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Items for Consideration of Council

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Items for Consideration of Council

CONFIDENTIAL

Reports from Director Development Services in Committee 5

1. ORIGIN: Subdivision Unit 5

Marana Park Estate - Stormwater Discharge into R E and B Garbetts Property.

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

2. ORIGIN: Subdivision Unit 13

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.

3. ORIGIN: Development Control Unit 27

Breach of Development Consent 88/372 - CSR Readymix Quarry, Terranora

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

Reports from Director Environment & Community Services in Committee 29

4. ORIGIN: Director 29

Request to Purchase Property Owned by JT & LB Duyker at Lot 3 DP 705781 No 158 Hawkens Lane, Eviron

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

5. ORIGIN: Director 41

Request to Purchase Property Owned by F & D Moller, Lot 2 DP 705781 No 157 Hawkens Lane, Condong

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

6. ORIGIN: Environment & Health Services Unit 53

Erection of Tepees and Associated Structures - Lot 3 DP 878542 Hopkins Creek Road, Chillingham

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

Items for Consideration of Council

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Schedule of Outstanding Resolutions

18 FEBRUARY 1998

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

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

1572

Cr Graham
Cr Nowland

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

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

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

1 DECEMBER 1999

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

21. **Sportsfields in Terranora Village/Area E Location**
Active Recreation

1018

Cr Boyd

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

Current Status: Negotiations initiated.

Schedule of Outstanding Resolutions

19 JANUARY 2000

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

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

PF4100/30 Liquor Licence

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

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

1186

Cr Polglase

Cr Marshall

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

Current Status: 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: Tender to be advertised mid-May.

Schedule of Outstanding Resolutions

1 MARCH 2000

REPORTS FROM SUB-COMMITTEES

17. Companion Animal Act/No Leash Area

Companion Animals, Off Leash Areas

1365

Cr James

Cr Luff

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

Current Status: To be finalised.

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.

OUTSTANDING INSPECTIONS

1. Council Land - Mt Nullum

Land Development - Mt Nullum

This item was received and noted.

Current Status: Date to be fixed.

Schedule of Outstanding Resolutions

ORDERS OF THE DAY

4. Notice of Motion - Cr Davidson 'Smart House', Flame Tree Park

Energy Efficient Housing, Notice of Motion

1521

Cr Davidson
Cr Luff

RESOLVED that the Director of Environment & Community Services report to Council the following:-

1. Completed finish date of 'Smart House'.
2. Official start date regarding exhibition of same.
3. Total costing as follows:
 - i. Council costs, including labour to final completion.
 - ii. In-kind suppliers contributions.
 - iii. Cost of land.
4. If 'Smart House' sold today, approximate resale value recommended by Real Estate Agent.
5. Running costs for 12 months - taking into consideration:-
 - a. Staffing.
 - b. Interest/Loan repayments.
 - c. Insurance.
 - d. Electricity.
 - e. Security.
 - f. Telephone/fax.
 - g. Rates.
 - h. Literature.
 - i. Outside maintenance and cleaning.
 - j. Inside maintenance and cleaning.
 - k. Miscellaneous costs.
6. Prepare a report on:
 - Days to open house (nominate days).
 - Years due to in-kind suppliers contracts house to be kept.
7. Capital Expenditure:
 - i. Furniture - desks/chairs/fax machine, etc required and costs for each item.
 - ii. Display stands for literature - number and costs.
8. What type of reports regarding daily visits, reactions will be presented to Council on a monthly basis and general comments.

Current Status: To be finalised.

Mayoral Minute

Councillors,

1. Proposed Membership - Australian Cities Against Drugs

Drug Related Matters

Australian Cities Against Drugs has been regularly sending information on drugs and young people in the community.

The Tweed Shire was invited to join the Australian Cities Against Drugs during the life of the previous council and did not do so.

We do not have the massive drug problems that some areas suffer, but we are certainly not free from the drug problem.

The latest information is about the “Young Offenders Act (1997)” proposed amendments update. Other councils are holding a Forum/Meeting with Parents, Schools and asking the Police and Local Member of Parliament to come and explain the Act.

I would MOVE:-

That Councillors consider:

1. Becoming a member of Australian Cities Against Drugs;
 2. Holding a Forum/Meeting and asking Mr. Neville Newell and a police representative to explain the Act.
-

Mayoral Minute

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Items Deferred

ITEM DEFERRED FROM MEETING HELD 5 APRIL 2000

1479

Cr Luff

Cr Boyd

RESOLVED that this item be deferred until after the re-exhibition period of the Draft Section 94 Contribution Plan No. 25.

3. ORIGIN: Director

FILE REF: DA1180/10 Pt3 K99/1755

REPORT TITLE:

Proposed Six (6) Lot Subdivision, Associated Road and Infrastructure as Staged Development Based on a Masterplan for Future Tourist Resort Complex at Lots 194, 301 and 312 DP755701 Coast Road, South Kingscliff

SUMMARY OF REPORT:

On 15 March, 2000, Council resolved that a report be brought forward to this meeting with conditions to allow Council to give consideration to approval. Since 15 March, the applicant has submitted substantial reports and analyses responding to key outstanding issues, and extensive evaluation and negotiations have taken place on outcomes and draft conditions with Lenen Pty Ltd - also involving National Parks and Wildlife Service. The approach has been to progressively seek to resolve outstanding issues and obtain necessary reports and analyses to ultimately facilitate a recommendation for approval of the first stage of this critically important project for the Shire in terms of economic and employment benefits. A recommendation for conditional approval can now be submitted - and enabling a legally and professionally sound consent.

This application, submitted by Lenen Pty Limited (owners of the land), proposes the creation of six (6) "master" lots as a staged subdivision, with associated realignment of the Coast Road and provision of the connection roads, infrastructure and bulk earthworks. The subdivision will be the basis for future tourist development uses including resort hotel, resort housing, associated retail, conference and recreational facilities and golf course identified in the applicant's "Masterplan". The master lots vary in size from 1.53ha to 50.33ha, and the anticipated resident/tourist population to be ultimately accommodated is 1,800 persons. The site is located north of the existing unserviced, undeveloped subdivision known as "Seaside City". The former NSW Tourism Commission land now under the management of the Reserves Trust is located to the north, Cudgen Creek to the west and the beachfront reserve Lot 500 to the east.

Items Deferred

The key outstanding issues in terms of dispute with the applicants are provision of public open space adjacent to the Coastal foreshore, the provision of public car parking, the riparian buffer relative to Cudgen Creek, and the means of providing sewer capacity. These factors are embodied in the draft Section 94 Plan No. 25 and the draft Strategic Planning Policies which should be considered prior to this report.

It is understood that Lenen Pty Ltd agree with the recommended conditions with the following exceptions:- Conditions 3(i) and (j); 6; 7; 9; 47; 66 and 69.

RECOMMENDATION:

That development application K99/1755 be approved subject to the following conditions:-

- A. Pursuant to Section 80(4) of the Environmental Planning and Assessment Act, 1979 (as amended) Consent No. K99/1755 is granted for:-
- i. The subdivision of Lots 194, 301 and 312 DP 755701 into 6 lots as shown generally on the Plan of Subdivision prepared by Victor G Feros Reference No. 2774.7 dated 16/12/99, except where varied by these conditions.
 - ii. The carrying out of the following Stage 1 works generally in accordance with the conditions of this consent, including
 - a) Relocation of the Tweed Coast Road;
 - b) Relocation of the existing Water Supply Main and provision of water supply to each proposed lot;
 - c) Provision of reticulated sewerage services to each lot;
 - d) Provision of trunk drainage including earthworks ancillary to roadworks and drainage.
 - e) Provision of water and sewer infrastructure to the Master lots sufficient to service ultimate yields including earthworks ancillary thereto.
 - iii. The development of the management lots for the purposes of future integrated tourist resort facilities together with associated and related uses and facilities generally in accordance with the Outline Development Plan Reference No. 2774.6 prepared by Victor G Feros and dated 7/12/99, except where varied by these conditions.
 - iv. Pursuant to Section 80(4) of the Act further development of the Management Lots for any of the purposes referred to in paragraph A(iii) of this consent shall not be carried out except by means of a further development consent or consents.

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

1. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified,

Items Deferred

authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

2. Prior to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
 - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

(ii) GST

1.1 In this Clause 1:

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

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

Items Deferred

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

$$\text{GST payable} = \text{The GST inclusive market price of the asset} \times \frac{1}{11}.$$
- 1.6 The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.
 - a. Tweed Road Contribution Plan: 6 lots @ \$2394 \$14,364.00
 S94 Plan No. 4 (Version 4.0)
 (Sector 7 - Duranbah/Cabarita (Residential))

(iii) Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a subdivision certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

- Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes
- Dist. average haulage distance of product on Shire roads
(trip one way)

Items Deferred

\$Unit	the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)	
	Admin. Administration component - 5% - see Section 6.5	
b.	Street Trees: 6 lots @ \$42.90 S94 Plan No. 6	\$257.40
c.	Shirewide Library Facilities: 6 lots @ \$300 S94 Plan No. 11	\$1,800.00
d.	Eviron Cemetery/Crematorium Facilities 6 lots @ \$126 S94 Plan No. 13	\$756.00
e.	Emergency Facilities (Surf Lifesaving) 6 lots @ \$80 S94 Plan No. 16	\$480.00
f.	Community Facilities (Tweed Coast): 6 lots @ \$554 (North Coast) S94 Plan No. 15	\$3,324.00
g.	Extensions to Council Administration Offices & Technical Support Facilities 6 lots @ \$344.81 S94 Plan No. 18	\$2,068.86
h.	In lieu of the payment of contributions for cycleways pursuant to Section 94 Plan No. 22 the following works shall be carried out:	
i.	The proposed regional coastal walkway/cycleway within Lot 500 shall be constructed within a corridor generally 10 metres in width parallel to the western boundary of Lot 500. The corridor shall commence a minimum of 20 metres east of the western boundary of the 7(f) zone to link up with the alignment of the southern coastal walkway/cycleway. The walkway/cycleway 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.	
ii.	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.	

Items Deferred

- iii. To secure compliance with condition 3(i), a bond shall be lodged before release of the Stage 1 linen plan of subdivision in cash or by bank guarantee unlimited in time based on the estimated cost of the work plus 20% to the satisfaction of the Council. The bond shall be progressively released on a pro-rata basis upon the progressive completion of the said works to the reasonable satisfaction of the Council.
 - i. Pursuant to the provisions of S94 Plan No. 25, 3.2ha of coastal foreshore open space shall be dedicated at no cost to Council in conjunction with registration of the linen plan of subdivision. The areas to be dedicated shall be 40m wide and 400m long as indicated on Figure 2 of Section 94 Plan No. 25.

The open space shall be embellished in accordance with Section 3.4 of the Section 94 Plan prior to release of the linen plan of subdivision.
 - j. Pursuant to the provisions of S94 Plan No. 25 a 20m riparian buffer to Cudgen Creek shall be dedicated at no cost to Council in conjunction with the registration of the linen plan of subdivision. The 20m distance is to be measured from the mean high water mark from the Creek as determined by a ground survey, acceptable to the Surveyor General, generally as shown on Figure 2 of Section 94 Plan No. 25. In addition to the 20m dedicated buffer an easement 30m wide is to be created pursuant to Section 88B of the Conveyancing Act over the area adjacent to any section of the 20m wide core buffer that adjoins the creek. The easement is not required where the buffer adjoins and environmental protection zone. The foreshore area to be dedicated shall be embellished prior to release of linen plan in accordance with Section 3.4 of Section 94 Plan No. 25.
4. A certificate of compliance (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

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

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

GST

- 1.1 In this Clause 1:

Items Deferred

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

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

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

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

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

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

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

Items Deferred

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

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

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

6. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

GENERAL

7. Infrastructure

- In accordance with the terms of this consent, sufficient permanent infrastructure must be constructed in the subdivision that creates the management lots so that they may be capable of being developed to their ultimate capacity by subsequent applicants without any requirements for provision or augmentation of external infrastructure. All proposed infrastructure that crosses management lot boundaries or runs adjacent to management lot boundaries must be constructed in the subdivision that creates the management lots.
- Bulk earthworks over the site shall be completed sufficient to ensure that road levels are fixed, the trunk drainage system is established and management lot boundaries are at their final level. Trunk drainage is that system defined in Figure 1 "Drainage Easement Requirements, Kingscliff South Development" Cardno MBK letter dated 29 March 2000.
- All public roads proposed within the Master Plan, but not contained within master Development Lots, are to be constructed and dedicated. Roads within the Master Plan that are necessary to provide legal and physical access to any Master Development Lot (including any dedicated public open space parcel) are to be constructed and dedicated. Realigned Public Roads passing through the Master Plan site perimeter are to be constructed and dedicated to connect with existing public roads in adjoining sites.
- Waterways and WQM devices down stream of management lots are to be concept designed, contained within easements or within drainage reserves or constructed.

Items Deferred

- Where infrastructure required to serve a management lot, passes through another lot, easements in favour of Council shall be granted over the infrastructure and necessary access roads to such infrastructure.
 - Public parking and foreshore access locations are to be identified and title protected.
 - Regional and District Cycleways/footways are to be identified and title protected.
 - Trunk public utilities sufficient for the ultimate development demand are to be either relocated to, or newly provided in approved locations to be dedicated if necessary or within easements.
8. The development shall be completed in general accordance with Plans Nos 2774.5 - Precinct Plan (7/12/99), 2774.7 - Plan of Subdivision (16/12/99), 2774.6 - Outline Development Plan (7/12/99) prepared by Victor G Feros, except where varied by these conditions.
9. In accordance with the Strategic Planning Policies for Kings Beach North adopted by Council on 5 April 2000, 200 public car parking spaces shall be provided within the subject land as follows:-
- i. the car parking areas and access corridors to the relocated Coast Road shall be dedicated as public road (unformed) at no cost to Council in conjunction with registration of the linen plan for Stage 1. Council will construct the car parks and accesses at a later date when funds are available.
 - ii. parking areas shall be located to enable easy access to the beach and in general they shall provide for walking distance to the beach of no more than 200m;
 - iii. car parks shall be located clear of the environmental protection 7(f) zone;
 - iv. the 200 car parks shall be provided in two car parking areas, one at the northern and one at the southern end of the subject land. Each parking area is to be provided with extensive landscaping and shall be designed to integrate with adjoining public foreshore open space areas. Ideally the car parks shall be designed to cater for angle parking arrangements within a 20m wide public road reserve and the public car parks are to be clearly identified so they can be distinguished from the resort.
10. 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.
11. No soil, sand, gravel, clay or other material shall be disposed of off the site, except with the written approval of the Council.
12. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

Items Deferred

13. The subdivision is to be carried out in general accordance with Development Control Plan No 16 - Subdivisions Manual.
14. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No K99/1755 have been complied with.
15. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
 - a. Easements for sewer, water supply and trunk drainage over ALL services on private property.

Note: Where water, sewer, or drainage infrastructure is located at or above ground level (eg. Pump stations, drainage channels) the assets shall be contained within drainage reserves or fee simple lots vested in Council. Except drainage infrastructure located on the Golf Course which may be in easements.

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

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

16. 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.
17. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.
18. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.
19. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.

Items Deferred

20. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
21. Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final subdivision certificate application.
22. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services PRIOR to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
23. Prior to the issue of a construction certificate/prior to work commencing, documentary evidence shall be submitted from the Department of Land and Water Conservation demonstrating that development consent has been obtained under the Native Vegetation Conservation Act OR that no such consent is required under that Act.
24. In accordance with Section 109F(i) of the Environmental Planning & Assessment Act, 1979 (as amended), a construction certificate for SUBDIVISION WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.
25. In accordance with the Strategic Planning Policies - Kings Beach North any future substantial resort development shall provide surf life saving facilities for patrons and provision of SLSC patrols for the public benefit subject to negotiations between Council, Surf Lifesaving Association and Cabarita Surf Life Saving Club.
26. In accordance with the terms of the concurrence granted by the Director General of the Department of Urban Affairs and Planning pursuant to Clause 37(2) of TLEP the following conditions shall be complied with;
 - a. No residential or associated buildings shall be erected on land zoned 7(f);
 - b. Landscaping to the satisfaction of Council shall be established on the land zoned 7(f) to ensure that there is no unrestricted access onto the beach area and
 - c. No access for vehicles or pedestrians shall be made available from the eastern boundary of the allotments unless such access is consistent with a management plan which covers the public foreshore areas and is agreed to by both the Council and the DLAWC.

FURTHER APPROVALS

27. Prior to lodging a construction certification application, the applicant/developer shall submit:-

Items Deferred

Evidence that it is feasible for the site to be landform shaped, drained and provided with the necessary infrastructure for the development, by submitting the following:

- a) Final landform design levels for the site excluding the golf course to the nearest 0.5m
 - b) Preliminary design (accompanied by engineering calculations) of trunk drainage and associated water quality controls to include proposed catchment boundaries and areas, location of drainage paths and points of discharge, $Q_{0.25}$, Q_5 and Q_{100} flows. If infiltration is proposed as a means of disposal, design infiltration rates shall be determined as follows:
 - Conduct percolation tests on the site in accordance with Appendix B of A.S. 1547-1994, Disposal Systems for Effluent from Domestic Premises.
 - if the above result yields a rate $<3\text{m/day}$, this rate may be used to design the infiltration device
 - if the result is $>3\text{m/day}$, the rate for design may not exceed 3m/day unless this rate is confirmed by determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. The maximum infiltration rate that may be used for design purposes is 6m/day , subject to review following trial results satisfactory to Council.
 - c) Preliminary design of drainage outlet to Cudgen Ck with sufficient detail to assess if any works will be required within 40m of the creek
 - d) Preliminary design of the Coast Rd as adopted by Council. Design to show both interim links to the existing Coast Rd and future links to any proposed realigned Coast Rd, including LATM devices and provision for pedestrian and cyclists.
 - e) Revised subdivision lot boundaries required to accommodate a), b), c) and d) above including
 - location, area and boundaries of road reserves for interim and final road alignment
 - location, land area and reserve/easement requirements for trunk drainage and water quality devices
28. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works required by this consent.

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

(i) Subdivision Work

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

Items Deferred

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Northpower and Telstra)
 - the approved Traffic Control Plan
 - the relevant maintenance manuals (eg. G.P.T's, water pump station)

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

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

29. Subdivision work in accordance with a development consent must not be commenced until:-
 - (a) a construction certificate for the subdivision work has been issued by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority, and
 - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and

Items Deferred

- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.
30. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.
- (i) The following information must accompany an application:
- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$110 per lot.
 - relevant development consent or complying development certificate
 - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
 - for a deferred commencement consent evidence that the applicant has satisfied the consent authority on all matters which must be satisfied before the consent can operate
 - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
 - a certificate of compliance from the relevant water supply authority (where applicable)
 - if a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council
 - for subdivision involving subdivision works evidence that:
 - the work has been completed, or
 - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - security given to the consent authority with respect to the completion of the work
 - Work as Executed Plans for ALL works
- (ii) Documentary evidence that all matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

Items Deferred

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

31. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-
- (i) Compliance Certificate - Roads
 - (ii) Compliance Certificate - Water Reticulation
 - (iii) Compliance Certificate - Sewerage Reticulation
 - (iv) Compliance Certificate - Sewerage Pump Station
 - (v) Compliance Certificate - Drainage

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

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

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation

Items Deferred

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

Sewer Pump Station

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

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

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

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

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

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

Items Deferred

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

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

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

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

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

35. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
 - That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)
 - That the pavement layers have been compacted to RTA specifications.
 - That site fill areas have been compacted to the specified standard.
 - That supervision of Bulk Earthworks is to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
 - That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
36. The Construction Certificate application shall include a provision for pavement design. The final design shall be approved by Council OR an accredited certifier prior to the placement of any road pavement material.

ROADS/STREETS - STAGE 1

Items Deferred

37. The following roadworks shall be carried out at no cost to Council in accordance with engineering plans for the Stage 1 works to be submitted with the construction certificate application.
- (i) (a) Construction and dedication at no cost to Council of the relocated Coast Road from the southern boundary of the site to the northern boundary of the site in general accordance with the plans referred to in Condition 8. The road must remain continuous across the land as development proceeds.
 - (b) The road shall be designed to discourage through traffic based on a design speed of 60km/h except where the road passes through Seaside City Estate and around the proposed hotel entrance where a design speed of 40km/h shall apply. The overall speed environment shall be achieved by road geometry and local area traffic management devices such as roundabouts.
 - (c) A Traffic Noise Study shall be carried out prior to the issue of a Construction Certificate to determine appropriate setbacks or other noise attenuation measures to be incorporated into the Management lots. Any necessary noise attenuation measures shall be carried out in accordance with the EPA Publication "Environmental Noise Management - Environmental Criteria for Road and Traffic Noise (1999)".
 - (d) The road reserve shall be of sufficient width to accommodate a future walkway of not less than 2m in width.
- (ii) Construction and dedication at no cost to Council of "connecting roads" from the relocated Coast Road alignment to the existing Coast Road at the northern end either existing or realigned Coast Road at the southern end of the site in accordance with engineering plan to accompany the Construction Certificate application. The "connection roads" shall be designed to a 60km/h standard.

DRAINAGE/FLOODING

38. The principle form of stormwater disposal shall be by way of infiltration.

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

Legal continuity of reserves or easements and physical capacity for the Q100 year discharge must be provided in drainage paths from each proposed lot to the discharge point at Cudgen Creek. Progressive subdivision of the site must provide lawful points of discharge with legal and physical continuity to Cudgen Creek at each stage of title creation, despite the discharge being into the applicants own (for the time being) land. The constructed drainage system shall terminate not less than 40m from Cudgen Creek at an outlet fan or device that ensures Q100 flow is discharged as overland surface flow with a velocity not exceeding 0.4m/second.

39. Prior to release of the linen plan of subdivision, drainage works associated with the Stage 1 works shall be constructed at no cost to Council to accommodate discharges from the ultimate yields resulting from the Development. Drainage works shall be

Items Deferred

designed and constructed in general accordance with the letter from Cardno MBK dated 29 March 2000 titled Hydraulic Analysis, in particular Figure 1 "Drainage Easement Requirements, Kingscliff South Development". Stormwater quality control works are to be designed and constructed in general accordance with Cardno MBK letter dated 3 March 2000 (Water Quality Report) as amended by Condition 41 and Schedule A.

The engineering plans accompanying the construction certificate application shall provide for:

- (i) The provision of water quality control facilities to service the Stage 1 drainage works;
 - (ii) Design and construction of erosion and sediment control facilities in general accordance with the publication "Managing Urban Stormwater" - NSW Department of Housing 3rd Edition, August 1998 and Schedule B;
 - (iii) The engineering plans shall show the designed finished surface levels at the common boundary of all management ensure that roads, underground drainage and public utility grade lines are continuous across the common boundaries of the proposed lots.
 - (iv)
 - (a) All drainage structures under the relocated Coast Road shall be provided prior to the release of the linen plan of subdivision and such structures shall be designed and constructed to carry the major Q100 flows.
 - (b) The outfall drainage works from the structure under the relocated Coast Road to Cudgen Creek shall be constructed prior to release of the linen plan and in accordance with approved engineering plans.
 - (c) The engineering plans shall include provision for erosion controls at the outfall and downstream of the outfall as necessary.
40.
 - i. Dedication of any proposed drainage reserve or creation of easements at no cost to Council.
 - ii. An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.
41. Permanent stormwater treatment devices shall be designed and constructed in general accordance with the criteria contained in Schedule A.
42. Erosion and sedimentation control measures shall be designed and constructed in general accordance with the criteria contained in Schedule B.
43. The earthworks shall be carried out in accordance with AS 3798-1996, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall

Items Deferred

be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.

44. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level one standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.
45. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

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

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

46. All stormwater runoff shall be directed to the west and no stormwater runoff or control works shall be located within Lot 500.

SERVICES

Sewer

47. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including:-
 - (i) The provision of sewerage infrastructure (sized for ultimate yields) to each allotment in general accordance with Kings Beach North Structure Plan or such other strategy as may be approved by the Director of Engineering Services subject to obtaining any necessary further approvals under the Environmental Planning and Assessment Act for works external to the site.
 - (ii) A minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.
 - (iii) At the discretion of the applicant, in lieu of compliance with condition 47 (i)&(ii) prior to the release of the linen plan of subdivision, Council will accept a bond in cash or by way of bank guarantee unlimited in time for an amount based on the estimated cost of the works plus 20% and to the satisfaction of the Director of Engineering Services.

Items Deferred

In addition to the bond, the applicant shall enter into a Deed of Agreement with Council pursuant to Section 27 of the Water Supply Authorities Act to secure compliance with the bonded works. The Deed shall be executed prior to release of the Stage 1 linen plan of subdivision.

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

48. i. The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.
- ii. An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate (form 13) to allow the land to be classified.
- iii. In lieu of creating the sewer pump station site in conjunction with registration of linen plan of subdivision for Stage 1, the applicant shall include in the deed of agreement required under Condition 47 provisions requiring the sewer pump station lot to be created and transferred to Council at no cost in conjunction with completion of any bonded works. The deed shall also include provision for the creation of a restriction as to user over the relevant management lot indicating Councils interest in part of the land for a sewer pump station site.

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

Water

49. (i) Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.
- (ii) The existing 250mm diameter water main adjacent to the Coast Road shall be relocated to within the new Coast Road road reserve or suitable easements and upgraded to a 450mm diameter water main in accordance with engineering plans to accompany the construction certificate application and to the satisfaction of the Director of Engineering Services. Council will pay the marginal difference between the cost of a 450mm main and the cost of the main required to serve this development, demonstrated by hydraulic analysis satisfactory to the Director of Engineering Services.

Items Deferred

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

Telephone

50. The production of written evidence from Telstra Australia certifying that satisfactory arrangements can be made for the provision of underground telephone supply.

Electricity

51.
 - i. The production of written evidence from Northpower certifying that satisfactory arrangements can be made for reticulation of underground electricity (unless otherwise approved by Council); and
 - ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

ENVIRONMENT PROTECTION

52. In accordance with the National Parks and Wildlife Service Act, in the event of the discovery of a relic during works, work must cease immediately and the NPWS and the Tweed Byron Local Aboriginal Land Council shall be notified. Works in the locality must not recommence until consultation with the NPWS and the Tweed Byron Local Aboriginal Land Council has concluded to their satisfaction.
53. The existing ilmenite dump shall not be disturbed as part of any future golf course development unless further information demonstrates that radio-activity levels remain below the relevant thresholds recommended by the Department of Health or, subject to obtaining any necessary further development consent, the ilmenite dump may be removed from the site.
54. Suitable measures are to be provided to ensure covering and protection is to be provided to ensure that no material is removed from the site by wind to avoid causing nuisance to neighbouring properties.
55. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
56. All work associated with this approval is to be carried out so as not to cause a significant nuisance to residents in the locality from noise, water or air pollution.
57. The use to be conducted so as not to cause significant disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
58. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

Items Deferred

59. The burning off of trees and associated vegetation is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
60. 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 unless otherwise approved by Council.
61. 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.
62. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording to the satisfaction of the Director of Development Services.
63. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
64. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.
65. 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.

WATER QUALITY MONITORING PROGRAM

66. (i) A report establishing base line conditions of existing groundwater, including pH, total dissolved solids, total nitrogen, total phosphorus, iron (total), aluminium and faecal coliforms, shall be submitted and approved by the Director, Environment and Community Services, prior to the issue of a construction certificate.

Items Deferred

- (ii) Surface water and groundwater monitoring programs (pre-construction, construction and post construction), including details of standards, location and frequency, shall be submitted and approved by the Director, Environment and Community Services, prior to the issue of a construction certificate.
 - (iii) A report by a suitably qualified person detailing all water sampling results from the surface water and groundwater monitoring programs in respect of the Stage 1 works shall be submitted to Council on a routine 6 monthly basis from their commencement, including details of any failure to meet water quality discharge objectives and standards. Where sampling results indicate a substantial failure to meet water quality objectives or standards the results are to be reported immediately to Council for consideration. This requirement shall cease 1 year after the completion of the Stage 1 works.
 - (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 failures 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.
67. Certification shall be provided by a qualified Engineer that all works required by this consent have been performed under his/her supervision in accordance with the approved engineering plans and specifications.
68. The State Environmental Planning Policy No 14 Wetland area and the Cudgen Creek buffer zones to be surveyed and physical barriers to be erected to protect them during construction. This work to be approved by the Director Development Services prior to the commencement of any earthworks or construction on the site.

MANAGEMENT PLANS

69. An Acid Sulphate Soil Management Plan in respect of the Stage 1 works prepared in accordance with the "Acid Sulfate Soils Assessment and Management Guidelines", EPA, DUAP, ASMAC, 1997 as amended, shall be submitted and approved by the Director of Environment and Community Services prior to the issue of a construction certificate for the Stage 1 works.

Any work required by this consent shall be carried out in accordance with the approved Management Plan.

The following details must be included in the approved plan:-

- i. Proposed soil and water monitoring including parameters, analysis methods, location, frequency and action levels.

Note: Validation analysis of soils following lime application is to include recognised testing for potential acidity.

Items Deferred

- ii. Neutralisation strategies including dosage rates, application methods, and, if required, method of separation of pyrite from other soil constituents.
 - iii. General measures including containment and stock piling.
 - iv. Contingency measures including remedial and restoration action.
 - v. Complete raw data on the analysis undertaken on the 24 bore holes in August/September 1999
70. The applicant/developer shall prepare and submit the following Management Plans PRIOR to the issue of a Construction Certificate for any Stage 1 works:

i. Cudgen Creek Riparian Lands Management Plan.

The Plan shall be prepared in consultation with the Department of Land and Water Conservation, Environment Protection Authority and NSW Fisheries and to the satisfaction of Council.

The Plan shall include but is not limited to the following:-

- * Rehabilitation of vegetation with suitable native species, including banksia integrifolia and other suitable species native to the area to reflect the natural diversity of the site;
- * Method of weed removal and ground preparation;
- * Density and type of species in regeneration;
- * Provision of fencing to discourage access along the landward side of the buffer;
- * Stabilisation works within and adjacent to the creek bank;
- * Provision of vehicular access for maintenance
- * Translocation of existing immature species including Banksia Integrifolia from areas to be cleared and obtaining plant material of local providence.
- * Monitoring regime (six (6) monthly)

The works required by the approved plans shall be completed to the satisfaction of Council PRIOR to the issue of a Subdivision Certificate (final plan) pursuant to this consent.

ii. Dune Management Plan/Lot 500 Management Plan.

The Plan shall be prepared in consultation with the Department of Land and Water Conservation and the National Parks and Wildlife Service and to the satisfaction of Council.

The Plan shall include but is not limited to the following:-

Items Deferred

- * Removal of bitou bush and non-native species of vegetation;
- * Rehabilitation of cleared (disturbed areas);
- * Planting of banksia integrifolia and other native species;
- * Provision of pedestrian and maintenance/emergency vehicle access to the beach.
- * Bushfire hazard reduction measures.

The works required by the approved plan shall be completed to the satisfaction of Council PRIOR to the issue of a Construction Certificate for any future development of the adjacent Management lot OR within 5 years of the date of this consent, whichever occurs first.

