deal with litter pollution. Appropriate treatment measures should be installed to address this issue.
- The adjoining vacant land is an integral part of the proposed stormwater treatment train with environmental performance being contingent on the treatment value afforded by draining stormwater across this land prior to entry to Cobaki Creek. Council should ensure that future development of this vacant land do not compromise the role it plays in managing stormwater from the subdivision.
- The unnamed creek will be rehabilitated and planted with native vegetation and this should be included as a condition on any consent.

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### Comment

Throughout the assessment of this application Council officers have continually negotiated with the applicant the design and details for acceptable stormwater management plan. The design components and details of this plan have generally incorporated the above EPA comments.

It is considered that the stormwater management plan for the development is now acceptable to Council and generally satisfies the above comments of the EPA.

In relation to the adjoining vacant land it is unlikely that this will form part of the proposed stormwater treatment train. The proposed stormwater treatment drain is contained entirely within the subject land and stormwater will be disposed of from the site to Cobaki Creek/Broadwater.

### 6. National Parks and Wildlife Service

- The NPWS indicate that the 8 part test does not appear to conclude that the proposal is likely to have a significant effect on a threatened species, population, ecological community of their habitat. However, the NPWS notes that taking into account the 8 point test previously submitted SIS, Council officers consider significant effect likely.
- Although Council has formed the opinion that the development is likely to significantly affect threatened species, population or ecological community or its habitat, no report on the application has been prepared by Council. The NPWS requests that Council provide an assessment report indicating a determination to grant consent has been made, together with any conditions Council with to impose. The NPWS is unable to consider concurrence in regard to this application until Council addresses this matter.

### Comment

Prior to the lodgement of the development application, it was concluded that the development was “likely to have a significant effect on the environment of flora and fauna” and therefore the application is accompanied by a Species Import Statement (prepared by; Peter Parker, Environmental Consultant).

Therefore, in accordance with Section 79B(3) of the Act, Council cannot grant development consent without the concurrence of the Director General at the NPWS. However, as discussed above, prior to the NPWS granting concurrence they have requested that Council submit a report indicating its decision regarding consent and any associated conditions.

The NPWS has also reviewed the SIS for the proposal and identified a number of deficiencies. Prior to NPWS granting concurrence thee matter will need to be resolved. The applicant has addressed each of thee issues as follows:

- 1, “DGR.1.1 states - *‘The type of action proposed shall be detailed, including the timetable for carrying out of the proposed development and the number of hectares affected. This shall include details of the location of any auxiliary infrastructure and all component parts of the proposed development.*”

The proposed action is very briefly described in the SIS, relying heavily on reference to the DA. An anomaly exists between the description given in the SIS (Parcels 11-20) and DA

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No.2 (Parcels, 6, 11, 12,14, 15 & 17 to 19 inclusive). As a result the number of hectares affected is unable to be determined from the information provided in figure 3.1 of the SIS. A timetable for the proposal is not given anywhere in the SIS or DA”.

### **Applicants Response**

“This project is a staged development that will ultimately accommodate over 4000 residential dwellings in either detached, attached or apartment style units. The area of land within this proposal is approximately 200 ha (see Paragraph 1 of the summary page). The preamble also describes the type of housing desired and the developments parcels. The proposed development, however, is fully described in section 3 of the species impact statement.

The land portion number follow that described in the development application: Parcels 6, 11, 12, 14, 15 & 17 to 19 inclusive.

No timetable was provided by Cardno MBK Jim Mills (per. Comment) Cardno MBK stated that this was not possible at this stage due to financing and strategic planning concerns regarding the Gold Coast City Council and the construction of the Tugun bypass. However, the sequencing of actions relating to this development would include commencement of bulk earthworks for which development consent has been granted, construction of access roads, planning of subdivision details, preparation of engineering plans etc. it is anticipated that this process would be undertaken over a 15 year period”

- 2, “DGR 1.4 states - *‘A topographic map of the locality at a scale of 1:35,000 will be provided. This map will detail the location of the proposal, any locally significant areas for threatened species such as parks and reserves, and areas of high activity such as townships, regional centres and major roads.’*”

A photocopy of a 1:25,000 map is provided. This map does not detail the location of the proposal or other items as required. The legibility of the map is very poor.”

### **Applicants Response**

“This map was provided. The map is a public document, being the map sheet for Currumbin (9541-12) and thus original copies are readily available. This map illustrates the location of the site, contours, regional centres and major roads. It also distinguishes between forests, wetlands, mangroves and pasturelands. The existing access into the site is noted as Old Piggabeen Road, although locally it is called Sandy Lane. Reserves such as Mangrove Island in the Cobaki Broadwater are clearly labelled. The north and north-western boundary of the site is the Queensland, New South Wales border: and the eastern boundary is the Cobaki Broadwater. These are clearly identifiable on the map.”

- 3, “DGR 1.5 states - *‘The location of subject species recorded during the SIS survey and from previous surveys and records shall be represented on a map of the study area.’*”

The mapping of locations of threatened fauna species recorded during the SIS survey and from previous surveys is highly inadequate. Apart from the Osprey nest, no records of subject

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fauna species are mapped. This is a major constraint to the proper assessment of impacts of the proposal. The maps provided give location of survey sites but does not indicate whether past surveys are presented.”

### **Applicants Response**

“The species impact statement relies on the flora and fauna survey undertaken at the site over an extended period. Other surveys in the vicinity of the site, however, have been reviewed to provide a more comprehensive understanding of the likelihood of threatened species being affected by the subject proposal.

It is virtually impossible to map the location of mobile flying vertebrates such as owls and bats, the major threatened species recorded at the site. The osprey also falls within this category, but the location of the osprey nest provides assistance as to its core habitat requirements. The most useful technique is to map the location of the trap and/or acoustical detectors and to provide details in the test as to the density of the species recorded and the habitat in which individuals were trapped. These details were provided in Fig. 4.3 as were details on each species habitat requirements and the likely impact of the proposal.

The location of the following vulnerable species are described and mapped in the species impact statement:

- The Wallum froglet was recorded east of Sandy Lane (see record marked in broad-leaved paperbark forest, Fig. 4.3 and description of location on p.54 of sis). This species was not recorded at the site and is restricted to swamp forest adjoining the site;
- The masked owl was recorded using play-back calls immediately east of Sandy Lane (see Fig. 4.3). It was previously recorded at the site by Debus (1994) but no location records were provided, presumably due to its wide-ranging nature. The home range of 500-1000 ha suggests that this species would occur widely in the Piggabeen area (see p.73 critical habitat within the study area);
- The osprey nesting site was described on p. 69 of the species impact statement and the recommended buffer of 100 m has been adopted by Cardno MBK in the development application;
- The long-nosed potoroo has been recorded in dense heathland located to the east of Sandy Lane. This location is some km from the site and the location has been previously reported to the NPWS and a plan of management prepared;
- The yellow-bellied sheath-tail bat has been previously recorded at the site and was recorded during the fauna survey. It was recorded only using Anabat II acoustical detecting devices. Thus, it is not possible to accurately determine or map its location. However, the location of the Anabat II devices are illustrated in fig. 4.3. A discussion on the habitat requirements of the yellow-bellied sheath-tail bat is provided on p. 87;
- The eastern little-mastiff bat was previously recorded at the site by Woodward-Clyde (1996) but location records were not provided. It was not recorded during the fauna survey

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undertaken by this consultant.; Amelioration of impacts are discussed on p. 88 of the species impact statement; and

- The little bent-wing bat was recorded using both Anabat II acoustical detecting devices and a harp-net. It was captured in the blackbutt, tallwood woodland on the ridge overlooking the Gold Coast (fig 4.3). However, it was wide-ranging over the site and recorded at all Annabat II stations (see details p. 91 species impact statement)".

- 4, "DGR 1.7 states - *'A list of subject species shall be provided. In determining these species consideration shall be given to the habitat types present within the study area, recent records of threatened species in the locality and the known distribution of threatened species. The following species shall be included in the list of subject species:... ..(list given)'*

The SIS identifies two plant species present at the site but fails to consider these by way of an assessment of the likely impacts of the proposal on these species. No consideration of any of the 18 other subject plant species is given or any other discussion on how the proposal may affect these species. All subject fauna species are discussed briefly and for some species impacts resulting from the proposal are mentioned but no further consideration is given. Subject fauna species that are likely to be affected by the proposal are not afforded any more detailed consideration than species which could be discounted from occurring at the site".

### **Applicants Response**

"The subject development has been substantially amended from a similar development application previously lodged with Tweed Shire Council for the same site. The amendments related solely to the need to provide greater protection for threatened species and to lesson the impact on habitats and flora of local significance. Thus, this proposal will have no impact on threatened plant species. Moreover, the endangered plant spiny gardenia at the site is currently subject to grazing pressure and trampling by stock. This species will be protected by buffer planting and stock will be removed. A map illustrating the location of the subject proposal and the threatened species records has been provided (fig. 3.2).

Species profiles have been provided for all fauna species. These profiles are suitably referenced to allow the reader to obtain further details on species' habitat requirements if required."

- 5, "DGR 1.8 states - *'In determining the effect of the proposed development the following associations and species shall also be considered: ... ..(list given)'*

Remnant areas of subtropical rainforest is listed for consideration in this section and identified in the SIS as being present on the subject site. No consideration of the effect of the proposal on this vegetation association is given in the SIS."

### **Applicants Response**

"A vegetation map containing a development overlay has been provided at fig. 3.2 and the conservation significance of the respective association detailed in Table 4.9. The rainforest/wet sclerophyll forest complex is illustrated as the top two associations on fig. 3.2 and Plates of this association are provided at 5: 10; 14: and 15. Clearly, the development has

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been designated to avoid impacting on these associations. The protection of these areas is further described on p. 103.”

- 6, “DGR 1.9 states - *‘In defining the study area consideration shall be given to possible indirect effects of the action on the area surrounding the subject site: for example altered hydrology regimes, soil erosion or pollution.’*”

The SIS fails to give an appropriate level of consideration to possible indirect effects of the proposal in the study area. In an attachment to your letter of 29 September 1999, the consultant states ‘the development is likely to have a cumulative, rather than direct, impact on a number of threatened vertebrate species’. No mention is made of cumulative impacts on threatened vertebrate species in the SIS. The nature of the proposal is such that indirect effects may be expected to be particularly relevant.”

### **Applicants Response**

“The species impact statement describes development consents for bulk earth works currently applicable to the site. The impacts from these developments on threatened species, if any, fall within the savings provisions of the *Threatened Species Conservation Act 1993*. Thus, no discussion in the species impact statement is relevant.

It is not conceded that the proposed development, as ameliorated, will have a significant effect on threatened species. A contrary view was presented by this consultant in the a.5A assessment. However, Tweed Shire Council officers have determined that the proposal is likely to have a significant effect on threatened species and that a species impact statement is therefore required (Darryl Anderson pers. comm). It is considered that the development will have a cumulative impact on some threatened vertebrate species and these are discussed as follows: powerful owl p.71; masked owl p.74; long-nosed potoroo p.84; yellow-bellied sheath-tail bat p.87; the eastern free-tail bat p.88; little bent-wing bat p.92; common bent-wing bat p.93; northern long-eared bat p.95; and greater broad-nosed bat p.96.”

- 7, “DGR 1.11 states - *‘A description of fauna habitat components such as the frequency of tree hollows, density of understorey vegetation and presence of rock outcrops shall be discussed, including the prevalence of introduced species. A description of the habitat requirements of threatened species likely to occur in the study area shall be provided.’*”

The SIS is inadequate in describing the habitat components present at the subject site as required in this section. Basic descriptions of habitat requirements are given for subject fauna species (section 4.6.2) in the species profiles but the SIS fails to provide more detailed descriptions of habitat requirements and discussion of the habitat represented at the site, as appropriate for species which warrant particular consideration.”

### **Applicants Response**

“Vegetation was mapped (Fig. 4.2) and coloured plates were provided of vegetation associations. Vegetation associations (habitat) were described and the dominant species in the upper middle and ground layers of vegetation were listed (pp. 48-53). Further, rare or threatened plant species are discussed (Table 4.8) and the regional and state-wide conservation status of the various vegetation associations is assessed by reference to the

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relevant authorities (Table 4.9). A considerable effort was undertaken to map the large hollow-bearing trees. Registered surveyors plotted each individual hollow-bearing tree or clump as directed by this consultant. These data were presented on Fig. 4.4 of the species impact statement and the development modified to protect these habitat elements. Thus, the NPWS is incorrect to suggest that habitat descriptions are inadequate.

The species profiles cover all threatened vertebrate species either recorded or likely to occur at the site. The sub-headings under each species profile provides information on the Australia-wide, state-wide and local distribution of each species. Habitat requirements for each species are given together with references where additional details can be sourced.”

- 8, “DGR 1.14 states - *‘Any areas which may act as corridors between the study area and adjacent study areas of likely habitat for subject species shall be identified and described.’*”

The SIS does not discuss the values of existing corridors within the subject site and how the proposal may effect the values. The arrangement of wildlife corridors planned for the development is discussed but this does not include discussion of the corridor requirements of subject threatened species and the suitability of corridors planned. Also, the planned corridors include areas designated for use as neighbourhood parks and play grounds as well as fire trails and multipurpose trails. As previous discussed with the proponent and the consultant and indicated in our letter to Council of 5 December 1997 regarding a previous proposal on this land, such uses are not consistent with the purpose of a wildlife corridor. Furthermore they are contrary to the Management Plan Wildlife Corridors (Attachment 4.6 of DA No.2) which states ‘no activity is intended within the identified corridors, other than the possible conveyance of storm water’. A substantial area classed as residential ‘A’ (lot 200 - near the Osprey next) is also marked as a ‘wildlife corridor’ (see figure 5A of Book 5).”

### Applicants Response

The species impact statement details the cumulative impacts that the proposal may have on several vulnerable vertebrates. Species which occur at the site are restricted to flying vertebrates (birds and bats). No ground-dwelling threatened species were recorded or are considered likely to occur at the site, except as an occasional vagrant in the case of the koala. Thus, it is important that the canopy of the wildlife corridors is maintained. This has been addressed in the species impact statement.

The understorey of the wildlife corridor has been regularly slashed and grazed for many years. Thus, the corridor value will be unaltered by the use of this area as a neighbourhood park, playground or fire trail.”

- 9, “DGR 2.1 states - *‘For all subject species the SIS shall state the following:*  
- *the location, nature and extent of habitat removal or modification which may result from the proposed action;*  
- *the potential impact of the removal of habitat; and*  
- *the likely contribution of the proposed action to the threatening processes acting on populations of those species in the locality.’*”



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The SIS is generally inadequate in describing the impacts of the proposal. A very brief discussion of the impacts of the proposal on threatened fauna species is given in section 4.6.2. However, this information is generally lacking in detail and is not supported by relevant information on the location of records relative to the proposal or details of the habitat areas to be affected.”

### **Applicants Response**

It is not conceded that the proposal, as ameliorated, will have a significant effect on threatened species. However, the cumulative effects are described under the species profiles. The NPWS is incorrect in stating that a “very brief discussion of the impacts of the proposal on threatened fauna species is given in section 4.6.2”. This section amounts to 38 pages of text. Location records of threatened species are discussed above.”

- 10, “DGR 2.2 states - *‘A discussion of other populations of threatened species in the locality shall be provided. The long term security of the other habitats shall be examined as part of this discussion. The relative significance of the subject site for the subject species in the local context shall be provided.’*

The discussion within the SIS of other populations of threatened species in the locality is limited and where it occurs, little reference is made to the security of other habitats or the significance of the subject site in the local context.”

### **Applicants Response**

“The NPWS provide no evidence of any threatened species in the locality that was not discussed in the species impact statement. For example the Wallum froglet was only recorded from the swamp forest east of Sandy Lane (ie” the locality”) (see p. 62). The species impact statement discusses this species and states that drainage from the site will not be directed into the swamp forest. This area is mapped under SEPP 14. Another example of a “locality” record is that of the long-nosed potoroo. The species impact statement describes the habitat of this species (p. 84) and that a plan of management has been prepared for this species at this location (see Mason 1993). Other records from the “locality” discussed in the species impact statement include the black-necked stork, the square-tail kite, the koala, and the suite of microchiropteran bats.”

- 11, “DGR 2.3 states - *‘If movement corridors for subject species are present within the subject site, the impact of the proposal on these areas shall be discussed.’*

As with comment on DGR 1.14 above, the attributes of existing wildlife corridors within the subject site and the affect of the proposal on these corridors has not been discussed in the SIS.”

- 12, “DGR 3.2 states - *‘In discussing alternatives to the proposal, and the measures proposed to mitigate the effect of the proposal, consideration shall be given to developing long term management strategies to protect areas within the study area within which are of particular importance for the subject species. This may include proposal to restore or improve habitat.’*

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The ameliorative measures proposed in the SIS appears generally inadequate and lacking in detail. Buffer plantings where threatened plants occur are mentioned but the extent and the nature of these buffers is not defined. In one instance a species of threatened plant occurs within a proposed residential allotment. There are several other instances where species of threatened plants are located on proposed fire trails. No indication is given on how impacts will be avoided in these circumstances or what mitigation is proposed. The proposed wildlife corridors appears to be considered in the same context as planned areas of parkland and include neighbourhood parks / playfields, fire trails and multipurpose trails as discussed previously in reference to DGR 1.14. For some subject fauna species, impacts as a result of the proposal have been briefly identified but no ameliorative strategies are considered to address these impacts.”

### Applicants Response

“The extent of buffer zones to protect threatened plant species are clear from fig. 3.2. These are substantial and combined with the removal of stock and replanting with native species will effectively ensure the long-term survival of the spiny gardenia, an endangered species. In no case does a species of threatened plant occur within a residential allotment. It is obvious that the scale of Fig. 3.2 combined with the aberration contained within the aerial base photo produces potential alignment artifacts. The protection of the spiny gardenia is thus explained in the text: *‘previously proposed development that had the potential to cause environmental harm, has been removed from this proposal. This includes the golf course and residential development that would have significantly impacted on the spiny gardenia and old growth trees’* (p. 104).

The NPWS comments on wildlife corridors have been addressed previously.”

- 13, “DGR 3.3 states - *‘Any proposed on-going monitoring of the effectiveness of the proposed mitigation measures shall be provided.’*”

The proposed monitoring program is limited to two years after the commencement of the development. This period is insufficient to assess the effectiveness proposed mitigation measures, particularly given the scope of the proposal, the claim that this is an ‘ecologically sustainable project’ (p100 of the SIS) and the admission in the letter of 24 September 1999 from the proponent to Council that ‘the development is likely to have a cumulative, rather than direct, impact on a number of threatened vertebrate species’. The period of monitoring should include all of the construction phase and continue for several years after residences are built.”

### Applicants Response

“Monitoring has been proposed for two years after commencement of the development. This time period is negotiable and the NPWS may wish to consider an alternative proposal.”

A number of minor deficiencies of the SIS were also noted as follows:

- 14, “DGR 1.3 states - *‘An aerial photograph (preferably colour) of the locality (or reproduction of such a photograph) shall be provided, if possible. This aerial photograph should clearly show the subject site and scale of the photograph.’*”

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A colour aerial photograph is provided. However, the subject site is not defined and examination of features reveals that this aerial photograph does not include all of the area covered by the proposal.”

### **Applicants Response**

“An aerial photograph was provided on which all of the site is clearly visible (Fig. 4.1). The NPWS is incorrect in asserting that “this aerial photograph does not include all of the area covered by the proposal””.

- 15, “DGR 1.6 states - *‘Where the habitat of each subject species within the study area can be clearly delineated this habitat shall be represented on a map of the study area.’*”

No delineation of habitat of any subject species is given despite the relevance of such information in assessing impact for particular species. The mapped vegetation associations may be able to satisfy this requirement if a discussion was included of the habitat values relevant to subject fauna species that these associations contain.”

### **Applicants Response**

“Details of the habitat requirement for each threatened species listed by the DG are supplied in the species profiles. These details, combined with the vegetation map and accompanying vegetation descriptions, suitably provide for this requirement.”

- 16, “DGR 1.13 states - *‘A full description of the methodology used in the fauna and flora surveys and habitat assessment shall be provided, including survey techniques employed, number and location of traps, size of survey sites, dates of surveys, the time spent on surveys and weather conditions during which the subject species are most likely to be detected.’*”

Although the flora and fauna surveys conducted for this SIS together with previous studies may be adequate, the documentation of previous studies does not clearly indicate the survey effort involved (such as trap nights for the various techniques). As discussed in relation to DGR 1.5 the results provided for survey of subject fauna do not give adequate information on location of records.”

### **Applicant Response**

“The details of methodology that meet the above requirements are contained under section 4 between pages 25-38. It is considered that the survey effort applied by this consultant was adequate to meet the requirements of a species impact statement without the need to rely on previous surveys. However, the fauna records gathered previously were reviewed and the potential of the subject development to impact on threatened species previously recorded was addressed (see species profiles).”

### **Comment**

It is considered that the applicant has adequately addressed the NPWS issues and the proposal is therefore now suitable for conditioned approval. However, prior to the NPWS granting concurrence they will need to be satisfied of the above issues and it is considered that this report, if supported by Council, should be submitted to NPWS for determination of concurrence.

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### EVALUATION

A complete assessment of the application against the matters for consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act, 1979 is provided below.

#### (a) (i) Planning Instruments

##### Tweed Local Environmental Plan 1987 (TLEP 1987)

The land, the subject of the proposed subdivision is zoned Part 2(c) Urban Expansion zone, Part 6(c) Recreation (Special Purposes) zone, Part 7(d) Environmental Protection (Scenic/Escarpment) zone and Part 7(l) Environmental Protection (Habitat) zone. The proposed development is permissible with the consent of Council.

There are a number of clauses in the TLEP 1987 which require consideration. These are discussed below.

#### **Clause 10 - Minor Variation of Zoning Boundaries**

The applicant has requested that Clause 10 of the TLEP 1987 be used to enable lots to be created partly within the 7(d) zone. This request affects two of the proposed management lots. Clause 10 enables variation of 50m between the 2(c) and 7(d) zones. Council can only grant development consent using this clause if the carrying out of the development is desirable due to planning, design, ownership, servicing or similar criteria relating to the most appropriate use of the land. Following is a description of which lots this clause applies to:-

- \* Stage 4 - proposed management lots 402 and 404 are partly located in the 7(d) zone.

The applicant argues that clause 10 should be used on the grounds that:-

1. The land is zoned 7(d) Environmental Protection (Scenic Escarpment), but as indicated by field survey, is located nowhere near the defined escarpment.
2. The land lies within the area already approved for bulk earthworks (cut) and any effectiveness it may have had on any escarpment is thus reduced to zero.
3. If the land was, in fact, intended as a wildlife corridor, its loss is more than compensated for by the actual corridors identified by both James Warren and Peter Parker and intended to be dedicated as public open space for that purpose.

The land which is proposed to be used for residential purposes in the 7(d) zone is suitable for the intended purpose. Approximately 57ha of 2(c) land is not proposed to be developed for environmental reasons. Therefore, the use of clause 10 to create two management lots is not significant in comparison. The area of land that is zoned 7(d) is affected by the earthworks consent and all of the affected lots are over one of these approved cut areas. The scenic quality of this land is therefore diminished by this. For these reasons and the reasons outlined by the applicant it is considered that the use of

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clause 10 would be suitable in the circumstances and satisfactory on planning and design grounds.

Development consent will be required for any dwellings erected in the 7(d) zone.

### **Clause 16 - Dwelling Houses**

This clause provides that Council shall not consent to the erection of dwelling houses on lots less than 450m<sup>2</sup> (excluding access corridors in hatchet shaped lots). The proposal complies in this regard.

### **Clause 32 - Subdivision of Dwelling Houses in Zone Nos. 1(d), 7(d) or 7(l)**

This clause provides that Council shall not consent to the subdivision of land unless each allotment to be created is not less than 40ha. The proposal involves the creation of public reserves in 7(d) and 7(l) zones which are less than 40ha. A State Environmental Planning Policy No. 1 (SEPP1) objection accompanies the application for the 7(d) zone. A SEPP1 objection was also submitted for the 7(l) zone and these will be discussed later in this report.

### **Clause 36 - Development in Zone No. 7(d) Scenic/Escarpment**

The proposal is consistent with this clause.

### **Clause 38 - Development in Zone No. 7(l) Habitat**

Clause 38(3) provides that Council shall not grant development consent for development on land adjacent to the 7(l) zone unless it has taken into consideration the likely effects on the flora and fauna in the locality. DCP17 requires a 10m buffer to be provided around the 7(l) zone which has been provided in places. This matter will be discussed further in this report.

### **Clause 40A - Water Quality Control within the Cobaki Broadwater and Dunn's Creek Catchment**

This clause provides that Council shall not consent to the carrying out of development on land to which this clause applies unless:-

- a. Where the development involves subdivision or earthworks, a plan detailing proposed measures to control soil erosion and sediment and stormwater runoff and to maintain and monitor water quality, that in the opinion of Council had been adequately prepared, has been lodged with the development application and has approved by Council as the proposed development is consistent with that plan, and
- b. It is a condition of development consent that adequate stormwater pollution control basins and other runoff and water quality control measures had been completed to the satisfaction of the Director General of the Environment Protection Authority prior to commencement of any construction work; and

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- c. Where the development involves disturbance of potential acid sulfate soils, a management plan that in the opinion of Council has been adequately prepared and is based on a pilot program, has been lodged with the development application and approved by the Council and the proposed development is consistent with that management plan; and
- d. The Council is satisfied that development will not result in unacceptable degradation of the environment.

The Statement of Environmental Effects contains management plans for water quality and soil erosion during construction. The soil erosion and sedimentation plan is generally satisfactory and complies with Council's normal requirements.

A condition of any consent would require that the water quality control measures be completed to the satisfaction of the Environment Protection Authority prior to commencement of any construction work as required by Clause 40A of the TLEP 1987.

The development in this instance does not propose to disturb any potential acid sulfate soils. However, the applicant has submitted an Acid Sulfate Soils Management Plan for the subject land which is to the satisfaction of Council.

### **Clause 41 - Heritage Item**

Osprey nests which are mapped by the National Parks and Wildlife Service are heritage items under the TLEP 1987. A mapped osprey nest exists on the subject site. A 100m buffer has been provided around the nest which is a recommended exclusion zone. Therefore, the proposal is considered satisfactory in this regard.

### **Clause 49B - Development of Floodprone Land within Zones 2(c) and 2(e) at Cobaki**

This clause provides that Council shall not consent to the erection of buildings or the carrying out of any works for residential purposes on land to which this clause applies unless the land is to be filled, as part of the development, so that all of the surfaces of the land will be at a level above the 1% probability flood level and that Council is satisfied that:-

- a. the development will not significantly affect the level of flooding on the land;
- b. the cumulative effect of the proposed development on the existing development involving and fill in the Cobaki area has been taken into account and will not cause significant increases overall in the level of flood waters or restrict the flow of flood waters elsewhere; and
- c. the overall area of land fill involving flood prone within 2(c) and 2(e) at Cobaki will not, on completion of that development, exceed 60ha.

The previously approved bulk earthworks application for this site (D94/438) proposed filling of approximately 60ha of the site including the parcels which are the subject of this subdivision proposal.

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Land in stage 5 is affected by the approved fill areas. No additional filling is proposed. Therefore, the proposal is considered satisfactory in this regard.

### **Clause 50A - Development in the Vicinity of Waterways**

This clause provides that a person shall not carry out development with such distance of the mean high water mark of certain creeks or rivers listed in Schedule 5 (which includes Cobaki Creek) for a distance determined by Council having regard for the preservation of scenic quality of the foreshores, the need to minimise the risk of pollution of waterways, protection of foreshores, ecosystems and the intended or planned use of the foreshore, Council may permit development for the purposes of bushfire reduction, recreation areas, environmental facilities, etc, and may require the dedication fee of cost to Council or crown of land having frontage to a scheduled creek or river.

The land proposed to be subdivided is located approximately 800m away from Cobaki Creek at its closest point and will not affect the scenic quality of the foreshore. The issue of water quality has previously been discussed.

### North Coast Regional Environmental Plan 1988 (NCREP 1988)

### **Clause 12 - Impact of the Development on Agricultural Activities**

The land is not in or adjacent to land identified as prime crop or pasture land. The issue of compatibility between the land use has previously been discussed and this issue has been resolved satisfactorily.

### **Clause 15 - Development Control - Wetlands or Fisheries Habitat**

This clause provides that Council shall not consent to an application to carry out development within adjoining or upstream of a coastal or inland wetland or fisheries habitat area or within a drainage catchment area of a wetland or fishery area unless it has considered the following matters:-

- (a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat;
- (b) the need to conserve the existing amateur and commercial fisheries;
- (c) any loss of habitat which will or is likely to be caused by the carrying out of the development;
- (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve;
- (e) whether development would result in pollution of the wetland or estuary and any measures to eliminate pollution;
- (f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on the reserves;

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- (g) whether the quality is in an area of protected land as defined in section 21AB of the Soil Conservation Act, 1938 and any measures to prevent soil erosion;
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved; and
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority in relation to the river, stream, wetland, area or catchment.

In regard to the above matters the following comments are provided.

- (a-c) The issue of water quality in Cobaki Creek/Cobaki Broadwater have been discussed above in the comments regarding Clause 40A of the TLEP 1987.
- (d) There will be no affect on access to the foreshore.
- (e) See comments in relation to (a-c) above.
- (f) There are no known aquatic reserves located in proximity to the site.
- (g) Part of Cobaki Creek is an area of protected land. Soil erosion controls have previously been discussed.
- (h) The proposal will not result in the removal of vegetation along the water course.
- (i) There have been no recent environmental audits or water quality studies by the Department of Water Resources or Environment Protection Authority containing recommendations relating to the River, steams, wetland area of the catchment. A report published in 1985 by the SPCC (now Environment Protection Authority) titled "Water Quality in the Tweed - Terranora Estuaries", contain recommendations in relation to the sewerage treatment works. There were no specific recommendations regarding development in the catchment.

The Public Works Department published the River Management Plan for the Lower Tweed Estuary in 1991 This plan contained a recommendation for the Cobaki Broadwater which is to consolidate the security of natural systems and provide controlled access for educational purposes and non disruptive purposes. This recommendation is not an impediment to the development subject to the adequate water quality control being put in place. The document also contains water quality targets as does DCP17 - Cobaki Lakes. The matter of water quality targets has previously been discussed.

### **Clause 29A(1) -Natural Areas and Water Catchment**

This clause provides that Council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpments preservation zones unless it is satisfied that:-

- a. the wildlife habitat will not be significantly disturbed by the proposed development; and



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- b. the scenery will not be adversely affected by the proposed development, and
- c. an erosion and sedimentation control plan will be implemented which will successfully contain on the site any erosion and sediment caused by the proposed development.

An area within 7(d) zone is proposed to be cleared to create lots by using clause 10 of TLEP 1987. This land has already been granted consent as a cut area in the bulk earthworks approval.

### **Clause 43- Residential Development**

This clause provides that Council shall not grant development consent for residential purposes unless,

- a. it is satisfied that the density of the dwellings have been maximised without adversely affecting environmental features of the land,
- b. it is satisfied that the proposed widths are not excessive for the function of the road,
- c. it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of the land have been met,
- d. it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles,
- e. it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

The proposal is considered to optimise the density of lots having due regard to the environmental constraints imposed by the site. The proposed road hierarchy and public transport issues will be discussed later in this report. No caravan parks are proposed and soil erosion controls have previously been discussed.

### **Clause 66 - Adequacy of Community and Welfare Services**

This issue was considered in formulation of the Section 94 contributions plan applicable to the Cobaki Lakes development. The staged provision of land and/or contributions for provision and upgrading of community facilities is proposed, including multi use hall, preschool and child care facilities, youth activity centre, community health centre, aged persons centre and branch library. Provision is made for a future public school site (englobo parcel 13) following liaison with the developer and the Department of School Education. Other local and subregional facilities are available at nearby Tweed Heads and Coolangatta, including schools and hospital.

#### State Environmental Planning Policies (SEPPs)

#### **SEPP1 - Development Standards**

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Two (2) SEPP1 objections have been lodged contending that the development standard of 40ha as required by clause 32(2) of the TLEP 1987 is unreasonable and unnecessary in the circumstances of the case.

The land on the site which is zoned 7(d) and 7(l) is proposed to be dedicated to Council as public reserve. Land in both the 7(d) and 7(l) zones are less than 40ha. The land is to be dedicated because it has been identified as having high conservation value for the protection of flora and fauna and will mitigate any likely adverse impacts.

The SEPP1 objection only relates to the lot to be created in the 7(d) zones. Following is summary of these lots:-

- Proposed Lot 402 - 1.65ha (Stage 4) (most of this land is in the 2(c) zone)
- Proposed Lot 404 - 3.2ha (Stage 4) (most of this land is zoned 2(c))
- Proposed Lot 405 - 8.8ha (Stage 4)
- Proposed Lot 509 - 5.7ha (Stage 5) (part is in the 2(c) zone)
- Proposed Lot 510 - 15.3ha (Stage 5) (part is in the 2(c) zone)

The 7(d) zoned land is proposed to be dedicated in stages which will result in the fragmentation of the land. The applicant contends that the 40ha standard is unreasonable or unnecessary for the following reasons.

*“The total 7(d) land is less than 40ha, and the standard would prevent the progressive dedication of the 7(d) land in the staged development.”*

To prevent the fragmentation of the 7(d) zoned land it would be more beneficial to dedicate the land as one lot. However, the applicant believes that due to the size and shape of the land it is impractical to dedicate it as one lot. It is considered that the fragmentation of the 7(d) land is reasonable under the circumstances and that the objectives of the 7(d) zone can still be met. It is therefore considered that the SEPP1 objection should be supported. The Department of Urban Affairs and Planning have also concurred to the SEPP1 objection.

Another SEPP1 objection lodged is contending that the development standard of 40ha as required by Clause 32(2) of the Tweed LEP 1987 is unreasonable and unnecessary in the circumstances of the case.

This SEPP1 objection only relates to the lots to be created in the 7(l) zones. Following is a summary of these lots:

- Proposed Lot 314 - 9000m<sup>2</sup> (stage 3)
- Proposed Lot 314 - 8.7a (Stage 2)
- Proposed Lot 406 - 10.7 ha (Stage 4)

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The 7(l) zoned land is proposed to be dedicated in stages. The applicant contends that the 40ha standard is unreasonable or unnecessary for the following reasons:

*“The total 7(l) land is already less than 40ha and the standard would prevent the progressive dedication of the 7(l) land in a staged development.”*

The existing 7(l) zones will not be fragmented and the proposal will allow for these areas to be dedicated to Council as separate lots. The objectives of the 7(l) zone are still satisfied. It is therefore considered that the SEPP1 objection should be supported. The Department of Urban Affairs and Planning have also concurred to this SEPP1 objection.

### **SEPP11 - Traffic Generating Developments**

In accordance with the provisions of this SEPP the application was considered by the Regional Advisory Committee. A summary of their comments is provided in the consultation section of this report.

### **SEPP44 - Koala Habitat Protection**

A SEPP44 assessment has been submitted with the development application which concludes that the site contains potential koala habitat but not core koala habitat and therefore a Plan of Management is not required.

### **(ii) The provisions of any Draft Environmental Planning Instrument**

#### Draft Tweed Local Environmental Plan 1998

This plan has been adopted by Council but has yet to be gazetted. It is considered that the proposal is generally consistent with the provisions of this plan. It should be noted that the general minimum lot size for dual occupancy lots will be 900m<sup>2</sup>.

### **(iii) Any Development Control Plans (DCPs)**

#### DCP5 - Development of Flood Liable Land

Issues relating to the development of flood liable land have been discussed in the previous section relating to Clause 49B of the TLEP 1987. The flood prone lots in Stage 5 will be required to be filled to the design flood level.

#### DCP16 - Subdivisions Manual

The proposal is generally consistent with the various standards. The issue of road widths and layout and open space provision will be discussed later in this report.

#### DCP17 - Cobaki Lakes

This is the principle DCP to guide future development and management of the Cobaki Lakes development site. It was initially adopted by Council in December 1992 and has had subsequent amendments. The proposal involves land in Precinct 4 - the foothills, Precinct 5 - the plateau, Precinct 6 - Valley West, Precinct 7 - Valley East, Precinct 8 - East Ridge, Precinct 13 - Open Space (Escarment) and Precinct 14 - Open Space (Mt

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Woodgee). Each of these precincts have various objectives for their development. The following is an outline of the relevant objectives of each precinct which require discussion. It should be noted that some of the objectives can only be achieved by suitable building design at the construction certificate application stage.

### **Precinct 4 - Foothills (Stages 1 and 5) - Objectives**

- To encourage sensitively designed development in area abutting the escarpment protection precinct. Larger lots or open space areas are provided adjacent to this area
- To provide corridors of open space to protect existing drainage patterns in significant vegetation within the precinct. Areas of open space have been provided some of which protect the drainage paths. The SIS has identified areas of significant vegetation that should be reserved.
- To provide for increased planting to soften the appearance of development when viewed from the Golf Course. Significant amounts of vegetation have been retained in this precinct which should help achieve this objective. However, it is anticipated that it could only be achieved by landscaping on individual allotments.
- To ensure that potential habitats and faunal corridors, particularly for native arboreal mammals are identified, protected and managed as development proceeds. Corridors have been identified in the SIS and maps on the submitted plans. In addition to the above, DCP17 identifies the importance of the trees along Sandy Lane to the landscape of this precinct. The applicant has stated that they will retain as many trees as possible and this has been supported by the SIS and the significant trees have been mapped identifying the location of trees to be lost/retained.

### **Precinct 5 - The Plateau (Stages 4 and 6) - Objectives**

- To facilitate the retention, to the greatest degree practical, of the precincts open woodland through encouraging a low residential density. The area contains a mix of low and medium residential density development. It is considered that medium density development in this precinct is suitable as substantial 2(c) zoned land has been dedicated to environmental protection. The provision of medium density in this precinct should ensure that the density yields are still achievable. The open woodland and significant old growth trees are largely retained on the open space lots as indicated in the SIS.
- To avail the panoramic views of the coast and hinterland to conventional residential development, where such development can be implemented in a sustainable, ecological and aesthetically sound manner. As discussed the Plateau is proposed to have both low and medium density development. The provision of the proposed extensive open space around this precinct should ensure that visual impacts are somewhat limited. This vegetation should also ensure that views from outside the estate are visually less obtrusive.

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- To ensure that development on the Plateau blends in with and retains those trees which are environmentally desirable and/or sustainable. As previously discussed all significant old growth trees and other significant trees have been mapped and placed on the open space lots.
- To encourage replanting of suitable species. This would need to be a condition of any consent for planting away from potential house sites on each lot prior to the linen release. It is considered the intent of this objective is primarily to support the open woodland character of the locality. However, it is also considered that this has largely been achieved by the provision of additional open space areas for the protection of significant old growth trees and other significant trees in the locality.
- To retain habitat and nominated trees for greater gliders and possum as part of the nominated wildlife corridor. A significant amount of open space has been set aside and designated as a wildlife corridor. In addition, these corridors and other open space areas have also been set aside to protect significant old growth trees and other significant trees. The dedication of these large areas as open spaced is likely to ensure that habitat and significant tree species are preserved.
- To provide for a scenic buffer along adjoining private property boundaries. Along the private property boundaries it is proposed to create public reserves and roads for bushfire protection. As bushfire corridors are required in these locations, it is not considered practical to provide a planted buffer.
- To ensure that in any subdivision or development of land directly adjoining the 7(l) zone, an appropriate buffer area where a minimum width of 10m is provided for the purpose of protection and enhancing the conservation and habitat value of the 7(l) zone.

In relation to this the applicant has provided the following:-

*“1.1 As outlined at our meeting of 10 October, 1999, Field Survey has revealed that, for the most part, the 7(l) zone lines as shown on the TLEP 1987 amendment area completely arbitrary and unrelated to any prominent physical features - virtually “imaginary lines through the bush”. Any notional buffering of these arbitrary zone lines is thus completely pointless in terms of protective measures or community benefit. Within the subject land, the 7(l) zones are described as Lot 314 in Stage 3 (Mt Woodgee), Lot 314 in Stage 3 and Lot 406 in Stage 4, each of which have been addressed as follows:-*

*(a) Lot 314 in Stage 2 Ref Key Map 1:*

*As shown, the notional zone line is nowhere near the actual surveyed tree line and great care was taken during the layout design to provide an adequate buffer distance between the tree line and the development envelope. The distance varies between 10 and 40 metres as shown. There is only one location where the zone line*

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*actually abuts the development envelope (rear of Lots 300/301) and, at this point the tree line is some 20 metres distant. Furthermore, a cleared bushfire swale, 20 metres wide, is to be provided along the rear boundaries of Lot 247 to 312 inclusive as shown.*

(b) Lot 314 abutting Lots 313, 315, 318 and 319

*Again, we believe that an adequate clearance between the actual tree line and the development envelope has been provided and a 20 metre fire swale is to be provided as shown (Lot 313). The limits of vegetation are clearly shown on key map No. 1 in the DA.*

(c) Lot 406 in Stage 4

*This section of 7(l) land is abutted only by Lots 400 to 404 in Stage 3 and Lot 402 (Res 'B' Precinct) in Stage 4. Again, the 7(l) zone line is completely arbitrary and the buffing of same would be totally pointless. A fire swale is also to be provided in these locations.*

1.2 General Comment on Buffer Zones

*In cases such as the 7(l) zones at Cobaki, where the zone lines are arbitrary and unrelated to any surveyed feature, and notwithstanding the inclusion of any clause in a DCP (which is in any case, a guide only and not a statutory instrument), Council should consider the following points:-*

- (i) *Why is such a buffer required? If it is to conserve vegetation, the Council should take into account the additional 60ha or so of 2(C) to be provided as additions to the 7(l) and 7(d) zoned areas, far in excess of the total area of any 10m buffers around the limited 7(l) zones.*
- (ii) *If the 'buffer' strips are already clear of significant vegetation, such as in case at the rear of Lots 247-312 in Stages 2 and 3 (Mt Woodgee) as shown, then Council must consider the tenure and maintenance aspects of such buffer.*

*Undoubtably, if left unchecked, the re-growth of extant vegetation will ultimately extend to the rear boundary of the development envelope and the situation will revert to being as it was if a buffer had not been provided.*

- (iii) *Council should also note the lot layout was finalised after the Flora and Fauna Assessments by Messrs Warren and Parker and that the resultant development concepts has been "signed off" by those Consultants. It should further be noted*

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*that, in the one instance where the 7(l) zone line does approximate a prominent physical feature (ie. Mt Woodgee tree line at the rear of Lots 247 to 298 in Stage 2) a buffer strip well in excess of the DCP17 width has been provided".*

Taking into consideration the applicants comments above it is considered that the proposed buffers to the 7(l) zone are adequate and are generally consistent with the buffer objectives of the DCP. Only 5 residential allotments and 1 management will have immediate frontage to the 7(l) zones. This is unlikely to have any significant adverse impacts on the 7(l) zone, for reasons mentioned above and is considered to be relatively minor when taking into consideration the size of the development and the amount of land to be dedicated for conservation purposes.

### **Precinct 6 - Valley West (Stage 3) - Objectives**

- To provide for increased planting to soften the appearance of the development when viewed from the golf course surrounding precincts. See previous comments.
- To ensure that in any subdivision or development of land directly adjoining the 7(l) zone, an appropriate buffer area with a minimum width of 10m is provided for the purpose of protecting and enhancing the conservation and habitat value of the 7(l) zone. See previous comments.

### **Precinct 7 - Valley East (Stages 2 and 3) - Objectives**

- To ensure the development retains and compliments the existing hoop pine trees. The hoop pines are proposed to be retained.
- To provide for increased planting to soften the appearance of development. See previous comments.
- To ensure that in any subdivision of development of the land directly adjoining the 7(l) zone that an appropriate buffer area with a minimum width of 10m is provided for the purpose of protecting and enhancing the conservation and habitat value of the 7(l) zone. See previous comments.

### **Precinct 8 - East Ridge (Stage 2) - Objectives**

The proposal is generally consistent with the objectives of this precinct.

### **Precinct 13 - Open Space (Escarpment)(Stages 4 and 5) - Objectives**

- To avoid crossing the broad bans of the steep land at the southern and central positions of the escarpment for other than narrow pedestrian and emergency vehicular access purposes. A road to service the plateau precinct has been provided in the southern/central position through the escarpment area which has not been shown on the DCP17 road hierarchy plan. It is considered that a road link to this area is required and the SIS concluded that it is unlikely to have any significant environmental impact. The applicant has identified that the road corridor is the most suitable in terms of gradients that can be achieved. The location of this road is

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unlikely to have any adverse impact on the greater glider corridor as indicated in the SIS.

### **Precinct 14 - Mt Woodgee (Stage 2) - Objectives**

- To protect existing vegetation and rehabilitate where appropriate for the purposes of soil stability, aesthetic appeal and to encourage wildlife. The land is proposed to be dedicated to Council as public reserve which will afford some protection to the land if managed properly.
- To provide an appropriate buffer area with a minimum width of 10m from edge of the 7(l) zone and line of remnant forest vegetation. See previous comments.

Other objectives of this precinct relate to creating a lookout with appropriate amenities including an observatory, restaurant consistent with the ongoing management of the Mt Woodgee remnant forest.

The various management plans that are required as part of this stage of the development of the land have been provided.

The multi purpose trails required by DCP17 will be provided generally in accordance with the plan.

DCP17 also contains requirements for the erection of single dwellings on the lots which will need to be addressed in individual development applications for dwellings.

### DCP25 - Biting Midge and Mosquito Control

The application has been assessed by Council's Entomologist who has raised no objections to the proposal subject to all conditions on the previous consents being complied with in terms of work to be undertaken to reduce mosquito breeding potential.

### **Section 94 Contribution Plans**

Section 94 Contribution Plan - Public Open Space and Community Facilities for DCP17 - Cobaki Lakes presents a strategy for the provision of structured and unstructured open space and community facilities. This plan identifies various thresholds which the community facilities will need to be provided and any consent will be conditioned accordingly - open space provision will be discussed later in this report.

### **(b) The likely impacts of that development**

#### Environmental Impact

The proposal is unlikely to create any significant adverse environmental impacts on the locality. To reduce any potential impacts the applicant has submitted a soil erosion management plan to control and minimise the pollution caused by soil erosion on downstream waterways during the construction of the project. This plan is generally satisfactory subject to conditions. The applicant has also submitted a water quality and stormwater management report. Following advice from Council Officers this report has



## Reports from Director Development Services

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been amended to include additional information and this is now also satisfactory. These two reports are likely to ensure that quality of the water in the Cobaki Creek and Broadwater are not adversely impacted upon.

A development of this scale will inevitably have an impact on the environment. What Council needs to consider is what is an acceptable impact given the history and zoning of the site. To reduce these impacts a number of management plans and reports have been prepared. These reports and the management plans have helped to achieve a subdivision design and to minimise the impact of the proposal on the environment from the construction stage to completion. These reports and management plans will be incorporated into any consent, where appropriate.

### Effect on landscape/scenic quality of the locality

A proposal of this scale and in this location will have an effect on the landscape and scenic quality of the locality by transforming a rural landscape into an urban one. This affect is accepted due to the long history of the site and the commitment given by the LEP amendment and DCP for residential development in this location. The more scenic areas of the land are protected by the 7(d) Environment Protection (Scenic/Escarpment) zone.

Earthworks which have been approved will modify the topography of the land in stages 3 and 4.

The applicant has submitted a typical streetscape concept which is satisfactory and is consistent with Consent S94/194. This consent also required compliance with the planning, building and landscape code submitted by Sinclair Knight Merz (1995) which was also intended to apply to all future stages. A condition of any consent for this proposal would require compliance with this Code.

The visual impacts will be reduced by appropriate buffering and landscaping.

The development will be consistent with the general character of new residential estates.

### Access, Transport and Traffic

Issues in relation to traffic, access and road layout have been reviewed by Council's Engineering Services Division, Subdivision Engineer and the Regional Traffic Advisory Committee. The comments made by the Regional Advisory Committee which are outlined in the consultation section of this report will be incorporated, where necessary, into the design of the proposal to improve the layout.

Although the road network as proposed by the applicants is not entirely consistent with DCP17 it is considered that the proposal is satisfactory as it provides for good connectivity and a sensible curvelinear alignment. The applicants propose to modify the cross section for Sandy Lane in order to minimise the impact on existing vegetation within the proposed road corridor. These modifications mainly came about following the recommendations in the SIS to preserve the old growth trees along this alignment.

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The Manager of Planning and Design and the Subdivision Engineer have previously agreed to this modification.

Concern was raised for the need for intersection treatments at the intersection of Road No. 32 and Road No. 2, Road No. 1 and Road No. 33 and Road No. 33 and Road No. 32. The applicant has indicated that it is likely that roundabouts will be used for the treatment of these intersections and the details will be provided with the construction certificate application. Any consent will be conditioned to require the same.

The residential A and residential B management lots will have restricted access to the road they are fronting, particularly for those lots fronting Sandy Lane. Any consent will be conditioned that the management lots would be restricted to one or two accesses depending on the size of the allotment. In addition, intersection treatments such as a roundabout may also be necessary and these details will be provided with the construction certificate application. These management lots as previously discussed will be subject of future development applications.

Provision has been made for a bus route through the site by way of conditions of consent on S94/194. Additional bus routes have been identified in the current application. The accepted recognised standard for the distance between households and bus routes is 400m. This has generally been satisfied in the application. Any consent will be conditioned that the applicant liaise with Council officers and the local bus company to identify appropriate bus stops.

### **Cobaki Parkway**

Council's Engineering Services Division prepared a report to Council's meeting 15 December 1999 in relation to the traffic impacts of Cobaki Lakes Development on the distributor road network. At that meeting Council resolved to defer the item. At Council's meeting on 19 January 2000 Council resolved to have a workshop on the item on 8 March 2000.

