

# Items for Consideration of Council

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## Items for Consideration of Council

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# Items for Consideration of Council

## CONFIDENTIAL

### Reports from Director Engineering Services in Committee 5

#### 1. 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*

#### 2. ORIGIN: Water Unit 27

##### **Mobile Telephone Installations - Banora Point & Kingscliff Reservoirs**

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

*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.*

*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*

*(e) information that would, if disclosed, prejudice the maintenance of law*

### Reports from Director Environment & Community Services in Committee 33

#### 3. ORIGIN: Environment & Health Services Unit 33

##### **Compulsory Acquisition - Land Eviron Cemetery and Quirks Quarry Site**

*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*

#### 4. ORIGIN: Director 35

##### **Request to Purchase Property at Lot 3 DP 705781 Hawkens Lane, Condong**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (b) the personal hardship of any resident or ratepayer*

#### 5. ORIGIN: Director 47

##### **Request to Purchase Property at Lot 3 DP 705781 Hawkens Lane, Condong**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (b) the personal hardship of any resident or ratepayer*

# 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.

## 17 FEBRUARY 1999

### ORDERS OF THE DAY

1. **Notice of Motion - Cr Cooper**  
Norries Headland

PF1180/9011 Pt2 534 613

880

Cr Cooper  
Cr Nowland

**RESOLVED** that :-

1. The Director Environment & Community Services develops a plan for an increase in day use of beachside park land and car parking at Norries Head.
2. 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.

**Current Status:** Draft Plan prepared. Public meeting held 17 January 2000.

## Schedule of Outstanding Resolutions

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### 7 JULY 1999

#### REPORTS FROM DIRECTOR CORPORATE SERVICES

19. **Tweed Shire Council Lease from St George Building Society**  
**PF4040/160**

1355

Cr Polglase

Cr Graham

**RESOLVED** that a report be brought forward detailing the names of the sub-lessees and the amounts they will pay.

**Current Status:** Awaiting reply from solicitors.

---

### 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 Pt4**

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.

---

### 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:** Access condition to Mt Nullum being investigated.

---



## Schedule of Outstanding Resolutions

### 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:** Aboriginal Advisory Committee Meeting on Monday 31 January 2000. Arrangements for the inspection and date to be finalised.

### 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.

### 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.

# Schedule of Outstanding Resolutions

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## 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:** Report being prepared for March.

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### 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.

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### REPORTS FROM DIRECTOR CORPORATE SERVICES

- 8. Sponsorship for 51st Annual Winter Bowls Carnival 2000**

**Donations**

**1066**

**Cr Marshall**

**Cr Youngblutt** **RESOLVED** that this donation be deferred and dealt with in February, in accordance with Council's Policy.

**Current Status:** To be dealt with in March.

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## Schedule of Outstanding Resolutions

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### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

#### 20. Grant - Proposed New Art Gallery

Cultural Development

1080

Cr Boyd

Cr Carroll

**RESOLVED** that Council:-

1. Affirms support for the new art gallery.
2. Advises of its acceptance of the grant of \$100,000.
3. Forms a Subcommittee of four (4) Councillors, the General Manager, Director Environment & Community Services, Manager Environment and Health Services, Art Gallery Director and one (1) representative from the Art Gallery Advisory Committee and the Friends of the Gallery and two (2) representatives of the New Art Gallery Fundraising Committee to explore funding options.
4. Reports back to Council by first meeting in March.

**Current Status:** Report to Council in March..

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## 19 JANUARY 2000

### REPORTS FROM DIRECTOR ENGINEERING SERVICES

#### 33. 1999/2000 Street Lighting Program

GS1/2 Pt1 & Streetlighting - Annual Program

1162

Cr Boyd

Cr Carroll

**RESOLVED** that:-

1. This report be received and noted.
2. Council officers investigate the adequacy of lighting options in the front of Murwillumbah Civic Centre.

**Current Status:** To be finalised.

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## Schedule of Outstanding Resolutions

### 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:** Awaiting further response from the Cabarita Beach Surf Life Saving Club.

# Mayoral Minute

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Councillors,

## 1. Paralympic Games

## Olympic Games

A letter has been received from the Australian Paralympic Committee regarding the Paralympic Games to be held in Sydney from 18-29 October 2000 seeking the help of the youth from every local government area in NSW to help offset the costs associated with the Games by participating in a 'quest'.

A copy of this letter forms an attachment to this Business Paper.

For Councillors consideration.

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# Mayoral Minute

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# Items Deferred

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## REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

### 18. *Objections to Development Proposal*

**DA1041/690**

*1222*

*Cr Luff*

*Cr Marshall*

*RESOLVED that this matter be deferred to allow the applicant to address Community Access.*

### 18. **ORIGIN: Environment & Health Services Unit**

**FILE REF: DA1041/690**

#### **REPORT TITLE:**

**Objections to Development Proposal**

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

A Development Application has been received for the erection of a three (3) storey residence on property described as Lot 25 DP 8568 (46) Charles Street, Tweed Heads which has been objected to by several affected property owners.

#### **RECOMMENDATION:**

That:-

1. Council approves the proposed height of the building in accordance with the plans submitted for property described as Lot 25 DP 8568 (46) Charles Street, Tweed Heads.
2. Development Determination be dealt with under delegation by the Director Environment and Community Services.

## Items Deferred

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### REPORT:

A Development Application has been received by Council for the demolition of an existing residence and the erection of a three (3) storey residence with an inground concrete swimming pool on the beforementioned property. The land is zoned 2(a) Residential under the Tweed Local Environmental Plan 1987 and therefore the erection of a dwelling in this zone is permissible with consent.

The proposal was notified to affected property owners whereby 4 letters of reply containing objections were received.

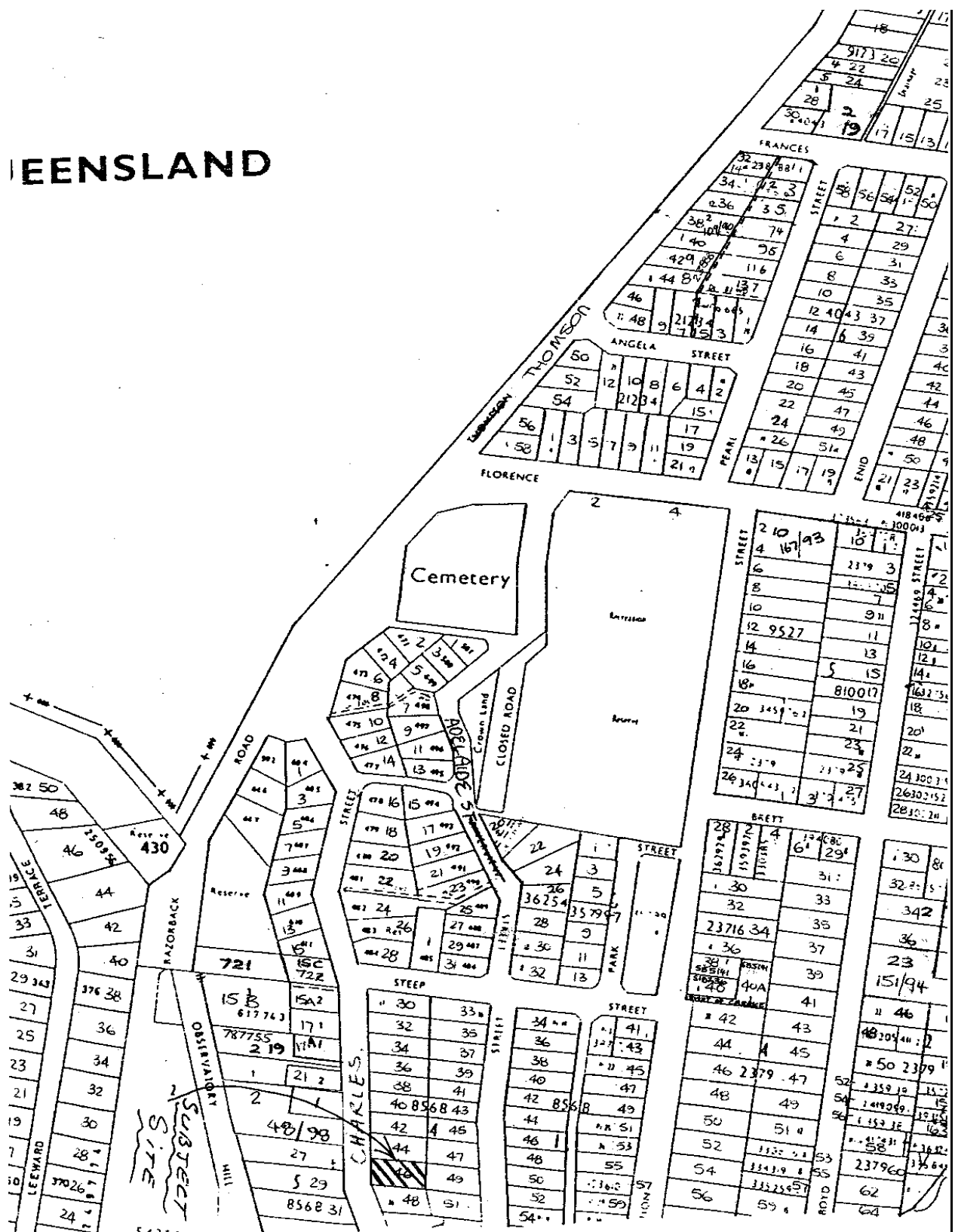
The subject site is located on the low side of Charles Street and on the east facing side of Razorback Hill. The proposed residence has basically a flat roof and will stand approximately six decimal two (6.2) metres above the level of the Charles Street roadway at its highest point. The roof line of the dwelling that currently exists on the site is approximately level with the roadway.

A draftsman's impression of the elevation of the proposal as viewed from Charles Street has been reproduced for Council's information together with a site plan and north and south elevations:-

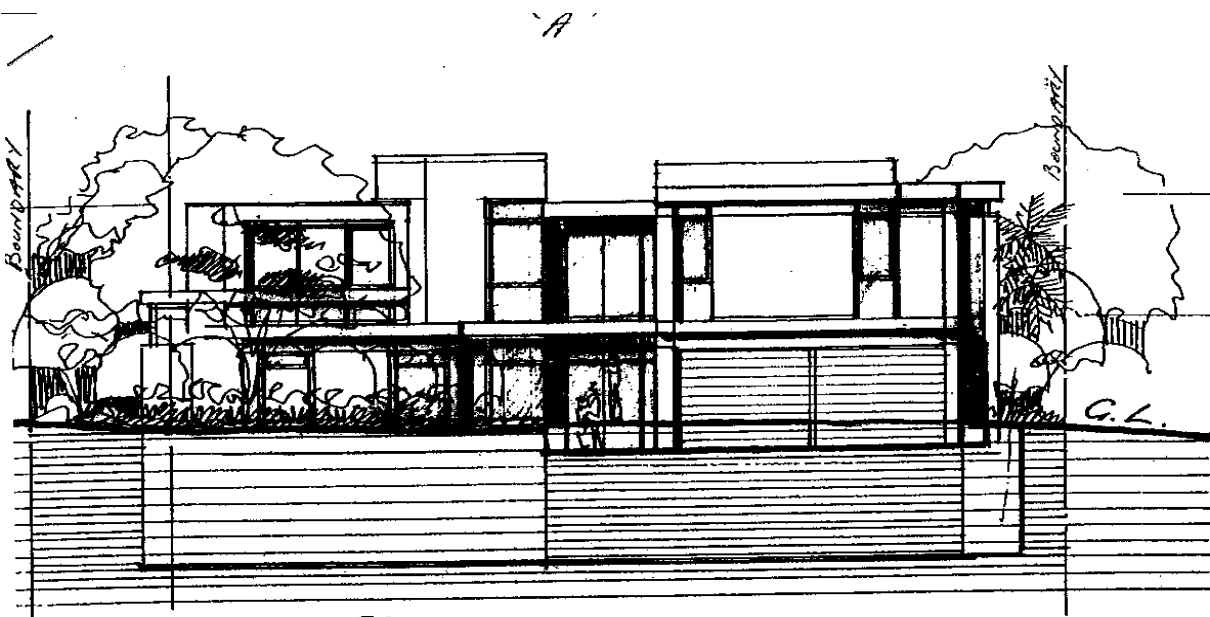


# Items Deferred

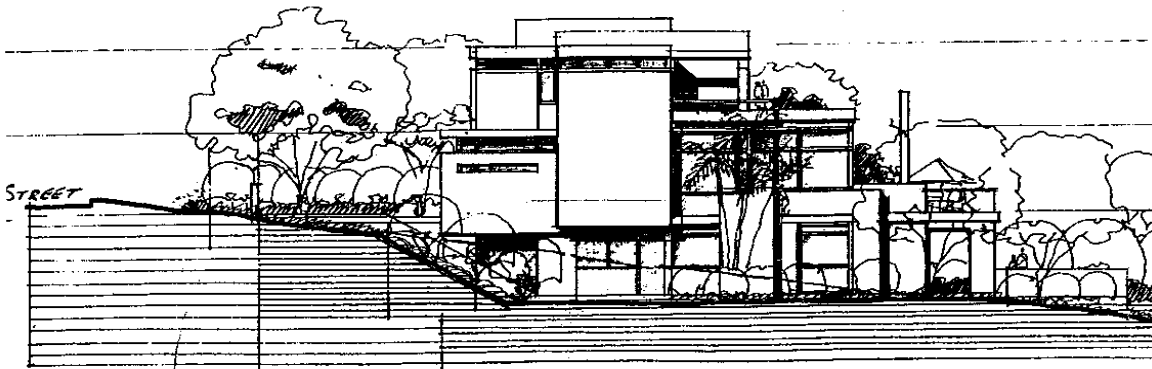
## MEENSISLAND



# Items Deferred



(VIEW FROM CHARLES STREET)

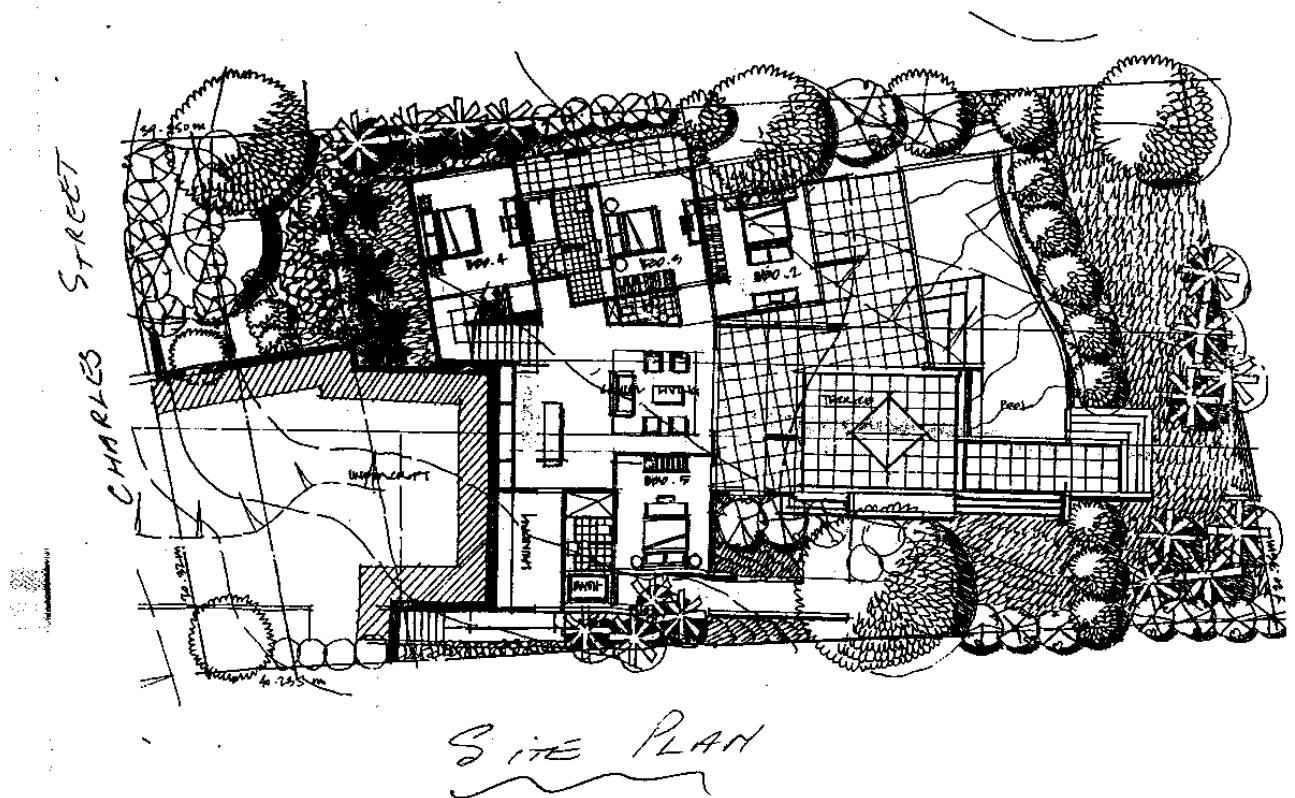


SOUTHELEVATION - (AS VIEWED FROM No. 48)



NORTH ELEVATION

## Items Deferred



In regard to the objections, all submission brought up the fact that Council's exhibited draft Local Environmental Plan recommended a two (2) storey height limit for this particular area to preserve the character of the area and maintain views and whilst the Local Environmental Plan is not in force at this stage Section 79(c)(i) of the Environmental Planning and Assessment Act 1979 states inter-alia, that in determining a development application, a consent authority is to take into consideration the provisions of any draft environmental instrument that is or has been placed on public exhibition and therefore some weight must be given to the draft Local Environmental Plan in considering this proposal.

It should also be noted that an inspection of the existing developments along Charles Street identified that no three (3) storey buildings exist along the east facing blocks between Florence Street and Adelaide Street, however, some three storey buildings and some high set buildings exist on the southern orientated portion of Charles Street.

The submissions also included concerns in relation to the effects on views.

A site inspection to determine the effect of the proposal from each of the properties where concerns had been raised identified that some views, which include the Tweed River, the ocean and in one instance, Cook Island, will be obstructed, however, a similar impact could result with the construction of a two (2) storey residence with a pitched roof. It should also be noted that some trees exist at the front of the site which already obstruct a percentage of view from the adjacent property which would be similar to the impact of the proposal.

## Items Deferred

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Another concern raised relates to the impact of overshadowing caused by the proposal on the premises on the southern side.

Representation made on behalf of the applicant identify that the setback from the southern side boundary at the third storey is between 1.5 and 2.0 metres and that the length of the three storey section of the southern wall is 7.0 metres. Plans also indicate that the wall setback at levels one and two is a minimum of 1.0 metre with an average setback of 1.7 metres. The southern elevation also indicates that the front portion of the site which is immediately below the three storey portion is to be excavated.

Had the proposal been two storeys and sited as shown using existing ground levels, and not excavating the site, the overall height of the building would be comparable to the levels currently proposed, particularly in the event that a pitched roof was proposed.

The proposal also is designed with a flat roof which minimises the overall height in comparison to a proposal with a pitched roof.

It should also be noted that while the proposal will create some overshadowing of the site on the southern side, the existing residence on this site is set well back from the front boundary in comparison to the proposal which stands approximately seven (7) metres back from the front boundary and therefore while some overshadowing of the site will occur the proposed design minimises any adverse shadowing impacts on the existing residence.

In regard to the suitability of the site for the proposal, a site stability report and site drainage plan has been requested due to the known instability of some land in the immediate area; in reply the applicant has requested that Council first consider the submissions in relation to the height of the proposal prior to pursuing this information.

In conclusion it is considered that while the proposal exceeds the three storey height limit recommended in the draft Local Environmental Plan, the use of a flat roof throughout the design has minimised the overall height of the building which would be comparable to a two storey house with a pitched roof and therefore it is recommended that the three storey proposal be approved.

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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 Corporate 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 Corporate Services

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### 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;

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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;



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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.

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### 1. ORIGIN: Development Control Unit

**FILE REF: DA4740/350 Pt1**

#### REPORT TITLE:

**Proposed General Store and Associated Signage at Lot 18 Section 2 DP 1223 and Lot 1 DP 62442 Riverside Drive, Tumbulgum**

#### SUMMARY OF REPORT:

Council has received a development application for the establishment of a general store and associated signage on the subject land. A submission has been received in relation to this proposal objecting on the basis that a general store already exists in Tumbulgum and two stores cannot be supported. Concern was also raised in relation to the adequacy of parking and loading facilities. The application has been called up by the Mayor for determination by Council.

#### RECOMMENDATION:

That the development application submitted by A Jordan & A Ribbons for the alterations and additions to an existing building to establish a general store at Lot 1 DP 624442 and Lot 18 Section 2 DP 1223 Riverside Drive, Tumbulgum, 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.

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

## Reports from Director Corporate Services

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:  
$$\text{GST payable} = \text{The GST inclusive market price of the asset} \times \frac{1}{11}.$$
- 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: \$1540.00

S94 Plan No. 4 (Version 4.0)

(Sector 9 - Murwillumbah commercial)

This fee may be paid in 3 annual instalments with the first payment to be made prior to a construction certificate being issued.

### GENERAL

2. The development shall be completed in general accordance with Drawing Nos 5698/WD/01A and 5698/WD/02 prepared by Pat Twohill Designs Ltd and dated November 1999, except where varied by these conditions. Prior to painting the building and commencing work, details of external colours are to be submitted for approval by the Director, Development Services.

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3. This consent is valid for a period of 5 years only and an application to amend this consent is required to extend this time limitation.
4. 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.
5. 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.
6. 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 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.
7. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.
8. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
9. 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.
10. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.
11. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
  - a. footings, prior to pouring of concrete
  - b. slab, prior to pouring of concrete
  - c. frame prior to the erection of brick work or any wall sheeting
  - d. final inspection prior to occupation of the building
12. 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.

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- 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.
13. 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.
  14. All trade materials, product and plant to be kept within confines of the building at all times.
  15. The land is to be consolidated into one lot and registered with the Lands Titles Office prior to commencement of Stage 2. Evidence of registration is to be submitted to Council.
  16. The proposed breeze block panel in the southern external wall is to be deleted to comply with Part C3 of the Building Code of Australia.
  17. The construction and size of the disabled facility is to comply with the relevant provisions of AS1428.1-1998.

### **PRESCRIBED (BUILDING)**

18. A sign must be erected on the site in a prominent, visible position stating:
  - 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.
19. 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.
20. The building is not to be occupied or a final Occupation Certificate issued until a fire safety certificate has been issued for the building to the effect that each essential fire measure listed in the schedule below has been designed and installed in accordance with the relevant standards.

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Such certificate shall state as to each essential fire measure installed in the building:

- (a) that the service has been inspected and tested by a person who is competent to carry out such an inspection or test; and
- (b) that the service was (as at the date on which it was inspected and tested) found to have been properly implemented and capable of performing to a standard not less than that required by the most recent fire safety schedule for the building for which the certificate is issued.

**Please note** that all **Essential Services** listed on the schedule below must be certified on an annual basis as per the provision of Section 80GB of the Environmental Planning and Assessment Regulation 1994.

<b>Fire Safety Schedule</b>	<b>Minimum Standard of Design</b>
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<b>Essential Fire Safety</b>	<b>Installation and Maintenance</b>
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<b>Measure</b>	
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Portable Fire Extinguishers	AS2444-1995 “Portable Fire Extinguishers Selection & Location”
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- 21. 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).
- 22. 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.

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23. 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)**

24. 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.

### **FIRE (BUILDING)**

25. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 “Portable Fire Extinguishers - Selection and Location” and Part E1.6 of the Building Code of Australia.

### **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 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.
28. Prominently displayed signs and symbols must be provided to identify for disabled persons all routes and areas where architectural barriers do not exist. Such access must comply with the requirements of Australian Standard AS 1428 Parts 1 and 2.
29. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
30. Disabled car parking spaces are to be provided at the rate of one (1) car parking space for each one hundred (100) spaces or part thereof and constructed in accordance with Australian Standard AS2890.1-1993.

### **FOOD PREMISES (BUILDING)**

31. 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.



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32. Prior to the commencement of work the Principal Certifying Authority is to be provided with and approve details of the kitchen exhaust system. Such details are to include the location of discharge to the air, capture velocity, size of hood and angle of filters. The system shall comply with Australian Standards SAA 1668 Part 2 Ventilation Requirements.
33. Shop fitters are to liaise with the Principal Certifying Authority prior to fitting out of shop.
34. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia to include changes marked in red on submitted plan number 5698/WD/01 dated November 1999.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

### **ROADS/STREETS**

35. The provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the provision of an invert crossing at the kerb and gutter and paving of the driveway across the footpath to the front alignment. 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.
36. The full width paving on the footpath is to have a maximum grade of 3% from the boundary to the top of kerb. The pavers must be laid on a 100mm thick concrete slab.
37. The on street parking proposed in Riverside Drive is to be completed prior to occupation of Stage 1. Prior to commencement of work on the paving a plan is to be submitted and approved by Council's Engineering Services Division showing the existing road and proposed parking. The parking is to complement Council's foreshore upgrading plan and is to comply with Austroads Guide to Traffic Engineering Practice Part 11 - Parking.

### **DRAINAGE/FLOODING**

38. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage.
39. Building materials used below Council's minimum floor level of RL 4.70m AHD must not be susceptible to water damage.
40. 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.

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41. 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 accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available.
42. 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.

### PLUMBING AND DRAINAGE

43. 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
44. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
45. 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.
46. Temperature and pressure relief lines from hot water systems shall discharge in the open as prescribed in Australian Standard AS 3500.4.1990 Section 4.12.3.
47. Water plumbing shall **not** be installed in concrete slabs or be laid under slabs on the ground.
48. Pressed steel baths and shower trays are to be bedded to provide continuous support to the base of the unit.
49. Impervious floors, properly graded and drained are to be provided to all wet areas.
50. Drainage lines must not penetrate footings unless certification is first obtained from a practising Structural Engineer.
51. A trade waste application form must be completed and approved before discharge to sewer commences.
52. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Inspection of drainage works prior to covering is required.
53. 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.

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54. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
55. A pressure limiting valve to limit the water pressure to a maximum of 600Kpa is to be installed on the water supply conduit to the hot water service.
56. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
57. All drainage lines are to be continuously bedded in accordance with the provisions of Section 5.4 AS 3500.2 - 1990.
58. 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.
59. The finished floor level of the building should finish not less than 225mm above finished ground level.

### **ENVIRONMENTAL PROTECTION**

60. 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.
61. 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.
62. 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.
63. 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.
64. 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.

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### REPORT:

**Applicant:** Anthony Jordon and Albert Ribbons  
**Owner:** Mr A Jordon  
**Location:** Lot 18 Section 2 DP 1223 and Lot 1 DP 624442 Riverside Drive, Tumbulgum  
**Zoning:** 2(d) Rural Village zone  
**Est. Cost:** \$35,000

### BACKGROUND/PROPOSAL

A development application has been received for the alteration and additions to an existing building to establish a general store at Lot 18 Section 2 DP 1223 and Lot 1 DP 624442 Riverside Drive, Tumbulgum. The work is proposed to be undertaken in 2 stages and an advertising sign is also proposed. One of the applicants presently operates the existing general store in Tumbulgum and the application indicates that he intends to relocate the business due to difficulties in obtaining a lease in the present premises.

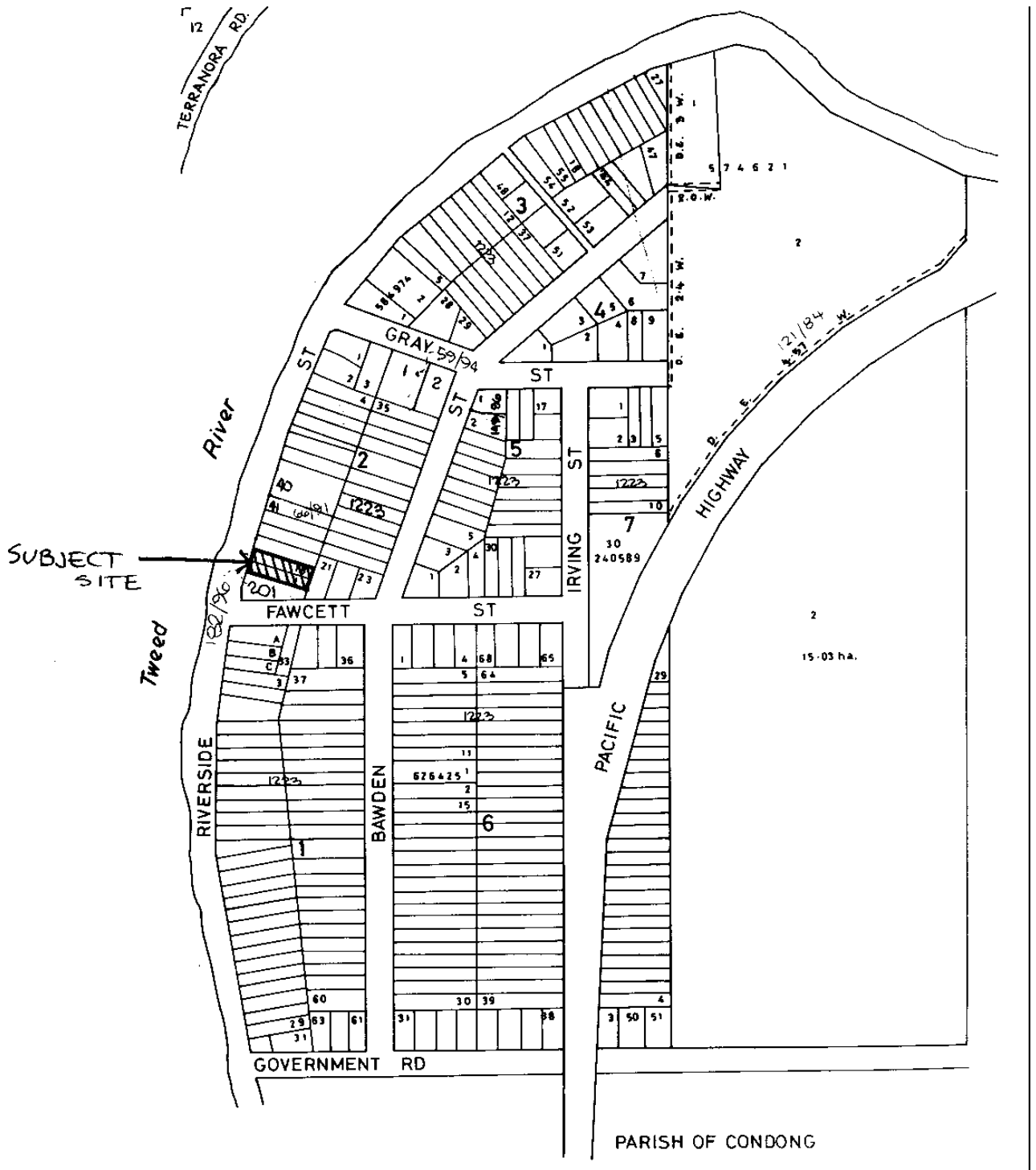
The site presently contains a single storey concrete block workshop which is vacant but has previously been approved for furniture manufacture/sales and a property management office. It is proposed to convert this building to a general store and post office and construct an extension at the rear of the building to accommodate a toilet and storeroom. A covered verandah and pergola is proposed at the front of the building. It is proposed to undertake the work in 2 stages as follows:-

- Stage 1           Fitout existing building, construct rear store and toilet, driveway and carpark, front outdoor area and erect sign.
- Stage 2           Construct front outdoor area and erect sign.

Figure 1 shows the location of the subject land and plans of the proposal is shown on Figure 2.

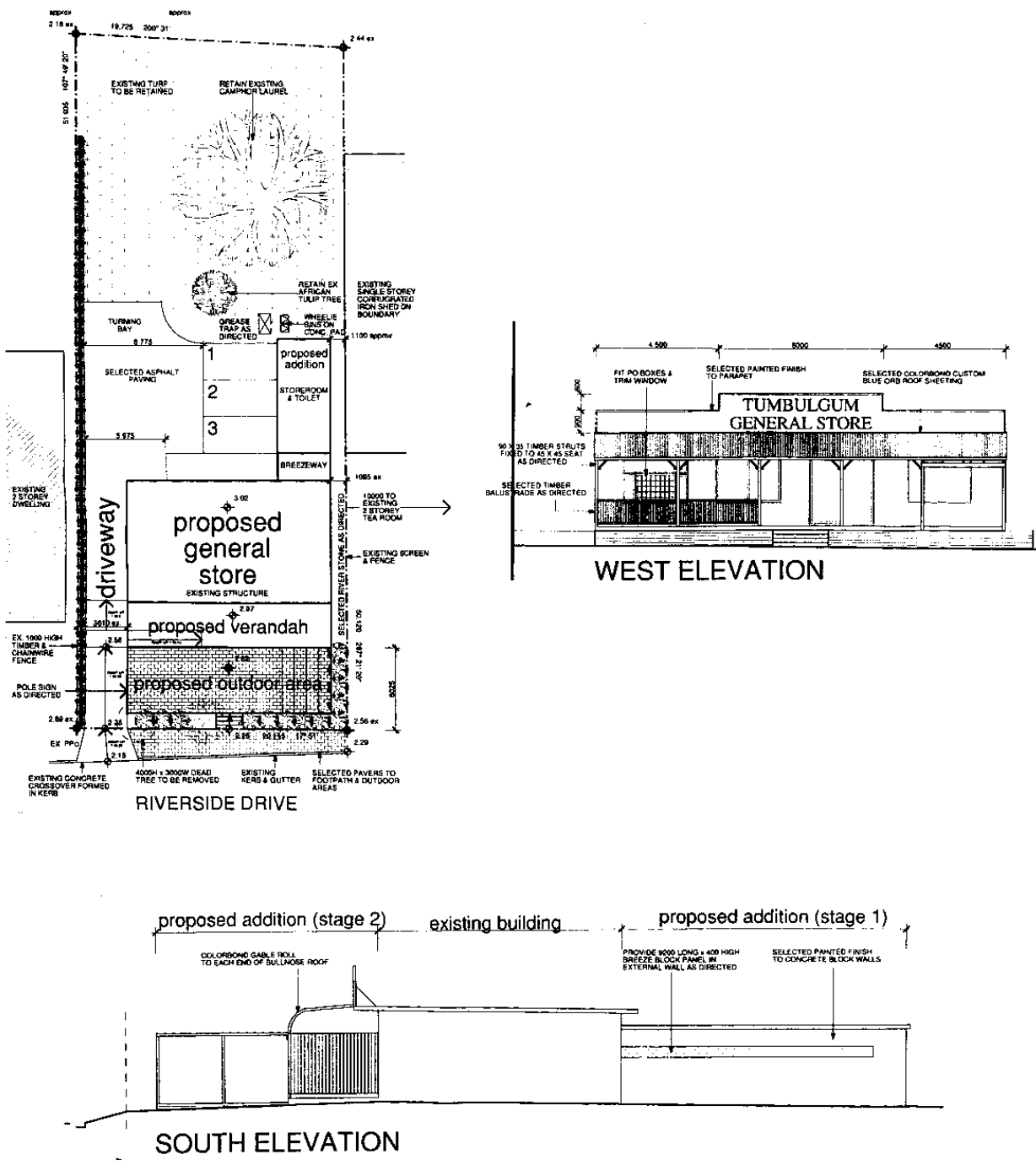
# Reports from Director Corporate Services

FIGURE 1



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FIGURE 2



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### CONSULTATION

There is no statutory requirement to advertise the application. People who own adjoining properties on either side of the subject land fronting Riverside Drive have written to Council advising that they have no objections to the proposal. The land to the rear of the site is owned by one of the applicants.

Council has received a submission from the owner of the existing general store. A summary of the submission is below.

- If the proposed development is approved, the Tweed Shire will lose one of its historic landmarks as there is not the population in Tumbulgum to support two general stores.
- Inadequate car parking and loading facilities are available.

### Comments

It is unlikely that Tumbulgum could support two general stores however, other business or commercial uses could occupy the current building occupied by the general store.

However, the issue in which Council needs to consider is whether or not it should be involving itself in free enterprise and deciding on how many and what type of commercial enterprises should be provided in different areas. It should be noted that in most commercial areas Council is not part of this decision as development applications are not required for a majority of retail and commercial businesses which utilise existing buildings.

It is considered that Council should not become involved in competition between two shop uses and therefore the Section 79C1 assessment will only consider the merits of the particular site for a general store use.

In relation to the car parking and loading issue, this will be discussed in the Section 79C1 assessment.

### EVALUATION

An assessment of the proposal under Section 79C1 of the Environmental Planning & Assessment Act, 1979 is provided below.

#### **(a) (i) The provisions of any Environmental Planning Instrument**

##### **State Environmental Planning Policies (SEPPs)**

No SEPPs are directly applicable to this proposal

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

The proposal is not inconsistent with the provisions of the NCREP 1988.

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

The land is zoned 2(d) Rural Village zone under the TLEP 1987. The proposed development is permissible with consent.

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The site is within a conservation area and therefore Clause 43 of the TLEP 1987 applies. This clause requires that Council needs to take into consideration the effect the proposed development would have on the heritage significance of the heritage conservation area. The site presently contains a single storey concrete block building which is not considered to add any value to the conservation significance of the area. Once the proposed verandah and awning are constructed as part of Stage 2 the proposal will make a more positive contribution to the conservation value of the area compared with the existing building. It would be desirable to have these additions finalised as part of the first stage however, the applicant advises that financial constraints preclude this.

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

The draft Tweed Local Environmental Plan 1998 has no major implications for the proposal.

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

**DCP2 - Site Access and Parking Code**

DCP 2 requires that a total of 6 spaces be provided on site. It is proposed that 3 spaces be provided at the rear of the site and a further 6 be provided within the road reserve on the opposite side of Riverside Drive which would form part of the overall foreshore improvements for the area. The applicant is to construct the on street car parking in accordance with plans to be submitted by the applicant and approved by the Engineering Services Division. The Engineering Services Division have raised no objections to the parking arrangements proposed.

The total number of off street car parking spaces does not comply with DCP2 however, given that a further 6 spaces will be constructed in a convenient location which will also be used for general public use, it is considered that the proposal is satisfactory in this regard.

**DCP5 - Development of Flood Liable Land**

Conditions will be applied to any consent to reflect the requirements of this Policy.

**DCP15 - Advertising Structures**

The proposed pylon sign complies with the size requirements of this Plan. The overall design is considered to be compatible with the character of the locality.

**(iv) Any matter prescribed by the Regulation**

The proposal is considered to be consistent with the NSW Coastal Policy.

Councils Building Services unit has prepared a report in accordance with Clause 66B of the Regulations which relates to additions to existing buildings. It has been recommended that portable fire extinguishers be provided as a condition of any consent.

**(b) The likely impacts of that development, including impacts on both the natural and built environment and social and economic impacts in the locality**



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### **Context and Setting**

Land to the north of the site contains a two storey dwelling. The building is setback 3.61m from the common property boundary. Land to the south contains a double storey building containing a tea room which is known as Memory Manor. The proposed general store should not have a significant impact on the adjacent uses. It should be noted that the adjoining property owners have advised that they have no objections to the proposal and the land to the rear of the site is owned by one of the applicants.

### **Traffic and Access**

Access is proposed from Riverside Drive to three car parking spaces at the rear of the site. Council's Traffic and Transport Engineer has reviewed the application and has raised no objections to the proposal subject to conditions of consent including the need for detailed on-street parking plans prior to construction.

In addition, the plans provide for loading facilities at the rear of the building which is considered satisfactory. The applicant has advised that typically goods are delivered in small vehicles which can use the unloading facilities on site and should any larger vehicle be used there is adequate legal parking areas in the roadway. The applicant has advised that these goods are wheeled in by trolley or carried by hand.

### **Environmental Impacts**

The proposal does not contain any significant vegetation which will be impacted upon as a result of the proposal.

The additions will result in some ground disturbance and any consent will include standard conditions concerning erosion control.

### **Lot Size/Shape**

The size and shape of the lot is suitable for the proposed development. The existing building is presently over 2 lots which would need to be amalgamated as part of the consent. As this situation presently exists the amalgamation should be done prior to commencement of work in Stage 2.

### **Social/Economic Impacts**

In terms of the impacts on the overall community, the proposal should not result in significant social or economic impacts.

#### **(c) The suitability of the site for the development**

The site does not have any physical constraints which would preclude the development. Adjacent landuses also do not represent a prohibitive constraint. Therefore, it is considered that the site is suitable for the proposed development.

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

As previously discussed, the application was not required to be advertised. Adjoining landowners have raised no objections to the proposal.

The submission made in relation to this proposal has been discussed in the “consultation” section of this report.

(e) **The public interest**

The Tweed 2000+ Strategic Plan does not contain any specific provisions which relates to this proposal.

The development of this site for a general store would normally attract a Section 94 Plan No 4 contribution of \$6563. To calculate this contribution the Section 94 Plan classes this development as “a shop within a shopping centre”. A general store in Tumbulgum would not have the traffic generating characteristics that a shop in a shopping centre would have and therefore it is considered that this contribution does not represent the true impact that the proposal will have in terms of traffic generation. A general store in Tumbulgum would attract less traffic as it mainly caters for local residents and tourists who are already visiting the village.

As part of the review of the Section 94 Plan the issue of traffic generation and appropriate contributions for local shops will be considered.

In the meantime, this development application needs to be determined. To enable the development to commence it is suggested that the consent be issued with a 5 year limitation therefore reducing the contribution to 25% of the total. The review of the Section 94 Plan regarding local shops would proceed concurrently as part of the wider review of the Plan which is currently being undertaken. After this review is complete the applicant could seek an amendment to the consent to remove the 5 year limitation. Should it return a lower rate, as part of the amendment to the application to modify the five year limitation the applicant could request a modification to the contribution and potentially obtain a refund. It is also open to the applicant to progressively pay the contribution over 3 years. This approach has been discussed with the applicant.

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

If the applicant is dissatisfied with the determination of the application, the applicant has a right of appeal to the Land and Environment Court.

### OPTIONS

Council can either:

1. Refuse the application; or
2. Approve the application subject to conditions.

There would appear to be no valid reasons to justify refusal of the application.

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### CONCLUSION

The proposal has been reviewed by Councils Engineering Services Division and Environment and Community Services Division and no objections have been raised subject to conditions being placed on any consent.

The issue raised concerning Tumbulgum having two general stores has been discussed in the "consultation" section of the report and it is considered that this is a commercial situation between landowners and lessee in which Council should not become involved.

In terms of the suitability of the proposed development on the subject land, it is considered that the proposal is satisfactory and it is recommended that conditional consent be issued.

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## Reports from Director Corporate Services

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### 2. ORIGIN: Development Control Unit

**FILE REF: DA3570/270 Pt1**

#### **REPORT TITLE:**

**Proposed Residential Flat Building containing Four (4) Units at Lot 9 Section 7 DP 17606 No 20 Moss Street, Kingscliff**

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

A development application has been received for the erection of a residential flat building containing four (4) units on the subject land. The height limitation for the site is 2 storeys and the design of the building is 3 storeys under the definition of 'storey' contained in the Tweed Local Environmental Plan 1987. The applicant has lodged an objection under State Environmental Planning Policy No 1 objection contending that the 2 storey limitation is unnecessary or unreasonable due to the particular circumstances of the site and the design of the proposal.

The application was advertised and a total of five (5) submissions were received with the main concern being the height of the building. It is considered that the overall design of the building is satisfactory in terms of streetscape and impact on adjoining properties and conditional consent is recommended.

#### **RECOMMENDATION:**

That:-

- A. The SEPP No 1 objection in respect of the building height be supported and the Director's concurrence be assumed.
- B. The development application lodged by Mark Stapleton and Associates for the erection of a residential flat building containing 4 x 3 bedroom units at Lot 9 Section 7 DP 17606 Moss Street, Kingscliff be approved subject to the following conditions:

**PRE-REQUISITES - that must be satisfied before a construction certificate can be issued**

#### **General**

1. Stormwater drainage from the site may be discharged to the 375mm Council drain in the unnamed lane south of Lot 10 DP 869230 provided
  - (a) Peak stormwater discharge from the site (major and minor drainage and pumped basement flow) to the Council stormwater drainage system does not exceed 20 litres per second.
  - (b) Drainage work in Moss Street and the lane are carried out in accordance with details to be submitted to and approved by the Director Engineering Services prior to any construction certificate being issued.

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- (c) Peak stormwater discharge from the development to the Council stormwater drainage system may be controlled by utilising infiltration, on site detention or combination. Details and design calculations of the system to control stormwater flows are to be submitted for approval by the Director Engineering Services prior to the construction certificate being issued.
- 2. If it is proposed to discharge stormwater into Cudgen Creek, any necessary approval from the Department of Land and Water Conservation and NSW Fisheries is to be obtained and evidence of these approvals is to be submitted to Council prior to the construction certificate being issued.
- 3. The proposed boardwalk is to be designed to be compatible with the existing board walk to the south. Detailed design plans are to be submitted and approved by the Director Engineering Services prior to the construction certificate being issued.
- 4. Detailed Engineering design is to be submitted to and approved by Council Director Engineering Services prior to issue of the construction certificate for:
  - (a) Footings for the eastern balconies and the retaining wall in proximity of the existing sewer. The footings are to be founded 300mm below the invert of the sewer for the full width of the property;
  - (b) Footings for the eastern (rear) face of the building to ensure that when gravity sewer is excavated that this footing will not be compromised. It will need to be found at a greater depth than that shown on Sheet 6/9.

### Contributions

- 5. (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.

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:

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“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: \$1,092.00  
 S94 Plan No. 4 (Version 4.0)  
 (Kingscliff - Residential)
  - b. Open Space (Casual): \$253.00  
 S94 Plan No. 5
  - c. Open Space (Structured): \$323.00  
 S94 Plan No. 5
  - d. Shirewide Library Facilities: \$195.00

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	S94 Plan No. 11	
e.	Eviron Cemetery/Crematorium Facilities:	\$64.50
	S94 Plan No. 13	
f.	Emergency Facilities (Surf Lifesaving)	\$60.70
	S94 Plan No. 16	
g.	Community Facilities (Tweed Coast)	\$554.00
	(North Coast)	
	S94 Plan No. 15	
h.	Extensions to Council Administration Offices & Technical Support Facilities	\$261.58
	S94 Plan No. 18	
i.	Cycleways	\$105.00
	S94 Plan No. 22	

6. 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.

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.



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- 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.

Water:     \$2565

Sewer:     \$2115

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.

### GENERAL

7. The development shall be completed in general accordance with Plans Nos 1199-1/9, 2/9, 3/9, 4/9, 5/9, 6/9, 7/9, 8/9 and 9/9 prepared by PFK Building Design and dated November 1999, except where varied by these conditions.
8. 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.

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9. No soil, sand, gravel, clay or other material shall be disposed of off the site unless to an approved location.
10. 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.
11. 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 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.
12. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
13. Fencing along the frontage of the property is not to exceed the 1.2m height. The open fence adjacent to the driveway is to be designed so as not to restrict vision of pedestrians from drivers exiting the site.
14. The provision of ten (10) car parking spaces in accordance with DCP2 - Site Access and Parking Code. The entry to the basement parking area is not to be blocked by way of a gate, door or similar. This area is required for manoeuvring from the visitors parking area.
15. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.
16. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead".
17. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.
18. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601-1991 "The Demolition of Structures".
19. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
20. 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.
21. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

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- a. footings, prior to pouring of concrete
  - b. slab, prior to pouring of concrete
  - c. frame prior to the erection of brick work or any wall sheeting
  - d. final inspection prior to occupation of the building
22. All necessary on site boundary retaining shall be carried out prior to start of works upon the building proper, with details of retaining walls being submitted to Council for approval prior to start of works.
- Please note:** Timber retaining walls will not be accepted.
23. 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.
24. The glazier is to supply the PCA with certification that all glazing complies with AS 1288-1994 of the Building Code of Australia.
25. Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.
26. 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.
27. No retaining walls or similar structures are to be constructed over Council's sewer main.

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28. Compliance with all requirements of the "Tweed Shire Council Guidelines for the Installation of Pontoons and Boat Ramps".
29. 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.

30. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required Essential Fire Safety Measure has been designed and installed in accordance with the relevant standards.
31. An easement for public access and services is to be created over the boardwalk and sewer line. The easement is to extend from the high water mark over the sewer and is to be registered prior to occupation of the building. Evidence of registration is to be submitted to Council prior to occupation of the building.

### **PRESCRIBED (BUILDING)**

32. 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.
33. 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.
34. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
1. The person must, at the person's own expense:
    - a. preserve and protect the building from damage; and
    - b. if necessary , underpin and support the building in an approved manner.
  2. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.
35. 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.
36. 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).
37. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
38. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with , the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed.
39. The erection of a building in accordance with a development consent must not be commenced until:

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- 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.
40. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance.
41. 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.

### **CAR WASH DOWN AREAS**

42. Ensure adequate turfed area, or other suitable media, is incorporated and maintained into the proposed landscape of the property for use as a car wash-down area.

### **SWIMMING POOLS (BUILDING)**

43. A sign must be erected on the site in a prominent, visible position stating:
- 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.
44. In the event that Council is not utilised as the inspection/certifying authority:-
- a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.
  - b. The Certifying authority is to be given 24 hours notice in writing for an inspection of the swimming pool safety fencing prior to filling the pool with water.

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45. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
46. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
47. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
48. The swimming pool is not to be used for commercial purposes without prior Development Consent.
49. It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
50. The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
51. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction.
  - a. Steel reinforcing prior to the pouring of concrete.
  - b. Swimming pool safety fencing prior to filling the pool with water.
52. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).

### **ROADS/STREETS**

53. 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.
54. The concrete driveway across the footpath is to be 150mm millimetres thick minimum and reinforced with F72 mesh with 40mm cover.
55. 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 Moss Street in accordance with Council drawing No. A1-1331/02. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum

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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. Alternatively, the applicant may provide a monetary contribution to Council for the equivalent amount of the work.

56. Provision of kerbs and gutter for the full frontage of the site in accordance with Tweed Shire Council drawing No. A1-1331/02. Alternatively, the applicant may make a monetary contribution for the equivalent amount of work.

