

Items for Consideration of Council

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CONFIDENTIAL

Items Deferred in Committee 5

2. ORIGIN: Subdivision Unit 5

Possible Acquisition of Land Surrounding Lake Kimberley - Development Application K99/1682 - Proposed 8 Lot Subdivision of Lot 117 DP 879797 Darlington Drive/Winders Place, Banora Point - Bradshaw Development Pty Ltd

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.

Reports from Director Engineering Services in Committee 21

1. ORIGIN: Director 21

Chinderah Bay Marina Proposed Road Closure

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

Items for Consideration of Council

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18 FEBRUARY 1998

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

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

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.

Current Status: A Workshop is proposed for 14 June 2000.

19 JANUARY 2000

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

15. Proposed Use of Council Building for Permanent Function Licence - Cabarita Beach Surf Life Saving Club
PF4100/30 Liquor Licence

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

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

1186

Cr Polglase
Cr Marshall

RESOLVED that this item be deferred as there is no legal lease/agreement in place between Council as owner and the surf club as tenant, Council advises that it

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objects to the proposed licence and requests deferral of the application until such a lease/agreement is in place.

Current Status: Further discussions to be held.

16 FEBRUARY 2000

ORDERS OF THE DAY

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

Legal-Court Cases, Consultancy, Notice of Motion

1309

Cr Brinsmead

Cr Beck

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

Current Status: Draft tender to Council May/June.

5 APRIL 2000

MAYORAL MINUTE

1. Blue Lights to Discourage Intravenous Drug Users

Drug Related Matters

1433

Cr Boyd

Cr Lawrie

RESOLVED that Council investigates the installation of blue lights in public toilets where it is considered that drugs are being used.

Current Status: Under investigation.

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OUTSTANDING INSPECTIONS

1. Council Land - Mt Nullum

Land Development - Mt Nullum

This item was received and noted.

Current Status: Date to be fixed.

19 APRIL 2000

ORDERS OF THE DAY

5. Notice of Motion - Cr Marshall

Signage - The Anchorage, Tweed Heads

GL2/8 Pt13, Regulatory Sign, The Anchorage, Notice of Motion

1575

Cr Boyd

Cr Luff

RESOLVED that the matters raised with regard to signage at the Anchorage be referred to the Director Environment & Community Services for investigation and a report.

Current Status: Progressing.

3 MAY 2000

ORDERS OF THE DAY

1. Notice of Motion - Cr Davidson

Budget Review 2000/2001

Budget, Notice of Motion

1618

Cr Luff

Cr Marshall

RESOLVED that:-

1. The General Manager prepares a report that considers:
 - (a) the current staffing structure of the organisation, and options for change. The report should explore the option of capping total numbers at the current level, but with the possibility of increasing staff in some areas. It should outline possible time frames and ways this might be achieved, viz through attrition principles, reallocations or other opportunities

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- (b) the current level of service in development control, parks and recreation, and planning, especially with regard to processing of applications, and identification of the need for industrial land
 - (c) the evolutionary nature of local government, management and organisations in general; the Local Government Department's Report of 1989 and 1994; and the organisational performance of Council in the context of NSW local government in general
2. The General Manager prepares a report providing information on how costs associated with the GST will be accommodated.
 3. The General Manager prepares a report on any opportunities for future borrowing and loan restructuring.
 4. The General Manager prepares a report providing information on Council's fleet of vehicles, their cost, and possible changes in the way they are used.

Current Status: Report to be finalised.

3. Notice of Motion - Cr Luff TACTIC and TEDC

TACTIC, TEDC

1621

Cr Luff

Cr Marshall

RESOLVED that Council reviews the functions and performance of TACTIC and TEDC. Council officers be asked to bring forward a report outlining the service and benefits each has provided to the Tweed community or sections of the community over the last two years. The report should identify funds and grants or other income sources received by those organisations, its past, current and proposed activities; the cost of carrying out those activities; any proposals or contingencies which may change the organisation; and any relevant existing contractual arrangements.

Current Status: Report to be finalised.

4. Notice of Motion - Cr Luff Community Service Programs

Government Grant - Community Options, Disabled Matters

1622

Cr Luff

Cr Marshall

RESOLVED that Council officers bring forward a report outlining programs Council manages or participates in, for which Federal or State funds are given to Council expressly so it may provide, or assist in providing, some service or benefit

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to people in Tweed Shire. The report is to focus on community programs related to public transport; support for those who are disabled, disadvantaged or isolated; recreation, fitness or culture; training, education or employment; or safety.

Current Status: Report being finalised.

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Mayoral Minute

Councillors

1. Koala Wanderers - Tweed Valley

Walking Trails

On 5 May the first International Walking Group, currently in the Tweed pioneering Stage 1 of the community's long distance walking track (The Tweed Valley Nature Walking Track), presented the IVV (International Federation of Popular Sports) flag to the Chairman of the Koala Wanderers - Tweed Valley. The Chairman then presented the flag to the Mayor for the Tweed Shire Community. The flag will fly outside the World Heritage Rainforest Centre in Murwillumbah indicating to any of the 60 million members of the IVV travelling in Australia that the Tweed has an official affiliation.

2. Southern Cross University Graduations

Education Matters

Southern Cross University Graduations are presently being held in Lismore with over 1,000 graduates. 29 graduates come from the Tweed Shire.

3. 2000 Banksia Environmental Awards

Agenda 21

Tweed Shire Council has been selected as a finalist in the Local Agenda 21 Achievement category of the 2000 Banksia Environmental Awards sponsored by the Australian & New Zealand Environment & Conservation Council (ANZECC).

4. Citizenship Ceremonies

Citizenship

Citizenship ceremonies are becoming a costly feature with the last one for 25 people costing \$100 for catering, plus a council tree, plus a bible for those who take the oath. The bibles cost \$8.95 each plus freight.

I would suggest that we discontinue the practice of giving the bible and cut the refreshment expenses.

Mayoral Minute

Items Deferred

ITEM DEFERRED FROM MEETING HELD 19 APRIL 2000

The following item is the subject of a further report at Item 2 of this Business Paper

2. Development Application K99/1682 - Proposed 8 Lot Subdivision of Lot 117 DP 87997 Darlington Drive/Winders Place, Banora Point (Surrounding Lake Kimberley) - Bradshaw Developments Pty Ltd

DA5937/740 Pt2

1542

Cr Polglase

Cr Boyd

RESOLVED that this item and Confidential Item No 2 be deferred to allow further discussions to take place.

2. ORIGIN: Subdivision Unit

FILE REF: DA5937/740 Pt2

REPORT TITLE:

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

SUMMARY OF REPORT:

Development Application K99/1682 proposes the creation of an 8 lot subdivision, including a 6 lot "integrated housing development". The "integrated housing" component of the development is inconsistent with the 6(b) zone and Development Control Plan No. 3.

This report should be read in conjunction with the Confidential report relating to the possible acquisition of land surrounding Lake Kimberley for open space.

RECOMMENDATION:

That:-

- A. Development Application K99/1682 for a proposed 8 lot subdivision of Lot 117 DP 879797 Winders Place, Banora Point be refused for the following reasons:-

Items Deferred

1. Parts of proposed Lots 1, 2, 3, 5 and 6 are located within lands zoned 6(b) Recreation under Tweed Local Environmental Plan 2000 and development for the purposes of integrated housing is prohibited in that zone. The use of Clause 14 to vary the zone boundary is not justified in the circumstances of this case.
 2. The creation of proposed Lots 1 to 6 for integrated housing purposes abutting Winders Place is inconsistent with the provisions of DCP3 which designates this area for public open space.
 3. The creation of proposed Lot 7 which is zoned Partly 6(b) Recreation under Tweed Local Environmental Plan 2000 and is designated as partly public open space under Development Control Plan No. 3 would be inconsistent with the provisions of the Local Environmental Plan and Development Control Plan.
 4. Approval of the application would be contrary to the provisions of the North Coast Regional Environmental Plan, the Tweed Local Environmental Plan, 2000 and the public interest in that it would alienate public access and use of the foreshore lands abutting Lake Kimberley.
 5. The application is inconsistent with Development Control Plan No. 39 - Energy Smart Homes.
- B. Pursuant to Section 54 of the Act, Council prepare a Draft Local Environmental Plan amendment to remove the “uncoloured” land and rationalise the 6(b)/2(e) zone boundary within proposed Lot 7.

Items Deferred

REPORT:

PROPOSAL

Development Application K99/1682 proposes an 8 lot subdivision of Lot 117 DP 879797 Darlington Drive/Winders Place, Banora Point. The subject land surrounds Lake Kimberley and is owned by Bradshaw Developments Pty Ltd.

The application proposes the creation of an 8 lot subdivision as follows:-

- Lots 1 to 6 are proposed as integrated housing lots with areas ranging from 366.3m² to 464.7m². These lots generally front Winders Place and the application includes plans of the proposed dwellings to be erected on those lots as is required by the integrated housing development definition;
- Proposed Lot 7 having an area of 1.3075ha with frontage to Darlington Drive and having an intended use for 29 integrated housing units subject to lodgement of a separate development application for the integrated housing component;
- Proposed Lot 8 having an area of 1.8876ha and being the residue land surrounding Lake Kimberley.

The subdivision layout plan is shown on the attached Figure 1.

Full size application plans and layout plans showing the current zoning and Development Control Plan No. 3 land use designations will be displayed in the Council chambers on 19 April.

BACKGROUND

At its meeting on 1 December 1999, Council resolved to approve a 2 lot subdivision over the subject land creating proposed Lot 1 with an area of 6.859ha and comprising the Lake Kimberley water body (defined by the inner edge of the concrete path surrounding the lake) and the residue Lot 2 having an area of approximately 3.459ha. Council also resolved to accept the applicants offer to transfer the proposed Lot 1 to Council at a nominal cost of \$1.00.

The linen plan of subdivision creating proposed Lot 1 was released for registration on 4 April 2000 and it is understood that the owners will attend to transfer of Lot 1 in conjunction with registration of the plan of subdivision.

At its meeting on 15 December 1999, Council considered a report on this development application and particularly the integrated housing component fronting Winders Place which, on the basis of Council officers plotting of zone boundaries, was then zoned Partly 2(c) Urban Expansion and Partly 6(c) Recreation (Special Purposes) under Tweed Local Environmental Plan 1987. On the basis of those zoning's and as the area was designated as public open space under Development Control Plan No. 3, it was recommended that the integrated housing development not be approved however, Council resolved as follows:-

- 1. This item be deferred.*
- 2. Council appoints a panel to be party to negotiations with the Bradshaw Group.*

Items Deferred

3. *The panel to consist of two councillors and council officers.*
4. *A report be prepared for Council consideration."*

"Council further resolved that Councillors Polglase and Boyd be appointed to the Panel as Council representatives."

The outcome of the negotiations is included in a separate report in the Confidential agenda.

CONSULTATION

The development application has not been advertised and notified to date because of the need to negotiate with the developers in relation to the possible acquisition of whole or part of Lot 8 and also because the application is inconsistent with the 6(b) zoning and the provisions of DCP3 and is considered to require a formal amendment of DCP3 if Council were of a mind to approve the application as lodged.

However, Council has received a number of requests over recent years including two petitions containing some 250 signatures requesting Council to acquire land adjacent to Lake Kimberley for dedication as a park. The land referred to in the petitions is mainly that part of the site which is now proposed for the 6 lot integrated housing development.

At its meeting on 21 January, 1998 and 21 July, 1999, following consideration of reports relating to those petitions, Council resolved, among other things that the development application proposing the dedication of Lake Kimberley and surrounding land be advertised for public comment.

If Council is of a mind to consider approving this current application, it is considered that it should be advertised and notified for public comment in conjunction with any public exhibition of amendments to DCP3.

It is also noted that one written submission has been received from an adjacent landholder and that submission is appended to the report in the Confidential agenda together with a statutory declaration submitted on behalf of the developers.

It should also be noted that Mrs Judy Saunders addressed Council's Community Access Session on 12 April 2000 in relation to this matter and in addition Mr Mike Allen also addressed the Community Access Session on behalf of Bradshaw Developments Pty Ltd.

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

(a) (i) Environmental Planning Instruments

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 81 of the REP is in the following terms:-

"The Council shall not consent to a development application for development on land within 100m of the ocean or any substantial waterway unless it is satisfied that:-

Items Deferred

- a. *there is sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development;*
- b. *buildings to be erected as part of the development will not detract from the amenity of the waterway; and*
- c. *the development is consistent with the principles of any foreshore management plan applying to the area”.*

Comment

The application is generally consistent with the provisions of Clause 81 with the exception of the proposed 6 integrated housing lots on the land between Winders Place and Lake Kimberley. The creation of those lots will significantly reduce the available area of foreshore open space and limit public access to Lake Kimberley and its surrounds and it is therefore considered that the application is not consistent with Clause 81 of the REP.

Tweed Local Environmental Plan 2000 (TLEP 2000) - Gazetted on 7 April 2000

The development application was lodged in November 1999 and accordingly the Statement of Environmental Effects accompanying the application addresses TLEP 1987 and the zoning's under that Plan as was then in force.

Following gazettal of TLEP 2000 the zoning's have changed and the provisions of the Instrument are also different however, where relevant reference will be made to the applicants Statement of Environmental Effects in support of their application.

It is acknowledged at the outset that because of the scale of the zoning maps and the distortions which occur in the base maps, it is difficult to accurately plot zone boundaries on the applicants layout plans. However, the zones have been plotted by Council officers as accurately as possible and the following analysis is based on those plots.

Integrated housing lots 1-6 abutting Winders Place

Zoning: Part 2(c) - Development for the purposes of integrated housing development is permissible with consent in the 2(c) zone. Integrated housing is defined under TLEP 2000 as follows:-

“Integrated housing includes:-

- a. *the subdivision of land into 3 or more allotments; and*
- b. *the erection of a dwelling on each of the allotments to be created by that subdivision provided that the erection of the dwellings occurs prior to the issue of a subdivision certificate except where a strata management statement or restriction as to user, prohibits any dwelling on each lot other than the dwelling approved by an integrated housing consent”.*

Items Deferred

Part 6(b) Recreation - Development for the purposes of integrated housing development is prohibited in this zone. Similar zoning's applied under TLEP 1987 and in this regard the applicant, in their Statement of Environmental Effects makes the following submission:-

“The vagaries of definition of scale in the LEP defy a precise determination of zone boundary. The boundaries follow no cadastral, topographic, geological or arboreal feature.

Clause 10(1)(a), 10(2) and 10(3) of the LEP facilitates some sensibility to be introduced into the definition of zone boundary. The proposal is permissible with council consent.”

The above comments relate to TLEP 1987 as in force at the time of lodgement of the development application however, the application does make reference to Clause 3 of DLEP 1998 which includes similar provisions in relation to zone boundary variations.

In considering the question of whether or not it is appropriate to apply the zone boundary variation clause to facilitate approval of 6 integrated housing lots partly within the land zoned 6(b), Council is required to take into account the provisions of Clause 14 of TLEP 2000 which is in the following terms:-

“(1) Objective:

- To provide flexibility where detailed investigation of a site and its surroundings reveals that a use approved on the other side of a zone boundary would enable a more logical and appropriate development of the site.*

(2) This clause applies to land which is -

- (a) within 20m of a boundary between any of zones 1(c), 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 3(a), 3(b), 3(c), 3(d), 3(e), 4(a), 5(a), 6(a) and 6(b);*
- (b) within 50m of a boundary between zone Nos. 1(a) or 1(b); or*
- (c) within 50m of a boundary between any zone referred to in paragraph (a) and any zone referred to in paragraph (b).*

(1) Development that would otherwise be prohibited may, with consent, be carried out on land to which this clause applies if the development may be carried out (with or without consent) in the adjoining zone.

(2) Consent may be granted to development referred to in subclause (3) only if the consent authority is satisfied that the proposed development is more appropriate, due to planning, design, ownership, servicing or similar criteria, than the development that would otherwise be allowed.”

Items Deferred

Comment

The 2(c) and 6(b) zone boundary under TLEP 2000 is in essentially the same position in this locality as the zone boundary between the 2(c) and 6(c) lands under the previous TLEP 1987. It is considered that the zone boundary was located in that position to ensure that a suitable area of open space was provided abutting Lake Kimberley. The objective of the 6(b) zone was to provide a vista to the Lake and surrounds from Winders Place such that public access, views and amenity issues were suitably addressed in the ultimate urban form for this area. Having regard to the above objectives and not withstanding the vagaries of defining the zone boundaries, it is nevertheless considered that variation of the zone boundary pursuant to Clause 14 of TLEP 2000 would not be appropriate in that the criteria contained in Clause 14 subclause (4) have not been satisfied.

Lot 7 - area 1.3075ha - extensive frontage to Darlington Drive. This lot is zoned Part 2(c) Urban Expansion, Part Uncoloured (unzoned) and part (adjacent to Lake Kimberley) is zoned 6(b) Recreation. With the exception of the uncoloured part of the land the zoning boundaries are in a similar location to those applicable under TLEP 1987. The inclusion of a strip of uncoloured land under TLEP 2000 appears to be a cartographic anomaly in that the uncoloured land was not included in the exhibited maps. This anomaly should be corrected by way of an LEP amendment and that amendment could also address that part of Lot 7 which remains in a 6(b) zone subject to satisfactory negotiations with the developer in relation to the location of the zone boundary having regard to the adjacent retaining walls abutting Lake Kimberley.

Proposed Lot 8 - This lot is predominantly zoned 6(b) Recreation however, small sections in the south western corner are zoned 2(c) and are uncoloured. The creation of a separate lot 8 having an area of 1.8876ha is permissible in the 6(b), 2(c) and uncoloured land, with the consent of Council.

TLEP 2000 contains a number of other specific provisions which Council is required to take into account in determining a development application and those provisions are summarised as follows:-

Clause 8 - Consent Considerations

This clause provides that Council may grant consent to development only if:

- a. it is satisfied that the development is consistent with the primary objective of the zone within which it is located; and
- b. it has considered those other aims and objectives of the plan that are relevant to the development; and
- c. it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.

Items Deferred

It is particularly relevant in this case to consider the objectives of the 6(b) zone when assessing the use of Clause 14 relating to variations of zone boundaries. The objectives of the 6(b) zone are:-

Primary Objective

- * to designate land, whether in public or private ownership, which is or may be used primarily for recreation purposes.

Secondary Objective

- * to allow for other developments that is compatible with the primary function of the zone

Comment

It is submitted that the use of Clause 14 to facilitate the development of part of the land zoned 6(b) abutting Winders Place for the purposes of an integrated housing development would not be consistent with the primary objective of the 6(b) zone and also would not be consistent with the secondary objective given that the development would alienate this area from recreation uses.

Clause 15 - Availability of Essential Services

This clause provides that Council must not grant its consent to the carrying out of development on any land unless:-

- (a) a water supply and facilities for the removal and disposal of sewerage and drainage are available to that land; or
- (b) arrangements satisfactory to the council have been made for the provision of that supply and those facilities.

Comment

The application is accompanied by conceptual details indicating proposed service extensions to the integrated housing lots Nos. 1 to 6 such that water, sewer, power, telephone and stormwater drainage can be provided. Sufficient capacity exists in the system to provide these services with relatively minor extensions and accordingly it is considered that clause 15 is satisfied insofar as the integrated housing component is concerned.

Proposed Lot 7 can also be readily serviced with all essential services subject to appropriate extensions to those services.

The application plans also show conceptual details of proposed typical lake perimeter treatment adjacent to the integrated housing allotments and those details essentially involve the construction of a rock retaining wall approximately 6m from the inner edge of the concrete path surrounding Lake Kimberley and filling of the proposed lots to the required flood level between the rock retaining wall and the alignment of Winders Place.

Items Deferred

These proposed works are generally consistent with the treatment of residential lots abutting Lake Kimberley on the eastern and western sides and are considered to be generally satisfactory subject to conditions relating to detailed design and construction matters.

Clause 17 - Social Impact Assessment

This clause provides that:-

“(1) Objective

- *to ensure proper consideration of development that may have a significant social or economic impact.*
- (2) *Where the consent authority considers that a proposed development is likely to have a significant social or economic impact in the locality or in the area of Tweed, the consent authority may only grant consent to the proposed development if it has considered a social impact statement in respect of the proposed development.*
- (3) *The social impact statement must:*
- (a) *identify the likely future impacts of the development and the affected community, and*
 - (b) *analyse the impacts in terms of magnitude, significance, duration, effect on current and future conditions and community services, and the like, and*
 - (c) *determine and assess possible measures for the management or mitigation of likely impacts.”*

Comment

The proposed integrated housing development within that part of the land zoned 6(b) does raise social and economic issues in that the proposal would alienate land zoned for recreation purposes. However, having regard to the scale of the development, it is considered that the proposal would be unlikely to have a ‘significant social or economic impact’ and therefore it is considered that a social impact statement is not essential.

Clause 31 - Development Adjoining Waterbodies

Clause 31 is in the following terms:

“(1) Objectives

- *to protect and enhance scenic quality, water quality, aquatic ecosystems, bio-diversity and wildlife habitat and corridors.*
- *to provide adequate public access to waterways.*

Items Deferred

- (2) *This clause applies to land that adjoins the mean high-water mark (or the bank where there is no mean high-water mark) of a waterbody.*
- (3) *Consent must not be granted to development on land to which this clause applies, within such distance as is determined by the consent authority of the mean high-water mark or, where there is no mean high-water mark, the top of the bank or shore of a stream, creek, river, lagoon or lake unless it is satisfied that:*
 - (a) *the development will not have a significant adverse effect on scenic quality, water quality, marine ecosystems, or the bio-diversity of the riverine or estuarine area or its function as a wildlife corridor or habitat, and*
 - (b) *adequate arrangements for public access to and use of foreshore areas have been made in those cases where the consent authority considers that public access to and use of foreshore areas are appropriate and desirable requirements, and*
 - (c) *the development is compatible with any coastal, estuary or river plan of management adopted by the Council under the Local Government Act 1993 that applies to the land or to land that may be affected by the development, and*
 - (d) *it has considered the impact of increased demand from domestic water supply on stream flow.*
- (4) *The consent authority may require as a condition of consent to any development that the following be carried out:*
 - (a) *the rehabilitation of land adjoining the waterbed to create a vegetated riparian zone or wetland,*
 - (b) *works to stabilise the bank or shoreline of a waterbed.*
- (5) *In determining a distance for the purposes of this clause, the consent authority shall have regard to:*
 - (a) *the preservation of the scenic quality of foreshores, and*
 - (b) *minimising the risk of pollution of waterways, and*
 - (c) *the protection of foreshore ecosystems, and*
 - (d) *the intended or planned use for the foreshore.*

Comment

The principle issue arising from the current application is the potential loss of public access and use of foreshore areas as a result of the integrated housing component of the development. In particular, it is considered that the use of clause 14 to vary the zone

Items Deferred

boundary in this locality to facilitate the integrated housing development creating Lots 1 to 6 would be inconsistent with Clause 31 in particular.

Clause 32 - Aircraft Noise

The objectives of this clause are:-

“(1) **Objectives**

- *to prevent certain noise sensitive developments from locating in proximity to Coolangatta Airport and its flight paths.*
- *to minimise the noise impact from the operation of Coolangatta Airport on development in its vicinity.*

(2) *This clause applies to land within the 20 or higher ANEF contour.”*

Comment

The applicant submits that the whole development site is located within an area that has been identified by the Federal Airports Corporation as being exposed to a noise intensity from aircrafts less than 20 ANEF (2010). This submission is supported by plans and letters from the FAC and the developers consulting surveyors and it is agreed that whilst the subject site is relatively close to the 20 ANEF contour it is nevertheless clear and therefore the proposal is not inconsistent with the provisions of this clause.

Clause 34 - Flooding

This clause provides that where, in Council’s opinion, land is likely to be subject of flooding then it must not grant consent to development of that land unless it has considered:-

- “(a) *the extent and nature of the flooding hazard affecting the land, and*
- (b) *whether or not the development would increase the risk or severity of flooding of other land in the vicinity, and*
- (c) *whether the risk or severity of flooding affecting the development could be reasonably mitigated, and*
- (d) *the impact of the development on emergency services, and*
- (e) *the provisions of Tweed Development Control Plan No 5—Development of Flood Liable Land and any other relevant development control plan.”*

Comment

As noted previously, parts of proposed Lots 1 to 6, being the integrated housing component of this development require filling to the design flood level and such filling would be consistent with the provisions of Development Control Plan No. 5 and Clause 34 generally.

Items Deferred

Proposed Lot 7 appears to be generally filled to the design flood level however, a suitable condition could be imposed to require any necessary additional filling and certification of finished levels prior to release of any subdivision certificate.

Proposed Lot 8, being the land surrounding the water body would not require filling having regard to its intended use for passive open space.

(ii) Development Control Plans (DCPs)

DCP3 - South Tweed Heads/Banora Point West

The proposed integrated housing lots 1 to 6 are shown with a land use designation of public open space under the provisions of this DCP.

Proposed Lot 7 is shown partly public open space and partly residential and proposed Lot 8 is predominantly shown as public open space/lake with a small section shown within the residential zone.

Similar difficulties arise in accurately plotting the boundaries between the various land use designations on DCP3 as those that arise with the zoned boundaries, however, it is considered that insofar as the integrated housing lots are concerned in particular, it is the clear intention of DCP3 that this area be retained as open space.

It could be argued that the boundary between the open space and the residential areas within Lot 7 was intended to be the retaining wall adjacent to Lake Kimberley however, this would require further negotiations with the developer and an amendment to the DCP to correct any perceived anomaly in that area. This would facilitate the creation of proposed Lot 7 and the future development of that lot for the purposes of an integrated housing development as is conceptually indicated as part of this application.

DCP5 - Development of Flood Liable Land

Parts of Lots 1 to 6 are subject to flooding and as noted previously it is intended to fill those lots such that DCP5 is complied with.

Lot 7 may also require some filling to achieve the required minimum level, however this could be resolved by way of an appropriate condition.

DCP6 - Multi Dwelling Housing

The proposed integrated housing development generally complies with the provisions of this DCP.

DCP16 - Subdivisions Manual

The application generally complies with the provisions of this Manual subject to normal conditions in relation to procedural and detailed design requirements.

DCP39 - Energy Smart Homes

This plan came into force on 10 April 2000 and the objectives of the plan include:-

Items Deferred

- *Optimise solar access to residential land and buildings.*
- *Improve the quality and energy efficiency of residential subdivisions and buildings.*
- *Assist professionals, technicians and trades persons by providing relevant information, and resources in relation to energy efficient design.*
- *Foster partnerships between the Council, State government and the building industry.”*

The development application was lodged in late November 1999 and thus does not address the provisions of the DCP. However, an assessment of each of the proposed integrated housing lots and the proposed dwellings to be erected thereon reveals that the lots and buildings do not satisfy the deemed to comply criteria checklist contained within the policy particularly in relation to:-

1. Orientation of the living areas of the buildings are not all sited on the north site of the building for at least 50% of their length;
2. The design of the buildings does not provide for a minimum of two breeze paths through the buildings with at least one breeze path to be through the major living areas.

This assessment is based on the assumption that the buildings will be constructed on a concrete slab foundation with a light to medium coloured roof and will include roof and ceiling insulation and a hot water supply with a minimum rating of 3.5 stars. These latter matters could be conditioned to achieve compliance given the circumstances of this case and the timing of the coming into effect of the DCP.

To achieve full compliance with the DCP a significant change to the design and orientation of the buildings and proposed allotments would be required and accordingly it is considered that those matters could not properly be dealt with by way of conditions.

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

The key issues arising under this head of consideration are the impacts of the integrated housing on lake vistas, access to and use of foreshore open space areas abutting Lake Kimberley and impacts on visual amenity and character in the locality.

The previous comments under relevant heads of consideration in relation to TLEP 2000 and DCP3 should also be considered in this context.

Access to the proposed integrated housing lots from Winders Place is satisfactory and that road is of a suitable standard for the proposed development. However, it should be noted that the intersection of Leisure Drive and Winders Place does impose a traffic constraint. In this regard Council officers have had some preliminary negotiations with Twin Towns Services Club and the owners of Banora Shopping Village in relation to the possibility of constructing a roundabout at that junction. Conceptual details have

Items Deferred

been developed however, the roundabout remains unfunded and accordingly in the event of an approval to this application some contributions should be negotiated with the developers towards the construction of a roundabout at this junction.

Access from proposed Lot 7 to Darlington Drive is satisfactory subject to a left in/left out arrangement only as Darlington Drive will have an unbroken median from the underpass to Leisure Drive.

Following representations from the owners of Winders Lodge, Council officers have agreed that a separate access can be provided to Winders Lodge from Darlington Drive rather than a shared access with Lot 7 as was previously proposed subject to that access again been left in/left out only.

Access to proposed Lot 8 is available from Darlington Drive and Winders Place however, those access points are limited by terrain and traffic management considerations.

Water Quality Report

On 24 March 2000 the applicant submitted a review of water quality in the Lake Kimberley catchment dated March 2000. That report is currently being assessed by relevant Council Units however, at the date of preparing this report no formal responses have been received. Until such time as that report has been properly and fully assessed, it is not possible to advise Council as to whether or not any issues may arise.

(c) Suitability of the Site for the Development

Having regard to the zoning of the land, the provisions of DCP3 and contemporary planning considerations relating to the provision of useable, accessible open space adjacent to waterbodies, it is considered that the site is not suitable for the proposed integrated housing development.

An amended design limiting residential lots to that part of the land abutting Winders Place zoned 2(c) is considered to be the most suitable form of development for the site.

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

As noted under the consultation section of this report the application has not been formally advertised or notified, however, in the event that Council were to support the application it is considered that advertising should be carried out in conjunction with any amendment of DCP3.

(e) The Public Interest

The application has raised considerable public interest notwithstanding that it has not been notified as reflected in the consultation section of this report. In attempting to balance the public interest and the interests of the developer, particularly in relation to the future status of the land surrounding Lake Kimberley and more particularly the proposed integrated housing lots abutting Winders Place, it should be noted that the DCP3 land designation of public open space dates back to the early 1990's and in

Items Deferred

addition the 6(c) zoning under the previous TLEP 1987 of part of that land dates back to 1989. It is therefore considered that there is a reasonable public expectation that there will be open space retained abutting Lake Kimberley in this locality. Whether that open space is in public or private ownership is a matter to be considered by Council in conjunction with the determination of the matters raised in the separate confidential report.

Section 94 Contributions

In accordance with the provisions of Section 94 Plan No. 1 - Banora Point West/Tweed Heads South Open Space Contributions, no further contributions are required for this development for active open space.

Insofar as passive open space is concerned, the development application is accompanied by an analysis of passive open space requirements for previous approvals, this application and future development of land in the locality owned by the Bradshaw Group which is zoned for urban purposes. That analysis is summarised in the attached Table 1 and the open space areas are consistent with Council's records with the exception of the credit of 6700m² claimed by the applicants.

TABLE 1

LAKESIDE GARDENS ESTATE

EXCESS OPEN SPACE AVAILABLE

1.	Area available for open space (Lot 8)		18,876m ²
2.	Liability for open space		10,313m ²
3.	Already dedicated open space		
	(i) Residual from previous development (S94/1)	6700	
	(ii) Lot 100 DP 858355	662	
	(iii) Lot 117 DP 874201	1457	
	Total		8,819m²
4.	Excess of available open space over liabilities		17,382m ²

Council's records indicate that the credit is 2375m² rather than 6700m². In which case the excess of available open space over liabilities would be 13,057m² rather than the 17,382m² submitted by the applicant. This application generates a demand for 202m² of passive open space and that requirement could be satisfied by way of dedication of land abutting Lake Kimberley or a contribution.

All other Section 94 and Section 64 (water and sewer headworks) contributions would need to be applied as conditions of any consent.

Items Deferred

OPTIONS

The following options are available to Council:-

1. If Council is satisfied that the applicant has demonstrated that a zone boundary variation is warranted having regard to the matters for consideration in clause 14 Council could, subject to an amendment to DCP3 approve the application subject to conditions or;
2. Council could refuse the application on the basis that the integrated housing component is prohibited in the 6(b) zone and the use of clause 14 to vary the zone boundary is not appropriate and as the application is inconsistent with DCP3.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

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

The financial and resource implications of the proposal and more particularly the status of the land surrounding Lake Kimberley are addressed in the Confidential report in this agenda relating to the possible acquisition of the land surrounding the lake.

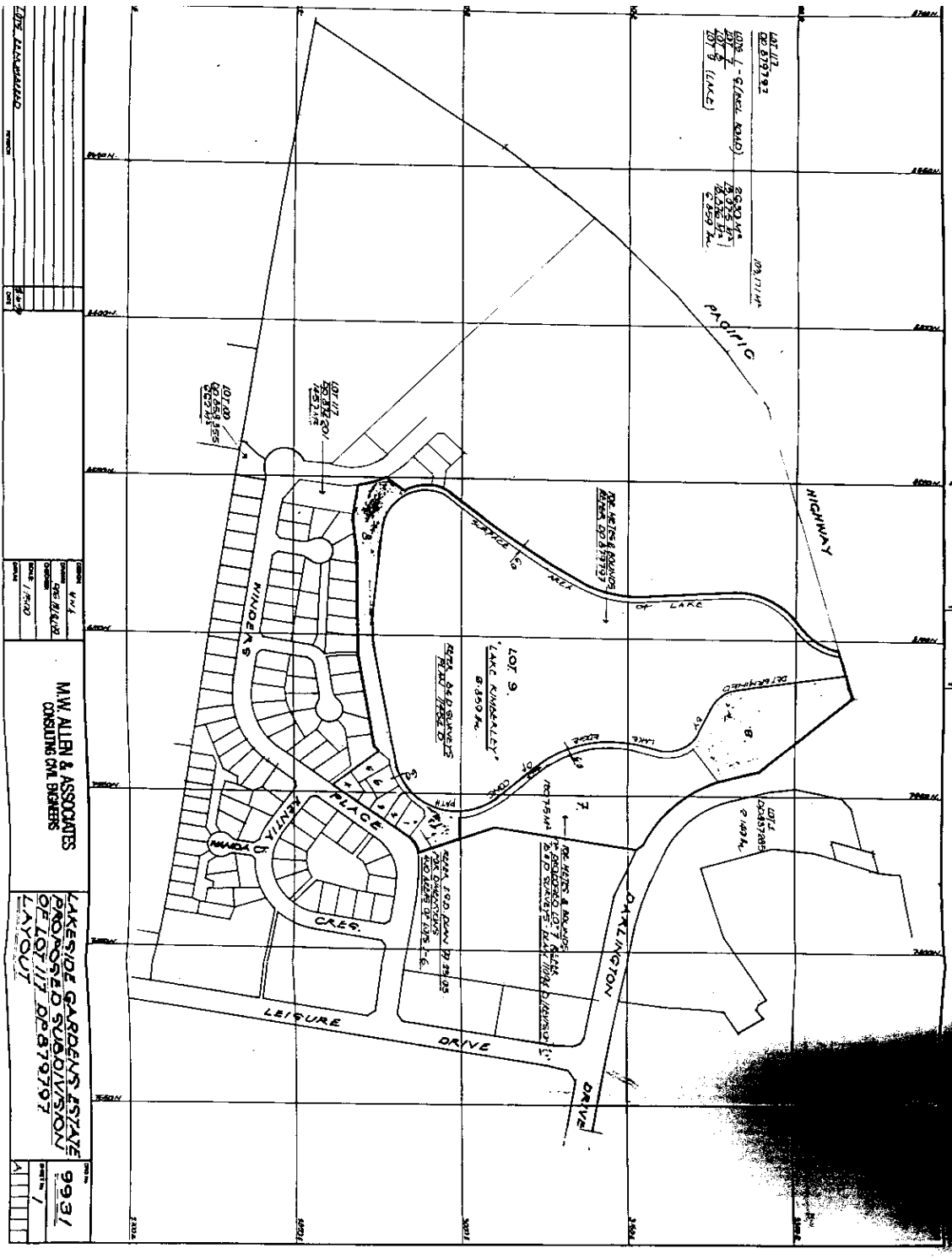
CONCLUSION

Having regard to the foregoing assessment it is considered that the integrated housing component of this development application comprising Lots 1 to 6 partly within lands zoned 6(b) and designated as public open space under DCP3 is not appropriate. The creation of proposed Lot 7 and 8 are not inconsistent with the current zoning's or the provisions of DCP3 however, insofar as Lot 7 is concerned the existing zoning anomaly should be corrected and appropriate DCP3 amendments negotiated prior to the approval of any future development application for integrated housing on that allotment.

On balance, it is considered that the development application is not appropriate for approval and as it would appear that the applicants are not prepared to amend the application to create three integrated housing type lots abutting Winders Place there is no option but to determine the application as lodged in which case refusal is recommended.

Items Deferred

FIGURE 1



Items Deferred

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ITEM DEFERRED FROM MEETING HELD 3 MAY 2000

1. Service Level Improvements - Development Assessment

Development Assessment Panel

1588

Cr Polglase

Cr Davidson *RESOLVED that this matter be deferred.*

1. ORIGIN: Director

FILE REF: GA4/4

REPORT TITLE:

Service Level Improvements - Development Assessment

SUMMARY OF REPORT:

Council has resolved to establish a committee to develop a protocol on Development Assessment and Decision Making - including Councillors Polglase, Davidson, Boyd and Luff. Following further enquiries, three community/interest groups have made nominations - Cudgen Progress Association, Tweed Heads Residents and Ratepayers Association and the Caldera Environment Centre.

RECOMMENDATION:

That Council endorses the following nominees to additionally participate in the committee to develop a protocol on Development Assessment and Decision Making:

1. Cudgen Progress Association – Len Wallace
2. Tweed Heads Residents and Ratepayers Association – Ronni Hoskinson
3. Caldera Environment Centre – Mr Paul Hopkins

Items Deferred

REPORT:

BACKGROUND

Council previously resolved (19 January 2000) to establish a committee to develop a protocol on Development Assessment and Decision Making comprising Paul Bolster, John Samuels, Peter Sipple Geoff Davey, Ian Pickles, Mark Thomas, Martin Findlater and Pat Twohill together with Councillors Polglase, Boyd, Davidson and Luff. Tony Smith from Halliday and Stainlay is to be invited as a contributing observer and the Director of Development Services will be the Executive to the Committee. The Director of Development Services was also to write to key local community and interest groups to again invite their participation and as a result the Cudgen Progress Association have nominated Len Wallace, the Tweed Residents and Ratepayers Association have nominated Ronni Hoskinson and the Caldera Environment Centre have nominated Mr Paul Hopkins.

INITIATIVES FOR CONTINUOUS IMPROVEMENT – DEVELOPMENT ASSESSMENT AND DECISION MAKING

The quality of service which this Council can provide on development assessment and decision making depends upon:

- a. The quality and clarity of Council's Planning Policy documents;
- b. The adequacy of supporting information submitted by applicants;
- c. The extent and detail of pre-lodgement consultations, particularly with the Development Assessment Panel;
- d. The efficiency of Council's management, staff and processes;
- e. The levels of complexity and conflict involved;
- f. The consultation requirements with the community, State Government Agencies and other stakeholders; and
- g. The ability to have negotiated and mediated all outstanding issues before decision making and/or report to Council.

It is timely that a major review of the development assessment function of this Council to be initiated at about this time given the anticipated approval of Draft Tweed Local Environmental Plan, 2000 including exempt and complying provisions and the major development applications which this Council will be dealing with over the next few years. It is submitted that a very significant response to the above factors is the development of a protocol/practice manual through consultation with the stakeholders.

The Director of Development Services has submitted a proposal of \$20,000 to engage external expertise to review and facilitate outcomes of service level improvements, conduct relevant surveys, etc.

It is also proposed to:

Items Deferred

- a. Devote resources to process review;
- b. Initiate a process of developing service level agreements between Council and State Government Agencies;
- c. To continuously review processes (Strategic Planning Unit) which provides greater clarity for intending applicants and to provide more “user friendly” communicative brochures/guideline documents to assist;
- d. To consolidate upon the already negotiated service level agreements between Council Divisions.

CONCLUSION

The committee can now be initiated to develop a protocol between stakeholders for development assessment and decision making and the Director of Development Services will convene a meeting in the near future. A balance will be sought between a well structured agenda and process for the committee with enabling the committee itself to have all appropriate scope to define that process and the desired outcomes.

Items Deferred

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Reports from Director Development Services

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.

Reports from Director Development Services

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Reports from Director Development Services

1. ORIGIN: Development Control Unit

FILE REF: DA2920/121 Pt4

REPORT TITLE:

Development Application K99/957 for an Extractive Industry at Lots 9 and 10 DP 822830 and Pt Lot 1 DP 823460 Kirkwood Road, Tweed Heads South

SUMMARY OF REPORT:

This report considers an application for an extractive industry at Kirkwood Road, Tweed Heads South. The proposal involves the extraction of 540,000m³ of material over a maximum of four (4) years. The development is located in close proximity to residential development and numerous objections have been received. The application was referred to relevant State Government authorities and no objections were received.

Council's Engineering Services Division has advised that the Kirkwood Road connection is desirable on traffic grounds. However, the construction of the road does not have funding commitment or any approval at this stage. It is ?? as to whether it is appropriate to allow the proposed earthworks for the road construction with the future of the road being unknown.

The work will have an adverse scenic impact and will have impacts on nearby residents and it would not be desirable to enable the proposed works to occur until such time as the full construction of the Kirkwood Road connection is secured.

RECOMMENDATION:

That Development Application K99/957 for an extractive industry at Lots 9 and 10 DP 822830 and Part Lot 1 DP 823460 Kirkwood Road, Tweed Heads South be refused for the following reasons:-

1. It would not be in the public interest to enable the earthworks to occur until such time as it is certain that the works are necessary for the construction of the Kirkwood Road link.
2. The proposed earthworks will result in an increase in noise levels experienced at nearby residential premises.
3. The proposed earthworks will have an adverse effect on the scenic quality of the area as the existing hill is a prominent topographical feature with local and district landscape value.

Reports from Director Development Services

REPORT:

Applicant: Summit Properties
Owner: Summit Properties
Location: Lots 9 and 10 DP 822830 and Lot 1 DP 823640 Kirkwood Road, Tweed Heads South
Zoning: 6(b) Recreation and 2(e) Residential Tourist

BACKGROUND

A development application has been received for an extractive industry at Lots 9 and 10 Kirkwood Road, Tweed Heads South. The application proposes the removal of 540,000m³ or approximately 1,080,000 tonnes of material from the site for a maximum period of 4 years. The proposed earthworks have been designed to provide for the road cutting for the extension of Kirkwood Road, should Council decide to proceed with the road construction. The maximum depth and the proposed cut is approximately 30 metres. The earthworks will generate a maximum of 520 two way vehicle movements per day. No material is proposed to be trucked on Fraser Drive or Dry Dock Road and a haul route has been identified on private property linking to Greenway Drive. It is also proposed to utilise some fill material on the subject property in the construction of a subdivision approved by Council under Consent K98/11. The subdivision approved the creation of 34 lots, two open space lots and a residue.

Council's Engineering Services Division has advised that the construction of Kirkwood Road to link the current east and west lengths over the Pacific Highway is desirable on traffic grounds. The construction of the road is uncertain at this stage as no funding commitments have been made nor detailed environmental assessment has been carried out on the full route and environmental constraints exist on the eastern road reserve. For these reasons, it is not definite that the road will be approved and constructed, in which case the proposed earthworks may not be necessary.

The main merit issues raised in relation to the development include noise impact, visual and scenic impact and impact on adjoining residential properties. These issues are addressed in detail in the following sections of this report.

The earthworks are proposed to be carried out in stages with the Site Diagram and ultimate extraction area being shown in the Figures below.

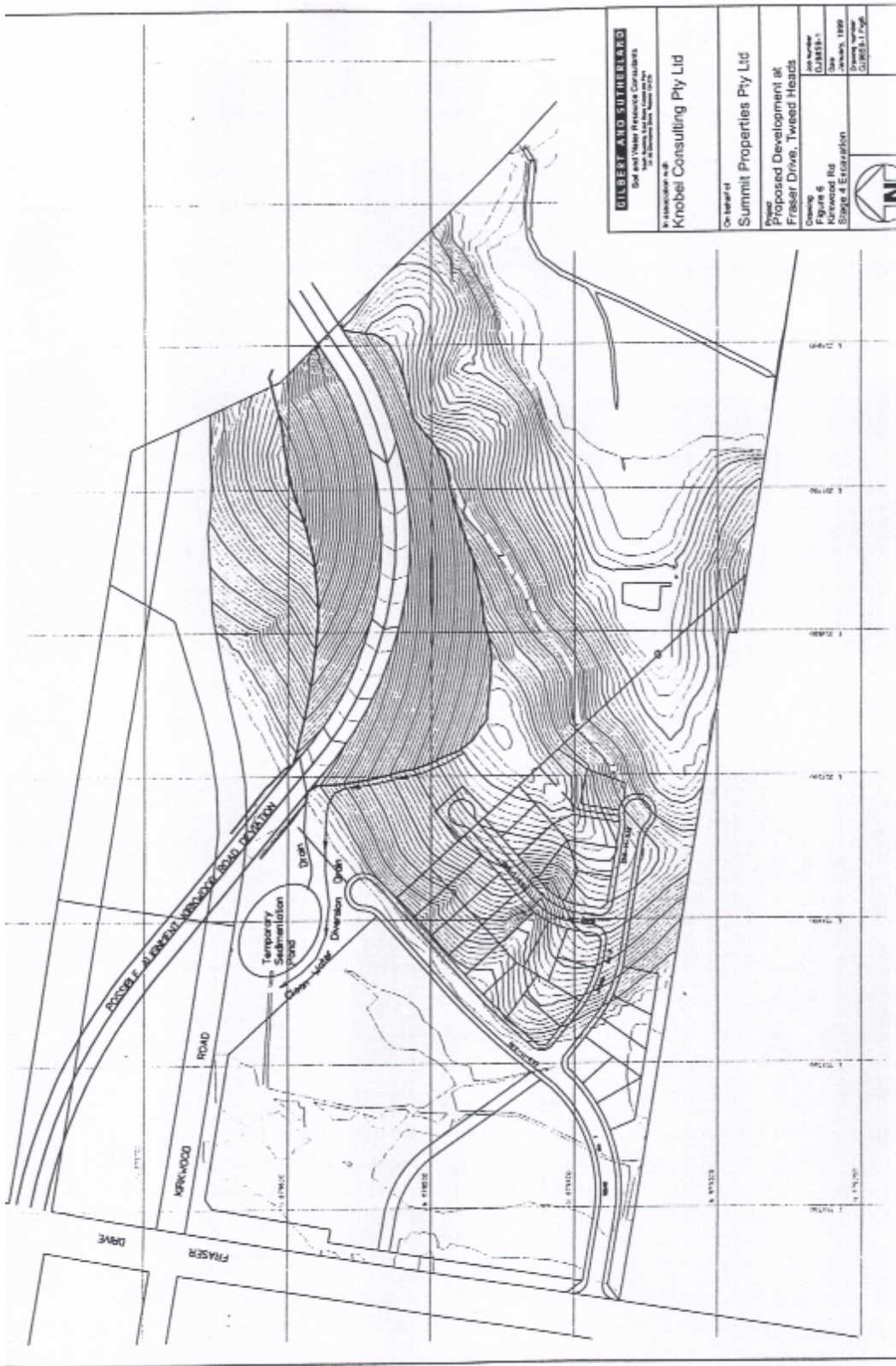
Reports from Director Development Services

FIGURE 1



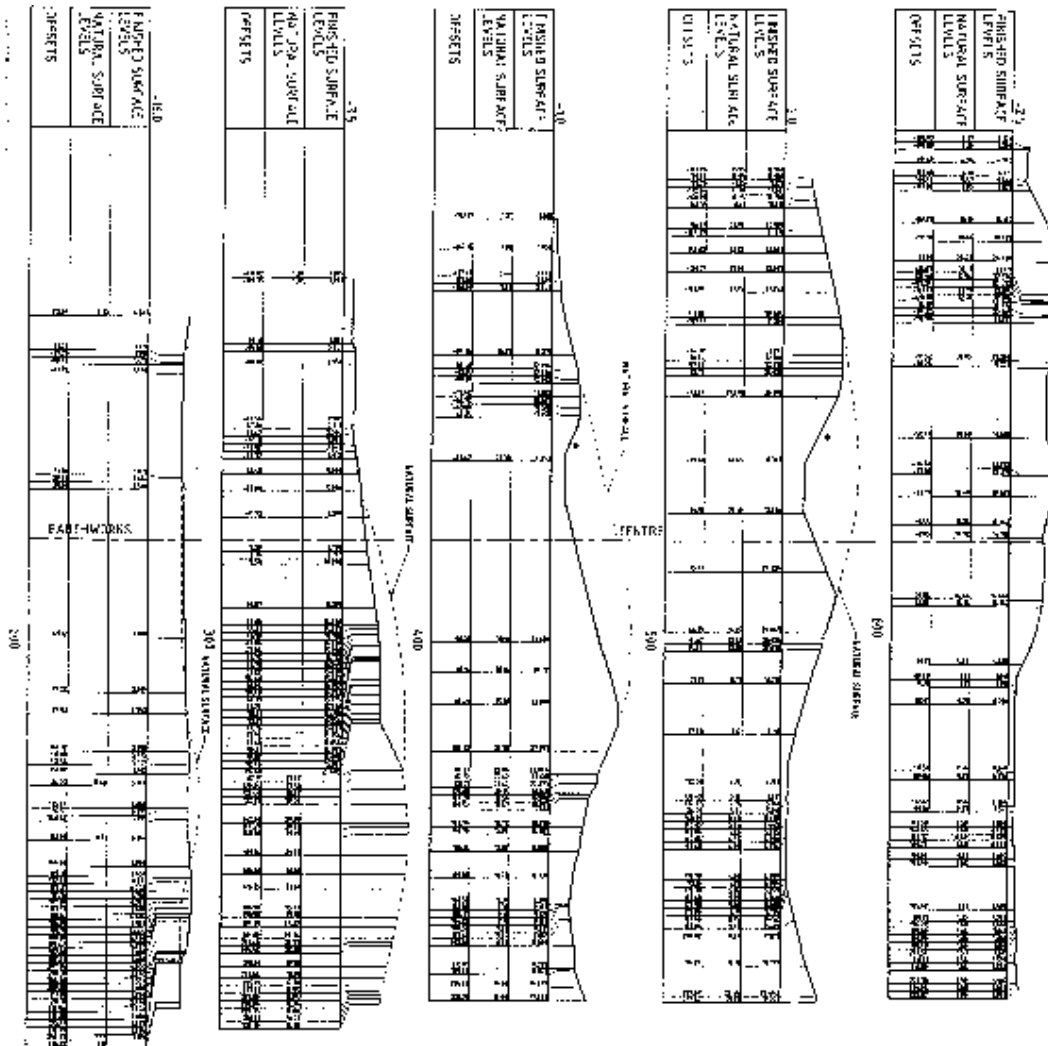
Reports from Director Development Services


FIGURE 2



Reports from Director Development Services

FIGURE 3





Cardno & Dorling

 Consulting Engineers

 4 Thornton

20 QUARRY PROPERTIES (AUSTRALIAN) PTY LTD

 QUARRY PROPERTIES

 10 VILLAGE GREEN

 REIDBERRY PROVISIONS

 SHEPPHURST CROSS SECTIONS

 2001/2

SCALE: 1:100

 0 1 2 3 4 5 6 7 8 9 10 METRES

(3)

Reports from Director Development Services

The proposed earthworks involve commencement at the crest of the hill which has a height of approximately 40m RL. This hill will be excavated down to a level of approximately RL 20m. The development cuts into the saddle between two small hills. This cutting will form the possible alignment of the Kirkwood Road deviation and if this application does not proceed at this time it is likely that Council would need to pursue a similar proposal if the connection of Kirkwood Road is to proceed. Along the Highway frontage of the property the crest of the hill be lowered by approximately 2m however, the hill be dissected by the extraction for the road alignment.