The report from the Engineering Services Division which was discussed at Council's meetings and workshop is reproduced as follows:

*"The Cobaki Lakes project is a major urban development that is proposed to be constructed over several years. Approvals have already been issued for 1,173 lots. A new application for a further 560 lots is before Council. Because this current application seeks to remove the connection between the development and the Tweed Shire road network in the short term (with substantial reduction in associated development charges) it cannot be satisfactorily determined until Council's position regarding the connection of Cobaki Parkway and Piggabeen Road is decided.*

*The applicant argues that the distributor road network should be amended to delete the connection of the Cobaki Parkway to Piggabeen Road.*

*The Consultants' report is summarised as follows:-*

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*“The Report states that the distribution of traffic from Cobaki Lakes will be very dependent upon whether the Cobaki Parkway connection is made, or not, to Piggabeen Road.*

*The conclusions of the report is that without Cobaki Parkway connected to the wider Tweed Shire road network, development in Cobaki Lakes will have no impact on roads at Tweed Heads West which currently exhibits limited and constrained capacity conditions.*

*The report by Veitch Lister Consulting Pty Ltd also states that the impact of attracting NSW generated traffic on to Boyd Street at the Queensland border by connecting the Cobaki Parkway to Tweed Shire, is offset by a similar reduction in daily traffic from Cobaki Lakes that would head south and east into Tweed if the connection was made. Development in Cobaki Lakes up to and including existing approvals together with this proposal appears to generate a lower (15% lower) level of traffic on Boyd Street than that created by 3,500 lots being developed in Cobaki Lakes with the Cobaki Parkway connected to Tweed Shire. This development up to and including the proposal can therefore be accommodated in the Gold Coast Highway and Boyd Street.*

*The implications of full development on internal roads has been assessed taking into consideration whether or not Cobaki Parkway is connected to Piggabeen Road. With no daily traffic volumes in the network, except on the Cobaki Parkway leading to Queensland. With a Cobaki Parkway connection to Piggabeen Road the implication is for a change in the distribution of associated with Cobaki Lakes together with diverted traffic from Tweed attracted to the Cobaki Parkway corridor. As expected it is likely to reduce flows over much of Sandy lane over that experienced with no Cobaki Parkway connection. The most significant implication is for Cobaki Parkway which may have to be able to be constructed to 4 lanes over the entire length of the site, depending on development plans for Bilambil.*

*The traffic report indicates that with no Cobaki Parkway Connection to Tweed it would be expected that Cobaki Lakes would no longer be contributing to road capacity in the Shire. Accordingly, the contribution to the Section 94 Plan, Tweed Road Contribution Plan No 4 could be significantly lower than that identified in the current scheme. The report suggests that the contribution be reduced to less than 20%.”*

*This argument should be rejected as the Cobaki Parkway connection to Piggabeen Road and its eventual extension to Bilambil Heights is an integral component of the Tweed Shire Distributor Road Network. Whilst it is acknowledged that the deletion of this link would benefit the developer financially, the connection is of significant benefit to the wider Tweed community including business and industry as well as residential developments. This link is critical to Tweed Shire given the uncertainty of the Lakes Drive Bridge.*

## Reports from Director Development Services

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*The only aspect of the Cobaki Parkway that should be further considered is the actual timing of the construction of the connection to Piggabeen Road.*

*Currently the developer has a condition of consent in DA Consent S97/54 which requires construction of the Cobaki Parkway from Piggabeen Road to Roundabout No 4 on the Cobaki Parkway and reads as follows:*

*“Prior to release of any linen plan of subdivision of Parcels 7 to 10 creating individual residential allotments, the “Cobaki Parkway and Cobaki Bridge” from Piggabeen Road to Roundabout No 4 (Sandridge Roundabout) shall be constructed to the satisfaction of the Director of Engineering Services.*

*The applicant shall be responsible for obtaining any necessary approvals for the construction of “Cobaki Parkway” from Cobaki Bridge to Roundabout No 4. Compliance with this condition will not be required until a total of 730 lots approved under Consent S94/197 and this consent have been crated by linen plan release”.*

*Previously Council has insisted on this condition being applied as it was argued it would provide access from the proposed residential area to the Tweed commercial areas. It was also accepted that the net impact of 730 lots on Kennedy Drive would be affected by existing traffic from Tweed utilising Boyd Street.*

*If the current application is approved and the above current consent condition is enforced, Council is exposed to the risk of being liable for the possible upgrading of Boyd Street to 4 lanes. This condition that binds Council is part of a Deed of Agreement relating to traffic volumes, Boyd Street Tugun and the Tugun Bypass. The relevant clauses of the Deed are produced below:*

- *Clause 1 - Council acknowledges that the road system comprising the Bilambil Heights connector road (Cobaki Parkway) check the Deed and discuss forms an important part of the road network for the Tweed, facilitates the future development of the Bilambil Heights area.*
- *Clause L - The Council acknowledges and accepts that if the Bilambil Heights connected road is completed before the completion of the Western Bypass it will increase the traffic flow at the count point which may cause the applicant to incur or contribute to the applicant incurring liability in respect of the upgrade to four lanes.*
- *Section 5.2 - the Council shall use all reasonable endeavours to ensure that the applicant does not incur the upgrade liability and in particular, as long as the upgrade liability or the potential therefore still exists will:*
  - a. *not construct or approve the construction of the Bilambil connector road unless the western bypass, the Boyd Street overpass and interchanges between them have been completed or someone else has accepted the upgrade liability.*

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- *Section 5.3 - in consideration of the applicant entering into the Gold Coast city Council agreement and assuming initial responsibility for the upgrade liability the Council covenants with the applicant that it will to the fullest extent permitted by law indemnify the applicant against or reimburse the applicant for any cost liability, expense or claim which the applicant may incur directly or indirectly as a result of any failure by the Council to fulfil its obligations under subclause 5.2, etc”*

*If Council insists on maintaining the condition requiring the connection of Cobaki Parkway to Piggabeen Road, then clearly from the above, Council may become liable for the Boyd Street upgrade. The condition impacts on Council’s position in regard to the traffic capacity on Kennedy Drive at Cobaki Bridge which has now been consumed by developments since that date.*

*The current application requests that the connection not be made at all, however as previously discussed, this is unacceptable.*

*It should be noted that Cobaki Parkway from Piggabeen Road to the Tugun Bypass is a scheduled work in the Tweed Road Contribution Plan. Accordingly the developer will receive ‘credits’ from their TRCP contributions for sections of the Parkway constructed and a Bank Guarantee mentioned below.*

*This enables Council to control the timing of the construction of the connections avoiding any risk regarding the Boyd Street upgrading. Construction of the link could then be programmed at the completion of the proposed Tugun Bypass.*

*If Council adopts this position, the developer/owner of Cobaki Lakes would then need to apply for a modification to any previous Consents that conflict with the above recommendation.*

*It is recommended that the connections of Cobaki Parkway to Piggabeen Road not be required until the Tugun Bypass has been constructed and in regard to the Cobaki Lakes Development, conditions be applied to all relevant consents that:*

- *The public road reserve for Cobaki Parkway from Roundabout No 4 to Piggabeen Road shall be dedicated to Council free of cost. The alignment and width of this road reserve shall be confirmed by Council.*
- *The applicant shall lodge with Council a bank guarantee to the value of \$2,466,000.00 as security for the construction of this section of Cobaki Parkway and Cobaki Bridge, pending the connection to the Western Bypass of Coolangatta Airport.*

### **RECOMMENDATION**

*That Council:-*

1. *Endorses the connection of Cobaki Parkway to Piggabeen Road, but not until the Tugun Bypass is constructed.*

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2. *Requires the 'bonding' of the connection of the Cobaki Parkway between Piggabeen Road and roundabout No.4 (Sandridge roundabout) on any future subdivision approvals for Cobaki Lakes, which issue prior to opening of the interchange with the Tugun Bypass.*
3. *Pursues with the applicant appropriate Section 96 amendments to the two previous consents for Cobaki Lakes, which reflect the above resolutions.*
4. *Subject to satisfactory resolution of 3 of this resolution makes appropriate amendments to DCP - Cobaki Lakes to reflect the outcome of this report."*

### Comments

The recommendation in respect of this application reflects the above recommendation.

#### Character, Location, Siting, Design and External Appearance, Size and Shape of the land etc

As previously discussed, the development will be similar in character to other new residential estates. Large tracks of environmentally significant land will remain and be dedicated as public reserve.

The ability to conserve vegetation is limited by the extent of the earthworks required to create the lots and providing an area for the erection of a dwelling. prior to construction commencing, all vegetation to remain should be clearly identified and supervision provided by way of the environmental officers. The remaining vegetation will form part of the character of the development.

The lot sizes, shapes and densities are considered generally satisfactory and comply with the TLEP 1987 and DCP16.

Public open space needs to be provided in accordance with Section 94 plan for the site. In respect of the casual open space, the Section 94 plan requires that the minimum area be 5000m<sup>2</sup> and be within 500m walking distance of the proposed lots. The Recreation Services Unit has advised that they will accept casual open space for neighbourhood parks that are useable, have an area of at least 2000m<sup>2</sup> and located within 300m of the lots. Open space that has been provided to conserve significant vegetation or for wildlife corridors will not be accepted as part of the calculation to meet the casual open space requirements.

The casual open space proposed to be dedicated for use a neighbourhood parks is satisfactory. There are many proposed parks scattered over the site and these are considered to be satisfactory in relation to size, adequate distance to lots and adequate road frontages. Generally, the casual open space provisions have exceeded the requirements of the Section 94 plan for the site.

Structured open space is proposed in the 6(c) zone in stages 1 and 5. It is considered that the location and size of the structured open space areas is satisfactory (Recreation Services recommend a minimum area of 4ha). The total amount of structured open

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space proposed for the entire development will exceed the requirements in the Section 94 plan. This Plan provides that structured open space be provided at 1.7 ha per 1000 persons. This application will require a structured open space area of 2.6ha (ie  $(1530 \text{ persons} \div 1000) \times 1.7 = 2.6\text{ha}$ ) and the other previous consents (S94/194) requires 3.6ha and (S97/54) requires 2.14ha.

Appropriate conditions are included in the recommendation.

The structured open space lot in stage 5 has an area of 1.25ha and is well below the minimum requirement of 4ha. However, the size of this structured open space lot is considered to be satisfactory as it will be ultimately developed as netball or basketball courts etc and would compliment the adjacent community facility allotment also in stage 5. If this area of structured open space in stage 5 was not provided the structured open space provided in stage 1 would still exceed the requirements of the Section 94 plan. Recreation Services have raised no objections to the location, size and design of the structured open space areas.

For convenience and to reduce the reliance on the motor vehicle two sites have been nominated to provide for neighbourhood businesses. This approach is consistent with the Tweed 2000+ Strategic Plan. The location and size of these allotments for neighbourhood businesses is considered to be satisfactory.

### Relationship of development on adjoining land and development

The proposal is considered compatible with the intended character of the locality. It is considered that the proposed water quality control system will reduce any likely adverse impacts on the adjoining land and other land in the locality.

### Utility Services

The sewerage and water supply infrastructure strategy adequately addresses trunk water supply to parcels 11, 12, 14, 15, 17 and 20.

All services will be required to each lot as a condition of any consent.

### Soil Erosion

This issue has previously been discussed in this report.

### Landscaping

Street trees will be provided or contributions obtained. Rehabilitation work will need to be undertaken as identified in the SIS.

The proposal will involve the removal of a substantial amount of vegetation which in part has been accepted due to the zoning of the land and the DCP which has been prepared.

However, the amount of vegetation that needs to be removed should be minimised to that which is actually required for roadworks, provision of services, drainage, access and house sites. The difficulty is in ensuring that this happens. It is intended by the

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applicant that an environmental officer be employed during the construction process and this officer should monitor the preservation of trees on the site. However, it is considered that prior to construction work all vegetation should be physically marked on site and the contractors made away of the purpose of the markers. It is also considered that a tree preservation order may be required for the site.

Casual open space areas will need to be embellished in accordance with Council's normal requirements.

### Impact on flora and fauna

The development application is accompanied by a SIS. If Council support the proposal, the concurrence of the Director General of the National Parks and Wildlife Service will be required. The study area for the SIS includes the land the subject of this subdivision development application.

The SIS has made recommendations to ameliorate impacts on threatened fauna. If Council supports the proposal, conditions would be placed on the consent based on these recommendations. In addition, the SIS provides more specific recommendations in respect to conservation of habitat trees, conservation of significant plants and vegetation and conservation of potential fauna movement corridors. These recommendations have been incorporated into the design of the development and results in about 54ha of land in the 2(c) zone being conserved. However, an area of concern is how to protect the vegetation of the plateau both during construction and in the long term once development occurs.

The specific recommendations that have been made are as follows:-

- “\* *The flora and fauna survey report identified and mapped a number of threatened plant species at the site (Fig. 4.2). No development will occur at these sites and in areas proximate to these locations and buffer plantings of suitable native plant species will be provided between these locations and nearby urban development or roads;*
- \* *Stock that currently graze over the whole of the site will be removed. Stock grazing on the endangered plant spiny gardenia and a number of locally significant species will thus be eliminated. Vegetation within environmental protection zones and in conservation areas at the site will be protected from stock and buffer plantings will be provided between these sites and proximate developed areas.*
- \* *The flora and fauna survey report identified and mapped all of the significant old-growth trees at the site (Fig. 4.4). The Master Plan identifies how these old-growth trees will be integrated within the development and how most of these trees will be retained for conservation purposes;*
- \* *A substantial area of flora and fauna habitat will be retained to support the interchange of genetically viable wildlife populations over the long-*



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*term. Wildlife corridors will be provided throughout the proposed development to assist in the passage of arboreal fauna and provide nesting and foraging sites for avifauna; and*

- \* a monitoring report will be provided to Council and the NPWS six months after the commencement (activation) of a development consent and at 12 month intervals for a period of two years. This report will identify the protection afforded to threatened plant species, buffer and corridor plantings, the occupation by the osprey of its nest site and any breeding results, bushfire impacts. It will also address any other matter that Council or the NPWS choose to list.*

*Other amelioration strategies include:*

- \* A substantial part of the site is zoned for environmental protection. These areas support the better quality wildlife habitats, although they are not currently managed for environmental purposes.*
- \* Part of the site containing high quality wildlife habitat which is not zoned for environmental protection will be retained and conserved.*
- \* Previously proposed development that had the potential to cause environmental harm, has been removed from this proposal. This includes the golf course and residential development that would have significantly impacted on the spiny gardenia and old growth trees.*
- \* A bushfire management plan will be prepared and adopted to protect and minimise the impact of fire on important ecological communities. The objects of a bushfire management will be “to reduce the risk of fire and protect wildlife habitats and private property”. The fire-break areas have been detailed on Maps identified as Key 1-3 in section 3 of this SIS. These were inspected by Mr Peter Parker to ensure that the clearing of native bushland is minimised. Setback requirements, emergency access routes and fire hazard reduction areas will be reaffirmed as conditions of development consent”.*

These measures have been included in the recommended conditions where appropriate.

### Natural Hazards

Part of the site in Stages 1 and 9 are subject to flooding and filling is required to elevate the proposed lots to the design flood level. This filling has already been approved by way of the bulk earthworks consent.

The location and design of the bushfire corridors has been undertaken in consultation with Council’s Fire Control officers. Accordingly, the Emergency Services Unit raise no objections to the proposal. The details of the gradient and cross falls of these bushfire corridors have been provided and are satisfactory.

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The subject site contains a cattle dip which is known as “Turners dip”. It is located in stage 1 of the proposed subdivision. A management plan for the remediation of this dip has not been submitted with the development application. As previously discussed in the consultation section of this report the applicants have requested that the dip not be remediated as part of this application but conditioned so that no dwelling house is to be erected within approximately 200m of the dip site until the dip has been remediated to the satisfaction of Council and the EPA.

No residential development is proposed within the immediate vicinity of the dip site. However, residential A and residential B management lots are proposed in close proximity to the dip site, however these management lots will be subject to future development applications which will “trigger” the need for the dip site to be remediated. Accordingly, it is considered that any consent can be conditioned that no dwelling houses are to be erected within approximately 200m of the existing dip site until the dip has been remediated to the satisfaction of Council and the EPA and necessary approvals have been obtained.

The applicant has provided details of the past land use and no further land contamination issues affecting the current subdivision proposal has been raised.

### Social and Economic Effect

The proposal will provide additional dwelling lots to cater for some of their anticipated growth within the north eastern sector of the Shire. The proposal will increase the demand for services and facilities some of which will be catered for on site when various stages of the Cobaki Lakes development are released. There will be an increased maintenance burden for Council for the additional structured and casual open space. However, this open space is required to meet the need of the future population and for the conservation of significant trees and wildlife corridors.

The proposal will provide employment opportunities both during the construction and post construction phases.

### (c) **The Suitability of the Site for the Development**

As discussed throughout Section (b) of this report it is generally considered and accepted that the site is suitable for the development. The site has had a long history and has a commitment given by the LEP amendment and DCP for residential development in this location.

It is considered that the proposal is generally consistent with the provisions of the LEP 1987 and DCP17. Where impacts are likely amelioration measures have been identified to reduce or overcome these impacts. These recommendations have been incorporated into the design of the development and results in approximately 54ha of land in the 2(c) zone being conserved. This provides an environment/site that is suitable and compatible with the functioning development.

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

Public Submissions

As previously discussed the application was advertised for a period of 14 days and adjoining owners were notified. No submissions were received.

Public Authority Submissions

See consultation section of this report.

(e) **The Public Interest**

A number of State Government Planning Policies (SEPPs) and other planning guidelines (LEPs and DCPs) have relevance to this application. All these policies and plans were discussed in Section (a) of this report.

As discussed in Section (d) the application was advertised for a period of 14 days and all adjoining owners of the subject land were notified. No submissions were received during this period.

### **Tweed Shire 2000+ Strategic Plan**

There are provisions in the Tweed Shire 2000+ Strategic Plan which need to be considered. These are outlined below.

#### **Infrastructure Finance**

*“18. The management of urban release areas will be based upon the full cost recovery of public infrastructure already provided, and the provision of infrastructure needed to service growth at no cost to existing ratepayers”.*

**Comment:** The developer will need to extend infrastructure to the site and also pay Section 94 contributions where required.

#### **Open Space and Recreation**

*“30. Open Space Standards Council will ensure the identification of open space areas of high value within proposed and existing release areas through performance based standards. It will amend the Subdivision Guidelines so that these open space requirements are fully satisfied prior to approval. The Guidelines will include appropriate environmental requirements and provide for adequate buffers and/or open space between different areas”.*

**Comment:** These guidelines have not yet been prepared. The issue of open space has been discussed previously in Section 79(C)(1)(b).

#### **Infrastructure Planning and Finance**

*“79. Tweed Development Program The release of new urban development will be managed by a Tweed Development Program which will:-*

- (a) *provide infrastructure to match anticipated growth in residential lots;*

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- (b) *specify essential infrastructure in excess of \$100,000 which is required before a nominated area of land can be released for development;*
  - (c) *provide for a developer to proceed “out of sequence” only if all the necessary infrastructure is provided at no cost to the community.*
  - (d) *manage new urban development to minimise the public sector costs in providing related infrastructure; and*
  - (e) *be based upon and integrated with Council’s three year management plan and 10 year long term financial planning.*
80. *In accordance with the Tweed Development Program, Council will facilitate development of urban release areas compatible with the following strategic infrastructure constraints detailed in that Program:*
- (a) *Piggabeen Road;*
  - (b) *Kingscliff STW: effluent licence approval;*
  - (c) *Coast Road;*
  - (d) *Banora ST.: receiving water capacity;*
  - (e) *Kennedy Drive”.*

**Comment:** Approval has been given for the lead in infrastructure and a Deed of Agreement regarding access to the site has been made. These issues of Kennedy Drive and Piggabeen Road has already been discussed.

*“91. Council will not approve development in the catchment of Kennedy Drive which would cause its traffic capacity and amenity to be exceeded”.*

**Comment:** The traffic study prepared by Veitch Lister Consulting Pty Ltd states that no connection of Cobaki Parkway to Piggabeen Road will not result in any net increase in traffic on Kennedy Drive.

### **Urban Release Policy**

Most of the policies in this section of the strategic plan relate to future release areas and the requirements to be met before the land is released. This has been established for Cobaki with the adoption of the DCP and Section 94 plan.

### **ENGINEERING SERVICES DIVISION COMMENTS**

#### ***External Infrastructure***

*Conditions of any consent should refer to Sewerage and Water Supply Infrastructure Strategy report by SKM dated June 1996 and any variations from this strategy should be subject to further report and approval.*

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### **Road Network/Tweed Road Contributions Plan**

*Regarding the treatment of Cobaki Parkway and the claim that because the connection to Piggabeen Road may not occur for some time, then the Development should not contribute to future roads in the area is not considered a valid argument. The purpose of the S94 Plan is to collect funds for future roads Shirewide that are required as a result of ongoing development in the Shire.*

*The Traffic Report raises issues which are based on pre-empting Council decisions which the Applicant cannot do and the issue of land requirements for the Piggabeen Road connection and Cobaki Parkway widening have already been dealt with in the TRCP and previous Consents for earlier stages of Cobaki Lakes Development.*

*The implications on the connection of the Cobaki Parkway to Piggabeen has already been discussed in Section (3) of this report and any consent will be conditioned appropriately.*

*As the Tugun Bypass alignment for the EIS has been determined there is little doubt about it proceeding and the resultant interchange at Boyd Street which in turn enables the connection of Cobaki Parkway to the Tweed Shire Road network taking place. It is acknowledged that the Applicant was not aware of this information at the time the Traffic Impact Report was prepared.*

### **Drainage**

- Insufficient detail is provided of the general drainage layout, drainage paths and disposal points to assess the drainage of the subdivision. No details are given of catchments, major/minor systems, lawful point of discharge etc. It needs to be demonstrated that major drainage paths are adequate and that proposed filling will not block any drainage paths. A larger scale topographic plan showing details of overall drainage layout is required to assess the proposal.*
- The proposal does not contain detail required by DCP 16 part 7, all matters in 7.0, 7.1, 7.2 and 7.3 must be addressed.*

### **Stormwater Quality Comments**

- The scale of WBM fig 5.1 is too small to locate flow paths and determine if all parts of the subdivision will receive adequate stormwater quality treatment.*
- There is insufficient detail of size, extent and geometry of proposed meadow drainage to assess its likely effectiveness.*
- Proposed filter strip between C3 and C1 appears to be located along existing watercourse. It is generally required that natural watercourses be retained in their natural state. This appears to be incompatible with the geometry and vegetation requirements of filter strips. Part of this filter strip appears to be located on the border reserve, is there any agreement with the reserve trustee for construction and maintenance of the filter strip? More detail and field survey is required to demonstrate that the filter strip can be practically located and constructed on site.*
- More detail is required about proposed filter strips above B12, below B11 and between B10 and B11 to demonstrated they can be constructed and operated in a practical manner on the specific site and will not lead to the degradation of natural watercourses.*

## Reports from Director Development Services

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- *Part 7 of WBM report contains insufficient detail to assess proposed erosion and sediment control measures during construction. This problem is compounded by the sparsity of detail of the proposed drainage system itself. More detailed site specific plans needed of erosion and sediment control measures are to be staged, sequenced and progressively decommissioned.*

Again discussions between the applicant and Council officers has resulted in any consent being conditioned where appropriate particularly in relation to the maintenance of the stormwater treatment systems. In addition the applicant has provided further information in relation to Water Quality Monitoring Programme, drainage calculations and stormwater quality as identified above. These have been reviewed by Council's Engineering Services Division and are considered to be satisfactory, and will be incorporated into any consent where necessary.

### **ENVIRONMENT AND COMMUNITY SERVICES DIVISION COMMENTS**

No objections raised from the Building Unit. No buildings to be erected.

The Environmental and Health Services Unit have raised no objections to the proposal subject to relevant conditions on any consent. One condition required a detailed Plan of Management for the remediation of Turners Cattle Dip Site. However, as discussed in this report it is proposed not to remediate the Dip as part of this application but condition any consent so that no dwelling is to be erected within approximately 200 metres at the dip site until the dip has been remediated to the satisfaction of Council, the Environment Protection Authority and the Department of Agriculture.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS**

If the applicant is dissatisfied with Council's determination they may appeal to the Land and Environment Court.

There will be an additional maintenance liability for Council due to the increase in areas of casual and structured open space and the provision of bushfire corridors and the 80 ha of "Conservation Land", proposed to be dedicated.

### **OPTIONS**

Council can either:-

1. Subject to the concurrence of the Director-General of the National Parks and Wildlife Service in relation to the SIS, approve the application subject to conditions as recommended or as modified.
2. Refuse the application.

### **CONCLUSION**

There are a number of key issues raised by this Application, particularly the connection or not of Cobaki Parkway to Piggabeen Road and the timing of any connection. The recommendation is to defer connection until the Tugun Bypass is committed with a \$2.5 million bond. This necessitates a draft amendment to DCP 17 - Cobaki Lakes.

It is concluded from the preceding assessment that the application is suitable for conditional consent. Consultation with Council officers and Government authorities has resulted in a design

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that is generally acceptable and is compatible with the environmental constraints and attributes of the site. This has also resulted in approximately 54ha of 2(c) zoned land being dedicated for conservation purposes. Hence, the application is recommended for conditional approval.

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### 3. ORIGIN: Subdivision Unit

**FILE REF: DA3880/90 Pt 1**

#### **REPORT TITLE:**

**Request to Rezone Parts of the Cobaki Lakes Site**

#### **SUMMARY OF REPORT:**

Council has received a request to rezone parts of the Cobaki Lakes Site from 6(c) Recreation (Special Purposes) zone to 2(c) Urban Expansion zone. The request also involves rezoning 2(c) Urban Expansion land to 6(c) Recreation (Special Purposes) and Environmental Protection.

#### **RECOMMENDATION:**

That :-

1. In accordance with Section 54 of the Environmental Planning & Assessment Act, 1979 Council prepares a draft Local Environmental Plan generally in accordance with Figure 1. This generally involves rezoning approximately 53.36ha of 2(c) Urban Expansion to Environmental Protection and 6(c) Recreation (Special Purposes), and rezoning approximately 14.97ha of 6(c) land to 2(c) Urban Expansion, subject to concurrence of the Director of National Parks & Wildlife Service in relation to DA3880/60 and consent subsequently being issued.
2. The Director-General of Urban Affairs and Planning be requested to waive the requirement for a Local Environmental Study as the proposed rezoning is considered to be of a relatively minor nature and adequate environmental analysis is already documented.
3. Draft amendments be prepared to Development Control Plan No 17 to reflect the draft amendments to the Local Environmental Plan explained in Part 1 above to enable concurrent preparation, assessment, exhibition and decision making with the draft LEP amendment.
4. The proponent be advised that:-
  - i. Council's adopted Strategic Planning Works Program would preclude Council staff from currently dealing with the Draft Local Environmental Plan and Development Control Plan amendments.
  - ii. To facilitate earlier processing the applicant is invited to meet the cost of engaging a consultant to prepare the draft Local Environmental Plan and Development Control Plan amendments - such Consultant to be engaged and managed by Council.



## Reports from Director Development Services

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### REPORT:

#### BACKGROUND

Council has received a rezoning request from Cardno MBK (QLD) Pty Ltd on behalf of Leda Manorstead Pty Ltd to rezone parts of the Cobaki Lakes site. The request involves -

- \* Rezoning approximately 53.36ha of 2(c) Urban Expansion zone to Environmental Protection Zones and 6(c) Recreation (Special Purposes) zones; and
- \* Rezoning approximately 14.97ha of 6(c) zoned land to 2(c) Urban Expansion zone

There have been a number of development consents issued for the Cobaki Lakes site and one development application has been lodged but has not yet been determined. The Development Application is accompanied by a Species Impact Statement which identifies areas of land for conservation. The subdivision layout takes into consideration these areas and the rezoning application is partly based on enabling the development of some 6(c) land to compensate for the amount of 2(c) land that has been recommended as requiring conservation because of its environmental constraints.

The following is a summary of the consents and applications relating to the site:-

- \* On 5 January 1993 Council issued Development Consent 92/315 for the extension of Boyd Street, Tugun for approximately 1.3km into the site. Construction of this road commenced and is subject to a legal agreement between Council and the owners of the land and also between the owner and Gold Coast City Council.
- \* On 22 January 1995 Council issued Development Consent 94/438 for bulk earthworks over the site to proceed with submission and determination of subdivision applications for the staged development of the site. The bulk earthworks approval envisages disturbance of approximately 1.2 million cubic metres of fill material from some of the elevated areas of the site and relocating the material to adjacent low lying areas enabling future residential development. The subject land contains two approved cut and two approved fill areas.
- \* On 19 September 1995 Council issued Development Consent S94/194 for the subdivision of the Cobaki Lakes site into 730 residential lots and 13 englobo parcels. The 730 residential lots are to be developed on five of the englobo parcels being parcels 1-5. This part of the proposal is described as Phase 1A.
- \* On 21 October 1997 Council issued Development Consent S97/54 for the subdivision of parcels 7-10 into 430 residential lots plus open space lots and one lot for a shop. This subdivision is to be constructed in 7 stages and is described as Phase 1B.
- \* Approval for the construction of all lead in infrastructure including water and sewer trunk mains along Piggabeen Road.

Also, a development application proposing a 560 lot subdivision has been lodged for the Cobaki Lakes site. This application is for the subdivision of the Cobaki Lakes site into 560 lots, the subject of a separate report on the Agenda for this meeting.

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The following points have been raised by the applicant in relation to the request to rezone parts of the land -

- \* In the course of the additional studies that were undertaken in conjunction with the current subdivision application it has been revealed that -
  - a. some 56ha of land zoned 2(c) Urban Expansion have been identified as required for environmental protection, additional to the lands identified in the Tweed Local Environmental Plan 1987 - Amendment No. 41;
  - b. about 1.62ha of land zoned 2(c) lies within the area affected by marine clays and is unsuitable for residential development; and
  - c. approximately 15ha of land, presently within the 6(c) zone, is geotechnically suitable for residential development.
- \* Gross loss of some 57.6ha of 2(c) land is obviously of critical importance to the viability of the overall project and would seriously jeopardise the attainment of the Development Control Plan target densities.
- \* Preliminary design calculations have identified that, given the loss of the 2(c) land, target densities could still be achieved if 15ha of suitable land is added to the available 2(c) land by way of partial compensation for the lands lost.
- \* Whilst it is acknowledged that the current zonings on Tweed Local Environmental Plan 1987 (A41), as reflected by Development Control Plan No. 17 and the 1995 Master Plan, were based on overview planning for the best information available at the time, it should be considered that any such overview planning and land zonings should be flexible enough to commit amendments based on site specific considerations.
- \* It must also be conceded that, in a project of the size and cost of the Cobaki Lakes Development, the financial planning and land valuation components are of paramount importance to the viable conduct of the project, and to this extent, it is vital that the zonings and land use designations are kept as current as possible.
- \* This application is thus submitted on the basis of equity and the need for currency in overview project planning.

### PROPOSAL

Figure 1 and 2 below shows the proposed rezoning as requested by the applicant. The areas 1-19 are shown on Figure 2 and the following is a summary description of these areas.

#### Area 1

This contains an area of 1.14ha and it is proposed to rezone this land from 2(c) to 6(c). This area contains some low lying land with an existing watercourse and some plant species that should be preserved. This area is to be dedicated as open space pursuant to Development Consent S97/54 (subdivision of parcels 7-10) and the area is to contain a neighbourhood park.

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### Area 2

This area is proposed to be rezoned from 2(c) to 7(d). It has an area of 6.01ha. This land contains wooded slopes which were identified as requiring conservation by AGC Woodward-Clyde Pty Ltd in their previous SIS. This area is to be dedicated as public open space pursuant to Development Consent S97/54.

### Area 3

This area contains 9.13ha and is proposed to be rezoned from 2(c) to 6(c). This area contains the scribbly gum area and Council requires it to be retained in the parcel 5 proposal which was approved as part of Development Consent S94/194.

### Area 4

This area is zoned 2(c) and it is proposed to rezone it to 6(c). It contains an area of 3.76ha and was identified for conservation in the current Species Impact Statement proposed by Peter Parker. It contains some low lying land and lower wooded slopes. It is proposed to be dedicated as open space in conjunction with the current subdivision application.

### Area 5

The land has an area of 2.05ha and is zoned 2(c) and it is proposed to be rezoned to 7(d). This area is a wooded hill site adjacent to the existing 7(d) zone. It is proposed to dedicate this land in conjunction with the current subdivision application.

### Area 6

4.97ha of land that is zoned 2(c) is proposed to be rezoned to 7(d). This wooded hill site was identified in the Species Impact Statement as being desirable to increase the size of the wildlife movement corridor, notably in relation to the greater glider habitat. The applicant has suggested that this be zoned 7(d) as it is adjacent to the existing 7(d) zone.

### Area 7

4.49ha of 2(c) zoned land that is proposed to be rezoned to 7(l). This area was identified in the Species Impact Statement as a wildlife corridor for the movement of the greater glider. A road and neighbourhood parks are proposed in this area as part of the current subdivision application.

### Area 8

1.5ha proposed to be rezoned from 2(c) and 7(l). This is a wildlife corridor identified in the Species Impact Statement and is proposed to be dedicated as open space.

### Area 9, 10 and 11

These areas have a total of 8.46ha and are proposed to be added to the 7(l) zone. These areas were identified in the Species Impact Statement as being necessary to enlarge the already zoned wildlife movement corridors and to connect with the 6(c) zone.

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### Area 12

These areas contain a total 1.7ha to be added to the 7(l) zone. The applicant states that these areas follow fill identification and fixation, by survey, of the treed area around the Mt Woodgee precinct and that a buffer zone of generally 20m in width has been allowed between the surveyed tree line and the proposed zone boundary.

### Areas 13, 14 & 15

These areas contain a total of 8.86ha and are proposed to be added to the adjacent 6(c) zone. These areas comprise:

- a. the north/south ridge, containing significant black butt trees as are identified in the Species Impact Statement by AGC Woodward-Clyde;
- b. the east/west ridge containing black butt forest and old growth trees identified in the Species Impact Statement;
- c. a 200m diameter buffer around the existing osprey nesting tree identified in the Species Impact Statement. This results in a reduction of 0.51ha to the adjacent 2(e) zone.

### Area 16

These areas contain a total of 14.97ha and are proposed to be rezoned to 2(c). The applicant states that these are the areas identified by Golder Associates and fixed by survey, as being geotechnically stable (ie. not within the areas containing marine clays) which are sought to -

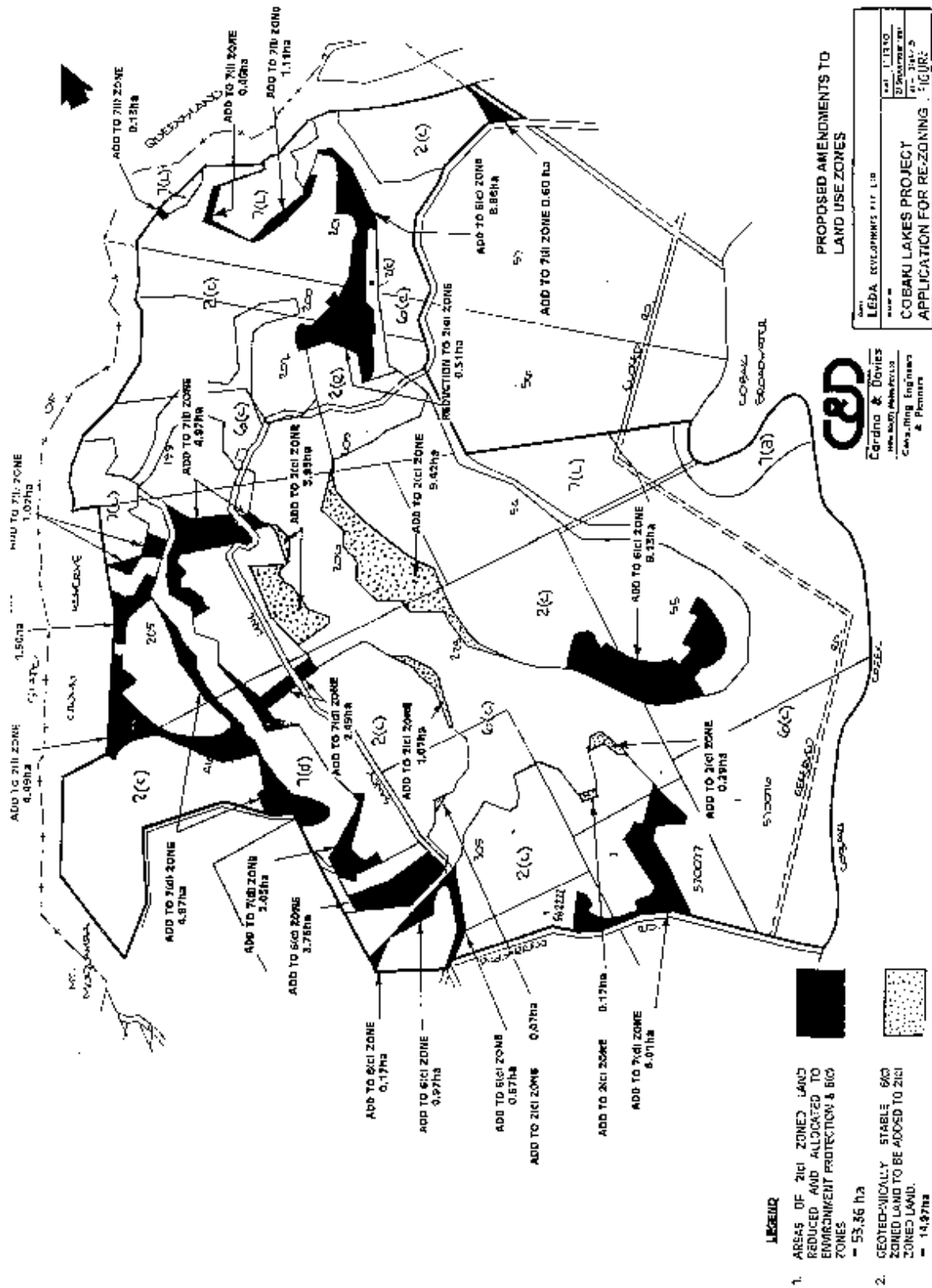
- a. partially compensate for the loss of the 2(c) areas identified as areas 1-15 above; and
- b. bring a notional yield to the Development Control Plan target..

### Area 19

This area contains 0.6ha within parcel 1 and is required as a potoroo rehabilitation area. It is proposed to rezone this land to 7(l).

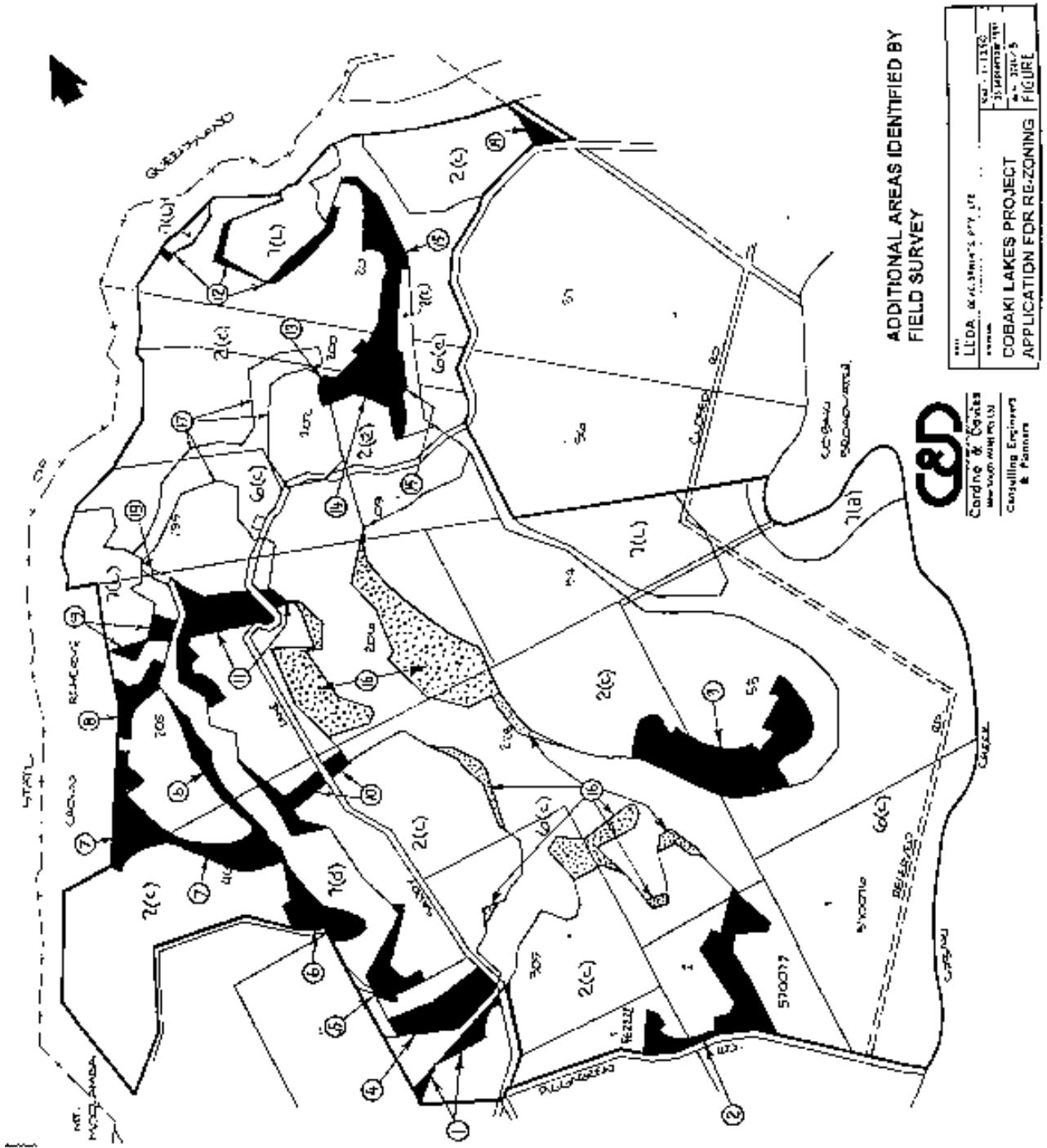
# Reports from Director Development Services

**Figure 1**



# Reports from Director Development Services

Figure 2



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The applicant has provided the following table to demonstrate how the proposed amendments affect the area of the various zones on the site.

<b>Cobaki Lakes Project</b>			
Proposed Amended Zone Areas			
<b>Zone Designation</b>	<b>Current LEP (Ha)</b>	<b>Proposed LEP (Ha)</b>	<b>Net Gain/Loss (ha)</b>
Urban Expansion Zone 2(c)	328.8	290.91	Loss 37.89
Residential - Tourist Zone 2(e)	10.5	10.0	Loss 0.50
Recreation (Special Purpose) Zone 6(c)	204.7	213.29	Gain 8.59
Environmental Protection (Wetland) Zone 7(a)	7.5	7.5	Nil
Environmental Protection (Escarpment) Zone 7(d)	14	29.53	Gain 15.52
Environmental Protection (Habitat) Zone 7(l)	27.5	41.79	Gain 14.28
<b>Total</b>	<b>593</b>	<b>593</b>	

The applicant argues that the rezoning is justified on the basis of obtaining target yield in Development Control Plan No. 17 - Cobaki Lakes. Development Control Plan No. 17 indicates a notional yield of 4741 dwellings from the site. However, it is noted that the yields are based on preliminary design. Now that more detailed analysis of the constraints on the site is available through further geotechnical investigations and flora and fauna assessment it is shown that significant areas of 2(c) zoned land are not suitable for development.

Development Control Plan No. 17 indicates a notional yield of 4741 lots and the 1995 Master Plan indicates that 4411 lots could be created. However, the current design layout as submitted with the current subdivision application indicates that only 4155 dwellings and/or lots could be created.

Figures provided by the applicant indicate that by rezoning 14.97ha of land to 2(c) an additional 600 lots can be created which will then provide a maximum of 4755 lots/dwellings could be created at the Cobaki Lakes site.

This density appears to be very optimistic (ie 40 dwellings per ha).

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### Issues

The land that is proposed to be rezoned to 2(c) is low lying land with scattered vegetation which is not considered to be significant. All of this land is below the design flood level of RL 2.8m AHD and will require the placement of fill. The key issues to be considered when deciding to proceed with the resolution to initiate the request draft LEP include:-

- \* Site fill and flooding
- \* Potential acid sulfate soils
- \* Geotechnical suitability
- \* Traffic impacts
- \* Efficient use of land
- \* Timing of the rezoning

All of these issues are addressed separately below.

### Site Fill and Flooding

The proposed 2(c) zoned land areas would require the placement of approximately 300,000m<sup>3</sup> of fill material to raise the land to the design flood level. The fill is proposed to be obtained from the site by an excess from the proposed earthworks.

The effect of this filling on flooding needs to be assessed and in this regard a report has been submitted by WBM Oceanics. This report indicates that as a result of the proposed additional filling it is unlikely that there will be significant property damage associated with such events. This is qualified by the provision of an appropriate design being provided for any likely golf course on the low lying open space zone to allow adequate conveyance of flood waters through the central low lands and the design of the internal access across the southern part of the site providing for flow under and/or over the roadway in both directions. Lot 110 in stage 1 of the proposed subdivision being the balance of the 6(c) zoned land is more than likely to be used as a golf course and this will be subject to a separate development application. The current subdivision application does not propose any work within this allotment. The Manager of Water has reviewed this report and has advised that based on WBM's advice, no flooding concerns are raised subject to the above design requirements being complied with.

If Council supports the proposed rezoning the clause of the TLEP 1987 which limits the total fill area in the 2(c) and 2(e) to 60ha will need to be amended (clause 49B(2)(C)).

### Potential Acid Sulfate Soils

The land that is proposed to be zoned for residential development needs to be filled to the design flood level. An acid sulfate management plan has been prepared for the Cobaki Lakes site. This plan generally indicates that the land proposed to be rezoned to 2(c) is not affected by potential acid sulfate soils. In any case, it is considered that the acid sulfate management plan adequately addresses any potential disturbance of acid sulfate soil.



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### **Geotechnical Suitability**

A report has been submitted which indicates that the lands proposed to be rezoned to 2(c) is suitable for residential development in terms of geotechnical suitability. Additional information has also been provided which shows the locations of the geotechnical test pits and generally indicates that the land proposed to be rezoned to 2(c) is stable land. It is considered that any future development applications for the use of this land be supported by specific geotechnical analysis to accurately define the stable areas.

### **Traffic Impacts**

As previously discussed in this report the current design layout including past approvals of the site and the current subdivision proposal indicates that only 4155 dwellings and/or lots will be created. This is well below the yields of DCP17 which indicates a yield of 4741 lots for the Cobaki Lakes site. Figures provided by the applicant indicate that by rezoning 14.97ha of land to 2(c) an additional 600 lots can be created which will then provide a maximum of 4755 lots/dwellings at the Cobaki Lakes site. Accordingly, the ultimate site density taking into consideration the rezoning proposal is likely to be generally consistent with DCP17. The traffic impacts are thus unlikely not to be significant and consistent with DCP17.

### **Land Use**

The loss of 15ha of 6(c) land for residential development is not significant in the context of the entire Cobaki Lakes development site. The development will still provide casual open space and structured open space in excess of what is required under the Section 94 Plan.

Water and sewer infrastructure has been designed for the ultimate development of the site as described in DCP17. Rezoning of the land for residential purposes will make more efficient use of the land where services will be available. However, this must be considered in relation to the environmental constraints of the land and the ability of the external road infrastructure to cater for the additional demand.

### **Timing of the Rezoning**

All of the land that is proposed to be rezoned from urban expansion to environmental protection and open space is proposed to be dedicated as public open space. DCP17 indicates areas that should be dedicated as public open space. This proposal involves the dedication of additional land which ultimately Council will need to maintain. Many of the areas proposed to be dedicated are subject to the current development application assessment and until this application is determined it would not be known whether Council will accept this land or not.

The development application for the subdivision includes a Species Impact Statement. This was forwarded to the NPWS for comment. The concurrence from the Director General of the NPWS is required in relation to the Species Impact Statement. Therefore, it is possible that some of the proposed open space/environmental protection areas may change as a result of the assessment of the development application.

Council can resolve to prepare an amendment to the TLEP 1987 in relation to the current proposal and determine exact zone boundaries during the rezoning process, or Council could wait until the

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development application for the subdivision is determined and the issues associated with this application is resolved.

### STATUTORY MATTERS

#### **Tweed Local Environmental Plan 1987**

Clause 49B(2)(c) provides that the overall area of land fill involving flood prone land within Zone No. 2(c) or 2(e) of Cobaki will not, on completion of development the development, exceed 60ha. As previously discussed if Council supports the proposed rezoning this clause will need to be amended. The proposed rezoning will involve an additional 14.97 ha of land to be filled.

#### **Development Control Plan 17 - Cobaki Lakes**

The loss of 53.36 ha of 2(c) zoned land, according to the proponent, is of critical importance to the viability of the overall project and would jeopardise the attainment of the Development Control Plan target densities. It is considered that by rezoning 14.97 ha of land to 2(c) to compensate for the loss, and taking into consideration past subdivision approvals and the current subdivision application for the site then the target densities of Development Control Plan 17 are likely to be achieved.

However, the DCP should be formerly amended to reflect the proposed zoning changes.

#### **North Coast Regional Environmental Plan 1988**

##### Clause 32A - Coastal Lands

This clause applies to land within the region to which the NSW Coast Government Policy applies. This clause provides that a draft Local Environmental Plan which applies to any such land should:-

- a. include provisions that given effect to and are consistent with the NSW Coast Government Policy; and
- b. not remove from existing controls applying to any such land any requirement for the concurrence of the Director for consent to development in coastal protection zones; and
- c. prohibit development, buildings or other structures except those required for erosion control works or beach management on dunes, beaches or headlands that are not occupied by buildings or other structures; and
- d. when development applications are being determined, require consideration of the possibility of higher sea levels caused by climatic change; and
- e. include provisions to the effect that Council must not consent to the carrying out of development on a headland on which buildings are already situated, except where:-
  - i. the height and scale of any buildings that will result from carrying out the development will be no greater than those of the buildings that are already on the headland, and
  - ii. an environmental assessment has been carried out including an assessment of the visual impact of the proposed buildings from other headlands within site of the headland on which the development is proposed to be carried out; and

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- iii. the proposed development is considered by the Council to have a low environmental impact.

The provisions of the NSW Coastal Policy 1997 and its impact on the proposal will be discussed further in this report under the relevant section. Generally, it is considered that the proposal is consistent with the NSW Coastal Policy 1997. The site has had a long history and has had a commitment given by a previous LEP amendment and DCP for residential development in this location. As previously discussed the proposal is to rezone approximately 53.36ha of 2(c) Urban Expansion zone to Environmental Protection zones and 6(c) Recreation zones and rezone approximately 14.97ha of 6(c) zoned land to 2(c) Urban Expansion. The rezoning proposal has largely come about following a detailed analysis of the constraints on the site through geotechnical investigations and flora and fauna assessment which show that significant areas of 2(c) zoned land were not suitable for development. The proposal is generally a "trade off" for those areas of 2(c) zoned land "lost" to conservation purposes but is still generally consistent with the DCP for the area and of course results in less land being zoned for 2(c) zoned purposes than that was originally intended.

The development of buildings and other structures on the land will be subject to future development applications as to will any proposal for subdivision.

The subject land is not affected by a headland.

### Clause 40 - Principles for Urban Zones

This clause provides that a draft LEP applying to urban areas should adopt the following principles:-

- a. zonings should be simple and flexible,
- b. provisions for flexible zone boundaries may apply to any zones except environmental protection zones,
- c. detailed guidelines within the broad zone perimeters should be identified in a DCP,
- d. the principle of minimising energy use, in particular in the design of buildings and effective transport systems.

The proposed rezoning is generally consistent with this clause.

As discussed in this report the purpose of the rezoning is to compensate for the significant areas of 2(c) zoned land lost to conservation values. The proposed 2(c) zone is far less than the previous 2(c) zone that was lost to conservation uses. A DCP17 Cobaki Lakes has been prepared for the site and it is considered that the proposed rezoning is generally consistent with that plan.

The development of buildings and their designs will be considered with the future development applications. In addition, the land proposed to be rezoned will also be subject to a future subdivision application and the road layout and transport systems will be assessed at that stage.

### Clause 42 - Principles for Housing

This clause provides that a draft LEP to permit dwellings in urban areas should generally incorporate provisions that allow a range of housing types and densities, separate residential

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development from other incompatible development, ensure that the land is adequately serviced with water and sewerage disposal facilities, and a number of other provisions in relation to minimum allotment size and permissible and prohibited uses in urban areas.

The proposed 7(d) and 6(c) zones will not be subject to residential development. The area proposed as 2(c) Urban Expansion zone will be subject to the existing land use table which is consistent with this clause.

### Clause 45 - Hazards

This clause provides that a draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards:-

- a. coastal processes;
- b. flooding or poor drainage;
- c. dangers arising from potential or actual acid sulfate soils;
- c1. dangers arising from contaminated land;
- d. bushfire;
- e. aircraft noise at levels of more than 25 (measured according to the Australian Noise Exposure Forecast);
- f. air or water pollution, or airborne pollution, within 400m of sewerage treatment works,
- g. disposal of septic effluent,
- h. existing offensive or hazardous industries; and
- i. high tension electrical power lines.

In regard to the above matters the following comments are provided:

- a. The land in question is not considered to be subject to coastal processes.
- b. As previously discussed in this report the land proposed to be rezoned to 2(c) will require the placement of approximately 300,000m<sup>3</sup> of fill material to raise the land to the design flood level. The effect of this filling on flooding has been assessed in this regard and a report has been submitted by WBM Oceanics. This report indicates that as a result of the proposed additional filling it is unlikely that there will be significant property damage associated with such events. Council has reviewed this report and has advised that based on WBM's advice, no flooding concerns are raised subject to a number of design requirements being complied with. These design requirements are mainly in relation to the 6(c) zoned land which is likely to be used as a golf course and will be subject to a separate development application, and adequate design of the internal access across the southern part of the site providing for flow under and/or over the roadway in both directions.

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- c. As previously discussed it is considered that the areas proposed to be rezoned to 2(c) are outside the areas identified as being affected by acid sulfate soils. In any case an acid sulfate soil management plan has been prepared for the entire site which has been reviewed by Council and is considered to be satisfactory.
- c1. The land in question to be rezoned for urban use is not considered to be contaminated. Information has been supplied by the applicant to support this to Council's satisfaction.
- d. The land in question is low lying and mainly grassed and unlikely to be subject to bushfire hazard.
- e. The land is not affected by aircraft noise levels.
- f. The subject land is not within 400m of a sewerage treatment works.
- g. Not applicable.
- h. No offensive or hazards industries are within the locality.
- i. No high tension electrical power lines traverse over the site.

### Clause 58 - Servicing Urban Areas

This clause provides that a draft LEP should not permit development for urban purposes unless the Council is satisfied that:-

- a. the proposed development will make the most economic use of existing services;
- b. where the proposed development is adjacent to an existing urban area and that urban area will be substantially increased, the provision of a reticulated water and sewer system will be provided at reasonable cost to each lot;
- c. the proposed development is located in an area which is consistent with the findings of any urban release strategy prepared for the local government area or, where no such strategy has been prepared the proposed development is located in an area to which services can be provided most readily;
- d. consideration has been given to the identification of effluent disposal and discharge points;
- e. domestic water catchment areas and water storage areas are not likely to be polluted as a result of the proposed development, and
- f. consideration has been given to the provision of public transport facilities, pedestrian and cycleways.

The site has had a long history and has a commitment given by a previous LEP amendment and a DCP for residential development in this location, following which a number of consents have been issued for the construction of all lead in infrastructure including water and sewer trunk mains along Piggabeen Road, earthworks, the extension of Boyd Street into the site and two subdivision consents. Another application for the subdivision of the Cobaki Lakes site into 560 lots has also

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been received and has not been determined but is on this agenda for the Council meeting. These applications have been developed in accordance with the TLEP 1987 and DCP17 and it is generally considered that they have satisfied the above criteria.

In relation to the proposed 2(c) zone it is considered that this area is an extension to those urban areas already approved and is unlikely to create any significant additional demand on existing services and facilities. In any case taking into consideration that the total area of 2(c) zoned land will be less if the rezoning is supported, it is considered that the demand on services and facilities is likely to be less however, the density targets as identified in DCP17 are still likely to be consistent as a result of this proposal.

### Clause 65 - Provision of Community, Welfare and Child Care Services

This clause generally provides that a draft LEP should not zone land for residential purposes unless the Council has made an assessment of the need for additional community and welfare services and is satisfied that the plan contains adequate provisions to enable the provision of those services.

The lot yields generated by the proposed rezoning to 2(c) Urban Expansion are not likely to exceed those yields identified in DCP17. A community facilities site has been identified on the current subdivision application and this is considered to satisfactorily provide for the Cobaki Lakes site.

Any child care centres to be established at the land will be subject to a future development application.

### Clause 78 - Public Recreation Areas

This clause provides that a draft LEP should include provisions which:-

- a. identify areas of potential active or passive recreational use in both urban and rural areas;
- b. identify a range of recreational environments located in the vicinity of existing and proposed residential development;
- c. permit recreational uses in a wide range of zones and not only in open space zones;
- d. identify land for use by the general public to gain access to water bodies in foreshores, and
- e. manage access to water bodies or foreshores with environmental features of the area likely to be damaged by increased public access.