Prior to carrying out the work the developer/applicant shall obtain any necessary approvals under the Environmental Planning & Assessment Act, 1979 and licences from the Department of Land and Water Conservation for works within Lot 500.

71. Golf Course Management Plan.

Any future development application for a golf course on proposed Lot 1 shall be accompanied by a Golf Course Management Plan to the satisfaction of Council.

The Plan shall address, but is not limited to the following matters:-

- * Fertiliser application;
- * Nutrient removal/treatment;
- * Control and treatment of stormwater runoff;
- * Landscaping of the Golf Course with native species, including banksia integrifolia;
- * Demonstrating that the golf course will be constructed and operated in a manner that does not increase the undeveloped pollutant export to surface or ground receiving waters;
- * The DA for the golf course shall provide full details of construction, establishment and operation of the course and pollution control devices including level 2 and level 3 modelling in accordance with the EPA Managing Urban Stormwater Council Handbook Appendix F;
- * Establishment of a groundwater monitoring regime including provisions to address fertiliser application if pollutants exceed defined levels;
- * Measures to reduce phosphorus load within Cudgen Creek and groundwater;
- * Measures to decrease nitrogen entering ground water during dry years.

Items Deferred

- * The need to protect the SEPP 14 Wetlands and Environmental Protection zones, including any necessary buffers and minimal clearing of vegetation within 20m of the SEPP 14 Wetland and Environmental Protection zones.
- * Selection of plant species generally in accordance with DCP No. 25 - Biting Midge.
- * Translocation of immature Banksia Integrifolia and other native species from areas to be cleared, and obtaining native plant material of local providence.

SCHEDULE A

PERMANENT STORMWATER QUALITY CONTROL

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

(a) General Criteria for Stormwater Treatment Devices

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

- the type, number and location of devices shall be selected to ensure minimum long term asset ownership costs.
- trunk drainage, is to be located in reserves or easements, however as an interim arrangement, the east west trunk drain across the proposed golf course and associated infiltration basin may be located in easements until the final form and layout of the golf course is determined.
- devices shall be located for easy cleaning and maintenance access by vehicles and personnel.
- devices located off street are to be provided with sealed access and manoeuvring areas (located on easements) for cleaning/maintenance vehicles and equipment.
- best quality materials and construction methods shall be used to ensure maximum life expectancy of device components.
- Litter racks, baskets and metal components in contaminated or corrosive areas shall be fabricated from stainless steel or marine grade aluminium. Use of other non corrosive materials will be subject to Council approval.
- Litter racks and non proprietary GPTs shall be designed for self cleansing and automatic movement of litter to storage bins. Litter/gross pollutant storage bins shall be constructed of reinforced concrete and designed for convenient access and cleaning by mechanised means (eg. excavator, backhoe, suction truck).
- Where access for cleaning is required by means of hatches, doors or lids they shall be constructed in high strength/lightweight materials with lockable/easy opening fastening devices

Items Deferred

- All devices shall be designed to minimise risk to operators and the public and shall be in accordance with the requirements of the Occupational, Health and Safety Act. Devices where there is risk to the public or the operation of the device is at risk from interference from the public shall be enclosed by a person proof fence.
- the sizing of devices shall be increased (where necessary in excess of the size obtained using the EPA publication “Managing Urban Stormwater - Treatment Techniques, November 1977”) to ensure cleaning out is required on average no more than 6 times per year
- The infiltration rate for infiltration devices shall be determined as follows:
 - Conduct percolation tests on the site in accordance with Appendix B of A.S. 1547-1994, Disposal Systems for Effluent from Domestic Premises,
 - if the above result yields a rate <3m/day, this rate may be used to design the infiltration device
 - if the result is >3m/day, the rate for design may not exceed 3m/day unless this rate is confirmed by determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. Notwithstanding actual tests, the maximum infiltration rate that may be used for design purposes is 6m/day.

Note: Research by Gold Coast City Council has established that the rainfall intensity in this region for a design ARI of 3 months is 0.50 of the 1 year ARI intensity. The reduction of intensity (from 11 year to 13 months) will also reduce the runoff coefficient by around 20% resulting in Q3 months being approximately 40% of Q1 year. For the purpose of these conditions Q3 months shall be deemed to be **40%** of Q1 year. For the Tweed Shire area, this **amends** the proposition in Dept of Housing and EPA manuals which seem to be based on low rainfall areas and suggest that Q3 months is 25% of Q 1 year.

(b) Water Sensitive Design

Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse. These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

(c) Specific Requirements

- Road and street drainage and gross pollutants. Where consistent with other land use requirements, grassed swale drainage (Ref 5.2) is to be used in preference to pipes or hard lined channels. Litter and gross pollutants greater than 50mm are to be retained for flows up to the ARI 3 month storm (deemed to be 40% of the ARI one year event) by means of

Items Deferred

litter baskets or pits (ref 4.1) or litter racks (ref 4.2). These devices are to be sized to require cleaning on average not more than six times per year, based on a yield of 1cu.m /ha/year. Whilst a sufficient number of litter/gross pollutant collection devices shall be provided to ensure all road stormwater is screened for litter and gross pollutants, the number of devices shall be minimised. Where practical, devices will be located downstream of entry pits at locations servicing a minimum 50 ultimate lots or equivalent.

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

- where on street parking is required, unless cars can be excluded from swale area
- on roads serving small lots with numerous driveways
- where gradients are <1% or >5%)
- An infiltration basin shall be provided on the trunk drainage system prior to discharge to Cudgen Ck. This basin is to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) and infiltrate this storm within a 24 hour period. A gross Pollutant Trap (Ref 4.4) is to be constructed upstream of the infiltration basin to remove sediment, litter and gross pollutants.
- Underground road/street/parking area drainage shall pass through a Gross Pollutant Trap (Ref 4.4) prior to discharge to the swale drain along the eastern (coastal) frontage of development.
- Roof drainage. All future roof drainage is to be discharged to infiltration trenches located on each contributing allotment or on other land appropriately title burdened to the contributing allotment. Infiltration trenches shall be designed in accordance with the following criteria:
 - As a minimum requirement, trenches are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) and infiltrate this storm within a 24 hour period, before surcharging occurs
 - Surcharge overflow from the infiltration area to the street gutter, interallotment or public drainage system must occur by visible surface flow.
 - Runoff is to be pre treated to remove contaminants prior to entry into the absorption areas (to maximise life of absorption areas between major cleaning/maintenance overhauls).
 - If the site is under strata or community title, the strata/community title plan is to ensure that the absorption areas are contained within common areas that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
 - Swale Drains shall be designed in accordance with (Ref 5.2).

Items Deferred

(d) Proposed Golf Course

An application for a future golf is required to provide full details of construction, establishment and operation of the golf course and proposed pollution control devices and practices. Level 2 and level 3 modelling (EPA Managing Urban Stormwater: Council Handbook, Appendix F) is required to verify that pollutant export will not increase above values in the following table.

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
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.		

Further, there will be a condition on the future golf course consent that a surface and ground water monitoring regime is to be established and if pollutants exceed defined levels, then all golf course fertilising is to cease until effective corrective action is taken.

SCHEDULE B

EROSION AND SEDIMENT CONTROL DURING CONSTRUCTION

1.0 General

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

The aims of erosion and sediment control are:

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

Items Deferred

- Limit/minimise the amount of site disturbance
 - isolate the site by diverting clean upstream “run on” water around the development
 - Control runoff and sediment at its point source rather than at one final point
 - Stage ground disturbance/earthworks and progressively revegetate the site where possible to
 - reduce the area contributing sediment
 - Retain topsoil for revegetation works
 - Locate sediment control structures where they are most effective and efficient
- 1.2 The owner of land being developed is responsible for erosion and sediment control on the site and the actions of all persons (including employees, plant operators, contractors, subcontractors, delivery drivers etc) who may cause erosion and sediment generation. This also includes responsibility for erosion and sediment generation on adjacent land where construction activities or materials have encroached on the adjacent land.
- 1.3 The **primary** reference manual for erosion and sediment control works in this code of practice shall be “Managing Urban Stormwater, Soils and Construction” NSW Dept of Housing 1998.

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

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

- 1.4 The objectives for erosion and sediment control and acid sulphate soil management provided on construction sites are:
- Minimise soil erosion and exposure
 - Minimise transportation of eroded soil by air and water
 - limit suspended solids concentration in stormwater to not more than 50mg/l
- 1.5 Design Average Recurrence Interval (ARI): Unless advised elsewhere in this consent, works to capture sediment laden water will be designed to accommodate a design storm of the ARI 3 month storm (deemed to be 40% of the ARI one year event), however overflow/bypass arrangements are to be designed to accommodate an ARI 100 year

Items Deferred

storm without erosion, scouring or structural damage to erosion or sediment control devices, or re-mobilisation of previously captured sediment.

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

2.0 Preparation of Erosion and Sediment Control Plan (ESCP)

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

- a. Plans of external and internal catchments
- b. Site layout to include
 - plans showing existing site topography and final contours with cut and fill locations identified. property boundaries and lot lines
 - staging of works, including staging of site clearing and topsoil stripping
 - location of all site access points, parking areas, site facilities and on site roadways/tracks
 - location of site storage and stockpile areas (sand, gravel, topsoil, building materials, fuel etc)
 - Utility plans
 - erosion risk mapping - identification of low, medium, high and extreme erosion risk areas
 - topographic site limitations which may include:- excessive slope gradients; unstable or hazardous terrain; flood inundation areas; rock outcrops; active coastal dune systems; land subject to wave attack; existing erosion; water bodies; drainage problem areas; areas of potential mass movement.
- c. Vegetation layout
 - general location, nature and condition of existing vegetation
 - location plan of protected trees and bushland, non disturbance areas, buffer zones, disturbance control fencing and limits of clearing
 - Revegetation landscape plan (including staging)

Items Deferred

- d. Soil properties
 - location and limitations of major soil types on site
 - identification of all known areas of dispersive soils (more than 10% being dispersive)
 - the R and K factors for the RUSLE and Soil Loss Classes (delineated where more than one class occurs)
 - soil hydrologic group [“Managing Urban Stormwater, Soils and Construction” NSW Dept of Housing 1998 - Appendix F]
 - soil texture group (Type C, F or D)
- e. Drainage
 - plans of both temporary and permanent drainage, including design/capacities, identification of all proposed temporary and final overland flow paths, and any proposed diversions of overland flow paths or watercourses from the site
- f. Erosion and sediment control proposal including
 - site specific text overview and design philosophy of erosion and sediment control proposal
 - location (on plans), type, function, and timing (instigation and decommissioning) of all drainage, erosion and sediment control measures (the location plans must include areas external to the site where these areas impact or are impacted upon by the drainage or ESCP of the subject site). Preliminary calculations of sedimentation pond sizing.
 - timetable, integration/sequencing of ESCP with staging of works,
 - detailed RUSLE calculations to evaluate current annual soil loss and likely annual soil losses from the proposed development incorporating the proposed ESCP
 - water quality monitoring program with water quality criteria goals, parameters to be monitored, monitoring locations, monitoring frequency
 - proposed response to failure of system and non compliance with discharge quality standards.
 - reporting procedures

2.2 Steps in preparation of ESCP

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

Items Deferred

- a. Location of disturbance and non-disturbance zones, minimising extent and duration of disturbed areas
- b. Location of fencing and signage for non-disturbance and buffer zones
- c. Location and controls on construction entry/exit points
- d. Location of site office, parking, stockpile and material storage areas
- e. Determine and locate drainage and sediment controls for d)
- f. Location temporary construction roads
- g. Division of site into manageable drainage sectors
- h. Staging, and programming (soil loss class constraints) of construction works for compatibility with ESCP in each drainage sector
- i. Clean water management strategies for each drainage sector (diversion around disturbed, stockpile and risk areas)
- j. Controls for channelised flow velocities
- k. Erosion controls on each disturbed area
- l. Control of sediment laden runoff
- m. Control of sediment in surface runoff at site boundaries
- n. Trapping of sediment within the development
- o. Location and operation of sediment basins
- p. Dust control measures
- q. Revegetation program
- r. Installation and decommissioning schedule
- s. Maintenance and monitoring program
- t. Assessment of effectiveness of ESCP in terms of soil loss (RUSLE) and impact on receiving waters

Items Deferred

2.3 Application of Soil Loss Class

The soils on the development site shall be classified as follows

Soil Loss Class	Calculated soil loss (tonnes/ha/year as calculated by RUSLE)
1	0 to 250
2	251 to 300
3	301 to 375
4	376 to 500
5	501 ton750
6	751 to 1,500
7	1,501 to 3,750

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

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

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

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

3.0 Clearing Vegetation, Soil Disturbance

Items Deferred

- 3.1 The removal or disturbance of trees, shrubs and ground covers shall be minimised.
- 3.2 Buffer zones consisting of corridors of undisturbed vegetation adjacent to waterways or disturbed area are to be retained to reduce nutrient levels in runoff, unless these areas are protected by other means. Buffer zones are to have the following minimum widths:-

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

3.3 On construction/building sites:

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

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

3.4 For subdivision work:

- (i) clearing for works must be limited to 2 metres from the edge of any essential construction activity as shown on the engineering plans.

Items Deferred

- (ii) where practical, development must be phased, with clearing undertaken only with the development of each stage; and
 - (iii) understory ground cover vegetation may be slashed, except in areas shown on the plan, providing ground surface disturbance is minimised and a rubber tyred vehicle is used.
- 3.5 All reasonable care must be taken to protect other vegetation from damage during construction. This will involve:
- clearly marking trees to remain
 - avoiding compaction of ground or filling within the dripline of trees to be retained
 - clearly delineating the area of disturbance and keeping all vehicles, building materials and refuse within that area
 - limiting the number of access points to the site
 - clearly restricting access to “no go” areas.
- 3.6 No vegetation is to be removed prior to approval of Council to start work on any stage, and not before the approved sediment control measures are in place.
- 3.7 Where practicable vegetative debris must be salvaged either as logs or woodchip for later reuse to control erosion or to rehabilitate the site. Non salvageable material, such as stumps and roots, can be removed.
- 3.8 Soil disturbance activities are to be in accordance with [Ref 1] Chapter 4.2 of the manual, slope lengths on batters are not to exceed those in [Ref 1] fig 4.4 and fig 4.5.

4.0 Access and Roads

- 4.1 Vehicular access must be confined to a maximum of two locations. Such locations will be shown on the ESCP and subject to the approval of Council.
- 4.2 Accesses to construction sites of 1 hectare or more shall be fitted with a shakedown device. A shakedown device shall be either:-
- a shaker grid (metal bar cattle grid minimum length 7m), placed to ensure vehicles crossing the grid have sufficient speed to shake off mud and contaminants from vehicles or
 - a 10m long shake down area constructed with 50mm diameter crushed rock

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

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

Items Deferred

Shaker grids are required on sites where more than 1,000m³ of material per month is hauled off site.

If material is deposited on a public street, it shall be swept up and removed before the end of that working day.

- 4.3 If after using shakedown device, material is still adhering to truck wheels and being deposited on public roads, a wheel washing device must be installed and used at site exit locations to ensure no further material is carted off site and deposited on public roads.
- 4.4 Runoff from access surfaces must be drained into an adjacent sediment trapping device before leaving the site. Where appropriate, devices to remove soil particles from vehicles must be placed at site exit locations.
- 4.5 On subdivision work, priority must be given to road and shoulder stabilisation based on erosion hazards. Where circumstances preclude the sealing of road shoulders and/or the construction of kerb and gutter, and:
 - (i) where grades permit grass shoulder (less than 5%), the shoulders and associated table drains must be topsoiled and turfed, having dimensions that simplify maintenance mowing; and
 - (ii) where grades do not permit grass shoulders (more than 5%), the shoulders and associated table drains must be stabilised with appropriate erosion control measures (e.g. jute mesh and bitumen, cross drains, erosion matting etc.) and revegetated.
- 4.6 On subdivision work newly sealed hard stand areas must be swept thoroughly after sealing/surfacing to prevent excess aggregate or gravel entering street drains.

5.0 Site Works, Erosion Control

- 5.1 Site disturbance must not be undertaken before the issue of appropriate approvals.
- 5.2 Construction sequence shall be generally in accordance with [Ref 2] A4.8.
- 5.3 Schedule the construction program to minimise the potential for soil loss so that at the time from the beginning of land disturbance activities to rehabilitation is minimised.

Further on lands with a high erosion hazard:

- (i) confine land disturbance to those times of the year designated in 2.2 for each soil loss class
 - (ii) or show special measures on the Plan to address the high erosion hazard
- 5.4 Site excavation must be designed and located to minimise cut and fill.
 - 5.5 Runoff and erosion controls must be installed before clearing and shall include:
 - (i) Diversion [Ref 1] manual 5.2.3, 5.2.4) of upslope runoff around cleared and/or disturbed areas or areas to be cleared and/or disturbed, providing that:

Items Deferred

- such diverted water will not cause erosion
- the upslope catchment area is more than 2,000 square metres
- waters are diverted to a legal point of discharge

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

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

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

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

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

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

Items Deferred

- 5.7 Where possible, topsoil must be stripped only from those areas designated on the approved Plan, and must be stockpiled for later use in rehabilitation and landscaping. Site topsoil shall be isolated from subsoil material in separate stockpiles.
- 5.8 Stockpiles (topsoil, spoil, subsoil, bricklayers loam, sand or other) must :
- (i) **not** be located on public footpaths, nature strips, roads, road shoulders or any other public land;
 - (ii) be located at least 2 metres from any hazard areas, including surfaces with grades greater than 15%, zones of concentrated flow, gutters, drains, driveways, tree drip zones, swales or standing vegetation;
 - (iii) be protected from upslope surface flows;
 - (iv) be provided with sediment filters downslope; and
 - (v) be provided with a protective cover that reduces the C-factor (see [Ref 1]) on bare surface areas to 0.15 or less where they are unlikely to be worked for more than 20 working days.
- 5.9 Fill batters should be located to avoid established trees, where this is not possible a tree surgeons advice is to be followed to minimise damage. Where retention is not possible affected trees are to be removed to reduce risk to slope stability.
- 5.10 Unless directed otherwise by approved plans and specifications, trenches must be backfilled and compacted to 95% standard compaction and capped with topsoil up to adjoining ground level and must be turfed or sown with an approved seed and fertiliser mix.
- 5.11 Excess spoil may be retained on site provided the stockpile area is prepared by stripping topsoil from beneath the fill site and respreading it later over affected areas.
- 5.12 All sedimentation control measures must be maintained at, or above their design capacity.
- 5.13 High efficiency dust control techniques must be employed on site on an as needs basis to prevent the emission of dust from the site see [Ref 1]6.3.6. Such techniques must be applied to the movement of soil, sand, all excavated areas, stockpiles, haul roads and ramps, and to any other areas or applications where the potential for dust generation exists. These control techniques may include the use of water sprays, application of dust suppressants, surface stabilisation or covering exposed surfaces. Dust control techniques must be employed on site at all times including outside normal working hours. All permanent roads and trafficable areas must be sealed or hard surfaced to minimise dust generation. Unless an exemption from Council is obtained, all sites where over 1,500 sq m are to be disturbed must be provided with a barrier fence wind break [Ref 1] 6.3.6(b)(iii).

6.0 Stormwater Control

Items Deferred

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

7.0 Sediment Control

- 7.1 All sediment control measures and facilities must be installed and stabilised before other site earthworks or measures are commenced, including stormwater diversion facilities.
- 7.2 Sediment basin(s) must be constructed where the area to be developed exceeds 1 hectare. Where it is less than 1 hectare, other sediment control devices may be accepted.
- 7.3 Silt fences, hay bales and other sediment traps. Design shall generally be in accordance with [Ref 1] Chapter 6.3.4 of the manual and manual standard drawings SD6.6 - 6.9 except as varied by the following criteria:-
- maximum flow in the ARI 3 month storm (deemed to be 40% of the ARI one year event), is not to exceed 1.6l/sec/metre (or the maximum catchment per metre of fence etc is not to exceed 45 m²), and
 - the fence or structure must be structurally viable and able to support hydraulic pressures during the ARI 100 year storm.
 - maximum post spacing 2m or 3m with wire mesh backing
 - In fences or structures longer than 30m, spill through weirs shall be installed at 20-30m spacing
 - Spill through weirs shall consist of a rock filled wall contained between an enclosed steel mesh fence retaining wall. Weir length 1.2m, thickness 0.6m, height 0.5m. Rock shall be 25-50mm aggregate.
 - Sediment is to be removed after each rainfall event and weirs are to be regularly maintained and cleaned to ensure effective operational condition.
 - Straw bales and silt fence geotextiles are to be replaced when damaged or permanently blocked and fully replaced at not more than six monthly intervals.
- 7.4 Where sediment ponds are required these are to be constructed upstream of any wetponds/wetlands or receiving waters and preferably off line.
- 7.5 A marker must be placed within each sediment retention basin to show the level above which the design capacity occurs. Plans shall indicate whether basins are to be temporary or permanent.
- 7.6 Where sediment retention basins are required, they must be designed to treat the design rainfall event sediment-laden stormwater emanating from the site during land development works. They must remain in place and fully operational until removal is

Items Deferred

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

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

- Overflow/bypasses are to be designed for 100 year ARI storm. Basins are to be designed so that flows greater than the ARI 3 month storm (deemed to be 40% of the ARI one year event) are transmitted in a manner that does not remobilise and remove existing settled sediment.
- Type C basins settling zone capacity design storm, the ARI 3 month storm (deemed to be 40% of the ARI one year event).
- Type F/D basins settling zone capacity, that necessary to contain the 75th percentile, 5 day rain event (41.5mm)
- Type C basin sediment storage zone capacity, the greater of 100% of the settling zone capacity or the average 2 month soil loss as calculated by the RUSLE.
- Type F/D basins sediment storage zone capacity, the greater of 50% of the settling zone capacity or the average 2 months soil loss as calculated by the RUSLE.
- Basins shall be surrounded by a manproof fence with lockable gates.
- Proprietary devices (Humceptors etc) will only be accepted in lieu of conventional sedimentation basins where they are sized in accordance with the above criteria.

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

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

Items Deferred

- 7.9 All sediment control structures must be operated and maintained in an effective operational condition following good engineering practice. These structures must not be allowed to accumulate sediment volumes in excess of 70% sediment storage design capacity. Materials removed from sediment retention basins must be disposed of in a manner approved by Council that does not cause pollution.
- 7.10 All weather compacted gravel vehicular access must be provided to all wetlands, sediment basins, detention basins, trash racks and gross pollutant traps etc.
- 7.11 Where practical surface waters from undisturbed lands must be diverted away from pollution control equipment to prevent contamination of clean runoff.
- 7.12 Appropriate measures must be provided to ensure that erosion and sediment control works themselves do not cause flooding, erosion or scour.

8.0 Pollution Control

- 8.1 Petroleum and other chemical products and must be prevented from entering the stormwater system or contaminating the soil. Impervious bunds must be constructed around all fuel, oil or chemical storage areas with an enclosed volume large enough to contain 110% of the volume held in the largest tank.
- 8.2 Adequate trade waste and litter bins must be provided onsite and serviced regularly.
- 8.3 Concrete wastes or washings from concrete mixers must not be deposited in any location where those wastes or washings can flow, or can be washed into any areas of retained vegetation or receiving waters.

9.0 External Site Requirements

- 9.1 In some circumstances it may be necessary to locate sediment control devices or stabilising works outside the construction site .
- 9.2 Where increased stormwater run-off is likely to accelerate erosion of any downstream watercourse, the necessary remedial work shall be provided concurrently with other sediment and erosion requirements.
- 9.3 Where sediment is likely to be transported from the site, all immediate downstream drainage inlets shall have appropriate controls installed.
- 9.4 If such works require entry onto private property, written permission shall be obtained prior to the entry and commencement of such works. Documentary evidence to be submitted with the development application.
- 9.5 All disturbed areas on other property to be reinstated to original condition and to the satisfaction of the owner. All works to be complete prior to the release of the linen plan of subdivision or building certificate.

10.0 Rehabilitation and Landscaping

Items Deferred

- 10.1 All ground disturbed must be progressively stabilised and rehabilitated so it no longer acts as a source of sediment.
- 10.2 The C-factor [Ref 1] is to be reduced to less than 0.15 (e.g. greater than 50% grass cover) on all lands, stockpiles and other exposed materials scheduled to remain unattended for a duration of more than 20 working days.
- 10.3 The final rehabilitation or landscaping program is to be scheduled so that a duration of less than 20 working days will elapse from final land shaping to permanent rehabilitation.
- 10.4 All landscaping and rehabilitation must be completed before occupation or use of buildings or premises.
- 10.5 Topsoil shall be used in accordance with [Ref 1] Chapter 4.3 of the manual.
- 10.6 Revegetation shall be in accordance with [Ref 1] Chapter 7 of the manual.
- 10.7 All temporary erosion and sedimentation control works are to be removed when works are completed and revegetation is successfully established on formerly disturbed areas. All redundant materials used for temporary erosion and sedimentation control works are to be removed from the site and all affected areas reinstated.

11.0 Operation, Maintenance

- 11.1 All erosion and sediment controls must be operated in accordance with the ESCP and maintained to be fully operational at all times. Worn, damaged or otherwise defective materials and components are to be repaired, refurbished or replaced as they become ineffective for their design purpose.
- 11.2 Where more than 2,500 square metres of land are disturbed, a self auditing program must be developed for the site. A site inspection self audit and monitoring program must be undertaken by the land developer:
 - at least each week
 - immediately before site closure
 - immediately following rainfall events that cause runoff.
- 11.3 The self audit must be undertaken systematically on site (e.g. walking anticlockwise from main entrance) and recording:
 - installation/removal of any erosion and sediment control device
 - the condition of each device employed (particularly outlet devices), noting whether it is likely to continue in an effective condition until the next self audit
 - circumstances contributing to damage to any devices, accidental or otherwise
 - storage capacity available in pollution control structures, including:

Items Deferred

⇒ waste receptacles and portable toilets

⇒ trash racks

⇒ sediment barriers and traps

⇒ gross pollutant traps

⇒ wetlands/water quality control ponds

- time, date, volume and type of any additional flocculants
- the volumes of sediment removed from sediment retention systems, where applicable, and the site where sediment is disposed
- maintenance or repair requirements (if any) for each device
- circumstances contributing to the damage to device
- repairs affected on erosion and pollution control devices

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

12.0 Monitoring

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

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

13.0 Response to Monitoring, Non Compliance with ESCP, Amelioration Measures

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

- issue of “stop work notice”

Items Deferred

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

13.2 Standard responses to Non Compliance

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

Indicator	Response	Comments
Suspended Solids (NFR) >50mg/litre	<p>Identify if non compliance is due to storm event greater than design storm of control devices. If so accept non compliance. If not then:-</p> <p>If possible stop discharge and store runoff on site</p> <p>Use flocculation agents to lower NFR or</p> <p>Pump contaminated water over grassed filter strips or buffer areas to lower NFR</p> <p>Identify (by inspection and/or analysis) if non compliance is due to damage of ineffectiveness of erosion and sediment control devices. Repair or redesign/replace if necessary (or required by Council) to ensure future compliance.</p>	Non compliance may occur, by design, in > 3month ARI event

Items Deferred

REPORT:

Applicant:	Lenen Pty Limited, C/- Victor Feros Town Planning Consultants
Owner:	Lenen Pty Limited
Location:	Lots 194, 301 and 312 DP755701 Parish of Cudgen, Coast Road, South Kingscliff
Zoning:	2(t) Tourist Area Zone, 7(a) Environmental Protection (Wetlands) Zone, 7(f) Environmental Protection (Coastal Lands) Zone and 7(l) Environmental Protection (Habitat) Zone
Estimated Value:	\$7.86 million (leading to ultimate development of \$200 million tourist resort).

SUMMARY OF POSITION AND KEY ISSUES

At its meeting of 15 March 2000, Council resolved that a report be brought forward at this meeting with conditions to allow Council to give consideration to approval. Subsequent provision of further substantial reports and analysis by the applicant; assessment and evaluation by Council professionals and the National Parks and Wildlife Service and related negotiations - including draft conditions - now enables a recommendation for conditional approval. Key outstanding issues as reported on 15 March 2000 - were:-

- “i. Inconsistency with the NSW Coastal Policy;*
- ii. Inconsistency with draft Section 94 Plan No. 25 and the draft Strategic Planning Policies - Kings Beach North. In relation to provision of public open space, cycleways, road design, location of sewer, riparian buffers, provision of public car parking and beach access for the public.*
- iii. Inconsistency with the Cudgen Creek Estuary Plan of Management in relation to riparian and wetland buffers and water quality impact.*
- iv. The proposed road infrastructure and drainage was considered inappropriate, including insufficient information provided to adequately assess the provision of infrastructure and final earthworks and trunk drainage provision on which the master lots rely to enable development of each master lot to proceed in stages.*
- v. The location and quantum of proposed public parking and proposed access to the beach is considered inadequate.*
- vi. Insufficient information is available to enable Council to fulfil its legal obligation to make a decision concerning the likely affect of the development on the environment and threatened species.”*

Provision of Public Open Space and the NSW Coastal Policy

The Director of Development Services retains the strong recommendation that a total of 3.2ha of public open space be dedicated by the applicant to public ownership adjacent to the coastal foreshore in two sectors:-

Items Deferred

- a. the northern sector of the site - 1.6ha comprising approximately 1.0ha of land zoned 2(t) Tourism and 0.6ha of land zoned Environmental 7(f) Coastal Protection;
 - b. in the southern sector of the site - 1.6ha - 0.96ha of 2(t) Tourism and 0.64ha of 7(f) Coastal Protection.
- Indicatively, each of the two dedicated areas should be 400 x 40m and have public beach access at the northern and southern points of each area. The beach access points then inter-relate with the provision of public car parking. The proposal for 1.6ha of open space at each of the northern and southern ends leaves a "middle third" remaining in private ownership and management relative to the resort hotel which was a strong submission by the applicants coming from their commercial interests.
 - The applicant maintains the position of dedicating 20m from the western property boundary and potentially financial contributions to embellishment of existing public open space on the coastal foreshore (the applicant is committed to funding the construction of a coastal cycleway - a minimum of 20m from the western boundary of the 7(f) Coastal Protection zone).
 - Financial contributions would go to embellishment of the "Single Coastal Reserve". Whilst likely that Council remains "corporate Manager" of that Reserve, the ultimate control/jurisdiction of Council is not ensured.
 - The recommendation by the Director of Development Services is based upon the NSW Coastal Policy; the anticipated high level and increasing regional demand for public access and recreation to the coastal foreshore and beach at South Kingscliff; the actual direct demand deriving from residents/occupants of the Resort development and given that active open space provision liability is implicitly waived in this case and that the formulae underpinning the 3.2ha is compatible with Shirewide practice. The 7(f) Environmental Protection coastal zone is based upon the 50 year coastal erosion setback plus a 30m vegetative buffer subject to ministerial decision in the late 1980's and should be managed based upon that declared purpose.