The application was advertised and a substantial number of objections were received. These issues will be addressed in more detail in the following sections of this report.

EVALUATION

The following matters are required to be addressed under Section 79C of the Environmental Planning & Assessment Act, 1979.

(a) (i) Any Environmental Planning Instrument

The site is partly zoned 2(e) Residential Tourist and 6(b) Recreation under the Tweed Local Environmental Plan 2000 (TLEP 2000). The earthworks are proposed to be located within the land zoned 6(b) Recreation where earthworks are permitted with Council's consent. It should be noted that "extractive industries" are prohibited in the 2(e) and 6(b) zones. Extractive industries is defined as:-

"means:

- (a) the winning of extractive material, or*
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land on which it is carried on."*

Earthworks is defined as:-

"the addition or removal of any solid material on, to or from land, or any other work which will substantially alter the existing ground level or character of the surface of land."

(ii) Any Draft Environmental Planning Instrument

No draft LEP's apply to the site.

(iii) Any Development Control Plan (DCPs)

There are no specific DCPs which apply to the proposed earthworks.

(iv) The Regulations

There are no particular matters prescribed under the Regulations which are required to be addressed.

Reports from Director Development Services

(b) **Environmental Impact**

Natural Environment

The main potential for effects on the natural environment would be on vegetation, water quality, soil erosion and the scenic impact. These matters are addressed below.

Soil Erosion/Water Quality

The proposed extraction will result in a significant reduction in topography once quarrying operations and rehabilitation is completed. This reduction in topography will however, be confined to within the central part of the hill with less significant changes being made to the northern slopes of the existing hill. The proposed earthworks cover an area of approximately 5ha and hence the works will generate potential for soil erosion and a subsequent affect on water quality.

A number of strategies have been proposed by the applicant to control runoff and minimise erosion. These include directing runoff from disturbed areas to a sediment basin prior to discharging into land below, the effective rehabilitation of land following disturbance, provision of drains within and around worked areas to catch runoff and direct it to the sediment basin, the provision of rock scour protection devices immediately upslope of the sediment pond with the area disturbed at any given time being kept to a minimum.

Council's Engineering Services Division have addressed the issue of erosion and sediment control and have recommended detailed conditions which will be required to be complied with prior to commencement of works. These include the preparation of an Erosion and Sediment Control Plan which is to include full details on temporary and permanent drainage and erosion and sediment control including the location, type, function and timing of all drainage, erosion and sediment control measures. Water quality monitoring is to be included in the plan as is reporting procedures.

In addition to the above requirements of Council's Engineering Services Division, the Environment Protection Authority has also recommended conditions in their terms of approval requiring monitoring the discharge from the sedimentation pond.

Flora and Fauna

The application was accompanied by a flora and fauna assessment prepared by James Warren and Associates. The report specifies that 6 plant communities were located on the site and one threatened species and two ROTAP species were recorded on the site. The threatened species *Crypteocarya foetida* is located in the subtropical rainforest community which comprises a thin vegetation community located between a tall closed Sclerophyll forest and the Tall Closed Swamp Sclerophyll forest.

Two ROTAP species, *Cordyline Congesta* and *Archidendron mellerianum* (veinylace flower) were located in the Tall Open Wet Sclerophyll Forest located on the higher wester portion of the site.

Reports from Director Development Services

The flora and fauna report recommends ameliorative measures to minimise the impact on flora and fauna including that mature trees existing on the ridge and north eastern portions of the site be preserved, that a conservation and rehabilitation zone be created which involves conserving 1.25ha of Blackbutt forest and 0.3ha of Swamp Sclerophyll forest with an additional 0.3ha of grazing land being rehabilitated with the long term objective being to provide a mixed species Eucalypt and swamp forest of approximately 2ha. Other ameliorative measures include the use of Koala food trees in regeneration areas and replanting with native and endemic planting species. Other long term management issues raised in the flora and fauna assessment include fencing of development areas, protection of all trees other than those required to be removed, the control of sediment discharge and erosion, fencing along access tracks, weed control and the prevention of waste disposal.

The application was referred to the National Parks and Wildlife Service (NPWS) who advised on 21 February, 2000 of suggested conditions of approval to assist Council in the determination of the application. The suggested conditions include recommending that ameliorative measures as proposed in the flora and fauna assessment dated January 1999 be included in any consent, that a condition reflect the requirement that no native vegetation is to be destroyed in construction of the haul route, that surface water monitoring be established for monitoring water quality of wetland areas adjacent to the haul route and that the Environmental Management Plan include a statement that it is an offence to knowingly destroy or damage relics without the prior consent of the Director-General of NPWS.

Scenic Impact

The area of the proposed extraction is located in a highly visible position of local and district significance. The site currently raises to a height of approximately RL 40m with the ridgeline running in a north/east to south/westerly direction. The proposed extraction of material will result in a V shaped cut which will separate the current northern and southern extent of the hill crest. The hill is highly visible from the Pacific Highway and from surrounding residential subdivisions, including the Hillcrest Avenue, Ocean Street and parts of the Vintage Lakes Estate. The existing hill is predominant in the landscape and provides visual relief to the surrounding land.

The applicant has conducted a visual impact assessment which has been submitted with the development application. This assessment concludes that the proposed development and visual mitigation measures adequately address the likely visible impacts of the earthworks operation and that the potential visual impacts fall within acceptable standards.

Measures have been implemented to minimise the visual effects of the development. The earthworks cutting has been designed to maintain the crest of the hill at the Highway frontage of the site at a level of approximately RL 38m which represents a reduction of approximately 2m from its current height. The existing southern extent of the hill has an approximate height of 39m which will be reduced to approximately 32m. In between these two points the cutting for the road alignment will reduce to

Reports from Director Development Services

approximately 8m RL. This will result in a “valley” or V shaped cut being created in between the current northern and southern extent of the hill crest. Retaining the height of the hill at its northern and southern extent will somewhat maintain the break in visual topography currently offered by the hill. Additionally, the excavated area is to be landscaped in stages which, in the long term will rehabilitate the site.

A brief summary of the resulting visual impact from various viewing locations is provided in the Visual Impact Assessment report. With regard to the view from the Pacific Highway south bound adjacent to the site, it is stated that views of the earthworks will be obscured by existing topography and that no views of the quarried area will be possible. It is stated that one large tree will be lost and a slight reduction in the hill level by 2m will be mitigated by new plantings and retained vegetation. It should be noted that the visual impact assessment does not appear to address the impact of views from north bound traffic which will have a much higher exposure to the excavated area until such time as rehabilitation planting occurs.

With regard to view from the Palms Village Caravan Park located to the north of the site, it is stated in the Visual Impact Assessment that views of the worked area will be obscured by existing topography and vegetation and therefore the visual impact from the Palms Village will be limited. It is agreed that visual impact from the Palm will not be highly significant, however, it is considered that working may be visible, particularly when working on the lower sloped areas and this is reinforced by the statements made in the Noise report which specifies that it may not always be possible to maintain an earthen buffer between the works on site and the Palms Village. Notwithstanding the above, the noise report also states that the noise is proposed to be minimised by maintaining an earthen bund wherever possible which would largely minimise the visual impact of the works. It is stated that the earthworks will be visible from residents along Fraser Drive to the west of the site and from development on Fraser Drive on the south western corner of the site. It is proposed to seek to mitigate the visual impact by plantings and re-vegetation work.

It is accepted that the visual and scenic impact has been limited as the proposal does not involve removal of the entire hill and the eastern extremity of the hill will only be lowered by approximately 2m. Maintaining the high point of the hill will assist in maintaining some of the scenic quality of the hill, particularly following re-vegetation works. The adverse effects on the scenic quality of the area can only be managed to a limited extent. The work and proposed road cutting will undoubtedly be visible from a wide area including the Pacific Highway.

Built Environment

The main potential for impact upon the built environment is from the noise generation from the works, the traffic issues from the vehicles accessing the extraction site and from a possible reduction in amenity. These issues are addressed below.

Reports from Director Development Services

Noise

The applicant has submitted amended noise details which re-designs the work methodology and extraction plans. The amended noise details require extraction to commence at the southern end of the extraction zone with stockpiling to occur south west of this area. The amended details specify that the direction of excavation is to proceed towards the north ensuring that an adequate bench height is maintained so that the top of excavation material is well screened from residential properties to the north.

The noise report submitted with the application indicates that the minimum average day time background level at the nearby Palms Village is 43dBA. The EPA guidelines require noise to be contained within the background level plus 5dBA which indicates that noise in the vicinity of Palms Village should not exceed 48dBA. The noise report predicts that the maximum noise level generated by the extraction activities will be approximately 46dBA.

The noise issue has been addressed by Council's Environment and Health Unit who have not raised objections to the proposal based on noise levels. They specify that the noise issue can be adequately addressed and has been considered and conditioned by the EPA. They have recommended additional conditions regarding all vehicles being fitted with a fully operational and effective exhaust and silencer system to manage the noise issue. The EPA has provided terms of approval requiring that noise from the premises must not exceed 56dBA for the first 12 weeks of the project and then on 48dBA. The conditions specify that the noise from the premises is to be measured from any of the residences at the Palms Village to determine compliance with this condition. Provided the applicant complies with this condition the noise levels generated will fall within accepted limits.

The applicant has also specified that blasting may be necessary when the excavation reaches lower extent and encounters harder rock material. The EPA has also proposed a condition regarding the sound pressure level for blasting, ground vibration requirements, timing of blasting and frequency of blasting.

Truck Movements

It is recognised that the traffic generated by the proposed development has potential to impact on the built environment. It is estimated that approximately 520 vehicle movements per day will occur at the site. The applicant states that the majority of vehicles will use a private haul route linking to Traders Way and Enterprise Avenue where fill material will be trucked to the eastern side of Kirkwood Road and used for fill. Additionally, it is mentioned in the application that some truck movements may occur across Fraser Drive to the west also to be used for fill material for subdivision works. Some of the material from the site will be used to fill the site of the subdivision approved on the subject land. It should be noted that separate approval will be required for any filling works on any other properties.

The impact of the truck movements can be minimised by the use of private internal haul routes and therefore avoiding the use of Council roads apart from for a short distance in

Reports from Director Development Services

the Enterprise Avenue/Traders Way area. This area is generally used for commerce and trade uses and does not contain any residential uses. This course of action will maximise the separation of truck movements from surrounding residential properties thereby minimising the impact from the truck movements.

Amenity

The abovementioned issues will have potential to impact on the amenity of the surrounding area, particularly from the noise, scenic impact and impact from vehicles associated with the extractive industry.

(c) **Suitability of the Site**

The suitability of the site and the road corridor for the Kirkwood Road extension has not yet been fully investigated. As mentioned previously it is not certain that the road connection will proceed and on this basis it is considered premature to conclude that the site is suitable for the earthworks.

(d) **Any Submissions made in accordance with the Act**

Public Authority Comments

The application was referred to the Department of Agriculture, Department of Land and Water Conservation, Department of Mineral Resources, National Parks and Wildlife Service, Environment Protection Authority, Roads and Traffic Authority, NSW Fisheries and the North Coast Public Health Unit. NSW Agriculture, Department of Mineral Resources and NSW Fisheries all advised that no objections were raised to the proposed development. The Institute of Health raised an issue regarding statements made in preliminary correspondence that water from Council's Sewerage Works may be used for dust control. This is no longer proposed to be undertaken. The Roads and Traffic Authority commented that it may be necessary to provide for right turning haulage traffic from Greenway Drive to Traders Way and this was to be investigated by Council's Engineering Services Division. The Department of Land and Water Conservation advised that conditions should apply regarding earthen berms to be vegetated to prevent scouring and soil erosion. Both the National Parks and Wildlife Service and the Environment Protection Authority have recommended various conditions of consent.

Public Submissions

The application was advertised and numerous submissions were received. The issues raised are addressed below.

A total of 24 individual letters of objection, 130 standard letters and a petition containing 70 signatures were received in objection to the proposed development. The main issues raised in these submissions are noise, dust, truck movements on Dry Dock Road and Fraser Drive, impact of blasting, flora and fauna, reduction in housing value, and affect on drainage within the area. The issues are addressed below.

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Noise

Submissions were received based on concerns that noise levels at Palms Village and other caravan parks within the area would be of an unacceptable level, thereby having a detrimental effect on the amenity of residents, and possibly their health.

Comments

The issue of noise has been extensively addressed in Section 79(b) of this report. In summary, the applicant has redesigned the work program and provided additional noise details to reduce the noise impact on residents of Palms Village. The amended works program will involve works occurring initially at the southern extent of the site and working northward, maintaining an earthen barrier between the excavation area and the Palms Village. This earthen barrier will act as a noise attenuation barrier, and will generally minimise visibility of the works from Palms Village. The Noise Report indicates that the background noise level at the Palms Village is 43 decibels, and predicts a maximum noise impact of 46 decibels, representing an increase in approximately 3 decibels at that site. This noise increase falls within the Environment Protection Authority Guidelines, and the Environment Protection Authority has recommended conditions and terms of approval specifying that noise emissions from the works shall not exceed 48 decibels in the long term. It should be noted that a slight increase to 56 decibels will be permitted by the Environment Protection Authority for the first twelve weeks of the project, and from then on noise is to comply with the maximum level of 48 decibels. The Environment Protection Authority specifies that noise from the premises is to be measured at any residence within the Palms Village to determine compliance with this condition. As the proposed works is “scheduled premises”, the Environment Protection Authority will be involved in monitoring and will have a role in ensuring that the developer complies with the terms of approval issues regarding noise generation.

Dust

Numerous submissions raised concerns regarding the effect of dust generation on surrounding residential properties, and the resulting impact of increased dust on the health of residents.

Comments

The Environmental Impact Statement contains an Environmental Management Plan for the extraction of the material from the property. Section 3.3 specifically relates to dust management, where it is stated that the objective is to achieve acceptable air quality standards with the control of dust movement off-site during site works. The management measures to achieve this objective include no clearing occurring in situations of high winds, bunding and reshaped areas are to be revegetated in accordance with Council’s requirements, stock piling will be minimised on-site, any dry stock piles will be reduced to a maximum height of 2.5 metres and sprayed with water regularly, the whole road, once complete, is to be sealed to minimise dust, an on-site water cart will be available at all times, and all loads leaving the site will be covered. They state

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that temporary dust deposition gauges will be established to monitor the movement of dust off-site, with one of these gauges being located in the south west corner of the Palms Village, with the monitoring being undertaken in accordance with Australian Standards 2724.1.

The Environment Protection Authority has also addressed this issue in their suggested general terms of approval. Their terms of approval include requirements that activities occurring at the premises must be carried out in a manner that will minimise emissions of dust, and that all trucks entering and leaving the premises must be covered at all times, except during loading and unloading, and that an on-site water cart will be used to minimise dust. A concentration limit of dust deposits is also specified in the terms of approval, with the acceptable limit being a maximum increase in dust emission of 2 grams per m² per month. The EPA Terms of Approval also calls up the Environmental Management Plan, and specifies that the Plan must be complied with. Conditions of Consent from Council will reinforce the need to comply with the Environmental Management Plan.

Impact of Trucks on Dry Dock Road and Fraser Drive

Numerous objections raise the issue of the additional truck movements on Dry Dock Road and Fraser Drive having an adverse impact on the amenity and safety of the elderly and children using the road network.

Comments

As previously discussed in the report, the applicant has established an internal road network which does not involve the use of Fraser Drive and Dry Dock Road. Material extracted from the site is to be hauled over a private haul road connecting to Enterprise Avenue and Traders Way in the Expo Park Estate. Alternatively, some of the fill will be used on the site to fill the site of an approved residential subdivision, and some fill may be carted directly across Fraser Drive, also for the use of filling land for residential development. On this basis, it is considered that the only likely impact of traffic on Dry Dock Road and Fraser Drive will result from workers and mobile fuel tankers accessing the site. This traffic flow is not considered to be significant, and will generally not involve the use of heavy trucks. It is therefore considered that the existing road network is unlikely to be significantly affected by the proposed development.

Vibration from Blasting and Extraction Activities

Concerns were raised in the submissions regarding the impact of vibration caused from the extractive material and blasting on the structural integrity of nearby dwellings. It was stated that damage occurred to houses in the area from the impacts of constructing the Tweed Heads Rowing and Aquatic Club on the corner of Fraser Drive and Dry Dock Road.

Comments

It is stated in the application that blasting will only occur when hard material is encountered. The Environmental Impact Statement provides that the hill area generally

Reports from Director Development Services

consists of a topsoil layer over a weathered basalt cap. It states that extremely weak to strong basalt is encountered in an around the top of the hill from a depth of 0.25 metres to 13 metres, and that on an elevation basis it would appear that the basalt caps down around RL 28 metres AHD. It is stated that the basalt increases in strength with depth and is highly fractured. Below the basalt cap is a weak argillite which is generally fractured and increasing in strength with depth.

The Environmental Impact Statement states that blasting of rock will only be carried out when hard rock is encountered, and that most material will be won by excavator. The Environment Protection Authority has recommended terms of approval relating to blasting, including relating to over pressure and ground vibration, monitoring of blasting, and the timing of blasting. The Terms of Approval given by the Environment Protection Authority aim to control blasting activities within acceptable limits, and provided that the applicant complies with the Terms of Approval and Conditions of Consent, the impact of blasting will fall within acceptable standards.

Flora and Fauna

Concerns were raised by objectors regarding the impact of the development on flora and fauna in the area.

Comments

The issue of flora and fauna was addressed in the Report previously. The Environmental Impact Statement was accompanied by a Flora and Fauna Assessment conducted by James Warren. This Report has been assessed and commented upon by the National Parks & Wildlife Service who have recommended conditions which would be applied to any consent issued. National Parks & Wildlife Service have not objected to the proposal, and in this regard the impact of flora and fauna is considered to be acceptable.

Hill Screens Highway Noise

Concerns were raised regarding the removal of the hill and the resulting impact of an increase in highway noise affecting residents within mobile home parks on Dry Dock Road. It is stated that at present the hill screens the properties from highway noise and acts as a buffer.

Comments

The height of the hill at the highway extent of the site will be lowered by two metres, and the northern slope of this section of the hill will remain intact. It is considered that it is this part of the hill which would act most effectively as a barrier to highway noise. The cutting will not create a direct line of site between the caravan parks to the north and the highway to the south, and as such, it is considered that increase in highway noise is not a significant issue of concern.

Intent of Excavation/Drainage

Reports from Director Development Services

An objection raised concerns that the Environmental Impact Statement for the extractive industry is actually for a housing estate, which is stated, would cause further drainage problems in the Banora Point area which cannot cope with more residential development.

Comments

The subject application mentions the filling of residential land on the site, however it should be noted that this subdivision has already been approved by Council, and part of the requirements for the development of the subdivision is a requirement that the land be filled to the design flood level. The issue of drainage within the area would have been assessed as part of approval of this Subdivision Application. If approval is issued for the extraction works proposed in this Application, a condition will be imposed requiring any site proposed to be filled with material from the subject land to receive separate development approval from Council for the works on site.

Property Values

Comments

Property value is determined by numerous factors. The proposed works are of a relatively short term nature (4 years) and could therefore not be attributed to any reduction in property values.

(e) The Public Interest

It is recognised that the proposed extraction works are intended to be carried out over a period of approximately four years, and during this time will have an impact on surrounding land uses, including residential development to the north.

The construction of Kirkwood Road may not eventuate resulting in the unnecessary excavation of the hill and the application for Kirkwood Road will be considered on its merits. It is considered that it would be in the public interest to ensure that the full road construction is to proceed before allowing the proposed excavation works to occur. Otherwise the proposed work will impact on nearby residents and on the visual quality of the area without any necessity for the work to be undertaken and for no long term public benefit.

SUMMARY

The proposed earthworks involve the removal of approximately 540,000 cubic metres of material from the land over a maximum period of 4 years. Excavation forms a possible future road profile for Kirkwood Road should Council determine to proceed with construction of Kirkwood Road. The proposed development cuts into the saddle between the northern extent and southern extent of the existing hill, and will reduce the existing hill height by two metres, on the eastern portion of the hill. This will somewhat assist in maintaining the appearance of the hill, which is considered to be an important topographic feature.

The Noise Report submitted with the application indicates that noise levels from the extraction can be maintained within five decibels above the background noise level, which is the commonly

Reports from Director Development Services

accepted standard used by the Environment Protection Authority to determine acceptability of noise levels. However, it is recognised that some noise increase will occur.

Given that the haul trucks will not be utilising Fraser Drive and Dry Dock Road, it is considered that the proposal will not have a significant impact on the road network. Small increases in traffic may arise due to workers utilising Dry Dock Road and Fraser Drive to access the site, however this traffic impact is not likely to be significant. It should be noted that if the works are approved a condition of consent would require development approval to be obtained from Council for the deposit site of the material extracted from the subject land.

The application was referred to numerous State Government departments. No outstanding concerns remain from these Departments and conditions of approval have been recommended from the Environment Protection Authority, National Parks and Wildlife Service and the Department of Land and Water Conservation.

As discussed in Section 79(d) of this report, the application was advertised for public comment and a significant number of objections were received to the proposal, primarily from residents within mobile home parks fronting Dry Dock Road. These premises form the closest residential development to the proposed extraction site.

The main issue relating to the proposal is whether it is appropriate to allow the proposed earthworks to occur without certainty that the Kirkwood Road connection will be constructed. Council's Engineering Services Division indicates that the road construction is necessary on traffic grounds however the road route is constrained on the eastern side of the Highway, and a full environmental assessment has not been carried out on this land nor has approval been granted for construction. Until it is certain that the Kirkwood Road connection is going to proceed it would be premature to issue approval to the proposed earthworks. It would not be in the public interest for Council to accept the adverse impact caused by the proposed development until the future of the road connection is assured.

OPTIONS

Council would have two (2) main options regarding the application.

1. Approve the application subject to conditions - as recommended or modified.
2. Refuse the application.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

Should the applicant be dissatisfied with the outcome of the application, a right of appeal would exist to the Land and Environment Court. Should any objector be dissatisfied with the outcome of the determination of the application they would have the right under Section 98 of the Environmental Planning & Assessment Act, 1979 to appeal within 28 days after the date on which notice of determination was given.

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2. ORIGIN: Subdivision Unit

FILE REF: DA5937/740 Pt2

REPORT TITLE:

**Development Application K99/1682 - Proposed 8 Lot Subdivision of Lot 117 DP 87997
Darlington Drive/Winders Place, Banora Point (Surrounding Lake Kimberley) -
Bradshaw Development Pty Ltd**

SUMMARY OF REPORT:

At its meeting on 19 April 2000 Council considered a report on this Development Application and a separate confidential report on the possible acquisition of land surrounding Lake Kimberley and resolved that both matters be deferred to allow further discussion to take place involving Crs Boyd and Polglase, the General Manager and the proponents representatives. Following the consequent meeting on 10 May 2000 it was agreed that the previously deferred reports would be re-submitted to Council and in this regard the developers have requested that Council resolve to exhibit the Development Application and draft amendments to Development Control Plan No 3 to facilitate the development proposed in the application.

The previous reports are reproduced in Items Deferred.

Various options for acquisition of parts of the land surrounding Lake Kimberley were also discussed following which the developers put forward an option for funding of acquisition which is currently being investigated by Council officers and will be the subject of a separate detailed report to Council in June 2000.

It is a matter for Council's discretion as to whether or not Council wishes to amend Development Control Plan No 3 to facilitate the proposed development, however, the Development Application and Development Control Plan No 3 amendments are not supported for the reasons explained in the previous reports - notably the report to Council meeting held 15 December 1999 (Annexure 1).

RECOMMENDATION:

That :-

- A. The applicant be advised that Council does not support the use of Clause 10 of Tweed Local Environmental Plan 1987 to enable the Integrated Housing Development to be approved on the 6(c) zone
- B. The applicant be advised that Council is not prepared to amend Development Control Plan No. 3 to facilitate approval of the Integrated Housing Development.
- C. The Director of Development Services be authorised to negotiate with Bradshaw Developments Pty Ltd in relation to the development application and any compensation which may be applicable to land to be dedicated around Lake Kimberley, subject to submission of a report to Council for endorsement of any negotiated outcome.

Reports from Director Development Services

REPORT:

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Various options for acquisition of parts of the land surrounding Lake Kimberley were also discussed following which the developers put forward an option for funding of acquisition which is currently being investigated by Council officers and will be the subject of a separate detailed report to Council in June 2000.

It is a matter for Council's discretion as to whether or not Council wishes to amend Development Control Plan No 3 to facilitate the proposed development, however, the Development Application and Development Control Plan No 3 amendments are not supported for the reasons explained in the previous reports.

Reports from Director Development Services

3. ORIGIN: Subdivision Unit

FILE REF: DA1180/668 Pt5

REPORT TITLE:

Proposed 82 Lot Subdivision at Lot 3 DP 865049 Coast Road, South Kingscliff - Casuarina Beach Stage 2

SUMMARY OF REPORT:

The application proposes the subdivision of parts of the Kings Beach site into 82 lots. The proposal consists of conventional allotments and larger lots for tourist and commercial development which will be subject to future development applications.

This application is over Management Lots 1, 2, 12 and Parts of 3, 9 and 13 and the value of works involved is estimated at \$2.9 million.

The applicant has lodged an appeal to the Land and Environment Court based on a "deemed refusal". Therefore, it is considered that the application should now be determined based on the information at hand.

A number of unresolved issues have been identified in this report. While some can be adequately conditioned on any consent it is considered that a number of other issues cannot. Inadequate information has been provided to resolve these outstanding issues and it is considered that the applicant should be requested to resolve these matters to enable Council to support the application.

In addition, no response has been received from the National Parks and Wildlife Service in relation to the adequacy of the Flora and Fauna Assessment to determine if the proposal is likely to have a significant impact on threatened species and habitat.

RECOMMENDATION:

That the applicant be advised that the following issues will need to be resolved to enable Council to support the application.

1. Submission of owners consent from the Department of Land and Water Conservation to make the application valid.
2. Receipt of advice from the:-
 - i. National Parks and Wildlife Service advice on the submitted Flora and fauna assessment;
 - ii. National Parks and Wildlife Service advice is required to satisfy conditions 41(d), 46 and 77 of the Stage 1 consent (S96/135).
3. Submission of an amended drainage strategy which does not alienate proposed passive and active open space areas required by the Stage 1 consent.

Reports from Director Development Services

4. Architectural Design Regulations - Council should not be party to these. Applicant to administer only and any approvals by the Architectural Review Committee does not necessarily mean Council will support.
5. Compliance with the Stage 1 consent conditions (S96/135) - In particular conditions 35, 49, 38, 41(a) 41(d), 46 and 47 is not completed.
6. Compliance with the Deed of Agreement and in particular dedication to Council of the amelioration land, as required by Clause 2.2.
7. Inconsistency with DCP11 - Kings Beach - Clause 15.
8. 'T' & 'Y' heads - Geometry.

Reports from Director Development Services

REPORT:

Applicant:	Kings Beach Project (No. 2) Pty Ltd (Consolidated Properties)
Owner:	Lenen Pty Ltd
Location:	Lot 3 DP 865049 Coast Road, South Kingscliff
Zoning:	Part 2(e) Residential (Tourist), Part 7(a) Environmental Protection (Wetlands), Part 7(f) Environmental Protection (Coastal Lands) and Part 7(l) Environmental Protection (Habitat)
Est. Cost:	\$2,896,300

BACKGROUND

Council has received a development application (K99/1360) for the subdivision of the subject land into 82 lots which consists of 75 residential lots, 4 tourist/commercial/medium density lots, 1 community lot and 2 open space lots. The subdivision is known as Stage 2 of Casuarina Beach Development. The subdivision is proposed on land described as Management Lots 1, 2, 12 and Parts of 3, 9 and 13 as approved for Stage 1. This land is located on the southern side of the Kings Beach site. A flora and assessment accompanies this application. The application seeks consent to subdivide the residential and part of the environmental protection (coastal lands) zoned land on the site. The site was zoned in 1989 for urban development following the preparation of the South Kingscliff Study.

The following is a history of development consents relating to the entire Kings Beach site.

- On 16 December, 1998 the Land and Environment Court issued development consent S96/135 for the subdivision of the subject land into 14 lots and the carrying out of Stage 1 works. The construction of the new Coast Road is now completed. However, compliance with all conditions of this consent has not been completed and the linen plan has not been submitted. In addition, a Section 96(2) application has been submitted to modify this consent. This has not been determined by the Land and Environment Court.

It is considered that all conditions of development consent S96/135 should be satisfied prior to any further consents being issued.

- On 6 December, 1999 Council received development application K99/1733 for the subdivision of management lots 5 and 7 and parts of 13 and 14 into 82 lots at the Kings Beach site. This is otherwise known as Stage 3 of the development of the Kings Beach site. This application is the subject of a separate report.
- On 6 December, 1999, Council received development application K99/1732 for the subdivision of management lots 3, 4, 9 and part 13 into 97 lots at the Kings Beach site. This is otherwise known as Stage 4 of the development consent of the Kings Beach site. This application is the subject of a separate report.
- The applicant's have lodged a deemed refusal appeal for each of the applications (Stages 2, 3 and 4) with the Land and Environment Court.

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Consent S96/135 (Stage 1)

As previously discussed the Land and Environment Court issued consent for the subdivision of the subject land into 14 lots and the carrying out of Stage 1 works. Compliance with all the conditions of this consent has not been completed and the linen plan has not been submitted.

Conditions of consent S96/135 which affect this application are discussed below:-

“A (i) *The subdivision of the land into 14 lots as shown generally on the Subdivision Plan*”.

Comment:

The application is generally consistent with the Subdivision Plan.

“A (iii) *The development of the management lots for the purposes of low and medium density residential, retail, commercial and tourist development together with associated and related uses and facilities generally in accordance with the Development Plan*”.

Comment:

The Stage 2 Development Master Plan is not the same as the Development Plan but is considered to be “generally in accordance” with same.

The Kings Beach Concept Master Plan submitted with the development application is not the same as the Development Plan approved by the Court. The Kings Beach Concept Master Plan includes the former Narui Coastal Site and accordingly, it is considered that the Stage 1 consent should be modified to include the Kings Beach Master Plan in lieu of the Development Plan.

“1. *The total population yield from the development of the Management Lots in accordance with the further development consents referred to in Condition 2 shall be based upon the following estimates:*

<i>Lots</i>	<i>Population</i>
<i>1</i>	<i>550</i>
<i>2</i>	<i>620</i>
<i>3</i>	<i>1100</i>
<i>4</i>	<i>700</i>
<i>5</i>	<i>1520</i>
<i>6</i>	<i>400</i>
<i>7</i>	<i>710</i>
<i>Total</i>	<i>5600</i>

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Comment:

This application does not achieve the population yields for lots 1 and 2. The estimated population yields for management lots 1 and 2 is 1,170 persons. The application indicates the population yield for lots 1 and 2 at 837 persons, which is well below the estimate of 1,170. See section (iii) of this report under DCP11 - Kings Beach for further comments on this issue.

- “3. *The development shall be carried out generally in accordance with the Development Plan, except where varied by these conditions*”.

Comment:

See A(i) above.

- “18 (iv) *A report detailing water sampling results from the surface water and groundwater monitoring programs shall be submitted to Council prior to the commencement of any new stage of the development, including details of any relevant previous failure to meet water quality discharge objectives or standards. The report shall include a recommendation as to any proposed amelioration works required to be implemented to rectify the said failures and shall further include an indication as to whether the development may satisfactorily proceed.*”

Comment:

A Water Quality Monitoring and Management Program has been submitted for this application and is to the satisfaction of the Environment and community Services Division.

- “32. *The following controls shall apply to dog and cat ownership and a restriction as to user shall be created on the Management Lots under Section 88B of the Conveyancing Act, 1919-1964 in the following terms:*

- i. No property owner shall have more than one dog or one de-sexed cat;*
- ii. Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and that any owners of cats within the development be restricted to one de-sexed cat per allotment and to have their cats restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.*
- iii. No dog to be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.*
- iv. No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.*

This section 88B Instrument shall make provision for amendment, revocation or variation of restriction required by this conditions only with the approval of Council as the authorised authority.”

Comment:

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This condition should be imposed on any consent for this application.

“34 Prior to issuing a construction certificate for future development of any Management Lot, all existing Bitou bush plants shall be removed from that lot and the resultant disturbed areas shall be treated to suppress dust nuisance and soil erosion pending any development thereof”.

Comment:

This condition should be imposed on any consent for this application.

“35. A Dune Management Plan shall be prepared to the satisfaction of the Director of Development Services in respect of the Fore dune lands adjoining the Land and be submitted in conjunction with the Part XII Engineering Plans”.

Comment

A Dune Management Plan has been submitted and approved by Council but not the Department of Land and Water Conservation.

The applicant and Lenen Pty Ltd are preparing an amended Dune Management Plan for the approval of Council and DLAWC. This Plan has not been submitted to date.

In addition, development consent is required for the works proposed in the Dune Management Plan. The applicant has been requested to submit a development application for this work to enable both applications to be assessed and determined on an integrated basis. To date, no application has been received for the works proposed by the Dune Management Plan.

“38. The land shown on the Subdivision Plan as Lots 8, 9, 10, 11, 12, 13 and 14 shall be dedicated to the Council as public open space at no cost in conjunction with registration of the linen plan of subdivision creating the allotments”.

Comment:

It is considered that the determination of this development application should await release of the stage 1 linen plan to ensure that it is consistent with the new lot boundaries.

“39a The proposed regional coastal walkway/cycleway within Land zoned 7(f) as shown on the Development Plan shall be constructed generally in accordance with detailed engineering plans to be submitted prior to the release of the Stage 1 linen plans of subdivision and approved prior to work on the said walkway/cycleway commencing”.

Comment:

The coastal walkway/cycleway shown on the application plans appears to be generally consistent with the Stage 1 Development Plan. Part of the walkway/cycleway is within lot 500 and this is also consistent with the Development Plan and the approval of the Reserves Trust. The Stage 1 linen plan has not been submitted and final engineering plans for the cycleway/walkway have not been submitted

Reports from Director Development Services

39b Construction of each section of walkway/cycleway immediately east of any management lot shall be completed prior to the release of the linen plan for future subdivision of the respective management lot”.

Comment:

This condition should be imposed on any consent.

“39c Notwithstanding the previous paragraph the walkway/cycleway adjacent to Lots 1, 2, 3, 4, 5, and 7 must be completed within four (4) years of the release by Council of the linen plan of subdivision for Stage 1 or the re-subdivision of the management lots or immediately following construction of the cycleway/walkway from Cudgen Headland to the northern boundary of the land, whichever occurs first”.

Comment:

This will be included as a condition on any consent for this application.

“39e The design of the walkway shall be integrated with any adjacent proposed car parking areas and beach access points and shall extend for the full frontage of the land including, where necessary, within the Crown Foreshore Reserve subject to the written approval of the Reserves Trust”.

Comment:

As commented in 39(a) above part of the foreshore walkway/cycleway is within the Crown Foreshore Reserve (lot 500). The Reserves Trust has resolved as follows:

“that the Trust approves the construction of the proposed walkway/cycleway, and ancillary drainage and landscaping works within Lot 500 DP 727420, Kings Beach being part of the Single Coastal Reserve subject to submission and approval of detailed engineering plans to the satisfaction of Tweed Shire Council”.

Any consent will be conditioned appropriately.

“39f The application and/or owner shall prepare and submit a plan for the approval of the Director of Development Services within 6 months of the release of the linen plan for Stage 1 for the embellishment works on Lots 12, 13 and 14 and such plan shall provide for:

- (i) removal of bitou bush and other noxious weeds.*
- (ii) rehabilitation of the area consistent with the Dune Management Plan referred to in Condition 35 of the Consent Orders and good practice in this regard.*
- (iii) provision of adequate and appropriate security lighting for users of Lots 12, 13 and 14.*
- (iv) provision of suitable related day visitor facilities, generally consistent with drawings contained in Appendix E to the statement of Environment Effects”.*

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- “39g (i) *A schedule for the implementation of the embellishment works including the relationship between the works set out in f(iii) and (iv) to the development of any management lots shall be submitted and approved by the Director, Development Services as part of the plan referred to in Condition 39(f).*
- (ii) *The embellishment works required by Conditions 39(f)(i-iv) shall be completed within four (4) years of the release by Council of the linen plan of subdivision for Stage 1.*
- (iii) *If the walkway/cycleway or any part thereof is constructed in accordance with Condition 39(b) then the embellishment works referred to in this condition or in Condition 39(f)(i-iv) shall be carried out concurrently in respect of Lots 12, 13 and 14 in which the walkway/cycleway is constructed.*
- (iv) *If at the time of sale by Lenen Pty Ltd of any of lots 1 to 5 and 7 and the embellishment works referred to in Condition 39(f)(i-v) have not been completed in Lots 12, 13 and 14 as those lots are immediately east of the management lot as then sold the applicant shall provide in respect of those embellishment works a bond equivalent to the cost of those works plus 20%”.*

Comments:

It is considered that the requirements of conditions 39(f) and 39(g) can be adequately conditioned on any consent for this application.

- “41(a) *Any development application with respect to any of the Management Lots shall provide for the planting of not fewer than the number of Banksia integrifolia shown in the Table hereunder against each such lot and totalling not less than 5400 stems provided that those numbers shall be reduced so that they total the difference between 14000 and the total number of stems planted pursuant to condition 40 (where they total more than 8600).*

To avoid the potential for a Banksia monoculture, the numbers of Banksias proposed for replanting shall include a proportion of other relevant flowering native species depending on the location for replanting. These other relevant species shall be of a type that provides a food source for the Queensland Blossom Bat. Approximately 20% of the planting shall comprise other relevant flowering species.

<i>Lot No</i>	<i>Compensatory Planting (stem numbers)</i>
<i>1</i>	<i>690</i>
<i>2</i>	<i>382</i>
<i>3</i>	<i>1256</i>

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4	1232
5	1435
6	49*
7	356
Total	5400

Comments:

An extract from the report on the “Impact on Common Blossom Bat Habitat for Stage 2 Development” prepared by James Warren and Associates is provided as follows:

“Stage 1 Consent condition 41(a) notes that a development application with regard to any of the Management lots shall provide for the planting of not fewer than the number of Banksia shown in the table hereunder against each lot.

Table 11

Mitigation Required as per Stage 1 Consent

Lot No.	Compensatory Planting
1	690
2	382
3	1256
4	1232
5	1435
6	49
7	356
Total	5400

The combined total for the Study site is 1072 Banksia trees. As the development of the Study site will not result in the Blossom Bat population being in energy deficit, it is considered that these plantings are not critical. However, 15000 trees have been planted nearby which more than compensated for losses in the Study site.

15000 trees have been planted in accordance with the Vegetation Management Plan. Plantings have predominantly been undertaken on Management Lot 8 (west of the new Coast Road) and the Richtech land in the areas defined in the Amelioration plan”.

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Subject to advice from the NPWS, this condition appears to have been complied with. See further comments in relation to Condition 41(d), 46 and 47.

“41(b) Any such planting shall be carried out before the linen plan of subdivision of any such Management Lot is released.

Total of 1 and 2 = 1072

Total of 6 and 7 = 405”

Comment:

See comments relating to condition 41(a) above.

“41(c) The Applicant shall within 6 months of the date of this consent provide to the Council and the National Parks and Wildlife Service an estimate of the number of productive inflorescences that are within the site of the relocated Coast Road and the Management Lots at that time.”

“41(d) Where an application is made for consent to the development of a Management Lot within 8 years of the completion of the planting referred to in Condition 40, the applicant for such consent shall be required, prior to such a consent being granted, to satisfy the National Parks and Wildlife Service that the removal of any Queensland Blossom Bat foraging resource from that Management Lot will not unduly reduce the total productive inflorescences referred to in (c) above or that such removal may proceed notwithstanding any such reduction”

Comment:

A report on the “Impact on Common Blossom Bat Habitat for Stage 2 Development” prepared by James Warren and Associates Pty Ltd dated September 1999, accompanies the application. This report has been sent to the National Parks and Wildlife Services and to date no response has been received from NPWS indicating if it is to their satisfaction.

The applicant has lodged a Section 96 application with the Land and Environment Court to modify Condition 41(d) as follows:-

1. Delete condition 41(d) and insert instead the following condition:-

“Prior to the issue of a subdivision certificate for the subdivision of any management lot, the applicant shall plant 300 Banksia integrifolia per lot within that lot in public areas such as road reservations, car parks and open space areas”.

2. Amend condition 47 by deleting the words ‘condition 42’ and insert instead the words ‘condition 41(a)’.

The Section 96 application was reported to Council’s meeting of 5 April, 2000. Extracts from that report are provided as follows:-

“The original development application was advertised and notified and therefore the current modification was also advertised and notified in the Daily News for a period of 14 days from

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2 March to 17 March, 2000. No submissions were received during the exhibition period. Lenen Pty Ltd provided no substantiating report to the Section 96 application which impedes adequate understanding and assessment.

A copy of the application was also forwarded to the NPWS and for comment, following which the Service provided on a "without prejudice" basis some preliminary proposals relating to Lenen's application. As a result of those preliminary proposals and following discussions with officers of the NPWS, Council officers proposed to Lenen Pty Ltd that "without prejudice" negotiations be held with a view to resolving the matters without the need for a formal Court hearing.

During the course of the negotiating, it was noted that Lenen had undertaken to provide to the NPWS in December 1999 a report from their Flora and Fauna Consultant substantiating the modification application. At a further meeting in March 2000 involving the NPWS and the Manager of Subdivisions, Lenen had again undertaken to provide the report by about 20 March, 2000. However, that report has not been received. Indeed, Lenen advised during the course of the "without prejudice" discussions that the report was substantially completed - however, the Company was reluctant to provide it at that stage in case the matter proceeded to a full hearing before the Land and Environment Court.

Both Council officers and Officers from the NPWS reiterated the need for the report to enable both parties to properly and fully assess the implications of the modification application, particularly as the report apparently contains some updated information in relation to common Blossom Bat numbers and distributions.

Following lengthy negotiations the agreed outcome of the "without prejudice" discussions on 22 March, 2000 was as follows:-

"For the purpose of reaching agreement under Condition 41(d) and subject to the submission of a report by Gunninah Consultants (Dominic Fanning) including the confirmation of the accuracy of the mapping of coastal banksia - Tweed Shire Council representatives and the NPWS generally support the concept of the deferral of the development of two areas shown on the attached plan (reproduced as Annexure 1 to this report).

- a. In respect of the commercial area - deferral of four years from 1 June, 1999;*
- b. In respect of the north western area - deferral shall be for a period of four years from 1 June, 1999 or an alternative biological timeframe to be agreed between the applicant, NPWS and the Tweed Shire Council.*

For the satisfaction of the development consent provisions for coastal banksia retention so as to enable adequate habitat and foraging resources to be retained for the QLD Blossom Bat during the implementation of the development consent for Kings Beach South Stage 1.

This will form the basis for the continuing assessment of the Stage 2 development application by Council and the NPWS."

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Comments

Following submission and assessment of the report from Gunninah Consultants by the NPWS and Council officers, it is proposed to arrange a further “without prejudice” discussion with a review to resolving condition 41(d). Given that the current condition 41(d) contains a discretion for the NPWS to be satisfied in relation to compensatory food sources for the QLD Blossom Bat, it may well be that as a result of further discussions there is no need to formally modify that condition of the consent.

In relation to condition 47 of the consent, the reference in that condition to condition 42 is an apparent typographical error and therefore, condition 47 should refer to condition 41(a) as proposed by Lenen in their modification application.

To formalise this change consent orders can be simply requested from the Land and Environment Court without the need for either party to be involved in any formal hearing involving witnesses and evidence”.

At the meeting of 5 April, 2000, Council’s resolution on the above report is as follows:-

- “1. Receives and notes this report.*
- 2. Officers, in connection with the National Parks and Wildlife Service, continue to negotiate with Lenen Pty Ltd with a view to negotiating an “out of court” resolution.*
- 3. Raises no objection to the modification of Condition 47”.*

The “without prejudice” comments provided by the NPWS is provided as follows:-

“Without Prejudice

Preliminary proposals relating to Lenen’s application to vary the Court Orders with respect to Kings Bach Stage One

- 1. The intent of Condition 41(d) is to minimise nett loss of productive Banksia habitat on site by requiring NPWS approval for future subdivision within the first 8 years so that the compensatory planting have some time to mature and produce inflorescences. This is to minimise potential impact on the Queensland Blossom Bat.*
- 2. It was originally intended to stage the release of the subsequent lots over a period of years so that removal of Banksias at any one time was limited. This is documented in the Sinclair Knight Merz (SKM) reports but the time frames proposed were not reflected specifically in the court orders. The NPWS negotiated conditions on the understanding of a staged release.*
- 3. The current intention by the subsequent owners to develop Lots 2, 3 and 4 more or less simultaneously means that there is now increased potential for a significant loss of habitat to occur in the short term.*
- 4. It is unlikely, based upon recently acquired knowledge about the numbers (some 150) of blossom bats using the site, that NPWS would accept the simultaneous removal of all habitat across Lots 2, 3 and 4 before the compensatory planting’s have matured.*

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5. *This change in emphasis by the proponents necessitates reconsideration of the court conditions and it may be that, by appropriate and agreed amendment, some conservation gain can be made whilst at the same time allowing development to proceed.*
6. *In discussions with the consultants for the developers of Lots 2, 3 and 4 (Consolidated Properties), NPWS has indicated that it would look favourably upon amendments to their D/A's that:*
 - *provide estimates of the number of mature productive Banksias currently within the lots*
 - *provide estimates of how many of these would be protected in public open space etc*
 - *provide a design that maximises open space where mature Banksias exist*
 - *acknowledge the numbers to be planted in each lot in accordance with the table in condition 41(a) can be reduced by the number protected above.*
7. *The above estimates have been derived previously by James Warren and Associates and Sinclair Knight Merz. However, there is a need to recalculate them because the lot sizes and designs may have altered in the Master Plan following the Court's decision.*
8. *The above estimates depend on decisions being made about the definition of a mature Banksia, the design and location of public open space etc and the amount of the latter that might be required by Council. The protected number of mature Banksias could also be influenced by Council restrictions on the clearing of private open space adjacent to the public lands along the dunes.*
9. *The intent of the above is to maximise retention of currently productive habitat so that development can proceed in a more immediate way. It is reiterated that Banksias have been shown to be an important resource for the blossom bats over the winter months in the Kings Beach area.*
10. *The proposed amendments to Condition 41(d), whilst contributing to the above suggestions, do not address the central problem, that is, what the bats are going to do if the majority of their mature Banksia habitat is removed all at once. The NPWS would support amendments that reflect a negotiated outcome based on the above.*
11. *On the face of it, there appears to be no problem with the proposed amendment to Condition 47. The current reference to Condition 42 seems confusing and the approval and works associated with it have already occurred. It would seem relevant for Condition 47 to refer in future to Condition 41(a) as amended by the above outcome.*

The NPWS proposes that the above points form the basis for "without prejudice" discussions between the NPWS, Tweed Shire Council and the proponents".

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- “46. *Monitoring of the plantings in condition 40 shall occur every three months for the first year and thereafter at six monthly intervals unless otherwise agreed. A monitoring report shall be produced every six (6) months and shall make recommendations regarding any ongoing modifications to the Planting for the approval of the Director of Development Services based upon advice from the National Parks and Wildlife Service. These recommendations shall include the need to replace any unsuccessful plantings up to four years after initial planting and which may have been unsuccessful or destroyed. The NPWS and DDS reserve the right to inspect progress at any time.*
47. *No approval shall be granted for development of any Management Lots unless the monitoring reports referred to in Condition 46 are sufficient to satisfy the Director of Development Services based upon advice from the National Parks and Wildlife Services that the plants are maturing in accordance with the programme set out in the Vegetation Management Plan. Each subsequent development application will detail the locations, timing and methodology of any further plantings proposed in accordance with Condition 42 above”.*

Comment:

The applicant has submitted the first Monitoring Report dated 15 September 1999 and this report is to the satisfaction of the NPWS. However, condition 46 requires that a monitoring report be provided every 3 months for the first year. Accordingly, further monitoring reports should have been submitted on 15 December 1999 and 15 March 2000. These reports have not been submitted.

It is considered that in accordance with conditions 46 and 47 the application cannot be supported until the two monitoring reports mentioned above have been submitted to the satisfaction of the NPWS.

- “49. *The applicant shall have prepared a Environmental Plan of Management by a suitably qualified person in conjunction with the Dept. of Land and Water Conservation and the Director of Development Services in respect of so much of Lot 500 as adjoins the Land that addresses any potential impacts on any threatened species, eg., oystercatchers, Little Terns and turtles, found using the beach and foredunes. This plan shall consider the exclusion of the public, domestic pets, feral animals, and four wheel drives from any detected nesting or roosting areas and the replanting of the dunes with suitable native vegetation including Banksias.”*

Comment

See comments for condition 35.

Deed of Agreement.

The terms of the Deed of Agreement for the Stage 1 consent which affect the proposed Stage 2 application are discussed below:

- “2.2 *Richtech shall execute a transfer to the Council of the Amelioration Land for the amount of \$1 within 28 days of the Consent becoming operational pursuant to the*

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Act. The transfer shall not be registered by the Council and shall be held in escrow until the Amelioration Land has been dedicated to Council pursuant to the Section 94 Plan whereupon the said transfer shall be cancelled and returned to Lenen."

Comment:

The amelioration land has not been transferred to Council, however this would not preclude determination of this application.

"2.7 Council shall not object to the closing and transfer to Lenen of any reserved roads within the Development Land which are rendered unnecessary by the Development, subject to alternative legal access being made available when any closing would sever public access to the beach or Lot 8. The Council will cooperate with Lenen in any application by Lenen to close the said roads."