All the land proposed to be rezoned to 6(c) and 7(d) will be used for conservation purposes only. The land proposed to be rezoned to 2(c) will be subject to a future development application for subdivision at which time that area will provide passive open space in accordance with the requirements of the Section 94 Plan. Adequate active open space has also been provided in the Cobaki Lakes site in excess of the requirements of the Section 94 Plan. It is unlikely that the land proposed to be rezoned to 2(c) will require the provision of additional active open space.

### **Tweed Shire 2000+ Strategic Plan**

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There are provisions in the Tweed Shire 2000+ Strategic Plan which will need to be considered. These are outlined below.

### Infrastructure Finance

*“18. Based the management or urban release areas on the full cost recovery of public infrastructure already provided, and the provision of infrastructure needed to service growth at no cost to existing ratepayers”*

**Comment:** The developer will need to extend infrastructure to the site and also pay Section 94 contributions where required.

### Environmental Protection

*“3. Council will include identified significant areas of natural vegetation, scenic area, fauna habitats and corridors, and fishery habitats and protect them by Environmental Protection Zones. Planning controls within such zones will be structured to provide certainty for the retention of the environmental qualities of these areas.”*

*“6. Environmental areas, where they abut urban development, will be protected from the threats of domestic and feral animals, exotic plant species and bushfire hazards, by regulations and public education programmes”.*

**Comment:** The current subdivision application for 560 lots has identified a number of constraints on the site through geotechnical investigations and flora and fauna assessment. The application has identified areas of 2(c) zoned land that are not suitable for development. Accordingly, it is considered that rezoning of this land to open space and environmental protection to protect these areas would not be inconsistent with the Strategic Plan. These areas are also considered to be adequately protected from threats by the provision of bushfire controls and regulations which have been incorporated in the current application for subdivision.

### **Open Space and Recreation**

*“30. Council will ensure the identification of open space areas of high value within proposed and existing release areas through performance based standards. It will amend the Subdivision Guidelines so that these open space requirements are fully satisfied prior to approval. The Guidelines will include appropriate environmental requirements and provide for adequate buffers and/or open space between different uses”.*

**Comment:** The issue of open space has been discussed previously. The proposed rezoning will provide additional open space primarily for conservation purposes. The proposed 2(c) zone will be subject to an application for subdivision and this will need to comply with the open space provisions of the Section 94 plan. The open space areas currently provided for the approved and proposed subdivisions exceed the requirements of the Section 94 Plan. This is also the case for active open space.

### **Infrastructure Planning and Finance**

*“79. The release of new urban development will be managed by a Tweed Development Program which will:*

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- (a) *provide infrastructure to match anticipated growth in residential lots.*
- (b) *specify essential infrastructure in excess of \$100,000 which is required before a nominated area of land can be released for development.*
- (c) *provide for a developer to proceed "out of sequence" only if all the necessary infrastructure is provided at no cost to the community.*
- (d) *manage new urban development to minimise the public sector costs in providing related infrastructure.*
- (e) *be based upon and integrated with Council's three year management plan and 10 year long term financial planning."*

"80. *In accordance with the Tweed Development Program, Council will facilitate development of urban release areas compatible with the following strategic infrastructure constraints detailed in that Program:*

- (a) *Piggabeen Road.*
- (b) *Kingscliff STW: effluent licence approval.*
- (c) *Coast Road.*
- (d) *Banora STW: receiving water capacity.*
- (e) *Kennedy Drive."*

**Comment:** The allotment yield generated by the proposed rezoning is not likely to significantly exceed those for the entire site as provided by DCP17. Accordingly, no additional demand on infrastructure or the local road system is likely as a result of the proposed rezoning.

### **Urban Release Policy**

Most of the policies in this section of the Strategic Plan relate to future release areas and the requirements to be met before the land is released. This has been established for Cobaki with the adoption of the DCP and Section 94 Plan. It is considered that the proposed rezoning does not substantially depart from these plans.

The proposed rezoning to the 2(c) zone (14.97ha) is to partially compensate for the existing 2(c) zone (53.36ha) which is proposed to be rezoned to open space and environmental protection and the rezoning is not inconsistent with the Urban Release Policy of the Strategic Plan.

### **NSW Coastal Policy 1997**

This Policy has been extended to include coastal estuaries, lakes, lagoons, islands and rivers in recognition of the strong connection between coastal estuarine processes and the processes of the littoral coastal zone.

A Section 117 Direction under the Environmental Planning and Assessment Act, 1979 has been issued to ensure local councils take account of the Coastal Policy in the preparation of Local Environmental Plans. The Direction requires Draft LEP's to give effect to and be consistent with



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the Policy and requires Local Environmental Studies to accompany rezoning applications for land within the coastal zone. The subject land falls within the coastal zone. The Director General can waive the need for an environmental study where the rezoning is considered to be of a minor nature or where adequate environmental information already exists as a result of previous studies.

In considering whether an environmental study should be required for a rezoning proposal in the coastal zone, Council should address the following:-

- \* the nature of the proposal (eg. conversion of non urban land to urban),
- \* the scale of the proposal (eg. number of dwellings or people which would be facilitated by a proposal),
- \* the sensitivity of the environment (including a logically conceived area which may be impacted by development facilitated by the proposal); and
- \* the level of environmental information available in relation to the site (and any potentially impacted area).

### Comments

As discussed in this report the proposal is to rezone approximately 53.36ha of 2(c) Urban Expansion zone to environmental protection zones and open space zones, and to rezone approximately 14.97ha of 6(c) zoned land to 2(c) Urban Expansion. The rezoning application is based on enabling the development of some 6(c) land due to the amount of 2(c) land that has been recommended as requiring conservation. It is obvious that the proposal will result in less 2(c) land being available to that which was previously provided before the rezoning proposal. In addition, as a result of the proposal more environmental protection and open space land will be available. In general terms the proposal is merely a trade off for those significant areas of 2(c) zoned land that is lost as a result of conservation purposes.

As previously discussed in this report the land to be rezoned to 2(c) will make land available for an additional 600 lots based on the proponents estimates. This is unlikely to exceed the scale of the overall Cobaki Lakes site and is generally consistent with the yield densities of DCP17 - Cobaki Lakes.

Potentially, the scale of the proposal (rezoning 14.97ha to 2(c)) is minor when compared to the amount of existing 2(c) land proposed to be "lost" for conservation purposes (53.36ha) which currently has potential for urban development. The loss of 53.36ha of 2(c) land is according to the proponent, of critical importance to the viability of the overall project and would jeopardise the attainment of the DCP target densities.

A number of studies, particularly the SIS for the current subdivision application have identified a significant proportion of existing 2(c) zone that should be used for conservation purposes. To compensate for the 2(c) land loss some land zoned 6(c) is proposed to be rezoned to 2(c). The land in question is low lying and mainly grassed with no significant conservation value. The land proposed to be rezoned to 2(c) is not likely to be significantly affected by acid sulfate soils. The land will need to be filled to the design flood level.

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The land in question and the Cobaki Lakes site has undergone many environmental studies. The land was initially rezoned in 1992 at which time a LES was prepared. Following the rezoning a number of development applications have been approved and one other is currently being assessed. These applications have been accompanied by numerous studies and reports which have been incorporated into these approvals and the design of the Cobaki Lakes site. It is considered that the proposed rezoning is largely as a result of these development applications and their accompanying studies. This has created a development that is still generally consistent, but potentially of a smaller scale, to the 1992 amendment. The proposal is also considered to be generally consistent with DCP17 - Cobaki Lakes.

The only likely impact is that on flooding as a result of filling and this has been addressed in this report and this is not considered to have any significant adverse impact.

The rezoning proposal is largely a result of environmental studies undertaken for the site. It is considered that the proposed rezoning is not likely to increase the densities of the site as provided by DCP17. Further, it is also considered that the scale of the proposal (amount of land zoned 2(c)) is less than that which was conceived by the original zoning amendment in 1992 which was accompanied by a LES. It also results in far more land being set aside for conservation purposes.

In the circumstances the Director-General should therefore be requested to waive the requirement for a Local Environmental Statement.

### **Section 117 Directions**

#### **G3 - Reservations**

The amount of open space existing will not be reduced as a result of this proposal. In fact an additional 53.36ha of land is proposed to be zoned for open space or environmental protection.

#### **G9 Residential Zones**

Draft LEPs shall contain a requirement that residential development is not permitted until land is adequately serviced with water and sewerage.

Water and sewerage infrastructure has been designed for the ultimate development of the site as described in DCP17.

The land proposed to be rezoned to 2(c) will be subject to a future development application for subdivision at which time the proposal will need to comply with the relevant provisions of the LEP.

#### **G12 - Environmental Protection Zones - and G13 - Corridors**

These Directions provide that draft LEP's shall not alter or remove existing zonings of land for scenic protection areas, environmental protection areas and open space etc (except that they may be altered or increased where justified by an environmental study).

As discussed throughout this report the proposed rezoning of the 2(c) land to open space and environmental protection has largely come about following numerous studies, particularly the SIS which identified large areas of 2(c) land required for conservation purposes.

#### **G19 - Public Recreation Zones**

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The land proposed to be rezoned to 6(c) is to comply with the current provisions of the Tweed LEP for any likely future development.

### **G26 - Residential Allotment Sizes**

Should Council support the request to rezone that land to 2(c) then any future development applications for subdivision will need to comply with the minimum allotment size of 450m<sup>2</sup> as provided by the LEP.

### **G27 - Bus Services**

Should Council support the request to rezone land to 2(c) then any future development applications for subdivision will need to provide for the adequate provision of bus routes and bus stops.

### **G26 - Coastal Policy**

The NSW Coastal Policy 1997 has been discussed and it is considered that the proposal is relatively minor and should not require an Local Environmental Study. The proposed rezoning has largely come about as a result of numerous studies and reports which have identified a large area of 2(c) land that is not suitable for development and should be preserved for conservation purposes. The trade off being the proposal to rezone some 6(c) land to 2(c) to partially compensate for this loss. The amount of 2(c) land to be rezoned to compensate for the 2(c) land lost is far less.

It is considered that the proposal is still generally consistent with the original draft LEP which rezoned the Cobaki Lakes site in 1992, and this was then supported by an LES. In fact the proposal, if accepted will provide far less 2(c) land than what was originally provided. While at the same time being generally consistent with the Masterplan and the DCP for the site.

### **CONCLUSION**

As discussed throughout this report, it is considered that the proposal to rezone is relatively minor, especially when taking into consideration that the purpose of the rezoning is to primarily compensate for those areas of 2(c) land that will be "lost" to conservation and open space purposes. In fact the land proposed to be rezoned to 2(c) (14.97 ha) is significantly less than the existing 2(c) zone land (53.36 ha) that will be lost. The loss of 53.36 ha of 2(c) zoned land is, according to the applicant, of critical importance to the viability of the overall project and would jeopardise the attainment of the DCP 17 target densities. By rezoning 14.97 ha of land to 2(c) the attainment of the DCP 17 target densities is likely to be achieved.

The land proposed to be rezoned to 2(c) is not considered to raise any significant environmental concerns. The land is low lying and only grassed and has no significant environmental value. The land is considered to be outside the areas affected by acid sulfate soils and will be filled to the design flood level.

The Cobaki Lakes site has undergone many environmental studies. The land was initially rezoned in 1992 at which time a Local Environmental Study was prepared. Following the rezoning a number of development applications have been approved and one other is currently being assessed and is also on the agenda for this meeting. These applications and this proposed rezoning application have been accompanied by numerous studies and reports which have been incorporated into the approvals and the design of the Cobaki Lakes site. The rezoning is largely a result of these

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development applications and studies/reports and it is considered that the proposed rezoning is still generally consistent with the Masterplan and DCP 17.

Accordingly, it is recommended that the proposed rezoning should be supported and that the concurrence from the Director Department of Urban Affairs and Planning be sought to waive the need for the preparation of a Local Environmental Study as it is considered that the rezoning is of a minor nature and adequate environmental information already exists.

In addition the Tweed Local Environmental Plan 1987 Clause 49B(2)(c) will need to be amended as the proposed rezoning will result in an additional area of approximately 14.97 ha to be filled. Approximately 60 ha of land is already proposed to be filled which is the limit provided by Clause 49B(2)(c).

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### 4. ORIGIN: Strategic Town Planning Unit

**FILE REF:** GT1/DCP/37 Pt1

**REPORT TITLE:**

**Draft Development Control Plan No 39 - Energy Smart Homes Policy**

**SUMMARY OF REPORT:**

Over the past two years, Council has developed a draft Development Control Plan for Energy Smart Housing, as part of the "Sustaining the Tweed" program. The draft DCP was exhibited in May 1999, only one public submission was received. The draft was amended after exhibition to create a more user friendly document. The resultant draft document has gained approval from SEDA (Sustainable Energy Development Authority). If Council adopts the draft DCP, residents and developers within the Tweed Shire will become eligible for a \$500 discount on solar hot water heaters.

**RECOMMENDATION:**

That Council:-

1. Pursuant to Section 20 of the Environmental Planning and Assessment Regulation 1994, approves the amended version of Draft Development Control Plan No 39 - Energy Smart Homes Policy;
2. Advises the Sustainable Energy Development Authority (SEDA) that the Policy has been adopted, to ensure that residents and developers within Tweed Shire become eligible for the \$500 solar water heater discount; and
3. Gives public notice of its decision and Tweed Shire residents and developers are now eligible for the \$500 solar hot water heater discount.

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### REPORT:

#### BACKGROUND

In 1998 Council decided to introduce an energy efficient housing strategy as part of the "Sustaining the Tweed" program. It was determined that the SEDA (Sustainable Energy Development Authority) Energy Smart Homes Program was best suited to implementation in Tweed Shire. The SEDA Program included policy development, in-house training for staff, and education forums for the development industry. The SEDA Energy Smart Homes program has the full support of the following organisations:

- Housing Industry Association
- Urban Development Institute of Australia
- Master Builders Association of Australia
- Royal Australian Institute of Architects
- Building Designers Association.

Energy Smart Homes Policies are now currently being developed by numerous Councils in New South Wales. Newcastle City Council has recently adopted its own Development Control Plan for Energy Efficient Homes.

At its meeting of 4 March, 1998, Council resolved to enter into a Memorandum of Understanding (MOU) with SEDA to develop and implement an Energy Smart Housing Policy and upon its completion, introduce a non-mandatory transition period until the policy was adopted as a Development Control Plan.

The Memorandum of Understanding was signed by Council on 18 March, 1998. By signing the MOU, Council committed itself to develop and implement an energy efficient housing policy consistent with SEDA's aims and requirements. Part of SEDA's responsibility was to provide Council with SEDA's Model Energy Smart Homes Policy and assist Council to develop its own policy. One of the advantages to residents of a Council area that develops an energy smart housing policy is that SEDA offers a \$500 discount on solar hot water systems. However, since 30 June, 1999, the discount has only been available to those Councils which have a SEDA approved Energy Smart Homes Policy in force.

On 7 April, 1999 Council resolved to prepare a DCP to incorporate the Energy Smart Housing Policy. This is now known as draft Development Control Plan No 39 - Energy Smart Homes Policy. The \$500 discount on solar hot water systems will become available to Tweed Shire residents and developments within Tweed Shire only if Council adopts draft DCP No 39 - Energy Smart Homes Policy.

The aim of the DCP is to ensure that energy efficient housing occurs within Tweed Shire. This will result in less use of non renewable energy, thereby contributing to an overall reduction in greenhouse gas emissions and will create houses that are more comfortable to live in and cheaper to run, ie. Due to their design, energy efficient buildings do not require significant artificial heating and air conditioning.

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### **PUBLIC EXHIBITION**

The SEDA Model Energy Smart Homes Policy was publicly exhibited as a Draft DCP in May, 1999. Only one submission was received as a result of the exhibition process.

The submission raised the following issues:

- The building scorecard (Appendix A) is not relevant and will be time consuming to complete;
- NatHERS certification for multi-dwelling housing will be expensive; Council should provide a list of local certifiers;
- Electric off peak hot water systems will not comply, thereby forcing people to spend more at the construction stage;
- The document is designed for colder climates;
- Council staff will have to undertake more paperwork to implement the Policy.

### **Response to Submission**

It is considered that the building scorecard is relevant, when used in conjunction with the DCP provisions. Apart from NatHERS Certification, it allows for the objective assessment of a development's compliance with the DCP. NatHERS Certification will involve additional cost for applicants for multi-dwelling housing, but this is necessary to ensure compliance with the objectives of the DCP.

It should be noted that since exhibition, Council has had extensive discussions with SEDA, which have resulted in an amended building scorecard to be used in conjunction with the DCP. The scorecard now more accurately reflects those building characteristics which are appropriate for the Tweed climate (a copy of the scorecard is attached and marked Annexure A to this report).

Additionally, a "deemed to comply" checklist has now been introduced which will significantly reduce the time required for many applicants to ensure compliance with the DCP. A copy of the "deemed to comply" checklist is attached as Appendix B to this report. The 'deemed to comply' checklist is a faster option than the scorecard, but allows for less flexibility in building design.

Although the scorecard and "deemed to comply" checklist do not form part of the DCP, they are essential to its effective implementation.

Applicants for new buildings will now have three options when determining how to comply with the DCP:-

1. Scorecard (Appendix A)
2. Deemed to comply checklist (Appendix B)
3. NatHERS Certification.

Applicants for subdivisions have only one option, and that is to complete the scorecard for subdivisions (Appendix C to this report).



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The energy efficient ratings for water heaters are provided by SEDA and are not subject to change by Council. It is agreed that the exhibited document (SEDA Model Policy) had some emphasis on colder climates. These elements have been taken out of the final version of the DCP to more accurately reflect the Tweed climate. As with all policies, implementation will entail some additional paperwork for Council staff.

### AMENDMENTS TO DRAFT DEVELOPMENT CONTROL PLAN

Subsequent to exhibition, concerns were raised by Council staff about the format of the Draft DCP and some of the provisions relating to subdivisions. Consequently, the Draft DCP was referred to the Strategic Planning Unit in October, 1999 for amendment and reformatting.

The following amendments have been made to the Draft DCP:

- deletion of repetition, such that the document is now only half its original length;
- rearrangement of the DCP structure, such that it now reads as one coherent document (the original draft was in two parts plus two appendices);
- restructure of the DCP into sections dealing with energy efficient principles (eg, ventilation, shading). This facilitates ease of use.
- insertion of an exemption clause to permit non-complying subdivisions in cases where compliance with all of the DCP requirements would be impractical or unachievable;
- Minor wording amendments to satisfy SEDA and Council's internal units;
- Removal of scorecards from DCP document; these will be available separately from the Development Services Counter.
- Inclusion of wording to reflect the new "deemed to comply" checklist.

Essentially, the format of the amended draft DCP is similar to the existing, SEDA approved Energy Efficient Housing Policies currently used by Manly and Leichhardt Councils in Sydney. Council's Development Control, Subdivisions, Building Services and Environmental Health Units are in agreement with the amended draft DCP.

The amended DCP has been approved by SEDA.

### CONCLUSION

Considerable time and effort has been expended in producing the draft DCP.

The draft DCP will significantly encourage the residential building sector to incorporate energy efficient principles into building design. This will result in buildings that are more comfortable to live in and cheaper to run. It will also contribute to an overall reduction in greenhouse gas emissions. The draft DCP has been approved by SEDA and if adopted by Council, will entitle new development within Tweed Shire to be eligible for a \$500 discount on solar hot water heaters.

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### 5. ORIGIN: Development Control Unit

**FILE REF: DA5050/790 Pt1**

#### **REPORT TITLE:**

**Proposed Convenience Store at Lot 1 DP 623438, No 69 Simpson Drive, Bilambil Heights**

#### **SUMMARY OF REPORT:**

Council is in receipt of a Development Application for the establishment of a convenience store within an established shopping centre. The proposal incorporates significant internal alterations, hence the requirement for Development Consent. One (1) submission of objection has been received in relation to the proposal objecting on the basis that a general store already exists in Bilambil Heights and that two (2) stores cannot be supported.

#### **RECOMMENDATION:**

That the Development Application submitted by Earl Peppin for the establishment of a convenience store within an existing building at Lot 1 DP 623438 Simpson Drive, Bilambil Heights, be approved subject to the following conditions:

#### **GENERAL**

1. The development shall be completed in general accordance with Plan No 1 prepared by Earl Peppin and dated 2 March 2000, except where varied by these conditions.
2. **PRIOR** to issuing a Construction Certificate, engineering plans for non-public Civil Works involving, roads, drainage, water supply and sewerage shall be lodged with Council. Council will not "approve" the plans, however they will be checked in terms of access arrangements and service connection points.
3. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
4. No items or goods are to be stored or displayed outside the confines of the premises.
5. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
6. A garbage storage area shall be provided in accordance with Council's "**Code for Storage and Disposal of Garbage and Other Solid Waste**".
7. The premises is to be treated on a regular basis by a licensed Pest Controller for cockroach and other vermin.

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### FOOD PREMISES (BUILDING)

8. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.
9. Shop fitters are to liaise with the Principal Certifying Authority prior to fitting out of shop.
10. Premises to comply with Council's adopted code for the construction of food premises.
11. The preparation and cooking of food for sale to the public is not to be conducted within the premises without first obtaining the relevant Council approvals.

### ENVIRONMENT PROTECTION

12. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
13. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
14. The burning of builders waste on site by open fire is prohibited.

### PLUMBING AND DRAINAGE

15. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
16. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
17. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

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### REPORT:

**Applicant:** Mr Earl Peppin  
**Owner:** Mr Earl Peppin  
**Location:** Lot 1 DP 623438, Simpson Drive, Bilambil Heights  
**Zoning:** 3 (e) Neighbourhood Business Zone  
**Est. Cost:** \$15,000

### BACKGROUND/PROPOSAL

A development application has been received for the establishment of a convenience store within an existing retail premises at Lot 1 DP 623438, Simpson Drive, Bilambil Heights.

The subject premises is located within an existing five (5) unit shopping complex, also incorporating a bottleshop, hairdressers, take away café and a pizza shop. Twenty five (25) car parking spaces are also provided for within the complex.

The subject unit is presently vacant, however, it has been occupied by various enterprises in the past, the latest occupant being that of a bakery.

Figure 1 shows the location of the subject land and a plan of the proposal is shown in Figure 2.

### CONSULTATION

Council has received a submission from the owner of the existing general store in Bilambil Heights. The proposed store is located approximately 100m from the existing enterprise and will provide for similar goods and services.

The basis of the submission received is the argument that Bilambil Heights cannot support two (2) general stores and that being the case, the proposal could potentially lead to loss of jobs and livelihood.

### COMMENTS

It is arguable whether Bilambil Heights could realistically support two (2) general stores.

It is also arguable as to whether Council should be involving itself in issues of free enterprise and competition. It is considered that Council does not have the ability nor the responsibility to decide on how many and what type of commercial enterprises are to be provided in certain areas. It should be noted that in the majority of instances Council plays no role in this process due to the fact that development consent is not required pursuant to the provisions of SEPP No 4 for individual uses of existing commercial/retail premises where the first use of the premises has received development consent.

It is considered that Council should not become involved in competition between two (2) shops and that the assessment of this application pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979, should only consider the merits of the particular site for a general store use.

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### ASSESSMENT

An assessment of the proposal pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979 is provided below.

(a) (i) **The provisions of any Environmental Planning Instruments**

State Environmental Planning Policies (SEPPs)

No SEPPs are applicable to the proposed development. It should be noted that if it were not for the extent of internal works proposed, the proposed use of the existing premises would be exempt from requiring development consent by virtue of the provisions of SEPP No 4 - Development without consent.

North Coast Regional Environmental Plan 1988 (NCREP 1988).

The proposal is considered to be not inconsistent with the provisions of NCREP 1988.

Tweed Local Environmental Plan 1987 (TLEP 1987).

The subject land is zoned 3(e) Neighbourhood Business under TLEP 1987. The proposal is permissible with the consent of Council and is considered to be consistent with the relevant objectives. Pursuant to Clause 18(4)(5) of TLEP 1987, development consent is not required for proposed changes to signage associated with the proposal.

(ii) **The provisions of any Draft Environmental Planning Instrument.**

The subject site is located within the 3(b) General Business zone under the draft Local Environmental Plan 1998. No specific implications are provided for within the draft plan.

(iii) **Any Development Control Plans (DCPs)**

**DCP No 2 - Site Access and Parking Code.**

DCP No 2 requires the provision of four (4) spaces per 100m<sup>2</sup> of Gross Floor Area (GFA) for convenience stores. The subject premises provides for less than 100m<sup>2</sup> of GFA and therefore requires four (4) spaces. As stated previously twenty five (25) spaces are already in existence, five (5) of which are associated with the subject premises. It is considered that the proposed development satisfactorily complies with the provisions of DCP No 2.

**DCP No 15 - Advertising Structures**

No signs are proposed in addition to those situated upon the subject premises. The proposal is considered to be consistent with the relevant provisions of DCP No 15.

(b) **The likely impacts of that development, including impacts on both the natural and built environment and social and economic impacts within the locality.**

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### **Context and Setting**

The proposed convenience store is located within an existing shopping centre. The site is adjoined by residential development to the north and east, whilst existing commercial and service orientated developments are located to the south and east respectively. The subject unit has previously been occupied by similar retail uses and is considered unlikely to create any significant adverse impacts in relation to adjoining properties.

### **Traffic and Access**

Access is available from Simpson Drive with all parking spaces already in existence. No adverse impacts are considered likely in this regard.

### **Environmental Impacts**

Council's Environment and Health Services Unit have raised no concerns in relation to the proposed development. Standard conditions relating to compliance with the relevant food codes and the disposal of waste are considered necessary should the application be approved.

### **Social/Economic Impacts**

The proposed development is considered unlikely to result in any significant social or economic impacts upon the wider community. Further comment is provided in relation to the existing general store under the heading of consultation.

(c) **Suitability of the site.**

No adverse constraints are evident in relation to the subject property or adjoining parcels. The site is located within any existing shopping complex and has accommodated similar uses in the past. The proposed development is considered able to be satisfactorily accommodated upon the subject site.

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

The application was not required to be advertised or notified. A submission has been received from the owners of the existing Bilambil Heights General Store and has been addressed under the heading of 'Consultation'.

(e) **The public interest.**

The proposed convenience store is considered to be not inconsistent with the relevant provisions of Council's Tweed 2000+ Strategic Plan. The proposal is considered to be minor in scale and nature and unlikely to compromise the public interest.

### **Legal/Resource/Financial Implications.**

If the applicant is dissatisfied with the determination of the application, the applicant has the right of appeal to the Land and Environment Court.

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### CONCLUSION

The application for a proposed convenience store has been reviewed by Council's Environment and Health Services Unit with no objections being raised subject to conditions being placed on any consent.

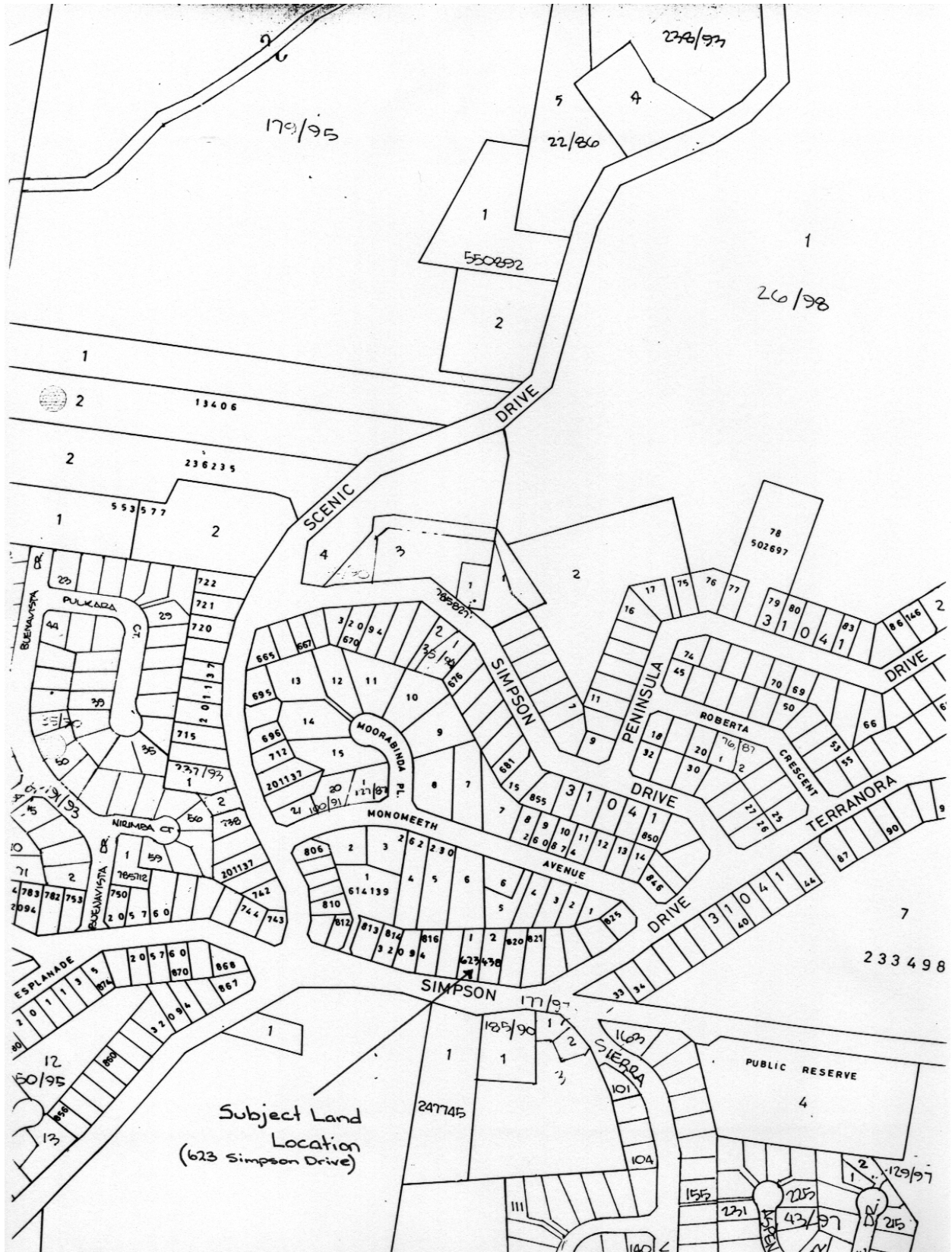
Those issues raised within the submission of objection received by Council have been addressed under the heading of 'Consultation' earlier in the report. It is considered that Council should not involve itself in issues of competition and free enterprise and that the 'market' itself will determine the outcome of issues raised.

The proposal is considered unlikely to create any adverse impacts and is recommended for conditional approval.



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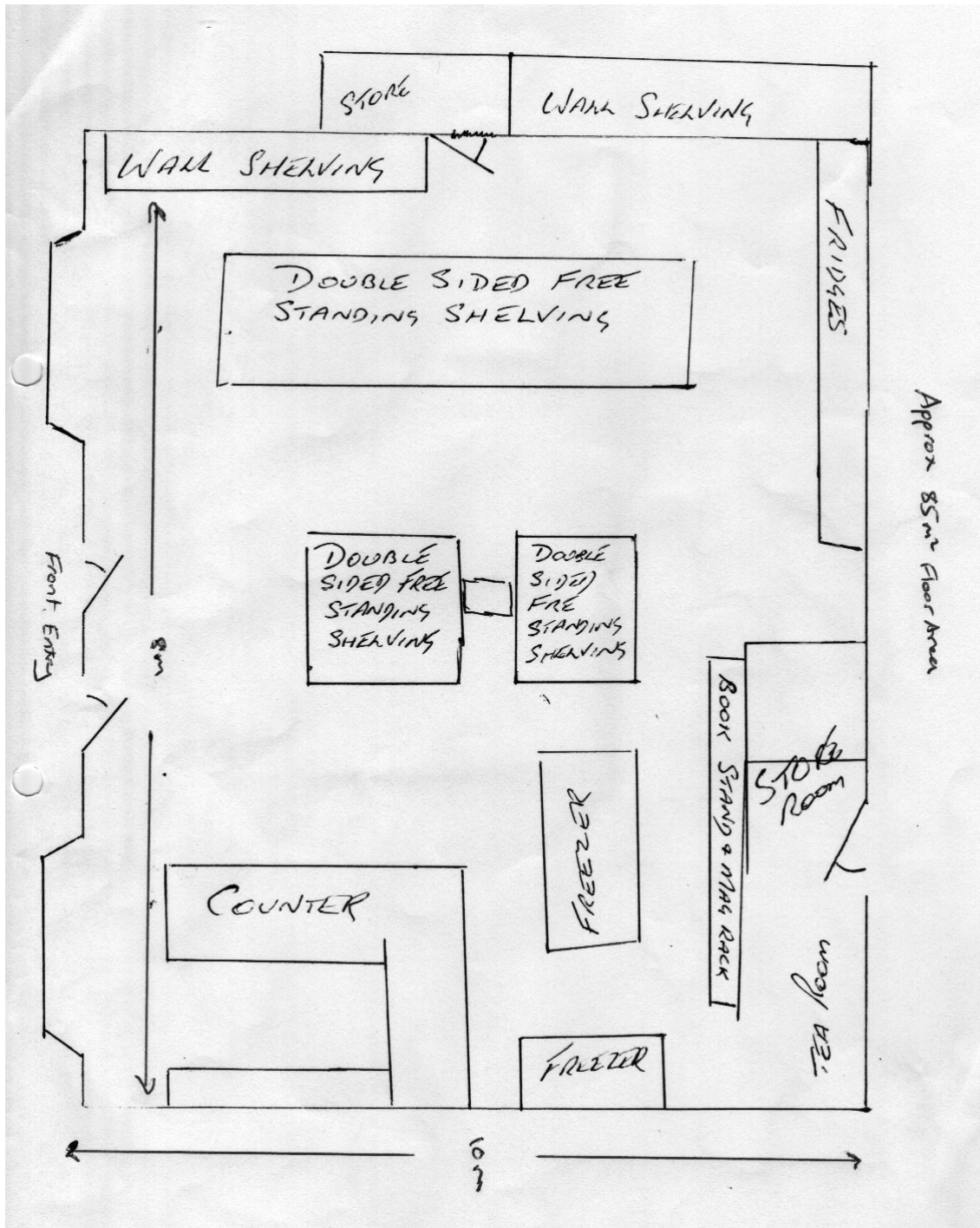
FIGURE 1





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FIGURE 2



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**6. ORIGIN: Development Control Unit**

**FILE REF: DA2830/1690 Pt1**

**REPORT TITLE:**

**Proposed Motel, Lot 1 Section 1 DP 9025, 158 Kennedy Drive, Tweed Heads West**

**SUMMARY OF REPORT:**

This report considers Development Application K99/1847 which proposes the erection of a motel at 158 Kennedy Drive, Tweed Heads West. The motel comprises 30 motel units, a managers residence and dining room. Access is proposed directly from Kennedy Drive. The proposal is recommended for approval subject to the imposition of conditions.

**RECOMMENDATION:**

That Development Application K99/1847 for the erection of a motel at Lot 1 Section 1 DP 9025 and Lot 1 DP 779842 No 158 Kennedy Drive, Tweed Heads West be approved subject to the following conditions:

**PREREQUISITES THAT MUST BE SATISFIED BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED**

1. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

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(ii) GST

1.1 In this Clause 1:

“GST means any tax, impost or duty, including any goods and services, consumption, value added or similar tax applying on goods, services or other things introduced by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and associated legislation (as amended), or under legislation passed by a State or Territory Parliament which is charged or levied on goods, services or other things.

1.2 Any monetary contributions and levies payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979 (NSW)* (as amended), and all other moneys payable by and on behalf of the applicant are exclusive of GST.

1.3 Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979 (NSW)* (as amended), including, but not limited to, the dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.

1.4 Liability for GST (payable in respect of any taxable supply under this contributions plan whether monetary or non-monetary) is additional. It is payable by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.

1.5 In respect of any non-monetary contribution or levy referred to in clause 1.3 above, the GST payable shall be calculated as follows:

GST payable = The GST inclusive market price of the asset x  $\frac{1}{11}$ .

1.6 The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.

a. Tweed Road Contribution Plan: \$3755.00  
S94 Plan No. 4 (Version 4.0)

Tweed Heads (commercial)

b. Open Space (Casual): \$1518.00  
S94 Plan No. 5

c. Open Space (Structured): \$3984.00  
S94 Plan No. 5

## Reports from Director Development Services

d.	Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$747.70
e.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$6795.19
f.	Cycleways S94 Plan No. 22	\$1700.00

2. A **certificate of compliance** (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

### GST

- 1.1 In this Clause 1:

"GST means any tax, impost or duty, including any goods and services, consumption, value added or similar tax applying on goods, services or other things introduced by the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and associated legislation (as amended), or under legislation passed by a State or Territory Parliament which is charged or levied on goods, services or other things.

- 1.2 Any monetary contributions and levies payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979 (NSW)* (as amended), and all other moneys payable by and on behalf of the applicant are exclusive of GST.
- 1.3 Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979 (NSW)* (as amended), including, but not limited to, the

## Reports from Director Development Services

dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.

1.4 Liability for GST (payable in respect of any taxable supply under this contributions plan whether monetary or non-monetary) is additional. It is payable by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.

1.5 In respect of any non-monetary contribution or levy referred to in clause 1.3 above, the GST payable shall be calculated as follows:

GST payable = The GST inclusive market price of the asset x  $\frac{1}{11}$ .

1.6 The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.

Water:	\$30438.00
Sewer:	\$25098.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

3. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building. The plans are to particularly address the creek embankment.
4. The applicant is to meet the cost of providing the additional work for signalling the access to the site opposite Gray Street when Council proceeds with the signal installation. A bank guarantee of \$15,000 is to be provided as security for these works. The bank guarantee is to be lodged with Council prior to release of a Construction Certificate for the development.
5. Engineering plans are to be submitted to, and approved by, the Director Development Services prior to release of the construction certificate of the proposed earthworks, including the amount of fill, retaining of fill, grading to the Terranora Inlet, and sediment and erosion control.

## Reports from Director Development Services

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### GENERAL

6. The development shall be completed in general accordance with Plans No SK1C/2A prepared by D Carlile and dated 12/99, except where varied by these conditions.
7. The provision of 34 off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
8. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to any use or occupation of the development pursuant to this approval.
9. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
10. The development is to be carried out in accordance with the requirements of Report 99-2902 by Ron Rumble Pty Ltd regarding the Control of Aircraft Noise Intrusion.
11. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
12. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
13. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.
14. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
  - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
  - (ii) Certification of the works performed by the person carrying out the works is to be submitted to Council prior to occupation of the building; and
  - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
    - (A) the method of protection; and
    - (B) the date of installation of the system; and
    - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (D) the need to maintain and inspect the system on a regular basis.

**Note:** Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

## Reports from Director Development Services

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15. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
  - i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site in accordance with Section 78i of the Environmental Planning & Assessment Amendment Regulations 1998.
  - iii. A sign has been erected on the site in accordance with Section 78H of the Environmental Planning & Assessment Amendment Regulations 1998.
  - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 78c of the Environmental Planning and Assessment Amendment Regulations 1998.
16. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.
17. The dining facilities are to be for motel guests use only and are not to be opened to the general public.
18. Separate development approval is required for the swimming pool and a permit under Section 3A of the Rivers and Foreshores Improvement Act 1948 is to be obtained from the Department of Land and Water Conservation.

### **PRESCRIBED (BUILDING)**

19. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
  - (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.
20. A sign must be erected on the site in a prominent, visible position stating:



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- a. that unauthorised entry to the work site is prohibited; and
  - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
21. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
22. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
23. The erection of a building in accordance with a development consent must not be commenced until:
- a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
    - (i) the consent authority; or
    - (ii) an accredited certifier; and
  - b. the person having the benefit of the development consent:
    - (i) has appointed a Principal Certifying Authority; and
    - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
  - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
24. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

### ENGINEERING (BUILDING)

25. The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.

### DISABLED (BUILDING)

26. Please note that while the proposal, subject to the conditions of approval, will comply with the provisions of the Building Code of Australia for persons with disabilities your

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attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

27. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.

### **FOOD PREMISES (BUILDING)**

28. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.
29. Premises to comply with Council's adopted code for the construction of food premises.

### **ROADS/STREETS**

30. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.
31. A concrete ribbon footpath 1.2 metres wide and 75 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Kennedy Drive. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.
32. The driveway is to be constructed six metres wide at the property boundary and nine metres wide at the kerb line with a uniform taper if a splay is specified.

### **DRAINAGE/FLOODING**

33. All roof waters and water from open car park areas to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in

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accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available.

34. An easement for drainage is to be created over the site of the existing 750mm dia stormwater pipeline through the site.
35. The 750mm dia drainage pipeline is to be replaced by a 900mm dia rubber ring concrete pipeline, concrete encased under any buildings. Detailed design plans are to be submitted for approval by the Director of Engineering Services prior to issue of a construction certificate.
36. Permanent and temporary (ie. during construction) erosion and sedimentation control measures shall be designed and constructed in accordance with the requirements of the publication, "Managing Urban Stormwater - Soils and Construction" 3<sup>rd</sup> Edition Aug 1998 prepared by the Department of Housing, NSW Government.
  - (i) The sedimentation and erosion control management plan shall be implemented until the defects liability bond is released or until Council is satisfied full vegetation cover has been achieved.
  - (ii) The Supervising Engineer shall make on site inspections at regular intervals sufficient to ensure that the sedimentation and erosion control management plan is being implemented.
  - (iii) Additional inspections are also required by the Supervising Engineer after each storm event to ensure:-
    - new/additional sedimentation and erosion control devices are installed, where the performance is inadequate
    - any erosion control devices that have been damaged/degraded are promptly rectified
    - any sediment is cleaned up especially that which has left the site or is deposited on public land or deposited in waterways.
37. Stormwater from parking areas, driveways and other hard stand areas. The following measures are required (references in brackets refer to sections on devices in EPA publication "Managing Urban Stormwater - Treatment Techniques". All devices are to be designed and sized in accordance with this manual unless otherwise directed by this condition).
  - (a) Litter baskets or pits (ref 4.1) or litter racks (ref 4.2) are to be installed to ensure all gross pollutants and litter are screened from stormwater discharge.
  - (b) Porous pavements (ref 5.7) are to be used, where possible, to maximise infiltration.
  - (c) Where possible, stormwater is to be disposed of by infiltration (ref 5.5).
  - (d) For remaining stormwater, oil and sediment is to be removed by means of:

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- Oil/Grit Separator (ref 4.7), permanent pool 30m<sup>3</sup> per impervious hectare with 50% - 70% of this volume in first pool; or
  - Filter strips (ref 5.1) providing 9 minute average residence time; or
  - Proprietary devices that have performances equivalent to the above.
38. The applicant to obtain all necessary statutory approvals for extending or modifying pipe drainage into Terranora Inlet (NSW Fisheries).
39. All surface and seepage waters liable to be a nuisance are to be collected and diverted clear of the building site by an approved drainage system separate to the roof water system.
40. Building materials used below Council's minimum floor level of RL 2.95m AHD must not be susceptible to water damage.
41. Subject to the requirements of Northpower, 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.
42. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- No filling of any description is to be deposited, or remain deposited, within adjacent properties.
43. The land to be filled to the level of the road centre line in front of the site.
- Adjacent properties shall be preserved from ponding of stormwater and or nuisance from discharge of stormwater off the site.
44. All fill is to be graded so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate. Drainage must be installed and operational prior to commencement of any building work.
- All fill or cut batters shall be contained wholly within the subject land.

### ENVIRONMENT PROTECTION

45. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
46. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

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47. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
48. Prior to commencement of building works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. Erosion and sedimentation control devices should be installed in accordance with the publication "Managing Urban Stormwater Soils and Construction" prepared by the NSW Department of Housing. All erosion and sedimentation control shall be maintained throughout the period of construction.
49. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.
50. The creek embankment is not to be affected by the development, and is to be retained in its present condition. No work is to occur within 3m of the current high water mark, apart from landscaping.

### PLUMBING AND DRAINAGE

51. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
  - a internal drainage, prior to slab preparation;
  - b water plumbing rough in, prior to the erection of brick work or any wall sheeting;
  - c external drainage prior to backfilling.
  - d. completion of work.
52. A. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.  
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
53. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.
54. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
55. The Council approved wet area flashing installer is to supply to the Principal Certifying Authority certification that all wet area flashings have been installed in accordance with the Manufacturer's Specifications, detailing the rooms or areas involved and the date of installation. **Note:** Only Council approved installers may carry out this work and reference must be made to Council to confirm that such installers are Council approved.
56. Impervious floors, properly graded and drained are to be provided to all wet areas.

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57. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
58. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
59. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council for approval an application for a Trade Waste Licence.
60. Back flow prevention devices shall be installed where ever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1-1990 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
61. Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
62. The finished floor level of the building should finish not less than 225mm above finished ground level.

### ENVIRONMENT AND HEALTH

63. All filter fences erected around the fill area are to be installed in accordance with the publication "Managing Stormwater Soils and Construction" prepared by the NSW Department of Housing and shall consist of geo-fabric material, eg Siltspot, or other material acceptable to the Director Environment and Community Services other than hessian.

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### REPORT:

<b>Applicant:</b>	Noel Hodges - Consulting Services
<b>Owner:</b>	Fishmont Pty Ltd
<b>Location:</b>	Lot 1 Section 1 DP 9025, Lot 1 DP 779842 No 158 Kennedy Drive, Tweed Heads West
<b>Zoning:</b>	2(b) Residential
<b>Est. Cost:</b>	\$450,000

### BACKGROUND

This report considers a Development Application numbered K99/1847 for the erection of a motel comprising 30 units at No 158 Kennedy Drive, Tweed Heads West.

Council has previously considered an application on the same site for the erection of a motel. This previous application was refused by Council on 1 September 1999 for the following reasons:

- “1. The application be refused in accordance with Section 91A(e) of the Environmental Planning and Assessment Act, 1979 as NSW Fisheries and Department of Land and Water Conservation have advised that they will not issue approval for the reclamation and foreshores works proposed in the application.*
- 2. The application is invalid as owners consent has not been supplied from Department of Land and Water Conservation as owner of the land affected by the reclamation works.*
- 3. The proposal is inconsistent with the provisions of Draft Tweed Local Environmental Plan 1998 which identifies motels as being prohibited in the 2(a) Low Density Residential zone.*
- 4. The proposal will have an adverse environmental effect due to the removal of mangroves.*
- 5. The design of the building is considered inadequate. The northern facade is insufficiently articulated and dominated by long expanse of unbroken roofline. Consequently, the building will have an adverse effect on the streetscape.*
- 6. It is not in the public interest to approve a development which would have a negative effect on the waterway and natural environment, and which would have a negative effect on the streetscape.*
- 7. The proposal is contrary to the provisions of the North Coast Regional Environmental Plan regarding wetlands and fishery habitats and the NSW Coastal Policy.”*

The current application has been amended in such a manner so as to attempt to overcome the previously identified reasons for refusal. In particular the design of the motel has been substantially amended so as to greatly improve the design of the development and its contribution to the streetscape. Additionally, access to the proposal has been amended so that it no longer relies upon the Pearl Street Road Reserve and the previous proposal to reclaim land has been deleted from the application and the proposal now seeks no approval for works along the riverbank. These issues will be addressed in more detail in the following sections of this report.

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Following Councils refusal of the previous application the applicant lodged an appeal with the Land and Environment Court. At present this appeal has been stood over until the telephone call over to be held on 8 May 2000.

The site is affected by aircraft noise and also by flooding. As such the proposal incorporates filling of the site to overcome flooding issues and the inclusion of noise attenuation to assist in reducing aircraft noise inside of the buildings.

The Draft Tweed Local Environmental Plan 1998 proposes to rezone the land to 2(a) Residential. Motels are identified as being a prohibited use within the zone. This plan has not yet been gazetted by the Minister and accordingly Council may still consider this Application. A submission to the Draft Local Environmental Plan was received from the owner of the property which sought rezoning to allow for a lifestyle type centre. In relation to this submission it was resolved that no amendments be made to the Draft Local Environmental Plan as exhibited and that the proposal be further assessed and considered for inclusion in Stage 2 of the Local Environmental Plan Review as part of a comprehensive review of land use options for the southern side of Kennedy Drive.

### SITE DIAGRAM





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### EVALUATION

The following matters are required to be addressed under Section 79(c) of the Environmental Planning and Assessment Act 1979.

#### (a)(i) Any Environmental Planning Instrument

##### **Environmental Planning and Assessment Act Section 91.**

Section 91 of the Environmental Planning and Assessment Act identifies particular types of development which are classed as “integrated development”. It was initially considered that the motel was “integrated development” due to approval being required from the Department of Land and Water Conservation for excavations within forty (40) metres of the tidal waterway. Since the application was initially referred to the Department of Land and Water Conservation the pool has been deleted from the application. The Department has therefore advised that the proposal is no longer classed as “integrated development” and that no objection is raised to the proposal.

The application was also referred to NSW Fisheries with a request that they advise Council of conditions and comments. The amended proposal no longer includes works which will damage mangroves and as such NSW Fisheries have advised that no objection is raised to the proposal provided that no mangroves are disturbed.

##### **North Coast Regional Environmental Plan 1998.**

The North Coast Regional Environmental Plan requires that Council consider various matters regarding wetlands and fishery habitats prior to determining an application. This includes any loss of habitat which will or is likely to be caused by the carrying out of a development, whether adequate public foreshore reserve is available and whether there is adequate public access to the reserve and the need to ensure that native vegetation surrounding the wetland or fishery habitat is conserved.

The amended proposal does no longer involve the removal of mangroves. The proposal does not propose public access to the foreshore in the vicinity of the motel however Council is in control of a road reserve adjoining the motel site which provides public access in this locality. For these reasons it is considered that the proposal is consistent with the provisions of the Regional Environmental Plan.

##### **New South Wales Coastal Policy**

The New South Wales Coastal Policy contains strategic actions relating to the management of coastal areas. These include:

1. 4.7 Development proposals in or adjacent to estuaries will only be approved where conditions can be imposed which minimise potential impacts to the extent that they are acceptable under the Rivers and Foreshores Improvement Act 1948 and Fisheries Management Act 1994.

Development proposals in or adjacent to estuaries will be rejected where they have the potential to adversely impact on the physical amenity or ecology of the

## Reports from Director Development Services

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estuaries to the extent that they are unacceptable under the Rivers and Foreshores Improvement Act 1948 and Fisheries Management Act 1994.

Development within Crown owned estuaries must comply with the principles of Crown Land Management under the Crown Lands Act 1989 and the Crown Land Foreshores Tenure Policy.

2. 7.1.5 New tourism development in close proximity to foreshore areas will be required to include provisions for public access to foreshores.

The Department of Land and Water Conservation and Fisheries have advised that they do not raise any objections to the amended motel proposal as the proposal no longer involves work on the foreshore area or the destruction of mangroves. Whilst public foreshore access is not being proposed on the motel site it is considered that the public access is adequate in this area as Council owns the adjoining Pearl Street Road Reserve which can provide access to the foreshore in the immediate locality.

### **Tweed Local Environmental Plan 1987**

The site is zoned 2(b) Residential B according to the provisions of Tweed Local Environmental Plan 1987. Motels are permitted in this zone with Council consent. A motel is defined as being a building or buildings other than a hotel, boarding house or residential flat building substantially used for the over night accommodation of travellers and the vehicles used by them whether or not the building or buildings are used in the provision of meals to those travellers or the general public.

The Local Environmental Plan required that the application be advertised. The submissions received during this exhibition period will be addressed under Section 79 (d) of this report.

### **(ii) Draft Tweed Local Environmental Plan 1998**

The Draft Local Environmental Plan proposes to zone the site 2(a) low density residential. Motels are identified as being prohibited in the low density residential zone. This would have the effect of making the proposed development prohibited once the Local Environmental Plan is gazetted. The basis behind the alteration in zoning from 2(b) to 2(a) is the issue surrounding aircraft noise where Council is attempting to reduce the density of development in the area affected by aircraft noise.

The applicant for the motel development made a submission during the exhibition of the Draft Local Environmental Plan which requested consideration of a business type zoning or a zoning which continued to allow for the erection of motels. In considering this submission Council resolved that no amendment be made to the Local Environmental Plan as exhibited as a result of this submission and that proposal be further assessed and considered for inclusion in Stage 2 of the Local Environmental Plan Review as part of a comprehensive assessment of land use options for the southern side of Kennedy Drive.

The Draft Local Environmental Plan has been forwarded to the Minister with a request for gazettal. The issue of a motel on this site was specifically considered in the Local

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Environmental Plan submissions where it was resolved not to make allowance for this land use at this stage of the Local Environmental Plan process. Supporting the development application would result in Council allowing a use which is proposed to be prohibited when the new plan comes into force. This is not a desirable situation and it is considered that it would be more appropriate to wait for completion of the comprehensive review of land use options for the southern side of Kennedy Drive. However, given that this appears to be the only remaining issue of concern relating to the amended motel proposal it may not be appropriate to give the Draft Local Environmental Plan final determining weight in this instance. It may be difficult to substantiate a refusal in the Land and Environment Court based solely on the issue of the Draft Local Environmental Plan.

### (iii) Any Development Control Plan

#### **DCP 2 - Parking Code**

Development Control Plan No 2 specifies that parking is to be provided at the rate of one (1) space per unit plus one (1) space per 15m<sup>2</sup> of floor area of a restaurant open to the public and 0.5 spaces per staff member.

The development proposes to provide a total of thirty four (34) car parking spaces plus the provision of a loading bay, manoeuvring area and bicycle rack. This parking adequately provides one (1) space per motel unit and four staff parking. It is noted that it is not specified that the dining room is to be open to the public and as such condition would be placed on that consent that it is only to be used for patrons of the motel. The dimensions and layout of the proposed car parking is considered to be adequate. Parking extends within the building line however no structures are proposed over these spaces and an adequate landscaped buffer will exist between the extent of the parking and the property boundary.