Public Car Parking

- Council resolved (1 March 2000) to place the draft Section 94 Plan No. 25 and draft Strategic Planning Policies on public exhibition which embody the above open space provision and 200 public car parking spaces on the site.
- The resort development as proposed in the masterplan is under provided with car parking relative to Development Control Plan No. 2.
- Council's historical policy has been for 300 public car parking spaces to be provided for each 1km of coastal foreshore (this site as a 1.2km north/south frontage).
- The Director of Development Services again strongly recommends that 100 spaces be provided at each of the northern and southern ends of the site by way of well designed landscaped car parks, a large part of which can be integrated with a 20m road reserve for the temporary road in the north and the road from the resort to exit the southern boundary. The car parking areas should be in close proximity to the coastal foreshore providing well designed, legible and easy

Items Deferred

pedestrian access to the coastal foreshore and beach. Such an approach could also support manageable security arrangements relative to the resort needs.

- The applicants maintain that 40 car parking spaces should be provided at the southern end as originally proposed with the remaining public car parking space being “mixed” with the private car parking in the resort development.
- Condition 9 places responsibility of the applicant to dedicate the land with Council constructing the car parking as funds become available.

Riparian Buffer

- National Parks and Wildlife Service, NSW Fisheries and the Cudgen Creek Estuary Management Plan adopted by Council lead to the recommendation for a 50m buffer from high water mark off Cudgen Creek. This is recommended conditionally from the High Water Mark of Cudgen Creek, in terms of 20m of dedication of land and a 30m easement.
- The applicants maintain that 20m of dedicated land is all that should be provided.

Road, Drainage and Water/Sewer Infrastructure

- The collector road running north/south through the site is incompatible with the exhibited draft Strategic Planning Policies. However, the Director of Development Services is recommending acceptance of the applicant’s road alignment which is in part pre-conditioned on the fulfilment of other recommendations regarding public car parking provision and beach access.
- It is submitted that there is a significant concession here relative to the NSW Coastal Policy and wider planning justification in that a coastal esplanade is not being sought for provision.
- Stormwater drainage and related water quality management has now been resolved in terms of a report and plan submitted by Cardno MBK on 29 March, 2000 and as evaluated in the report below.
- Sewer is conditioned for being directed to the north - the applicant’s position that the sewer should be directed to the south.

Flora and Fauna Assessment

- As reflected in the National Parks and Wildlife Service letter of 27 March, 2000 reproduced below, there are still reservations about the adequacy of the assessment to underpin a judgement that the development is not likely to have significant effect on flora and fauna - a judgement which the Council is legally obliged to make in terms of the Environmental Planning & Assessment Act, 1979.
- Following the reports and extensive discussions with NPWS officers, the recommendation embodies a judgement made on balance that the development is not likely to have such a significant effect. Such a judgement does, in part, underline the importance of retaining a 50m riparian buffer from the high water mark of Cudgen Creek.

Items Deferred

BACKGROUND

Council has received a Development Application (K99/1755) for subdivision of the subject land into six (6) "master" lots in stages, with associated road and utilities infrastructure, to be developed for future integrated tourist resort facilities. The six (6) "master" lots will be subject to future Development Applications for the specific development for the proposed tourist facilities, which in summary comprise 200 twin-keyed hotel units (comprising 200 "hotel" suites and 200 "motel" suites) 200 condominiums (also twin-keyed), 200 residential flat buildings for tourist accommodation, and various other recreational facilities including an 18 hole golf course and indoor bowls green). The concurrence of the Director-General of the Department of Urban Affairs and Planning has been received in respect of the proposed subdivision zoned 7(f) Environmental Protection (Coastal Lands). The area of the subject land is 73.86ha, however, an application for adjustments to the western boundary of the land to reflect alterations to the mean high water mark is currently undetermined due to a Ministerial deferral of determination of applications pending a report from the NSW Coastal Council.

The subject site is currently undeveloped. Most of the site was subject to sand mining during the 1960s and the majority of the site consists of a low-lying coastal plain with a fractured dune system, low sand ridges and estuarine flats. Vegetation communities consist of considerable areas of sparsely vegetated communities, shrub land and on the western edge of the site some swamp paper bark open forest and closed forest and sedge land. Bitou bush forms dense stands in some parts of the shrubland. The existing coast road traverses the site, and the eastern boundary of the site is set back approximately 100 metres from the beach foredune.

Council issued Development Consent DA92/271 to Sahben Kingscliff Pty Ltd in October 1992 for development on the subject land of a tourist resort comprising a hotel with 375 hotel units, 260 condominiums and 18 hole golf course and associated shopping, restaurant and recreational facilities. This consent was amended by Council in October 1997, following consideration of an application to modify the proposal by realignment and amendments to the layout of the internal road, car park and buildings. The consent specified a minimum of 625 off street car parking spaces for the proposal and the construction and dedication of public parking for a total of 90 vehicles. This consent lapsed in October 1997. On 4 December 1998, Amendment No 106 to the Tweed Local Environmental Plan 1987 was gazetted which amendment rezoned certain areas on the western side of the site and adjacent lands fronting Cudgen Creek to 7(a) or 7(l) and included a small area of land deferred by Council.

The draft Tweed Local Environmental Plan 1988, was referred to the Minister by Council, pursuant to Section 68 (4) of the Environmental Planning and Assessment Act. In general, this carries over the existing zonings under the Tweed Local Environmental Plan 1987 with the deferred areas remaining zoned Residential Tourism 2(f).

This application has been the subject of extensive consultation with the applicants and government authorities, in an endeavour to resolve issues relating to the proposal including applicant representation at Council's Strategic Planning Committee Meeting on 19 January 2000, a meeting involving Council and the applicant's representatives on 11 February 2000, a Planning Focus Group meeting involving government authorities, council staff, and the applicant's representatives held on 29 February, a meeting between the applicant's representatives and Council's Subdivision Manager to discuss the applicant's suggested consent conditions on 16 March 2000, meeting at Tweed Heads

Items Deferred

Civic Centre involving senior National Park and Wildlife Services representatives, the applicants and Council representatives to discuss further information put forward by the applicant concerning flora and fauna issues on 22 March 2000 and a meeting involving Council's Subdivision Manager and the applicant's representatives to discuss preliminary consent conditions prepared by Council.

Council at its meeting of 1 March 2000 adopted a draft Section 94 Plan No 25 in respect of Kings Beach North and accompanying draft Strategic Planning Policy. This draft Section 94 Contributions Plan in respect of Open Space is currently on public exhibition until 3 April 2000.

Since the submission of the original development application, the applicant or the applicants consultants have provided additional information to clarify a number of aspects of the proposal in response to written comments from Council and Government agencies. This additional information is summarised as follows:-

- 9 February 2000 - a written response from Victor G Feros, Town Planning Consultants to Council's letter, attaching survey information from B & P Surveys and information concerning roadworks, sewerage and water supply from Cardno MBK;
- 3 and 5 March 2000 - stormwater management water quality modelling report and proposed drainage and bulk earthworks report submitted by Cardno MBK;
- 28 February 2000 - letter from Victor G Feros, Town Planning Consultants concerning proposed car parking;
- 7 March 2000 - response by Gunninah Environmental Consultants for Lenen to issues raised by the NPWS concerning riparian management, threatened species, vegetation and fire management, Aboriginal heritage and staging;
- 10 March 2000 - supplementary documentation by Gunninah Environmental Consultants concerning issues raised by Council, adequacy of the '8 point test for significance' under Section 5A of the Environmental Planning & Assessment Act, 1979, coast banksia resources etc;
- 28 March 2000 - Riparian Vegetation Management Plan Outline submitted by Gunninah Environmental Consultants.

DESCRIPTION OF THE PROPOSAL

This proposal seeks development consent for the subdivision of the land at Kings Beach South into six (6) "master" and management lots, with associated road and infrastructure, for a future tourist resort complex, comprising a hotel (200 twin-keyed suites), 200 condominiums (twin-keyed) and 200 attached resort houses (residential flat buildings)) together with an 18 hole golf course, shops, conference centre and services, lawn bowls green pavilion, swimming pools, tennis courts and golf club house. Each master lot or management lot comprises a precinct, as identified in the outlined development plan. The details of the proposed future development, site area etc within each proposed lot or precinct are summarised in the following table. Figure 1 shows the applicant's Outline Development Plan, Figure 2 shows the proposed Plan of Subdivision. Full sized copies of the plans will be available for inspection at the Council chambers on the day of the meeting.

Items Deferred

It is noted that Council's consent is only sought in the application for six (6) "master" or management lots, with associated collector road, sewer and water supply infrastructure, bulk earthworks and trunk drainage. The application seeks a staged consent pursuant to Section 80(4) of the Environmental Planning and Assessment Act based on future land uses and development generally in accordance with the applicant's "Outline Development Plan" (see Figure 1). Future development applications and approvals will be required in respect of the actual development proposed within each of the six (6) management lots.

Items Deferred

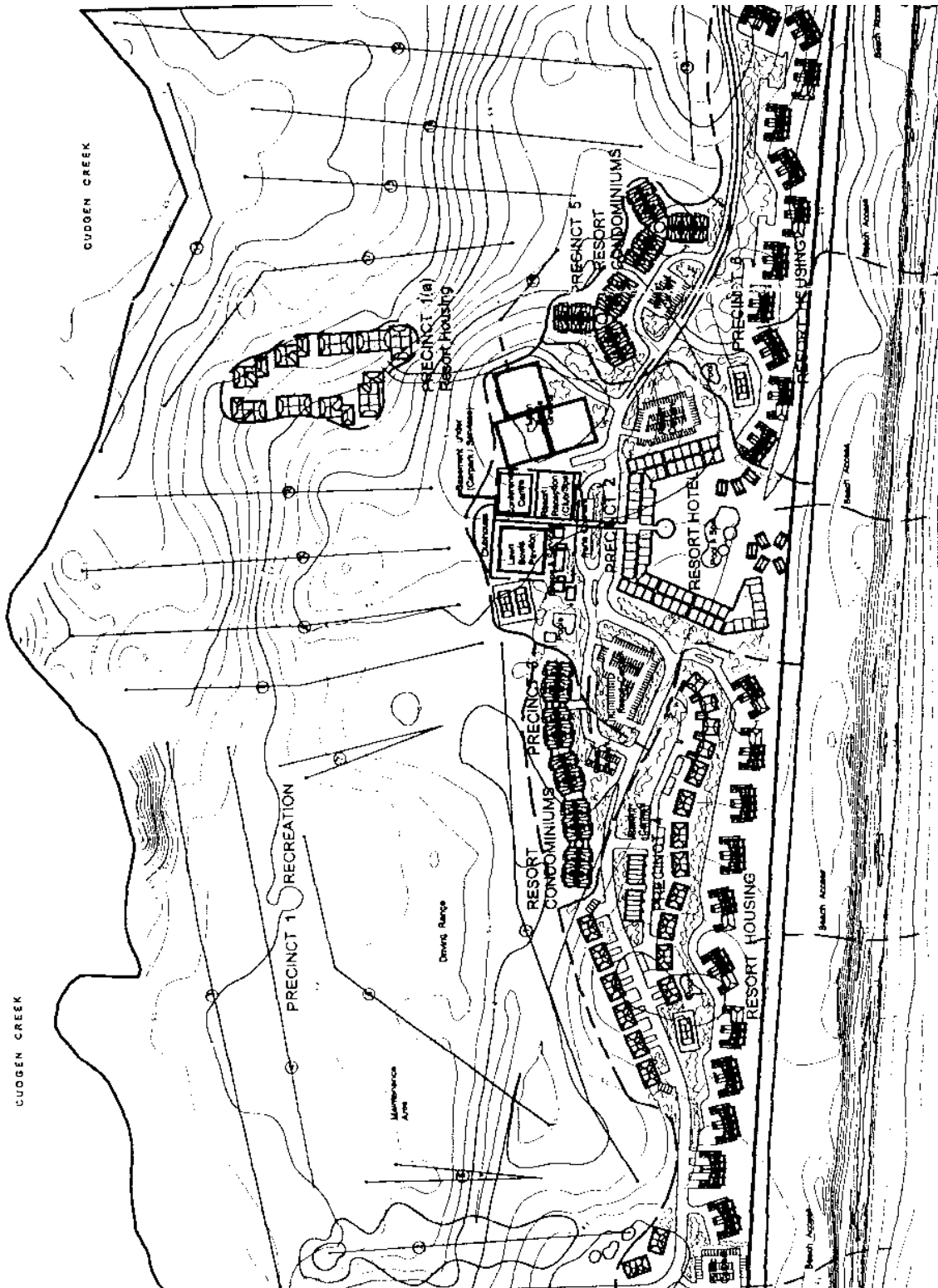
Table

Proposed Future Development Summary

	Name	Area (ha)	Land-Uses	No of tourist Accom Units	Building Floor Area (m ²)	No of Storeys	Accom. Density (persons/ha)
1	Recreation	50.33	<ul style="list-style-type: none"> Golf Course 18hold Resort housing 	28	3,360	1	84
2	Tourist Resort Precinct	7.47	<ul style="list-style-type: none"> Central facilities (reception/admin/entertainment/club) Shops and related services Conference Centre Lawn Bowls Pavilion Lawn Bowls Green (3) Tennis Courts (2) Swimming Pools Golf Clubhouse, etc Basement Car Park and Services Resort Hotel 	200 (twin-keyed - 200 hotel suites + 200 motel suites)	5,000 1,500 1,000 3,500 - - - 1,500 7,500 22,500	1, 2 and 3	600
3	Tourist Resort Support (south)	1.53	Resort condominiums (twin-keyed)	92	13,800	3	276
4	Integrated Residential (south)	8.08	Resort Housing	128	16,900	1, 2 and 3	384
5	Tourist Resort Support (north)	1.7	Resort condominiums (twin-keyed)	108	16,200	3	324
6	Integrated Residential (north)	4.7	Resort Housing	44	6,820	1, 2 and 3	132
				600	99,580		1,800

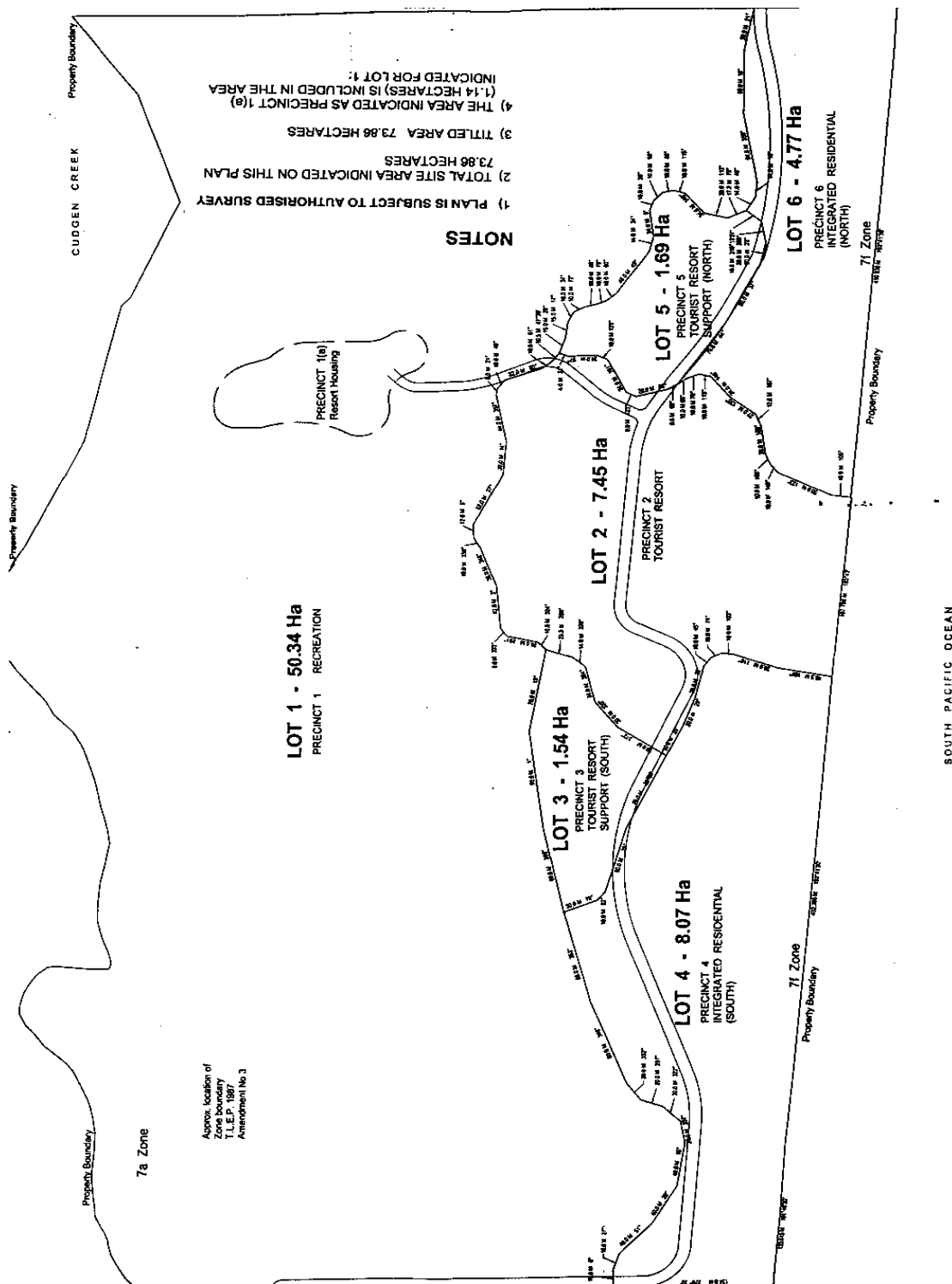
Items Deferred

Figure 1 (Outline Development Plan)



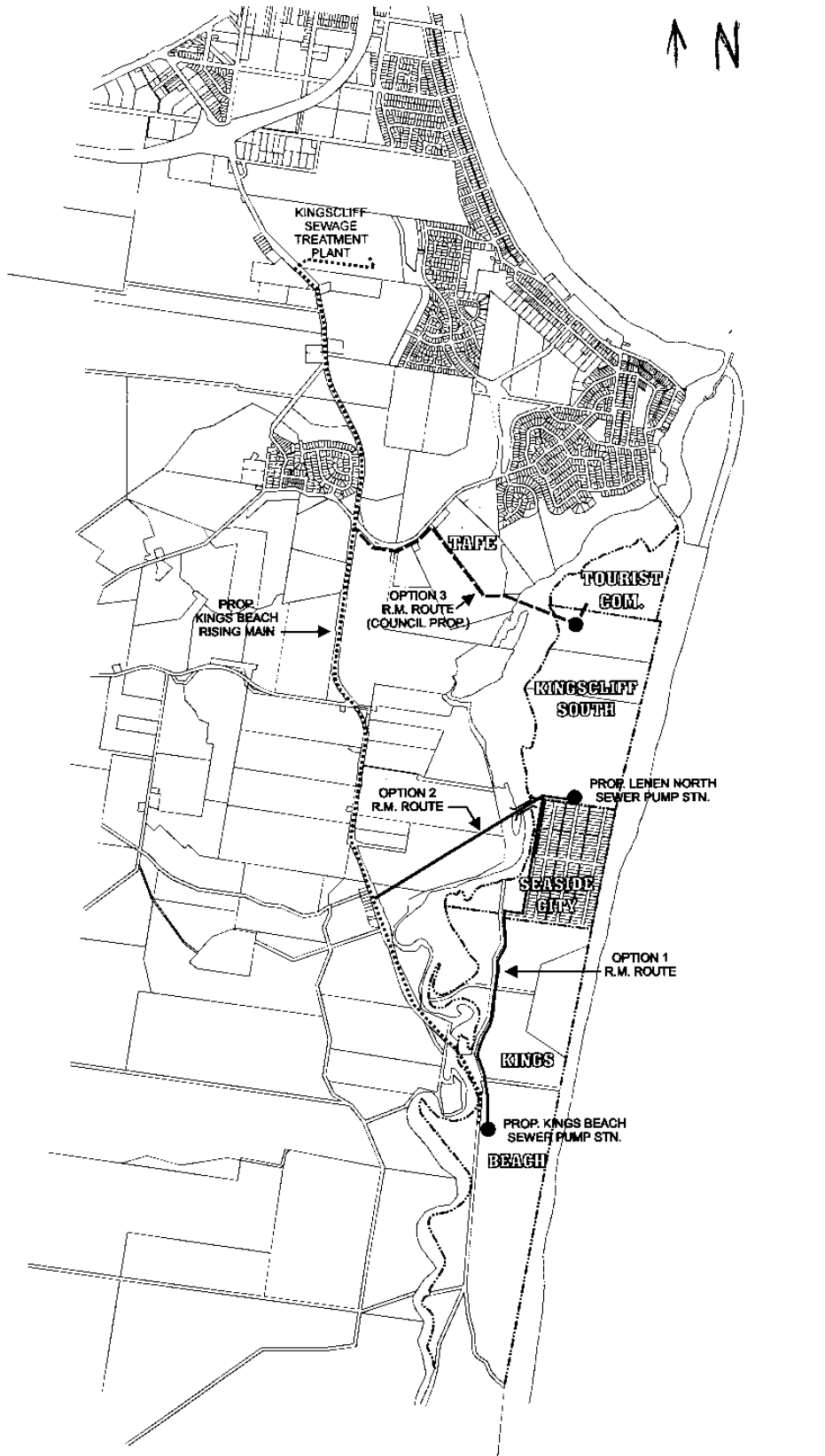
Items Deferred

Figure 2 (Plan of Subdivision)



Items Deferred

FIGURE 3



Items Deferred

In summary, the buildings and associated infrastructure are located along the eastern side of the site but to the west of the 7(f) Environmental Protection (Coastal Lands) boundary, with the exception of 28 attached resort houses located within the proposed recreation precinct (proposed Lot 1) on which the golf course is proposed to be located.

The existing Coast Road is to be realigned and reconstructed with proposed connection points to the north and south which do not match any existing or approved road. Public car parking provision for 40 spaces is proposed at the south-eastern corner of the site with a further 50 parking spaces minimum to be provided for use by the public within the proposed resort car park immediately north of the proposed hotel building.

Five (5) beach access points for pedestrians are indicated along the 1.184km of the site to the ocean front reserve. The application indicates a proposed 20m wide buffer to wetland areas on the western side of the site for conservation and a surf lifesaver to be provided by the resort hotel for beach patrolling. A total of 750 car spaces are to be provided with some to be basement car parks as part of the hotel development. Options are presented for construction of a sewer rising main either to the proposed Kings Beach vacuum pumping station or the provision of a rising main across Cudgen Creek with replacement of the existing 250mm diameter water main with a 450mm diameter water main through the site.

The application is accompanied by a Statement of Environment Effects by Victor G Feros Town Planning Consultants and the following attached reports by the applicant's consultants:

- Geotechnical Report, Stormwater Treatment and Disposed Report, Infrastructure Report and Traffic Impact Assessment Report by Cardno MBK, Consulting Engineers and a Flora and Fauna Assessment Report by Gunninah Environmental Consultants.

The Geotechnical Report includes a draft acid sulphate soil management plan.

Additional information, plans and details have been submitted comprising a Stormwater Management Water Quality Modelling Report and proposed Drainage and Bulk Earthworks Report by Cardno MBK Pty Ltd responses concerning survey details, roadworks, services, car parking and flora and fauna impact issues, and draft Plan of Management for Riparian Areas by Gunninah Environmental Consultants. The latter proposals indicate an amendment in the stormwater drainage and precinct concept, which is referred to later in this report.

CONSULTATION

The application was referred to the Department of Urban Affairs and Planning for concurrence, since the proposal involves the subdivision of land within a 7(f) zone. The application was also referred to the following government authorities:-

- National Parks and Wildlife Service
- Environment Protection Authority
- Roads and Traffic Authority (Regional Advisory Committee)
- Department of Land and Water Conservation
- NSW Fisheries

Items Deferred

In addition, the application was publicly exhibited for a period of fourteen (14) days between 17 January 2000 and 1 February 2000. One submission was received during the advertising period, and a further two submissions were received following the expiry of the advertising period. Adjoining owners were also notified.

The proposal has been the subject of extensive discussions and negotiations with the applicants and Government Authorities in an endeavour to resolve the outstanding issues. The approach has been to progressively seek to resolve the outstanding issues to ultimately facilitate a recommendation for approval of the first stage of this critically important project for the Shire in terms of economic and employment benefits. A summary of the main consultation meetings in this process involving the applicant is as follows:-

- 19 January 2000 - Council Strategic Planning Committee Meeting - addressed by Lenen representatives
- 29 February 2000 - Planning Focus Group meeting arranged by Council - attended by applicants representatives and representatives of DLAWC, NPWS and EPA
- 9 March 2000 - meeting at Coffs Harbour NPWS involving applicant's representatives, NPWS personnel and Council's Subdivision Manager concerning flora and fauna impact issues
- 16 March 2000 - meeting at Tweed Heads between applicants representatives and Council's Subdivision Manager to discuss the applicant's suggested consent conditions
- 22 March 2000 - meeting at Tweed Heads involving Council representatives, representative of Lenen and senior staff of the NPWS to further resolve issues of concern to the NPWS
- 23 March 2000 - meeting at Tweed Heads between Council's Subdivisions Manager and applicants representatives to discuss preliminary draft conditions of Council
- 28 March 2000 - further meeting with applicants representatives to discuss draft consent conditions.

A summary of the government authority's submissions is provided below with comments where appropriate:-

Department of Urban Affairs and Planning

The Department advises that it has granted concurrence to the subdivision of the land within 7(f) zone to create 3 of the "masterplan" allotments which extend from the 2(t) zone. This concurrence is granted on the basis that the application does not involve any physical works within the 7(f) zone. If such works are contemplated, details of the works should be provided and a further request for concurrence submitted. The concurrence is subject to:-

- no residential or associated buildings be erected on land zoned 7(f);
- landscaping to the satisfaction of Council being established on the land zoned 7(f) within each allotment to ensure that there is no restricted access onto the beach area

Items Deferred

- no access for vehicles or pedestrians being available from the eastern boundary of the allotments unless such access is consistent with a Management Plan which covers the public foreshore areas and is agreed to by both the Council and the Department of Land and Water Conservation.

It is proposed that these conditions be attached to any consent to reflect the granting of the DUAP concurrence.

National Parks and Wildlife Service

The Service initially provided written comments concerning the proposal, which are summarised as follows:-

- proposed 20m buffer to the riparian area is considered insufficient to mitigate potential impacts on Cudgen Creek and environmentally significant vegetation on eastern side of the creek;
- the Service recommends a minimum 50m buffer be required between environmentally sensitive vegetation including SEPP14 Wetland No 44 and the proposed golf course;
- potential impacts of proposed development on environmental values of the riparian area, such as vegetation clearing, changes in hydrology, stormwater runoff, introduction of exotic weeds, bushfire mitigation, increase in predatory domestic animals and increased visitation and recreation use, have not been adequately addressed;
- further information requested on proposed uses such as cycleway and canoe launching area within riparian area and recommends transfer of environmentally sensitive lands to Council for eventual inclusion in Cudgen Nature Reserve recommended;
- indirect impacts of proposed future land uses such as golf course, resort buildings and associated infrastructure on potential habitat for a number of threatened species such as Common Blossom Bat, Glossy Black Cockatoo, Long-nosed Potoroo, Common Planigale and Koala have not been adequately addressed and targeted survey for Blossom Bat should be conducted in winter to provide adequate information for consideration of likely effects of proposed clearing and development on the habitat of threatened species, the Common Blossom Bat;
- amount of vegetation to be cleared, including floristic composition and habitat replanting proposal is not quantified in Development Application, nor is cumulative impact of other developments in locality which may increase local significance of the coast banksia population on subject site;
- vegetation mapping appears incorrect;
- inconsistencies in the flora and fauna assessment in regard to threatened species, such as osprey;
- recommends that council requires preparation of a Vegetation Management Plan and Dune Management Plan for the site prior to determination of the Development Application, with vegetation replacement on dunes to take place progressively and at an appropriate time of year too minimise erosion potential;
- use of native species local to the area, but not necessarily endemic should be included in revegetation plan to reflect natural diversity of site;

Items Deferred

- potential environmental impact of proposed fire mitigation measures not adequately addressed;
- no evidence to support conclusion that no Aboriginal relics of any note present on the site or whether any assessment of aboriginal cultural heritage of the site has been undertaken by a qualified archaeologist in consultation with the local aboriginal community, notwithstanding previous disturbance;
- proposal staging needs to be more clearly defined for assessment of cumulative impacts;
- the Service concludes that insufficient information has been provided to enable Council to adequately assess likely impacts of the proposed development on environmental values of the site and insufficient information to allow conclusions to be reached as to whether there is likely to be a significant impact or not on flora and fauna. Council is legally required to make a well-informed judgement.

The NPWS considered the written response dated 7 March, 2000 prepared by the applicant's consultants Gunninah and advised further written comments in a letter dated 16 March, 2000, the main points of which are summarised as follows:-

- Cudgen Creek Riparian Buffer - the Service recommends a 50m buffer between the riparian area and the proposed golf course including a 50m buffer to SEPP14 Wetland and other environmentally significant vegetation on eastern side of Creek, having regard for recommendations of the Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks (1997) and the Tweed Draft Vegetation Management Plan (1999);
- Sources a recommendation for a 50m buffer deriving from a multi-agency 1996 review of the Coffs Harbour City LEP, further advising that a sympathetic golf course design and 50m buffer would provide habitat to a range of flora and fauna species impacted by development;
- NPWS considers that all areas of riparian vegetation included in the Environmental Protection zones in the draft LEP 1998 are environmentally significant (this includes over 75% of the Creek frontage lands of the site);
- The environmentally significant vegetation adjacent to the Creek is considered potential habitat for a number of threatened species such as common Blossom Bat, Glossy Black Cockatoo, Long-nosed Potoroo, Common Planigale and Koala;
- Recommends that Council consider requiring the fencing of the SEPP14 Wetland including a buffer to help minimise potential impacts of adjacent land uses and increase the viability of this natural area;
- NPWS does not object to proposed cycleway/walking track or canoe launching area in the riparian area but indicates that no information provided concerning proposed location of construction of these facilities, nor concerning the environmental impacts of such uses to enable the Service to provide advice to Council concerning the likely environmental impacts of such recreation proposals;

Items Deferred

- Advises that it is Council's statutory role as the consent authority for the DA under the Environmental Planning & Assessment Act, 1979 to conclude whether or not the development proposal is likely to have a significant effect on threatened species and their habitats; the NPWS has an advisory role until such time as the consent authority concludes a significant effect is likely and then the NPWS should have a concurrence role;
- Refers to the Services' previous advice concerning threatened species and their habitat, notwithstanding supplementary information provided by Gunninah;
- The NPWS indicates concern about lack of survey for Common Blossom Bat in winter based on assumption that the species is not likely to venture more than 4km from its roost site near Wollumbin Scout Camp, further advises that the species may have other roost sites, including solitary roost sites elsewhere and that cites the Precautionary Principle in this regard;
- Requests details of flora quadrats to define the density of Coast Banksia over the area to be cleared, and the quantifying of the amount and floristic composition of vegetation to be replanted as potential habitat, with approximate boundaries of vegetation communities inconsistent with much of the site's existing vegetation;
- Cumulative impacts of other developments proposed in the locality may increase local significance of Coastal Banksia population on this site and requests amelioration of loss of coast banksia to be described in more detail;
- Points out inconsistencies in the number of threatened species recorded on the site and accepts that Osprey recorded along Cudgen Creek, rather than on the subject site;
- The Service recommends that Council require Vegetation and Dune Management Plans to be prepared, and a Fire Management Plan for the site to be prepared, approved and/or implemented prior to any further development applications are lodged or considered, with Fire Management practices to consider ecology of the plant community;
- Requests evidence of the basis on which the applicant's Archaeological Consultants reached conclusion that no matters of Aboriginal Cultural Heritage significance exist on the site, and recommends the imposition of an appropriate condition for work to cease immediately in the event of discovery of any relic during works etc;
- Requests the staging of development to be more clearly defined and cumulative impacts assessed relative to staging, and notes that up to date Development Control Plans (DCP) for all urban release areas was a key outcome in the Tweed Shire 2000+ Strategic Plan (1996). In absence of a DCP, the staging of developments should be addressed in detail prior to consideration of the development application.