Comment:

The subject land is affected by a Crown Public Road and the plans show that some lots are proposed over the Crown Public Road. In this regard consent from the owner (Department Land and Water Conservation) is required and has not been provided. However, a road closure application has been lodged by the applicant with the Department of Land and Water Conservation to have the Crown public road closed and a final decision on the closure is awaited.

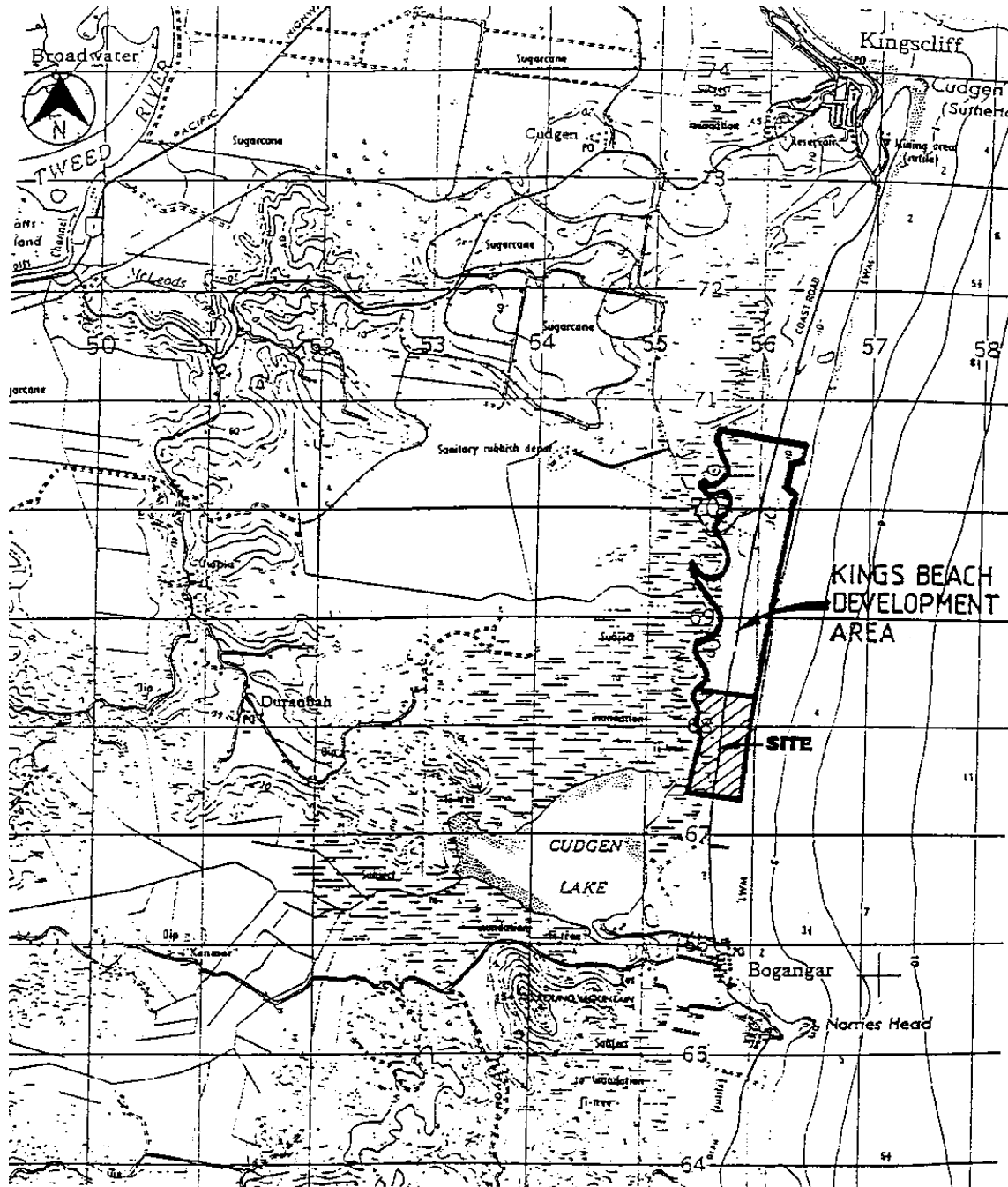
DESCRIPTION OF THE PROPOSAL

The subdivision application seeks development consent for the subdivision of the land at Kings Beach identified as management lots 1, 2, 12 and part 3, 9 and 13. The proposal is to subdivide the land into 82 lots consisting of 75 residential lots (26 beach front lots and 49 in land lots); 4 potential tourist/commercial/medium density development lots (lots 1, 29, 30 and 31 which will be developed subject to future development applications); one future community title lot (Lot 19) which will be developed subject to a future development application and two open space lots (Lots 20 and 81).

The development application proposes the creation of lots within the Crown Public road reserve between the Coast Road and the eastern property boundary. Consent to lodge the development application from the owner of the land (ie. Department of Land and Water Conservation) will be required to make the application valid. The applicant was requested to provide this and to date this has not been provided. Accordingly, the application is not statutorily valid.

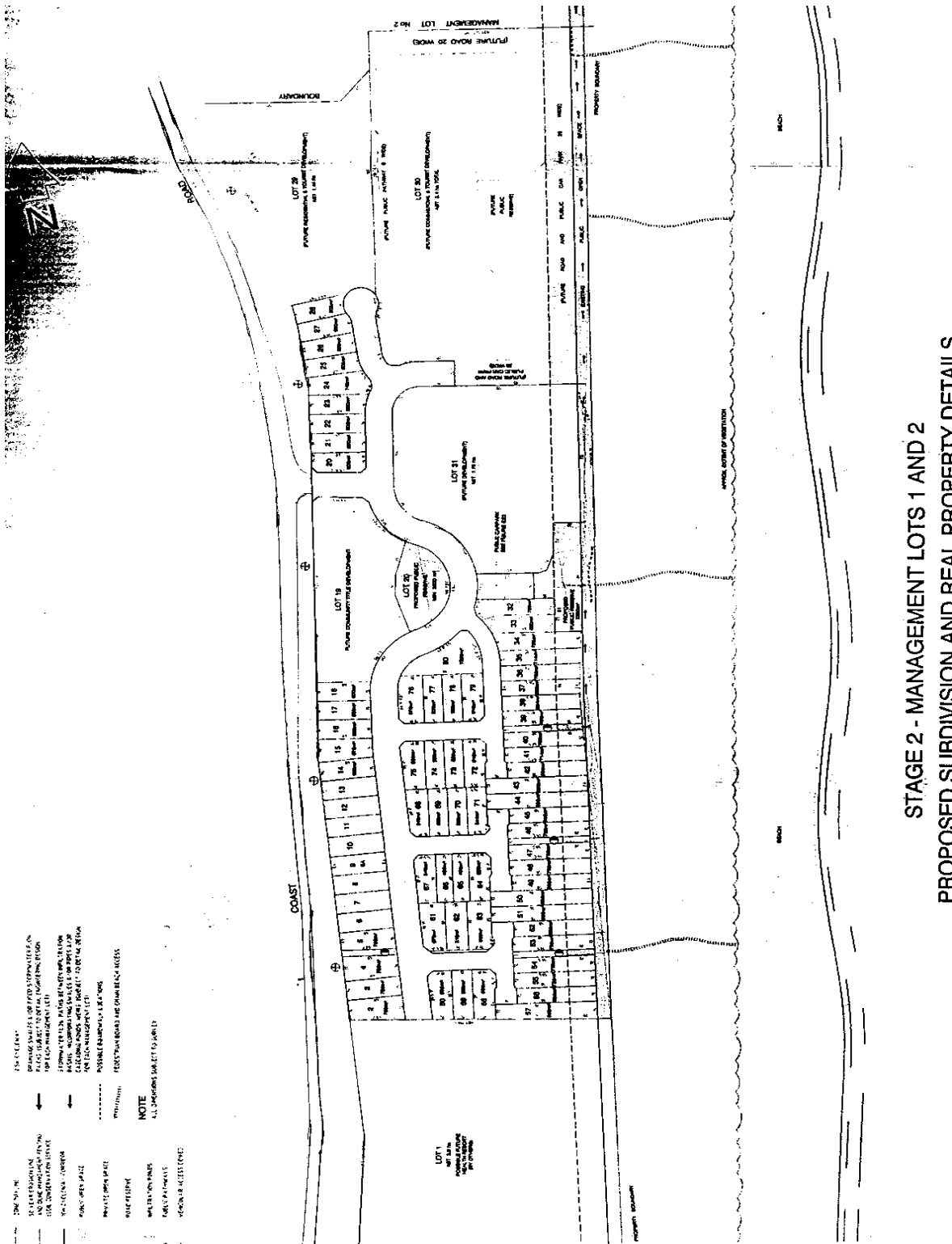
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FIGURE 1 - LOCALITY PLAN



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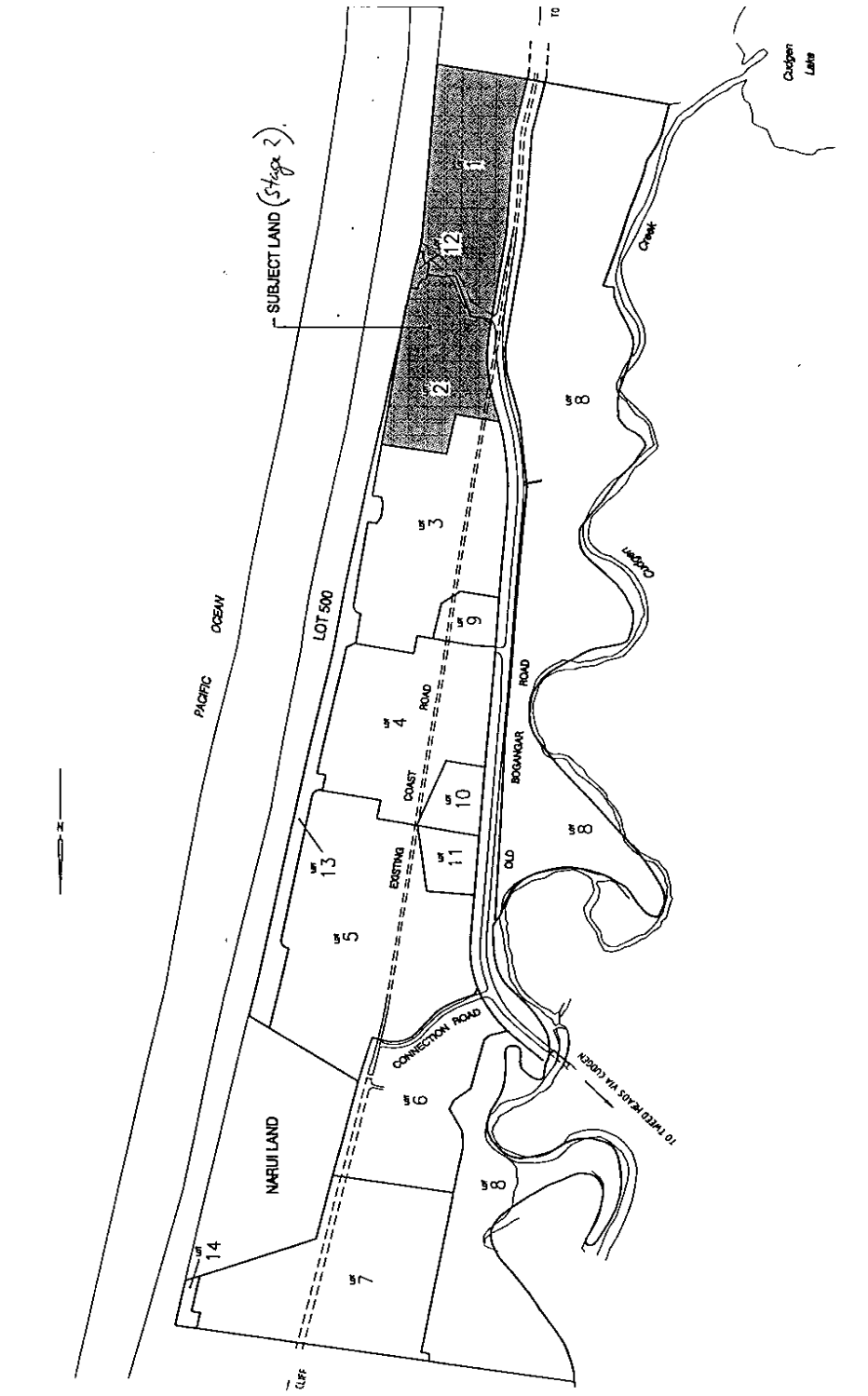
FIGURE 2 - SUBDIVISION PLAN



STAGE 2 - MANAGEMENT LOTS 1 AND 2
 PROPOSED SUBDIVISION AND REAL PROPERTY DETAILS

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FIGURE 3 - KINGS BEACH MANAGEMENT LOT PLAN



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CONSULTATION

This application was referred to the following Government Authorities.

1. National Parks and Wildlife Service (NPWS)
2. Department of Urban Affairs and Planning (DUAP)

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

1. National Parks and Wildlife Service

The application is accompanied by a flora and fauna assessment and a report on the impact on the Common Blossom Bat habitat. These reports, together with the application have been sent to the NPWS for their comment.

No response has been received to date.

2. Department of Urban Affairs and Planning

The application proposes the subdivision of the land within the 7(f) zone to create up to 26 allotments extending into this zone from the neighbouring residential zone. Public carparking is also proposed within this zone. The subdivision of the 7(f) zone requires the concurrence of the Director of DUAP.

DUAP has advised as follows:-

"I am pleased to advise that, pursuant to Clause 37(2) of the Tweed Local Environmental Plan 1987, concurrence has been granted to the subdivision of the land within the 7(f) zone to create up to 26 allotments, extending into this zone from the neighbouring residential zone, and also for car parking as described in the plans submitted to the Department.

Concurrence is granted on the basis of the applicants claim that the purpose of the subdivision of this 7(f) zone is for environmental benefit and not for dwelling houses which are prohibited in the zone.

Concurrence is subject to:

- 1. No residential or associated buildings being erected on land zoned 7(f);*
- 1. Landscaping to the satisfaction of the Council being established on the land zoned 7(f) within each allotment to protect the scenic amenity of the land;*
- 1. Pedestrian and bicycle access only from the eastern boundary of the allotments to the public walkway and cycleway may be made provided such access is not inconsistent with a Management Plan which covers the public foreshore areas and is agreed to by both the Council and the Department of Land and Water Conservation; and*
- 1. No beach access for vehicles or pedestrians from either the carpark or from the public walkway and cycleway unless such access is consistent with a Management Plan which*

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covers the public foreshore areas and is agreed to by both the Council and the Department of Land and Water Conservation.

Comment:

The primary objectives of the 7(f) zone are as follows:-

- ** To identify lands susceptible to coastal erosion and protect them from inappropriate development;*
- * To protect and enhance the scenic and environmental values of the land”.*

It is considered that the encroachment of the beachfront lots into the 7(f) zone is inconsistent with the zone objectives. Further, it should be noted that dwelling houses are prohibited in the 7(f) zone and it would therefore appear that a subdivision to create an allotment for the purposes of the erection of a dwelling house is also prohibited.

DUAP has granted concurrence for subdivision in the 7(f) zone and the applicant has also provided satisfactory details on landscaping within the 7(f) zone, and that no structures are permitted in the 7(f) zone. The landscaping plan provides a section of the development where the beachfront lots are within the 7(f) zone and backs at the north/south cycleway/walkway. This plan generally provides that the beach front lots in the 7(f) zone will have landscaping consistent with the north/south cycleway. This should ensure that the landscape between the beachfront lots in the 7(f) zone and the cycleway/walkway is uniform. Fencing to the rear of the beachfront lots in the 7(f) zone is also to be consistent with the fencing to the Crown Reserve (Lot 500) to also allow consistency and a uniform appearance.

Each of the lots in the 7(f) zone all propose to have a gate erected on the rear fence to allow access to the beach. Details on these gates have not been provided but it is considered that these gates should be consistent with the fence along the rear boundary.

In addition, the applicant has also provided their own legal advice in relation to the subdivision in the 7(f) zone as follows:-

“We have viewed the proposed plan of subdivision for Stage 2 of the Kings Beach Development. Part of this site is zoned 7(f) (Environmental Protection (Coastal Lands) Zone). This 7(f) land comprises a corridor strip on the eastern side of the “foreshore” blocks.

We have examined the provisions of the Tweed Local Environmental Plan 1987. The objective of the 7(f) zone is “to identify lands susceptible to coastal erosion and protect them from inappropriate development”.

Within zone 7(f) “Beach maintenance” may be carried out without development consent. Uses such as ‘environmental facilities”, “recreation areas” and “works for drainage and landfill” require development consent but are otherwise permissible. “Environmental facility” is defined by the LEP to mean-

“A structure or work which provides for -

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- (a) *nature study or display facilities such as walking, boardwalk, observation decks, bird hides or the like; or*
- (b) *environmental management and restoration facilities such as beach restoration, dune restoration or the like”.*

Clause 24 of the LEP applies to land in a number of zones including the 7(f) zone. In considering whether to grant development consent for land zoned 7(f) clause 24(2) requires that Council take into consideration the relevant principles and criteria referred to in Schedule 3 of the LEP. Relevantly item 7 of Schedule 3 requires Council to have regard to the scenic value of the land and the effect that the carrying out of development would have on the retention of existing vegetation on the land and the impact of any proposed building or structure on the scenic quality of the locality. Further item 12 of the Schedule requires Council to consider the proposed development in terms of the assessment of coastal erosion and design considerations given for the reduction of the potential hazard.

Clause 24(3) provides that the Council may consent to the subdivision of land for a purpose permissible in the zone (zone 7(f) other than for a dwelling house or agriculture, provided the Council is satisfied that the size and the shape of the allotment to be created is suitable for the proposed purpose.

Clause 24(3) makes it clear that dwelling houses could not extent into the 7(f) zone. This does not prevent however the “foreshore” allotments extending down into the 7(f) zone. The use of those parts of the allotments within the 7(f) zone must however comply with clause 24(3) and the use of the 7(f) part of the allotment must be for a purpose permissible in the zone. For this reason the Stage 2 application must clearly identify that the 7(f) zoned land will be manned by the future individual foreshore lot owners who will be involved in the ongoing environmental management and restoration of this area including bush restoration featuring the removal of noxious weeds and with erosion prevention works such as the planting of ground covers. Environmental facilities would also be provided by way of display and access facilities such as walking, observation decks, bird hides etc.

In addition to these private environmental works, public pedestrian access to the beach will be provided by several linkages. These linkages will enable the public to walk across the 7(f) land so that the environmental quality of this area can be observed and studied.

*We note that the decision of the former Chief Judge of the Land and Environment Court, Justice Cripps in *Argyropoulos v Canterbury Municipal Council* (1988) 66 LGRA 202 confirms the correctness of the above advice. That is to say, provided the 7(f) land is designated for a permissible use and the residential development will not extend across the zoning boundary then the single allotments may straddle the two zones. The subdivision accordingly can be a Torrerns subdivision in which each of the foreshore blocks extend into and include the 7(f) land.”*

It is considered that the intent of the Stage 1 consent was to separate the 7(f) zone from the development to preserve the coastal environment and restrict development (structures) in the 7(f)

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zone other than landscaping, fencing and works associated with the north/south cycleway/walkway. This would generally be consistent with the zone objectives.

This has been supported by the Director Development Services and the applicant has been advised of Council's position. The applicant disagrees with this advice and argues that the intent of the Stage 1 consent was not to separate the 7(f) zone from the development, in particular subdivision.

EVALUATION

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

(a) (i) Planning Instruments

Tweed Local Environmental Plan 2000 (TLEP 2000)

The land, the subject of the proposed subdivision is zoned Part 2(e) Residential (Tourist) and Part 7(f) Environmental Protection (Coastal lands). The proposed development is permissible with the consent of Council.

There are a number of clauses in the TLEP 2000 which require consideration. These are discussed below.

Clause 17 - Social Impact Assessment

The objective of this clause is to ensure proper consideration of development that may have a significant, social or economic impact. In this instance, it is considered that this proposal will contribute to a significant social or economic impact.

This clause also provides that when Council considers that a development is likely to have a significant social or economic impact in the locality or Shire, as the case may be, the Council may only grant consent to the development if it has considered a social impact statement in respect of the proposed development.

A social impact statement has not been provided with this application.

The application indicates that the impacts of the proposed development have already been addressed as part of the development application that culminated in the Consent Order S96/135.

It is considered that a Social Impact Assessment is not necessary as this application is generally consistent with the Stage 1 consent. No significant negative economic or social impacts are envisaged.

Clause 20 - Subdivision in Zone No. 1(a), 1(b), 7(d) and 7(l)

The land within the subject land zoned 7(l) is not proposed to be subdivided as part of this application. The subject site is not affected by any 7(l) zone.

Clause 22 - Development near Designated Roads

The Coast Road is a designated road and the subject site has frontage to the Coast Road.

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Clause 22(4) provides as follows:

“(3) The consent authority may grant consent to development on land to which this clause applies only if it is satisfied that:

- (a) the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*
- (b) the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*
- (c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*
- (d) where the land is in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*
- (e) the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*
- (f) the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and*
- (g) where practicable, access to the land is provided by a road other than the designated road, and*
- (h) in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development:*
 - (i) would not compromise the Highway’s function as the North Coast’s primary inter- and intra-regional road traffic route, and*
 - (ii) would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and*
 - (iii) would not compromise highway safety and efficiency, and*

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(iv) would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientated site.”

The application proposes only one access directly to the new Coast Road. The access point from the Coast Road was constructed as part of Stage 1 of the development.

Accordingly, it is considered that the proposal is unlikely to constitute a traffic hazard or adversely affect the efficiency of the Coast Road.

Those lots that front Coast Road will not have direct access to it. Acoustic fencing and landscaping is to be provided between the Coast Road and the development to ameliorate any potential noise impacts. However, the details on the acoustic fencing and landscaping have not been submitted with the application. Accordingly, Clause 22 is not completely satisfied.

Clause 27 - Development in Zone 7(f) Environmental Protection (Coastal Lands)

As discussed in the consultation section of this report the application proposes the subdivision of the 7(f) zoned land to create 26 lots extending in this zone from the neighbouring residential zone.

DUAP have granted concurrence and taking into account the applicant's submission and details on fencing and landscaping in the 7(f) zone and given that no buildings are proposed in this zone, it is considered that subdivision in the 7(f) zone is satisfactory under the circumstances.

Clause 29 - Development adjacent to Zone 8(a) National Parks and Nature Reserves

The Cudgen Nature Reserve is located immediately to the south of the subject land. It is considered that the development is unlikely to significantly impact on wildlife habitat.

The Stage 1 application was supported by a Species Impact Statement which identified the likely effects of the development on flora and fauna found in the locality. In addition, this application is also supported by a flora and fauna assessment which generally concludes that the development is not likely to adversely impact on any flora and fauna in the locality. However, comments from the NPWS in relation to this report have not been received.

The subject land (proposed Lot 1) immediately to the north of the Cudgen Nature Reserve is identified in the application as a possible future health resort site. An application for a health resort has been submitted to Council and is currently being assessed. This application will also need to take into consideration the likely effects of that development on the flora and fauna found in the locality.

Clause 35 - Acid Sulfate Soils

The applicant has submitted an acid sulfate soil management plan with the application to the satisfaction of Council's Environment and Community Services.

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North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 15 - Wetlands and Fisheries Habitat

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

- a. the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat;
- b. the need to conserve the existing amateur and commercial fisheries;
- c. any loss of habitat which will or is likely to be caused by the carrying out of the development;
- d. whether an adequate foreshore reserve is available and whether this is adequate public access to that reserve;
- e. whether development would result in pollution of the wetland or estuary and any measures to eliminate pollution;
- f. the proximity of aquatic reserves dedicated under the Fisheries Management Act, 1994 and the effect the development will have on the reserves;
- g. whether the quality is in an area of protected land as defined in Section 21AB of the Soil Conservation Act, 1938 and any measures to prevent soil erosion;
- h. the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved;
- i. the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority in relation to the river, stream, wetland area or catchment.

In regard to the above matters the following comments are provided:-

- (a)-(c) The application is supported by a water quality management and monitoring program, a erosion and sedimentation control plan and a acid sulfate soil management plan. These plans are satisfactory and should ensure that the quality of the water and habitat in and near Cudgen Creek is not significantly impacted upon.
- (d) There will be no affect on access to the foreshore of Cudgen Creek.
- (e) See comments in relation to (a-c) above.
- (f) There are no known aquatic reserves located in proximity to the site.
- (g) Cudgen Creek is not identified in the area of protected land.

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- (h) The proposal will not result in the removal of vegetation along the water course.
- (i) There have been no recent environmental audits or water quality studies by the Department of Water Resources or Environment Protection Authority containing recommendations to the river, streams, wetland area or the catchment.

WBM Oceanics Australia prepared a Estuary Management Plan for Cudgen Creek on behalf of Tweed Shire Council, dated August 1997.

The Management Plan for Cudgen Creek has been prepared, taking into account habitat enhancement/conservation options, urban development, water quality, bank stability and opportunities for increased recreational usage of the Creek. The Management Plan is supported by technical analysis of specific issues, assessment of environmental benefits/debits and the need for further studies required to implement works. Additionally, priorities and costings to undertake the management actions described in the Management Plan are provided.

It is considered that the proposal is generally consistent with the principles of this plan.

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

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

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

As discussed, the beach front lots are partly located within the 7(f) zone, this is also the case for the public car parking area. This is adjacent to the foreshore cycleways/walkway which was approved by the Stage 1 consent and also passes through the 7(f) zone. In regard to the above matters, the following comments are provided:-

- a. The application is supported by a flora and fauna assessment which generally concludes that the proposal is unlikely to significantly affect any threatened species or habitat.

However, this is yet to be supported by the NPWS as their comments have not been received.

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- b. It is unlikely that the scenery of the locality will be adversely affected by the proposal. The land in question will be subject to extensive landscaping and development restrictions.
- c. An erosion and sediment control plan accompanies the application and is satisfactory.

Clause 32B - Coastal Lands

The application is affected by the NSW Coast Government Policy. See section titled NSW Coastal Policy 1997 of this report.

In general, the proposal will not impede public access to the foreshore. Adequate public access to the beach will be available following completion of the development.

Clause 33 - Coastal Hazard Areas

It is considered that the proposal is generally consistent with this clause. The Crown land (Lot 500) to the east of the subject site will be subject to a Management Plan, to be approved by Council and the Department of Land and Water Conservation. This land will be extensively rehabilitated with native species.

The application also identifies a number of access points across the foredune areas which provide suitable public access from the site to the beach. However, these trails are not proposed as part of this application and they will need separate approval from Council and the Department of Land and Water Conservation.

Clause 43 - Residential Development

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

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

The significant environmental constraints on the land were identified in the Stage 1 consent and subsequently significant amounts of land identified for public open space

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and environmental protection will be dedicated for these purposes. However, the density of dwellings have not been maximised for this proposal and is not in accordance with the estimated population yields identified in DCP11 - Kings Beach. For more information on the population yields see the section on DCP11 - Kings Beach.

The proposed road hierarchy and public transport issues will be discussed later in this report.

No caravan parks are proposed and the sedimentation and erosion control plans accompanying the application is considered to be satisfactory.

Clause 66 - Adequacy of Community and Welfare Services

This issue was considered in the formulation of the Section 94 contributions plan applicable to the Kings Beach development. The staged provision of land/or contributions for provision and upgrading of community facilities is proposed, including community centre/multi-use hall, youth facilities, library facilities and health care facilities. Other local and subregional facilities are available at nearby Tweed Heads, Murwillumbah and Kingscliff including schools and hospitals.

Clause 81 - Development Adjacent to the Ocean or a Waterway

This clause provides that Council shall not consent to development on land within 100m of the ocean or any substantial waterway unless it is satisfied that:-

- a. there is sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development;
- b. buildings to be erected as part of the development will not detract from the amenity of the waterway; and
- c. the development is consistent with the principles of any foreshore management plan applying to the area.

A 10m wide cycleway/walkway is proposed along the eastern boundary of the subject land running north/south. Adjacent to this path are a number of proposed public parks and parking areas. To the east of the pathway is the Crown Reserve which will have a number of access ways through it for the public to gain access to the beach. This reserve will be fenced for conservation purposes.

No buildings are proposed as part of this application. However, it is unlikely that any buildings will significantly detract from the amenity of the waterway taking into consideration the extent of the Crown Reserve between the development and the beach.

As previously discussed, a Dune Management Plan is to be prepared for the Crown Reserve.

State Environmental Planning Policies (SEPPS)

SEPP11 - Traffic Generating Developments

Reports from Director Development Services

In accordance with the provisions of this SEPP, the application was considered by the Local Traffic Committee. A summary of their comments is provided below.

“The application proposes the creation of an 83 lot residential subdivision together with necessary infrastructure.

This is referred to the Local Traffic Committee in accordance with the mandatory provisions of SEPP11.

Note that the original development application for Kings Beach Stage 1 was referred to the Local Traffic Committee for comment, notwithstanding that it was for only for some 14 lots and the adoption of a master plan for an ultimate population of some 5600 people.

The current Stage 2 development application for some 83 residential lots gives the LTC the opportunity to request the type of construction of the intersection, which could be a roundabout or traffic signals, which the RTA has given in principle support to.

The new section design speed is currently 80km/h and the Committee noted that a traffic measurement report would be supplied by the developer. It was noted that the two intersections would be about 1km apart and that there is no frontage of residences to Coast Road. The internal layout has a Court approved master plan and this development application is generally consistent with the master plan.

It was noted that the current intention is that the link with Kingscliff is being retained as a low speed link, with a street character. The RTA representative asked when the other lots would be developed, however this was not known as market forces will determine this.

Pedestrian issues on Lot 8 were highlighted as a passive recreational usage by residents. Just opposite will be Kings Forest and therefore the collector road intersection will probably be the pedestrian area and the movements from Kings Forest will be across the bridge. There is also a cycleway along the full length of the foreshore.

An underpass was discussed as practicality and safety issues were of concern and it was noted that an underpass did not eventuate as utilities could not be controlled and drainage issues arose.

Four lanes and signalisation of intersections is already a condition on the development. The RTA representatives noted that it would be an ongoing development and road issues assessed as it goes along. Reserve widths have been allowed to recognise the needs that are generated as the development evolves.

The Committee supported the above allowances in the development.

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The network of roads will facilitate bus routes and cyclists. The Committee recognises the future potential conflicts between pedestrian design lines to the west of the Coast Road and that this will have to be accommodated in the intersection designs.”

SEPP44 - Koala Habitat Protection

The flora and fauna assessment submitted with the application provided a SEPP44 assessment and indicates that the subject site is of an unknown value as habitat for koalas. The subject site does not support any primary or secondary koala feed trees and is considered highly unlikely to provide koala habitat and therefore a plan of management is not required.

ii. The Provisions of any Draft Environmental Planning Instrument

There are no relevant draft instruments.

iii. Any Development Control Plans (DCPs)

DCP11 - Kings Beach

This is the principle DCP to guide future development and management of the Kings Beach development site. The proposal involves land at the southern end of the site known as Management Lots 1, 2, 12 and part 13. The DCP provides specific Development Control Plan provisions which articulate the design and development principles underpinning the development plan which was a component of the negotiated settlement between Lenen Pty Ltd and Tweed Shire Council. Those that specifically relate to this application are discussed as follows.

Clause 3.3 - Estimated Population Yields

The estimated population yields for management lots 1 and 2 provided by the DCP is 1170 persons. The application indicates the population yield for lots 1 and 2 at 837 persons, which is well below the estimate of 1170. This estimate of 837 persons is based on the beachfront and inland lots and the number of townhouses/terraced apartments in lot 2 but does not take into consideration the number of persons to be accommodated in the resort site (proposed Lot 1) within management lot 1. Should proposed Lot 1 (resort site) be included in the estimated population yields it is considered that the population yields for management lots 1 and 2 provided in the DCP will still not be achieved.

In addition, the application provides that the occupancy rates for the beach front lots inland lots is 3 persons per dwelling. However, it should be 2.6 person per dwelling in accordance with Section 94 Plan No. 19 - Kings Beach/Kings Forest.

In addition, the application provides occupancy rates for medium density (townhouse/terrace apartments) at 2.3 per dwelling whereas the Section 94 Plan provides 1.7. The application also provides an occupancy rate of 1.8 persons per room for tourist development (resort) whereas the Section 94 Plan provides 1 person per bed.

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Obviously, the occupancy rates provided by the application are not consistent with the Section 94 Plan No. 19. Subsequently, the estimated population yields provided by the applicant are not consistent with the DCP.

As this proposal is part of a stage development over the entire Kings Beach site, it is possible that the total population yields may be achievable when the remainder of the site is development and subsequent applications submitted.

In addition, the proposal is not for the full development of the management lots 1 and 2 and some sites, like the resort site (proposed Lot 1) will be subject to future development applications at which stage they will be assessed to ensure that the population yields in their respective lots are achieved.

Should the population yields not be achievable then the DCP and the Section 94 Plan will need to be amended to reflect the expected population yields. This may require amendment to the Stage 1 consent.

The applicant has reviewed the population yields for the Kings Beach site, including the Richtech land (formerly the Narui Site) and has provided the following:

“We refer to our recent minutes sent to you on April 10, 2000 and specifically direct your attention to Item 4 (note 5) in the Minutes of the April 3, 2000 planning and design meeting.

At the meeting we agreed to review the population figures in light of the most recent Stage 2-4 applications, including but not limited to the likelihood of Stages 5 and 6 being lodged in the near future and the fact that certain development sites, namely the tourist and resort areas, were considered likely to have different yields than those which had been initially proposed at the time of the Consent Order in 1998.

In addition, the inclusion of the Richtech site (previously known as the Narui Land) in the Stage 3 application needs to be brought into the “development planning loop” in order to ascertain the most likely final development scenario as we are best able to determine in mid-April, 2000.

As we all agreed, the need for flexibility was accepted as a desirable planning tool and there appeared to be a general consensus that some variation, in the order of 10%, was likely to be reasonable interpretation of the Consent Order’s direction that development be “generally in accordance” with the submitted Development Plans.

As you know, the Consent Order incorporated estimates for the subject site (excluding the Richtech land) of 5,600 within the 7 Management Lots. Independently, the Richtech land had been estimated to generate a population yield of around 777 persons, Based upon extrapolation, this would give a yield target of around 6,380 (rounded) give or take 10%, for the total development area (ie. both sites).

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With a 10% variation as an allowable “flexibility principle”, this would give a target range varying between 5,742 and 7,018, given the centroid figure of 6,380.

Having reviewed our current population projections in light of the development scenarios, we believe that the development can readily achieve a population of approximately 5,820 which is only between 8-9% below the aggregated expectations for the original Consent Order land (ie 5,600) plus the Lenen land (ie. 777). In other words, as currently we are best able to ascertain, when completed, the development should have at least 5,820 persons as opposed to the projected figure for both sites of 6,380.

We therefore suggest that a reasonable interpretation of the Consent Order estimates would be to allow the range to fluctuate between 5,040 and 6,160, which is a 10% variation either side of the 780 yield figure.

Taking the lowest and highest yields from both sites (ie. -10% and +10%) gives the range of figures noted above, namely 5,742 and 7,020.

We also draw your attention to the fact that the Peterson’s health spa (with plans for around 90 units or 180 persons) proposal at the southern end of the site, whilst included in the Consent Order figures, has not been included in the estimates set out below in the Table. If this development is included, then the yield, per the Table set out at the end of this letter, rises to 6,000!

We further note that development Site B (Beachside Village) can accommodate apartments in place of the holiday cottages indicated in the Concept Master Plan. We are currently investigating this concept with the client. This could increase the yield on this site from 80 units (160 persons) to perhaps 150 units (300 persons).

Darryl and Nick, we believe that other development sites indicated on the Concept Master Plan could have their yield totals increased in order to achieve the target total as indicated in the attached Table, inclusion of Peterson’s land does achieve this!

As indicated at the April 3, 2000 meeting, the final population totals will, to a significant extent, be determined by the market. Accordingly, the exact yields for each resort and medium density development complex site will depend on unit sizes and configurations, site planning concepts, market demands and other issues which cannot be accurately predicated at this time.

We request therefore that Council favourably consider the suggested approach in this matter by adopting the “flexibility principle” as the general guideline. This will remove the somewhat academic barriers to both our deliberations and negotiations.

The attached Table is transmitted for information purposes and should help to serve as a “working document” subject, of course, to change as we firm up on

Reports from Director Development Services

the specific projects as they come to fruition. We believe that if we jointly agree to this approach it will be seen as the major drawcards of the Casuarina Beach development.

Your earliest reaction to this proposal would be appreciated as we are well into the detailed planning for Stages 5 and 6 as well as discussions with other key resort developers and operators.

Finally, we would make the point that this recommended approach not only accommodates the Estimates for Population Yields per Consent Order No. 1, but also brings the Richtech land, which was not part of the Consent, into line with the philosophy and general development planning concepts enunciated in the initial Consent Order Development Plan.

In this regard, this approach removes any “hurdles” or confusions which might be seen to have arisen by the changes which further planning investigations have, inevitably, demanded.”

Potential Population Yield for Casuarina Beach

(April 14, 2000)

<i>Product</i>	<i>Total Yield</i>	<i>Population Multiplier</i>	<i>Population Total</i>
<i>Beachfront Lots</i>	<i>130</i>	<i>X3</i>	<i>390</i>
<i>Beach View Lots</i>	<i>17</i>	<i>X3</i>	<i>51</i>
<i>Dry Lots</i>	<i>462</i>	<i>X3</i>	<i>1,386</i>
<i>Units on Medium Density and Resort Sites</i>	<i>1,997</i>	<i>X2</i>	<i>3,994</i>
<i>TOTAL</i>	<i>2,606</i>		<i>5,821</i>

Given that the population yields in the Stage 1 consent are somewhat arbitrary, it is considered that the reduced yields are acceptable, subject to formal amendment of the DCP and Section 94 Plan to reflect the changes and to include the former Narui Coastal lot.

Clause 3.5 - Urban Design Principles

1. The east/west cycleway/footpath linkages are not as per the approved development plan but the linkage/permeability shown on the Stage 2 master plan is considered to be satisfactory.

Reports from Director Development Services

2. The fencing of the boundaries of the private open space/beach maintenance areas is generally consistent with the fencing protection of the dual areas, ie. 1.2m high fence with wooden posts with high quality wire mesh. A gate will also be provided to each allotment to allow direct access to the cycleway/walkway and beach.

6. This provides that approximately 500 public car parking spaces are to be provided within the Kings Beach site. The concept master plan for the whole site appears to provide for about 550 spaces. Accordingly, the entire site is consistent in this regard.

This application provides 24 car parking spaces between the resort site (proposed Lot 31) and the southern residential lots. In addition, the development master plan for Stage 2 also provides a further 146 spaces within the 7(f) land and forms part of the beach side village (proposed Lot 30).

8. The application identifies the number of public accesses from the beach to the site. This relates to their position on the ocean foreshore road (esplanade), nodes of public open space, retail and commercial activities and public car parking provisions. Each of these public accesses are generally separated by approximately 400 metres and are considered to be consistent with the DCP.

However, these public accesses do not form part of this application. A separate application(s) will need to be submitted for their approval/construction.

13. The DCP provides that local parks shall be provided as part of the development of the management lots and that a minimum of 2000m² of useable recreation area and be not more than 250m from any dwelling and have public road frontage for a minimum of 50% of the perimeter frontage of the local park.

In this instance, proposed Lots 2 to 5, 58 to 60 and 52 to 57 do not comply as these lots are not within 250m of a public park. Although 10 lots do not comply, it is considered that the proposal is generally consistent with this clause. Of the 10 lots that do not comply it is considered that the connectivity of the road and pedestrian/cycle network allows for suitable access from these lots to open space within the development.

14. This provides that all nodes of retail and commercial activity with integral public open space and community facility provisions shall generally be within 400m of any dwelling within the development.

In this instance some lots do not comply. However, as mentioned above (13), it is considered that the overall development is generally consistent with this clause. Again, it is considered that the development allows connectivity between the roads and the cycleway/walkway network.

15. This generally provides that acoustic fencing and landscaping is to be provided to the east of the new Coast Road.

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The application does not detail what is proposed. These details need to be submitted.

18. There will no direct vehicular access from the relocated Coast Road other than via approved intersections.

The proposal provides one access and is consistent with this provision, as discussed earlier.

23 & 24

A water quality management and monitoring program has been submitted with the application and is considered to be satisfactory.

26. It will be a condition of any consent that all existing Bitou bush plants be removed and the disturbed areas shall be appropriately treated to prevent dust nuisance and soil erosion.

31. An acid sulfate soil management plan has been submitted and is generally satisfactory and any consent will be conditioned appropriately.

NSW Coastal Policy 1997

The DCP also takes into consideration the NSW Coastal Policy 1997. It is considered that the proposal is generally consistent with the relevant objectives of this Plan. The policy generally provides that development needs to take into consideration a number of objectives which attempt to protect the natural environment. The specific objectives of the policy which relate to this development are summarised as follows:-

- * Identify conservation values of land and aquatic environments;
- * Improve and maintain water quality;
- * Manage coastline and estuarine environments for public interest and ensure their vitality;
- * Impacts of natural processes of a high priority;
- * Design development to compliment surrounding development;
- * Increase public access to foreshores.

All the above objectives have generally been discussed throughout this report and it is considered that the development is unlikely to create any significant adverse environmental impacts on the coastal environment.

DCP16 - Subdivision Manual

The proposal is generally consistent with the various standards of this plan.

DCP39 - Energy Smart Homes Policy

Reports from Director Development Services

This plan was adopted on 7 April 2000 and came into effect on 10 April 2000 and subsequently needs to be considered. It is accepted, however, that this application was submitted well before this plan was adopted and this would account for any inconsistencies with this plan.

This DCP has been developed in response to the growing community desire to achieve greater efficiency from domestic use. It stems from a general concern about greenhouse gasses generated by energy use, their affect on the environment and in particular, contribution to global warming. The DCP shows how energy efficiency can be achieved in all new residential subdivisions and buildings, including alterations and additions to existing buildings. It includes design alternatives - such as passive solar design and solar water heating - that will dramatically reduce the demand for non renewable energy, thus reducing both costs and air pollution and reducing the level of comfort in the average Australian home.

Section 4.0 of this Plan specifically relates to subdivisions and provides preferred outcomes for the following:-

- * Street orientation;
- * Lot orientation, size and shape;
- * Access;
- * Public transport;
- * Setbacks; and
- * Street lighting

A solar proficient subdivision will ensure that the overall development is significantly more energy efficient than a conventional subdivision.

1. *Street orientation*

- * Align streets east/west and north/south wherever possible
- * North/south streets should be within 20 degrees west and 30 degrees east of true north
- * East/west streets should be within 30 degrees south and 20 degrees north true east

In this regard the majority of streets proposed are either aligned north/south or east/west and are consistent with this outcome.

2. *Lot orientation, size and shape*

- * Lots should be orientated so that one axis is within 30 degrees east and 20 degrees west of the true solar north

Reports from Director Development Services

- * North facing slopes improve opportunities for solar access, small lots are therefore best suited to north facing slopes with gradients of less than 15%
- * South facing slopes impose a penalty on solar access, therefore, large lots/lowest densities are best suited to north to south facing slopes or other areas where solar access is poor
- * The north side of east/west aligned streets is suitable for narrow lots
- * Lots aligned on an east/west axis generally need to be wider than lots aligned on a north/south axis to prevent undue shadow effects on lots to the south
- * Where streets are within the acceptable orientation range, use rectangular shaped lots
- * Sloping sites are not suitable as flat sites for smaller lots

It is considered that all lots have at least one axis within 30 degree east and 20 degrees west of the true solar north.

The land is relatively flat and following earthworks it is considered that the topography of the land won't significantly change. Accordingly, the issue of north and south facing slopes is not a significant issue in this instance.

All lots on the northern side of the streets are relatively narrow and should comply in this regard.

The lots on the east/west axis (beachfront lots) are narrower than those lots aligned on a north/south axis. Accordingly, this is not consistent with the DCP and could have undue shadow effects on the beachfront lots.

3. *Access*

- * Footpaths are designed to access public transport routes
- * Subdivision design includes, clearly marked bicycle network, marked kerbside bike lanes, dedicated cycleways, links to regional cycleways
- * Subdivision design should maximise the ability to travel directly between any given destination and origin

4. *Public Transport*

- * Subdivision design should allow for circuitous public transport routes that maximise the number of lots within a short walking distance to potential transport routes
- * Suitable areas for bus stops and lay back areas should be identified
- * Long cul-de-sacs should be avoided as these reduce accessibility to public transport

Reports from Director Development Services

It is considered that the proposal is generally consistent with the access and public transport principles identified above.

5. *Setbacks*

- * Variable setbacks and zero lot lines are the means of maximising solar opportunities, especially with small or narrow lots. Setbacks are manipulated to maximise solar access for all lots.
- * Preferred setback lines can be shown on subdivision plans to help builders, designers and home buyers make the best use of solar energy.

The Architectural Design Regulations (to be discussed later in this report) provide some variations to the front setbacks.

Section 94 Contribution Plans

Section 94 Contribution Plan No. 19 - Kings Beach/Kings Forest presents a strategy for the provision of structured and unstructured open space and community facilities. Those sections of the plan that specifically relate to this development are discussed as follows.

5.0 Expected Population

This plan indicates that the expected population of Kings Beach is 5600 persons, with 3000 permanent residents and 2600 tourists.

As discussed in Section (iii) titled Development Control Plans of this report, it is unlikely that the population yields will be achieved for this proposal. The DCP and Section 94 Plan will need to be amended to reflect this.

In addition, the occupancy rates provided by the applicant are not consistent with those in the Section 94 Plan.

7.0 Timing of Contributions

Credit

Approximately 5.5ha of active open space is to be dedicated as part of the Stage 1 consent being management lots 9, 10 and 11.

However, as discussed in 5.0 above the population yields identified in the table for management lots 1 and 2 have not been achieved by this application. Accordingly, this could have implications on the provision of the active open space credits within each of the management lots. Subsequently, the Section 94 Plan and the DCP for this site will need to be amended to reflect the current figures.

14.0 Open Space

Structured Open Space

Reports from Director Development Services

The developer is to dedicate a total of 5.5ha of structured open space at no cost to Council in conjunction with the Stage 1 consent. These being management lots 9, 10 and 11. These lots are not within the land subject to this application.

The amount of structured open space to be dedicated (5.5ha) has been calculated on the population yields provided by the DCP. Any variations to those yields, which is the case for this proposal, may have implications on the amount of structured open space to be provided. Accordingly, the DCP and Section 94 Plan will need amending to reflect this.

At the moment the population yields provided by the applicant are below those provided by the DCP. Accordingly, this proposal does not require any additional structured open space above the 5.5ha.

A monetary contribution would be required for the embellishment of the structured open space.

Passive Open Space

The developer is to dedicate and embellish Lots 12, 13 and 14 as public open space in conjunction with the Stage 1 consent. These lots together with the proposed parks for this application are to be suitably embellished by the developer.

Public open space needs to be provided in accordance with the Section 94 Plan for the site. In respect of the casual open space, the Section 94 Plan requires that a minimum area be 2000m² and not be more than 250m from any residential dwelling and each parks perimeter should have at least 50% frontage to a public road. As discussed earlier it is considered that the development is generally consistent with this.

Again, as discussed above for the structured open space the estimated population yields for Lots 1 and 2 are unlikely to be achieved and subsequently this may have implications on the provisions of casual open space. However, the yields provided in the application are below those provided by the DCP and the proposal is unlikely to require any additional casual open space above that already provided or required by the Section 94 Plan.

15.0 Cycleways

The proposal is considered to be generally consistent with the Section 94 Plan.

Section 94 contributions will be applicable.

16.0 Community Facilities

Contributions will apply for the provisions of the following facilities:-

- * community centre/multi-use hall
- * youth facilities
- * library facilities

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* healthcare facilities

The works program in the Section 94 Plan indicates the appropriate threshold at which to provide the facilities. Special factors may arise requiring provision of a facility before the stage threshold is reached.

The community facilities are likely to be located within the town centres/commercial/retail areas for convenience.

(b) **The Likely Impacts of the Development**

Environmental Impacts

The proposal is unlikely to create any significant adverse environmental impacts on the locality. To reduce any potential impacts the applicant has submitted a sedimentation and erosion control management plan to control and minimise the pollution caused by soil erosion on downstream waterways during the construction project. This plan is generally satisfactory.

The applicant has also submitted a water quality management and monitoring program. This plan is also considered to be satisfactory.

These plans and the acid sulfate soil management plan should ensure that the quality of the water at Cudgen Creek is not adversely impacted upon.

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

A flora and fauna assessment and a report on the impact on the Common Blossom Bat habitat accompanied the application.

The conclusions from the report on the impact on the Common Blossom Bat habitat prepared by James Warren and Associates is as follows:-

“Stage 1 has commenced and has resulted in the loss of 14.17ha of coastal banksia which involves the loss of 3,325 plants representing 10% of the overall plant availability prior to Stage 1.

Stage 2 (management lots 1 & 2) of the proposed development will impact upon the potential feeding habitat of the Common Blossom Bat within the Kings Beach area. In particular, the coastal banksia foraging habitat will be impacted. This impact will affect 14.95ha of existing low density and 4.3ha of existing medium density banksia stands. It has been estimated that this equates to 2,534 individual plants.

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Stage 2 development will contribute to a 7% overall reduction in availability of habitat in the locality. Cumulatively, the losses will total 17% of overall availability prior to commencement of works. The overall area of high quality habitat in the Kings Beach land would increase from 61.88ha to 28.81ha following development of Lots 1 and 2. The cumulative impact of Stage 1 (west of the Coast Road) and development of Lots 1 and 2 will reduce the potential carrying capacity of the site from 1,082.9 bats to 504 bats in the short term. It is highly unlikely that these population numbers exist on or near the site.

Whilst this report has limited its assessment to the development area, it is to be recognised that extensive suitable natural forage habitat exists presently on Lot 8, Cudgen Nature Reserve and other natural areas with the accepted forage range of this population of bats.

The loss of coastal banksias due to Stage 2 development will occur within 2km of the likely roost area for the local bat population (SEPP26 - Littoral Rainforest Habitat). Losses within this zone can have a more significant impact on food availability than losses from 2-4km away from the roost site. The losses due to Stage 2, although in this closer zone, are mitigated to a greater extent by the fact that there are extensive areas of native forest and east to the west and south of the roost habitat (Cudgen Nature Reserve). It is considered that the loss of forage habitat in Stage 2 will have no great impact on the bats foraging success than if it was further away.