It should be noted that the access arrangements to the proposed motel have been altered so that entry and exit is provided solely from the motel site and not via the Pearl Street Road Reserve.

#### **DCP 5 - Development of Flood Liable Land**

Councils Development Control Plan No 5 which relates to the development of flood liable land requires land for residential purposes to be filled to the adopted design flood level which is 2.65 metres AHD in this locality. The current proposal is not for permanent residential purposes. The applicant proposes to comply with Development Control Plan No 5. The applicant states that appropriate sediment and erosion controls will be provided during the filling work. They state that the site will be filled with approximately 600mm of washed sand and that there should be no sediment in any runoff from this material however hessian and straw bales will be used to ensure that runoff does not occur.

Due to the characteristics of the development, and as adjoining properties are not filled it is considered that filling to the design flood level of 2.65m AHD is not required and that the proposed 600m fill is acceptable. This will result in the floor level of ground units being below the flood level. Standard conditions of consent regarding building materials used below this level not being susceptible to flood damage would apply.

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No detailed plans of the drainage or filling have been submitted with the application however it is considered that this is a matter which can be incorporated into conditions of approval. A condition of consent requiring full details of filling works including sediment control and retaining details to be submitted prior to the release of the Construction Certificate for the motel will be imposed on any approval.

### **(b) Impacts of the Development Including Environmental, Social and Economic Impacts**

#### **Natural Environment**

The proposed motel has been redesigned to largely eliminate any adverse environmental impact which would have been caused by the previous proposal. The applicant no longer proposes to reclaim land within the waterway and does not propose to alter the embankment from its current state. No mangroves are proposed to be removed and provided that adequate sediment and erosion control measures are enforced during the construction phase it is considered that the adjoining waterways is not likely to be affected by proposal.

Development of the motel will require the removal of some of the mango trees currently on the site. The applicant states that the site currently consists of approximately fifteen (15) large trees which are not native flora and that the existing trees will be retained where possible. According to the submitted plans approximately five (5) trees will be removed with one (1) being a Camphor laurel, three (3) Mango Trees and a Stringy Bark located at the Kennedy Drive frontage of the site with a diameter of 0.3 metres.

When considering the previous application the National Parks and Wildlife Service offered Council advice that they recommend where practical that the mango trees on the site be retained as they are an important food source for the bat colony on the adjacent Caddy's Island Nature Reserve. They state that they threatened bat species (pteropus alecto) has been observed from time to time within the reserve.

The submitted development plans aim to retain the mango trees where possible particularly in the south eastern corner of the site adjoining Terranora Creek. It should be noted that currently no tree preservation order restricts the removal of these trees and accordingly Councils consent would not be required for their removal. On this basis it is considered that the applicants plans which involve the removal of approximately one third of the trees on the site is acceptable in this regard.

#### **The Built Environment**

The adverse impacts of the original proposal on the adjoining land owner to the west of the Pearl Street Road Reserve have been eliminated in this current application due to the relocation of the entry and exit to the frontage of the subject site. No work is now proposed in the Pearl Street Road Reserve.

Concerns were also previously raised regarding the design of the original application particularly the long unbroken roof line which was extremely dominant along the northern elevation when viewed from Kennedy Drive. In this regard the previous proposal was considered to have represented a negative contribution to the streetscape and poor urban design.

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The current proposal has extensively amended the design of the proposed motel. The motel is still two (2) storeys in height however the previously long unarticulated roof line has been altered to provide an attractive facade to Kennedy Drive. Decorative gable ends have been proposed throughout the roof line. The long roof line covering the previously proposed garages has been deleted and the car spaces will now remain open. This has assisted in reducing the bulk of the structures proposed on the site. A landscape buffer is proposed along the boundary of the property to Kennedy Drive which, once established, will screen the car parking and manoeuvring areas. It is now considered that the amended design is satisfactory and would make a positive contribution to the streetscape.

### (c) Suitability of the Site for the Development

The significant site concerns relating to the previous motel proposal have been somewhat overcome by amended application. Issues relating to foreshore treatment, car parking availability and urban design have been resolved. The Draft Local Environmental Plan proposes to rezone the site so that motels are prohibited however it was resolved that as part of Stage 2 of the Local Environmental Plan Review a detailed assessment would be carried out into the land use options for the southern side of Kennedy Drive. This would appear to be the only remaining issue regarding the suitability of the site for the proposed motel.

### (d) Submissions

The application was advertised and New South Wales Fisheries and the Department of Land and Water Conservation were requested to comment on the application. The application was initially considered to be integrated development due to the excavation for the pool within 40 metres of the creek bank. This aspect of the proposal has been deleted and as such it is no longer considered as integrated development.

The Department of Land and Water Conservation and New South Wales Fisheries have advised as follows:

#### **Department of Land and Water Conservation letter dated 7 March 2000:**

*“It is noted that initially the swimming pool will be deleted from the DA and that a separate application to construction the swimming pool will be made. Given this situation, DLWC does not regard this DA as an Integrated Development and the attached cheque for \$250.00 is returned herewith.*

*A 3A Permit under the Rivers and Foreshores Improvement Act 1948 will be required for the construction of swimming pool.*

*Appropriate conditions should apply to the protection of the foreshore area.”*

#### **NSW Fisheries letter dated 1 March 2000:**

*“Thank you for the opportunity to comment on the amendments to the above application. NSW Fisheries have reviewed the modifications and have no objections to the proposed development subject to compliance with the above amendments which note*

## Reports from Director Development Services

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*that no mangroves are harmed, or works are undertaken below mean high water mark on the subject land."*

### **Public Submissions**

As a result of the exhibition period two (2) individual letters of objection were received to the proposed development. Reasons for objection to the proposal were the construction of Pearl Street, impact on Mangroves, traffic concerns, incompatible with surrounding development, inadequate demand for additional motel accommodation, aircraft noise and inconsistency with the Coastal Policy. These issues are addressed below.

### **Traffic**

Kennedy Drive is near capacity west of Cobaki Bridge due to the bridge being inadequate to accommodate any further increase in traffic flows. Recent studies by the Engineering Services Division indicate that adequate capacity exists on the subject section of Kennedy Drive. This is confirmed by the advice from the Engineering Services Division where no objection was raised to the proposal on the grounds of traffic and conditions of consent were recommended regarding access to and from the site including the provision of a bond for the signalisation of the Gray Street intersection.

The exhibited plans have been amended so that access no longer relies upon the Pearl Street Road Reserve. The Road Reserve will remain unaffected by the proposal which will now gain direct access from Kennedy Drive. This alleviates concerns raised by the adjoining property owner regarding the lack of detail provided on the construction proposed in the road reserve.

### **Tree Removal**

Objectors raised concerns regarding the removal of the mango trees which they state have supported a large bat colony located in the adjacent nature reserve. With regard to the original application the objectors contacted the National Parks and Wildlife Service who then requested to review the development application. National Parks and Wildlife Service offered advice to assist Council in determining the application stating that where practical the mango trees should be retained on site as they are an important food source for the bat colony on the adjacent nature reserve and that a threatened bat species has been observed from time to time within the reserve. It should be noted that the applicant proposes to retain the mango trees where possible and the application states that approximately one third of the trees on the site will need to be removed. It should be noted that no tree preservation order currently exists on the site and approval would not be required from Council for the removal of these trees.

### **Incompatibility with Surrounding Development**

Concern was raised regarding the motel being out of character with surrounding development as the site is adjoined by two single houses. Whilst is adjoined by single dwellings, a large number of unit complexes exists in the immediate area and two motels are located relatively close to the subject site. In this regard it is not considered that the development would be out of character in the locality.

### **Coastal Policy**

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An objection was based on the grounds that there was insufficient detail on how the development will contain soil and fill in the badly eroded banks of Terranora Creek nor were any details provided on the protection of mangroves. The current application does not propose any works to the river bank and no removal of mangroves is proposed. The issue of filling on the site is of concern and should approval be granted a condition will be imposed on the consent requiring detailed sediment and erosion and earthwork plans to be submitted prior the release of a Construction Certificate for the development. These plans will be required to particularly address the retaining of fill along the southern boundary of the site adjoining Terranora Creek. It is recognised that no revetment should occur on the current river bank and that all works would be required to be set back from the embankment.

### **Aircraft Noise**

The Australian standard 2021 relating to aircraft noise permits the erection of motels within the 25-30 ANEF contour. The site is located within the 25-30 ANEF contour. Within this noise contour permanent residential accommodation is identified as being unacceptable however given that the motel is only for short term occupants it is not inconsistent with the provisions of the Australian Standard.

### **No Demand for Additional Motel Accommodation**

It was submitted that there was no demand for additional motel accommodation within the locality as the decline in Seagulls Rugby League Club has reduced demand for motels within the area and as the existing motels to be working below capacity.

The applicant submits that the motel will cater for family gatherings at times of functions such as weddings and funerals. The applicant is of the opinion that sufficient demand warrants erection of the motel and they will have to base their decision on whether to construct the facility on their own economic research.

### **(e) The Public Interest**

Whilst it is considered desirable to await the outcome of the comprehensive review of land use options for the southern side of Kennedy Drive, it would not jeopardise the interests of the general public by approving the current development application. Issues which were initially identified in the previous proposal for a motel such as access, parking, environmental impact, land reclamation and building design have been resolved in the current proposal and hence it is not considered that a refusal would be substantiated solely on the issue of the Draft Local Environmental Plan.

### **LEGAL RESOURCE/FINANCIAL IMPLICATIONS**

The applicant has appealed against Councils refusal of the previous development application for a motel on the site. Should Council refuse the subject application it is likely that the current matter will also be considered by the Court. However should Council approve the current proposal it is likely that proceedings in the Court on the original application would be discontinued.

### **OPTIONS**

Council has two main options available in relation to determining this application.

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1. Approve the application subject to standard conditions of consent and conditions particularly relating to embankment protection and filling works.
2. Refuse the application based on the inconsistency with the provisions of Draft Local Environmental Plan 1998.

### CONCLUSION

The numerous issues of concern which were identified in relation to the previous development application for a motel on the site have largely being resolved by the submission of the amended plans for the development. The main issue which cannot be overcome by re-design is the inconsistency of the proposal with Councils Draft Local Environmental Plan which proposes to zone the site to Low Density Residential which does not permit the erection of motels. This Draft Local Environmental Plan is awaiting gazettal from the Minister of Urban Affairs and Planning.

Conditions of consent will be required particularly relating to the filling and earth works on the site to ensure that the creek embankment and waterway are not affected by the works. It is recommended that should the application be approved that this matter be resolved by a detailed condition of consent requiring engineering plans to be submitted for all works. Various other standard conditions of consent should also be imposed.

Given that the majority of issues concerning development of the site have been resolved by the current proposal it is considered that refusal could not be warranted solely on the grounds of the Draft Local Environmental Plan particularly as the development is consistent with the provisions of the Australian Standard relating to aircraft noise which forms the basis for the provisions of the Draft Planning Instrument.

For the above reasons the proposal is now recommended for approval subject to various conditions of consent.

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## Reports from Director Development Services

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**7. ORIGIN: Strategic Town Planning Unit**

**FILE REF: GT1/DCP/41**

**REPORT TITLE:**

**Review of Zoning for “Seaside City”**

**SUMMARY OF REPORT:**

Council resolved on 19 January, 2000 to review the zoning arrangements for “Seaside City”. The conclusions reached were:

1. The current zoning arrangements for Seaside City should be retained and maximise the economic benefit of this premium land to the community from tourism development.
2. Amalgamation of a significant proportion of the lots would be required to fulfil the intents of the 2(t) Tourism zone. The ownership pattern presents related difficulties, but these could be manageable.
3. The lots fronting the ocean have limited areas zoned for development, and most are impeded from development by the 7(f) Environmental Protection zoning.

**RECOMMENDATION:**

That Council retains the current zones in Tweed Local Environmental Plan 1987 (2(t) Tourism and 7(f) Environmental Protection) and in draft Tweed Local Environmental Plan 1998 (2(f) Tourism and 7(f) Environmental Protection) for the subdivision at South Kingscliff known as Seaside City and shown on Figure 1.

## Reports from Director Development Services

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### REPORT:

At the meeting held on 19 January 2000 Council resolved that:

*“a report be prepared to review the zoning of the land owned by Richtech Pty Ltd and others with the objective of considering a more flexible zone (such as 2(e) Residential Tourist) to allow early development of the land for appropriate uses. This zoning is to be included as part of amendment to the draft LEP to be implemented by Council by 15/3/2000.”*

The subject land is known as “Seaside City” - as shown on the map which is Figure 1.

Since that meeting Council has also resolved to place on exhibition (6 March to 3 April 2000) draft Strategic Planning Policies and draft Section 94 Plan for Kings Beach (North) and these have implications for Seaside City.

### HISTORY OF THE SUBDIVISION

Seaside City was subdivided in 1920's. It comprises 240 Lots and associated roads and laneways in a rectilinear pattern as indicated by Figure 1. The majority of the lots are owned by Richtech Pty Ltd. Those not owned by that company are indicated by Figure 1. The roads and laneways remain Crown Land.

The subdivision is zoned 2(t) Tourist and 7(f) Environmental Protection (Coastal Lands); (in the Tweed Local Environmental Plan 1987) and 2(f) Tourism and 7(f) in the Draft Tweed Local Environmental Plan 1998. The zonings reflect the potential of the land for commercial development of significant economic and employment generating benefit, having regard to its location on the beach front and the coastal erosion setback and scenic significance of part of the land.

Although the land is subdivided into residential sized allotments the erection of a dwelling on any allotment is prohibited in both the Tweed Local Environmental Plan and the Draft Local Environmental Plan.

### PURPOSE OF THE REVIEW

The major landowner has argued that the current zoning is not feasible as the land has already been subdivided, and there is no viability in more tourism development. A response to this is that as most of the land is in a single ownership and its consolidation and resubdivision for tourism purposes can potentially occur.

The purpose of the review (as expressed in the Council resolution) is to review the zoning for Seaside City having regard to its location, subdivision pattern, land ownership and potential development, which potentially facilitates short term development.

### REVIEW FINDINGS

1. There are limited amounts of zoned and serviced land in the Shire with genuine employment generating potential, and Seaside City is one of the most significant areas remaining having potential for tourism related employment - albeit it would be medium to long term potential public benefit.

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2. The layout could be accepted as contemporary with urban design requirements (AMCORD practice note PND3).
3. The lots in the ownership of Richtech are capable of amalgamation and development in accordance with the Tweed Environmental Plan and the Draft Local Environmental Plan.
4. The lots fronting the ocean are in a variety of ownerships and include limited zoned land for the erection of a detached house. Some of these include less than 450m<sup>2</sup> of developable land and entitlement for a single dwelling is negated by the 7(f) zone.
5. The process for resubdivision requires all land owners to be in agreement:
  - on the basis of the allocation of resubdivided land between the current landowners, including the Crown on an equitable basis including co-ordinated funding of required infrastructure;
  - a closure of public roads; and
  - to enable preparation of plan of subdivision and lodgement of necessary development application.
6. Whilst the actual process of resubdivision can occur, the major issue is anticipated to be the allocation of resubdivided land. No discussions have been held with affected landowners. The major issue arising is likely to be a requirement that parity is retained by land owners between the current “value” of their land, and the “value” of any resultant new lot. The current “value” of lots fronting the ocean is comparatively low because of the limited amount of these blocks which is zoned for development - 2(t) Tourism.
8. The significant differences between 2(e) and 2(t) is the former includes the ability for Council to permit the erection of a detached dwelling. The 2(e) zoning would allow for earlier development, but undermine the maximising of the economic benefit to the Shire.
9. Land zoned Residential Tourism should not be interpreted as being all developable in the short term. The desired outcome for this land should be based upon longer term potential. There is sufficient land in the Shire for over 20 years of residential development at historical rates. “Seaside City” does, however, provide a premium site for tourism development and associated employment generation.

After having been zoned for development be over 10 years Kings Beach is now being developed for both housing and tourism needs. The current needs for that kind of development can be met from those releases. There is no identified “needs” for further “early residential development”, particularly if that development is at the expense of land with economic development potential.

### OPTIONS

1. Rezone 2(e) with the resultant loss of economic development potential.
2. Rezone part 2(e) - part 2(t) with reduced economic development potential.
3. Retain existing zones.

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4. Retain existing zones and review in two (2) years when it is anticipated that some development of 2(t) and 2(e) land at Casuarina Beach and other sectors of Kings Beach will have taken place/been approved and committed.

### CONCLUSIONS

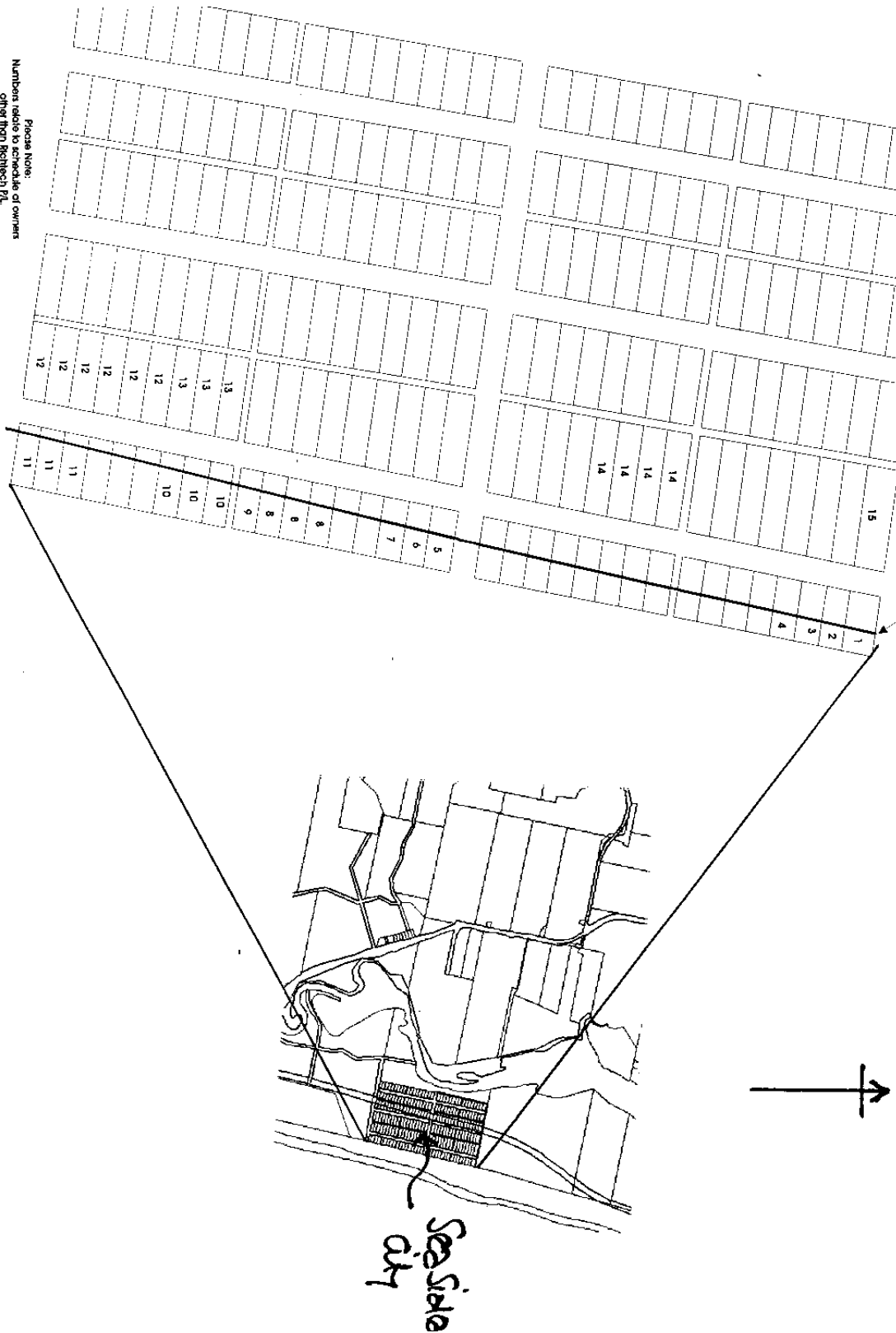
The connecting road between Casuarina Beach and Kingscliff could follow the road reserve east of the western-most lots. An option is to zone these lots 2(e) (the lots backing onto parkland) and retain 2(t) for the remainder.

“Seaside City” is premium land for tourism development - with related employment generation benefits, albeit longer term given major tourist developments which will precede to immediately to the north. The current subdivision pattern is a difficulty, but not a major detriment to fulfilling the land’s development potential.

REFERENCE	OWNER
1.	Shelford, Taylor, Ellis & Callaghan
2.	Nock
3.	St. George
4.	Hicks
5.	Martin
6.	Wright
7.	Staines
8.	Gill
9.	Barr
10.	Cox
11.	Gormell
12.	Takano
13.	Cox
14.	Diethelm
15.	Takano

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Please Note:  
Numbers relate to schedule of owners  
other than Ratched PL  
referred to in schedule.



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## Reports from Director Development Services

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**7a. ORIGIN: Subdivision Unit**

**FILE REF: DA1180/10 Pt2 K99/1755**

**REPORT TITLE:**

**Proposed Six (6) Lot Subdivision, Associated Road and Infrastructure as Staged Development Based on Masterplan for Future Tourist Resort Complex, at Lots 194, 301 and 312 DP755701 Coast Road, South Kingscliff**

**SUMMARY OF REPORT:**

This is a status report to Council concerning the assessment of this application. The applicants have stressed the commercial imperative of a Council decision concerning the application by 15 March, 2000. However, a final report and recommendation for approval cannot yet be put before Council on the basis of current information and advice (except if that recommendation was for refusal). This application, submitted by Lenen Pty Limited owners of the land, proposes the creation six (6) "master" lots as a staged subdivision, with associated realignment and provision of connection road, infrastructure and bulk earthworks. The subdivision will be the basis for future tourist development uses including resort hotel, resort housing, associated retail, conference and recreational facilities and golf course identified in the applicant's "Master Plan". The master lots vary in size from 1.53ha to 50.33ha, and the intended population to be accommodation is 1,800 persons. The site is located north of the existing unserviced, undeveloped subdivision known as Seaside City. The former NSW Tourism Commission land now under the management of the Reserves Trust is located to the north, Cudgen Creek to the west and the beachfront reserve Lot 500 to the east.

The proposal as submitted and the level of information provided thus far is not considered satisfactory or adequate for a recommendation for determination of the application. Interim conclusions, pending receipt of further advice from the applicant and Government Authorities, are as follows:

1. The proposal is inconsistent with the NSW Coastal Policy;
2. The proposal is inconsistent with Council's draft Section 94 Plan No 25 and the accompanying draft Strategic Planning Policies - Kings Beach North, in regard to provision of open space, cycleways, road design, location of sewer, riparian buffers, public parking provision and beach access;
3. The proposal is inconsistent with the Cudgen Creek Estuary Plan of Management in relation to riparian and wetland buffers and water quality impact;
4. The proposed road, infrastructure and drainage is considered inappropriate, including insufficient information provided to adequately assess the provision of infrastructure and final earth works and trunk drainage provision on which other master lots rely, to enable development of each master lot to proceed in stages;

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5. The location and quantum of proposed public parking and proposed access to the beach is considered inadequate and inappropriate having regard to Council's Strategic Planning Policies and the NSW Coastal Policy 1997;
6. Insufficient information is available to enable Council to make a decision concerning the likely effect of the development on the environment and threatened species, populations, communities and their habitats, including threatened fish species. The applicant's representative acknowledged at a meeting with National Parks & Wildlife Service Officers and Council's Subdivision Manager on 9 March, 2000 that components of the flora and fauna survey and assessment were not submitted with the application, and that their assessment of impact on threatened marine and fauna and fish species was still to be submitted. The applicant indicated that this additional information would be submitted to Council on Friday, 10 March, 2000.

The proposal has been the subject of extensive discussions with the applicants and government authorities in an endeavour to resolve issues. The approach has been to progressively seek to resolve outstanding issues to ultimately facilitate a recommendation for approval of this first stage of a critically important project for the Shire in terms of economic and employment benefits.

A final decision on this application should await Council's decision concerning the Section 94 Contribution Plan No 25 following the exhibition period.

### **RECOMMENDATION:**

That Council receives and notes the matters raised in this report.



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### REPORT:

<b>Applicant:</b>	Lenen Pty Limited, C/- Victor Feros Town Planning Consultants
<b>Owner:</b>	Lenen Pty Limited
<b>Location:</b>	Lots 194, 301 and 312 DP755701 Parish of Cudgen, Coast Road, South Kingscliff
<b>Zoning:</b>	2(t) Tourist Area Zone, 7(a) Environmental Protection (Wetlands) Zone, 7(f) Environmental Protection (Coastal Lands) Zone and 7(l) Environmental Protection (Habitat) Zone
<b>Estimated Value:</b>	\$7.86 million (leading to ultimate development of \$200 million tourist resort).

### BACKGROUND

Council has received a Development Application (K99/1755) for subdivision of the subject land into six (6) "master" lots in stages, with associated road and utilities infrastructure, to be developed for future integrated tourist resort facilities. The six (6) "master" lots will be subject to future Development Applications for the specific development for the proposed tourist facilities, which in summary comprise 200 twin-keyed hotel units (comprising 200 "hotel" suites and 200 "motel" suites) 200 condominiums (also twin-keyed), 200 residential flat buildings for tourist accommodation, and various other recreational facilities including an 18 hole golf course and indoor bowls green). The concurrence of the Director-General of the Department of Urban Affairs and Planning has been received in respect of the proposed subdivision zoned 7(f) Environmental Protection (Coastal Lands). The area of the subject land is 73.86ha, however, an application for adjustments to the western boundary of the land to reflect alterations to the mean high water mark is currently undetermined due to a Ministerial deferral of determination of applications pending a report from the NSW Coastal Council.

The subject site is currently undeveloped. Most of the site was subject to sand mining during the 1960s and the majority of the site consists of a low-lying coastal plain with a fractured dune system, low sand ridges and estuarine flats. Vegetation communities consist of considerable areas of sparsely vegetated communities, shrub land and on the western edge of the site some swamp paper bark open forest and closed forest and sedge land. Bitou bush forms dense stands in some parts of the shrubland. The existing coast road traverses the site, and the eastern boundary of the site is set back approximately 100 metres from the beach foredune.

Council issued Development Consent DA92/271 to Sahben Kingscliff Pty Ltd in October 1992 for development on the subject land of a tourist resort comprising a hotel with 375 hotel units, 260 condominiums and 18 hole golf course and associated shopping, restaurant and recreational facilities. This consent was amended by Council in October 1997, following consideration of an application to modify the proposal by realignment and amendments to the layout of the internal road, car park and buildings. The consent specified a minimum of 625 off street car parking spaces for the proposal and the construction and dedication of public parking for a total of 90 vehicles. This consent lapsed in October 1997. On 4 December 1998, Amendment No 106 to the Tweed Local Environmental Plan 1987 was gazetted which amendment rezoned certain areas on the western side of the site and adjacent lands fronting Cudgen Creek to 7(a) or 7(l) and included a small area of land deferred by Council.

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The draft Tweed Local Environmental Plan 1988, was referred to the Minister by Council, pursuant to Section 68 (4) of the Environmental Planning and Assessment Act. In general, this carries over the existing zonings under the Tweed Local Environmental Plan 1987 with the deferred areas remaining zoned Residential Tourism 2(f).

This application has been the subject of considerable consultation with the applicants and government authorities including applicant representation at Council's Strategic Planning Committee Meeting on 19 January 2000, a meeting involving Council and the applicant's representatives on 11 February 2000, a Planning Focus Group meeting involving government authorities, council staff, and the applicant's representatives held on 29 February 2000 in an endeavour to resolve issues relating to the proposal.

Council at its meeting of 1 March 2000 adopted a draft Section 94 Plan No 25 in respect of Kings Beach North and accompanying draft Strategic Planning Policy. This draft Section 94 Contributions Plan in respect of Open Space is currently on public exhibition until 3 April 2000.

Since the submission of the original development application, the applicant has provided additional information to clarify aspects of the proposal. The application was advertised and adjoining owners notified; three submissions were received are summarised later in this report.

### **DESCRIPTION OF THE PROPOSAL**

This proposal seeks development consent for the subdivision of the land at Kings Beach South into six (6) "master" and management lots, with associated road and infrastructure, for a future tourist resort complex, comprising a hotel (200 twin-keyed suites), 200 condominiums (twin-keyed) and 200 attached resort houses (residential flat buildings) ) together with an 18 hole golf course, shops, conference centre and services, lawn bowls green pavilion, swimming pools, tennis courts and golf club house. Each master lot or management lot comprises a precinct, as identified in the outlined development plan. The details of the proposed future development, site area etc within each proposed lot or precinct are summarised in the following table. Figure 1 shows the applicant's Outline Development Plan, Figure 2 shows the proposed Plan of Subdivision, Figure 3 shows the amended Stormwater Drainage Strategy map and Figure 4 shows the amended Precinct Plan Concept.

It is noted that Council's consent is only sought in the application for six (6) "master" or management lots, with associated collector road, sewer and water supply infrastructure, bulk earthworks and trunk drainage. The application seeks a staged consent pursuant to Section 80(4) of the Environmental Planning and Assessment Act based on future land uses and development generally in accordance with the applicant's "Outline Development Plan" (see Figure 1). Future development applications and approvals will be required in respect of the actual development proposed within each of the six (6) management lots.

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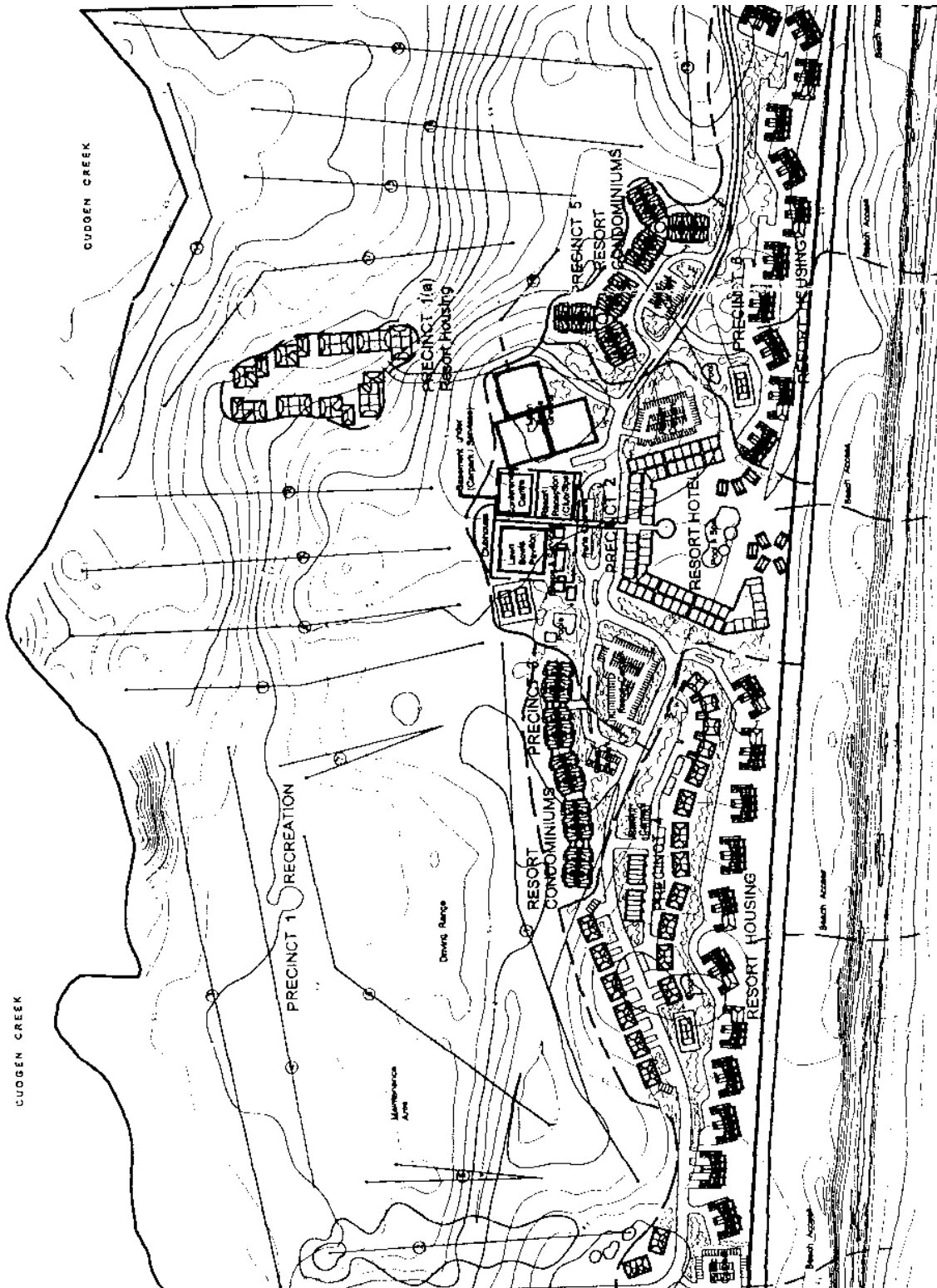
## Table

### Proposed Future Development Summary

	Name	Area (ha)	Land-Uses	No of tourist Accom Units	Building Floor Area (m <sup>2</sup> )	No of Storeys	Accom. Density (persons/ha)
1	Recreation	50.33	<ul style="list-style-type: none"> <li>Golf Course 18hold</li> <li>Resort housing</li> </ul>	28	3,360	1	84
2	Tourist Resort Precinct	7.47	<ul style="list-style-type: none"> <li>Central facilities (reception/admin /entertainment/club)</li> <li>Shops and related services</li> <li>Conference Centre</li> <li>Lawn Bowls Pavilion</li> <li>Lawn Bowls Green (3)</li> <li>Tennis Courts (2)</li> <li>Swimming Pools</li> <li>Golf Clubhouse, etc</li> <li>Basement Car Park and Services</li> <li>Resort Hotel</li> </ul>	200 (twin-keyed - 200 hotel suites + 200 motel suites)	5,000 1,500 1,000 3,500 - - - 1,500 7,500 22,500	1, 2 and 3	600
3	Tourist Resort Support (south)	1.53	Resort condominiums (twin-keyed)	92	13,800	3	276
4	Integrated Residential (south)	8.08	Resort Housing	128	16,900	1, 2 and 3	384
5	Tourist Resort Support (north)	1.7	Resort condominiums (twin-keyed)	108	16,200	3	324
6	Integrated Residential (north)	4.7	Resort Housing	44	6,820	1, 2 and 3	132
				<b>600</b>	<b>99,580</b>		<b>1,800</b>

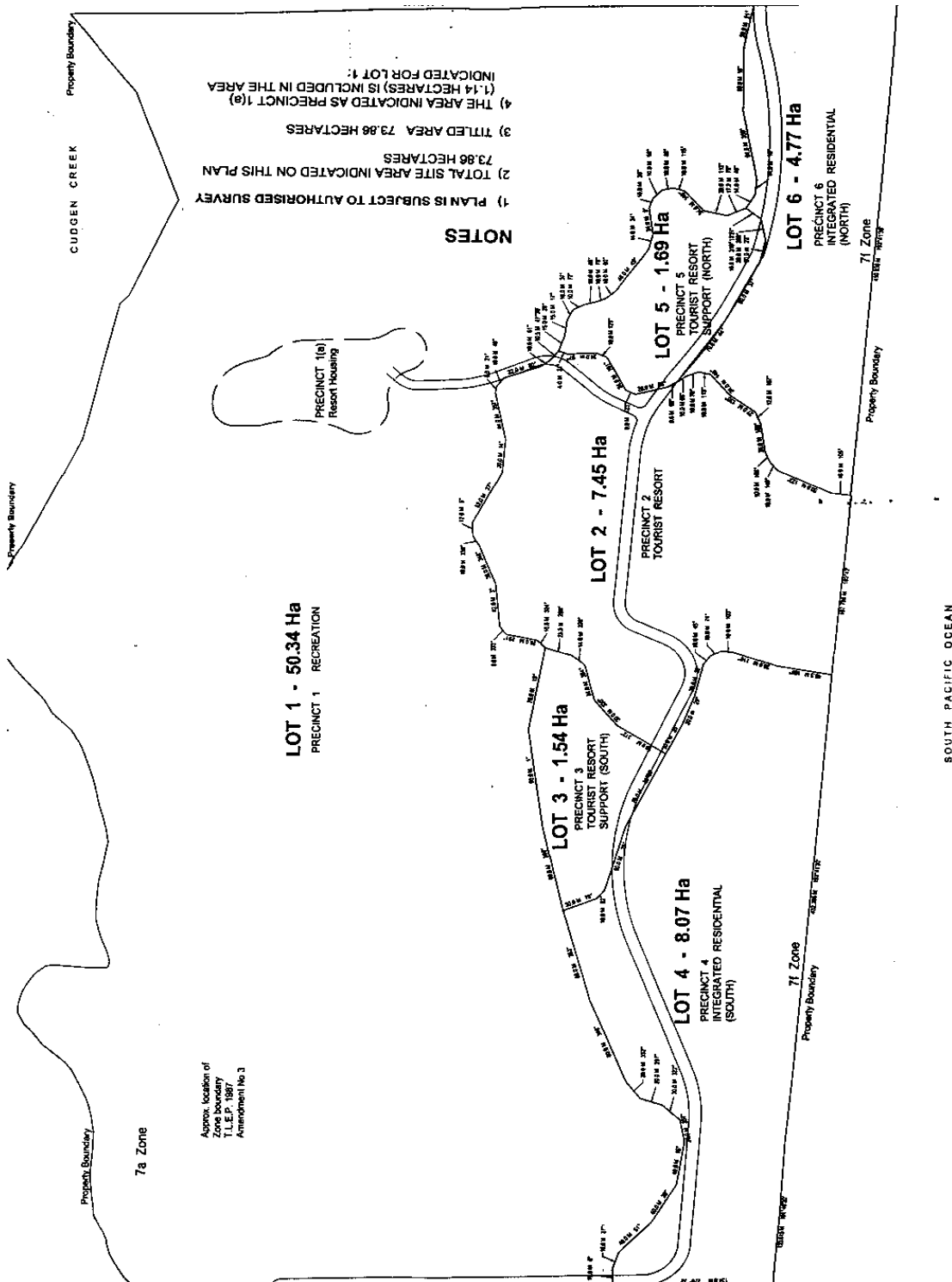
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Figure 1 (Outline Development Plan)



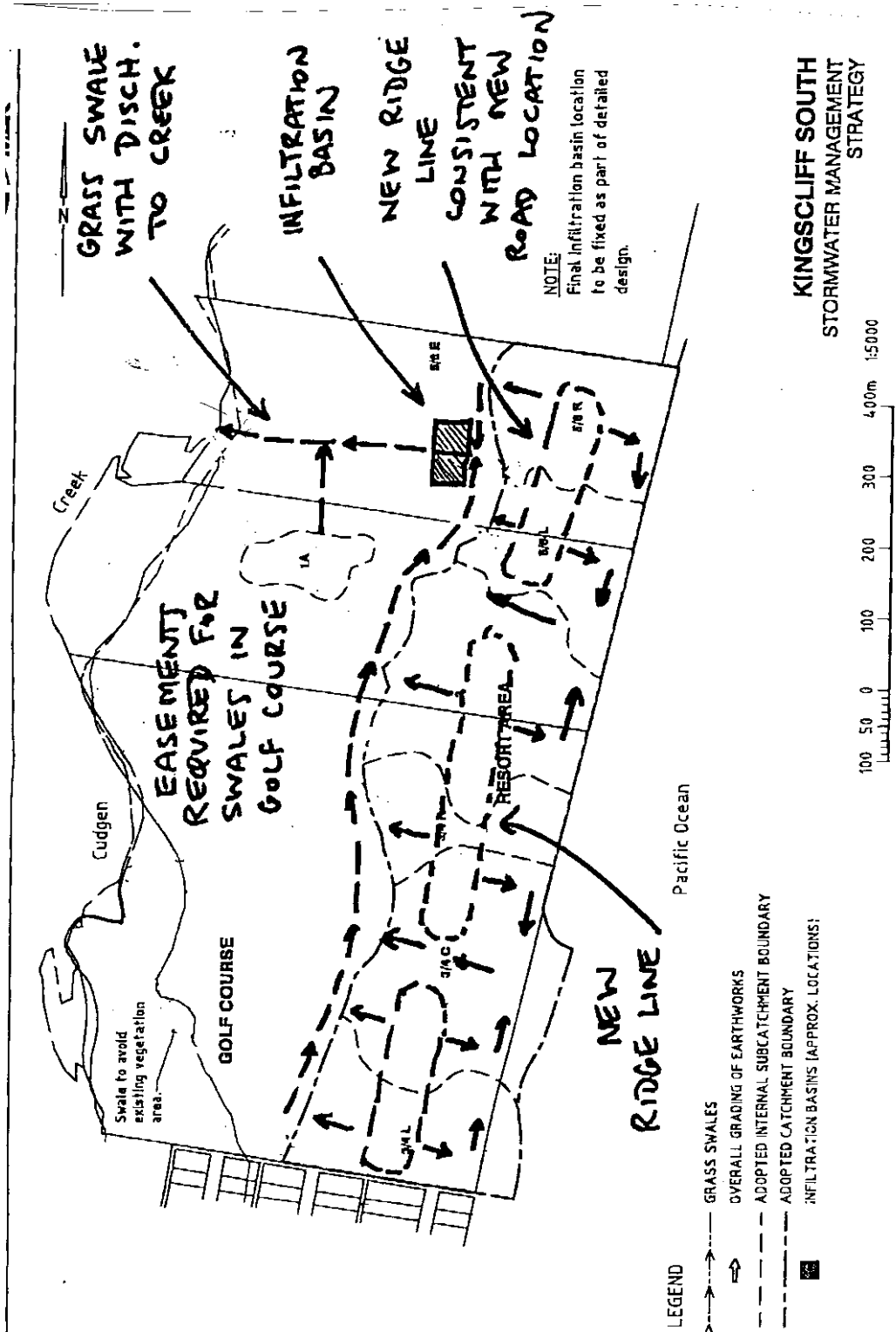
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Figure 2 (Plan of Subdivision) (This has been reproduced as an attachment A3 size to this Business Paper)



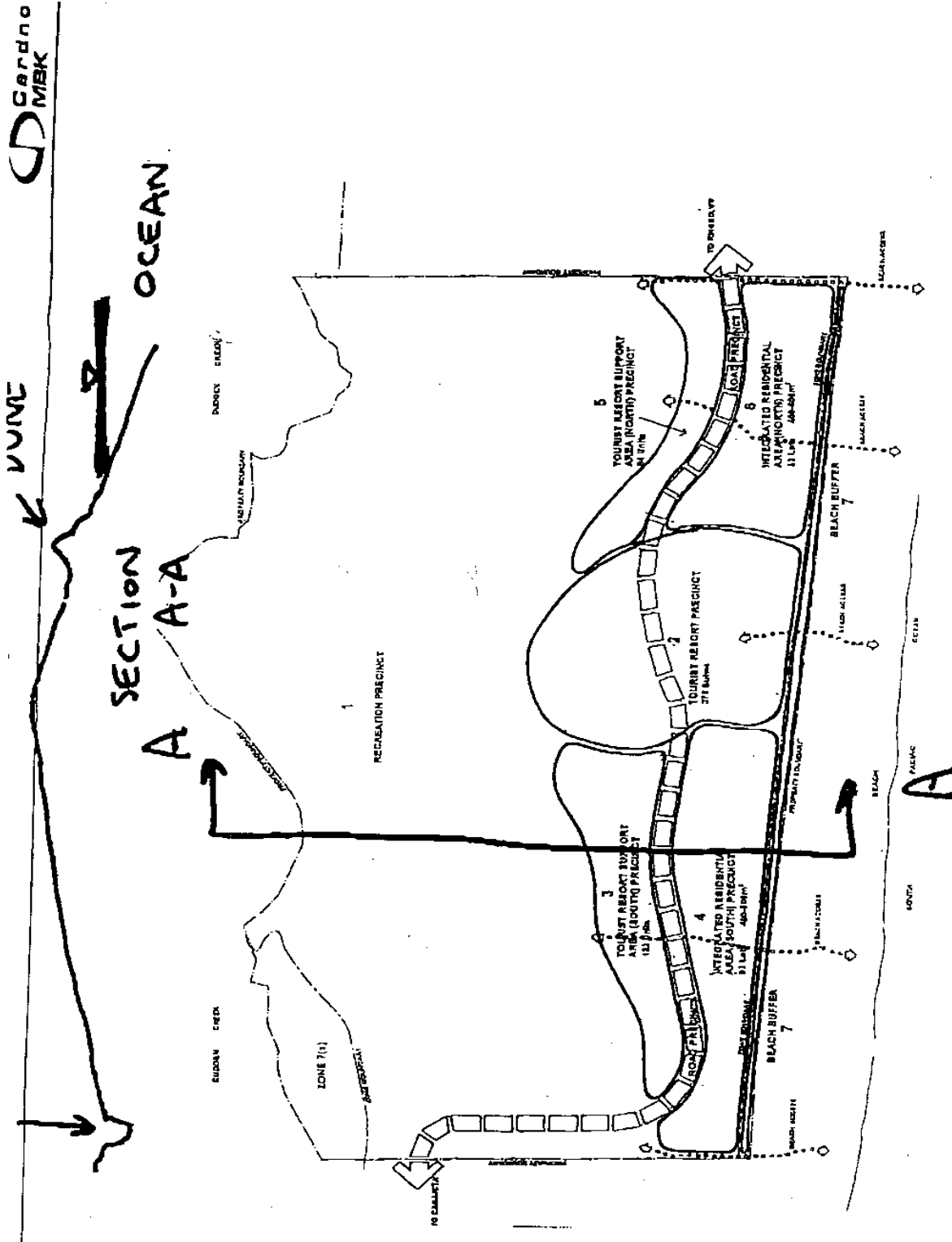
# Reports from Director Development Services

Figure 3



# Reports from Director Development Services

Figure 4



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In summary, the buildings and associated infrastructure are located along the eastern side of the site but to the west of the 7(f) Environmental Protection (Coastal Lands) boundary, with the exception of 28 attached resort houses located within the proposed recreation precinct (proposed Lot 1) on which the golf course is proposed to be located.

The existing Coast Road is to be realigned and reconstructed with proposed connection points to the north and south which do not match any existing or approved road. Public car parking provision for 40 spaces is proposed at the south-eastern corner of the site with a further 50 parking spaces minimum to be provided for use by the public within the proposed resort car park immediately north of the proposed hotel building.

Five (5) beach access points for pedestrians are indicated along the 1.84km of the site to the ocean front reserve. The application indicates a proposed 20m wide buffer to wetland areas on the western side of the site for conservation and retention, with a limited number of unspecified access points to Cudgen Creek for canoes and the like, and a surf lifesaver to be provided by the resort hotel for beach patrolling. A total of 750 car spaces are to be provided with some to be basement car parks as part of the hotel development. Options are presented for construction of a sewer rising main either to the proposed Kings Beach vacuum pumping station or the provision of a rising main across Cudgen Creek with replacement of the existing 250mm diameter water main with a 450mm diameter water main through the site.

The application is accompanied by a Statement of Environment Effects by Victor G Feros Town Planning Consultants and the following attached reports by the applicant's consultants:

- Geotechnical Report, Stormwater Treatment and Disposed Report, Infrastructure Report and Traffic Impact Assessment Report by Cardno MBK, Consulting Engineers and a Flora and Fauna Assessment Report by Gunninah Environmental Consultants.

The Geotechnical Report includes a draft acid sulphate soil management plan.

On 3 and 5 March 2000, additional information was submitted by Cardno MBK comprising a Stormwater Management Water Quality Modelling Report and proposed Drainage and Bulk Earthworks Report. The latter proposals indicate an amendment in the stormwater drainage and precinct concept, which is referred to later in this report.

### CONSULTATION

The application was referred to the Department of Urban Affairs and Planning for concurrence, since the proposal involves the subdivision of land within a 7(f) zone. The application was also referred to the following government authorities:-

- National Parks and Wildlife Service
- Environment Protection Authority
- Roads and Traffic Authority (Regional Advisory Committee)
- Department of Land and Water Conservation
- NSW Fisheries



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In addition, the application was publicly exhibited for a period of fourteen (14) days between 17 January 2000 and 1 February 2000. One submission was received during the advertising period, and a further two submissions were received following the expiry of the advertising period. Adjoining owners were also notified.

A summary of the government authority's submissions is provided below with comments where appropriate:-

### **Department of Urban Affairs and Planning**

The Department advises that it has granted concurrence to the subdivision of the land within 7(f) zone to create 3 of the "masterplan" allotments which extend from the 2(t) zone. This concurrence is granted on the basis that the application does not involve any physical works within the 7(f) zone. If such works are contemplated, details of the works should be provided and a further request for concurrence submitted. The concurrence is subject to:-

- no residential or associated buildings be erected on land zoned 7(f);
- landscaping to the satisfaction of Council being established on the land zoned 7(f) within each allotment to ensure that there is no restricted access onto the beach area
- no access for vehicles or pedestrians being available from the eastern boundary of the allotments unless such access is consistent with a Management Plan which covers the public foreshore areas and is agreed to by both the Council and the Department of Land and Water Conservation.

### **National Parks Wildlife Service**

The Service has provided written comments concerning the proposal, which are summarised as follows:-

- proposed 20m buffer to the riparian area is considered insufficient to mitigate potential impacts on Cudgen Creek and environmentally significant vegetation on eastern side of the creek;
- the Service recommends a minimum 50m buffer be required between environmentally sensitive vegetation including SEPP14 Wetland No 44 and the proposed golf course;
- potential impacts of proposed development on environmental values of the riparian area, such as vegetation clearing, changes in hydrology, stormwater runoff, introduction of exotic weeds, bushfire mitigation, increase in predatory domestic animals and increased visitation and recreation use, have not been adequately addressed;
- further information requested on proposed uses such as cycleway and canoe launching area within riparian area and recommends transfer of environmentally sensitive lands to Council for eventual inclusion in Cudgen Nature Reserve recommended;
- indirect impacts of proposed future land uses such as golf course, resort buildings and associated infrastructure on potential habitat for a number of threatened species such as Common Blossom Bat, Glossy Black Cockatoo, Long-nosed Potoroo, Common Planigale and Koala have not been adequately addressed and targeted survey for Blossom Bat should be conducted in winter to

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provide adequate information for consideration of likely effects of proposed clearing and development on the habitat of threatened species, the Common Blossom Bat;

- amount of vegetation to be cleared, including floristic composition and habitat replanting proposal is not quantified in Development Application, nor is cumulative impact of other developments in locality which may increase local significance of the coast banksia population on subject site;
- vegetation mapping appears incorrect;
- inconsistencies in the flora and fauna assessment in regard to threatened species, such as osprey;
- recommends that council requires preparation of a Vegetation Management Plan and Dune Management Plan for the site prior to determination of the Development Application, with vegetation replacement on dunes to take place progressively and at an appropriate time of year to minimise erosion potential;
- use of native species local to the area, but not necessary endemic should be included in revegetation plan to reflect natural diversity of site;
- potential environmental impact of proposed fire mitigation measures not adequately addressed;
- no evidence to support conclusion that no Aboriginal relics of any note present on the site or whether any assessment of aboriginal cultural heritage of the site has been undertaken by a qualified archaeologist in consultation with the local aboriginal community, notwithstanding previous disturbance;
- proposal staging needs to be more clearly defined for assessment of cumulative impacts;
- the Service concludes that insufficient information has been provided to enable Council to adequately assess likely impacts of the proposed development on environmental values of the site and insufficient information to allow conclusions to be reached as to whether there is likely to be a significant impact or not on flora and fauna. Council is legally required to make a well-informed judgement.

### **Comment:**

*On the basis of the Services' advice, it is apparent that additional information, clarification and survey material is required before Council can make an adequate assessment concerning the likely environmental impact of the proposed development and draw an adequate conclusion as to whether the proposed development is likely to have a significant impact or otherwise on threatened species, populations, communities or their habitats in accordance with Section 5A of the Environmental Planning and Assessment Act. Advice available to Council confirms that cross/seasonal surveys may be required in relation to potential threatened species to enable an adequate assessment under Section 5A of the Act, and in this regard, the proposed development involves major clearing and bulk earthworks over the site.*

*The applicant's consultant (Gunninah) have responded to the Service's letter of advice, and this response has been forwarded to the Service for further comment. Further, the Director of*

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*Development Services arranged for representatives of Lenen Pty Ltd, including Gunninah Consultants, to meet with NPWS Management and Council's Subdivision Manager on 9 March, 2000.*

*However, subject to availability of more adequate survey information and information concerning certain threatened species and potential impact on threatened marine fauna and flora, and adequate conclusion being reached concerning environmental impact, then it is appropriate to require vegetation and dune management by way conditions for consideration in future development applications of the management lots.*

*It is noted that the 50m wide buffer recommended by the Service is a separation distance between significant vegetation such as wetland and the 7(l) zone as well as to the high water mark riparian area.*

### **Environment Protection Authority**

The EPA comments are summarised as follows:-

- more comprehensive documentation and planning for the whole of the development site is required to enable proper assessment of potential to generate environmental impact and adequacy of any amelioration measures, eg stormwater management;
- no information supplied with regard to golf course development, and its potential to impact significantly on ground and/or surface waters in highly permeable sandy soils close to wetlands and the creek, and the critical link between stormwater management of the proposed built up area on the east of the site with the golf course;
- overall plan for stormwater management should consider stormwater as a resource, address all proposed developments on the site, identify appropriate short and long term objectives for its management, identify performance measures against treatment objectives, identify pollutant load (suspended solids, total nitrogen and total phosphorous) runoff, assess impacts on water quality and river flow environmental objectives (ground and surface water and amelioration measures), and establish monitoring program;
- 50m minimum buffer recommended to a water body of particularly sensitive nature (such as SEPP 14 Wetlands) or where water quality does not currently meet the relevant Interim Environment Objectives, and notes that existing mapped boundary of SEPP 14 Wetlands does not appear to be accurate;
- no information supplied concerning Environment Objectives for waterways affected by proposal;
- recommends augmenting the existing water supply and sewerage treatment facilities prior to the release of additional urban lands to ensure demand does not capacity of supply and treatment systems;
- urges Council to develop plan for future waste management of the Shire noting that the licence for the Stotts Creek landfill to cease by October 2004;

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- additional information needed concerning golf course works before adequacy of the acid sulfate soil management plan can be assessed;
- in a further letter dated 29 February 2000, the EPA recommends an updated survey of site radio activity levels be undertaken under guidance of a radiation health physicist to enable the EPA to further consider the suitability of site for re-development, having regard for presence of former sand mining ilmenite dump on the site.