### DRAINAGE/FLOODING

57. Drainage from the basement car park and other hard stand areas is to pass through a general purpose (oil and silt) arrester, designed in accordance with AS/NZS 3500.3.2:1998 Section 8.6 and sized in accordance with Figure 8.3. The arrester shall be regularly cleaned out and maintained to ensure no discharge of oil/grease and sediment to the public stormwater drainage system.
58. Basement drainage shall be in accordance with AS/N25 3500.3.2P1998 Section 9.
59. 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 accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available.
60. 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.

### SERVICES

61. Sewer main within site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.
62. The building is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.



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### PLUMBING AND DRAINAGE

63. 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. completion of work
64. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
65. 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.
66. The Engineering Plans required by Condition xxxx shall include details of settling ponds and the method of discharging the return water from the site. The design shall comply 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..
67. 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.
68. Impervious floors, properly graded and drained are to be provided to all wet areas.
69. 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.
70. 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.
71. 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.
72. The fire hose reels are to be on a metered supply.

### ENVIRONMENT PROTECTION

73. An Acid Sulfate Soils Management Plan prepared in accordance with the ASSMAC, 1998 shall be submitted for the approval of the Director Environment and Community Services prior to commencement. All subsequent work shall comply with the provision of that Management Plan.
74. No waste material, soil or other material shall be permitted to enter Cudgen Creek or as a result of the development.

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75. Should mechanical ventilation be provided to the basement parking, it shall not create a noise nuisance to adjoining premises.
76. 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.
77. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
78. 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.
79. 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.
80. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° 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.
81. 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.
  82. 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.

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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.

83. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
84. The burning of builders waste on site by open fire is prohibited.
85. 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.
86. The wall and roof cladding is to be of a non reflective nature to the satisfaction of the Principal Certifying Authority.

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### REPORT:

<b>Applicant</b>	Mark Stapleton and Associates
<b>Owner:</b>	D Charlton, D Irish and F turner
<b>Location:</b>	Lot 9 Section 7 DP 17606 No 20 Moss Street, Kingscliff
<b>Zoning:</b>	2(b) Residential
<b>Est Value:</b>	\$600,000

### PROPOSAL

A development application has been received for the erection of a residential flat building containing 4 x 3 bedroom units at Lot 9 Section 7 DP 17606 No 20 Moss Street, Kingscliff. The site presently contains a two storey block of units and demolition of these units is proposed as part of this application.

The proposed units contain two levels of living area and a basement car parking area. Under the definition of 'storey' in the Tweed Local Environmental Plan 1987, the proposed units are considered as being three storeys in height. The height limit for the site is 2 storeys and therefore the applicant has lodged an objection to this development standard under State Environmental Planning Policy No 1 (SEPP 1) contending the 2 storey limit is unreasonable or unnecessary in the particular circumstances.

The subject site has an area of 974m<sup>2</sup> and has frontage to Moss Street. The land to the north and the south of the subject site contains two storey units. Cudgen Creek is located to the east of the site. The land slopes down approximately 6.5 metres from Moss Street to the rear of the site. It is proposed to construct a boardwalk adjacent to the creek within the subject site.

The application was advertised and a total of 5 submissions were received.

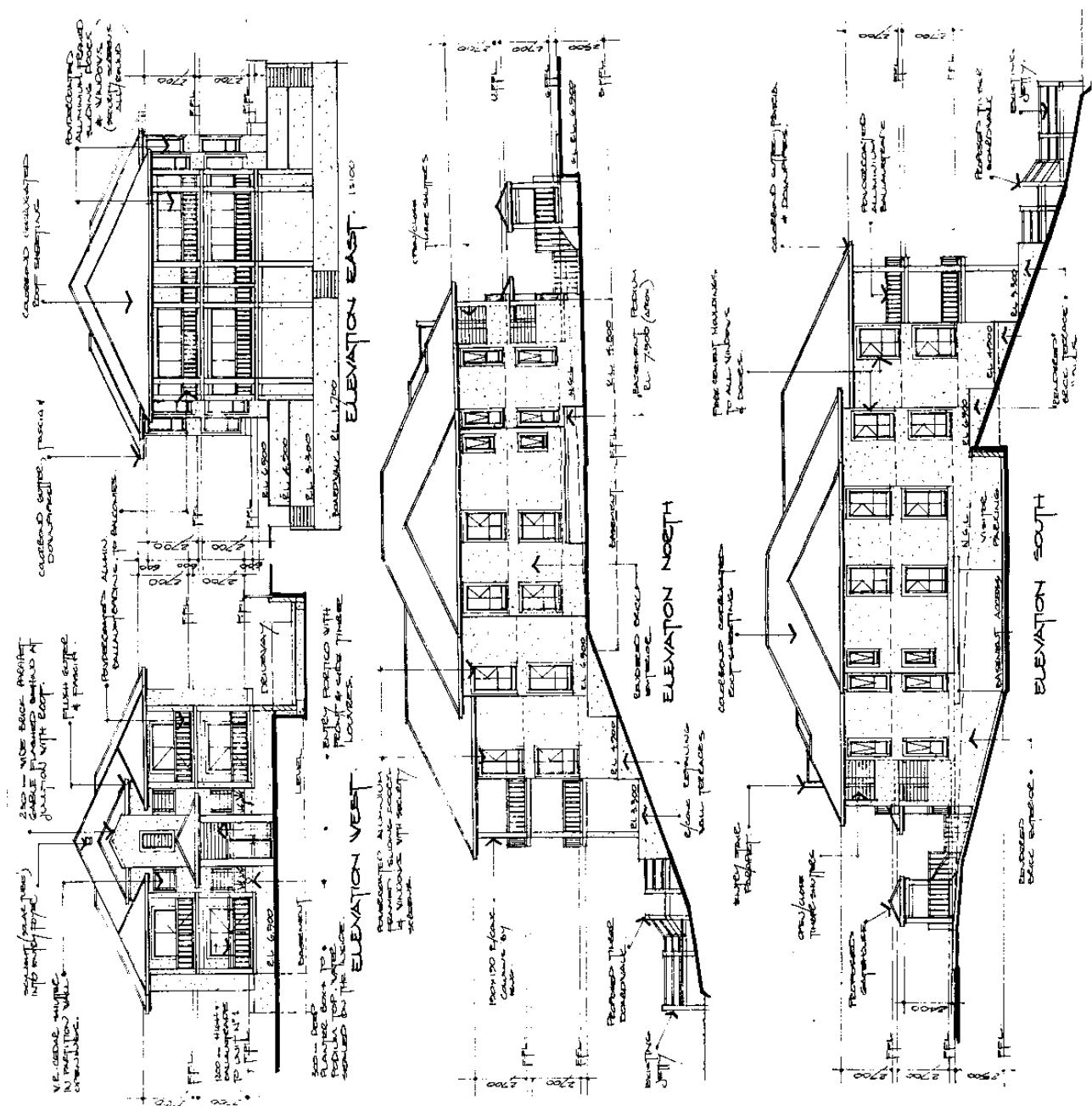
The location of the subject site is shown on Figure 1 and plans of the proposal are shown on Figure 2.

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### CONSULTATION

The application was advertised in accordance with Clause 14 of the Tweed Local Environmental Plan 1987. A total of 5 submissions were received. These submissions are summarised below:-

#### Submission 1

- Proposal exceeds 2 storey height limit and would not be in keeping with adjacent structures.
- Exceeding height limit could set a precedent which should be under strict control because of its unique location.
- Design of the roof increases the height. Consideration should be given to an alternative roof profile.

#### Submission 2

- Council should not relax the height limit on the waterfront.
- Relaxation could set a precedent.
- A relaxation disadvantages residents who have adhered to the regulations.
- Roof profile should be lowered to be more in keeping with the profile of the units recently completed beside the site.

#### Submission 3

- Increased traffic in existing congested street.
- Building is effectively 4 storeys given the garage space and high roof structure.
- Proposal will result in shading of areas that are presently shade free.
- Restriction of wind passage from easterly and south-easterly directions.
- Restriction of view and scenic value of our property.
- Environmental impact to Cudgen Creek.
- Legal action to stop the proposal will be taken if Council approves the application.

#### Submission 4

- Relating the 2 storey height limit will detract from the uniqueness of Kingscliff.
- A 3 storey building would detract from the view of the river and adjacent reserve.

Council should maintain 2 storey regulations as people purchased in the area expecting that this limit would be enforced. Relaxing this would damage future investor confidence in the Council and its current regulations.



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### Submission 5

- Proposal would create a precedent and is a direct assault on the current and draft LEP.
- Property was purchased and plans drawn knowing of the height limit. If applicant wants a 3 storey building they should purchase where such buildings are permitted or prepare plans for a 2 storey building.
- Application does not comply with the existing or proposed planning laws and compromises the whole LEP and planning process. Applicant has given no other reason other than his want for this to happen.

The issues raised by these submissions have been responded to by the applicant as follows:-

#### ***“Height***

*Objections on height relate mainly to the objectors’ definition of height in storeys. Council’s guidelines allow the development to have a basement carpark provided that the top of the carpark does not protrude more than one metre above finished ground level, which is the case in this development. There are then only two storeys of building above ground, which is consistent with Council’s requirements. The finished ground levels of this development are the same as adjoining properties however, with the basement car park protruding out of the ground will be 1 metre higher than the adjoining properties which is permissible under Council’s guidelines. With regard to the roof pitch, it should be noted that a 25° roof pitch is not uncommon, given that modern roof pitches vary between 20° and 30° and the 25° pitch roof is a design feature of the building. A reduction in roof pitch will not provide any additional benefit to the adjoining properties. In essence, the building is two storeys although an additional metre higher due to the basement carpark which is permissible under Council’s guidelines.*

**Note:** *See attached plan showing height difference between adjoining properties and the height of the eaves on all three properties.*

#### ***Traffic Generation/Lack of Parking***

*Council’s carparking code requires 1.5 spaces per unit, which is a total of six carparking spaces. We have provided 10 carparking spaces which is significantly more than required. With regard to an increase in traffic generation, the increase will be minimal. The site currently contains three flats, so with our proposal to increase the number of units to four and given the size of the allotment of land, will allow the construction of five units, the traffic generation to the site is considered to be minimal.*

#### ***Overshadowing***

*Overshadowing of the adjoining properties is minimal due to the deliberate design feature to set back the building up to 6 metres from the southern boundary, which lessens the effect on the building on the southern side of the development. The building has also been designed to step away from adjoining properties which also reduces the effect of*

## Reports from Director Corporate Services

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*overshadowing. Also the amount of shadow cast between 9.00am and 3.00pm on the 21 June, has minimal effect on the lower storey of the adjoining property.*

### **Views**

*The primary views from the properties in Moss Street are over the creek and these views of the adjoining properties have not been hindered, as the development does not protrude past the adjoining properties. Due to the stepping in of the building at the rear, additional views have been provided for the adjoining properties and allow more view sharing.*

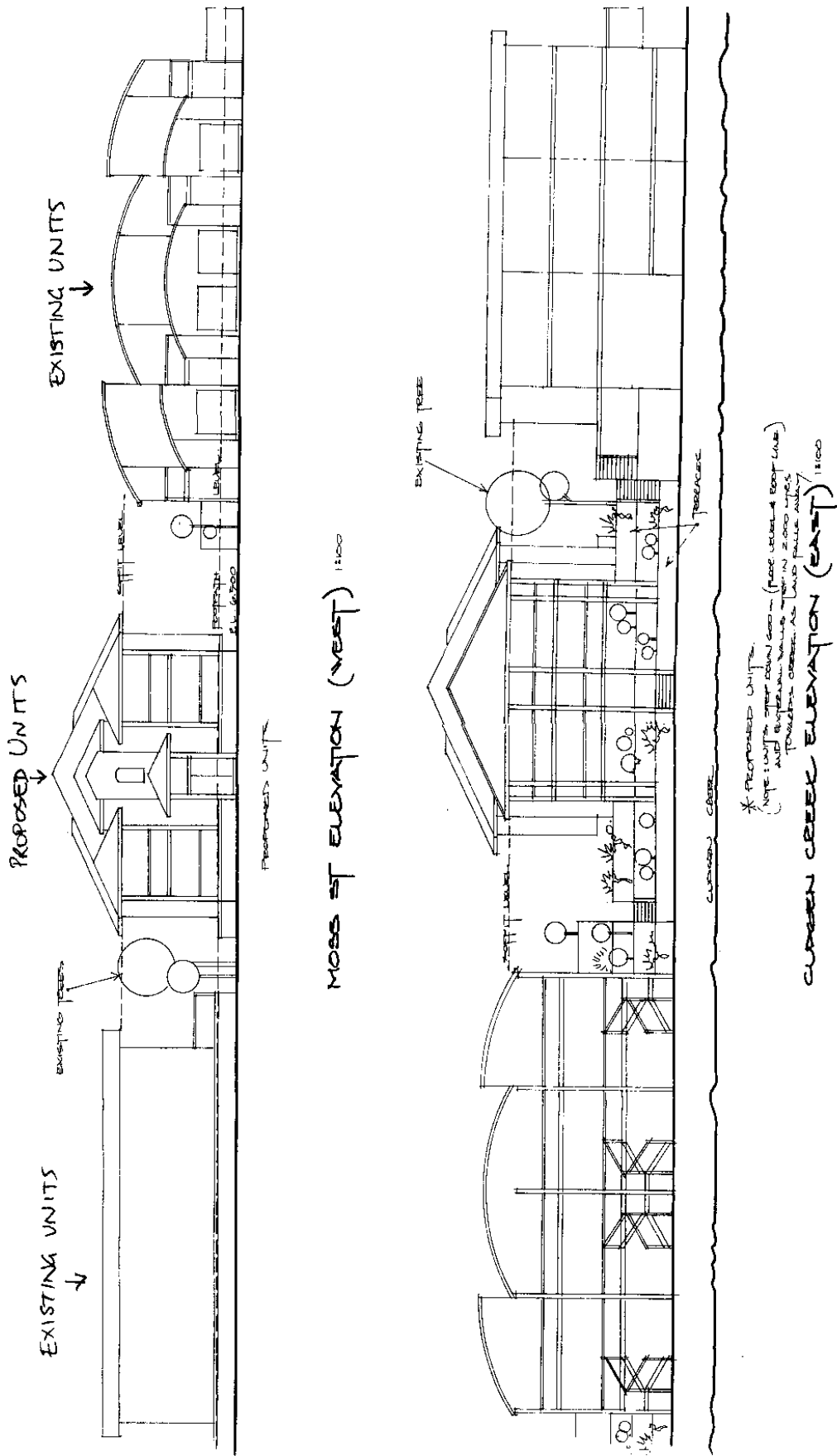
### **Reduction in Value**

*It is our view that the removal of the existing dilapidated flat building and the replacement with an aesthetically pleasing development will actually increase the value of the adjoining properties, instead of reducing them.”*

A copy of the applicant's plan showing the height difference between adjoining properties and the height of the eaves is shown on Figure 3.

An assessment of the issues raised in the submissions in relation to height, traffic, overshadowing impact on creek and views will be discussed in the Section 79 C1 assessment. It should be noted that objections in relation to loss of property value are difficult to sustain and have traditionally been given little weight in determining applications. Therefore, it is considered that Council could not justify refusal of the application on this basis.

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### ASSESSMENT

A complete assessment of the application under Section 79 C1 of the Environmental Planning and Assessment Act 1979 is provided below:-

**(a) (i) The provisions of any Environmental Planning Instrument**

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

The subject land is zoned 2(b) Residential under the TLEP 1987. The proposed development is permissible with consent and is also consistent with the objectives of the zone which are:-

- (a) *to identify land for the purposes of medium and high density housing and compatible support facilities; and*
- (b) *to encourage a variety of housing forms in the zone such as are commonly known as group houses, villa houses, town houses, terrace buildings and the like.*

The height limit for the site is 2 storeys under the TLEP 1987. The definition of storey is:-

*“storey” means a floor within a building, including a floor used for storage or parking, but not including:*

- (a) *a roof, or part of a roof, used as an uncovered garden, terrace or deck; or*
- (b) *a floor no more than 1 metre above finished ground level used for parking, storage or any like purpose;*

The height of the garage does not exceed more than a metre above finished ground level at the front and rear of the garage. However, due to the proposal to excavate a driveway along the southern boundary the finished ground level along this side is lowered therefore resulting in the garage being more than one metre above the finished ground level in this location. As a result, the building is defined as being 3 storeys for that section of the building above the garage.

The applicant has lodged an objection to the 2 storey height limit under State Environmental Planning Policy No 1 contenting that the development standard is unreasonable or unnecessary for the following reasons:-

1. The property is zoned 2(b) Residential and units are permissible in this zoning with consent.
1. Filling is proposed around the abutting walls of the garage so the garage roof is not more than 1 metre above finished ground level.
1. The sloping nature of the site dictates that the garages should be located under the building, thus allowing a more aesthetically pleasing development with no garages facing the street.

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1. The access on the side of the property is the safest location for access and egress from the site.
1. Compliance with the Draft Tweed LEP is not required, at present, with the new definition of storey relating to the southern wall until the plan is gazetted.
1. Due to the prime location of the development and the outlook and position that it offers, the development has been designed to benefit the neighbours, the occupants and the streetscape.
1. The development complies with the majority of requirements of DCP 6.
1. Indications were given by the Development Assessment Panel that as the variation to the two storey requirements were minor, that a SEPP 1 objection could be substantiated.
1. Due to the sloping nature of the site and to conform with Council's driveway gradient requirements would have pushed the development to the rear of the site which would be detrimental to the adjoining properties and therefore the obvious solution was to locate the garage under the building.

The applicant has provided the diagram shown in Figure 3 of this report to further demonstrate the overall height and how the building relates to adjacent developments.

The proposal becomes a 3 storey building along the southern boundary due to excavation to construct the driveway to the basement area. The northern, eastern and western elevations comply with the 2 storey limitation. The design complies with the intent of the definition by the garages not being more than 1 metre above the finished ground level, however, due to the southern boundary excavation the building is 3 storeys. Essentially, the building is 3 storeys due to lowering the finished ground level of the site and not by raising the building. An alternative design could be provided on the site which technically complies with the 2 storey definition but be the same overall height, bulk and scale as the proposal. Whilst the pitch of the roof is higher than that of the adjacent development, it is not excessive and is within normal limits. The roof pitch compliments the overall design of the building.

The proposed building is compatible with other developments along Moss Street and will not adversely affect the streetscape.

Council can consider variations to development standards such as height limits where strict compliance with the requirement is unreasonable or unnecessary in the circumstances and does not compromise the objectives of the standard. The objective of the standard is to provide for development adjacent to the waterway which will not detract from the scenic quality of the area and to also maintain a view plane views from existing developed areas to the creek.

The overall height of the building is comparable with other development in Moss Street and the same size building could be placed on the site which complies with the two storey limitation. As the development becomes 3 storeys by the lowering of the finished

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ground level it is considered that the overall objectives of the two storey limit are maintained it is considered that the State Environmental Planning Policy should be supported. Director's concurrence to the objections can be assumed.

### **North coast Regional Environmental Plan 1988**

#### *Clause 15 - Wetland or Fishery Habitats*

This clause requires Council to consider impacts on waterways. Standard erosion and sedimentation conditions are to be placed on any consent and Council's Environment and Health Services Unit has recommended that an Acid sulfate soil management plan be submitted prior to commencement of work.

The timber boardwalk is proposed to be constructed above the high water mark and minimal disturbance is required for its construction. The Environment and Health Services Unit has recommended conditions to minimise impacts on the creek. No drainage details were submitted with the development application. However, Council's Engineering Services Division has recommended conditions including discharging stormwater into the unnamed lane south of Lot 10 DP 869230 or if the proponent chooses they may direct drainage to the creek. If this option is chosen any necessary approvals from the Department of Land and Water Conservation and NSW Fisheries will be required to be obtained.

#### *Clause 32B - Coastal Lands*

The proposal is generally satisfactory in respect of this clause.

#### *Clause 43 - Residential Development*

The proposal is satisfactory in respect of this clause as the density of dwellings will be maximised without adversely affecting the environmental features of the land. Erosion and sedimentation controls will be required to be put into place.

#### *Clause 81 - Development adjacent to the Ocean or Waterway*

It is not proposed to dedicate any foreshore open space as part of the proposal, however, a timber boardwalk will be provided along the creek frontage to extend from the existing boardwalk constructed as part of the development of the adjacent units. An easement for public access will be required to be created over the boardwalk.

### **State Environmental Planning Policies (SEPPs)**

The SEPP No 1 objection has been discussed above. No other SEPPs apply.

#### **(a) (ii) The provisions of any draft environmental planning instrument**

Draft Tweed Local Environmental Plan 1998 has been exhibited and referred to the Minister with a request to make the plan.

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No changes to the zoning are proposed, however, it is proposed to change the definition of 'storey' in the draft LEP which does have implications for the proposal. In the draft plan a 'storey' means:

- a) *the space between two floors, or*
- b) *the space between a floor and any ceiling or roof immediately above it, or*
- c) *foundation areas, garages, workshops, storerooms and the like, where the height between natural ground level and the top of the floor immediately above them is 1.5 metres or more.*

At the rear of the site a void/terrace area exists between the natural ground level and the first floor. The distance between the natural ground level and the first floor exceeds 1.5 metres and would be included as a storey under the draft LEP. The building would be classed as 3 storeys at the rear of the site, however, the area which is 3 storeys under the current LEP would be 2 storeys under the draft.

It is considered that refusal of the application on the basis of this inconsistency with the draft LEP 1998 would be difficult to justify and therefore should not be given determining weight.

(a) (iii) **Any Development Control Plan (DCP 2)**

**Development Control Plan No 2 - Site Access and Parking Code**

Two double garages are provided for each unit and two visitor's spaces are also provided. The number of car parking spaces provided exceeds the amount required under DCP2.

Council's Engineering Services Division has reviewed the driveway details and has advised that the access is satisfactory however, low 'open' fencing will be required adjacent to the driveway so that visibility of pedestrians is not obscured.

**Development Control Plan No 5 - Development of Flood Liable Land**

Where the land slopes down adjacent to the creek it is below the design flood level. The habitable floor level of the units is well above the design flood level.

**Development Control Plan No 6 - Multi Storey Housing**

The proposal is generally consistent with the provisions of DCP6 in terms of the overall objectives of the DCP. It also complies with the requirements in terms of landscaped area, open space, privacy, building envelope, fencing and car parking. A building line variation has been approved for the proposed gatehouse structure within the 6 metre building line. No objections to this structure were raised as part of the advertising of the application.

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**(a) (iv) Any matter prescribed by the regulation**

The Regulations requires consideration of the matters in the NSW Coastal Policy. The proposal is considered satisfactory in terms of the matters contained in the policy.

The regulations also contain provisions for applications for demolition. The application has been reviewed by Council's Building Services Unit and conditions have been recommended for inclusion in any consent.

**(b) The likely impacts of that development including impacts on both the natural and built environment and social and economical impacts in the locality**

**Context and Setting**

The site is adjacent to Cudgen Creek and therefore the design of the building is important to retain the scenic qualities of the area.

The building is setback 6.0m from the front property boundary, 3.0m to the podium from the northern boundary and 5.8m from the southern boundary. The setback from the eastern (creek) boundary varies due to the irregular creek alignment. Setbacks to the wall varies from 7.5m top 8.5m (approximately). The driveway is located on the southern property boundary which accesses the basement parking area. The building has been designed with indoor and outdoor living areas overlooking the creek.

The overall bulk and scale of the building is compatible with other developments along Moss Street and is compatible with the overall character of the area. No significant impact on the streetscape is envisaged.

The rear balconies have the same alignment as the adjacent buildings which minimises loss of views, particularly from the adjacent southern building. Some minor loss of views is likely to occur, particularly towards the creek mouth, however, given that the same setback is proposed as the adjacent building, any view loss is considered acceptable.

One submission received in relation to loss of views is from a property owner in Hungerford Lane. As Hungerford Lane is well elevated above Moss Street it is considered that the proposal is satisfactory in this regard.

As the proposed building is setback 5.8 metres from the southern property boundary, the shadow impacts on the property are likely to be minimal and within acceptable limits.

In addition, it is considered that the proposal is also satisfactory in respect of privacy of adjacent properties.

**Access, traffic and transport**

In terms of pedestrian access, a boardwalk is proposed above the high water mark along the creek which will form an extension to the existing boardwalk. To ensure public access an easement will be required along the boardwalk. Councils Manager, Water has



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requested that this easement be extended to the sewer line and the easement be for services also.

Vehicular access and parking has previously been discussed in respect of consistency with DCP No 2. As the site presently contains 3 units, the proposal will result in a minor traffic increase. Kerb and gutter and a footpath will be required to be provided as a condition of any consent or as works in Moss Street is currently on the works program, a contribution could be paid as an alternative.

### **Utilities**

All urban services are available for the proposed development

### **Environmental Impact**

The main area of concern in respect of environmental impact is the likely affect on Cudgen Creek. This matter has been previously discussed in respect of clause 5 of the NCREP 1988 and conditions will be placed on any consent to minimise the impacts.

The site does not contain significant vegetation and the proposal is unlikely to have a significant impact on threatened species or their habitats.

### **Hazards**

There are no know natural or technological hazards which would affect the proposal. The habitable floor level of the building is above the design flood level.

### **Social/Economic Impacts**

The proposal will result in short term employment during construction.

The proposal should not result in social or economic impacts which would affect the general community.

#### **(c) The suitability of the site for the development**

The site has been used for medium density residential purposes for many years.

The site is within an existing developed residential area within close proximity to the central shopping area of Kingscliff. There are no known hazards which would prejudice the development and the likely impacts on adjacent developments is considered acceptable.

It is concluded that the site is suitable for the proposed development.

#### **(d) Any submissions made in accordance with the act or regulations**

Submissions made in response to the advertising of the application have been summarised in the "consultation" section of this report. The main issue of concern raised in the submissions is in relation to the height of the development which has been examined in the Section 79C1 assessment. It is considered that the overall design of the

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building is satisfactory and the issues raised in the submission do not warrant refusal of the application.

Contact has been made with the Department of Land and Water Conservation in respect of this proposal. They have advised that a permit under the Rivers and Foreshores Improvement Act is not required for the proposal. Additionally, a licence is in place for the jetty that is presently located in the creek in front of the site.

**(e) The Public Interest**

Submissions made in respect of this proposal have previously been discussed. The proposal is considered to be satisfactory in respect of the Tweed Shire 2000+ Strategic Plan.

Normal Section 94 contributions will apply in respect of this proposal. However, credit will be given for the 3 units which presently exist on the site.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS**

If the applicant is dissatisfied with Council's determination of the application, they may appeal to the Land and Environment Court.

There are no third party appeal rights.

### **OPTIONS**

Council may either:

1. Approve the application subject to conditions; or
2. Refuse the application.

### **CONCLUSION**

The Section 79C1 assessment above has examined the merits of the proposal and although the proposal exceeds the 2 storey height limit contained in the TLEP 1987 it is considered that the SEPP No 1 objection should be supported for the reasons outlined in the report. The overall design, bulk and scale of the building is compatible with existing developments in the area will not contribute negatively to the area. Concern was raised in respect to precedent that will result by supporting the SEPP No 1 objection, however, any further applications would be assessed on their individual merits.

The application was assessed by Council's Engineering Services Division and Environment & Community Services Division and no objections raised subject to conditions being placed on any consent.

Having regard to the above assessment it is recommended that the application be approved subject to conditions.

# Reports from Director Corporate Services

## 3. ORIGIN: Development Control Unit/Building Services Unit

**FILE REF: GT1/DCP/40 Pt1**

**REPORT TITLE:**

**Development Control Plan - Exempt and Complying Development**

**SUMMARY OF REPORT:**

Draft Development Control Plan No. 40 (DCP40) - Exempt and Complying Development was exhibited for public comment for 28 days in September/October 1999. Three external submissions were received and seven issues were identified from within Council. This report reviews these submissions.

**RECOMMENDATION:**

That subject to the following changes, draft Development Control Plan No. 40 - Exempt and Complying Development be adopted in accordance with Section 72 of the Environmental Planning and Assessment Act, 1979 and come into force on the date that draft Tweed Local Environmental Plan 1998 is published in the Government Gazette.

- A. Schedule 1 - Exempt Development Requirements be amended as follows:-
  - i. Under the heading "Telecommunication Infrastructure" add:-

**TELECOMMUNICATIONS INFRASTRUCTURE**

TYPE OF INFRASTRUCTURE	REQUIREMENT
Radio antenna or dish.  All land which is within an area or zone (within the meaning of an environmental planning instrument) identified in that instrument by the description:  (a) industrial; (b) rural or non urban; (c) commercial of business; (d) special use; or (e) road	Not more than 1.8 metres in diameter and:  <ul style="list-style-type: none"> <li>• located on the roof of the building;</li> <li>• the highest point of the dish is elevated to no more than 3m above the roof (at any point) of a building upon which its base is attached;</li> <li>• the dish is to be set back a minimum of 2m from the outermost wall of the building;</li> </ul> Complies with any relevant Australian Standard.

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TYPE OF INFRASTRUCTURE	REQUIREMENT
	Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.
<p>Panel Antenna attached to a structure.</p> <p>All land other than land which is within an area of zone (within the meaning of an environmental planning instrument) identified by the description:</p> <ul style="list-style-type: none"> <li>(a) coastal lands;</li> <li>(b) conservation;</li> <li>(c) escarpment;</li> <li>(d) environmental protection;</li> <li>(e) scenic; or</li> <li>(f) scenic protection;</li> <li>(g) recreational/open space.</li> </ul>	<p>Not more than 2.8 metres long.</p> <p>Not to protrude horizontally from the structure by more than 3 metres.</p> <p>Top of antenna or structure not to protrude vertically by more than 3 metres (at any point) above the building or structure to which it is attached and if attached to a building may only be located on the roof of a building and must be set back a minimum of 2m from the outermost wall of the building</p> <p>Colour matched to its background or in a colour agreed in writing between the carrier and the consent authority.</p> <p>Complies with any relevant Australian Standard.</p> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.</p>
<p>Omnidirectional directional antennas.</p> <p>All land which is within an area of zone (within the meaning of an environmental planning instrument) identified by the description:</p> <ul style="list-style-type: none"> <li>(a) industrial;</li> </ul>	<p>Not more than 4.5 metres long.</p> <p>Top of antenna or mounting structure not to protrude vertically by more than 6.5 metres (at any point) above the building or structure to which it is attached, and;</p>

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TYPE OF INFRASTRUCTURE	REQUIREMENT
<p>(b) rural or non urban;                      (c) commercial or business;                      (d) special use; or                      (e) road.</p>	<p>If attached to a building, may only be located on the roof of a building and must be setback a minimum of 2m from the outermost wall of the building.</p> <p>If an antenna is attached to a structure, does not protrude horizontally from the structure by more than 3 metres.</p> <p>Complies with any relevant Australian Standard.</p> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.</p>
<p>Directional Antennas and Installations.</p> <p>All land</p>	<p>To service roads, tunnels, railway terminals and railway stations.</p> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.</p>
<p>Microcells</p> <p>All land other than land which is within an area of zone (within the meaning of an environmental planning instrument) identified by the description:</p> <p>(a) coastal lands;                      (b) conservation;                      (c) escarpment;                      (d) environmental protection;                      (e) scenic; or                      (f) scenic protection;                      (g) recreational/open space.</p>	<p>Cabinet not more than 1 cubic metre in volume.</p> <p>Separate antenna not more than 1.2 metres long.</p> <p>Complies with any relevant Australian Standard.</p> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the</p>

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TYPE OF INFRASTRUCTURE	REQUIREMENT
	commencement of any works.
<p>Extension to a Tower.</p> <p>All land which is within an area or zone (within the meaning of an environmental planning instrument) identified by the description:</p> <p>(a) industrial;                      (b) rural or non urban;                      (c) commercial or business;                      (d) special use; or                      (e) road.</p>	<p>Height of the extension not more than 7 metres.</p> <ul style="list-style-type: none"> <li>• There have been no previous extensions to the tower;</li> </ul> <p>Complies with any relevant Australian Standard.</p> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.</p>
<b>UNDERGROUND TELECOMMUNICATIONS FACILITIES</b>	
<p>Underground conduit or cable deployed by narrow trench or direct burial.</p> <p>All land within an area or zone (within the meaning of an environmental planning instrument) which is identified in that instrument by the description:</p> <p>(a) commercial or businesses;                      (b) residential;                      (c) special use; or                      (d) road;                      (e) rural;                      (f) industrial.</p>	<p>Trench not more than 450mm wide.</p> <p>Not more than 100m of excavation may be left open at any time.</p> <p>The land in which the cable or duct is laid must be reinstated in accordance with a reinstatement plan agreed, prior to construction, with the owner or if on public land, the public land manager. The reinstatement plan must include (as appropriate):</p> <ul style="list-style-type: none"> <li>• management of acid sulphate soils in accordance with ASSMAC guidelines</li> <li>• management and protection measures;</li> <li>• relaying of existing road or pavement;</li> <li>• replanting of grass, trees or foliage;</li> <li>• replacement or removal of material removed;</li> </ul>

## Reports from Director Corporate Services

TYPE OF INFRASTRUCTURE	REQUIREMENT
	<ul style="list-style-type: none"> <li>reinstatement of existing contours.</li> </ul> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.</p>
<b>ABOVEGROUND HOUSING</b>	
<p>External equipment shelter.</p> <p>All land other than land which is within an area or zone identified by the description:</p> <p>(a) coastal lands;                      (b) conservation;                      (c) escarpment;                      (d) environment protection;                      (e) open space;                      (f) scenic;                      (g) scenic protection; or                      (h) water catchment</p>	<p>Not more than 3 metres high.</p> <p>With a base area of not more than 7.5 square metres.</p> <p>Colour matched to its background or in a colour agreed in writing between the carrier and the consent authority.</p> <p>Notification to be carried out in accordance with the requirements of Chapter 4, Part 5 of Telecommunications Code of Practice (Cth) 1997 prior to the commencement of any works.</p>

ii. Add the following in relation to film production shoots:-

Type of Development	Requirements	Advisory Notes
Film Shoots Production	<ul style="list-style-type: none"> <li>Must be located on Council owned or controlled land</li> <li>Must comply with Council's Guidelines for Film Production Shoots"</li> </ul>	

iii. Add the following in relation to farm sheds on properties in excess of 5 hectares:-

Type of Development	Requirements	Advisory Notes
Farm Sheds	<ul style="list-style-type: none"> <li>Lot must have minimum area of 5</li> </ul>	

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	<p>hectares</p> <ul style="list-style-type: none"> <li>• Maximum floor area of the shed to be 100m<sup>2</sup></li> <li>• Building does not include provision for toilet or shower facilities</li> <li>• Building to be constructed of non reflective material</li> <li>• Building to be a maximum height of 4.5 metres</li> <li>• Building is setback a minimum of 10 metres from all boundaries including the road frontage</li> <li>• Building does not require any new vehicle access to the lot</li> <li>• Building deemed to comply with the provisions of the Building Code of Australia</li> </ul>	
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iv. Under the “other” provision of all parts referring to single dwellings add:-

- Approval from Council is required under Section 68 of the Local Government Act 1993 if the development involves any of the following:-
  - connection of a private drain to a public drain
  - installation of stormwater quality control devices
  - erosion and sediment control plan works

v. Add to the end of each section for swimming pools ancillary to a single dwelling; change of use of a shop etc; change of use of a commercial etc; change of use of an industry etc; and bed and breakfast the following:-

- Approval from Council is required under Section 68 of the Local Government Act 1993 if the development involves any of the following:-



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- connection of a private drain to a public drain
- installation of stormwater quality control devices
- erosion and sediment control plan works

B. Schedule 2 - Complying Development Requirements be amended as follows:-

- i. Under the heading "single dwellings and ancillary development on lots of less than 1000 square metres" change 6 metres in dot point three (3) under "streetscape" to 6.3 metres.
- ii. Under all the headings involving "single dwellings and ancillary development ....." and the "bed and breakfast" section, change the water supply requirements to:-

*"A reticulated water supply is available or if this is not the case, then a potable water supply of at least 20,000 litres is available from a roof water catchment, and a roof water management plan is submitted to and approved of, by Council, prior to the issue of a Complying Development Certificate".*

- iii. Under all headings involving "single dwellings and ancillary development ....." ; "swimming pool ...."; and "temporary buildings" add the following:-
  - *All parts of the building/structure are to be sited clear of any easements affecting the site.*

C. Schedule 3:-

- i. Under all categories of development add the following:-

*"Any long service levy payable under Section 34 of the Building and Construction Industry Long Service Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) is paid prior to the issue of the Complying Development Certificate to the Applicant".*

- ii. Under the heading "bed and breakfast" add the following:-

*"21. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.*

*22. 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 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".*

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iii. (a) Under the section for “single dwellings” amend Condition 30 to read:-

*“30. Any building is to be sited at least one metre horizontally clear of sewer mains and stormwater mains on site. All footings and slabs within the area of influence of the mains are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the mains.”*

(b) Under the section for “swimming pools ancillary to a single dwelling amend Condition 17 to read:-

*“17. Any swimming pool is to be sited at least one metre horizontally clear of sewer mains and stormwater mains on site. Any part of the structure within the area of influence of the mains is to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design will ensure that all loads will be transferred to the foundation material and will not effect or be effected by the mains.*

(c) Under the heading “additions to dwellings” amend Condition 22 to read:-

*“22. Any building is to be sited at least one metre horizontally clear of sewer mains and stormwater mains on site. All footings and slabs within the area of influence of the mains are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the mains.*

(d) Under the heading “temporary building” amend Condition 27 to read:-

*“27. Any building is to be sited at least one metre horizontally clear of sewer mains and stormwater mains on site. All footings and slabs within the area of influence of the mains are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the mains.*

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### REPORT:

#### BACKGROUND

As part of the major changes to the Environmental Planning and Assessment Act that came into force on 1 July 1998, two new types of development were introduced being exempt development and complying development.

Exempt development is development that is of minimal environmental impact that can be carried out without the need for development consent.

Complying development is development that can be carried out provided a complying development certificate has been issued for the development by Council or an accredited certifier. This form of development must comply with preset development standards and must have predetermined conditions attached to the certificate.

Advice from the Department of Urban Affairs and Planning indicated that exempt and complying development could be introduced into Council's local environmental plans in three ways ie.

1. Amendment to the Local Environmental Plan to list all the types of development to be included under these categories as well as details of all of the conditions to be applied to complying development certificates.
2. Include a simple "enabling" clause in the Local Environmental Plan and include the detailed provisions in a development control plan.
3. A combination of 1 and 2.

As part of the review by Council of submissions to the exhibition of draft Tweed Local Environmental Plan 1998 in August 1999 it was resolved to provide for exempt and complying development in accordance with option 2 above.

#### REPORT

Draft DCP40 - Exempt and Complying Development was exhibited for public comment for twenty eight (28) days from 27 September, 1999 to 25 October, 1999.

As a consequence of the exhibition three (3) external submissions were received and 5 issues identified from within Council.

A summary of these submissions together with an evaluation follows:-

#### 1. External

##### (i) *Mark Stapleton and Associates Pty Ltd (MSA)*

The following issues were raised in the Mark Stapleton and Associates Pty Ltd submission in relation to Complying Development:-

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### Single dwellings on lots of 1,000 square metres or less

#### General

- A dwelling must exist on all lots adjoining the lot for which the complying development certificate is being issued.

#### **Submission**

*“This restriction is impractical and should be removed. The development of this act was to create a system whereby Private Certifiers and Council could play a role in the development approval process. It would be envisaged that under the legislation the approval of a single storey dwelling, on a flat allotment of land would be classified as a complying development, which it is not under this proposal. To only allow approval on a property that has dwellings on all boundaries defeats the purpose of complying development and ensures that all development approvals remain with Council, which is not the intent of the legislation. Advice from the Department of Urban Affairs and Planning indicates that they will not accept a clause of this nature as part of the criteria for Complying Development.”*

#### **Comment**

This provision is restrictive, however the draft State Environmental Planning Policy which will be applied statewide in areas where no adopted LEP or other instrument exists, specifies criteria relating to **bulk and scale, and privacy and security** as follows:-

- (1) The ground floor level of the structure at any point is not more than 500mm above natural ground level.
- (2) The distance between the floor level and the underside of the eaves is not more than 2.7 metres
- (3) The roof openings are flush with the roof pitch.
- (4) The next door property's main area of private open space, and any habitable rooms in that property, are not in shadow between 10am and 3pm on 21 June, as a result of the development.
- (5) The external wall of each structure affected by the proposed development is at least 900mm from the nearest side and the rear boundaries.
- (6) Windows in a habitable room that are within 9 metres of, and allow an outlook to, a window of a habitable room in the neighbour's house:
  - (a) are offset from the edge of the window to the nearest edge of the other by a distance of at least 0.5 metre, or
  - (b) have still heights of at least 1.7 metres above floor level, or
  - (c) have fixed obscure glazing in any part of the window below 1.7 metres above floor level.

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Unless this provision is included, the bulk and scale item (4) and the privacy and security items cannot be assessed and provided for, where the adjoining lot is vacant, and could be the subject of a concurrent application with another approval authority.

To date, the Department of Urban Affairs and Planning has not been able to provide an adequate response to this issue.

This is perceived to be an important issue and should remain in the provision.

### **Streetscape**

The structure must:-

- comply with any relevant building line specified elsewhere in this plan or in a development control plan applying to the land, or

### **Submission**

*“Building line to comply with Council policy or DCP applying to the land is considered reasonable.”*

- be setback an average of the setback of like structures on land either side of the subject property - whichever is the greater.”

### **Submission**

*“Setback on average of the structures on either side of the proposed is considered reasonable given that most people build at the front building line to maintain private open space at the rear of their dwelling.”*

- Dwellings facing public streets and accessways have a front door to window to a habitable room facing the street or accessway.”

### **Submission**

*“Dwellings facing public streets and accessways have a front door or a window to a habitable room facing the street is considered reasonable in regard to security.”*

- Carports and garages facing a public street or accessway are not more than 6 metres or 50 percent of the frontage wide, whichever is the lesser.”

### **Submission**

*“Carport and garages facing a public street or accessway are no more than 6 metres or 50 percent of the frontage wide whichever is the lesser. Normal double garage width is six metres, however I believe that this could be increased to 7 metres and still achieve the required results.”*

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### Comment

The only issue contested is the width of carports/garages. Draft SEPP provides for 6.3 metres in this regard and it is considered this provision should now be amended to provide for maximum width of 6.3 metres.

### Energy Efficiency

- The dwelling has at least a 3.5 star rating under the House Energy Rating Scheme (NatHERS)

### Submission

*“The dwelling must have at least a 3.5 star rating under the House Energy Rating Scheme. This is considered unreasonable. Energy efficiency is not a requirement that has to be addressed in building approval. It is a recommendation that people build energy efficient houses, however this is a personal decision and to sark the roof and walls of a dwelling can add an additional \$2,000 to the cost of a building and this is the first thing that is deleted if budgets are tight. Council doesn’t have the power to enforce energy efficiency so I believe that this is a requirement that should be deleted from the criteria unless it is made law that houses are calculated to this rating. This also allows Council to approve the application whether or not the rating is achieved, but prevents private Certifiers doing the same. I will also point out that there is no Council officer or Private Certifier who has the accreditation to evaluate energy efficiency under the NatHERS scheme.”*

### Comment

This requirement is in the Guidelines from the Department of Urban Affairs and Planning, and as Council would be aware, a draft Development Control Plan for Energy Efficient Housing has been exhibited for public comment and is expected to be finalised in the near future. The Plan requires all dwellings to achieve a 3.5 star rating.

This draft Development Control Plan makes provision for the submission of energy smart scorecards which can be completed by the applicant and used to demonstrate compliance. This draft DCP provides that:-

NatHERS certification is only required to be supplied by the applicant under this DCP in the following circumstances:-

1. If the application is for multi-dwelling housing.
2. If an applicant’s submitted Energy Smart Scorecard Rating is challenged by Council officers and the applicant disagrees with Council’s assessment.
3. If Council requires it (eg if the proposed design is particularly complex).

NatHERS certification can be determined by accredited third party assessors within the building industry or other appropriately qualified assessors as determined by Council, as well as accredited Council officers.

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No change is therefore recommended to this part of Schedule 7.

### **Bulk and Scale**

- Cut and/or fill does not exceed 900mm. The top of any cut and the toe of any fill is not to be closer than 900mm to any property boundary.

### **Submission**

*“Any number of plans can show this when they are lodged with Council or a private certifier. This can change on site and I believe that this criteria can read the same as the above, however should include a clause that states any cut or fill over 900mm when the cut or fill is within 900mm of the boundary is to be retained and drained in accordance with Councils retaining wall policy.”*

### **Comment**

Past experience has shown that fill greater than that proposed needs detailed assessment of likely impacts and in some cases merit type consideration, and accordingly no change should be made to this section.

- The ground floor level of the structure at any point is no more than 900mm above finished ground level

### **Submission**

*“This condition is contradicted by allowing two storey dwellings. By using this criteria are we saying that a single storey dwelling cannot have a floor level of 900mm above ground level, yet we can have a two storey dwelling in its place. This is considered slightly restrictive, however this would need to be applied to both single and two storey dwellings.”*

### **Comment**

The draft SEPP provides for this clause but specifying 500mm above ground level. This clause has already been revised following a previous MSA submission to provide for 900mm distance above ground level. Provision relates to ground floor level of either one or two storey structure. No further change should be made.

- The structure is no more than two storeys in height.

### **MSA Comment**

*“This is considered reasonable.”*

- The distance between the ground floor level and the underside of the eaves is no more than 2.7 metres for a one storey single dwelling and 5.5 metres for a two storey single dwelling.

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### Submission

*“This again relates to item two. These measurements should be changed to allow 2.7 high ceilings and floor levels up to 900mm above finished ground level. The requirement to restrict a single storey dwelling to 2.7 metres when you can approve two storey dwellings in the same location seems unreasonable.”*

### Comment

The draft SEPP provides for this requirement but it is even more restrictive in only providing for one storey dwellings. Council’s provisions have been amended to provide for two storey dwellings. Dwellings that do not meet the requirements can be subject to a development application, and following a satisfactory merit assessment could be approved. No further changes recommended.

- The roof pitch is no more than 24 degrees and any openings are flush with the roof pitch.

### Submission

*“Roof pitch is designed to add character and scope in design of buildings. Commonly roof pitches range from 20 degrees to 25 degrees. It is suggested that this clause be changed to read that no more than 25 degrees. With regard to openings being flush with the roof; does this include skylights, solartubes etc. or does this only relate to items such as dormer windows?”*

### Comment

Roof pitch requirements were originally prescribed in the model SEPP however, these requirements were later deleted from the Draft SEPP.

Experience by Council’s Building Services Unit indicates that the 24 degree pitch proposed is satisfactory. Again, an application for a roof pitch in excess of 24 degrees can be submitted to Council for merit assessment. The provision regarding openings does not apply to skylights, solartubes or similar non-opening structures.

- A shadow diagram is required to demonstrate that the main area of private open space or any habitable rooms of any existing or approved dwelling would not be in shadow between 10am and 3pm on 21 June, as a result of the development

### Submission

*“This generally will be achievable for the area of open space. To say that habitable rooms would not be in shadow on this date any not be quite as achievable. Should this be required, it is suggested that normal allotment size be increased to allow more open space between buildings and to conform to this requirement. This should be deleted to allow private Certifiers to approve the same building in a location as Council will approve without reference to the above clause. Also, if a shadow diagram is required it should be made applicable to every approval that is provided to Council or a Private Certifier. This has never been required previously and will be looked upon by the*



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*general public, as another way to hinder the basic principles in approving a single dwelling.”*

### **Comment**

This provision is in accordance with the Department of Urban Affairs and Planning Model, and as no merit consideration can apply to Complying Development, this provision should remain. The proposal to introduce a DCP for Energy Efficient Housing may lead to larger lots in some circumstances.

- The external wall of any structure is at least 900mm from a side or rear boundary if one storey or 1.5 metres if two storey.

### **Submission**

*“This should read the same as the BCA, which requires that one and two storey dwellings be minimum of 900mm from the wall to the boundary.”*

### **Comment**

As referred to previously, merit considerations do not come into consideration for this form of development, therefore an increased setback for a two storey building has been introduced to ensure minimal impact on adjoining development. Approval for lesser setbacks is still available for merit based assessment by Council.

### **Privacy and Security**

- Windows in a habitable room that allow an outlook to a window to a habitable room in the neighbour’s house or an approved house and are within 9 metres.
- Are offset from the edge of one window to the edge of the other by a distance of 0.5 metres, or
- Have sill heights of 1.7 metres above floor level, or
- Have fixed obscure glazing in any part of the window below 1.7m above floor level.

### **Submission**

*“This whole section should be deleted. Dwellings have been built in this area for nearly 100 years and these regulations have not been in place and have not caused problems in the past. To provide restrictions that between windows on adjacent blocks of land within 9 metres of each other is ludicrous. With Councils approval of small lot subdivisions such as Banora Waters, Flametree Park etc the minimum distance between most houses is 1800mm. To require a person to enforce this under the regulation is effectively designing dwellings for people; and will cause much contention in the future if this is adopted.*

*To have sill heights 1.7 metres above floor level allows for only a toilet window. Again, this is a ludicrous statement, as is having fixed obscure glazing at below 1.7 metres above floor level. This whole section is impractical and should be removed from the*

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*document. Councils own staff agree that this section cannot be implemented. For example - we can have a new stage of Banora Waters approved on a given date. There may be 10 Certifiers and Council approving plans in this area. Within days there could be a number of dwellings under construction where Council and the Private Certifiers have inspected the site there was vacant land on both sides of the project. Another point in regard to the inappropriate nature of this section is that because the allotment sizes are so small most of the dwellings have a 1.8 metre high paling fence between neighbours, which effectively allows adequate privacy between the neighbours property. Again, this section is impractical and unworkable and should be removed from the criteria.”*

### **Comment**

As mentioned previously when addressing the general provisions in the absence of merit consideration, there needs to be some standards to address privacy and security. Council’s draft is consistent with the DUAP Model. The comments about new subdivision and the possible approval of a number of dwellings within days of each other by different people on the basis of new dwellings on adjacent lots is agreed with and is of concern. To overcome this potential conflict a “general” section has been added to the provisions for dwellings on lots of 1,000 square metres or less that requires a dwelling to exist on all lots adjoining the lot for which the Complying Development Certificate is being issued. Again, there is provision for Council to do a merit based assessment.