Greg Richards (Pers. Comm 1999) stated local populations is likely to compromise approximately 170 bats. Clearly this population will still have excess energy available following development of Stages 1 and 2.

Compliance with the Stage 1 consent conditions which relate to banksia planting's has been achieved. The carrying capacity (bats/ha) of existing planting areas will exceed the sites current maximum carrying capacity. Over 10 years of planting will provide sufficient energy to sustain 50(50) and 100(100) per ha (over 2000 bats).

Detailed analysis has shown that there is a permanent solution to the impact of the removal of Common Blossom Bat forage habitat. This analysis shows that sufficient planting's have already been undertaken to mitigate the losses associated with Lots 1 and 2 development, there are a relatively low number of bats in the population and the extensive planting's in management Lot 8 in the Richtech Land will substantially increase the amount of forage habitat for the local bat population in the near future".

The conclusions from the flora and fauna assessment prepared by James Warren and Associates is as follows:-

"It is proposed that the site be developed for urban residential purposes as a component of the wider Casuarina Beach Estate.

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Previous flora and fauna surveys and the National Parks and Wildlife Service's data base were reviewed to determine the occurrence of significant species in the locality. This working list was used as a basis for determining target species and designing more detailed surveys.

Vegetation surveys were undertaken in September 1999. Detailed searches of all parts of the site were undertaken. Specific searches for significant plants were also undertaken. It was considered that the subject site would have supported littoral rainforest before clearance of sand mining. Sand mining removed all vegetation and much of the soil seed bank and destroyed the original dune structure. Following mining of the area (including the subject site) was replanted with Horse Tail She Oak, Bitou Bush and Coastal Tea Tree. The subject site now supports three vegetation communities.

- 1. Mid high open forest (Coastal Banksia);*
- 2. Mid high open mixed forest (Coastal Tea Tree/Coastal Banksia);*
- 3. Mixed grass land, sand plain and disturbance.*

Much of the site is dominated by exotic and non-endemic species. The main communities dominated by native species (Coastal Banksia) are reasonably wide spread and well represented in conservation reserves in northern NSW. Vegetation communities are not considered to be of conservation concern.

Bitou Bush (which occurs at the site in dense groves) has been listed as a key threatened process under Section 3 of the Threatened Species Conservation Act, 1995. The listing is based on the threat that the species poses to native plant communities, a number of threatened plants and native fauna habitats.

The site may have supported threatened species such as Scented Acronychia and Stinking Laurel before clearance. Searches were undertaken for these species without success. No other threatened, ROTAP or regionally significant plant species were recorded during surveys. If the site was allowed to regenerate to its original climate community (significant management would be required) it may provide habitat for these species.

Detailed ecological surveys of the entire Casuarina Beach (Kings Beach) Stage 1 undertaken in 1996 and the Species Impact Statement produced (Gunninah Consultants 1996). Detailed survey work was undertaken on Lot 1 DP 811425 (Narui land) in 1998 was still in the ownership of Narui Gold Coast. Further studies were undertaken in 1999 to allow the Narui site to be incorporated into the overall Kings Beach development concept. This data was extrapolated to assess the habitat value of the subject site.

Surveys recorded two species of amphibian, three species of reptile, 52 species of birds and 10 species of mammal. The site was considered of low value for amphibians. Wallum Froglets and Wallum Tree Frogs have been recorded from the wider locality but are considered very highly unlikely occurrences on

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the subject site. It is considered unlikely that the site provides habitat for other significant species known from the locality such as the Green xxxxx Frog and the Green and Golden Bell Frog.

The site provides habitat for a low diversity of reptiles, although moderate abundances of all species were observed. The site is considered unlikely to provide critical habitat for these adaptable species. The site is considered highly unlikely to provide habitat for threatened species known from the wider locality such as Stephen's Bandit Snake and the White Crown Snake.

Ornithologist Stephen Debus found the site to support a low density of bird species.

No threatened species were located during surveys and it is considered unlikely that the site will provide critical habitat for such species. It was considered unlikely that the proposed development would have a significant impact on shore birds that may utilise adjacent sections of Bogangar beach.

Exotic species such as the Black Rat and House Mouse were the only small terrestrial mammals recorded during surveys. The site is considered unlikely to provide habitat for native species, including the significant Common Planigale.

The site was considered likely to support a range of bats, potentially including a number of threatened species. A number of these species may forage at the site, although the lack of diversity and structural complexity is likely to limit its value in this regard. The site is unlikely to provide roost habitat for any of these species.

The threatened Common Blossom Bat has been recorded widely within the study area and was recorded on the subject site. A detailed vegetation survey was undertaken to determine areas of high, medium and low concentration of the forage species Coastal Banksia. The subject site supports 14.595ha of low density banksia and 4.31ha of medium density banksia. There are no areas of high density banksia. It was estimated that development of the subject site would result in a loss of 2,534 stems supporting 17,240 inflorescences. Cumulatively, development of Stage 1 and the subject site will result in the loss of 39,880 inflorescences. 59% (57,863) of the 97,743 inflorescences available prior to any development will remain. 35,635kj or 1.8 times the energy requirements of the Blossom Bat population (170 individuals) will be available following the cumulative losses of Stage 1 and Stage 2 (Management Lots 1 and 2).

Based on a population of 170 bats, this data was then provided to Mr Greg Richards (Bat Specialist) who concluded that the proposed development would not place a viable local population of the Common Blossom Bat at risk of extinction.

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The Black Flying Fox may also utilise the site habitats. Given the small percentage of the locally total forage range that will be affected by the proposed development, impacts are considered unlikely to be significant.

A number of threatened species were considered in the Section 5A analysis. It was concluded that the proposed development was unlikely to have a significant impact on a local population of any of these species.

The subject site forms part of the large (disturbed) habitats north of Cudgen Nature Reserve all the way to Kingscliff. A small diversity of fauna will be moving through the subject site. It must be considered that when development on all surrounding portions of the Kings Beach estate occurs in the near future it will be impossible for the site to form part of an important fauna movement corridor in this locality.

The proposed development will result in a loss of habitat for the species recorded from the site. In a regional sense, the loss of habitat is considered to be inconsequential for common species. It was considered that the loss of habitat for threatened species such as the Common Blossom Bat and Flying Fox could be acceptably ameliorated by the establishment of habitat planting areas on other parts of the Kings Beach estate”.

Section 78(8)(b) of the Environmental Planning & Assessment Act, 1979 is as follows:-

“78(8) A development application must be accompanied by:

(b) if the application is in respect of development on land that is, or is a part of, critical habitat or is likely to significantly affect threatened species, populations, or ecological communities, or their habitats - a species impact statement prepared in accordance with Division 2 of Part 6 of the Threatened Species Conservation Act 1995”.

The Species Impact Statement accompanying the development application S96/135 applied to the whole of the Kings Beach site. Subsequently, advice was sought from the NPWS and Council’s Solicitors as to whether or not the Stage 2 development application and subsequent applications will need to be accompanied by a Species Impact Statement.

Council’s Solicitors advised that Council may well have already complied with Section 111 of the Environmental Planning & Assessment Act, 1979 in that a SIS has already been provided for the whole site and has been assessed by the Council in great detail. Accordingly, a further study would not be required.

The NPWS have advised that any decision regarding the significance of impacts in subsequent stages on threatened species, and hence the need for a SIS, must be made by the consent authority.

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Section 5A of the Environmental Planning & Assessment Act, 1979 provides 8 factors which must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

The Flora and Fauna report provides this 5A assessment and concludes that the development is not likely to have a significant effect on threatened species, populations or ecological communities, or their habitats. Accordingly a Species Impact Statement is not required.

Taking into consideration the advice from Council's Solicitors and the 5A assessment it is considered that the development is unlikely to have a significant effect on threatened species, populations, or ecological communities, or their habitats and an SIS is not required.

However, as previously discussed advice from NPWS on the report on the impact on the Common Blossom Bat habitat and the Flora and Fauna Assessment has not been received and is still outstanding. It is considered that this advice is necessary to determine if the reports are satisfactory and to satisfy conditions 41(a), 41(b) and 41(d) of Consent S96/135. Should the NPWS advice be satisfactory it is likely that the proposal is unlikely to have significant effect.

It is also considered that the submitted Section 96 application to modify consent S96/135 may have some implications for this application. This application proposes to modify conditions 41(d) and 47 which effect this proposal. Accordingly, the Section 96 application may need to be determined prior to any approval of the development application.

Effect on Landscape/Scenic Quality of the Locality

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

Earthworks will modify the topography of the land, but not significantly.

The applicant has submitted a typical streetscape concept which is satisfactory.

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

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

Access, Transport and Traffic

Issues in relation to traffic, access and road layout have been reviewed by Council's Engineering Services Division, Subdivision Engineer and the Local Traffic Advisory Committee. The comments made by the Local Traffic Committee which are outlined in

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this report will be incorporated, where necessary, into the design of the proposal to improve the layout.

DCP16 - Subdivision Manual requires pavement of 11m wide where medium density of 15 units/ha can be achieved. Road 3 is to be 11m wide and is consistent with. However, not Road 2 which has two further development lots fronting it and also services a large lot to the south, which has the potential to generate significant traffic volumes. Road 2 should also have an 11m wide pavement.

It is also noted that the southern end of Road 2 terminates at the boundary of a future lot (proposed Lot 1) and no turning facility. A cul-de-sac is required similar to that shown on Road 3.

The width of roads 4 to 9 are of concern being only 6m wide especially as AUSTROAD rules prohibit all parking on footpaths. It is considered that 7.5m would be better in accordance with the new AUSTROAD rules and with vertical kerb on all new roads now.

Concerns are raised regarding the accessibility of car spaces at the end of hammerheads. It is considered that car spaces P1 and P6 shown on the submitted engineering plans are in breach of the road rules as drivers are to park 6m behind the boundary line. Car parking space P4 is unlikely to exist as the driveways for adjacent lots will restrict this space.

As shown on the typical cross section (Figure E28) where the boardwalk is to be used as a shared cycleway/walkway it is to be 4m wide to comply with AUSTROADS.

AUSTROADS Part 15 states that pine log, chain wire or post and wire fences should not be within 1m of a cycleway. Any consent will be conditioned appropriately.

The Statement of Environmental Effects states that the cycleway/walkway are designated to ensure user safety, however, this intention may not be the case given the non compliance with this AUSTROAD and Australian Standards.

The garbage vehicles for Solo Waste (Council's Garbage Contractor) are having problems with turning circles. Solo Waste have advised that the turning radius for the garbage vehicles is 11.2m while the total overhang of the vehicle is 12m. Council's current DCP16 - Subdivisions Manual provides for cul-de-sacs to have a radius of 9m. These conditions lead to the garbage vehicle having to do 3 point turns in restricted areas, leading to potential major safety problems due to unsupervised turning.

It is noted that the concept layout plans for Kings Beach Stage 2 contains a number of streets with difficult or impossible access for garbage vehicles, particularly T & Y heads. It is considered that the proposed layouts should be reviewed in light of the above, otherwise the garbage service may not be able to be provided to some properties.

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

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This development although similar in some ways in character to other residential estates, is a unique development on the Tweed given its close proximity to the Coast. Subsequently, the proposal has attempted to optimise its proximity to the Coast creating a unique estate.

Nevertheless, a number of design issues have been identified, as discussed in this report which include the subdivision in the 7(f) zone, location of parks, infiltration basins and drainage reserves in open space areas and a number of traffic/road issues.

One other issue is the width and depth to frontage ratio of the beach front lots. These lots generally have a width of 12 metres with a depth of 60 metres. It would appear that difficulties would arise in designing and siting a complying dwelling on the lots given that they have a 12m frontage and normal side boundary setbacks are 900mm.

It is also considered that having such narrow lots may create design and siting problems to allow consistency with Council's DCP39 - Energy Smart Homes Policy. As discussed in the section titled DCP39 - Energy Smart Homes Policy, the lots on the east/west axis (beachfront lots) are narrower than those lots aligned on a north/south axis and this is not consistent with the DCP and could have undue shadow effects on the beachfront lots.

The applicant has provided plans showing that dwellings can be easily accommodated on a beachfront lot. These plans indicate that a dwelling can be sited on each beachfront lot with a side setback of 900mm to the eaves and a maximum site coverage of 50%. In addition, the applicant has also provided examples of dwellings constructed on narrower lots (10m wide) on the Gold Coast.

In view of the detailed controls proposed in the Architectural Design Regulations (ie. setbacks, site coverage, building envelope) which are to be enforced by the Architectural Review Committee and the additional information supplied, as discussed above, it is considered that a dwelling is likely to be sited on these narrower lots.

Subsequently, any dwelling erected on a beachfront lot will need to comply with the Architectural Design Regulations and Council's statutory guidelines.

Architectural Design Regulations

In order to ensure that the development is unique the applicants have prepared *Architectural Design Regulations* (ADR) for Kings Beach. These ADR's are intended to encourage the design of the houses to reflect particular informal character, openness and individuality appropriate to the beach community.

The ADR provide that all building works, (including external construction, alterations, additions, repairs, including painting and repainting, construction and alterations to any fence, retaining walls, exterior lighting, driveways and landscape and tree planting) will need to comply with the ADR and will also require approval from an Architectural Review Committee (ARC). The ARC will include those persons appointed by the applicant, and will more than likely consist of architects etc. Approval from the ARC

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for any building works must be obtained before applying to Council for approval. The ADR also proposes that Council will be party to assist in enforcing the ADR.

Council's Building Unit has reviewed the proposed ADR's and have identified a number of issues and inconsistencies with the Building Code of Australia. Accordingly, it is considered that Council should not be party to the enforcement of this complex design regulations, and Council should only process new dwelling development applications and construction certificate applications that have been endorsed by the ARC. In addition, any endorsement or approval by ARC is not to substitute for or guarantee development approval from Tweed Shire Council.

Building Unit Comments

Infiltration Basins and Drainage Swales in Open Space (Dual Usage)

The application proposes to locate a number of infiltration basins and drainage swales within the north/south open space corridor to the east of the site. An east/west drainage swale is also proposed through open space (passive and active) and Management Lot 9 (active open space). Concerns have been raised in relation to the appropriateness of these basins in the open space. These may create maintenance problems for the open space and also for the basins and swales themselves. In addition, the infiltration basins and drainage swales may restrict the amount of useable open space available in this locality, and detract from the amenity of this land. With the basins and swales so close to the Crown Reserve there is also the possibility of runoff escaping into the Reserve, which is not satisfactory as all runoff from the development site is to drain to the west only. Council's Manager of Recreation Services has advised that the primary function of these areas is to provide appropriate open space to the community. Any proposed dual usage should be planned so as not to compromise this function. Consequently, open drains proposing slopes of <20 degrees should be avoided.

In an attempt to resolve the above problems, the applicant was requested to redesign/relocate the infiltration basins. This included redesigning the basins so that they compliment the open space and do not detract upon it and create any maintenance problems. Possible landscaping of these areas will also compliment the basins. To support the redesign the applicant is also to provide a hydraulic analysis and infiltration rates for these areas. These details have been submitted to Council.

To support the dual usage of the open space the applicant has provided a profile and schematic showing how it is planned to integrate the infiltration basins in the open space. The applicant has also provided the following:-

“Further to the meetings of 28/3/00 and 3/4/00, we have pleasure in submitting for your consideration a profile and schematic showing how it is planned to integrate the infiltration basins in the proposed 7(f) zone foreshore area with the public walkway/cycleway and the individual common gates from the private lots to this foreshore area.

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As discussed at the earlier meeting, we have prepared this illustration to assist Council in demonstrating how the various elements are intended to be integrated without impacting upon either the integrity and/or functioning of the infiltration basins and the public open space with associated walk and cycleways.

Cardno MBK and Gamble MckInnon (Casuarina's landscape architects) in association with MGI, have responded to your specific concerns by showing how the multiple 300mm deep infiltration basins, planted with endemic dune grasses are intended to be interspersed within the public foreshore open space area in such a way as to function both as 'indigenous' landscape features but with the necessary engineering features to accommodate runoff as required.

The example attached herein has taken areas in the Stage 2 Application as a basis for examining how all functions are proposed to be integrated. Specifically, the areas immediately west of the foreshore public open space, include:

- *the private residential lots and public access to the beach;*
- *public open space (ie. public parkland area which extend west from the foreshore area into the development area proper);*
- *the commercial land use area (exemplified by the resort sites); and*
- *the road reserve with its associated parking which together form part of the proposed Beachside Village.*

As will be noted, reference is made to the curvilinear nature of the walkway/cycleway in order to provide greater interest while removing any tendency towards a 'gun barrel' approach. There will be continuous visual transition between the public and private open space, while chain linked timber platforms are proposed to visually punctuate pathway intersections and control bicycle speed.

The linked timber walkway to Casuarina Beach shown east of the 50 year erosion line is also at the intersection of the public accessway through private lands to the foreshore walkway/cycleway. It is intended that the 2.5 metre foreshore pathway will be coloured concrete for both pedestrian and cycle use.

It is also intended that the natural dune vegetation regrowth will be supplemented with additional endemic plantings.

The Management Lot boundary is shown as it highlights where, at the southern area, the foreshore park and walkway will be developed in the eastern most portion of Lot 500, for which DLWC and Council's (as the Trustee) consent is required in order to lodge the DA for these foreshore works.

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Cross-sections have been presented to assist in demonstrating how the east/west land use associations are intended to be handled.

We trust that this pictorial exhibit and the accompanying explanation as to how the client intends to treat this important area, will satisfy Council's question as to how the multiple foreshore functions can be attractively deigned whilst also ensuring that the engineering infrastructure can not only work effectively, but can do so in an integrated manner".

In addition, the applicant has also amended the figures (Figure E24) and has decreased the linear size of the infiltration ponds in the north south open space area. To compensate for this loss of infiltration area the applicant has proposed to provide an infiltration basin in proposed Lot 20 (proposed open space). However, this does not necessarily resolve the problem but merely relocates the infiltration basin to another open space area and still creates potential problems in relation to the amenity and usage of the open space.

Subdivision Engineer Comments

In relation to the Hydraulic calculations and infiltration rates provided by the applicant, Council's Engineers have provided the following information in relation to stormwater drainage.

"Stormwater Drainage

General

The applicants proposal as shown on Figures E216, E216A, E216B, E216C, E116 Rev B, E116A, E116B, E116C, E10, E11, E12 and E13 for the conveyance of the Q100 flows along the north/south drain and then via the east/west system is generally satisfactory.

The applicants have produced figures E116B and E216B which show the Q100 inundation within both the north/south and east/west drainage system. These figures show that the allowable building areas within each residential allotment are not effected by the Q100 inundation.

The Q100 water surface level as shown on these figures have been derived assuming no infiltration and area therefore conservative.

North/South Drainage System

There is a major concern regarding the Q100 flood event overtopping the north/south drainage channel and then discharging into the Pacific Ocean via Lot 500.

Figures E216C and E116C show a long section of the trunk drain invert and water surface profile. When the Q100 water surface profile is plotted on the cross sections shown on Figures E10, E11, E12 and E13 it can be seen that in several locations the eastern bund is overtopped.

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The overtopping is worst between chainage 950 and 1200. In some locations the top of the drain is overtopped by approximately 250mm to 300mm.

To overcome this problem it is recommended that the eastern bund of the north/south drain is raised so that it is 300mm above the Q100 water surface level. The raising of this bund may require filling into Lot 500. Approval for this filing is required.

East/West Drain

The Manager Recreation Services has advised that the east/west drain which traverses the open space and lot 9 and eventually discharges to controlled outlet No. 7 is unacceptable.

This proposed open drain will have an adverse impact on the usage of the open space area and the playing fields in Lot 9 and consequently should be piped to a Q100 standard.

Infiltration

The infiltration ponds as shown on Figures E121 Rev B and E222 Rev B show the locations for the proposed infiltration ponds.

These ponds are generally satisfactory subject to detailed design and further approval by the Manager Recreation Services for the revegetation of the ponds.

Given the requirement to pipe the east/west drain care should be taken in the detailed design to ensure that no conflict occurs between the proposed infiltration ponds and the piped drain.

Development conditions can be imposed for the infiltration basins which ensure a satisfactory outcome.

Conclusion

In general it is considered that the proposed drainage system is satisfactory subject to the following:

- 1. The eastern bund of the north/south drain shall be raised so that it provides 300mm freeboard above the design Q100 water surface level.*
- 2. The east/west drainage system that traverses the open space and lot 9 shall be piped to a Q100 standard. Care must be taken during the detailed design to ensure that the piped drainage system does not conflict with the infiltration ponds.*
- 3. The location of the infiltration ponds are generally satisfactory subject to conditions of consent which set performance criteria for the ponds”.*

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It would appear from the above comments that from an Engineering prospective the proposed infiltration basins and drainage swales are likely to be satisfactory. However, as indicated above, it is recommended that the eastern bund of the north/south drain shall be raised so that it provides 300mm freeboard above the design Q100 water surface level.

Obviously raising this bund may adversely impact on the amenity of the open space which is not satisfactory.

It is agreed that the east/west drainage system that traverses the open space and lot 9 should be piped. This will allow better usage of the open space (passive and active).

Utility Services

The Stage 1 linen has not been lodged and therefore Works as Executed Plans for water supply have not been received demonstrating that each management lot has access to reticulated water supply.

Construction of the sewer rising main for Stage 1 has commenced, however the reticulation to the management lot has not been approved, constructed or bonded.

Figure E19 Rev B titled Vacuum Sewer Reticulation. This drawing cannot be approved as it does not represent vacuum reticulation concept even as indicative only. Subsequently, the concept is unacceptable.

Prior to the approval of the Construction Certificate the applicant shall will need to reticulation calculations which clearly show that the proposed 100 diameter watermain (as shown on Figure 21 Rev B) that services the 'possible future health resort' has sufficient capacity to ensure that adequate fire fighting flows are maintained at all times.

These calculations will need to include details of the proposed development yield for lot 1 These matters can be conditioned.

Landscaping

Street trees will be provided or contributions obtained.

The proposal will involve the removal of a substantial amount of vegetation which in part has been accepted due to the zoning of the land and the DCP which has been prepared.

The landscape master plan for Stage 2 provides for extensive landscaping over the site. Landscaping is primarily provided along the streets, roads and within the open space. The principle goal of the landscape works is to provide the Kings Beach community with a safe, secure environmentally sustainable landscape, which facilities a broad range of private and community based recreational activities.

The landscaping shall improve the amenity of the site and should also ensure that the maintenance of those areas is minimised. It is considered that landscaping this site

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should be undertaken in accordance with the landscape master plan for Stage 2 and the details provided with the application.

Natural Hazards

No known natural hazards are likely to affect the site other than coastal processes. The application is not considered to be consistent with the 7(f) zone objectives however, a xxxxxx of this zone as proposed is not considered to be consistent with zone objectives. See consultation section of this report.

This together with the Crown Reserve to the east should provide adequate protection to the site.

Social/Economic Effect

As discussed in Section (a)(i) of this report, the TLEP 2000 requires that social impact assessment be provided for developments that may have a significant social or economic impacted. It is considered that this assessment is not necessary.

The proposal will provide additional dwelling lots to cater for some of the growth along the Tweed Coast. The proposal will increase demands for services and facilities some of which will be catered for on the site when various stages of the Kings Beach development are released. There will be an increased maintenance burden for Council for the additional structured and casual open space. However, this open space is required to meet the need of the future population.

The proposal will provide employment opportunities both during the construction and post construction phases. This will likely improve the economy of the locality and the Tweed with potential spin off effects.

In addition, the Kings Beach development will also provide additional rate revenues for the Tweed Shire Council.

(c) **The Suitability of the Site for the Development**

As discussed throughout section (b) of this report it is generally considered and accepted that the site is suitable for the development, subject to some redesigning and other issues as identified in this report which need further review. The site has a long history and has a commitment given by the LEP amendment and DCP for residential development in this location.

This report has identified a number of issues which indicate that the development is not suitable for approval until they are satisfactorily resolved. These issues include compliance with the Stage 1 consent S96/135, outstanding advice from NPWS in relation to Flora and Fauna Assessment and compliance with Stage 1 consent conditions, owners consent from DLWC, dual usage at open space to include infiltration basins and drainage swales. Implementation of the Architectural Design Regulations, compliance with the Deed of Agreement and inconsistency with DCP11.

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It is concluded that should these issues be resolved it is considered that the development is suitable to the site and locality.

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

Public Submissions

The application was not statutorily required to be advertised.

Public Authority Submissions

See consultation section of this report.

(e) The Public Interest

A number of State Government Planning Policies (SEPPs) and other planning guidelines (LEPs and DCPs) have relevance to this application. All these policies and plans were discussed in Section (a) of this report.

As discussed in Section (d) the application was not statutorily required to be advertised.

ENGINEERING SERVICES DIVISION COMMENTS

As discussed in Section (b) of this report titled "Access, Transport and Traffic" a number of design issues have been identified which need to be amended. It is considered that these issues can be adequately conditioned on any consent.

Water and Sewer Engineer

"Prior to the approval of the Construction Certificate the applicant shall provide reticulation calculations which clearly show the proposed 100 diameter watermain (as shown on Figure 21 Rev B) that services the 'possible future health resort' has sufficient capacity to ensure that adequate fire fighting flows are maintained at all times.

These calculations shall include details of the proposed development yield for Lot 1.

Figure E19 Rev B titled vacuum sewer reticulation. This drawing cannot be approved as it does not represent vacuum reticulation concept even as indicative only. Subsequently, the concept is unacceptable.

Also see comments under "utility services" of this report.

Infrastructure Engineer

"A. *Drainage Comments.*

1. *General Land Form and Drainage*

This application covers parts of Management Lots 1 and 2 created by Kings Beach Stage 1 consent. Most of the land, the subject of this application is to be reshaped to fall eastwards from a ridge formed by the retained section and relocated section of the Coast Road. Drainage is to be collected in internal subdivision roads by conventional underground drainage and discharged into a north flowing swale/infiltration drain at the coastal boundary. This drain is proposed to flow north past the subject land along the eastern boundary

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of Management Lot 3, then turns at right angles to the west and proceed via open space lands to Controlled Outlet 7.

A small part of the subject land at the north west of the site, not proposed to be developed in this application, will fall towards the relocated Coast Road and drain through Controlled Outlet No. 3.

Land reforming proposed in this DA is part of a larger proposal to reform all of the land in Management Lots 1, 2, 3, 4, 5, 6, 7 and the Narui lot. As a separate DA however this application proposes land reshaping that is inconsistent with existing land levels at the north and south of the subject land.

Proposed land levels at the southern boundary of Management Lot 1 are at variance with existing levels of adjacent land, however no specific subdivision works (apart from land forming) are proposed in the southernmost section.

Proposed land levels at the northern boundary of Management Lot 2 are at a significant variance (up to 5m) with existing levels shown on submitted plans, again there are no specific subdivision works (apart from land forming) proposed at this location.

As this is a separate DA it will require conditions on land forming that allow it to develop separately from other adjoining land.

Cardno MBK Figure E18A and cross sections on Figures E10 - E12 indicate filling on lot 500 to assist in elimination of low areas along the coastal frontage of the subject land, this also enables the coastal trunk drainage swale to be contained on the eastern side and its invert to be elevated above natural surface to provide a falling grade to Controlled Outlet No.7. If filling for this purpose on lot 500 is not permitted, the drainage swale would require shifting to the west or a vertical retaining wall (up to 2.5m high) would be required on the lot 500 boundary. Shifting the drainage swale to the west would require reconfiguration of coastal frontage lots and may render proposed open space lot 12 (Stage 1) unviable, it could also render as unviable the future public promenade/car park area east of future commercial and tourist development lot 30.

2. Site Drainage

2.1 Background

The Stage 1 DA provided a SW quality strategy based on "Statement of Evidence - Report on Master Drainage and Stormwater Management Strategy by PN Casey, September 1998". This proposed

- "direct infiltration of "clean" water into the sands, eg roofwater;*
- modular pavements in hardstand, carpark areas;*
- vegetated filter strips on verges, and development edges adjoining public open space;*
- permeable sumps at building down pipe ends;*
- drainage catch basins in the "treatment train";*
- gross pollutant traps (GPTs) such as HumeceptorTM on lateral drainage lines outletting to the trunk drainage network from development areas;*
- underground infiltration cells (Atlantis Drainage Cells a product developed for such purposes as stormwater quality treatment), placed offline, but fed from the trunk drainage system downstream of GPTs."*

Pat Casey also proposed an "Alternative Water Quality Treatment System" in Appendix A of his evidence. The "Alternative system" was proposed to comprise the following elements:

- "Catch basins (EPA Guidelines, Ref. 9, Section 4.6)*

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- *HumeceptorTM Gross Pollutant Traps*
- *Sediment Traps (EPA Guidelines, Ref. 9, Section 4.3)*
- *Infiltration basins incorporating wetland (EPA Guidelines, Ref. 9, Section 5.6)”*

This application includes a report from Cardno MBK “Kings Beach Development - Proposed Stormwater Treatment & Disposal Incorporating The Alternative System” this report in general terms proposed (section 2.2)

- *infiltration of roof runoff*
- *discharge of road drainage through catch basins*
- *further treatment of road runoff by grass swales*
- *final treatment by infiltration basins*

Since the submission of the application there have been many meetings between the developers representatives and Council officers regarding drainage and water quality issues. Many amendments to the original plans have been submitted and at the time of writing this report still further reports on hydraulic analysis and infiltration basin sizing/location/design are awaited from the applicant’s consultants (Cardno MBK).

Cardno MBK letter 21/2/200 contained Attachment B “Water Quality Management and Monitoring Program” containing proposals for water quality management in the operational phase, water quality objectives, sampling and monitoring program, erosion and sediment control plan. For the operational phase it proposed a treatment train consisting of:

- *Disposal of roof water drainage by on-site infiltration for individual properties*
- *Collection of sediment and gross pollutants via catch pits*
- *Installation of Humeceptors at locations where oils and greases may be generated*
- *Transport of stormwater runoff by grassed swales and vegetated strips*
- *Screening of outlets to infiltration basins to capture gross pollutants*
- *Disposal of 3 month ARI stormwater flows by infiltration in specifically designed basins*

Conditions will be recommended to incorporate the above stormwater quality management principles and the provisions of Council’s Stormwater Quality Management Plan.

2.2 Lawful Point of Discharge

This DA is for subdivision of part of Management Lot 1 and part of Management lot 2.

The proposed point of discharge for this application is Controlled Outlet No. 7. Part of the undeveloped sections of Management lot 2 and Management lot 3 will drain to Controlled outlet No.3, but these works are not part of this application.

The proposed point of discharge at Controlled Outlet No. 7 is satisfactory and was anticipated in the stage 1 approval. Stormwater passing through Outlet 7 will discharge by overland sheet flow across passive open space lot 8 to Cudgen Creek.

Stormwater from this application must traverse Master lot 3 and proposed active open space lot 9 (which are not part of this application) to drain to Outlet 7. Easements/reserves across lots 3 and 9 will be required for continuity of drainage paths to the outlet.

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2.3 Proposed Drainage System

2.31 Drainage Layout

It is understood that roof water from dwellings will be infiltrated on each individual allotment which will reduce the volume of stormwater runoff to the public drainage system.

The proposed subdivision lots front roads Nos. 1, 2, 3, 4, 5, 6, 7, 8 & 9. These roads are provided with conventional underground drainage. Q5 road drainage is proposed to pass through catch basins (to retain sediment) and be piped through west/east pathways to a north flowing coastal swale drain. These west/east pathways also convey Q100 overland flows.

Stormwater (up to Q100) is to be conveyed in a northerly direction along a proposed coastal swale drainage/infiltration system. This is a proposed dual use area also containing walkway/cycleway and public open space/landscaping. This proposal is satisfactory from a drainage perspective, but, other units will need to determine its suitability for and compatibility with the other proposed uses.

The coastal swale passes north beyond Management Lot 2 and along the eastern boundary of Management Lot 3 for approximately 460m, it then turns at right angles to the west and continues through proposed open space lots (in Management Lots No.3 and No.9) to Controlled Outlet No.7. The applicants plan Cardno MBK 2967/1-SK.F shows schematic layouts of infiltration basins in proposed open space Management Lot No.9 and another lot (in Management Lot No.3) east of Management Lot No.9.

2.32 Drainage System Capacity

Cardno MBK Figure 18C contains a long section of the trunk drain. As stated in section 1

“Cardno MBK Figure E18A and cross sections on Figures E10 - E12 indicate filling on lot 500 to assist in elimination of low areas along the coastal frontage of the subject land, this also enables the coastal trunk drainage swale to be contained on the eastern side and its invert to be elevated above natural surface to provide a falling grade to Controlled Outlet No.7. If filling for this purpose on lot 500 is not permitted, the drainage swale would require shifting to the west or a vertical retaining wall (up to 2.5m high) would be required on the lot 500 boundary.”

Cardno MBK Figure E18C provides a long section of the trunk drain invert and water surface profiles. When levels from the east of the drain (from cross sections on Figures E10-E12) are plotted on the drain long section, breaching of the eastern side of the drain is indicated with resultant discharge to the beach. If the higher Q₁₀₀ (no infiltration) levels (as shown on Cardno MBK Figure E116E, submitted as additional information for Casuarina Beach Stage 4) are plotted the breaching is worsened. The eastern drainage bund will require further raising to fully contain the Q₁₀₀ (no infiltration) flow, the bund should be raised to at least 300mm above the Q₁₀₀ (no infiltration) water surface level.

2.4 Infiltration

2.41 Purpose of Infiltration

Infiltration fulfils two purposes. Firstly it reduces the volume of stormwater runoff, enabling a reduction in the size of downstream drains. Secondly it improves stormwater quality by removing some water born pollutants.

For water quality treatment, infiltration is usually designed to capture the runoff from up to a 3 month ARI storm (Q_{0.25}) which will capture over 90% of annual runoff. (Note for Tweed Shire, Q_{0.25} is deemed to be 40% of Q_{1 Year}.)

2.42 Dual Use Issues

The applicants consultant Cardno MBK has submitted “Consolidated Properties Pty Ltd, Casuarina Beach, Infiltration Basin Analysis, March 2000” to supplement information submitted with the application. This

Reports from Director Development Services

analysis proposes location of infiltration basins in public open space associated with the coastal walkway/cycleway and in areas of open space in management Lots No.9 & No.10 and goes on to say "Council officers have indicated that these layouts are satisfactory, ". It would appear however from comments made at a meeting held 28 March 2000 between Lenen, Consolidated Properties and Council representatives that this issue is not settled. There is a possibility that proposed drainage infiltration basins may not be compatible with the open space/walkway-cycleway uses on the coastal frontage and may also not be compatible with the active open space uses of Master Lot No.9 and other open space areas.

At some meetings it has been suggested that the infiltration basins could be turfed and on other occasions that the basins should only be vegetated with sparse coastal tussocky grasses, with significant areas of bare sand. From an infiltration perspective the latter would be acceptable, but, a turfed surface would be unacceptable due to an inherent loss of surface permeability.

A meeting with the Manager Recreational Services 13 April 2000 explored dual use (drainage/open space) issues. MRS indicated that slopes in excess of 5% (which would be required to define channels and create workable drainage invert levels) would be incompatible with open space objectives. The MRS proposes to draft a written response on these dual use issues.

2.43 Infiltration Basin Sizing

2.431 Permeability

The applicant's infiltration analysis contains percolation tests in accordance with Appendix B of AS 1547, Disposal Systems for Effluent from Domestic Premises which have measured permeabilities ranging from 44 to 57 metres per day. For design and sizing of infiltration basin purposes they have adopted 24m/day.

There is no current Australian Standard for design of stormwater infiltration systems. In the absence of such a standard the applicant has used the sewerage effluent standard AS 1547 to derive permeability rates. This standard gives 1.2 - 6 m/day as typical values of permeability in sand, which are considerably less than the rates measured and proposed for design and sizing of infiltration basins by the applicant. The standard modifies raw permeability rates by a "Long Term Acceptance Rate" table (resulting in a reduction factor of up to 100 times) for sizing absorption areas. The applicant does not propose any such reduction in their raw permeability rates to allow for long term reduction in permeability due to clogging and other factors.

A condition is proposed to reduce raw permeability rates to lower values that are more acceptable for design of long term infiltration areas.

2.432 Location and Sizing of Ponds

At the time of writing this report, further information from T Johnson (Cardno MBK) is awaited concerning the location and sizing of infiltration basins for the Controlled Outlet No. 7 catchment. Conditions can specify criteria for sizing total basin size for each catchment. The actual location and sizes of individual ponds is undetermined at this stage.

For the purpose of this report a condition can be drafted requiring a certain area of infiltration basin for each catchment, together with criteria for the basins design and management. Other units will need to determine compatibility with other proposed uses.

3. Stormwater Quality

3.1 Erosion and Sediment Control

The ESCP submitted with the DA and the final proposal for ESCP contained in part 5 of Cardno MBK "Water Quality Management and Monitoring Program" (1/2/200) are insufficiently detailed to serve as the basis of conditions of consent for this activity.

Council's recently adopted Urban Stormwater Quality Management Plan (prepared in accordance with a Direction EPA under Section 12 of the Protection of the Environment Administration Act, 1991) requires

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stormwater objectives during the construction phase of new development to comply with “Tweed Shire Council, Aus-Spec D7 - Stormwater Quality, and Annexure A - Code of Practice for Soil and Water Management on Construction Works”. Proposed conditions of consent will incorporate these requirements.

3.2 Permanent Stormwater Quality Controls

The final proposal is contained in Cardno MBK letter 21/2/200 Attachment B “Water Quality Management and Monitoring Program”, for the operational phase it proposed a treatment train consisting of:

- Disposal of roof water drainage by on-site infiltration for individual properties
- Collection of sediment and gross pollutants via catch pits
- Installation of Humeceptors at locations where oils and greases may be generated
- Transport of stormwater runoff by grassed swales and vegetated strips
- Screening of outlets to infiltration basins to capture gross pollutants
- Disposal of 3 month ARI stormwater flows by infiltration in specifically designed basins

The grass swale proposal may be compromised by a number of factors

- Grass swales were originally proposed from the discharge point of road underground drainage along dual use pathways to the coastal drain/pathway/cycleway (ie between proposed lots 53/54, 46/47 and 39/40). The swales were proposed to remove sediment and some nutrients. These swale drains would have consumed most of the path reserve width (5m) and would have made it difficult to also accommodate the path itself. As a result later plans issued March 2000 have deleted these swale drains and indicate pipe drainage will be used. Whilst this may solve the fit problem in the 5m path reserve, it adversely affects water quality treatment. An alternative may be to install mechanical devices (eg Humeceptor) to remove sediment from stormwater prior to discharge into the coastal infiltration basins.
- Proposed grass swale drains from the coastal drain/infiltration area to Control Discharge No. 7 require invert levels that result in deep (2-3m) drains through proposed open space areas. The resultant landform and slopes may be unacceptable for open space uses and objectives. If this is the case the swale drains may have to be replaced by pipe drainage to allow the open space to be more appropriately shaped and this would result in poorer stormwater treatment.

Cardno MBK’s “Water Quality Management and Monitoring Program - February 2000” contains WQ objectives based on concentrations. This approach is not particularly useful in determining conditions of consent relating to stormwater treatment.

Whilst no water quality modelling accompanies this application, the treatment train proposed is similar to that proposed in the North Kings Beach (Sahben) site and should yield similar results.

Council’s Stormwater Management Plan adopted 19 April 2000 proposes the following stormwater quality objectives for new urban development:

Pollutant			
Nutrients	Maximum permissible load that may be discharged kg/ha/year		
	Average year (1719mm)	Wet Year (2185mm)	Dry Year (929mm)
Suspended solids (SS)	300	400	120

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Total Phosphorus (TP)	0.8	1.1	0.35
Total Nitrogen (TN)	4.5	6	1.5
Litter	Retention 70% of annual litter load greater than 5mm		
Coarse sediment	Retention of 90% of annual load of sediment coarser than 0.125 mm		
Oil and grease (hydrocarbons)	<10 mg/litre in flows up to 40% of Q1 peak.		

The proposed stormwater treatment train, as modified by proposed consent conditions, should yield results that generally achieve this standard.

4. Conclusion

Issues regarding stormwater quality, infiltration, erosion and sediment control can be addressed by consent conditions.

Dual use issues for land to be used for both drainage and open space remain unresolved at this stage. If the landform resulting from drainage constraints renders designated open space land unsuitable for that purpose, then drainage may need to be undergrounded or relocated onto other land. Relocation of drainage or water quality devices onto other land will require the dedication of additional land and a consequent revision of the subdivision/lot layout to provide this additional land.

The proposed land reforming presents difficulties with level inconsistencies at the boundaries with other land. Along the coastal boundary with public lot 500, the application proposes to resolve internal land level issues by filling on lot 500 itself. This fill is necessary to ensure the viability of the proposed drainage and landforming systems. If fill is not permitted on lot 500 then the drainage and landforming proposals, and the application itself may be unviable.”

ENVIRONMENT AND COMMUNITY SERVICES DIVISION COMMENTS

The Environment and Health Services Unit raise no objections to the proposal. The submitted acid sulfate soil management plan, water quality monitoring and management plan and the sedimentation and erosion control plan are all satisfactory and will be included as a condition of any consent.

The Building Services Unit raise no objections to the proposal. However, as discussed in Section (b) of this report the Building Unit have assessed the architectural design regulations and have identified a number of issues and have recommended that Council should not be party to the ADR.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

As discussed, the applicant has lodged an appeal to the Land and Environment Court based on a ‘deemed refusal’. However, this does not preclude Council from determining the application.

OPTIONS

Council can either:-

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

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3. Defer a decision until the applicant satisfactorily addresses the key outstanding issues.

CONCLUSION

This report has identified a number of key issues which indicate that the development is not suitable for approval until they are satisfactorily resolved. These issues include:-

- compliance with the relevant conditions of the Stage 1 consent - S96/135
- compliance with the Deed of Agreement
- owners consent from DLWC
- dual usage of open space which includes infiltration basins and drainage swales
- implementation of the Architectural Design Regulations
- inconsistency with DCP11 - Kings Beach

In conclusion, taking the above unresolved issues into consideration, it is considered that Option 3 is recommended and Council should defer a decision until the applicant satisfactorily addresses the key outstanding issues.

Reports from Director Development Services

4. ORIGIN: Strategic Town Planning Unit

FILE REF: Industrial Land Investigation Study

REPORT TITLE:

Industrial Land Policy; Potential Industrial Land, South Murwillumbah

SUMMARY OF REPORT:

TEDC have submitted an application to the Northern Rivers Area Assistance Committee for a Regional Assistance Program grant to conduct a comprehensive feasibility of the identified land for industrial purposes. In lodging this application TEDC have asked Council to offer a letter of support for the proposed project.

RECOMMENDATION:

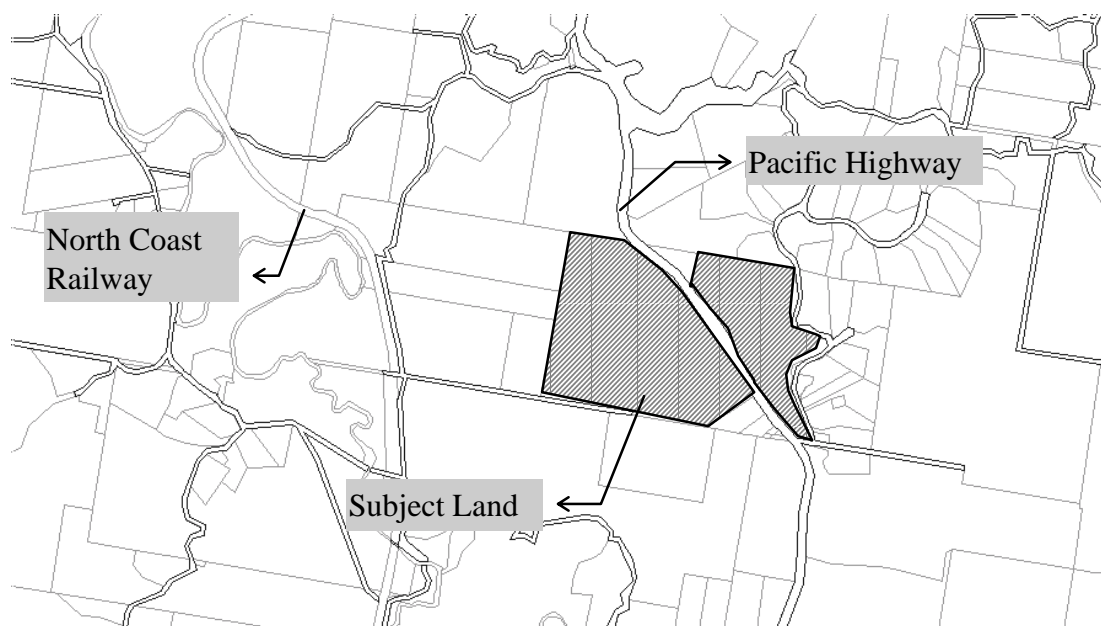
That Council endorses the proposal submitted to the Northern Rivers Area Assistance Committee and submit a letter of support.

Reports from Director Development Services

REPORT:

INDUSTRIAL LAND STUDY

In April a report on “Potential Industrial Land Investigation” was adopted by Council. This report identified the immediate shortage of serviced industrial land within the Shire. In conducting this study several potential sites for further investigation were identified. One of these sites was located south of Murwillumbah.



The benefits of this site include its access to major road and rail networks, flood free, buffered from residential areas.

Tweed Economic Development Corporation (TEDC) have also identified the potential of this site for attracting larger scale manufacturing industries to the Tweed.

RESPONSE OF TEDC

The following response was received from the Board:

“At the recent TEDC Board meeting the issue of industrial land generally in the Tweed Shire was discussed at length. The meeting also had the opportunity to listen to a presentation by Douglas Jardine, Manager Strategic Town Planning, on the recently completed study “Potential Industrial Land Investigation, Tweed Shire, February 2000”. Doug also took part in some of the discussion concerning industrial land and in addition joined me in commenting on a recent conference we attended in Brisbane specifically on integrated planning, economic development and industrial land.

Following the discussions the Board adopted the following motions.

Reports from Director Development Services

It was moved that:

1. *The TEDC Board endorses the identified land south of Murwillumbah (known as "Johansen's land") as a top priority development project to satisfy the demand for flood free, highway frontage, large lot industrial land;*
2. *The TEDC seek an extension to the option to purchase on Johansen's land south of Murwillumbah on similar terms to the original option;*
3. *Tweed Shire Council be asked to confirm their support for the rezoning of Johansen's land from rural to industrial, subject to a supportive feasibility study outcome;*
4. *The TEDC re-submit a funding application to the Area Consultative Committee (ACC) seeking funds to conduct a feasibility study on Johansen's land;*
5. *The TEDC advise Tweed Shire Council (TSC) that the TEDC wishes to work in partnership with the Council to source State and/or Federal Government support for development and/or infrastructure funding to accommodate the attraction of job creating industries;*
6. *The TEDC seek TSC support to establish a joint TEDC/TSC Task Force to implement the findings as identified by the recently completed industrial land study carried out by TSC in consultation with TEDC;*
7. *The Industrial Land Task Force consist of representatives of the Board of TEDC and officers of TSC;*
8. *The joint Industrial Land Task Force include TEDC directors Tom Senti, Bill Stainlay and Harry Williams;*
9. *The TEDC promote the concept of a joint partnership between the TEDC and TSC to consider the development of Johansen's land for future growth purposes;*
10. *Consideration be given at the appropriate time to discussing the potential to include the current owner of the land as a possible venture partner in the project; and*
11. *TSC be urged to address as a matter of urgency the apparent shortage of developed, ready for use, industrial land.*

I wish to advise that today I lodged, on behalf of the TEDC, an application with ACC for funds to conduct a feasibility study on the land south of Murwillumbah owned by Mr Ron Johansen. The reason for the hurried lodgement of the application is to ensure that it is considered in the round of funding which closed on Friday 28 April, 2000, for which we were given a late lodgement extension.

I also wish to advise that the TEDC has been granted a six month extension to the option over the land by the Johansen's, with an option to extend.

The Board has requested that we seek Council support for our funding application on the basis that the feasibility study, as per the brief, is a proactive step in determining the

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suitability or otherwise of this particular parcel of land. An early response in this matter would be appreciated”.

POTENTIAL LAND, SOUTH MURWILLUMBAH

The immediate priority arising from this response is the ‘Johansen’ land.

As noted, TEDC have submitted an application to the Northern Rivers Area Assistance Committee for a Regional Assistance Program grant to conduct a comprehensive feasibility of the area for industrial purposes. This study will investigate infrastructure issues, geo-technical, flora, fauna, flooding, water quality, industrial land demand rates and the ultimate potential for the site.

No detailed appraisal of this land has yet been undertaken, that is the purpose of the feasibility study. Analysis to date has yielded few realistic opportunities for industrial land, and therefore this initiative by TEDC to seek external funding for a feasibility study is supported.

Reports from Director Development Services

5. ORIGIN: Subdivision Unit

FILE REF: DA4540/52 Pt1

REPORT TITLE:

Use of an Existing Hall as a Recreation Facility at Lot 2 DP 735226 Racecourse Road, Tyngalga

SUMMARY OF REPORT:

A development application has been received for the use of an existing hall at the Seventh Day Adventist Church complex at Racecourse Road, Tyngalga as a recreation facility. The proposal is considered satisfactory on merit. The applicant has made a request to waive the Section 94 Contribution under the Tweed Road Development Contribution Plan. It is Council's policy not to waive contributions and therefore the contribution in accordance with the Plan, is included as a recommended condition of consent.

RECOMMENDATION:

That the development application lodged by Australasian Conference Associations Ltd for the use of an existing hall at Lot 2 DP 735226 Racecourse road, Tyngalga as a recreation facility be approved subject to the following conditions:-

PRE-REQUISITES - conditions that must be complied with prior to issue of a construction certificate

1. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan prior to the use or occupation of the building as a "recreation facility".

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.

- a. Tweed Road Contribution Plan: \$11,515.95
S94 Plan No. 4 (Version 4.0)
(Rural - Inner zone - Commercial)

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GENERAL

2. The development shall be completed in general accordance with Plans lodged with the development application, except where varied by these conditions.
3. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
4. The opening hours of the recreation facility are restricted from 8.00am to 10.00pm 7 days a week.

DRAINAGE/FLOODING

5. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage.

ENVIRONMENT PROTECTION

6. 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.

Reports from Director Development Services

REPORT:

Applicant: Australasian Conference Association Ltd
Owner: As above
Location: Lot 2 DP 735226 Racecourse Road, Tyngalga
Zoning: 1(b2) Agricultural Protection Zone

BACKGROUND

Council received a complaint in March 1998 that the Seventh Day Adventist (SDA) Church Hall at Lot 2 DP 735226 Racecourse Road, Tyngalga was being used as a basketball facility by groups other than those directly associated with the SDA Church.