### **Comment:**

*Further information is still awaited from the applicant to address some of the matters nominated by the EPA. In this regard, a revised stormwater drainage plan and bulk earthworks proposal, along with a stormwater management water quality modelling report have been submitted by the applicant's Consultants, Cardno MBK. As a result, amendments to the overall design of the proposal and the subdivision layout have been made. However, the level of information concerning the design of the golf course, turfing, fertilising, maintenance regime, watering, and other management measures is still not sufficient to enable a degree of confidence as to environmental impact on both surface and ground water to pre-empt later construction of a golf course. No information has yet been submitted on the extent of earthworks as related to actual or potential acid sulfate soil on the western edge of the site, and further information is required concerning radiation levels of the ilmenite dump. The recommended buffer can be required by way of a consent condition.*

### **Department of Land and Water Conservation**

A summary of the comments and advice from the Department is as follows:-

- the proposal is not considered to be "integrated development" in respect of the Rivers Foreshores Improvement Act;
- any future DA for detailed proposals identifying excavation fill or other works within 40m of the bank at Cudgen Creek may require a Section 3A Permit under the aforementioned Act and therefore may be "integrated development";
- a Dune Management Plan should be prepared for that part of the foreshore reserve, Lot 500, located directly east of the subject site;
- DLAWC refers to difficulties which have arisen in respect of the Dune Management Plan for the foreshore reserve in respect of Kings Beach South and recommends that applicants liaise with the Department and Council staff to obtain detailed written criteria for preparation of an acceptable Dune Management Plan to ensure a consistent approach to Dune Management for all of Lot 500 between Kingscliff and Cabarita;
- notes that runoff from the entire site will be directed to the west rather than towards the beach, and requires that no stormwater runoff control works be located within Lot 500;
- notes that all previous consents (ie for Sahben) have lapsed including previous consent to lodgement of the Development Application by Sahben involving works with the Coastal Reserve;

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- due consideration needs to be given to nutrient application and management, particularly on the proposed golf course given the porous nature and high infiltration rates of the sandy soils, and notes that if ground water is to be used to augment the proposed sewerage system, then a groundwater licence will be needed from the Department;
- notes that a clear and concise DCP could help identify legal and policy requirements for development of land;
- in relation to the riparian boundary (on the western side of the subject site), the department notes that the Minister for Land and Water Conservation, Mr Richard Amery, announced that the NSW Government had placed a freeze on applications by property owners with recommendations expected to be made to the Minister by Professor Thom, Chair of the NSW Coastal Council concerning possible modifications to procedures. The application by Lenen has been deferred by DLWC pending the recommendation of the Professor's report;
- notes that a further investigation is needed to assess the potential hazard and any remediation works which may be part of the development of the detailed design and draws attention to the acid sulfate soil manual and the ASS Risk maps;

### **Comment:**

*Since the receipt of the above comments, the further information concerning stormwater management and proposed earthworks has been forwarded to the Department for comment. It is noted that the proposal involving the approval for staged management lots does not actually involve the construction of golf course or other works within 40m of the creek, but does involve the construction of a trunk drainage overflow swale adjacent to the creek bank. In relation to the dune management plan, it is considered sufficient to attach a condition requiring the preparation of a Dune Management Plan, as was decided by the court in respect of the Kingscliff South staged development application involving management lots. It is noted that no stormwater management works or facilities are to be located within the foreshore land, being Lot 500, and that no works within Lot 500 will require the written consent of the department to lodge a development application. No actual works such as beach walkways accesses are proposed to be approved by consent to this application.*

*The level of information concerning nutrient and infiltration management in relation to the golf course is still not adequate, and consent conditions could be attached in respect of any future groundwater licence which may be required to augment the initial stage of the proposed sewerage system, all other uses, and also a condition would be appropriate to require the redefinition of the boundary of proposed Lot 1 in respect of the mean high water mark boundary to Cudgen Creek in accordance with the requirements of State Lands Minister. Comments concerning acid sulfate soils are referred to elsewhere.*

### **Roads and Traffic Authority**

The Authority advises that the Regional Traffic Committee considered the proposal at its meeting of 11 January, 2000 and recommended as follows:-

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- (i) The alignment of the Coast Road needs to be defined and aligned with adjacent development proposals. Future proposals at this site will need to be consistent with the adopted Coast Road alignment.
- (ii) The Bridge over Cudgen Creek, north of the proposal will require upgrading to provide adequate access to the proposal.
- (iii) Sutherland Street, Kingscliff will also require upgrading to provide adequate access to the proposal.
- (iv) Public beach access and vehicle parking needs to be identified.
- (v) Cycle/pedestrian links to adjoining developments need to be identified.
- (vi) Each unit development should be provided with adequate on site parking.

### NSW Fisheries

The comments of NSW Fisheries are summarised as follows:-

- advises the Department's policy is to require a minimum 50m buffer zone with all natural features and vegetation preserved and is opposed to the construction of walkways and canoe launches within this buffer zone, with such buffer to be enforced around all water bodies on or adjacent to the site including the SEPP 14 Wetland;
- further clarification needed concerning water quality control methods including excess runoff containing nutrients, pesticides and fertilisers from the adjacent golf course;
- NSW Fisheries supports the establishment of sediment control such as grassed swales, but recommends a water quality monitoring program be implemented;
- all off-stream water storage facilities such as infiltration basins should be positioned above the 1:100 year flood level;
- notes that future DA's for the rehabilitation of the riparian zone or for the construction of canoe launches may require approval under the Fisheries Management Act.

### **Comment:**

*Issues relating to buffers and water quality have been dealt with in respect of other authority comments, and a proposed condition would ensure that appropriate reference to a licence required for any works within the riparian zone under the Fisheries Management Act. No proposed stormwater basins are to be positioned under the 1:100 year flood level.*

### **PUBLIC SUBMISSIONS**

The proposal was advertised by notification in the Tweed Link newspaper and by letters to adjoining owners and submissions invited during a 28 day period between 17 January and 1 February 2000. Once written submission was received during the advertising period, and a further two written submissions received after the expiry of the advertising period. The issues and reasons

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for objection or concern in regard to the proposal nominated in these submissions are summarised as follows:

- There should be an overall master plan or development control plan prepared for Council for all of the land zoned 2(t) in the Kings Beach area to ensure adequate achievement of the objectors of the zone.

**Comment:**

*Council adopted a draft Strategic Planning Policy in relation to this site and the adjoining lands to the North and South at its meeting of 1 March 2000 (Strategic Planning Policies cruelty on public exhibition with the draft Section 94 Plan #25).*

- The proposal appears to include adjustments to the riparian boundary to Cudgen Creek which are not legally acceptable.

**Comment:**

*The land owners representatives have lodged an application for redefinition of the western boundary of the site to the mean high water mark with the Land Titles Office. However, DLWC have advised that there is currently a freeze on applications for such determinations, and no information is available as to when this freeze will be lifted. However, it is apparent that most of the adjustment is due to accretion of land westwards into the estuary, with only a small area of intrusion of the river bank eastwards into land area. If it is proposed to approve the proposal, an appropriate condition would be required to redefine the western boundary of the proposed Lot 1 to the mean high water mark or otherwise as acceptable to the State Lands Office, prior to the release of any linen plan.*

- Inadequate provision for walking or bike trail along the Cudgen Creek and along the coastal frontage of the site.

**Comment:**

*The draft Strategic Planning Policies indicate provisions of a casual access track for the public and basic amenities requirements along the creek. This could include a track suitable for biking, whilst, as indicated elsewhere in this report, the proposed cycleway route in the application is inconsistent with the draft Strategic Planning Policies route located along the Western boundary of the coastal reserve. An appropriate condition should require the provision and construction of the cycleway in accordance with the draft Strategic Planning Policies.*

- Council should ensure that the goals of the NSW Coastal Policy are adhered to:

**Comment:**

*See the section of this report in relation to the consistency of the proposal with the NSW Coastal Policy 1997, particularly in relation to beach access, protection of riparian areas, etc.*

- Inadequate provision for beach side parking and inadequate provision for public access to the beach, so that the proposal represents privatisation of the beach.

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**Comment:**

*The provision of public parking is considered inadequate and inappropriately located, and is inconsistent with the draft Strategic Planning Policies adopted for public exhibition by Council, as noted elsewhere in this report.*

- Council should require the provision of 2.83 per thousand public open space dedication, principally along the beach frontage, but also adjacent to Cudgen Creek, and the justification for non provision of public open space based on provision of a public golf course is unacceptable.

**Comment:**

*As noted elsewhere in this report, the application is inconsistent with the draft Strategic Planning Policies, and a 20 metre strip of land adjacent to the high water mark should be dedicated for riparian buffer along Cudgen Creek, and 3.2 hectares of public open space should be dedicated on the eastern or coastal side of the property.*

- The western edge of the proposed golf course can not legally be approved since it appears to be located within an Environmental Protection Zone.

**Comment:**

*Additional information has been sought and provided in relation to the location of zone boundaries. Some of the proposed fairways and greens appear to intrude upon Environmental Protection Zones and SEPP wetland. The proposal does not actually involve the approval for construction of a golf course, and if the proposal is recommended for approval, an appropriate condition should require the set back of any golf course or other works a minimum distance of 50 metres from any wetland or riparian creek bank, in accordance with advice from NSW Fisheries and the National Parks and Wildlife Service and in accordance with the Cudgen Creek Estuary Management Plan.*

- The proposed alignment of the Coast Road is inappropriate, in relation to Seaside Village, and the four tight bends will unreasonable restrict local through traffic.

**Comment:**

*As indicated elsewhere in this report, inadequate information concerning the design of the proposed realigned road and its horizontal alignment. The proposed road route shown on the application plans is inconsistent with the Council's draft Strategic Planning Policies for Kings Beach North.*

- There is a lack of information on the route of and feasibility of the sewer line to the treatment plants.

**Comment:**

*The route options for sewer advanced by the applicants consultant in the proposal are inconsistent with the preferred route shown in the draft Strategic Planning Policies adopted by Council for public exhibition. The preferred route would involve tunnelling under the Creek and then conveyance largely across the existing agricultural planting buffer located on the southwest side of the Kingscliff TAFE and then up to the Cudgen Road/Old Bogangar Road intersection. No*



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*information has been advanced by the applicant concerning environmental impact of construction of such sewer line options.*

### EVALUATION

A complete assessment of the application against the matters for consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 is provided below:-

#### (a) (i) Planning Instruments

##### **Tweed Local Environmental Plan 1987 (TLEP 1987)**

The land, the subject of the proposed subdivision, is zoned part 2(t) Tourist Area Zone, part 7(a) Environmental Protection (Wetlands) Zone, part 7(f) Environmental Protection (Coastal Lands) zone and part 7(l) Environmental Protection (Habitat) zone. The applicant's "Master Plan" indicates that the proposed future tourist resort, the tourist housing and recreational land uses are to be located within the 2(t) Tourist Area zone, with the exception of a small part of the proposed golf course which intrudes into the 7(a) and 7(l) zones. The proposal is generally consistent with the objectives for the 2(t) zone in the TLEP 1987, which are as follows:

- (a) To permit tourist development and uses associated with, ancillary to or supportive of the tourist development, including retailing and service facilities, where such facilities are an integral part of the tourist development and are of a scale relative to the needs of that development.
- (b) To permit, as a minor adjunct to the primary intent of this zone (tourist oriented developments), quality medium/high density residential development, but only at a scale which enhances the proposed tourist resort character; and
- (c) To allow detailed provision to be made by means of development control plans to encourage resort type tourist accommodation and associated services and facilities.

The proposed development is permissible with the consent of Council, provided that no housing or related development takes place within the Environmental Protection zones and provided that the proposed resort housing is, as indicated in the application, proposed for tourist accommodation and not for permanent residential, and to be managed as part of a resort.

##### **Clause 35 - Development Within the 7(a) Environmental Protection (Wetlands)**

This Clause provides that consent is required for the removal of vegetation from draining, excavation or filling of land zoned 7(a) and also provides that Council shall not consent to the carrying out of development on or adjacent to land zoned 7(a) unless it has considered the likely affects of development on flora and fauna found in the wetland, potential disturbance of native flora and fauna as a result of intrusion by humans, domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing, a Plan of Management showing how adverse effects arising from the development are to be mitigated, likely effects of the development on

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the water table and the effect on the wetlands of any proposed clearing, draining, excavating or filling.

In this regard, the applicant has not provided the required Plan of Management and has not adequately demonstrated either the precise nature of the proposed trunk stormwater drainage and infrastructure works in relation to the areas adjacent to zone 7(a) Environmental Protection (Wetlands) or the potential for disturbance of wetland flora and fauna by the proposed development. It is noted that parts of fairways numbers 9, 10 and 11 impinge upon or are located within areas zoned 7(a), depending on detailed golf course construction works. In addition, the proposed amended trunk drainage flow path appears to exit the site across an area zoned 7(a) Environmental Protection (Wetlands) (which is also a SEPP 14 Wetlands) in the north-eastern part of the site and no information has been given concerning the design and specific impact of this drainage construction which will be required to be provided in respect of the creation of the six management lots and associated infrastructure involved in this application.

### Clause 37 - Development in Zone 7(f) Environmental Protection (Coastal Lands)

This clause requires that all development, except for purposes of agriculture or home occupations, requires the concurrence of the Director of the Department of Urban Affairs and Planning. In determining whether to grant concurrence, the Clause sets out various considerations in relation to whether the proposed development affects the behaviour or is adversely affected by the behaviour of the sea or any body of water, etc., whether the proposal adversely affects any beach or dune or foreshore area etc and whether the proposal will adversely affect the landscape or scenic quality of the locality. In this regard, the Department of Urban Affairs and Planning has advised, by letter dated 9 February 2000, that pursuant to Clause 37(2) of the TLEP 1987, concurrence has been granted to the subdivision of land within the 7(f) zone to create three of the "master plan" allotments which extend from adjoining 2(t) zone. This concurrence is granted on the basis that the application does not involve any physical works within the 7(f) zone as discussed in the section of this report dealing with government authority responses. An appropriate consent condition would need to reflect the terms of concurrent by DUAP.

### Clause 38 - Development in Zone 7(l) Environmental Protection (Habitat)

This Clause is broadly similar in its provisions to Clause 35 except that the Clause requires Council to have regard to any representations made by the Department of Agriculture and Fisheries and the National Parks and Wildlife Service and provided that development consent is not required for the removal of noxious weeds to comply with the requirements of the Noxious Weeds Act 1993 provided that such removal is carried out by a method approved in writing by the Council.

In this regard, no Plan of Management has been provided to indicate how the adverse effects arising from the proposed development are to be mitigated in respect of land adjacent to a 7(l) Environmental Protection (Habitat) zone, and inadequate information has been provided to satisfy the concerns of NSW Fisheries and the National Parks and Wildlife Service, as indicated previously in this report.

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### Clause 50(a) - Development in the Vicinity of Waterways

Cudgen Creek is listed in Schedule 5 of TLEP 1987 and this Clause provides that a person shall not carry out development for any purpose on land within such distance of the mean high water mark or creek bank of a specified creek as may be determined by the Council for the purposes of this Clause. In determining such a distance, the Council is to have regard for the preservation of the scenic quality of the foreshores, minimising the risk of pollution to waterways, protection of foreshore eco-systems and the intended or planned use for the foreshore. Subject to the consent of Council, development may be carried out for the purposes of bushfire hazard reduction, recreation areas, parks, gardens, environmental facilities, boating facilities and the like, and Council may require as a condition of consent to development of land having frontage to a Schedule 5 creek, the dedication to the Council or the Crown free of cost of such land as Council may determine.

In this regard, based on advice from the National Parks and Wildlife Service, NSW Fisheries and the provisions of the Cudgen Creek Estuary Management Plan, it is appropriate that a 50m buffer be established from the top of the creek bank and Environmental Protection zones, and that a condition of consent specify that a 20m width of land from the high water mark be dedicated as public reserve, and that such a dedication also involve and 20m width from areas of significant vegetation and eco-systems including the areas identified as such by Environmental Protection 7(a) or 7(l). Further, that a consent condition require a further 30m wide buffer for protection and regeneration, so that the total width of the riparian buffer to protect the foreshore eco-system and minimise risk of pollution of the waterway, is effectively 50 metres.

### Clause 50(c)(b) - Remediation of Contaminated Land

This clause provides that development consent is required for the purposes of remediation of contaminated land, and in granting such consent Council is to be satisfied that the land is to be remediated in a manner which removes the contamination or reduces the contamination to a level considered acceptable for the intended use of the land.

In this regard, the Environmental Protection Authority has identified that inadequate information has been provided in respect of the radiation levels of the ilmenite dump located in the south-western part of the site.

### Clause 24 - Matters to be considered (Rural and Environmental Protection Zones)

This Clause provides that Council must take into account the relevant principles and criteria referred to in Schedule 3 in considering any application for development involving land zoned (inter alia) 7(a) Environmental Protection (Wetlands), 7(f) Environmental Protection (Coastal Lands) and 7(l) Environmental Protection (Habitat). In respect of the Schedule 3 principles and criteria for assessment, the following principles and criteria are relevant:

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1. The ratio of frontage depth of each lot is to be assessed having regard to the purpose for which the allotment is to be developed and the need to minimise vehicle access points to any road and particularly to designated roads. *The golf club house should be located within proposed "master" Lot 1 which contains the golf course.*
2. Arrangements satisfactory to the Council are to be made for the provision and on-site disposal of waste; *subject to appropriate conditions, satisfactory arrangements can be made.*
3. A road access consistent with Council's current standards should be provided between the proposed development and a convenient commercial centre. *In this regard, as discussed later in this report, the design and standard of the road is considered inappropriate.*
4. An assessment is to be on the likely impact that will result upon the Council's road system as a consequence of the development being carried out. *This issue is discussed later in this report, and a recommended consent condition should require the appropriate upgrading of the Council's road system as a direct consequence of the development being carried out.*
5. An assessment is to be made of the impact of proposed drainage works on adjoining land; *as described previously, the proposal does not involve the provision of any stormwater drainage works or facilities within the adjacent foreshore lands, Lot 500.*
6. The vulnerability of the proposed development to coastal erosion to be assessed and design consideration be given to the reduction of potential hazard. In this regard, the proposed buildings and works are to be set back an adequate distance, having regard for the location of the landward boundary of the 7(f) Environmental Protection (Coastal Lands) zone in order to satisfactorily reduce the potential hazard.

### **North Coast Regional Plan 1988 (NCREP 1988)**

#### **Clause 15, Rivers, Streams and Wetlands**

This clause provides that Council shall not consent to development within, adjoining or upstream of a coastal or inland wetland or fisheries habitat area or within a drainage catchment area of a wetland or fisheries area unless it has considered the following matters:

- a. The need to maintain or improve the quality or quantity of flows of water to the wetland or habitat.
- b. The need to conserve the existing amateur and commercial fisheries.
- c. Any loss of habitat which will always be likely caused by the carrying out of development.

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- d. Whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve.
- (e) Whether development would result in pollution of the wetland or estuary and any measures to eliminate pollution.
- (f) The proximity of aquatic reserve dedicated under Fisheries Management Act 1994 and the effect of the development on the reserves.
- (g) Whether the proposal is in an area of protected land as defined in section 2(1)(a)(b) of the Soil Conservation Act 1938 and any measures to prevent soil erosion.
- (h) The need to ensure that native vegetation surrounding the wetland or fishery habitat is conserved.
- (i) The recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority in relation to the river, stream, wetland area or catchment.

In regard to the above matters, the following comments are made:-

In general, as noted previously, there is insufficient information concerning the proposed stormwater management system and the effect of the development on surface and ground water to enable the adequate assessment of a number of these issues for instance, whether there is likely to be any loss of habitat. As indicated in the responses by the National Parks and Wildlife Service, NSW Fisheries and the Environment Protection Authority, and in the Cudgen Creek Estuary Management Plan, an adequate buffer is considered to be 50m width to protect native vegetation surrounding the wetland or fishery habitat area. The proposal may result in the removal of some vegetation along the watercourse to construct canoe launch pads, etc and appropriate conditions are proposed in this respect. The Cudgen Creek Estuary Management Plan is the appropriate environmental audit or water quality study in respect of this area.

### Clause 29(a) - Natural Areas and Water Catchment

This Clause provides that Council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpments preservation zones unless it is satisfied that wildlife habitat will not be significantly disturbed by the proposed development, scenery will not be adversely affected and an erosion and sedimentation control plan will be implemented to successfully contain on the site any erosion and sediment cause by the proposed development.

In respect of this proposal, it is previously noted that the major stormwater drainage system envisages construction of a trunk drainage outfall across land zoned Environmental Protection, and information to adequately assess such impact is not currently available.

### Clause 32B and 33 - Coastal Areas and Coastal Hazard Areas

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These clauses require that before granting consent to any application, Council must take account of the NSW Coastal Policy, the Coastline Management Manual, the North Coast Design Guidelines and require rehabilitation of disturbed foreshore areas and confirming of access point to foreshore areas to specific points. Subject to appropriate conditions in the detailed design of future development on Master Lots, the proposed appears to be satisfactory.

### Clause 75 - Tourism Development

The proposal is generally satisfactory in terms of the requirements of this clause subject to satisfactory connections to and provision of water and sewer services and mains, and Coast Road and bridge reconstruction and upgrading.

### Clause 81 - Development Adjacent to the Ocean or a Waterway

This clause requires that Council shall not consent to development within 100 metres of the ocean or any substantial waterway unless there is sufficient foreshore open space accessible and open to the public, buildings do not detract from the amenity of the waterway, and the development is consistent with any relevant foreshore management plan. In this regard, the proposal appears satisfactory subject to satisfactory Dune and Foreshore Management Plans being prepared and approved in development of Master Lots.

### **State Environmental Planning Policies (SEPPs)**

#### SEPP 11 - Traffic Generating Developments

In accordance with the provisions of this SEPP, the application was considered by the Regional Advisory Committee. A summary of their comments is provided in the section of this report dealing with the Roads and Traffic Authority comments.

#### SEPP 14 - Coastal Wetlands

SEPP 14 Coastal Wetland Number 44 impinges on the south-western corner of the site, although it is apparent that the statutory map for this SEPP 14 wetland is inconsistent with the actual wetland characteristics.

### **(a) (ii) The provisions of any draft Environmental Planning Instrument**

#### Draft Tweed Local Environmental Plan 1988

This Plan has been adopted by Council pursuant to provisions of Section 68 (iv) of the Act but has not yet been gazetted. The effect of the new draft Plan is, broadly speaking, to carry over the existing zoning under the TLEP 1987 to the corresponding landuse zoning under the new draft Local Environmental Plan zonings.

In addition the provisions of Clause 5.0 and 7.0 of the new draft Local Environmental Plan would apply as follows:-

### **(a) (iii) Development Control Plans (DCPs)**

## Reports from Director Development Services

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### DCP 2 - Site Access and Parking Code

Whilst the proposal involves a masterplan for the proposed hotel and tourist accommodation and recreation facilities the proposal has been assessed in terms of the design principles and the access and parking demands schedule of this DCP. It is noted that this plan took effect on 16 November 1999. A “traffic impact assessment” report by the applicant’s consultants, Cardno MBK, which outlines the proposed car parking spaces and car parking demand. A minimum of 750 car parking spaces are to be provided with 50 bus bays. Having regard for the proposed twin-keyed units in the hotel and the condominium complexes, this minimum car parking should be significantly increased in accordance with the access and parking generation table contained within DCP 2. The applicant indicates that the proposed parking is based on an available car parking rate of less than 1 car per unit at the Hyatt Coolum development. It is not clear from the plans what proportion of the proposed parking is to be located within the buildings. However, there is adequate scope within the site for the required car parking quantum to be detailed and assessed specifically in relation to the subsequent development applications for the development of each master lot. An advisory condition will need to be imposed in this regard. Similarly, there is adequate scope for design details in relation to delivery and service vehicle access, bus access, bicycle parking, taxi access, and disabled parking in the subsequent development applications and approvals.

### DCP 16 - Subdivision Manual

It is noted that the proposal is for the staged subdivision of six master lots with associated development of a common road and water, sewerage and drainage infrastructure to service to future development of the master lots for the intended tourist accommodation and related recreational and other land uses. In relation to Section 5.31 Subdivision Design Requirements, information submitted with the application does not demonstrate satisfactorily that broad design requirements may be complied with, in so far as insufficient information is provided concerning the proposed design of the road and location of infrastructure to support the proposed six master lot subdivision. In this regard, no information is available as to the proposals for on-street parking or bus route design for the proposed through road, nor details of horizontal alignment to cater for the proposed 60 km/h design speed.

### DCP 25 - Biting Midge and Mosquito Control

This issue has not been addressed by the applicant.

### Section 94 Contributions Plan Number 22- Cycleways

This is the only currently applicable Section 94 Contributions Plan adopted by Council relevant to the proposal noting that the proposal at this stage is for approval to a staged master lot or management lot proposal of six lots only, with opportunity for later imposition of the relevant Section 94 Contributions in respect of each application for specific development of master lots.

## Reports from Director Development Services

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The proposal is inconsistent with Section 94 Contributions Plan Number 22 in that the proposed cycleway route is shown to be along the alignment of the new Coast Road, rather than in the location shown on the Section 94 Contributions Plan being along the western boundary of Lot 500.

(b) **The likely impacts of that development**

Environmental Impact

Notwithstanding additional information provided concerning stormwater water quality monitoring and evaluation and a revised earthworks and trunk drainage and stormwater system, additional advice from the Environment Protection Authority is still awaited in order to be in a position to be sure that the quality of sub-surface and surface water arising from the development, in Cudgen Creek, does not adversely affect the Cudgen Creek Estuary and that adequate mitigation and amelioration measures are available. In addition, an adequate Plan of Management is not yet forthcoming in relation to riparian impact and impact on significant vegetation as required by the provisions of clauses 35 and 38 of the TLEP 1987. Specific information on the location and design of the golf course where it abuts the western edge of the site and significant vegetation is not available to properly assess the impact on acid sulfate soils and the environment. However, given the size of the site, it is considered that a feasible solution to stormwater to mitigate its environmental impact is likely to be available but further information or amendments to the design will be required.

Effect on Landscape/Scenic Quality of the Locality, and Design

Having regard to the setback or proposed buildings from the Coastal Crown Land and foredune area and avoidance of building on environmental protection (Coastal Lands) zoned area and the nature of the landform comprising only a low coastal sand ridge, it is unlikely that the proposed buildings, subject to future development applications on the master lots, will present as visually intrusive development when viewed from the beach and the overall site coverage is low and the overall design of the development is spacious and generally appropriate in terms of built form, having regard for the regrading of the site to form a low ridge or crest along the spine of the eastern part of the site to be developed with various resort and recreation buildings. There is an opportunity for extensive landscaping which combined with the limited scale of the buildings, will ensure that the proposal is not intrusive, and the architectural statement submitted with the proposal indicates an appropriate standard and massing in the layout and design, with development being a combination of single, two and three storey development. About  $\frac{2}{3}$  of the site will be developed for golf course. The overall "juxtaposition" of buildings appears satisfactory, except that the layout does not conform with Council's adopted draft Strategic Planning Policies as discussed elsewhere. There is an opportunity in consideration of future development applications for the management lots to consider in more detail, building design and landscape/scenic appearance issues. The proposed Management Lot 1, incorporating the proposed golf course, does not include the club house or parking areas for golf course users within this Lot.



## Reports from Director Development Services

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### Access, Transport and Traffic

Issues related to traffic, access and road layout have been reviewed by Council's Subdivision Unit, Engineering Services Division and Regional Traffic Advisory Committee. Council's draft strategic planning policies - Kings Beach North, adopted at council's meeting on 1 March 2000 provide a guidelines for the alignment of the Coast Road, Public Car Parking and Replacement of Cudgen Creek Bridge. The comments made by the Regional Traffic Advisory Committee have been outlined previously in the consultation section of this report and it is noted that most of the issues nominated by the Committee have been incorporated in the draft Strategic Planning Policies. Notwithstanding the Traffic Impact Assessment by Cardno MBK, on behalf of the applicant, and further information submitted to Council concerning road works and typical sections and longitudinal profiles and car parking, the proposal is considered inappropriate in its present form in the following respects:-

- the proposal is inconsistent in terms of the proposed realignment of the Coast Road and the proposed exit point to Seaside City Subdivision;
- insufficient information has been given concerning the conceptual design of the major road (collector road standard) through the site, for instance in relation to on-street parking or provision for a bus route or adequacy of proposed horizontal alignment for the 60km/h design speed. Whilst the proposed exit point for this collector road to the north of the site is consistent with the route shown in the draft Strategic Planning Policies, in the short to medium term, provision will need to be made for a connection point to the existing Coast Road, which is located adjacent to the north-eastern corner of the subject site;
- no details of proposed acoustic treatment or noise impact of the anticipated traffic volumes on proposed adjacent resort accommodation are available, and could necessitate alterations to the design of the master plan. The likely vehicle volumes are such that acoustic treatment along the collector road may be required.

The proposed provision of public parking is inadequate and inconsistent in terms of location and number of spaces with Council's draft strategic planning policies currently on exhibition. The proposal involves the provision of only 40 public parking spaces at the south-eastern corner of the site with a further 50 spaces to be provided by way of shared public parking access to resort parking on the north side of the proposed resort hotel. The master plan would need to be amended to indicate 100 parking spaces in south-western corner of the site and a further 100 spaces in the north-eastern corner of the site with appropriate public road connection back to the realigned Coast Road.

The proposed cycleway route along the proposed realigned Coast Road in the Master Plan is inconsistent with Council's Section 94 Contributions Plan Number 22 for Cycleways and also with the draft Strategic Planning Policies. The route shown in Council's plan and policies is along the western boundary of the coastal reserve, Lot 500.

## Reports from Director Development Services

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The draft Strategic Planning Policy and comments by the Regional Traffic Committee have identified upgrading requirements for the Cudgen Creek Bridge. The estimated cost of a replacement bridge is \$900,000. This is currently unfunded and replacement required in advance of any contributions plan program schedule should be at the developer's cost, with appropriate credits or reimbursements as Council receives contributions from other contributing development.

Along the western side of the site and abutting the eastern side of the proposed riparian buffer a casual access track only should be provided to allow for basic public walkway access and basic maintenance requirements.

### Public Domain

The proposal does not involve the dedication of any public open space, for reasons advanced in the applicant's submission that the proposal is for tourist development and has adequate private recreational facilities within the proposed development. However, Council's draft Strategic Planning Policies consider the issue of provision of co-ordinated public open space, and the proposal is inconsistent with the draft Strategic Planning Policies. In this regard, Council's draft policies require the dedication of a total of 3.2ha of public open space located to the north and south of the location shown for the proposed hotel, on the applicant's plan, abutting Lot 500, including as much of the 7(f) zone as possible along the eastern side of site, but extending into 2(t) zone as well. Indicatively, a 40m wide strip of land extending along  $\frac{2}{3}$  of the site's 1.2km frontage to the coastal reserve would best satisfy requirements for public foreshore open space, having regard for the requirements of the NSW Coastal Policy 1997. The remaining  $\frac{1}{3}$  of the site's coastal frontage could appropriately be managed for private resort recreational purposes. On the western side of the site, a riparian buffer of 20m width should be dedicated as public reserve, with a further 30m width adjacent to the Creek edge to be provided as an outer buffer to be managed by way of a Section 88B restriction on the title of the proposed management lot.

### Water Management

The issue of site surface and groundwater management and sediment and erosion control has been dealt with previously in respect of consideration of the EPA comments. Generally, the proposed trunk drainage system and the site earthworks are insufficient in detail to enable a satisfactory conclusion to be reached in respect of likely environmental impact, and further details are awaited, particularly in relation to the disturbance that will be required for the provision of the western end of the proposal trunk overland stormwater flowpath where it enters Cudgen Creek. It is desirable that adequate information on the proposed surface treatment, management, fertiliser and watering regimes proposed for the golf course be available to adequately assess water impact of the proposed golf course. It will be necessary for the construction of the bulk earthworks and trunk drainage system, including infiltration basins, prior to release of the linen plans for any of the management lots which depend on the trunk sediment and water management system within this integrated proposal.

## Reports from Director Development Services

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### Flora and Fauna

Notwithstanding the existing condition of the site and the previous sand mining during the 1960s, there is currently insufficient information concerning environmental impact of the proposal for Council to be in a position to make a proper decision concerning the likely environmental impact of the proposal, in terms of impact on flora and fauna, potentially significant habitat for threatened species, stormwater management and water quality etc. The proposal involves extensive clearing of the site. Further advice is awaited currently from the applicant, and from the National Parks and Wildlife Service and the Environmental Protection Authority. The provisions of Section 78(a) of the Environmental Planning and Assessment Act provides that a Development Application must be accompanied by a Species Impact Statement if the application is in respect of development of land that is likely to significantly affect threatened species, populations or ecological communities or their habitats. Section 5A of the Act sets out the 8 points which Council is required to consider in arriving at a decision as to whether a development is likely to significantly affect threatened species, populations or ecological communities or their habitats. In this case, as discussed previously in this report, the Service has concluded that there is insufficient information to properly evaluate the environmental impact of the proposal and insufficient information submitted by the applicant as to specifically the likely impact on threatened species, populations or ecological communities including the Common Blossom Bat habitat.

### Waste and Energy

This proposal is considered generally satisfactory in terms of design for future waste management and energy conservation, subject to detailed assessment in subsequent development applications.

### Natural Hazards

Appropriate conditions will be required in respect of the susceptibility of these sandy soils to wind erosion and in respect of potential bushfire risk.

### Technological Hazards

As indicated previously, the EPA recommends an updated survey be undertaken in relation to radio activity levels at the ilmenite dump. This area appears to be located on part of the proposed golf course, within proposed Lot 1, and will require appropriate conditions.

### Social and Economic Impact

The proposal for the development of this prime tourism site as an integrated tourist and recreation development is likely to lead to a positive social and economic impact, having regard for the attributes of the site, its location in relation to the Shire and the long term planning intention for the site and potential for employment generation and economic benefit.

## Reports from Director Development Services

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### Cumulative Impacts

Cumulative Impacts occur in relation to traffic, and potential cumulative water management impact on Cudgen Creek. The National Parks and Wildlife Service has nominated potential loss of common blossom bat habitat by removal of the regrowth coast banksia species on the site, following approval for their removal on other sites to the south.

(c) **The Suitability of the Site for Development**

Subject to amended design and provision of adequate collector road and water and sewer services and site management and mitigation measures, the site is considered appropriate in general terms for the proposed development.

(d) **Any Submissions Made in Accordance With Act or Regulations**

The discussion in the Consultation Section of this report summarises public submissions and public authority submissions and the comments concerning the submissions. In general, the issues raised in the submissions, appear capable of being satisfactory subject to receipt of further information and/or amended plans.

(e) **The Public Interest**

This report has previously addressed the provisions of the NSW Coastal Policy 1997. Other relevant studies and policies apply to the site and its future development are as follows:-

**Draft Section 94 Contributions Plan Number 25 and Strategic Planning Policies for Kings Beach North**

This Plan was adopted by Council for public exhibition on 1 March 2000. Aspects of the draft Strategic Planning Policies have been discussed previously in this report. The proposal as submitted is inconsistent with the draft Strategic Planning Policy in a number of respects, summarised as follows:-

- the realignment of the Coast Road and its proposed entry point to the south and north and conceptual design are considered unsatisfactory;
- the proposal has inadequate public car parking;
- the upgrading of Cudgen Creek Bridge will be a requirement of the developer;
- the proposal is inconsistent with the draft strategic planning policies in terms of public open space, beach access and riparian buffer width and treatment;
- the location of the proposed cycleway is not in accordance with the draft Strategic Planning Policies. Adequate arrangements will need to be made for Surf Lifesaving facilities;
- the location of the sewer as proposed is not in conformity with the desired location shown on the plan accompanying the draft Section 94 plan;

## Reports from Director Development Services

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### Tweed Shire 2000<sup>+</sup> Strategic Plan

The proposed development of the site for an integrated tourism resort is consistent in principle with the Tweed Shire 2000<sup>+</sup> Strategic Plan, on which basis the draft TLEP 1988 was prepared. It is noted that policy 18 of the Tweed Shire 2000<sup>+</sup> Strategic Plan provides that management of urban release areas will be based upon full cost recovery of public infrastructure provided and the provision of infrastructure to service growth at no cost to existing ratepayers. The Tweed Development Program notes that Council will facilitate development of urban release areas compatible with a number of strategic infrastructure constraints, including the Coast Road, and provided that the realigned Coast Road is in the correct location and of appropriate standard and arrangements are made for the upgrading of the Cudgen Creek Bridge, the proposal is satisfactory.

### Cudgen Creek Estuary Management Plan

This Estuary Management Plan adopted by Council in 1997 provides for a 50m riparian buffer for the adequate future protection of the estuary from development activities. The proposed is inconsistent with this requirement, and should be amended or conditioned accordingly.

### Subdivision Engineer's Comments

The Subdivision Engineer comments in summary that neither of the proposed sewer options for extension of the sewerage system to the site are compatible with the preferred option shown in the draft Strategic Planning Policies - Kings Beach North. The subdivision engineer's comments concerning roading have been referred to previously in this report.

### Environmental Health Unit Comments

The Comments by the Environmental Health Unit are as follows:-

*The dip site mapping does not indicate any dips within the subject area. The site has previously been the subject of sand mining, and no activities with the potential to contaminate the site are evident.*

*The Geotechnical Report notes that an Ilmenite Dump of approx 70m in diameter exists in the south-western corner of the site. The developer does not indicate the exact location of the dump, or the extent of the proposed development which will overlay the dump.*

*If for example the dump is below the golf course the level of disturbance is unknown. The earthworks for a golf course could be significant.*

*Ilmenite is a potentially radioactive material. NSW EPA has indicated that insufficient information has been provided to assess the dump.*

*On this basis I recommend as a minimum that the applicant be required at this time to provide a plan indicating the location of the dump relevant to the proposed development and some detail of the potential hazard, level of proposed disturbance and the suitability of the area for development.*

## Reports from Director Development Services

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*Relevant conditions relating to further reporting/remediation of the ilmenite dump may be then be applied.*

*The stormwater design provides for stormwater to be directed to groundwater via infiltration beds and grass swales within the golf course. Any event above the 3 monthly event will be beyond the capacity of this system and be discharged direct to Cudgen Creek. Such an infiltration system is consistent with 'best practice'. The efficiency of the system remains for Patrick Knight to assess.*

*As a future issue I raise the following. If the golf course is under separate ownership to the tourist developments, what is the incentive for them to accept stormwater from these developed areas. This water will flood their course etc. At some stage I believe they are likely to install hard engineering solutions to channel the water direct to the Creek, rather than allow it to filter through their course. The filtering process would increase sediments etc deposited on their course. Note that the applicant proposes that bunkers be used as infiltration devices (they would be clogged with fines etc). I don't think that this is practical. If the course owner does eventually direct the water to the Creek this is likely increase pollutant loads on the Creek significantly.*

*Some type of control or restriction over modification to the stormwater disposal system in the longer term is necessary to ensure that it is not inappropriately modified. This probably requires further discussions between Planner and Engineer regarding options.*

*Groundwater and surface water in the Creek have been monitored on one occasion from three locations. All three boreholes are on the western edge of the site adjacent to the Creek. The existing sampling is considered inadequate in terms of establishing existing water quality conditions.*

*Additional sampling is required as well as additional bores to the east of the site to establish existing groundwater quality under the proposed built areas. This is important given the proposed infiltration disposal methods.*

*A water quality monitoring program is required to be submitted for each stage of the development. For the golf course stage, this can form part of the EMP.*

*Due to the potential use of pesticides and fertilisers on the golf course an EMP will be required to be submitted for approval prior to approval of this stage of the development. Any pollutants used on the golf course would filter direct to groundwater and then to the Creek. This EMP will also be required to address management issues regarding protection of fringe buffer vegetation to Cudgen Creek (refer comments below) etc.*

*The Flora and Fauna Assessment notes the following vegetation is to be retained:*

- *An undisturbed large-leaved Paperbark forest (swamp forest) in the south-western corner of the site. There is also a wetland complex adjacent to this area, but outside the boundary.*
- *A 'narrow strip' of riparian vegetation along the edge of Cudgen Creek.*

## Reports from Director Development Services

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- *Vegetation between the site and Kings Beach.*

*Most of the existing vegetation on the site, other than the above, is proposed to be removed.*

*Both the riparian vegetation and the dunal vegetation is noted as being degraded and in need of rehabilitation. This rehabilitation work and weed removal must be closely controlled, as the outcome may be the removal of vegetation which opportunistically provides views for the developer to the ocean and creek, rather than optimum rehabilitation measures.*

*I recommend that detailed rehabilitation and management plans for the Creek and dunal buffer zones be submitted for approval prior to the release of any future stages, as this is a critical issue to management of the site.*

*The project also proposes constructed walkways and cycleways along Cudgen Creek. No specific details are provided at this time. Whilst such a proposal may control access and minimise disturbance of vegetation I am not in favour of this proposal. Don McAllister has stated that he would like access to be available for maintenance works.*

*I believe that maybe one or two access points could be provided. But not a continual pathway or the like. The vegetative buffer will serve many functions (habitat, visual screening, erosion control, filtering SS, litter etc from runoff...) and should not be compromised by walkways etc.*

*In addition, the proposed vegetative buffer to the Creek is only 20m wide. Several of the golf holes appear to be directly adjacent to the Creek (refer Master Plans). This is unacceptable. No doubt the future temptation will be to remove buffer screening of golf tees and greens from to the Creek to create a water view golf course.*

*I strongly believe, in accordance with preliminary discussions with NP&WS and DLWC officers that the minimum Creek vegetation buffer should be 50m. This approach will provide for an effective vegetative buffer which is likely to achieve the above functions.*

*In respect of acid sulfate soils I believe that Mark Tunks has already advised that an ASSMP will be required. The testing which has been done to date found ASS in one location within the site. Only three boreholes were done. Additional sampling is required through the built areas of the proposed development and along the western fringe of the Creek where ASS are most likely to be encountered. A Draft ASSMP has been submitted.*

*Following further testing this Draft should be refined and submitted for approval of the DECS prior to commencement of development on the western side of the site.*

### **CONCLUSION**

*Additional information regarding the ilmenite dump is required for assessment - as a minimum the applicant is required at this time to provide a plan indicating the location of the dump relevant to the proposed development and some detail of the potential hazard, level of proposed disturbance and the suitability of the area for development.*

## Reports from Director Development Services

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*Additional groundwater and surface water sampling is required prior to the release of any particular stage of the development. Additional groundwater monitoring locations are also required to be established in the east of the site. This does not prevent release of the consent for the six management lots. However the applicant should be advised that additional sampling and reporting is required before any approvals of future stages.*

*A water quality monitoring program will be required to be submitted for approval for each stage of the development.*

*An EMP will be required to be submitted for approval for the golf course development.*

*Whilst the vegetative buffer to the Creek is not being finalised by the current application the proposed buffer of 20m is inadequate. It is required to be increased to a minimum of 50m. Management and rehabilitation of this buffer should be addressed in the EMP for the golf course.*

*The extent and location of walkways and cycleways along Cudgen Creek and the foredune require careful consideration.*

*An ASSMP is required to be submitted for approval prior to commencement of the relevant stage.*

*Whilst the above information on the ilmenite dump is outstanding, the following conditions would be applicable at this time:*

*1. A report establishing base line conditions of existing groundwater and surface water, including pH, suspended solids, total dissolved solids, total nitrogen, total phosphorus, iron (total), aluminium and faecal coliforms, shall be submitted and approved by the Director Environment and Community Services prior to the approval of any stage of the development.*

*(Note that the current number of groundwater monitoring locations and number of groundwater and surface water monitoring samples taken are considered insufficient to reasonably establish base line conditions relevant to approval of future stages).*

*1. Surface water and groundwater monitoring programs (pre-construction, construction and post construction phases), including details of standards, locations and frequency, shall be submitted and approved by the DECS prior to approval of each stage of the development.*

*1. A report by a suitably qualified person detailing all water quality sampling results from the surface water and groundwater monitoring programs in respect of any stage of the development shall be submitted to Council on a routine 4 monthly basis from their commencement, including specific notation of any failure to meet water quality discharge objectives and standards. Where sampling results indicate a substantial failure to meet water quality objectives or standards the results are to be reported immediately to Council for consideration.*

*1. A report detailing water sampling results from surface and groundwater monitoring programs shall be submitted to Council prior to the approval of any new stage of the*



## Reports from Director Development Services

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*development, including details of any relevant previous failures to meet water quality discharge objectives or standards. The report shall include a recommendation as to any amelioration works required to be implemented to rectify the said failures and shall further include an indication as to whether the development may satisfactorily proceed.*

- 1. An Acid Sulfate Soils Management Plan shall be prepared for each stage of the development in accordance with the Acid Sulfate Soils Assessment and Management Guidelines, EPA, DUAP, ASMAC, 1997 as amended, and submitted and approved by the DECS prior to approval of any stage of the development.*

*All works shall be completed in accordance with the approved ASS Management Plan. the following details are to be included in the approved plan:*

*Proposed soil and water monitoring including parameters, analysis methods, location, frequency, and action levels.*

*Neutralising strategies including dosage rates and application methods.*

*General measures including containment and stockpiling.*

*Contingency measures including remediation and restoration action.*

*Further analysis and sampling of the site to determine the extent of ASS on the site.*

*(Check this condition against the condition forwarded by Mark Tunks please).*

- 1. An Environmental Management Plan shall be prepared for the proposed golf course and submitted and approved by the DECS prior to approval of the relevant stage of the development. All construction works and subsequent operation/management shall be completed in accordance with the approved Management Plan.*
- 1. A detailed remediation and management plan for the vegetative buffer along the bank of Cudgen Creek shall be submitted to Council for approval prior to the relevant stage of the development. The minimum buffer to Cudgen Creek shall be 50 metres.*

### Engineering Design and Planning Unit's Comments

The unit comments in relation to the Water Quality Report submitted on behalf of the applicant by Cardno MBK as follows:

- the modelling for water quality does not detail the golf course grassland establishment or operational practices, with potential for substantial increase in Total Nitrogen in dry years and substantial Phosphorus levels, with potential for nutrient infiltration into the creek. The unit suggests it might be prudent to exclude the golf course from the consent or alternatively consider a suitable condition in relation to adequate details of construction, establishment, operation and management of the course and pollution control devices in accordance with

## Reports from Director Development Services

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EPA Guidelines and that if pollutants exceed a defined level, all golf course fertilising to cease until effective corrective action taken.

In relation to the revised final land form and drainage strategy the Unit advises that the revised strategy appears to be more practical in engineering terms than the original but that a more detailed design of the final land form should be required, with insufficient detail of the overland flow path discharge point to the Creek, to demonstrate that no works are required within the forty metres buffer to the Creek. Given these unknowns, the Unit suggests deferred consent conditions requiring that:

- details are proposed final land form to an accuracy of 0.5 metres
- plan location of relocated Coast Road
- Amendments to subdivision boundaries as a result of above
- Full engineering design of the trunk drainage system, verifying that discharge would only occur in events of two (2) years or more, discharge would only be by low velocity, dispersed, overland flow path, and involving no works within 40m of Cudgen Creek.

### **(A) (IV) ANY MATTER PRESCRIBED BY REGULATION**

#### NSW Coastal Policy 1997

A number of aspects of the proposal appear to be inconsistent with the NSW Coastal Policy 1997, although in many respects the proposal involving future development of the master lots would be acceptable subject to appropriate conditions to mitigate impact and appropriate design of development. The land is affected by the policy being within 1k of the open coast and tidal estuary high water mark. Specifically, the following comments are made.

1.3 Objective: To improve water quality in coastal and estuarine water and coastal rivers where it is unsatisfactory and to maintain water quality where it is satisfactory.

#### ***Comment:***

*As noted elsewhere, information submitted with the application and subsequently, does not fully address the control on non-source pollution resulting from urbanisation of the site nor water quality monitoring programs to satisfactorily address the issue. However, subject to additional information and appropriate conditions, satisfactory discharges of storm water and ground water from the site may be achievable and subject to more detailed management plans in subsequent applications for development of master lots.*

1.4 Objective: to manage the coastline and estuarine environments in the public interest to ensure their health and vitality.

*The proposal is inconsistent with the adopted Cudgen Creek Estuary Management Plan, and a satisfactory dune management plan will need to be prepared in accordance with principals and criteria currently being developed by the DLWC. The proposed riparian buffers are considered inadequate, an appropriate conditions will be required to ensure adequate buffers and to minimise*

## Reports from Director Development Services

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*potential impact to the extent that they are likely to be acceptable under the Rivers & Foreshores Improvement Act and the Fisheries Management Act.*

- 2.1 Objective: To give the impacts of natural processes and hazards a high priority in the planning and management of coastal areas.

*More specific information on the location and potential environmental impacts of disturbance of soft edge soils on the western edge of the property is needed*

- 3.2 Objective: To design and locate development to compliment the surrounding environment and to recognise good aesthetics qualities.

*In general terms, the north coast design guidelines and the guidelines for tourism development along the NSW coast appear to have been taken into account in the built for and overall design of the development with the exception of inadequate beach access, and location of public parking. In terms of the design and locational principals of the Coastal Policy, it is considered that the appropriate public set back line should be in accordance with the Draft Strategic Planning Policies adopted by Council having regard for public access requirements, etc. The Coastal Policy provides that "a part from facilities essential to surf life saving, community facilities, works to protect property and environmental restoration works, no development will be committed seaward of the setback line and developers will be required to dedicate this land for public use or enter into a satisfactory agreement for insuring public access, use and maintenance of the area to a suitable standard as a condition of consent; in this regard, the master plan should be amended to take into account the draft Strategic Planning Policies and land dedication and setback requirements.*

- 7.1 Objective: To increase public access to foreshores when feasible and environmentally sustainable options are available.

*Public access to the Council managed Coastal Reserve will be facilitated by appropriately located and adequate car parking as nominated in Councils draft Strategic Planning Policies, with which the current proposal is inconsistent.*

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS**

If the applicant is dissatisfied with Council's determination, they may appeal to the Land and Environment Court. There will be additional maintenance liability for Council due to the areas proposed to be dedicated for coastal land or riparian protection, and if the proposal is to be approved, then appropriate conditions will need to be attached to ensure that the necessary infrastructure and upgrading of roads, bridges, etc are carried out at no cost to Council, with suitable credits or reimbursements to the developer in respect of cycleway or bridge upgrading costs.

### **OPTIONS**

On the basis of the lack of sufficient information concerning the likely environmental impact of the proposal, inconsistency with draft Strategic Planning Policies and the comments of the relevant Government authorities, Council can either:

1. Refuse the application;

## Reports from Director Development Services

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2. Defer the application, by receiving and noting this report, to enable: additional information and negotiations to overcome deficiencies and inconsistencies in the legal requirements, design and proposed management measures for the proposal; obtain the necessary further advice from Government authorities; and the Council decision on the draft Section 94 Plan and Strategic Planning Policies after exhibition (report to Council on 5 April, 2000).

### CONCLUSION

The application in its current form is not yet appropriate for the issue of a conditional consent given a number of crucial unresolved issues. Hence, it is recommended that Council receives and notes this report. The Director of Development Services will continue to give priority to achieving an adequately substantiated application worthy of a recommendation to Council, at the earliest opportunity, for approval and also enable a soundly-based, legally defensible Council decision.

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# Reports from Director Corporate Services

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**8. ORIGIN: Administration Services Unit**

**FILE REF: Council Donations**

**REPORT TITLE:**

**Second Round Donations - 1999/2000**

**SUMMARY OF REPORT:**

In accordance with Council's Policy on donations, 75% of funds were distributed to various organisations in August 1999.

A number of applications have been received for the second round of donations and are now submitted for Council's consideration.

**RECOMMENDATION:**

That the applications for donations submitted by various organisations be determined by Council, as in accordance with the adopted Policy, and the funds voted in the 1999/2000 years budget.

## Reports from Director Corporate Services

### REPORT:

Council, at its meeting held on 17 March 1999, adopted the Donations Policy. As result of the Policy, the first round of donations was distributed in August 1999 and the second round of applications have been received and are now documented for Council's consideration.

The 1999/2000 budget allocation for donations is \$31,600.00. In accordance with the Policy 75% of the funds were distributed in the first round applications. Councillors are now requested to distribute the balance of the donations account which currently has a balance of \$5,865..00.