Following the meeting between NPWS representatives, Council and the applicants representative on 22 March, 2000, a further response was received from the Service, summarised as follows:-

- few quadrats appear to have been located in the open She-Oak Ti-tree tall shrubland and no quadrats appear to have been located in the dense She-Oak Ti-tree tall shrubland and remains

Items Deferred

concerned about conclusions reached given low sampling intensity and apparent lack of sampling intensity and apparent lack of sampling in at least one (1) vegetation type;

- Vegetation on the site: the Service submits that there is significant vegetation on the site apart from the SEPP 14 Wetland areas namely in those areas proposed to be zoned 7(1) Environmental Protection (Habitat) in the draft LEP 1988.
- Golf Course: NPWS supports the intention to retain large or mature Coastal Banksias on the proposed golf course site, but questions commitment or level of confidence that vegetation which is habitat or threatened species will be retained.
- The Service suggests that a commitment to design the golf course around existing Coastal Banksias could be given to provide security, the Service also supports proposed retention and use of appropriate local native plant species of local provenance.
- Cudgen Creek Riparian Vegetation Zone: NPWS continues to recommend a 50m buffer between the golf course and areas of environmentally significant vegetation on the east side of the Creek; golf course development will result in significant modification landscape and existing vegetation, and indicates that proposed buffer of 20m to the SEPP40 Wetland Vegetation is not considered sufficient. The Service agrees that a Bicycle Path/Walkway has potential to enhance values the riparian area by appropriately controlling recreational use and access to this area and by avoiding SEPP 40 Wetland; requests specific information on location, design and construction details of the proposed recreational facilities to adequately assess environmental impact.

The applicant's flora and fauna consultants Gunninah submitted a supplementary information and response to the issues raised by NPWS and Council, in regard to the riparian buffer issue, impact of development on threatened species, additional information on the Coast Banksia on the site and its habitat value for Common Blossom Bat, vegetation analyses on the site and Aboriginal Cultural Heritage.

Having regard for the advice of the NPWS and consideration of the further information from the applicant's consultants, the following comments and conclusions are made in relation to the outstanding issues of concern to the NPWS:

- Riparian Buffer: the NPWS, NSW Fisheries and the Plan of Management for Cudgen, Cudgera and Mooball Creeks all recommend a 50m buffer width variously from the creek banks, the high water mark and areas of significant vegetation such as wetland. The applicant submits that there is no justification for imposition of 50m buffer and indicates a 20m buffer should be adequate for riparian vegetation or SEPP 40 Wetland, and the combination of the proposed 20m riparian buffer and the golf course management regime will represent a substantial improvement over the existing circumstances and existing degraded vegetation conditions, with stormwater overflow into the creek likely to take place only once in a hundred years due to the Stormwater Management Plan utilising infiltration. Furthermore, a 50m buffer would impede provision of an adequate land area for the proposed golf course. NPWS agrees that a bikeway/walkway could be a compatible use within part of the riparian buffer by appropriately controlling recreational use and access to the area and by avoiding the SEPP 14 Wetland.

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On balance, it is considered that the draft Strategic Planning Policies for the riparian buffer adopted by Council for exhibition at its meeting on 1 March 2000 reflect a satisfactory resolution of the buffer provision relying on the dedication of a 20m wide core buffer, measured from the highwater mark, with the edge of any environmental protection zone, with appropriate native vegetation replanting and a 30m outer buffer adjacent to any section of the core buffer which joins the creek, this outer buffer to be required as a restriction as to user under Section 88B of the conveyancing act and maintained by the landowner, such riparian buffer as required pursuant to the provisions of Contributions Plan No 25 - Kings Beach North.

- **Potential Impacts on Vegetation:** The development of the site will involve substantial clearing and earthworks over that part of the site which has been partially revegetated mainly by species not native to the site and used in sandmining rehabilitation such as Coast Ti-tree and Horse-tail She-Oak with parts dominated by introduced weeds namely Bitou Bush and Lantana. Although the outline development plan indicates that some of the golf course greens and fairways impinge upon lands zoned 7(a) Environmental Protection (Wetlands) or 7(l) Environmental Protection (Habitat) or SEPP No 14 areas, a condition of consent will require any future works for a golf course to address this issue. Additional information provided by the applicant has addressed concerns raised in regard to significance of vegetation on the site, in particular the significance of the Coastal Banksia species. Impacts on wetland or creek areas due to stormwater or surface/ground water pollution are capable of being adequately managed to prevent nutrient load and to ensure that no clearing is required for the trunk stormwater system in events under the 1:100 years storm. The draft Plan of Management for riparian buffer and for pre-rehabilitation measures will involve defining the protection of large and mature stands of Banksia within the proposed golf course management plan and riparian buffer management plan and the translocation of suitable immature species of Coastal Banksia within the replanting program to enhance the environmental values of the site. The impact of construction of a sewer line in the preferred location across lands to the west has not been addressed by the applicant. However, the exact route and choice of such route for off site sewer line and its assessment in accordance with Part 5 of the Act does not appear impose an insurmountable problem having regard for the choice of routes available, to be detailed as part of the applicants sewerage construction proposals.
- **Threatened Species:** The NPWS and the applicant identified a number of threatened species potentially existing on the site. Having regard for the nature of the habitat and the degraded habitat values of vegetation on most of the site, and further information submitted by the applicant, it is apparent that there is no osprey nest on the site itself, that there is no koala habitat, and that the density of Coastal Banksias is insufficient to form a significant habitat for the Common Blossom Bat, having regard for the distance of this site from the known roosting area of the Common Blossom Bat some 5km to the south at the Wollumbin Scout Camp. The proposed vegetation management measures explained by the applicant in supplementary reports indicates proposals for the retention, replanting and translocation of Coasted Banksias to potentially enhance the habitat value of part of the site for Blossom Bat. On balance, it is not considered likely that the proposed development will “significantly effect” threatened species, populations or communities, having regard for the additional information concerning the site and the intended mitigation measures. In regard to threatened marine fauna, the applicant has provided an adequate statement justifying that there is no potential for any significant effect on the only threatened fish species name the *Oxleyan Pigmy Perch* regarded as potentially occurring

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in the vicinity of the proposal development. However, there is no evidence or records of this species from Cudgen Creek.

- **Vegetation Mapping:** Additional information provided by the applicant in relation to quadrats and vegetation surveys still poses some concerns over the detail of the sampling, however, this situation does not alter the conclusion reached in regard to the likely impact of the development on threatened species or its environmental impact generally.
- **Use of Endemic Native Species:** The proposed Plan of Management for Riparian Vegetation submitted by the applicant indicates that local native species of provenance will be utilised in replanting program.
- **Vegetation Management; Golf Course Management, Fire Management and Dune Management Plans:** In consideration of the outline proposals for these management plans submitted by the applicant, in consultation with the NPWS it is appropriate that conditional approaches to these management issues be undertaken with such plans to be submitted in conjunction with Development Applications and prior to the issue for consent for the development of any of the proposed management lots, such condition to be worded to require the applicant to demonstrate the best endeavours to maximise retention of any identified significant flora on the site and that a Vegetation Management Plan for the riparian vegetation zone/riparian buffer be an integral part of the Development Approval for the proposed golf course (Lot 1).
- **Aboriginal Heritage:** In consultation with the NPWS, and having regard for the nature of the site which was substantially sandmined, it is appropriate that a condition be imposed that in the event of the discovery of any relic during works, work must immediately cease and the NPWS and the Tweed Byron Aboriginal Land Council be notified; works in the locality must not recommence until consultation with the NPWS and the Tweed Byron Local Aboriginal Land Council has concluded to their satisfaction.

In conclusion, it is now considered that sufficient information has become available and as a result of further consultation with the NPWS, concerns in relation to the likely significant impact on threatened species and the environment as a result of the development, have been overcome, and a conditional consent is appropriate.

Environment Protection Authority

The EPA comments are summarised as follows:-

- more comprehensive documentation and planning for the whole of the development site is required to enable proper assessment of potential to generate environmental impact and adequacy of any amelioration measures, eg stormwater management;
- no information supplied with regard to golf course development, and its potential to impact significantly on ground and/or surface waters in highly permeable sandy soils close to wetlands and the creek, and the critical link between stormwater management of the proposed built up area on the east of the site with the golf course;
- overall plan for stormwater management should consider stormwater as a resource, address all proposed developments on the site, identify appropriate short and long term objectives for its

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management, identify performance measures against treatment objectives, identify pollutant load (suspended solids, total nitrogen and total phosphorous) runoff, assess impacts on water quality and river flow environmental objectives (ground and surface water and amelioration measures), and establish monitoring program;

- 50m minimum buffer recommended to a water body of particularly sensitive nature (such as SEPP 14 Wetlands) or where water quality does not currently meet the relevant Interim Environment Objectives, and notes that existing mapped boundary of SEPP 14 Wetlands does not appear to be accurate;
- no information supplied concerning Environment Objectives for waterways affected by proposal;
- recommends augmenting the existing water supply and sewerage treatment facilities prior to the release of additional urban lands to ensure demand does not capacity of supply and treatment systems;
- urges Council to develop plan for future waste management of the Shire noting that the licence for the Stotts Creek landfill to cease by October 2004;
- additional information needed concerning golf course works before adequacy of the acid sulfate soil management plan can be assessed;

In further correspondence to Council dated 3 March and 6 March 2000, from the EPA following the Planning Focus Group meeting held on 29 February 2000, the EPA indicates that based on sampling results cited in a letter from the Department of Health (1990) it appears that radio activity levels at the remediated dump site are below the action thresholds recommended by the National Health and Medical Research Council for the likely occupancy level associated with the proposed landuse.

- Previous issues raised appear to have been satisfactorily addressed, but the EPA notes that there is likely to be a net increase in the net annual load of phosphorus and total nitrogen entering groundwater (the latter during dry years) as a result of this development; the EPA recommends Council request additional research and investigation and alternative measures to ameliorate potential impact.
- Any future proposal for golf course development should demonstrate adequacy of design in terms of stormwater management and specifically address the issue of fertiliser and irrigation management.

Comment:

Further responses, research and draft plans of management for water quality and stormwater have been provided by the applicant's consultants Cardno MBK to address the matters of concern to the EPA. Amendments to the overall design of the proposal and subdivision layout have been made, together with an agreement by the applicant concerning the standard to be achieved for infiltration in the detailed design of stormwater systems. Whilst there is still some concern as to the exact nature of the earthworks design and stormwater management proposals. Council's Engineering Planning and Design Unit is now satisfied that the proposal can be conditioned with appropriate

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design requirements and performance measures to mitigate on-site and off-site impact by stormwater.

Department of Land and Water Conservation

A summary of the comments and advice from the Department is as follows:-

- the proposal is not considered to be “integrated development” in respect of the Rivers Foreshores Improvement Act;
- any future DA for detailed proposals identifying excavation fill or other works within 40m of the bank at Cudgen Creek may require a Section 3A Permit under the aforementioned Act and therefore may be “integrated development”;
- a Dune Management Plan should be prepared for that part of the foreshore reserve, Lot 500, located directly east of the subject site;
- DLAWC refers to difficulties which have arisen in respect of the Dune Management Plan for the foreshore reserve in respect of Kings Beach South and recommends that applicants liaise with the Department and Council staff to obtain detailed written criteria for preparation of an acceptable Dune Management Plan to ensure a consistent approach to Dune Management for all of Lot 500 between Kingscliff and Cabarita;
- notes that runoff from the entire site will be directed to the west rather than towards the beach, and requires that no stormwater runoff control works be located within Lot 500;
- notes that all previous consents (ie for Sahben) have lapsed including previous consent to lodgement of the Development Application by Sahben involving works with the Coastal Reserve;
- due consideration needs to be given to nutrient application and management, particularly on the proposed golf course given the porous nature and high infiltration rates of the sandy soils, and notes that if ground water is to be used to augment the proposed sewerage system, then a groundwater licence will be needed from the Department;
- notes that a clear and concise DCP could help identify legal and policy requirements for development of land;
- in relation to the riparian boundary (on the western side of the subject site), the department notes that the Minister for Land and Water Conservation, Mr Richard Amery, announced that the NSW Government had placed a freeze on applications by property owners with recommendations expected to be made to the Minister by Professor Thom, Chair of the NSW Coastal Council concerning possible modifications to procedures. The application by Lenen has been deferred by DLWC pending the recommendation of the Professor’s report;
- notes that a further investigation is needed to assess the potential hazard and any remediation works which may be part of the development of the detailed design and draws attention to the acid sulfate soil manual and the ASS Risk maps;

Comment:

Items Deferred

Since the receipt of the above comments, the further information concerning stormwater management and proposed earthworks has been forwarded to the Department for comment. It is noted that the proposal involving the approval for staged management lots does not actually involve the construction of golf course or other works within 40m of the creek, but does involve the construction of a trunk drainage overflow swale adjacent to the creek bank. In relation to the dune management plan, it is considered sufficient to attach a condition requiring the preparation of a Dune Management Plan, as was decided by the court in respect of the Kingscliff South staged development application involving management lots. It is noted that no stormwater management works or facilities are to be located within the foreshore land, being Lot 500, and that no works within Lot 500 will require the written consent of the department to lodge a development application. No actual works such as beach walkways accesses are proposed to be approved by consent to this application.

Roads and Traffic Authority

The Authority advises that the Regional Traffic Committee considered the proposal at its meeting of 11 January, 2000 and recommended as follows:-

- (i) The alignment of the Coast Road needs to be defined and aligned with adjacent development proposals. Future proposals at this site will need to be consistent with the adopted Coast Road alignment.
- (ii) The Bridge over Cudgen Creek, north of the proposal will require upgrading to provide adequate access to the proposal.
- (iii) Sutherland Street, Kingscliff will also require upgrading to provide adequate access to the proposal.
- (iv) Public beach access and vehicle parking needs to be identified.
- (v) Cycle/pedestrian links to adjoining developments need to be identified.
- (vi) Each unit development should be provided with adequate on site parking.

NSW Fisheries

The comments of NSW Fisheries are summarised as follows:-

- advises the Department's policy is to require a minimum 50m buffer zone with all natural features and vegetation preserved and is opposed to the construction of walkways and canoe launches within this buffer zone, with such buffer to be enforced around all water bodies on or adjacent to the site including the SEPP 14 Wetland;
- further clarification needed concerning water quality control methods including excess runoff containing nutrients, pesticides and fertilisers from the adjacent golf course;
- NSW Fisheries supports the establishment of sediment control such as grassed swales, but recommends a water quality monitoring program be implemented;

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- all off-steam water storage facilities such as infiltration basins should be positioned above the 1:100 year flood level;
- notes that future DA's for the rehabilitation of the riparian zone or for the construction of canoe launches may require approval under the Fisheries Management Act.

Comment:

Issues relating to buffers and water quality have been dealt with in respect of other authority comments, and a proposed condition would ensure that appropriate reference to a licence required for any works within the riparian zone under the Fisheries Management Act. No proposed stormwater basins are to be located under the 1:100 year flood level.

PUBLIC SUBMISSIONS

The proposal was advertised by notification in the Tweed Link newspaper and by letters to adjoining owners and submissions invited during a 28 day period between 17 January and 1 February 2000. Once written submission was received during the advertising period, and a further two written submissions received after the expiry of the advertising period. The issues and reasons for objection or concern in regard to the proposal nominated in these submissions are summarised as follows:

- There should be an overall master plan or development control plan prepared for Council for all of the land zoned 2(t) in the Kings Beach area to ensure adequate achievement of the objectors of the zone.

Comment:

Council adopted a draft Strategic Planning Policy in relation to this site and the adjoining lands to the North and South at its meeting of 1 March 2000 (Strategic Planning Policies currently on public exhibition with the draft Section 94 Plan #25).

- The proposal appears to include adjustments to the riparian boundary to Cudgen Creek which are not legally expectable.

Comment:

The land owners representatives have lodged an application for redefinition of the western boundary of the site to the mean high water mark with the Land Titles Office. However, DLWC have advised that there is currently a freeze on applications for such determinations, and no information is available as to when this freeze will be lifted. However, it is apparent that most of the adjustment is due to accretion of land westwards into the estuary, with only a small area of intrusion of the river bank eastwards into land area. If it is proposed to approve the proposal, an appropriate condition would be required to redefine the western boundary of the proposed Lot 1 to the mean high water mark or otherwise as acceptable to the State Lands Office, prior to the release of any linen plan.

- Inadequate provision for walking or bike trail along the Cudgen Creek and along the coastal frontage of the site.

Items Deferred

Comment:

The draft Strategic Planning Policies indicate provisions of a casual access track for the public and basic amenities requirements along the creek. This could include a track suitable for biking, whilst, as indicated elsewhere in this report, the proposed cycleway route in the application is inconsistent with the draft Strategic Planning Policies route located along the Western boundary of the coastal reserve. An appropriate condition should require the provision and construction of the cycleway in accordance with the draft Strategic Planning Policies.

- Council should ensure that the goals of the NSW Coastal Policy are adhered to:

Comment:

See the section of this report in relation to the consistency of the proposal with the NSW Coastal Policy 1997, particularly in relation to beach access, protection of riparian areas, etc.

- Inadequate provision for beach side parking and inadequate provision for public access to the beach, so that the proposal represents privatisation of the beach.

Comment:

The provision of public parking is considered inadequate and inappropriately located, and is inconsistent with the draft Strategic Planning Policies adopted for public exhibition by Council, as noted elsewhere in this report.

- Council should require the provision of 2.83 per thousand public open space dedication, principally along the beach frontage, but also adjacent to Cudgen Creek, and the justification for non provision of public open space based on provision of a public golf course is unacceptable.

Comment:

As noted elsewhere in this report, the application is inconsistent with the draft Strategic Planning Policies, and a 20 metre strip of land adjacent to the high water mark should be dedicated for riparian buffer along Cudgen Creek, and 3.2 hectares of public open space should be dedicated on the eastern or coastal side of the property.

- The western edge of the proposed golf course can not legally be approved since it appears to be located within an Environmental Protection Zone.

Comment:

Additional information has been sought and provided in relation to the location of zone boundaries. Some of the proposed fairways and greens appear to intrude upon Environmental Protection Zones and SEPP wetland. The proposal does not actually involve the approval for construction of a golf course, and if the proposal is recommended for approval, an appropriate condition should require the set back of any golf course or other works a minimum distance of 50 metres from any wetland or riparian creek bank, in accordance with advice from NSW Fisheries and the National Parks and Wildlife Service and in accordance with the Cudgen Creek Estuary Management Plan.

Items Deferred

- The proposed alignment of the Coast Road is inappropriate, in relation to Seaside Village, and the four tight bends will unreasonable restrict local through traffic.

Comment:

As indicated elsewhere in this report, inadequate information concerning the design of the proposed realigned road and its horizontal alignment. The proposed road route shown on the application plans is inconsistent with the Council's draft Strategic Planning Policies for Kings Beach North.

- There is a lack of information on the route of and feasibility of the sewer line to the treatment plants.

Comment:

The route options for sewer advanced by the applicants consultant in the proposal are inconsistent with the preferred route shown in the draft Strategic Planning Policies adopted by Council for public exhibition. The preferred route would involve tunnelling under the Creek and then conveyance largely across the existing agricultural planting buffer located on the southwest side of the Kingscliff TAFE and then up to the Cudgen Road/Old Bogangar Road intersection. No information has been advanced by the applicant concerning environmental impact of construction of such sewer line options.

EVALUATION

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

(a) (i) Planning Instruments

Tweed Local Environmental Plan 1987 (TLEP 1987)

The land, the subject of the proposed subdivision, is zoned part 2(t) Tourist Area Zone, part 7(a) Environmental Protection (Wetlands) Zone, part 7(f) Environmental Protection (Coastal Lands) zone and part 7(l) Environmental Protection (Habitat) zone. The applicant's "Master Plan" indicates that the proposed future tourist resort, the tourist housing and recreational land uses are to be located within the 2(t) Tourist Area zone, with the exception of a small part of the proposed golf course which intrudes into the 7(a) and 7(l) zones. A consent condition requires the provision of a dedicated 20m wide buffer to any 7(a) Environmental Protection (Wetlands) and 7(l) Environmental Protection (Habitat) zones. The proposal is generally consistent with the objectives for the 2(t) zone in the TLEP 1987, which are as follows:

- (a) To permit tourist development and uses associated with, ancillary to or supportive of the tourist development, including retailing and service facilities, where such facilities are an integral part of the tourist development and are of a scale relative to the needs of that development.
- (b) To permit, as a minor adjunct to the primary intent of this zone (tourist oriented developments), quality medium/high density residential development, but only at a scale which enhances the proposed tourist resort character; and

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- (c) To allow detailed provision to be made by means of development control plans to encourage resort type tourist accommodation and associated services and facilities.

The proposed development is permissible with the consent of Council, provided that no housing or related development takes place within the Environmental Protection zones and provided that the proposed resort housing is, as indicated in the application, proposed for tourist accommodation and not for permanent residential, and to be managed as part of a resort.

Clause 35 - Development Within the 7(a) Environmental Protection (Wetlands)

This Clause provides that consent is required for the removal of vegetation from draining, excavation or filling of land zoned 7(a) and also provides that Council shall not consent to the carrying out of development on or adjacent to land zoned 7(a) unless it has considered the likely affects of development on flora and fauna found in the wetland, potential disturbance of native flora and fauna as a result of intrusion by humans, domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing, a Plan of Management showing how adverse effects arising from the development are to be mitigated, likely effects of the development on the water table and the effect on the wetlands of any proposed clearing, draining, excavating or filling.

In this regard, the applicant has now provided a riparian vegetation management plan outline which addresses clauses 35 and 38 of the TLEP 1987 and particularly the implementation and measures to avoid imposing adverse impacts and effects on wetlands, relevant habitat and water quality. This management plan summarises the existing environment, possible effects of development activities (including bushfire, weed invasion, domestic animals, pollution of surface and groundwaters, and vegetation clearing), management issues, objectives, pre-rehabilitation measures, rehabilitation program elements, maintenance regime, performance indicators and monitoring. Together with the additional information concerning proposed stormwater drainage and management and the condition requiring a buffer to all environmental protection zones, the proposed development is now considered acceptable in terms of the requirements of this clause.

Clause 37 - Development in Zone 7(f) Environmental Protection (Coastal Lands)

This clause requires that all development, except for purposes of agriculture or home occupations, requires the concurrence of the Director of the Department of Urban Affairs and Planning. In determining whether to grant concurrence, the Clause sets out various considerations in relation to whether the proposed development affects the behaviour or is adversely affected by the behaviour of the sea or any body of water, etc., whether the proposal adversely affects any beach or dune or foreshore area etc and whether the proposal will adversely affect the landscape or scenic quality of the locality. In this regard, the Department of Urban Affairs and Planning has advised, by letter dated 9 February 2000, that pursuant to Clause 37(2) of the TLEP 1987, concurrence has been granted to the subdivision of land within the 7(f) zone to create three of the "master

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plan” allotments which extend from adjoining 2(t) zone. This concurrence is granted on the basis that the application does not involve any physical works within the 7(f) zone as discussed in the section of this report dealing with government authority responses. An appropriate consent condition would need to reflect the terms of concurrent by DUAP. A condition of consent requires a Dune Management Plan to be prepared in consultation with the DLAWC and NPWS and to the satisfaction of Council.

Clause 38 - Development in Zone 7(l) Environmental Protection (Habitat)

This Clause is broadly similar in its provisions to Clause 35 except that the Clause requires Council to have regard to any representations made by the Department of Agriculture and Fisheries and the National Parks and Wildlife Service and provided that development consent is not required for the removal of noxious weeds to comply with the requirements of the Noxious Weeds Act 1993 provided that such removal is carried out by a method approved in writing by the Council.

In this regard, a Riparian Vegetation Management Plan outline has now been provided to indicate how the adverse effects likely to arise from the proposed development are to be mitigated in respect of land adjacent to a 7(l) Environmental Protection (Habitat) zone having regard to the concerns of NSW Fisheries and the National Parks and Wildlife Service. A consent condition refers to the Cudgen Creek Riparian Lands Management Plan.

Clause 50(a) - Development in the Vicinity of Waterways

Cudgen Creek is listed in Schedule 5 of TLEP 1987 and this Clause provides that a person shall not carry out development for any purpose on land within such distance of the mean high water mark or creek bank of a specified creek as may be determined by the Council for the purposes of this Clause. In determining such a distance, the Council is to have regard for the preservation of the scenic quality of the foreshores, minimising the risk of pollution to waterways, protection of foreshore eco-systems and the intended or planned use for the foreshore. Subject to the consent of Council, development may be carried out for the purposes of bushfire hazard reduction, recreation areas, parks, gardens, environmental facilities, boating facilities and the like, and Council may require as a condition of consent to development of land having frontage to a Schedule 5 creek, the dedication to the Council or the Crown free of cost of such land as Council may determine.

In this regard, based on advice from the National Parks and Wildlife Service, NSW Fisheries and the provisions of the Cudgen Creek Estuary Management Plan, it is appropriate that a 50m buffer be established from the top of the creek bank and Environmental Protection zones, and that a condition of consent specify that a 20m width of land from the high water mark be dedicated as public reserve, and that such a dedication also involve and 20m width from areas of significant vegetation and eco-systems including the areas identified as such by Environmental Protection 7(a) or 7(l). Further, that a consent condition require a further 30m wide buffer for protection and regeneration, so that the total width of the riparian buffer to protect the foreshore eco-system and minimise risk of pollution of the waterway, is effectively 50 metres.

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Clause 50(c)(b) - Remediation of Contaminated Land

This clause provides that development consent is required for the purposes of remediation of contaminated land, and in granting such consent Council is to be satisfied that the land is to be remediated in a manner which removes the contamination or reduces the contamination to a level considered acceptable for the intended use of the land.

In this regard, the EPA has advised that radioactivity levels at the remediated dump site are below the action thresholds for the proposed land uses and a consent condition is proposed that the existing ilmenite dump shall not be disturbed as part of any future golf course development unless further information demonstrates radioactivity levels remain below the relevant thresholds recommended by the Department of Health.

Clause 24 - Matters to be considered (Rural and Environmental Protection Zones)

This Clause provides that Council must take into account the relevant principles and criteria referred to in Schedule 3 in considering any application for development involving land zoned (inter alia) 7(a) Environmental Protection (Wetlands), 7(f) Environmental Protection (Coastal Lands) and 7(l) Environmental Protection (Habitat). In respect of the Schedule 3 principles and criteria for assessment, the following principles and criteria are relevant:

1. The ratio of frontage depth of each lot is to be assessed having regard to the purpose for which the allotment is to be developed and the need to minimise vehicle access points to any road and particularly to designated roads. *The golf club house should be located within proposed "master" Lot 1 which contains the golf course.*
2. Arrangements satisfactory to the Council are to be made for the provision and on-site disposal of waste; *subject to appropriate conditions, satisfactory arrangements can be made.*
3. A road access consistent with Council's current standards should be provided between the proposed development and a convenient commercial centre. *In this regard, as discussed later in this report, the design and standard of the road is considered inappropriate and a condition is proposed in this regard.*
4. An assessment is to be on the likely impact that will result upon the Council's road system as a consequence of the development being carried out. *This issue is discussed later in this report, and a recommended consent condition should require the appropriate upgrading of the Council's road system as a direct consequence of the development being carried out.*
5. An assessment is to be made of the impact of proposed drainage works on adjoining land; *as described previously, the proposal does not involve the provision of any stormwater drainage works or facilities within the adjacent foreshore lands, Lot 500.*

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6. The vulnerability of the proposed development to coastal erosion to be assessed and design consideration be given to the reduction of potential hazard. In this regard, the proposed buildings and works are to be set back an adequate distance, having regard for the location of the landward boundary of the 7(f) Environmental Protection (Coastal Lands) zone in order to satisfactorily reduce the potential hazard.

North Coast Regional Plan 1988 (NCREP 1988)

Clause 15, Rivers, Streams and Wetlands

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

- a. The need to maintain or improve the quality or quantity of flows of water to the wetland or habitat.
- b. The need to conserve the existing amateur and commercial fisheries.
- c. Any loss of habitat which will always be likely caused by the carrying out of development.
- d. Whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve.
- e. Whether development would result in pollution of the wetland or estuary and any measures to eliminate pollution.
- f. The proximity of aquatic reserve dedicated under Fisheries Management Act 1994 and the effect of the development on the reserves.
- g. Whether the proposal is in an area of protected land as defined in section 2(1)(a)(b) of the Soil Conservation Act 1938 and any measures to prevent soil erosion.
- h. The need to ensure that native vegetation surrounding the wetland or fishery habitat is conserved.
- i. The recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority in relation to the river, stream, wetland area or catchment.

In regard to the above matters, the following comments are made:-

As noted elsewhere in this report, there is now considered to be adequate information concerning the proposed Stormwater Management System and effect of development on surface and ground water to enable impact to be assessed and appropriate conditions to be attached to ensure mitigation of potential impact. These conditions include an appropriate riparian buffer, stormwater and water quality management an dune,

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vegetation, bushfire and golf course management plans to address issues of concern by the NPWS, NSW Fisheries and the EPA and having regard for the provisions of the Cudgen Creek Estuary Management Plan. The Cudgen Creek Estuary Management Plan is the appropriate environmental audit or water quality study in respect of this area.

Clause 29(a) - Natural Areas and Water Catchment

This Clause provides that Council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpments preservation zones unless it is satisfied that wildlife habitat will not be significantly disturbed by the proposed development, scenery will not be adversely affected and an erosion and sedimentation control plan will be implemented to successfully contain on the site any erosion and sediment cause by the proposed development.

The applicant proposes that no earthworks or vegetation clearing is envisaged within the creek bank area of trunk stormwater outfall, having regard for the proposed stormwater treatment and disposal system to take account of storm events less than the 1:100 year event.

Clause 32B and 33 - Coastal Areas and Coastal Hazard Areas

These clauses require that before granting consent to any application, Council must take account of the NSW Coastal Policy, the Coastline Management Manual, the North Coast Design Guidelines and require rehabilitation of disturbed foreshore areas and confirming of access point to foredune areas to specific points. Subject to appropriate conditions in the detailed design of future development on Master Lots, the proposed appears to be satisfactory.