### **Open Space and Landscaping**

- A minimum of 20 percent of the site must be soft landscaped, that is, not hard surfaces.

### **Submission**

*“This is considered reasonable.*

- No more than one-third of the front setback area is paved or sealed.

### **Submission**

*“Normal building practice is a twenty-metre frontage allotment with a single storey dwelling, which includes a double garage. With a 6 metre wide garage and driveway, this takes up 36 square metres of the frontage. The remainder of the area is 84 square metres. Thus making the type of dwelling non-complying and it is these types of dwellings in our subdivision, which are approved every day by Council. To be realistic this needs to be increased to state that no more than half of the front setback area is paved and sealed, and thus allowing private Certifiers the opportunity to approve the application the same as Council, without consideration of the above clause.”*

### **Comment**

This is consistent with the DUAP Model SEPP and enables non conforming applications to be given merit consideration by Council.

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### **Flooding**

- The existing finished ground level shall comply with the design flood level in Tweed Development Control Plan No. 5- Development of Flood Liable Land.

### **Submission**

*“This statement should be changed to state that the minimum floor level should comply with the design floor level in this area.”*

### **Comment**

This provision has been applied to ensure that flood liable land still requires a Development Application to be lodged for dwellings and this should be maintained.

### **Building**

- Complies with the deemed to satisfy provisions of the Building Code of Australia.

### **Submission**

*“This is considered reasonable.”*

### **Sewerage Management**

- Reticulated water and sewerage is provided, or if an on site sewage management facility is proposed then an approval of the facility issued by Council in accordance with the Local Government (Approval) Amendment (Sewage Management) Regulation, 1998.

### **Submission**

*“This statement tends to say that if the property is not on reticulated water or sewerage that it cannot be considered complying. Should be amended to include a clause to state that an adequate potable water supply be provided as well as a site sewerage management facility approved by Council.”*

### **Comment**

Comments supported and were incorporated in the exhibited draft DCP.

### **Single dwellings on lots between 1,000 and 5,000 square metres**

### **Streetscape**

The structure must

- Comply with any building line specified elsewhere in this plan or in a development control plan applying to the land, or

### **Submission**

*“Should read that dwelling should comply with Tweed Shire Council building line.”*

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### Comment

It is proposed to incorporate Council's Building Line Policy in a DCP, and as such the wording of this section is appropriate.

- Be setback an average of the setback of like structures on land either side of the subject property, whichever is the greater.

### Submission

*"With regard to average setback of like structures on land either side, people may want to build at the back, front or middle of their property. This is their decision and should also be restricted to being sited an average distance to the house on the adjoining properties. For instance one dwelling is sited at six metres and the other at 60 metres. Are we saying that the middle dwelling should be sited at 33 metres to make it comply? Again a ridiculous situation and this should be removed."*

### Comment

This provision does not make it mandatory that dwellings must be set back greater than 6 metres, but that in situations where adjacent dwellings have been set back much further than this, that a merit assessment can be made of the proposal by way of submission of Development Application. This is important to the amenity of existing owners and variations should be merit assessed by Council.

- Dwellings facing public streets and accessways have a front door or window to a habitable room facing the street or accessway.

### Submission

*"This is considered reasonable".*

- Carports and garages facing a public street or accessway are not more than 6 metres or 50 percent of the frontage wide, whichever is the lesser.

### Submission

*"This is considered unreasonable for allotments of this size. See comment in previous section. What if someone wants a three-car garage and this will not effect the neighbours on an allotment of this size. This clause should be amended or deleted."*

### Comment

To provide some flexibility for lots of this size, the minimum width could be increased to 9 metres or 50 percent of the frontage width to allow for 3 car garages, however on balance, it is considered that this clause should not be altered and that requested variations be assessed by Council on merit.

### Energy Efficiency

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- The dwelling has at least a 3.5 star rating under the House Energy Rating Scheme (NatHERS)

### **Submission**

*“See comments in Section 1. Again personal choice and not required by Council. Suggest that this section be removed.”*

### **Comment**

This requirement is in the guidelines from the Department of Urban Affairs and Planning, and as Council would be aware, a draft Development Control Plan for Energy Efficient Housing has been exhibited for public comment and is expected to be finalised in the near future. The Plan requires all dwellings to achieve a 3.5 star rating. No change is therefore recommended to this part of Schedule 7.

### **Bulk and Scale**

- Cut and/or fill does not exceed 900mm. The top of any cut and the toe of any fill is not to be closer than 900mm to any property boundary.
- The ground floor level of the structure at any point is more than 500mm above finished ground level
- The structure is no more than two storeys in height
- The distance between the ground floor level and the underside of the eaves is no more than 2.7 metres for a one storey single dwelling and 5.5 metres for a two storey dwelling
- The roof pitch is no more than 24 degrees and any openings are flush with the roof pitch
- The main area of private open space or any habitable rooms of any existing or approved dwelling would not be in shadow between 10am and 3pm on 21 June, as a result of the development
- The external wall of any structure is at least 900mm from a side or rear boundary

### **Submission**

*“Should be addressed different to sites under 1000m<sup>2</sup>. Sites of this size allow no infringement to the neighbour generally and restrictions for floor level, distance between eaves and ground level, roof pitch, areas of overshadowing and privacy etc are not an issue. People buy these allotments so that they have more area between each block and this section should be modified to address this or removed. Note comments regarding the requirements for a shadow diagram which apply to a lesser extent than in Section 1.”*

### **Comment**

These are considered to be minimum standards that should be able to be readily complied with on larger lots, and as such need not be modified because of the lot sizes. The draft Model

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SEPP provides for these requirements for allotments of this size. The suggestion that there is no “infringement to the neighbour” is a matter that should be addressed by Council.

### **Privacy and Security**

- Windows in a habitable room that allow an outlook to a window to a habitable room in the neighbour’s house or an approved house and are within 9 metres
- Are offset from the edge of one window to the edge of the other by a distance of 0.5 metres, or
- Have sill heights of 1.7 metres above floor level, or
- Have fixed obscure glazing in any part of the window below 1.7m above floor level

### **Submission**

*“As for section 1. The whole section should be deleted, as it is unworkable and impractical.”*

### **Comment**

As mentioned previously in the absence of merit consideration, there needs to be some standards to address privacy and security. Council’s draft is consistent with the DUAP Model. The comments about new subdivision and the possible approval of a number of dwellings within days of each other by different people on the basis of new dwellings on adjacent lots is agreed with. This is perceived to be an important provision and should be retained. It is considered that persons purchasing larger allotments generally expect greater privacy, and this can be achieved by merit assessment.

### **Open Space and Landscaping**

- A minimum of 20 percent of the site must be soft landscaped, that is, not hard surfaces.

### **Submission**

*“This is considered reasonable on this size allotment”.*

- No more than one-third of the front setback area is paved or sealed.

### **Submission**

*“This is considered reasonable on this size allotment.”*

### **Flooding**

- The existing finished ground level shall comply with the design flood level in Tweed Development Control Plan No. 5- Development of Flood Liable Land

### **Submission**

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*“Should read ‘To comply with Tweed Shire Councils minimum design floor level of the area’.”*

### **Comment**

This provision has been applied to ensure that flood liable land still requires a Development Application to be lodged for dwellings.

### **Building**

- Complies with the deemed to satisfy provisions of the Building Code of Australia

### **Submission**

*“This is considered reasonable.”*

### **Sewage Management**

- Reticulated water and sewerage is provided, or if an on site sewage management facility is proposed then an approval of the facility issued by Council in accordance with the Local Government (Approvals) Amendment (Sewage Management) Regulation, 1998.

### **Submission**

*“Does this section mean that if there is no sewer and water provided that a development cannot be certified as complying. Many buildings and large properties provide that on site sewerage management facility is provided should be allowed to come under the banner of complying development. Suggest that this be amended also. See previous section with regards to water supply also.”*

### **Comment**

Above comments are supported and were incorporated in the exhibited draft DCP.

### **Single dwellings on lots of 5000 square metres or more**

#### **Streetscape**

The structure must

- Comply with any relevant building line specified elsewhere in this plan or in a development control plan applying to the land, or
- In the absence of such a specified building line, be setback at least 20 metres from the front boundary or an average of the setback of like structures on land either side of the subject property, whichever is the greater

### **Submission**

*“See comments on previous two sections.”*

### **Comment**

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See comments on previous two sections.

### **Energy Efficiency**

- The dwelling has at least a 3.5 star rating under the House Energy Rating Scheme (NatHERS).

### **Submission**

*“See comments on previous two sections.”*

### **Comment**

See comments on previous two sections

### **Bulk and Scale**

- All structures are within a building envelope of no more than 500 square metres. The building envelope can be made up of a number of smaller envelopes that total no more than 500 square metres in area
- The ground floor level of the structure at any point is no more than 500mm above natural ground level
- The structure is no more than two storeys in height
- The maximum distance between the ground floor level and the underside of the eaves is no more than 2.7 metres for a one storey single dwelling and 5.5 metres for a two storey single dwelling
- The maximum roof pitch is 24 degrees. Roof openings are flush with the roof pitch
- The external wall of any structure is at least 20 metres from a rear or side boundary

### **Submission**

*“This section should be rewritten to address the size of the allotment in much the same way as on lot 1000 to 5000 square metres. Comments on setback are the same, energy efficiency should be deleted, floor level, distance between eaves and ground level and roof pitch and privacy should be deleted. The other comments should be read in relation to allotments to 1,000 to 5,000 square metres”.*

### **Comment**

Section is structured on Draft SEPP provisions relating to building envelope. Ground floor level of structure requirements have been revised to 900mm in lieu of 500mm.

Provisions relating to setbacks, energy efficiency, floor level distances between eaves and ground levels remain appropriate for inclusion in accordance with reasons previously given for developments on smaller lot sizes.

Provisions for a maximum roof pitch of 24 degrees was deleted from exhibited draft DCP.



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### **Open Space and Landscaping**

- A minimum of 50 percent of the site must be soft landscaped that is, not hard surfaces.

#### **Submission**

*“This is considered reasonable.”*

### **Building**

- Complies with the deemed to satisfy provisions of the Building Code of Australia.

#### **Submission**

*“This is considered reasonable.”*

### **Sewage Management**

- Reticulated water and sewerage is provided, or if an on site sewage management facility is proposed then an approval of the facility issued by council in accordance with the Local Government (Approvals) Amendment (Sewage Management) Regulations, 1998.

#### **Submission**

*“See comments on allotment size 1,000 to 5,000 square metres.”*

#### **Comment**

See comments on allotment size of 1,000 to 5,000 square metres.

### **Swimming pool ancillary to a single dwelling**

#### **Use**

- Must be for private, non-commercial use only.

#### **Submission**

*“This is considered reasonable.”*

### **Streetscape**

- The pool is not between the dwelling and the front boundary.

#### **Submission**

*“Should be deleted, or add a condition that states or with the written consent of both adjoining neighbours.”*

#### **Comment**

Pools located within the building line should be assessed on their merit, and therefore should not be complying development.

## Reports from Director Corporate Services

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### **Bulk and Scale**

- All coping or decking around the pool is no more than 500m above the natural ground level

### **Submission**

*“Condition should be increased to one metre to be in accordance with the exempt requirements for decking.”*

- The pool is at least 1.5 metres from the side and rear boundaries

### **Submission**

*“This should be decreased to 500mm to allow some flexibility in design and location when Council can approve a pool in this location without any problems. This applies when there is restricted useable land available.”*

### **Comment**

If changes were to be made as requested in these two dot points, the potential for likely impacts on adjoining dwellings increases, and as such a merit assessment should be required in these instances. Provisions should be retained.

### **Privacy and Security**

- The noise level of any filtration equipment or pumps will not exceed 5dBA above the ambient background level measured at the property boundary.

### **Submission**

*“This is considered reasonable.”*

### **Open space and landscaping**

- A minimum of 20 percent of the site must be soft landscaped, that is, not hard surfaces.

### **Submission**

*“This is considered reasonable.”*

### **The Swimming Pool Act 1992**

- All aspects of the structure comply with the Swimming Pool Act and Regulation and AS 1926

### **Submission**

*“This is considered reasonable.”*

### **Building**

- Complies with the deemed to satisfy provisions of the Building Code of Australia

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### Submission

*“This is considered reasonable.”*

### Sewage Management

- Reticulated water and sewerage is provided, or if an on site sewage management facility is proposed then an approval of the facility issued by council in accordance with the Local Government (Approvals) Amendment (Sewage Management) Regulations, 1998.

### Submission

*“Not applicable - should be deleted.”*

### Comment

This provision commented on was not in this section of the exhibited draft DCP.

### General Submission

*“In regard to the proposed criteria for complying development, it will be very difficult to find such a development.*

*The requirements that a Complying Development Certificate can be issued only if all surrounding properties have existing dwellings located on them is very restrictive, impractical and ensures that nearly all Development Approvals remain with Council, which is not the intent of the legislation.*

*You would expect to be able to approve a single storey dwelling on a flat block of land yet this document does not allow for this to occur. This has major effects on the Private Certifier, who cannot approve such a dwelling when Council can approve the same dwelling without addressing the criteria forced upon the Private Certifier under the proposed document.*

*There are too many restrictions in this document, which make it nearly impossible for Private Certifiers to issue Complying Development Certificates, where Council can issue Development Approval in the normal fashion without addressing the criteria that the Private Certifier is required to address before the issue of a Complying Development Certificate.*

*Thank you for the opportunity to comment on the proposal and it is suggested that prior to adoption of this document a meeting be held with Council and the Private Certifiers to address our concerns and provide input into the final structure of this document.”*

### Comment

All of the above issues have been addressed in the body of this report previously.

### *(ii) Mark Thomas*

The following issues were raised by Mark Thomas in relation to Complying and Exempt development.

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### Submission

*“Council’s proposed restrictions for single dwellings, alterations/additional, carports and garages and ancillary development on lots less than 1000m<sup>2</sup> effectively prohibits any type of complying development in this category. Housing lots of less than 1000m<sup>2</sup> are the most common in the Tweed.*

*The restriction requiring a dwelling to exist on all lots adjoining the lot for which a complying development approval is sought is not necessary and onerous. I cannot understand why a carport, garage or some other ancillary development is prohibited if a vacant allotment is next to the subject lot. I do not believe dwellings should be restricted provided they comply with the other restrictions set out in the section. I suggest this restriction be removed from the schedule.”*

### Comment

Issue raised is identical to that detailed and addressed previously in Mark Stapleton and Associates submission under the headings entitled “General” and “Privacy and Security”.

### Submission

*“Energy efficiency restrictions requiring a 3.5 rating for dwellings, alterations, carports, garages and ancillary development is not mandatory council requirement. This requirement is not enforced for standard dwellings approved by the Council Development and Construction Approval Process. Why is it necessary if the dwelling is approved under the complying development provisions of the Act? Council should have a uniform policy for energy efficient housing, which will apply regardless of which part of the Act a structure is approved.”*

### Comment

Issue raised is identical to that detailed and addressed previously in Mark Stapleton and Associates submission under the heading “Energy Efficiency”.

### Submission

*“Shadow diagram provisions in the bulk and scale section of the schedule is unnecessary and onerous. While Council does not currently produce shadow diagrams for standard dwellings when assessing applications, it is now proposed to require such diagrams for every application. The restrictions contained elsewhere in the schedule which limit height, roof pitch, and floor height etc will have the same effect of reducing shadow to adjoining properties and it is suggested this clause be deleted from the schedule.”*

### Comment

Requirement derives from Department of Urban Affairs and Planning Model SEPP as previously detailed in the Bulk and Scale heading of the Mark Stapleton and Associates submission.

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### Submission

*“Mandatory 1.5 metre setback for two storey dwelling in the bulk and scale section is not necessary as other provisions in the schedule restrict bulk and scale.”*

### Comment

Because merit considerations do not come into consideration with Complying Development, an increased setback is considered necessary to ensure minimal impact on adjoining development.

### Submission

*“Privacy and security provisions proposed is an onerous requirement. Restrictions elsewhere in the schedule mean that the type of dwellings which complying development relate will be level or near level allotments. Generally a 1.8 metre fence is erected between each dwelling and a minimum of 1.8 metre separation exists between houses. This is a accepted community standard and a person constructing a house on such a lot could reasonably expect another dwelling to be constructed next door which may contain windows in proximity to their house. I suggest this provision be removed.”*

### Comment

Requirement derives from DUAP Model SEPP and is identical to matters addressed previously in Mark Stapleton and Associates submission under heading “Privacy and Security”.

### Submission

*“Alternatively I suggested that an accredited certifier be allowed to advertise or seek comments from adjoining property owners for proposals which have windows closer than permitted under this clause. Should no objections be received the certifier may issue a complying development certificate. Should objections be received the application must be referred to council for determination.”*

### Comment

This approach not perceived to be desirable because of likelihood of pressures being applied to adjoining owners to obtain their consent. The suggested process is what is involved in a merit based assessment that should remain with Council. Many such instances would be more readily dealt with by Council.

### Submission

*“The Building provisions of the schedule restrict the proposal to compliance with the deemed to satisfy provisions of the BCA. The BCA has for some time contained performance based provisions, which a person may elect to design for in lieu of the Deemed to Satisfy option. I suggest this clause be amended to read “Compliance with the provisions of the Building Code of Australia”.”*

### Comment

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Deemed to satisfy provisions of the BCA are considered to be appropriate performance standard requirements to be observed.

### Submission

***“Single dwellings and ancillary development on lots between 1000 and 5000m<sup>2</sup>***

*The same comments as mentioned above also apply to development in this category.*

***Single dwellings and ancillary development on lots more than 5000m<sup>2</sup>***

*The same provisions as mentioned above also apply to development in this category. I see no need to limit the ground floor level to within 900mm above finished ground level as building height is restricted elsewhere in the bulk and scale category. Also subfloor space greater than 1.5 metres is regarded as a storey and height is further restricted in this way.”*

### Comment

See previous comments.

### Submission

***“Schedule 3 - Complying Development Conditions***

*These conditions are wide ranging and will not apply to all types of development. Is a certifier to decide which conditions apply to which proposal or will the conditions be categorised in some way.*

*Condition 5 spells out when a certifier is to inspect a building. This should be left to the certifier as the he/she is required to certify the project at the completion of work.*

*Condition 12 delete reference to deemed to satisfy provisions.”*

### Comment

All conditions should be satisfied, if applicable, in all circumstances. Condition 5 requires the Certifying Authority (which may be Council or an Accredited Certifier) to be given notice. It is then at the Certifying Authority's discretion to carry out the inspection.

Condition 12 should remain.

### Submission

***“Exempt Development***

*Access ramps for the disabled - suggest the third dot point in this section be amended to read “comply with AS1428”. A gradient of 1:14 not required for ramps less than 1.52 metres. If any further information is required regarding this submission please contact the writer at the above address.”*

### Comment

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It is considered that the wording of the draft DCP effectively identifies the requirements.

*(iii) Telstra*

A submission has been received from Telstra requesting that various telecommunications infrastructure that is of “minimal environmental impact” be included in the exempt development provisions of the DCP. It is not proposed that the exemptions apply to environmentally sensitive areas, areas of critical habitat or heritage items.

A copy of the submission is attached to this agenda and provides background information on the Federal Telecommunications Legislation applicable to this form of development as well as outlining Telstra’s internal environmental assessment process.

**Comment**

The general thrust of the submission is supported, however the layout of the table needs to be amended to be consistent with the draft DCP. The requirements proposed by Telstra have however been amended in the recommendation insofar as some of the numerical standards are concerned to provide for a more conservative approach.

**2. Internal Submission**

**(i) Film Production Shoots**

From time to time Council receives requests to carry out film shoots on Council controlled land. These activities can last for a few hours or for many days and have varying degrees of impact.

To respond to these requests a policy is being developed that will cover issues to be addressed when making a request to Council, criteria to be satisfied as well as a fee schedule. If filming is to be carried out on community land the activity would also be subject to any existing plan of management for that land.

On this basis it is requested that film location shoots should be made exempt development provided they meet Council policy requirements for these activities.

**Comment**

Given the issues to be covered in the policy and to remove duplication of process the request to make film production shoots on Council controlled land exempt development provided they satisfy the Policy should be included in the DCP.

**(ii) Disability Discrimination Act**

No conditions relating to the provision of non discriminatory access in accordance with the Disability Discrimination Act have been included for complying developments such as bed and breakfast accommodation and shop/office change of use.

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### Comment

This was an oversight in relation to bed and breakfast development but is in those in relation to shop/office change of use. The standard condition relating to this issue should be included in the bed and breakfast use categories in Schedule 3 of the DCP.

### (iii) Water supply for bed and breakfast developments and dwellings

No conditions have been included for complying development bed and breakfast establishments and dwellings that do not have a reticulated water supply to require such establishments to have a potable water supply or roof water management plan.

### Comment

This aspect should be included in the "Requirements" section of the DCP.

### (iv) Approval for Drainage Works

Section 68 of the Local Government Act requires approval for drainage. This covers:-

- connection of a private drain to a public drain
- installation of stormwater quality control devices
- erosion and sediment control plan and works

No conditions relating to this issue have been included in the requirements for complying development.

### Comment

The need to obtain a Section 68 approval for drainage under the Local Government Act should be included in Schedule 2 of the DCP.

### (v) Farm Sheds

Some concern has been expressed that there needs to be more flexibility for the erection of farm sheds by either making them exempt or expanding the complying requirements to enable larger structures. Schedule 1 allows garden sheds on lots more than 5000m<sup>2</sup> to have a maximum floor area of 25m<sup>2</sup>.

### Comment

On larger rural properties there may be some scope to provide for another category in Schedule 1 of "farm sheds". The requirements for this form of development could include:-

- Lot must have minimum area of 5 hectares
- Maximum floor area of the shed to be 100m<sup>2</sup>
- Building Does not include provision for toilet or shower facilities
- Building to be constructed of non reflective material



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- Building to be a maximum height of 4.5 metres
- Building is setback a minimum of 10 metres from all boundaries including the road frontage
- Building does not require any new vehicle access to the lot
- Building deemed to comply with the provisions of the Building Code of Australia

(vi) **Long Service Levy**

Under the Building and Construction Industry Long Service Act 1986, where applicable, the long service levy must be paid before a complying development certificate can be issued.

To ensure that all parties are aware of this a condition relating to this should be applied to all categories of land use in Schedule 3.

(vii) **Building Clear of Easements and Stormwater Mains**

The draft DCP makes reference to development being consistent with any 88B restriction on the lot however there needs to be clear provisions requiring all buildings/structures to be clear of any easements or stormwater mains.

An additional requirement should be added to Schedule 2 to cover easements and a condition should be added to relevant sections of Schedule 3 for stormwater mains.

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### 4. ORIGIN: Development Control Unit

**FILE REF: DA1830/60 Pt1**

### REPORT TITLE:

**Proposed Dwelling House at Lot 15 DP 23576 Elanora Avenue, Pottsville**

### SUMMARY OF REPORT:

Council is in receipt of an application to erect a three (3) storey dwelling-house at the above property. The property is located within the 2(b) Residential Zone and provides for a total area of approximately 614m<sup>2</sup>. Although a three (3) storey height restriction is applicable to the subject site, a reduction to two (2) storeys has been included within Council's Draft Tweed Local Environmental Plan 1998 and the older Draft Tweed Local Environmental Plan No. 21. The wider local area is characterised by a mixture of medium density developments and single dwelling-houses, whilst the immediate surrounding area of the subject site provides predominantly for single dwelling-houses. The subject application was referred to Council's Development Assessment Panel for determination, who in turn referred the subject application to Council due to height and zoning inconsistencies.

### RECOMMENDATION:

That the development application submitted by Mr I & S Young for the erection of a dwelling house at Lot 15 DP 23576 Elanora Avenue, Pottsville be approved subject to the following conditions:-

#### GENERAL

1. The development shall be completed in general accordance with Plan Nos 1, 2, 3, 4, 5, 6 & 7 prepared by Gavin Duffie and dated 22/12/99, except where varied by these conditions.
2. The door to a fully enclosed sanitary compartment must:-
  - i. open outwards; or
  - ii. slide; or
  - iii. be readily removable from the outside of the sanitary compartment;unless there is a clear space of at least 1.2m between the closet pan within the sanitary compartment and the nearest part of the doorway.
3. 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.
4. (a) All deteriorated and defective materials are to be replaced by sound materials.  
(b) The building is to be painted internally and externally.

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- (c) The building is to be set up and completed in a tradesmanlike manner and to Council's satisfaction.
  - (d) The building is not to be occupied until all work is completed and Council's approval to occupy has been granted.
  - (e) Detail's covering the date and time of removal and route to be travelled are to be submitted to Council's Engineering Division prior to commencing work.
5. The land is not to be cut so as to alter the established profiles or drainage gradients, but where the site is to be cut and filled, details of proposed site drainage and erosion and sedimentation control measures are to be submitted to the Principal Certifying Authority prior to start of building work.
6. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of Council. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of work.
7. 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.
8. Wind speed for this area has been assessed at W31. Bracing details are to be submitted to and approved by the Principal Certifying Authority prior to commencement of frame work.
9. 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

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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.
10. The glazier is to supply the PCA with certification that all glazing complies with AS 1288-1994 of the Building Code of Australia.
11. Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.
12. 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.

### **PRESCRIBED (BUILDING)**

13. 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.
14. A sign must be erected on the site in a prominent, visible position stating:
- a. that unauthorised entry to the work site is prohibited; and

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- 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.
15. 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.
16. 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).
17. 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.
18. 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)**

19. 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.

### **FIRE (BUILDING)**

20. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 1a building, or dwelling or dual occupancy and within sole occupancy units in a townhouse.

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Smoke detection and alarm systems must be installed in accordance with Part 3.7.2.3 of the Building Code of Australia and must comply with Australian Standard AS 3786.

Smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building.

Smoke alarms must be installed on or near the ceiling in -

- (a) any storey containing bedrooms -
  - (i) between each part of the dwelling containing bedrooms and the remainder of the dwelling; and
  - (ii) where bedrooms are served by a hallway, in that hallway; and
- (b) any other storey not containing a bedroom.

A Certificate of Compliance is to be submitted to Council prepared by the licensed Electrical Contractor certifying that the installation complies with the above, prior to occupation of the building.

### ROADS/STREETS

21. 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.

### DRAINAGE/FLOODING

22. 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 accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available.
23. 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.

### SEWERAGE

24. **Note:** Sewer manhole is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

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Should additional fill be proposed in the area of the sewer manhole Council's Engineering Services Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of Council's Manager Public Utilities.

### ENVIRONMENT PROTECTION

25. 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.

### PLUMBING & DRAINAGE

26. 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.
27. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
28. 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.
29. 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.
30. Impervious floors, properly graded and drained are to be provided to all wet areas.
31. 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.
32. 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.
33. The finished floor level of the building should finish not less than 225mm above finished ground level.

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### REPORT:

**Applicant:** Mr I & S Young  
**Owner:** Mr I & S Young  
**Location:** Lot 15 DP 23576, Elanora Avenue, Pottsville.  
**Zoning:** 2(b)(Residential B Zone)

### BACKGROUND /PROPOSAL

Council is in receipt of an application to erect a single three (3) storey dwelling-house at the above property.

The property is located within the 2(b) Residential Zone and is presently vacant and cleared. The subject property provides for approximately 614<sup>m<sup>2</sup></sup> of area and has direct pedestrian and vehicular access to Elanora Avenue. The site slopes steeply from the Elanora avenue frontage (11.5m AHD) to the rear of the allotment (6.5m AHD).

The local area is characterised by a mixture of new and older style medium density developments and new and older style dwelling-houses. Immediately adjoining the site to the west is an existing three (3) storey dwelling of modern design, whilst existing and partially constructed medium density developments adjoin the site to the north and east respectively. A cluster of single dwelling-houses are situated to the south on the opposite side of Elanora Avenue. A number of examples of three (3) storey dwelling-houses are also provided for within the locality.

The proposal incorporates the use of both brick and timber materials and the provision of significant private deck areas.

The proposal was notified to adjoining and adjacent properties who were given 14 days in which to make submissions to Council. No objections were received by Council during this period.

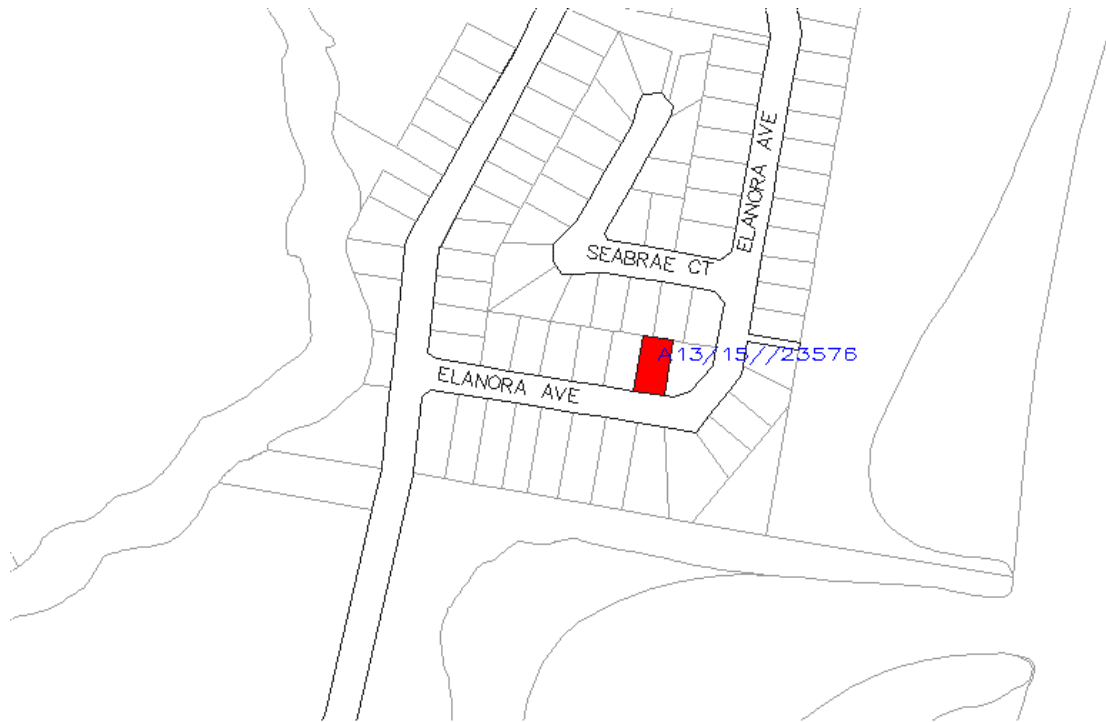
### HISTORY

Building Application B97/1703 for a dwelling on the subject property was withdrawn. It is evident from discussions with Council's Building Services Unit that applications for three (3) storey dwellings within the Pottsville area have in the past been refused on the basis of non-compliance with draft LEP No. 21. These refusals have primarily been related to level blocks.



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### SITE DIAGRAM



### CONSIDERATION UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

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

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

The subject property is located within the 2(b) Residential (B) Zone. Dwelling-Houses are permissible with the consent of Council in the 2(b) Zone. The objectives of the 2(b) Zone are as follows:-

- “(a) to identify land for the purposes of medium and high density housing and compatible support facilities; and*
- (b) to encourage a variety of housing forms in the zone such as are commonly known as group houses, villa houses, town houses, terrace buildings and the like.”*

Whilst it is acknowledged that the erection of a single dwelling-house may arguably delay the ultimate attainment of the zone objectives, it also acknowledged that dwellings are permissible within the zone and that in certain circumstances the erection of a dwelling may be prove to be a satisfactory alternative. Such circumstances include physical characteristics of the land, opportunities for redevelopment, character of area and the form and nature of the proposal.

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It is considered that in this instance the erection of a single dwelling is a satisfactory alternative to medium density development and unlikely to translate into any adverse impacts within the locality.

In the first instance, the subject site possesses a steep topography and a relatively small area and frontage to Elanora Avenue. It is considered unlikely that the subject allotment could accommodate any serious attempt at medium density development in accordance with Council's DCP No. 6 - Multi Dwelling-Housing without consolidation with adjoining allotments. Given that development adjoining the subject site is of recent construction, this option would appear to be unlikely in the short to mid term.

In addition to the above, the character of the area provides for a mixture of residential types, inclusive of several examples of single dwelling-houses and medium density development. Specific mention is made of a number of recent three (3) storey dwellings located within close proximity to the subject site, including the adjoining property to the west. Given the above reasons, it is considered difficult to justify a refusal of the proposed dwelling-house based on inconsistencies with the objectives of the 2(b) Zone.

TLEP 1987 presently provides for a three (3) storey height restriction within the subject area. The proposal is consistent with the current provisions of the LEP.

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

The proposal is consistent with the relevant provisions of the NCREP 1988.

### **State Environmental Planning Policies (SEPPs)**

No SEPPs are applicable to the proposed development.

### **(ii) Draft Tweed Local Environmental Plan 1998 & Draft LEP No. 21**

Draft Tweed Local Environmental Plan No 21 was exhibited and adopted by Council in 1989. The draft amendment restricts development within the Pottsville area to two (2) storeys in height. This restriction, whilst never gazetted, has been supported within Council's Shirewide draft Local Environmental Plan 1998 which also limits development within the Pottsville area to two (2) storeys. Draft Tweed Local Environmental Plan is presently with the minister and is awaiting final approval and gazettal.

The proposal incorporates the provision of three (3) storeys in a stepped configuration, with the proposal giving the physical impression of a two (2) storey elevation only at the Elanora Avenue frontage. The provision of a two (2) storey frontage is consistent with the existing streetscape of the adjoining residence to the west, which also steps out to three (3) storeys towards the rear of the allotment.

It should also be noted that a number of other examples of three (3) storey dwellings are evident within the Pottsville area and that no adverse overshadowing or privacy impacts are considered likely to occur in relation to adjoining properties. Strict adherence to the draft two (2) storey height limit is considered unjustified in this instance.

## Reports from Director Corporate Services

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**(iii) Development Control Plan (DCPs)**

The proposal incorporates a single dwelling-house only. No specific DCPs are applicable in this instance.

**(b) Likely Impacts**

As indicated previously, the proposal involves the erection of a single dwelling-house only within an established residential area. No adverse 'neighbour' impacts such as overshadowing, loss of views and privacy or compatibility with streetscape are likely to occur. It is considered that standard conditions are able to be applied to ameliorate any potential areas of concern in relation to the construction period.

**(c) Suitability of the Site**

The proposal is considered to have been satisfactorily designed and sited in accordance with the character and amenity of the area. No adverse constraints are posed by the subject allotment or existing development on adjoining allotments. Subject to the imposition of standard conditions, the subject site is considered able to satisfactorily accommodate the proposed dwelling-house.

**(d) Any Submissions**

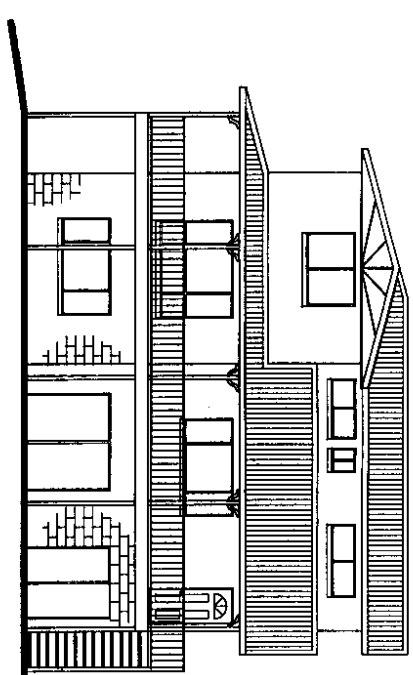
The proposal was notified in accordance with Council policy. No submissions of objection were received by Council during the formal notification period.

### CONCLUSION

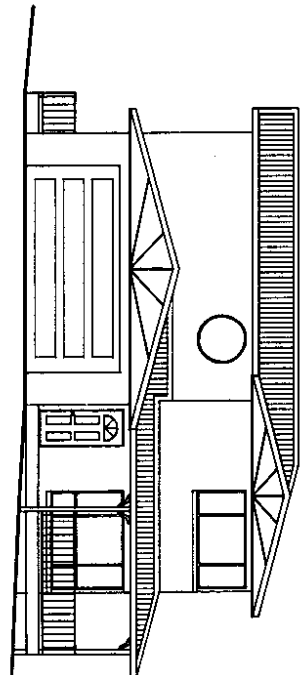
Whilst it is acknowledged that the proposal provides for inconsistencies with both the objectives of the 2(b) Zone and the building height limits of the draft LEP, it is considered for the reasons referred to in this report that a refusal of the application would be difficult to sustain. It is noted that numerous applications for single dwellings within the 2(b) Zone have been determined in recent years throughout the shire. There have been no refusals within this time. No objections have been raised by Council's Building Services Unit in relation to the proposed dwelling-house subject to the imposition of standard conditions.

# Reports from Director Corporate Services

## ELEVATION PLANS



**NORTHERN ELEVATION**



**SOUTHERN ELEVATION**

<b>CLIENT</b> I. & S. YOUNG	<b>SCALE</b> 1:100	
<b>PROPERTY DESCRIPTION</b> PROPOSED DWELLING ON LOT 15 IN DP23576 ELANDRA AVENUE, POTTSVILLE.	<b>REF</b> G1536	
	<b>DATE</b> 5/31/97	
	<b>SHEET</b> 6 of 9	
<b>GAVIN DUFFIE</b> CONTRACT DRAFTSMAN 26 MURRABA CRES. TWEED HEADS, 2485, PH & FAX - (075) 368203		

*Plans 5*  
22.11.99

# Reports from Director Corporate Services

**EASTERN ELEVATION**

**WESTERN ELEVATION**

Plan No. 6  
22.12.99

CLIENT <b>I. &amp; S. YOUNG</b>	SCALE <b>1:100</b>	REF. <b>G1536</b>	DATE <b>5/3/97</b>	SHEET/DF9 <b>7/DF9</b>	<b>GAVIN DUFFIE</b> CONTRACT DRAFTSMAN  26 MURRABA CRES. TWEED HEADS, 2485. PH. & FAX: (075) 368203
PROPERTY DESCRIPTION <b>PROPOSED DWELLING                  ON LOT 15 IN DP23576                  ELANDRA AVENUE,                  POTTSVILLE.</b>					

## Reports from Director Corporate Services

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

**FILE REF: GT1/S94/13**

**REPORT TITLE:**

**Amended Section 94 Contribution Plan No 13 - Cemeteries**

**SUMMARY OF REPORT:**

This amended Contribution Plan (Annexure 1) was exhibited for 43 days until 24 January, 2000 following a Council resolution on 1 December, 1999. There were no submissions received in response to the exhibition.

**RECOMMENDATION:**

That Council:-

1. Adopts Section 94 Contribution Plan No 13 (Annexure 1) as advertised; and
1. Gives public notice of its decision in accordance with the Environmental Planning and Assessment Regulations 1994, in the Tweed Link, specifying that the Contribution Plan comes into effect on the date of the notice.

## Reports from Director Corporate Services

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### REPORT:

#### PUBLIC EXHIBITION

A notice in the form required by the Environmental Planning and Assessment Regulation 1994 was placed in the Tweed Link on Tuesday, 9 December, 1999, and the exhibition period was for 43 days to 24 January, 2000.

The Plan has been amended for the following reasons:

1. The civil works costs at the cemetery greatly exceeded the initial estimate for the work. The original estimated cost was \$590,000, with the actual cost being \$1,062,000. Reasons for the additional expense include the increase in grave sites from 6,500 to 11,000, upgrading of both entry/exit sites from type B to type C, thus increasing site distances and lane separation requirements requiring night lighting and provision of retaining walls due to encountered site stability conditions.
1. As a result of the increased number of grave sites, the landscaping, the building to accommodate the amenities, office, workshop and storage, and the design and supervision costs increased from \$241,000 to \$768,000, an additional \$527,000.
1. The proposed location of the Chinderah/Yelgun Pacific Highway upgrade has resulted in the land proposed for the crematorium being set aside for resumption at a future date. The loss of this site as well as a business report by Coopers and Lybrand questioning the economic viability of the crematorium has resulted in the deletion of the crematorium from the Plan.
1. The increase in the number of grave sites from 6,500 to 11,000 was made possible due to the relocation of the originally proposed motorway.
1. The estimated total interest on the principle borrowed by Council to undertake the cemetery work has also increased as a result of the additional capital costs and an increase in the time of the loan payment from fifteen to thirty years to bring it in line with the life of the Plan. The original Plan provided for the loan for the cemetery extension and increased associated works to be paid over fifteen years. This has resulted in Council carrying increased liability for the first fifteen years of the Plan, yet contributions are being levied to year 2026. The original 15 year loans were borrowed prior to the original Plan being established. These loans are currently being renegotiated for 30 years to bring them in line with the Plan.
1. The occupancy rates for single residential and medium density loss has decreased from 2.9 and 2.2 persons respectively to 2.6 and 1.7 persons (Census data 1996). Note: the projected population of 66,000 for the life of this Plan is still considered a realistic figure.
1. Establishment costs over five years for the cemetery gardens.
1. Assuming that population, and therefore contributions, grows at an accelerating rather than a flat rate, a cashflow shortfall in the early years of the Plan occurs. This is exacerbated by a "lag" of implementation consents paying the contributions at the beginning of the Plan. The shortfall, carried by Council's General Fund, would attract an interest cost at the prevailing investment

## Reports from Director Corporate Services

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rate. An amount of approximately \$12 per lot would be needed to be added to the contribution rate to cover this cost.

It is recommended that Council adopt the Plan and publish a notice of approval of the Plan in order to bring it into effect.

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## Reports from Director Corporate Services

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# Reports from Director Corporate Services

**6. ORIGIN: Development Control Unit**

**FILE REF: DA1540/3620 Pt2**

**REPORT TITLE:**

**Proposed Retirement Complex Comprising 164 Units and Associated Facilities at Lot 1 DP 881733 Darlington Drive, Banora Point**

**SUMMARY OF REPORT:**

Extensive negotiations has been undertaken between the applicant and Council regarding the payment of contributions for the development and agreement has now been reached as a basis for recommendation to Council. This report details the results of the negotiations. Further information has been provided by the applicant on the design and streetscape. It would now be appropriate to approve the proposal subject to discontinuance of the Court appeal by the applicant and the applicant entering into a deed of agreement regarding the payment of contributions. No response has been received from the Department of Urban Affairs and Planning in relation to the Council resolution of September 1999 seeking waiver of Direction to enable Section 94 contributions to be levied.

**RECOMMENDATION:**

That:-

- A. Subject to the applicant entering into a Deed of Agreement and providing confirmation of the discontinuance of the appeal in the Land and Environment Court, that Council approves the development subject to the conditions contained in Part B of this recommendation. The Deed of Agreement is to provide as follows:-

**CONTRIBUTIONS**

- 1. A Construction Certificate shall **NOT** be issued by a Certifying Authority unless all 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:

**Stage 1**

Tweed Road Contribution:	\$13,486.20
Community Facilities:	\$1,901.04
Library	\$3,407.82
Bus Shelter	\$353.60
Cemetery	\$1,297.27
Emergency Facilities:	\$914.61
Council Administration & Support Facilities	\$2,627.69

## Reports from Director Corporate Services

### Stage 2

Tweed Road Contribution:	\$10,374.00
Community Facilities:	\$1,462.34
Library	\$2,621.40
Bus Shelter	\$272.00
Cemetery	\$997.90
Emergency Facilities:	\$703.55
Council Administration & Support Facilities	\$2,021.30

### Stage 3

Tweed Road Contribution:	\$10,374.00
Community Facilities:	\$1,462.34
Library	\$2,621.40
Bus Shelter	\$272.00
Cemetery	\$997.90
Emergency Facilities:	\$703.55
Council Administration & Support Facilities	\$2,021.30

### Stage 4

Tweed Road Contribution:	\$14,523.60
Community Facilities:	\$2,047.28
Library	\$3,669.96
Bus Shelter	\$380.86
Cemetery	\$1,397.06
Emergency Facilities:	\$984.96
Council Administration & Support Facilities	\$2,829.82

### Stage 5

Tweed Road Contribution:	\$11,930.10
Community Facilities:	\$1,681.69
Library	\$3,014.61
Bus Shelter	\$312.80
Cemetery	\$1,147.59
Emergency Facilities:	\$809.08
Council Administration & Support Facilities	\$2,324.50

### Stage 6

Tweed Road Contribution:	\$12,448.80
Community Facilities:	\$1,754.81
Library	\$3,145.68
Bus Shelter	\$326.40
Cemetery	\$1,197.48
Emergency Facilities:	\$844.25
Council Administration & Support Facilities	\$2,425.56

## Reports from Director Corporate Services

### Stage 7

Tweed Road Contribution:	\$11,930.10
Community Facilities:	\$1,681.69
Library	\$3,014.61
Bus Shelter	\$312.80
Cemetery	\$1,147.59
Emergency Facilities:	\$809.08
Council Administration & Support Facilities	\$2,324.50

### (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.

## Reports from Director Corporate Services

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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.

- B. Following resolution of the matters contained within Part A of the recommendation, the Director of Development Services be delegated to approve the application subject to the following conditions:-

**PRE-REQUISITE that must be satisfied before a construction certificate can be issued:-**

1. 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.

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

## Reports from Director Corporate Services

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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.

### Stage 1

Water: \$66,690.00  
Sewer: \$54,990.00

### Stage 2

Water: \$51,300.00  
Sewer: \$54,300.00

### Stage 3

Water: \$51,300.00  
Sewer: \$42,300.00

### Stage 4

Water: \$71,820.00  
Sewer: \$59,220.00

### Stage 5

Water: \$41,758.20  
Sewer: \$34,432.20

### Stage 6

Water: \$61,560.00  
Sewer: \$50,760.00

### Stage 7

## Reports from Director Corporate Services

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Water:	\$58,995.00
Sewer:	\$48,645.00

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.

### GENERAL

2. The development shall be completed in general accordance with Plan No 99M-01-99 Sheet 1-20 prepared by M Mahaffey and dated February 1999, except where varied by these conditions.
3. Internal pedestrian pathways are to be separated from the parking and driveway areas.
4. The development is to only be occupied by persons authorised under State Environmental Planning Policy No. 5
5. Prior to release of the construction certificate for Stage 1 of the development, a detailed landscaping plan of the Leisure Drive/Darlington Drive frontage is to be submitted to and approved by the Director of Development Services. The planting is to incorporate small trees and shrubs to screen the development. Internal landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
6. Prior to release of the construction certificate for Stage 1, a detailed plan of embellishment of the Western Drainage Scheme for the full frontage of the site is to be submitted to and approved by the Director of Development Services. The plan to provide for seating and shade and is to incorporate a 3m wide access along the bank to permit machinery access. **Note: A concrete pathway will not be acceptable within the 3m wide access unless it is constructed to withstand the access of machinery.**
7. Prior to release of the construction certificate for Stage 1, the developer is to enter into a 20 year maintenance agreement for the landscaping and embellishment required by the above condition to the satisfaction of the Director of Development Services.
8. 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.

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9. Prior to the issue of a construction certificate for Stage 1 details of colours and materials to be used external to the development are to be submitted to and approved by the Director of Development Services.
10. The door to a fully enclosed sanitary compartment must:-
  - i. open outwards; or
  - ii. slide; or
  - iii. be readily removable from the outside of the sanitary compartment;unless there is a clear space of at least 1.2m between the closet pan within the sanitary compartment and the nearest part of the doorway.
11. 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.
12. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.
13. A certificate is to be submitted by a Registered Surveyor certifying that all habitable floor areas are constructed above 2.95 metres AHD, and certifying the actual finished level of the total site. Certification of those levels by a registered surveyor must be submitted to the PCA prior to proceedings past floor level to ensure that the floor is above flood level.
14. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
  - a. footings, prior to pouring of concrete
  - b. slab, prior to pouring of concrete
  - c. frame prior to the erection of brick work or any wall sheeting
  - d. final inspection prior to occupation of the building
  - e. completion of work
  - f. swimming pool safety fencing prior to filling the pool with water
  - g. steel reinforcing prior to pouring of concrete
15. Tile roofs of 20 degree pitch or less are to be sarked with approved material. (Note: The Australian standard for "Installation of Roof Tiles" recommends that all tiled roofs shall be sarked where design wind speed is 33m/sec or greater).
16. 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:



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- (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.

- 17. 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.
- 18. The glazier is to supply the PCA with certification that all glazing complies with AS 1288-1994 of the Building Code of Australia.
- 19. Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.
- 20. 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

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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.

### **PRESCRIBED (BUILDING)**

21. 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.
22. A sign must be erected on the site in a prominent, visible position stating:
  - 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.
23. 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.
24. 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).
25. A. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
  1. in the case of work to be done by a licensee under that Act:
    - (i) has been informed in writing of the licensee's name and contractor licence number; and
    - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
  2. in the case of work to be done by any other person:

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- (i) has been informed in writing of the person's name and owner-builder permit number, or
    - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in Section 29 of that Act,

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
  - B. A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
26. 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.
27. 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)

28. 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.

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29. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all footings and floor slabs, prior to work being commenced on that part.

### **FIRE (BUILDING)**

30. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 1a building, or dwelling or dual occupancy and within sole occupancy units in a townhouse.

Smoke detection and alarm systems must be installed in accordance with Part 3.7.2.3 of the Building Code of Australia and must comply with Australian Standard AS 3786.

Smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building.

Smoke alarms must be installed on or near the ceiling in -

- (a) any storey containing bedrooms -
  - (i) between each part of the dwelling containing bedrooms and the remainder of the dwelling; and
  - (ii) where bedrooms are served by a hallway, in that hallway; and
- (b) any other storey not containing a bedroom.

A Certificate of Compliance is to be submitted to Council prepared by the licensed Electrical Contractor certifying that the installation complies with the above, prior to occupation of the building.

31. 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 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.

### **SWIMMING POOLS**

32. In the event that Council is not utilised as the inspection/certifying authority:-
- a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.

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- b. The Certifying authority is to be given 24 hours notice in writing for an inspection of the swimming pool safety fencing prior to filling the pool with water.
- 33. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- 34. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- 35. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- 36. It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
- 37. The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
- 38. The swimming pool is to be installed and access thereto restricted in accordance with Council's "**Code for the Installation of New Swimming Pools**" and Australian Standard AS 1926-1986 (Copy of code enclosed).