Development Consent 86/147 was issued on 28 April 1986 for the erection of a church complex, associated amenities and a caretaker's residence. The consent was modified on 29 March 1994 to allow for the enlargement of the approved church hall for its use for sport and social gatherings. It was confirmed by the SDA Church that the basketball court in the Church Hall was available for community use. Council, at its meeting of 16 December 1998 resolved that the use of the indoor basketball court by groups other than those associated with the church constituted a "recreation facility", which was a prohibited use in the 1(b2) Agricultural Protection Zone under the Tweed Local Environmental Plan 1987. Council also resolved to advise the owners that they should make a submission to the Draft Tweed Local Environmental Plan 1988 seeking a site specific amendment to that Plan to allow for the use of the basketball court other than in conjunction with church activities. Council's solicitors confirmed that in their opinion of the use of the church hall as a recreation facility is not ancillary to the existing use of the church complex, and that such use is not permissible.

At its meeting of 7 July 1999 Council considered a further report in respect of this matter where it was resolved to amend the Tweed Local Environmental Plan 1987 to enable Lot 2 DP 735226 to be used as a recreational facility. The draft Local Environmental Plan No 129 was placed on public exhibition from 20 December 1999 to 31 January 2000.

On 15 March 2000 Council considered a report on the exhibition of the amendment where it was resolved:-

"...that

- 1. Council submits Draft Amendment No 129 to Tweed Local Environmental Plan 1987 to the Department of Urban Affairs and Planning and requests that the Minister for Urban Affairs and Planning makes the plan so that the Seventh Day Adventist church can use their facility to cater for both sport and social gatherings.*
- 2. It be noted that the Seventh Day Adventist Church did not act illegally in this matter, but had development consent for the church complex, and this use, which was granted in April 1986 prior to the prescription of the current Tweed Local Environmental Plan 1987."*

A development application was lodged on 9 March 2000 for the use of the hall as a recreation facility. This application was being processed pending the gazettal of Tweed Local

Reports from Director Development Services

Environmental Plan 1987 (Amendment 129). However, on 7 April 2000 Tweed Local Environment Plan 2000 was gazetted which includes a provision enabling a recreation facility at Lot 2 DP 735226 Racecourse Road, Tyngalah with development consent. Council can now determine the development application.

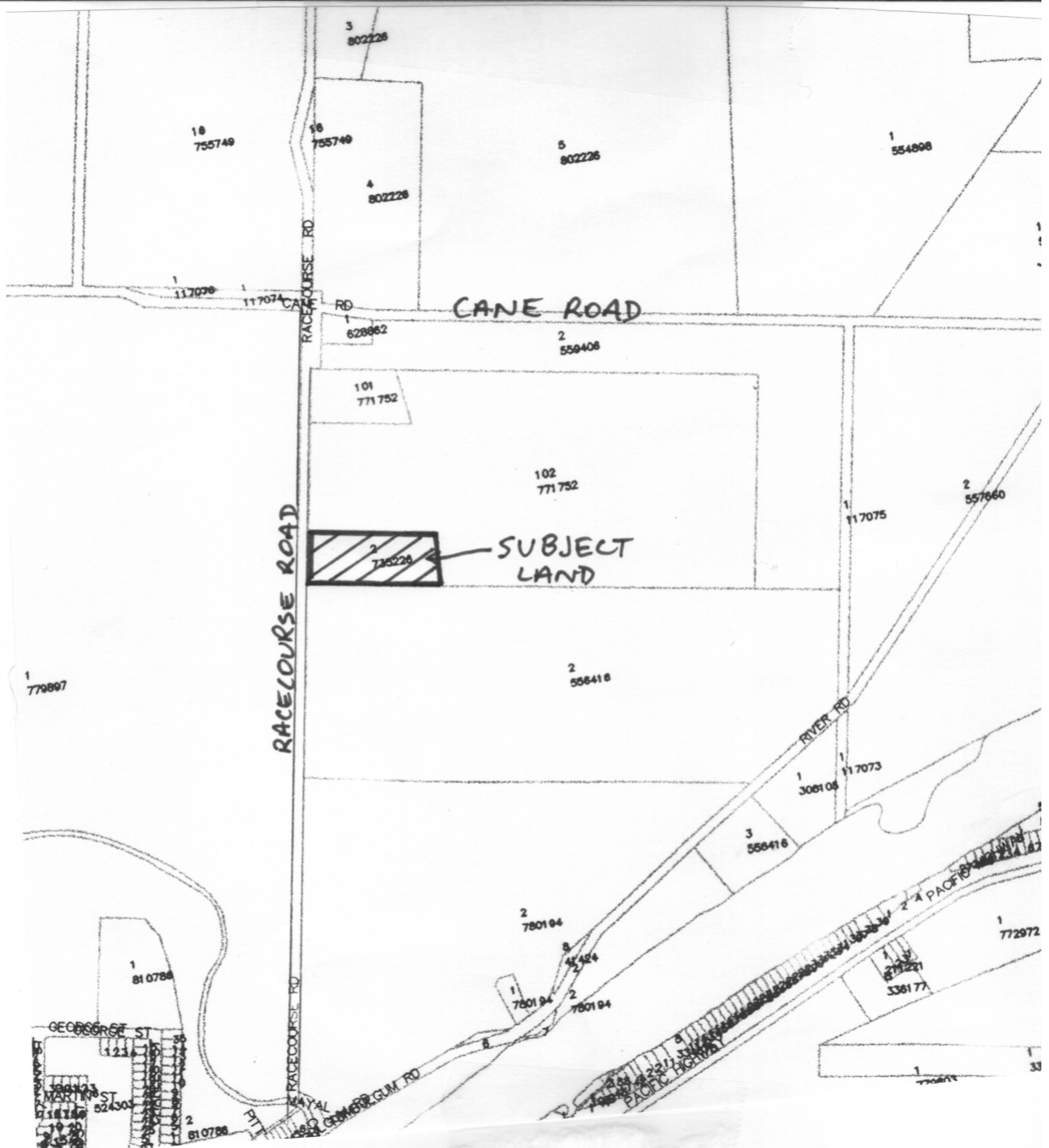
PROPOSAL

The development application proposes the use of the existing hall at the Seventh Day Adventist Church Complex as a recreation facility. It is stated in the application that the proposal involves the use of the Assembly/Recreation Hall as a Recreation Facility, primarily for use by the Murwillumbah Junior Basketball Association. It is further stated that it is possible that other groups or organisations may wish to use the facility for other recreation activities for which the hall is equipped including tennis, badminton and shuttlecock. The application states that it is expected that the use of the building for these other purposes would be infrequent.

There are no new building works proposed as part of this application. The use of the facility is limited to the hours of 8.00am to 10.00pm Monday to Sunday, excluding Saturday mornings.

Reports from Director Development Services

Site Diagram



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CONSULTATION

There is no statutory requirement to advertise or notify the application. Consultation was undertaken as part of processing Tweed Local Environmental Plan 1987 (Amendment Ho 129) and there were no submissions received from adjoining property owners, the NSW Sugar Milling Co-operative or the general public. NSW Agriculture provided a submission which noted that while limited use of the facility was not of significant concern, wider and more frequent use of the facility could alter the potential for conflict with agriculture and recommended that development in the 1(b2) zone be compatible with the zone objectives and permitted landuses. It was also stated that there was no evidence available to suggest that the Seventh Day Adventist Church Hall was creating or likely to create a problem for adjoining agricultural activities.

EVALUATION

A complete assessment of the application under the considerations contained within Section 79 1 of C1 of the Environmental Planning and Assessment Act 1979 is contained below:-

(a) (i) The Provisions of any Environmental Planning Instrument

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 1(b2) Agricultural Protection Zone. “*Recreation Facilities*” are prohibited in this zone. However, clause 53 of the Plan enables development of specific sites for a particular purpose with development consent. This Clause and associated Schedule 3 of the Plan enables the subject land to be used for the purpose of a recreation facility with development consent.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 12 requires that Council shall not consent to an application to carry out development on rural land unless it has considered the impact on adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

There is no evidence to suggest that the use of the hall as a recreational facility has impacted on agricultural land in the locality. It is considered that the future use of this facility is also unlikely to impact on adjacent uses. The proposal utilises an existing building and therefore there will be no physical loss of agricultural land.

Clause 82 requires that Council consider the need for access by the community to specialised recreational facilities and include relevant conditions in its approval to achieve an acceptable level of public access. The proposal will enable public access to the facility and no specific conditions are considered necessary.

State Environmental Planning Policies (SEPPs)

There are no SEPPs applicable to this proposal.

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

There are no draft planning instruments which affect this proposal.

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(a) (iii) **Any development control plan (DCP)**

- DCP No 2 - Site Access of Parking code - This code requires that 45 car parking spaces be provided for the proposal. The site contains 102 spaces and as the use of the facility is likely to be outside the hours that the church is used. It is considered that adequate on site car parking facilities are available for the proposal.
- DCP No 5 - Development of Flood Liable Land - Standard conditions in terms of providing flood free storage areas will be included on any consent. The policy does not contain any minimum floor level requirements for this type of development.

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

No matters require consideration.

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

Context and Setting

The subject land has an area of 2.83 hectares and contains the existing church and hall and associated facilities including storage, kitchen facilities, storage areas, lecture room and car parking. The land is within an existing rural area which is primarily used for cane farming. As previously discussed, it is considered that the proposal is unlikely to significantly impact on adjacent land uses.

No physical works are proposed and therefore the proposal is unlikely to result in adverse environmental impacts. There will be no impact on the landscape or scenic quality of the locality.

Access and Traffic

A sealed access to the site exists from Racecourse Road which is satisfactory for the proposal. Figures provided by the applicant indicate that the recreation facility will generate approximately 11 vehicle trips per day which can be accommodated on Racecourse Road without resulting in adverse impacts in the locality.

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

There are no physical site constraints which would prevent approval of this application. Also the impact on adjoining landuses is considered satisfactory. Therefore, it is concluded that the site is suitable for the proposed development.

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

The application was not required to be advertised or notified. The consultation section of this report outlined the advertising process which was undertaken for the site specific LEP amendment to enable this development.

Reports from Director Development Services

(e) **The Public Interest**

The proposal is considered to be consistent with the provisions of the Tweed Shire 2000+ Strategic Plan.

The only section 94 contribution plan which applies to this proposal is section 94 plan No 4 - Tweed Road Contribution Plan. Based on the traffic figures provided by the applicant a contribution of \$11,515.95 would apply to this proposal. The Section 94 Plan divides the Shire into sectors and different contribution rates apply to each sector. The subject land is located within the "Rural Inner Zone" which is adjacent to the "Murwillumbah" zone. The border between the two zones is located at the beginning of Racecourse Road, approximately one kilometre from the site. There is considerable difference in contributions between the two sectors and if the Murwillumbah rate is applied to this proposal the contribution would be \$2641.25. As a majority of traffic to the property is likely to originate from Murwillumbah it may be appropriate to apply the Murwillumbah rate. Council should be aware that this could create a precedent for other developments in the locality and indeed developments near sector boundaries in any locality.

The recommendation in this report is consistent with the Council's Policy position on this matter however, for the reasons outlined above Council may wish to review the amount of contribution. The applicant has requested that the road contribution be waived for the following reasons:

- As part of its pastoral charter the Church operates the facility on a non-profit basis for use by the community. The Church incurs significant ongoing costs in respect to the facility which are not recovered from its users.
- The Church will be unable to implement the consent. Consequently, the community will lose a significant community asset.

Council receives many requests such as these and as a result a report was prepared for Council's consideration so that a policy position could be resolved upon in respect of payment of contributions by community groups, churches, etc. At its meeting of 5 May 1999 Council resolved:-

"That unless exempted by legislation development applications for works of public benefit submitted by or for charities, community groups, public bodies and religious organisations which generate a demand for provision or increase in public amenities and services as identified in an adopted Section 94 contribution plan will be liable for the payment or contributions as set out in such plans."

In accordance with Council's policy, it is recommended that any consent include the Section 94 contribution for the Murwillumbah locality.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

If the applicant is not satisfied with Council's determination in respect of this application, then they have a right of appeal to the Land and Environment Court.

Reports from Director Development Services

If Council decides to waive the Section 94 contribution it will result in a loss of funds for the Plan which will ultimately have to be met by Council. It would also result in a precedent for future application by community groups, charities, churches etc.

OPTIONS

Council can either:-

1. Approve the application subject to conditions. Council has the option of incorporation a road contribution for the Murwillumbah sector rather than the inner rural sector; or
2. Refuse the application.

There would appear to be no valid reason for refusing the application.

CONCLUSION

The application has been reviewed by Council's Engineering Services Division and Environment and Community Services Division and no objections were raised to the proposal.

Having regard to the comments made in the above assessment it is considered that the application is suitable for conditional consent.

Reports from Director Development Services

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Reports from Director Development Services

6. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/ILAP/4 Pt

REPORT TITLE:

Bilambil Heights - Area E

SUMMARY OF REPORT:

An LEP Amendment should be prepared in respect of the Bilambil Heights Urban Release Area to restrict development approval until there is appropriate access to the regional road network.

“Area E” Terranora should be initiated, subject to further Council resolution, when a preliminary evaluation of infrastructure and planning issues has been completed as a basis for potential Council resolution to formally commence the draft LEP process, and the Contract Senior Strategic Planner has commenced.

RECOMMENDATION:

That Council:-

1.

- Amend Clause 114 of the Tweed Shire 2000+ Strategic Plan, to read as follows:

“Long Term Urban Release - The Bilambil Heights Release Area has major infrastructure impediments and requires a comprehensive multi-ownership planning approach. ~~If after three years no commitment has been given by landowners for infrastructure at Bilambil Heights, then Area ‘E’ at Terranora should be considered for release subject to other Strategic Plan requirements.~~ No development approvals for the release of land for residential development will be granted until such time as the Tugun Bypass and Cobaki Parkway are commenced to provide appropriate access to the regional road network”.

- In accordance with Section 54 of the Environmental Planning and Assessment Act inform the Regional Director, Department of Urban Affairs and Planning, that Council intends to prepare a draft LEP to amend the Tweed LEP 2000 to require that no development approval for the release of land for residential development at Bilambil Heights can be granted by Council until the Tugun Bypass and Cobaki Pathway are commenced to provide appropriate access to the regional road network, and that in Council’s opinion a Local Environmental Study is not required.

Reports from Director Development Services

REPORT:

Council resolved on 19 January, 2000 that:

“the provisions of Policy 114 of the Tweed Shire 2000+ Strategic Plan in respect of Bilambil Heights be extended until 31 March, 2000 to enable Council to make a fully informed decision in respect of the Distributor Road network in the northern sector of the Shire; has convened a Workshop to consider the positions of the Landowner Groups at Bilambil Heights and “Area E” Terranora; and has fully considered the Strategic Planning and Tweed Development Program issues”.

Briefly, the relevant background is as follows:

- The Tweed Shire 2000+ Strategic Plan gave Bilambil Heights until December, 1999 to commit to infrastructure provision, otherwise Area E would be considered for development, on the basis of sufficient land being already zoned for development to enable the Shire’s population to almost double to about 120,000;
- Area E and Bilambil Heights are included in the Tweed Residential Development Strategy as Urban Release Areas;
- Bilambil Heights is zoned for development, but no specific DCP or S94 Plans have been prepared;
- Area E has not yet been zoned for residential purposes, although the landowners have, over the years, commissioned significant amounts of planning work by consultants;
- It also sets out planning guidelines for the development of both release areas;
- Bilambil Heights is dependent upon the Lakes Drive Bridge or the alternative, which makes Bilambil Heights dependent upon the Tugun Bypass and Scenic Drive through Cobaki Lakes;
- On 5 April 2000 Council resolved that:
 - “1. *The proposed Ultimate Tweed Shire Road Network as designated in Figure 3 and figure 4 be adopted in principle, subject to:*
 - (a) *A commitment being made by the NSW and Queensland governments to construct the Tugun Bypass in general accordance with Preferred route C4;*
 - (b) *A commitment being made by the RTA to install two north facing freeway ramps at Kirkwood Road.*
 2. *The proposed Lakes Drive Bridge project be put on hold until the above issues are resolved. If these are resolved satisfactorily Council would then give further consideration to the Lakes Drive Bridge proposal with a view to its abandonment.*

Reports from Director Development Services

3. *When issues in 1(a) are resolved, Tweed Roads Contribution Plan No 4 is to be amended to reflect the changes in the new adopted road network.*
 4. *Council pursues early completion of the Tugun Bypass and government funding for the Boyd St interchange.*
 5. *A planning strategy be prepared to respond to the road network constraints being:-*
 - (a) *Initially connect Cobaki Lakes to Boyd St (Tugun) with no southern road outlet;*
 - (b) *Delay the southern outlet to Cobaki Lakes until the northern end is connected to the Tugun Bypass and Boyd St interchange;*
 - (c) *Bond Cobaki Lakes Development for cost of southern connection and Cobaki Ck bridge;*
 - (d) *Delay Bilambil Heights development until the Tugun Bypass/Boyd St Interchange, Cobaki Parkway and Cobaki Ck Bridge are available for connection of the development to the north”.*
- “Area E” planning should be issued in a Shirewide context - not necessarily a “straight exchange” for Bilambil Heights. A considerable amount of land has now been approved for residential release at Cobaki Lakes, Kings Beach and Seabreeze (Pottsville);
 - “Area E” would, nevertheless, potentially provide for an essential alternative to Terranora Road with the extension of Naponya Drive through to Fraser Drive.

WORKSHOP

A Workshop involving representatives, landowners of both areas and the Strategic Planning Committee was held with both landowners on 12 April, 2000. Notes provided to that Workshop by the respective proponents are attached to this Business Paper.

IMPLICATIONS

The implications for both Bilambil Heights and Area E, as follows:

1. Bilambil Heights

This would effectively make the release of Bilambil Heights long term. The continued residential status of the zoning of the land presents continuing issues of landowners’ expectations and possible legal challenges. There are a number of options to counter such a situation:

1. Rezone to Rural for potential subsequent rezoning back to Residential when infrastructure is available. This would be wasteful of resources and create uncertainty amongst landowners;
2. Include a specific provision in the LEP that consent cannot be granted until nominated infrastructure is available;

Reports from Director Development Services

3. Retain the current situation and rely on the development control process to resist premature development.

Option 2 is preferred.

Council is in receipt of a number of S94 contributions for development to date in respect of open space, drainage and community facilities. This will have to be held by Council until such time as the remainder of the land is released.

2. “Area E”

“Area E” has not been part of Council’s planning for residential development because of Shirewide zoned land sufficiency. The issue of staff resources was recently addressed for this and other similar high profile LEP Amendments by the following resolution:

- “1. Council gives consideration to the inclusion of a contract senior strategic planner position for a minimum period of 12 months to give priority to major LEP rezonings. Potential rezoning projects will be dependant upon meeting Council and Department of Urban Affairs and Planning planning requirements, Black Rocks, Terranora Area E and Chinderah Bay Drive. The proponents of those rezonings are to be responsible for the funding for the position in addition to the funding of any necessary planning studies required to support the rezoning.
2. The Director Development Services brings forward a report detailing the management and funding arrangements for the position”.

The proponents of each of the nominated projects have responded to this initiative: “Area E” landowners as follows:

“I write to you on behalf of those owners of farming properties in the Terranora area who desire to have their land rezoned from the current zoning of (Largely) agricultural protection to residential. This proposal for rezoning was the subject of an application made to you on behalf of the owners by Master Planning Services in April 1995. The area has been referred to as Area E.

We wish to extend the application to include adjoining lands owned by the Abernethy Family which has a frontage to Frazer Drive and Portion 227 owned by John Bolster.

The land owners wish you to know that in order to further their application and to overcome the pressure of work on Council staff they in conjunction with others who may be seeking rezoning of their lands in other parts of the Shire would be prepared to bear the cost of any professional help which the Council may find it necessary to engage in order to progress their application.

All owners are anxious that the application proceed as soon as possible and I would appreciate your advice as to what we might do to achieve this”.

The implementation of the resolution regarding the Contract Strategic Planner is the subject of a separate report to Council.

Reports from Director Development Services

Whilst the proponents have undertaken various planning studies, it still remains for Council to evaluate the release of "Area" E with the availability and sequencing of infrastructure, particularly Naponya Road. This issue is to be considered by the Strategic Planning Management Team and a report will be submitted to Council in June.

It would be prudent to deal with it in that manner.

CONCLUSION

That:

1. In respect of Bilambil Heights:

- Amend Clause 114 of the Tweed Shire 2000+ Strategic Plan, to read as follows:

"Long Term Urban Release - The Bilambil Heights Release Area has major infrastructure impediments and requires a comprehensive multi-ownership planning approach. ~~If after three years no commitment has been given by landowners for infrastructure at Bilambil Heights, then Area 'E' at Terranora should be considered for release subject to other Strategic Plan requirements.~~ No development approvals for the release of land for residential development will be granted until such time as the Tugun Bypass and Cobaki Pathway are commenced to provide appropriate access to the regional road network".

- Prepares a draft LEP to amend the Tweed LEP 2000 to require that no development approval for the release of land for residential development at Bilambil Heights can be granted by Council until the Tugun Bypass and Cobaki Pathway are commenced to provide appropriate access to the regional road network.

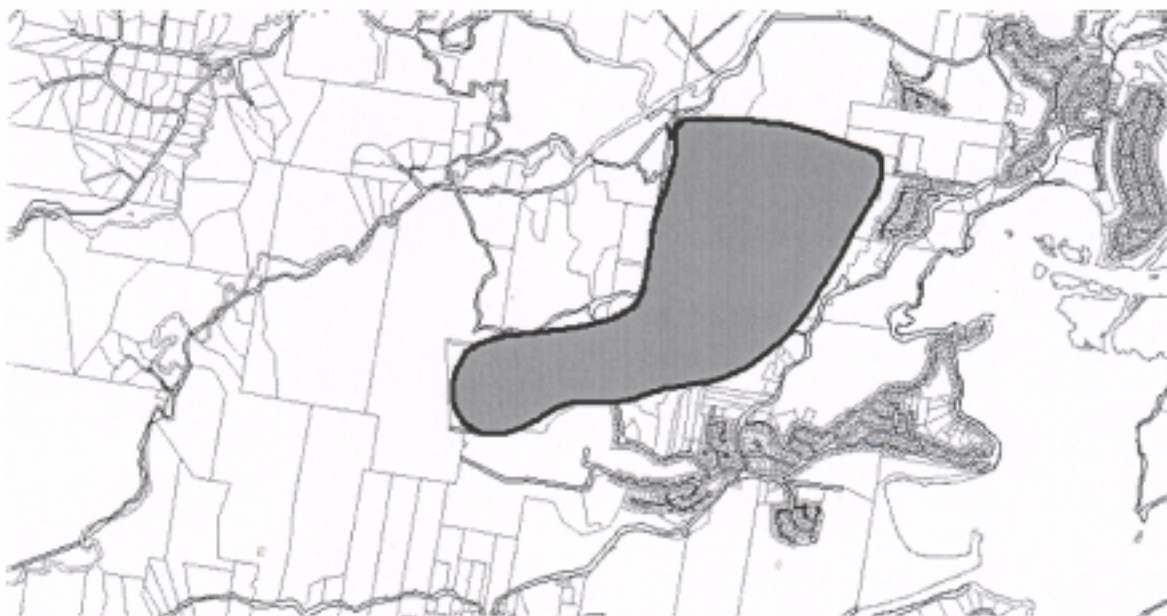
2. In respect of Area E, the commencement of the preparation of an amendment to the Tweed LEP 2000 be deferred until completion of a preliminary review of planning and infrastructure issues has been completed enabling a potential resolution to initiate the draft LEP process. Also this should enable the Contract Senior Strategic Planner position has commenced - funded in part by the Area E landowners, but under the absolute management direction of the Director of Development Services.

Reports from Director Development Services



Figure 1 Area E Urban Release Area (approx)

Figure 2 Bilambil Heights Urban Release Area (approx)



Reports from Director Development Services

7. ORIGIN: Strategic Town Planning Unit

FILE REF: Strategic Planning Program

REPORT TITLE:

Staffing - Contract Senior Strategic Planner

SUMMARY OF REPORT:

Funding and management arrangements have been identified for this position, which is to be funded by major rezoning proponents, subject to confirmation of the position in Budget 2000.

RECOMMENDATION:

That Council advises the proponents of the three nominated rezoning proposals to be undertaken by the Contract Senior Strategic Planner position that confirmation of the following arrangements is acceptable:

1. Having regard to the possible content of the rezoning proposals, the following breakdown of costs is nominated relative to a total one year estimated cost of \$72,750.00:

Area E	(50%)
Chinderah	(25%)
Black Rocks	<u>(25%)</u>
	100%

This can be reviewed through the rezoning process and costs adjusted as necessary with the prior negotiation with each proponent.

2. The position is subject to confirmation in Council's Management Plan Budget 2000/2001 and Council resolution formally initiating the relevant draft Local Environmental Plan.
3. The engagement of this contracted planner at the proponents' cost; and under the direct, independent management of the Director of Development Services; does not preclude the necessity for proponents' funding requirements for other specialist studies: eg Water Quality Management for Area "E".

Reports from Director Development Services

REPORT:

Council resolved on 5 April, 2000 as follows:

- “1. Council gives consideration to the inclusion of a contract senior strategic planner position for a minimum period of 12 months to give priority to major LEP rezonings. Potential rezoning projects will be dependant upon meeting Council and Department of Urban Affairs and Planning planning requirements, Black Rocks, Terranora Area E and Chinderah Bay Drive. The proponents of those rezonings are to be responsible for the funding for the position in addition to the funding of any necessary planning studies required to support the rezoning.*
- 2. The Director Development Services brings forward a report detailing the management and funding arrangements for the position”.*

This report sets out the management and funding arrangements to implement this resolution.

COSTS

The direct cost of the position for 12 months is estimated as follows:

Salary (including approximately 20% premium)	\$58,000
Superannuation & Worker’s Compensation	\$7,750
Overheads (computer lease)	\$2,000
Recruitment Costs	\$5,000
Total	\$72,750

It is assumed that all salary and associated costs are to be borne by external funding. Overheads, such as supervision, secretarial and drafting support and equipment will be borne by Council. The duration of the contract should be based on the time required to complete the nominated projects. That cannot be given with any precision. To complete any accompanying DCPs and S94 Plans at least one year should be allowed. The 20% premium is recommended as appropriate to attract quality applicants for such a limited term contract.

MANAGEMENT

The position will be a full time contract position in the Strategic Town Planning Unit of Council under the management of the Unit Manager, although as a senior position, day to day management should be limited. The incumbent will be responsible for the following activities:

1. Prepare rezoning reports to Council;
2. Prepare brief for consultants to prepare draft LEP Amendment and accompanying Environmental Study, and any required DCP and S94 Plan;
3. Respond to consultants’ queries arising from distribution of briefs;

Reports from Director Development Services

4. Analyse consultants' responses to the brief and identify preferred consultant;
5. Seek management endorsement of preferred consultant;
6. Engage nominated consultant;
7. Supervise the work of consultants, in particular:
 - Respond to requests for information;
 - Facilitate liaison with Council staff;
 - Time manage the consultants;
 - Examine draft documents, organise whole of Council response;
 - Assist in exhibition arrangements.

FUNDING ARRANGEMENTS

This is perhaps the most difficult aspect of the proposal: not knowing how long the projects will take and allocating costs between the different proponents. A one year contract period has been nominated for the rezoning component of the work, with an ability to extend is crucial, to take account of unforeseen events (eg, Commission of Inquiry or similar).

The allocation of costs should be on the basis of time devoted by the position to each of the projects. However, without preparing detailed work programs now, and in part negating the need for the position, this cannot be achieved. Moreover, as two of the nominated projects are for residential development and one commercial, it is difficult to allocate costs based on development outcome (allocate pro-rata based on amount of land rezoned/residential capacity). Alternatively, each proponent could be required to recompense Council after the work has been completed, and costs can accurately be allocated. This would be unacceptable as Council requires up front funding and commitment for budgetary purposes.

CONCLUSIONS

Notwithstanding external funding, this position needs ratification in the Budget for 2000/2001 and in terms of Council resolutions to formally initiate the relevant draft LEP's. It is appropriate however, to now seek confirmation that each party will provide the nominated costs of the position.

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8. ORIGIN: Development Control Unit

FILE REF: DA4030/9010 Pt1

REPORT TITLE:

Proposed Mooring Facility and Floating Boom for Volunteer Marine Rescue, Jack Evans Boatharbour, Tweed Heads

SUMMARY OF REPORT:

The application submitted by the Volunteer Marine Rescue Association proposes the installation of mooring facilities and a floating boom at the north-eastern corner of the Jack Evans Boatharbour in close proximity to the previously approved temporary mooring facilities. NSW Fisheries, the Department of Land and Water Conservation have not raised any objections to the proposal. The application was advertised and one (1) objection was received. On merit, it appears that the proposed development warrants approval.

RECOMMENDATION:

That Development Application No K2000/337 for the installation of a mooring facility and floating boom at the Jack Evans Boatharbour, Tweed Heads be approved subject to the following conditions:-

GENERAL

1. The development shall be completed in general accordance with the plans submitted with the development application in 9 March, 2000, except where varied by these conditions.
2. 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.
3. 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.

ACID SULFATE SOILS

4. The applicant is to prepare an Acid Sulfate Management Plan prepared in accordance with guidelines, as amended from time to time, published by the Environment Protection Authority. The plan is to be submitted to and approved by the Director Environment & Community Services prior to the commencement of works.

ENVIRONMENT PROTECTION

5. 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.

Reports from Director Development Services

6. 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.
7. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
 - A. Short Term Period - 4 weeks.

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

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
8. The fuelling of the vessel is to be carried out as per guidelines and requirements of NSW WorkCover.
9. The contents of any tanks or holding facility on board the vessel which are used for the storage of waste are to be emptied and disposed of as approved by Council. Details of disposal location and contents of tanks are to be submitted to Council's Environment and Health Services Unit for approval.
10. A licence is to be obtained from the Department of Land and Water Conservation under the Crown Lands Act 1989 prior to any work commencing on the development.

Reports from Director Development Services

REPORT:

Applicant: Volunteer Marine Rescue Pt Danger Association
Owner: Department of Land and Water Conservation
Location: Reserve 96867 Jack Evans Boatharbour Tweed Heads
Zoning: Uncoloured land
Estimate Value: \$14,500.00

BACKGROUND

The Volunteer Marine Rescue Association (VRM) has been attempting to find a suitable site for the mooring of their rescue vessel for some time. Council has previously considered an application for mooring facilities on the southern side of the boatharbour which was refused due to its impact on community use of the land. The rescue boat is temporarily being moored at Council's facilities adjoining Minjungbal Drive, Tweed Heads South. The current proposal is an attempt to find a permanent location for the vessel within close proximity to the mouth of the Tweed River.

Council has previously granted consent for the installation of a temporary pontoon and gangway in approximately the same location as the currently proposed facility. This temporary pontoon was not adequate to accommodate the new vessel purchased by the VMR. The temporary approval was granted for a five-year period commencing from 19 November 1998.

The proposed mooring facilities are to be located on the north-eastern corner of the boatharbour immediately adjoining the existing walkway. The work involves removing approximately 14 metres of the walkway including 3 piles and 4 spanning slabs and two large boulders to provide safe access to the mooring location. A floating boom will be installed with an approximate length of 25 metres.

A pontoon measuring 9 x 3 metres will be installed off a 6 metre walkway, with the boat being moored alongside this pontoon.

Reports from Director Development Services

Site Diagram

<p>DATE: _____</p> <p>PROJECT: _____</p> <p>SCALE: 1:1</p> <p>PROJECT NUMBER: _____</p>	<p>Tweed Shire Council PLANNING AND DESIGN UNIT</p> <p>100 RIVERVIEW DRIVE, TWEED HEADS NSW 2486</p> <p>TEL: 07 553 2000 FAX: 07 553 2001</p>	<p>PROJECT DESCRIPTION:</p> <p>CONCEPT DESIGN</p> <p>NORTHERN BOATHARBOUR BOATING ACCESS</p> <p>PROJECT TITLE:</p> <p>CONCEPT DESIGN</p> <p>NORTHERN BOATHARBOUR BOATING ACCESS</p> <p>SCALE: 1:1</p> <p>PROJECT NUMBER: _____</p>
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LOCALITY PLAN

PROPOSED PLAN

VIEW FROM RIVER

Reports from Director Development Services

EVALUATION

The following matters are required to be addressed under Section 79(C) of the Environmental Planning and Assessment Act.

(a) (i) Any Environmental Planning Instrument

Tweed Local Environmental Plan 2000 (TLEP 2000)

The site is zoned 6(b) Recreation under TLEP 2000. Within this zone boating facilities are allowed with Council's consent.

(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

No draft Environmental Planning Instruments apply to the proposal.

(iii) Any Development Control Plan

No specific Development Control Plans apply to the proposal.

(iv) Any Matters Prescribed By The Regulations

The NSW Government Coastal Policy would apply to the proposal. The works involve minimal alterations to the existing wall construction within the Jack Evans Boatharbour. The mooring of the VMR boat and associated facilities will result in some loss of public access to the waterway. However, the mooring of the VMR boat is considered to be in the interests of the general public as it will provide a valuable community service.

(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,

The proposed mooring facilities involve some construction works including the removal of part of a walkway and the removal some boulders and the installation of a floating boom. The main impacts that may arise as a result of this construction is the disturbance of acid sulfate soils or the disturbance of sea grass. The application was referred NSW Fisheries who has advised that they have no comment in relation to the proposed mooring facility. It is the responsibility of the NSW Fisheries to ensure that seagrass will not be affected by the development and if it were to be affected the application would become "integrated".

Council Environment and Health Unit has assessed the likelihood for acid sulfate soils occurring at the site. They have advised that an appropriate condition of approval would be that an Acid Sulfate Management Plan is to be prepared in accordance with guidelines published by the Environment Protection Authority prior to any works commencing on the site.

It is considered that the environmental impacts of the proposal can be managed in a way so as to avoid adverse impacts.

Reports from Director Development Services

(c) **The Suitability of the Site for the Development,**

The VMR has advised that the site is suitable for their needs as it is within close proximity to the mouth of the Tweed River. The area is not highly used by the general public as mooring facilities for the VMR have previously been provided at this site and as the area is surrounded by rock walls and is not suitable for general swimming. As such the site is considered suitable.

(d) **Any Submissions Made in Accordance with this Act or the Regulations,**

The application was advertised and one submission was received. This submission objected to the proposed development on the grounds that the area is subject to Native Title Claims and therefore the proposal contravenes the claims, the safety boom will not protect swimmers from the propellers of the VMR boat, the deepening of the channel may cause erosion to Jack Evans Boatharbour, the pontoon prevents public access, the area is fish habitat, the dredging may cause the area to become a breeding ground for sharks, a precedent will be set and that public land should not be used for private uses.

The Department of Land and Water Conservation (DLAWC) has consented to the application being made. It is the responsibility for DLAWC to administer the Native Title Legislation with respect to their land holdings. DLAWC has requested that a licence be obtained for the occupation of the site.

It is not considered that the safety of swimmers will be significantly affected as the area is not generally used for swimming. This portion of the harbour is surrounded by rock walls and no beach access exists to the water. The location of the mooring is well away from the sandy beach areas generally used for swimming.

It is stated in the application that two large boulders need to be removed to provide minimal safe draught of two metres. This does not require significant dredging and is unlikely to have a significant impact on the waterway.

The objection raised concerns regarding fish habitat breeding areas and the possibility of attracting sharks into the harbour. NSW Fisheries has assessed the application and has advised that it raises no concerns to the proposal. It is considered unlikely that approval of the current application would set a precedent for similar applications. The VMR is a unique organisation and it is unlikely that the mooring of their vessel will lead to a rush of similar applications. Should other application be received each would be considered on their own merits.

Public Authority Submissions

The Department of Land and Water Conservation (DLAWC) has advised that Council should rely on their letter dated 6 March for the Department's comments. This letter advises that the bed of the harbour comprises vacant Crown Land and occupation of the lands requires authorisation under the Crown Lands Act by way of a licence. The letter consented to the lodgement of the development application and specified that under no circumstances is any use, occupation, development or construction to be commenced on Crown Land unless a licence is granted by the DLAWC and develop consent has been

Reports from Director Development Services

obtained. The letter requested a completed licence application form, details in the dimensions of the Crown Land to be occupied and information on the exact location of the proposed pontoon. DLAWC advised by email dated 17 April that these matters have been received. As mentioned previously, NSW Fisheries advise that it has no comments to make in relation to the proposed mooring facility.

(e) The Public Interest.

The VMR provides a valuable public service and it would be within the public interest to have the mooring facilities located close to the mouth of the Tweed River. As mentioned previously the mooring facilities may slightly reduce the water area available for use by the public, however, this is not considered to be a significant issue as the area is not used for swimming as no sandy beaches are located in close proximity to the area.

OPTIONS

Council has two options available in relation to determining the application:-

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

LEGAL/FINANCIAL IMPLICATIONS

Should the applicant be dissatisfied with Council's determination of the application a right of appeal would exist to the Land and Environment Court.

CONCLUSION

The current application proposes to locate the pontoon in an area which is not heavily utilised by the general public as there are no sandy beach areas within close proximity and as the tidal flows in this location are relatively strong. No objections have been raised to the proposal from DLAWC, NSW Fisheries, Council's Engineering Services Division or Environment & Health Services Unit. The proposal appears adequate on merit and as such approval is recommended.

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9. ORIGIN: Development Control Unit

FILE REF: DA4030/3750 Pt6

REPORT TITLE:

Proposed Section 96 Modification to Development Consent No. K99/400 - Construction of Shops/Restaurants/Accommodation/Carpark and Marina and Staged Subdivision at Lots 1 & 2 DP 78188, Lot 12 DP 260722, Lot 3 DP 913262, Lot 1 DP 32406 & Portions 462, 463 and 470 Chinderah Bay Drive, Chinderah & Adjacent Crown Lands

SUMMARY OF REPORT:

An application has been received pursuant to S.96(2) of the Environmental Planning & Assessment Act, 1979 to modify development consent K99/400 – mixed development comprising marina, shops, offices, restaurants, tourist accommodation and associated car parking facilities. A number of amendments are proposed including the reconfiguration of accommodation units within the site, modifications to vehicular access points and a net reduction in parking spaces.

RECOMMENDATION:

That the proposed modification of Development Consent K99/400 be approved subject to amendment of condition No. 6 as follows:

6. The development shall be completed in general accordance with Plan No. 1, 2, 3, 4 and 5 dated 9 December 1999, drawn by Peter Batley except where varied by these conditions.

Reports from Director Development Services

REPORT:

Applicant:	Chris Lonergan & Associates
Owner:	Patrick & Susanne Harford & Tweed Shire Council
Location:	Lots 1 & 2 DP 78188, Lot 12 DP 260722, Lot 3 DP 913262, Lot 1 DP 32406 & Portions 462, 463 And 470 Chinderah Bay Drive, Chinderah & Adjacent Crown Lands
Zoning:	3(d) Waterfront Enterprise Zone
Est Cost:	\$3.2 million

BACKGROUND / PROPOSAL

Development Consent No. K99/400 was issued for the construction of a mixed development comprising marina, shops, offices, restaurants, tourist accommodation, supermarket and associated car parking facilities on the above properties. The subject consent was issued in a deferred and staged configuration, with all works to be undertaken on the foreshore and within the river to be subject to a separate development application. This application (K2000/206) is presently under assessment.

The proposed modification incorporates the following key changes:-

- Reconfiguration of proposed parking areas. The proposed reconfiguration incorporates the deletion of the proposed central parking station and the subsequent redistribution of parking spaces through the site and upon the street itself. The original consent was issued before the adoption of the present DCP No. 2 – Site Access and Parking Code. Since then Council have adopted an amended DCP which provides for limited on-street parking opportunities and revised numerical parking requirements.
 - Development Consent No. K99/400 – 205 spaces in total, 146 spaces of which are provided upon the subject site, with the remainder provided as on street spaces. Pursuant to DCP No. 2 the proposal required the provision of 154 parking spaces.

Proposed Modification – 155 spaces proposed, 95* of which are to be provided at ground level within the site itself and 60 of which are to be provided in an on-street format. Pursuant to the amended DCP No. 2 the proposal requires the provision of 121 spaces in total.

* including parking spaces associated with the proposed purchase of a portion of Chinderah Bay Drive.
- Reconfiguration of units/buildings. The deletion of the tiered parking station enables the relocation of units to a more centralised portion of the property, whilst also making provision for a ground level common area in the location of the previously approved parking facilities and access ramp. No additional units or bedrooms are proposed.
- Increased landscaping. The reconfiguration of unit locations and parking (inclusive of deletion of parking station) enables greater use of landscaping within the property itself, including the retention of existing larger specimens.

Reports from Director Development Services

4. Relocation of proposed vehicular access points/loading bays on River Street frontage. The proposed location of the loading bays for shops 7-13 and the supermarket will not be altered, however the function of the supermarket loading bay is proposed to be altered to allow for the exit of delivery trucks via the public entry/exit point along the River Street frontage. The original consent made provision for a single entry/exit loading bay. Public usage of the loading bay facilities is to be controlled via the provision of a powered sliding gate.

The main vehicular access point to the public car parking area at the rear of the site is proposed to be relocated approximately 20m to the north of the originally approved position. The proposed relocation also results in the modification of the proposed on-street carparking spaces along the River Street frontage.

Vehicular traffic associated with the supermarket and to a lesser extent, shops, will be restricted to the River Street access only, whilst vehicles entering the site from the Chinderah Bay Road frontage are to be associated with the proposed accommodation units only. This entry will provide for appropriate security gate facilities in this regard. Each of these two (2) parking areas will be located separately, with no provision for through traffic.

SITE DIAGRAM



ASSESSMENT

The subject application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979.

(a) (i) Environmental Planning Instruments

Reports from Director Development Services

North Coast Regional Environmental Plan, 1988

The proposed development is considered to be consistent with the relevant provisions of the North Coast Regional Environmental Plan, 1988.

Tweed Local Environmental Plan, 2000

The subject property is located within the 3(d) Waterfront Enterprise zone. The proposed modification is considered to be entirely consistent with both the primary and secondary objectives of the zone.

The proposed modification does not incorporate any non-compliance with specific clauses of Tweed Local Environmental Plan, 2000.

iii) Development Control Plans

Development Consent K99/400 was assessed in accordance with Council's previous version of DCP No. 2. Since that time Council has adopted an amended version of the DCP, which provides for a reduction in numerical parking requirements and the promotion of on street parking opportunities where there is likely to be a significant public benefit.

In its original form, the proposed development made provision for a total of 205 spaces, 146 on private property, with the remainder allocated as on-street spaces within the River Street and Chinderah Bay Drive road reserves. Pursuant to the previous version of DCP No. 2, the proposal required a total of 154 off-street spaces. Although the proposal incorporated a shortfall of eight (8) parking spaces, the positive impacts associated with the development were considered to be such that a shortfall of this magnitude could be accommodated without significant adverse impacts. The 59 additional off-street spaces were to be provided for the utilisation of the general public as opposed to patrons and employees associated with the various approved shops, accommodation units and the like.

Pursuant to the provisions of DCP No. 2 (as amended), the modified proposal requires the provision of 121 spaces to be provided on site. The applicant proposes a total of 155 spaces, 95* of which are on private land with a further 60 allocated as on-street spaces, thereby resulting in a shortfall of 26 on-site spaces. However, DCP No. 2 makes provision for a general concession of 20% of required customer and staff parking spaces on the basis of ESD principles and the promotion of lower vehicle dependency. On this basis, it is concluded that the applicant has provided a shortfall of only nine (9) spaces in total. Given the positive impacts associated with the proposal, the proposed shortfall of parking spaces is considered able to be satisfactorily accommodated without significant adverse impacts. The proposed additional 60 on-street spaces will be available for the benefit of the public.

* Including parking associated with proposed purchase of a portion of Chinderah Bay Drive

Reports from Director Development Services

NB: *The proponents of the proposed development are currently negotiating with Council in relation to the purchase of a portion of Chinderah Bay Drive. The above figures are based on the proposed purchase being acceptable, thereby resulting in a total of 11 spaces located on Chinderah Bay Drive being able to be classified as on-site spaces i.e. in private ownership. Should Council resolve not to proceed with the proposed purchase, the shortfall of proposed parking spaces would be increased to 20 spaces in total. If this were to be the case it is considered that the proposed shortfall would be of a scale likely to create significant adverse impacts.*

Development Control Plan No. 5 – Development of Flood Liable Land

The proposed modifications do not incorporate significant changes to the originally proposed building footprint. Conditions pertaining to minimum floor levels and flood free clearances are to remain. Council's Water Unit has raised no objections in relation to flooding.

(a) (iv) The Regulations

NSW Government Coastal Policy

NSW Government Coastal Policy 1997 extends to the inclusion of coastal estuaries, lakes, islands & rivers and their connection with the coastal zone. Objective 3.2 seeks to design and locate development to compliment the surrounding environment and to recognise good aesthetic qualities.

The proposed modification is considered to be consistent with NSW Government Coastal Policy in this regard.

(b) Likely Impacts

The likely impacts of the proposal were subject to detailed assessment prior to the release of the original consent. The proposed modification was referred to the following internal departments for comment, with relevant responses noted.

1. Environment and Health Services Unit – No. objections subject to compliance with original conditions.
2. Building Services Unit – No objections subject to compliance with original conditions.
3. Water Unit – No objections subject to compliance with original conditions.
4. Planning and Design Unit – No objections subject to compliance with original conditions. No adverse impacts are considered likely in relation to traffic safety and efficiency.

Having regard to the above comments, no adverse impacts are considered likely to occur as a result of the proposed modification.

(c) Suitability of the Site

Reports from Director Development Services

The proposed modification incorporates a significant reduction in the scale of works originally proposed i.e. deletion of tiered parking station, whilst also incorporating a reduction in earthworks and site disruption. The development consent in question was subject to detailed assessment, incorporating relevant comments from both internal and external departments. The proposed modification was also referred to appropriate internal departments for comment, with no objections raised. The proposal is considered to be a satisfactory response to the characteristics of the property.

(d) Any submissions made in accordance with this Act or the Regulations

The proposed modification was advertised in the Tweed Link, with adjoining properties also individually notified and given 14 days in which to make a submission. During the formal exhibition/notification period, Council received a total of three (3) submissions of objection. The primary issue of objection is discussed as follows:

1. Increase in traffic.

Each of the three (3) submissions received identified concerns relating to the probable increase in vehicular usage of River Street as a result of restricting the Chinderah Bay Drive entrance/exit point to patrons of the proposed accommodation units only.

Comment

The proposed modifications will result in all vehicles associated with the use of the supermarket having to utilise River Street for both entry and exit purposes. The proposed Chinderah Bay Drive access point will incorporate a security gate aimed at restricting access to patrons of the accommodation units only. The proposed configuration will result in the complete separation of parking spaces associated with the proposed primary uses, ie. 1. accommodation units and 2. supermarket/shops. Whilst it is acknowledged that the proposed modifications are likely to increase traffic usage of River Street to a minor extent, no adverse impacts are considered likely in this regard. Council's Planning and Design Unit have assessed the proposal and advise that River Street is able to satisfactorily accommodate the proposed increases, whilst the likely increase in vehicular usage associated with River Street will be offset to a degree, by the reduction of vehicles associated with the proposed accommodation units utilising this entrance.

(e) Public Interest

No significant adverse impacts are considered likely in relation to the proposed modifications. The proposal is considered unlikely to compromise the public interest.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

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

OPTIONS

Council has the following options:-

Reports from Director Development Services

1. Approve the proposed modification as requested.
2. Refuse the proposed modification.
3. Refuse the requested modification and ask the applicant to amend proposal.

CONCLUSION

Although the wider proposal is of a significant size and scale, the proposed modifications are relatively minor and are considered to be consistent with both the function and character of the original consent and locality. No objections have been raised in the process of internal department referral, whilst it is considered that no adverse physical, economic or social impacts are likely to occur. Having regard to the above assessment, the proposed modification is recommended for approval.

Reports from Director Development Services

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Reports from Director Development Services

10. ORIGIN: Strategic Town Planning Unit

FILE REF: Pottsville Neighbourhood Centre

REPORT TITLE:

Opening of Pottsville Beach Neighbourhood Centre

SUMMARY OF REPORT:

This report notes the completion of the Pottsville Beach Neighbourhood Centre, and the achievement of operational status by the Centre Management Committee and Tweed Shire Council officers.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Development Services

REPORT:

On Sunday, 7 May, 2000 Pottsville Beach Neighbourhood Centre at the former Pottsville School was officially declared open by the Honourable Larry Anthony, Federal Minister for Community Services, the Mayor and the Deputy Mayor.

The Centre Management Committee was formally appointed on 15 March, but a Steering Committee has been working on establishment of the Centre with Council officers since June, 1999 when responsibility for the property was transferred to the Council. With the support of the Community Resourcing Officer and the Community Planning & Development Team it has secured a Centrelink outreach office, a PARP (Public Access Resource Point- initiative of the NR Social Development Council through the Commonwealth Department of Communications and the Arts 'Networking the Nation' program) community internet access station, and has prioritised the development of a community op-shop, with more enterprises in the pipeline.

The project has been brought to a successful conclusion through a combination of effort by groups within the community, the Council and the Government:

- Council's S94 Plan for Community Facilities provides ongoing funding (\$319,000 over 5 years) for the terms purchase of the site and \$90,000 for the refurbishment of the buildings.
- Department of Urban Affairs and Planning Area Assistance Scheme funding has provided the Community Resourcing Officer and project worker staff positions to enable Council to give leadership and support.
- The Federal and State Governments have provided funding for the specialist services from their regional programs.
- TAFE apprentices were employed on the building refurbishment.
- Council's Pottsville Precinct Team has found a base at the Centre, and provides some maintenance.
- The Pottsville community have achieved self-help and organisation through their enthusiasm and energy in fundraising (\$1400 from the Jetsprint event), working bees and planning meetings.
- The Council's Strategic Planning, Health & Building and Works Units have provided support by initiating, negotiating and facilitating the project throughout.

Reports from Director Corporate Services

11. ORIGIN: Director

FILE REF: Councillors - Conference

REPORT TITLE:

Conference Advice for Councillors

SUMMARY OF REPORT:

Council has been recently advised of the following conferences:-

- RSL & Services Clubs 2000 Conference held from Monday, 19 to Wednesday, 21 June 2000.
- Southern Cross University Agribusiness Conference held from Monday, 3 to Wednesday, 5 July 2000.

Further details are contained within this report.

RECOMMENDATION:

That Council determines and endorses those Councillors who nominate to attend such conferences.

Reports from Director Corporate Services

REPORT:

Council has been recently advised of the following conferences:-

- RSL & Services Clubs 2000 Conference held from Monday, 19 to Wednesday, 21 June 2000.
- Southern Cross University Agribusiness Conference held from Monday, 3 to Wednesday, 5 July 2000.