Clause 75 - Tourism Development

The proposal is generally satisfactory in terms of the requirements of this clause subject to satisfactory connections to and provision of water and sewer services and mains, and Coast Road and bridge reconstruction and upgrading.

Clause 81 - Development Adjacent to the Ocean or a Waterway

This clause requires that Council shall not consent to development within 100 metres of the ocean or any substantial waterway unless there is sufficient foreshore open space accessible and open to the public, buildings do not detract from the amenity of the waterway, and the development is consistent with any relevant foreshore management plan. In this regard, the proposal appears satisfactory subject to satisfactory Dune and Foreshore Management Plans being prepared and approved in development of Master Lots.

State Environmental Planning Policies (SEPPs)

SEPP 11 - Traffic Generating Developments

Items Deferred

In accordance with the provisions of this SEPP, the application was considered by the Regional Advisory Committee. A summary of their comments is provided in the section of this report dealing with the Roads and Traffic Authority comments.

SEPP 14 - Coastal Wetlands

SEPP 14 Coastal Wetland Number 44 impinges on the south-western corner of the site, although it is apparent that the statutory map for this SEPP 14 wetland is inconsistent with the actual wetland characteristics.

(a) (ii) **The provisions of any draft Environmental Planning Instrument**

Draft Tweed Local Environmental Plan 1988

This Plan has been adopted by Council pursuant to provisions of Section 68 (iv) of the Act but has not yet been gazetted. The effect of the new draft Plan is, broadly speaking, to carry over the existing zoning under the TLEP 1987 to the corresponding landuse zoning under the new draft Local Environmental Plan zonings.

Clauses 6.0, 6.2, 6.3 and 7.0 refer to development in or adjacent to land zoned 7(a) Environmental Protection (Wetlands), 7(f) Environmental Protection (Coastal Lands) or 7(l) Environmental Protection (Habitat) and development adjoining water bodies. These provisions have generally been satisfied in respect of this proposal elsewhere in this report.

(a) (iii) **Development Control Plans (DCPs)**

DCP 2 - Site Access and Parking Code

Whilst the proposal involves a masterplan for the proposed hotel and tourist accommodation and recreation facilities the proposal has been assessed in terms of the design principles and the access and parking demands schedule of this DCP. It is noted that this plan took effect on 16 November 1999. A "traffic impact assessment" report by the applicant's consultants, Cardno MBK, which outlines the proposed car parking spaces and car parking demand. A minimum of 750 car parking spaces are to be provided with 50 bus bays. Having regard for the proposed twin-keyed units in the hotel and the condominium complexes, this minimum car parking should be significantly increased in accordance with the access and parking generation table contained within DCP 2. The applicant indicates that the proposed parking is based on an available car parking rate of less than 1 car per unit at the Hyatt Coolum development. It is not clear from the plans what proportion of the proposed parking is to be located within the buildings. However, there is adequate scope within the site for the required car parking quantum to be detailed and assessed specifically in relation to the subsequent development applications for the development of each master lot. An advisory condition will need to be imposed in this regard. Similarly, there is adequate scope for design details in relation to delivery and service vehicle access, bus access, bicycle parking, taxi access, and disabled parking in the subsequent development applications and approvals.

Items Deferred

DCP 16 - Subdivision Manual

It is noted that the proposal is for the staged subdivision of six master lots with associated development of a common road and water, sewerage and drainage infrastructure to service to future development of the master lots for the intended tourist accommodation and related recreational and other land uses. In relation to Section 5.31 Subdivision Design Requirements, information submitted with the application does not demonstrate satisfactorily that broad design requirements may be complied with, in so far as insufficient information is provided concerning the proposed design of the road and location of infrastructure to support the proposed six master lot subdivision. In this regard, no information is available as to the proposals for on-street parking or bus route design for the proposed through road, nor details of horizontal alignment to cater for the proposed 60 km/h design speed.

DCP 25 - Biting Midge and Mosquito Control

This issue has not been addressed by the applicant. However, Council's Entomologist indicates that having regard for the setback of proposed residential accommodation from the creek and water bodies, biting insects and their control is unlikely to be a significant issue.

Section 94 Contributions Plan Number 22- Cycleways

This is the only currently applicable Section 94 Contributions Plan adopted by Council relevant to the proposal noting that the proposal at this stage is for approval to a staged master lot or management lot proposal of six lots only, with opportunity for later imposition of the relevant Section 94 Contributions in respect of each application for specific development of master lots.

The proposal is inconsistent with Section 94 Contributions Plan Number 22 in that the proposed cycleway route is shown to be along the alignment of the new Coast Road, rather than in the location shown on the Section 94 Contributions Plan being along the western boundary of Lot 500. However, following negotiations the application has agreed to an alignment with Lot 500.

(b) The likely impacts of that development

Environmental Impact

The applicant has now provided additional information concerning stormwater quality treatment, monitoring and revised earthworks, infiltration, and a riparian vegetation management plan outline with suggested mitigation and amelioration measures subject to the imposition of appropriate conditions, these now appear to adequately mitigate the potential for adverse impact on the environment. A condition of consent requires an adequate buffer to the riparian edge which is disputed by the applicant and an adequate acid sulfate soil management plan is required in respect of the Stage 1 works to ensure that any works at the western side of the site do not give rise to environmental harm as a result of disturbance of acid sulfate soils. Having regard for the potential for future traffic noise to adversely affect the environment of adjoining land uses, a condition of

Items Deferred

consent requires a traffic noise study to be carried out to determine appropriate setbacks and other noise attenuation measures in accordance with the EPA publication *Environmental Noise Management-Environmental Criteria for Road and Traffic Noise (1999)*.

Effect on Landscape/Scenic Quality of the Locality, and Design

Having regard to the setback or proposed buildings from the Coastal Crown Land and foredune area and avoidance of building on environmental protection (Coastal Lands) zoned area and the nature of the landform comprising only a low coastal sand ridge, it is unlikely that the proposed buildings, subject to future development applications on the master lots, will present as visually intrusive development when viewed from the beach and the overall site coverage is low and the overall design of the development is spacious and generally appropriate in terms of built form, having regard for the regrading of the site to form a low ridge or crest along the spine of the eastern part of the site to be developed with various resort and recreation buildings. There is an opportunity for extensive landscaping which combined with the limited scale of the buildings, will ensure that the proposal is not intrusive, and the architectural statement submitted with the proposal indicates an appropriate standard and massing in the layout and design, with development being a combination of single, two and three storey development. About $\frac{2}{3}$ of the site will be developed for golf course. The overall "juxtaposition" of buildings appears satisfactory, except that the layout does not conform with Council's adopted draft Strategic Planning Policies as discussed elsewhere. There is an opportunity in consideration of future development applications for the management lots to consider in more detail, building design and landscape/scenic appearance issues. The proposed Management Lot 1, incorporating the proposed golf course, does not include the club house or parking areas for golf course users within this Lot.

Access, Transport and Traffic

Issues related to traffic, access and road layout have been reviewed by Council's Subdivision Unit, Engineering Services Division and Regional Traffic Advisory Committee. Council's draft strategic planning policies - Kings Beach North, adopted at council's meeting on 1 March 2000 provide a guidelines for the alignment of the Coast Road, Public Car Parking and Replacement of Cudgen Creek Bridge. The comments made by the Regional Traffic Advisory Committee have been outlined previously in the consultation section of this report and it is noted that most of the issues nominated by the Committee have been incorporated in the draft Strategic Planning Policies. Notwithstanding the Traffic Impact Assessment by Cardno MBK, on behalf of the applicant, and further information submitted to Council concerning road works and typical sections and longitudinal profiles and car parking, the proposal is considered inappropriate in its present form in the following respects:-

- the proposal is inconsistent in terms of the proposed realignment of the Coast Road and the proposed exit point to Seaside City Subdivision;

Items Deferred

- insufficient information has been given concerning the conceptual design of the major road (collector road standard) through the site, for instance in relation to on-street parking or provision for a bus route or adequacy of proposed horizontal alignment for the 60km/h design speed. Whilst the proposed exit point for this collector road to the north of the site is consistent with the route shown in the draft Strategic Planning Policies, in the short to medium term, provision will need to be made for a connection point to the existing Coast Road, which is located adjacent to the north-eastern corner of the subject site;
- no details of proposed acoustic treatment or noise impact of the anticipated traffic volumes on proposed adjacent resort accommodation are available, and could necessitate alterations to the design of the master plan. The likely vehicle volumes are such that acoustic treatment along the collector road may be required.

The proposed provision of public parking is inadequate and inconsistent in terms of location and number of spaces with Council's draft strategic planning policies currently on exhibition. The proposal involves the provision of only 40 public parking spaces at the south-eastern corner of the site with a further 50 spaces to be provided by way of shared public parking access to resort parking on the north side of the proposed resort hotel. The master plan would need to be amended to indicate 100 parking spaces in south-western corner of the site and a further 100 spaces in the north-eastern corner of the site with appropriate public road connection back to the realigned Coast Road.

The proposed cycleway route along the proposed realigned Coast Road in the Master Plan is inconsistent with Council's Section 94 Contributions Plan Number 22 for Cycleways and also with the draft Strategic Planning Policies. The route shown in Council's plan and policies is along the western boundary of the coastal reserve, Lot 500, although there is no objection to a bikeway route incorporated with the proposed relocated Coast Road.

The draft Strategic Planning Policy and comments by the Regional Traffic Committee have identified upgrading requirements for the Cudgen Creek Bridge. The estimated cost of a replacement bridge is \$900,000. This is currently unfunded and replacement required in advance of any contributions plan program schedule should be at the developer's cost, with appropriate credits or reimbursements as Council receives contributions from other contributing development.

Along the western side of the site and abutting the eastern side of the proposed riparian buffer a casual access track only should be provided to allow for basic public walkway access and basic maintenance requirements.

Appropriate conditions of consent are proposed to enable the deficiencies in the proposal in respect of access and traffic to be rectified, in terms of the design and location of the proposed road, cycleway and public parking provision in accordance with Council's draft Strategic Planning Policies. It is noted that the applicant opposes some of the proposed conditions relating to bikeway provision, location of roads, and public car parking provision.

Items Deferred

Public Domain

The application does not propose the dedication of any public open space, for reasons advanced in the applicant's submission that the proposal is for tourist development and has adequate private recreational facilities within the proposed development. However, Council's draft Strategic Planning Policies consider the issue of provision of co-ordinated public open space, and the proposal is inconsistent with the draft Strategic Planning Policies. In this regard, Council's draft policies require the dedication of a total of 3.2ha of public open space located to the north and south of the location shown for the proposed hotel, on the applicant's plan, abutting Lot 500, including as much of the 7(f) zone as possible along the eastern side of site, but extending into 2(t) zone as well. Indicatively, a 40m wide strip of land extending along $\frac{2}{3}$ of the site's 1.2km frontage to the coastal reserve would best satisfy requirements for public foreshore open space, having regard for the requirements of the NSW Coastal Policy 1997. The remaining $\frac{1}{3}$ of the site's coastal frontage could appropriately be managed for private resort recreational purposes. On the western side of the site, a riparian buffer of 20m width should be dedicated as public reserve, with a further 30m width adjacent to the Creek edge to be provided as an outer buffer to be managed by way of a Section 88B restriction on the title of the proposed management lot for the future golf course.

Water Management

The issue of site surface and ground water management and sediment and groundwater control has been referred to in respect of consideration of the EPA comments and a more detailed assessment has been undertaken by Council's Environment and Health Unit and Council's Engineering Design and Planning Unit. The level of specific further information provided by the applicant's consultants, in summary, now enable a degree of confidence considering the water impact of the proposals and the final landform and trunk drainage design to ensure adequate amelioration of potential adverse impacts of development. Council's Engineering Design and Planning Unit and Environmental Health Unit have recommended appropriate conditions for the design parameters and the construction necessary for the bulk earthworks, trunk drainage and water management systems including infiltration basins, prior to the release of the Stage 1 Construction Certificate and prior to the release of linen plans for any of the management lots which depend on the trunk water management and erosion control system within this integrated proposal.

Utilities

Appropriate consent conditions are proposed to ensure provision of satisfactory sewerage reticulation, rising main and pump stations etc to each lot sized for ultimate yields and water supply, as part of the consent conditions. This includes a condition that Council will pay or accept the marginal difference of 450mm main and the cost of main required to service this development, demonstrated by hydraulic analysis to the satisfaction of Director Environment and Community Services. The actual location of the sewer rising main to connect to the external sewerage system is to be established and

Items Deferred

approved as part of the consent conditions prior to the issuing of any subdivision certificate.

Director of Engineering Services Comments regarding Sewerage Infrastructure

The development application for Kings Beach North development indicates that there are two solutions available for the conveyancing of sewage from the site. In both cases a pumping station will be required within the development to pump sewage.

Option 1 - Proposal is to connect a rising main to the northern end of the Kings Beach development into a vacuum distribution line which joins the Kings Beach vacuum pumping station. From the vacuum pumping station sewage is conveyed to the Kingscliff Treatment Plant via a 225mm diameter rising main. For this option the rising main will ultimately need to be duplicated all the way to the Kingscliff Sewage Treatment Plant (6.8km).

Option 2 - Proposal involves the construction of a rising main across Cudgen Creek to the rising main from the Kings Beach Vacuum Pumping Station. In this case the rising main will need to be duplicated from the connection point to the Kingscliff Sewage Treatment Plant (approximately 5.2 km).

Option 3 which is recommended to Council, is the construction of a rising main across Cudgen Creek at the northern end of the development and initially connecting to the 225 rising main from Kings Beach at the intersection of Cudgen Road and Old Bogangar Road. This proposal will:-

- significantly improve septicity problems arisen from long rising mains;
- significantly reduce pumping costs;
- significantly reduce capital and maintenance costs of the rising main duplication;
- provide opportunity to service other northern land;
- provide flexibility in sequencing of the coastal development.

The only constraint in this proposal is the Cudgen Creek crossing in the sensitive wetland area. This could be overcome by directional drilling under the creek. This technology is widely used in Australia and provides an environmentally sound solution for laying sewers in sensitive areas with a high degree of operational security.

Option 3 is consistent with the Strategic Planning Policy - Kings Beach North and is therefore the preferred option subject to detailed investigation.

Figure 3 is attached showing the various options.

Items Deferred

Flora and Fauna

The provisions of Section 78(a) of the Environmental Planning and Assessment Act provides that a Development Application must be accompanied by a Species Impact Statement if the application is in respect of development of land that is likely to significantly affect threatened species, populations or ecological communities or their habitats. Section 5A of the Act sets out the 8 points which Council is required to consider in arriving at a decision as to whether a development is likely to significantly affect threatened species, populations or ecological communities or their habitats. As discussed in dealing with the comments of the NPWS, additional information has been provided by the applicant's consultants Demeanour Environmental Consultants and the Service has assisted in evaluation of this information, enabling a conclusion now to be reached on balance that, having regard for the nature of the proposal and the mitigation and replanting measures and the proposed consent conditions, the proposal is unlikely to have a significant impact on threatened species, populations or ecological communities including the Common Blossom Bat habitat.

Waste and Energy

This proposal is considered generally satisfactory in terms of design for future waste management and energy conservation, subject to detailed assessment in subsequent development applications.

Natural Hazards

Appropriate conditions will be required in respect of the susceptibility of these sandy soils to wind erosion and in respect of potential bushfire risk.

Technological Hazards

As indicated previously, and in light of comments of the EPA, it is recommended that a condition be imposed that the existing ilmenite dump shall not be disturbed as part of any future golf course development unless further information demonstrates that radio-activity levels remain below the relevant thresholds.

Social and Economic Impact

The proposal for the development of this prime tourism site as an integrated tourist and recreation development is likely to lead to a positive social and economic impact, having regard for the attributes of the site, its location in relation to the Shire and the long term planning intention for the site and potential for significant employment generation and sustainable economic benefit for Tweed Shire.

Cumulative Impacts

Cumulative Impacts occur in relation to traffic, and potential cumulative water management impact on Cudgen Creek. The National Parks and Wildlife Service has nominated potential loss of common blossom bat habitat by removal of the regrowth

Items Deferred

coast banksia species on the site, following approval for their removal on other sites to the south. Having regard for the sparseness of the Coast Banksia resource and the proposed use and translocation of Coast Banksias in the management plans for development lots, particularly the golf course, the cumulative impact of loss of this species is considered unlikely to have an adverse environmental impact.

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

Subject to amended design and provision of adequate collector road and water and sewer services and site management and mitigation measures, the site is considered appropriate in general terms for the proposed development.

(d) **Any Submissions Made in Accordance With Act or Regulations**

The discussion in the Consultation Section of this report summarises public submissions and public authority submissions and the comments concerning the submissions. In general, the issues raised in the submissions, appear capable of being satisfactory subject to receipt of further information and/or amended plans.

(e) **The Public Interest**

This report has previously addressed the provisions of the NSW Coastal Policy 1997. Other relevant studies and policies apply to the site and its future development are as follows:-

Draft Section 94 Contributions Plan Number 25 and Strategic Planning Policies for Kings Beach North

This Plan was adopted by Council for public exhibition on 1 March 2000. Aspects of the draft Strategic Planning Policies have been discussed previously in this report. The proposal as submitted is inconsistent with the draft Strategic Planning Policy in a number of respects, summarised as follows:-

- the realignment of the Coast Road and its proposed entry point to the south and north and conceptual design are considered unsatisfactory;
- the proposal has inadequate public car parking;
- the upgrading of Cudgen Creek Bridge will be a requirement of the developer;
- the proposal is inconsistent with the draft strategic planning policies in terms of public open space, beach access and riparian buffer width and treatment;
- the location of the proposed cycleway is not in accordance with the draft Strategic Planning Policies. Adequate arrangements will need to be made for Surf Lifesaving facilities;
- the location of the sewer as proposed is not in conformity with the desired location shown on the plan accompanying the draft Section 94 plan;

Items Deferred

- Appropriate consent conditions are proposed to ensure that this subdivision proposal, and the infrastructure, cycleway, public parking, public open space and riparian buffer are consistent with the strategic planning policies, and a report on this Council business paper addresses comments received in respect of the exhibited draft Contributions Plan No 25 and Strategic Planning Policies for Kings Beach North. It is noted that the applicant objects to a number of these proposed conditions.

Tweed Shire 2000⁺ Strategic Plan

The proposed development of the site for an integrated tourism resort is consistent in principle with the Tweed Shire 2000⁺ Strategic Plan, on which basis the draft TLEP 1988 was prepared. It is noted that policy 18 of the Tweed Shire 2000⁺ Strategic Plan provides that management of urban release areas will be based upon full cost recovery of public infrastructure provided and the provision of infrastructure to service growth at no cost to existing ratepayers. The Tweed Development Program notes that Council will facilitate development of urban release areas compatible with a number of strategic infrastructure constraints, including the Coast Road, and provided that the realigned Coast Road is in the correct location and of appropriate standard and arrangements are made for the upgrading of the Cudgen Creek Bridge, the proposal is satisfactory.

Cudgen Creek Estuary Management Plan

This Estuary Management Plan adopted by Council in 1997 provides for a 50m riparian buffer for the adequate future protection of the estuary from development activities. The proposed is inconsistent with this requirement, and should be amended or conditioned accordingly.

Subdivision Engineer's Comments

The Subdivision Engineer comments in summary that neither of the proposed sewer options for extension of the sewerage system to the site are compatible with the preferred option shown in the draft Strategic Planning Policies - Kings Beach North. The subdivision engineer's comments concerning roading have been referred to previously in this report.

Environmental Health Unit Comments

The Comments by the Environmental Health Unit are indicated below. Since these comments were provided by the Unit, additional information has been submitted to address some of these concerns:-

The dip site mapping does not indicate any dips within the subject area. The site has previously been the subject of sand mining, and no activities with the potential to contaminate the site are evident.

The Geotechnical Report notes that an Ilmenite Dump of approx 70m in diameter exists in the south-western corner of the site. The developer does not indicate the exact location of the dump, or the extent of the proposed development which will overlay the dump.

Items Deferred

If for example the dump is below the golf course the level of disturbance is unknown. The earthworks for a golf course could be significant.

Ilmenite is a potentially radioactive material. NSW EPA has indicated that insufficient information has been provided to assess the dump.

On this basis I recommend as a minimum that the applicant be required at this time to provide a plan indicating the location of the dump relevant to the proposed development and some detail of the potential hazard, level of proposed disturbance and the suitability of the area for development.

Relevant conditions relating to further reporting/remediation of the ilmenite dump may be then be applied.

The stormwater design provides for stormwater to be directed to groundwater via infiltration beds and grass swales within the golf course. Any event above the 3 monthly event will be beyond the capacity of this system and be discharged direct to Cudgen Creek. Such an infiltration system is consistent with 'best practice'. The efficiency of the system remains for Patrick Knight to assess.

As a future issue I raise the following. If the golf course is under separate ownership to the tourist developments, what is the incentive for them to accept stormwater from these developed areas. This water will flood their course etc. At some stage I believe they are likely to install hard engineering solutions to channel the water direct to the Creek, rather than allow it to filter through their course. The filtering process would increase sediments etc deposited on their course. Note that the applicant proposes that bunkers be used as infiltration devices (they would be clogged with fines etc). I don't think that this is practical. If the course owner does eventually direct the water to the Creek this is likely increase pollutant loads on the Creek significantly.

Some type of control or restriction over modification to the stormwater disposal system in the longer term is necessary to ensure that it is not inappropriately modified. This probably requires further discussions between Planner and Engineer regarding options.

Groundwater and surface water in the Creek have been monitored on one occasion from three locations. All three boreholes are on the western edge of the site adjacent to the Creek. The existing sampling is considered inadequate in terms of establishing existing water quality conditions.

Additional sampling is required as well as additional bores to the east of the site to establish existing groundwater quality under the proposed built areas. This is important given the proposed infiltration disposal methods.

A water quality monitoring program is required to be submitted for each stage of the development. For the golf course stage, this can form part of the EMP.

Due to the potential use of pesticides and fertilisers on the golf course an EMP will be required to be submitted for approval prior to approval of this stage of the development. Any pollutants used on the golf course would filter direct to groundwater and then to the

Items Deferred

Creek. This EMP will also be required to address management issues regarding protection of fringe buffer vegetation to Cudgen Creek (refer comments below) etc.

The Flora and Fauna Assessment notes the following vegetation is to be retained:

- *An undisturbed large-leaved Paperbark forest (swamp forest) in the south-western corner of the site. There is also a wetland complex adjacent to this area, but outside the boundary.*
- *A 'narrow strip' of riparian vegetation along the edge of Cudgen Creek.*
- *Vegetation between the site and Kings Beach.*

Most of the existing vegetation on the site, other than the above, is proposed to be removed.

Both the riparian vegetation and the dunal vegetation is noted as being degraded and in need of rehabilitation. This rehabilitation work and weed removal must be closely controlled, as the outcome may be the removal of vegetation which opportunistically provides views for the developer to the ocean and creek, rather than optimum rehabilitation measures.

I recommend that detailed rehabilitation and management plans for the Creek and dunal buffer zones be submitted for approval prior to the release of any future stages, as this is a critical issue to management of the site.

The project also proposes constructed walkways and cycleways along Cudgen Creek. No specific details are provided at this time. Whilst such a proposal may control access and minimise disturbance of vegetation I am not in favour of this proposal. Don McAllister has stated that he would like access to be available for maintenance works.

I believe that maybe one or two access points could be provided. But not a continual pathway or the like. The vegetative buffer will serve many functions (habitat, visual screening, erosion control, filtering SS, litter etc from runoff...) and should not be compromised by walkways etc.

In addition, the proposed vegetative buffer to the Creek is only 20m wide. Several of the golf holes appear to be directly adjacent to the Creek (refer Master Plans). This is unacceptable. No doubt the future temptation will be to remove buffer screening of golf tees and greens from to the Creek to create a water view golf course.

I strongly believe, in accordance with preliminary discussions with NP&WS and DLWC officers that the minimum Creek vegetation buffer should be 50m. This approach will provide for an effective vegetative buffer which is likely to achieve the above functions.

In respect of acid sulfate soils I believe that Mark Tunks has already advised that an ASSMP will be required. The testing which has been done to date found ASS in one location within the site. Only three boreholes were done. Additional sampling is required through the built areas of the proposed development and along the western fringe of the Creek where ASS are most likely to be encountered. A Draft ASSMP has been submitted.

Items Deferred

Following further testing this Draft should be refined and submitted for approval of the DECS prior to commencement of development on the western side of the site.

CONCLUSION

Additional information regarding the ilmenite dump is required for assessment - as a minimum the applicant is required at this time to provide a plan indicating the location of the dump relevant to the proposed development and some detail of the potential hazard, level of proposed disturbance and the suitability of the area for development.

Additional groundwater and surface water sampling is required prior to the release of any particular stage of the development. Additional groundwater monitoring locations are also required to be established in the east of the site. This does not prevent release of the consent for the six management lots. However the applicant should be advised that additional sampling and reporting is required before any approvals of future stages.

A water quality monitoring program will be required to be submitted for approval for each stage of the development.

An EMP will be required to be submitted for approval for the golf course development.

Whilst the vegetative buffer to the Creek is not being finalised by the current application the proposed buffer of 20m is inadequate. It is required to be increased to a minimum of 50m. Management and rehabilitation of this buffer should be addressed in the EMP for the golf course.

The extent and location of walkways and cycleways along Cudgen Creek and the foredune require careful consideration.

An ASSMP is required to be submitted for approval prior to commencement of the relevant stage.

Whilst the above information on the ilmenite dump is outstanding, the following conditions would be applicable at this time:

1. A report establishing base line conditions of existing groundwater and surface water, including pH, suspended solids, total dissolved solids, total nitrogen, total phosphorus, iron (total), aluminium and faecal coliforms, shall be submitted and approved by the Director Environment and Community Services prior to the approval of any stage of the development.

(Note that the current number of groundwater monitoring locations and number of groundwater and surface water monitoring samples taken are considered insufficient to reasonably establish base line conditions relevant to approval of future stages).

1. Surface water and groundwater monitoring programs (pre-construction, construction and post construction phases), including details of standards, locations and frequency, shall be submitted and approved by the DECS prior to approval of each stage of the development.

Items Deferred

- 1. A report by a suitably qualified person detailing all water quality sampling results from the surface water and groundwater monitoring programs in respect of any stage of the development shall be submitted to Council on a routine 4 monthly basis from their commencement, including specific notation of any failure to meet water quality discharge objectives and standards. Where sampling results indicate a substantial failure to meet water quality objectives or standards the results are to be reported immediately to Council for consideration.*
- 1. A report detailing water sampling results from surface and groundwater monitoring programs shall be submitted to Council prior to the approval of any new stage of the development, including details of any relevant previous failures to meet water quality discharge objectives or standards. The report shall include a recommendation as to any amelioration works required to be implemented to rectify the said failures and shall further include an indication as to whether the development may satisfactorily proceed.*
- 1. An Acid Sulfate Soils Management Plan shall be prepared for each stage of the development in accordance with the Acid Sulfate Soils Assessment and Management Guidelines, EPA, DUAP, ASMAC, 1997 as amended, and submitted and approved by the DECS prior to approval of any stage of the development.*

All works shall be completed in accordance with the approved ASS Management Plan. the following details are to be included in the approved plan:

Proposed soil and water monitoring including parameters, analysis methods, location, frequency, and action levels.

Neutralising strategies including dosage rates and application methods.

General measures including containment and stockpiling.

Contingency measures including remediation and restoration action.

Further analysis and sampling of the site to determine the extent of ASS on the site.

(Check this condition against the condition forwarded by Mark Tunks please).

- 1. An Environmental Management Plan shall be prepared for the proposed golf course and submitted and approved by the DECS prior to approval of the relevant stage of the development. All construction works and subsequent operation/management shall be completed in accordance with the approved Management Plan.*
- 1. A detailed remediation and management plan for the vegetative buffer along the bank of Cudgen Creek shall be submitted to Council for approval prior to the relevant stage of the development. The minimum buffer to Cudgen Creek shall be 50 metres.*

Items Deferred

Engineering Design and Planning Unit's Comments

Extensive discussions and negotiations have taken place between the applicant's engineering consultants, Cardno MBk, and Council's Engineering Design and Planning Unit with a review to resolving issues related to infrastructure, drainage, landform, stormwater management, water quality and road design. Additional information has been provided by the applicant's consultants and the advice of Council's Engineering Planning and Design unit is summarised as follows:-

- **General Landform and Geometry of Development Proposal:** The actual location of the relocated Coast Road is unresolved, and could impact significantly on the pattern and location of trunk drainage. The geometry and landform of the proposal must be resolved prior to the lodgement of a construction certificate application and also a certificate requiring completion of bulk earthworks sufficient to ensure that road levels of fixed, the trunk drainage system is established and management lot boundaries are at the final level.
- **Management lots:** The creation of management lots sold on to others and further subdivided may cause a number of problems concerning the level of infrastructure to serve the lots and the fixing of levels at management lot boundaries. Appropriate conditions are required to address this issue.
- **Trunk Drainage:** The principle elements of the proposed trunk drainage system in the applicant's revised proposed (Cardno MBK) are:-
 - * Areas east of the relocated Coast Road drained to a collector swale which drains along the coastal frontage of the site;
 - * Areas west of the Coast Road drained to a south/north trunk swale drain located on the eastern boundary of the golf course management lot.
 - * East to west swale drains deliver drainage from the Coast swale drains to a trunk swale drain eastern boundary of golf course.
 - * The south/north swale drain on eastern boundary of golf course delivers drainage to a major infiltration basin at the central north part of the site.
 - * Outflow from the infiltration basin is delivered by west flowing swale drain to an outlet fan prior to discharge over natural service to Cudgen Creek in a major storm event.
 - * There will be no physical drainage work within 40m of Cudgen Creek bank.
 - * Significant disposal is obtained from infiltration.

Since the final landform is unknown, gradients may be required which affect the viability of adjacent development and proposed public infrastructure, and the proposal is based on infiltration and high design rates of permeability (24m/day) even allowing for the sand dune area, continuous application of water and nutrients to infiltration basins/trenches by urban development could eventually cause a build up

Items Deferred

of organic matter which would lead to clogging up of particles and reduction in permeability. The consequences of loss of long term permeability could lead to loss of amenity for residents and high rectification costs to Council. By employing infiltration methods, the proponents enjoy relief from some of the costs from conventional drainage systems and it is important that Council ensures that the transfer of costs to the public in the long term is avoided, as a result of over optimistic assumptions on long term permeability.

In discussion with the applicant, it has been agreed that the design be based on 6m/day infiltration rate for the design and sizing of infiltration areas. Appropriate conditions are proposed to require the specifying of the point of discharge, criteria of discharge across the riparian buffer, ensure provision and title dedication of the trunk drainage system.