Classification	Applicant	Donation Requested	Purpose
1. Individual	Cheney Thompson	\$1,500	Contribute towards costs associated with participating in the Sydney 2000 Olympic Marching Band.
2. Community	Australian Seabird Rescue	Not Stated	To assist in the purchase of a photocopier.
3. Community	Australian Volunteer Coast Guard Association	Not Stated	To assist in the purchase of two boats.
4. School	St Joseph's School	Not Stated	To assist in the purchase, delivery and installation of playground equipment.
5. Pre-School	Bilambil Community Pre-School	Not Stated	Improve playground equipment to comply with safety standards.
6. Sport	Gold Coast Tweed District Ladies Bowling Association Inc.	\$500-\$1,000	2000 Ladies' Winter Carnival
7. Sport	Gold Coast-Tweed District Bowls Association	\$1,000	Gold Coast-Tweed Annual Winter Bowls Carnival (51 <sup>st</sup> Carnival)
8. Community	Twin Towns Services Club	\$1,000	Reimbursement of funds expended on the New Years Eve Fireworks display at Jack Evans Boat Harbour.
9. Community	Tweed Historical Papers	\$15,000	Equipping an area under Council control for viewing and printing of historical papers of the Tweed.

## Reports from Director Corporate Services

10. Sport	Twin Towns Amateur Swimming Club	\$2,000	To assist with swim carnival - hire of electronic timing system from NSW Swimming.
11. Community	Endeavour Foundation	Not Stated	Specialised vacation care for kids, workshops and respite care for adults and aged care for people with intellectual disabilities.
12. Community	Tweed Valley Wildlife Carers	\$2,000	Purchase reconditioned photocopier, animal traps, animal carry baskets & aviary
13. Music	Tweed Valley Jazz Club	\$250	Assist in the cost of running a combined High Schools workshop.
14. Music	Ancestral Tones	Not stated	To assist with costs associated with the Celebration of Voice event.
15. Community	Twin Towns Friends Assoc. Inc.	\$1,000	Office administration costs.
16. School	Murwillumbah South Infants P & C	\$15,000	To purchase Moduplay playground equipment with wheelchair access & sailshade cloths, new soft fall and bark chips, and landscaping.
17. Community	Tweed River Valley Fellowship Carer Support Group	\$750	To establish a resource library to be used by members of the community who care for or who have a family member who suffer from psychiatric disability.
18. Community	Combined Country Halls Association	\$500	To purchase prizes for the 7 finalists of the Miss Tweed Ball series, being the culmination of 12 local balls throughout the Tweed district.
19. School	Twin Towns Playgroup	\$4,500	To treat termite damage to roof trusses - extensive damage. Building estimate \$4,500 local builder. No insurance cover.

## Reports from Director Corporate Services

20. Community	St John Ambulance - Kingscliff	Not Stated	To replace ageing 1985 first aid vehicle.
21. Community	Bilambil Oosh	\$450	A sign for the front gate of the Centre (which provides after care for children).
22. Music	Sing 2001 Choir	Not Stated	To assist with choir members costs to perform at the Pacific School Games in Sydney (\$300 each - 45 students).
23. Community	Murwillumbah Pathfinder Club	Not Stated	To purchase of 20 new tents for camping for children from 10-16 years.
24. Community	Murwillumbah Pony Club	\$1,000	To purchase 10 new pairs of lightweight "jump wings" (the sides of the jumps) at \$100 per pair.
25. Community	Computer Association - Tweed Seniors Inc.	\$1,500	To purchase a computer.
26. Community	Artists of the Tweed	\$280	To purchase 20 t-shirts with Council's logo on them and Artists of the Tweed exhibition in Canberra.
27. Community	Crystal Creek Hall	\$1,200	To renovate kitchen, replace stumps and paint.
28. Pre-School	Mt Warning Community Pre-School Inc.	\$8,000	To provide a safe, secure and comfortable play area for 0-3 year olds.
29. Community	Tweed Heads Veterans Cultural Group	\$500	To help get group started and support application to Veterans Affairs for a grant of \$7,000.
30. Community *	Tweed Palliative Support Inc.	\$5,000	To train and insure volunteers and running costs of the office.
31. Community *	Blind & Vision Support Group - NSW Far North Coast	\$1,200	To contribute to the petrol and car insurance to enable volunteers to visit elderly in the Shire.



## Reports from Director Corporate Services

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- \* **Note:** These organisations were granted funds in the first round of donations, therefore they are ineligible to receive funds in the second round.

The total amount of donations requested, as stated, total \$64,630.00.

### APPLICATION CRITERIA

- No financial assistance will be given to privately owned businesses/companies.
  - Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
  - No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
  - No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
  - The funds are not to be used for a social activity for members of the organisation exclusively.
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## Reports from Director Corporate Services

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## Reports from Director Corporate Services

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**9. ORIGIN: Administration Services Unit**

**FILE REF: Council Donations**

**REPORT TITLE:**

**Festivals Policy - Second Round - 1999/2000**

**SUMMARY OF REPORT:**

Further to the adoption of Council's Policy on festivals, applications were sought for the second round of donations and are now submitted for Council's determination.

**RECOMMENDATION:**

That the applications for festivals submitted by various parties be determined by Council, as in accordance with the adopted Policy, and the funds voted in the 1999/2000 years budget.

## Reports from Director Corporate Services

### REPORT:

Council, at its meeting held 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of donations was distributed in September 1999 and the second round of applications have been received and are now documented for Council's consideration.

The 1999/2000 budget allocation for festivals is \$31,000.00. In accordance with the Policy 70% of the funds allocated were allocated in the first round applications, less an amount of \$7,500.00 previously allocated to the Tweed Banana Festival Committee.

Applicant	Amount Requested	Purpose
Science-Art Festival	\$240.00	To create a dialogue in the community through the production of a festival which expresses the humanity in the unity of science and art.
Tweed Byron Local Aboriginal Land Council	\$1,500.00	To help celebrate the National Aboriginal Islander Day of Celebrations from 2-9 July 2000.
Murwillumbah SDA Church	\$2,400.00	To celebrate a drug-free lifestyle and teach preventative strategies to families in order to help families maintain a drug-free house.
Country on the Tweed *	Not Stated	To assist with costs associated with Country on the Tweed Festival - 18 to 20 August 2000.

The amount of the donations requested, as stated, total \$4,140.00. The balance of the Festival account is nil.

\* **Note:** The Country on the Tweed Festival received \$2,500.00 in the first round of donations, therefore they are ineligible for further assistance and were advised by letter 8 March 2000.

## Reports from Director Corporate Services

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### 10. ORIGIN: Administration Services Unit

**FILE REF:** Professional Associations - IMM, Shires Association of NSW - Conference

#### REPORT TITLE:

**Institute of Municipal Management (IMM) Forum - 5 June 2000**

#### SUMMARY OF REPORT:

The 2000 Institute of Municipal Management (IMM) Forum titled "A Funny Thing Happened on the Way To...." will be held at the Sydney Convention and Exhibition Centre, Darling Harbour on Monday, 5 June 2000, prior to the Shires Association Conference from 6 to 7 June 2000.

At Council's meeting of 16 February 2000 it was resolved that Crs Beck, Davidson and Luff be granted approval to attend the Shires Association Conference.

Crs Beck and Luff has expressed an interest in attending the Forum.

#### RECOMMENDATION:

That Crs Beck and Luff be authorised to attend the Institute of Municipal Management (IMM) Forum on Monday, 5 June 2000 at the Sydney Convention and Exhibition Centre, Darling Harbour.

## Reports from Director Corporate Services

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### REPORT:

The 2000 Institute of Municipal Management (IMM) Forum titled "A Funny Thing Happened on the Way To...." will be held at the Sydney Convention and Exhibition Centre, Darling Harbour on Monday, 5 June 2000, prior to the Shires Association Conference from 6 to 7 June 2000.

At Council's meeting of 16 February 2000 it was resolved that Crs Beck, Davidson and Luff be granted approval to attend the Shires Association Conference.

Crs Beck and Luff has expressed an interest in attending the Forum.

The Forum's program will incorporate prominent and entertaining speakers covering a wide range of industry relevant topics and issues, such as:

- Fads/Changes
- Customer Service
- Social Impact of Competitive Forces
- Amalgamation - the state of play
- Law and Order
- Best Value

The Forum specifically addresses issues for both elected members and senior staff in Councils on current local government topics.

### FINANCIAL IMPLICATIONS

Registration (per participant)	\$245.00
Accommodation (per night)	\$176.00
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	<b>\$421.00</b>

This amount would be in addition to the approximate cost of \$1,081.00 to attend the Shires Association Conference.

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## Reports from Director Corporate Services

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**11. ORIGIN: Administration Services Unit**

**FILE REF: DA4492/155 Pt1**

**REPORT TITLE:**

**Transfer of Lot 1 DP 1005421, The Sails on Greenbank Development Site, The Anchorage Islands, Tweed Heads**

**SUMMARY OF REPORT:**

In accordance with the agreement with Lend Lease Residential Pty Ltd, Lot 1 DP 1005421, The Sails on Greenbank Development Site, The Anchorage Islands, Tweed Heads needs to be transferred to Lend Lease Residential Pty Ltd.

**RECOMMENDATION:**

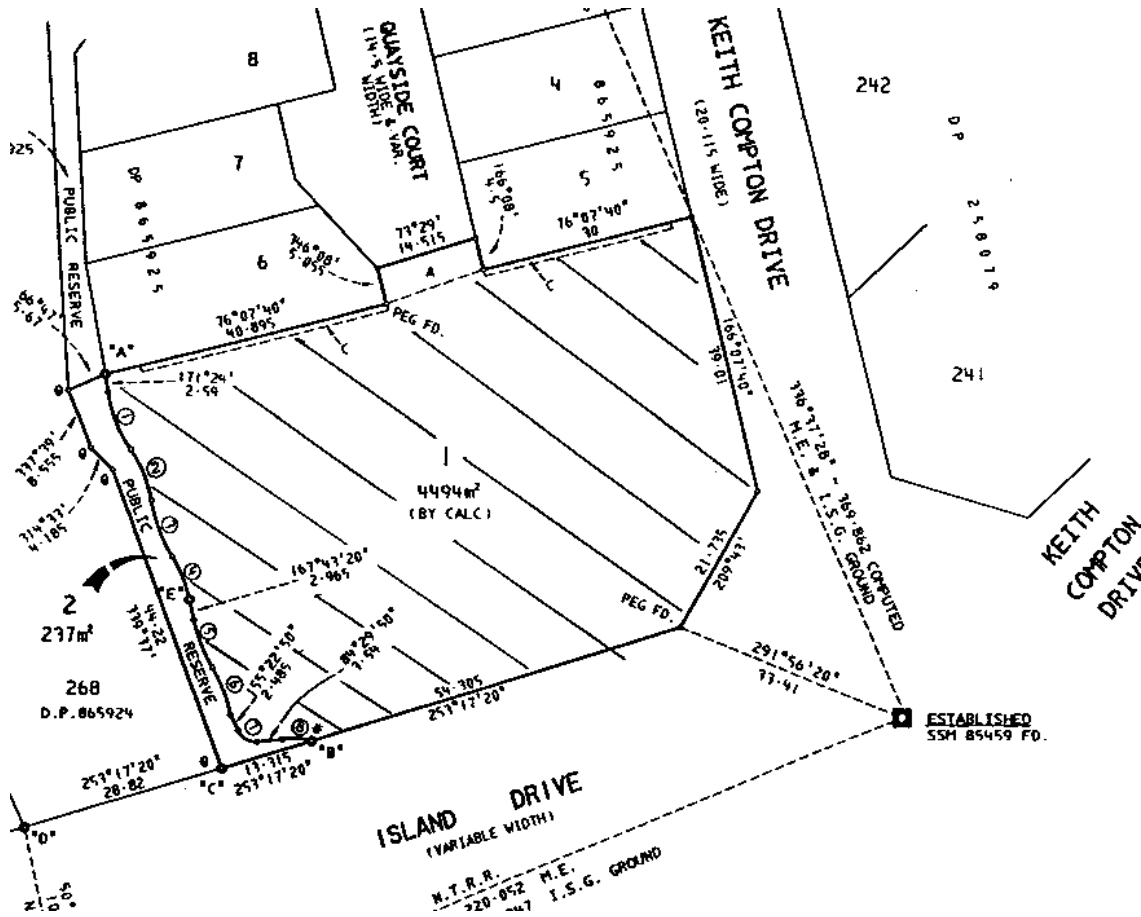
That:-

1. Lot 1 in Community Plan DP 1005421 be transferred to Lend Lease Residential Pty Ltd.
2. All necessary documents be completed under the Common Seal of Council.

# Reports from Director Corporate Services

## REPORT:

The agreement with Lend Lease Residential Pty Ltd provides for the transfer of lots as they are developed. Lot 1 in Community Plan in DP 1005421 has now been developed and requires to be transferred to Lend Lease Residential Pty Ltd. The price on the contract of sale is \$660,000.00, area 4,494 square metres.





## Reports from Director Corporate Services

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### 12. ORIGIN: General Manager

**FILE REF: Voluntary Structural Reform**

#### **REPORT TITLE:**

**Local Government Voluntary Structural Reform Committee**

#### **SUMMARY OF REPORT:**

Attached to this Business Paper are:-

- Minutes of the Local Government Voluntary Structural Reform Meeting held Monday, 20 December 1999 (Ratified at Meeting held 28 February 2000)
- Draft Minutes of the Local Government Voluntary Structural Reform Meeting held Monday, 28 February 2000 (Not yet ratified - provided for information).
- Assignment Specification
- Project Plan
- Letter of Appointment MPSs and changes to assignment specification

#### **RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

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### REPORT:

Attached to this Business Paper are:-

- Minutes of the Local Government Voluntary Structural Reform Meeting held Monday, 20 December 1999 (Ratified at Meeting held 28 February 2000)
  - Draft Minutes of the Local Government Voluntary Structural Reform Meeting held Monday, 28 February 2000 (Not yet ratified - provided for information).
  - Assignment Specification
  - Project Plan
  - Letter of Appointment MPSs and changes to assignment specification
-

## Reports from Director Corporate Services

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**13. ORIGIN: Director**

**FILE REF: TEDC**

**REPORT TITLE:**

**Tweed Economic Development Corporation (TEDC) Monthly Report - January to February 2000**

**SUMMARY OF REPORT:**

The Tweed Economic Development Corporation, Chief Executive Officer's report for January to February 2000 is detailed in the report and the Profit and Loss account will be available on a quarterly basis.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

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### REPORT:

In accordance with the terms of the agreement between Tweed Shire Council and Tweed Economic Development Corporation, following is the Chief Executive Officer's report on the activities of the Tweed Economic Development Corporation for the period January to February 2000:-

The monthly report from the TEDC was endorsed by the Board at its meeting of 24 February 2000.

The board directed that the CEO report as presented be forwarded to Tweed Shire Council and that the following statement be attached to the report and that it be included as part of the report to the Council.

The board also instructed that the item be recorded in the minutes of the meeting for the record.

*"The board congratulates the CEO of TEDC on the achievements of TEDC as reflected in the content and substance of the report. In acknowledging these achievements the board does so with the full understanding of the time and effort involved with achieving outcomes for successful job creating investment growth through economic development.*

*The board also acknowledges the high expectations of the community of the Tweed and believes this report along with the previous statistical reports confirm that the TEDC is indeed achieving results and meeting community expectations".*

*Please Note:* The meeting of the board was chaired on this occasion by Deputy Chairman, Warren Polglase, due to the need for a minute recorder in the absence of the secretary.

### **CEO REPORT AS PER PRESENTED TO THE BOARD OF TEDC - 27-1-2000 TO 21-2-2000**

On the 28 January 2000 TEDC was invited by Neville Newell, State Member to be part of the announcement by the NSW Government of the \$400,000.00 Grant towards the revetment of the Tweed River at Chinderah. As part of the announcement, I did a TV interview and various press interviews of the details concerning TEDC's role in securing the funds and also expanded on the Chinderah Bay Marina plans.

Note: without TEDC's action in this matter these additional funds would not have been forthcoming to Tweed Shire Council.

I also in my weekly column, publicly thanked Mr Neville Newell, the Local Member; and Mr Carl Scully, Minister for Transport and the NSW State Government for their support both of TEDC and the Chinderah Bay Marina.

- Update on the Gold Coast Industrial Land Study. The TEDC has held a meeting with all the stakeholders and the final brief was agreed to. The TEDC has received great support from the EDU of Gold Coast City Council, Jim Fountain. We have also received good input and support from David Broyd and Mark Tickle of Tweed Shire Council.

The TEDC is managing this project and on Friday 18 February the TEDC invited a number of companies to tender for the study. It is hoped to commence the study late March and complete it with 10 to 12 weeks, subject to negotiation with consultant's etc.

## Reports from Director Corporate Services

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- Status of Industrial Land throughout Tweed Shire. Further to our last meeting where Mark Tickle and Graham Judge presented the draft report on Industrial Land, I have sat on two occasions with Doug Jardine, Mark Tickle. The plan has now been presented to the Executive Management Team who passed a resolution that a meeting be convened between David Broyd, Mike Rayner, Doug Jardine, Mark Tickle and the CEO of TEDC to discuss the progress of the industrial land research.

The TEDC also sent a letter to the General Manager of Tweed Shire Council requesting that industrial land been given top priority.

### AGENDA FOR DISCUSSION FOR THE PROPOSED MEETING WEDNESDAY, 22 FEBRUARY 2000

1. Briefing by Manager Strategic Planning and Corporate Research Officer on finds of Investigation.
2. In order to prepare an appropriate report for Council consideration:
  - Review findings, particularly the nominated search areas and suggested policy framework;
  - Consider relationship of Investigation findings with role of Council and TEDC in economic development;
  - Advise the authors on the most appropriate means of implementing the investigation findings, particularly in terms of resources;
  - Identify and appropriate process for the exhibition of the investigation findings and recommendations.
3. Work Program for successful implementation.

I have also held discussions with the General Manager, John Griffin on the industrial land study and it has been agreed that the next stage will include a tour of all potential industrial land sites as proposed initially by TEDC. When appropriate the General Manager will organise Tweed Shire Councillors and the tour will be conducted by TEDC. Note Larry Anthony, Federal MP and Neville Newell, State MP wish to be included on Tour.

- The TEDC has appointed John Foster to head a working party on the Tweed River Link Project. John Foster owns Tweed Valley Travel. His background is a former Commander of the Melbourne and was involved with the development of Sanctuary Cove Marina and an operator of several private enterprises charter vessels.

The steering group will consist of representatives from; Main Street, Murwillumbah Chambers, NSW Waterways Authority, Tweed Shire Council (John Henley, Jane Lofthouse) a Tweed Shire Councillor and the CEO of TEDC.

A brief has been prepared for the working party. John Foster has also prepared a comprehensive "Draft" working paper.

## Reports from Director Corporate Services

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- Main Street Program Update. There have been several meetings held on the matter with the final result that on Wednesday, 9 February 2000 Tweed Shire Council moved that the Main Street Program amalgamate with TEDC as of 1 April 2000.

There are several outstanding issues to be resolved.

1. The issue of "events" insurance and the cost of. Note: At the Board meeting of 24/2 it was resolved that the program co-ordinator be advised that costing of appropriate insurance and proof of insurance will need to be part of the project cost and approval criteria.
  2. The physical location of the Main Street Co-ordinator. This of course may also involve the location of TEDC.
- The TEDC has been involved with the Chinderah based business "Bullet Super Cars". The TEDC arranged a meeting between the owners and Trevor Wilson of the Department of State and Regional Development. The Department of State and Regional Development was approached for funding support. "Bullet Super Cars" met all the requirements and we are optimistic of a positive outcome.

I also introduced the project to Larry Anthony, Federal MP and Minister for Community Services who was very helpful in lending assistance to sort out a compliance issue.

Larry also offered to have the Deputy Prime Minister, John Anderson officiate at the opening of the new factory in Machinery Drive in approximately 6 weeks time.

"Bullet Super Cars" have raised \$2.5 Million in investor's funds and now have a substantial capital base value. Up until present time they have built 8 high performance sports cars and in the next twelve months they hope to build 130 cars. Their staff will increase from 4 to 30 people and they are recruiting at present. TEDC has been assisting and facilitating this project for some time and the proponents have expressed their strongest support and appreciation for the assistance and support offered by TEDC.

- The TEDC continues to facilitate the Chinderah Bay Marina project and recently established the parameters for negotiating the land tenure issue between the Harfords and Tweed Shire Council. The TEDC initiated meetings with Mike Rayner and David Broyd to discuss requirements and then separately negotiate with the proponents. The discussions have advanced and the next stage will depend on when valuations will be available.

The Development Application for the 29 berth Marina is now lodged at Council and once the issue of tenure is resolved, hopefully in the next few weeks, the project will be able to get underway. This along with the Vella Boat Manufacturer will create some 171 jobs and inject some \$15 to \$20 Million into the Tweed Economy.

- The TEDC was represented at the various functions held in honour of the visit of John Howard, Prime Minister of Australia. Following the visit TEDC wrote to the Prime Minister outlining some areas that the Government should look at from Tweed Shire's point of view.

Copies of correspondence were also sent to Larry Anthony where we stressed we were looking for infrastructure funding for industrial land.

## Reports from Director Corporate Services

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- The TEDC is now also involved with Patrick Harford and Vince Pental who are joint venture partners in the Chinderah Caravan Park, which has recently been purchased. They have discussed their plans with TEDC and sought a direction. Vince Pental is Oakvale Capital from Western Australia and is also interested in other future investments in the Tweed.
- TEDC CEO is to meet with Gordon Douglas PRD Realty on Thursday, 2 March regarding various Tweed projects.
- The TEDC has been in touch with the Federal Government office handling Rural Plans applications to do with the proposed Tweed Agricultural Viability and Sustainability study. We have been advised to expect a response within the next 3 to 4 weeks.
- Further to a memo sent to all TEDC Directors regarding Coffs Harbour visit by CEO, Paul Sullivan and Accountant, Rod Learn regarding Business Angels/investor group and North Coast Super Fund.

The meeting date has now been set for Monday, 13 March 2000 from 4.00pm to 6.00pm.

- The TEDC, through personal contact of the CEO, has had discussions with Professor Pedro Gueddes of Q.U.T. Brisbane. The Professor is the head of the school of Architecture at Q.U.T. and was approached on the basis of having his final year students to do a concept design project on the CBD of Tweed Heads. I will be meeting with Professor Pedro Gueddes in Brisbane on Friday, 25 February 2000 at 12.00 Noon (NSW time).

He has also invited to the meeting the Head of the school of Urban Design and Planning. I have held discussions with David Broyd and we will meet late this week to research relevant information to be discussed at the meeting.

As you are aware the Tweed Shire Council and TEDC applied to ACC for funds to look at doing work on the Tweed Heads CBD. We are optimistic that the funds will be approved and this along with the QUT involvement could see a very positive outcome.

- The TEDC has held meetings with Chris Freeman CEO of MIRVAC Group and discussions continue on a potential project involvement with Tweed.
- The TEDC has met with Ian Barclay, Frank Wilson and Malcolm Raward of the Proposed Casuarina development. The TEDC expressed strong support for the project from an economic development point of view. The TEDC also expressed concerns at the issue of Dune management and the potential of the dunal situation to stall the proposal.

I indicated the TEDC would lend its support to facilitate an outcome on the dunes issue. It was suggested that a negotiated settlement would be more likely to succeed rather than any court action. To this effect we suggested talking to Neville Newell the State MP to facilitate a meeting with DLWC or that they may consider an independent mediator. The meeting was very positive with Ian Barclay in particular very grateful for TEDC's input.

Following the meeting TEDC was again contacted and there will be a further meeting involving Malcolm Raward, Don Barclay and Don O'Rourke.

## Reports from Director Corporate Services

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- The TEDC Newsletter for the March Quarter is now at the printers. We intend to print 4 editions of 8 pages at a cost of \$2400.00/edition which includes delivery in and around Tweed with a circulation of 25,500 copies which Print Sport will discount \$1000.00 off the price as part of their sponsorship. In the March edition we will be inviting further partners to consider sponsorship.
- TEDC is working with NAURI/Kings Forest - Tim Barr on a possible venture partner.
- TEDC continues to assist the Cameron Properties Group.
- The TEDC will host a dinner Wednesday evening, 23 February 2000 for the Kochi Groups from Japan. The group was invited to the Tweed by the ARITC and in the absence of a formal welcome dinner by the Tweed Shire Council and as a result of the last TEDC Board meeting, the TEDC will host the dinner. There will be approximately 70 people in attendance including TEDC Board, Tweed Shire Council Councillors and officers and a 30 strong party from Kochi which includes VIP's etc.,

The Chinderah Bay Marina will sponsor the Wine for the event. TEDC has agreed to pay for 50 guests not including the Tweed Shire Councillors or officers. The total cost to TEDC should be approximately \$800.00.

- The TEDC attended the AIRDO meeting in Sydney on Wednesday, 16 and Thursday, 17 February. TEDC has arranged sponsorship for airfares to Sydney courtesy of the Ansett Agency at Coolangatta Airport. The normal cost of a ticket not pre purchased is \$649.00, so TEDC saved \$649.00 by sponsorship. The AIRDO Group was 5 strong last year, and now the group have grown to 24 regions and continues to grow as various regional councils across regional NSW establish. Independent Economic Development organisation rather than "in house" Council economic development units.

The meeting in Sydney saw the group develop policies needed to promote at Government levels to Government, issues that effect regional areas of NSW.

Also the Federal Government has been approached to consider finding AIRDO's through our association. Initial funding is being sought to fund a secretarial and it may be necessary for all independents to contribute some initial funding of possibly \$500.00 each. This may be necessary to gain Federal Government support through John Anderson, Deputy Prime Minister.

I am now a member of the four (4) man executive of AIRDO.

I am of the view that the real value of AIRDO is beginning to take shape and the group could well become a force in regional matters.

AIRDO has been approached by Victoria and Queensland economic development organisations on the basis of setting up similar AIRDO's in those states.

The Carool Road Winery is another of TEDC projects that has now lodged the development application with Tweed Shire Council. This project will create a minimum of 25 jobs and will be another quality tourist attraction for the Tweed.



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**14. ORIGIN: Administration Services Unit**

**FILE REF: FNCCC**

**REPORT TITLE:**

**Delegation of Powers to the Far North Coast County Council for Noxious Weed Control**

**SUMMARY OF REPORT:**

Provisions of the Local Government Act 1993 requires Council to formally delegate a regulatory function under Chapter 7.

**RECOMMENDATION:**

That:-

1. Council delegates its functions as a Local Authority for noxious weed control under the Noxious Weeds Act 1993 to the Far North Coast County Council for the term of this Council; and
2. This delegation to continue for one year after that term or until such time as it is revoked or re-delegated.

## Reports from Director Corporate Services

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### REPORT:

Section 380 of the Local Government Act 1993 requires each Council to review all its delegations during the first 12 months of each term of office.

Section 379 of the same Act states that a regulatory function of a Council under Chapter 7 must not be delegated to a person or a body other than:-

- a) A Committee of the Council; or
- b) An employee of the Council; or
- c) A County Council.

Council under the Noxious Weeds Act has the responsibility for the control of noxious weeds within its area. Council has no provision for the control of such noxious weeds and has traditionally delegated this function to the Far North Coast County Council.

It is recommended that such delegation continue to be made.

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## Reports from Director Corporate Services

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**15. ORIGIN: Financial Services Unit**

**FILE REF: Local Government Shires Association**

**REPORT TITLE:**

**Local Government and Shires Association - 2000/2001 State Budget Submission**

**SUMMARY OF REPORT:**

The Local Government and Shires Associations have released their submission for the 2000/2001 State Budget

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

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### REPORT:

The Local Government and Shires Associations have released their submission for the 2000/2001 State Budget. Listed below is a summary of the Association's recommendation:-

#### LOCAL GOVERNMENT STRUCTURAL AND FINANCIAL REFORM

- That progress with implementation of voluntary structural reform be noted by the Government and that further discussions on an overall package be considering during 2000.

#### COMPETITION POLICY PAYMENT

- That the NSW State Government recognise the role of Local Government in implementing national competition policy and at the same time acknowledges the principles espoused by the Commonwealth Government and accepted by several other states, by allocating a share of competition payments to Local Government.
- That a working party be established to determine the appropriate share and method of allocation

#### RECIPROCAL TAXATION

- A reciprocal charging regime should not be implemented in NSW until accurate, reliable and comprehensive data is available and until a workable resolution to distributional issues is found.

#### ROADS FUNDING

- That it be noted the Associations will undertake discussions with the State Government as to the most appropriate means of replacing the 3x3 program.
- That the State Government agree to work with the Association in a campaign to attract more federal funds for expenditure on the road system.

#### PENSIONER RATE CONCESSIONS

- That a review be undertaken of the pensioner rate rebate scheme

#### COUNTRY TOWNS WATER SUPPLY SEWERAGE AND DRAINAGE PROGRAM

- That the NSW Government recognise the health and environmental imperatives that rely on the Country Towns Water Supply Sewerage and Drainage Program by restoring funding to a minimum of \$85.5m per annum as proposed in the original agreement.

#### REGIONAL DEVELOPMENT

- That the government continue its program of recognition of the needs of country NSW by adopting policy settings which encourage regional growth.
- That programs which are designed to provide incentives for business to grow be supported and that regulatory impediments to business development in country areas be removed.

## Reports from Director Corporate Services

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### NSW GOVERNMENT IMPOSTS ON LOCAL GOVERNMENT

- Rate pegging should be recognised as both an impediment to the efficient operation of Local Government and its ability to implement State Government policy agendas. It should be abolished.
  - State Government fees and charges should rise by no more than the rate pegging limit while it continues to be in place.
  - Where new or expanded functions are imposed on Local Government, there should be an agreement as to the amount of funds needed to be provided to undertake that function.
  - The State Government should support the Associations' planned review of the role, finance and functions of Local Government with a view to developing an agreed model for an efficient, responsive system of local governance able to meet the challenges of the 21<sup>st</sup> century.
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**16. ORIGIN: Financial Services Unit**

**FILE NO: Monthly Investment Report**

**REPORT TITLE:**

**Monthly Investment Report for Period Ending 29 February 2000**

**SUMMARY OF REPORT:**

Details of Council's investments as at 29 February 2000.

**RECOMMENDATION:**

That this report be received and noted.

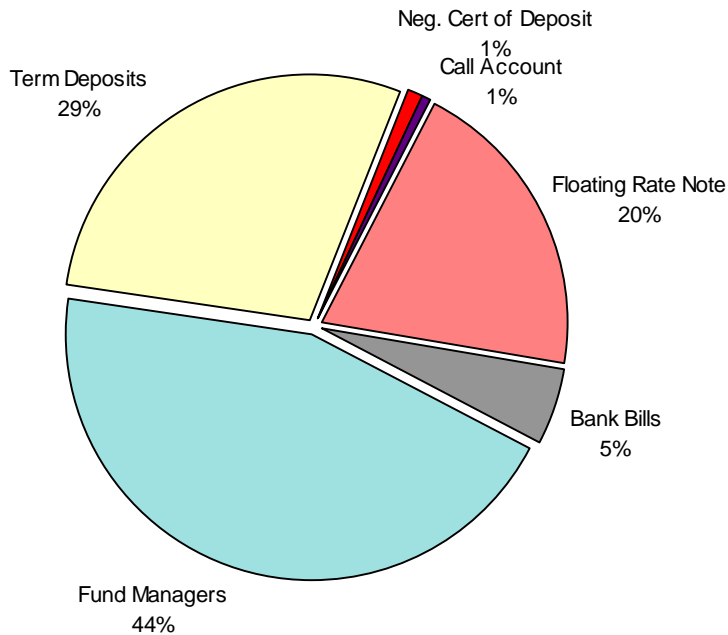
# Reports from Director Corporate Services

## REPORT:

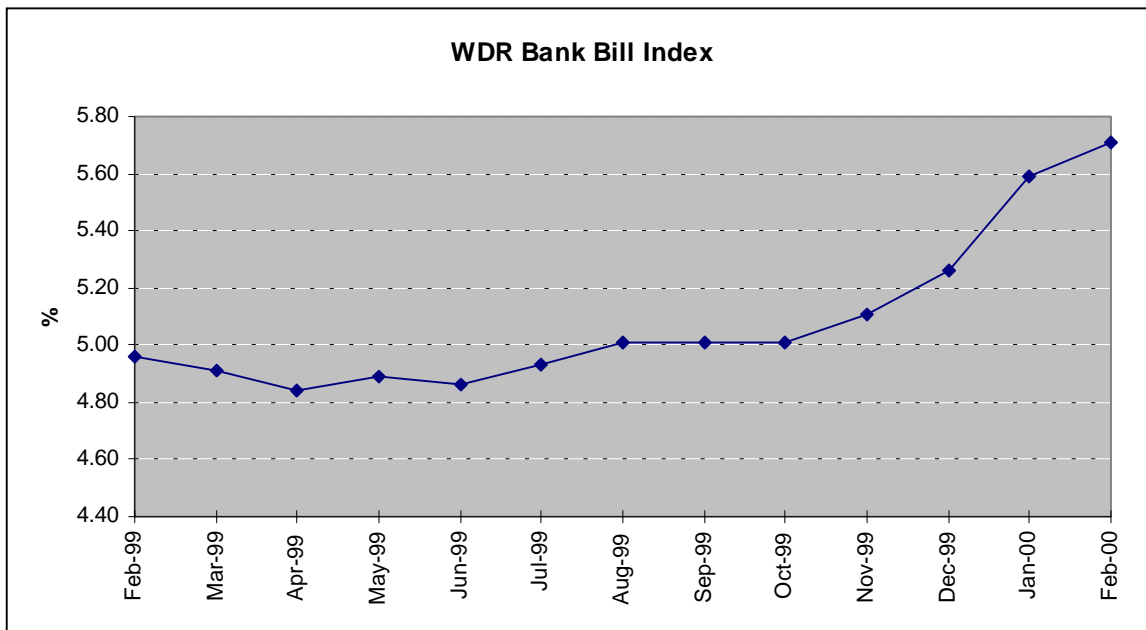
This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

### 1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

**% of Funds Invested by Category**



### 2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)

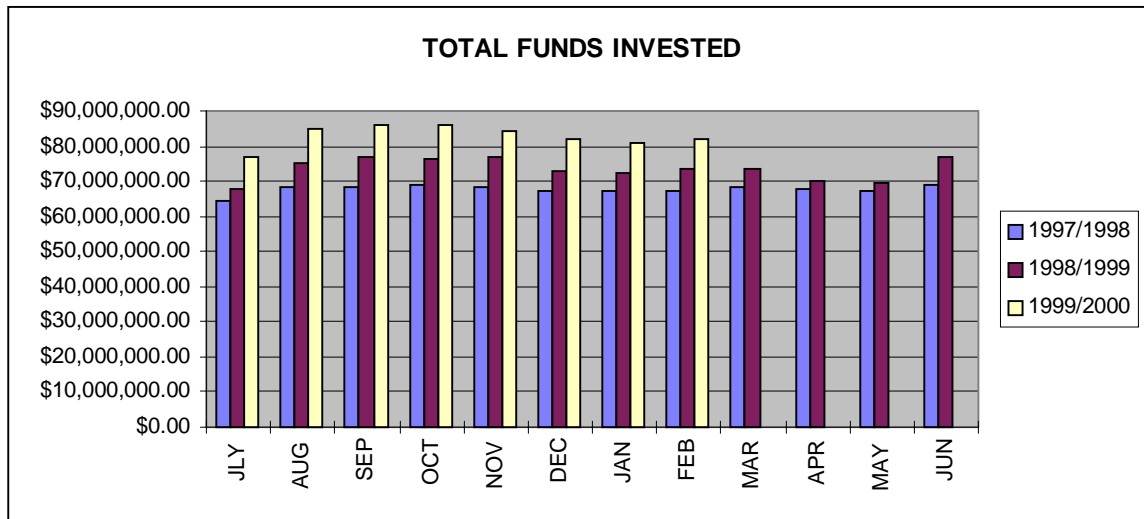


# Reports from Director Corporate Services

## 3. ANNUALISED RATE OF RETURN FOR FUND MANAGERS

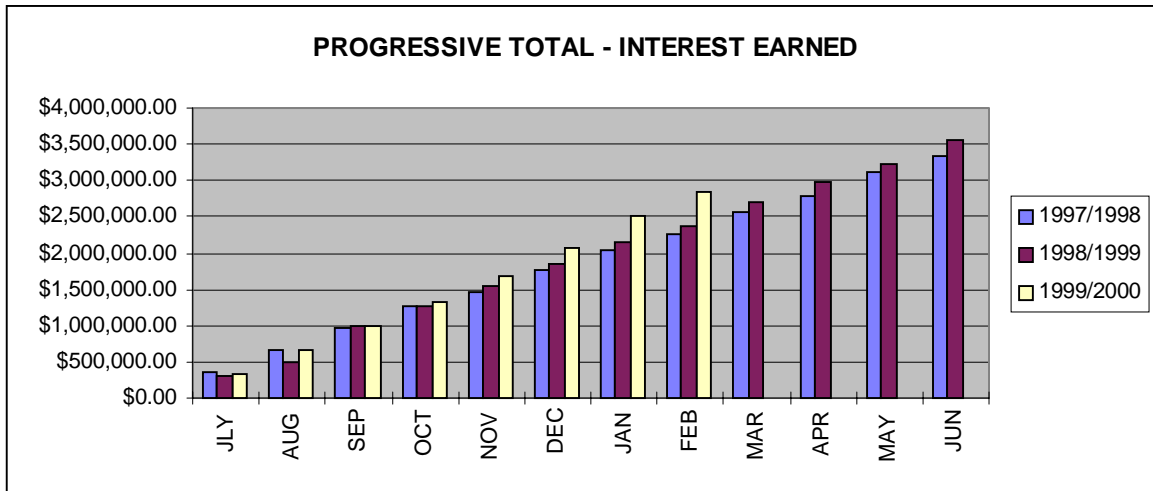
Fund	30 Days %	90 Days %	1 Year %
ANZ	5.91	5.90	5.32
Bankers Trust	5.66	5.62	5.02
Macquarie	5.00	5.20	4.77
National Mutual	5.23	5.68	5.25

## 4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



# Reports from Director Corporate Services

## 5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



## 6. MARKET COMMENTARY

With the 0.50% increase in official interest rates on 2 February it appears that the Reserve Bank of Australia is committed to a pre-emptive strategy against inflation. In view of this, financial markets have priced in a further rise in interest rates in the next six months, as suggested by the 180-day bank bill yield of 6.08% at the end of the month.

Bond markets are likely to experience some weakness in the near term based on the uncertainties about the impact of GST and wages outcomes on inflation.

## 7. INVESTMENT SUMMARY AS AT 31 JANUARY 2000

### GENERAL FUND

BANKS	17,485,612.75	
FUND MANAGERS	83,022.67	
LOCAL GOVT. FIN.SERVICES	2,000,000.00	
CALL	420,662.65	<b>19,989,298.07</b>

### WATER FUND

BANKS	4,000,000.00	
FUND MANAGERS	25,930,304.86	
LOCAL GOVT. FIN. SERVICES	4,000,000.00	<b>33,930,304.86</b>

### SEWERAGE FUND

BANKS	3,056,000.00	
FUND MANAGERS	10,433,561.58	
LOCAL GOVT. INV. SERVICE	14,297,472.31	<b>27,787,033.89</b>

### TRUST

FUND MANAGERS	50,000.00	<b>50,000.00</b>
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<b>TOTAL INVESTMENTS</b>		<b>81,756,636.82</b>
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## Reports from Director Corporate Services

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It should be noted that the General Fund investments of \$19.989 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

### **STATUTORY STATEMENT - LOCAL GOVERNMENT FINANCIAL MANAGEMENT REGULATIONS (SEC 19)**

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Financial Management Regulations and Council's investment policies.



**R R Norvill CPA**  
Responsible Accounting Officer  
Manager Financial Services

## Reports from Director Corporate Services

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## Reports from Director Corporate Services

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**17. ORIGIN: Director**

**FILE REF: TACTIC**

**REPORT TITLE:**

**Tweed and Coolangatta Tourism Incorporated (TACTIC) Monthly Performance Report  
- January 2000**

**SUMMARY OF REPORT:**

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance report for January 2000 is provided in accord with the Agreement criteria in Clause 5.1.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

### REPORT:

The agreement between Council and TACTIC require the organisation to report on a monthly basis its performance in accord with a number of specific requirements as detailed in Clause 5.1. The details are provided for the month of January 2000.

5.1.1 The number and category of financial members of TACTIC;

	November 1999	December 1999	January 2000
Ordinary Members	143	147	148
Service Members	20	20	20
<b>Total</b>	<b>163</b>	<b>167</b>	<b>168</b>

5.1.2 The visitor numbers to the World Heritage Rainforest Centre and the Tweed Heads Tourism Centre;

	November 1999	December 1999	January 2000
World Heritage Rainforest Centre	1763	1540	2361
Tweed Heads Visitors Centre	1679	1729	2574
<b>Total</b>	<b>3442</b>	<b>3269</b>	<b>4935</b>

Currently the two centres are undertaking surveys on the type of enquiries received:

#### World Heritage Rainforest Centre:

Type of Enquiry	No. of Enquiries	%	Variance from December
Tourism	626	53	+6%
National Parks	315	27	-4%
Street Directions	127	11	+1%
Bus Timetables	18	2	+19%
Other	87	7	Nil

#### Tweed Heads Tourist Information Centre:

Type of Enquiry	No. of Enquiries	%	Variance from December
Tourism	627	54	-2%
Bus Timetables	87	8	-4%
Directions	270	24	-5%



## Reports from Director Corporate Services

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Other 161 14 +1%

5.1.3 The provision by TACTIC to Council of updates on current programs conducted by TACTIC;

### **Internet Site**

- The site has been established, an agreement has been reached with Virtually There Guides and sales are being handled by Brett Stephenson. No sales were made in December. Virtually There Guides has advised that the company is presently up for sale.

### **Review operations of the Tourist Information Centre**

#### **Volunteers**

- Volunteer Co-ordinator, Robyn Rae, has instigated a familiarisation program whereby volunteers (as a group) will visit at least one TACTIC member per month to further product knowledge. Staff are also encouraged to join these groups if the familiarisation is held outside their working hours.
- It was not possible for TACTIC staff to visit any properties in January as operators were generally too busy.
- There is a full agenda for familiarisations to member properties for the next 12 months.

#### **Staff**

- Marianne Rutten has resigned from TACTIC. She is relocating to Central Queensland. She will work through to 2 February 2000.
- Expressions of interest are being sought from Robyn Rae and Pam Wooster to take up part time positions with the organisation.
- A staff meeting is booked for 17 February 2000.

#### **Strategic Marketing Plan**

- To determine which edition of the Open Road enquiries are coming from, no advertising was placed in the March/April editions of this publication.
- The inaugural Marketing Committee meeting was held on Thursday, 20 January, with an attendance of 7, and a further 7 who have noted their interest in the committee, but were unable to attend this meeting. Minutes attached.

#### **Networking**

- The next Network Night is due to be held in February 2000, although it will be postponed to March/April to potentially tie in with an EGM to inform members of details of the pending amalgamation with the TEDC and the Tweed Shire Council

## Reports from Director Corporate Services

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Town Centre Committee. This will be dependant of progress on the amalgamation process.

### **Central Reservations System (CRS)**

- Plans to update and upgrade the CRS are underway. Paradox Version 9 has been received and was partly installed during January. There have been several problems with the software design, and this program should be made fully workable in February. Training in the operation of this software will also need to be scheduled.

5.1.4 The comparison between quarterly profit and loss statement and the budget;

See attached Profit and Loss Statement for January 2000.

5.1.5 The provision by TACTIC to Council on a monthly bank reconciliation;

See attached reconciliation statement to 31 January 2000.

5.1.6 The level of involvement by TACTIC in Australian Tourism Exhibition Trade Shows;

#### **a) International Marketing**

The next international marketing opportunity is the Australian Tourism Exchange in June. Preliminary preparation and assessment of ways to best promote the area are current being explored.

5.1.7 The provision by TACTIC to Council of details of promotional activities conducted by TACTIC;

### **Shopping Centre Promotions**

- Final preparations are being made for the Ipswich Square Shopping Centre Promotion to be held 24-25 February 2000.

### **Advertising**

- Advertising in the NRMA Accommodation Guide 2000 was booked.
- January is not a strategic month to place any advertising, as the area is already busy with holiday-makers.

### **Domestic Marketing**

- Initial preparations for the "RTA Big Ride" is underway. Approximately 1500 Australian and international delegates will be in the Tweed area for the first day of the 2000 Ride starting at Tweed Heads on 25 March. The group will be staying in Murwillumbah on Saturday, 25 March.
- TACTIC has been organising several bus routes around the Tweed area to stop off at several local attractions for the RTA Big Ride participants. There is a very high return rate for these riders.

## Reports from Director Corporate Services

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- To date, we have received expressions of interest from 12 co-operative participants in our schools mailout, similar to the Bus and Coach mailout, to be distributed to all primary and secondary schools within a 2.5 hours radius of the Tweed Region. The schools will be encouraged to use the booklet as a handy reference for planning day trips or longer excursions.
- We are currently working towards the March 2000 edition of the Bus and Coach mailout.

### Trade Events

- We are currently working towards representation at the Getaway Holiday Expo to be held in Brisbane in September 2000. The show is affiliated with Channel 9's "Getaway" program and as such receives a great deal of publicity.
- We are currently undertaking initial preparations for the Brisbane Travel show in April 2000. We currently have 3 operators interested in attending this trade show at a cost of \$150 pre-product.
- Initial preparations for the Toowoomba Travel and Home Show in May 2000 are under way.

### Upcoming Promotions

- Ipswich Shopping Centre Promotion to be held in February 2000.
- Logan Hyperdome Shopping Centre Promotion to be held in March 2000.
- Pacific Fair Shopping Centre Promotion in April 2000.
- Brisbane Travel Show in April 2000.

### Familiarisations

- Following on from the familiarisation held on 21 December 1999, the Twin Towns resort has been awarded the 2000 Tourism NSW Conference destination. This is to be held in November 2000.

5.1.8 The amount of retail sales:

<b>November 1999</b>	<b>December 1999</b>	<b>January 2000</b>
\$2050.35	\$2022.90	\$2249.25

## Reports from Director Corporate Services

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5.1.9 The number and value of the booking system growth;

	<b>November 1999</b>	<b>December 1999</b>	<b>January 2000</b>
Number	33	32	28
Accommodation bookings	\$1766.70	\$3620.70	\$3823.20
Tours	\$2643.42	\$1155.20	\$487.50
Commission	\$596.88	\$552.10	\$496.30
<b>Total</b>	<b>\$5007.00</b>	<b>\$5328.00</b>	<b>\$4807.00</b>

5.1.10 The level of attendance at Board meetings by the members of the Board of TACTIC;

No Board meeting was held in the month of January.

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# Reports from Director Engineering Services

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**18. ORIGIN: Water Unit**

**FILE REF: Street Lighting - Annual Program**

**REPORT TITLE:**

**Street Lighting Policy**

**SUMMARY OF REPORT:**

Standards Australia has revised its Street Lighting Code. The code revision has seen a change in lighting categories which require an amendment to Council's current Street Lighting Policy.

**RECOMMENDATION:**

That the Council Street Lighting Policy be amended to "The minimum standard adopted by Council satisfies the Standards Association of Australia Pedestrian Area (Category P4) Lighting Code".

## Reports from Director Engineering Services

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### REPORT:

The Standards Australia recently revised its standard AS1158 which covers lighting requirements for the generality of roads and outdoor public areas, for the movement of vehicles and pedestrians.

Council's current Street Lighting Policy (N4.13.1) stipulates that the minimum standard adopted by Council satisfies the Standards Association of Australia Category B Lighting Code AS1158.1 (1986). Category B2 lighting was normally applied as the minimum standard required under this policy.

As part of the AS1158.1 (1986) review the lighting categories B and C in this Code have been combined in an expanded categorisation of lighting under a new designation, now known as Category P (AS1158.3.1 1999) lighting. The equivalent lighting category under the new code to the superseded B2 category is now rated as P4 Light Category.

Council's Street Lighting Policy should now reflect this change and require that the minimum standard adopted by Council satisfies the Standards Association of Australia Category P4 Lighting Code (AS1158.3.1 1999).

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## Reports from Director Engineering Services

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**19. ORIGIN: Planning & Design Unit**

**FILE REF: GS4/96/49 Pt 2& PF4140/260**

**REPORT TITLE:**

**Classification of Land as Operational - Proposed Drainage Reserve within Lot 1 DP 607299 - Parkes Drive, Tweed Heads West**

**SUMMARY OF REPORT:**

The subdivision of Lot 1 DP 607299, situated at Parkes Drive, Tweed Heads West, involves the dedication of land as a Drainage Reserve.

**RECOMMENDATION:**

That the proposed Lot 2 within the subdivision of Lot 1 DP 607299 to be dedicated as Drainage Reserve be classified as Operational under the provisions of the Local Government Act, 1993.

## Reports from Director Engineering Services

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### REPORT:

Council at its meeting held on 19 August, 1998 resolved to sell part of Council owned land (being the Tweed Heads Depot) to provide public access to adjoining land.

The subdivision of Lot 1 DP 607299 will dedicate Hakea Drive to the public and will also dedicate proposed Lot 2 (6991<sup>m2</sup>) as Drainage Reserve.

The Drainage Reserve should be classified as Operational land under the provisions of Sec. 31 of the Local Government Act, 1993.

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## Reports from Director Engineering Services

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**20. ORIGIN: Director**

**FILE REF: Water Management - Planning**

**REPORT TITLE:**

**New Water Management Legislation for New South Wales**

**SUMMARY OF REPORT:**

The Government has released a White Paper entitled "A Proposal for Updated and Consolidated Water Management Legislation in NSW".

The new legislation will replace the 1912 Water Act and will significantly alter the way in which water is managed across the state. The proposed legislation has the potential to have particular implications for water management in the Tweed Valley.

Councils, water users and the community have been given a small time frame in which to make submissions. The Government envisages that legislation will be adopted in the current sitting of parliament.

This report provides an overview of the proposed legislation and highlights a number of areas of concern to Council. In particular, the proposal to limit the entitlement for town supplies to include a 2% growth factor is inconsistent with all of Council's previous planning and would be unworkable within the context of Council's Strategic Plan given projected annual growth rates in excess of 5%.

The White Paper provides little if any detail in regard to implementation aspects of the proposals and as such there is a real difficulty in assessing the appropriateness and workability of the legislation as it will affect the Tweed.

A significant aspect of the legislation is the embargoing of a share of river flows to meet environmental flow requirements. The balance will be allocated to users on a volumetric basis. Water trading is a significant component of the proposed legislation. To enable trading to occur access rights will be separated from property. Extraction entitlements will limit, from time to time the access share.

Water Management Committees will establish water management plans for each catchment. These committees will make recommendations to the Minister on appropriate allocations for each river system.

Of particular concern for the Tweed is its lack of representation on the Far North Coast Water Management Committee as highlighted in the report. Council has previously considered a report on consolidation of the various Committees operating in the Tweed ostensibly dealing with issues of water management. This report strongly recommends that council advocates the establishment of a Tweed Water Management Committee through Government. This Committee would be complimentary to the Far North Coast Water Management Committee and Catchment Management Board, which are covered by Legislation. The Department of Land & Water Conservation recognises that the State Government Agencies are currently unable to service the large number of Committees operating amongst coastal catchments in NSW and at the briefing in Grafton Mr Bob

## Reports from Director Engineering Services

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Smith, Director-General indicated his desire to develop a workable model. Given that the Tweed is a single valley catchment in a single local government area with high community interest in water management there may well be an opportunity to positively promote this concept.

### **RECOMMENDATION:**

That Council:

1. Makes urgent representations to the Minister in regard to the establishment of a single Tweed Valley committee as a consolidation of existing committees.
2. Express its concern at the short time frame in which to make submissions given the potential significant of the legislation on the Tweed community.
3. Advises the Department of Land & Water Conservation of its inability to assess the impact of much of the legislation given the lack of detail within the discussion document.
4. Acknowledges the importance of allocating a share of river flow to meet environmental objectives.
5. Opposes the limiting of town water to an arbitrary 2% growth factor.
6. Recommends the adoption of the principle of linking future demand for town water within the context of regional and local environmental planning.
7. Requests to be consulted during the development of regulations in regard to effluent credits.
8. Seeks clarification in relation to management protocols to be applied to off river storages similar to Clarrie Hall Dam.
9. Acknowledges in principle support to the concept of water trading pending further implementation details.
10. Seeks clarification of the Government's intention in relation to inter-valley and interstate trading.

## Reports from Director Engineering Services

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### REPORT:

#### **The Proposed Legislation**

The Government has released a White Paper titled "A proposal for updated and consolidated water management legislation for New South Wales". Submissions on the White Paper close with the Department of Land and Water Conservation on 31 March 2000.

The new legislation will replace the 1912 Water Act.

Specifically the White Paper proposes measures to:

- share water resources between consumptive users and natural systems through, for example, the determination of environmental flow strategies;
- provide for community input to water management planning;
- clarify water rights and integrate water access and use approvals, including measures to secure town water entitlements and define trading arrangements for councils;
- facilitate water trading; and
- introduce a modern legal framework for ensuring compliance.

Much of the contents of the White Paper reflect current practices like community input to water management planning, and aspects of water trading, which have been taking place outside a legislative framework. Other aspects of the White Paper, such as the treatment of town water entitlements and of the various components of water allocations, are new.

#### **Specific Matters of interest to Tweed**

##### *Town water entitlements*

The White Paper proposes that town water entitlements be accorded the highest level of security in a graded system of security for entitlements. Local water utilities will receive a 20 year renewable volumetric entitlement. Councils will have to forecast and manage demand and will be allowed to trade unused entitlement on an annual basis. The entitlement will be determined on the basis of current entitlements with a 2% growth factor. Where existing entitlements are substantially greater than use, these will be reduced. Growth beyond the growth factor will have to be accommodated through demand management, effluent credits for the return of high quality effluent, which will also be tradeable, and purchase of additional entitlements.

#### **Comment:**

The proposal to limit future extraction for town water supplies to a 2% growth rate is unworkable. Tweed Shire Council has adopted a strategic plan with historical and future growth rates in excess of 2%. The proposed legislation effectively means that each year Council would have to reduce its per capita water consumption by the same percentage as population growth exceeded 2%. There is no relationship in the legislation to regional environmental plans, local environmental plans and strategic plans adopted by councils through the DUAP process.