### **SPECIAL CONDITIONS**

- 39. The design and construction of the buildings within the development are to comply with the requirements of the Acoustic Report dated 29 March, 1999 Reference No. MC/99/2857 RPT prepared by Ron Rumble Pty Ltd and are to comply with the relevant provisions of AS2021-1994 - Acoustics Aircraft Noise Intrusion - Building Siting and Construction.
- 40. The noise barrier that extends along the Darlington Drive frontage is to be made continuous in accordance with the provisions of the Acoustic Report dated 29 March 1999 Reference No. MC/99/2857 RPT prepared by Ron Rumble Pty Ltd.
- 41. A preliminary soil assessment to ascertain the presence of absence of acid sulfate soil is to be carried out and if necessary an acid sulfate soil management plan is to be prepared to the satisfaction of Councils Director Environment and Community Services if excavations on site will extend below the level of any fill material that has been placed on site.
- 42. All hairdressing and beauty salon facilities incorporated within the proposed community facility building are to comply with the provisions of Schedules 2 and 3 of the Regulations under the Local Government Act 993 and with the NSW Health Departments Skin Penetration Guidelines dated July 1999. A copy of these Guidelines is to be kept on the hairdressing/beauty salon premises at all times.

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43. The construction of walls within the proposed kitchen and associated food handling and storage areas are to comply with Councils requirements for the construction of food handling areas.
44. The applicant shall provide to Council a letter from the Manager of Solo Waste confirming that Solo Waste has agreed to the arrangement for refuse/waste collection as contained in the applicants assessment report dated June 1999.

### **CAR WASH DOWN**

45. Ensure adequate turfed area, or other suitable media, is incorporated and maintained into the proposed landscape of the property for use as a car wash-down area.

### **DRAINAGE AND FLOODING**

46.
  - i. 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.
  - 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.
47. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

48. The land to be filled to the design flood level of RL 2.65m AHD.
49. The habitable floor level of the building to be at a level of not less than RL 2.95m AHD.
50. All stormwater runoff from the development is to be discharged to the Western Drainage Scheme Canal.
51. The following water quality measures are required for treating all stormwater collected from parking areas, driveways, hard paved landscaped areas and other hardstand areas (references in brackets refer to sections on devices in EPA publication "Managing Urban Stormwater - Treatment Techniques, November

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1997”). All devices are to be designed and sized in accordance with this manual unless otherwise directed by this condition. Engineering plans demonstrating compliance with the following matters are to be submitted to and approved by the Director of Engineering Services prior to release of the construction certificate for Stage 1.

- 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 (no disposed of by infiltration) oil, sediment and other pollutants are to be removed by means of
  - Oil/grit separator (ref 4.7) permanent pool 30m<sup>3</sup> per impervious hectare with 50-70% of this volume in first chamber or;
  - Filter strips (ref 5.1) providing 9 minute average residence time or;
  - Proprietary devices that have equivalent performance (to the satisfaction of the Director of Engineering Services) to the above
- e. All the above devices are to be located on the subject land and shall treat stormwater before it discharges into the public realm. All devices are to be constructed, operated, cleaned, maintained and replaced at the end of their asset life by the landowner.
- f. Design details and operation/cleaning/maintenance procedures/manuals for proposed water quality devices are to be submitted for approval with the construction certificate application for Stage 1. Engineering design of these devices is to ensure durability and ease of access, operation, cleaning and maintenance.

52. The existing roundabout at the Darlington Drive/Cromer Court intersection is to be closed to meet Tweed Shire Council requirements. Detailed engineering plans are to be submitted to and approved by Council prior to the commencement of work on the roundabout. The work is to be completed to the satisfaction of the Director of Engineering Services prior to occupation of Stage 1 of the development.

Plans are to include:-

- the kerb is to be constructed on the same radii as the outer edge of the roundabouts circulating pavement
- the 2.0m wide pathway is to be relocated 800mm behind the new kerb

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- the property boundary is to be 40m behind the new kerb line and the land within this area is to be dedicated as road reserve at no cost to Council prior to occupation of the development
  - the drainage gully pits are to be connected to manholes to Tweed Shire Council requirements. These manholes and drainage pipes are to be located within the road reserve. Alternatively, an easement in favour of Council can be created over the drainage infrastructure. However, no fences etc would be permitted within the easement.
53. All roof waters to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS 3500.3.2:1998. **Note** All roof water must be connected to an interallotment drainage system where available.
54. 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.

### ENVIRONMENT PROTECTION

55. 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.
56. 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.
57. 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.
58. 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.
59. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
  
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.



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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.

60. 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.
61. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
62. The burning of builders waste on site by open fire is prohibited.
63. All activities associated with the occupancy of the building are to comply with the Noise Control Act 1975 and the Clean Air Act 1961.
64. 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.

### PLUMBING AND DRAINAGE

65. 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.
66. A trade waste application form must be completed and approved before discharge to sewer commences.
67. 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.
68. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
69. 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.

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70. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
71. Water plumbing shall **not** be installed in concrete slabs or be laid under slabs on the ground.
72. 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.
73. Drainage lines must not penetrate footings unless certification is first obtained from a practising Structural Engineer.
74. 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.
75. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
76. 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.
77. The fire hose reels are to be on a metered supply.
78. Any discharge of a pollutant greater than or differing (in constitution) from domestic usage requires the submission of an application for a trade waste licence. Such application to be made prior to release of the approved building plans and/or prior to any use or occupation of the premises, whichever occurs earlier.
79. All work to be carried out in accordance with the acoustical report from Ron Rumble Pty Ltd Report No. 99-2857.

### **SPECIAL BUILDING CONDITIONS RELATING TO COMMUNITY BUILDING**

80. The building is not to be occupied or a final Occupation Certificate issued until a fire safety certificate has been issued for the building to the effect that each essential fire measure listed in the schedule below has been designed and installed in accordance with the relevant standards.

Such certificate shall state as to each essential fire measure installed in the building:

- (a) that the service has been inspected and tested by a person who is competent to carry out such an inspection or test; and

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- (b) that the service was (as at the date on which it was inspected and tested) found to have been properly implemented and capable of performing to a standard not less than that required by the most recent fire safety schedule for the building for which the certificate is issued.

Please note that all Essential Services listed on the schedule below must be certified on an annual basis as per the provision of section 80GB of the Environmental Planning and Assessment Regulation 1994.

**Fire Safety Schedule  
Essential Fire Safety  
Measure**

**Minimum Standard of Design  
Installation and Maintenance**

Emergency Lighting

AS2293-1998  
“Emergency Lighting  
Evacuation Lighting in  
Buildings” Part 1 - Design &  
Installation  
Part 2 - Inspection &  
Maintenance”

Exit Signs

AS2293-1998  
“Emergency Evacuation  
Lighting in Buildings. Part 1  
Design & Installation.  
Part 2 Inspection &  
Maintenance”

Fire Hydrant Systems

AS2419-1994  
“Fire Hydrant Installations  
System Design, Installation &  
Commissioning”

Hose Reel Systems

AS1221-1991  
“Fire Hose Reels”

Portable Fire Extinguishers

AS2444-1995  
“Portable Fire Extinguishers  
Selection & Location”

81. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units)
82. All fire service connections are to be compatible with those of the NSW Fire Brigade.
83. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444

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“Portable Fire Extinguishers - Selection and Location” and Part E1.6 of the Building Code of Australia.

84. Fire hose reels shall be installed in accordance with the provisions of Part E1.4 of the Building Code of Australia and comply with Australian Standard AS1221 and AS2441.

However, they shall not be installed until the PCA has been furnished with a certificate, signed by a Hydraulics Engineer stating that the design and proposed manner of installation complies with the relevant standards.

85. Fire hydrants must be installed in accordance with the provisions of Part E1.3 of the Building Code of Australia and the installation must comply with Australian Standard AS2419.1 except where superseded by the provisions of the Building Code of Australia.

However, they shall not be installed until the PCA has been furnished with a certificate, signed by a Hydraulics Engineer stating that the design and proposed manner of installation complies with the relevant standards.

86. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

87. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:

- (i) within each sole occupancy unit, located on or near the ceiling in any storey -
  - (A) containing bedrooms -
    - (aa) between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and
    - (bb) where bedrooms are served by a hallway, in that hallway; and
  - (B) not containing any bedrooms, in egress paths; and
- (ii) in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a **building occupant warning system** in accordance with Specification 2.2a(6) of the Building Code of Australia which states:

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A building occupant warning system must comply with Clause 8.7 of AS 1670 to sound through all occupied areas except-

- a) in a Class 2 and 3 building or Class 4 part provided with a smoke alarm system:
  - (i) the sound pressure level need not be measured within a sole occupancy unit if a level of not less than 85dB(A) is provided at the door providing access to the sole occupancy unit; and
  - (ii) the inbuilt sounders of the smoke alarms may be used to wholly or partially meet the requirements.

A Certificate of Compliance is to be submitted to Council prepared by the licensed Electrical Contractor certifying that the installation complies with the above, prior to occupation of the building.

88. 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.
89. Prominently displayed signs and symbols must be provided to identify for disabled persons all routes and areas where architectural barriers do not exist. Such access must comply with the requirements of Australian Standard AS 1428 Parts 1 and 2.
90. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
91. Tactile ground surface indicators for orientation of people with vision impairment are to be provided in accordance with Australian Standard AS1428.4-1992.
92. All required egress doors are to, at all times, be openable from within the building by single handle downward action or pushing action without recourse to a key and on a single device located between 900 millimetres and 1.2 metres from the floor unless exempted under the provisions of Part D2.21 of the Building Code of Australia. No barrel bolts are to be fitted.
93. Exits are to be provided so that no point on the floor of the building shall be more than 20 metres from:
  - (a) an exit; or
  - (b) a point from which travel in different directions to two exits is available in which case the maximum distance to one of those exits shall not exceed 40 metres.
94. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia are to be

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- provided. Exit signs shall be mounted between 2m and 2.5m above floor level and shall be of a maintained type.
95. Emergency lighting to comply with Part E4.2 of the Building Code of Australia shall be provided. Details of the system to be used and a certificate from the electrical engineer to certify that the system will comply with all relevant requirements of Part E4.4 of the Building Code of Australia and AS 2293.1 are to be submitted to Council prior to installation.
  96. 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.
  97. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.
  98. Intersections of all floors with walls or the like in the food preparation and food storage areas are to be coved to a radius of not less than 25 millimetres.
  99. Premises to comply with Council's adopted code for the construction of food premises.
  100. Provide a hand basin within the food preparation area as per Clause 19.9 of Council's adopted code for the construction of food premises.
  101. All washing facilities in the food preparation areas are to be provided with hot and cold water.
  102. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises.

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### REPORT:

<b>Applicant:</b>	W Crosby and J & R Cooper
<b>Owner:</b>	As above
<b>Location:</b>	Lot 1 DP 881733 Darlington Drive, Banora Point
<b>Zoning:</b>	2(c) Urban Expansion
<b>Est. Cost:</b>	\$12.4 Million

Council considered a report on the proposed retirement complex comprising 164 units and associated facilities on 22 September, 1999 and on 29 September, 1999. At the meeting of 29 September, 1999 Council resolved as follows:-

- “A. *In relation to Development Application K99/801 for the establishment of a retirement village on Lot 1 DP 881733 Darlington Drive, Banora Point that Council approaches the Minister for Urban Affairs and Planning with a request that the Direction under Section 94A which specifies that Section 94 contributions cannot be levied on development under State Environmental Planning Policy No. 5 be waived in this instance for the reasons detailed in this report and the agreement of the Minister be sought to include in any consent conditions the following contributions:-.*

#### **Services and Facilities**

<i>Section 94 Plan No. 4 - Roads</i>	\$148,838
<i>Section 94 Plan No. 1 - Structured Open Space</i>	\$297,057
<i>Section 94 Plan No. 1 - Casual Open Space</i>	\$130,633
<i>Section 94 Plan No. 3 - Community Facilities</i>	\$63,250
<i>Section 94 Plan No. 11 - Library</i>	\$36,600
<i>Section 94 Plan No. 12 - Bus Shelter</i>	\$2,929
<i>Section 94 Plan No. 13 - Cemetery Facilities</i>	\$10,493
<i>Section 94 Plan No. 16 - Emergency Facilities</i>	\$9,874.80
<i>Section 94 Plan No. 18 - Council Administration &amp; Support Services</i>	\$42,554

- B. *Council informs the Minister for Urban Affairs and Planning and the Director General that in Council's view the Development Application fails to meet the Urban Design guidelines of Part 3 of State Environmental Planning Policy No 5.*
- C. *The applicant be approached as soon as possible with a view of lowering the density and increasing the emphasis on landscaping.”*

The two main issues of concern relating to the development is the inability of Council to levy contributions without approval of the Minister, and the design of the proposed development. These issues were addressed in the previous report, a copy of which is attached. This report includes the full Section 79(c) evaluation. These issues are addressed in more detail below.

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### SECTION 94 CONTRIBUTIONS

The Minister for Urban Affairs and Planning has made a direction under Section 94A of the Environmental Planning & Assessment Act, 1979 which specifies that Section 94 contributions cannot be levied on development carried out under State Environmental Planning Policy No. 5 (SEPP5). If the proposal were assessed as a standard residential flat building the contributions listed in the above resolution would be levied by Council by way of standard conditions of consent. In this regard, Council has approached the Minister for Urban Affairs and Planning to waive the Direction in this instance to enable Council to apply these contributions. To date, no response has been received from the Minister.

In the interim, extensive negotiations have been carried out with the development regarding the payment of contributions. Agreement has been reached on this issue in terms of enabling the Director of Development Services to recommend conditions for Section 94 contributions to Council. Firstly, it should be recognised that the above contributions which would apply to a standard medium density development are based on an occupancy rate of 2.26 persons per unit. It has now been justified by the applicant that this rate is too high for this retirement village and the maximum occupancy per unit is likely to be two persons. Based on a survey of occupancy rates within similar complexes it was agreed that an occupancy rate of 1.7 persons per unit would be used to assess the appropriate Section 94 contributions. The applicant then argued further reduction to contribution amounts resulting from facilities and services which they are proposing to provide on site and due to the likely usage of residents of Council's facilities and services. A summary of the negotiations carried out on each contribution rate is provided below.

#### **Section 94 Plan No. 4 - Tweed Road Contribution Plan**

With regard to the Tweed Road Contribution Plan agreement was reached based on the likely traffic generation of two vehicle trips per day per unit. The applicant originally contended that the tip rate would be 1.6 trips per unit however, Council's Engineering Services Division carried out further negotiations with the applicants consultant which resulted in the acceptance of a rate of 2 vehicle trips per day. It should be noted that the applicant was advised of the ability to conduct accurate traffic assessments following completion of a significant portion of the development and once these accurate traffic flows are established from the development, potential would exist to apply to amend the consent to base road traffic contributions on actual traffic counts. Based on two vehicle trips per day for 164 units the agreed road contribution is \$85,066.

#### **Section 94 Plan No. 1 - Structured Open Space**

Contributions levied under this Plan are used for the provision of structured open space facilities such as sporting fields, netball, basketball courts etc. Given that the proposed development is for aged persons it was agreed that it is unlikely that residents would utilise these facilities and accordingly no open space (structured) contribution is proposed.

#### **Section 94 Plan No. 1 - Casual Open Space**

The casual open space contribution is generally used to fund passive recreation areas such as general parks and seating and walkways etc. In lieu of paying the standard contribution the applicant has offered to embellish the northern embankment of the western drainage scheme which adjoins the entire southern boundary of their property. This comprises a distance of approximately 400m. The



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applicants original offer has been expanded upon to incorporate the provision of shade trees and garden seating, a footpath, the retention of a 3m clear strip for maintenance machinery access and that the applicant will enter into a 20 year agreement with Council to maintain this portion of the proposed embellishment. It is recommended that this be accepted in lieu of a passive open space contribution.

### **Community Facilities**

The rate for the community services contribution identified within Section 94 Plan is \$172.04 per person. The applicant has agreed that the rate should be calculated for 1.7 persons per unit however, have argued that a 75% discount should apply to their development due to the large community building proposed to be constructed by them within the complex. This community centre will include facilities such as a multi-purpose function room, outdoor recreation facilities, coffee shop and bar area, billiards, gym, library, meeting rooms etc. It is recognised that some use will be made of Councils community services building which is proposed to be located approximately 300m from the site and in this regard the applicant has offered to pay 25% of the calculated contribution which totals \$11,991.18. Given the substantial community building proposed to be erected on site this contribution is considered to be acceptable.

### **Section 94 Plan No. 11 - Library Facilities**

Library services in the Section 94 plan are based on the rate of \$102.80 per person. The applicant has agreed to the occupancy rate of 1.7 persons per unit and have offered to pay 75% of this calculated contribution totalling \$21,495.48. They argue that a 25% discount entitlement should apply as their proposed community building will include a small library for residents use. It is considered that this is a reasonable argument for a 25% discount and therefore that the \$21,495.48 be accepted.

### **Section 94 Plan No. 12 - Bus Shelters**

The Section 94 plan for bus shelters calculated contributions at the rate of \$8.00 per person. The applicant has proposed to contribute 100% of this required contribution based on 1.7 persons occupying each unit. The total contribution for bus shelters is agreed at \$2,230.40.

### **Section 94 Plan No. 13 - Cemetery Facilities**

The contribution plan for cemeteries calculates contributions based on \$29.35 per person. The applicant has agreed to pay 100% of the calculated contribution based on an occupancy rate of 1.7 persons per unit. The total contribution equates to \$8,182.79.

### **Section 94 Plan No. 16- Emergency Facilities**

The section 94 plan for emergency facilities calculates contributions based on the rate of \$27.59 per person. The applicant has submitted a request for a 25% discount on the emergency facilities contribution rate on the basis that the plan primarily levies for surf life saving facilities and it is considered that the percentage of residents utilising the beach would be limited however, that if they did then they would perhaps be at a higher risk than the general population. The applicant has agreed to a total contribution of \$5,769.08 which is calculated based on 1.7 persons per unit with a 25% discount. It would appear that this offer is reasonable in the circumstances.

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### Section 94 Plan No. 18 - Administration and Support Services

This contribution plan calculates the contribution at a rate of \$118.09 per person. The applicant has argued that this development maintains one rate payer and does not provide for 164 individual ratepayers and therefore that some credit should be applied to the development. They have offered to pay 50% of the calculated contribution based on 1.7 persons per unit which equates to \$16,574.66.

The applicant has therefore offered to contribute \$151,308.69 for the varying Section 94 services and facilities and has proposed to embellish an extensive frontage to the western drainage scheme. The offer includes advice that the applicant has indicated they are prepared to withdraw the pending Court action subject to Council approving the development with satisfactory conditions of approval.

Due to the Minister's Direction under Section 94A of the Act, Council is not able to impose these conditions upon the consent and the appropriate course of action to ensure that the money is received is to enter into a Deed of Agreement along these terms. It would be appropriate for Council to require the Deed of Agreement to be submitted and the Court action withdrawn prior to issuing formal development consent to the proposal. It should be noted that the Deed of Agreement should contain the same provisions as what would normally be incorporated as conditions of consent, including Council's standard requirement that the amounts are valid for one year only following which they would be calculated at the rate applicable at the time of payment.

### Design Issues

The design of the proposed development has been raised as an issue of concern. To address this issue the applicant has submitted two artists impressions illustrating the proposed Leisure Drive streetscape and the internal view of the main entry. These impressions are on display in the Council chambers. It is understood that the applicants have also addressed a meeting of Council regarding the design of the proposal.

The following details were provided to Council in the original report dated 29 September, 1999 addressing the design requirements of SEPP5.

#### *"Part 3 - Design Requirements*

*Part 3 of the State Policy relates to design requirements. This part of the policy requires certain design aspects to be taken into account when a consent authority considers an application for development carried out under the State Policy. Clause 25 states that consent must not be granted for development for which this part applies unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the following principles:-*

- a. streetscape;*
- b. visual and acoustic privacy;*
- c. solar access and design for climate;*
- d. stormwater;*

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- e. *crime prevention;*
- f. *accessibility;*
- g. *waste management; and*
- h. *visual bulk*

*The issue of streetscape will not be substantially altered by the proposal due to the existing 2.1m acoustic fence which surrounds the site. As the buildings are single storey they will not be significantly visible. The existing fence will screen the majority of the development however, the roofline of the buildings will continue to be visible. This is particularly of concern along the Leisure Drive frontage of the site. Along this elevation units are generally grouped in blocks of 4 units of Type 2 design, which provides for a lounge, main bedroom and laundry opening onto a private courtyard area located within the 6m building line setbacks. The landscaping plans do not provide for any significant planting in this setback, as the majority of the area is to be paved, with a landscaped strip approximately 1m wide along the property boundary. As such the long expanse of unarticulated roofline is likely to remain visible as the landscaping is insufficient to act as a screen. No details have been provided on the colour schemes to be utilised. This would have a significant impact on the appearance of the development.*

*The policy requires Council to consider the visual and acoustic privacy of neighbours in the vicinity and residents by:-*

- (i) *appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping;*
- (ii) *ensuring acceptable noise levels in internal living and sleeping areas of new dwellings.*

*Each of the proposed units are single storey which thereby avoids overlooking, and each unit has been provided with a outdoor courtyard which adjoins, and is accessible from, the main living area of the dwelling. Landscaping is proposed around the perimeter of the courtyards.*

*The policy states that the development should, where possible ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space.*

*The design of the units is not likely to restrict adequate daylight to the main living areas of neighbours in the vicinity as the site is surrounded by a drainage channel and roads. Some of the units have been designed with north facing courtyards or courtyards which adjoin the waterway. However, a substantial number of units located within the site have been provided with south facing courtyards which adjoins internal roads. These units contain bedrooms and bathrooms orientated to the north. The design of the units could be improved by redesigning these units so that the private open space is orientated to the north, and is accessible directly from a main living area of the dwelling.*

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*The policy also requires the design to take into account dwelling design and landscaping that reduces energy use and makes best practical use of natural ventilation, solar heating and lighting. These aspects of the proposal could be improved by reorientating the “south facing” units so that living areas and open space faces north. This would allow heating costs to be reduced as a greater amount of winter sun would enter the dwelling.*

*With regard to stormwater the policy states that the development should, where possible:-*

- (i) control and minimise disturbance and impacts of stormwater runoff on adjoining properties and receiving waters;*
- (ii) include where practical, on site stormwater detention or re-use for second quality water uses;*
- (iii) be designed with regard to the scope for on site infiltration of water.*

*This aspect of the proposal has been addressed by Council’s Engineering Services Division who have advised that the development has not been designed for inbuilt stormwater quality and is around 98% impervious. They have advised that aspects of the development should be redesigned to incorporate passive water quality control features such as infiltration porous pavements and directing runoff over filter strips in landscaped areas. Conditions of consent were recommended by the Engineering Services Division addressing these matters.*

*Whilst this issue could be overcome by the imposition of conditions of consent, the application in its present form would not satisfy the SEPP requirements for stormwater.*

*Crime prevention is required to be minimised by allowing units to observe the street and dwelling approaches, sharing entries and allowing residents to see who approaches their dwelling without opening the front door.*

*In this case the existing acoustic fence prevents observation of the street, however residents would be able to generally observe the internal roads. The elevations of the dwellings indicate a glass panel beside the front door which would allow residents to identify visitors before opening the door.*

*With regard to accessibility the development should have convenient, obvious pedestrian and bicycle links from the site that provide access to public transport and facilities. The footpath network and bicycle network in Banora Point is well identified and relatively coordinated. There are improvements required to the internal design of the pathways to separate them from the parking bays. Additionally, the visitor parking bays are not ideally designed and located and manoeuvring from these spaces, often located at the end of internal roads, would be difficult.*

*Waste management is encouraged to provide for recycling. Councils standard ‘split bin’ would normally encourage recycling however, waste is proposed to be collected from bulk bins.*

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*With regard to visual bulk the SEPP specifies that the proposed development should, where practicable, maintain reasonable neighbour amenity and appropriate residential character by:*

- (a) providing building setbacks and progressively increase as wall heights increase to reduce bulk and overshadowing; and*
- (b) using building form and siting that relates to the site's land form; and*
- (c) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
- (d) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.*

*The proposed buildings are all single storey which conforms with the surrounding style of development. The building heights of the boundary are not excessive and would not affect surrounding development.*

*A key issue is whether the resultant urban form given the number of units (164) on an extensive area of land with the density and a certain level of homogeneity represent an acceptable addition to the overall urban development of Banora Point - and how this relates to the Design requirements in Part 3 of SEPP5."*

A condition has been recommended requiring the submission and approval of external colours and materials of the development. Potential exists to utilise different external colours on each unit block to reduce the homogeneity of the development. The artists impression indicates that different roof colouring will be used.

A condition has also been recommended that more detailed landscaping plans be provided for the frontage of the site to incorporate small trees and shrubs to assist in screening the development and providing a visual break in the expanse of roofline.

Provided that the above recommendations are implemented it is considered that the appearance of the development will be reasonably compatible with other developments in the immediate surrounding area. The site is already surrounded by an acoustic fence which will reduce visibility of the development. Provided that the colours, materials and landscaping is well designed it is considered that the appearance of the proposal will be reasonably acceptable.

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### 7. ORIGIN: Development Control Unit

FILE REF: DA4260/120 Pt1

#### REPORT TITLE:

**Section 96(2) Application to Modify Development consent 97/159 for the Establishment of a Church at Lot 2 DP 319724 Phillip Street, Chinderah**

#### SUMMARY OF REPORT:

Development consent for the Church was issued on 15 August 1997. An application has been received to modify the consent in respect of the overall design of the building and a number of conditions. The only issue of concern is the proposal to fill the land which was not included in the previous proposal. It is considered that the applicant has not demonstrated that filling of the land will not have an adverse effect on flooding in the locality and therefore this part of the application should be refused. The application was advertised and one submission received concerning drainage and flooding. The application has been called up by Cr Brinsmead for determination by Council.

#### RECOMMENDATION:

That Development Consent 97/159 for the establishment of a Church at Lot 2 DP 319724 Phillip Street, Chinderah be modified under the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979, as follows:-

(a) Condition 1 be amended to read:-

1. *The development shall be completed in general accordance with Figure 1 by Martin Findlater and Associates Pty Ltd dated October 1999 and Hooker Design Consultants Drawing 99672 Sheet 1 to 3 except where varied by these conditions.*

**Note:** Filling of the land other than for the purpose of draining the site to Phillip Street is not approved. Amended plans deleting the filling are to be submitted to and approved by the Director Development Services prior to the issue of a construction certificate.

(b) Condition 7 be amended to read:

7. *The provision of 64 off street car parking spaces. The layout of construction is to be in accordance with the provision of DCP 2 - Site Access and Parking code.*

(c) Condition 12 be amended to read:

12. *A certificate of compliance (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Council before approved buildings plans are released. Annexed hereto is*

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*an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:*

*Water: \$3,882.65*

*Sewer: \$3,249.20*

*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.*

(d) Condition 14 be deleted.

(e) Condition 15 be amended to read

*15. 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 asphaltic concrete to enable sub-base to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction.*

(f) Condition 16 be amended to read

*16. The entrance driveway shall be 6.0m wide at the property boundary and 6m radius edge of pavement returns matching into existing edge of bitumen in Phillip Street.*

(g) Condition 21 be deleted.

(h) Condition 23 be amended to read:

*23. (i) The stormwater system is to be in accordance with plans to be lodged and approved by Councils Engineering Services Division prior to a construction certificate being issued.*

*(ii) On completion of earthworks and drainage works, a notation be placed within the second schedule of the certificate of title being a "Restriction as to User" requiring that surface levels remain unchanged and no earthworks, structures or obstruction be placed on the areas designated for drainage including swale drains, infiltration trenches, dry detention basins and other associated drainage works on the plans to be approved in accordance with (i) above. A copy of the title, so amended is to be forwarded to Council prior to the buildings being used or occupied.*

*(iii) Works involving extension of the 375mm diameter stormwater pipeline and construction of pit within the Phillip Street Road Reserve are to be in*



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*accordance with plans and specifications submitted to and approved by the Director Engineering Services.*

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### REPORT:

**Applicant:** Gary Bagnell C/- Martin Findlater and Associates Pty Ltd  
**Owner:** Australasian Conference Association Limited  
**Location:** Lot 2 DP 319724 Phillip Street, Chinderah  
**Zoning:** 1(a) Rural

### BACKGROUND

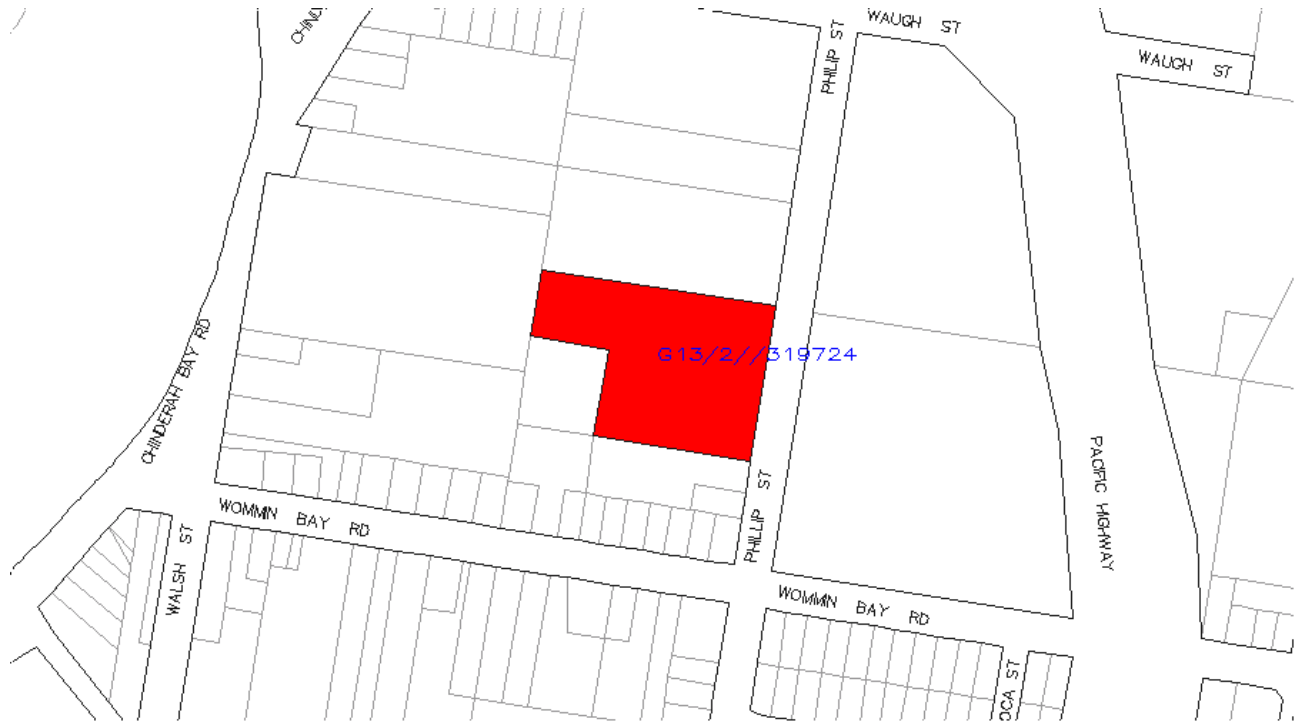
Development Consent 97/159 was issued on 15 August 1997 for the establishment of a church on Lot 2 DP 319724 Phillip Street, Chinderah. No work has commenced on the proposed development.

An application under Section 96(2) of the Environmental Planning and Assessment Act 1979 has been received to modify the consent in relation to conditions 1,7, 14, 15, 16, 21 and 23 of the consent. Details of the conditions presently contained on the consent, the proposed amendments and an evaluation of these amendments is provided in the proposal/evaluation section below.

The location of the subject land is shown on Figure 1 and the proposed building is shown on Figure 2.

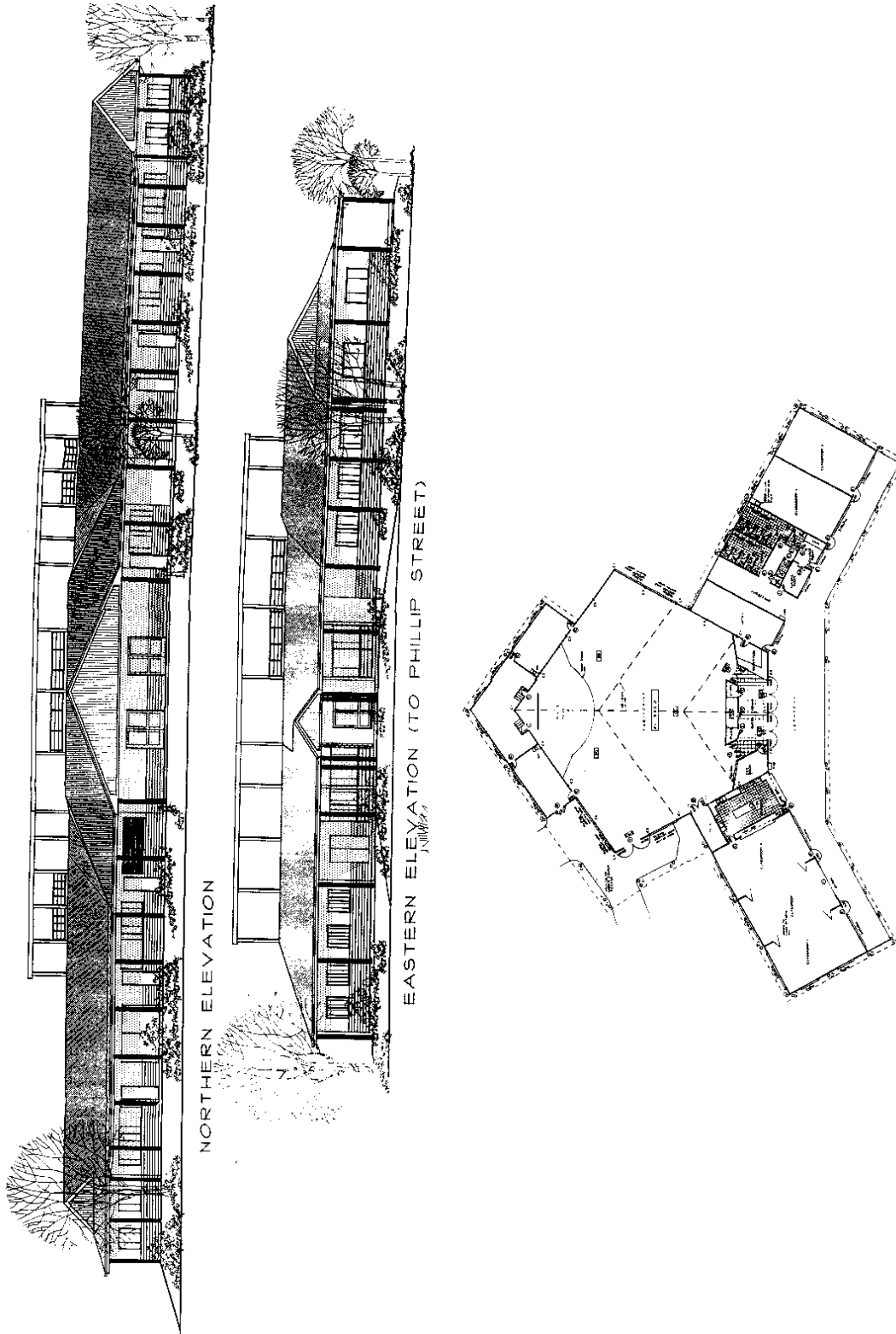
# Reports from Director Corporate Services

FIGURE 1

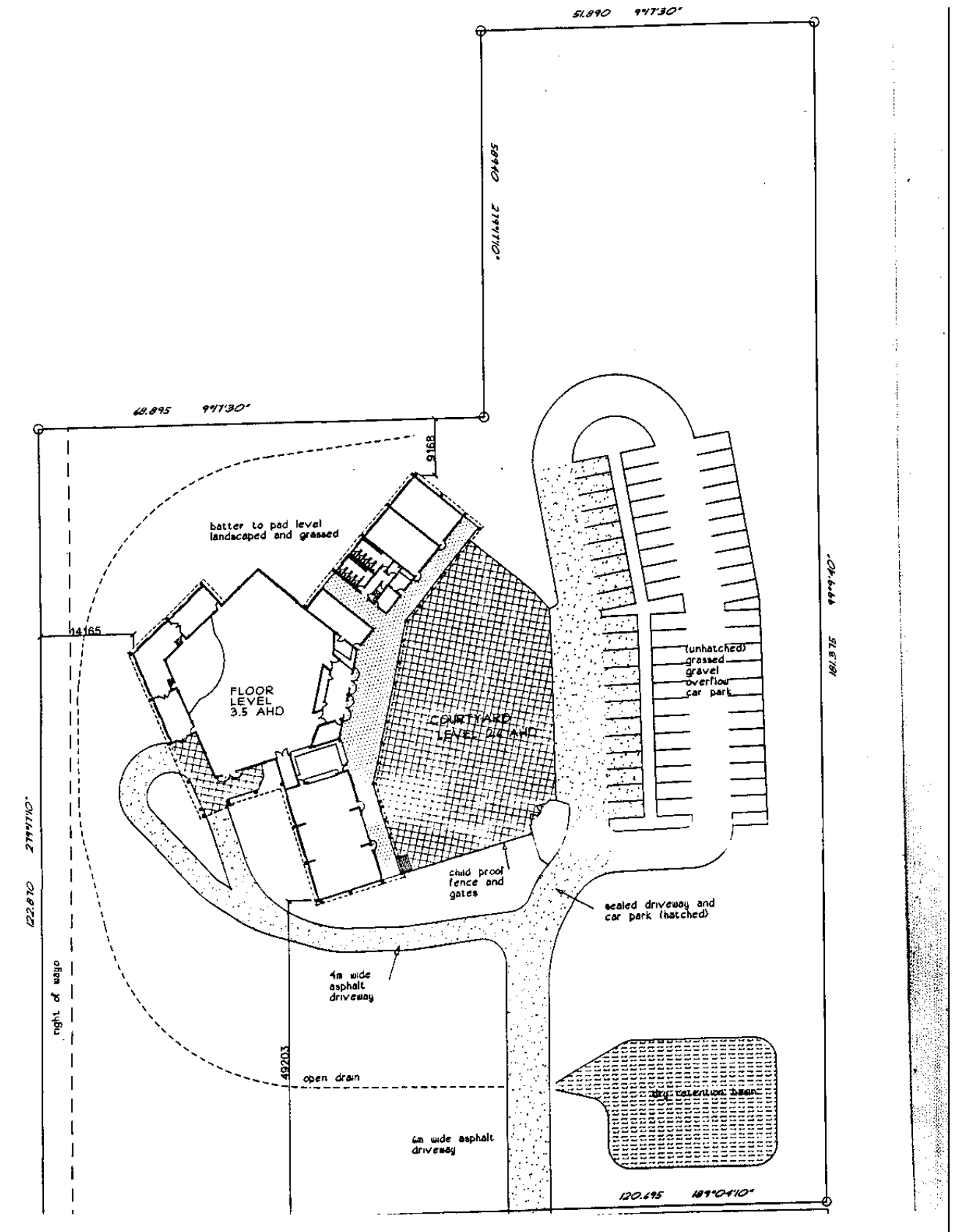


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FIGURE 2



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### CONSULTATION

The application to modify the consent was advertised for fourteen (14) days and one submission was received. The submission is on behalf of an adjoining property owner who raises no objections to a church on the site, however, has raised questions in relation to filling of the land. In particular, the issues raised include:

- Council will need to ensure that filling will not have a negative impact on the adjacent land in times of flooding and the disbursement and movement of flood waters.
- As a result of the proposed new stormwater drains, will Council ensure ongoing proper drainage so there is no build up or stagnant water which may create mosquito problems and will water properly drain into the larger drains in Phillip Street.
- Is fencing proposed so that in times of heavy rain, when the drains are full, children will not fall into the drains.

The issues raised in this submission will be discussed in the Proposal/Evaluation Section of this report.

### PROPOSAL/EVALUATION

Below is a description of each of the conditions proposed to be modified, details of the proposed modification, the reason given by the application for the modification and an evaluation of each of the proposed modifications.

#### Condition 1

Condition 1 requires -

1. The development shall be completed in general accordance with the amended Plan No N97/3973-1 prepared by McLauchlan Surveying and dated April 1997, except where varied by these conditions.

It is proposed to amend the condition to read -

*The development shall be completed in general accordance with the Figure 1 by Martin Findlater and Associates Pty Ltd dated October 1999 and Hooker Design Consultants Drawing 99672 Sheet 1 to 3 except where varied by these conditions.*

Essentially, this modification is to change the design of the building, alter the layout of the site and to fill part of the site which was not provided for on the previously approved plans.

The approved building has an internal floor area of approximately 900m<sup>2</sup> which includes the church seating, classrooms, office library storeroom and kitchen. The building is a regular shape and elevated above the ground level on piers.

The proposed building is irregular in shape and contains an auditorium, classrooms, reception area, office and canteen. An outdoor courtyard area is also proposed. The internal floor area of the proposed new additions is approximately 1173m<sup>2</sup> and therefore, if Council supports the application,

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then Condition 12 of the consent will also be required to be amended so that the contribution rates reflect the additional floor area.

Overall the external appearance of the building is considered satisfactory for the locality.

Changes to the layout of the site involve moving the building closer to the southern boundary from a setback of 40m to 28m. The area between the building and the eastern boundary is approved for carparking. Parking is now proposed on the northern side of the site. The building is also closer to the western boundary. The approved plan shows a 26m setback and the modified layout has an 18m setback. Adequate setbacks exist to the adjacent properties and therefore the layout is considered satisfactory.

The other change proposed by the modification to this condition relates to filling of the land. The development consent indicates an elevated structure on piers so as not to impede flood flows. The proposed modifications includes provision to create a building pad at or above RL 3.30m AHD.

The total site area is 1.78 hectares and the earthworks proposed involves filling approximately 2800m<sup>2</sup> for a building pad to RL 3.3m AHD. Adjacent courtyards, car parks and driveways to be filled at various levels from RL 2.0m to 3.3m to provide site drainage. Existing ground levels on site vary from 1.5m to RL 1.8m AHD with the adjacent Phillip Street being approximately RL 2.0m AHD.

The applicants engineering consultant has provided the following as an assessment of the impact of filling the land in terms of flooding:-

*“The Tweed River in general and Chinderah in particular has been the subject of a number of previous flood studies. The two most recent have been carried out by WBM-Oceanics. They include an assessment for the Pacific Highway Chinderah Bypass for the NSW Roads and Traffic Authority (GHD 1991 - Chinderah Bypass Environmental Impact Statement), and an assessment for Tweed Shire Council of various filling options for Chinderah and West Kingscliff (WBM Oceanics - Chinderah Flooding Investigation 1991). The latter report incorporates a number of approved development projects including:*

- *RTA Chinderah Bypass*
- *Upgrading Chinderah Treatment Works*
- *Filling of 2(c) zoned land in Kingscliff*
- *Noble Park Estate.*

*This site has been assessed under option 3 of that report. We have therefore referred to WBM's report as the most recent and appropriate reference.*

*The site is closest to Node 220 and adjacent to Channel 230 in WBM Figure 2.1, reference to Tables 4.3 of the report shows the estimated peak flood height in this area is RL 3.18m AHD. This is less than the development level required under Tweed Shire Council's DCP 5 of RL 3.3m.*

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*The report indicates that the maximum upstream impact resulting from filling Chinderah Village is a 30mm increase in the minimum fill levels specified in DCP 5 for West Kingscliff. These areas are also subject to DCP 9 which provide for development levels of RL 3.4 to RL 3.6m AHD.*

*The area is identified as a flood storage area. As such it is not subject to high velocity flows. The report does not provide these backwater storage velocities. Main channel velocities are increased by a maximum of 6.6% from 1.43 to 1.53m/s. These are relatively low values.*

*In regard to the local surrounding drainage, the proposal incorporates wide swale drains to ensure adjoining properties are not adversely affected by the site filling. These are shown on Figure 1.0. Furthermore reference to the 1:4,000 orthophoto map (Figure ) shows that whilst the area is relatively flat there is slight gradient west towards the Tweed River. The consequence of this is the surrounding properties grade away from the subject site. The wale drains and site regarding will direct site drainage towards Phillip Street in accordance with DCP 5.*

*After taking into consideration the reported flooding assessments for the locality, and after accounting for the relatively small area of the site to be filled, we are of the opinion the development will have no significant impact on regional or local flooding. We also conclude the proposal is in general accordance with the model developed by WMB and therefore will not affect those findings.*

### ASSESSMENT

The proposed modifications to the design of the building are considered generally satisfactory and should not result in adverse impacts in terms of character of the locality in comparison to the approved design.

The changes to the location of the building and parking areas should not result in any additional impacts on adjacent properties.

In terms of the filling of the site, Development Control Plan No 5 - Development of Flood Liable Land includes a requirement that "in areas outside the residential zones, applications for filling above the level of the adjacent road will be considered where the applicant can satisfy Council that there will be no interference to local drainage nor any material adverse affect on adjacent land".

The application has been reviewed by Council's Manager Water who has advised that in his opinion the report submitted as part of the Section 96 application does not demonstrate that the proposed filling will have no impact on flooding and therefore does not comply with DCP 5. Based on these comments it is considered that the proposal to fill the building pad and associated areas should be refused. The only filling that should be approved is that required over the car park and building area to achieve the flow of stormwater to the street. In respect of the submission concerning fencing, this has not been provided for on the Plans and is a matter between the 2 property owners and drainage will need to be in accordance with plans to be submitted to and approved by Councils Engineering Services Division.



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Condition 7 requires:

7. *The provision of 90 off street car parking spaces. The layout and construction to be in accordance with Development Control Plan No 2 - parking Controls.*

The applicant has requested that the condition be amended to read:

*The provision of 64 off street spaces with provision for on site overflow parks as indicated on Martin Findlater & Associates Pty Ltd Figure 1.0 dated October 1999.*

This modification has been requested as changes to DCP 2 have occurred since the consent was issued to reduce the parking requirement to 64 spaces.

The applicant's plan indicates sealing of 21 spaces to facilitate the daily parking needs of the church whilst additional 43 spaces of overflow parking area is proposed to provide for peak volume during weekly church service events. This overflow area is proposed to be constructed with a gravel pavement with grassed surface to aid infiltration and minimise runoff and discharge of pollutants.

### ASSESSMENT

No objections are made to the proposal to reduce the carparking number to 64 as this complies with the amended DCP2 - Site Access and Parking Code.

In relation to the construction of the parking area DCP 2 requires:

- *Surface*
  - \* *Covered areas, concrete or asphaltic concrete*
  - \* *Uncovered areas*

*Desirably car parking areas should have an all weather, high bearing capacity porous surface to aid infiltration and minimise runoff and discharge of pollutants to the downstream stormwater system. Proprietary infiltration cells may also be used.*

*Alternatively car parking areas may be sealed with an all weather surface and high flows managed by detention storage and pollutants removed by suitably designed, installed and maintained devices (GPT, grass swales etc). Minimum trafficked area surface standards in this case are:*

- a. *Low parking turnover - flush seal (ie. two coat bitumen spray)*
- b. *High parking turnover -asphaltic concrete*

It further states that the design of construction of parking areas should provide for a minimum of maintenance and all parking area surfaces shall be permanently line marked and certified by a qualified Engineer prior to occupation or use.

The proposal for a gravel pavement with grass does not comply with DCP 2 and any amended consent should require compliance with DCP 2 in terms of constructions standards.

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### Condition 14

Condition 14 requires:

14. *The sealed road pavement is to be widened to 13 metres for the full frontage of the site. A detailed design plan accompanied by a relevant Part V Assessment under the Environmental Planning and Assessment Act, 1979 showing the widening, linemarking and typical sections is to be submitted and approved by the Director Engineering Services prior to construction.*

The applicant has requested that this condition be deleted as road widening to 12 metres and linemarking of Phillip Street was completed as part of the roadworks during construction of the Chinderah Bypass. An additional 1.0m widening will provide no direct improvement to the existing pavement.

### ASSESSMENT

This request has been reviewed by Council's Traffic and Transport Engineer and no objections raised to deleting the condition as further pavement widening would not result in improved traffic safety.

### Condition 15

Condition 15 requires:

15. *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.*

The applicant has requested that this condition be deleted.

### ASSESSMENT

Council's Traffic and Transport Engineer has advised that this condition should not be deleted entirely however, it can be modified to enable the placement of asphaltic concrete and inspection of the subbase rather than placement of concrete and inspection of the formwork. The sentence relating to paving bricks can be deleted.

### Condition 16

Condition 16 requires:

16. *The driveway is to be constructed 6 metres wide at the property boundary and 9 metres wide at the kerb line with a uniform taper if a splay is specified.*

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The applicant has requested that this condition be amended to read:

*The entrance driveway shall be 6.0m wide at the property boundary and 6m radius edge of pavement returns matching into existing edge of bitumen in Phillip Street.*

### ASSESSMENT

This amendment has been requested as no kerb and gutter exists along the road frontage of the site the entrance driveway should be 6m wide with a 6 metre radius edge of pavement returns matching into the existing edge of bitumen in Phillip Street. Council's Traffic and Transport Engineer has raised no objections to the amendments as proposed.

### Condition 21

Condition 21 requires:

*21. The existing driveway for the right of way is to be upgraded in accordance with the provision of adequate vehicular access in accordance with condition 14. The driveway is to be constructed 3 metres wide at the property boundary and 6 metres wide at the kerb line with a uniform taper if a splay is specified.*

It has been requested that this be deleted as no upgrade of Phillip Street is proposed. The existing access will remain untouched by the proposed development.

### ASSESSMENT

Council's Traffic and Transport Engineer has raised no objections to the deletion of this condition.

### Condition 23

This condition requires:

23. i) *The stormwater system is to include a first flush retention facility. Details are to be forwarded to Council for approval in conjunction with the building application.*
- ii) *the existing 375mm diameter pipe under Phillip Street shall be upgraded in accordance with engineering plans to be submitted and approved before commencement of work.*

The proposed amendment is to delete part (ii) of condition 23. The applicant has provided an assessment of site drainage and this assessment concludes that there will be no impact to the existing downstream stormwater drainage infrastructure due to the proposed development. The proposed stormwater drainage scheme at the site will result in a decrease in peak flows from the developed catchment compared to the existing scenario. The proposed dry detention basis has sufficient capacity to detain Q5 flows.