- * Stormwater Quality, Erosion and Sediment Control: Draft conditions seek to require prescribed numeric standards and requirements, having regard for a large percentage of the site being targeted for total clearing of vegetation and the re-shaping of the landform, and high public interest due to the visibility of site and works associated with the relocation of the Coast Road.
- * Permanent Stormwater Quality Controls: Predicted pollutant exports in terms of total nitrogen, total phosphorus and suspended solids indicate a significant rise in predicted total phosphorus in all cases and in total nitrogen in dry years particularly. Assessment of the nutrient load data indicates that infiltration effectively cleans up suspended solids but can only retain a percentage of total phosphorus and total nitrogen as a large part of these nutrients are soluble and pass through the infiltration beds into ground water. Given that the area has been zoned for urban development, some increase in stormwater nutrients must be expected and the proposed control would appear to be within acceptable limits.
- * Water Quality Impact - Golf Course: Few details have been given at this stage, concerning the establishment and operation practices to be used on the proposed golf course and an appropriate condition is proposed to ensure that any future development application for a golf course on proposed Lot 1 must be accompanied by a satisfactory golf course management plan addressing fertilising application, nutrient removal/treatment, control and treatment of stormwater run-off, topsoiling, establishment procedures for turf on fairways or greens, irrigation rates or stormwater recycling, establishment of a groundwater monitoring regime and measures to reduce phosphorus and nitrogen loads entering groundwater and Cudgen Creek.
- * Proposed Consent Conditions: Appropriate consent conditions are proposed in relation to infrastructure, roads and streets, drainage and flooding, water quality monitoring program, management plans and specific criteria for permanent stormwater quality controls.

(A) (IV) ANY MATTER PRESCRIBED BY REGULATION

NSW Coastal Policy 1997

Items Deferred

A number of aspects of the proposal appear to be inconsistent with the NSW Coastal Policy 1997, although in many respects the proposal involving future development of the master lots would be acceptable subject to appropriate conditions to mitigate impact and appropriate design of development. The land is affected by the policy being within 1k of the open coast and tidal estuary high water mark. Specifically, the following comments are made.

- 1.3 Objective: To improve water quality in coastal and estuarine water and coastal rivers where it is unsatisfactory and to maintain water quality where it is satisfactory.

Comment:

As noted elsewhere, information submitted with the application and subsequently, does not fully address the control on non-source pollution resulting from urbanisation of the site nor water quality monitoring programs to satisfactorily address the issue. However, subject to additional information and appropriate conditions, satisfactory discharges of storm water and ground water from the site may be achievable and subject to more detailed management plans in subsequent applications for development of master lots.

- 1.4 Objective: to manage the coastline and estuarine environments in the public interest to ensure their health and vitality.

The proposal is inconsistent with the adopted Cudgen Creek Estuary Management Plan, and a satisfactory dune management plan will need to be prepared in accordance with principals and criteria currently being developed by the DLWC. The proposed riparian buffers are considered inadequate, an appropriate conditions will be required to ensure adequate buffers and to minimise potential impact to the extent that they are likely to be acceptable under the Rivers & Foreshores Improvement Act and the Fisheries Management Act.

- 2.1 Objective: To give the impacts of natural processes and hazards a high priority in the planning and management of coastal areas.

More specific information on the location and potential environmental impacts of disturbance of soft edge soils on the western edge of the property is needed

- 3.2 Objective: To design and locate development to compliment the surrounding environment and to recognise good aesthetics qualities.

In general terms, the north coast design guidelines and the guidelines for tourism development along the NSW coast appear to have been taken into account in the built for and overall design of the development with the exception of inadequate beach access, and location of public parking. In terms of the design and locational principals of the Coastal Policy, it is considered that the appropriate public set back line should be in accordance with the Draft Strategic Planning Policies adopted by Council having regard for public access requirements, etc. The Coastal Policy provides that "a part from facilities essential to surf life saving, community facilities, works to protect property and environmental restoration works, no development will be committed seaward of the setback line and developers will be required to dedicate this land for public use or enter into a satisfactory agreement for insuring public access, use and maintenance of the area to a suitable standard as a condition of consent; in this regard, the master plan should be amended to take into account the draft Strategic Planning Policies and land dedication and setback requirements.

Items Deferred

- 7.1 Objective: To increase public access to foreshores when feasible and environmentally sustainable options are available.

Public access to the Council managed Coastal Reserve will be facilitated by appropriately located and adequate car parking as nominated in Councils draft Strategic Planning Policies, with which the current proposal is inconsistent.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

If the applicant is dissatisfied with Council's determination, they may appeal to the Land and Environment Court. There will be additional maintenance liability for Council due to the areas proposed to be dedicated for coastal land or riparian protection, and if the proposal is to be approved, then appropriate conditions will need to be attached to ensure that the necessary infrastructure and upgrading of roads are carried out at no cost to Council.

OPTIONS

Council can either:-

1. Approve the application subject to conditions as recommended or as modified, to ensure appropriate and environmentally sustainable development of the site, or
2. Refuse the application.

CONCLUSION

In the previous report to Council, a number of deficiencies and outstanding issues were identified. The applicant and the applicant's consultant have now submitted sufficient additional information and government authorities have had the opportunity to assist council in evaluating this further information, to a point at which a recommendation to grant conditional consent is now appropriate. It will be necessary for Council to adopt a resolution concerning the provision of Section 94 Plan No 25 -Public Open Space at Kings Beach North and the accompanying Strategic Planning Policies since these are germane to the recommendations in this report.

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.

EXTRACT FROM TWEED LOCAL ENVIRONMENTAL PLAN 1987

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

Reports from Director Corporate Services

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

Reports from Director Corporate Services

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

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

MATTERS FOR CONSIDERATION

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

Reports from Director Corporate Services

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

Reports from Director Corporate Services

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

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

EXTRACT FROM TWEED LOCAL ENVIRONMENTAL PLAN 1987

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

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

Reports from Director Corporate Services

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

Reports from Director Corporate Services

1. ORIGIN: Development Control Unit

FILE REF: DA0700/440-1 Pt1

REPORT TITLE:

Development Application K00/185 - Proposed Medical Practice at Lot 1 SP 58056 1/22 Boyd Street, Tweed Heads

SUMMARY OF REPORT:

This report considers an application to establish a medical practice at Lot 1 SP 58056, 22 Boyd Street, Tweed Heads. The site is zoned 2(b) Medium Density Residential. The building has been approved for use of the downstairs area only for office development, with an upstairs area being provided to house bedrooms once the zoning was changed to allow residential development.

Parking has been provided on site to only cater for office use of the downstairs area of the premises. DCP2 requires a higher rate of parking for medical practitioners and additional parking is unable to be provided on site without adversely affecting manoeuvring from all other on site vehicle spaces.

The application is also statutorily invalid as owners consent has not been submitted for the application.

RECOMMENDATION:

That Development Application K00/185 for the establishment of a medical practice in Lot 1 SP 58056 No. 1/22 Boyd Street, Tweed Heads be refused for the following reasons:-

1. The application is statutorily invalid as owners consent has not been submitted for the lodgement of the application as required by the Environmental Planning & Assessment Act, 1979.
2. The application does not comply with the requirements of Development Control Plan No. 2 - Site Access and Parking Code as a minimum of four (4) on site parking spaces are required for the development and only two (2) spaces are able to be provided on the site.
3. The proposed stacked parking space behind the garage for Unit 1 will have an adverse impact on other units within the strata plan as it will prevent on site manoeuvring of vehicles and will result in all vehicles from the site having to reverse onto the street which is inconsistent with Development Control Plan No. 2 - Site Access and Parking Code and contravenes good traffic management principles.
4. It is not in the public interest to approve a development which has inadequate parking available and which will impact on the surrounding area by requiring on street parking for customers in a residential area.
5. It is not in the public interest to encourage a fragmentation of commercial development in Tweed Heads.

Reports from Director Corporate Services

REPORT:

Applicant: Jules Van Leer or Nominee
Owner: J & R Preston
Location: Lot 1 SP 58056, No. 1/22 Boyd Street, Tweed Heads
Zoning: 2(b) Medium Density Residential under Tweed LEP 2000
Est. Cost: \$3,000

BACKGROUND

Council has received a development application for the fitout of Lot 1 SP 58056 No. 1/22 Boyd Street, Tweed Heads for a medical practice. The application was received on 15 February 2000 and on receipt of the application Council forwarded a detailed letter to the applicant advising that the proposal would not comply with Council's Car Parking Code and that a review of the plans of premises reveal that it would not be possible to alter the existing parking arrangements on site to provide the necessary parking. The applicant was also advised that the application was statutorily invalid as it did not include the owners consent of the property being the Body Corporate Seal of SP 58056 and was not accompanied by a Statement of Environmental Effects.

The applicant then employed a consultant to prepare an access, traffic and parking impact study which concludes that *"although the proposed car parking suggestions may not be entirely adequate, due to the nature of the business and the minimal effect that one on street parking space will have on the amenity of the neighbourhood, I ask that your favourable consideration be given to the application."* The issue of car parking will be further addressed in the evaluation section of this report.

HISTORY

A brief history of the subject site is provided below.

- An application was submitted on 9 July 1997 for the construction of two offices and two townhouses on the subject site. At the time of lodgement of the application the site was zoned 3(b) District Centre and residential development in the zoning was only permitted where it were attached to commercial premises. The original application did not meet with this requirement and failed on numerous merit considerations such as parking, manoeuvring and lack of information submitted with the application. On this basis the applicant withdrew the application whilst amended plans were prepared.
- Amended details were submitted on 2 October 1997 which redesigned the units and commercial premises. At the time of the amended plans being lodged it was recognised by the applicant that the zoning of the area was proposed to be changed from 3(b) District Centre to 2(b) Medium Density Residential. This zoning change was initiated by the Tweed Heads 2000+ Strategy which was prepared for the central Tweed area. Accordingly, the amended application included a submission from the architect stating that *"note: in the commercial premises the current design indicates an upper level. This area is designed to be used as bedrooms in the future should the commercial area be reverted to residential. A plan of layout for the residential configuration is attached."*

Reports from Director Corporate Services

As discussed, the construction of this upper level and the access stairs to same will not be carried out unless zoning changes from commercial to residential. The walls and windows will be installed but not flooring.”

- Car parking for the originally approved development was provided at the rate of 1.5 spaces per residential unit and for the commercial ground floor only, one space per 40m² of floor area (a total of 2 car parking spaces per commercial premises). This resulted in a total of 7 car parking spaces being required on the site. Four of these spaces were provided within garages and three spaces were located along the northern boundary of the site. It is noted that manoeuvring from these spaces is particularly difficult however, technically could be achieved and therefore was not raised as a particular issue of concern regarding the previous application. It should be noted that manoeuvring relies on a large paved area located in the centre of the site.
- The application was approved on the basis that the office use would be of the ground floor front units only. A condition was placed on the consent as follows:-
 - “2. *The stairs within the commercial premises are not to be installed or the loft area used for any purpose unless further development consent is obtained for the proposed use. The applicant would be required to address parking generated by the additional use.*”
- LEP 2000 was gazetted on 10 April 2000 which rezoned the site to 2(b) Medium Density Residential. Commercial premises are identified as being prohibited in the zone however, it is considered that it is open for Council to determine that existing use rights would apply to the use of the downstairs area as a result of the development being commenced by construction of the building. Existing use right provisions would enable Council to grant an approval for a commercial use. It should be noted that this would depend on the merit considerations of the proposal and having regard to the fact that Council aims to encourage residential development surrounding the site.

The current application seeks to use both the downstairs and upstairs area of the premises with the ground floor consisting of two offices/consulting rooms, reception room, general area, office and staff room. The upstairs area is proposed to consist of an additional office and staff tea room with kitchen bench and sink.

According to Council’s Development Control Plan No. 2 the provision of additional office space and facilities upstairs would generate the need for further Carparking above what was catered for on the original approval for the building. Additionally, medical practitioners require parking at a higher rate than in DCP2 and Council’s Section 94 plan for road contributions.

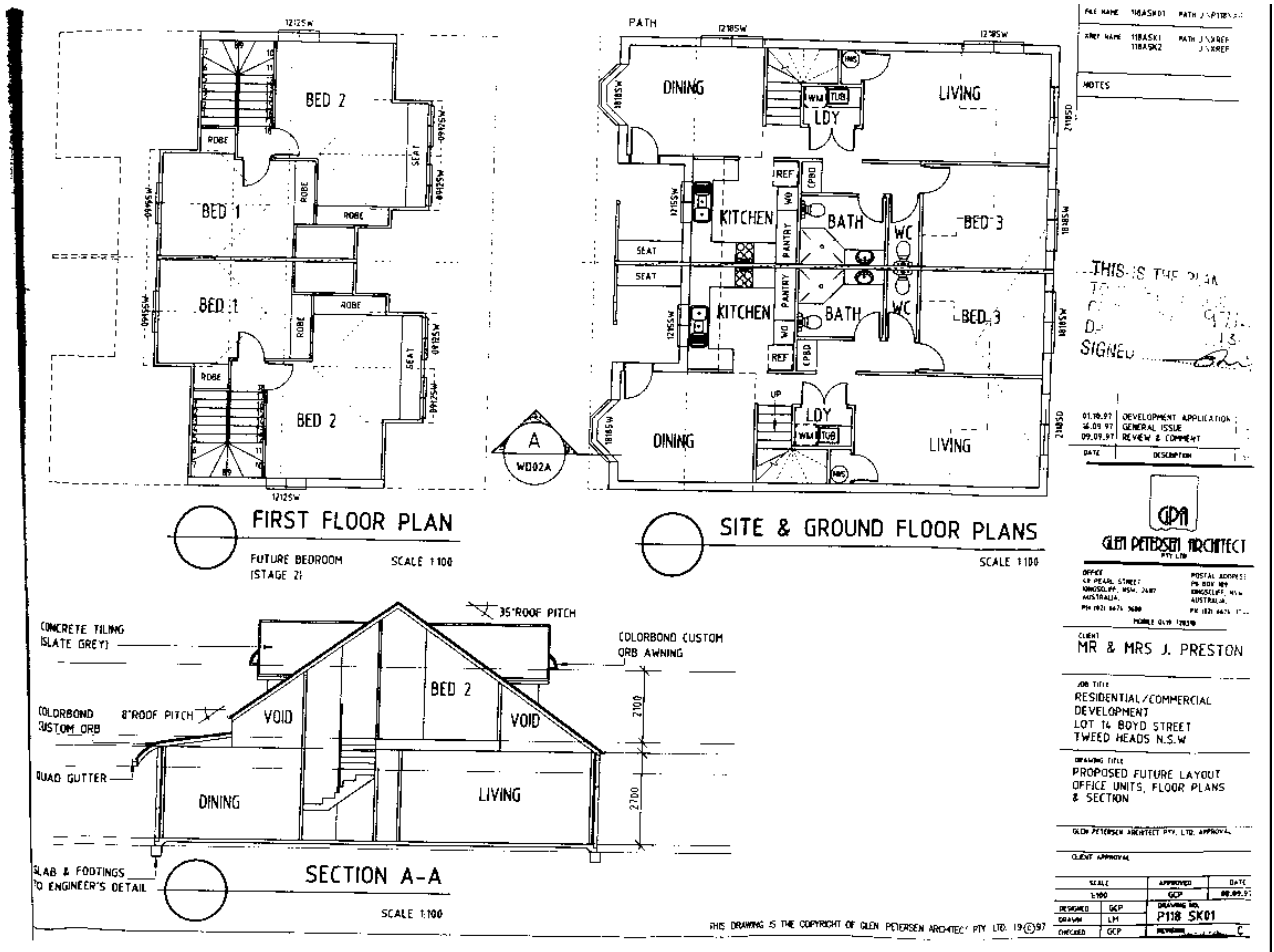
Reports from Director Corporate Services

FIGURE 1 - SITE DIAGRAM



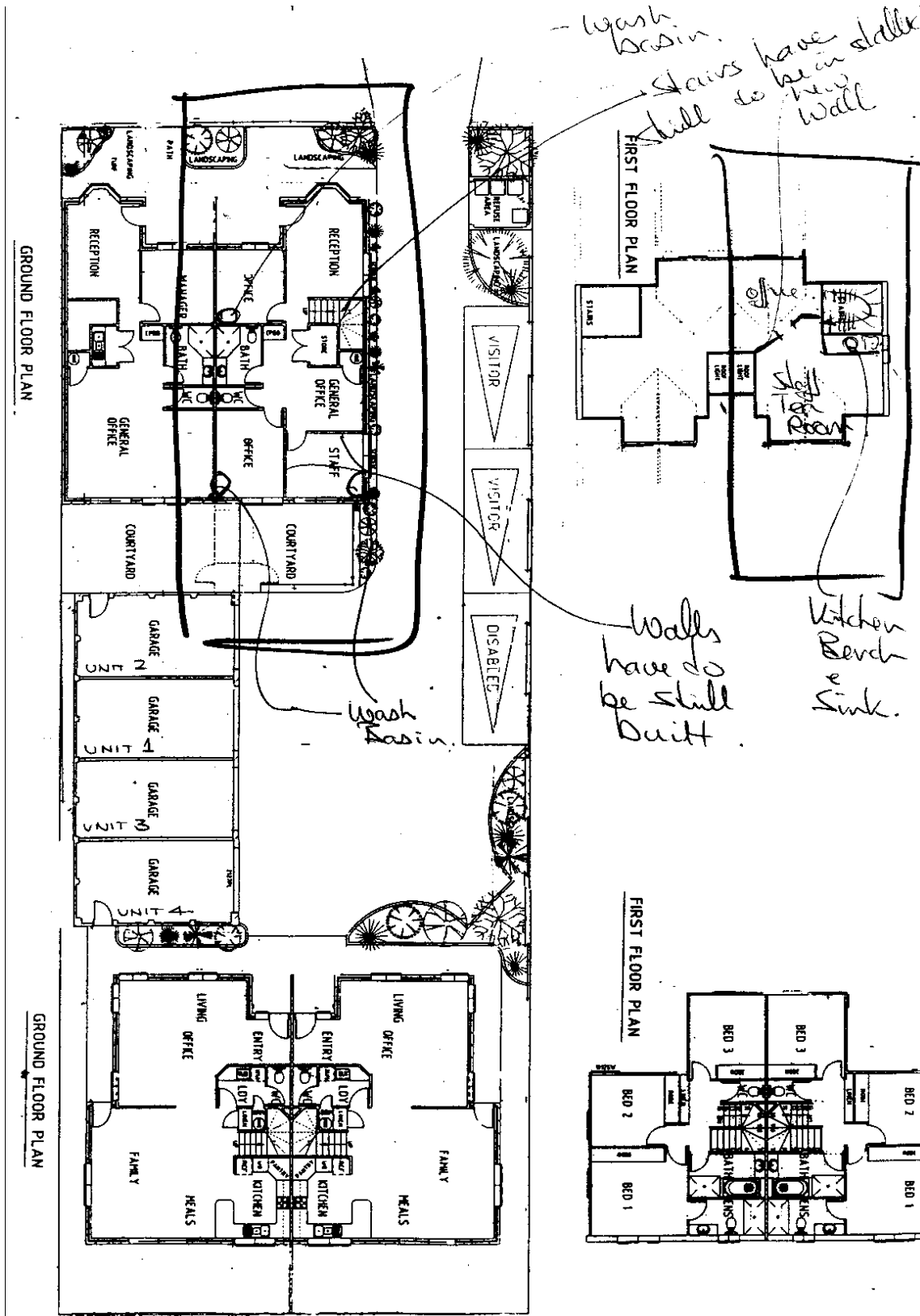
Reports from Director Corporate Services

FIGURE 2 - PLAN OF CONVERSION OF THE PREMISES TO RESIDENTIAL USE SUBMITTED WITH THE DEVELOPMENT APPLICATION FOR CONSTRUCTION OF THE BUILDING



Reports from Director Corporate Services

FIGURE 3 - PLAN SUBMITTED WITH THE CURRENT DEVELOPMENT APPLICATION



Reports from Director Corporate Services

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 zoned 2(b) Medium Density Residential under the provisions of Tweed Local Environmental Plan 2000 (TLEP 2000). The primary objective of the 2(b) zone is to provide for and encourage development for the purposes of medium density housing and high density housing in proximity to the Tweed Heads subregional centre that achieves good urban design outcomes. The zoning also contains secondary objectives to allow for non residential development which supports the residential use of the locality and to discourage the under utilisation of land for residential purposes, particularly close to the Tweed Heads sub regional centre.

“Commercial premises” are identified as being prohibited in the 2(b) zone. Commercial premises is defined as *“land use as an office or for other business or commercial purposes but does not include a building or a place elsewhere specifically defined in this schedule or a building or place used for a land use elsewhere specifically defined in this schedule”*. It is considered that a medical practitioner would fall within the definition of a commercial premises.

The ground floor area of the site has previously received development approval for its use as an office. As an office is now prohibited within the zone, existing use provisions of the Environmental Planning & Assessment Act, 1979 could be relied upon to alter the use of the premises to another non conforming, prohibited use.

(ii) Any Draft Environmental Planning Instrument

No draft Environmental Planning Instruments apply to the proposal.

(iii) Any Development Control Plan (DCP)

DCP2 - Site Access and Parking Code

The proposed development will not comply with the requirements of Council’s DCP2 - Site Access and Parking Code.

A total of 7 car parking spaces are currently provided on the site with 4 spaces being within garages and 3 visitor spaces being provided adjacent to the northern boundary of the property. An internal manoeuvring area is provided so that vehicles are able to manoeuvre and exit the site in a forward direction as required by DCP2.

Parking for the development was originally provided based on commercial use of the ground floor only of the subject premises. Based on the ground floor use a total of two car parking spaces were required for the premises proposed to be occupied by the medical practitioner.

Reports from Director Corporate Services

Council's DCP2 specifies in regard to medical centres and medical consulting rooms that parking is to be provided at the rate of two staff car parking spaces per consulting room and four customer parking spaces per consulting room for a general practitioner or two customer parking spaces per consulting room for a specialist.

The additional information submitted with the parking assessment indicates that there will be two consulting rooms on the ground floor, with the medical practitioner being a specialist. On this basis according to the provisions of DCP2 a total of 8 car parking spaces would be required for the premises, and only two spaces are able to be provided.

When assessing the number of parking spaces Council's Engineering Services Division has provided the following comments:-

"The proposed development will employ a medical specialist and receptionist. It is also common for such practices to have a number of patients attending and waiting for consultations. Frail condition customers would also benefit from on site parking close to the consulting rooms. In other locations here suitable numbers of on site parking spaces are not provided, there is often nuisance spill over parking of customers onto adjacent residential streets.

The requirement for four car parking spaces is therefore considered a minimum requirement for this type of development.

The applicant has not demonstrated that the proposed stacked parking will not adversely affect the use of the site (DCP2, 3.71)".

The above assessment from Council's Engineering Services Division has made a favourable determination regarding the intent of DCP2 and has determined that where the DCP refers to "consulting room", it could be read as meaning "consultant", therefore requiring two staff parking spaces per "consultant" and two customer parking spaces per "specialist consultant". Using this interpretation of the DCP and having regard to the applicant's submission that the premises is to be occupied by one consultant alternating between the two consulting rooms, it is considered that a minimum of four parking spaces for the premises is appropriate. The following access, traffic and parking impact study was submitted on behalf of the applicant in support of the application:-

"In regard to the above, approval was granted by Tweed Shire Council on 13 November 1997 for a mixed development consisting of two offices and two residential town houses.

Council's requirements for car parking at this time were for the applicant to provide seven off street car parking spaces when, in fact, the applicant has provided eight off street car parking spaces.

Council has subsequently approved a dentist surgery in the adjoining office where staff and client numbers exceed the numbers to be used in the skin specialist surgery.

Reports from Director Corporate Services

With regard to the proposed use of the office it is proposed to employ one specialist and one receptionist with the specialist alternating between consulting rooms, which, under DCP2 would require two car parking spaces for staff and two car parking spaces for customers.

As there are already two spaces available for the office staff, there is a deficiency of two car parking spaces.

With regard to the deficiency in car parking spaces, it is suggested that stack parking for one car behind garage 1 for the staff parking be considered and allowing one of the on street car parking spaces to be used for office number 1. This is consistent with other medical practised in the street, where numerous persons park on the street, as there is inadequate spaces provided on site.

As this area is not part of the area where a contribution can be made for non-provision of car parking spaces, this does not become an option.

In view of the above, and given that the Council approval was granted less than two years ago for the use of the offices, which then had the potential for at least two staff and two customers, I believe that our proposal is adequate and any additional parking, which would normally have been required, should have been addressed as part of the original development application.

Although the proposed car parking suggestions may not be entirely adequate, due to the nature of the business and the minimal effect that one on street car parking space will have on the amenity of the neighbourhood, I ask that your favourable consideration be given to the application”

The above traffic and parking impact study incorrectly states that 8 spaces are provided on site. This is not the case as only 7 spaces currently exist as originally approved. It is also proposed to allow a stacked parking space behind the garage belonging to Unit No. 1. This is not considered to be acceptable as the garage belonging to Unit 1 is located in the centre area of the four garages and a vehicle parking behind this garage would restrict manoeuvring of vehicles from other garages and from the visitors spaces located along the northern boundary. The manoeuvring from car parking spaces on site is already considered to be less than desirable and provision of a stacked space in this location would make it impossible for vehicles in visitors spaces and garage No. 2, 3 and 4 to be able to satisfactorily manoeuvre and exit the site in a forward direction.

It should be noted that no owners consent has been supplied from the Body Corporate.

Medical practitioners and specialists traditionally have a high turn over of customers and this is reflected in Council's Car Parking Code and Section 94 Plan for road contributions which requires parking and road contributions to be provided at a rate higher than what is required for a standard commercial premises. On this basis it is considered that the site is not appropriate for the use by a medical practitioner due to the insufficient parking available on the site for this use.

(b) Environmental Impacts

Reports from Director Corporate Services

The main impact likely to arise as a result of the development is an increase in number of vehicles utilising on street parking and the creation of additional traffic in the area. As mentioned previously the site is now zoned 2(b) Medium Density Residential and therefore any development approved in the area should be compatible with the objectives of the LEP which is to encourage residential development in the area. It is not considered desirable to approve a development which does not have any on site customer car parking spaces within a residential area, particularly as the nature of the proposal is that it would generate a high turn over of customers and traffic.

Adverse economic impacts could also arise from the proliferation of commercial activities into areas nominated for residential uses. The central business area of Tweed Heads contains numerous commercial premises which are vacant and which would be suited for the establishment of a medical practice. Council should aim to consolidate the central business district and should not permit the fragmentation of business activities.

The subject site was rezoned from commercial to residential development with the gazettal of Tweed LEP 2000. This rezoning was based on the Tweed Heads 2000+ Strategy developed for the central Tweed district where it was concluded that this section of Boyd Street was more appropriately used for residential development. Boyd Street is primarily used for residential use.

The site falls within the civic precinct identified within the Plan where it is stated that the desired future character is to consolidate and contain commercial development orientated towards Wharf Street with retail activity being discouraged. It recommends a land use pattern which contains and consolidates commercial development orientated towards Wharf Street and to foster residential re-development. It states that incompatible land uses in areas where residential development is desired should be discouraged and states that amendments to the zoning are envisaged to implement land use strategy by rationalising commercial zones and rezoning some fringe areas from commercial to residential. The subject site falls within this area which was identified for rezoning to residential purposes.

The principle of consolidating business districts is reinforced by the North Coast Regional Environmental Plan which specifies that in preparing a Local Environmental Plan relating to commercial development, the Council should take into consideration the following principles.

- a. strong multi functional town centres should be maintained to focus drawing power of individual businesses and maintain the integrity of the main business area by only zoning land for further commercial or retail development where that development adjoins or is adjacent to the existing town centre.

LEP 2000 is consistent with the principles of the North Coast Regional Environmental Plan and the rationalisation of these zones have the intent of consolidating the Tweed business area. It is considered that any application for commercial development outside of the central business area should be discouraged as numerous vacant commercial

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premises exist within Tweed Heads business area and development should be encouraged to utilise the existing available sites.

(c) Suitability of the Site

The site is not considered suitable for the establishment of a medical practice. Medical practitioners traditionally have a high turn over of customers and as such have a high need for parking. The site is highly constrained by the existing development on the site and insufficient room exists to provide the required off street parking. Council considers that the absolute minimum number of car parking spaces required for the development is four and only two spaces have been provided for the commercial premises on the site. It should be noted that this minimum is based on a favourable interpretation of DCP2 on the basis that two customer parking spaces are required per “consultant” rather than per “consulting room”. According to a strict interpretation of the wording of the DCP, 8 car parking spaces would be required for the premises on site. Based on the lack of parking available for the premises and as the applicant proposes to establish a business which is traditionally highly reliant on the provision of parking, it is considered that the site is unsuitable for the development.

The site is also considered unsuitable on the grounds that it would fragment the central business area of the Tweed where numerous vacant commercial premises exist which would be considered more highly suited for the proposal.

(d) Any Submissions

The application was not required to be advertised and adjoining owners were not notified of the proposal. Accordingly, no submissions were received.

(e) The Public Interest

It would not be in the interests of the general public to permit a development where inadequate parking is available to cater for the proposed development.

It would not be in the interest of the public to encourage fragmentation of the central Tweed Heads business district or to permit commercial premises which rely on a high customer turnover within an area zoned for residential purposes.

SUMMARY

The premises was approved for construction in November 1997. The consent related to the construction of offices and two town houses on the basis that the site was zoned for commercial purposes and residential development was only permitted where it were attached to offices or retail premises. The applicant was aware at the time that the zoning of the site was proposed to be amended to a Residential zoning and plans submitted with the application included details of conversion of the commercial premises to residential townhouses once the zoning reverted to residential.

When the application was approved, parking was an issue of concern on the site and on this basis the downstairs area only was permitted to be used for commercial purposes. The upper area of units 1 and 2 was indicated on plans for future use once the zoning changed to residential development,

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with these areas then forming the bedrooms in a townhouse configuration. No commercial use has currently been established within Unit 1.

Tweed LEP 2000 rezoned the site to 2(b) Medium Density Residential which prohibits commercial development. This change in zoning was initiated by the Tweed Heads 2000+ Strategy which contained aims of consolidating the central Tweed business district and rationalising the zoning pattern within the Tweed Heads area. Commercial development is now prohibited within the zone. However, Council could interpret that existing use rights would apply to the premises on the basis that construction of the building represented commencement of the office development approved in November 1997. It is considered that Council would have the option of approving the development should all merit issues be considered acceptable and Council consider that approval is warranted.

Major concerns have been identified regarding parking on the site. A total of two parking spaces are available on site for the premises. According to the most favourable interpretation of DCP2 - Site Access and Parking Code, a total of four parking spaces would be required as a minimum for the development. It should be noted that this is based on interpreting customer car parking requirements as two spaces per "consultant" rather than "consulting room". The issue of parking was also considered by Council's Engineering Services Division who have advised that at an absolute minimum, four spaces should be provided for the proposal as it is common for such practices to have a number of patients attending and waiting for consultations and as frail customers attending the site would benefit from on site parking in close proximity to the consulting rooms. It is stated that in other locations where adequate parking is not provided there is often nuisance spill over parking of customers onto adjacent residential streets.