## Reports from Director Engineering Services

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In addition to the 2% growth factor, process industries establishing in the Tweed and having demand for town water would need to procure an entitlement from existing users rather than by inclusion within the town entitlement.

While the issue of effluent credits may provide some concession to Council, working details of the proposal are yet to be released. As with most of this legislation, the workability or otherwise of the proposals will be determined in the detail management rather than within the broad principles of the legislation. It will be recommended that Council opposes any future entitlement being linked to a growth factor and that such determination should be carried out on a valley by valley assessment within the context of regional and local environmental planning.

### *Effluent standards*

Councils are already subject to EPA standards on their effluent discharges. It is important that standards for discharge are consistent between regulators. It needs to be recognised also, that trends in regulating effluent standards and protection of the environment have encouraged councils to develop off-river effluent discharge opportunities at considerable expense. Councils who have invested in off-river disposal at the urging of regulators should not be penalised through the loss of opportunities to utilise effluent credits in order to manage water demand.

### *Protection of the Water Environment*

The proposed Water Management Act will make provision for the sharing of water resources between consumptive users and natural ecosystems. The Minister will be able to adjust water entitlement conditions to achieve agreed environmental and public health outcomes. The Act will provide mechanisms for defining and managing extractable limits for water.

### *Water Management Planning in the Community*

The Minister may appoint Water Management Committees to advise on water management. These Committees will be the key community based mechanism for advising the government on water management. The main task of the Water Management Committees will be to:

- develop draft water management plans to achieve environmental and other objectives and provide a basis for water management
- ensure consistency of water management plans with other approved natural resource management plans and government policy
- review water management plans
- satisfy agreed objectives for water management
- develop local targets and priorities
- assess socio-economic impacts of changes in water management
- undertake local monitoring, reporting and review activities
- facilitate broader community input to the water management process

## Reports from Director Engineering Services

- promote public awareness of sustainable water resource management
- advise the Minister and the Minister for the Environment on other matters
- report as specified by the Minister and the Minister for the Environment

A Water Management Committee has already been established covering Brunswick, Richmond and Tweed catchments. The make up of the Far North Coast Water Management Committee is as detailed below:

### Far North Coast Water Management Committee

Rob Learmonth	DLWC	Executive Officer	Alstonville
Anne Currey	Naturally Resourceful	Chair/Facilitator	Alstonville
Jeff Spash	CMC	Representative (alternate chair)	Wollongbar
Sarah Fairfull	Dept of Fisheries	Representative	Ballina
Craig Copeland	Dept of Fisheries	Alternate	Ballina
Des Schroder	DLWC	Representative	Grafton
Tim Rabbidge	DLWC	Alternate	Alstonville
Sony Ardill	NPWS	Representative	Coffs Harbour
Brendan Diacono	NPWS	Alternate	Coffs Harbour
Alex Purvis	EPA	Alternate	Grafton
Graeme Budd	EPA	Representative	Grafton
John Williams	NSW Agriculture	Representative	Wollongbar
Richard Swinton	NSW Agriculture	Alternate	Grafton
Stan Leach	Nursery Industry	Representative	Alstonville
Brett O'Donovan	Nursery Industry	Alternate	Mullumbimby
Elizabeth Yeoman	DUAP	Representative	Grafton
Paul Lambert	Conservation	Representative	Murwillumbah
Ros Elliot	Conservation	Representative	Mullumbimby
Duncan Day	Conservation	Representative	Mullumbimby
Leigh Davison	Conservation	Representative	Lismore

## Reports from Director Engineering Services

Mark Parratt	Conservation	Representative	Brunswick Heads
Jessica Huxley	Conservation	Alternate	Lismore
Barbara Radley	Seafood Industry	Representative	Ocean Shores
John Gallagher	Seafood Industry	Alternate	Ballina
Jack Hanley	Cane Growers Assoc	Representative	Ballina
Graeme Martin	Cane Growers Assoc	Alternate	Murwillumbah
Gordon Bebb	NSW Dairy Farmers	Representative	Kyogle
Jim Crawter	NSW Dairy Farmers	Alternate	Kyogle
John Cade	NSW Farmers Assoc	Representative	Macleans Ridges
Graeme Cole	NSW Farmers Assoc	Alternate	Numulgi
Norman Seccombe	NSW Farmers Assoc	Representative	Casino
Ainslie Bootes	NSW Farmers Assoc	Alternate	Wollongbar
Roy & June Gordon	Bunjalung Elders Council	Representative	Tweed Heads
Norrie & Lillian Williams	Bunjalung Elders Council	Alternate	Yamba
Cr Phillip Silver	Ballina Shire Council	Representative	Alstonville
Cr Ros Irwin	Lismore City Council	Representative	Lismore
Cr Don Harvey	Rous County Council	Representative	Lismore
Cr Hugh Ermacora	Byron/Rous	Alternate	Mullumbimby
Cr Richard Staples	Byron Shire Council	Alternate	Mullumbimby

### Comment:

The lack of representation from the Tweed is self evident. Apart from the lack of representation from elected members, there is no technical representation from any of the Water Authorities within the three catchments. Tweed Shire Council, as one of the largest operating authorities outside of the Sydney basin, is unrepresented.

This report concludes with a recommendation to adopt a valley model for water management in the Tweed, to compliment the Far North coast Water Management Committee.

## Reports from Director Engineering Services

### *Clarification of Water Rights and Ecosystem Activity Approvals*

The proposed Act will provide for the specification of different categories of access entitlements such as entitlements for local water utilities, major water utilities, high security and general security. The Act will separate access entitlements in the components to allow for more appropriate specification of ownership, tenure, trading ability and resource management arrangements. These components will include a share entitlement that entitles the holder to a variation of the reserve of the water management unit and extractive entitlement that entitles the holder to extract water at a specific location such to satisfy conditions.

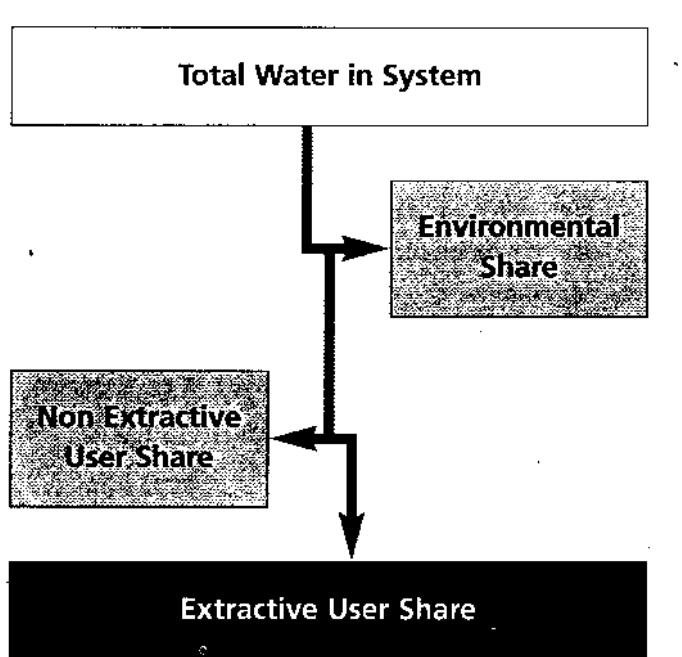


Figure 1.1 Water sharing arrangements between the environment and water users

### *Water Trading and Transfers*

The proposed Water Management Act will allow different entitlements to be owned and traded separately. Trade will be by transfer of share entitlement from one extraction entitlement to another, ie. from one physical location to another.

The proposal will allow for unused town water entitlements to be traded, but only on an annual basis.

### *Clarrie Hall Dam*

Clarrie Hall Dam is a 16,000 megalitre storage located on Doon Doon Creek. The Clarrie Hall Dam catchment represents 3% of the total catchment above Bray Park Weir.

## Reports from Director Engineering Services

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The Dam was funded by and built for the purpose of providing high security town water for the Tweed community. On current demand it has the capacity to serve a population of 180,000 people. This population is beyond Council's current planning horizon.

The White Paper does not give sufficient detail to provide any confidence to understand the way in which the Legislation would impact on the management of Clarrie Hall Dam.

Tweed water supply is drawn from the Tweed River at Bray Park. Clarrie Hall Dam water is released on an as needs basis to supplement river flow in order to provide sufficient supply. In addition, Council's licence requires continued release of an amount for riparian flow within Doon Doon Creek. This environmental flow is not significant.

The flow would be significant though, if for example, Council was required to release an environmental flow to supplement environmental objectives in the downstream catchment.

It would be expected that 'Clarrie Hall' water would be available for town supply over and above Council's town water extractive and share entitlement, but this is not clear.

Again, it would be expected that Council could trade in Clarrie Hall water by sale or transfer to local existing and new industries. Managed correctly, this could be a positive outcome for Council.

### *Existing Management Structure*

Clearly, there will be some robust debate leading up to the development and implementation of water management plans.

While there are particular aspects of the legislation that Council needs to comment on, this report recommends that the first priority is to ensure that a management structure appropriate and relevant to the needs of the Tweed Valley is in place in order to adequately meet the challenges of the new legislation.

There is enormous variation in the way water is managed in catchments across the state. Clearly, issues in the western river systems for instance are quite dissimilar to those in the relatively small coastal catchments. Within the coastal catchments, issues can be quite different. While there are some similarities to the Tweed within the Brunswick and Richmond catchment there are also enormous differences. Land use planning, projected growth rates, climate, flooding, industry use, urban settlement, and local government, for example, are all different. In the end, the usage entitlement and access constraints on the Tweed will be very different to that within the Richmond and Brunswick Valleys.

Clearly, the best outcome for the Tweed would be the development of a management structure that would allow a single valley approach to be taken to water management. As reported to Council on the 19 January 2000, there are a number of water related committees currently operating within the Tweed as detailed below:



# Reports from Director Engineering Services

## Existing Committees

Title	Membership	Role	Statutory Position	Funded by
Tweed Catchment Management Committee (defunct)	appointed chair coordinator State Government Local Government community nominees <ul style="list-style-type: none"> <li>• agriculture</li> <li>• fishing</li> <li>• Dunecare</li> <li>• environment</li> </ul>	<ul style="list-style-type: none"> <li>• to coordinate and promote activities as they relate to TCM</li> <li>• to achieve active community participation in natural resource management</li> </ul>	established under <i>Catchment Mngmnt Act 1989</i> - to be replaced by Northern Rivers Catchment Management Board	NSW Government (limited resources)
Northern Rivers Catchment Management Board (Tweed, Brunswick and Richmond Rivers) (commence March 2000) To replace 3 CMC's	local government inc. one landholder/user (3) env / conservation (4) primary producer/resource user (4) aboriginal (2) state government (4)  TBA March 2000	<ul style="list-style-type: none"> <li>• identify major natural resource issues and options for action to support rural production and protection and enhancement of the environment</li> <li>• identify objectives and targets within legislative framework for use of nat res</li> <li>• develop management options, strategies and actions to meet objective</li> <li>• assist in developing greater understanding in community</li> <li>• initiate and assess grant applications for State &amp; Fed Government grants</li> </ul>	established under <i>Catchment Mngmnt Act 1989</i> - to commence March 2000	NSW Government (DLWC)
Tweed River Management Plan Advisory Committee	Councillor chair coordinator Councillors Council staff State Government industry reps environment reps	<ul style="list-style-type: none"> <li>• implementation of Tweed River Estuary Management Plan</li> <li>• water quality</li> <li>• habitat</li> <li>• amenity</li> <li>• recreation</li> <li>• education</li> </ul>	advisory committee to Tweed Shire Council	NSW Government Estuary Management Program - DLWC (fully funded)
Far North Coast Water Management Committee (Tweed, Brunswick and Richmond Rivers)	appointed chair Executive Officer key water user groups conservation interests Local Government tourism aboriginal people catchment mgmnt State Government	<ul style="list-style-type: none"> <li>• component of NSW Water Reforms Program</li> <li>• develop 5 year water management plan for Tweed, Brunswick and Richmond</li> <li>• promote bmp and community involvement</li> <li>• considers wq issues and water licensing</li> </ul>	reports to relevant State Ministers	NSW Government through Water Reform Program

## Reports from Director Engineering Services

Title	Membership	Role	Statutory Position	Funded by
Floodplain Management Committee	Councillors Council staff State Government community reps	to plan and advise Council on Floodplain Management Plans and Works in accordance with NSW Govt. Flood Policy	advisory committee to Tweed Shire Council	TSC / NSW Government (1:2) TSC / NSW / Fed (1:1:1)
Tweed Coastal Committee	Councillor chair coordinator Councillors Council staff State Government community reps	<ul style="list-style-type: none"> <li>estuary management for Cudgen, Cudgera and Mooball Cks</li> <li>coastline management</li> </ul>	advisory committee to Tweed Shire Council	TSC and NSW Government (1:1)
Healthy Rivers Commission	independent public inquiry (NSW Gov) - due in Tweed 2000-2001	<ul style="list-style-type: none"> <li>community consultation</li> <li>develop a report on individual river systems on ecological, social and commercial goals. Identify objectives for water quality, river flow and river health and methods to achieve these.</li> </ul>	Independent Public Inquiry reporting to relevant Minister, NSW State Government	NSW Government
Landcare, DuneCare, RiverCare	community groups	<ul style="list-style-type: none"> <li>on-ground activities with Government support</li> </ul>	nil	Federal, State, Local Gov.; other grants; sponsorship; volunteers
Tweed Shire Council Water & Wastewater Steering Committee	Council staff Department of Public Works & Services Department of Land & Water Conservation	<ul style="list-style-type: none"> <li>advice to Council on water and wastewater infrastructure strategies</li> </ul>	advisory to Council	Water and Sewerage Funds and Grants

### Catchment Management Boards

Also reported to Council on the 19 January 2000 was advice that the 43 Catchment Management Committees and 5 Regional Catchment Committees across the State are to be replaced with 18 Catchment Management Boards. The Northern Rivers Catchment Management Board will encompass Tweed, Brunswick and Richmond River Catchments. It is intended that the Water Management Committees will work in close liaison with the new Catchment Management Board in the preparation of its Water Management Plan. An announcement on the make up of the new Board is imminent.

#### *Tweed Water Management Committee*

The Department of Land and Water Conservation has acknowledged that in coastal and regional areas there is a significant number of coastal and estuarine committees as well as flood plain management committees which have been established by local government.

## Reports from Director Engineering Services

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There is also wide acceptance across the industry of a somewhat urgent need to rationalise and move to a model that allows better integration of the various committees all of which are ostensibly dealing with water management.

At a briefing on the White Paper at Grafton on 25 February 2000 the Director General advised that his department was reviewing the appropriateness of current structures.

Tweed Shire Council is a single valley authority. In addition the Tweed River Management Plan Advisory Committee has established itself as a very workable government agency, community and local government committee, be it with a brief currently limited to the lower catchment. Given the real lack of representation from Tweed on the Water Management Committee and the structural arrangements already in place, it would seem appropriate to pursue the establishment of a Tweed Water Management Committee in consultation with Government agencies with the clear intention of integrating the activities of all current committees to provide a platform for integrated water cycle management in the Tweed Valley.

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**21. ORIGIN: Works & Water Unit**

**FILE REF: Floodplain - Annual Conference**

**REPORT TITLE:**

**IPWEA Conference and Floodplain Management Conference**

**SUMMARY OF REPORT:**

The IPWEA Conference and associated Field Days is being held from 30 April to 5 May 2000. The NSW Floodplain Management Conference is being held from 9 - 12 May 2000. The associated programs are detailed in this report.

Councillors are requested to advise if there is any interest in attendance

**RECOMMENDATION:**

That:-

1. This report be received and noted.
2. Interested Councillors nominate to the Manager Administration Unit, Mr Brian Donaghy.

## Reports from Director Engineering Services

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### REPORT:

#### IPWEA Conference

The Institute of Public Works Engineering Australia (IPWEA) will be holding the NSW Divisional Conference at Penrith Panthers from Monday 1 May to Wednesday 3 May 2000. This is followed by the Field Days on Thursday and Friday 4/5 May 2000.

The past year has seen the IMEA metamorphose into the IPWEA. The broadening of the focus of the Institute to include all practitioners who provide public works and services creates the opportunity for a greater range of topics and presenters at the IPWEA Inaugural Conference.

“NEW HORIZONS” is the theme of the Conference. Over 55 papers will be presented in plenary sessions and concurrent streams: Road Safety and Traffic Management - Water and Wastewater - Bridges - Management and Competition - Younger Members on Tuesday; and Waste Management - Stormwater and Environment - Works Officers - on Wednesday.

The Conference will feature invited speakers as well as presentations from IPWEA Regional Groups to showcase best practice projects. It offers a variety of experiences such as updating technical knowledge, fact finding, sharing of knowledge, and, most importantly, networking.

Monday commences with an Opening Ceremony and the morning proceeds with two interesting and exciting Keynote Speakers: Janine Shepherd is an inspiring speaker and Margot Cairnes, who writes for *Engineers Australia*. The Mayor of Penrith City Council, Cr John Bateman will officially open the Conference. The Foundation delegates who attended the American Public Works Association Conference and Study Tour in September 1999 will present their report. David Yorke from ALGENZ will discuss his activities at Manuwatu District Council and what he expects to achieve from his study tour in Australia, hosted by the South West Group. The IPWEA Excellence Awards and the Local Government Excellence in Road Safety Awards will be showcased. On Monday evening the anticipation builds to the presentation of the Awards.

Tuesday's program addresses the topics of Road Safety and Traffic Engineering, Water and Wastewater, Bridges, Management and Competition and Younger Members in concurrent streams. The Motor Accidents Authority sponsors sessions during the day.

Wednesday's program provides the choice of four streams, three of which address the topics of Waste Management, and Stormwater and the Environment. The fourth stream provides a comprehensive selection of papers for Works Officers.

Thursday morning will see an interesting and informative day at the Public Works Expo 2000 and EFD. There will also be an extensive working display for delegates to assess equipment in an active situation.

On Thursday, Bob Missingham will be presenting a paper on the “twinning” arrangement between TSC and the Ministry of Works in Tonga during 1992 to 1998. Also Greg Thompson will present on the same day a paper on Council's Workplace Safety Management System.

The cost of the Conference is \$850 for members of the IPWEA and \$980 for non-members.

#### NSW Floodplain Management Conference

## Reports from Director Engineering Services

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The NSW Floodplain Management Conference is being hosted by Parramatta and Holroyd City Councils and the Upper Parramatta River Catchment Trust, at Parramatta 9 - 12 May 2000. This is the 40<sup>th</sup> Annual Conference of the NSW Floodplain Management Authorities.

The NSW Floodplain Management Authorities was established over 40 years ago to promote sound and responsible floodplain management. The Authorities is accepted by State and Federal Government Agencies as representing the interests of floodplain communities in NSW and the Local Authorities responsible for managing the floodplains to reduce future flood losses.

The Annual Conference is a focus of the Authorities' program and brings together elected representatives and floodplain management practitioners to share knowledge, ideas and experiences.

An extensive program of technical papers will be presented at the 2000 Conference covering innovative flood mitigation projects; interstate and overseas floodplain practices; new products and services; non-structural measures and social aspects. A recent Chairman of the U.S. Association of State Floodplain Managers will be the keynote speaker, providing an international perspective.

The program includes the AGM of the Authorities.

Conference registration is \$525/delegate.

The Manager Water, John Henley, normally attends this Conference.

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**22. ORIGIN: Director**

**FILE REF: Road - Construction Program, Roads - Maintenance Program,  
Government Grants - Road**

**REPORT TITLE:**

**Local Government and Shires Association - Discussion Paper on Road Funding**

**SUMMARY OF REPORT:**

The Local Government and Shires Association have prepared a discussion paper on road funding. The paper is attached to this report.

In summary, the discussion paper proposes that a clear delineation of road funding responsibility should be argued in conjunction with a request by Councils for increased funds for road maintenance.

**RECOMMENDATION:**

That Council advise the Local Government and Shires Association of its in principle support to the strategy outlined in the discussion paper.

## Reports from Director Engineering Services

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### REPORT:

The Local Government and Shires Association have prepared a discussion paper on road funding. The paper is attached to this report.

In summary, the discussion paper proposes that a clear delineation of road funding responsibility should be argued in conjunction with a request by Councils for increased funds for road maintenance.

The paper rightly acknowledges the general agreement on the current levels of responsibility.

Road Network	Responsibility
National Highways	Commonwealth
State Roads	State
Local Roads	Local

The paper proposes a strategy based around the development of a new class of road.

These are local roads deemed to be 'strategically significant':

- *“Establishing a new class of local roads that are strategically significant. They are those local roads that serve a regional rather than a local access function. While there is no argument that local access roads should be funded from local rates, a case can be made for Commonwealth and State funding for regionally significant local roads.*
- *Establishing a dedicated source of funding for the regionally significant local roads from local, State and Commonwealth sources. Councils need to be prepared to contribute to Commonwealth or State funding for these roads. This may involve Councils pooling their current untied Commonwealth road funding.*
- *Establishing a mechanism for elected Councillors to determine priorities for regional transport infrastructure including the regionally significant local roads, based on regional economic outcomes.*
- *Consultation needs to be inclusive of the transport and local industries, so that the infrastructure programs can be clearly identified with specific industries. Opportunities can then be taken to seek funding from these industries, where appropriate. Consideration needs to be given to the role that private sector funding can play in funding regional transport infrastructure.*

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- *Where there is a shortfall in funding to meet the needs of the local industries, the regional Local Government and industry leaders can make representation to the Commonwealth for additional funding.”*

The discussion proposals have merit and are recommended for endorsement.

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**23. ORIGIN: Director**

**FILE REF: Street Scaping - Tweed Heads**

**REPORT TITLE:**

**Tweed Heads Main Street**

**SUMMARY OF REPORT:**

The Bay Street Traders have written to Council in regard to the uncompleted streetscaping works in Bay Street Tweed Heads.

Whilst Council has adopted a masterplan for the Tweed Heads CBD including Bay Street, funds were only ever allocated by Council for the Stage 1 works which are those works completed to date.

**RECOMMENDATION:**

That the Bay Street Traders be advised of the history and status of the Tweed Heads masterplan redevelopment as outlined in the report.

## Reports from Director Engineering Services

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### REPORT:

The following letter has been received from the Bay Street traders:-

*“Dear Sir*

*We are writing concerning the deferred streetscaping works in Bay St, Tweed Heads.*

*This work, the incomplete second stage of the Tweed Heads Main St Program, was forecast by Council to start in February last year. However, no work has been commenced.*

*Two main reasons why this work has not commenced have been provided:*

- 1. the Council required the funds from the sale of the Jack Evans Boat Harbour to complete the Bay St work, and the sale has been held up because of a pending aboriginal land claim;*
- 2. funds from sale of the access/overpass rights to the eastern arm of Bay St to the Tweed Mall owners was the source of the funds for the Bay St work, and these funds are not forthcoming as agreement has yet to be reached with the Tweed Mall owners.*

*As concerned business owners and managers we would appreciate advice of the correct reasons why this streetscaping work has not commenced after a long delay of twelve months.*

*We would also like to know why this work was published for public comment when no funds had apparently been set aside at the time.*

*We urgently request that this letter be tabled for all Councillors to read and that Council provide written answers to our questions and comments or provide written advice that funds are now available and the date that the proposed work will commence.*

*Please do not refer this letter, we request a reply from Council itself.*

*Below are the signatures of concerned business people in the Bay St area.*

*Yours faithfully,*

*Ian Lambert”*

The traders specifically asked for this matter to be dealt with by Council. In relation to the matters raised by the traders the following comments are made:

1. An overall masterplan was originally advertised, consulted through the community and ultimately adopted by Council for implementation as funds became available.

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2. Council only ever provided funding for Stage 1 works, the extent of which is those works completed to date.
  3. Funding for future stages was always dependent upon those funds being voted by Council. No funds have been provided for in the draft 2000/2001 budget for further implementation of the Tweed Heads Main Street Programme.
  4. Over a long period of time Council negotiated with the owners of Tweed Mall and GIO in regard to a potential partial road closure of Bay Street East. It was envisaged at the time that such funds could have been made available for further implementation of the Main Street Program but that would clearly be a matter for Council to resolve on at that time based on overall priorities. GIO, the owners of the Woolworths site, would not consent to the road closure because of concerns that it may have for future development of their site. The road closure application subsequently lapsed.
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**24. ORIGIN: Water Unit**

**FILE REF: Sewerage Treatment - Banora Point, Sewerage Treatment - Tweed Heads**

**REPORT TITLE:**

**Banora Pt - Tweed Heads Sewerage Catchment Effluent Disposal Strategy**

**SUMMARY OF REPORT:**

Options for the future discharge of treated effluent from the Banora Point and Tweed Heads Sewage Treatment Works (STW) were recently presented to Council at a Workshop.

Of the options available the continued discharge at the current outlets, but with significantly enhanced effluent quality, is considered to be the most cost effective option.

**RECOMMENDATION:**

That Council, in the first instance, seeks Environment Protection Authority (EPA) approval of a strategy to increase the licensed discharges at the existing outfalls to 75,000ep for Banora Point and 12,000ep for Tweed Heads, with significantly enhanced effluent quality.

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## REPORT:

Options for the future discharge of treated effluent from the Banora Point and Tweed Heads Sewage Treatment Works (STW) were recently presented to Council at a Workshop.

The current population in the Tweed Heads - Banora Point catchment is predicted to increase threefold in the next 30 years. The additional sewage load will largely be connected to Banora Point STW. Banora Point STW is designed to be readily upgraded to cater for the increased load, however the EPA has indicated that Council must resolve certain water quality issues before increases in the current discharge licence will be considered. The current license caters for only 50,000ep and the current loading is approximately 40,000ep.

### 1. Water Quality in the Estuary

Key water quality problems in the Lower Tweed Estuary have been identified in the Interim Water Quality Management Plan and in summary are:

- High bacterial levels
- Nutrient and sediment accumulation in the Terranora and Cobaki Broadwaters
- Acid sulphate soils

Council has adopted water quality objectives as determined by TRMPAC that will be the indicators of management performance for subsequent activities in the catchment **including effluent disposal**. In relation to the Tweed estuary they are set to preserve the environmental values of:

- Aquatic ecosystem protection
- Production of edible raw shellfish
- Primary body contact recreation (swimming and action sports)
- Secondary body contact recreation (boating)

### 2. Effluent Disposal Options

From an environmental and non-economic assessment of effluent disposal options the viable options can be consolidated into two fundamental alternatives:

- (a) Remove effluent from Terranora Inlet and relocate the discharge point to Tweed River with or without improved effluent quality or**
- (b) Continue to discharge effluent into Terranora Inlet, with improved effluent quality, from both Tweed Heads West STW and Banora Point STW at the existing outfalls.**

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### *(a) Relocate Discharge to Tweed River*

In addition to the current discharge point at Dry Dock three alternative discharge points in the well flushed reaches of the Tweed River were modelled for effluent disposal. The three discharge points considered were:

- At the eastern end of Kirkwood Road
- Off Ukeregbah Island, and
- At the eastern end of Francis Street

Based on the results of the modelling it was concluded that:

- Receiving water quality improves when the effluent outfall is relocated closer to the entrance of the Tweed River.
- There appears to be no benefit in extending the outfall point from Ukeregbah Island to Francis Street as all effluent is flushed from the estuary in one tide cycle.
- Receiving water quality improves when the effluent quality is enhanced particularly for faecal coliform removal.
- Nitrogen and phosphorus within Terranora Inlet are generally halved as a result of effluent quality improvement.
- For discharges at Dry Dock and Kirkwood Road there is some minor retention of any pollutant in the estuary under extreme neap tidal conditions.
- Continuous discharge has the largest adverse impact on water quality.

Note the current licence permits discharge only during the period from 1 hour before high tide to 3 hours after high tide.

## Reports from Director Engineering Services

### (b) *Improve Effluent Quality*

Parameter	EPA Criteria		Banora Point STW
	General Waters (90% ile)	Sensitive Waters (90% ile)	Proposed Enhanced Effluent Quality (90% ile)
BOD	15	10	10
SS	20	15	10
Total N	15	10	5
Ammonia	5	1	<1
Total P	1	0.3	2
pH	6.5 - 8.5	6.5 - 8.5	6.5 - 8.5
Faecal Coliforms (cfu/100mL)	600	200	20

Discharge to Terranora Inlet with the proposed improved effluent quality would account for nutrient concentrations in the receiving waters that are estimated to be of one tenth (1/10) the Water Quality Objectives in the most sensitive reaches of the estuary.

High levels of effluent disinfection can provide acceptable barriers to the risk of illness in humans, from either ingestion of effluent contaminated water during primary contact recreation or the consumption of oysters grown in waters potentially contaminated by effluent, that will enable even continued discharge of effluent to Terranora Creek to be considered.

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### 3. Preferred Position

#### Comparison of Disposal Options

Effluent Disposal	To Terranora Inlet		To Tweed River
	Enhanced	Advanced	Current
<b>Nutrient Accumulation</b>	Minimal	Negligible	Nil
<b>Health Risks</b>	Very Low	Negligible	Negligible
<b>Capital Costs</b>			
<b>62,500 ep</b>	\$8.8M	\$16.1M	\$14.9M
<b>75,000 ep</b>	\$9.4M	\$18.6M	\$14.9M
<b>100,000 ep</b>	\$11.5M	\$23.6M	\$14.9M
<b>Operating Costs \$/ML</b>	\$20	\$150	\$17.5

Discharge of enhanced effluent quality for both Tweed Heads West and Banora Point STW to Terranora Inlet at Dry Dock is the preferred disposal option as it satisfies three primary objectives:

- (a) Accumulation of nutrients in the estuary is minimal. Nutrient levels are an order of magnitude less than the set Water Quality Objectives.
- (b) The risks to human health from primary contact recreation and consumption of shellfish have been assessed as very low.
- (c) Represents lowest capital cost option.

It is considered that on adoption of this strategy Council should seek EPA approval for an enhanced effluent quality discharge from Banora Point equivalent to 75,000ep and from Tweed Heads West STW equivalent to 12,000ep at the current discharge points.

The Effluent Disposal Strategy Summary Report is appended to this report.

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**25. ORIGIN: Planning & Design Unit**

**FILE REF: DA0554/205 Pt1**

**REPORT TITLE:**

**Proposed Road Closure & Purchase Adjacent to Lot 1317 DP 1005077, Birkdale Court, Banora Point**

**SUMMARY OF REPORT:**

An application has been received to close and purchase part of Birkdale Court, Banora Point to encompass minor encroachments by a swimming pool and associated fencing. The approval of the application would have no adverse affect on existing or future road services and would enable approval of a current application for Strata Title.

**RECOMMENDATION:**

That Council approves the application to close and purchase part of Birkdale Court, Banora Point adjacent to Lot 1317 DP 1005077 provided that:-

1. The applicants bear all legal and survey costs involved,
2. The purchase price is calculated on a pro-rata basis of the current Valuer General's Office valuation,
3. The closed road title is consolidated with the adjacent land, and
4. All necessary documentation be executed under the Common Seal of Council.

## Reports from Director Engineering Services

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### REPORT:

An application to close and purchase part of a public road has been lodged by McLauchlan Surveying Pty Ltd on behalf of the owners of Lot 1317 DP 1005077 situated at No. 6 Birkdale Court, Banora Point.

Upon the land and well within the boundaries stands a newly constructed duplex but the accompanying pool and fencing encroach up to 640mm onto the public road reserve. A letter to the applicant on 17 February, 2000 requested partial demolition of the brick fence for reinstatement on the correct property boundary. The applicant states:

*“As can be deduced from the accompanying diagram and photographs the pool installer and subsequently the builder of the fence assumed a curved truncation following the kerb geometry.*

*The letter of 17 February 2000 advised that where the fence can be demolished and correctly located this should be done. However the brick fence would be extremely difficult to partially relocate while retaining an acceptable appearance. Since the western encroachment on the street of 0.45 metres is well beyond any point of concern as to visibility (refer to photographs), we submit that the purchase of the narrow triangle of land is a commonsense move. The visual quality both within the property, and from the street would be preserved.”*

The encroachment is considered to be minor and would have no significant effect on existing or future road services.

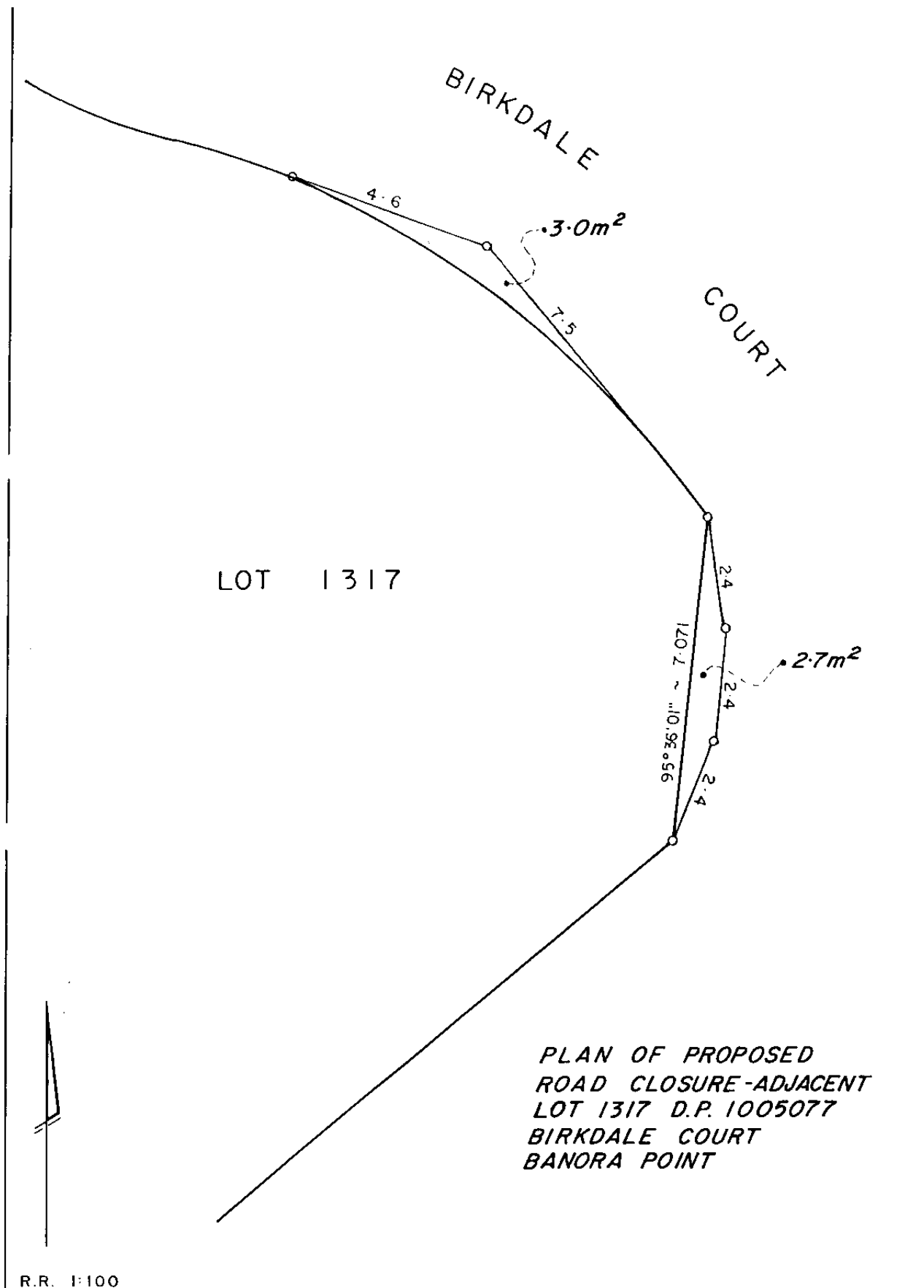
The approval of the road closure and subsequent consolidation with the adjacent land would enable the approval of a current application for Strata Title.



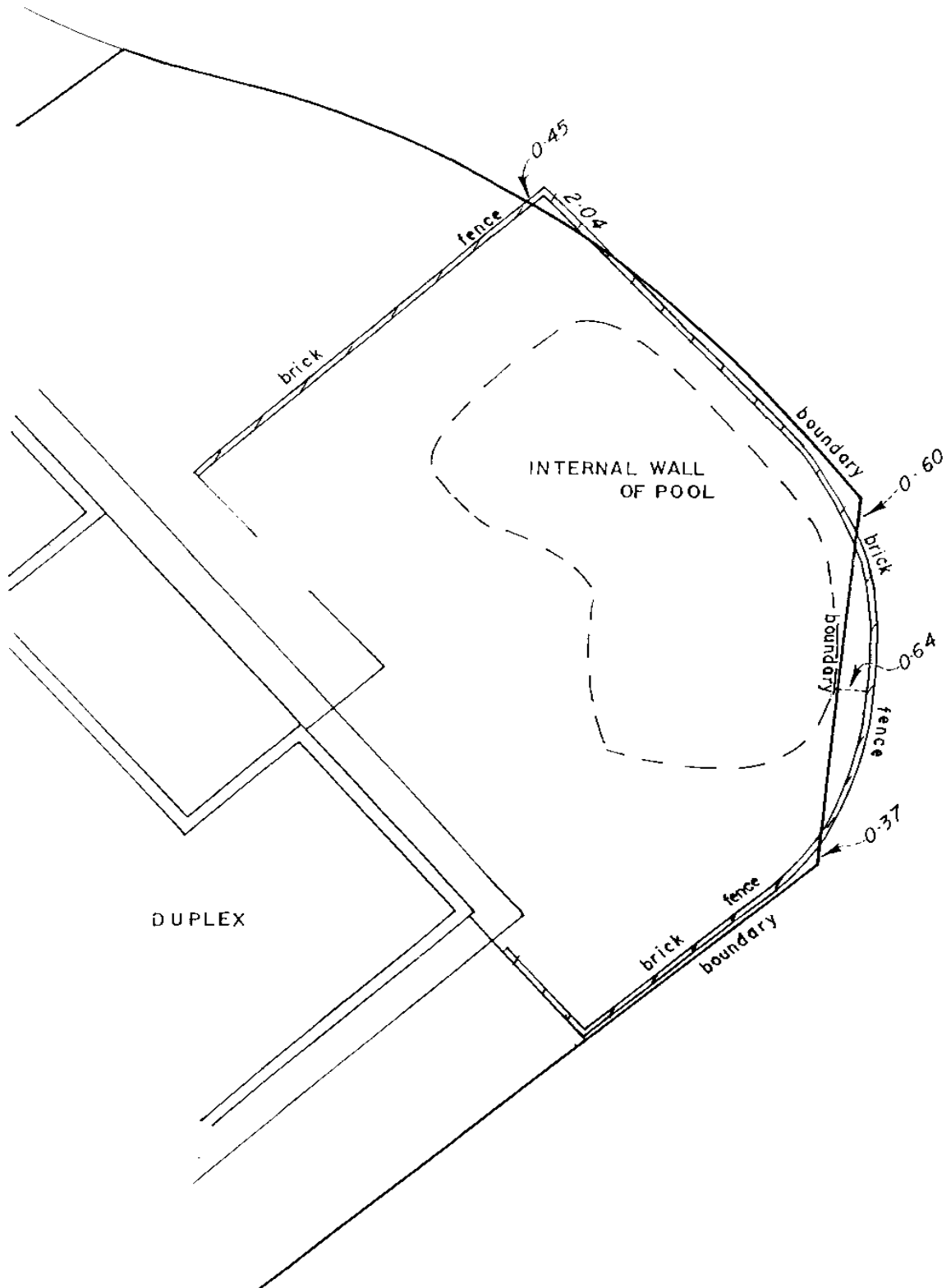
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**26. ORIGIN: Works Unit**

**FILE REF: Plant & Motor Vehicle - Purchase**

**REPORT TITLE:**

**Supply of Three (3) only Crew Cab Tipping Trucks with Rear Lifter and Tow-Bar -  
Precis of Confidential Item**

**SUMMARY OF REPORT:**

Tenders were invited closing 4.00 p.m. Wednesday 23 February 2000 for the supply of Three (3) only Crew Cab Tipping Trucks with Rear Lifter and Tow-Bar with trade-ins of Isuzu FSR 450 Crew Cab tipping truck, Plant No. 684, and Mitsubishi FK 417 Crew Cab tipping truck, Plant Nos. 749, 751.

**RECOMMENDATION:**

That this item be considered in the Confidential Agenda.

## Reports from Director Engineering Services

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### REPORT:

Tenders were invited closing 4.00 p.m. Wednesday 23 February 2000 for the supply of Three (3) only Crew Cab Tipping Trucks with Rear Lifter and Tow-Bar with trade-ins of Isuzu FSR 450 Crew Cab tipping truck, Plant No. 684, and Mitsubishi FK 417 Crew Cab tipping truck, Plant Nos. 749, 751.

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## Reports from Director Engineering Services

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**27. ORIGIN: Works Unit**

**FILE REF: Traffic - Linemarking, Contracts - Road/Drainage**

**REPORT TITLE:**

**Tender EC99162 - Linemarking - Precis of Confidential Item**

**SUMMARY OF REPORT:**

Tenders were called and assessed for the linemarking of roads for the period ending 30 June 2000. The tender from ABC Linemarking is preferred.

**RECOMMENDATION:**

That this item be dealt with under the Confidential Agenda.

## Reports from Director Engineering Services

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### REPORT:

Tender EC99126 closed on 19 January 2000 for linemarking throughout Tweed Shire. The contract ends 30 June 2000 to avoid complications with the GST.

Linemarking is generally done in site visits by the contractor approximately every three weeks. The work is often done at night to avoid disruption to traffic.

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# Reports from Director Environment & Community Services

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**28. ORIGIN: Environment & Health Services Unit**

**FILE REF: Cemeteries Burial Policy - General**

**REPORT TITLE:**

**Proposed Cemeteries and Burial Policy**

**SUMMARY OF REPORT:**

Council currently administers the operation of its cemeteries generally in accordance with the Provisions of the former Ordinance 68 of the LGA 1919 and various Council resolutions. As well occasional requests are received for burials on private property and a draft policy to cover these situations has also been developed.

The draft policy has been workshopped and it is now considered it should be advertised for public submission prior to final consideration by Council.

**RECOMMENDATION:**

That the draft Cemeteries and Burial Policy be advertised for a minimum period of 28 days seeking submission for further consideration by Council.

## Reports from Director Environment & Community Services

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### REPORT:

Council will recall that it recently was involved in a workshop on the proposed Cemetery and Burial Policy.

The policy will formalise the operations of Council's cemeteries and the burials that may be requested to occur on private land.

Currently Council cemeteries are administered and operated generally in accordance with the provisions of the former Ordinance 68 of the LGA 1919 and various Council resolutions that date back as far as the late 1960's. Accordingly it is now proposed to consolidate such operations into one policy.

A similar draft was advertised in 1998 however the matter was not resolved and so it is now proposed to seek public comment on the policy for 28 days.

### CEMETERIES AND BURIALS POLICY

#### *Part I "cemeteries under the control of Council".*

#### *Objective*

*To provide for the effective, efficient and appropriate operation of the public cemeteries that Council manages on the community's behalf.*

#### *1.1 Legislative Requirements*

*The operation of cemeteries is regulated through the provision of the Public Health Act of 1991 and the associated Public Health Regulation 1991 - Part 5 Disposal of Bodies.*

#### *1.2 Hours of Operation*

*Burials shall be carried out between the hours of 9.30am and 3.00pm, Monday to Friday. Arrangements must be made so that the funeral party arrives at the cemetery no earlier than 9.30am and leaves no later than 3.00pm. No burials are to take place on public holidays. Burials on Saturday mornings may take place between 10.00am and 11.30am. An additional fee applies to all burials taking place on a Saturday.*

*Burials may take place outside the prescribed hours by special arrangement; an additional fee will apply which will cover all Councils costs and will be determined on application.*

#### *1.3 Access to Cemeteries*

##### *Tweed Valley Cemetery*

*Access to the intended parking area of the cemetery is available from 7:00am to dusk..*

*Pedestrian Access is however available at all times.*

##### *All other Cemeteries*

*Access is available at all time.*

## Reports from Director Environment & Community Services

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### **1.4 Activities Requiring Prior Council Approval**

*A person shall not, without prior Council approval, in any cemetery:-*

*Sell or buy anything*

*Distribute handbills, circulars, advertisements and the like*

*Take part in any meeting other than a religious or commemorative character*

*Discharge any firearms, eg at a military funeral*

*Place monumental work, plaques, railing or any other structure*

*Plant any tree, shrub or plant of any kind.*

### **1.5 Prohibited Activities**

*Taking of animals with the exception of guide dogs*

*Dumping of rubbish*

*Unauthorised vehicle access outside designated parking areas (see 'Vehicle Control')*

*Interference in any way with a grave or allotment without the permission of Council.*

### **1.6 Vehicle Control**

*Vehicles, unless otherwise authorised, are restricted to formed roads and carparking area. Authorised vehicles include Funeral Directors' vehicles, Council and other Statutory Authority vehicles. Those vehicles with a disabled parking permit attached or a funeral director's vehicle, are permitted to drive off formal roads and carparks to facilitate access for persons with disabilities or the transport of the deceased, at the direction of Council staff.*

### **1.7 Flowers, Flower Holders, Ornaments**

*Artificial flowers are not permitted to be placed within lawn cemeteries.*

*Flower holders are provided in lawn cemeteries; no more than two holders are permitted on any grave. Private vases are permitted to be used in lawn cemeteries - these are to be made from plastic or metal and have a single spike on the base.*

*Glass or pottery flower holders are not permitted.*

*The placing of non-approved memorials, name-plates, tokens, tributes, plants or containers on any grave in any lawn cemetery is prohibited and such will be removed.*

*Within lawn cemeteries, flowers are removed when spent by Council Staff/Contractors during normal maintenance operations.*

### **1.8 Cemetery Register**

*A register of burial allotments shall be kept and maintained by Council recording allotments and those interred or those who have reserved an allotment.*

## Reports from Director Environment & Community Services

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*The register will record the following information for all burials.*

*The name, age and last address of the person whose body or remains have been buried.*

*The date of the burial*

*The date of the persons death*

*The section and allotment in which the burial took place.*

*The name of the person who holds the Right of Burial in respect of the allotment.*

*The name of the undertaker.*

*The fees paid to Council for the burial*

*The information contained in the burial register shall be made available to any person. A copy of any entry is available on request for which an administration charge may apply.*

### **1.9 Cemetery Plan**

*Council shall maintain a plan of the layout of all lawn cemeteries showing the sections and allotments within each cemetery.*

### **1.10 Religious Sections**

*Some cemeteries have areas that are set apart for the use of various religions but such setting apart does not entitle the authorities or members of any religious group to control in any manner the making of interments in any division so set apart, or to exclude any body from being buried therein.*

### **1.11 Availability of Burial Allotments and Allotments for Reservations**

#### ***Tweed Valley Cemetery - Eviron Road, Eviron NSW***

*Allotments are available for burials and reservations. This cemetery is a lawn cemetery only - monumental work is not permitted.*

#### ***Tyalgum General Cemetery- Swifts Road, Tyalgum NSW***

*Interments are available for burials and reservations.*

#### ***Tweed Heads Central - Florence Street, Tweed Heads NSW***

*This cemetery is closed. Only those with an existing Right of Burial or proof of reservation are able to be interred in this cemetery.*

#### ***Chinderah Cemetery -Chinderah Road, Chinderah NSW***

*This cemetery is closed. No further burials are permitted in this cemetery.*

## Reports from Director Environment & Community Services

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***Murwillumbah Catholic Cemetery - Kyogle Road, Bray Park NSW***

*This cemetery is closed. Only those with an existing Right of Burial or proof of reservation are to be interred in this cemetery.*

***Murwillumbah Lawn Cemetery - Tombonda Road, Murwillumbah NSW***

*This cemetery is closed. Only those with an existing Right of Burial are to be interred in this cemetery.*

***Murwillumbah General Cemetery - Byangum Road, Murwillumbah NSW*** *This cemetery is closed. Only those with an existing Right of Burial or proof of reservation are to be interred in this cemetery.*

***Tweed Heads Lawn Cemetery - Sunshine Avenue, Tweed Heads South NSW***

*Allotments are available for burials and reservations.*

***Tweed Heads General Cemetery - Florence Street, Tweed Heads NSW***

*Limited number of allotments are available for burials and reservations.*

***Tumbulgum Cemetery - Dulguigan Road, North Tumbulgum NSW***

*This cemetery is closed. Burials are not permitted.*

***Original Murwillumbah Cemetery - Banner Street, Murwillumbah NSW***

*This cemetery has been converted to a memorial park and burials are not permitted.*

***Location Maps of all Cemeteries are found under Appendix 3***

### ***1.12 Burial Permits***

*Permission to conduct a burial at any cemetery is issued to a funeral director in the form of a "Burial Permit". A Burial Permit must be obtained for each burial. The Burial Permit specifies the cemetery, time, date, burial site, undertaker and deceased for the particular burial.*

*A permit for burial "Burial Permit" must be obtained from Council prior to any interment taking place. Permit applications are to be in the prescribed form (see Appendix 2 - Forms and Permits). As part of an application for burial permit, a copy of a death certificate, coroners order, or other order authorising the disposal of the body is to be presented to Council.*

### ***1.13 Reservations***

*Applications for reservation of burial allotments should be made on the prescribed form. (See Appendix 2 - Forms and Permits). Council will issue a Right of Burial as proof of purchase for each burial allotment.*

### ***1.14 Monopolising***

*Council may refuse to issue a Right of Burial for more than one allotment if it is satisfied that an attempt is being made to create a monopoly or deal in such Rights of Burial in the way of a business.*

## Reports from Director Environment & Community Services

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### **1.15 Rights of Burial**

*A Right of Burial is a document issued to a person or persons in respect of a specific burial allotment. A Right of Burial is issued on a “pre-needs” basis or is issued to the person/s nominated as the applicant by the Undertaker as part of a burial arrangement. The Right of Burial confers upon the holder the right to be interred in the particular allotment or the right to give consent to another person to be interred in the allotment. These rights only apply in respect to an allotment where an interment has taken place, if a second interment is permitted.*

*A Right of Burial may be transferred or transmitted with the approval of Council. The appropriate section on the Right of Burial should be completed and the Right of Burial then forwarded to Council for this transfer to be recorded by Council. The endorsed Right of Burial will be forwarded to the new holder.*

*Burials shall not be permitted in any allotment for which a Right of burial has been issued, unless the consent in writing of the holder of the Right of Burial is first obtained or the deceased person is the holder of the Right of Burial. Where the holder of the Right of burial is deceased and a re-opening and burial is required, the written consent of the rightful successor of the owner must be produced.*

### **1.16 Refund of Fees**

*If the purchaser of a Right of Burials wishes to relinquish the Right of Burial to Council, Council will refund the amount paid at the time of purchase. The original Right of Burial must be returned to Council along with a written request for a refund, signed by the holder(s) of the Right of Burial. This refund policy also applies to ashes interment sites that have been reserved with Council where the site is unused. No refund will be made for the relinquishment of ashes interment sites which have been utilised.*

### **1.17 Re-Opening of Graves**

*Burial allotments within general cemeteries are for single burials only; re-opening of these graves is not permitted.*

*Burial allotments within lawn cemeteries may be dug to a single depth or a greater depth to allow for a re-opening at a later date. Permission for the re-opening of a grave within a lawn cemetery will be dependant on the original arrangements that were made and the consent of the holder of the Right of Burial being obtained.*

### **1.18 Depth of Burial**

*The upper surface of the coffin is to be at least 900 millimetres below the natural ground surface level.*

*Burial depth in general cemeteries is minimum 1.5 metres (single burial only). Burial depth in Lawn Cemeteries is 2.4 metres to allow for two burials or 1.8 metres for a single burial site. Greater depth may be provided subject to price on application.*

*Within Tweed Valley Cemetery up to three burials may be permitted in each burial allotment.*

## Reports from Director Environment & Community Services

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### **1.19 Monumental Work Within General Cemeteries**

*An application shall be made for any monumental work within any general cemetery. A copy of the application form is contained in Appendix 2 - Forms and Permits.*

*Council may direct the removal/relocation of any monument, gravestone or other marker that has been incorrectly positioned within the cemetery.*

*Removal of slabs/headstones or any other monument placed on a grave site to allow the grave to be dug is the responsibility of the family of the deceased at their cost.*

### **1.20 Fees and Charges**

*At the end of each financial year Council will review the fees and charges for the cemeteries under Council's control. Council may fix different fees and charges in respect of different cemeteries within the Tweed Shire.*

*The schedule of fees and charges in respect of any cemetery will be available at any Council office.*

### **1.21 Bookings for Burials**

*In most instances 48 hours notice must be given for all burials within lawn cemeteries. If a burial is required in a general cemetery greater notice may be required to allow for the hand digging of graves in difficult sites.*

*Bookings made over the weekend cannot be made for the morning of the following working day; the afternoon of the following working day is the earliest booking available.*

### **1.22 Memorial Plaques**

#### Murwillumbah and Tweed Heads Lawn Cemeteries

*Council supplied plaques are 380mm x 230mm in size and attached to a 510mm x 340mm concrete base. Plaques are placed flush with the ground in the cemetery. A copy of the application form is contained in Appendix 2 - Forms and Permits.*

*Special order plaques may be cast bronze or granite. These plaques are to be the same size as the Council supplied plaques (380mm x 230mm) or the larger size permitted; 560mm x 305mm. The 560mm x 305mm size plaque is to be bedded in/attached to a concrete base 610mm x 380mm in size. Some variation in the size of granite plaques is permitted provided the size of the concrete base is 610mm x 380mm. Special order plaques are placed flush with the ground in the cemetery.*

#### Tweed Valley Cemetery

*Council supplied plaques are 380 x 230mm in size and attached to a 510 x 340mm angled concrete base. Plaques are placed in the garden beds. A copy of the application form is contained in Appendix 2 - Forms and Permits.*

*Non-standard plaques are permitted, they may be the same size as the Council supplied plaques or the larger size permitted; 560mm x 305mm.*

## Reports from Director Environment & Community Services

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*Council will arrange for the supply and placement of standard plaques or cast plaques 380 x 230mm in size. If plaques are supplied privately, they must conform to the sizes as specified and be delivered to Council's cemetery for placement by Council staff.*

*Where grave sites are not adjacent to a garden bed, plaques will be placed flush with the ground.*

*Council must be notified in writing by the company supplying the plaque that they will be supplying a plaque for a particular grave and give details of the person who ordered the plaque. After notification, Council will refund the standard plaque fee to the applicant, the applicant being the person who was nominated as such by the funeral director when the burial arrangements were made.*

### **1.23 Removal of Ashes**

*All applications to have cremated remains removed from any cemetery for any reason, must be made in writing and be signed by all applicants or their rightful successor, who made the original arrangement for the interment. Without the consent of all applicants no action will be taken by Council.*

### **1.24 Exhumations**

*Exhumations shall be carried out in accordance with "Guidelines for Approval and Approval Procedures for Exhumations" produced by the Public Health Unit (NSW). See Appendix 1.*

*The holder of the Right of Burial may relinquish the Right of Burial to council after the exhumation has taken place. Council may refund a portion of the original fee paid for the site after a written request is received from the holder of the Right of Burial that the site is relinquished and the original Right of Burial returned to council.*

## **PART II "BURIALS ON PRIVATE PROPERTY"**

### **Proposed Policy**

#### **Objective**

To provide and control internment on private property

#### **Policy Statement**

Council may approve burials on private property subject to the following provisions:-

- a) The payment of a fee in accordance with Council's Fees and Charges
- a) The private land having a minimum area of 5 hectares.
- a) The registration of a Section 88B instrument on the title deed, suitably identifying the existence and location of the grave.