Details of the conferences are outlined below:-

RSL & SERVICES CLUBS 2000 CONFERENCE - 19 TO 21 JUNE

Monday, 19 June

6.30-8.30pm Registration & Cocktail Party - Name cards and satchels issued. Welcome Cocktail Party in the Anzac Room, Level 1, Twin Towns Services Club. Welcome to the Tweed Shire region, by Mayor Lynne Beck.

Tuesday, 20 June

9.00-9.10am Welcome by Mr A D Mitchell, Host, Board Chairman, Twin Towns Services Club.

9.10-9.40am Introduction, brief and housekeeping by facilitator Sallyanne Atkinson AO, BA, FAICD, Hon FAIM, FAMI. Sallyanne is Australia's leading woman speaker on management and Australia's perception and opportunities in the international sphere.

9.40-10.40am Mark McCrindle, *Generation X - Marketing and Managing the Emerging Generation*. We must prepare for the emerging generation of customers and employees. 18 to 35 years old comprise large and rapidly growing proportion of our potential members and staff, making up a quarter of the population. They are little understood, have different values, attitudes and interests.

10.40-11.20am Coffee Break

11.20am-12.20pm Dr John Tickell, *Moderation in everything - lifestyle comments and human risk evaluation*. Dr John Tickell is a medically qualified doctor, ex-AFL football player and internationally acclaimed authority on stress and lifestyle management.

12.20-1.30pm Luncheon

1.30-2.20pm Ian Rodrigues, *"The Whole Picture" of GST - the basics, the practice, the administration, the paperwork and business impact on clubs (updated version)*.

2.20-3.20pm Peter Ryan, New South Wales Commissioner of Police, *Law and Order and Modern Day Policing*. Lancashire born Police Commissioner Peter Ryan has worked in a variety of positions in the UK from general duties, to detective, to Police Commissioner.

3.20-4.00pm Coffee Break

Reports from Director Corporate Services

4.00-4.50pm Geoff Gredden, *The Wired Economy - Where is it headed?* The social impact of universal Internet access on the everyday activities of families in local communities.

Wednesday, 21 June

9.00-9.15am Sallyanne Atkinson

9.15-10.00am Peter O'Connor, *Clubs Need to Cater for the Wider Community*. The distinction of clubs with their community based gaming as opposed to privately owned gaming needs to be fully explored by all clubs to ensure they are serving the wider community. Peter O'Connor has, for the past two years, served on the Registered Clubs Association as a Director and a Vice Chairman of the Southern New South Wales region and undertook considerable research with the NSW Club Industry Working Party.

10.00-10.40am Coffee Break

10.40-11.00am Assemble Chris Cunningham Park

11.00-11.30am Remembrance Ceremony at Memorial Cenotaph, Chris Cunningham Park. Observe new bronze sculptures of school children beneath Australian flag adjacent to Jack Evans Boat Harbour.

Advance Australia Fair presentation by Julie Anthony.

11.45am-12.45pm Keynote Speaker, Major General Peter J Cosgrove, Commander of the International Force known as INTERFET. Since their successful restoration of peace to strife-torn East Timor, Major General Cosgrove has become one of the most admired and respected military leaders of our times.

12.45-2.00pm Luncheon

2.00-3.00pm Neil Flanagan, *Being in Charge: Just about Everything a Club Director and Manager needs to know*.

3.00-4.15pm Workshops

a. *Marketing - The Point of Difference of Community Ownership*

The proliferation of privatised gaming has seen community clubs lose market share. Examine the best methods of identifying and marketing the benefits of community owned gaming at a local, state and national level. Moderator: Sallyanne Atkinson.

Expert panellists: Penny Wilson, CEO, Clubs Queensland; Paul Lineham, Officer Public Information RAFF, Paul Noonan, Clubs NSW, Public Relations Consultant.

Reports from Director Corporate Services

b. *Gaming Trends for the new Millennium,*

Favours and Fears on the following subjects:-

- (i) National Technical Standards
- (ii) Network Gaming Operators
- (iii) Will the Internet erode traditional gaming?

Moderator: Alan McGirvan

Poker Machine Industry expert panellists:

Warren Jowett, National Sales Manager Aristocrat

Stan Brecko, Gaming Director, Clubs NSW

Geoffrey Lord, Club Consultant

Rob Smith, Assistant General Manager, Twin Towns Services Club

4.15-4.30pm Coffee Break

4.30-5.00pm Facilitator Sallyanne Atkinson & Alan McGirvan presents summarised reports of workshop fittings.

Wednesday, 21 June

7.00pm Conference Dinner. Venue - Twin Towns Auditorium, Level 6, Entertainment provided. Guest speakers - Mr John O'Shea, ex Rugby Union international from Wales; Ms Marlene Mathews, former Australian sprinter and Olympic Gold Medallist.

SOUTHERN CROSS UNIVERSITY AGRIBUSINESS CONFERENCE - 3 TO 5 JULY

INTRODUCTION

This conference focuses on regional development issues common to all agribusiness enterprises, with an emphasis on the role of marketing in economic development. Nationally recognised keynote speakers will discuss the latest developments in a variety of fields including: e-commerce, agritourism, regional cuisine, group and niche marketing as they affect the wealth and prosperity of regional Australia. The format of the conference features a dynamic combination of;

- keynote speakers in the opening plenary sessions
- special interest workshops facilitated by a panel of industry professionals
- trade displays from the government and private industry sectors
- networking opportunities designed around unique 'regional cuisine' functions

CONFERENCE PROGRAM

Reports from Director Corporate Services

Monday, 3 July

- 10.00am-noon Delegate Registration - Main Lecture Theatre
- noon-1.00pm Lunch
- 1.00-4.30pm Opening Address - 'The Role of Universities in Regional Australia' Prof. John Rickard, Vice Chancellor, Southern Cross University.
- Keynote Address - 'The Development of Agribusiness in Regional Australia' 'Over-Produced or Under-Marketed?' Mr Mark Napper, Managing Director, Australian Horticultural Corporation.
- Information Session - Sponsors/Exhibitors to address delegates.
- 6.00-7.30pm Welcome Reception, Aanuka Beach Resort.

Tuesday, 4 July

- 9.00-10.30am Session 1 'Regional Cuisine Programs' Mr Peter Howard, Food Industry Celebrity
'Niche Marketing' Mr Tony Rourke, Snow Goose Orchards
- 10.30-11.00am Morning tea
- 11.00am-noon Session 2 'Meeting the Customer's Needs' Mr Michael O'Keeffe, Franklins Limited.
'Group Marketing' Riversun Exports
- 12.30-1.30pm Lunch
- 1.30-6.00pm Field Trips: Mini-bus excursions to local agribusiness enterprises involved in the production of blueberries, macadamias, bananas, milk and other products OR
Regional Cuisine Demonstration: Featuring celebrity chefs highlighting the range of regional produce.
- 7.00pm Conference Showcase Dinner, Ballroom - Novotel Opal Cove Resort.

Wednesday, 5 July

- 9.00am-10.30am Session 3 'Electronic Information and E-Commerce' Foodconnect Australia, Coast Call, Mr Geoff Beggs.
'Agritourism' Mr Peter Lloyd, Agritours Pty Ltd
- 10.30-11.00am Morning tea

Reports from Director Corporate Services

- 11.00am-12.30pm Session 4 'Marketing Research in Action' Dr Rob Fletcher, University of Queensland, Prof Peter Baverstock, Southern Cross University.
'Collaborative Promotion of Agriculture' Dr Scott Champion.
- 12.30-2.00pm Lunch
- 2.00-3.00pm Closing Session Conference Summary and 'Where To From Here?' Prof John Chudleigh, University of Sydney, Orange.
-

Reports from Director Corporate Services

12. ORIGIN: Administration Services Unit

FILE REF: Legal - Costs, Legal - Court Case, Telecommunications Policy

REPORT TITLE:

Federal Court Actions - Telstra and Optus -v- Various Councils

SUMMARY OF REPORT:

A letter has been received from the Local Government and Shires Associations of New South Wales requesting assistance with legal costs on behalf of some 14 metropolitan councils in litigation by Telstra and Optus.

RECOMMENDATION:

That Council contributes the amount of \$5,174.00, as requested, and such amount be debited to legal expenses.

Reports from Director Corporate Services

REPORT:

A letter has been received from the Local Government and Shires Associations of NSW requesting assistance with legal costs on behalf of some 14 metropolitan councils in litigation by Telstra and Optus. The letter is reproduced below for Council's information:

"The Associations seek Council's support for some 14 metropolitan councils in litigation by Telstra and Optus in which they have been named as Respondents. The actions relate to the council's decisions to impose charges under section 611 of the Local Government Act 1993 on cabling placed by the two companies in public roads throughout the council's areas.

The actions challenge the council's decisions on four broad heads:-

- 1. That the charge is a duty of excise, and as such invalid, because section 90 of the Australian Constitution limits the power to impose those duties to the Commonwealth Government alone;*
- 2. That section 611 breaches clause 44(3) of Schedule 3 to the Commonwealth Telecommunications Act because it discriminates against providers of telecommunications services;*
- 3. That section 611 breaches clause 60 of Schedule 3 to the Commonwealth Telecommunications Act because it purports to restrict the occupation or use of a building; and*
- 4. That the councils, in imposing the charges, were motivated by an improper purpose, took into account irrelevant considerations, denied the companies natural justice, and acted ultra vires.*

The councils have cross-claimed that the action of the companies in rolling out their cables breached section 51 (xxxi) of the Constitution in that the roll-out amounted to an acquisition of property on unjust terms. In this regard it should be noted that the companies paid no compensation to any of the councils for the roll-out, but had they rolled out over private land they would have been required to pay compensation to the affected owners.

The cases are of huge importance to Local Government. Their ramifications will extend far beyond the area of telecommunications cabling. Significantly, because section 611(2) provides that the charge is not to be regarded as a rate for the purpose of calculating a council's general income under Part 2 of Chapter 15 of the Local Government Act, income derived from section 611 charges is not subject to rate pegging. If the councils are eventually successful in their defence of the cases a new and substantial field of revenue will be opened to all councils, both metropolitan and country. The exact extent of the field is still being investigated, and will be the subject of separate advice at a later date.

It is also noteworthy that the State Government sees the cases as being of sufficient significance to its revenue base to intervene in them. This is a most unusual step, as State intervention does not usually occur until a matter goes on appeal.

Reports from Director Corporate Services

Because of this, the Associations have agreed to co-ordinate the defence of the actions, and at their April meetings the Executives of the two Associations decided that all councils should be asked to contribute to the costs incurred in this defence. The preparation of the cases and the hearing of the claims has involved a substantial amount of work, and legal costs to date are estimated at \$500,000. The Executive decided to seek contributions to this amount based on the usual formula for assistance with legal costs, which is that the contribution sought from each council is the ratio of the council's annual subscription to the total of all annual subscriptions, expressed as a proportion of the amount of costs involved.

Based on this formula, Council's contribution has been calculated to be \$5,174. I urge Council to lend its support to these most significant cases, and would appreciate receipt of a cheque for this amount at your earliest convenience."

COMMENT

This is an unusual case, however the ramifications and possible revenue that could be gained for Local Government is significant. In view of this, it is being recommended that Council contribute the amount of \$5,174.00 as requested by the Associations.

Reports from Director Corporate Services

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13. ORIGIN: Director

FILE REF: TACTIC

REPORT TITLE:

Tweed and Coolangatta Tourism Inc. (TACTIC) Monthly Performance Report - March 2000

SUMMARY OF REPORT:

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance report for March 2000 is provided in accord with the Agreement criteria in Clause 5.1.

RECOMMENDATION:

That:-

1. This report be received and noted.
2. The grant instalment for the quarter of April, May and June be made to Tweed and Coolangatta Tourism Inc. (TACTIC) in accord with the Agreement.

Reports from Director Corporate Services

REPORT:

The agreement between Council and TACTIC require the organisation to report on a monthly basis its performance in accord with a number of specific requirements as detailed in Clause 5.1. The details are provided for the month of March 2000.

5.1.1 The number and category of financial members of TACTIC;

	January 2000	February 2000	March 2000
Ordinary Members	148	146	149
Service Members	20	24	25
Total	168	170	174

5.1.2 The visitor numbers to the World Heritage Rainforest Centre and the Tweed Heads Tourism Centre;

	January 2000	February 2000	March 2000
World Heritage Rainforest Centre	2361	1519	1921
Tweed Heads Visitors Centre	2574	1587	1836
Total	4935	3106	3757

Currently the two centres are undertaking surveys on the type of enquiries received:

World Heritage Rainforest Centre:

Type of Enquiry	No. of Enquiries	%	Variance from February
Tourism	475	55	+1%
National Parks	127	15	-7%
Street Directions	126	15	-2%
Bus Timetables	15	2	Nil
Other	114	13	+4%

Tweed Heads Tourist Information Centre:

Type of Enquiry	No. of Enquiries	%	Variance from February
Tourism	683	56	-2%
Bus Timetables	125	10	Nil
Directions	229	19	+1%

Reports from Director Corporate Services

Other 187 15 +1%

- 5.1.3 The provision by TACTIC to Council of updates on current programs conducted by TACTIC;

Internet Site

The site has been established, an agreement has been reached with Virtually There Guides and sales are being handled by Brett Stephenson. No sales were made in December. Virtually There Guides has advised that the company is presently up for sale.

Review operations of the Tourist Information Centre

Volunteers

- Volunteer Co-ordinator, Robyn Rae, has instigated a familiarisation program whereby volunteers (as a group) will visit at least one TACTIC member per month to further product knowledge. Staff are also encouraged to join these groups if the familiarisation is held outside their working hours.
- Staff visited 2 properties during March. These were Kirra Palms and Rainbow Bay Resort.
- Again, there is a full agenda for familiarisations to member properties for the next two 2 months.
- A volunteer Picnic Day has been scheduled for early April to keep the volunteers morale up, and to have a social event to promote camaraderie among both the staff and volunteers.

Staff

- A staff training program was introduced in March. The first two of three training session were held at Treetops Environment Centre on Thursday, 9 March and Thursday, 30 March. The objective for these sessions is to increase staff sales techniques and also to give an insight into consumer needs and wants. Ultimately this should increase sales taken through TACTIC. No training of this nature has previously been held prior to this.
- Michelle McMillan has completed her time as a trainee with TACTIC in mid April and at present the finalisation of her traineeship is being looked into.
- The World Heritage Rainforest Centre was broken into on 1 March 2000. Two people tried to enter the building through the louvre windows in the brochure storeroom. This room is secured from outside and from inside, so the perpetrators could not gain entry to the main areas of the World Heritage Rainforest Centre.

Strategic Marketing Plan

Reports from Director Corporate Services

- TACTIC has been nominated as the booking agent for the 2000 National Party Conference from 15-18 June 2000. The attendance for this conference is expected to be up to 600 people.
- To determine which edition of the Open Road enquiries are coming from, no advertising was placed in the March/April editions of this publication.
- The Australian Tourism Source for 2000 has been released. This publication is sent to international wholesalers. There is a double page spread on the Tweed and Coolangatta area in this publication.

Networking

- The next Network Night is now scheduled for mid May 2000, to coincide with a proposed Extraordinary General Meeting (EGM) to put any changes to the TACTIC Rules of Association to the members of TACTIC. The proposed venue is the North Star Resort at Hastings Point on 24 May.

Central Reservations System (CRS)

- Final upgrades to the CRS have been made, and this is fully operational on one of the computers at the Tweed Heads Visitor Centre. The other computer (as with the computers in the World Heritage Rainforest Centre) is not able to run the system properly, as there is insufficient RAM to operate this system. Staff training in the correct use of this system, including the understanding of its full potential is to be scheduled at a later date.

5.1.4 The comparison between quarterly profit and loss statement and the budget;
See attached Profit and Loss Statement for the period July 1999 to March 2000.

5.1.5 The provision by TACTIC to Council on a monthly bank reconciliation;
See attached reconciliation statement to 15 March 2000.

5.1.6 The level of involvement by TACTIC in Australian Tourism Exhibition Trade Shows;

a) **International Marketing**

The next international marketing opportunity is the Australian Tourism Exchange in June. It has been postponed from June to July, and will be held in Melbourne. Preliminary preparation for this exhibition is currently being undertaken.

5.1.7 The provision by TACTIC to Council of details of promotional activities conducted by TACTIC;

Shopping Centre Promotions

- The Logan Hyperdome Shopping Centre Promotion was held 16-17 March 2000. 11 cooperative participants; 6 @\$50, 3 @ \$45. Gross Income: \$435.00. Expenses \$262.20. Funds generated for marketing \$ 172.80.

Reports from Director Corporate Services

- Final preparations are being made for the Pacific Fair Shopping Centre Promotion to be held 6 April 2000.

Advertising

- Advertising in the NRMA Accommodation Guide 2000 was booked. This publication will be released closer to middle of the year.
- Advertising space was booked in the RTA Big Rid Magazine. This is given to all riders and support personnel involved with the RTA Big Ride 2000. This event was considered to be a success by the town of Murwillumbah.

Domestic Marketing

- Final preparations for the "RTA Big Ride" ensured a successful event. TACTIC had representatives in the secured area within the showground to meet and greet riders as they came into Murwillumbah at the information booth on the afternoon of the ride. Pelican Pete made an appearance in the Main Street during the afternoons activities.
- TACTIC organised several bus routes around the Tweed area to stop off at several local attractions for the RTA Big Ride participants. One route in particular - to the base of Mt Warning was extremely well patronised.
- 12 cooperative participants went in the first edition of the School Mail Out. This publication was sent to approx. 670 schools within a 2 ½ hour drive 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. 12 cooperative participants; 9 @ \$150, 3 @ \$100. Gross Income: \$1650.00. Expenses \$1193.00. Funds generated for marketing \$457.00.
- TACTIC are currently working towards the next edition of the Bus and Coach mail-out.
- Display space for the Toowoomba Trade Show was booked. This is in May.

Trade Events

- TACTIC are currently undertaking final preparations for the Brisbane Travel show in April 2000. We currently have 8 operators confirmed for this promotion, with one more who has expressed interest in attending and representing their own product.
- TACTIC are currently working towards representation at the Getaway Holiday Expo to be held in Brisbane in September 2000. The show is affiliated with Channel 9's "Getaway" program and as such receives a great deal of publicity.
- Initial preparations for the Toowoomba Travel and Home-Show in May 2000 are under-way. Our position for this promotion has been booked.

Upcoming Promotions

Reports from Director Corporate Services

- Pacific Fair Shopping Centre Promotion in April 2000.
- Brisbane Travel Show in April 2000.
- Toowoomba Lifestyles Expo in May 2000.
- Grafton Shopping Mall promotion.

Familiarisations

- On 18 March I spent time with Amanda Elms and Karen Ransome from John Campbell Communications and Marketing – the company that has been given the RTO's PR Campaign. Properties visited were; Tropical Fruit World, Wangaree B&B, Treetops Environment Centre, World Heritage Rainforest Centre (spoke to ranger from National Parks) Crystal Creek Rainforest Centre, Wollumbin Palms and EcoAsis.
- On 20 March I spoke with representatives from ATM – Sydney and Phoenix Tours Taipei. The properties they visited were Tropical Fruit World, Melaleuca Station, Twin Towns Resort, Catch-A-Crab and Pioneer country.
- On 27 March Brent Walters from Cendant Limited – the company engaged by TNSW to undertake the Touring By Car campaign visited the following properties: Tropical Fruit World, Crystal Creek Miniatures, Pioneer Plantation and the Crystal Castle.

5.1.8 The amount of retail sales:

January 2000	February 2000	March 2000
\$2249.25	\$1806.85	\$2,728.15

5.1.9 The number and value of the booking system growth;

	January 2000	February 2000	March 2000
Number	28	44	75
Accommodation bookings	\$3823.20	\$8439.30*	\$13811.50*
Tours	\$487.50	\$793.85*	\$1570.50*
Commission	\$496.30	\$1067.85*	\$1580.65*
Total	\$4807.00	\$10301.00*	\$15806.50*

(NB: Accommodation and tour bookings totals do not include commission amounts)

* These figures are higher than average due to bookings taken for the upcoming National Party Conference in June.

5.1.10 The level of attendance at Board meetings by the members of the Board of TACTIC;

A Board meeting was held on Thursday, 3 February 2000, copy attached.

Reports from Director Corporate Services

Present: Gervase Griffith, James McKenzie, Clive Parker, Phil Taylor, Lyndal Dennis (on behalf of Dennis Chant)

Informal: Sheridan Hargreaves

Apologies: Cr Warren Polglase, Cr Gavin Lawrie

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14. ORIGIN: Director

FILE REF: Aboriginal Matters

REPORT TITLE:

Pledge Books for Commitments to Reconciliation

SUMMARY OF REPORT:

A letter has been received from the Australian Local Government Association, with advice from the Council for Aboriginal Reconciliation attached, seeking Council's support for a constructive way in which our community can be encouraged to move toward the goal of reconciliation.

The letter from the Council for Aboriginal Reconciliation is reproduced in this report for Councillors information.

RECOMMENDATION:

That Council determines this matter.

Reports from Director Corporate Services

REPORT:

A letter has been received from the Australian Local Government Association, with advice from the Council for Aboriginal Reconciliation attached, seeking Council's support for a constructive way in which our community can be encouraged to move toward the goal of reconciliation.

The letter from the Council for Aboriginal Reconciliation is reproduced below for Councillors information:-

"Pledge Books for Commitments to Reconciliation"

I am writing to seek your assistance in gathering commitments to continuing the reconciliation process beyond 2000. We are grateful that the President of the ALGA encourages you to support this initiative in the attached letter.

Between May and September this year, the Council for Aboriginal Reconciliation plans to circulate Pledge Books widely throughout the community to enable as many Australians as possible to register their commitment to working towards reconciliation. The Pledge Books will become part of the Council's final Report to the Parliament, providing a permanent record of the extent of community support for continuing the reconciliation process.

By signing the Pledge Books, people can make a commitment in the following words:

I hereby pledge my support for the reconciliation process and will work towards a united Australia, which respects this land of ours, values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all.

We consider that local government can play a key role in the success of the initiative.

We propose to send a booklet of 25 leaves to each mayor and Shire President, in the hope that you will make them available to your constituents in Council or Shire Offices or in local libraries. We look to you to encourage your constituents to sign the Pledge books.

We propose to distribute the Pledge Books in time for National Reconciliation Week (27 May to 3 June) and would encourage you to make them a feature of any activities you are planning for that week as well as promoting them until September when they need to be returned to the Council for presentation to the Parliament.

If you have any questions about the Pledge Books, please call Ms Lyn Rainforest on (02) 6271 5285 in the first instance.

We greatly appreciate the continuing leadership of local government in the reconciliation process.

Reports from Director Corporate Services

15. ORIGIN: Director

FILE REF: Fisheries

REPORT TITLE:

General Recreational Fishing Licence - Economic Implications

SUMMARY OF REPORT:

On 13 March 2000 Council wrote to the Hon. Edward Obeid, MLC, Minister for Mineral Resources and Minister for Fisheries expressing its concern with the economic implications of the proposed salt water recreational fishing licence requirements.

The Hon. Edward Obeid's response dated 20 April 2000 is reproduced in this report for Councillors information.

RECOMMENDATION:

That Council petitions the Premier and the Minister for Mineral Resources and Minister for Fisheries for the Tweed Shire to be:-

1. Designated a special economic zone because of its:-
 - a. geographic and community of interest links; and
 - b. economic and strategic relationship with South East Queensland.
2. Exempt from general recreational fishing licence requirements.

Reports from Director Corporate Services

REPORT:

On 13 March 2000 Council wrote to the Hon. Edward Obeid, MLC, Minister for Mineral Resources and Minister for Fisheries expressing its concern with the economic implications of the proposed salt water recreational fishing licence requirements.

The Hon. Edward Obeid's response dated 20 April 2000 is reproduced below for Councillors information:-

"Thank you for your letter of 13 March 2000, concerning the possible introduction of a general recreational fishing licence.

I appreciate your concern about the possible negative impact a general licence may have on the Tweed region. Recently, I met with a focus group representing the various recreational sectors from the Tweed area, and I am, therefore, aware of all the issues you have raised.

I am committed to developing an appropriate strategy that will deliver improved recreational fishing opportunities, as well as safeguarding the region's tourism industry. The Tweed River Charter Operators Association recently sent to me their submission on the general recreational fishing licence. This document was the result of extensive consultation with senior officers from my Department, NSW Fisheries, and represents the Association's preferred model for the implementation of a fishing licence for their industry.

A number of representations from the Tweed region have suggested a discounted fishing licence be made available for the Tweed, in light of its unique issues. I have directed my Department to review this proposal and provide me with a detailed brief.

However, may I suggest a meeting would be a more appropriate forum to discuss your concerns in detail. I am confident that consultation with my Department will address these issues...."

A meeting will be organised with Ms Audrey Doherty, Executive Assistant to the Director of Fisheries, Dr John Griffin, General Manager, Mr Ian Carpenter, Director Corporate Services and Mr Richard Adams, Manager Business Undertakings.

Reports from Director Corporate Services

16. ORIGIN: Director

FILE REF: TEDC

REPORT TITLE:

Tweed Economic Development Corporation (TEDC) Monthly Performance Report - April 2000

SUMMARY OF REPORT:

The Tweed Economic Development Corporation, Chief Executive Officer, has provided a monthly report on the activities of the organisation for the month of April 2000. The Profit and Loss Statement, together with the Year to Date Budget comparison to 31 March 2000 is attached.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The Tweed Economic Development Corporation, Chief Executive Officer, has provided a monthly report on the activities of the organisation for the month of April 2000 and is reproduced below:-

“1. Update on Chinderah Bay Marina

- *Facilitated meeting with Harfords and Mike Rayner (Tweed Shire Council) regarding purchase/lease, etc. of land at Chinderah. Discrepancy in the two valuations – valuer now going to meet to resolve valuations, proponents and Tweed Shire Council to meet to agree to costs prior to recommendations to Council.*
 - *Facilitated meeting with Council planners re staging of the project.*
 - *Proponents concerned at TSC request for “Social Impact Assessment Statements” as per the new LEP. Requirements per LEP very broad and very much subject to interpretation.*
 - *Proponents agreed to fund Planner to deal with rezoning application for proposed dry stack and boat manufacturer.*
2. *Approached NorthPower regarding sponsorship of Metro Advertising sign on Tweed Bypass just south of airport. Cost: \$30,000 per annum.*
 3. *Contacted by various parties involved with the Kings Beach Project.*
 4. *Ongoing assistance to Bullet Super Cars.*
 5. *Update on Gold Coast Airport Enterprise Park Feasibility Study. Spiller Gibbins Swan appointed to conduct study. Contract submitted for signing to SGS.*
 6. *Bus tour Tweed Shire re industrial land was informative.*
 7. *Attended conference on integrated planning and economic development, 14 April 2000.*

Very informative – all about attitude, flexibility, responsiveness, adaptability, proactive and competitive approach and sustainable development. Four key trends in globalisation:

- *Technological change;*
- *Specialising and out-sourcing;*
- *Exporting routine jobs; and*
- *Levelling out of income distribution.*

Reports from Director Corporate Services

Model for sustainable economic development:

Civic Leadership

*Character of place
(lifestyle issues)*

Strategic infrastructure

Local economic development

*Industry development
(taking up of new business
models, need policy of
co-operation – helping not hindering)*

*Skills development
(training, R&D, education)*

Other interesting points from the day.

- *Need for radical change and shift in thinking.*
- *Transport/airports critical to growth.*
- *More people working from home.*
- *More emphasis on residential amenity.*
- *Abandon industry zones in favour of “employment areas” and “enterprise zones”.*
- *Agriculture no longer able to support local economies.*
- *Small town marketing efforts don’t hit the spot.*
- *Rural residential subdivisions are not the solution.*
- *Subdivisions in clusters to create population nodes.*
- *Regions most likely to succeed will be linked to major cities, eg, Brisbane 1½ to 2 hours from regional centres.*
- *Tweed to benefit by proximity to major city (Brisbane/Gold Coast) by way of jobs, business, tourism.*
- *Commuting to play increasing role in regional economies – Tweed well positioned – need strong road/rail/airport links to Brisbane and Australian cities.*

Comments by speakers on industrial land.

Reports from Director Corporate Services

- *Local, State and Federal governments not dealing with the long term need for infrastructure.*
- *Governments need to make sure regions do not run out of industrial land.*
- *Economic development is an important Local Government Area (LGA) tool and needs to focus on building boundary bridges.*
- *Queensland State Development is leading the charge on establishing industrial land as a Queensland state initiative.*
- *Queensland government looking at rezoning 5,000 hectares to accommodate future growth looking 20 to 50 years ahead.*
- *Gold Coast has 400 hectares zoned – mostly Yatala area.*
- *Shortage around Southport and south east Queensland.*
- *Need to identify sites by planning.*
- *Need to provide infrastructure.*
- *“Economic development is currently more about control than encouragement” – need for a shift in thinking.*
- *Mayor of Chicago: “Important to have planning on the left hand and economic development on the right hand.”*
- *Need to focus on business not on environmental control issues.*
- *Planing ideology – new economy – 1960’s decisions no longer appropriate in year 2000. Industrial land is only part of a suite of tools.*
- *Economic development is about being an “economic gardener” and nurturing all areas of a local economy.*
- *Successful local new economies will be able to cope with rapid change and shifting competitive advantages by being flexible and proactive.*
- *Successful new economies will be built around “can do” attitudes.*
- *Growth in jobs is no form of measurement.*
- *“Economies are massive biological organisms where the goal is not control but adaptation”.*

NOTE: Have asked for copies of papers presented at conference.

8. *Attended meeting 17 April 2000 CSIRO/Southern Cross University/NRRDB Regional Tourism strategy – tourism future project.*
9. *Various meetings regarding Tweed Town Centres Program amalgamation.*

Reports from Director Corporate Services

NOTE: Quote for annual public liability insurance for program is approx. \$5,000.00

- 10. Meeting regarding Tweed River Link Project.*
 - 11. Meeting Larry Anthony and Neville Newell regarding industrial land.*
 - 12. Discussions with Mayor Lynne Beck regarding Chinderah Industrial Land (Dr Segal).*
 - 13. Discussions with Martin Findlater re industrial land, in particular Chinderah – Mr Findlater acting for Dr Segal.*
 - 14. Carool Road Winery ongoing discussions.*
 - 15. Involved with major developer who has expressed strong interest in Tweed Heads CBD.”*
-

Reports from Director Corporate Services

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Reports from Director Corporate Services

17. ORIGIN: Financial Services Unit

FILE NO: Monthly Investment Report

REPORT TITLE:

Monthly Investment Report for Period Ending 30 April 2000

SUMMARY OF REPORT:

Details of Council's investments as at 30 April 2000.

RECOMMENDATION:

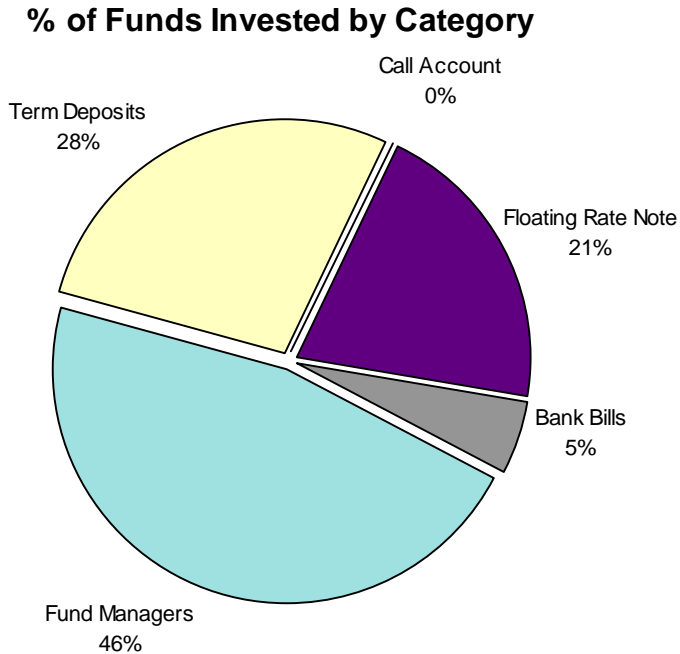
That this report be received and noted.

Reports from Director Corporate Services

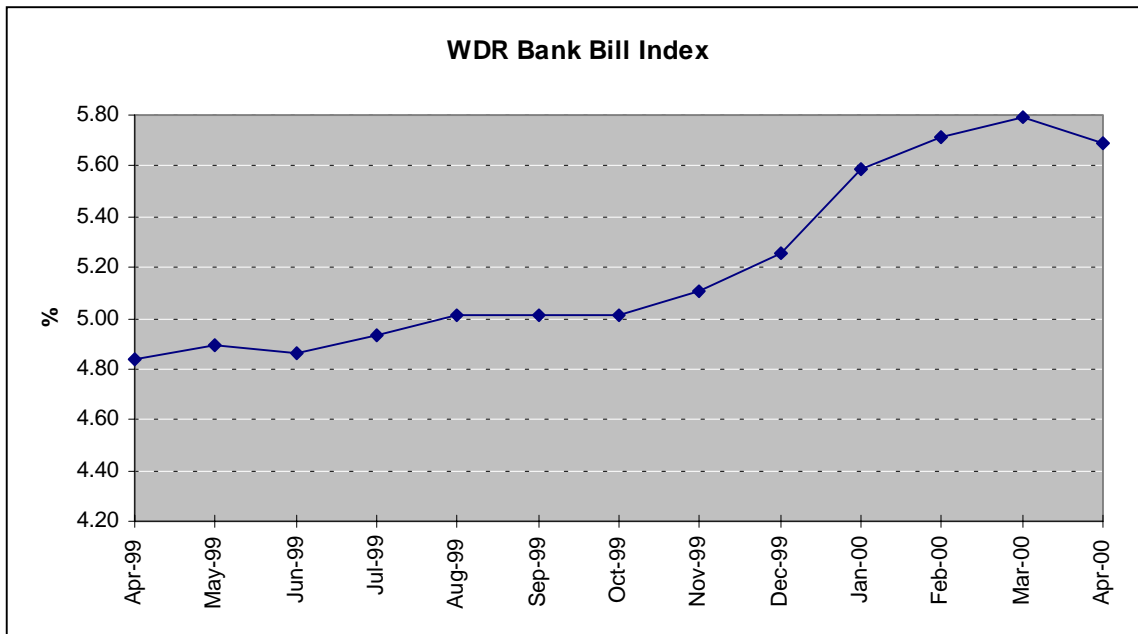
REPORT:

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



2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)

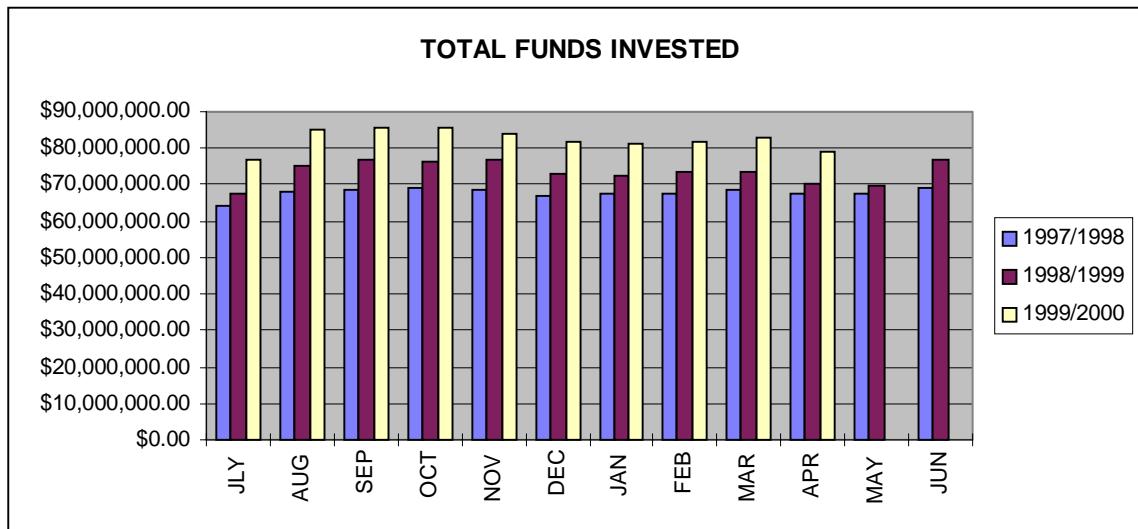


Reports from Director Corporate Services

3. ANNUALISED RATE OF RETURN FOR FUND MANAGERS

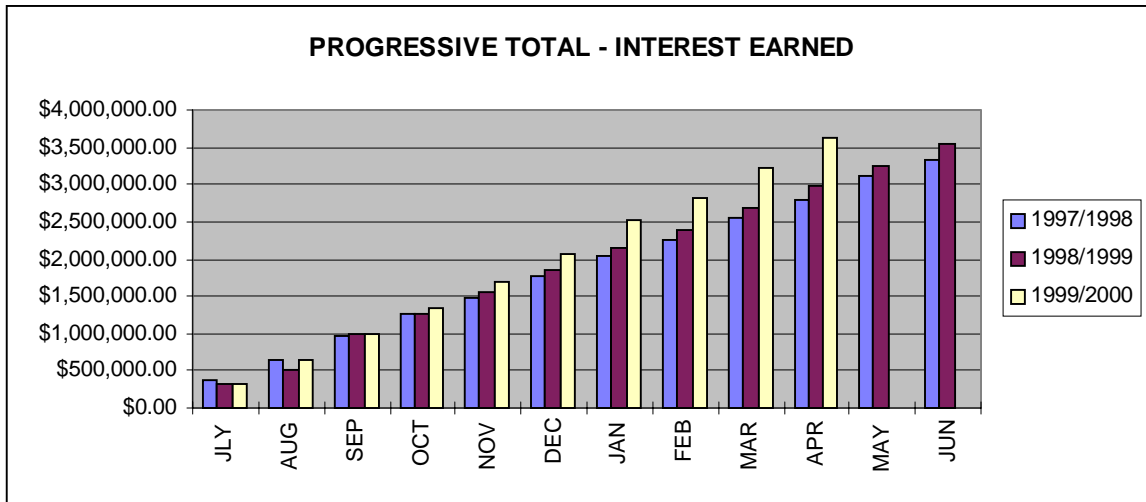
Fund	30 Days %	90 Days %	1 Year %
ANZ	5.95	5.84	5.41
Bankers Trust	5.72	5.56	5.13
Macquarie	5.20	5.39	4.92
National Mutual	5.94	5.57	5.33

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 May the Reserve Bank raised official interest rates by 25 basis points as expected.

Cash and Fixed interest markets will continue to be strongly influenced by expectations on the magnitude and timing of interest rate rises in the near term.. Policy makers will be keeping a close eye on inflation data and will be setting interest rate policies accordingly. The weaker Australian dollar is likely to add to inflationary pressure by increasing the price of our imports which will reflect in overall prices.

7. INVESTMENT SUMMARY AS AT 30 APRIL 2000

General Fund

BANKS	18,485,612.75	
FUND MANAGERS	1,387,624.15	
LOCAL GOVT. FIN.	1,500,000.00	
SERVICES		
CALL	20,799.47	21,394,036.37

Water Fund

BANKS	3,988,653.51	
FUND MANAGERS	24,860,816.97	
LOCAL GOVT. FIN.	4,000,000.00	32,849,470.48
SERVICES		

Sewerage Fund

BANKS	2,056,000.00	
FUND MANAGERS	10,528,443.46	
LOCAL GOVT. INV.	12,306,895.42	24,891,338.88
SERVICE		

Trust

FUND MANAGERS	50,000.00	50,000.00
TOTAL INVESTMENTS		79,184,845.73

Reports from Director Corporate Services

It should be noted that the General Fund investments of \$21.39 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.

STATUTORY STATEMENT - LOCAL GOVERNMENT FINANCIAL MANAGEMENT REGULATIONS (SEC 19)

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Financial Management Regulations and Council's investment policies.



R R Norvill CPA
Responsible Accounting Officer
Manager Financial Services

Reports from Director Corporate Services

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Reports from Director Engineering Services

18. ORIGIN: Works Unit

FILE REF: Quarries-Council-Duroby

REPORT TITLE:

Tweed Sporting Shooters Association - Use of Council's Duroby Quarry

SUMMARY OF REPORT:

The Tweed Sporting Shooters Association has written requesting the use of Council's Duroby Quarry as an interim site until a permanent one can be acquired. While the site should suit the purpose and the Association is prepared to submit a detailed development application, Council must first determine if it would approve the leasing of the land.

RECOMMENDATION:

That Council, as landowner, determines if it wishes to lease this land to the Tweed Sporting Shooters Association subject to the applicant obtaining all necessary approvals.

Reports from Director Engineering Services

REPORT:

The recently formed Tweed Sporting Shooters Association has written to Council requesting the use of Council's Duroby Quarry as an interim site until a permanent site can be acquired.

The existing quarry has a limited life due to both the lack of suitable material and boundary limitations.

The Association is seeking to use the site every second weekend.

The Executive of the Association were shown the quarry and as an interim measure it would suit their purposes. It was explained that despite that, safety and noise would be major objections to the use of the site.

Prior to the Association going to the expense of a detailed development application, Council must determine if it would, as landowner, approve the use of the site for this purpose.

While the site is relatively isolated any noise generated could affect several properties adjacent and those off Thoroughbred Place and Balfours Road.

Reports from Director Engineering Services

19. ORIGIN: Director

FILE REF: GR3/12/6

REPORT TITLE:

Chinderah Bay Marina Proposed Road Closure

SUMMARY OF REPORT:

Council would be well aware of the proposed development known as the Chinderah Bay Marina. Council has issued development consent for development on the eastern side of Chinderah Bay Drive and a development application is pending for foreshore works including a restaurant, 29 berth marina and a boat hire and refuelling facility.

This report recommends partial road closure of Chinderah Bay Drive with sale and lease of a number of parcels of land to the applicant to enable the development to proceed. Negotiations have centred on maximising the retention of available foreshore land for public access and use.

RECOMMENDATION:

That this report be dealt with under the Confidential Agenda.

Reports from Director Engineering Services

REPORT:

Council would be well aware of the proposed development known as the Chinderah Bay Marina. Council has issued development consent for development on the eastern side of Chinderah Bay Drive and a development application is pending for foreshore works including a restaurant, 29 berth marina and a boat hire and refuelling facility.

This report recommends partial road closure of Chinderah Bay Drive with sale and lease of a number of parcels of land to the applicant to enable the development to proceed. Negotiations have centred on maximising the retention of available foreshore land for public access and use.

Reports from Director Engineering Services

20. ORIGIN: Water Unit

FILE REF: Water Treatment-Tyalgum-Operate and Maintenance

REPORT TITLE:

Tyalgum Water Supply

SUMMARY OF REPORT:

Water quality sample results for Tyalgum Village are tabled. Disinfection performance has been improved, along with some marginal improvements in taste and odour related to chlorine, turbidity and colour, as a result of the installation of a clear water tank, associated pumping equipment and some minor filter modifications.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Engineering Services

REPORT:

Council at its meeting of 19 January 2000 resolved that water supply test results for Tyalgum Village be reported in May 2000.

Test results from sampling points at the water pumping station and at the Tyalgum Hall are tabled at the end of this report.

These results represent the quality of water supplied to the residents of Tyalgum 3 months prior to and after the installation of the new clear water tank and associated pumping and electrical equipment.

Disinfection

The results show good disinfection for normal water borne bacteria. From these actual results it can only be postulated that disinfection performance has improved, as no failures have occurred. However the increased chlorine contact time provided by the new clear water tank can only have a significant beneficial impact on disinfection capability.

Taste and Odour Related to Chlorine

This cannot be measured directly and assessment by individuals is subjective. Again, the installation of the clear water tank should provide some marginal improvement.

On two occasions a higher than normal dosage of chlorine occurred as a result of an intermittent failure of the chlorine equipment. These failures will have unfortunately negatively skewed any assessment made by residents during this period.

Colour and Turbidity

The coarse gravel filters were cleaned and topped up with a finer layer of zeolite, to provide some small increase in filter capability as part of these works. This, in conjunction with the clear water tank may have provided a marginal improvement in turbidity and true colour sample results.

Other water quality parameters are unaffected by the works and vary directly as a result of changes in the river water quality.

In general, the results show the water quality meets the minimum criteria of the 1996 NH & MRC Guidelines for the parameters tested. However, as mentioned in reports to Council dated 1 April 1998 and 19 January 2000, this system cannot cope with the large variations in river water quality experienced from time to time.

For the information of Councillors, the previous reports to Council are reproduced below.

From meeting held 1 April 1999:

Reports from Director Engineering Services

“SUMMARY OF REPORT:

Following the consideration of a report on the quality of the Tyalgum Water Supply, Council resolved that a further report be brought forward addressing the financial impact of feasible upgrading options and the relative benefits in relation to public health.

RECOMMENDATION:

That provision be made in the 1998/99 Water Fund budget for the provision of a clear water storage facility to enhance the Tyalgum Water Supply.

REPORT:

Following the consideration of a report on the quality of the Tyalgum Water Supply, Council resolved that a further report be brought forward addressing the financial impact of feasible upgrading options and the relative benefits in relation to public health.

The options considered feasible for the future of the Tyalgum water supply treatment facility comprise:

- 1. Provision of a new treatment facility comparable with Uki at an estimated cost of \$900,000 assuming that the existing site can be used.*
- 1. Provision of a clear water storage facility at an estimated cost of \$40,000.*
- 1. Continue to maintain the existing system.*

A. NEW TREATMENT FACILITY

A new facility will provide the opportunity to remove chemical contaminants such as iron and manganese and the fine silt fraction that at times discolours the current supply. It will provide water comparable to that supplied to other urban areas of the Shire. The cost is estimated at \$900,000 if the current site can be utilised. The Environment Protection Authority may have concerns with the site being flood prone.

The Tyalgum supply currently provides water to 117 connections and no significant growth is expected. The annual cost of this project, on the basis of a 15 year loan funding, would be approximately \$100,000 per annum in addition to the existing rates. Such repayments would not be financially bearable by the existing beneficiaries, but would increase the minimum water rate by only \$4-\$5, if financed by all ratepayers to the Water Fund, as is occurring at Uki.

B. PROVISION OF A CLEAR WATER STORAGE

This option would require the provision of a treated water storage reservoir in the vicinity of the existing filter and chlorination plant and additional pumps. A clear water storage provides contact time for the introduced chlorine, prior to the reticulation of the treated water to the consumers. The benefits would be limited to enhanced disinfection and reduced chlorine taste. The cost is relatively small at approximately \$40,000 and would not significantly impact on the water rate, if funded by the Water Fund.

Reports from Director Engineering Services

C. CONTINUE MAINTENANCE OF THE EXISTING FACILITY

This option has zero financial impact. As previously reported:

“The reticulated supply at Tyalgum was installed in the 1960’s and draws water from the Oxley River. Filtration is provided via a sand filter and disinfection using chlorine gas. The sand filter is not able to remove colour, nor dissolved minerals such as iron. During periods of high turbidity in the river (ie high rainfall and floods), the supply may be discoloured and there can be a taste present if the iron content is high. The supply historically has been well received by residents with complaints generally relating to colour at times of high turbidity in the river.

In late 1997 complaints were received in relation to high chlorine levels as a result of mechanical problems with the regulator, and discolouration in a non-high flow period, which resulted from work by Council to clean out and de-silt the weir to restore its storage capacity.

Regulation of the water supply system is undertaken by Council’s Environment and Health Unit who sample the supply monthly. These samples are then tested by the New South Wales Department of Health Laboratory monthly for microbiological compliance with drinking water criteria, twice yearly they undertake a full chemical analysis and annually they test for pesticide residues.

A review of test result over the last few years shows consistent compliance with microbiological standards, with only one failure recorded (August 1997) back to mid-1995. Pesticide residue tests have consistently returned nil or very low complying results. Chemical analyses consistently comply, except for some failures in relation to turbidity (colour) and iron levels. The compliance limits for these two tests are however, based on aesthetic values, not health requirements, according to the current “NHMRC/ARMCANZ Drinking Water Quality Guidelines”.

The current facility is in good condition with an automatic backwash having been installed approximately 5 years ago. The facility still has significant operational life available, all of which will be lost if a new facility is provided.

PUBLIC HEALTH ISSUES

Council’s Environment and Health Officers have reported:

“Introduction

Cryptosporidium is a parasite of the cells which line the digestive system in mammals, birds and reptiles, including most farm animals tiny thick walled eggs or oocysts, less than one hundredth of a millimetre long, unable to be seen by the naked eye, are produced in very large numbers. At the height of infection calves may shed as many as 20 billion oocysts in a 24 hour period. (Waste Management & Environment 1997). Giardia is a similar protozan parasite with the main source of contamination being from infected wildlife and sewage effluent. Giardia cysts and particularly Cryptosporidium oocysts, are capable of long term survival in the environment. Water is only one of several mechanisms by which faecal-oral cycle can be completed. Transmission of Giardia and

Reports from Director Engineering Services

Cryptosporidium also occurs by direct contact with a carrier, by contact with infected animals including domestic pets and with Giardia occasionally through contaminated food

Waterborne Disease

Waterborne outbreaks of Cryptosporidium related gastroenteritis have occurred in North America and Britain infecting as many as 400,000 people (Mackenzie et al, 1994). Both Giardia and Cryptosporidium may cause diarrhoea, although many human carriers of Giardia show no symptoms. Cryptosporidium infection is usually self limited after a few days, although infants, the elderly and immunocompromised patients are at most risk of serious infection

There is very limited knowledge on the prevalence of Giardia or Cryptosporidium in Australian water supplies. No outbreaks of waterborne Cryptosporidiosis or Giardiasis through a public water supply have been documented in Australia. (Hutton et al 1993).

In July 1993, in Sydney, there was considerable public interest when the media discovered an environmental impact study which revealed that Cryptosporidium had been found in all the Sydney Water Board's storages and at several locations in the pipeline system. The water was pronounced safe to drink because the number of parasites found was "extremely low" (PHB, 1994).

An epidemiological study in Queensland showed no correlation between infection by Giardia and the source of drinking water, whether or not water was treated in the home, nor with recreational contact with water (Boneham & Phillips, 1986). There is a general perception amongst clinical laboratories in all states that water is involved in some Giardia infections (Bee et al 1991).

There is less data on the incidence of infection by Cryptosporidium in Australia than there is for Giardias. In South Australia a major outbreak of Cryptosporidium infections was recorded in 1990/91 (Weinstein et al, 1993). Statistical analysis showed that people drinking rain water were less frequently infected, and the pattern of this outbreak suggested multiple sources of infection. (NRMRC 1996).