The required additional two car parking spaces cannot be provided on site as the site is highly constrained. The applicants proposal to provide a stacked parking space behind the garage allocated to unit 1 is inappropriate as it would completely hinder the manoeuvring from the upper parking spaces on the site and would result in all vehicles having to reverse onto Boyd Street which contravenes the requirements of DCP2 which states that vehicles must be able to exit the site in a forward direction. The site is not within an area where Council can accept a Section 94 contribution for payment in lieu of on site parking as it is not within an area identified in Section 94 Plan No. 23. Council could negotiate payment of a contribution in lieu of providing two spaces on site however, discussions with the applicant has indicated that the required contribution is unacceptable.

In addition to the above merit considerations the application is statutorily invalid as no owners consent has been submitted. The applicant was requested to provide the Body Corporate Seal of SP 58056 on 22 February 2000. Correspondence was received in return stating that a Body Corporate does not exist at the present for the development. The Environmental Planning & Assessment Act, 1979 requires the application to be accompanied by consent of the owner and the definition of owner is *"in the case of land that is subject of a strata scheme under the Strata Titles Act, the owners corporation for that scheme constituted under the Strata Scheme's Management Act."* The application has only been signed by the applicant and as such no evidence of owners consent exists and the application is statutorily invalid.

OPTIONS

Council has the following options available:-

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1. Defer the application until such time as it is made valid by the submission of owners consent.
2. Refuse the application based on the inconsistency with DCP2 - Site Access and Parking Code and due to the inadequate parking available on site.

LEGAL/FINANCIAL/RESOURCE 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.

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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 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:-
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.

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- 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.

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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.*

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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:-

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- 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”.*

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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.”

Comment

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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 notwithstanding 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.

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:-

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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.

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

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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.*
- (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.*

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

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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.

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.

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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:-

- *Optimise solar access to residential land and buildings.*
- *Improve the quality and energy efficiency of residential subdivisions and buildings.*

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- *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 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.

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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 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

Reports from Director Corporate Services

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.

OPTIONS

The following options are available to Council:-

Reports from Director Corporate Services

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.

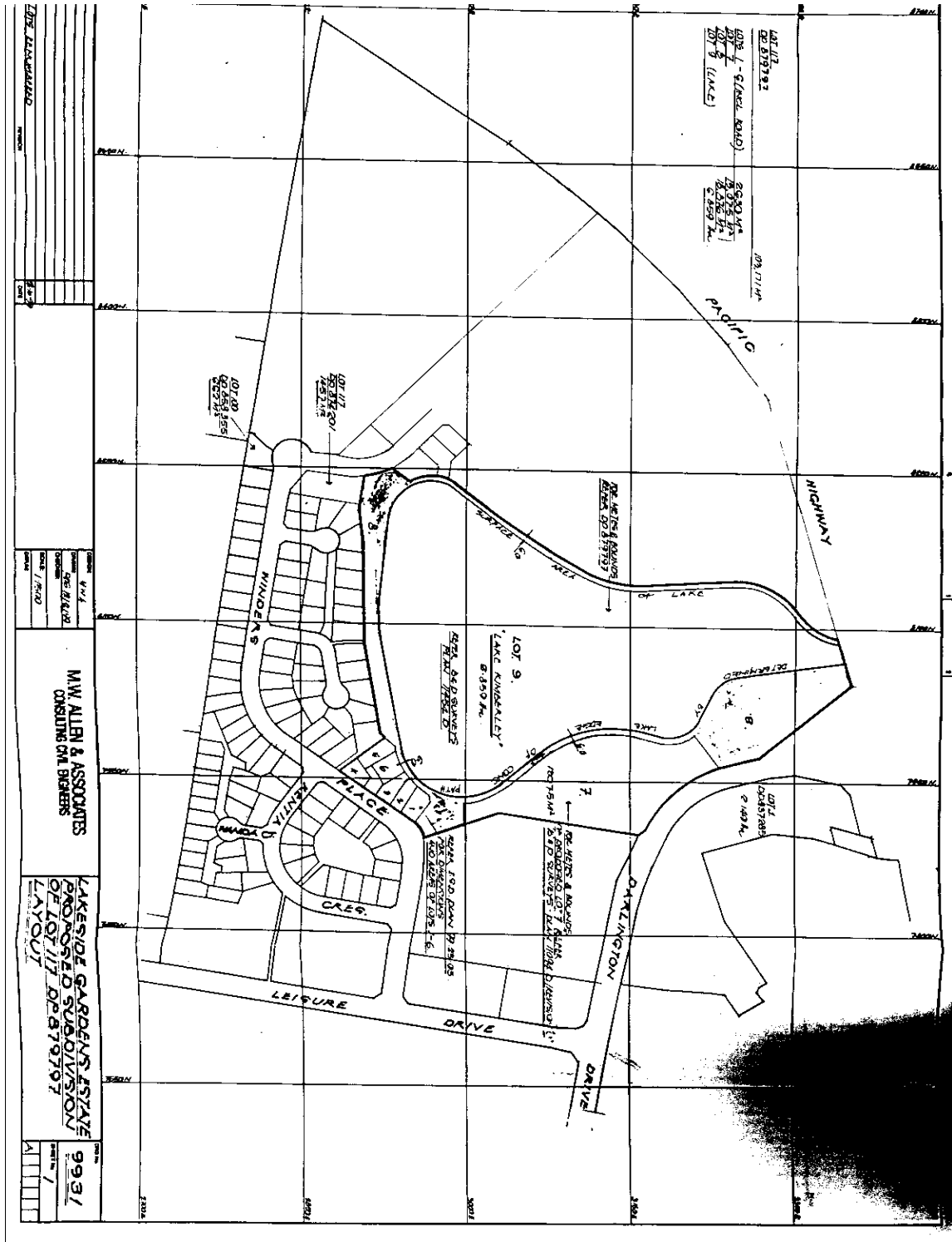
CONCLUSION

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.

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FIGURE 1



Reports from Director Corporate Services

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3. ORIGIN: Development Control Unit

FILE REF: DA4030/2835 Pt3

REPORT TITLE:

202 Unit Retirement Village - Minjungbal Drive, Tweed Heads South

SUMMARY OF REPORT:

Council on 1 March, 2000, agreed to issue a deferred commencement consent for the construction of a 202 unit retirement village subject to a Deed of Agreement being entered into for the payment of Section 94 contributions.

The applicant has requested that a number of conditions proposed be amended or deleted. This report discusses each of the applicants requests.

RECOMMENDATION:

That :-

1. The GST be levied, if applicable, and the Deed of Agreement be prepared in accordance with Council's resolution of 1 March, 2000.
2. The deferred commencement condition contained in Schedule A remain and on acceptance of the submitted report the applicant be advised the consent is operational.
3. Condition 5 of Schedule B be amended to read:-

"5. That acoustic measures be incorporated into the development having regard to the provisions of the Acoustic Report No. 744924-R2 Rev 4, by VIPAC Engineers and Scientists dated 14 February 2000, to ensure noise levels experienced by future occupants of the development comply with the provisions of the Protection of the Environment Operations Act, 1997".
4. Condition 12 of Schedule B be deleted.
5. Condition 18 of Schedule B be amended to read:-

"18. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

 - i. *Easements as shown on Drawing No. 11431D.*
 - ii. *Easement for pedestrian access as shown on Drawing No. 11431D and an additional easement for public access (pedestrian) and Council service vehicles over the internal driveway in the most direct route from Shallow Bay Drive to the public reserve.*

Reports from Director Corporate Services

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

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

6. Condition 19 of Schedule B be amended to read:-

“The existing drainage easement 7.04m wide is to be extinguished prior to the occupation of any building in stages 2, 3, 4 or 5”.

7. Condition 21 of Schedule B be amended to read:-

“A separate subdivision certificate for each stage will not be issued by the General Manager until such time as all subdivision conditions applying to that stage contained in development consent No. K99/1510 have been complied with”.

8. Condition 43 of Schedule B requiring the construction of Shallow Bay Road not be changed.

Reports from Director Corporate Services

REPORT:

Council on 1 March, 2000, considered a development application for a 202 unit retirement village at Minjungbal Drive, Tweed Heads south. The application was lodged pursuant to the provisions of State Environmental Planning Policy No. 5 and was approved as a deferred commencement consent subject to the applicant entering into a Deed of Agreement for payment of Section 94 contributions prior to release of the construction certificate for each stage.

The applicant, Cameron Properties, has submitted a request asking Council to review a number of the proposed conditions. A meeting with Council staff and the applicant was held on Thursday 6 April 2000 where a number of the matters were resolved with agreement being reached that no change was required however there are a number of issues where it was considered appropriate to amend the condition or alternatively no agreement was reached. These issues are reported to Council for consideration.

CONDITIONS REQUESTED TO BE REVIEWED AND AMENDED

Cameron Properties have requested the following conditions be reviewed:-

1. Contributions

The applicant submitted:-

“As discussed at length, the Council’s position on contributions and GST does not provide the certainty to the extent of contributions that will be voluntarily paid. As we had outlined the amount we had previously agreed to is the maximum we will be prepared to pay. To this end we propose the following to cater for the two potential scenarios:

1. *GST is to be levied*

Our payment would include GST. That is, the principal amount will be 10/11ths of the agreed amount and GST of 1/11th will be levied to equate to a final total equalling the previously agreed amount.

2. *GST is not levied*

Our payment will be for the amount previously agreed to.”

Comment

Preliminary advice received from the State Government indicates that GST will not be applicable on the payment of Section 94 contributions however this has not been confirmed for certain. It is considered that should GST be applicable then the developer in this case should be liable to pay this.

At the time the contribution was negotiated it was agreed to discount the equivalent tenancy per unit based on reduced occupancy rates for this type of development. There was no agreement that should the GST be applicable that amount agreed upon included the GST.

Reports from Director Corporate Services

Should Council agree to discount the contribution further by the payment of the applicants GST, if applicable, it would result in reduced funds being available to provide the required services, facilities and utilities that the development will generate a demand for.

It is recommended the GST be charged if applicable and this requirement remain the same.

2. Deferred Commencement Item - Schedule A

The applicant has argued for the exclusion of Stage 1 from the deferred commencement condition contained in Schedule A based on the following submission.

“Currently a large amount of civil works have been undertaken on the subject site and the adjacent proposed commercial site, including deep trenching, pipe laying and pump station installation. This, aligned with the fact that the nearest building works for Stage 1 are approximately 150 metres away from what is believed to be the source of the contamination, highlights the inconsistency of the deferred commencement condition. We therefore propose that this condition be amended to allow stage 1 construction and if necessary deferred commencement to later stages.”

Comment

A contamination report in line with the requirements of the deferred commencement condition was submitted on 11 April 2000. This report appears satisfactory however must be signed off by the Director of Environment and Community Services. On receipt of the Director’s approval, the consent would become operational and there would be no need to amend this condition.

It is therefore recommended that the condition remain and on acceptance of the submitted report that the applicant be advised the consent is operational.

3. Condition 5 - Schedule B

“Compliance with all provisions of the Acoustic report No. 744924-R2 Rev 4, by VIPAC Engineers and Scientists and dated 14th February, 2000 and the acoustic measures required under development consent 98/150”.

The applicant originally requested this condition be deleted as it related to another consent however following the meeting it was agreed that this condition would be amended to clarify the exact nature of compliance required.

The objective of this condition was to ensure future occupants in this estate were not adversely affected by noise from the future commercial development which will adjoin.

It is therefore recommended that this condition be amended to read as follows:-

“5. That acoustic measures be incorporated into the development having regard to the provisions of the Acoustic Report No. 744924-R2 Rev 4, by VIPAC Engineers and Scientists dated 14 February 2000, to ensure noise levels experienced by future occupants of the development comply with the provisions of the Protection of the Environment Operations Act, 1997”.

4. Condition 12 - Schedule B

Reports from Director Corporate Services

“No buildings are to be occupied until all conditions of development consent 98/150 in relation to the subdivision are complied with. All bonded works are to be completed prior to occupation of any buildings in stage 1”.

As per point 3 above the applicant originally requested this condition be deleted for the same reasons. Since this condition was placed on the approval the subdivision relating to development consent 98/150 has been released and therefore there are no outstanding conditions applicable. Therefore it is recommended that this condition be deleted.

5. Condition 18 - Schedule B

Condition 18 requires vehicle and pedestrian access for public to be provided over the internal driveway of the development in the most direct route from Shallow Bay Drive to the public reserve.

The applicant objects to this requirement and states:-

“As discussed in previous meetings with officers of Tweed Shire Council, we will not be providing a public easement over internal roads for vehicular access to the reserve. We will maintain pedestrian access as described in the application, via the easement provided connecting to the pedestrian access from the adjacent commercial development”.

Comment

It is considered necessary to provide maximum public access to the public reserve however it is agreed that the requirement for vehicular access to the public through the development is not necessary particularly as no public car parking is available within the reserve. Vehicular access for Council vehicles should be maintained to allow maintenance of the reserve to be carried.

It is recommended condition 18 be amended to delete the requirement for vehicular access to the public to be provided.

6. Condition 19 - Schedule B

“The existing drainage easement 7.04 wide is to be extinguished prior to the occupation of any building in stage 1”.

The applicant submits that:-

“Whilst the process of extinguishing this easement is underway, this easement has no impact on stage 1 construction (it is well outside the stage 1 boundary area). It is therefore unreasonable and unnecessary to condition stage 1 occupation on the extinguishment of the easement”

Comment

The above submission provided by the applicant is agreed with. It is recommended condition 19 be amended to read:-

“The existing drainage easement 7.04m wide is to be extinguished prior to the occupation of any building in stages 2, 3, 4 or 5”.

Reports from Director Corporate Services

7. Condition 21 - Schedule B

“A subdivision certificate will not be issued by the General Manager until such time as all subdivision conditions of Development Consent No. K99/1510 have been complied with”

The applicant has requested that this condition be reworded as there is uncertainty to what works are required for each stage and whether a separate subdivision certificate can be issued on completion of each stage.

Comment

No objection is raised to the issue of a subdivision certificate on the completion of all works for each stage. It is recommended that condition 21 be amended to read:-

“A separate subdivision certificate for each stage will not be issued by the General Manager until such time as all subdivision conditions applying to that stage contained in development consent No. K99/1510 have been complied with”.

8. Condition 43 - Schedule B

“Shallow Bay Drive is to be constructed for the full frontage of the subject site in accordance with the engineering plans approved by way of development consent 98/150 prior to the occupation of any building in Stage 1”.

The applicant contends that:-

“As per Schedule B Item 5 and General Item 12 we cannot accept conditions relating to any previous application. With respect to the road construction at our previous meeting with Mr Garry Smith we indicated that the road would be constructed only in accordance with the traffic volumes associated with our development, not to a design”.

Comment

Shallow Bay Road is designed to be a collector road servicing future development in this estate. No Section 94 plan provides for the construction of this road and therefore it is considered that it is the responsibility of the developer to construct this road to the appropriate standard for the full frontage of the development lot. Traffic generated from the development will also exit to the east in the future via Eastlakes Drive. The wording of the condition relates specifically to this development and references plans previously prepared and approved to specify the standard of construction required.

It is recommended this condition be retained.

Reports from Director Corporate Services

4. ORIGIN: Development Control Unit

FILE REF: PF5430/1443 Pt2

REPORT TITLE:

Proposal to Increase the Output at the CSR Quarry, Terranora Road, Terranora

SUMMARY OF REPORT:

Council at its meeting of 2 February 2000 considered a report on development application 96/322 that sought approval to increase the maximum annual extraction rate from 200,000 tonnes to 350,000 tonnes. The report also addressed a breach of the current consent (88/372) by the Company since 1995 in relation to quantities of material extracted. Negotiation with regards the breach of the consent have continued with CSR and their offer to settle the matter is the subject of a Confidential report in this Business Paper.

This report addresses aspects of Part B and C of the Council resolution of 2 February 2000 that CSR have sought review of.

RECOMMENDATION:

That in relation to Development Application 96/322, Council's resolution of 2 February, 2000 be amended as follows:-

- a. The period of time referred to in Part C of the resolution for satisfying the deferred matters be changed from 3 months to 6 months.
- b. Condition 6 in Schedule "B" of Part C of the resolution be deleted.

Reports from Director Corporate Services

REPORT:

Council at its meeting of 2 February 2000 considered a report on development application 96/322 that sought approval to increase the maximum annual extraction rate from 200,000 tonnes to 350,000 tonnes. The report also addressed a breach of the current consent (88/372) by the Company since 1995 in relation to quantities of material extracted. Negotiation with regards the breach of the consent have continued with CSR and their offer to settle the matter is the subject of a Confidential report in this Business Paper.

This report addresses aspects of Part B and C of the Council resolution of 2 February 2000 that CSR have sought review of. The development consent has not been issued.

Those parts of Resolution B and C of the meeting of 2 February, 2000 was that CSR have asked to be reviewed are as follows:-

1. Resolution B

“The applicant be advised that it is Council's intention to determine the application 96/322 by way of a Deferred Commencement consent as outlined in "B" below including the conditions and subject to CSR Limited entering into a "Deed of Agreement" with Council requiring payment of the following contributions:-

- i. The payment of \$13,355 towards the provision of passing lanes.*
- ii. Payment of a road maintenance levy of 1.5 cents per tonne of material removed from the site by road transport per kilometre travelled from the quarry to the Pacific Highway. This levy only applies to material removed in excess of 200,000 tonnes per annum.”*

CSR Submission

“CSR agrees to enter into a Deed of Agreement with Council and will contribute to:

- (i) The payment of \$13,355 towards the provision of passing lanes.*
- (ii) The payment of a road maintenance levy of 1.5 cents per tonne of material removed from the site by road transport per kilometre travelled from the quarry to the Pacific Highway in excess of 200,000 tonnes per annum after 31 March 2000”.*

Comment

This is consistent with the Council resolution.

2. Resolution C - Schedule “A”

“Subject to “A” above, the development application for the increase in output from the quarry at Lot 1 DP 792256 Terranora Road, Terranora be approved by way of a “Deferred Commencement” consent subject to the following conditions.

Deferred Commencement Consent

Reports from Director Corporate Services

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 3 months of the date of this notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A" the consent shall become operable and take effect from the date of notification under Section 92 of the Environmental Planning and Assessment Act, 1979 subject to the conditions set out as Schedule "B".

Schedule "A"

Conditions imposed pursuant to Section 91AA of the Environmental Planning and Assessment Act, 1979 (unamended):-

1. *A detailed quarry "plan of management" is to be submitted and approved by the Director Development Services and the Director Environment & Community Services including but not limited to the following:-*

(h) Methods of self compliance with speed limits and what will be done if drivers/contractors do not comply."

CSR Submission

"Within six months of the 24th February 2000, CSR will review the current Plan of Management and update it to comply with Schedule 'A' conditions imposed pursuant to section 91AA of the Environmental Planning & Assessment Act, 1979. With respect to item (h) of Schedule 'A' CSR has developed a comprehensive safety policy which addresses speed limits. However our enforcement of that policy off site depends on reports of incidents, upon which we take appropriate action".

Comment

The increase of the 3 month period for compliance with Schedule 'A' to 6 months is acceptable provided the extraction rate up until Consent 96/322 becomes operable is in accordance with consent 88/372.

The proposal for compliance with item (h) in the Plan of Management is acceptable.

3. Resolution C - Schedule B Condition 6

"Compliance with all requirements of Council's Engineering Services Division, specifically including the following:-

(i) Truck warning signs on Terranora Road either side of the access are to be displayed.

(ii) Upgrading of the existing intersection generally in accordance with Plan No. 97569 prepared by Bornhorst and Ward. The plan is to be amended and resubmitted to Council prior to commencing work including:-

** guard rails being installed with RTA specifications;*

Reports from Director Corporate Services

- * *all linemarking, including pavement arrows, are to be marked in accordance with RTA requirements;*
 - * *the “Trucks Entering” warning signs are to be erected 100m on both sides of the intersection.*
- (iii) *Where the construction work is on or adjacent to public roads, parks and drainage reserves and 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.*
- (iv) *The owner or contractor must not undertake any work within the public road reserve without giving Council’s Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.*
- (v) *Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to release of any linen plan of subdivision and/or prior to occupation of the buildings.”*

CSR Submission

“CSR request a review of Item 6 of Schedule “B” in particular the type of intersection proposed. This amendment request is based on the incident free performance of the current intersection while carrying traffic volumes since 1995 which are similar to the future requirements. We believe the current intersection is adequate for the balance of the quarry’s life at the current operating volumes”.

Comment

The Engineering Services Division have reviewed this aspect of the development and in view of the past experience with the intersection have agreed that this condition can be removed.

Reports from Director Corporate Services

5. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/LEP/1998 Pt5

REPORT TITLE:

Tweed Local Environmental Plan 2000

SUMMARY OF REPORT:

The draft LEP 1998 was gazetted on Friday, 7 April, 2000. The Plan is currently being compared to that which was submitted to the Minister for approval to identify what changes, if any, have been made by Parliamentary Counsel. The findings of that review will be reported to Council.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The draft LEP 1998 was gazetted on Friday, 7 April, 2000. The Plan is currently being compared to that which was submitted to the Minister for approval to identify what changes, if any, have been made by Parliamentary Counsel. The findings of that review will be reported to Council.

A copy of the written Instrument is attached to this Report.

Reports from Director Corporate Services

6. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/LEP/A123 Pt3

REPORT TITLE:

Kings Forest Planning Framework

SUMMARY OF REPORT:

The preparation of the Local Environmental Study, Local Environmental Plan, Development Control Plan and S94 Plan for Kings Forest has been ongoing for some two years. Much of that period has been taken up with negotiations with the proponent. Indeed, a final Species Impact Statement is still awaited from the proponents which means the Local Environmental Study cannot be completed yet.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The preparation of the LES, LEP, DCP and S94 Plan for Kings Forest has been ongoing for some two years. Much of that period has been taken up with negotiations with the proponent. Indeed, a final SIS is still awaited from the proponents which means the LES cannot be completed yet. The principal events during this period are as follows.

4 March, 1998	Council resolves to prepare a draft LEP for Kings Forest.
June/July, 1998	Discussions with proponents to provide financial contribution towards cost of Kings Forest planning process. Ongoing discussions to June, 1999. During this period proponents undertaking a number of studies and preparing a Master Plan.
10 June, 1999	Brief issued to five consultants to prepare LES, LEP, DCP and S94 Plan for Kings Forest. This would rely on studies to be provided by the proponents as agreed by proponents.
5 July, 1999	Copies of proponent's studies requested.
26 August, 1999	Evaluation of consultants' offers completed. Finalisation to await confirmation that proponents will provide all promised documents.
26 August, 1999	Letter from Narui confirming 25% contribution towards cost of consultants; and provision of documents, subject to evaluating consultants' offers.
7 September, 1999	Narui inform the Director of Development Services that agreed funding and documents will be provided by 13 September, 1999.
7 September, 1999	Letter to Narui confirming outcome of meeting of same date: Quote from GHD to be accepted, and that Narui would provide documentation.
14 September, 1999	Letter to Narui seeking confirmation that documentation and funding would be provided so that consultants can be commissioned.
24 November, 1999	Receipt of agreed funding and the majority of agreed documents. Master Plan, Aboriginal Archaeological Report and SIS not included.
1 December, 1999	GHD engaged.
24 December, 1999	Master Plan and draft SIS received.
12 January, 2000	Notification from Narui that Aboriginal Archaeological Assessment Report will be delivered the following day.
31 January, 2000	Letter to Narui requesting advice on status of draft SIS already received

Reports from Director Corporate Services

	received.
10 March, 2000	Draft LES received from GHD which was based on the draft SIS.
28 March, 2000	Advice from proponent's consultant that SIS will be finalised by week beginning 10 April, 2000.

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6a. ORIGIN: Director

FILE REF: GT1/S94/25 Pt1 & DA1180/10 Pt3

REPORT TITLE:

Draft Section 94 Plan No. 25 and Development Application for Subdivision and Associated Road and Infrastructure as a Staged Development Based on a Master Plan for a Future Tourist Resort Complex - Kings Beach North

SUMMARY OF REPORT:

At the meeting of 5 April, 2000, Council resolved to re-exhibit draft Section 94 Plan No. 25 for 28 days and to defer decision making on the development application until completion of that exhibition and a further report to Council. Both of these resolutions are subject of rescission motions to be resolved upon at this meeting. Since 5 April, the Director of Development Services has made a major effort to enable a recommendation for approval and has:-

- held further extensive negotiations with Lenen Pty Ltd;
- consulted the two main community organisations which made submissions during the exhibition of the draft Section 94 Plan;
- taken legal advice from Halliday and Stainlay; and
- undertaken a comprehensive review of the Section 94 plan and development application.

The conclusion is that the re-exhibition of the draft Section 94 Plan No. 25 is recommended prior to determination of the development application. The full reports on the draft Section 94 Plan No. 25 and the development application are reproduced in this business paper as an attachment to the rescission motion and as an Item Deferred for the development application.

Recognising the economic and employment generating benefits of this proposed development, together with the clear advice that this development will not proceed in the Shire unless approved on 19 April, 2000, a clear option is presented in the event that Council intends to resolve by majority to issue conditional development consent and make the compatible alterations to the draft Section 94 Plan. This option could be recommended except for the clear signals from the applicant to contest the financial contribution of \$992,000 which is recommended as the most fair and reasonable public benefit in lieu of dedication of the land.

Annexure 1 is the letter from the State Valuation Office confirming the average value at \$190,000 per hectare.

Lenen Pty Ltd have declined to enter into a Deed of Agreement as suggested in the advice from Halliday and Stainlay dated 11 April 2000. As a result further advice dated 12 April 2000 has been received and is attached to the Confidential agenda.

RECOMMENDATION:

That Council determines the matter. (A number of options are presented in the report).

Reports from Director Corporate Services

REPORT:

BACKGROUND

At its meeting of 5 April, 2000, Council resolved to re-exhibit Draft Section 94 Contribution Plan No. 25 for a period of 28 days and defer decision making on the development application until the completion of that exhibition and subsequent report back to Council. Both of these resolutions are subject of rescission motions for resolution at this meeting.

Since 5 April, 2000, the Director of Development Services has:-

- held further extensive negotiations with Lenen Pty Ltd;
- consulted the two main community organisations which made submissions during the exhibition of the draft Section 94 Plan;
- taken legal advice from Halliday and Stainlay; and
- undertaken a comprehensive review of the Section 94 plan and development application.

FURTHER NEGOTIATIONS WITH LENEN PTY LTD

The results of further negotiations with Lenen Pty Ltd are best expressed in the letter from the Director of Development Services to Lenen Pty Ltd of 12 April, 2000 which is repeated below:-

"I refer to the meeting yesterday attended by the Mayor, Cr Lynne Beck; Cr Bob Brinsmead; the General Manager Dr John Griffin; yourself, Mr Peter McGregor; Mr Don Barclay; Mr Victor Feros and myself. I now provide the following draft conditions on a "without prejudice" basis. These draft conditions will be included in my report to the Council meeting of 19 April 2000. Having reviewed the position in consultation with Council's Solicitor Tony Smith from Halliday and Stainlay I now advise my anticipated recommendation for re-exhibiting the draft Section 94 Plan No. 25 to embody the monetary contributions in lieu of the dedication of land. This is partly in view of the clear signals from you and your Company representative yesterday of non acceptance of \$992,000 as an acceptable monetary contribution in lieu and that you reserve the right to challenge this in court in the event that Council resolves to give development consent including such a condition.

I reiterate the intended process which I explained at the outset of yesterdays meeting to give Council an option of resolving to approve (if legally enabled) as follows:-

- 1. I shall carry out consultations with the two community organisations which made submissions during the exhibition of draft Section 94 Plan No. 25 and comprehensively report the outcome of these discussions to Council on 19 April.*
- 2. Recommend that the average valuation of the land at \$190,000 per ha as advised by the State Valuation Office be the basis of the monetary contribution in lieu of open space with the added provision for embellishment at \$120,000 per ha as advised as appropriate by Council's Manager of Recreation Services - in the event that Council*

Reports from Director Corporate Services

moved to give conditional consent including financial contributions in lieu of dedication of land.

Subject to the outcome of the above approach, this would then lead to the presentation of an option to Council which gives an opportunity for Council to resolve in terms as follows:-

1. *Given the following factors:*
 - a. *The major positive employment generation and economic benefits of the Shire;*
 - b. *The further consultations undertaken by the Director of Development Services with the main community organisations which made submissions to the exhibition of draft Section 94 Contribution Plan No. 25;*
 - c. *The formal advice that this development will not proceed unless a consent is able to be issued on 19 April 2000 and in the public interest.*

Council resolves to amend draft Section 94 Plan No. 25 to embody financial contributions of \$992,000 in lieu of the dedication of 3.2ha of land to public ownership adjacent to the coastal foreshore and issues consent with the following conditions:-

(full range of conditions would follow)

This is also dependent upon an ability to negotiate an agreed monetary contribution with your Company which also was considered by Council to reflect appropriate public benefit in lieu of the dedication of land and for that financial contribution to be embodied in a Deed of Agreement between your Company and Council - thereby mitigating risk which Council might take in issuing consent without re-exhibition of the draft Section 94 Contribution Plan.

Again, however I reiterate that given the current positions of your Company and myself on the Draft Section 94 Plan provisions for public open space to be submitted to Council, I fully anticipate recommending that the draft Section 94 Contributions Plan No. 25 has to be re-exhibited.

The draft conditions below therefore will be presented as an option to Council for dealing with the main outstanding issues of dedication of land and public open space or a monetary contribution in lieu and the provision of public car parking.

Draft Conditions on Public Open Space and Public Car Parking

3. (i) *Pursuant to the provisions of Section 94 Developer Contributions Plan No. 25 - as adopted by Council on 19 April, 2000 (in the event that Council resolves in terms of these conditions, then there needs to be a preceding resolution to embody the same content into the adopted Section 94 plan). A financial contribution be paid to the value of*

Reports from Director Corporate Services

\$992,000 - payable before the release of the construction certificate for building or subdivision works for the second stage of the development of the subject land.

The amount of \$992,000 is calculated as follows:-

- a. 3.2ha x by the average value of the land as advised by the State Valuation Office, ie. \$190,000 per ha equals \$608,000*
- b. Embellishment at \$120,000 per ha equals \$384,000*

Total \$992,000

9. *200 public car parking spaces shall be provided and constructed in two car parking areas as follows:-*
 - i. each located so as to enable easy pedestrian access to the beach - to the satisfaction of Council;*
 - ii. to be clear of the 7(f) Environmental Protection zone;*
 - iii. including extensive landscaping and design to integrate with adjoining public foreshore open space areas and clearly identified as public car parking by signage and management;*
 - iv. be net additional to the minimum number of car parks which are required by the resort development which will be subject of a future development application - using Council's Development Control Plan No. 2 as the basis for assessing that requirement;*
 - v. the 2 car parking areas for the provision of the constructed 200 public car parking spaces and related pedestrian and/or vehicular access corridors shall be dedicated to Council before the release of the construction certificate for any development of any future management lot - unless there are clearly demonstrable and acceptable means to Council of providing these 2 areas of 200 car parking spaces which retain the relevant areas in the ownership of the landowner but ensure the acceptance to Council in terms of responsibilities for design construction, management, security of assets, insurances and public access.*

I acknowledge that I advised my best endeavours to submit these draft conditions above to you during the afternoon of 11 April 2000. However, I had to give priority to other work matters and also chose to take further legal advice from Halliday and Stainlay before finalising this letter.