As a result of this analysis the consultant concludes no upgrading of the existing 375mm diameter pipe under Phillip Street will be necessary as a result of this development.

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### ASSESSMENT

Council's Infrastructure Engineer has reviewed the request to delete the condition and has advised that the condition requires rewording that incorporates the concept into an amended condition rather than deletion of conditions. The following condition has been recommended:-

- (i) *The stormwater system is to be in accordance with Martin Findlater and Associates, Drawing 99051 Figures 1.0 and 2.0 dated October 1999.*
- (ii) *On completion of earthworks and drainage works, a notation be placed within the second schedule of the certificate of title being a "Restriction as to User" requiring that surface levels remain unchanged and no earthworks, structures or obstructions be placed on the areas so designated. These areas are to be the areas designated "Grassed Swale Drain", "Swale Drain", "Infiltration Trench", "Dry Detention Basin" and other associated drainage works on Martin Findlater & Associates, Drawing 99051, Figures 1.0 and 2.0 dated October, 1999. A copy of the title, so amended is to be forwarded to Council prior to the buildings being used or occupied.*
- (iii) *Works involving extension of the 375mm diameter stormwater pipeline and construction of pit within the Phillip St Road reserve are to be in accordance with plans and specifications submitted to and approved by the Director of Engineering Services.*

As the Manager Water has recommended that the filling proposed to RL 3.3m AHD be refused, the drainage plans will alter from that submitted. Therefore, condition 23 will need to be amended from that suggested above to require detailed plans to be submitted and approved prior to the construction certificate being released. If Council determines that the proposal is satisfactory as submitted then condition 23 should be worded as described above.

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

If the applicant is dissatisfied with Council's determination of the application they have a right to appeal to the Land and Environment Court.

### OPTIONS

Council has the following options:-

1. Approve the application as requested.
2. Approve some of the amendments but not all of them.
3. Refuse the application.

### CONCLUSION

As outlined in the above assessment, it is considered that most of the proposed modifications are acceptable. However, in accordance with the advice provided by Council's Engineering Services Division, filling of the site other than for the purpose of drainage to Phillip Street should not be permitted.

It is considered that the consent should be modified in accordance with the assessment provided in the report in relation to each condition.

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**8. ORIGIN: Director**

**FILE REF: Streetscaping Co-ordinator, TEDC**

**REPORT TITLE:**

**Interim Tweed Shire Town Centre's Committee as Sub-Committee of Tweed Economic Development Corporation**

**SUMMARY OF REPORT:**

Council resolved (6 October 1999) that the Interim Tweed Shire Town Centre's Committee (ITSTCC) become a sub-committee of the Tweed Economic Development Corporation (TEDC). Subsequent, extensive discussions have lead to the finalised draft agreement to implement this resolution and this has been supplemented by a workshop (1 February, 2000) involving representatives of the ITSTCC, TEDC and TACTIC to develop a more coherent tri-partite Strategic Plan and Statement of roles and responsibilities.

**RECOMMENDATION:**

That Council:-

1. Adopts the Agreement **“Interim Tweed Shire Town Centres Committee (ITSTCC) as a Sub-Committee of the Tweed Economic Development Corporation (TEDC)”**, contained in this report (Part B), the ITSTCC becoming a sub-committee of TEDC from 1 July 2000.
2. Notes the **“TEDC/TACTIC/Town Centre Committee Workshop (1/2/2000) - structures, role of Program Manager, roles and responsibilities of the three (3) organisations” - Statement of Outcomes”** (Part C) as the basis for further refinement and negotiations to create one Economic Development Organisation for the Shire embracing TEDC, TACTIC and the TSTCC.

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### REPORT:

#### A.

Council resolved (6 October, 1999) for the ITSTCC to become a sub-committee of the TEDC. To implement this resolution a sequence of meetings were held primarily involving:-

Councillor Polglase (Chair of ITSTCC)

Councillor B Carroll (TEDC)

George Davidson (TEDC)

Tom Senti (Chairperson and CEO of TEDC)

Rose Wright (Program Manager, ITSTCC)

Trevor Wilson (Department of State and Regional Development)

for some meetings Jenny Bruncker (Tweed Heads Chamber of Commerce)

other members of the ITSTCC; and

the General Manager and Director Development Services.

Additionally, there was a "one day workshop" involving Rose Wright (Program Manager), Tom Senti (CEO of TEDC) and Gervaise Griffith (President TACTIC) to identify appropriate structures, roles and responsibilities and other aspects of strategic planning to move towards a tri-partite, coherent approach to economic development in the Shire.

It should be noted that the Program Manager to ITSTCC, Mrs Rose Wright is contracted as a consultant up to 30 June, 2000.

#### **B. DRAFT AGREEMENT - INTERIM TWEED SHIRE TOWN CENTRES COMMITTEE (ITSTCC) AS A SUB-COMMITTEE OF THE TWEED ECONOMIC DEVELOPMENT CORPORATION (TEDC)**

##### 1.0 PURPOSE OF AGREEMENT

1.1 The ITSTCC will be an Advisory Committee of TEDC.

1.2 It is acknowledged that the Interim TSTCC will become and be renamed the Tweed Shire Town Centre's Committee following Strategic Planning Workshops in Tweed Heads, Murwillumbah and Kingscliff and the election thereby of Business Association/Chamber and Community representatives.

1.3 The Interim TSTCC being a sub committee of TEDC implements the resolution of Tweed Shire Council of 6 October, 1999. The purpose is in part to integrate the management direction of all agencies in Tweed Shire responsible for economic development and job creation, ie. the Interim TSTCC, the TEDC and TACTIC. This will enable coherent strategies for economic development and ensure formalised structures for implementation of those strategies, management reporting and financial management.



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- 1.4 Prior to the formalising of ITSTCC as a subcommittee of TEDC - and the potential integration of TACTIC - the respective organisations shall engage in a strategic planning process to establish.
- a. coherent statements of goals/mission statements with the related strategies/actions for achievement to ensure a coherent approach to economic development by the ITSTCC and TEDC (and potentially TACTIC);
  - b. the clear establishment of each organisations roles and functions and inter-relationships - also based upon TEDC as the coordinating organisation.
  - c. taking into consideration TEDC objectives and the policies and practices of the Main Street Program and the objectives of TACTIC.

### 2.0 THE TERM

- 2.1 The term for the Interim TSTCC being the sub committee of the TEDC is until 30 June, 2002 which coincides with the 3 year funding commitment of the Interim TSTCC, TEDC and TACTIC by Tweed Shire Council.

### 3.0 COMMITTEE STRUCTURE

- 3.1 The Interim TSTCC as a sub committee of the TEDC will be comprised as follows:

- \* 2 TEDC Directors - (one also at least being a Tweed Shire Councillor) and one of whom will be the ITSTCC chairperson.
- \* 3 representatives of Chambers of Commerce/Business Associations - one each from Tweed Heads, Kingscliff and Murwillumbah.
- \* 3 Tweed Shire Community Representatives.
- \* *2 representatives from coastal villages when the Strategic Plans for those coastal villages are adopted by the ITSTCC - one business representative drawn from the business sector and one community representative;*
- \* *2 representatives from rural villages when the Strategic Plans for those rural villages have been adopted by the ITSTCC - one business representative drawn from the business sector and one community representative;*

Total 12 - the above are voting members.

- \* Tweed Shire Council - Director of Development Services or his nominee
- \* Department of State and Regional Development - Client Services Manager - Trevor Wilson
- \* Program Manager (Mrs Rose Wright until 30 June 2000).
- \* TEDC Chief Executive Officer, Tom Senti

The ITSTCC will elect its Chairperson from the 2 TEDC Directors.

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### 4.0 FUNDING ARRANGEMENTS AND FINANCIAL MANAGEMENT

- 4.1 Tweed Shire Council has resolved to provide financial support (\$50,000 in 1999/2000). Tweed Shire Council has undertaken to provide \$50,000 each financial year for the 1 July 1999 to 30 June 2002 period to the Tweed Economic Development Corporation for the purpose of the Main Street program - this amount being provided pro-rata for the financial year 1999/2000 related to the date of commencement of the ITSTCC becoming a subcommittee of TEDC.
- 4.2 TEDC undertakes to directly fund the ITSTCC for the same dollar quantum as Council has resolved to fund the main street program on an annual basis.
- 4.3 TEDC will be responsible for due process in advertising and recruitment of the Program Manager commencing from 1 July 2000 or any extension of contractual engagement of the incumbent beyond that date. The recruitment and selection process to employ the Program Manager for the ITSTCC shall involve:- the Chair of the ITSTCC plus one other nominee of that Committee; the CEO of TEDC and a representative of the Department of State and Regional Development where there is funding support by that Department for the position.
- 4.4 The TEDC's policy and procedures manual shall be reviewed to incorporate the involvement of the ITSTCC and potentially TACTIC.
- 4.5 The ITSTCC shall present an annual budget to the TEDC board which includes the work program contained in the Shirewide composite Strategic Plan - recommending endorsement to the TEDC board on an annual basis. Budget variations will be required for further recommendation to the TEDC Board and quarterly budget reviews and statements shall be submitted by The Program Manager to the TEDC Board via the ITSTCC.

### 5.0 MANAGEMENT ACCOUNTABILITY AND REPORTING

- 5.1 The Program Manager may be part of the monthly presentation of the report to the TEDC Board at the discretion of the Chair of the ITSTCC plus monthly reports are to be presented to the Board by the ITSTCC with any recommendations - through the CEO of TEDC. The ITSTCC will present its recommendations to the TEDC Board for ratification of the Board or will act under formal delegated authority resolved upon by the TEDC Board.
- 5.2 The Program Manager shall be contracted to TEDC as an employee.

### 6.0 INSURANCES

- 6.1 Insurances shall be put in place from the date of commencement of the ITSTCC becoming a subcommittee of TEDC for :
- a) the Program Manager in terms of workers compensation, public liability and public risk.
  - b) the organisation and conduct of events - organised at the direction of the ITSTCC.

(as amended 24/1/00 as the result of the meeting of TEDC, ITSTCC, DSRD and Council representatives of 20/1/00).

Two other options were extensively debated for the ITSTCC as follows:

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### Option 1

- \* 1 being a Tweed Shire Councillor and the other being the Chair of the ITSTCC.
- \* 3 representatives of Chambers of Commerce/Business Associations - one each from Tweed Heads, Kingscliff and Murwillumbah.
- \* 3 Tweed Shire Community Representatives.
- \* 2 representatives from coastal villages when the Strategic Plans for those coastal villages are adopted by the ITSTCC - one business representative drawn from the business sector and one community representative
- \* 2 representatives from rural villages when the Strategic Plans for those rural villages have been adopted by the ITSTCC - one business representative drawn from the business sector and one community representative;

**Total 12 - the above 12 members are voting members.**

- \* Tweed Shire Council - Director of Development Services or his nominee
- \* Department of State and Regional Development - Client Services Manager - Trevor Wilson
- \* The Tweed Economic Development Corporation CEO, Tom Senti
- \* Program Manager (Mrs Rose Wright until 30 June 2000).

### Option 2:

- \* 2 TEDC Directors - both being Tweed Shire Councillors.
- \* 3 representatives of Chambers of Commerce/Business Associations - one each from Tweed Heads, Kingscliff and Murwillumbah.
- \* 3 Tweed Shire Community Representatives.
- \* 2 representatives from coastal villages when the Strategic Plans for those coastal villages are adopted by the ITSTCC - one business representative drawn from the business sector and one representative from the general community;
- \* 2 representatives from rural villages when the Strategic Plans for those rural villages have been adopted by the ITSTCC - one business representative drawn from the business sector and one representative from the general community;

**Total 12 - the above are voting members.**

- \* Tweed Shire Council - Director of Development Services or his nominee
- \* Department of State and Regional Development - Client Services Manager - Trevor Wilson
- \* Program Manager (Ms Rose Wright - until 30 June 2000)

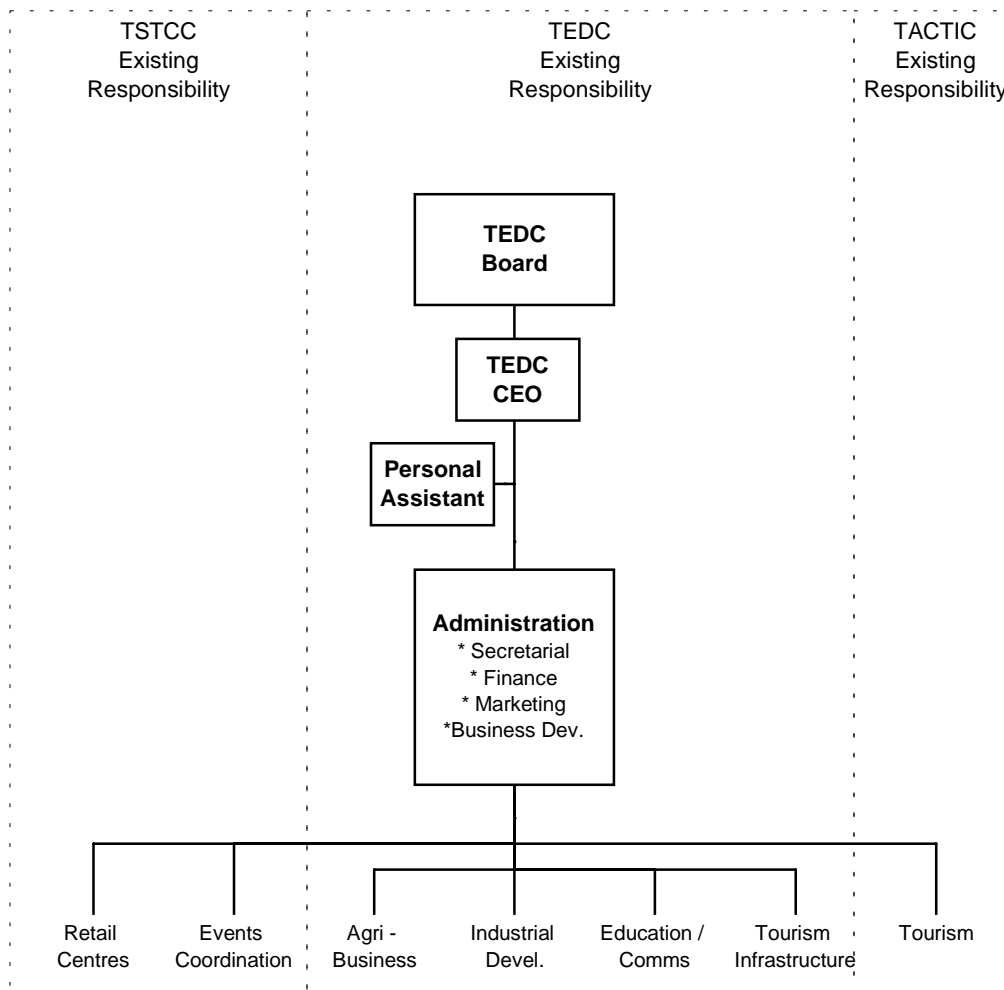
# Reports from Director Corporate Services

## C. TEDC/TACTIC/TOWN CENTRES COMMITTEE WORKSHOP - 1/2/2000 STRUCTURES, ROLE OF PROGRAM MANAGER, ROLES AND RESPONSIBILITIES OF THE THREE (3) ORGANISATIONS

### Statement of Outcomes

#### Proposed Structure

### Proposed New Structure of TEDC *(Incorporating TSTCC & TACTIC)*



#### Role of TSTCC Program Manager

- Coordinate and facilitate the TSTCC, town centres committees and project based committees.
- Source and prepare grant applications
- Festivals / events

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- Survey / research
- Implementing actions developed through the facilitation role
- Marketing initiatives and strategies

### **Main Strategy of TSTCC**

- By attracting people to the town centres the economic vitality of those centres will increase from the street level up.

### **Main Functions of TSTCC**

- Business Development
- Marketing Promotion
- Festivals / Events
- Urban Design (Streetscape, Street beautification etc)
- Public Art

### **Committee Membership and Strategic Planning**

- The committee will conduct a review of its Strategic Plan in an open community workshop annually. This workshop will be facilitated by the Program Manager or other delegated staff
- Committee membership will consist of;

2 TEDC Directors (1 also being a Tweed Shire Councillor), 1 of whom will be the TSTCC Chairperson,

3 representatives of Chamber of Commerce / Business Associations - 1 each from Tweed Heads, Kingscliff and Murwillumbah

3 Tweed Shire community representatives

2 Representatives from coastal villages when the Strategic Plans for those coastal villages are adopted by the TSTCC - one business representative and one community representative

2 Representatives from rural villages when the Strategic Plans for those coastal villages are adopted by the TSTCC - one business representative and one community representative

#### **The 12 members above are voting members**

Tweed Shire Council - Director of Development Services or his nominee

Department of State and Regional Development - Client Services Manager - Trevor Wilson

Tweed Economic Development Corporation - Chief Executive Officer - Tom Senti

TSTCC - Program Manager - Rose Wright

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**The above 4 members are non voting**

### **Other issues for integration of TSTCC into TEDC**

- Any separation of responsibility of the core functions of TSTCC should careful to keep the program management in place.
- TSTCC is based on a 3 year strategic plan with a 12 month rolling work program with a quarterly review.
- The Program Manager focus more on facilitation of TSTCC programs rather than operation.
- Ensure that all town centre committees are represented through a better balance between community / business.
- In essence the community will develop the plans which will be presented to the business community for their views.
- Areas of potential overlap redefined;
  - Urban Design - TEDC
    - Strategic Directions (eg. Tweed Redevelopment, Chinderah Bay)
    - TSTCC - Streetscaping, street beautification
  - Economic Development - TEDC- Business attraction, Industrial land
    - TSTCC - Retail development, retail centre revitalisation
- TSTCC and TEDC will investigate the possibility of establishing a position for an events coordinator within the TEDC structure to look at promoting events associated with tourism, retail, business development, festivals etc.

### **Main determinations of Workshop**

- To implement Council resolution of 6 October 1999 TEDC and TSTCC agree on the In Principle agreement (24/1/2000 Draft) with the following modifications. That the committee structure be as follows (this requires the ratification of the TSTCC meeting 10/2/2000);
  - 2 TEDC Directors (1 also being a Tweed Shire Councillor), 1 of whom will be the TSTCC Chairperson
  - 3 representatives of Chamber of Commerce / Business Associations - 1 each from Tweed Heads, Kingscliff and Murwillumbah
  - 3 Tweed Shire community representatives
  - 2 Representatives from coastal villages when the Strategic Plans for those coastal villages are adopted by the TSTCC - one business representative and one community representative

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2 Representatives from rural villages when the Strategic Plans for those coastal villages are adopted by the TSTCC - one business representative and one community representative

### **The 12 members above are voting members**

Tweed Shire Council - Director of Development Services or his nominee

Department of State and Regional Development - Client Services Manager - Trevor Wilson

Tweed Economic Development Corporation - Chief Executive Officer - Tom Senti

TSTCC - Program Manager - Rose Wright

### **The following are non voting members**

- Reporting of the TSTCC Strategic Plan will be monitored annually and reported quarterly by the TSTCC and the Program Manager. The adopted annual and quarterly reports will be forwarded to the TEDC Board.
- The TEDC Board will further report the annual and quarterly reporting of the Strategic Plan to TSC and DSARD.
- Adjustments to the TEDC Strategic Plan and Policy and Procedures Manual to accommodate TSTCC will be made after the adoption of the proposed structural readjustment of TEDC.
- The terms of reference for the new TSTC Committee will be based upon the existing terms of reference as well as reflecting the changes outlined in the In - Principle Agreement (24/1/2000 Draft).
- The TSTCC Program Manager will be responsible for ensuring that all town centres grants conditions are met.
- The existing TSTCC Program Manager's role description will remain in force with the following additions;
  - The preparation of the annual budget and financial reports as well as overseeing all financial transactions associated with the TSTCC and present this to the TEDC Board through the TSTCC.
  - Prepare a monthly budget report for the TEDC board.
  - Report to the CEO of TEDC on regular basis.
- TACTIC are in agreement with the proposed structural adjustments to TEDC to accommodate TSTCC and potentially TACTIC and will continue negotiations with TEDC for amalgamation after the adoption of the proposed structural readjustment of TEDC.

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### Existing Strategic Directions and Roles and Responsibilities of TSTCC

#### Core Functions of the Tweed Shire Town Centres Program

**Organisation** - To bring together the relevant stakeholders of each town centre across a broad spectrum of community interests as well as business and land holders, to collectively plan and implement a strategy to grow the town centre and the communities sense of place, ownership and patronage of the town centre.

**Business and Development** - To grow existing and develop potential new business and industry sectors within the town centres. A particular on the retail and tourism industries.

**Marketing and Promotion** - To develop marketing and promotion strategies that all businesses within the town centre can use as a basis for their promotion. To promote the town centres individually and as a Shire as a destination for retail and tourist activities.

**Festivals and Events** - To develop a range of events that enhance the lifestyle of the community and add to the experience of visitors to the area. Events should be planned to have a positive impact on the local economy.

**Urban Design and Built Environment** - To assist the community to develop a range of initiatives to make the town centres more attractive, appealing and more people friendly in their use. Urban improvements should be designed to enhance the ongoing business use of the town whilst improving the amenity of the community. Encouragement and assistance is given to all landholders wishing to upgrade or develop their holdings within the town centres to ensure they are able to compliment the urban environment and maximise their opportunity.

**Public Art** - To encourage the community to develop and create works of art that are in keeping with the theme and environment of the town centre. To enhance the public amenity and a sense of place within the town centres.

#### Role and responsibilities of Tweed Shire Town Centres Committee

- Implement actions detailed in their local Town Centres Strategic Plan within the guidelines and core functions of the Tweed Shire Town Centre Program
- Develop a spirit of cooperation in their local town centre by providing a forum for all community organisations to work together on improving the town centre, its amenity and ambience and communities sense of place
- To work with the TSTCC Program Manager in implementing actions within the local Strategic Plan
- To develop opportunities to fund various activities in the strategic plan and work with the Program Manager in applying for various funding opportunities
- Advise the Tweed Shire Council via the TSTCC through the Program Manager on relevant local issues
- Act as a local forum for community consultation on issues relating to the town centres



## Reports from Director Corporate Services

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### Roles and responsibilities of Town Centres Project Manager

- Prepare a Shire wide strategy and program of action in consultation with the committee
- Facilitate the creation town centres groups and the preparation of the town centre strategies by working with local business and community people
- Initiate, and assist others to initiate, a range of projects which fulfil the general Terms of Reference objectives and the specific objectives of the local town centres groups
- supervise the projects in a facilitating role to involve local people and get full value from paid staff, and to achieve best possible result from each project
- Carry out the functions of the Town Centre Committees (presently Tweed Heads, Kingscliff, Murwillumbah)
- The preparation of the annual budget and financial reports as well as overseeing all financial transactions associated with the TSTCC
- Prepare a monthly budget report for the TEDC board
- Report to the CEO of TEDC on regular basis

### D. CONCLUSIONS

After extensive negotiations, implementation of Council's resolution of 6 October 1999 is enabled by the above Agreement recommended to become effective from 1 July 2000. The Program Manager will be contracted with TEDC from 1 July 2000. The recruitment process for a new Program Manager should clearly involve TEDC representation as per Clause 4.3 of the Agreement. TEDC as a concern about cost of insurances which needs research and finalisation before this Subcommittee arrangement is commenced. There is also now a more sound basis to move towards the added inclusion of TACTIC in a single Economic Development Organisation for the Shire.

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## Reports from Director Corporate Services

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### 9. ORIGIN: Director

**FILE REF:** GT1/23/4

#### **REPORT TITLE:**

**Tugun Bypass - Route Selection**

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

The route selection report for the Pacific Highway bypass of Tugun to the west of Coolangatta Airport has been received. Also, it has been confirmed that the New South Wales section of the bypass will be declared State Significant Development under the Environmental Planning & Assessment Act, 1979 which means that the Department of Main Roads (QLD) can be the project proponent and the NSW Minister for Urban Affairs and Planning is the consent authority. The Federal Department of Transport has also confirmed QLD Main Roads as the proponent for the project. The QLD Department of Transport will be the proponent for the impact assessment study of the rail extension from Robina to Boyd Street, Tugun. The Department of Main Roads will be the proponents on environmental impact assessment of the preferred C4 road and rail bypass option from Boyd Street, Tugun to south of Kennedy Drive, Tweed Heads and the Coolangatta Airport terminal. As this alignment involves the jurisdictions of QLD (0.3km), NSW (1.2km) and the Commonwealth (2.2km) a joint assessment process is proposed which utilises the Environment Protection (Impact of Proposals) Act, 1974 (Commonwealth). NSW and QLD assessment requirements would be included in a single Environmental Impact Statement (EIS). Over the next 3 months QLD Main Roads will be finalising the assessment and approval process for this project and the EIS guidelines in consultant with all relevant organisations.

Offers were recently invited from Engineering consultants to undertake preliminary design and environmental assessment of the C4 option and it is planned to appointment one in March 2000.

#### **RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

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### REPORT:

The route selection report for the Pacific Highway bypass of Tugun to the west of Coolangatta Airport has been received. Also, it has been confirmed that the New South Wales section of the bypass will be declared State Significant Development under the Environmental Planning & Assessment Act, 1979 which means that the Department of Main Roads (QLD) can be the project proponent and the NSW Minister for Urban Affairs and Planning is the consent authority. The Federal Department of Transport has also confirmed QLD Main Roads as the proponent for the project. The QLD Department of Transport will be the proponent for the impact assessment study of the rail extension from Robina to Boyd Street, Tugun. The Department of Main Roads will be the proponents on environmental impact assessment of the preferred C4 road and rail bypass option from Boyd Street, Tugun to south of Kennedy Drive, Tweed Heads and the Coolangatta Airport terminal. As this alignment involves the jurisdictions of QLD (0.3km), NSW (1.2km) and the Commonwealth (2.2km) a joint assessment process is proposed which utilises the Environment Protection (Impact of Proposals) Act, 1974 (Commonwealth). NSW and QLD assessment requirements would be included in a single Environmental Impact Statement (EIS). Over the next 3 months QLD Main Roads will be finalising the assessment and approval process for this project and the EIS guidelines in consultant with all relevant organisations.

Offers were recently invited from Engineering consultants to undertake preliminary design and environmental assessment of the C4 option and it is planned to appointment one in March 2000.

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## Reports from Director Corporate Services

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**10. ORIGIN: Director**

**FILE REF: GT1/DCP/1**

**REPORT TITLE:**

**Colour of Roofs - Development Control Plan No 1, Terranora Village**

**SUMMARY OF REPORT:**

During 1994, the developers of Terranora Village were about to lodge development applications to develop the most prominent ridgeline on the Terranora Village property known as the "ridgetop precinct". The Development Control Plan (DCP 1) for Terranora Village was amended including a provision for no pale or reflective materials to be used for roofs for dwellings developed on this "ridgetop precinct". A number of development applications for dwellings have been negotiated/determined based upon that DCP provision - darker tones and non-reflective roofs are required/negotiated also for "exposed" dwellings in rural areas and on ridgelines - and there is a policy based history of residents' comment and the Tweed Shire 2000<sup>+</sup> Strategic Plan.

**RECOMMENDATION:**

That this report be received and noted.

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### REPORT:

During 1994, the developers of Terranora Village (Kenbrun Pty Limited) lodged a Development Application for the subdivision of the most prominent ridgeline in Terranora Village. This triggered a local community concern and Council response to the issues raised by proposed development of that "ridgetop precinct" - notably effects on the quality of scenery and views related to the ridgelines.

Negotiations with the developer led to an amendment to DCP 1 (Terranora Village) which was adopted by Council following public exhibition in November 1994. A number of Development Applications have been negotiated and determined in accordance with these DCP provisions and the two most contentious applications have been for dwellings for Mr Spry and Mr Long. Through negotiation Mr Spry adjusted the design of the dwelling and materials utilised and Mr Long originally submitted a colour of roofing that was considered to be contrary to the DCP provisions - he subsequently submitted the colour roofing which was effectively black and this was approved following his application for approval in relation to that colour.

The relevant provision in DCP 1 is as follows:-

- b. *Particular care must be taken in design of houses within the "ridgetop precinct" shown on the DCP map. This precinct generally follows the 80m contour line and is required to ensure that views north from Terranora Road are not entirely interrupted by housing development;*
  - i. *Roofs should not comprise pale or reflective materials*
  - ii. *Dwellings should be single storey only unless the building is stepped down the hillside so that its highest part does not intrude above the height of a one storey building when viewed from Terranora Road.*

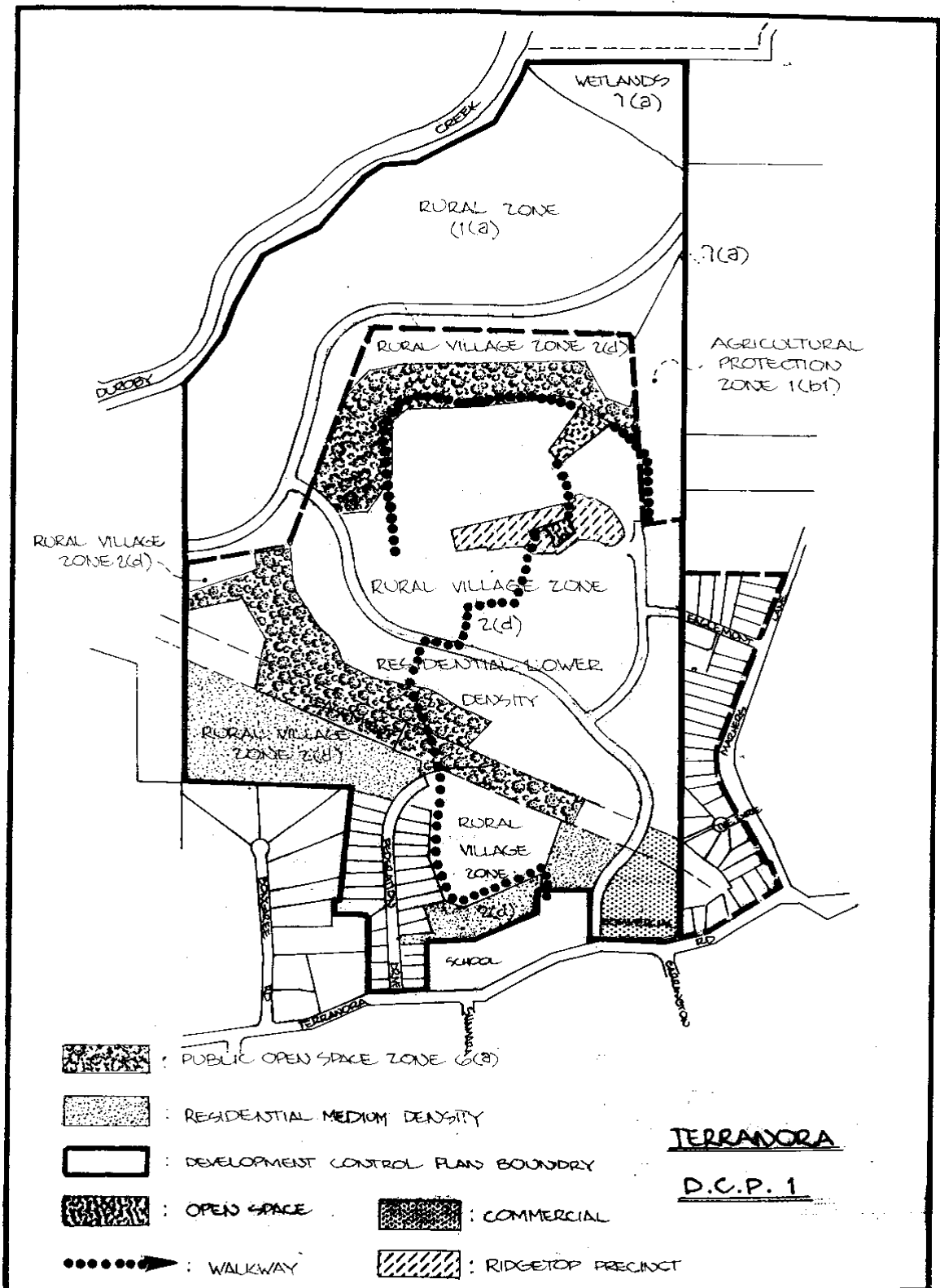
Use of darker tones for building materials has also been required/negotiated in rural and environmental protection zones to ensure compatibility of buildings with the landscape and to prevent the nuisance factor of reflectivity on neighbours.

Such a policy position has received significant support and is derived from the Tweed Shire 2000+ Strategic Plan.

### OPTIONS

1. Council can:
  - Receive and note the report and continue the policy in DCP 1 - Terranora Village for roof materials to not comprise pale or reflective colours and further reaffirm the policy that dwellings should be single storey only unless the building is stepped down the hillside so that its highest part does not intrude above the height of a one storey building when viewed from Terranora Road; or
2. Resolve to prepare an amendment to DCP 1 (Terranora Village) to modify or delete the relevant provisions.
3. Continue or discontinue a policy of moderating building materials in exposed rural and environmental protection zones.

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**10a. ORIGIN: Director**

**FILE REF: GT1/S94/25 & DA1180/10 Pt1**

**REPORT TITLE:**

**Draft Section 94 Contributions Plan No. 25 and Draft Strategic Planning Policies - Kings Beach North**

**SUMMARY OF REPORT:**

A draft Section 94 Contributions Plan has been prepared for Kings Beach North - focussing upon open space provision together with a statement of draft Strategic Planning Policies for Kings Beach North. These are submitted to Council to fulfil Council's planning responsibilities to the land owners/developers in this sector of Tweed Coast and the general public. This approach follows the meetings of the Strategic Planning Committee and Council of 19 January, 2000 with the decision having been made at the latter to not proceed with a draft Development Control Plan. The draft Plan and policies are in part prompted by imminent decision making requirements of this Council for the development application which relates to Lots 194, 301 and 312 of the Coast Road (the ex Sahben site) which is a key site in terms of Council's planning for the Tweed Coast and indeed State planning policies for coastal development generally. At a meeting on 14 February, it was agreed to request Council to hear a representative of Lenen Pty Ltd at this meeting.

**RECOMMENDATION:**

That Council places the draft Section 94 Contributions Plan No. 25 (Annexure 1 to this report) and the draft Strategic Planning Policies - Kings Beach North on public exhibition for 28 days.



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## REPORT:

### BACKGROUND

On 19 January, 2000 following a meeting of the Strategic Planning Committee, Council resolved to not proceed to prepare a draft Development Control Plan for Kings Beach North. A development application was submitted in December 1999 for the development of Lots 194, 301 and 312 of the Coast Road, South Kingscliff - the "ex Sahben site". A draft Development Control Plan has been submitted to Council on a number of previous occasions over the last 10 years but a draft has never been adopted by Council primarily because of some continuing impasses between Council and the prime land owner, Lenen Pty Ltd. This in turn has prevented the previous fulfilment of a draft Section 94 Contributions Plan. The current development application however, makes it crucial for Council to exhibit and adopt a draft Section 94 Contributions Plan as the basis for the decision making on this site and given the implications for the land to the north which Council is Trustee (henceforth referred to as the "Council Trustee land") and Seaside City to the south. There is also a current development application for a road reserve running north/south between the western boundary of the Seaside City and Richtech Land committed to Banksia planting and Cudgen Creek.

This sector of the Tweed Coast is one of the key sites for quality planning in New South Wales. It offers substantial potential for economic development and employment generation and has environmental significance as well as being subject to major public demand for car parking and coastal foreshore and beach recreational use.

The draft Section 94 Plan cannot be prepared in this case without a related analysis of the planning issues and a statement of relevant strategic planning policies.

The development application for the "ex Sahben site" is for subdivision of the land but with an associated request from the applicant for a condition to give effect to future development being "generally in accordance" with a submitted Master Plan for the sites development. Approval of the subdivision and the Master Plan are in many ways inextricably linked.

### STRATEGIC PLANNING POLICIES - KINGS BEACH NORTH

#### Aim

To achieve a balance between the economic and employment generation potential of the land with its environmental significance, public demand for coastal foreshore and beach access and recreational uses, and the correct equity of liability for the funding of public infrastructure.

#### The Main Issues

- a. The **Coast Road**: the future alignment and status and liability for realignment.
- b. **Public car parking**: the fulfilment of Council's policy of 300 spaces per kilometre of coastal foreshore land, the liabilities for providing the land and funding for construction, equity between the land holders/developers and the related public access to the coastal foreshore open space and beach.

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- c. **Cudgen Creek Bridge**: need for upgrading/reconstruction and the related liabilities and equity for the landowners/developers in Kings Beach North - and its appropriate architectural landmark treatment given this highly significant tourist sector.
- d. **Coastal Open Space, Beach access and Cudgen Creek Riparian Buffer**: the adequate provision of accessible public open space on the coastal foreshore which inter-relates logically with car parking and beach access provision, and to reflect the environmental value of land in proximity to Cudgen Creek.
- e. **Cycleway and Pedestrian Footpaths**: to implement the Council's cycleways Section 94 Contribution Plan (coastal foreshore provision) and to ensure equitable funding thereof.
- f. **Surf Lifesaving Facilities**: this key sector of substantial future development which will serve a population of over 3000 directly as well as substantial number of day trippers and other tourists/residents requires upfront assurance of adequate surf lifesaving services.
- g. **Water, Sewerage and Drainage**: provision of adequate capacity, appropriate routing and funding apportionment.
- h. **Seaside City**: the 1920's approved subdivision is incompatible with the 2(t) Tourism zoning - should there be required amalgamation and redesign to more compatible tourism development and/or residential development?

These key issues are now addressed below with the related recommended Strategic Planning policies.

### 1. Coast Road

#### *Analysis*

The Coast Road provides a North - South link between Kingscliff and the coastal villages on the southern Tweed Coast. The road traverses the Kings Beach North land. The road is mostly contained within an easement over private land. Consideration must be given to whether its present route is the most appropriate to accommodate preferred options for the future development of the Kings Beach North area, and how any changes might be staged.

#### *Policy Statement*

- A. **Continuity**: The North - South access from Kingscliff to the southern Tweed Coast currently provided by the Coast Road should be maintained. This is important because the road provides accessibility and connectivity, which are vital ingredients required to build integrated and sustainable communities. High levels of accessibility and connectivity will assist tourism and commerce, provide the basis of a workable public transport route and maintain beach access for existing and future residents and tourists.
- B. **Present alignment**: The Coast Road is presently aligned within a legally established easement for the road. The present alignment provides for safe and efficient traffic movement along the Tweed Coast. If at some future date a developer proposes that the road be realigned to accommodate a particular development, Council will consider options for its realignment. Council's consideration will be based on the following two provisos:

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1. Any realignment of the road must meet Council's functional goals for the Coast Road. These are stipulated in Part C below;
  2. Any realignment and associated works must be to Council's satisfaction and effected at the expense of the developer(s).
- C. Alterations to route:** Any alterations to the present route of the Coast Road must satisfy the functional goals for the road. The functional goals are :
1. The road must remain continuous across the individual land holdings that comprise Kings Beach North as development proceeds.
  2. Suitable East - West connections must be provided to allow vehicular and/or pedestrian access to the ocean and creek foreshores at regular intervals.
  3. Despite its functional status as a "distributor" road under Council's DCP16 definitions, the road is to be designed such that it primarily acts as a local North- South traffic link, rather than as an alternative arterial corridor competing with the upgraded Old Bogangar Road bypass.
  4. The road must not encroach upon any environmental protection zone or any area identified either in a Section 94 plan or by condition of development approval as being required by Council or other authorities for environmental protection or rehabilitation purposes.
- D. Design Speed:** The Coast Road already provides for traffic volumes well above collector road level, despite the existence of a higher standard, shorter route. This indicates the high level of demand for the Coast Road and also the ineffectiveness of delay as a deterrent to through traffic. Any future alterations to the alignment of the Coast Road should be designed to encourage through traffic to use the bypass and to provide safe passage for local traffic including pedestrians and cyclists. This can be achieved by catering for a design speed of 60 kph, except where the road passes through "Seaside City" estate where direct access to individual properties is available from the road and around the proposed hotel entrance. In these situations, the design speed should be 40 kph. This overall reduced speed environment can be achieved by a combination of road geometry and local area traffic management (LATM) devices, such as roundabouts.

### ***Implementation:***

There is a legal, structurally sound and geometrically adequate existing Coast Road. Any proposed alterations to the existing alignment of the Coast Road are to be made through negotiations between Council and individual developers at the development stage. Any realignment costs are to be at the expense of the developer(s).

## **2. Public Car Parking**

### ***Analysis***

Council has an adopted policy of requiring the provision of 300 car spaces per kilometre of ocean foreshore, for public use. This standard is based on surveys carried out by Council on coastal

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parking provided on Gold Coast open beach access areas for day visitors and has generally been implemented in the development approval for Kings Beach South.

### *Policy Statement*

- A. Amount of parking:** Council requires that each individual development provide public parking on the basis of 300 car spaces per kilometre of site frontage to the ocean foreshore.
- B. Location of parking:** The following are the basic principles for the location of public parking areas:
1. Parking areas should be provided to enable easy access to the beach. In general, they should provide for walking distance to the beach of no more than 200m.
  2. Car parks should preferably be located outside of the Environmental Protection 7(f) Coastal Lands zone.
  3. Parking areas should be located at regularly spaced intervals along the coastline.
  4. Generally, 50% of required parking should be provided in foreshore esplanade form.
- C. Foreshore esplanades:** Foreshore esplanades can cater for angled parking either side or both sides of a formed road or aisle. This parking format provides greater efficiency. Such arrangements can be designed to provide a high parking yield within a standard 20m wide road reserve. The preferred locations for esplanades are:
1. The North -South public road reserve closest to the beach in the Seaside City subdivision. This adjoins intersecting East -West aligned laneways which can provide for five direct public access ways to the beach. This represents the best opportunity in Kings Beach North for direct public access to the beach.
  2. On the assumption that the Coast Road may be realigned through the (former NSW "Council Trustee land" Tourism Commission site) an esplanade could be established along half the length of the existing Coast Road's frontage to that site.
- D. Public amenities:** Each substantial public parking area should have related provision for:
1. Controlled and clearly perceived/signed access ways to the beach
  2. An amenities block to cater for male/female and disabled toilets and an outdoor shower
  3. A landscaped area with a constructed barbecue facility
  4. An appropriately designed covered seating area

Some public amenities could be provided on land to be dedicated to Council as open space.

### *Implementation*

Car parking associated with land owned by Lenen Pty Ltd and the former NSW Tourism Commission site should be provided through negotiation with the individual developers at the development stage. Parking associated with Seaside City may need to be provided by Council,

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unless the individual land owners are willing to contribute to costs. The public amenities (toilets/barbecues) can be required to be provided as part of the passive open space embellishment requirements of a Section 94 Plan for the provision of public open space. Design of cycleways should logically inter-relate with such car parking provision also.

### **Cudgen Creek Bridge**

#### *Analysis*

The existing bridge over Cudgen Creek provides access between Kingscliff and the southern Tweed coast villages. It is well below the required geometrical standard for the volume of traffic that it currently carries. Traffic volumes will increase as a result of the development of Kings Beach North, Casuarina Beach and to a lesser extent, other areas of the Shire. The existing bridge lacks a pedestrian footway and has poor maritime navigational clearance. The existing bridge will therefore need to be replaced by a more appropriate structure.

#### *Policy Statement*

- A. Bridge replacement:** The bridge should eventually be replaced as part of the development of the Kings Beach North area. The bridge should meet the following criteria:
1. Geometrically capable of handling envisaged traffic volumes
  2. Provide for adequate pedestrian and cycle access
  3. Allow for improved maritime navigational clearance
  4. Aesthetic design to reflect the role of the bridge as a key gateway to both Kingscliff and Kings Beach North, and be of a style sympathetic to the envisaged low key village nature of the two areas
- B. Timing and cost of replacement:** The estimated cost of a replacement bridge is \$900 000. (Jan 2000 est.). This is currently unfunded and pending incorporation is in an appropriate Section 94 plan, no firm date can be given. The current bridge will remain for the time being.

#### *Implementation*

A replacement bridge can be provided by Council, and funded through Section 94 contributions. Contributions can be levied for a replacement bridge if the appropriate alterations are made to Section 94 Plan No. 4 - Tweed Road Contributions. Replacement sought in advance of the program schedule would be at developer cost.

### **Coastal Open Space**

#### *Analysis*

Coastal open space is the prime attraction of the Tweed Coast. It provides important amenity and recreational value for both residents and tourists. It is in the community's interest to maximise the amount of coastal land available for public use. There is not only a shire wide demand for coastal open space, but also a growing regional demand. The NSW Coastal Policy 1997 requires that in relation to new developments, public setback lines to the coast should be established and that land

## Reports from Director Corporate Services

seaward of the setback be dedicated as public space. The majority of 7(f) land along the Tweed Coast is contained within the single Coastal Reserve (Lot 500), managed by the Reserve Trust contains which a Dunal System of 70-100m wide. However, some portions of the 7(f) zone are still privately owned for Lots 94, 301 and 312 combined, (current DA - "ex Sahben site") this is about 1.97ha providing about 16m width for the foreshore length of 1.2km.

Specifically in relation to the Lenen land (ex Sahben site): Lots 194, 301 and 312, the total open space requirement at 2.83ha per 1000 population is 5.0940ha, say 5.1ha. The riparian buffer area at 20m width would be 2.994ha, say 3ha (but this is substantiated by environmental protection need). Hence, the coastal open space dedication requirement is 5.1ha. 5.1ha over 1.2km length provides a 42.5m average width provision of coastal open space which is considered minimum legitimate provision. Approximately 1.97ha of 5.1ha would be required as dedication for the ex Sahben site is the 7(f) Environmental Protection land which was required as a vegetated buffer to the 50 year erosion line which was the decision for coastal setback requirements during the late 1980's and a concession to the 100 year erosion line which relates to the remaining Tweed Coast (if the 100 year coastal erosion line applied to the development at Kingscliff South then the development itself would have to be further setback). In this case of regionally significant coastal open space requirement the applicability of 4ha per 1000 could be sustainable as a standard. The 1800 population for the ex Sahben site would therefore generate 7ha for public open space dedication - even less the total riparian buffer of 3ha would lead to a coastal open space requirement of 4.2ha. The applicability of the dedication of the riparian buffer for environmental reasons and 2.83ha per 1000 leads to a coastal open space dedication requirement of 5.1ha including 1.97ha of 7(f) Environmental Protection zoned land.

The above requirement does not provide for physical provision of embellished land or contributions to active open space because of the tourism development as distinct from residential development.

### Cudgen Creek Riparian Buffer

#### *Analysis*

Riparian buffer zones are critical in maintaining the environmental value and quality of waterways. They enhance the quality of overland run off, restrict human intrusion, provide wildlife habitat, stabilise creek embankments and enhance the visual quality of the foreshore.

The need for a riparian buffer zone to Cudgen Creek in order to mitigate the impacts arising from new development derives from the following sources.

- a. Council's "Cudgen, Cudgera and Mooball Creeks Estuary Management Plan" (TSC, 1997);
- b. NPWS;
- c. NSW Fisheries advise to Council;
- d. Various government publications, and a Flora and Fauna Assessment of the Kingscliff Tourism Land (lot 490, DP 47021), prepared for Council by Peter Parker Environmental Consultants in January 2000. All these sources generally advise that a riparian buffer zone should be 50m in width, as measured from the edge of the creek.

## Reports from Director Corporate Services

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The report prepared by Peter Parker indicates that in addition to the 50m buffer, a further 30m buffer should be planted with native trees to compensate for vegetation lost elsewhere on the site. This applies to lot 490 only. The NSW Water Resources publication "The Importance of the Riparian Zone in Water Resource Management" has indicated that a minimum riparian buffer zone should be between 20m and 40m in width, and that no native vegetation should be removed from within this area.

### *Policy Statement*

- A. Extent of riparian buffer:** The riparian buffer should extend along the full extent of the foreshore of Kings Beach North relative to Cudgen Creek and boundaries to any environmental protection zones adjoining Cudgen Creek.
- B. Width of riparian buffer:** The riparian buffer should have a minimum width of 50m. The distance is to be measured from the creek edge (Mean High Water Mark). However, where the buffer adjoins a 7(a) or 7(l) environmental protection zone, the buffer need only have a minimum width of 20m. This distance will be measured from the edge of the environmental protection zone.

The riparian buffer zone should incorporate two components:

1. A minimum 20m core buffer. This will include the area that immediately adjoins the MHW and any area that adjoins an environmental protection zone. The core buffer should be dedicated to Council in a rehabilitation form satisfactory to Council's Manager of Recreation Services to manage and maintain. This component should retain all native vegetation and be replanted where required.
  2. A 30m outer buffer. This area is to be provided adjacent to any section of the core buffer that adjoins the creek. It is not required where the core buffer adjoins an environmental protection zone. It is to be Section 88 (b) restricted and maintained by the land owner.
- C. Permitted use of buffer zone:** Generally the core buffer should be rehabilitated with native vegetation and should allow for minimum human interference. A casual access track should be provided along the outer edge of the buffer, to allow for public access and basic maintenance requirements. The 30m outer buffer has limited potential for compatible land uses, such as parkland and other recreational areas. Generally, water quality control devices should not be provided within the core buffer zone.

### *Policy statement*

- A. Provision of Open Space:**
- i. The 20m riparian buffer shall be dedicated to public ownership equating to about 3ha;
  - ii. Coastal open space shall be dedicated at 2.83ha per 1000 and then can be used for public recreational purposes in conjunction with the adjoining coastal reserve, equating to 5.1ha of land giving high level regional coastal public open space significance.
- B. Embellishment of Open space:** Any land dedicated as open space should be embellished with suitable public amenities, to be provided in conjunction with the provision of future

## Reports from Director Corporate Services

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public car park areas. Refer to Section 2 Paragraph D concerning the provision of public amenities.

### *Implementation*

The dedication of public open space would ordinarily be required as part of any development approval. In order to require dedication of any land, Council must have in place a relevant Section 94 Contributions Plan. Council's Contributions Plan No. 5 - Shire wide Open Space does not apply to new release areas. Therefore, in the case of Kings Beach North, a new S94 plan for open space would need to be prepared. The embellishment of open space will also be required as part of a Contributions Plan for Open Space.