Treatment of Drinking Water

The use of chlorination as the sole treatment barrier would require extremely high doses of chlorine for complete inactivation of Giardia cysts but with little effect on Cryptosporidium oocysts. The levels used would not only lead to very high numbers of taste and odour complaints from consumers but would also lead to non-compliance with disinfection byproducts guidelines.

Crohmenn (1995) notes that filtration is an effective way of reducing the concentration of Cryptosporidium oocysts. However, Thwaites (1997) explains that this organism passes through all but the finest filters

The NHMRC Australian Drinking Water Guidelines (1996) do not set any guideline figures for either Giardia or Cryptosporidium as there is only limited and local evidence of the

Reports from Director Engineering Services

involvement of drinking water in their transmission in Australia. The density at which they would be significant for human health is unknown.

Summary

There appears to be a lack of knowledge relating to these parasitic organisms. There are documented cases of infection from public water supplies overseas but little evidence in Australia. There are particular problems with Cryptosporidium with a number of species and only one which causes infection in humans. A study by Grohmann (1995) indicates that Cryptosporidium species are generally present in all surface waters. The tests available cannot distinguish between the different species and makes no distinction between oocysts which are dead and harmless or alive and infective. The organism is seen to be widespread, difficult to monitor, expensive to remove and we do not even know how infections oocysts are by the time they come out of the tap. (Thwaites, 1997)

Thwaites (1997) notes that because Cryptosporidium parvum infects farm animals and wildlife as well as humans, and because its oocysts can persist for months in water and soil, the parasite is everywhere. The most stringently cleaned water supply in the world could still contain low levels of Cryptosporidium.

Finally there is the question of cost benefit. Once oocysts enter the water supply, they are very expensive to remove. Filters which can remove particles down to one thousandth of a millimetres in diameter would be required. The capital cost for cities can run into hundreds of millions of dollars. Thwaites (1997).

(A) Clear Water Storage Facility

This proposal would allow additional contact time following disinfection. As stated previously, Giardia is more resistant to chlorination than bacteria while Cryptosporidium is very resistant to chlorine disinfection. While a clear water storage facility would assist in the removal of bacteria (the major potential public health risk) the impact on Giardia and Cryptosporidium is less clear.

(B) A new water treatment facility of the type at Uki.

This proposal with improved filtration/flocculation would help reduce the risk of Giardia and Cryptosporidium, from entering the reticulated town water supply. However, as noted earlier these parasites may still enter a system through a conventional water treatment facility. A cost benefit analysis would be required to determine the level of risk and the cost of providing membrane filtration or similar to remove all particles down to the size of the Cryptosporidium oocyst.

(C) Other options

There appear to be too many unknowns relating to both Giardia and Cryptosporidium. No guideline value is nominated in the National Health and Medical Research Council's Australian Drinking Water Guidelines (1996). It must be considered relevant that there has been no confirmed report of any outbreaks of Giardia or Cryptosporidium infection

Reports from Director Engineering Services

through a public water supply in Australia. Council has no documented cases of infections of Giardia or Cryptosporidium related to the town water supply.”

MEMBRANE FILTRATION

Membrane filtration was offered by one tenderer for the Uki Plant, but was not accepted on the basis of advice from Shoalhaven that indicated difficulties and significantly higher operational costs with a pilot plant that they had installed. The practicality of micro filtration has still to be established.

Full fact sheets on Giardia and Cryptosporidium species as provided in the Australian Drinking Water Guidelines (1996) are available from Council's Water Unit.

From meeting held 19 January 2000:

“SUMMARY OF REPORT:

Requests have been received from residents seeking the provision of a new water treatment plant to service Tyalgum village at an estimated cost of \$1M.

RECOMMENDATION:

That the reticulated water supply test results for Tyalgum Village be reported to Council in May 2000, prior to a decision being taken on the request from residents for a new treatment plant.

REPORT:

Council at its meeting on 1 April 1998 considered a report on the Tyalgum Water Supply System and resolved that:

- 1. Provision be made in the 1998/99 Water Fund budget for the provision of a clear water storage facility to enhance the Tyalgum Water Supply.*
- 2. A report be prepared on the options available to Council to exclude cattle access to the pool upstream of the weir and to re-afforest the banks of the pool.*

The clear water storage facility has recently been completed and the supply system is now operating satisfactorily, within the limitations of the plant's capability. The existing plant is not capable of removing discolouration in the raw water nor can it provide the same level of filtration, as provided for the Tweed District Supply and Uki.

Recently a number of requests have been received from residents at Tyalgum seeking the upgrading of the supply to a level equal to Uki and consideration of the request by Council.

For the information of Councillors, the previous report to Council is reproduced as an attachment to this business paper. It should be noted that the Uki supply was upgraded to compensate for the high levels of iron and manganese in the raw water supply as a consequence of the Clarrie Hall Dam construction and operation. The levels at Uki in the raw water far exceeded those experienced at Tyalgum.

Reports from Director Engineering Services

As the clear water storage and the replacement of the filter medium was only completed in late 1999, there has been insufficient testing to quantify any improvements in the reticulated water quality.

In relation to point 2 of the Council resolution, a revegetation plan has been prepared for the Village and bank of the stream and some discussions have been held with the landowner of the adjoining property, which is being offered for sale. Little progress has been achieved, to date, on the opposite creek bank. In each instance private property extends right to the water.”

Reports from Director Engineering Services

TYALGUM WATER SUPPLY - TREATED WATER TESTING

SUMMARY

DATE	Turbidity	pH	Conductivity	Free Chlorine	Alkalinity as CaCO ₃	Total Hardness as CaCO ₃	Colour (True)	Aluminium	Iron	Manganese	Total Dissolved Solids	Faecal Coliforms	Total Coliforms
	N.T.U.	pH Units	uS/cm ⁻²	mg/L	mg/L	mg/L	Pt-Co Units	mg/L	mg/L	mg/L	mg/L	cfu/100mL	cfu/100mL
MIN	0.8	6.3	103	0.02	35	34	1	0.01	0.01	0.01	64	1	1
MAX	8.2	8.8	161	2.00	66	78	47	0.44	0.82	0.10	107	1	1
AVERAGE	2.5	7.5	136	0.62	50	46	11	0.14	0.36	0.01	85	1	1
STD DEV.	1.7	0.4	14	0.86	8	8	9	0.10	0.17	0.02	10	0	0
COUNT	25	37	30	37	30	30	30	34	34	34	30	33	33
MODE	3.0	7.5	145	0.05	41	46	5	0.09	0.42	0.01	90	1	1
MEDIAN	2.0	7.5	138	0.24	50	45	9	0.11	0.33	0.01	87	1	1
50 PERCENTILE	2.0	7.5	138	0.24	50	45	9	0.11	0.33	0.01	87	1	1
90 PERCENTILE	4.1	8.0	149	1.52	59	52	18	0.25	0.55	0.02	98	1	1
GUIDELINE 1	5.0	9.2	800	5.00	> 50	500	15	0.20	0.30	0.50	1000	<1	<1
GUIDELINE 2	1.0	6.5 - 8.5		0.60	50 - 200	60 - 200	5	0.10		0.10	500		

SAMPLE RESULTS FROM WATER PUMPING STATION

DATE	Turbidity	pH	Conductivity	Free Chlorine	Alkalinity as CaCO ₃	Total Hardness as CaCO ₃	Colour (True)	Aluminium	Iron	Manganese	Total Dissolved Solids	Faecal Coliforms	Total Coliforms
	N.T.U.	pH Units	uS/cm ⁻²	mg/L	mg/L	mg/L	Pt-Co Units	mg/L	mg/L	mg/L	mg/L	cfu/100mL	cfu/100mL
20/09/1999		7.6	145	0.02	54	46	5	0.21	0.42	<	0.01	90	< 1
23/12/1999		7.6	129	0.04	37	38	6	0.25	0.51	<	0.01	80	< 1
29/12/1999		7.3	125	0.05	41	40	47	0.33	0.82	<	0.01	77	< 1
15/12/1999		7.5	139	0.04	52	46	7	0.10	0.38	<	0.01	86	< 1
5/01/2000	4.6	7.4	130	1.23	59	43	13	0.11	0.57	<	0.01	81	< 1
12/01/2000	1.2	7.3	142	2.00	45	42	8	0.13	0.24	<	0.01	88	< 1
19/01/2000	8.2	7.5	131	0.05	44	42	32	0.15	0.44	<	0.01	81	< 1
9/02/2000	1.6	8.4	161	0.05	66	48	9	0.13	0.38	<	0.10	100	< 1
27/01/2000	1.8	7.3	146	0.34	65	78	15	0.07	0.42	<	0.01	90	< 1
2/02/2000	5.6	7.5	143	0.05	46	42	25	0.34	0.70	<	0.04	89	< 1
17/02/2000	3.0	7.4	111	1.38	41	38	7	0.13	0.44	<	0.01	69	< 1
23/02/2000	1.9	7.5	131	1.32	51	46	5	0.03	0.28	<	0.01	81	< 1
1/03/2000	3.1	7.5	103	0.86	35	36	13	0.09	0.20	<	0.01	64	< 1
8/03/2000	0.9	7.5	129	1.03	51	44	11	0.07	0.27	<	0.01	80	< 1
15/03/2000	2.1	7.5	116	0.32	41	36	11	0.18	0.31	<	0.01	72	< 1
22/03/2000	1.3	8.8	148	0.08	61	56	13	0.08	0.29	<	0.01	92	< 1
29/03/2000	1.3	7.9	158	0.40	57	60	7	0.05	0.20	<	0.01	98	< 1
5/04/2000	0.9	7.4	142	1.34	50	45	1	0.12	0.23	<	0.01	88	< 1

SAMPLE RESULTS FROM TYALGUM HALL

DATE	Turbidity	pH	Conductivity	Free Chlorine	Alkalinity as CaCO ₃	Total Hardness as CaCO ₃	Colour (True)	Aluminium	Iron	Manganese	Total Dissolved Solids	Faecal Coliforms	Total Coliforms
	N.T.U.	pH Units	uS/cm ⁻²	mg/L	mg/L	mg/L	Pt-Co Units	mg/L	mg/L	mg/L	mg/L	cfu/100mL	cfu/100mL
20/09/1999		7.60	145	0.02	54	46	5	0.21	0.42	<	0.01	90	< 1
9/12/1999	2.0	7.24	153	1.22	58	50	2	0.01	0.40	<	0.01	107	< 1
15/12/1999		7.22		0.04				0.08	0.35	<	0.02	<	<
23/12/1999		8.01		0.05				0.19	0.67	<	0.04	<	<
29/12/1999		7.54		0.08				0.12	0.26	<	0.01	<	<
5/01/2000		7.36		1.47									
12/01/2000		6.34		2.00				0.09	0.25	<	0.01		
19/01/2000		7.20		0.11									
27/01/2000		7.53		0.79									
2/02/2000	3.3	7.48	147	0.10	50	44	17	0.24	0.44	<	0.01	91	< 1
9/02/2000	3.0	8.10	145	0.24	53	48	8	0.15	0.4	<	0.01	97	< 1
17/02/2000	3.0	8.20	125	0.23	46	40	11	0.09	0.48	<	0.01	78	< 1
23/02/2000	2.5	7.45	132	1.60	50	44	3	0.07	0.27	<	0.01	82	< 1
1/03/2000	3.0	7.35	104	1.25	37	40	12	0.10	0.22	<	0.01	64	< 1
8/03/2000	0.9	7.30	128	1.23	46	49	8	0.03	0.01	<	0.01	79	< 1
15/03/2000	2.9	7.70	137	0.09	43	34	11	0.44	0.26	<	0.01	101	< 1
22/03/2000	1.3	7.30	136	0.18	52	46	12	0.09	0.26	<	0.01	84	< 1
29/03/2000	1.5	7.20	148	0.03	55	52	7	0.10	0.22	<	0.01	92	< 1
5/04/2000	0.8	7.20	142	1.63	48	46	5	0.03	0.13	<	0.01	88	< 1

Reports from Director Engineering Services

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Reports from Director Engineering Services

21. ORIGIN: Works Unit

FILE REF: R4465

REPORT TITLE:

Pumpenbil Road

SUMMARY OF REPORT:

An urgency motion was voted on at the Council meeting on Wednesday 3 May 2000 regarding the roadworthy status of Pumpenbil Road. Some immediate action was in hand and further repairs taken.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Engineering Services

REPORT:

An urgency motion regarding the roadworthy status of Pumpenbil Road was voted at Council on 3 May 2000.

The following action has been taken:

- 3 May 2000 - Warning signs erected late that afternoon.
- 4 May 2000 - Signs checked and some additional gravel placed with minor rolling.
- 8 May 2000 - Heavy patch constructed on the worst area with a temporary seal. Estimated cost \$8,000 from maintenance funding.

The section of road from Kerrs Lane to North Pumpenbil Road has deteriorated rapidly in the past 6 months. The solution is a full reconstruction which can only be funded from the construction budget. These works will have to be considered along with other priorities when the 2000/2001 Works Program is submitted for approval.

Reports from Director Environment & Community Services

22. ORIGIN: Director

FILE REF: Airport - Noise Issues

REPORT TITLE:

Flight Paths Coolangatta Airport

SUMMARY OF REPORT:

The Coolangatta Airport Noise Abatement Committee, at its meeting held 4 May, received a paper from the Department of Transport and Regional Development titled "*Coolangatta Airport - Information on Arrivals from the South*".

A further meeting will be held

RECOMMENDATION:

That Council conducts a Workshop on 14 June and Gold Coast Airports Limited be invited to make a presentation on the report "*Coolangatta Airport - Information on Arrivals from the South*".

Reports from Director Environment & Community Services

REPORT:

The Coolangatta Airport Noise Abatement Committee, at its meeting held 4 May 2000, received a paper from the Department of Transport and Regional Services titled "*Coolangatta Airport Information on Arrivals from the South*".

A copy of this paper is attached to the business paper.

The meeting is planned for 22 June 2000.

This paper is intended to be workshopped with Council at a Workshop including Gold Coast Airports Limited on 14 June 2000.

Reports from Director Environment & Community Services

23. ORIGIN: Environment & Health Services Unit

FILE REF: PF3640/160

REPORT TITLE:

Outdoor Dining Licence Fee - Imperial Hotel, Murwillumbah

SUMMARY OF REPORT:

An application for approval to utilise the footpath for restaurant purposes has been received by Council. All necessary facilitating infrastructure is to be provided by the applicant and was recently supported by Council at the 20 October meeting. The applicant has requested that as the costs will be borne by the applicant, the licence fee for the first term be waived due to the benefits of the footpath upgrade to the public.

RECOMMENDATION:

That Council waives the required licence fee for the first two year period after the construction works have been completed, due to the public good.

Reports from Director Environment & Community Services

REPORT:

An application has been received seeking approval under Section 125 of the Roads Act 1993 and Section 68 of the Local Government Act 1993 to use part of the footpath for the purpose of conducting a restaurant.

The applicant has recently been granted approval under Part V of the environmental Planning and Assessment Act 1979 to establish an outdoor dining area adjacent to the Hotel on the northern side of Murwillumbah Street. The applicant is to bear all costs of providing the facilitating infrastructure.

Due to the costs involved in carrying out the works the applicant has requested Council waives the required licence fee for the first term. This fee will total approximately \$710.00 over the two year period.

Due to the benefits Council will gain from the works in the footpath upgrade, it is recommended that the fee be waived for the initial 2 year period.

Reports from Director Environment & Community Services

24. ORIGIN: Environment & Health Services Unit

FILE REF: Companion Animals

REPORT TITLE:

Dog Off Leash Exercise Areas

SUMMARY OF REPORT:

On 15 December 1999 Council approved the use of the following area as a dog off leash exercise area:

South Fingal/Kingscliff Beach - from a point 2km north of the beach access point opposite the Kingscliff Police Station to a point 0.5km south of the beach access point at the Fingal Quarry.

Concerns were subsequently raised about the significance of this beach area as a bird roosting site. At the Council meeting of 1 March 2000 it was resolved that Council seeks a report from its officers on this matter for consideration.

Recent bird roosting surveys within the Shire indicate that the beach may be a roosting / nesting site during very high tides. However other areas such as North Fingal Beach are more significant.

RECOMMENDATION:

That the South Fingal/Kingscliff Beach off leash dog exercise area continues to operate and will be reviewed in December 2000 as previously resolved by Council.

Reports from Director Environment & Community Services

REPORT:

On 15 December 1999 Council approved the use of the following area as a dog off leash exercise area:

South Fingal/Kingscliff Beach - from a point 2km north of the beach access point opposite the Kingscliff Police Station to a point 0.5km south of the beach access point at the Fingal Quarry.

Concerns were subsequently raised at the Aboriginal Advisory Committee meeting of 31 January 2000 about the significance of this beach area as a bird roosting site. At the Council meeting of 1 March 2000 it was subsequently resolved that Council seeks a report from its officers on this matter for consideration.

A number of sources have been consulted to determine the significance of this beach area as a bird nesting and roosting site. Firstly a member of the Aboriginal Advisory Committee was consulted and he advised that he frequents the beach as a 'beach wormer' and stated that he has observed a number of bird species there during high tides, which can be harassed by dogs. He also stated that he frequently observes dogs off lead outside the designated area.

The document *High Tide Roosts for Shorebirds in the Lower Tweed River Estuary* (Tweed River Management Committee, 1998) was also consulted. It indicates that other sites such as Tony's Bar, Kerosene Inlet, Cobaki Broadwater, Duroby Marsh, Womgin Island and South Head Beach are the sites with the largest numbers and species richness. However the south Kingscliff Beach is an area utilised by birds during spring tides, which are the 'highest high tides', which inundate regular roosting sites.

The document also stated that disturbance of high tide roosts varies considerably between sites. Generally sites within the Tweed River and ocean beaches suffer higher levels of disturbance.

The NSW National Parks and Wildlife Service were also contacted. They suggested that Mr David Rohweder be consulted as he has conducted surveys of bird roosting sites within the Tweed (and had significant input into the above document).

Mr Rohweder has been involved in bird surveys for the past 4 years and states that the South Kingscliff Beach is used for bird roosting but only occasionally. Historically the beach may have been utilised to a greater extent, along with Wommin Lake.

The South Fingal Beach was used last year for bird roosting during high spring tides, but he felt that the birds were disturbed by the activities of people and dogs. This disturbance resulted in the birds relocating to Kerosene Inlet and North Fingal Beach.

Mr Rohweder stated that he had not observed little terns nesting on the Beach. He further stated that he would not rate the Beach as being a major nesting or roosting site due to disturbance. North Fingal Beach is more significant as a nesting / roosting site, and improved control over dogs is warranted there.

Reports from Director Environment & Community Services

CONCLUSION

It appears that South Fingal Beach is a bird roosting and nesting site during high spring tides, however North Fingal Beach is a more significant site.

Given that a dog off leash exercise area is required for the Kingscliff and Fingal communities it is preferable that this remain on the South Fingal Beach area. This approach will reduce the likelihood of disturbance of the more significant bird roosting area to the north, which can be policed accordingly by Council's Rangers Unit.

The South Fingal off leash area will also be due for review in December 2000.

Reports from Director Environment & Community Services

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Reports from Director Environment & Community Services

25. ORIGIN: Environment & Health Services Unit

FILE REF: PF2100/190 Pt2

REPORT TITLE:

Sub-Lease of Twin Towns Youth Club Building, Reserve 58447 Florence Street, Tweed Heads

SUMMARY OF REPORT:

An application has been received from the Twin Towns Police and Community Youth club for Council to consent to the sub-lease by the club of two rooms at the lower level at the rear of the main auditorium. The sub-lease would be to the Tweed Heads Community Pre-school Incorporated and be for a period of 12 months. The Pre-school has already been operating for some time and Council has already agreed to the lease of the outdoor play area at the rear of the existing building as per the plan attached.

RECOMMENDATION:

That Council, in its capacity as lessor of the Twin Towns Youth Club Building, situated on Reserve 58447 Florence Street, Tweed Heads consents to the Twin Towns Police & Community Youth Club sub-leasing the two rooms at the lower level at the rear of the main auditorium to the Tweed Heads Community Pre-school Incorporated for the same period as the land that is leased at the rear of the building for outdoor use.

Reports from Director Environment & Community Services

REPORT:

An application by the Twin Towns Police and Community Youth Club has been received requesting Council's consent to the sub-lease of the two rooms at the lower level at the rear of the main auditorium area of the Twin Towns Youth club building in Florence Street, Tweed Heads situated on Reserve 58447.

At its meeting of 22 September 1999, Council resolved as follows:-

- “1. Council extends the lease on the existing Twin Towns Police & Community Youth Club building for a further 10 year period with an option for an additional 10 years.
2. The lease fee be fixed at \$100 per annum and
3. All necessary documentation to be completed under the Common Seal of Council.”

The Twin Towns Police & Community Youth Club requests permission to sub-lease the abovementioned rooms to the Tweed Heads Community Pre-school Incorporated for a period of 12 months and advises that a limit of 20 children will attend the pre-school Monday to Wednesday between 8.30am and 3.30pm.

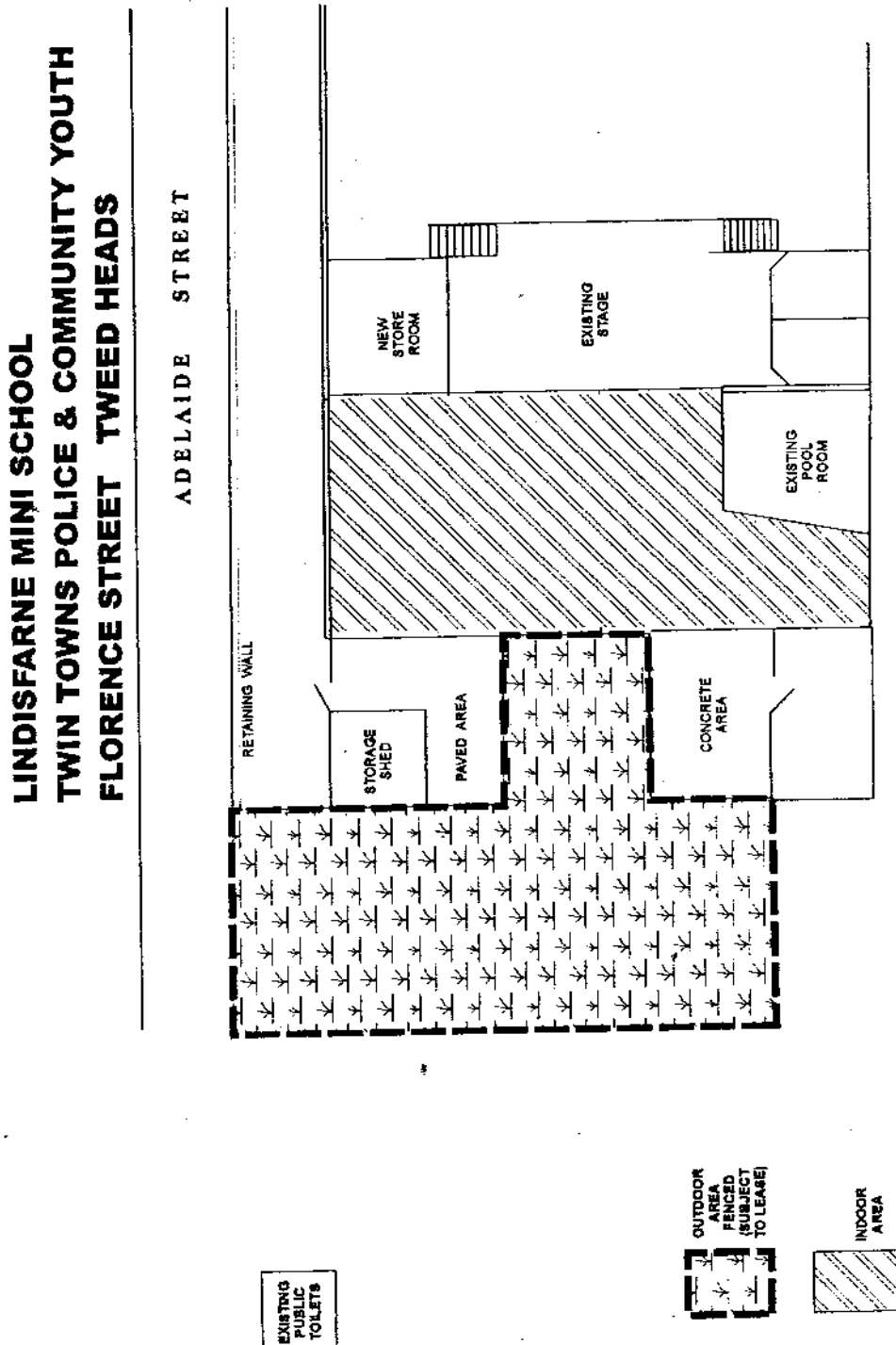
The pre-school has been operating for some time and Council has already agreed to the lease of the outdoor play area at the rear of the existing building. A plan showing the extent of the leased outdoor play area is attached. The Council resolved to enclose such a lease agreement at its meeting of 6 May 1998 following an application seeking approval to continue the child care centre use for a further maximum 5 year period. Therefore, notwithstanding the Twin Towns Police and Community Youth Club's request, any approval for use of the internal area of the building as the pre-school should be for the same time period as the land that is leased at the rear of the building for outdoor use.

The Twin Towns Police & Community Youth Club do not utilise the areas of the building proposed to be sub-let and any fee received helps to financially support the club in its Youth and Community endeavours.

Clause 2(d) of the existing lease agreement between Council and the Twin Towns Police and Community Youth Club states that the Club will not “assign sublet licence or in any way part with possession of the whole or any part of the said lands without the consent in writing of the lessor first having been obtained”.

Reports from Director Environment & Community Services

Figure 1



Reports from Director Environment & Community Services

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Reports from Director Environment & Community Services

26. ORIGIN: Environment & Health Services Unit

FILE REF: Honorary Rangers

REPORT TITLE:

Honorary Rangers

SUMMARY OF REPORT:

At its meeting of 16 February 2000 Councils approved the operation of certain persons within the Tweed Community as Honorary Rangers for the term of the current Council.

Mr Peter Hutton of Discovery Drive Anchorage Islands has requested that he be approved as an Honorary Ranger also. He has been interviewed by officers and was found to be suitable for this position.

RECOMMENDATION:

That Council approves Mr Peter Hutton to operate as an Honorary Ranger for the term of Council.

Reports from Director Environment & Community Services

REPORT:

At its meeting of 16 February 2000 Councils approved the operation of certain persons within the Tweed Community as Honorary Rangers for the term of the current Council.

Mr Peter Hutton of Discovery Drive Anchorage Islands has requested that he be approved as an Honorary Ranger also. The existing Honorary Rangers mainly reside in the coastal villages, so the introduction of an additional Honorary Ranger in the Tweed area is likely to be beneficial. He has been interviewed by officers and was found to be suitable for this position.

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.

Reports from Director Environment & Community Services

27. ORIGIN: Environment & Health Services Unit

FILE REF: Companion Animals

REPORT TITLE:

Off Leash Exercise Areas for Dogs

SUMMARY OF REPORT:

At the council meeting of 15 March 2000 it was resolved that 8 potential dog off leash exercise areas be placed on public exhibition for comment.

As a result of this process, four (4) written submissions were received.

As minimal objection was received it is appropriate that Council approves use of the eight exercise areas for a 12 month trial period.

RECOMMENDATION:

That Council approves the following areas for use as dog off leash exercise areas for a trial period of 12 months from 1 July 2000:-

1. Corowa Park - Corner of Cudgen Road and Terrace Street, Chinderah
2. Turnock Park - Corner of Cudgen Road and Wommin Bay Road, Chinderah
3. The riverbank reserve at the end of Old Ferry Road, Oxley Cove
4. The reserve on the corner of Naponyah Road and Bilambil Road, Terranora
5. Ducats Park - Ducat Street, West Tweed
6. The treed area within Arkinstall Park, South Tweed
7. The unnamed reserve on the corner of Darlington Drive and Amaroo Drive, Banora Point
8. The unnamed reserve at the bottom of Bushland Drive, Banora Point

Reports from Director Environment & Community Services

REPORT:

At the Council meeting of 15 March 2000 it was resolved that the following 8 potential dog off leash exercise areas be placed on public exhibition for comment.

1. Corowa Park - Corner of Cudgen Road and Terrace Street, Chinderah
1. Turnock Park - Corner of Cudgen Road and Wommin Bay Road, Chinderah
1. The riverbank reserve at the end of Old Ferry Road, Oxley Cove
1. The reserve on the corner of Naponyah Road and Bilambil Road, Terranora
1. Ducats Park - Ducat Street, West Tweed
1. The treed area within Arkininstall Park, South Tweed
1. The unnamed reserve on the corner of Darlington Drive and Amaroo Drive, Banora Point
1. The unnamed reserve at the bottom of Bushland Drive, Banora Point

Maps providing an indication of the location of each proposed area form an attachment to this Business Paper. Should Council approve only off-leash area for Chinderah (refer 1 and 2 above) then the provided area is Turnock Park.

As a result of this process 4 written submissions were received. One of these was a letter of support for dogs off lead in Ducat Park. Another letter supported the proposed area at Arkininstall Park and also suggested that Durambah beach be an off lead area for dogs.

Two letters of objection were received to the proposed area at Old Ferry Road, Oxley Cove. Officers believe that dog owners of the Oxley Cove area need an identified area to exercise their dogs. The selected location is likely to provide such an exercise space which will impact on a minimal number of residents.

It is worthy of note that during previous exhibition periods it was not uncommon to receive tens of letters regarding the proposals. The reduction in response to the latest advertisement may be a signal that residents are more comfortable with these areas now and are less threatened by them. Alternatively it may be that the latest proposal did not impact beach areas and therefore was less controversial.

As minimal objection was received it is appropriate that Council approve use of the eight exercise areas for a 12 month trial period. This trial period should commence from 1 July when funds will be available under the corresponding budget to erect signs within the respective areas.

Reports from Director Environment & Community Services

28. ORIGIN: Building Services Unit

FILE REF: DA2060/350

REPORT TITLE:

Development Application K99/1624 - Proposed Construction of a Detached Brick Double Garage and Timber Pergola at Lot 464 DP 755740 Fingal Road, Fingal Head

SUMMARY OF REPORT:

A development application has been received by Council for the proposed construction of a detached brick double garage and timber pergola.

The garage is to have a floor area of 36 square metres (6 metres x 6 metres) with the pergola covering an area of 25 square metres.

The subject site at 31 Fingal Road is located within flood liable land. The proposal contravenes the requirements of Development Control Plan No 5 - Development of Flood Liable Land in respect to the amount of enclosed area below Council's design flood level.

The applicant has requested that the application be placed before a full Council meeting for determination.

RECOMMENDATION:

That Council refuses Development Application K99/1624 for the proposed construction of a detached brick double garage and timber pergola at Lot 464 DP 755740 Fingal Road, Fingal Head as the proposed garage does not strictly comply with the provisions of Council's Development Control Plan No 5 - Development of Flood Liable Land.

Reports from Director Environment & Community Services

REPORT:

Applicant: Steve Maguire
Owner: Mr L O and Mrs C M Ponting
Location: Lot 464 DP 755740 31 Fingal Road, Fingal Head
Zoning: 2(a) Flood Prone

The proposal involves the construction of a brick double garage with colorbond roof and a timber pergola to the rear of the existing highset dwelling.

The proposed garage has a total floor area of 36 square metres.

As the proposed garage is to be located within flood liable land it should conform with the requirements and criteria of Development Control Plan No 5 - Development of Flood Liable Land.

Development Control Plan No 5 permits a total enclosed area of 50 square metres which allows for enclosures such as laundries, garages and stairway entries to be located below Council's design flood level, providing flood flows are not significantly restricted.

The existing dwelling contains associated enclosures which have a total area of approximately 71 square metres.

The addition of the proposed garage will give a total of 107 square metres of enclosed area below Council's Design Flood Level.

Aesthetically the proposed garage is considered attractive and compatible with the surrounding residential dwellings and ancillary structures.

The garage is not likely to adversely impact upon or affect the amenity of the adjoining property owners.

As the structure is to be located to the rear of the existing dwelling it will not impact upon the streetscape or adversely affect the visual amenity of the area.

After initially being advised by Council of the proposal's non-compliance with DCP No 5 the owner of the property forwarded the following submission:-

"Since we purchased the above property in January 1996 it has been rented to various people through real estate agents.

It is now our plan to sell our home and business in Brisbane and move to Fingal.

We have recently sold our boat and intend buying a bigger boat (16-18 foot) and we also have 2 utilities with canopies as well as a trailer. It is imperative to have these under cover for security.

Under the house at present is used for some storage and it is intended to house the boat and perhaps the trailer.

The utilities both have canopies and are too high to fit under the single roller door.

Reports from Director Environment & Community Services

Also with the salt environment, our vehicles would be treated harshly without cover, and theft or damage is another major concern for my wife and myself.

We hope this meets with your approval”.

Council replied to the applicant with the following letter:-

“I refer to your Development Application and recent submission from L Pointing relating to the proposed additions at the above property and advise that in accordance with Development Control Plan No 5 - Development of Flood Liable Land you are to demonstrate that the additional area enclosed will not provide any greater restrict of flood flow.

The submission to Council from Mr Ponting received on 9 December 1999, does not address this.

In accordance with Council’s Application Determination Policy, please ensure that the above matters are addressed and a response forwarded to Council within 21 days from the date of this letter, following which, Council will determine the application based on the information submitted.”

The proposed non-compliance necessitated an assessment and comment from Council’s Manager Water and his comments have been reproduced below:-

“Development Control Plan No 5 - Development of Flood Liable Land, Section 4 - Chinderah and Fingal Road provides in sub-section 4.3 Residential Development on Flood Liable Land:-

Development

The area below Council’s design flood level is not to be totally enclosed. Consideration will be given on application, to permitting the enclosure of laundry, stairway entry and double garage space, provided that such an enclosure does not significantly restrict flood flows.

An area of 50m² will generally encompass these facilities. Any larger enclosures will only be considered when the application can demonstrate that the additional area enclosed will not provide any greater restriction to flood flow.

The free flow of flood water must be a major consideration in the design of any area to be enclosed.

In fill development of residentially zoned land will be permitted with the exception of allotments within the extreme hazard zones identified in the Cameron McNamara report of September, 1984.

It has been estimated that the garage sought of 36m² will increase the area enclosed to approximately 107m² well in excess of that permitted in DCP 5.

Reports from Director Environment & Community Services

The applicant appears to have made no submission in relation to the likely impact on floor flows. Based on perusal of the plans submitted it appears likely that the garage could have some impact on flood flows.

Council's flood policy, as incorporated in DCP 5 seeks to contain the existing flood problem within the Shire and minimise any increase in potential flood damages from new developments within flood flow areas, such as Fingal Road this, if achieved, via restrictions on further subdivisions, the imposition of minimum floor levels for residential development and restrictions of 50m² on areas that may be fully enclosed, below the design floor level. This restriction on enclosures limits impacts on flood flows as well as limiting the amount of material possessions that are likely to be stored below flood level and hence potentially damaged by flooding. This policy is consistent with the NSW Government policy and Floodplain Development Manual.

Approvals in accordance with DCP 5 can be expected to provide Council with the indemnity afforded by Section 733 of the Local Government Act 1993."

The following submission was received from the applicant in further support of the proposal:-

Reports from Director Environment & Community Services

S.W. Maguire
Licensed Builder,
PO Box 427
Banora Point
NSW 2486

2 - 4 - 2000

THE GENERAL MANAGER
TWEED SHIRE COUNCIL
MURWILLUMBAH

TWEED SHIRE COUNCIL	
FILE No.	DA20601350 Pt 1.
DOCUMENT No.	[] [] [] [] [] []
RECD	- 4 APR 2000
BOOK No.	[] [] [] []
ASSIGNED TO	BICKLEY, D.
HARD COPY	<input checked="" type="checkbox"/>
IMAGE	<input type="checkbox"/>

RE: Development Application K99/ 1624. For Mr & Mrs L Pointing. 31 Fingal Rd Fingal.

Lot 464 Dp. 755740.

Sir,

I am requesting that, through you, the above-mentioned application be placed before a full council meeting as early as is practical. Mr John Henley rejected the initial application, only on the grounds that it contravened a 1985 DCP. It is a standard brick garage at the back of a small 2-story house. Mr. Henley has suggested that they re-do as a carport or get a hydraulic engineers computer model report done, both of which are not practical. I have had a meeting on site with Mr. George Davidson and he is at a loss as to Mr. Henley's decision and suggested I take the matter further.

The building inspectors don't see it as problem and on their individual merit have approved many structures along Fingal Rd that contravene 1985 DCP, similar structures have been approved in last few years at Nos 3,5,7,15,16,17,20,23,24 & 38 Fingal Rd with out the need for consultants reports. Either side of this dwelling have buildings which protrude further out than the proposed garage, so to say it will impact on flood flows is difficult to believe.

I notice that council has approved variations to DCP in Tweed Heads and Kingscliff which on their merit can be approved outside the relevant DCP's. This is not a new sub-division or large project! It is just a garage. My clients' wish to protect their cars in a salt laden environment, which is not too much to ask?

Please place this matter before all the councilors to discuss and vote on, thank-you.

Yours sincerely,

SW Maguire.

Reports from Director Environment & Community Services

Conclusion

Council has a number of options in regard to this, including the following:-

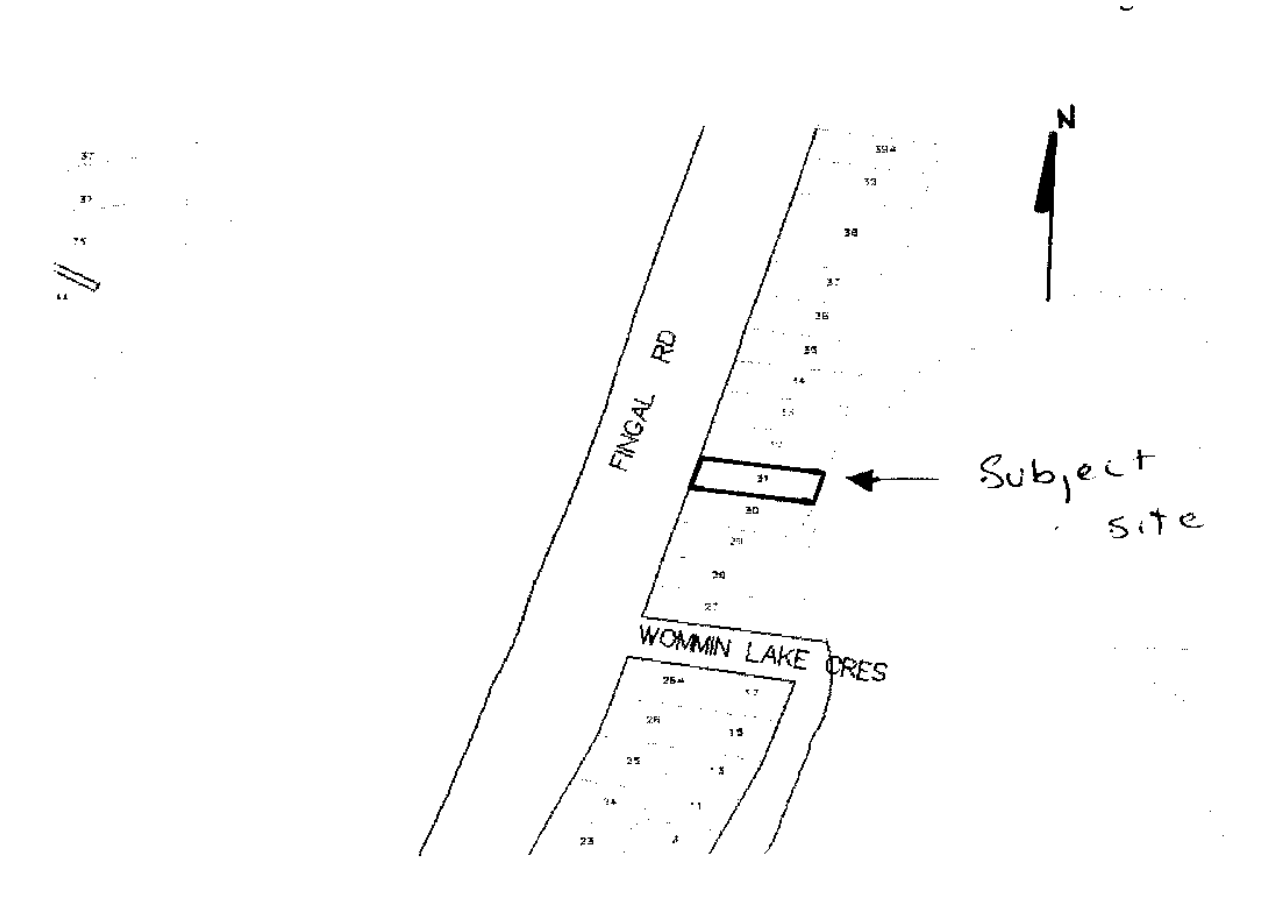
- A. Council refuses Development Application K99/1624 for the proposed construction of a detached brick double garage and timber pergola at Lot 464 DP 755740 Fingal Road, Fingal Head as the proposed garage does not strictly comply with the provisions of Council's Development Control Plan No 5 - Development of Flood Liable Land.

OR

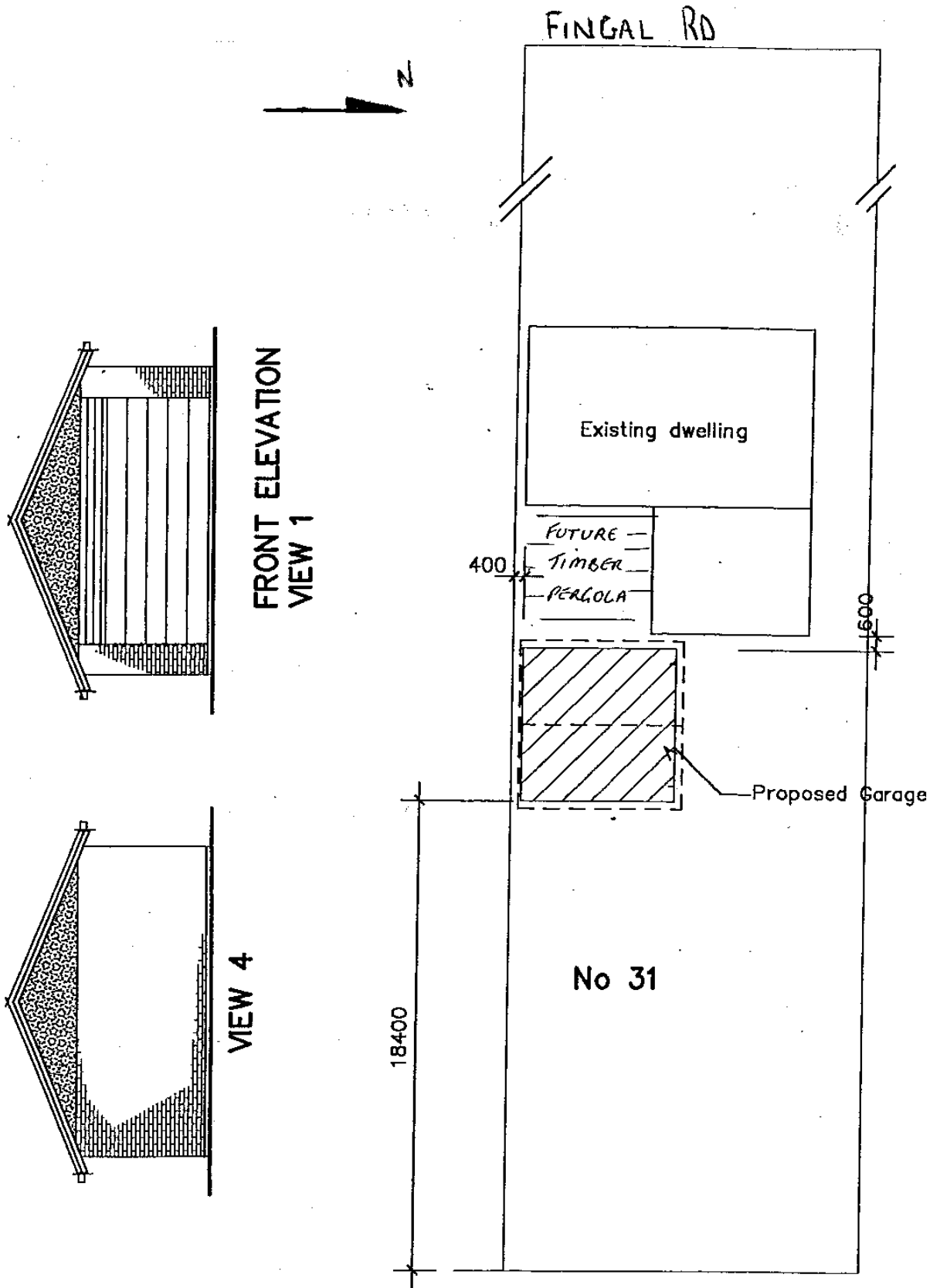
- B. Council approves Development Application K99/1624 for the proposed construction of a detached brick double garage and timber pergola at Lot 464 DP 755740 Fingal Road, Fingal Head subject to conditions as imposed by the Director Environment and community Services.

Whilst Council has, in recent times, approved similar structures such as garages in Fingal Road, it is considered that in this instance, the applicant has not satisfied Council's Manager Water Unit in proving that flood flows will not be affected by the proposal.

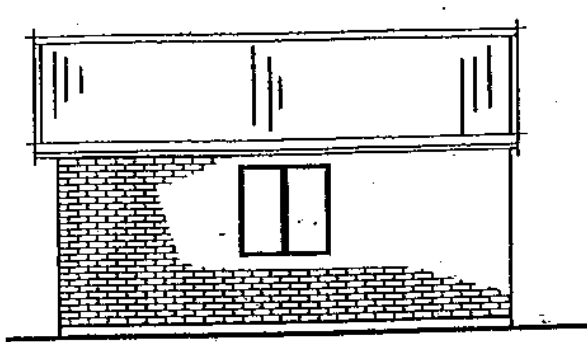
In the circumstances outlined above and having regard to the comments from Council's Manager Water, it is recommended that Option A above be pursued to refuse the application.



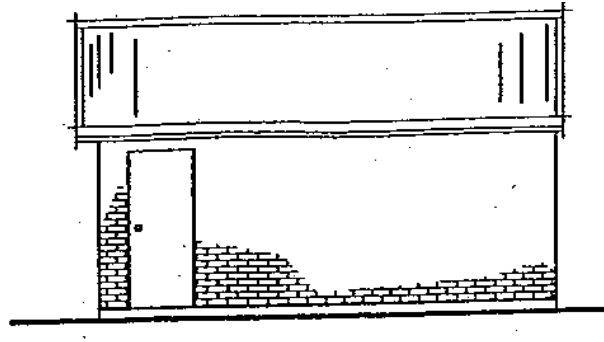
Reports from Director Environment & Community Services



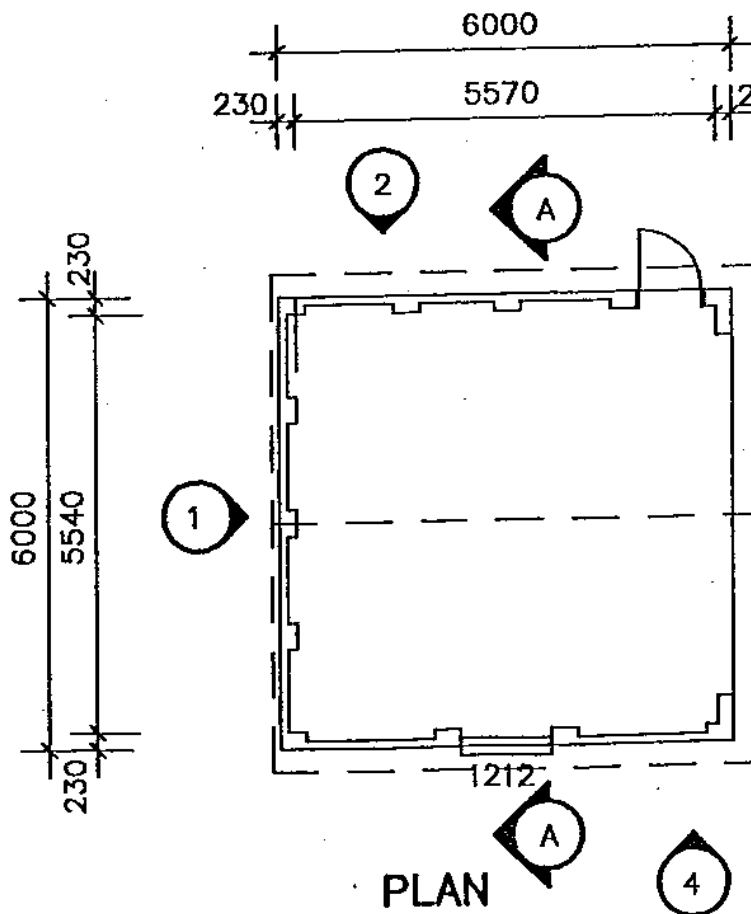
Reports from Director Environment & Community Services



VIEW 3



VIEW 2



PLAN

Reports from Director Environment & Community Services

29. ORIGIN: Environment & Health Services Unit

FILE REF: State of the Arts-Cultural Development

REPORT TITLE:

State of the Arts 2000 - Far North Coast Regional Art Forum

SUMMARY OF REPORT:

Council is advised that the April *State of the Arts 2000 - Far North Coast Regional Arts Forum* hosted by Council and the Tweed's two key arts and cultural organisations, Tweed Art Network and Tweed Valley Arts Council, was a highly successful and beneficial event.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

Council is advised that the April *State of the Arts 2000 - Far North Coast Regional Arts Forum* hosted by Council and the Tweed's two key arts and cultural organisations, Tweed Art Network and Tweed Valley Arts Council, was a highly successful and beneficial event.

The two-day forum was well attended by over 90 delegates travelling from as far as Coff's Harbour and Brisbane, bringing them together with representatives of the nation's premier Arts/Cultural Advisory, Funding and Service organisations

Highlights included the opening and welcome by the Kokerek Dancers, a local Aboriginal youth dance company, whose explosive energy and skills set the scene for a highly successful cultural exchange. Other performances throughout the two-day event included the Tweed's renowned Philharmonic Choir, with the Northern Rivers Symphony Orchestra providing a spectacular grand finale to the sounds of a standing ovation.

The forum clearly identified and established the Arts and Culture as a significant industry, currently valued nationally at \$19 billion, ranking with the road and transport, and clothing and footwear industries. Seven per cent of Australia's workforce, or about half a million people, are now earning income from the industry.

One of the keynote speakers, Festivals Australia's Elizabeth Tupper, cited the recent Adelaide Festival as an example of the economic impact festivals can have. In that instance, \$13 million was injected into the local economy.