## Reports from Director Environment & Community Services

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Further the following should be considered by any applicant to ensure permanent access to a private burial site.

- a) The granting and registration of a right-of-way on the property from the nearest public road to the grave site. The right-of-way shall provide future visitor access to the grave site and shall be of sufficient area to allow any future servicing requirements.
  - a) The submission of a location plan of the grave site prepared by a registered surveyor.
  - a) The inspection of the grave site prior to burial by a Council Environmental Health Officer
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## Reports from Director Environment & Community Services

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**29. ORIGIN: Subdivision Unit**

**FILE REF: GS4/93/76 Pt3**

**REPORT TITLE:**

**Proposed Embellishment of Cudgen Heights Estate Stage 3 (Development Consent S93/96)**

**SUMMARY OF REPORT:**

This report discusses the intended embellishment of the Public Reserve (Lot 199 DP 803329) in accordance with Condition 28 of Consent S93/76. In this regard following consultation with the Cudgen Progress Association and the Residents of Cudgen Village and subsequent community survey results conducted by these organisations, the Manager Recreation Services has recommended a compromise aimed at retaining existing vegetation whilst providing minimal play equipment, safe access across the park and shaded seating.

**RECOMMENDATION:**

That in relation to the embellishment of the Public Reserve (Lot 199 DP 803329).

- A playground area (approximately 900m<sup>2</sup> in area) be located at the south eastern section of the reserve. This area to be leveled and embellished with play equipment (including shade, soft-fall and fencing as required), seating, shade and a drinking fountain.
- A meandering footpath/cycleway from the playground west through the reserve to Crescent street be provided. This area to be levelled and grassed with seating and shade trees provided.
- The treed area adjacent to Bowen Way to remain with supplementary wetland tree species plantings. This area to be delineated from the above area by a post and rail fence.
- A turf batter from Bowen Way at a slope no greater than 1:5
- In accordance with condition 28 the embellishment plans are to incorporate the rehabilitation measures contained in Section 3.5(e) of the "Preliminary Flora and Fauna Assessment" prepared by James Warren dated December 1993.

## Reports from Director Environment & Community Services

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### REPORT:

This report addresses the proposed embellishment of the existing public reserve (Lot 199 DP 803329) in accordance with Condition 28 of Consent S93/76.

### EMBELLISHMENT OF THE PUBLIC RESERVE (LOT 199 DP 803329)

Condition 28 of Consent S93/76 provides as follows:-

*“28. The existing public reserve (lot 199 DP 803329) shall be embellished in accordance with plans to be submitted and approved by the Manager Recreation Services in conjunction with the Engineering plans for stage 1.*

*The embellishment plans are to incorporate the rehabilitation measures contained in Section 3.5 (e) of the "Preliminary Flora and Fauna Assessment" prepared by James Warren and dated December 1993.*

*The embellishment work is to be completed prior to release of the linen plan for stage 3A.”*

Burchill Partners Pty Ltd have requested Council’s approval for the embellishment of the above parkland. The existing park consists of a high area to the south that is free draining and the treed area to the north which is flat, wet and not free draining.

It is their intention to slash the existing bushland, (excluding trees), and fill and shape the northern side of the park so that it all drains to the north western corner near Crescent Street. Due to the filling around the existing trees some of those trees may not survive.

They have therefore requested Council’s direction as to the intended embellishment of the park, ie. either:

- a. Have it all free draining with the possibility of losing some of the existing trees; or
- b. Retain the existing “wetland” area and thus keep all the existing trees.

They have also indicated that the stormwater drainage system caters for one in one year recurrence interval storm flows. Any storm flows that exceed the one in one year recurrence interval will sheet flow through the park from the east to the west. In this way the park is not being utilised primarily as a drain, however it is intended that it will function as an overland flow path during local storms.

As part of the slashing, filling, trimming and draining operations Burchill Partners Pty Ltd intend to incorporate landscape planting as contained in Section 3.5(e) of the “Preliminary Flora and Fauna Assessment” prepared by James Warren dated December 1993.

### COMMENTS - RECREATION SERVICES UNIT

The Manager of Recreation Services has carried out a preliminary assessment of the proposed embellishment works and has indicated that having regard to maintenance, stormwater ponding, security surveillance and general amenity issues, the preferred option is for the whole of the site to be cleared, filled, grassed, drained and embellished with appropriate playground equipment together with strategic plantings of appropriate native species.

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Prior to making a final decision on the level and nature of embellishment of the reserve Council invited the Cudgen Progress Association to comment on this matter.

The Cudgen Progress Association has provided the following comments on the proposed embellishment of the park.

*“Following a Special Meeting of Cudgen Progress Association and after consultation with other residents we submit the following:-*

### **DRAINAGE**

- 1. The fill should be sloped so that water run-off is to the North-East and the Public Reserve area should also be filled at the same time to a slightly higher level to ensure that the Public Reserve area does not become a collection pit for run-off.*
- 2. The overall drainage system should be constructed in such a manner as to prevent a build up of surface water run-off to avoid a swamp situation between existing houses in John Robb Way and the Development.*
- 3. Under no circumstances should run-off be directed to the Public Reserve area.*
- 4. We have assumed that the ponding arrangement shown in the Inset (Drawing No. C2332:01:02) will be established to correct possible acid containing water for analysis and treatment before release. This provision convinces us that the natural drainage of the area is towards the drainage ditch on the North-East side of the development.*

### **PUBLIC RESERVE**

- 1. We request a “habitat” style planting with original Native Species, attractively landscaped, for the Public Reserve.*

*We would appreciate Council notifying us prior to any final decision being taken in respect of the Park development so that community input can be included in the detail.*

*We strongly oppose a flat piece of land with playground equipment for the area. Natural vegetation I more in keeping with the general area than playground equipment”.*

The Residents of Cudgen Village also provided the following comments on the proposed embellishment of the park:-

*“The present drainage of the existing Cudgen Heights Estate is not working (refer to resultant floods at the intersection of Cudgen, Chinderah and Old Bogangar Roads and the erection of a dangerous (to cyclists) low sharp besser block wall which has considerably narrowed the cycle path. This does not represent a resolution of the old problems. The water still finds its way down to the wetlands, but through peoples houses. This will now meet up with the water not dealt with within Mr Kelly’s proposed development.*

## Reports from Director Environment & Community Services

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*The “park” or open space in question has amenity as a habitat for the water and other birds which give residents daily pleasure. They request that the existing trees not be removed because of the birds and because the trees will provide a screen for the sea of houses which will soon spring up on the other side of the park.*

*The present water drainage system - including the pond that has been created on the north west corner of the development site since Mr Kelly’s slashing and alteration of ground level runs even in dry weather into the present Cane Drain.*

*These residents wish the Council to ensure compliance with regulations that the adverse impact of a development should not extend beyond the boundaries of the development, and request that:-*

- The proposed pipe for the estate’s drainage be placed on the proposed development side of “Bowen Way” and be contained within the estate instead of on the Cudgen Village side where, because of the height above ground of “Bowen Way” it will have the effect of creating a dam.*
- Our trees be preserved, our park not be filled, and no gradient be created toward the north-west corner because both the fill and its proposed gradient will make the water back up into village back yards and flood Crescent Street.*
- Torrac be refused consent to drain the proposed development as set out in the current plan because it will damage public and private property in Cudgen Village and in the Environmental Protection (Habitat) Zone 7(l) across Chinderah Road.*
- Torrac be required to submit new plans which deal with all water problems (those of their displacement of existing wetlands through fill and those created by housing development) internally to their own development”.*

In consideration to the views expressed by the community with regard the retention of existing trees and related wetland habitat values, a meeting was held 20 January 2000 attended by representatives of Cudgen Progress Association, Cudgen Residents, Manager Subdivisions, Manager Recreation Services, and Subdivisions Engineer Simon Ferrier. The Manager Recreation Services tabled the following proposal for consideration:

- A playground area located at the south eastern section of the reserve. This area to be leveled and embellished with play equipment (including shade, soft-fall and fencing as required), seating, shade and a drinking fountain.*
- Provision of a meandering footpath/cycleway from the playground west through the reserve to Crescent street. This area to be leveled and grassed and provide seating shade trees and a drinking fountain.*
- The treed area adjacent to Bowen Way to remain with supplementary wetland tree species plantings. This area to be delineated from the above area by a post and rail fence.*

## Reports from Director Environment & Community Services

- A turf batter from Bowen way at a slope no greater than 1:5

This proposal was considered reasonable by all parties. A suggestion from the Manager Recreation Services that a 'landcare group' be formed by residents concerned at the retention of the trees and wetland to further the improvement of this area was received enthusiastically.

Subsequent to the above meeting, the Cudgen Progress Association and the Residents of Cudgen Village conducted surveys of the village residents to allow comment of the above proposal. The Cudgen Progress Association received 12 written responses whilst the Residents of Cudgen Village received 11 responses. These responses are annexed to this report.

In summary, of the 12 responses received from the Cudgen Progress Association survey were as follows:

<i>basic support for the proposal or no comments on park proposal:-</i>	5
<i>support proposal but question necessity for play equipment:-</i>	1
<i>prefer whole area cleared, filled and drained to create new park:-</i>	3
<i>prefer whole area rehabilitated to natural bushland area</i>	3

The 11 responses received from the Residents of Cudgen Village survey are summarised as follows:

<i>basic support for the proposal or no comments park proposal:-</i>	4
<i>support proposal but question necessity for play equipment:-</i>	3
<i>prefer whole area cleared, filled and drained to create new park:-</i>	0
<i>prefer whole area rehabilitated to natural bushland area</i>	4

When account is taken for one resident providing two comments (one in each survey), a total of 19 comments were received summarised as follows:

<i>basic support for the proposal or no comments park proposal:-</i>	9
<i>support proposal but question necessity for play equipment:-</i>	3
<i>prefer whole area cleared, filled and drained to create new park:-</i>	3
<i>prefer whole area rehabilitated to natural bushland area</i>	4

### CONCLUSION

In considering the development of this area, the provision for the requirements of the future population associated with Stage 3 must also be considered. Consequently, in relation to the proposed embellishment of the park it is considered that the preferred option is as follows:

- A playground area (approximately 900m<sup>2</sup> in area) located at the south eastern section of the reserve. This area to be leveled and embellished with play equipment (including shade, soft-fall and fencing as required), seating, shade and a drinking fountain.
- Provision of a meandering footpath/cycleway from the playground west through the reserve to Crescent street. This area to be levelled and grassed with seating and shade trees provided.

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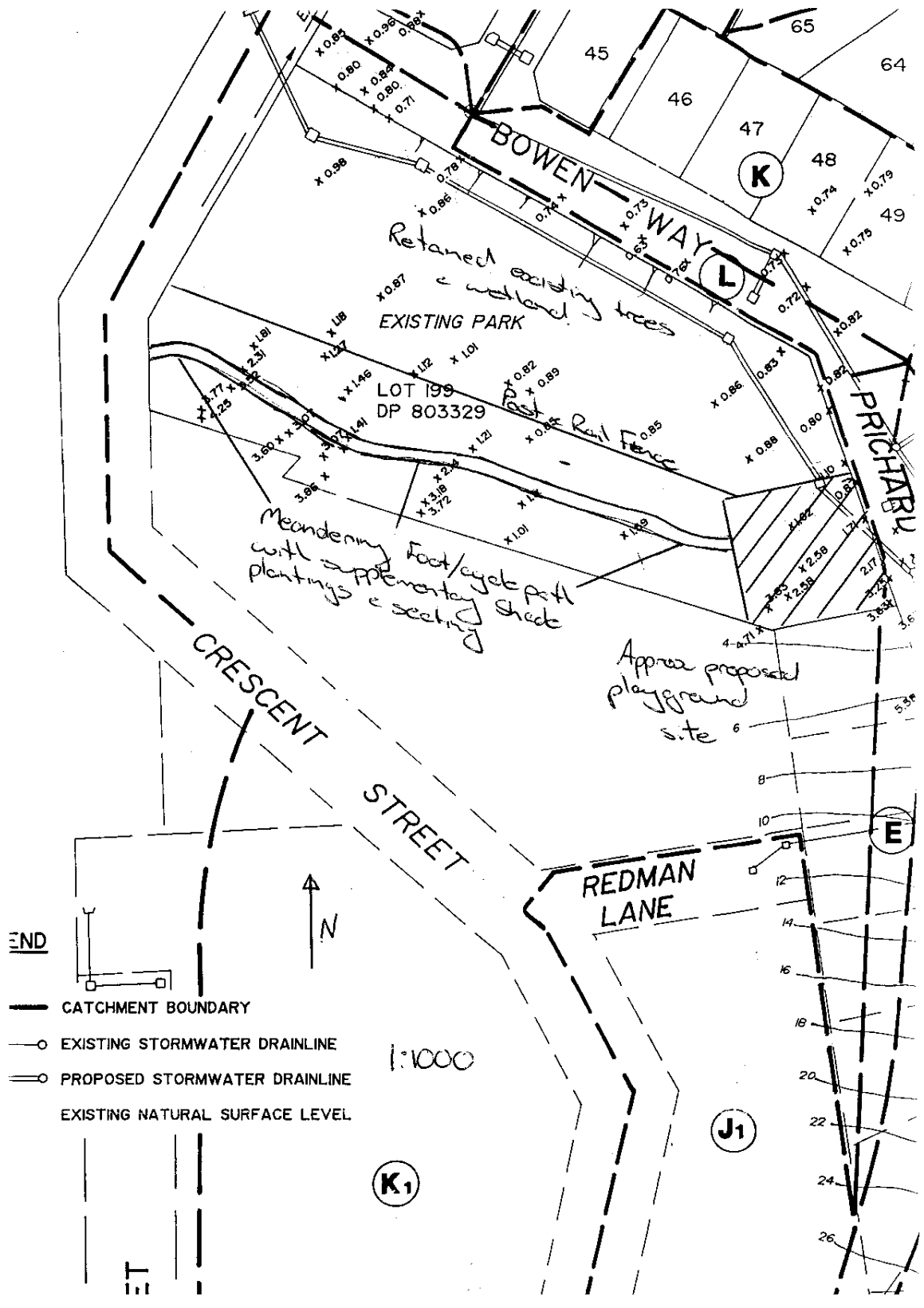
- The treed area adjacent to Bowen Way to remain with supplementary wetland tree species plantings. This area to be delineated from the above area by a post and rail fence.
- A turf batter from Bowen way at a slope no greater than 1:5
- In accordance with condition 28 the embellishment plans are to incorporate the rehabilitation measures contained in Section 3.5(e) of the "Preliminary Flora and Fauna Assessment" prepared by James Warren dated December 1993.



# Reports from Director Environment & Community Services



# Reports from Director Environment & Community Services



## Reports from Director Environment & Community Services

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**30. ORIGIN: Recreation Services Unit**

**FILE REF: Parks - Hastings Point Headland**

**REPORT TITLE:**

**Norries Headland**

**SUMMARY OF REPORT:**

At it's meeting held 17 February 1999, Council resolved that:

- 1) The Director Environment & Community Services develops a plan for a increase in day use of beachside parkland and car parking at Norries Headland
- 2) A joint meeting of the Cabarita Beach - Bogangar Residents Association and the Village Improvements Committee be held as part of this planning process and the meeting be advertised in the Tweed Link.

Subsequently, through a process of public meetings and comments received through display of "Discussion Plan", a improvement plan for the Norries Headland beachside park land is presented for Council's consideration.

**RECOMMENDATION:**

That Council adopts the amended Norries Headland improvement Plan with works programs as set out in this report.

# Reports from Director Environment & Community Services

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## REPORT:

### INTRODUCTION

At its meeting held 17 February 1999, Council resolved that:-

- 1. The Director Environment and Community Services develops a plan for a increase in the day use of beachside park land and car parking at Norries Head.*
- 1. A joint meeting of the Cabarita Beach-Bogangar Residents Association and the Village Improvement Committee be held as part of this planning process and this meeting be advertised in the Tweed Link.*

Subsequently, a public meeting was advertised in the Tweed Link to be held 27 May 1999 at the Baptist Church Community Centre - Bogangar. The meeting was addressed by the Manager Recreation Services and Manager Environment and Health Services Unit. From that meeting, a number of suggestions were tabled to address the issues associated with the increasing day use of Norries Head.

Based on the outcomes of this meeting, a 'discussion plan' was produced and placed on display at nine prominent locations throughout Cabarita inviting comments to be forwarded to the Cabarita Beach-Bogangar Residents Association.

A further meeting was held 17 January 2000 to receive comments and preferred options agreed on. The resulting plan is presented to Council for consideration.

### ISSUES

At the initial meeting held 27 May, 1999, the following issues were raised resulting in the above mentioned 'discussion plan'.

- need to address car parking and access on road north of the toilet block.
- requirement for installation of playground equipment
- desire to complete the walkway on Norries Head and provide formalised beach accesses to the main beach and little cove beaches
- provision of a footpath linking existing path from Pandanus Pde to the toilets and southern carpark
- additional car parking and picnic facilities in land south of current entrance road.

Note: The Tweed Coast Reserve Plan of Management identifies the area of land from the entrance road to approx 100m south as 'Recreation Unit'.

### COMMENTS AND PRIORITIES

The following comments on the 'Discussion Plan' were provided by the Cabarita Beach-Bogangar Residents Association as a result of the meeting held 17 January 2000.

*The Discussion Plan was broken into sections for consideration.*

## Reports from Director Environment & Community Services

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*The need for improvement to amenities at Norries Headland was generally accepted, but some individual items were not totally acceptable in their present form.*

### **ADDITIONAL WALKWAYS ON NORRIES HEAD.**

*Generally accepted as necessary to prevent visitors from roaming anywhere, establishing new tracks, degrading the vegetation, importing weeds and providing opportunity for land slip and erosion. Question asked about suitability of tracks for wheelchairs. Suggestion that additional track should be taken from position about the end of the existing track across to the seat and the gorge, with a fence on the downside to discourage people taking the short cut down the hill.*

### **SAND TRACK FROM PARK TO BASE OF NORRIES.**

*Council's suggestion to trial punched mining belt which can be lifted if necessary to remove sand build up, or taken up completely if trial not acceptable. Residents agreed trial should proceed.*

### **TIMBER TRACKS TO MAIN AND COVE BEACHES.**

*All agreed this is necessary to prevent users creating new tracks and encouraging unnecessary water courses. Placement of walkways will be critical. Viewing platform should be part of this construction.*

### **EXTENSION OF EXISTING CARPARK.**

*Agreed this should proceed. Accepted that no entry is permissible from Coast Road at north end of car park, and that turning area at northern end should be well defined.*

### **CONCRETE WALKING TRACK.**

*Much antagonism to suggested location. Alternative of track skirting car park more palatable, but problem of unsafe use by skate boarders accepted. Alternative composition of track which discourages unsafe use requested. Suggestion that bitumen used on roadway be extended to form the walking track was accepted by majority, provided bollards were employed to keep cars off the track.*

### **PLAYGROUND EQUIPMENT.**

*All in agreement that it is needed and suggested location ideal. Request for description of equipment to be used not able to be answered as safety a major factor and best options available will be found and employed. Area will be fenced.*

### **TIMBER VIEWING TOWER ADJACENT TO SOUTH CAR PARK.**

*Why needed? Explanation that potential users of south beach would be able to see surf without the need to trek to beach causing damage to unstable sand conditions seemed unacceptable.*

## Reports from Director Environment & Community Services

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### **CONNECTING PATH AND EMERGENCY VEHICLE ACCESS.**

*No opposition.*

### **NEW FORMALISED SOUTHERN CAR PARK.**

*Suggestion that expansion of facilities at southern end will popularise un-patrolled south beach which can be dangerous. Questions of alternative location (west of Coast Road?) discussed. Problem of constant road crossing main obstacle.*

*Why a need for more parking? Area now used illegally and willy nilly, encroaching further to the beachside dunes. Existing parking bays unable to provide enough safe and regulated parking on busy days. Idea NOT to increase use of south beach but to cater for numbers of locals and visitors already using it. Suggestion that number of bays be reduced to about 50 instead of the 114 shown on plan. Residents asked that trees be kept to provide shade OR that parking be combined with new recreational area south of this car park. By the time there are funds available for this item, needs will be better understood. HOWEVER, immediate action should be taken to prevent cars being parked illegally and encroaching on dune areas.*

### **NEW RECREATION AREA.**

*Explained that his area out of sight with little opportunity for casual surveillance. Area being used for unsavoury activities including drinking parties and nude bathing. Clearing of area of unwanted underbrush, placement of tables and bar-b-ques under existing shady banksia trees will enhance area and improve security. Multi-use for recreation and parking may produce pedestrian safety problems.*

### **PRIORITY LIST**

- 1. Extension of tracks on Norries Head and covering of sand track. No 1 priority only, because some funds are available and others likely.*
- 1. Timber stairs to Main Beach, Cove and Little Cove beaches.*
- 1. Extension of existing car parks.*
- 1. Playground equipment.*
- 1. Pathway from paved walkway to end of existing car park.*
- 1. Southern car park and recreational area. Volunteers will clear this area of unwanted vegetation shortly. By the time funds are available, alternative propositions may be available.*

At this meeting, a petition was presented to Council officers objecting to the proposals. The petition reads:

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### **PROPOSED CARPARK AT BOGANGAR HEADLAND**

*We as residents oppose the car park, BBQ, concrete pathway and constructed lookouts which Council proposes for the park at Bogangar headland.*

*The existing car park can be maintained and managed without constructing an ugly foreshore concrete structure; the concrete pathway is not needed as there is no erosion to justify the presence of one and the constructed lookouts will detract from the beautiful natural environment which people come to enjoy. Who wants to relax on the beach and be over-towered by a car park. We do not want to become SURFERS PARADISE.*

*Thereby, the people of the shire do not want the headland to become overdeveloped and the natural beauty ruined in this way.*

The organisers of the petition were present at the meeting and their views and concerns were discussed. The following responses and clarification was offered in response to the concerns raised on the petition.

- ***“That existing car park can be maintained and managed without constructing an ugly foreshore concrete structure”***. The plan proposes to improve and formalise existing parking north of the toilet block to optimise use of the current space. The car parking proposed south of the existing entrance is to be of minimal visual impact, integrated with picnic facilities with maximum vegetation retained for shade, amenity and habitat.
- ***“The concrete path is not needed as there is no erosion to justify the presence of one and the constructed lookouts will detract from the beautiful natural environment people come to enjoy”***. The point raised by many present at the meeting is that the disabled and elderly face difficulty on the sloping, uneven ground. The viewing platform at Cove Beach is located at a site currently being utilised by people, particularly surfers, to view the beach. The proposed platform is low profile and designed to protect the area from issues associated with increasing use while providing a safe viewing area. The viewing platforms proposed as a component of completing the headland boardwalk will be located in areas that people currently utilise as viewing areas and will be designed for low visual impact. The headland is facing increasing erosion problems due to increasing traffic and the associated liability issues.
- ***“Who wants to relax on the beach and be over-towered by a car park. We do not want to become another SURFERS PARADISE”***. As mentioned above, no car park facilities will be visible from the beach. The proposals are measures to improve the day use of the area for residents and visitors alike.

### **Final Plan**

Attached is the ‘discussion plan’ as presented for comment in yellow with amendments as result of comments received and the 17 January meeting in blue.

The final plan and priorities will allow for direction and co-ordination of improvements as funds become available and may be used as a tool to assist in acquiring funding from other sources should they become available.

## Reports from Director Environment & Community Services

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Consequently, it is recommended that Council adopt the amended Norries Headland improvement Plan with works properties as set out in this report.

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## Reports from Director Environment & Community Services

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**31. ORIGIN: Recreation Services Unit**

**FILE REF: 2221.265/Playground Equipment**

**REPORT TITLE:**

**Shade and Facilities in Council Reserve Lot 138 DP 801668 Banora Point**

**SUMMARY OF REPORT:**

Council has received a request to supply shade over play equipment in a Council Reserve being Lot 138 DP 801668 Banora Point. This park is heavily utilised by day care groups in the area. The addition of seating, table, shelter and drinking fountain would benefit this park and the community. The estimated costs of the proposed is \$15,000. Section 94 Contribution Plan No. 1 has funds available to complete this proposal, and has the concurrence of the Section 94 Management Committee

**RECOMMENDATION:**

That Council votes the expenditure of up to \$15,000 from the Section 94 Contributions Plan No 1 for the provision of shade over play equipment, seating, a table, shelter and a water fountain in the Council Reserve being Lot 138 DP 801668 Banora Point.

## Reports from Director Environment & Community Services

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### REPORT:

Council has received a request to provide shade over play equipment in Council Reserve being Lot 138 DP 801668 Banora Point (Fig. 1).

The following letter received from D. Thelwall is reproduced below for Councillors information:-

*“Following phone conversation on Friday 29<sup>th</sup> October, regarding the park behind Clonakilty Close and Rosslea Court, Banora Point affectionately known as “Jurassic Park”. I would like to request (on behalf of Family Day Care Providers - Tweed Shire) a shade sail for the park. This park is used on a regular basis by carers, all of whom care for five children under 5 years of age on a daily basis. There can be up to 20 small children at this park at any one time, with **no** shade. This park is within walking distance and enables carers and children to experience gross motor and social skills. It is a shame if the park can’t be used to its fullest potential, but as carers we have to protect the children and that includes exposure to too much sun. The park is also frequently used by all the local children. We will wait eagerly for a response.*

#### Carers in the Area

<i>Debbie Thelwall</i>	<i>5523 2955</i>
<i>Kim Leonard</i>	<i>5523 4671</i>
<i>Leesa Davies</i>	<i>5524 5854</i>
<i>Gail Dixon</i>	<i>5524 3777</i>
<i>Jenny Lightfoot</i>	<i>5524 7529</i>

*Also a Garbage facility would be beneficial, and a tap”.*

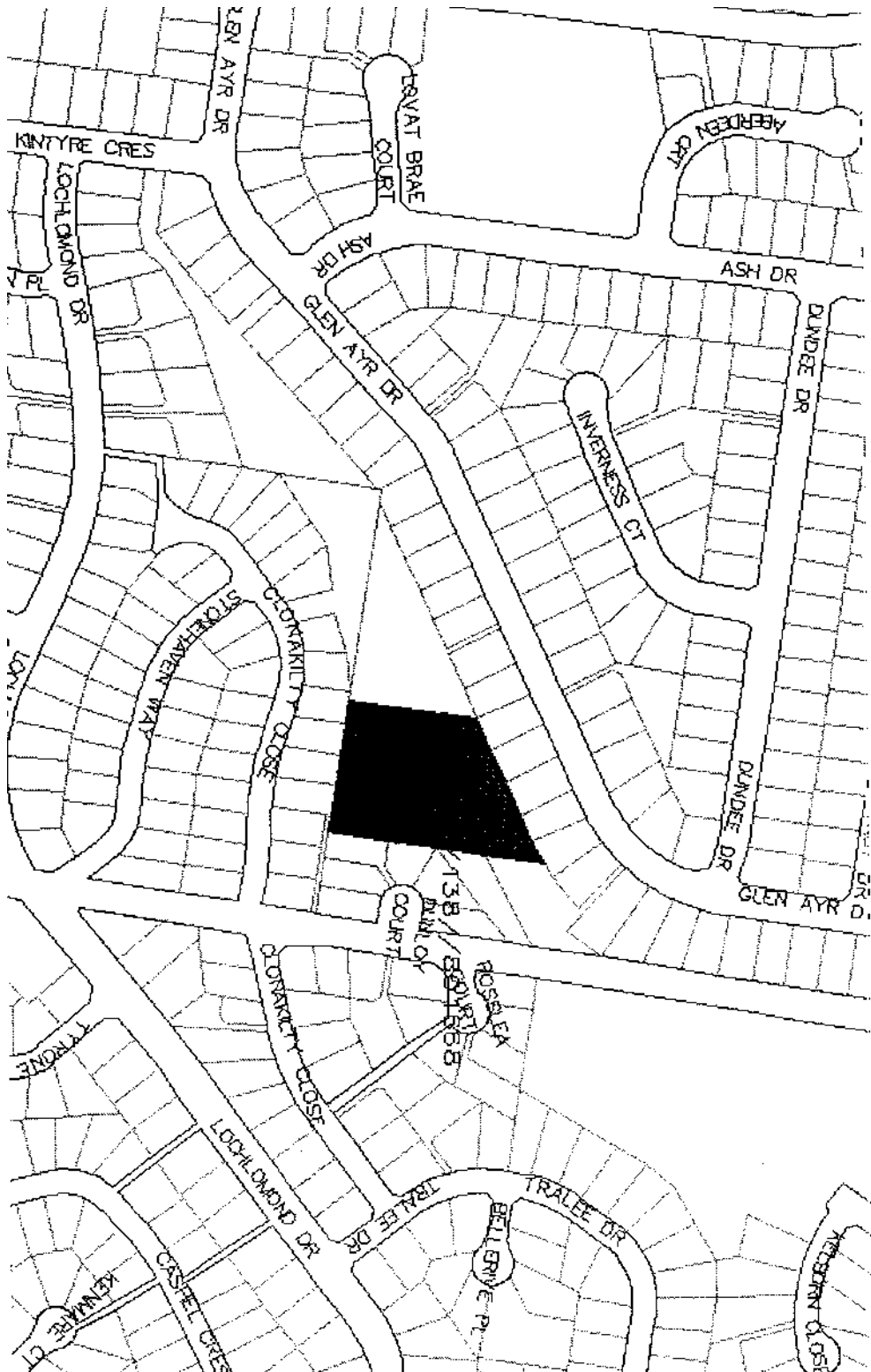
In addition to provision of shade over the play equipment, the provision of seating, a table and shelter and a water fountain would be of benefit to the park and the community. These facilities could be installed for approximately \$15,000.

Section 94 Contribution Plan No 1 Structured and Passive Open Space applies to residential land affected by Development Control Plan No 3 - Banora Point West/Tweed Heads South. Funds for the above works are available in CP1 and the proposal has received the support of the Section 94 Management Committee.

Consequently, it is recommended that:

Council votes the expenditure of up to \$15,000 for the provision of shade over play equipment, seating, a table and shelter, and a water fountain in the Council Reserve being Lot 138 DP 801668.

# Reports from Director Environment & Community Services



## Reports from Director Environment & Community Services

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## Reports from Director Environment & Community Services

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### **32. ORIGIN: Environment & Health Services Unit**

**FILE REF: PF4030/383 Pt5**

#### **REPORT TITLE:**

**Proposal to Establish an Alcohol - Free Zone Around the Tweed Heads Civic Centre**

#### **SUMMARY OF REPORT:**

Council at its meeting of 19 May 1999 resolved to impose a ban on the consumption of alcohol in the parks surrounding the Civic Centres (excluding the Murwillumbah Pool) and in the park bordering the Southern Boatharbour between Wharf Street and the Anchorage. Pursuant to this restriction signs have been placed under the provisions of Section 632 of the Local Government Act 1993 in the park opposite the Tweed Civic Centre and in the park area around the fountain at the Wharf Street Frontage of the Civic Centre. Other areas such as carparks, road and associated landscaping around the Civic Centre at Tweed Heads will need to be established as Alcohol-Free Zones pursuant to legal advice from Council's Solicitors.

#### **RECOMMENDATION:**

That:-

1. Council places on exhibition and notifies prescribed interested parties of a proposal to establish an alcohol-free zone to include the road and carparks associated with the Tweed Heads and Murwillumbah Civic Centres.
2. Prior to any notification and exhibition of the proposal to establish the alcohol-free zone, Council consults with the local police patrol commander regarding the proposal.
3. Council delegates to the Director Environment & Community Services, the authority pursuant to Council's powers under the provisions of Section 645 of the Local Government Act 1993 regarding the suspension or cancellation of an alcohol-free zone.
4. Council allocates the amount of \$2,000.00 (Two Thousand Dollars) for the notifications and the provisions of signage associated with the establishment of the alcohol-free zone at Council's next budget review.

## Reports from Director Environment & Community Services

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### REPORT:

Council, at its meeting on 19 May 1999 resolved the following:-

*“...that Council imposes a ban on the consumption of alcohol in the parks surrounding the Civic Centres (excluding the Murwillumbah Pool) and in the park bordering the Southern Boatharbour between Wharf Street and the Anchorage.”*

In response to this resolution, Council’s Solicitors were asked to provide advice on the legality of banning the consumption of alcohol in the areas surrounding the Civic Centres.

Council’s Solicitors have subsequently advised the following:-

“

- *If the land is a car park or road-a notice under section 632 cannot be used. There is a procedure set out in section 642 for making those area alcohol free zones.*
- *If the land can be categorised as a park - then a notice can be used under section 632.*
- *If the land was granted pursuant to the Crown Lands Act, then a notice under section 632 can be used.*

*As we are instructed, both lots of land were purchased by Council, and, aside from two smaller portions at the back of the Murwillumbah lands, were not subject to any Crown Grant or any dedication pursuant to a subdivision. We also understand our instructions to be that the land is not subject to the Trustees of Schools of Arts Enabling Act 1902.*

*If these areas are a park, then they fall within the definition of a public reserve, and in turn, within the definition of a public place. A “park” is defined in the dictionary as being area of open space used for recreation, not being bushland, though “public park” is not defined. Presumably it means a park used by the public. There are portions of both the Murwillumbah and Tweed Heads lands which could be regarded as a park and therefore a notice could be erected in those areas.*

*In relation to the car park area at both sites and the roads leading into the car parks we confirm that notices could not be erected. Council would have to adopt the procedures set out in section 642 of the Local Government Act to ban alcohol from those areas.*

*Those parts of the Murwillumbah and Tweed Heads lands which could not be considered to be park, ie the buildings and areas adjacent to the buildings, are not public places by virtue of clause (d) (iv) of the definitions of public place.*

*The two areas indicated on the map of the Murwillumbah site which, we are instructed, were granted pursuant to the Crown Lands Act ( and presently categorised as community land) could carry such a notice.*

*In our view Council should erect notices on the portion of the lands at both Tweed Heads and Murwillumbah which could fairly be said to be parks, (ie areas of open space used by the public for recreation) and those portions granted pursuant to the Crown Lands Act.*

## Reports from Director Environment & Community Services

*Council should not erect notices on other parts of the land under Section 632. Council still has the option under Section 642 to pursue a ban on drinking in these areas.*

Pursuant to this advice, signs banning the consumption of alcohol under Section 632 of the Local Government Act 1993 have been erected in the park opposite the Civic Centre at Tweed Heads and in the vicinity of the fountain and associated landscape and turfed areas at the front of the Civic Centre. However, the remaining areas of land around the Civic Centre which include road and carpark areas and landscaped areas would need to be declared as Alcohol Free Zones under the provisions of Section 644. It should be noted that Section 642 relates to the drinking of alcohol in an Alcohol Free Zone whereas Section 644 relates to the Proposal for establishment of an Alcohol Free Zone. Section 644 states:-

*644 Proposal for establishment of alcohol free zone*

- (1) A council may prepare a proposal for the establishment of an alcohol-free zone, either on its own motion or on the application of one or more of the following people:
  - (a) a person who the council is satisfied is a representative of a bona fide community group active in the area,*
  - (b) a police officer,*
  - (c) a person who council is satisfied lives or works in the area.**
- (2) The application must be in the form set out in the guidelines in force under section 646 or, if there are no such guidelines, in the approved form.*
- (3) The proposal must comply with the guidelines (if any) in force under section 646.*
- (4) The proposed alcohol-free zone may comprise either or both of the following:-
  - (a) a public road or part of a public road,*
  - (b) a public place that is a car park or part of a car park.**
- (5) The proposal may provide for an alcohol-free zone to be established for a period not exceeding 3 years and for the zone to operate for the whole of that period or just for days on which particular special events occur.*

Therefore under the provisions of Section 644 of the Local Government Act, 1993 a Council may prepare a proposal for the establishment of an alcohol-free zone via which a Council may limit the locations within its area where the consumption of alcohol is permitted. In accordance with the provisions of Section 644 (3) the proposal to establish an alcohol-free zone must comply with the guidelines presently in force pursuant to the provisions of Section 646 of the Act. These guidelines require amongst other matters the following important aspects and requirements:

- (1) An application to establish an alcohol-free zone must be supported by reasons that reflect the fact that irresponsible behaviour arising from the consumption of alcohol is occurring on those roads and footpaths etc. included in the proposal.*

## Reports from Director Environment & Community Services

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- (2) That alcohol-free zones should be primarily located adjacent to outlets in the vicinity which supply alcohol where drinkers congregate.
- (3) That the alcohol-free zone may be established for a maximum period for three years and that once established it applies for twenty four hours per day.
- (4) That in preparing to establish an alcohol-free zone, a Council must consult with the Local Police Patrol Commander.

These guidelines also require that those Councils as listed within Appendix 2 of the guidelines must also send a notice of the proposal to the NSW Anti-Discrimination Board. Other councils not listed in Appendix 2 have the option of sending such a notice to the Board. Tweed Shire Council is not a council area listed in Appendix 2 and unless Council wishes to resolve otherwise, it is not intended that any such proposal for the purpose of this report be sent to the Board.

It should also be noted that pursuant to the provisions of Section 644 (4), and the guidelines, an alcohol-free zone may only be established to include a public road or a public place that is a carpark. Areas of landscaping other than the Wharf Street area and area around the fountain, together with the courtyard area on the Northern side of the Civic Centre could not be considered as being either parks, carparks, road or public places. Therefore inclusion of these areas in any alcohol-free zone may not be appropriate. If such areas are included, then any enforcement subject to the provisions of Sections 642 and 643 may be subject to determination in the court if challenged. However, any failure to include these areas within an alcohol-free zone would however provide persons with an area where they are not subject to any ban on the consumption of alcohol. The courtyard area is also used from time to time for functions and is an area where alcohol is sometimes consumed. Including this area in any alcohol-free zone is not considered appropriate, fortunately given its location beside the bar area it is considered more appropriate, that Council simply erect signs in the courtyard area in its capacity as the owner of the land and given that the courtyard area are not public places, restricting the possession and/or consumption of alcohol in the courtyard areas unless permission has been obtained. Such power to provide or withhold permission should be delegated to Councils Director Environment & Community Services.

Under the provisions of the Section 644A of the Act, the guidelines require that Council after preparing a proposal to establish an alcohol-free zone, must undertake a public consultation process. This process involves publishing a notice of the proposal in a newspaper circulating in the area and inviting representations or objections within 14 days from the date of publication, the sending of a copy of the proposal to the officer in charge of the local police station and to liquor licensees and secretaries of registered clubs whose premises border or adjoin or are adjacent to the proposed zone and inviting representations or objections within 30 days of the date of sending the copy and the sending of a copy of the proposal to any known organisation representing or able to speak on behalf of an identifiable Aboriginal or ethnic group within the local area and inviting representations or objections within 30 days from the date of sending the copy.

Under the provisions of Section 644B and Section 644C of the Act after complying with the procedures a Council may, by resolution, adopt a proposal to establish an alcohol-free zone. Following any such resolution, the Council must then publicly advise the establishment of an alcohol-free zone by notice published in a newspaper which circulates in the area that includes the



## Reports from Director Environment & Community Services

zone, the alcohol-free zone will then not operate until 7 days after the publication of the notice and until the roads, car parks etc affected are adequately signposted.

Section 644B also states that "An alcohol-free zone may be re-established from time to time,...for further periods each not exceeding 3 years."

Under the provisions of Section 645 of the Act, the Council may at the request of any person or body or of its own motion, suspend the operation of an alcohol-free zone by publishing a notice of the suspension in a newspaper circulating in the area. During such a suspension, the alcohol-free zone does not operate.

Council may for expedience, wish to delegate the authority to the Director Environment & Community Services as such requests could consequently be of quite short notice.

Council may also cancel the operation of an alcohol-free zone at any time.

In any resolution to ultimately establish an alcohol-free zone, there will be costs. It is estimated that \$2,000.00 should be allocated to cover the costs associated with advertising the proposed alcohol-free zone and in providing and installing all associated signage. As no provision has been made in the civic centre budget, necessary money will need to be allocated by Council.

Recommendation. It is recommended that:-

- (1) Council places on exhibition and notifies prescribed interested parties of a proposal to establish an alcohol-free zone to include the road and carparks associated with the Tweed Heads and Murwillumbah Civic Centres.
- (2) Prior to any notification and exhibition of the proposal to establish the alcohol-free zone, Council consult with the local police patrol commander regarding the proposal.
- (3) Council delegate to the Director Environment & Community Services, the authority pursuant to councils powers under the provisions of Section 645 of the Local Government Act 1993 regarding the suspension or cancellation of an alcohol-free zone.
- (4) Council allocate the amount of \$2,000.00 (Two Thousand Dollars) for the notifications and the provisions of signage associated with the establishment of the alcohol-free zone at Councils next budget review.



**Dr J Griffin**  
General Manager

## Reports from Director Environment & Community Services

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# Reports from Sub-Committees

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## 1. Minutes of the Sports Advisory Committee Meeting held 15 February 2000

GS9/2/3 Pt3 116 398

### VENUE:

Tweed Heads Civic Centre/Bus Tour

### TIME:

4.00 pm

### PRESENT:

**Committee Members:** Cr Warren Polglase, Mrs Glynnis Kenny, Mr Ken Baldwin, Mrs Leanne Sharpe, Mr Andrew Walker, Mr Ross Conlon, Mr Stewart Brawley

**Informal:** Mrs Blyth Short (Recorder)

### APOLOGIES:

Cr Max Boyd, Cr Gavin Lawrie, Cr Philip Youngblutt, Mr Don Buckley, Mr Merve Edwards, Mr Ron Brisby, Mr Peter Moschogianis.

A bus tour of the Shires sporting facilities was conducted. Mr Moschogianis met the tour at the Piggabeen field and followed to Pottsville. The tour ended at the Tweed Heads Civic Centre at 7.30pm.

### MINUTES OF PREVIOUS MEETING:

**Moved:** Ken Baldwin

**Seconded:** Ross Conlon

**RESOLVED** that the minutes of meeting held 18 January 2000 be accepted as a true and accurate record of the proceedings of that meeting.

### CORRESPONDENCE:

#### 1. Gold Coast Soccer Inc.

Correspondence advising the Gold Coast Junior soccer competition games will now commence on Friday 31 March.

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## Reports from Sub-Committees

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### GENERAL BUSINESS:

#### 2. Australian Sports Medal 2000

The election of two community representatives from the committee to the selection panel deferred to the next meeting to be held 21 March.

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#### 3. Murwillumbah Hockey Club - Hot Water Service

**GS9/2/3 Pt3 116 398**

The committee has received a request from the Border Hockey Association for funding on a dollar for dollar basis from the Sportsfield Assets Reserve Funds to install and supply a new hot water system in the Barry Smith fields amenities block. These amenities to be utilised by Mustangs Football Club and the Border Hockey Association in the 2000/2001 season. Total costs for installation and supply is \$1,100.00.

**Moved: Ross Conlon**

**Second: Leanne Sharpe**

### RECOMMENDATION:

That Council reimburses the Murwillumbah Hockey Club for the costs of installation and supply of a new hot water system from the Sportsfield Assets Reserve Funds to the amount of \$550.00.

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#### 4. GST and Sportsfields

**GS9/2/3 Pt3 116 398**

General discussion over the impact the GST will have on sports clubs on issues including funding, licence fees and player registration fees. The Department of Sport and Recreation have advised they are holding seminars for sporting clubs at various north coast venues to inform of the probable impacts of the GST on sports. A 'GST and Sports Seminar' will be held at Murwillumbah Services Memorial Club on Monday 27 March 2000. Invitations and application forms will be sent to all sporting clubs in the Shire encouraging their participation.

Costs of attendance at this seminar is \$6.00 per head. To encourage attendance, the committee recommends Council offers to pay for one representative per club from the Sportsfield Assets Reserve Funds.

**Moved: Ross Conlon**

**Second: Leanne Sharpe**

## Reports from Sub-Committees

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### RECOMMENDATION:

That sports clubs within the Shire are offered reimbursement for one representative to attend the Department of Sport and Recreation 'GST and Sports Seminar' from the Sportsfield Assets Reserve Funds.

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### 5. Murwillumbah Saints Soccer Club

**GS9/2/3 Pt3 116 398**

The committee received a request from Murwillumbah Saints Soccer Club for funding on a dollar for dollar basis from the Sportsfield Assets Reserve Funds to adjust the flood lighting at Rabjones Oval to allow a section of the Les Cave fields to be lit for training purposes. Total cost of the proposal is \$400.

**Moved: Andrew Walker**

**Second: Glynnis Kenny**

### RECOMMENDATION:

That Council reimburses the Murwillumbah Saints Soccer Club for the costs of electrical works on the flood lights at Rabjones Oval/Les Cave fields from the Sportsfield Assets Reserve Funds to the amount of \$200.

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### NEXT MEETING:

21 March 2000 at the Murwillumbah Buchanan Training Rooms.

The meeting closed at 8.00 pm

### *Directors Comments:*

- 1. The recommendation under item 4 is considered to be outside the scope of the use of the "Sportsfield Assets Revenue Fund", this is not an asset matter. It is considered each Club ought to be able to pay for its delegate as this is a job for operation of the club business.*
- 2. The recommendations under items 3 and 5 are recommended to Council for adoption.*

## Reports from Sub-Committees

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### 2. Minutes of the Companion Animal Committee Meeting held Monday 6 March 2000

GA7/4/4

**VENUE:**

Rouse Room

**TIME:**

Commencing 8.00am.

**PRESENT:**

Committee Members: Len Greer (Chairperson), Peter Ainsworth, Terry Lintern, Audrey Rennison, Noela Wynne, Clr Wendy Marshall, Christie Walker,

**APOLOGIES:**

Don Buckley, Ronni Hoskisson, and Alma McAllister.

**AGENDA ITEMS:**

#### 1. Minutes of the Previous Meeting

GA7/4/4 Pt 1

The minutes of the meeting of 7 February 2000 were adopted without amendment.

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#### 2. Practicality of the Act

GA7/4/4 Pt 1

A copy of previous correspondence and the latest letter to the Minister for Local Government regarding this matter were provided to each Committee member present.

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#### 3. Pound Operation

GA7/4/4 Pt 1

Committee was advised that one response was received, for an amount in excess of \$30,000. This will be the subject of a report to Council.

Councillor Marshall stated that it remains desirable that opening hours be extended for public convenience. Councillor Marshall also advised that she is aware of a number of willing volunteers to be involved.

Several Committee members visited the Pound immediately after the meeting to familiarise themselves with the operation.

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## Reports from Sub-Committees

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### 4. Off Leash Exercise Areas

GA7/4/4 Pt 1

Councillor Marshall noted that concerns had been raised at the Aboriginal Advisory Committee that the Advisory Committee had not been specifically consulted in the past regarding dog off leash exercise at south Fingal.

Committee has previously recognised the need for additional off leash exercise areas for locations such as Chinderah, Bilambil and Banora Point.

A number of potential future areas were presented to the Committee along with comments from Recreational Services staff. A number were selected for recommendation to Council to be placed on public exhibition so that public opinion on the areas can be considered.

#### RECOMMENDATION

That Council approve the following areas to be placed on public exhibition as potential off leash dog exercise areas.:

1. Corowa Park - Corner of Cudgen Road and Terrace Street, Chinderah
1. Turnock Park - Corner of Cudgen Road and Wommin Bay Road, Chinderah
1. The riverbank reserve at the end of Old Ferry Road, Oxley Cove
1. The reserve on the corner of Naponyah Road and Bilambil Road, Terranora
1. The walkway around the broadwater, at the base of Peninsula Drive, Bilambil Heights
1. Ducats Park - Ducat Street, West Tweed
1. The treed area within Arkinstall Park, South Tweed
1. The unnamed reserve on the corner of Darlington Drive and Amaroo Drive, Banora Point
1. The unnamed reserve at the bottom of Bushland Drive, Banora Point

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### 5. Door Knock

GA7/4/4 Pt 1

Terry Lintern advised that door knocks in the Kingscliff and Tweed Heads areas had recently been completed. Terry will provide further specific details to the Chairperson. It was agreed that more information regarding cat registration and control would be provided at the time of door knocks.

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## Reports from Sub-Committees

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### GENERAL BUSINESS

#### 6. General Discussions

GA7/4/4 Pt 1

Councillor Marshall suggested that a major promotion should be conducted by Council during 'Pet Week'. This will be considered further as this period approaches.

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#### 7. Educational Material

GA7/4/4 Pt 1

Copies of a number of pamphlets were distributed to Committee members for consideration. It was suggested that copies of these be distributed to caravan parks and residents groups. It was also requested that copies be laminated and placed at supermarkets adjacent to pet food supplies.

A new brochure will also be developed and distributed to local schools.

Christie Walker will also develop some new suggested brochures and provide them to Council officers.

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#### NEXT MEETING:

Monday 3 April 2000

The meeting closed at 9.30 am.

#### **Director's Comments:**

*It is considered that the walkway around the Broadwater at the base of Peninsula Drive Bilambil Heights is not suitable as an off leash area. An off leash area is an area where a dog should be able to run 'free' within a designated area. A walkway is not considered such an area as it is long and narrow and the animal could in fact run out of sight of the owner. Plus a walkway is designed for general pedestrian traffic. Leash free areas should be areas which do not have a conflicting use, which normal recreational walking with or without a dog on a lead is considered to be. It is recommended that Council adopts the resolution under Item 4, but delete number 5.*



## Reports from Sub-Committees

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### MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

3. **Minutes of Water & Wastewater Infrastructure Steering Committee, Kingscliff Wastewater Augmentation held 4 February 2000**
  4. **Minutes of the Tweed Shire Council Consultative Committee Meeting held 17 February 2000**
  5. **Minutes of the Public Transport Working Group Committee Meeting held Tuesday, 22 February 2000**
  6. **Minutes of the Tweed Games Committee Meeting held 22 February 2000**
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## Reports from Sub-Committees

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# Orders of the Day

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**1. Notice of Motion - Cr Boyd**

**General Fund**

**Budget, Rates Levying, Notice of Motion**

*That the Manager Financial Services supplies Councillors with the total amount, which would have been lost to the General Fund, if rates in that fund had not been increased over the last eight (8) budgets.*

---

**2. Notice of Motion - Cr Boyd**

**Proposed Rates Increase - Roads**

**Rates, Levying, Budget, Notice of Motion**

*That Council introduces, with the agreement of the Minister for Local Government, a 3% increase in our rates which is specifically earmarked for roads and if approved, it be continued on this basis for at least the term of this Council.*

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**3. Notice of Motion - Cr Boyd**

**Financial Indicators**

**Budget, Financial Reporting, Notice of Motion**

*That Councillors be supplied with a copy of the Financial Indicators compiled by the Manager Financial Services, Mr Norvill.*

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**4. Notice of Motion - Cr Marshall**

**Multicap Respite Centre Project**

**DA2970/460 Notice of Motion**

*That the Management of Multicap be requested, in relation to its Respite Centre Project for Bray Park, to provide written confirmation of information and assurances given at the public workshop held in the Council Chambers on Wednesday evening, 8 March 2000.*

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**5. Notice of Motion - Cr Luff**

**Review of Payment/Collection Options**

## Orders of the Day

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### Accounts - Master Card/Credit Card

*That Resolution C126 of 2 February 2000 in relation to methods of payment accepted by Council in the year 2000/2001 be amended by making payment involving debit card available for all invoices grater than \$20.*

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### 5a. Notice of Rescission - Cr Beck, Cr Marshall and Cr Lawrie

**Tweed Local Environmental Plan 1987 Proposed Amendment Lot 215 DP755701,  
Duranbah Road, Duranbah**

**GT1/LEP/1998 Pt5**

*That Council resolution at Minute No 1350 in relation to Item 12c of the Meeting held 1 March 2000 being:-*

*".....that the proponent be informed that Council declines to prepare a draft Local Environmental Plan to rezone Lot 215 DP755701 to 2(c) Residential (Urban Expansion).*

***be rescinded."***

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