The core riparian buffer of 20m should be dedicated to Council. This can only be achieved through an appropriate Section 94 Contributions Plan. Ideally, the buffer should be dedicated to Council as passive open space. The 30m outer buffer can be required to be used and maintained as a buffer area by a condition of any future Development Consent.

### **Cycleway**

#### *Analysis*

Council has in place Section 94 Contributions Plan No. 22 - Cycle ways. This indicates the provision of a cycleway along the Tweed coast from Kingscliff to Pottsville. The proposed route passes along the eastern edge of the Kings Beach North land.

#### *Policy Statement*

- A. Location of cycle way:** The primary cycle way through Kings Beach North should be provided in accordance with the adopted Section 94 Contributions plan No. 22 - Cycle ways. This route provides users with ready access to the beach and adjoining coastal reserve and maintains grade separation from vehicular traffic. There may be opportunity for the cycle way to follow an existing informal track through the coastal reserve.
- B. Provision of cycle way:** The cycle way should be provided in accordance with the requirements of Section 94 Contributions -Plan No. 22 and Austroads and RTA Standards. The cycle way should be provided as an integral component of any future development of the Kings Beach North area.

### *Implementation*

The cycleway should be required to be constructed by the individual developers of Kings Beach North as part of their development conditions. Developer credits would apply. The developer would then be refunded the excess cycle way construction costs by Council, as and when funds become available in Council's Section 94 fund for cycle ways.

### **Surf Lifesaving Facilities**

#### *Analysis*



## Reports from Director Corporate Services

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The NSW Coastal Policy 1997 requires that consideration be given to the need for surf lifesaving facilities for new development within the coastal zone. The coastal zone as defined under the Coastal Policy includes all land within 1km of the coast.

### *Policy Statement*

- A. Provision of service:** in the absence of any volunteer SLSC in the immediate vicinity of Kings Beach, each substantial tourist resort should be required to provide its own surf lifesaving service, primarily for the safety of resort patrons. As public use of the Kings Beach North area increases, the Cabarita Beach SLSC may wish to extend their services to this area, which is traditionally monitored by Cabarita SLSC. The service would initially be through an outreach patrol and would require at least one vehicle and associated rescue equipment. In the long term, it may be necessary to identify a site for a permanent SLSC building in the Kings Beach/Casuarina Beach area.

### *Implementation*

Any future substantial resort development should be required to provide surf life saving facilities for patrons, as a condition of approval. Provision of SLSC patrols for the public benefit will need to be subject to negotiations between Council, the Surf Life Saving Association and Cabarita SLSC.

## **Water, Sewer and Drainage**

### *Analysis*

Adequate arrangements must be made for the provision of appropriate water, sewer and drainage services to the Kings Beach North area, prior to development occurring. In this regard, Council must consider how to most effectively service the area and provide for future development needs, within Council's budget and works program.

### *Policy statement*

- A. Water:** The existing water main is located within the Coast Road easement. This will need to be upgraded to adequately supply water for all future development in the Kings Beach North area. Upgrading will be at the expense of the developer. Any realignment of the Coast Road will require a corresponding realignment of the water main. This will also be at the expense of the developer.
- B. Sewer:** The Kings Beach North area is not presently connected to sewer. Any future development of the area will require connection to Council's reticulated sewerage system, at the expense of the developer. Prior to development, the Seaside City subdivision must be connected to sewer via Old Bogangar Road, where Council's existing service line is located. The Lenen land and the former NSW Tourism Commission site should be connected to Council's sewerage pumping station, located on the Kingscliff High School site (Lot 57 DP 803814), on the northern side of Cudgen Creek. This will require that Cudgen Creek and the adjoining SEPP 14 wetland area be under bored, to provide a connection under Cudgen Creek from the north western corner of Lot 312, owned by Lenen Pty Ltd. Refer to Kings Beach North Structure Plan.

## Reports from Director Corporate Services

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- C. **Drainage:** Suitable arrangements must be made for drainage from the land. It is critical that run off entering Cudgen Creek is free from pollutants and contaminants. In this regard, the relevant AUSPEC standards and Council's draft Development Control Plan No. 42 - Water Quality should be referred to.

### *Implementation*

Adequate provision for the supply of water, sewer and drainage services is to be made prior to any development being commenced at Kings Beach North. All required works are to be carried out at the expense of the developer(s).

### **Seaside City**

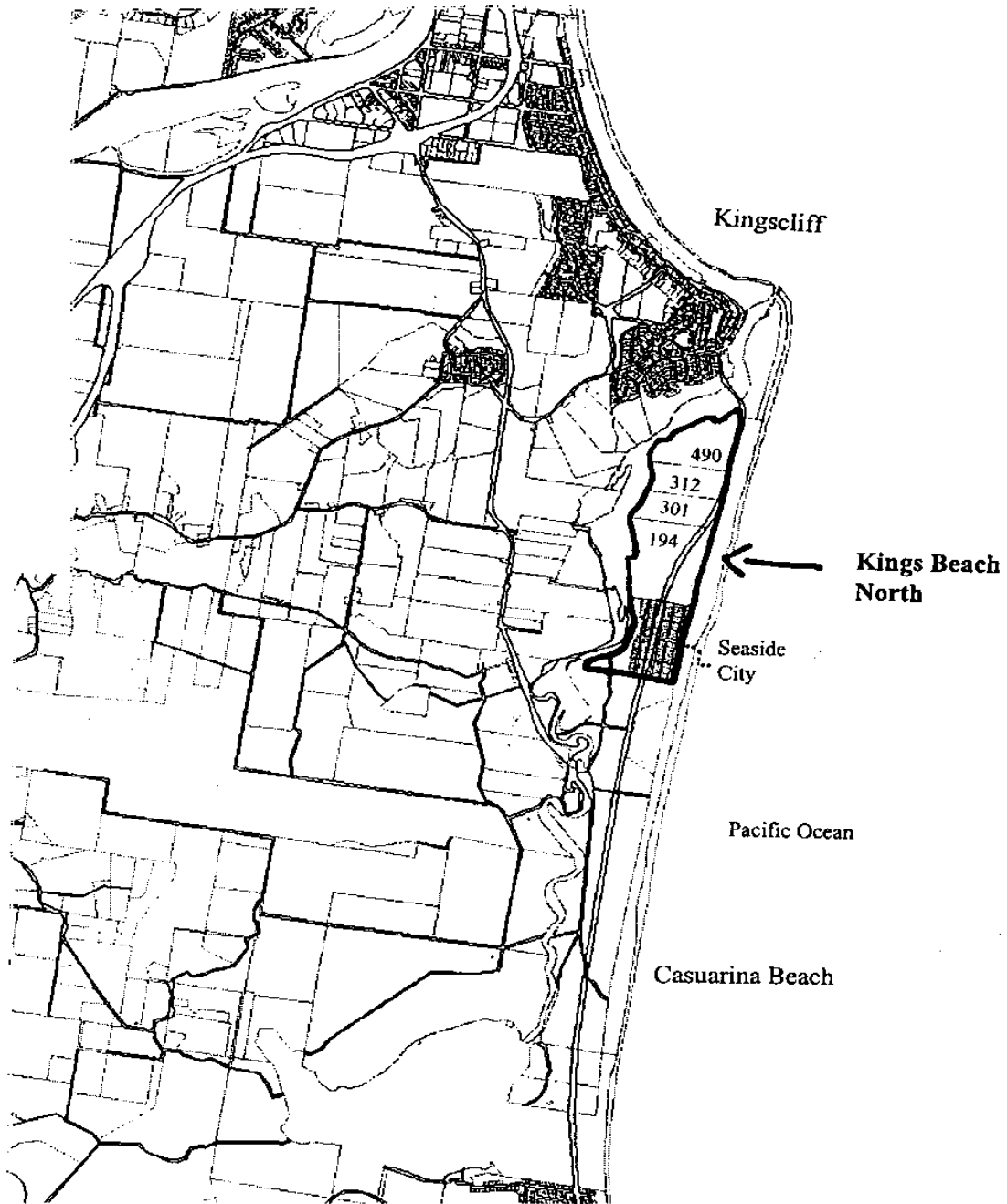
#### *Analysis*

Seaside City is a "paper subdivision" approved during the 1920's. The majority of the lots are owned by Richtech Pty Ltd (approximately 85%). About 30 lots however, are individually owned. The majority of the eastern most lots are constrained from the development of dwellings because of the 7(f) Environmental Protection zone. Development of the subdivision will require a development application for the necessary infrastructure. The land is zoned 2(t) Tourism which is currently under review and subject of a report planned for the Council meeting of 15 March. Richtech Pty Ltd currently have a development application before Council for the reservation (not design and construction) for a connecting road and service corridor and this is located to run north to south in a 20m reserve between the Seaside City subdivision and the Richtech land subject to banksia replanting (condition of Land and Environment Court consent, December 1998) and Cudgen Creek.

#### *Policy statement*

- A. **Coast Road Alignment** this should occur the existing road reserve within the subdivision unless there is conclusive evidence from the applicant that the road reserve can be accommodated between the Richtech Land subject to banksia replanting, Cudgen and enable a sufficient buffer - minimum 20m from the surveyed high water mark of Cudgen Creek as endorsed by the Minister for Land and Water Conservation. East/west connector road should utilise existing road and lane corridors within the subdivision.
- B. The eastern most road reserve should be utilised for public car parking on both sides of the road (still maintaining a 6m road pavement). Judgement on the potential policy to seek amalgamation and re-subdivision of Seaside City land depends on the outcome of the process of evaluating the continued applicability of the 2(t) Tourism zone to Seaside City or not. This will be a 6 month plus process of preparing a formal Local Environmental Study (should Council resolve on 15 March to proceed with the draft Local Environmental Plan to rezone the land from 2(t) Tourism to 2(e) Residential/Tourism) and which would need to embody a strong social and economic costs and benefits analysis.

# Reports from Director Corporate Services



**Figure 1**

**Kings Beach North  
Locality plan**



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# Reports from Director Corporate Services

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**11. ORIGIN: Financial Services Unit**

**FILE REF: Rates Arrears**

**REPORT TITLE:**

**Sale of Land for Overdue Rates**

**SUMMARY OF REPORT:**

This report requests consideration of a postponement of action until a later date in the financial year.

**RECOMMENDATION:**

That the auction date for sale of land for overdue rates be postponed subject to a further report.

## Reports from Director Corporate Services

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### REPORT:

Council at its meeting of 3 November 1999 considered a report on the sale of land for overdue rates and resolved that the auction be held on 10 March 2000. It is requested the auction date be postponed to a later date in this financial year.

The previous timeframe did not take into account the time involved with expressions of interest from real estate agents to act as auctioneers.

A further report will detail the successful auctioneer and advise Council of the auction date.

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## Reports from Director Corporate Services

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### 12. ORIGIN: Administration Services Unit

**FILE REF:** Shire Association - Conference

#### **REPORT TITLE:**

**Shires Association of NSW - 2000 Annual Conference**

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

The 2000 Annual Conference of the Shires Association of NSW is to be held at the Wentworth Hotel, Sydney from 6 to 7 June 2000. Councillors are invited to nominate a delegate and those who wish to attend this conference.

#### **RECOMMENDATION:**

That:-

1. Council participates in the 2000 Annual Conference of the Shires Association of NSW.
2. Councillors nominate a delegate and those who wish to attend the Conference.
3. Councillors interested in submitting motions for the Annual Conference agenda contact Brian Donaghy, Manager Administration Services, by Friday, 24 March 2000.

## Reports from Director Corporate Services

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### REPORT:

The 2000 Annual Conference of the Shires Association of NSW is to be held at the Wentworth Hotel, Sydney from 6 to 7 June 2000. Councillors are invited to nominate a delegate and those who wish to attend this conference.

Councils have been invited to submit motions for inclusion in the agenda.

### ASSOCIATED EVENTS

#### Monday, 5 June 2000 - IMM Seminar

The IMM will again be holding its annual one-day forum on Monday, 5 June 2000 at the Sydney Convention and Exhibition Centre, Darling Harbour.

The theme is "A Funny Thing Happened On the Way To .....". Issues to be presented are:

- Customer Service
- Social Impact of Competitive Forces
- Amalgamation Review
- Fads/Changes
- Law and Order
- Best Value

Price for the one-day seminar will be \$245.

### ACCOMMODATION

A special Conference accommodation rate has been arranged with the Wentworth Hotel. The cost is \$176 per room per night (this is inclusive of the State Government's 10% levy).

The closing date for bookings is Monday, 10 April 2000 (ie the same day as the closing date for participant registrations). Bookings for accommodation received after this date will only be processed subject to availability of rooms.

### WHAT IS THE IN THE DRAFT CONFERENCE PROGRAM?

The draft program is listed below. It is subject to change as speakers confirm their availability or otherwise.

Starting/finishing times for each day will not however change.

#### Monday, 5 June

5.30pm President's Cocktail Reception to be held in the Garden Court Restaurant at Wentworth Hotel to welcome delegates to the 2000 Conference. All registered participants are invited.

7.00pm Close of evening.



## Reports from Director Corporate Services

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### Tuesday, 6 June

- 9.00am Official Opening Ceremony - Premier of New South Wales (to be invited).
- 10.00am Business Sessions - Adoption of Standing Orders and consideration of Procedural, Constitutional and Association matters followed by motions in sequential order.
- 11.00am Plenary 1 - Award Negotiations. A plenary based on the discussion paper circulated prior to Conference.
- 12.30pm Lunch Adjournment.
- 1.30pm Ministerial Address - The Hon Harry Woods MP - Minister for Local Government - with time for questions.
- 2.00pm Plenary 2 - Roads Discussion Paper. A plenary based on the discussion paper circulated prior to Conference on the relationship between RTA and councils and responsibilities in maintaining the rural road network.
- 3.30pm Consideration of motions.
- 4.30pm Conference adjourns.
- 6.45pm Conference Dinner - Delegates and Guests are welcomed by Cr Chris Vardon.  
Address by dinner sponsors.  
After dinner entertainment (cabaret act or similar).

### Wednesday, 7 June

- 8.30am Roads and Transport Session - Minister for Roads and additional relevant speakers.
- 9.30am Consideration of Motions.
- 11.00am Update on activities of Local Government Financial Services, Mr Warwick Hilder - Chief Executive Officer.
- 11.30am Plenary 3 - Topic to be advised.
- 1.00pm Lunch adjournment.
- 2.00pm Consideration of general motions not otherwise dealt with.
- 4.15pm Closing Ceremony - Including induction of incoming President and Executive Members.
- 4.30pm End of Conference.

### WHAT IS IN THE SOCIAL PROGRAM?

#### President's Cocktail Reception

This year the President will be hosting a Cocktail Reception on Monday, 5 June 2000 in the Garden Court Restaurant at the Wentworth Hotel commencing at 5.30pm and concluding at 7.00pm.

## Reports from Director Corporate Services

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### Conference Dinner

The Annual Conference Dinner and Entertainment (cabaret act or similar) will be held on Tuesday, 6 June in the Grand Ballroom of the Wentworth Hotel. Pre-dinner drinks will be served from 6.45pm in the Grand Ballroom. Dinner will be served from 7.00pm. Cost of this event is \$70 per person.

Please note! For the Annual Conference Dinner all guests will be allocated tables in advance. Complete tables of 10 will be grouped together. Smaller numbers will be grouped as best possible to make tables of 10. Unless stated otherwise we will attempt to place you on tables with participants from your council. The dinner seating plans will be circulated prior to the Conference to identify which table council has been allocated to.

### Partner's Tour

This year a tour of the Olympic site at Homebush Bay has been organised. A coach will depart from the Wentworth Hotel on Wednesday morning at 10.15am and travel to the Olympic site for a one hour tour. At the conclusion of the tour you will be transferred to the Novotel Hotel at Homebush Bay for a light buffet luncheon. The coach will return to arrive at the Wentworth Hotel at 2.30pm. The cost of the tour will be \$55 per person.

### WHAT PRINTED MATERIALS WILL BE PROVIDED?

All registered participants for business sessions will be mailed a Conference package containing Business Paper/Conference Report/Action Statement a month before the Conference.

All registered participants will be mailed a copy of the Record of Decisions and the revised Policy statements within a month of the Conference.

Additional copies of the Conference package can be ordered. Orders must be received by 10 April 2000.

### FINANCIAL IMPLICATIONS

Registration (per participant)	\$270.00
Conference Dinner (per person)	\$70.00
Accommodation (per night)	\$176.00
Airfares (approx. cost)	\$565.40
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	<b>\$1081.40</b>

An allocation for this expense has been allowed for in the Budget.

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## Reports from Director Corporate Services

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### 13. ORIGIN: Administration Services Unit

**FILE REF:** Conferences

**REPORT TITLE:**

**The 2000 Institute of Municipal Management National Congress**

**SUMMARY OF REPORT:**

Advice has been received that the 2000 Institute of Municipal Management National Congress is to be held on 28 - 31 May 2000 at the Melbourne Convention Centre. The congress is an important means by which the Institute supports Australian local government in being public sector leaders.

**RECOMMENDATION:**

That Council nominates Councillors to attend the 2000 Institute of Municipal Management National Congress to be held 28 - 31 May 2000 at the Melbourne convention Centre.

## Reports from Director Corporate Services

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### REPORT:

Advice has been received that the 2000 Institute of Municipal Management National Congress is to be held on 28 - 31 May 2000 at the Melbourne Convention Centre. The congress is an important means by which the Institute supports Australian local government in being public sector leaders.

The Congress format includes presentations, workshops and discussions and each day of the conference will feature a Keynote Address delivered by a prominent person chosen for their achievements, knowledge and ability to inspire.

Registration fees for IMM members are \$675.00 with suggested accommodation rates ranging from \$160.00 to \$230.00 per night. Qantas and Ansett will be offering special Congress airfares to Melbourne, subject to certain conditions, with further details being available from SBT Business Travel Solutions.

Further information on the congress program is available from Mr Brian Donaghy, Manager Administration Services.

Council should determine its level of participation at the National Congress so that arrangements can be made for any proposed attendance.

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## Reports from Director Corporate Services

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**14. ORIGIN: Administration Services Unit**

**FILE REF: Conferences**

**REPORT TITLE:**

**Enviro 2000 - Incorporating the WaterTECH Conference, Fifth Australian Waste Convention; Australian Greenhouse Conference and Odour conference**

**SUMMARY OF REPORT:**

Information has been received which invites Council's participation in Enviro 2000 - four conferences in one - to be held on 9 - 13 April 2000 at the Sydney Convention & Exhibition Centre, Darling Harbour.

**RECOMMENDATION:**

That Council nominates Councillors to attend the Enviro 2000 - Four Conferences in One - to be held on 9-13 April 2000 at the Sydney convention and Exhibition Centre, Darling Harbour.

## Reports from Director Corporate Services

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### REPORT:

Information has been received which invites Council's participation in Enviro 2000 - four conferences in one - to be held on 9 - 13 April 2000 at the Sydney Convention & Exhibition Centre, Darling Harbour.

Enviro 2000 is an umbrella event where participants can attend up to ten streams in four different environment-relates conferences; Fifth Australian Waste Convention; Odour Conference; WaterTECH Conference and Australian Greenhouse conference. At the same time, the Ozwater and Ozwaste trade exhibition will showcase over 200 related exhibits.

Delegates will register for one conference at which they intend to spend most of their time, receiving all relevant printed material. Delegates will be able to choose then to attend any segments of the four conferences. This program will meet delegate needs for multi-disciplinary information by having freedom to move from one stream to another.

All papers published for the ten streams will be provided to delegates on CD-ROM.

Registration fees, if paid before 25 February 2000:-

Members	\$890.00
Non-members	\$980.00

Payments received after 25 February 2000:-

Member	\$940.00
Non-member	\$1030.00

The technical and social program will provide the opportunity for delegates to gain detailed knowledge of industry developments.

Program details, including registration options, will be available from Mr Brian Donaghy, Manager Administration Services.

Council should determine the level of participation at Enviro 2000 to allow arrangements to be made.

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## Reports from Director Corporate Services

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**15. ORIGIN: Administration Services Unit**

**FILE REF: Bicycle Matters**

**REPORT TITLE:**

**RTA Big Ride**

Information for Councillors re plans for the RTA Big Ride which starts in the Tweed on 25 March 2000.

**RECOMMENDATION:**

That Council authorises this expenditure as a contribution to the RTA Big Ride.

## Reports from Director Corporate Services

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### REPORT:

Arrangements have been made for the start of the RTA Big Ride in Wharf Street Tweed Heads on Saturday, 25 March 2000.

Police and Council's Traffic Committee have arranged to close Wharf Street from Boundary Street to Bay Street from 6am to 1pm on March 25. The Council's Reserves Trust has been asked to grant exclusive use of the former Border Caravan Park site to the organisers of the RTA Big Ride, Bicycle NSW.

The organisers have also asked Council to pay the rent on the Anzac Room at Twin Towns Services Club for five days. A letter has been written to Twin Towns Services Club asking for a reduced rent. (approximate cost \$500).

The organisers have asked that a stage be erected in Chris Cunningham Park. This has yet to be organised and costs are unknown.

Council's Waste Management coordinator Ian Percy has also held talks with Bicycle NSW regarding waste facilities at the start of the RTA Big Ride, luncheon locations on both days and overnight camping facilities at the Murwillumbah Showground. An estimate of the cost to Council is \$815 but can be absorbed in the waste management budget.

The Murwillumbah Showground Trust is happy for the RTA Big Ride to use the showground and its facilities if Council pays any costs such as electricity (estimated \$120) and mowing of the grounds (estimated \$1700).

The Showground Trust has also asked that should any damage occur to the grounds that Council undertake to fix this. The RTA Big Ride appears to be a well organised major event with excellent support so no problems are envisaged.

It is hoped to organise a street party in the Main Street of Murwillumbah for the entertainment of the expected 2000 visitors and locals from 1pm to 6pm. At 6pm a meal is available at the showground for the cyclists but all Murwillumbah hotels restaurants and clubs will be asked to remain open.

The street entertainment will have a "wheelie" theme with the town showing off its Tastes of the Tweed through exhibitions by local firms such as Tropical Fruit World and Carol Coffee. Entertainment will include wheelie bin races supervised by the Murwillumbah Lions Club, rowing banana ambassadors handing out bananas from the Banana Festival Float organised by the Show Society and a service club. Tours of the district are being arranged by TACTIC and these will include visits to the World Heritage Rainforest Centre and the Art Gallery.

A team of cyclists from Council will ride in the RTA Big Ride from Tweed Heads to Murwillumbah. This will cost an estimated \$300 entry fee for Multiple Sclerosis and the cost of yellow tee shirts (estimated cost \$300 to be paid from Civic Liaison Budget). Information packs for the cyclists are being considered and would be an additional cost.

### Summary of costs



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Mowing showground \$1700

Electricity \$120

Sponsorship/tee shirts \$600

Rent for Anzac Room \$500

Waste management \$815

Total not absorbed in budget \$2320

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## Reports from Director Corporate Services

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**16. ORIGIN: Business Undertakings Unit**

**FILE REF: Airfield - Murwillumbah**

**REPORT TITLE:**

**Request to Assign and/or Vary Leases at the Bob Whittle Murwillumbah Airfield**

**SUMMARY OF REPORT:**

Council is in receipt of a number of requests to assign and/or vary leases at the Bob Whittle Murwillumbah Airfield.

**RECOMMENDATION:**

That Council:-

1. Enters into a lease agreement with Linmill Pty Ltd upon the terms and conditions as outlined in this report.
2. Approves the assignment of the lease from Linmill Pty Ltd to Mr Don Johnston.
3. Enters into a lease agreement with Scenic Rim Aviation for a period of six (6) months on the same terms and conditions as the previous lessee, namely Armbird Pty Ltd.
4. Delivers the executed documents to Halliday & Stainlay with instructions to retain such documents until all legal fees relative to the Transfer have been paid in full.
5. Authorises all necessary documentation to be completed under the Common Seal of Council.

## Reports from Director Corporate Services

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### REPORT:

Linmill Pty Ltd, trading as Tweed Aircraft Servicing, have submitted requests for lease assignments over two properties at the Bob Whittle Murwillumbah Airfield. Application has also been received from Scenic Rim Aviation to enter into a short term lease to prove the viability of small aircraft training.

These matters were considered by the Airfield Management Committee at its meeting of 1 February 2000 wherein it resolved that the recommendations forming part of this report be put to Council for determination.

In relation to Linmill Pty Ltd to applications have been received:-

#### **1. TO APPROVE THE ASSIGNMENT OF THE EXISTING LEASE FROM BUDD AND BRYANT TO LINMILL PTY LTD**

The applicant conducts an aeronautical business from existing premises and wishes to expand the operation by moving into these premises. Originally Linmill intended expansion by utilising the Sika hangar, the lease of which was subject to Council approved assignment to Linmill in November 1999. Linmill now advises that the Budd and Bryant hangar is more appropriate facility and therefore wishes to expand there.

The Airfield Management Committee supports this proposal, however suggests it be made conditional upon Linmill entering into a new lease rather than assigning the existing lease. In support of this suggestion it is noted that the existing lease terminates on 31 March 2001, and that the purpose of the lease is solely for aircraft hangar. The Committee is concerned that the limitation on the existing lease purpose may preclude the conduct of business and given the short tenure and cost associated with preparation of a Deed and Consent and Assignment it is believed to be in all parties interests to execute a new lease.

It is suggested that the rental for the new lease be determined by State Valuation Office valuation and the term be four (4) years with an option for a further period of four (4) years. All other terms and conditions being those recommended by Council's solicitors.

#### **2. TO APPROVE THE ASSIGNMENT OF THE EXISTING LEASE FOR THE SIKA HANGAR FROM LINMILL PTY LTD TO DON JOHNSTON**

As indicated above these premises are now surplus to Linmill's requirements. Linmill advises that Mr Johnston proposes to hangar his aircraft in the premises and may in future operate a charter business from same.

The Airfield Management Committee strongly supports the possibility of Mr Johnston operating a charter business as it wishes to see further commercial operations established, particularly from the eastern "business" precinct of the airfield.

In order for this transfer to proceed Linmill must finalise the assignment from Sika to itself by executing the Deed of Assignment and Consent and paying all outstanding legal fees.

In relation to Scenic Rim Aviation (SRA) an application has been received to conduct a pilot training business using the premises currently leased by Advanced Aviation Training (AAT). This

## Reports from Director Corporate Services

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proposal is supported by the Airfield Management Committee as being consistent with Council's objectives. SRA request a lease for a period of three (3) months with an option for a further three (3) months to establish and test the viability of the proposal.

In the event SRA deems the concept successful it will negotiate the purchase of the AAT building and request a new lease over the site. It is intended to hangar SRA aircraft in space available within the private hangars on the western side of the airfield. SRA advise that all business activity will be conducted from the AAT building and no commercial activity will take place in the western hangar.

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## 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 Inc (TACTIC) Monthly Report - November/December 1999**

**SUMMARY OF REPORT:**

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance report for the months of November and December 1999 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 months of November and December 1999.

5.1.1 The number and category of financial members of TACTIC;

	October 1999	November 1999	December 1999
Ordinary Members	129	143	147
Service Members	19	20	20
<b>Total</b>	<b>148</b>	<b>163</b>	<b>167</b>

5.1.2 The visitor numbers to the World Heritage Rainforest Centre and the Tweed Heads Tourism Centre;

	October 1999	November 1999	December 1999
World Heritage Rainforest Centre	2270	1763	1540
Tweed Heads Visitors Centre	1796	1679	1729
<b>Total</b>	<b>4066</b>	<b>3442</b>	<b>3269</b>

Currently the two centres are undertaking surveys on the type of enquiries received:

#### World Heritage Rainforest Centre:

Type of Enquiry	November			December		
	No. of Enquiries	%	Variance from October	No. of Enquiries	%	Variance from November
Tourism	547	58	-2%	470	59	+1%
National Parks	202	21	+2%	180	23	+2%
Street Directions	106	11	-2%	82	10	-1%
Bus Timetables	17	2	+1%	6	1	-1%
Other	71	8	+1%	60	7	-1%



## Reports from Director Corporate Services

### Tweed Heads Tourist Information Centre:

Type of Enquiry	November			December		
	No. of Enquiries	%	Variance from October	No. of Enquiries	%	Variance from November
Tourism	585	55	-2%	573	56	+1%
Bus Timetables	124	12	-4%	119	12	Nil
Directions	207	19	+2%	190	19	Nil
Other	147	14	+4%	138	13	-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 November. 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 invited to joint these groups if the familiarisation is held on their rostered day off. During November, the following properties were visited by staff and volunteers; Chinderah Motel, Wangaree B&B.
- A phone techniques course similar to that held at the World Heritage Rainforest Centre was held at the Tweed Heads Visitor Centre by Marianne Rutten on Wednesday 10 November.
- A Christmas Party for the Volunteers is currently being planned for Sunday 5 December to say 'thank you' for their efforts during 1999.

##### Staff

- A staff meeting is being planned for late January/early February 2000.

##### Strategic Marketing Plan

- A meeting was held between Virginia Willmott and Sheridan Hargreaves on 15 November to discuss and inform Sheridan Hargreaves of the current Tweed marketing activities. Virginia Willmott, the current marketing chair, has resigned from the position.

## Reports from Director Corporate Services

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### Networking

- A joint Annual General Meeting/Network Night/Christmas Party for TACTIC members was held at Club Banora on Thursday 25 November 1999. There were 59 members in attendance plus staff and volunteers and members partners (total attendance 85), with 51 staying on for the Christmas Party.
- The next Network Night is due to be held in February 2000.

### Central Reservations System (CRS)

- Plans to update and upgrade the CRS are underway. This update includes the instalment of Paradox Version 9, which will enable TACTIC to sell copies of the system to other Tourist information centres across Australia, and to take conference bookings in a more detailed manner.

5.1.4 The comparison between quarterly profit and loss statement and the budget;

See attached Profit and Loss Statement for November and December 1999. As the budget is not yet finalised, only a monthly profit and loss statement is currently available.

5.1.5 The provision by TACTIC to Council on a monthly bank reconciliation;

See attached reconciliation statement to 30 November and 31 December 1999.

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

- The Sunnybank Plaza Shopping Promotion was held 18-19 November 1999. 10 co-operative participants, 67 @ \$50, 4 @ \$45 - Income \$480.00, Expenses \$250.00. Funds generated for marketing: \$230.00.
- Final preparations are being made for the Tweed Mall Shopping Centre Promotion to be held 15-17 December 1999.

### Advertising

- Advertising was placed in the November/December edition of the NRMA Open Road Magazine.

## Reports from Director Corporate Services

- Advertising has been booked in the January/February 2000 edition of the NRMA Open Road Magazine to coincide with the 8 page feature on the Northern Rivers Region in the Under 45s version of the Open Road magazine.
- A quarter page advertisement has been booked in the Gold Coast Bulletins Summer Feature liftout, which will be included in the 29 December paper.

### Domestic Marketing

- Initial preparations for the “RTA Big Ride” are 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 March 25. The Group will be staying in Murwillumbah on Saturday 25 March.
- Interest is being sought for participation in a Schools Mailout, similar to the Bus and Coach Mailout, to be distributed to all primary and secondary schools within a 2 ½ hour 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.
- The draw for the ballot to climb Mt Warning on New Years Eve was drawn at the world Heritage Rainforest Centre on Friday 12 November. TACTIC has been named as the contact for people drawn for accommodation enquiries.
- TACTIC has a member on the Banana Festival Committee for the 2000 Banana Festival. The AGM for the festival was held on Tuesday 30 November.

### Trade Events

- We are currently undertaking initial preparations for the Brisbane Travel Show in April 2000 and the Toowoomba Travel and Home Show in May 2000.

### Upcoming Promotions

- Tweed Mall Shopping Centre Promotion to be held in December 1999.
- The Schools Mail-out will be posted out in late January/early February.
- Ipswich Shopping Centre Promotion to be held in February 2000.

5.1.8 The amount of retail sales:

<b>October 1999</b>	<b>November 1999</b>	<b>December 1999</b>
\$2242.65	\$2050.35	\$2022.90

## Reports from Director Corporate Services

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5.1.9 The number and value of the booking system growth;

	<b>October 1999</b>	<b>November 1999</b>	<b>December 1999</b>
Number	54	33	32
Accommodation bookings	\$11,676.40	\$1766.70	\$3620.70
Tours	\$738.78	\$2643.42	\$1155.20
Commission	\$1,414.02	\$596.88	\$552.10
<b>Total</b>	<b>\$13,829.20</b>	<b>\$5007.00</b>	<b>\$5328.00</b>

5.1.10 The level of attendance at Board meetings by the members of the Board of TACTIC;

Present: Gervase Griffith (Interim Chairman), James McKenzie, Clive Parker, Dennis Chant, Liz Hillyer, Phil Taylor, Cr Warren Polglase.

The Minutes of the Board meeting held 7 December 1999 are attached to this Business Paper.

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## Reports from Director Corporate Services

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**18. ORIGIN: Administration Services Unit**

**FILE REF: TEDC**

**REPORT TITLE:**

**Tweed Economic Development Corporation (TEDC) Monthly Report - October to December 1999**

**SUMMARY OF REPORT:**

The Tweed Economic Development Corporation, Chief Executive Officer's report for October - December 1999 is detailed in the report and attached is the Profit and Loss account for the period ending 30 September 1999.

**RECOMMENDATION:**

That this report be received and noted.

# Reports from Director Corporate Services

## REPORT:

In accordance with the terms of the agreement between Tweed Shire Council and Tweed Economic Development Corporation, following is a brief summary of the activities of the Tweed Economic Development Corporation for the period October to December 1999:-

In summary, the Tweed Economic Development Corporation has:

1. Attracted \$45,000 in additional funding for the industrial land study to commence in February 2000 (total funds for this project are \$65,000 including \$10,000 from Tweed Shire Council);
2. Attracted \$200,000 from the NSW State Government for Chinderah in addition to the existing Roads and Traffic Authority offer of \$200,000 making a total of \$400,000 available for this project, **plus** the potential for funds from the dredging royalties to make up the difference of approximately \$350,000 in funds required for the Chinderah revetment;
3. Applied for funds under the Rural Plan for the Agricultural Viability Study and is optimistic of a positive response which will mean another \$90,000 in funds; and
4. In partnership with Tweed Shire Council, applied to the ACC for funds for the Tweed Heads Central Business District and, if successful, this will mean an additional \$30,000 in funding.

## Meetings Held Between 1 October 1999 to 31 December 1999

New Business	10
Existing Client	17
Government & Government Agency	10
Tweed Shire Council	15
Community Organisations	20
<b>Total</b>	<b>72</b>

Note: This list does not include undocumented, one off or “off the street” meetings.

## Documented Phone Calls Between 1 October 1999 to 31 December 1999

October	107
November	176
December	100
<b>Total</b>	<b>383</b>

Note: This list does not include undocumented phone calls or casual requests for general information.

## Reports from Director Corporate Services

### Number and Category of Tweed Economic Development Corporation Members for Financial Year 1999/2000

Standard Members	28
Sponsors	8
In Kind Sponsors	3
Subscribers	7

### Dates of Board Meetings for 2000

It is proposed that Tweed Economic Development Corporation Board meetings will be held on:

27 January,      24 February,      30 March,  
27 April,      25 May,      7 July,  
31 August,      28 September,      26 October,  
7 December, 2000.

Monthly reports will be sent to Tweed Shire Council as soon as practical following the end of each, non-quarter, month.

Quarterly reports (including Financial Statements) will need to be ratified at the Board following the end of the quarter before being forwarded to Tweed Shire Council.

### TWEED ECONOMIC DEVELOPMENT CORPORATION LTD (TWEED ECONOMIC DEVELOPMENT CORPORATION) QUARTERLY REPORT OCTOBER - DECEMBER 2000

5.1.1 The Tweed Economic Development Corporation Strategic Plan has been reviewed and has been presented to the Board for adoption.

- The Board has determined that promotion and supply of industrial land be the major priority to address the lack of developed lots as identified by the Strategic Plan.
- The Tweed Economic Development Corporation, in partnership with Tweed Shire Council, has applied for funding under the Federal Government Rural Plan to carry out the Agricultural Land Viability and Sustainability Study as identified in the Strategic Plan.
- The Tweed Economic Development Corporation, in a joint application with Tweed Shire Council, has applied to ACC for funds to develop a master plan for the Tweed Heads CBD.

5.1.2 Referrals to Tweed Shire Council: The Tweed Economic Development Corporation continues to facilitate meetings between investors and Tweed Shire Council, including meetings in regard to Chinderah Bay Marina, Chinderah boat manufacturer, industrial land, call centres, Bullet Super Cars, Tweed Endeavour Cruises, et al.

## Reports from Director Corporate Services

### 5.1.3 New Business:

- Tweed Economic Development Corporation continues to promote the industrial land issue, and raised \$65,000 for the Gold Coast Airport Enterprise Precinct Feasibility Study (to commence February 2000).
- Tweed Economic Development Corporation also played a significant role in attracting the CentreLink call centre to Tweed Heads (40 to 100 jobs).
- Tweed Economic Development Corporation instigated and initiated a meeting with NSW State Government Ministers to resolve the old Pacific Highway-Tweed River revetment issues at Chinderah in order to facilitate the Chinderah Bay Marina Project. Tweed Economic Development Corporation’s CEO travelled to Sydney and met with Government representatives. The CEO invited and was accompanied by John Henley (Tweed Shire Council) and Trevor Wilson (DSRD). The outcome was an increased offer by the Minister for Transport (from \$200,000 to \$400,000) with the potential to approve the balance of funds required from dredging royalties. This issue had been in dispute since 1997.
- Kingfisher Boats (John Vella) is in the process of submitting their DA.
- Australian Native Wines is progressing their project in the Tweed.
- Bullet Super Cars’ expansion to Machinery Drive is progressing.
- Tweed Economic Development Corporation facilitated the Cameron Property bus tour of retirement villages and continues to be involved.
- The Tweed Economic Development Corporation has held discussions with several major companies including the Mirvac Group.
- Tweed Economic Development Corporation has introduced three clients to the ASX Enterprise Market (Australian Stock Exchange venture capital group).
- The Tweed Economic Development Corporation is investigating the opportunity to join forces with Coffs Harbour Future Development Corporation to expand on and develop in partnership a venture capital group based on local investor funds.

### 5.1.4 Potential jobs:

	Total 625 to 975 jobs
CentreLink call centre	100 jobs
Industrial land – Gold Coast (conservatively)	300 to 600 jobs
Chinderah Bay Marina and related businesses	170 jobs
Boat manufacturer	35 jobs
Australian Native Wines	10 to 25 jobs
Bullet Super Cars	10 to 25 jobs

Total jobs created by Tweed Economic Development Corporation assisted projects to 31 December 1999 48

### 5.1.5 See Financial Statements (attached to this Business Paper).

### 5.1.6 See attached Financial Statements (attached to this Business Paper).



## Reports from Director Corporate Services

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**19. ORIGIN: Financial Services Unit**

**FILE NO: Banking**

**REPORT TITLE:**

**Monthly Investment Report for Period Ending 31 January 2000**

**SUMMARY OF REPORT:**

Details of Council's investments as at 31 January 2000.

**RECOMMENDATION:**

That this report be received and noted.

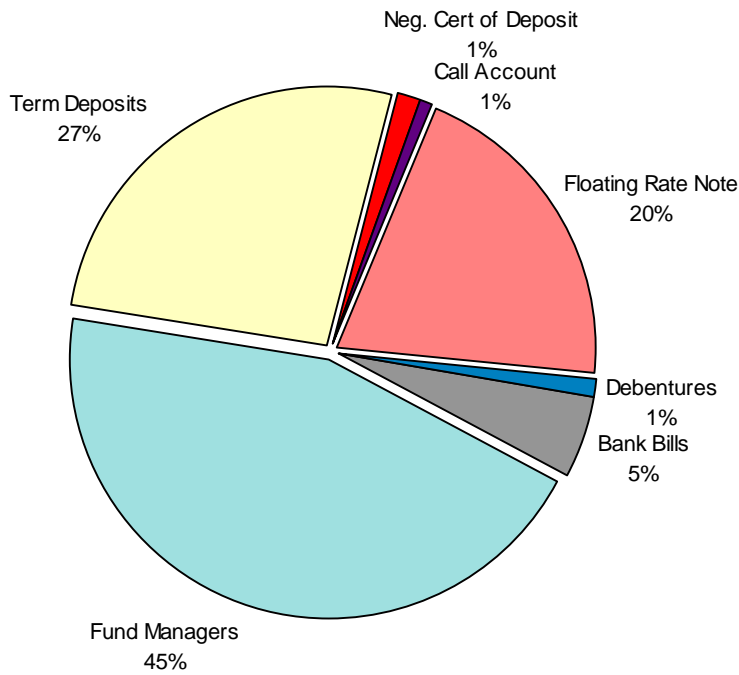
# Reports from Director Corporate Services

## REPORT:

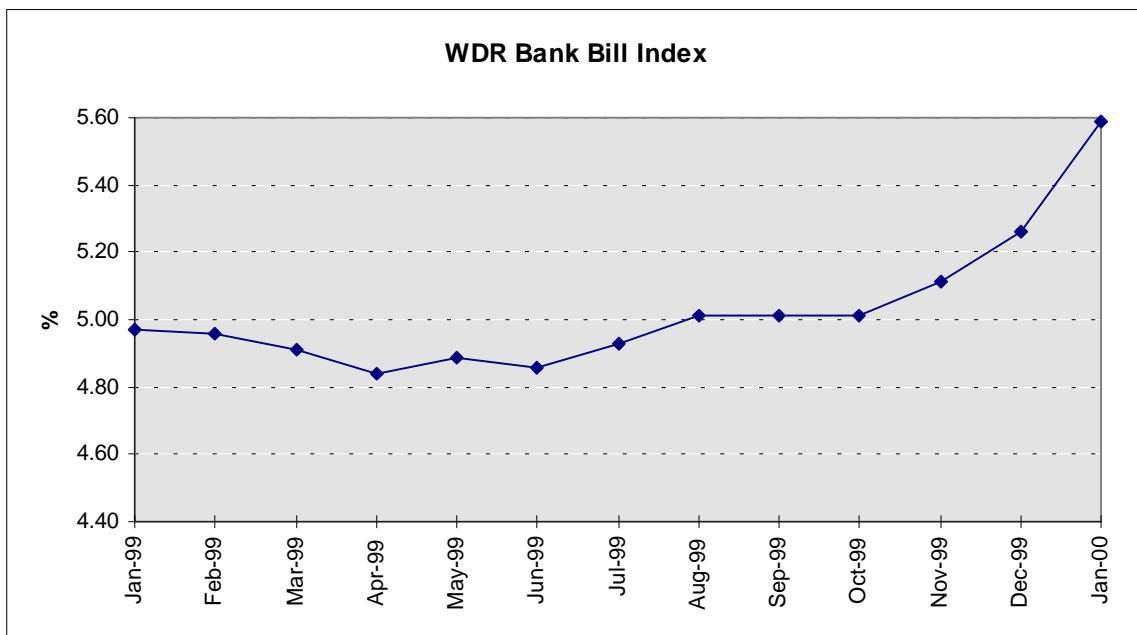
This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

### 1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

**% of Funds Invested by Category**



### 2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)

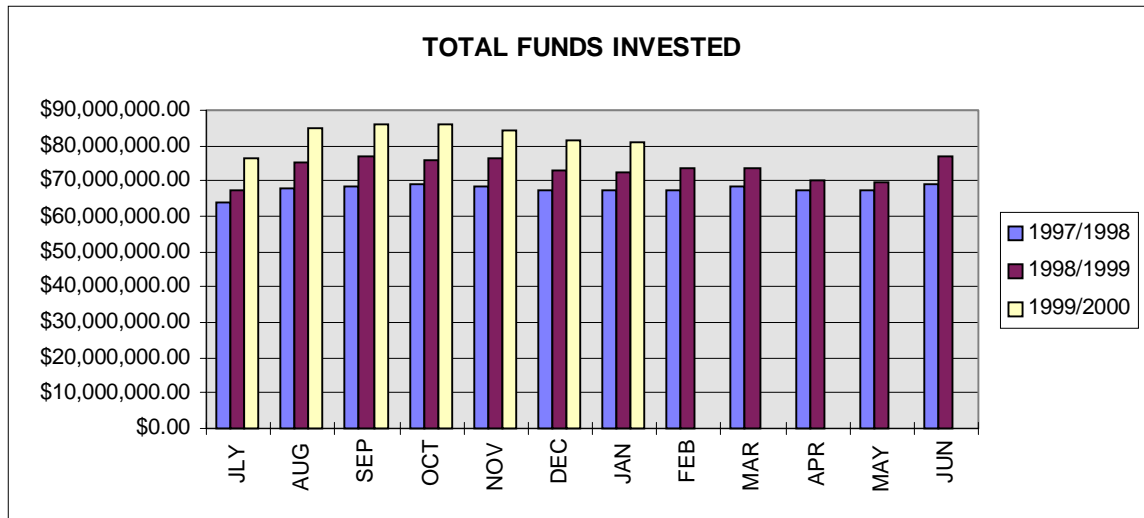


# Reports from Director Corporate Services

## 3. ANNUALISED RATE OF RETURN FOR FUND MANAGERS

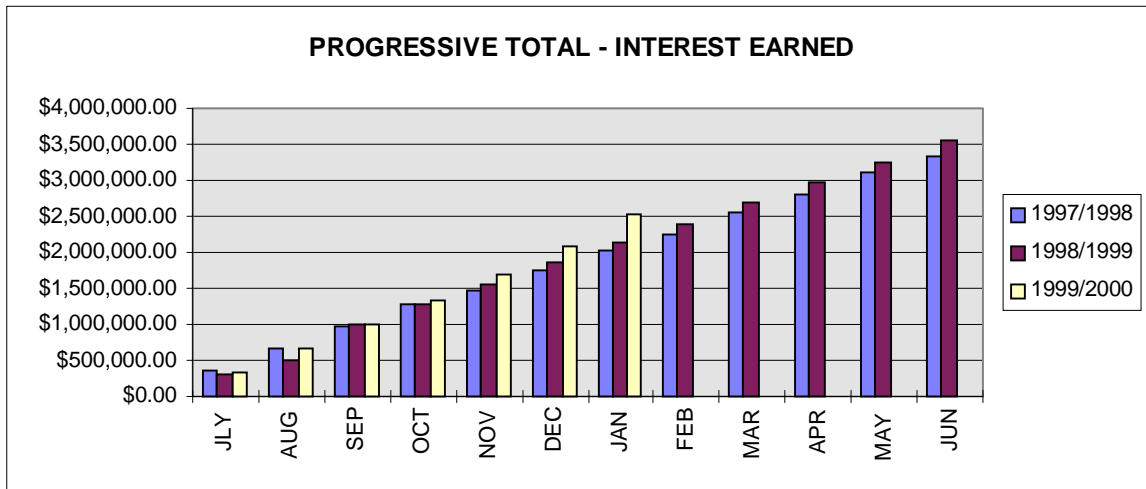
Fund	30 Days	90 Days	1 Year
	%	%	%
ANZ	6.23	5.69	5.23
Bankers Trust	5.62	5.37	4.88
Macquarie	5.87	4.88	4.70
National Mutual	6.35	5.76	5.16

## 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

On 2 February the Reserve Bank of Australia raised interest rates by 0.50%. Despite this higher than expected rate rise many economists are calling for another 0.50% rise later in 2000.

However with the RBA now adopting a neutral stance on monetary policy and with the pending budget in May and the introduction of GST in July, there remains a possibility that there will be no further rises this year. A key indicator to watch for possible further increases this year will be wages growth.

# Reports from Director Corporate Services

## 7. INVESTMENT SUMMARY AS AT 31 JULY 1999

### GENERAL FUND

BANKS		16,500,000.00	
FUND MANAGERS		82,509.56	
LOCAL GOVT. SERVICES	FIN.	2,000,000.00	
CALL		820,515.99	<b>19,403,025.55</b>

### WATER FUND

BANKS		4,000,000.00	
FUND MANAGERS		25,852,252.04	
LOCAL GOVT. SERVICES	FIN.	4,000,000.00	<b>33,852,252.04</b>

### SEWERAGE FUND

BANKS		3,056,000.00	
FUND MANAGERS		10,401,852.76	
LOCAL GOVT. SERVICE	INV.	14,263,658.06	<b>27,721,510.82</b>

### TRUST

FUND MANAGERS		50,000.00	<b>50,000.00</b>
<b>TOTAL INVESTMENTS</b>			<b>81,026,788.41</b>

It should be noted that the General Fund investments of \$19.4 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 Engineering Services

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**20. ORIGIN: Water Unit**

**FILE REF: GR1/6 Pt6**

**REPORT TITLE:**

**Tweed River Entrance Sand Bypassing Project**

**SUMMARY OF REPORT:**

It has been recently announced that the NSW and Qld Governments have entered into a contract with McConnell Dowell Constructions (Aust) Pty Ltd for the design, construction and operation of a permanent sand bypassing facility at the Tweed River entrance. The project will be overseen by a Project Control Group on which both Governments and the Gold Coast City Council will be represented. Tweed Shire will not normally be represented on this group as it is not financially involved in the project. Council is represented on a parallel Working Group and Advisory Committee, which should allow it adequate input to the project.

**RECOMMENDATION:**

That the proposal for the pumping jetty to be closed to public access and the lack of any planning for facilities to accommodate any further public usage be raised with the Member for Murwillumbah, Mr Neville Newell, MP.

## Reports from Director Engineering Services

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### REPORT:

It has been recently announced that the NSW and Qld Governments have entered into a contract with McConnell Dowell Constructions (Aust) Pty Ltd for the design, construction and operation of a permanent sand bypassing facility at the Tweed River entrance. The project will be overseen by a Project Control Group on which both Governments and the Gold Coast City Council will be represented. Tweed Shire will not normally be represented on this group as it is not financially involved in the project. Council is represented on a Parallel Working Group and Advisory Committee, which should allow it adequate input to the project.

Through the Working Group, concerns have been repeatedly expressed in relation to:

- (a) The aesthetic appearance of the buildings and structures proposed on Letitia Spit, particularly in relation to their appearance from Pt. Danger and high developments in Tweed Heads and Tweed Heads South.
- (b) The impact resulting from the re-establishment of Letitia Road with increased traffic and the expected public usage of the area.
- (c) The likely future use of the pumping jetty by the public, as occurs at Southport and the lack of any provisions such as parking and public amenities to facilitate such use.