Jane Smith, Chief Executive of the NSW Government's Film and Television Office (FTO), advised of a soon-to-be-established regional filming fund which will encourage Australian film makers to shoot in regional areas, with the FTO providing up to 50 per cent of the cost. The FTO also has a major role in encouraging NSW as a marketing destination for film makers. The speaker also identified the industry as currently contributing \$3 billion to the State economy and providing employment for 45,000 people.

Coupled with these economic benefits, the forum also showed the contribution that Arts and Culture make to our intellectual and social well being. The Far North Coast's abundant cultural resources indicate that it would be highly beneficial to nurture, develop and maximise the region's local arts and cultural industry for obvious economic and employment reasons.

A key term stressed by all speakers as a basic policy objective across national, state and local levels was the word "partnership". The term encompasses access to additional resources, shared responsibility, a broader skills base and greater economic viability. This objective is now a reality or criteria in the funding arena.

Reports from Director Environment & Community Services

The forum proved to be a highly beneficial partnership in itself, bringing together representatives of major national and local arts organisations with our region's arts and cultural industry workers. It not only provided invaluable professional advice for our regional arts workers, but also helped facilitate new regional networks, which will hopefully provide a springboard for future cultural initiatives.

Reports from Director Environment & Community Services

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Reports from Director Environment & Community Services

30. ORIGIN: Acting Director

FILE REF: Noxious Pests

REPORT TITLE:

Journal of the American Mosquito Control Association - Publication, Clive Easton and Allan Marshall

SUMMARY OF REPORT:

Council is advised that its Entomologist, Mr Clive Easton and his former assistant, Mr Allan Marshall, have had an article published in the prestigious Journal of American Mosquito Control Association titled *"Control of Acidic Drain-Water-Breeding Mosquitoes in New South Wales, Australia, by Installing Controlled Leakage Holes in Tidal Flap Gates"*.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

Council is advised that its Entomologist, Mr Clive Easton and his former assistant, Mr Allan Marshall, have had an article published in the prestigious Journal of American Mosquito Control Association titled "*Control of Acidic Drain-Water-Breeding Mosquitoes in New South Wales, Australia, by Installing Controlled Leakage Holes in Tidal Flap Gates*".

The article is reproduced as follows for Councillors information:-

Reports from Director Environment & Community Services

Journal of the American Mosquito Control Association, 16(1):19-21, 2000
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*Finally reached in
Proserpine*

CONTROL OF ACIDIC DRAIN-WATER-BREEDING MOSQUITOES IN NEW SOUTH WALES, AUSTRALIA, BY INSTALLING CONTROLLED LEAKAGE HOLES IN TIDAL FLAP GATES

CLIVE EASTON AND ALLAN MARSHALL

Tweed Shire Council, PO Box 816, Murwillumbah, New South Wales 2484, Australia

ABSTRACT. Effects on mosquito breeding, acidity, and fish presence were assessed after installation of a small tidal leakage port into an acidic drain's tidal exclusion flap gate. Before gate modification the drain water had pH values as low as 2.7. These water conditions were toxic to fish and continually held mosquito larvae. At 4 wk after gate modification, water pH had risen to 6.0, at least 3 fish species inhabited the drain, and mosquito larval numbers had been reduced by 99.98%.

KEY WORDS Acid sulphate, mosquito control, environmental management

INTRODUCTION

Millions of hectares of Holocene-age wetlands, lowlands, and swamps throughout the world are underlain by sulfidic sediments that contain iron sulfide minerals (Dent 1986). During the development of these sediments, under anaerobic conditions in organically rich waterlogged soils, sulfate in seawater was reduced by bacteria to iron sulfide (Pons et al. 1982).

Water bodies carrying high levels of sulfuric acid, released by iron sulfide oxidation, may mobilize aluminum, iron, and other ions from soil minerals that are highly toxic to fish (Sammut et al. 1995). These acidic waters may also provide highly productive mosquito breeding areas devoid of fish and other predators (Soukop and Portnoy 1986).

Large areas of eastern Australia's coastal lowlands are underlain by sulfidic sediments, which when drained for agriculture, aquaculture, or urban uses, often oxidize to form acid sulfate soils, producing highly acidic discharges. These discharges have significant impacts on estuarine ecosystems (Willett et al. 1993, Sammut et al. 1995, White et al. 1997). The New South Wales (NSW) Soil Conservation Service has mapped a probable 660,000 ha of coastal sulfidic sediments in this state alone (Naylor et al. 1995).

Extensive flooding after 500 mm of rain occurred in March 1987 throughout the Tweed Valley in northern NSW, Australia. This flood was preceded by a long period of below-average rainfall associated with an El Niño weather pattern. After the flood, a large discharge of acidic water flowed into the Tweed River from drained lowlands and sugar cane farms, causing a massive kill of fish, crabs, worms, and shellfish over a 23-km stretch of the river. The only visibly unaffected aquatic fauna were large numbers of mosquito larvae flushed into the river from the extensive lowlands and associated drains (Easton 1989).

Since the 1987 fish kill, Tweed Shire Council staff have monitored acidity levels (pH) throughout Tweed River tributaries and drainage systems. Dur-

ing these surveys, large numbers of drains, which were separated from the river by flap gates to exclude floodwaters and high tides, had high acidity levels (pH < 4). Many of these acidic drains were also found to be year-round immature mosquito habitats for large numbers of the nuisance brackish water mosquito *Culex sitiens* Weidemann. After heavy rain, the drains also contained the salt marsh mosquito *Aedes vigilax* (Skuse). Without fish predators, both mosquito species thrived in the acidic conditions. By contrast, drains that had poor-sealing flap gates, which allowed moderate leakage of river water into these drains had much higher water pH, supported fish populations, and had less mosquito breeding.

Consequently, the following study investigated the effects of a controlled leak in a tidal-water exclusion flap gate as a potential means for reducing drain water acidity and controlling mosquito numbers by making the water quality suitable for larvivorous fish.

MATERIALS AND METHODS

Study area: This study was performed adjacent to a tributary of the Tweed River at Tumbulgum (28°21'S, 153°23'E), approximately 20 km upstream of the Tweed River mouth, near the NSW border with Queensland. The Tweed Valley experiences a humid, subtropical climate with an average annual rainfall of 1,700 mm, with parts of the upper catchment receiving more than 3,000 mm, most of which falls during the summer to autumn period (December to April). Daily temperatures are warm to hot (25–35°C) in summer and warm to mild (25–20°C) in winter. Cyclonic disturbances in the area often produce intense rainfalls, with 24-h recordings above 250 mm not uncommon. The valley is situated in a large volcanic caldera and after heavy rainfall is prone to short-duration river rises and lowland flooding. Most of the valley floodplain and lowlands have been previously drained for agriculture. An extensive system of flap gates, which open at low tide and close during incoming tides,

Reports from Director Environment & Community Services

keeps brackish river water off these lands and facilitates floodplain drainage. Mosquito breeding in the study area usually peaks in March and may extend through winter in suitable seasons.

Study site: The study site was a man-made drain flowing from a small, 3-hole private golf course that had been developed on lowlands. The golf course was bordered by a mangrove-lined tributary of the Tweed River, sugarcane fields, and riparian rainforest. The property was impounded in 1988 with a clay levee bank to keep tidal water and floodwater off the property. Rainwater runoff from the property drains into a 200-m-long × 3-m-wide drain, which averages ca. 1.2 m in depth. The drain holds ca. 600,000 liters of water at low tide, and empties into the river through a 700-mm pipe. The outlet pipe has a fibrous cement tidal flap gate, hinged on the pipe outlet to exclude tidal river water from the property. The river has a tidal range of approximately 1 m at the study site. Salinity in the adjacent river varies widely, ranging from <1 g/liter after rain to that of the adjacent ocean (33 g/liter) during dry periods. The acid-neutralizing capacity of these waters varies from negligible to approximately 2 mole/m³, that of seawater. After flooding, acid water flows directly into the drain from oxidized drain spoil. The spoil has been used to form levees, and heavy rain causes the water table to rise through these acid sulfate soils.

In May 1991, a 60-mm-diameter hole was cut through the flap gate slightly above the average low tide mark. This hole was estimated to supply an attenuated flow of river water back into the drain, without flooding the property during spring tide periods or rain-induced rises in river level. Throughout 1991 and 1992 routine monitoring of larval mosquito numbers and pH was conducted before and after gate modification.

Mosquitoes: Three sites along the length of the drain were selected for monthly counts of larval mosquito numbers. Sampling after gate modification was carried out during the last week of each month and within 2 h of low tide. The 1st site was located next to the exclusion gate, the 2nd was midway along the length of the drain, and the 3rd was at the distal end of the drain. A 250-ml dipper was used to take 10 samples from each site. To assess seasonal mosquito activity, 3 adjacent ponds were also sampled monthly for mosquito larvae. These ponds were excavated to provide levee material around the property at the same time the above drain was created.

Fish: Monthly qualitative observations on the presence or absence of fish were made at the same time as mosquitoes were sampled.

pH: Acidity readings of the drain's surface water (0–200 mm) were taken twice at site 1 and site 3 during the 1st month after introduction of the drainage port. Monthly readings were then collected at 50 m from the drain's exit point using a pH meter (Kane-May 7000, London, United Kingdom).

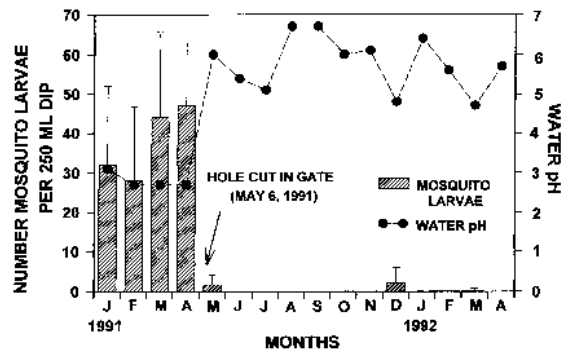


Fig. 1. Pre- and post-gate-modification mean (±SD) mosquito larval numbers and drain water pH.

Statistical methods: In order to homogenize variances, a log₁₀ transformation was completed on all raw mosquito sampling data. A Kruskal–Wallis 1-way analysis of variance on ranks method was then used to determine if summer (January–April) pre- and post-gate-modification mosquito larval numbers were significantly different. A paired *t*-test was then used to determine if pre- and post-gate-modification water pH levels were also significantly different.

RESULTS

As a consequence of the gate modification, partial tidal action flushed the study site, twice per day. This flushing action was apparent within the 1st month of floodgate modification. During normal tides it was estimated that ca. 28,000 liters of river water was flushed into the drain. During spring tide periods, ca. 42,000 liters of water was exchanged.

Mosquitoes

A significant ($H = 19.6, df = 5, P < 0.0015$) reduction in larval mosquito numbers occurred within 1 month of the floodgate modification. For the period January to April 1991, before gate modification, an average of 38 (±19) mosquito larvae were collected per 250-ml dip. After gate modification, an average of 1 (±3) mosquito larvae were collected for the same period in 1992 (Fig. 1). Although it was towards the end of the mosquito season, temperatures (average maximum >23°C) remained warm enough through the 1st 2 months after drain modification to support mosquito breeding in adjacent excavated acidic ponds where levee building material had been excavated. During this time, mosquito breeding in the adjacent ponds exceeded an average of 10 larvae per 250-ml dip. Mosquito breeding in the adjacent ponds abated to <3 per dip during July and August, rising again to average >10 per dip in September 1991 and continued at >10 per dip through to the end of the study period in April 1992. Low larval numbers

Reports from Director Environment & Community Services

MARCH 2000

MOSQUITO CONTROL IN ACID SULFATE DRAIN WATER

21

were found on several occasions over the next year in the upper part of the drain. In this upper section, larval *Ae. vigilax* had been washed into the drain from adjacent areas after heavy rain.

Fish

No fish were observed in the drain before modification. Acidity and extremely high dissolved aluminium levels (30 mg/liter) in the drain would have been lethal to fish (Driscoll et al. 1980). Within 18 days of modification, fish were present in 65% of the drain. The exotic mosquito fish (*Gambusia affinis* (Baird and Girard)) and an unidentified species of gudgeon (*Hypseleotris* sp.) were found throughout the drain, in water with a pH > 4.5. The Pacific blue-eye (*Pseudomugil signifer* Kner) was found where pH > 5.4. These 3 species were observed actively feeding on mosquito larvae. By 1 month after gate modification, schools of fish were observed throughout the drain.

pH

The controlled leakage hole significantly ($t = -7.60$, $df = 6$, $P < 0.0003$) increased drain water pH. By 18 days after gate modification, the drain water pH near the exit gate had risen from 2.7 to 6.0. Water pH in the upper reach of the drain had risen from 2.7 to 3.7. By 4 wk, 70% of the drain water pH was >6.0. The monthly pH readings taken 50 m from the drain's exit point remained well above the premodified state (Fig. 1). Temporary depressions in drain water pH followed heavy rainfall on October 10, 1991 (188 mm), December 12, 1991 (280 mm), and March 17, 1992 (200 mm). Acidification also occurred in the main river at these times but did not cause observable fish kills (Easton, unpublished data).

DISCUSSION

The introduction of a small drainage port to allow limited tidal flushing into an acidic drain seemed to be sufficient to control drain water acidity and mosquito breeding and create a habitable area for larvivorous fish within 4 wk. Although heavy rain during the study caused acidic runoff and temporary depressions in drain water pH, buffering and dilution from the adjacent river quickly reduced acute acidity. Since this study, many other acidic drains in the area have been manipulated to provide limited tidal flushing to control mosquitoes, reduce drain water acidity, and increase fish habitat. Some of these drains are several kilometers long.

The same rapid environmental benefits shown in this study have been apparent at these other sites. Nevertheless, it is important to ensure that in carrying out such flap gate modifications, sufficient tidal attenuation is maintained so that reflooding of the flood plain surface does not occur. Otherwise much larger quantities of acidity will be accessed on each high tide, and the acid-neutralizing capacity of the drain system will be exceeded.

ACKNOWLEDGMENTS

We wish to thank K. Saito for allowing this study to be carried out on his property and the Condong Sugar Mill for meteorologic data. Michael Brown (Queensland Institute of Medical Research) reviewed this manuscript.

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Reports from Director Environment & Community Services



Dr J Griffin
General Manager

Reports from Sub-Committees

1. Minutes of the Tweed Shire Occupational Health & Safety Committee Meeting held 12 April 2000

Occupation Health & Safety Committee

VENUE:

Buchanan Meeting Room

TIME:

7.30am

PRESENT:

Ivan Dusi (Chairperson), Geoff Hussey (Secretary), Bob Jones, Reg Norvill, Tracey Dawson, Ian Carpenter, Brian Alexander, Bob Missingham, Rod Harper, Stewart Brawley.

APOLOGIES:

Cr Wendy Marshall

MINUTES OF PREVIOUS MEETING:

Moved: I Carpenter

Seconded: B Missingham

RESOLVED that the Minutes of the Meeting held 8 March 2000 be accepted as a true and accurate record of the proceedings of the meeting.

BUSINESS ARISING:

1. Draft Occupational Health & Safety Regulation

Council responded to the regulation 10 April 2000. Response to be included with next Agenda.

2. ID Cards

ID Cards are to be issued to all staff and where required authorisation will be provided on the back of the ID card. Security entry to all doors (except front doors) is being investigated for Murwillumbah Civic Centre.

Reports from Sub-Committees

3. Reports on Injuries:

44/00 Kieran Griffiths - knee injury - further information required.

4. Risk Management

Geoff Hussey to brief committee on Risk Management at the next meeting.

5. Workers' Compensation Costs - 1999

Workers' Compensation costs for 1999 had increased to \$521,000. Meeting was held with GIO last week to discuss 4/5 claims with high estimates.

6. Fire Extinguishers

Fire extinguishers in motor vehicles had been brought up at OHS induction sessions. Bob Missingham suggested a hazard identification should be carried out to ensure extinguishers are available where required.

7. Outdoor Clothing Issue

A meeting is to be held next Tuesday at 7.30am in the Buchanan Meeting Room.

8. Incident Report Form

General discussion about revised incident report form. Geoff Hussey to continue with design and then trial with Works Unit.

Reports from Sub-Committees

SAFETY REPRESENTATIVES:

9. Rod Harper - Traffic Control Incident

OH&S Committee

Enquired about contract traffic controller incident in Brisbane Street. Bob Missingham indicated charges will be laid, but maximum penalty is \$200 for failing to obey traffic control directions.

RECOMMENDATION:

That the matter be taken up with the shires Association, Local Member and Minister for Police to set realistic penalties for motorists who disobey traffic control directions.

10. Brian Alexander - Clarrie Hall Dam

Enquired if the tunnel under Clarrie Hall Dam Wall could be downgraded. Sub-committee to investigate and report back.

11. Norm Hunt - Provision of Clothing

Enquired if reflective rain coats and vests are to be provided.

NEXT MEETING:

The next meeting of the Safety Committee will be held on 10 May 2000, commencing at 7.30am.

Director's Comments: Item 9 - Council endorsement of the recommendation is required.

Reports from Sub-Committees

2. Minutes of the Companion Animal Committee Meeting held Monday 1 May 2000

Companion Animals

VENUE:

Rouse Room

TIME:

Commencing 8.00am.

PRESENT:

Committee Members: Len Greer (Chairperson), Peter Ainsworth, Terry Lintern, Audrey Rennison, Rob Philp, Christie Walker and Alma McAllister.

APOLOGIES:

Don Buckley, Noela Wynne, Cllr Wendy Marshall and Ronni Hoskisson.

AGENDA ITEMS:

1. Minutes of the Previous Meeting

Companion Animals

The minutes of the meeting of 6 March 2000 were adopted without amendment.

2. Pound Operation

Companion Animals

Peter Ainsworth briefly advised Committee that Councillor Marshall is currently working on establishing a group known as Friends of the Pound for volunteer work. Further information will be available in future.

3. Off Leash Exercise Areas

Companion Animals

Len Greer noted that some people at North Pottsville find the exercise area at South Pottsville inconvenient. Len Greer also noted that during Easter it appeared that more dogs were exercised outside the exercise area than within it. A sign is to be placed at south Pottsville board and chain walk and at the Fingal quarry clarifying for visitors where the correct areas are.

Audrey Rennison noted that the exercise area at River Street Murwillumbah does not appear to be being utilised.

Reports from Sub-Committees

Christie Walker raised anti social behaviour at South Pottsville beach as a hazard to off leash visitors.

Peter Ainsworth read correspondence from Ronni Hoskisson regarding the lack of exercise areas in central Tweed.

Peter Ainsworth also advised Committee that the public advertisement of the latest suggested areas had now closed and a minimal number of written comments had been received. A report will be put to Council on this matter.

4. Door Knock

Companion Animals

Terry Lintern advised that door knocks were conducted in Tweed and Uki over the past two months. Terry also provided some statistics about the results of those door knocks to Committee.

GENERAL BUSINESS:

5. Cats

Companion Animals

Len Greer advised Committee that feral cats have now officially been declared key threatening species.

6. Educational Material

Companion Animals

Peter Ainsworth advised that letters have now been forwarded to all local primary schools advising that Council's Rangers are able to provide presentations to children on responsible pet ownership.

7. Funding

Companion Animals

Peter Ainsworth advised that registration fees under the new Act have now been forwarded to the Department for the period up until March 2000. A proportion of these fees will be returned to Council in future for local initiatives.

Reports from Sub-Committees

8. King Street Vet

Companion Animals

The King Street Veterinarian and Mrs Betty Hayward have been mentioned as possible Committee members. This will be discussed further at the next meeting.

9. Regulatory Role

Companion Animals

Len Greer noted a recent particularly nasty dog attack in Adelaide and questioned whether Council has been regulating dog control to an adequate extent. Peter Ainsworth stated that the most is being achieved with current resources. Further, it is Council current approach that Fines be issued in most instances rather than warnings, which sends a clear message that uncontrolled animals are unacceptable.

Chrisite Walker moved that the total income from Penalty Notices be advertised annually. Officers will advise at the next meeting whether this information is available in the annual report.

RECOMMENDATION

That Council advertises monthly through the Link the total number of Penalty Infringement Notices issued for dog offences.

10. Pound

Companion Animals

Some brief discussion was had regarding the possibility of changing the name of the Dog Pound.

11. Companion Animal Act

Companion Animals

The possibility of reviewing the Act and making suggestions to the Minister about necessary changes was discussed. Some amendments to the Act are expected shortly. Officers will report to the next meeting as to when these changes are likely.

NEXT MEETING:

Monday 5 June 2000

The meeting closed at 9.25 am.

Reports from Sub-Committees

Director's Comments: Regarding the recommendation under Item 9 it may be useful as a promotional tool to advertise the number of fines issued monthly for dog offences. This will remind some animal owners of their potential liabilities for failing to reasonably restrict their animals.

However this advertisement is not necessary for more than about six months.

Reports from Sub-Committees

3. Minutes of the Local Traffic Committee Meeting held 27 April 2000

GT2/1 Pt3 451

VENUE:

Rous Room

TIME:

Commencing at 9.00am.

PRESENT:

Committee Members: Cr George Davidson; Tweed Shire Council; Mike Baldwin, Roads and Traffic Authority; Snr Constable Nick Neish, NSW Police; Mr Neville Newell, MP, Member for Tweed.

Informal: Chairman: Mr Paul Morgan and Judith Finch Tweed Shire Council.

APOLOGIES:

Mr Don Page MP, Member for Ballina, Sgt Paul Wilson, NSW Police, Mr Ray Clark (Tweed Shire Council).

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 16 March 2000 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings. However, it was noted that Item 4 under Business Arising "Intersection of Bilambil Road and Terranora Road" had an inconsistency under Point 4 in that there is no "Give Way" sign at that intersection.

The Chairman introduced Cr G Lawrie who attended the meeting for the purpose of discussing Item 4 under Business Arising (Intersection of Bilambil Road and Terranora Road).

BUSINESS ARISING:

GT2/1 Pt3 451

19. Coast Road, Cabarita Beach

R1181 Pt8 752

From meeting held 18 March 1999 (item 19):

"Request received for the provision of pedestrian crossings on Cast Road at the southern and northern ends of the village of Cabarita.

The Committee viewed drawings of the village and counts showed that near the hotel at Pandanus Parade 41 pedestrians crossed per hour with 650 vehicles in the hour.

Reports from Sub-Committees

The RTA Representative did not give support as these counts did not meet the RTA warrants. However as the volumes are very close to meeting the warrants for a pedestrian crossing the Committee decided that further counts should be undertaken.

RECOMMENDATION:

That the Applicant be advised that a pedestrian/vehicle survey showed that volumes do not meet RTA warrants for pedestrian crossings to be installed on Coast Road, Cabarita Beach. However additional surveys will be undertaken during the Easter School Holidays."

From meeting held 23 April 1999 (item 19):

"The meeting was advised that pedestrian counts were undertaken over the holiday period. These counts did not meet the warrants for a pedestrian crossing at this point in time.

For Council's information."

From meeting held 22 October 1999 (item 9):

"Request received for:-

- 1. Assessment of vehicles performing "U" turns on the Coast Road travelling south past the pedestrian safety zone into the Post Office / General Store parking area.*
- 2. Pedestrian crossing at the location of the Post Office / General Store*

Cr Davidson reported that people backing out of the parking spots and people performing "U" turns was a problem which was more heightened at busy periods. The installation of a "No U Turn" sign was supported. Due to the high number of differing vehicle movements at this location and associated pedestrian movements it is considered that "U" turns are dangerous and parking is available on both sides of the Coast Road, which could be utilised rather than making a "U" turn.

Cr Davidson reported that the Coast Road is a very busy road and yet there is no safe location to cross. The history of pedestrian crossings and warrants for them was discussed. Cr Davidson suggested that the current pedestrian refuge could be highlighted to make it more visible to traffic. The Chairman reported that a coloured surface could possibly be used. The RTA Officer stated that a different colour conflicts with RTA Policy. The Chairman reported that it could be possible that a fluoro background be placed on the sign for the refuge to increase its visibility.

RECOMMENDATION:

That

- 1. A "No U Turn" sign be installed facing southbound traffic on the Coast Road at Pandanus Parade.*
- 2. The Committee recommends that the application for a pedestrian crossing on Coast Road be denied as it does not meet the warrants for a pedestrian crossing. .*

Reports from Sub-Committees

3. *The applicant be informed that the decision is not based on cost factors but based on RTA levels of usage that have been determined as the minimum requirements for safety at pedestrian crossings.”*

From meeting held 3 February 2000 (Item 1):

“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	Pedestrian s	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.

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.”

<p><i>Director’s comments:</i> <i>Item 6:</i></p>

Reports from Sub-Committees

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.

Further traffic and pedestrian counts have been taken on Coast Road, Bogangar near the Post Office. These counts show that the RTA warrants have been achieved for the provision of a marked crossing.

Counts are as follows:

Date	Time	Total Pedestrians (P)	Total Vehicles (V)	PV
Sunday 2/1/2000	11.30 - 12.30	388	2,705	1,049,540
Sunday 20/2/2000	8.30 - 9.30	52	1,070	55,692
	11.30 - 12.30	134	1,299	174,066
	2.30 - 3.30	78	1,226	95,628
Thursday 6/4/2000	12.00 - 1.00	104	727	75,608
	3.00 - 4.00	109	943	102,787
Friday 14/4/00	8.30 - 9.30	102	936	95,472

It was noted that the counts do meet the warrants for a pedestrian crossing. The RTA Representative stated that at Christmas time a traffic controller may be necessary to keep traffic flowing.

RECOMMENDATION:

That:-

1. A marked zebra crossing be installed on the Coast Road at the existing pedestrian refuge just north of Pandanus Parade.
2. The existing "No U turn" signage on Coast Road near the Post Office be upgraded to a larger size.

4. Intersection of Bilambil Road and Terranora Road

R5431 Pt3 & R5441

From meeting held 3 February 2000 (item 4):

"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:-

Reports from Sub-Committees

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."*

Discussion at meeting held on 3 February, 2000:

"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.

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."

Reports from Sub-Committees

At the Council meeting held on 16 February 2000 it was Resolved as follows:

“that Council requests the Local Traffic Committee to reconsider their recommendation in relation to this item.”

At the Local Traffic Committee held on the 16 March 2000:

“The Chairman advised that other intersections in the area have been assessed which are also clearly “T” intersections and do not have “Give Way” or “Stop” signs. It was noted that there has been one recorded accident at the intersection of Bilambil Road and Terranora Road in 5 years. It was unanimously decided that signs were not necessary as the following intersections were comparable and did not have signage:

<i>Street Name</i>	<i>AADT</i>	<i>Street Name</i>	<i>AADT</i>
<i>Mahers Lane</i>	<i>1,300</i>	<i>Terranora Road</i>	<i>4,000</i>
<i>McAuley’s Road</i>	<i>500</i>	<i>Terranora Road</i>	<i>4,000</i>
<i>Fraser Drive</i>	<i>3,600</i>	<i>Terranora Road</i>	<i>4,200</i>
<i>Johnson Street</i>		<i>Terranora Road</i>	<i>5,782</i>
<i>Pacific Drive</i>	<i>1,100</i>	<i>Terranora Road</i>	<i>5,782</i>
<i>Acacia Street</i>	<i>1,400</i>	<i>Fraser Drive</i>	<i>4,522</i>
<i>Sunshine Avenue</i>	<i>1,929</i>	<i>Dry Dock Road</i>	<i>6,945</i>
<i>Lloyd Street</i>	<i>2,653</i>	<i>Dry Dock Road</i>	<i>6,945</i>
<i>Birnam Avenue</i>		<i>Darlington Drive</i>	<i>3,844</i>

“Give Way” signage is generally only provided when geometric road conditions do not meet recommended standards such as lack of sight distance or curves and crests at the intersection. “Stop” signs are generally only used to control traffic at four way intersections where confusion over right of way occurs. The road rules adequately cover “T” intersections without the need for signage. If all “T” intersections were signposted a significant budget increase would be required.

RECOMMENDATION:

Reports from Sub-Committees

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."

Cr Gavin Lawrie addressed the Local Traffic Committee at 9.00am on Thursday 27 April 2000 as follows:

Cr Lawrie thanked the meeting for allowing him to attend. Cr Lawrie stated that he understands that the above 3 recommendations appear to be reasonable. He stated that Point 4 states that a stop sign is not supported as it is a "T" intersection reinforced with a "Give Way" sign and pointed out that there is not a "Give Way" sign at that location. This was noted as an inconsistency with previous minutes.

Cr Lawrie acknowledged that there is good line of sight but questioned why there cannot be a "Give Way" sign as it would reinforce the "T" intersection and a "T" intersection symbol could be a preventative measure, rather than waiting until an accident happens. Cr Lawrie asked the Committee to reconsider the reinforcing of the intersection with a "Give Way" sign at the location of Terranora Road and Bilambil Road.

The meeting noted that it is a 60kph zone at that location and 80kph just beforehand. The RTA Representative stated that "Stop" signs only go in certain areas and usually a "Give Way" sign at a "T" intersection if it is unclear as to who is to give way and that there is no need for one to be provided at the intersection of Bilambil Road with Terranora Road. It was noted that drivers may not know exactly where to stop before turning as there is no linemarking and no centre lines on Bilambil Road. The Chairman stated that Give Way linemarking could be provided on Bilambil Road. The Chairman advised that Bilambil Road and Terranora Road are classed as distributor roads. Cr Lawrie stated that he would be grateful if linemarking could be provided on Bilambil Road.

RECOMMENDATION:

That Give Way line marking be provided on Bilambil Road at the intersection with Terranora Road.

GENERAL BUSINESS:

PART A

1. Coast Road, Pottsville

R1181 Pt9

Request received for "Reduced Speed" signage on the southern approach to Mooball Creek Bridge.

It was noted that the 60kph zone was approx 600m further out because of the threshold. The meeting noted that it is a narrow bridge and when people fish it is quite obstructed. A "Reduced Speed" sign was supported. Fishing was seen as a problem and the meeting

Reports from Sub-Committees

requested that the "No Fishing" signs be referred to Manager Works Unit to assess. A deceleration zone was discussed and the RTA Representative suggested a repeater 60kph sign be installed north of the threshold.

RECOMMENDATION:

That:-

1. A 60kph repeater sign be installed north of the threshold for Mooball Creek Bridge on Coast Road.
 2. A "Reduce Speed" sign be installed facing northbound traffic south of Mooball Creek Bridge.
-

2. Marine Parade, Kingscliff

Bicycle Matters

R3340 Pt4

Request received for stencils on the footpath indicating that bike riding is prohibited on Marine Parade, Kingscliff.

The Chairman advised that Council resolved to perform a trial at Tweed Heads which will be assessed shortly. It was suggested that the Applicant be advised that this issue will be deferred until Council considers the results of the Tweed Heads trial. It was noted that the results should be available by the end of June.

For Council's information.

3. Reserve Creek Road, Reserve Creek

Speed Zones

R4660 Pt3

Request received for extension of the 60kph speed limit along Reserve Creek Road to give better protection to the inhabitants of the four houses which lie beyond the junction with Quarry Road.

The meeting was advised that the section of road is 1.5km long with 9 houses and an auto repair business. The RTA Representative suggested that a traffic speed survey be performed to confirm actual speeds and in principle an 80kph zone appeared reasonable subject to the above survey results.

For Council's information.

Reports from Sub-Committees

4. Banora Hills Drive, Banora Point

R0400

Request received for 50kph speed limit signs on Banora Hills Drive. It is reported that traffic flow on Banora Hills Drive is increasing as it is a very popular and fast connector road between Terranora Road and Darlington Drive, with speeds being between 40kph and 100kph. It has also been reported that heavy vehicles are using the road which presents some danger under wet weather due to the sloping hill of the road.

The Chairman advised that this was omitted from the 50kph zone as it was a trunk collector road and it is signposted as 60kph at present for the above reasons.

The Committee unanimously decided that as part of the 50kph local area speed limit there was a requirement that there an adequate network of trunk collector and distributor roads remain at 60kph. Banora Hills Drive is classified as a trunk collector as it links Terranora Road to Darlington Drive and should remain as a 60kph road. The Committee did not consider speeding would be a problem due to the geometry of the road.

For Council's information.

5. Doctors Parking, Murwillumbah Swimming Pool

Car Parks - Murwillumbah

Erection of new signage is required for Doctors Parking near Murwillumbah Swimming Pool. It is suggested that the sign read:

“No Parking

8.00am - 6.00pm

Mon - Fri

Doctors Excepted →”

The RTA Representative questioned how you can identify Doctors vehicles and suggested that the sign could read “Emergency Vehicles” and for the Doctors to use a permit which is placed on the dashboard of their vehicle.

Discussion took place on the possibility of a “Restricted Parking Zone” being enforced for Doctors parking near Murwillumbah Swimming Pool. This type of parking would need to be provided as “Permit Only” parking which would require the issuing of formal permits to the Doctors involved for display on vehicle dashboards. After further discussions it was decided to trial the suggested sign as worded above to determine its performance.

For Council's information.

Reports from Sub-Committees

6. Kirkwood Road, Tweed Heads South

R2920 Pt2 Speed Zones

Request received for the provision of 'School Zone' speed limit signs on Kirkwood Road near the pedestrian bridge to the High School.

The Chairman advised that there is a pedestrian refuge on Kirkwood Road with a path linking to the bridge.

RECOMMENDATION:

That a 40kph 'School Zone' be provided on Kirkwood Road.

7. Pearl Street, Kingscliff

R4170 Speed Zones

Request received for the relocation of the school bus zone from south of the school crossing to north of the school crossing to avoid driveways to the motel and holiday units being obstructed by the buses.

The Chairman advised that an on-site meeting had taken place with the motel owner and a representative from Surfside Buslines. At the meeting it was acknowledged that the school bus zone could be relocated provided that a 20m "No Stopping" zone be installed on the approach to the school crossing on Pearl Street Kingscliff.

RECOMMENDATION:

That the school bus zone on the eastern side of Pearl Street be relocated to north of the school crossing.

8. Kennedy Drive and Gray Street Tweed Heads West (Pedestrian Crossing)

R2300 & R2830

Request received for the relocation of the pedestrian crossing at Gray Street and Kennedy Drive to closer to the two bus shelters near the entrance of the Pyramid Caravan Park. It is claimed that many elderly people alight at the bus shelter and cross Kennedy Drive at that location rather than go to the Gray Street crossing. It is also claimed that a visually impaired person crosses Kennedy Drive at the bus shelter location rather than going to the pedestrian crossing.

The meeting noted that when the pedestrian crossings were installed the whole of Kennedy drive was assessed. It was noted that the pedestrian crossing could not be placed near the bus shelters as there is not enough sight distance to comply with RTA standards without deleting the bus zones.

Reports from Sub-Committees

RECOMMENDATION:

That the Applicant be advised that the pedestrian crossings cannot be located between the bus shelters due to the need for an associated "No Stopping" zone impacting on the bus zone and if located between the bus zones insufficient sight distance precludes a pedestrian crossing.

9. Kennedy Drive Pedestrian Crossing (east of the traffic signals at Ducat Street)

R2830

The Roads and Traffic Authority is concerned with the existing marked pedestrian crossing in Kennedy Drive east of the traffic signals at Ducat Street. The traffic signals with pedestrian phasing offer a much safer alternative for pedestrians wishing to cross Kennedy Drive.

The RTA Representative advised that the existing marked pedestrian crossing would no longer meet current warrants for pedestrian traffic. Council would be aware that marked pedestrian crossings that are not used by sufficient numbers of pedestrians tend to have poor safety records.

In this case where a safer alternative is available, pedestrians should be encouraged to cross at the safest location.

In the interest of pedestrian safety, the RTA has formally requested Council to remove the pedestrian crossing east of the Ducat Street/Kennedy Drive traffic signals.

The meeting noted it is safer for pedestrians to use the Ducat Street/Kennedy Drive traffic signals and supported the removal of the pedestrian crossing near the Endless Summer Shopping Centre.

RECOMMENDATION:

That:-

1. The pedestrian crossing be removed on Kennedy Drive outside the Endless Summer Shopping Centre when funds permit.
 2. The RTA be requested to fund the removal of the pedestrian crossing.
-

10. Fraser Drive, Banora Point

R2150 Pt2

Request received for the provision of a pedestrian crossing on Fraser Drive near the roundabout at Vintage Lakes Drive.

The meeting noted that it was unlikely that the warrants for the provision of a pedestrian crossing would be met however a pedestrian survey will be undertaken when possible and when School is in attendance.

Reports from Sub-Committees

For Council's information.

11. Dry Dock Road between William and Lloyd Streets

R1680 Pt2

Request received for the provision of a pedestrian crossing on Dry Dock Road between William and Lloyd Streets.

The meeting noted that it was unlikely that the warrants for the provision of a pedestrian crossing would be met. It was noted that two pedestrian refuges have just been constructed for people crossing and walking alongside the river. It was possible that a pedestrian refuge could be installed if the Pedestrian Facilities Program is run in the next financial year.

RECOMMENDATION:

That a pedestrian refuge be provided at an appropriate location between William and Lloyd Street on Dry Dock Road when funds are available.

12. Dry Dock Road Jetty - Car Parking Area

Boat Ramps Car Park - TH

Request received for speed humps and 10km speed restriction signs for the Dry Dock Road Jetty car parking area. It is reported that since the surface has been sealed vehicles are travelling at high speeds through the car park.

The meeting was advised that Engineering Services are applying for funding for this job to be completed, which would include bollards and speed bumps to assist in the prevention of high speeds through the car park.

The meeting noted that a 10kph speed restriction could not be provided however speed bumps or bollards could be provided when funds are available.

RECOMMENDATION:

That the Applicant be advised that the Committee supports the provision of speed bumps being provided at the Dry Dock Road Jetty Car Parking area in appropriate locations with suitable warning signage which could be provided when funds are available.

13. Hartigan Street, Murwillumbah

R2350

Request received for enforcement of speeding vehicles in Hartigan Street, particularly between Brisbane Street and Nullum Road.

This request was referred to the NSW Police Representative at the meeting.

Reports from Sub-Committees

For Council's information.

14. Boyd Street Traffic Lights

R5901 & R700

Request received for the installation of signage:

1. Near the southern approach to Boyds Bay Bridge to warn drivers of the traffic lights
2. Possibility of queued traffic and/or merging traffic on the northern side of the bridge.
3. Changed traffic conditions.
4. Reduction in speed.

The Police Representative confirmed that during peak periods the traffic heading south does queue up. The Police Representative also reported that there is also a problem on the southern side of the lights where customers from Scotts Market Basket nose into the turning lane into Boyd Street which stops traffic turning into Boyd Street. The request to reduce the speed limit was not supported.

RECOMMENDATION:

That the Applicant be advised that:-

1. "Traffic Signals Ahead" warning signs on both approaches to the Boyd Street lights be installed.
 2. The driveway from Scotts Market Basket into the left turn lane on Wharf Street be investigated with a view to its removal or some method of preventing traffic blocking the left turn lane.
 3. A "Merging Traffic Ahead" sign be installed on the slip lane from Kennedy Drive on to Wharf Street, if not already installed.
 4. The reduction in speed signage is not supported as the roads are major distributor roads.
-

15. Terranora Road, Terranora

R5431 Pt3

Request received for the provision of a guardrail on Terranora Road. Letter received from concerned residents of Parkes Lane regarding a vehicle that was forced off Terranora Road and down a steep embankment towards a house situated at 15 Parkes Lane on the 20 April 2000. It is reported that the vehicle was restrained from rolling over and crashing into the house by a remaining single strand of barbed wire and the vehicle had to be roped to a tree in case the wire gave way. The accident occurred on a narrow curved section of Terranora Road

Reports from Sub-Committees

with a cutting on the inside of the curve and drop-off on the outside of the curve towards the residence of 15 Parkes Lane and other residences. The accident was attended by Police.

A resident states that the edge of bitumen is only 600mm from the drop-off giving drivers very little chance of recovery if, as in the case above, they are forced to leave the bitumen.

Residents are concerned at the possible consequences of a heavier vehicle crashing over the embankment and state that requests have previously been forwarded to Council for guardrails.

The RTA Representative stated that there is a procedure to assess if the use of guardrails is warranted. This involves the 85th percentile speed assessments. The Chairman requested that the RTA Representative assist with this assessment. The RTA Representative stated that the guidelines can be found in the RTA Road Design Guide.

Mr Newell, MP left the meeting at 11.00 am.

RECOMMENDATION:

That Council and RTA staff undertake an assessment in accordance with the RTA Road Design Guide for Installation of Guardrails near the rear boundary of 15 Parkes Lane on Terranora Road.

16. Brisbane Street and Proudfoots Lane, Murwillumbah - Car Parking

R0760 & R4455

The following alterations for the provision of additional on-street carparking to complement the Main Street improvements in the CBD area of Murwillumbah are proposed:-

1. Remove the layback and reinstate parallel parking in Brisbane Street at the Post Office.
2. Adjust the parking signs on the corner of Proudfoots Lane and Brisbane Street to gain one parking space.
3. On Proudfoots Lane behind the Post Office relocate the centreline towards the Ford Dealership to enable parallel parking adjacent to the Post Office. This would gain three extra car spaces.

The meeting was advised that the Postmaster has been consulted. The Committee unanimously supported the above recommendations.

RECOMMENDATION:

That:-

1. The layback be removed and parallel parking reinstated in Brisbane Street at the Post Office.
2. The parking signs on the corner of Proudfoots Lane and Brisbane Street be adjusted to gain one parking space.

Reports from Sub-Committees

3. On Proudfoots Lane behind the Post Office the centreline be relocated towards the Ford Dealership to enable parallel parking adjacent to the Post Office. This would gain three extra car spaces.
-

17. Commercial Road, Murwillumbah - Car Parking

R1250

For the provision of additional on-street carparking and to compliment the Main Street improvements in the CBD area of Murwillumbah it is proposed to:

1. Outside the Aussie Hotel relocate the "No Stopping" at Proudfoots Lane to gain an extra parking space.
2. At the corner of Commercial Road and Wharf Street delete the left turn lane as it is not utilised and replace it with two hour parking.

RECOMMENDATION:

That:-

1. The "No Stopping" signs outside the Aussie Hotel be relocated to gain an extra parking space.
 2. At the corner of Commercial Road and Wharf Street the left turn lane be deleted as it is not utilised and replaced with two hour parking.
-

18. Wollumbin Street, Murwillumbah - Car Parking

R5940

For the provision of additional on-street carparking and to compliment the Main Street improvements in the CBD area of Murwillumbah it is proposed to:

1. Convert the two hour parking spaces to 15 minute spaces adjacent to the cake shop.

The Police Representative stated that this was difficult to enforce and it was unanimously decided that this request could not be supported.

RECOMMENDATION:

That the conversion of the two hour parking spaces to 15 minute spaces adjacent to the cake shop on Wollumbin Street is not supported as it is too difficult to enforce.

Reports from Sub-Committees

19. Minjungbal Drive, Tweed Heads (towards Tweed City)

R3454

Late item from the Police Representative. The Police Representative stated that this is a problem with vehicles from Soorley Street unable to get out because of the amount of traffic waiting to turn into Tweed City.

The Committee acknowledged that Easter holidays is the busiest period of the year along with Christmas/New Year and noted that this level of traffic could not be catered for. The Police Representative asked if the traffic in Soorley Street could be diverted to the new road when available. This was confirmed.

The parking underneath Tweed City was seen as a bottleneck when drivers exiting cannot turn. It was suggested that the first left turn in the underneath carpark should be right out only to allow vehicles plenty of room to manoeuvre.

It was also decided that the Tweed City Shopping Centre Management should again be consulted regarding approved signage for traffic flow through the car parks.

For Council's information

PART B

1. Construction of Co-generation Plant at Condong Sugar Mill

A development application has been received for the construction of an electricity generating works at the Condong Sugar Mill. The facility will operate in conjunction with the mill and will utilise cane leaves and various other organic materials.

Request received for Local Traffic Committee consideration of the suitability of the existing road system in the area and the suitability of the existing access to the Pacific Highway.

The Chairman advised that the development generates approximately 46,000 additional truck movements per annum and some of the proposed intersections do not appear to comply with Austroad Standards.

The Local Traffic Committee recommends as follows:

1. The western most access on Clothiers Creek Road is too close to the Pacific Highway and this intersection should be deleted and a single entry/exit driveway be constructed at the western boundary of the stockpile site.
2. The entry driveway to the facility off McLeod Street is too close to Cane Road intersection. Austroad standards require it to be 60m away from the intersection of Cane Road. Accordingly a re-design is required.
3. Concerns are raised at the unnecessary generation of truck traffic double handling material from the stockpile sites to the facility which are on opposite sides of the Pacific

Reports from Sub-Committees

Highway and that alternative methods of transporting this material should be investigated.

For Council's information.

2. Development Application - Stage 3 Extensions to Tweed Heads Hospital

A development application has been received for major extensions to the existing Tweed Heads Hospital complex including the provision of additional on-site parking and the opening of new access points to the development for visitors and service vehicles. The application is accompanied by a traffic report.

Plans of the development application were viewed by the Committee. It was noted that the extensions will require a major upgrade in carparking and the hospital has enough parking on site for this application.

The plans were unanimously supported by the Committee.

3. Twin Towns Services Club Extensions

DA4030/3580

Application received for alterations and additions to the existing club.

Local Traffic Committee comments are sought in accordance with the mandatory provisions of SEPP11 - Traffic Generating Development.

Plans of the application were viewed by the Committee. It was noted that the exit on to Wharf Street is being upgraded.

There are 812 current car parks and with the extensions it was noted that 11 spaces would be lost. The development of the second resort tower increases parking to 1,328 vehicles. It was noted that for the whole Twin Towns Resort and Club 1,052 spaces are required.

The plans were unanimously supported by the Committee.

For Council's information.

4. Minjungbal Drive, Tweed Heads South

DA4030/2822 Pt3

Development application received for a retail and bulky goods complex comprising fast food outlet and service station.

Local Traffic Committee comments are sought in accordance with the mandatory provisions of SEPP11 - Traffic Generating Development.

Reports from Sub-Committees

Plans of the application were viewed. The Committee requested the pedestrian access to the fast food outlets be improved. The remainder of the proposed car park and traffic flow through the site was considered satisfactory with the exception of the egress from the petrol station, which should be connected to the main egress isle on site to minimise conflict at Minjungbal Drive.

The meeting closed at 12:00 noon.

NEXT MEETING:

The next meeting is scheduled for Friday 19 May 2000.

Director's comments:

Item 16 - Australia Post has indicated a desire to have further discussions in relation to parking in the vicinity of the Post Office. It is recommended that the item be deferred for further discussion.

Reports from Sub-Committees

MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

4. **Minutes of the Community Advisory Committee Meeting held 16 March**
 5. **Minutes of the Tweed Shire Council Consultative Committee Meeting held 20 April 2000**
 6. **Minutes of the Aboriginal Advisory Committee Meeting held 1 May, 2000**
 7. **Minutes of the Tweed Games Committee Meeting held 2 May 2000**
 8. **Minutes of Water & Wastewater Infrastructure Steering Committee Meeting - Kingscliff Wastewater Augmentation held 27 March 2000**
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Reports from Sub-Committees

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Outstanding Inspections

1. Council Land - Mt Nullum

12. Use of Land - Mt Nullum

GL2/4 Pt3

819

Cr Boyd

Cr Luff

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

Current Status: Inspection set for 29 March 2000. Inspection cancelled due to weather conditions. Further date to be determined.

Outstanding Inspections

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Orders of the Day

1. Notice of Rescission - Cr James, Cr Luff and Cr Carroll

Draft Tweed Local Environmental Plan

Notice of Rescission, GT1/LEP/1988 Pt5

That Council resolution at Minute No 1626 in relation to an Urgency Motion 4b of the Meeting held 3 May 2000 being:-

".....that the Director Development Services brings forward a report to the meeting of 17 May 2000 to enable Council to consider the preparation of a Draft LEP to address the issues in Council's resolution of 22 December 1999 being:

- all land zoned Rural 1(a), 1(b) and 1(c);*
- all land zoned Environmental Protection 7(a), 7(l), 7(f) and 7(d);*
- the land zoned 2(f) indicated by Figure 1; and*
- clauses 4.1, 4.2, 6.0, 6.1, 6.3 and 7.0*

In Rural 1(a), 1(b), 1(c) areas:

- 1. (a) Agricultural Viability Study, when completed.*
- (b) Peasley's horticultural study already done - supports smaller subdivision areas.*
- 2. Rural Settlement Strategy, when completed.*
- 3. The identification of more industrial land - probably to come from Rural zoning*
- 4. Resolution of disputes over zoning boundaries between Agricultural Protection and 1(a).*
- 5. TEDC submission in respect of exhibited DLEP*

In Environmental Protection 7(a), 7(l), 7(f), 7(d) areas:

- 1. Vegetation Management Plan now on public display - but yet to be finalised.*
- 2. Resolution of boundary disputes between zonings.*
- 3. Investigation of the 40ha area as to whether it is a feasible management area.*
- 4. Tweed Scenic Landscape Evaluation.*

Orders of the Day

In 2(f) area applying to Seaside City.

be rescinded."

Notice of Rescission - Cr James, Cr Luff and Cr Carroll

Code of Meeting Practice

Notice of Rescission, Council Meetings, Council Policies

That Council resolution at Minute Nos 1619 and 1620 in relation to Item 2 (Orders of the Day) of the Meeting held 3 May 2000 being:-

".....that Council incorporates the following into its Code of Meeting Practice:-

- 1. No item in the Business Papers and no attachment thereto (Development Control Plans, s94 Plans, Conditions of Consent, General Manager's Quarterly Report and the like excepted) is to individually exceed twenty (20) pages in length, and no item is to be split to circumvent this restriction.*
- 2. Unless established to the reasonable satisfaction of the General Manager, and then only in a case of great urgency, no item will be considered by Council unless a minimum of three (3) clear days' notice is given.*
- 3. All attachments to the Business Paper are to be paginated and indexed, and page referenced in the relevant item in the Business Papers, or alternatively tab indexed.*
- 4. All late arriving/departing correspondence and all memoranda relevant to a matter in the Business Papers, is to be immediately communicated to all Councillors unless there is compelling reason(s) for departure from this rule.*
- 5. No matter is to be unreasonably held back by Council's staff so as to cause a matter to become urgent. An explanation for any departure from this rule will be provided by the General Manager.*
- 6. Workshops will not be held more than twenty-one (21) days before the matter the subject of same, is considered by Council.*
- 7. Items relating to Development Applications are to clearly indicate the options available to Council, including the concise, practical and legal ramifications of each option.*
- 8. Suggested amendments to a previous draft Development Control Plan, s94 Plan, Conditions of Consent and the like are to be incorporated into the complete document (by italics or underlining) to enable the amendments to be read in context.*

be rescinded."