The Contractors and Project Control Group subsequently advised that an Architect has joined the Contractor's Team and the concerns with the appearance of the buildings and structure will be addressed in the detailed designs.

The Contractor has advised that it is intended to exclude the public from any use of the jetty on the grounds that the provision of facilities will be costly and they do not expect any significant interest in using the jetty for recreational purposes. This view is not supported.

It is felt that there is a real likelihood in the future that public access will be allowed, when demand builds up and that with no parking facilities provided, damage will occur and the community will look to Council to provide facilities.

For the information of Councillors, McConnell Dowell have provided the following information on the project:

*"The Tweed River Entrance Sand Bypassing Project is a joint scheme by both the NSW and Queensland State Governments to bypass the sand carried by the northward littoral drift and trapped by the Tweed River entrance training walls. This project will be designed, constructed and operated by the McConnell Dowell Corporation.*

*The objectives of the Tweed River Entrance Sand Bypassing Project are toL:*

- *Establish and maintain a clear navigation channel at the mout of the Tweed River to the open sea.*
- *Improve the navigation safety in the Tweed River entrance, the tidal flushing of the river estuary and the water quality.*



## Reports from Director Engineering Services

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- *Achieve a continuing supply of sand to the placement areas (southern Gold coast beaches) at a rate consistent with natural littoral drift rates.*

*The Tweed River Entrance Sand Bypassing Project will be an unobtrusive installation designed for unattended night time operation. This project will be similar in design to the successful Nerang River Entrance Sand Bypassing System, which was also designed and constructed by McDonnell Dowell.*

*Construction is scheduled to commence in mid February 2000 and be completed by April 2001.*

*McConnell Dowell are one of Australia's leading constructing companies with an established reputation for the successful completion of challenging engineering projects within strict safety, environmental, budget and program constraints. Formed in 1960 it now ranks in the top 100 of international contracting organisations.*

*The project will be managed from site, with a dedicated site team operating out of site offices that will be located within the site compound on Letitia Spit.*

### **Installation**

*The sand bypassing system will consist of:*

- *A sand collection jetty, approximately 450m long and extending approx 280 -300m from the current shoreline, 250m south of the Tweed River entrance.*
- *A control building, housing the pumps, electrical equipment and controls. This will be located on Letitia spit, approximately 200 - 300m from the end of the spit and 150m from the current shoreline.*
- *A slurry pipeline, which will transport the sand from the control building, under the Tweed River, through the townships of Tweed Heads and Coolangatta and to any one of the outlets. The permanent outlets will be located at Point Danger and Marley Rocks with facility for temporary outlets at Kirra Point, Snapper Rocks West and Duranbah.*
- *A pump station - a low profile facility on the southern side of the Tweed River entrance, which will supply water from the Tweed River to the control building.*

### **Construction**

*Construction will commence in February with the upgrade of the Letitia Spit Road. The road will be re-graded, slightly widened and appropriate traffic-calming measures (such as speed humps) introduced. The vegetation at the sides will also be trimmed.*

*Around this time the Construction Lease Area at the northern end of the spit will be cleared and graded and a security fence installed. This work will involve bulldozers, graders and dump trucks, however, apart from the mobilisation and demobilisation of this equipment, most activity will be restricted to Letitia Spit Road and the end of Letitia Spit.*

## Reports from Director Engineering Services

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*All construction activities will be carefully constrained within the road, pipeline and jetty construction easements and within the Construction Lease Area. All cleared vegetation will be mulched and stored, to be returned to the land near the end of construction.*

*After the clearing and grading of the site, McConnell Dowell will mobilise site offices and construction equipment to the Construction Lease Area. Construction of the jetty, control building and pipelines will then commence and carry on throughout the year. This will involve a wide and multi-disciplined range of activities - from jetty piling, concrete foundations and building work through to installation of piping, equipment and electrical wiring.*

*The objective of the project is to create an environmentally friendly and sustainable installation, with no adverse impact on the surrounding land. During construction great care will be taken to minimise any impact on the environment by:*

- *Constraining all activities to within the construction easements and lease areas.*
- *Ensuring all construction waste is properly contained, recycled where possible, or appropriately disposed of.*
- *Ensuring construction noise levels are within acceptable limits.*

### ***Letitia Spit Road Upgrade***

*To commence site establishment works and the upgrade of Letitia Spit Road, truck and other vehicle movements will occur along the following route from February 7, 2000:*

- *Fingal Road;*
- *Lighthouse Parade;*
- *Main Street*
- *Prince Street;*
- *Letitia Spit Road.*

*Truck and vehicle movements will generally occur during the hours of 7am to 6pm Monday to Friday and 8am to 1pm Saturday.*

*To minimise disturbance to the community during these periods, trucks and large vehicles will be required to remain within the above specified route unless otherwise notified. Trucks and large vehicles will remain within a 40km speed limit in built up areas.*

*It is expected that the road upgrade works will be substantially complete within two weeks of commencement. This, of course, is subject to weather conditions.*

## Reports from Director Engineering Services

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**21. ORIGIN: Planning & Design Unit**

**FILE REF: DA4030/2820 Pt3**

**REPORT TITLE:**

**Classification of Land as Operational - Minjungbal Drive, Tweed Heads South**

**SUMMARY OF REPORT:**

The developers of the old "Egg & I" site at Minjungbal Drive, Tweed Heads South have agreed to transfer to Council the site of a sewer pump station.

The land should be classified as operational in accordance with the provisions of Sec. 31 of the Local Government Act, 1993.

**RECOMMENDATION:**

That the proposed Lot 3 within a subdivision developed by Genet Pty Ltd and Kymzan Pty Ltd, being Lot 1 DP 204461, Lot 1 DP 709200 and Lot 3 DP 224232 at Minjungbal Drive, Tweed Heads South and which is to be transferred to Council in fee simple be classified as operational land.

## Reports from Director Engineering Services

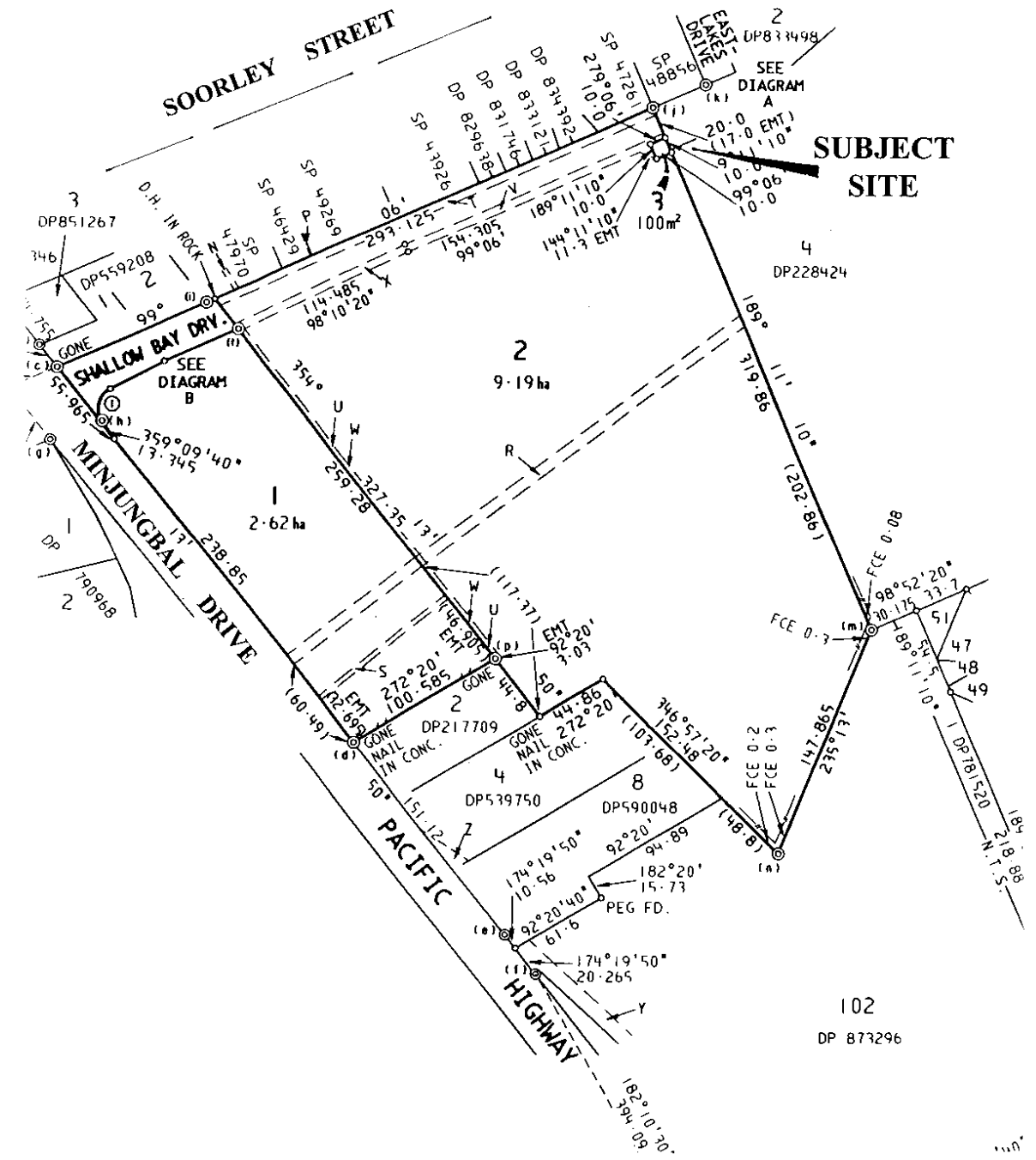
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### REPORT:

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The land should be classified as operational in accordance with the provisions of Sec. 31 of the Local Government Act, 1993.

# Reports from Director Engineering Services



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## Reports from Director Engineering Services

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**22. ORIGIN: Water Unit**

**FILE REF: Street Lighting**

**REPORT TITLE:**

**Street Lighting in New Subdivisions**

**SUMMARY OF REPORT:**

A review of Council's current policy for the energising of street lights in new subdivisions has been undertaken and changes are recommended in the interests of security and presentation.

**RECOMMENDATION:**

That Council's policy for the connection of street lights in new subdivisions be altered to permit all lights to be energised and made operational at the time of installation.

## Reports from Director Engineering Services

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### REPORT:

In recent times regular requests for the energising of street lights in newly released subdivisions have been directed to Council's Engineering Services Division, elected Councillors and Senior Staff.

Concerns for pedestrian safety, security and general lack of amenity were expressed by residents and builders in the new subdivision areas.

The majority of lighting requests were received from the fast developing Tweed Heads land releases due to the increasing number of requests for street lights to be energised in newer areas it is suggested that Council's current policy for this situation be reviewed.

Council's current policy for the connection of street lights in new subdivisions (Policy Ref: N4.13.2) provides for streetlights in new subdivisions to be energised in the Council financial year following their erection, i.e. they are to be included in the budget for the financial year after the completion of the subdivision.

This policy was developed following discussions with NorthPower, as the authority responsible for the erection, energising and maintenance of street lights within the Shire and was incorporated into NorthPower's "One-Step" Street Lighting Program.

Council, on average, release approximately 800 urban residential blocks per year. To achieve the Council agreed minimum of the Australian Standards Streetlighting Code (AS1158.[1997]) up to 160 streetlights would be required to service these areas.

The lights installed by NorthPower for use in residential areas are fitted with 80W mercury vapour lanterns. As the capital contribution to provide residential street lighting comes from sources other than NorthPower the energy costs to operate the lights are charged at a reduced rate (Rate 2).

The current annual Rate 2 tariff for 80W mercury vapour lights is \$65.27 per light.

If Council's current policy was amended and lights in the new area were left operational at the time of installation and, depending on the number of lights and at what stage of the financial year the installation work was completed, the average cost to provide lighting would be \$5,280.

Council's 1999/2000 street lighting budget is \$592,000 and allows scope for the projected additional charge to be carried until the following new budget allocation.

"One-step" street light installations in previous budgets under the current policy would not reach the projected tariff charges increase for the estimated 160 additional lights per annum.

The possible change of Council policy was discussed with NorthPower who indicated support for the proposal as they would no longer have to make return visits to subdivisions to carry out energising works.

It is recommended that Council's current policy be altered to require all lights in new subdivisions to be energised and made operational at the time of installation.



## Reports from Director Engineering Services

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**23. ORIGIN: Works Unit**

**FILE REF: R1440**

**REPORT TITLE:**

**Road Relocation - Crookes Valley Road - Precis of Confidential Item**

**SUMMARY OF REPORT:**

The last 300 metres of Crookes Valley Road is located on private property owned by Mr Peter Norman. He has indicated that he wants the road, which has been in this location for many years, to be reconstructed onto the existing road reserve.

**RECOMMENDATION:**

That this report be dealt with under the Confidential Agenda

## Reports from Director Engineering Services

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### REPORT:

The last 300 metres of Crookes Valley Road is located on private property owned by Mr Peter Norman. He has indicated that he wants the road, which has been in this location for many years, to be reconstructed onto the existing road reserve.

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## Reports from Director Engineering Services

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**24. ORIGIN: Water Unit**

**FILE REF: Mobile Phone Towers, Kingscliff Reservoir, Banora Point Reservoir**

**REPORT TITLE:**

**Proposed Mobile Telephone Facilities - Kingscliff Reservoir & Banora Point Reservoir**

**SUMMARY OF REPORT:**

During the latter part of 1999, Agents for Vodafone Network Pty Limited commenced negotiations with Council staff seeking Council concurrence to the erection of additional mobile phone aerials and equipment on Council's Kingscliff Reservoir in Dinsey Street. Vodafone are seeking a lease on the site to secure tenure for 10 years with two 5 year options for extension. Subsequently, One.Tel GSM 1800 Pty Ltd advised of a similar interest in the Kingscliff Site and also the Banora Point Reservoir in Terranora Road.

In January 2000, Cellsites the Agents for One.Tel advised that both the Kingscliff & Banora Point Reservoir sites had been identified as "significant to the planned network" and that it was intended to serve notice on Council as the landowner in accordance with the Telecommunications Act, 1997.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Engineering Services

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### REPORT:

During the latter part of 1999, Agents for Vodafone Network Pty Limited commenced negotiations with Council staff seeking Council concurrence to the erection of additional mobile phone aerials and equipment on Council's Kingscliff Reservoir in Dinsey Street. Vodafone are seeking a lease on the site to secure tenure for 10 years with two 5 year options for extension. Subsequently, One.Tel GSM 1800 Pty Ltd advised of a similar interest in the Kingscliff Site and also the Banora Point Reservoir in Terranora Road.

In January 2000, Cellsites the Agents for One.Tel advised that both the Kingscliff & Banora Point Reservoir sites had been identified as "significant to the planned network" and that it was intended to serve notice on Council as the landowner in accordance with the Telecommunications Act, 1997.

When Vodafone became aware of the One.Tel interest it served on Council on 19 January 2000 a "Notice of activity under Clause 6 of Schedule 3 of the Telecommunications Act 1997" but indicated a desire to continue consultations and to negotiate an outcome with Council.

Vodafone's proposal is to erect a small equipment building on the Kingscliff site and 13 antennae on the roof of the Reservoir, with associated cabling. Copies of plans submitted accompany this business paper.

On 31 January 2000 similar notices were served on behalf of One.Tel over both the Banora Point and Kingscliff Reservoir sites. At each site One.Tel similarly proposes a small equipment building at least 5 antennae at Kingscliff and 6 antennae at Banora Point. Copies of plans submitted also accompany this business paper.

The issue was referred to Council Solicitors, Halliday & Stainlay and their advice in part is:

#### "Authorisation for the Works

*The Telecommunications Act 1997 (Cth) ("the Act") and the Telecommunications Code of Practice ("the Code") stipulate what a carrier is authorised to do without consent of landowner when installing telecommunications equipment and facilities. The Schedule to the Telecommunication's (Low Impact Facilities) Determination 1997 ("the Schedule"), issued by the Federal Minister for Communications, sets out what activities and facilities are Low impact Facilities.*

*It appears from the correspondence received from Cellsites that the works proposed to be undertaken by them are for facilities which have been determined as "authorised low impact facility activities" by the Federal Government. Such facilities are categorised in relation to the structure to be built and the zoning of the land upon which the facilities are to be installed. Provided a proposed facility to be installed falls within the definition of "authorised low impact facility", then Cellsites do not require a 'Facility Installation Permit' to be issued by the Australian Communications Authority.*

#### Entry Onto Land Without Consent

*In relation to your original enquiry as to the status of Cellsites claim to obtain access to Council land to construct facilities without Council's agreement, it is noted that, provided*

## Reports from Director Engineering Services

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*the facilities are within those covered in the Low Impact Facility Determination, and, provided further that Cellsites have undertaken reasonable efforts to make an agreement with Council in relation to the installation of facility (should such installation be likely to effect Council's operations at the sites), then Cellsites may issue a notice pursuant to Clause 17 Schedule 3 of the Act and Clause 4.24 of the code that it intends to engage in the installation of a low impact facility on a particular site commencing on a date which is at least ten (10) days after the issue of such notice.*

Lease offers and a fully copy of the advice are contained in a Confidential Report listed for consideration at this meeting.

It should be noted that currently Council has leases, by consent for similar facilities with Telstra and Optus at Kingscliff and with Telstra, Optus and Vodafone at Banora Point. Notices were not served nor threatened in any of these negotiations.

Early in negotiations Vodafone engaged Consultants, Hassell Pty Ltd to consult with the local community. The consultation in the vicinity of the Kingscliff Reservoir identified a level of community concern related to:

1. The appearance of any installation.
2. The possible impact on property valuations.
3. Health considerations resulting from radiation.
4. TV interference.

A detailed consultation report has been received from Hassell Pty Ltd on behalf of Vodafone that is currently held by the Manager Water, if interested Councillors wish to peruse it. In part, the report provides the following discussion of the issues:

### ***“3. Discussion of Issues***

#### ***3.3 Health and EME***

*The potential health effects of EME from the proposed site were raised as a significant issue. To address this issue, EMC Services Pty Ltd were commissioned to conduct a site survey for Kingscliff, in relation to EME from the proposed site. The Assessment Report (refer to Appendix D for complete report) stated:*

*[The existing and predicted levels of the radio frequency radiated fields measured at all locations were well below the recommended maximum for continuous exposure set down in AS2772.1 for both the non-occupational and occupational limits (Garrett, 1999:4)]*

*It is important to note also, that a precedent has been set in the New Zealand Courts in relation to lower exposure levels than set by the ANZ standards as a “condition”: for the proposal being developed. The decision made in relation to the Shirley Primary School v. Telecom Mobile Communications LTD refused to impose a level lower than the ANZ standard for the following reasons:*

1. *a precautionary approach is already inherent in the ICNIRP and ANZ standards:*

## Reports from Director Engineering Services

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- (a) *in the ANZ Standard the level for non-occupational exposure to radiofrequency radiation is set at 1/50<sup>th</sup> of the exposure level at which thermal effects occur;*
  - (b) *ICNIRP imposes a maximum level of exposure of 0.08 W/kg (which translates to 450 µW/cm<sup>2</sup> at the cellsite frequency.*
2. *We have not considered condition 4 (6µW/cm<sup>2</sup>) as necessary for mitigation of any effects - principally because we consider that effects of (or risk which is the combination of them) exposure to radiofrequency radiation to be so minor that they do not require mitigation. Thus any argument over the level is essentially irrelevant so long as the ANZ Standard is met.*

*Recent research into any casual relationship between radiofrequency radiation from cell phones and cancer has also found such a relationship to be “weak to nonexistent (Moulder, 1999: 513)” (See Appendix E for more detail).*

*Perceived cumulative effects from Vodafones co-location with the two existing mobile telecommunications carriers at the water tank site was also raised. In a typical urban environment, cumulative RF EME (radiofrequency electromagnetic energy) levels from co-located mobile telecommunication facilities are negligible, being vastly dominated by other transmitters such as AM radio. Appendix F provides a visual representation of these proportions based on a typical urban co-location site in Victoria.*

*Fact sheets published by the Committee on Electromagnetic Energy Public Health Issues, covering health issues relating to EME are attached at Appendix G.*

### **3.4 Visual Amenity**

*The cumulative effects of the proposed and existing telecommunications facilities located at the water reservoir on the visual amenity of the Kingscliff area was also raised as a significant issue.*

*Vodafone Network acknowledges that the proposed Kingscliff facility will be visible from some street-side and residential vantage points. In order to minimise what visual effects will arise, Vodafone Network has undertaken to achieve the following:*

- *Locating on the water tank nearest to Faulks Street, thereby restricting views of the proposed facility from most local streets. This is due to the terrain of the area and the position of the second water tank beside the site, effectively blocking ‘lines of sight’ to the proposed neighbouring water tank site.*
- *Locating on a site that is already modified by existing telecommunication carriers. The level of ‘new’ visual modification will therefore be significantly reduced, far more so than other options, such as erecting a new pole. Vodafone Network considers that any increase in cumulative impacts on visual amenity will be minimal.*
- *Painting the components of the proposed facility to blend in as far as possible against the skyline backdrop and surroundings.*

## Reports from Director Engineering Services

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### **3.5 Impact on Property Values**

*Some concern was expressed in relation to decreases in property 'resale' values that are perceived to be associated with the nearby location of telecommunications facilities. Vodafone is unaware of any supporting evidence identifying a relationship between the presence of any Vodafone telecommunications facilities and decrease in property values.*

### **3.6 Interference with TV Reception**

*Questions relating to how the proposal would effect the operation of television aerials were also raised.*

*Telecommunications facilities operate at different frequencies to TV, radio and other signals, thus avoiding interference with each other. Typically, TV and radio stations transmit below 820MHz. In comparison, mobile telecommunication facilities transmit on the frequency bands 925MHz and 1805MHz.*

*Furthermore, mobile telecommunication equipment needs to pass very strict tests set by the Australian Communications Authority to ensure operators adhere to their designated frequencies."*

On the basis of the advice received, it appears that the installation of these facilities is inevitable, that they will serve the wider community and are authorised by Federal Government Legislation. No approval is required of Council and it appears that there are no sustainable grounds to lodge objections.

On the basis of a perusal of the consultation report submitted by Vodafone, the concerns expressed by residents in regard to radiation and health are not supported by the technical data appended to the report. At Kingscliff the report claims that the combined level due to all 3 base stations (ignoring One.Tel) at any location is no more than 0.46% of the accepted continuous exposure limit.

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## Reports from Director Engineering Services

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## Reports from Director Engineering Services

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**25. ORIGIN: Water Unit**

**FILE REF: Mobile Phone Towers, Kingscliff Reservoir, Banora Point Reservoir**

**REPORT TITLE:**

**Mobile Telephone Installations - Leases at Kingscliff & Banora Point Reservoirs - Precise of Confidential Item**

**SUMMARY OF REPORT:**

Vodafone is seeking a lease over part of Council's Water Reservoir land at Kingscliff. On.Tel is seeking leases over part of both Council Water Reservoir Sites at Kingscliff and Banora Point.

**RECOMMENDATION:**

That details of the leases be considered in the Confidential Agenda.

## Reports from Director Engineering Services

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### REPORT:

Vodafone is seeking a lease over part of Council's Water Reservoir land at Kingscliff. On.Tel is seeking leases over part of both Council Water Reservoir Sites at Kingscliff and Banora Point.

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# Reports from Director Environment & Community Services

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

**FILE REF: GC4/10 Pt10**

**REPORT TITLE:**

**Cemeteries and Burial Policy**

**SUMMARY OF REPORT:**

Council received a number of submissions in regard to the Draft Cemeteries and Burials Policy which addressed matters in Part I of the policy. No submissions were received in regard to Part II of the Draft Policy.

Several submissions supporting Council's current policy were received.

Submissions were received from local undertakers in relation to part 1.2 "Hours of Operation". The undertakers were seeking an extension to the times specified in the draft policy. A change to the starting time for burials could be made without major changes to the current work practises at the cemeteries while an extension to the finish time would involve reorganising the working hours of many staff.

Other submission were in regards to part 1.5 of the draft policy "Flowers, Flower Holders, Ornaments". Some submissions supported Council's current policy while others called for the policy to be changed to allow artificial flowers and various ornaments, tokens etc. to be placed on the grave. Changing the policy to allow artificial flowers, ornaments, tokens etc would result in a significant increase in running costs because of the increase in work involved in maintenance (as well as for burials) that these items create and tend to offer the ambience of lawn cemeteries. Other issues relating to safety would have to be addressed; broken ornaments can be a hazard to staff and the public. Vandalism has been a problem in an old cemetery where many ornaments have been placed; potentially the same problem could arise in the lawn cemeteries if ornaments are permitted. These items, if permitted, may result in changing the uncluttered serenity of the lawn cemeteries while the plaques and flowers which are currently permitted are universally accepted as appropriate memorials to the departed.

Several writers suggested that Council should have contracts with families that detail Council's regulations and is signed before a burial takes place. Council does not generally deal with families

## Reports from Director Environment & Community Services

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before a burial but the funeral director could be required to give the family a copy of Council's policy as part of their administrative process.

### RECOMMENDATION:

That Council adopts the draft Cemeteries and Burials Policy with the following changes:

**1.2 Hours of Operation:** The references to 10.00am be changed to 9.30am.

**1.10 Burial Permits:** The following be added to the end of this section *"The undertaker to advise the family that Council has a cemetery policy and to sign the application form to indicate that they have given the family a copy of the policy"*.

**1.11 Reservations:** The following be added after the first sentence *"The applicant must sign the section on the Application for Reservation form acknowledging that they have read the information about Council's cemetery policy and agree to abide by the policy."*

A copy of the draft policy with these changes incorporated is attached.

## Reports from Director Environment & Community Services

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### REPORT:

A number of written submissions were received by Council in regard to the Draft Cemeteries and Burials Policy which was advertised in the November 10 edition of the "Tweed Link". All of the submission were in regard to Part I of the policy and no submissions were received in reference to Part II, "Burials on Private Property". The submissions were in reference to part 1.5 "Flowers, Flower Holders, Ornaments" and part 1.2 "Hours of Operation" of the draft policy. A number of people who contacted Council were concerned that major changes were going to be made to the running of Council's cemeteries. When they were advised that the draft policy was simply a consolidation of current regulations into one document they were reassured and did not want to make a submission. Many people verbally expressed their satisfaction with the way that Council's cemeteries are run but did not make a written submission. They particularly xxxxxxxxxxxxxxxxx

A summary of the submissions received is detailed below and copies of the submissions are attached:

#### Submission 1

A submission from a lady who had seen the front page of the Daily News (5/11/98) and thought that the family had "*spoilt the display of love and devotion to mum by cluttering too many mementos in that area*". She had also been to the cemetery and thought that some of the graves were "*adorned with somewhat inappropriate articles*". The articles referred to were windmills with sunflower faces. The writer suggested that photographs that are part of the headstone be permitted (these are already permitted) but did not make any other specific suggestions. This submission seemed to support Council's current policy but concluded by stating "*I fervently request to you and your fellow Council persons to severely modify your intention to limit (beyond reason) the adornment of graves after all - the ground had to be paid for and so the buyers should have more to say about it.*"

#### Submission 2

A submission from a lady who had previously written to Council after Council's requests to her mother to remove rocks, pebbles, ornaments, plants etc from a grave at Tweed Heads Lawn Cemetery. A petition to Council had also been received which was organised by this lady; she has also received media coverage on the television and in a local newspaper (letter to the editor and article in the paper). The submission requests that artificial flowers and personal memorabilia such as photos and ornaments be permitted. In a previous letter to Council (9/9/98) she suggested that when the ornaments were in the way for setting up for another burial, she and her mother would remove them and replace them; she also offered to do this for any other site that had ornaments on it. Another suggestion was that ornaments be permitted so long as the site "*stays neat and tidy*".

#### Submission 3

A submission from the mother of the person referred to in the above paragraph. She basically made the same suggestions but also suggested that the Councillors visit the lawn cemetery (Tweed Heads) as a group, and that her family would like to conduct the visit.

## Reports from Director Environment & Community Services

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### Submission 4

A submission which stated that *"I have been very happy with the way the Tweed Heads Lawn Cemetery has been run and also how our family has been treated"*. Specific suggestions in this letter were that Council permits artificial flowers; an agreement between Council and the purchaser of the plot be agreed to before an interment can take place, and that the control of cemetery policy be in the hands of a committee.

### Submission 5

This submission supported Council's current policy and commended Council on the maintenance of the cemeteries. The writer stated that the policy should remain as is because *"It would be a nightmare of a task trying to control and maintain the gardens as they now are if it was to change"*.

### Submission 6

A submission which requested that artificial flowers and ornaments be permitted and also suggested that Council regulations in the way of a contract should be available before burial sites are purchased.

### Submission 7

A submission from three undertakers requesting that the hours of operation of the cemeteries be extended. (Item 1.2). The reasons given for this request was to allow for travelling time to Tweed Valley Cemetery and to accommodate the wishes of the families.

### Submission 9

A submission from a local undertaker requesting that the hours of operation of the cemeteries be extended. (Item 1.2). The greater travelling time to Tweed Valley Cemetery to avoid the heat of the day and allow more flexibility for families and minister were the reasons given for this requested change to the policy.

A resident wrote to the Daily News in support of Council's cemetery policy. The writer stated that *"It is all "outward show" and I can just imagine our cemeteries being turned into a great mess with everyone trying to outdo the other with their "show" of sympathy."*

The submissions ranged from support of Council's current policy to the suggestion that people should be able to place anything they like on graves. Careful consideration of the cost of any changes to Council's policy have to be made. The fee charged for burials does not cover the cost of running the cemeteries and it would be difficult to justify further subsidy of cemetery costs when this public facility is only used by a proportion of the population. An important issue to be considered is the aesthetics of the cemeteries and the effect that any changes that may be made will have to the overall character of these areas.

In summary, the issues that were raised or commented on, in submissions to Council were:-

1. To permit, not to permit ornaments, plants, tokens, artificial flowers etc on graves;
2. The suggestion that Council enter into a contract with the purchaser of a burial plot so that they are aware of Council's policy before a burial takes place;

## Reports from Director Environment & Community Services

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3. The suggestion that control of cemeteries should be in the hands of a committee;
4. The suggestion that the hours of operation of Council's cemeteries be extended.

Council's lawn cemeteries were originally planned as places of serenity and natural beauty. In order to maintain the area in this way ornaments of all kinds are not permitted and the result is an open, natural and uncluttered setting that council is often complimented on. The question of aesthetics is a difficult one because what may be pleasing to one person may be quite unacceptable to their neighbours. Even within families some members of a family have placed memorials on a grave which other members of the same family have later complained to Council about. The current memorials which are permitted on graves - a plaque (a wide variety of plaques are permitted) and vases of fresh flowers are universally accepted and appreciated.

Ornaments, plants etc on graves pose a problem for the maintenance of the lawn cemetery and for setting up for new burials. Many ornaments break easily; the whipper-snipper cord can cause them to break, broken pieces of ornaments if mown over could be dangerous and broken glass/ceramic may be a danger to people walking in the area. When setting up for a burial the area around the grave is covered with grass matting, and the mobile chapel and chairs are set up. The area covered is about 3 meters by 6 meters and covers quite a few of the surrounding graves. If the surrounding graves were to have ornaments on them they would have to be removed, labelled so that they could be replaced on the correct grave and then replaced after the burial takes place. In order for the backhoe and tractor to get to the grave site any ornaments along the route to the grave would also have to be removed. Many burials take place as second interments in an existing grave. This means that even the "older" areas of the cemeteries' ornaments on grave sites would have to be removed and replaced. It is difficult to estimate how much extra work allowing ornaments on graves would create as it would depend on how many people would end up putting ornaments on the grave, however mowing around them could increase maintenance cost considerably.

Vandalism has been a problem in an area of one of Council's general cemeteries where many ornaments are placed. This has caused a great deal of distress to the people effected. At present the lawn cemeteries give vandals very little opportunity for destruction, however if Council permits the placement of ornaments etc it may find it has to cope with the cost of cleaning up after vandalism, notifying families and increasing security .

Several submissions noted that Council did not require the family to sign a contract before a burial takes place or a burial site is purchased. No Council on the New South Wales north coast or in southern Queensland contacted by Tweed Shire Council has implemented a system where families have to sign a contract. Council does not generally deal directly with families before a burial takes place. Arrangements are made with the undertaker therefore any information given to the family would need to come via the undertaker. The most effective way to ensure that the family are aware of Council's policy would be for the undertaker to routinely give out a copy of the cemetery policy to all families.

The suggestion that the control of cemetery policy be in the hands of a committee is not considered to have merit as it is not practical to have the day to day running under a committee and therefore the proposed committee would only deal with policy issues which are now decided by Council after consideration and therefore any committee is not seen as necessary.

## Reports from Director Environment & Community Services

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In regard to the issue of “Hours of Operation” that was the subject of the submissions from the funeral directors, it should be noted that the draft policy is simply the “status quo” in regards to cemetery operations. Cemetery staff currently work until 4.00pm. The stipulation that the funeral party leaves the cemetery no later than 3.00pm allows an hour for grave filling, packing up seating, matting etc. and making the area presentable. Funeral directors are not restricted in how much time is spent at the cemetery; it is up to their discretion to allow as much time as they think necessary provided they leave by 3.00pm. Changing the starting time to 9.30am instead of 10.00am should be possible; however extending the finish time to 3.30pm or 4.00pm would incur overtime unless the staff’s work hours were changed. Changing the finish time would involve reviewing the work hours of the cemetery worker, staff that assist the worker when a funeral is booked and the backhoe operator used (often from a separate department of Council). The funeral directors also requested that Saturday morning funerals be permitted from 9.00am rather than 10.00am. A compromise of a 9.30am start should be possible without changes to current staffing arrangements.

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## Reports from Director Environment & Community Services

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

**FILE REF: Honorary Rangers**

**REPORT TITLE:**

**Honorary Rangers**

**SUMMARY OF REPORT:**

Previous Councils have approved the appointment of certain persons within the Tweed Community to act as Honorary Rangers for the term of the Council.

Accordingly, it is appropriate that the current Council approves the existing Honorary Rangers to continue to function in that capacity during the current term of Council.

**RECOMMENDATION:**

That Council approves the following persons to operate as Honorary Rangers for the term of the current Council:

Earl Hayes, Fingal

Richard Gow, Hastings Point

Arthur Poole, Pottsville

Colin Small, Bogangar

Bill Hallett, Pottsville

Rob Brown, Pottsville

## Reports from Director Environment & Community Services

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### REPORT:

Previous Councils have approved the appointment of certain persons within the Tweed Community to act as Honorary Rangers for the term of that Council.

The functions performed by these persons are relatively non-complex, but important in terms of providing information regarding matters arising in the Community. Honorary Rangers record details on issues such as beach vehicles, roaming dogs, littering and illegal camping and forward the information onto Council's Rangers Unit for further investigation.

Council's Rangers obviously can not patrol every beach, park, reserve, village etc at all times, and Honorary Rangers are an effective way of providing information on certain activities which may occur out of patrol hours.

However it is important that the number be kept to a relatively small group of persons considered suitable for the role.

The following persons have effectively operated as Honorary Rangers in the past, and have indicated their willingness to continue to operate in this capacity. Accordingly, it is appropriate that the current Council approve these existing Honorary Rangers to continue to function in that capacity during the current term of Council:

Earl Hayes, Fingal  
Richard Gow, Hastings Point  
Arthur Poole, Pottsville  
Colin Small, Bogangar  
Bill Hallett, Pottsville  
Rob Brown, Pottsville

## Reports from Director Environment & Community Services

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**28. ORIGIN: Director**

**FILE REF: Garbage Depot - Stotts Creek**

**REPORT TITLE:**

**Secure Storage Facility at Stotts Creek Waste Depot**

**SUMMARY OF REPORT:**

Council has an agreement with New South Wales Agriculture to allow a section of the Stotts Creek Waste Depot site to be used by New South Wales Agriculture for a secure storage site for temporary storage of soils from cattle tick dip sites from within Tweed Shire.

**RECOMMENDATION:**

That Council approaches New South Wales Agriculture to determine if it is prepared to relinquish the agreement with Council for use of dedicated land at Stotts Creek Waste Depot for temporary storage of contaminated dip waste.

## Reports from Director Environment & Community Services

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### REPORT:

Council, on 27 October 1994, entered into an agreement with New South Wales Agriculture to allow use of a dedicated location at the Stotts Creek Waste Depot for temporary storage of contaminated dip waste.

This allowed for clean up of dip sites from within Tweed Shire. The agreement allowed for the clean up of 9 priority sites and Kelleher's Dip at the Eviron Road cemetery site at the expense of New South Wales Agriculture as well as allowing for 6 "development" sites to be cleaned up at a fee to be determined by New South Wales Agriculture.

Council's Development Control Unit has advised:-

1. On 30 September 1996 Council issued a conditional "deferred commencement" development approval for the site to New South Wales Agriculture. This was development consent 96/100.
1. The Plan of Management required by the deferred commencement was in the required time (as amended by a Section 96 application).
1. The Plan of Management has not been approved as Environment Protection Authority requirements have not been satisfied.
1. Because the Plan of Management has not been approved, the consent is not operational.
1. The consent will lapse on 30 September 2001 unless the development commences.

Council will, in the near future, be doing a strategic plan of future landfill areas on the site and it would be useful to know if the Department of Agriculture intends to continue to develop the secure storage facility.

The Department has, in the past, called for expressions of interest in a partnership to develop remediation technology for dealing with dip site materials. It is also known the Department has had discussions with a commercial operator of a waste depot outside the Shire regarding possible disposal of dip site materials.

Also, it is known that remediation technology is continuously being advanced.

In view of these matters, it is considered appropriate for Council to approach the Department of Agriculture to determine if it is prepared to relinquish the agreement with Council for use of dedicated land at Stotts Creek Waste Depot for temporary storage of contaminated dip waste.

## Reports from Director Environment & Community Services

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### **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.
  - 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.

## Reports from Director Environment & Community Services

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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.*

## Reports from Director Environment & Community Services

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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.*

## Reports from Director Environment & Community Services

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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:-*



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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.*

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*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.

## Reports from Director Environment & Community Services

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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.

## Reports from Director Environment & Community Services

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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.

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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. Zincalume 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 zincalume 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

## Reports from Director Environment & Community Services

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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.*

## Reports from Director Environment & Community Services

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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 Environment & Community Services

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**30. ORIGIN: Director**

**FILE REF: Art Gallery**

**REPORT TITLE:**

**Museums and Galleries Foundation of New South Wales**

**SUMMARY OF REPORT:**

This report deals with a letter addressed to Cr Lynne Beck, Mayor dated 2 December 1999. A copy of the letter is reproduced in this report. The letter introduces the role and outlines the services offered by the Foundation.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Environment & Community Services

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### REPORT:

#### BACKGROUND

The Foundation is a body that was formed by the NSW Ministry for the Arts to service the needs and requirements of the Gallery and Museum sectors. The funding for the organisation was derived from existing funds allocated to the Regional Galleries Foundation of NSW and Museums Australia (NSW). Prior to this process, the current Art Gallery Director was a board member of the Association, having served on the Board for five years. During the process the Art Gallery Director was the Chair of the Visual Arts and Crafts committee of the NSW Ministry for the Arts. The Art Gallery Director served on the inaugural Board of the Foundation. Maisy Stapleton is the inaugural Chief Executive Officer of the Foundation.

#### REPORT

The letter refers to a series of "Showcases" which are to be conducted over the next two or three years. As a result of the initiative of Council's Cultural Development Officer who is currently working on the State of the Arts 2000 Conference/Forum, the Tweed Shire Council is the first of these "showcases". The Forum will attract visitors from Southern Queensland and the Mid and North Coast Centres. The Forum has provided a vital link between major funding and policy Arts bodies and the Community Cultural organisations.

The letter also refers to a series of collaborative projects initiated by the Foundation in support of Galleries and Museums. The Tweed River Regional Art Gallery is currently involved in developing a collaborative project with the Tweed Historical Societies and the Foundation, titled: "*Federation and Identity*". The Foundation attracted a major grant of \$169,000 to develop and implement the project. The centres of Murwillumbah, Albury, Broken Hill and Bathurst are the contributing centres. The resultant exhibition will tour to these centres as well as other centres in the State of NSW. The Tweed River Regional Art Gallery has played a major role in the development of this project.

The Foundation will also be invaluable in assisting in the development of the new Gallery.

## Reports from Director Environment & Community Services

### MUSEUMS AND GALLERIES FOUNDATION OF NSW

2 December 1999

Cr Lynne Beck  
Mayor of Tweed  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

Dear Cr Beck,

I would like to congratulate on your recent appointment as Mayor. I would also like to acquaint you with Museums and Galleries Foundation of NSW. We are a new organisation, funded by the NSW Ministry for the Arts. We provide services for museums, galleries, keeping places, contemporary art spaces and artist run galleries in both regional and metropolitan NSW.

Our role includes advisory services for the sector, advocacy, marketing and promotion of museums/galleries, initiatives to promote museum/gallery best practice, professional development and provision of resources, publications and other material to facilitate work in the museum/gallery sector.

We are in a position to help local governments by providing advice regarding the establishment and running of museums/galleries and providing professional development for museum/gallery workers. In addition to this we are keen to form partnerships with local governments in supporting their local museums and galleries and raising awareness of regional issues for the sector.

Our program for 2000 will present two regional 'Showcases' which will be conducted over two to three days. They will include workshops and seminars for the museum/gallery sector and will examine issues of regional distinctiveness drawing upon tourism networks and relevant local issues. In addition to this we will conduct six regional workshops and field visits in 2000 which will address professional development and best practice for museums/galleries workers. The locations for both the regional 'Showcases' and the six workshops are yet to be decided. We would like to hear from you if you any plans for future developments in regards to museums or galleries in your community.

I have enclosed a copy of a fact sheet for Museums and Galleries Foundation of NSW which outlines our services, recent projects and staff. This publication should give you an idea of the scale of projects we undertake and the network we encompass.

Please contact me if you should have any queries regarding our services. Museums and Galleries Foundation of NSW number is 02 9358 1760.

Once again congratulations on your appointment and I hope that we will be able to work together in furthering local museums and galleries.

Yours sincerely



Maisy Stapleton  
Chief Executive Officer  
Museums and Galleries Foundation of NSW

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

**FILE REF: Cultural Development**

**REPORT TITLE:**

**State of the Arts 2000 Forum**

**SUMMARY OF REPORT:**

Council is advised that Tweed Shire Council will be convening the State of the Arts 2000 - Far North Coast Regional Forum on Saturday 8 and Sunday 9 April 2000. The venue for the forum will be the Murwillumbah Civic Centre auditorium.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Environment & Community Services

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### REPORT:

Council is advised that Tweed Shire Council will be convening *State of the Arts 2000 - Far North Coast Regional Forum* on Saturday 8 and Sunday 9 April, 2000.

The venue for the forum will be the Murwillumbah Civic Centre Auditorium.

Keynote speakers from federal, state and local government advisory and funding organisations, as well as from the private and education sectors, will explore a range of issues. The topics will include overviews of the roles, policies and programs of various organisations, as well as grant application procedures. The forum will also focus on new directions in regional arts development, including the cultural future within local government, the economic potential of the arts, cultural tourism, youth arts, indigenous arts and developing strategic alliances.

Delegates from the following organisations will be addressing the forum.

- ***Australia Council*** - the premier federal government Arts Advisory and Funding organisation - ANDREW DONOVAN.
- ***Festivals Australia*** - Federal Department of Communication, Information Technology and the Arts - ELIZABETH TUPPER
- ***NSW Ministry for the Arts*** - the premier state government Arts Advisory and Funding organisation - DEBORAH ELY
- ***Regional Arts NSW*** - state/regional Arts Advisory and Funding umbrella organisation - TIM WILSON
- ***NSW Local Government and Shires Association*** - cultural development & policy division - MICHELLE HALL
- ***Museums and Galleries Foundation*** - primary service and advisory service to regional and community museums and galleries - MAISEY STAPLETON
- ***Southern Cross University*** - ROS DERRET
- ***(PCYC)*** - state Police Citizens' Youth Club - MEG SIMPSON
- ***NORPA*** - Northern Rivers Performing Arts Organisation - LIZ TERRACHINI
- ***Film & Television Office*** - state advisory and investment body - JANE SMITH
- ***NSW Community Arts Association*** - arts development, training and accreditation organisation -
- ***Gold Coast City Council*** - Cultural Development Unit - DAVID KEANE
- ***Grafton City Council*** - Corporate Services Division - BRIAN LANE

### BACKGROUND INFORMATION:

#### ***Project Partners:***

The forum is a joint partnership project with the Tweed's two key cultural arts organisations - Tweed Arts Network (TAN) and Tweed Valley Arts Council (TVAC).

#### ***Project Partners/Facilitators:***

##### *Tweed Shire Council:*

- Lesley Buckley - CDO
- Gary Corbett - Gallery Director,
- Rose Wright - Coordinator Tweed Town Centres Committee

##### *TAN:*

## Reports from Director Environment & Community Services

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➤ Bernadette Kelly

TVAC

➤ Carmel Harris -

*Limpinwood Amphitheatre:*

➤ Jean Brewer ( production as ancillary event)

### **Project Aim:**

The project has been developed in line with Council's newly adopted *Cultural Policy*, in which various strategies for developing and supporting local cultural industry and cultural tourism were identified.

In accordance with identified implementation/task strategies in Tweed Shire Council's Cultural Policy 1998, the project aims to:

- Develop working partnerships within various council divisions to enable a more coordinated approach towards cultural/arts/economic/tourism development
- Develop working partnerships between key local arts and cultural organisations
- Develop links with government arts advisory and funding bodies
- Create a platform for professional advice and development for our local and regionally based arts/cultural industries/organisations/individuals by providing an overview of the current arts and cultural environment at all tiers of government
- Develop the project in line (piggy back) with strategies for networking Centenary of Federation Regional Parade Participation Project

### **SUMMARY:**

As can be seen from the above list of prominent speakers, stakeholders are delighted with the response from all invited federal, state and regional government and cultural/arts organisations, which have allocated valuable time and budget to attend and address the forum.

The *State of the Arts 2000* forum promises to be a significant cultural event for the Tweed. The forum will be a unique opportunity for our local and regionally based arts and cultural community and industry workers to meet representatives of Australia's premier advisory and funding organisations. It will also provide a valuable overview and understanding of the current arts environment at all levels of government.

The program for the two-day forum will be finalised in early February, with invitation for registration advertised mid-February. The registration fee for the two-day forum will be \$45.00.

Invitations will be sent to all Councillors and executive staff.

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

**FILE REF: Centenary of Federation**

**REPORT TITLE:**

**Centenary of Federation - Regional Parade Participation Project**

**SUMMARY OF REPORT:**

This gives a progress report on the above named project.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Environment & Community Services

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### REPORT:

Following Council's resolution at its 3 November 1999 meeting to enter into an agreement with the NSW Centenary of Federation Committee (NSWCOFC) to facilitate and coordinate Far North Coast regional involvement in the abovementioned project, Council is advised of progress to date.

### BACKGROUND /SUMMARY:

NSWCOFC has invited the Far North Coast region, along with 12 other arts regions throughout NSW, to participate in the *Journey of a Nation - The Centenary Parade*, which will be staged in Sydney on 1 January, 2001.

The Parade will be the first national event of significance in the Centenary year, and will provide a focus for national celebration. There will be 10,000 people participating with an expected 50,000 in attendance.

The NSW Centenary of Federation Committee has allocated funding of \$12,000 to each of the 13 regions to design and construct floats as well as to costume and choreograph creative inclusions. Transport and accommodation of 60 community representatives from each region will be separately funded by NSWCOFC.

### PROGRESS REPORT

#### November 1998

##### *Expressions of Interest:*

Tweed Shire Council, in partnership with the Tweed's Centenary of Federation Committee, nominates expression of interest to convene a regional forum to be hosted by NSWCOFC.

#### August 1999

##### *Initial Briefing Session:*

CDO attends the COFC preliminary regional forum between representatives of the State's 13 Arts Regions and executives of the NSW Committee.

#### October 1999

##### *NSWCOFC Regional Community Seminar:*

Tweed Shire Council, in partnership with Tweed's COF Committee, convened NSWCOF Regional Community Seminar. The forum was hosted by NSWCOFC and was attended by approximately 80 regionally and locally based representatives from community/cultural/arts organisations.

#### November 1999

Council resolves to enter into an agreement with NSWCOFC to coordinate regional involvement. A Memorandum of Understanding is in the process of preparation and will be forwarded to the General Manager for signature as soon as it is completed.

## Reports from Director Environment & Community Services

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### December 1999 - February 2000

#### *Consultation with Far North Coast Councils*

To enable active regional participation and representation in this project, all local government authorities in the Far North Coast Region have been contacted and asked to promote and support the project.

To enable this project to progress and to reach the creative and inclusive standards currently being set across the State, the following requests have been made to all Councils in the region.

#### **Request 1.**

##### ***Partnership***

We asked that an appropriate representative of each Council nominate for:

- Regional Working Party member and/or
- Point of contact/community liaison/local network facilitator

#### **Response:**

- **Grafton City Council** - Susi Muddiman, Regional Gallery Director - point of contact
- **Casino Council** - Brian Wilkinson, Director Corporate Services - Regional Working Party nominee and local network facilitator
- **Kyogle Council** - Susie Coulston, Community Projects Officer - Regional Working Party nominee and local network facilitator
- **Maclean Council** - Nancy Baine and Bruce Clarke, Maclean Centenary of Federation Committee representatives - Regional Working Party nominees and local network facilitators
- **Ballina Council** - Mrs. E. Skimmings, Tourism Manager - Regional Working Party nominee and local network facilitator
- **Byron Shire Council** - Greg Downes, Manager Community Services - Regional Working Party nominee and local network facilitator
- **Richmond Shire Council** - Ron Caldicott, Tourism Promotions Officer - Regional Working Party nominee and local network facilitator.

#### **Request 2.**

##### ***Community Forum***

We asked that two (2) Councils within our region host a community forum in which representatives of local and neighbouring Shire community organisations be invited to attend. Lesley Buckley and two representatives of Tweed's COF Committee will facilitate and address the forums.

## Reports from Director Environment & Community Services

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### **Response:**

#### ***Planning Session 1: Thursday 17 February***

*Host Council:* Grafton City Council

*Venue:* Grafton Regional Gallery

*Time:* 4.30 - 6.30pm

#### ***Planning Session 2: Tuesday 22 February***

*Host Council:* Ballina City Council

*Venue:* Council Chambers - Main Meeting Room

*Time:* 4.30 - 6.30pm

#### ***Planning Session 3: Tuesday 29 February***

*Host Council:* Tweed Shire Council

*Venue:* South Tweed Community Hall

*Time:* 4.30 - 6.30pm

### **Request 3.**

#### ***Promotion***

We asked that each Council nominate a representative to act as a conduit for information flow throughout the duration of the project.

### **Response:**

As per above list of Council representatives.

### **Request 4.**

#### ***Identifying a Theme***

We asked that Councils widely circulate a survey to enable broad representation in the identifying of an appropriate theme for the float.

### **Response:**

All the above listed Councils have circulated a survey to their local communities.

Responses to the survey are now coming in and the results, plus results from the proposed community planning sessions, will be collated to identify the preferred Far North Coast float theme.

Contact is currently being made with all Councils yet to respond, firstly informing them of the support we are getting from other Councils in the region and also giving them, and their local constituents, the opportunity to participate in the scheduled Planning Sessions.

### **IN SUMMARY**

Although the project presents many challenges relating to coordination and management, it is also providing a unique opportunity to develop working partnerships across the region and State.

The support and enthusiasm exhibited by neighbouring Shires is encouraging. The project will enable the community to come together via creative endeavour to promote our unique regional character.

## Reports from Director Environment & Community Services

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Council will be kept informed as to progress. A full report, detailing the outcome of the Regional Planning Sessions, will be presented to Council in March 2000.

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**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 Tweed Games Committee Meeting held 25 January 2000

GS9/2/3 Pt1 116 398

**VENUE:**

Peter Border Room, Murwillumbah Civic Centre

**TIME:**

1.30 pm

**PRESENT:**

**Committee Members:** Mr Roger Pettyfor, Mr Neville Lack, Mr Ron Brisby, Mr Ken Baldwin, Mrs Marilyn Smith, Mr Robert Quirk, Mr Stewart Brawley

**Informal:** Mrs Blyth Short (Recorder)

**APOLOGIES:**

Cr Warren Polglase, Mr Peter Moschogianis

**CONFIRMATION OF MINUTES:**

**Moved:**

**Seconded: RESOLVED** that the Minutes of Meeting held 9 November 1999 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

### 1. Election of Chair person

Roger Pettyfor was nominated.

**Moved Ron Brisby**

**Second: Ken Baldwin**

**Motion Carried**

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### 2. Appreciation to Council

The committee wish to officially thank Council for their continued support.

**Moved: Ron Brisby**

**Second: Ken Baldwin**

## Reports from Sub-Committees

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### 3. Sponsorship

Stewart Brawley advised that as a result of the last meeting Council resolved to endorse the Tweed Games for the next three years

After a general discussion it was agreed to offer last years sponsors first option. Letters to be forwarded to the sponsors requesting a meeting with committee members to discuss 1 to 3 year deals. All sponsorships will be discussed and decided as a committee.

Allocation of prize money to be decided by individual sports.

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### 4. Event dates

General discussion was held and the month of October was chosen to hold the year 2000 Games.

Tentative arrangements made for: Softball for the 7/8 October, Rowing for the 14/15 October, Pistol for 21/22 October, and Hockey 28/29 October.

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### 5. New sports

General discussion was held on the possibility of introducing new sports. This will depend on sponsorship dollars and ability of sports to organise events and attract people from outside the shire. To be further discussed at next meeting.

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### 6. Pre-Games Training

Discussion on the success of attracting overseas teams to train in the Tweed. At this stage the Dutch womens Hockey Team to train in September, the Indian Mens Hockey Team to train in May/September and the Swiss Rowing Team to train in September.

Success in securing teams has come from approaching management direct, not through administrative contacts. Test Events in Sydeny between now and the Games are the best opportunity to approach teams. The ISSF World Cup is to be held at the Sydney International Shooting Centre in March. This will provide the best opportunity to approach international shooting teams.

**Moved: Ken Baldwin**



## Reports from Sub-Committees

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**Seconded:** Ron Brisby  
**Motion Carried.**

### RECOMMENDATION:

That two representatives from the committee attend two days of the test event (ISSF Worldcup) in March 24 to 31, 2000. Funding to come from 1999/2000 budget allocation for Olympic Games bid.

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### GENERAL BUSINESS

#### 7. Advertising Banner

A promotional banner 4m x .9m is being organised by Council sign writers with the words "Tweed Games 2000 - A Festival of Sport in the month of October."

A Tweed Games 2000 logo will be included.

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#### 8. Plaques

Ken Baldwin to arrange for appreciation plaques for last years sponsors free of cost.

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#### 9. Yellow Pages Advertising

Games to be added to the 'Calendar of Events' in yellow pages.

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### NEXT MEETING:

February 22, 2000 at 1pm

Meeting Closed at 2.35pm.

<i>Directors Comments: Nil</i>
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## Reports from Sub-Committees

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### 2. Minutes of the Krekelberg Environment Park Management Committee Meeting Held 31 January 2000

**VENUE:**

Pottsville Environment Centre

**TIME:**

9.00 am

Present: Cr Henry James, Mr Peter Krekelberg, Mr Len Greer, Mr Stewart Brawley

**APOLOGIES:**

Mr Nigel Greenup

**BUSINESS ARISING:**

#### 1. Election of Chairperson

Stewart Brawley nominated by Len Greer.

**Moved:**

**Second: Peter Krekelberg**

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**GENERAL BUSINESS:**

#### 2. Objectives of Park Management

Discussion held on the objectives of management of the park and issues to be addressed. Fire trials need to be formalised which will also provide for pedestrian access. Access needs to be planned so as to exclude unauthorised vehicles. This will also aid in the policing of motor bikes.

Section 36 of the Local Government Act 1993 deals with preparation of draft plans of management for community lands. Section 36 (1) states 'a council must prepare a draft plan of management for community land.'

**Moved: Henry James**

**Second: Peter Krekelberg**

**RECOMMENDATION:**

That Council considers the allocation of \$10,000 in the 2000/2001 budget for the production and implementation of a plan of management for Krekelberg Environment Park as required under the Local Government Act 1993.

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## Reports from Sub-Committees

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### 3. Breaching of bund walls

Discussion held on the breaching of bund walls. Suggestion the southern wall should taper up from South to North so as to direct overflow on the opposite side to properties.

The discussion on the breach in works located centrally between the north and south bund wall. Suggestion if this were raised 300mm, the flow would be directed to the sides and disposed over a broader area on harder surface.

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### 4. Funding

Any sources of funding including NHT should be explored. NHT have advised recently they will not fund plans but may consider works identified in a plan. These works may be deemed core Council business.

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#### **NEXT MEETING:**

To be advised.

The meeting closed at 9.50 am.

*Directors Comments: That the recommendation under item 2 be adopted by Council.*

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## Reports from Sub-Committees

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### 3. Minutes of the Tweed River Management Plan Advisory Committee Meeting held 2 February 2000

**VENUE:**

Canvas & Kettle Restaurant, Murwillumbah Civic Centre

**TIME:**

11.30am.

**PRESENT:**

Cr W Marshall (Chair), Cr M Boyd, Cr R Brinsmead, (Tweed Shire Council); Messrs C Cormack (Waterways Authority); Ms R James (Caldera Environment Centre); R Hagley (Department of Land and Water Conservation); L Tarvey (National Parks and Wildlife Service); R Quirk (Tweed River Advisory Committee & NSW Cane Growers' Association); A Blundell (T & J Blundell); J Henley, M Tunks, G Judge, Ms J Lofthouse (Tweed Shire Council).

**INFORMAL:** Peter Chappelow (Waterways Authority); Dr John Griffin (Tweed Shire Council); Mike Melville (ASSMAC etc.)

**APOLOGIES:**

N Newell (State Member for Tweed); B Loring (NSW Fisheries); B Graham (Tweed Catchment Management Committee); Cr H James, G Edwards, (Tweed Shire Council); T Rabbidge, (Department of Land and Water Conservation); G Budd (EPA).

**MINUTES OF PREVIOUS MEETING:**

**Moved:** J Henley

**Seconded:** L Tarvey

**RESOLVED** that the Minutes of Meeting held 24 November 1999 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

#### 1. Ukerebagh Passage Seagrass Monitoring

A PhD student, based at Ballina, will be undertaking mangrove, saltmarsh and seagrass monitoring in the lower Tweed estuary. Some of the sites for seagrass monitoring will be in Ukerebagh Passage.

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#### 2. Draft Interim Water Quality Management Plan

Copies of the IWQMP have been distributed and public comment period advertised. All comments on Draft Plan to the Coordinator by 31 March 2000.

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## Reports from Sub-Committees

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### 3. Bird Monitoring

The proposal for the year 2000 wader bird monitoring program was distributed.

**RESOLVED** to invite David Rohweder to the next meeting to present on findings to date and that the decision to continue monitoring be deferred until after this presentation.

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### 4. Stotts Back Channel Meeting

Meeting deferred from 10 February. New date 28 February 2000, 10am at Bruce Chick Park.

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### 5. Boat Ramp Rous River

To be part of a report to Council on status of boatramps and needs in Tweed Shire.

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### 6. Commercial Road Boatramp Bank Revetment

Revetment works near completion, beach section is being well used on weekends by boats and swimmers.

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### 7. Chinderah Bank Revetment

A memo from the General Manager was distributed requesting consideration be given by the Committee to providing additional funds to complete bank revetment works at Chinderah. The Roads and Traffic Authority have provided \$400,000, leaving an estimated shortfall of \$295,000 for Area D of Chinderah foreshore.

The design for the whole foreshore should be undertaken at one time with contract documentation able to be broken up into separate projects.

**Moved:** J Henley  
**Seconded:** Cr M Boyd

## Reports from Sub-Committees

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**RESOLVED** that the \$200,000 allocated in the TRMPAC budget for Area A be reallocated to Area D to supplement the Roads and Traffic Authority funds, subject to approval by the Department of Land and Water Conservation, and that this go to design and tender. Further funding of this section to be considered as required following receipt of tender prices for the works.

**RECOMMENDATION:**

That the \$200,000 allocated in the TRMPAC budget be used to supplement the financial support offered by the Roads and Traffic Authority for bank revetment works to Section D of Chinderah foreshore, subject to DLAWC concurrence.

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### 8. Southern Boatharbour Commercial Operators Jetty

A letter was received from the Tweed River Charter Operators Association in response to the letter sent from this Committee requesting they contact Pier 2 development proponents with a view to possibly relocate within the marina facility proposed for that site. The reply noted that the Pier 2 development had no firm commencement or completion date and that a central setdown and pickup facility was unavailable at that site. Therefore, the site is considered unsuitable. Further, the present proposed site for a commercial operators jetty is in accordance with the Management Strategy for the Southern Boatharbour.

Noted from previous minutes that the cost of mooring a 12 metre vessel at Coffs Harbour is \$80 per week and \$2040 per year.

**Moved:** Cr M Boyd

**Seconded:** C Cormack

**RESOLVED** that the Commercial Operators be requested to contribute 50% of the estimated cost toward the jetty with TRMPAC to facilitate the application for 1:1 financial assistance from the State Government for that section of the jetty deemed as “for public usage”.

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Dr John Griffin leaves.

### 9. Riparian Revegetation Project - Proposal from the Challenge Foundation

A proposal was submitted (distributed with agenda) from Raoul Marks at the Challenge Garden Centre looking for financial support for a number of revegetation projects in riparian zones around the Murwillumbah area.

Discussion on Condong Creek as one possible site with Council controlled road reserve either side of the Creek.

## Reports from Sub-Committees

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**Moved:** J Henley

**Seconded:** R James

**RESOLVED** that Jane Lofthouse and Raoul Marks work up an initial proposal for 1 project with a cash contribution from this Committee of up \$5000 and that the proposal be discussed with local landholders to determine their support.

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### 10. Area 5 EIS

The scoping report from WBM Oceanics Australia for works to be undertaken to update the EIS for extractive dredging in Area 5 was distributed with the Agenda.

John Henley noted that several inquiries had been made regarding the extraction of sand from the Tweed River and that this may be a good time to test the level of interest through placing the sand extraction of Area 5 out to tender to gauge interest. The production of an EIS could then be handed over to this commercial interest to pursue.

Cr Boyd noted that it may be an option for Council to undertake the work itself as a source of revenue.

**RESOLVED** that Richard Hagley and John Henley investigate options in relation to either Council proceeding with the EIS or the proposed dredging lease being put out to public tender with the proponents completing the EIS.

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### 11. Estuarine Bird Survey - Project Proposal 2000/

**Moved:** J Henley

**Seconded:** Cr M Boyd

**RESOLVED** to defer to next meeting, awaiting report from David Rohweder at next meeting.

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### 12. Water Quality and River Flow Interim Environmental Objectives

A summary report was distributed to the Committee with the Agenda. Limited copies of the full report are available through Jane Lofthouse.

## Reports from Sub-Committees

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**Moved:** J Henley

**Seconded:** Cr M Boyd

**RESOLVED** to defer discussion on the implications of this report until the next meeting.

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### GENERAL BUSINESS:

#### 13. Riverbank Erosion adjacent to the Pacific Highway

Cr Boyd noted the severity of bank erosion adjacent to the Pacific Highway in several places between Oak Avenue and Murwillumbah, particularly at one site near the Norco building.

Concern that the remediation of this bank erosion will be left with Council once the Chinderah to Yelgun Bypass is completed and the "old" Pacific Highway reverts to Council control. It is possible that Council will be left with a situation similar to that at Chinderah with the RTA only partially funding required revetment works leaving Council to find the shortfall which can reach into the hundreds of thousands of dollars.

**Moved:** Cr M Boyd

**Seconded:** R James

**RESOLVED** to send a letter to the Minister for Roads with regard to the issue of bank erosion and its potential impact on the Pacific Highway at several sites between Chinderah and Murwillumbah.

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#### 14. Acid Sulphate Soil Research and Rehabilitation in McLeods Creek Area

Mike Melville will present a report to the next Committee meeting on the status and successes of the ASS projects in the McLeods Creek area. Monitoring in the McLeods Creek drain has shown pH levels of around 3 in the upstream sections of the drain and around 7 near the outlet of the drain into Stotts Back Channel. This indicates a positive result for liming of drains in this area and other management practices.

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#### 15. Floodgate Winch for McLeods Creek

Robert Quirk noted that the cane farmers in the McLeods Creek area were now prepared to look at installation of floodgate winches for active management of the floodgate at the mouth of McLeods Creek. John Huegill from NSW Fisheries will be notified of this.

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## Reports from Sub-Committees

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### 16. Terranora Broadwater Entrance

Concerns have been noted in the community with regard to the perceived sedimentation of the entrance to Terranora Broadwater. A report to be brought to the next meeting.

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### 17. Fig Tree Stotts Island

Noted that the big fig tree on the southern side of Stotts Island has fallen into the river. Waterways Authority notified at the meeting and will look at the issue of the tree now being a threat to navigation.

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### 18. Tweed Valley Water Board

Copies were distributed of the report on the dissolution of the Tweed Catchment Management Committee and the Council resolution *to convene a workshop on the proposal that Council pursue the formation of a Tweed Water Management Board to deal with all catchment and water management related issues in the Tweed River Valley and seeks to have this ratified by the relevant Ministers.*

**RESOLVED** that this item be deferred for full discussion at the next meeting.

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### 19. Independent Inquiry into the Clarence River System

Noted that final report of the Healthy Rivers Commission into the Clarence River is complete. Jane Lofthouse has one copy available.

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## Reports from Sub-Committees

### 20. University of Queensland - Ecological Health Project

A meeting has been organised with the University of Queensland researchers undertaking the Ecological Health Monitoring Project for the Committee. The meeting is to be held on Thursday 17 February at 11.00 am in the Peter Border Meeting Room. All Committee members are invited to attend.

#### NEXT MEETING:

The next meeting of the Committee is to be held on Wednesday 15 March at the Canvas & Kettle Restaurant commencing at 9.30 am.

The meeting closed at 1.15pm.

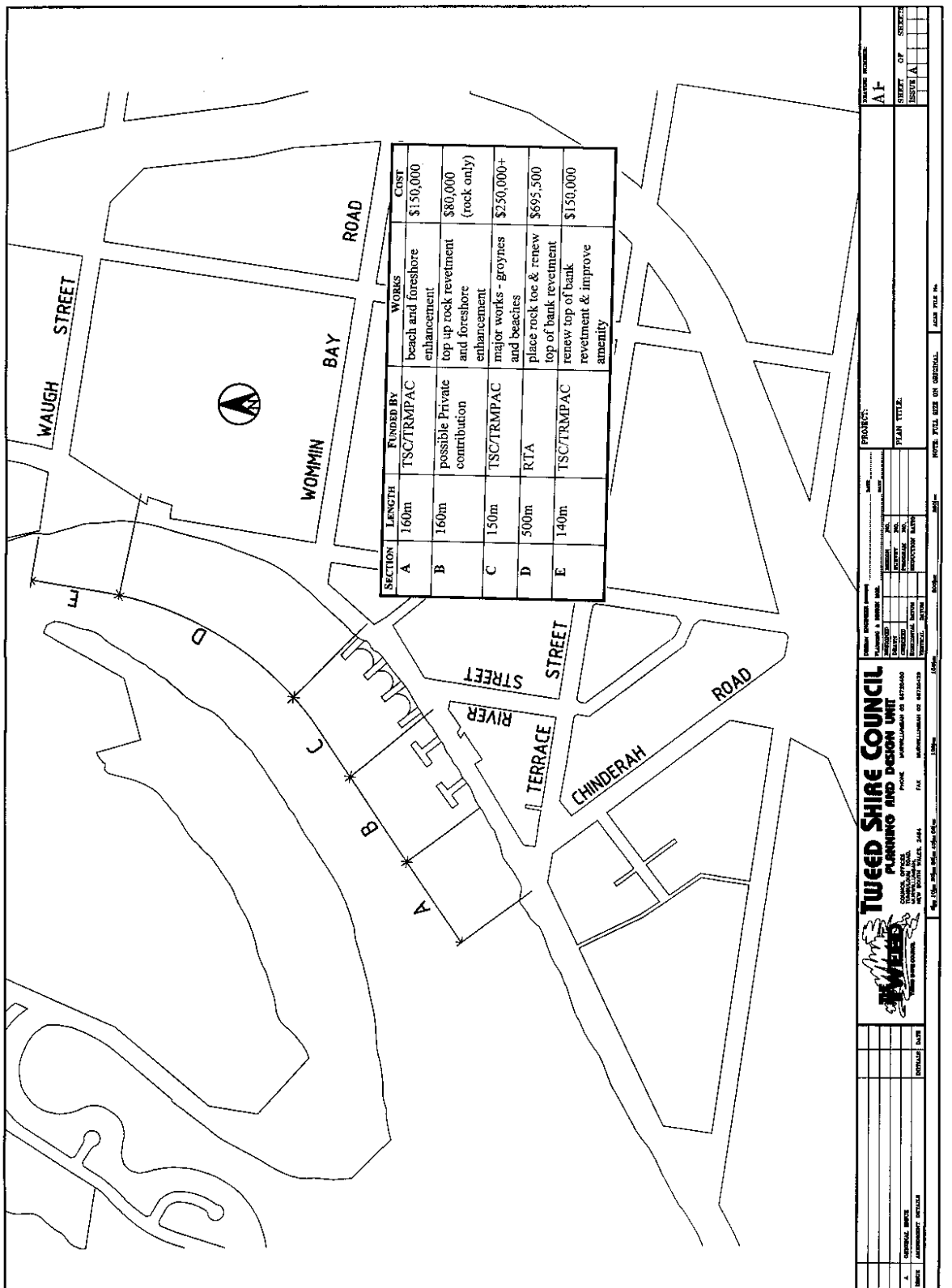
#### **Directors Comments**

*With the offer of financial support of \$400,000 from the Roads and Traffic Authority, it is now necessary for Council to fund the shortfall in cost of the revetment of Chinderah Foreshore.*

<i>The estimate for Section D (from Jenners Corner to approximately 600m north) of Chinderah Foreshore was</i>	<i>\$695,000</i>
<i>Roads and Traffic Authority contribution</i>	<i>\$400,000</i>
<b><i>Shortfall</i></b>	<b><i>\$295,000</i></b>

*The recommendation by TRMPAC should be adopted. This will permit the project to proceed to design and tender with a budget of \$600,000. Any further shortfall can be addressed once tenders are received.*

# Reports from Sub-Committees



## Reports from Sub-Committees

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### 4. Minutes of the Local Traffic Committee Meeting held 3 February 2000

GT2/1 Pt3 451

**VENUE:**

Oxley Room

**TIME:**

Commencing at 9.00am.

**PRESENT:**

**Committee Members:** Cr George Davidson; Tweed Shire Council; Mike Baldwin, Roads and Traffic Authority; Mr Neville Newell, MP, Member for Tweed.

**Informal:** Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council.

**APOLOGIES:**

Mr Don Page, MP Member for Ballina, Sgt Andrew Lawler, NSW Police.

**MINUTES OF PREVIOUS MEETING:**

**RESOLVED** that the Minutes of the Local Traffic Committee Meeting held 16 December 1999 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**BUSINESS ARISING:**

GT2/1 Pt3 451

### 2. Pacific Highway, Banora Point

R4031

From meeting held 19 November 1999 (item 2).

*“There is a serious lack of any pedestrian facilities on the four lane 80kph section of Pacific Highway from Laura Street to Barneys Point Bridge.*

*Despite recent RTA re-design, there are no footpaths, pedestrian crossings or traffic separation barriers provided in this urban corridor. Pedestrians and cyclists are exposed to significant dangers when forced to cross the highway to reach bus stops, or when obliged to use the road shoulders to travel between the footpaths in Minjungbal Drive and the pedestrian footways provided on Barneys Point Bridge. This danger is compounded by narrow shoulders often with poor visibility sight-lines.*

*It is requested that the RTA devise measures to address deficiencies in pedestrian and cyclist safety on the Pacific Highway Banora Point.*

*The Road Safety Officer reported that the problem is because there are two bus shelters on either side of the road and people living in West Banora Point that are dropped off on the*

## Reports from Sub-Committees

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*Laura Street side cannot cross the road safely. There is also a school on the western side of the road and a lot of the students come from East Banora and they have to walk under the underpass, which considerably increases the journey length.*

*The possibility of moving the guardrail was raised as well as an overhead east/west walkway. The RTA Representative stated that they have no plans for such a walkway. It was noted that the bus stops are on the crest of a hill with an 80kph speed zone and 4 lanes of traffic. The RTA Representative stated that it would be best to move the bus shelters completely. The possibility of a cycleway footway in the long term was discussed but it was noted that this was long term as wetlands have to be utilised. Black Spot Funding was suggested as a possibility for the location, which would be applied for by the RTA. The RTA Representative suggested that Council formally contact the RTA Grafton office for consideration of funding and acknowledged that this location was not pedestrian friendly. In the meantime the RTA Representative stated that the guard rail could be moved but 0.5m must be maintained between the edge line and face of guard rail, however they would have a significant cost.*

*The RTA stated that a plan of where people move, what the movements are and a suggestion of what can be done to accommodate pedestrian needs to be drafted and submitted to the RTA at Grafton.*

*The Road Safety Officer undertook to bring some ideas to the next meeting and it was decided that in the meantime details be forwarded to the RTA at Grafton.*

*For Council's information and further discussion at the next Local Traffic Committee meeting."*

From meeting held 16 December 1999 (item 2):

*"The Chairman stated that for the next Local Traffic Committee meeting a sketch will be provided of what may be done to assist the situation.*

*For Council's information."*

The possibility of Black Spot Funding for this location was discussed and the RTA Representative undertook to discuss this with the appropriate person at the RTA.

Deferred pending further discussion at the next Local Traffic Committee meeting.

For Council's information.

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### 1. Cane Road and Racecourse Road, Murwillumbah

**R0940**

From meeting held 16 December 1999 (item 1):

*"Request received for the installation of a 60 or 80kph speed zone at the intersection of Cane and Racecourse Roads. Council has already approved warning signs and a crossing and a request has now been received for a reduction in the speed zone to help minimise the*

## Reports from Sub-Committees

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*danger to students and horses who regularly use the crossing for access to the Murwillumbah Racecourse.*

*Gary Newman and Debbie Suter addressed the Committee. Mr Newman advised the Committee that the speed that traffic travels on the road was horrific (and believed to be approximately 120kph). He said that it is frightening to see students with horses moving across the road and safety is a major concern. It was noted that the horses and students go across Cane Road from 6.00am to 10.30am (46 horses) and after the new year it was reported that junior students will also be working with the horses. It was reported that the hours for juniors crossing could possibly go into the afternoon.*

*It was noted that the horses are led to and from the track (and not ridden) and that warning signs are in place.*

*Speed counts on Cane Road have not been collected. The RTA Representative stated that it would be appropriate to get speed and traffic counts to see if there is a more effective way of handling the problem. The Chairman stated that this would be handled during the middle of January as resources are presently being used elsewhere.*

*The question of the fence line possibly being moved and road reserve used to allow the horses to get off the road quicker was undertaken to be followed up by the Chairman.*

*The item be deferred to the next meeting until traffic and speed counts are taken.*

*For Council's information."*

Speed surveys have been undertaken and it was noted that the 85<sup>th</sup> percentile speed heading east was 84kph and west 96kph, which fit in with the current speed zone. The RTA Representative advised that given the speeds it would be inappropriate to reduce the speed limit in this location.

The Chairman advised that it is a possibility that part of the road reserve could be used to allow the handlers and horses to get further off the road and the applicant would be requested to submit a plan.

Cr Davidson suggested that the time when traffic is less in numbers could be utilised to cross the horses. The times when the least amount of vehicles use this section of road are those hours outside school hours being 5:30pm - 7:30am and 9:30am - 2:30pm. The Road Safety Officer suggested that experienced handlers should cross with the trainees. Given the rural nature of the area and the good standard of the geometric conditions, a reduced speed limit to cover the relatively isolated crossing of horses cannot be supported.

### **RECOMMENDATION:**

That the applicant be advised that:-

1. A plan of management be forwarded to Council detailing the desired method of utilising the road reserve to give more room to the horses when crossing Cane Road.

# Reports from Sub-Committees

2. Trainees should be accompanied by experienced horse handlers when crossing Cane Road.

**GENERAL BUSINESS:**

## Part A

### 1. Wharf Street, Tweed Heads

**R5901**

Request received for closure of the southbound lane of Wharf Street from the Border to Bay Street from 6:00am to 1:00pm Daylight Savings Time on 25 March 2000. This is for the RTA Big Ride involving 1600 cyclists and associated volunteers. 15 - 20 buses will be parking behind Twin Towns Services Club.

The Local Traffic Committee is being requested to endorse the proposed route. Following is the requested route and proposed alternative:

**Big Bike Ride**

Proposed Route	Preferred Route
Wharf St	Wharf St
Kennedy Dr	Minjungbal Dr
Gollan Dr	Dry Dock Rd
Scenic Dr	Fraser Dr
Bilambil Rd	Terranora Rd
Terranora Rd	
<i>lunch at Tumbulgum</i>	<i>lunch at Tumbulgum</i>
Dulguigan Rd	Dulguigan Rd
Tomewin Rd	Tomewin Rd
Queensland Rd	Queensland Rd
<i>overnight</i> <i>Murwillumbah</i>	<i>overnight</i> <i>Murwillumbah</i>
<i>Showground</i>	<i>Showground</i>
Murwillumbah St	Murwillumbah St
Wharf St	Wharf St
Tumbulgum Rd	Tumbulgum Rd

## Reports from Sub-Committees

Cane Rd	Cane Rd
McCleod St	McCleod St
Clothiers Rd	Clothiers Rd
Coast Rd	Coast Rd
<i>morning tea Hastings Point</i>	<i>morning tea Hastings Point</i>
Coast Rd	Coast Rd
<i>lunch at Wooyung</i>	<i>lunch at Wooyung</i>
Wooyung Rd	Wooyung Rd
Pacific Hwy	Pacific Hwy

The Chairman advised that the 'preferred route' is now the agreed route and that the route has been visited with Police and RTA Representatives. The Local Traffic Committee endorsed the 'preferred route', subject to the submission of a Traffic Management Plan.

The RTA Representative requested that marshals utilising signs be incorporated into the Traffic Management Plan.

The Committee also considered the proposed closure of the southbound lanes of Wharf Street between Boundary Street and Bay Street from 6:00am to 1:00pm on 25 March, 2000. The Committee was advised that Twin Towns Services Club requested that the length of time of the closure be minimised. The Committee noted that the 1:00pm opening could not be brought back due to the time it takes for participants to pass the start line and that there was little benefit in changing the time of the commencement of the road closure and therefore the Committee supported the requested closure time.

### RECOMMENDATION:

That:-

1. The Traffic Committee endorses the proposed route of the Big Bike Ride through Tweed Shire as follows:

#### Preferred Route

Wharf St

Minjungbal Dr

Dry Dock Rd

Fraser Dr

Terranora Rd



## Reports from Sub-Committees

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*lunch at Tumbulgum*

Dulguigan Rd

Tomewin Rd

Queensland Rd

*overnight Murwillumbah Showground*

Murwillumbah St

Wharf St

Tumbulgum Rd

Cane Rd

McCleod St

Clothiers Rd

Coast Rd

*morning tea Hastings Point*

Coast Rd

*lunch at Wooyung*

Wooyung Rd

Pacific Hwy

2. The southbound lanes of Wharf Street between Boundary Street roundabout and Bay Street be closed between 6.00am to 1:00pm on 25 March 2000 be supported.
3. No objection is given for the closure of Murwillumbah Street from Queen Street to Brisbane Street from 1:00pm to 6:00pm on 25 March 2000. Appropriate signage should be provided.
4. A detailed Traffic Management Plan be submitted no later than four (4) weeks prior to the event.

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**2. 229 Pacific Highway, Murwillumbah**

**R4031**

Complaint received regarding vehicles parking in the 'No Standing' zones near the shop, opposite Reserve Creek Road, blocking sight distances. Also heavy vehicles parking during the night opposite the houses with refrigeration units running creating noise. It should be

## Reports from Sub-Committees

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noted that the RTA has provided a truck parking area in this location because of the popularity of the shop with the truck drivers, which is to be expected on the Pacific Highway.

The Road Safety Officer reported that the main problem seems to be vehicles parking in the 'No Standing' zone and blocking people's sight as they are leaving their driveways. The other issue is trucks parking on the opposite side of the road with refrigeration units running. It was noted that trucks are entitled legally to stop for 1 hour in a residential area on the Pacific Highway. It was also noted that the Police should enforce the parking restrictions that do exist. It was noted that the shop does have toilet facilities.

The need for rubbish bins on the Pacific Highway, Murwillumbah near the Reserve Creek Road roundabout would be referred to the Manager, Recreation Services.

Given the above, the Committee noted that little can be done to improve the situation other than requesting the Police to enforce the existing parking restrictions on a regular basis. However, when the Billinudgel to Chinderah Motorway is completed, very few heavy vehicles will travel through Murwillumbah.

For Council's information.

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### 3. Intersection of Laura Street and Anderson Street, Banora Point

**R3020 & R169**

Request received for a short length of median to be installed at the Anderson Street leg of the intersection with Laura Street. In wet weather it has been reported that a number of vehicles have skidded out of control as they have entered the intersection at too high a speed. An inspection by Works Unit Engineers of the surface of Anderson Street has revealed that the aggregate is slightly polished. As a result of this the road will be included in Council's 2000/2001 asphalt overlay program for resurfacing and will not be completed until about October 2000. In the meantime it is proposed to erect "slippery when wet" signs in Anderson Street.

Local Traffic Committee advice is sought regarding the installation of a short length of median at the Anderson Street leg of the intersection with Laura Street.

The Chairman advised that Anderson Street is the relatively short piece of road feeding into Banora Point East. The RTA Representative suggested if anything, a painted median with reflectors is preferred until the slippery surface is resealed, at which point in time a raised median would not be needed. He was concerned that a raised median on a slippery surface may cause more problems than those occurring now.

#### **RECOMMENDATION:**

That a painted median with reflectors be installed on Anderson Street at the intersection with Laura Street, when funds are available.

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## Reports from Sub-Committees

### 4. Intersection of Bilambil Road and Terranora Road

**R5430 & R5441**

Request received for the provision of a “Stop” or “Give Way” sign at the intersection of Bilambil Road with Terranora Road.

This item has previously been considered on 22 October 1999 (item 12) as follows:

*“Request received for:-*

- 1. Terranora Road to be a 60kph speed zone due to the road width and traffic volumes generally. The RTA Representative stated that the whole speed zoning policy is under review and should be released in April 2000 and there would not be any major changes approved until that policy is in place so that a uniform approach to speed zoning across the State would apply. A reduction to 60kph was not supported as it is 80kph currently and a rural area and all the curves are sign posted with advisory speeds.*
- 2. Increase in line of sight turning right from Bilambil Road onto Terranora Road (at the pump station). The present curve of the road restricts visibility. Increase in line of sight turning right from Bilambil Road onto Terranora Road was not considered a problem. The Committee noted that sight distance is adequate and that Bilambil Road sight distance onto Terranora Road was in order.*
- 3. The provision of a left hand turning lane from Bilambil Road into Terranora Road is not warranted as it is in a rural area and traffic volumes do not warrant it..*
- 4. A “Stop” sign at the T-junction of Bilambil Road/Terranora Road was not supported as it is a T intersection, which is reinforced with a “Give Way” sign..*

#### **RECOMMENDATION:**

*That the Applicant be advised that:-*

- 1. The request for a reduction in the speed limit on Terranora Road is not supported.*
- 2. The sight distance at the intersection of Bilambil and Terranora Roads is considered adequate.*
- 3. The provision of a left hand turning lane from Bilambil Road into Terranora Road*
- 4. The installation of a “Stop” sign at the T-junction of Bilambil Road/Terranora Road.”*

The Committee noted that it is clearly a ‘T’ intersection and sight distance is good and there are double centre lines on all approaches. The Committee did not support the installation of “Stop” or “Give Way” signs at the intersection of Bilambil Road and Terranora Road. Given that there is no reported accident history and it is noted that the intersection is a clearly defined T intersection with adequate sight distance in all directions, the road rules clearly apply to this intersection. Therefore the request is not supported.

## Reports from Sub-Committees

### RECOMMENDATION:

That the applicant be advised that the request for a “Give Way” or “Stop” sign at the intersection of Bilambil Road and Terranora Road is not supported as it is a clearly defined T intersection with adequate sight distance in all directions and road rules apply to such intersections.

### 5. Mooball Road (Seabreeze Estate Pottsville)

**R3510**

Request received for the extension of the 60kph speed limit on Mooball Road to west of the proposed intersections to the subdivision.

The Chairman advised that the intersections are designed for roundabouts. The Committee agrees in principal to a 60kph zone along the frontage of the Seabreeze Estate on Mooball Road that will cover both intersections. However, it is inappropriate to change the current speed zoning until the intersections are constructed.

### RECOMMENDATION:

That the applicant be advised that the Committee agrees in principal to a 60kph zone along the frontage of the Seabreeze Estate on Mooball Road to west of the proposed intersections to the subdivision however it is inappropriate to change the current speed zoning until the intersections are constructed.

### 6. Coast Road, Cabarita Beach

**R1181**

A pedestrian survey was undertaken on the Coast Road in the vicinity of the Post Office and General Store on 2 January 2000 from 11:00am to 1:00pm. Details are as follows:

Time	Pedestrians	Vehicles		
		Northbound	Southbound	Total
11:30 - 11:45	212	1034	708	1742
12:15 - 12:30	176	559	404	963
12:45 - 1:00	168	563	414	977

The majority of pedestrians crossed adjacent to the Hotel Bottle Shop rather than walk the 20 metres to the existing pedestrian refuge.

Pedestrians were observed to wait 10 to 15 minutes to Cross the Coast Road in this location whereas use of the refuge would have halved this waiting time.

## Reports from Sub-Committees

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Young children were also observed taking risks placing themselves in danger rushing to avoid the very busy traffic.

A marked crossing is definitely required in this vicinity for busy holiday periods.

The RTA Representative recommended that traffic control was needed during busy times and that maybe the pedestrian refuge needs to be moved. The RTA Representative requested further counts for 3 x 1hr durations on a typical day, to be Saturday or Sunday and Thursday. The Committee noted that weekdays were not representative of traffic and pedestrians in this area. Movable pedestrian lights during holiday times were discussed but it was not seen as a practical solution. It was noted that the population in Cabarita has almost doubled in the past 3 years.

At the request of the RTA Representative this was deferred pending further traffic and pedestrian counts to be undertaken over a more representative period being a 3 day period on a Saturday, Sunday and either of Tuesday, Wednesday or Thursday.

For Council's information.

*See Director's comments at end of Minutes.*

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### 7. McLeod Street, Condong

**R3220**

Request received for Local Traffic Committee advice in dealing with speeding vehicles on McLeod Street, Condong. A vehicle has recently lost control and hit a telegraph pole on McLeod Street. Residents are concerned for the safety of children in the area.

The Committee noted that it was possible that the access to the boat ramp could be sealed and that residents should be encouraged to note number plates and report offending drivers to the Police. The Committee does not consider traffic calming devices suitable as McLeod Street is a local road that does not carry any through traffic. Speeding problems would appear to be isolated and the Committee suggests that residents record number plates of offending vehicles and pass this information on to the Police who have previously advised they will pursue complaints provided those making the complaints are prepared to make formal statements. It is also suggested that the most northern boat ramp access be sealed for approximately 20m when funds become available.

#### **RECOMMENDATION:**

That:-

1. The most northern boat ramp access on McLeod Street, Condong be sealed for approximately 20m when funds become available.
2. Residents of McLeod Street, Condong be advised that in the case of speeding vehicles, they record number plates of offending vehicles and pass this information on to the Police.

## Reports from Sub-Committees

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### 8. Anne Street, Pottsville

**R191**

Request from residents of Anne Street to physically close Anne Street at the intersection of Overall Drive to prevent through traffic from Pottsville Waters utilising Anne Street as a shortcut.

The Committee noted that vehicles in Pottsville use Anne Street (about 2,500 vehicles per day) to avoid using the Coast Road. It was noted that Anne Street is a regular bus route and school bus route and Surfside have been consulted regarding the possible closure of Anne Street at the intersection with Overall Drive. The Committee noted that there would not be a problem with the regular bus route but that there is a problem with the school bus route. It was noted that school children could be picked up at the road closure point on Anne Street as well as the location near the newsagent. It was noted that the road closure should be advertised in the Tweed Link for a trial period of 3 months and that a Council decision be made after that trial. It was noted that the bus shelters in Cabarita that are currently not used could be moved to Pottsville.

#### RECOMMENDATION:

That:-

1. The proposed road closure of Anne Street at the intersection of Overall Drive be advertised in the Tweed Link as a 3 month trial and
2. Comments be sought from affected residents before and during the trial.
3. Negotiations regarding arrangements for bus routes be made with Surfside Buslines before the trial closure is installed.

### 9. Chinderah Bay Drive, Chinderah

**R1071**

Request received for the installation of a bus stop post on Chinderah Bay Drive near the intersection of Waugh Street, approximately 40 metres north of the intersection.

#### RECOMMENDATION:

That the installation of a bus stop on the eastern side of Chinderah Bay Drive near the intersection of Waugh Street, approximately 40 metres north of the intersection is supported.

## Reports from Sub-Committees

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### 10. Olympic Torch Relay

**GS9/2/2-1**

This item was previously discussed on the 24 September, 1999 (item 6). The Local Traffic Committee discussed the RTA request for a Traffic Management Plan for the Olympic Torch Relay and the need to have the route finalised by the end of February 2000. The Civic Liaison Officer joined the meeting and advised of the route. She advised that there would be no festivities in Tweed Shire because of the Wintersun Festival. Parking requirements were noted as a potential problem. It was noted that the event would be in the late afternoon of 11 June 2000. It was noted that the local Police had in place an Operations Plan for the day.

It was decided that the Civic Liaison Officer would contact the Police Representative to obtain a copy of the Police Operations Plan. The RTA Representative, Traffic & Transport Engineer and Police Representative will meet next week to finalise the plan. Marilyn Smith left the meeting.

For Council's information.

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### 11. Coast Road/Old Bogangar Road

**R1181 & R3840**

Late item. The Chairman advised that the speed zoning on Old Bogangar Road needs to be clarified now the section constructed by a developer has been opened. It is suggested that the existing 80kph zone north of the bridge be extended further south that would include the new Coast Road in the 80kph zone. The 80kph zone on Old Bogangar Road should commence 150m south of the Coast Road intersection and from this point to Bogangar, the current 90kph zone remains.

#### **RECOMMENDATION:**

That the 80kph speed zone on Old Bogangar Road be altered to commence 150m south of the Coast Road intersection.

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### 12. Minjungbal Drive, South Tweed Heads - Tweed City Bus Stops

**R3454**

Late item. It was noted that bus stops are in progress of being installed on each side of Minjungbal Drive.

For Council's information.

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## Reports from Sub-Committees

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### 13. Clothiers Creek Road

**R1160**

Late item. Mr Newell expressed the concerns of a resident on a sweeping 45kph bend and a school bus stop on the bend. Mr Newell undertook to formally advise the Local Traffic Committee Chairman of the details.

For Council's information.

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## Part B

### 1. Development Application for Proposed Staged Tourist Resort Complex on Lots 194, 301 and 302 DP 755701 Coast Road, South Kingscliff

**DA1180/10 Pt1 & K99/1755**

Application received for a staged tourist resort complex subject to future development application and approvals on 6 "Master Lots", to be created by subdivision in the current application. This application also proposes a new road and infrastructure to service the lots.

Local Traffic Committee comments are sought in accordance with the mandatory provisions of SEPP11 - Traffic Generating Development.

Plans of the development were viewed by the Committee. Cr G Davidson left the meeting at 11:05am.

After considering the plans the Committee recommends the following:

That:-

1. The proposed road should follow the lot boundaries to avoid development on the lots being bisected by the Coast Road which has the potential to increase pedestrian and traffic conflict.
  2. If the Coast Road is to bisect the resort hotel from the reception area a pedestrian overpass should be constructed over the Coast Road to link the facilities.
  3. The relocated Coast Road alignment to be designed in accordance with a design speed nominated by Council to reflect the roads function.
  4. The design should minimise the need for pedestrians to cross the Coast Road.
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## Reports from Sub-Committees

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### 2. **Proposed Boutique Winery, Tourist Accommodation, Golf Course and Associated Facilities at 363 Carool Road, Carool**

**DA0960/730 Pt1**

Application received for a proposed boutique winery, tourist accommodation, golf course and associated facilities at lots 251, 250, 263 and 264 DP 755685 and Lot 1 DP 121377 Carool Road, Carool.

Local Traffic Committee comments are sought in accordance with the mandatory provisions of SEPP11 - Traffic Generating Development.

The Committee noted that a staged development approval is centred around a winery with Stage 1 being a winery building, restaurant and function rooms and another 200m<sup>2</sup> of accommodation rooms. Stage 2 is 16 x 2 storey units and Stage 3 being four bungalows and a golf course for use by guests only. 1997 traffic counts show 445 vehicles per day.

The RTA Representative has visited the site and is concerned with the state of the road in terms of geometric standard. The road is generally acceptable from the School to Bilambil however the section from the School to the site should be upgraded before additional traffic is encouraged on it, especially as tourist buses are proposed. The Committee agreed with these requirements.

For Council's information.

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### 3. **Proposed Residential Subdivision Creating 47 Lots and Dedication of Two Public Reserves and Construction of Roads at Lot 335 DP 844423 Champagne Drive, Tweed Heads South**

**DA1020/245 Pt1**

Development application received for a 47 lot residential subdivision at Lot 335 DP 844423 Champagne Drive, Tweed Heads South. The proposal involves the construction of a temporary road to Fraser Drive until the road along the northern boundary of Flame Tree Park has been constructed and then the connecting road to this is proposed to be constructed in Stage 2.

Plans of the area were viewed by the Committee.

The Traffic Committee recommends that the application be refused because of the proximity of the proposed intersection to Leisure Drive and the entrance to the South Tweed Rugby League Club. The proximity to these intersections makes it impossible for the developer to provide a left turn lane and a right turn lane into the proposed temporary road in accordance with Austroads Standards. The issue is further complicated as it is impossible to establish the length of time that the temporary road would exist as it is completely dependent on the future construction of a road by another developer, which could take years or may not occur at all. It is suggested that the applicant should negotiate with the adjoining landholder to negotiate access via the extension of Leisure Drive, west of Fraser Drive.

For Council's information.

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## Reports from Sub-Committees

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### 4. Coast Road, Bogangar (Les Burger Sports Field)

**R1181**

An application has been received for formal access from the Les Burger Sports Field to the Coast Road. The meeting supported formal access onto Coast Road from the Les Burger Sports Field provided an Austroads right turn Type C intersection and Type B left hand lane are constructed and no other planning issues preclude such intersection.

For Council's information.

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### 5. Seabreeze Estate, Pottsville Beach

**R3510**

Plans of the area were viewed by the Committee. The bikeway and pedestrian path network should be modified as shown on the attached plan to improve connectivity. The internal road network including the connection to Koala Beach is supported by the Committee.

For Council's information.

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### NEXT MEETING:

The next meeting is scheduled for Thursday 16 March 2000.

The meeting closed at 12.00 noon.

*Director's comments:*

*Item 6:*

*The RTA suggestion to utilise traffic control staff or temporary traffic signals at the refuge on the Coast Road, Bogangar is impractical as it is a high cost proposal that does not solve the year round problems pedestrians face in this location. It is intended to obtain the additional pedestrian count data and pursue the issue with the Regional Manager of the RTA.*

## Reports from Sub-Committees

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### MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

5. **Minutes of the Public Transport Committee Meeting held Tuesday, 23 November, 1999**
  6. **Minutes of the Public Transport Committee Meeting held Tuesday, 18 January, 2000**
  7. **Minutes of the Strategic Planning Committee Meeting held Wednesday, 19 January, 2000**
  8. **Minutes of the Tweed Coastal Committee Meeting held Wednesday 2 February 2000**
  9. **Minutes of the Companion Animal committee Meeting held Monday 7 February 2000**
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# Orders of the Day

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## 1. Notice of Rescission - Cr James, Cr Beck and Cr Boyd

### Review of Payment/Collection Options

### Accounts - Master Card/Credit Card

*That Council resolution at Minute No C126 in relation to Item 1 of the Confidential Agenda of the Meeting held 2 February 2000 being:-*

*".....that Council:-*

*1. Continues to offer the following receipting services:-*

- Direct payment at Council Administration Centres (Murwillumbah and Tweed Heads)*
- Payment by Post*
- Payment at Commonwealth Bank branches throughout Australia*
- Payment by direct debit limited to instalment and total rate amounts*
- Payment by Cardlink on debit cards (external phone service)*
- Payment by debit card in person at the Murwillumbah and Tweed Heads Administration Centres, subject to a minimum of \$20.00 and a maximum of the current years minimum rate applicable and that the service be limited to rate and water accounts*
- General Manager to ensure that ratepayers are aware of the avenues for payment for the 2000/01 financial year*
- Implement Bpay subject to the automatic process being investigated and approved by the Manager Financial Service*

*2. These arrangements be applicable to the next rating year."*

*be rescinded.*

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## Orders of the Day

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2. **Notice of Rescission - Cr Luff, Cr Marshall and Cr Lawrie**

**Murwillumbah Main Streets Program Progress Report Street Scaping,  
Murwillumbah**  
**Streetscaping, Murwillumbah**

*That Council resolution at Minute Number 1205 "Items Deferred at meeting held 2 February 2000 being:*

*"... that Council proceeds with construction of Murwillumbah Main street improvements as set out in the most recent John Deverson & Associates drawings, except that the pedestrian crossing near the cab rank be relocated to the Courthouse, and native frangipanis be used in proximity to pedestrian crossings."*

*be rescinded.*

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3. **Notice of Motion - Cr Boyd**

**Policy - Conflict of Interest, Access to Information, Tendering**  
**Council Policies, Notice of Motion**

*That Council staff prepare policies to cover the following:-*

1. *Conflict of interest;*
  2. *Councillors access to information and their interaction with staff; and*
  3. *Canvassing of Councillors with regard to tendering.*
- 

4. **Notice of Motion - Cr Boyd**

**Survey - Tweed Link**  
**Tweed Link**

*That council considers commissioning an independent survey to ascertain whether residents and ratepayers want Council to continue with its publication of the Tweed Link in its present form.*

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5. **Notice of Motion - Cr Brinsmead**

**Business Paper**  
**Business Paper, Notice of Motion**

*That Council conducts a Workshop to discuss changing some aspects of Council Business papers.*

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## Orders of the Day

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### 6. Notice of Motion - Cr Marshall

#### Needle and Syringe Program

Drugs

*That (with regard to Item 15 Business Paper of 2 February 2000) the Director Environment and Community Services makes the necessary enquiries to the Northern Rivers Area Health Service to enable the Tweed Shire to actively participate in the Needle and Syringe Program for the placement of safe disposal bins at nominated public toilets.*

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### 6a. Notice of Motion - Cr James

#### Review of Payment/Collection Options

Accounts - Master Card/Credit Card

*That:-*

1. *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 greater than \$20.*
  2. *For the remainder of the year 1999/2000, payment by credit card be available only for:*
    - a. *Rates up to the minimum rate.*
    - b. *Excess water rates.*
- 

### 6b. Notice of Motion - Cr Brinsmead

#### Briefing to Councillors

Council Management, Notice of Motion

*That the General Manager be instructed to make a brief and clear public statement concerning Councillors' role in responding to recommendations made by Council officers.*

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### 6c. Notice of Motion - Cr Brinsmead

#### Legal Services/Tendering

Legal-Court Cases, Consultancy, Notice of Motion

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

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## Orders of the Day

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### 6d. Notice of Motion - Cr Brinsmead

#### Legal Consultancies - Process

#### Legal - Consultancy, Notice of Motion

*That Legal and professional advices and consultancies sought by Council officers be done on the basis of written briefs which are available for peer review and appropriate evaluation. Further, that Council officers should not prejudice the independence of any legal or professional advice by any kind of pre-emptive prompting of that advice in a desired action.*

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# Orders of the Day

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