Whilst the above represents my recommendation for financial contribution in lieu of dedication of land for public open space in the event that Council resolves in those terms, it would be productive for your Company to make a submissions as to what it considers to be the appropriate contribution - so that

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this can be considered fully by Council before the decision making at the formal meeting on 19 April."

LEGAL ADVICE

The discussions and resultant legal advice from Halliday and Stainlay is contained in the letter from Halliday and Stainlay which is an Annexure 1 to this report contained in the Confidential section of the business paper, together with the letter of briefing from the Director of Development Services. **It should be noted that this advice at section (iv) nominates four (4) actions that should occur if Council takes the option to amend the Section 94 Plan without re-exhibition.**

As Lenen Pty Ltd have declined to enter into an agreement as suggested by Halliday and Stainlay dated 10 April 2000, further advice dated 12 April 2000 has been received and is attached to the Confidential agenda. **Although Halliday and Stainlay's legal advice has not changed following Lenen's position relating to an agreement, this latest advice has suggested the most prudent approach to resolve this issue.**

CONSULTATIONS WITH COMMUNITY ORGANISATIONS

On 11 April, 2000, the Director of Development Services met with representatives of the Caldera Environment Centre (Messrs Henry James and Paul Hopkins) and the Kingscliff Ratepayers and Progress Association Inc (Ms Barbara Fitzgibbon). This resulted in the representatives consulting their respective organisations involving - a full meeting of the Caldera Environment Centre and a meeting of the Committee of the Kingscliff Ratepayers and Progress Association Inc.

The responses from the two community organisations are as follows:-

Caldera Environment Centre

"A well attended meeting on the evening of 11 April, 2000 unanimously decided that there should be no acceptance of monetary contribution in lieu of the dedication of public land. The Section 94 Plan is considered highly reasonable from a public viewpoint and there is limited public access available to the beach along this frontage otherwise.

3.2ha is not considered that significant relative to the site as a whole and the value of the site for development potential is not considered to be significantly undermined by the dedication of the 3.2ha.

It is also considered appropriate to safeguard against further coastal erosion given global warming and evidence of events along parts of the Gold Coast."

Kingscliff Ratepayers and Progress Association Inc

"The Committee made the following decision as to submit further submission to Council.

That the provision of monetary contributions in lieu of land dedication is opposed and that the severity of change of accepting monetary contributions in lieu of land is such that it makes it essential that draft Section 94 Plan No. 25 be re-exhibited."

LETTER FROM NSW COASTAL COUNCIL

A letter has been received from the Coastal Council of NSW which is Annexure 2 to this report.

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It is submitted that the issues raised by the Coastal Council have been addressed in the original report and recommendation to Council (which is an item deferred in this business paper) and the Coastal Council has been advised accordingly.

OPTIONS

The following options are presented to Council. In presenting these options full recognition is made of the economic benefits and public interest in enabling this development to proceed.

- A.. i. That the Draft Section 94 Developer Contributions Plan No. 25 - Kings Beach North Open Space be subject of a second public exhibition for a period of 28 days and that Council defers determination of the development application DA1180/10 Pt 1 K99/1755 for the proposed 6 lot subdivision, associated road and infrastructure as staged development based upon a master plan for future tourist resort complex at Lots 194, 301 and 312 DP 755701 Coast Road, South Kingscliff until completion of that second public exhibition and subsequent report to Council.

The re-exhibited draft Section 94 Plan shall embody the principle of monetary contribution in lieu of the dedication of 3.2ha of public open space - that monetary contribution being \$992,000.

- ii. That the Director of Development Services be delegated to make the textual alterations to the draft Section 94 Contribution Plan No. 25 to give effect to Part (i) above.
- B. That Draft Section 94 Developer Contributions Plan No. 25 - Kings Beach North Open Space be approved as exhibited.
- C. That a decision on Draft Section 94 Developer Contributions Plan No. 25 - Kings Beach North Open Space be deferred and further negotiations be held with Lenen Pty Ltd regarding the details of the Plan.
- D. i. That Draft Section 94 Developer Contributions Plan No. 25 - Kings Beach North Open Space be amended by deleting the requirements for the dedication of 3.2ha of public open space and replacing with provisions which establish a monetary contribution (in lieu of that dedication of 3.2ha) of \$992,000 based upon the average value of the land at \$190,000 per hectare as advised by the State Valuation Office - (equals \$608,000) for 3.2ha and embellishment cost at \$120,000 per hectare - (equals \$384,000) and a total financial contribution therefore of \$992,000.
- ii. That the Director of Development Services be delegated to make the textual changes to draft Section 94 Plan No. 25 to give effect to the provisions in Part 1 above; and
- iii. Council resolves to adopt the Section 94 Plan No. 25 - Kings Beach Open Space with the alterations embodied in Parts 1 and 2 above.

Development Application

In the event that Council moves to approve the development application, then the appropriate wording is recommended to be:-

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1. Given the following factors:
 - a. the major positive employment generation and economic benefits to the Shire;
 - b. the further consultations undertaken by the Director of Development Services with the main community organisations which made submissions to the exhibition of Draft Section 94 Plan No. 25 - Kings Beach North Open Space;
 - c. the formal advice that this development will not proceed unless the consent is able to be issued on 19 April, 2000; and
 - d. in the public interest

That Development Application K99/1755 for the proposed 6 lot subdivision, associated road and infrastructure as staged development based upon a master plan for future tourist resort complex at Lots 194, 301 and 312 DP 755701 Coast Road, South Kingscliff be approved subject to the following conditions:-

“A. Pursuant to Section 80(4) of the Environmental Planning and Assessment Act, 1979 (as amended) Consent No. K99/1755 is granted for:-

- i. The subdivision of Lots 194, 301 and 312 DP 755701 into 6 lots as shown generally on the Plan of Subdivision prepared by Victor G Feros Reference No. 2774.7 dated 16/12/99, except where varied by these conditions.*
- ii. The carrying out of the following Stage 1 works generally in accordance with the conditions of this consent, including*
 - a) Relocation of the Tweed Coast Road;*
 - b) Relocation of the existing Water Supply Main and provision of water supply to each proposed lot;*
 - c) Provision of reticulated sewerage services to each lot;*
 - d) Provision of trunk drainage including earthworks ancillary to roadworks and drainage.*
 - e) Provision of water and sewer infrastructure to the Master lots sufficient to service ultimate yields including earthworks ancillary thereto.*
- iii. The development of the management lots for the purposes of future integrated tourist resort facilities together with associated and related uses and facilities generally in accordance with the Outline Development Plan Reference No. 2774.6 prepared by Victor G Feros and dated 7/12/99, except where varied by these conditions.*
- iv. Pursuant to Section 80(4) of the Act further development of the Management Lots for any of the purposes referred to in paragraph A(iii)*

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of this consent shall not be carried out except by means of a further development consent or consents.

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

1. *A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.*
2. *Prior to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-*
 - a. *Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or*
 - b. *AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.*

Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

(ii) GST

1.1 In this Clause 1:

"GST means any tax, impost or duty, including any goods and services, consumption, value added or similar tax applying on

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goods, services or other things introduced by the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and associated legislation (as amended), or under legislation passed by a State or Territory Parliament which is charged or levied on goods, services or other things.

- 1.2 *Any monetary contributions and levies payable or imposed as a condition of this contributions plan pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (NSW) (as amended), and all other moneys payable by and on behalf of the applicant are exclusive of GST.*
- 1.3 *Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (NSW) (as amended), including, but not limited to, the dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.*
- 1.4 *Liability for GST (payable in respect of any taxable supply under this contributions plan whether monetary or non-monetary) is additional. It is payable by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.*
- 1.5 *In respect of any non-monetary contribution or levy referred to in clause 1.3 above, the GST payable shall be calculated as follows:*
$$\text{GST payable} = \text{The GST inclusive market price of the asset} \times \frac{1}{11}.$$
- 1.6 *The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.*
 - a. *Tweed Road Contribution Plan: 6 lots @ \$2394 \$14,364.00
S94 Plan No. 4 (Version 4.0)
(Sector 7 - Duranbah/Cabarita (Residential))*

(iii) Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a subdivision certificate. The contribution shall be based on the following formula:-

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$$\$Con_{TRCP - Heavy} = Prod. \times Dist \times \$Unit \times (1 + Admin.)$$

where:

$\$Con_{TRCP - Heavy}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads

(trip one way)

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- | | | |
|----|--|-------------------|
| b. | <i>Street Trees: 6 lots @ \$42.90
S94 Plan No. 6</i> | <i>\$257.40</i> |
| c. | <i>Shirewide Library Facilities: 6 lots @ \$300
S94 Plan No. 11</i> | <i>\$1,800.00</i> |
| d. | <i>Eviron Cemetery/Crematorium Facilities
6 lots @ \$126
S94 Plan No. 13</i> | <i>\$756.00</i> |
| e. | <i>Emergency Facilities (Surf Lifesaving)
6 lots @ \$80
S94 Plan No. 16</i> | <i>\$480.00</i> |
| f. | <i>Community Facilities (Tweed Coast):
6 lots @ \$554
(North Coast)
S94 Plan No. 15</i> | <i>\$3,324.00</i> |
| g. | <i>Extensions to Council Administration Offices
& Technical Support Facilities
6 lots @ \$344.81
S94 Plan No. 18</i> | <i>\$2,068.86</i> |
| h. | <i>In lieu of the payment of contributions for cycleways pursuant to Section 94 Plan No. 22 the following works shall be carried out:</i> | |
| i. | <i>The proposed regional coastal walkway/cycleway within Lot 500 shall be constructed within a corridor generally 10 metres in width parallel to the western</i> | |

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boundary of Lot 500. The corridor shall commence a minimum of 20 metres east of the western boundary of the 7(f) zone to link up with the alignment of the southern coastal walkway/cycleway. The walkway/cycleway 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.

- ii. 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.
 - iii. To secure compliance with condition 3(i), a bond shall be lodged before release of the Stage 1 linen plan of subdivision in cash or by bank guarantee unlimited in time based on the estimated cost of the work plus 20% to the satisfaction of the Council. The bond shall be progressively released on a pro-rata basis upon the progressive completion of the said works to the reasonable satisfaction of the Council.
- (i) Pursuant to the provisions of Section 94 Developer Contributions Plan No. 25 - as adopted by Council on 19 April, 2000 **(in the event that Council resolves in terms of these conditions, then there needs to be a preceding resolution to embody the same content into the adopted Section 94 plan)**. A financial contribution be paid to the value of \$992,000 - payable before the release of the construction certificate for building or subdivision works for the second stage of the development of the subject land.

The amount of \$992,000 is calculated as follows:-

- a. 3.2ha x by the average value of the land as advised by the State Valuation Office, ie. \$190,000 per ha equals \$608,000
- b. Embellishment at \$120,000 per ha equals \$384,000

Total \$992,000

- j. Pursuant to the provisions of S94 Plan No. 25 a 20m riparian buffer to Cudgen Creek shall be dedicated at no cost to Council in conjunction with the registration of the linen plan of subdivision. The 20m distance is to be measured from the

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mean high water mark from the Creek as determined by a ground survey, acceptable to the Surveyor General, generally as shown on Figure 2 of Section 94 Plan No. 25. In addition to the 20m dedicated buffer an easement 30m wide is to be created pursuant to Section 88B of the Conveyancing Act over the area adjacent to any section of the 20m wide core buffer that adjoins the creek. The easement is not required where the buffer adjoins and environmental protection zone. The foreshore area to be dedicated shall be embellished prior to release of linen plan in accordance with Section 3.4 of Section 94 Plan No. 25.

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

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

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

GST

1.1 In this Clause 1:

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

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

- 1.3 *Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (NSW) (as amended), including, but not limited to, the dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in*

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tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.

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

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

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

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

Water: 6 lots @ \$3420 \$20,520.00

Sewer: 6 lots @ \$2820 \$16,920.00

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

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

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

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

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

6. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services PRIOR to the issue of a construction certificate.

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The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

GENERAL

7. Infrastructure

- *In accordance with the terms of this consent, sufficient permanent infrastructure must be constructed in the subdivision that creates the management lots so that they may be capable of being developed to their ultimate capacity by subsequent applicants without any requirements for provision or augmentation of external infrastructure. All proposed infrastructure that crosses management lot boundaries or runs adjacent to management lot boundaries must be constructed in the subdivision that creates the management lots.*
- *Bulk earthworks over the site shall be completed sufficient to ensure that road levels are fixed, the trunk drainage system is established and management lot boundaries are at their final level. Trunk drainage is that system defined in Figure 1 “Drainage Easement Requirements, Kingscliff South Development” Cardno MBK letter dated 29 March 2000.*
- *All public roads proposed within the Master Plan, but not contained within master Development Lots, are to be constructed and dedicated. Roads within the Master Plan that are necessary to provide legal and physical access to any Master Development Lot (including any dedicated public open space parcel) are to be constructed and dedicated. Realigned Public Roads passing through the Master Plan site perimeter are to be constructed and dedicated to connect with existing public roads in adjoining sites.*
- *Waterways and WQM devices down stream of management lots are to be concept designed, contained within easements or within drainage reserves or constructed.*
- *Where infrastructure required to serve a management lot, passes through another lot, easements in favour of Council shall be granted over the infrastructure and necessary access roads to such infrastructure.*
- *Public parking and foreshore access locations are to be identified and title protected.*
- *Regional and District Cycleways/footways are to be identified and title protected.*
- *Trunk public utilities sufficient for the ultimate development demand are to be either relocated to, or newly provided in approved locations to be dedicated if necessary or within easements.*

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8. *The development shall be completed in general accordance with Plans Nos 2774.5 - Precinct Plan (7/12/99), 2774.7 - Plan of Subdivision (16/12/99), 2774.6 - Outline Development Plan (7/12/99) prepared by Victor G Feros, except where varied by these conditions.*
9. *200 public car parking spaces shall be provided and constructed in two car parking areas as follows:-*
 - i. *each located so as to enable easy pedestrian access to the beach - to the satisfaction of Council;*
 - ii. *to be clear of the 7(f) Environmental Protection zone;*
 - iii. *including extensive landscaping and design to integrate with adjoining public foreshore open space areas and clearly identified as public car parking by signage and management;*
 - iv. *be net additional to the minimum number of car parks which are required by the resort development which will be subject of a future development application - using Council's Development Control Plan No. 2 as the basis for assessing that requirement;*
 - v. *the 2 car parking areas for the provision of the constructed 200 public car parking spaces and related pedestrian and/or vehicular access corridors shall be dedicated to Council before the release of the construction certificate for any development of any future management lot - unless there are clearly demonstrable and acceptable means to Council of providing these 2 areas of 200 car parking spaces which retain the relevant areas in the ownership of the landowner but ensure the acceptance to Council in terms of responsibilities for design construction, management, security of assets, insurances and public access.*
10. *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.*
11. *No soil, sand, gravel, clay or other material shall be disposed of off the site, except with the written approval of the Council.*
12. *Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.*
13. *The subdivision is to be carried out in general accordance with Development Control Plan No 16 - Subdivisions Manual.*

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14. *A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No K99/1755 have been complied with.*
15. *The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:*
 - a. *Easements for sewer, water supply and trunk drainage over ALL services on private property.*

Note: *Where water, sewer, or drainage infrastructure is located at or above ground level (eg. Pump stations, drainage channels) the assets shall be contained within drainage reserves or fee simple lots vested in Council. Except drainage infrastructure located on the Golf Course which may be in easements.*

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

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

16. *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.*
17. *In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.*
18. *Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.*
19. *Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.*

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20. *Advertising structures/signs to be the subject of a separate development application, where statutorily required.*
21. *Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final subdivision certificate application.*
22. *Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services PRIOR to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.*
23. *Prior to the issue of a construction certificate/prior to work commencing, documentary evidence shall be submitted from the Department of Land and Water Conservation demonstrating that development consent has been obtained under the Native Vegetation Conservation Act OR that no such consent is required under that Act.*
24. *In accordance with Section 109F(i) of the Environmental Planning & Assessment Act, 1979 (as amended), a construction certificate for SUBDIVISION WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.*
25. *In accordance with the Strategic Planning Policies - Kings Beach North any future substantial resort development shall provide surf life saving facilities for patrons and provision of SLSC patrols for the public benefit subject to negotiations between Council, Surf Lifesaving Association and Cabarita Surf Life Saving Club.*
26. *In accordance with the terms of the concurrence granted by the Director General of the Department of Urban Affairs and Planning pursuant to Clause 37(2) of TLEP the following conditions shall be complied with;*
 - a. *No residential or associated buildings shall be erected on land zoned 7(f);*
 - b. *Landscaping to the satisfaction of Council shall be established on the land zoned 7(f) to ensure that there is no unrestricted access onto the beach area and*
 - c. *No access for vehicles or pedestrians shall be made available from the eastern boundary of the allotments unless such access is consistent with a*

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management plan which covers the public foreshore areas and is agreed to by both the Council and the DLAWC.

FURTHER APPROVALS

27. *Prior to lodging a construction certification application, the applicant/developer shall submit:-*

Evidence that it is feasible for the site to be landform shaped, drained and provided with the necessary infrastructure for the development, by submitting the following:

- a) *Final landform design levels for the site excluding the golf course to the nearest 0.5m*
- b) *Preliminary design (accompanied by engineering calculations) of trunk drainage and associated water quality controls to include proposed catchment boundaries and areas, location of drainage paths and points of discharge, $Q_{0.25}$, Q_5 and Q_{100} flows. If infiltration is proposed as a means of disposal, design infiltration rates shall be determined as follows:*
 - *Conduct percolation tests on the site in accordance with Appendix B of A.S. 1547-1994, Disposal Systems for Effluent from Domestic Premises.*
 - *if the above result yields a rate $<3\text{m/day}$, this rate may be used to design the infiltration device*
 - *if the result is $>3\text{m/day}$, the rate for design may not exceed 3m/day unless this rate is confirmed by determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. The maximum infiltration rate that may be used for design purposes is 6m/day , subject to review following trial results satisfactory to Council.*
- c) *Preliminary design of drainage outlet to Cudgen Ck with sufficient detail to assess if any works will be required within 40m of the creek*
- d) *Preliminary design of the Coast Rd as adopted by Council. Design to show both interim links to the existing Coast Rd and future links to any proposed realigned Coast Rd, including LATM devices and provision for pedestrian and cyclists.*
- e) *Revised subdivision lot boundaries required to accommodate a), b), c) and d) above including*
 - *location, area and boundaries of road reserves for interim and final road alignment*

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- *location, land area and reserve/easement requirements for trunk drainage and water quality devices*

28. *Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works required by this consent.*

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

(i) Subdivision Work

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

- a) *copies of compliance certificates relied upon*
- b) *four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:*
 - *earthworks*
 - *roadworks*
 - *road pavement*
 - *road furnishings*
 - *stormwater drainage*
 - *water supply works*
 - *sewerage works*
 - *landscaping works*
 - *sedimentation and erosion management plans*
 - *location of all service conduits (water, sewer, Northpower and Telstra)*
 - *the approved Traffic Control Plan*
 - *the relevant maintenance manuals (eg. G.P.T's, water pump station)*

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

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

29. *Subdivision work in accordance with a development consent must not be commenced until:-*
- (a) a construction certificate for the subdivision work has been issued by:
 - (i) the consent authority, or*
 - (ii) an accredited certifier, and**
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority, and*
 - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and**
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.*
30. *Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.*
- (i) The following information must accompany an application:
 - original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$110 per lot.*
 - relevant development consent or complying development certificate*
 - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)*
 - for a deferred commencement consent evidence that the applicant has satisfied the consent authority on all matters which must be satisfied before the consent can operate*
 - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)*
 - a certificate of compliance from the relevant water supply authority (where applicable)*
 - if a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment**

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Court Act 1979 evidence that required drainage easements have been acquired by the relevant council

- *for subdivision involving subdivision works evidence that:*
 - *the work has been completed, or*
 - *agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or*
 - *security given to the consent authority with respect to the completion of the work*
 - *Work as Executed Plans for ALL works*

(ii) *Documentary evidence that all matters contained in Section 109J of the Act have been complied with.*

(iii) *Written evidence from Council that the proposed road/street names have been approved.*

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

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

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

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

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council

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based on the rates contained in Council's current Fees and Charges:-

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

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

Sewer Pump Station

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

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f. Off maintenance

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

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Supply Authorities Act, 1987 to be certified by an "accredited certifier".*

- 32. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.*

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

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

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

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

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

- 34. (i) PRIOR to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.*

- (ii) To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.*

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

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

35. *Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.*
- a. *That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.*
 - b. *That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)*
 - c. *That the pavement layers have been compacted to RTA specifications.*
 - d. *That site fill areas have been compacted to the specified standard.*
 - e. *That supervision of Bulk Earthworks is to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.*
 - f. *That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.*
36. *The Construction Certificate application shall include a provision for pavement design. The final design shall be approved by Council OR an accredited certifier prior to the placement of any road pavement material.*

ROADS/STREETS - STAGE 1

37. *The following roadworks shall be carried out at no cost to Council in accordance with engineering plans for the Stage 1 works to be submitted with the construction certificate application.*
- (i) (a) *Construction and dedication at no cost to Council of the relocated Coast Road from the southern boundary of the site to the northern boundary of the site in general accordance with the plans referred to in Condition 8. The road must remain continuous across the land as development proceeds.*
 - (b) *The road shall be designed to discourage through traffic based on a design speed of 60km/h except where the road passes through Seaside City Estate and around the proposed hotel entrance where a design speed of 40km/h shall apply. The overall speed environment shall be achieved by road geometry and local area traffic management devices such as roundabouts.*
 - (c) *A Traffic Noise Study shall be carried out prior to the issue of a Construction Certificate to determine appropriate setbacks or*

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other noise attenuation measures to be incorporated into the Management lots. Any necessary noise attenuation measures shall be carried out in accordance with the EPA Publication "Environmental Noise Management - Environmental Criteria for Road and Traffic Noise (1999)".

- (d) The road reserve shall be of sufficient width to accommodate a future walkway of not less than 2m in width.*
- (ii) Construction and dedication at no cost to Council of "connecting roads" from the relocated Coast Road alignment to the existing Coast Road at the northern end either existing or realigned Coast Road at the southern end of the site in accordance with engineering plan to accompany the Construction Certificate application. The "connection roads" shall be designed to a 60km/h standard.*

DRAINAGE/FLOODING

- 38. The principle form of stormwater disposal shall be by way of infiltration.*

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

Legal continuity of reserves or easements and physical capacity for the Q100 year discharge must be provided in drainage paths from each proposed lot to the discharge point at Cudgen Creek. Progressive subdivision of the site must provide lawful points of discharge with legal and physical continuity to Cudgen Creek at each stage of title creation, despite the discharge being into the applicants own (for the time being) land. The constructed drainage system shall terminate not less than 40m from Cudgen Creek at an outlet fan or device that ensures Q100 flow is discharged as overland surface flow with a velocity not exceeding 0.4m/second.

- 39. Prior to release of the linen plan of subdivision, drainage works associated with the Stage 1 works shall be constructed at no cost to Council to accommodate discharges from the ultimate yields resulting from the Development. Drainage works shall be designed and constructed in general accordance with the letter from Cardno MBK dated 29 March 2000 titled Hydraulic Analysis, in particular Figure 1 "Drainage Easement Requirements, Kingscliff South Development". Stormwater quality control works are to be designed and constructed in general accordance with Cardno MBK letter dated 3 March 2000 (Water Quality Report) as amended by Condition 41 and Schedule A.*

The engineering plans accompanying the construction certificate application shall provide for:

- (i) The provision of water quality control facilities to service the Stage 1 drainage works;*

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- (ii) *Design and construction of erosion and sediment control facilities in general accordance with the publication "Managing Urban Stormwater" - NSW Department of Housing 3rd Edition, August 1998 and Schedule B;*
 - (iii) *The engineering plans shall show the designed finished surface levels at the common boundary of all management ensure that roads, underground drainage and public utility grade lines are continuous across the common boundaries of the proposed lots.*
 - (iv) (a) *All drainage structures under the relocated Coast Road shall be provided prior to the release of the linen plan of subdivision and such structures shall be designed and constructed to carry the major Q100 flows.*
 - (b) *The outfall drainage works from the structure under the relocated Coast Road to Cudgen Creek shall be constructed prior to release of the linen plan and in accordance with approved engineering plans.*
 - (c) *The engineering plans shall include provision for erosion controls at the outfall and downstream of the outfall as necessary.*
40. i. *Dedication of any proposed drainage reserve or creation of easements at no cost to Council.*
- ii. *An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.*
- Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.*
41. *Permanent stormwater treatment devices shall be designed and constructed in general accordance with the criteria contained in Schedule A.*
42. *Erosion and sedimentation control measures shall be designed and constructed in general accordance with the criteria contained in Schedule B.*
43. *The earthworks shall be carried out in accordance with AS 3798-1996, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.*
44. *The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level one standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical*

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report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.

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

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

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

46. *All stormwater runoff shall be directed to the west and no stormwater runoff or control works shall be located within Lot 500.*

SERVICES

Sewer

47. *All necessary approvals (under the Environmental Planning & Assessment Act, 1979) for works external to the site will be obtained by Council. All costs associated with obtaining such approval will be met equally between Council and the applicant.*

If such approval is not obtained within 4 months from the date of this determination the applicant may proceed with an application to provide sewerage by external connection to the Kings Beach South development.

48. i. *The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.*
- ii. *An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate (form 13) to allow the land to be classified.*
- iii. *In lieu of creating the sewer pump station site in conjunction with registration of linen plan of subdivision for Stage 1, the applicant shall include in the deed of agreement required under Condition 47 provisions requiring the sewer pump station lot to be created and transferred to Council at no cost in conjunction with completion of any bonded works. The deed shall also include provision for the creation of a restriction as to user over the relevant management lot indicating Councils interest in part of the land for a sewer pump station site.*

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

Water

49. (i) *Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.*
- (ii) *The existing 250mm diameter water main adjacent to the Coast Road shall be relocated to within the new Coast Road road reserve or suitable easements and upgraded to a 450mm diameter water main in accordance with engineering plans to accompany the construction certificate application and to the satisfaction of the Director of Engineering Services. Council will pay the marginal difference between the cost of a 450mm main and the cost of the main required to serve this development, demonstrated by hydraulic analysis satisfactory to the Director of Engineering Services.*

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

Telephone

50. *The production of written evidence from Telstra Australia certifying that satisfactory arrangements can be made for the provision of underground telephone supply.*

Electricity

51. i. *The production of written evidence from Northpower certifying that satisfactory arrangements can be made for reticulation of underground electricity (unless otherwise approved by Council); and*
- ii. *The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.*

ENVIRONMENT PROTECTION

52. *In accordance with the National Parks and Wildlife Service Act, in the event of the discovery of a relic during works, work must cease immediately and the NPWS and the Tweed Byron Local Aboriginal Land Council shall be notified. Works in the locality must not recommence until consultation with the NPWS*

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and the Tweed Byron Local Aboriginal Land Council has concluded to their satisfaction.

53. *The existing ilmenite dump shall not be disturbed as part of any future golf course development unless further information demonstrates that radio-activity levels remain below the relevant thresholds recommended by the Department of Health or, subject to obtaining any necessary further development consent, the ilmenite dump may be removed from the site.*
54. *Suitable measures are to be provided to ensure covering and protection is to be provided to ensure that no material is removed from the site by wind to avoid causing nuisance to neighbouring properties.*
55. *All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.*
56. *All work associated with this approval is to be carried out so as not to cause a significant nuisance to residents in the locality from noise, water or air pollution.*
57. *The use to be conducted so as not to cause significant disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.*
58. *All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.*
59. *The burning off of trees and associated vegetation is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.*
60. *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 unless otherwise approved by Council.*
61. *All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:*
 - A. *Short Term Period - 4 weeks.*

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

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

62. *All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording to the satisfaction of the Director of Development Services.*
63. *The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.*
64. *Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.*
65. *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.*

WATER QUALITY MONITORING PROGRAM

66. (i) *A report establishing base line conditions of existing groundwater, including pH, total dissolved solids, total nitrogen, total phosphorus, iron (total), aluminium and faecal coliforms, shall be submitted and approved by the Director, Environment and Community Services, prior to the issue of a construction certificate.*
- (ii) *Surface water and groundwater monitoring programs (pre-construction, construction and post construction), including details of standards, location and frequency, shall be submitted and approved by the Director, Environment and Community Services, prior to the issue of a construction certificate.*
- (iii) *A report by a suitably qualified person detailing all water sampling results from the surface water and groundwater monitoring programs in respect of the Stage 1 works shall be submitted to Council on a routine 6 monthly basis from their commencement, including details of any failure to meet water quality discharge objectives and standards. Where sampling results indicate a substantial failure to meet water quality objectives or standards the results are to be reported immediately to Council for consideration. This requirement shall cease 1 year after the completion of the Stage 1 works.*
- (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*

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details of any relevant previous failures 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.

67. *Certification shall be provided by a qualified Engineer that all works required by this consent have been performed under his/her supervision in accordance with the approved engineering plans and specifications.*
68. *The State Environmental Planning Policy No 14 Wetland area and the Cudgen Creek buffer zones to be surveyed and physical barriers to be erected to protect them during construction. This work to be approved by the Director Development Services prior to the commencement of any earthworks or construction on the site.*

MANAGEMENT PLANS

69. *An Acid Sulphate Soil Management Plan in respect of the Stage 1 works prepared in accordance with the "Acid Sulfate Soils Assessment and Management Guidelines", EPA, DUAP, ASMAC, 1997 as amended, shall be submitted and approved by the Director of Environment and Community Services prior to the issue of a construction certificate for the Stage 1 works.*

Any work required by this consent shall be carried out in accordance with the approved Management Plan.

The following details must be included in the approved plan:-

- i. *Proposed soil and water monitoring including parameters, analysis methods, location, frequency and action levels.*

Note: Validation analysis of soils following lime application is to include recognised testing for potential acidity.

- ii. *Neutralisation strategies including dosage rates, application methods, and, if required, method of separation of pyrite from other soil constituents.*
 - iii. *General measures including containment and stock piling.*
 - iv. *Contingency measures including remedial and restoration action.*
 - v. *Complete raw data on the analysis undertaken on the 24 bore holes in August/September 1999*
70. *The applicant/developer shall prepare and submit the following Management Plans PRIOR to the issue of a Construction Certificate for any Stage 1 works:*
 - i. ***Cudgen Creek Riparian Lands Management Plan.***

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The Plan shall be prepared in consultation with the Department of Land and Water Conservation, Environment Protection Authority and NSW Fisheries and to the satisfaction of Council.

The Plan shall include but is not limited to the following:-

- * *Rehabilitation of vegetation with suitable native species, including banksia integrifolia and other suitable species native to the area to reflect the natural diversity of the site;*
- * *Method of weed removal and ground preparation;*
- * *Density and type of species in regeneration;*
- * *Provision of fencing to discourage access along the landward side of the buffer;*
- * *Stabilisation works within and adjacent to the creek bank;*
- * *Provision of vehicular access for maintenance*
- * *Translocation of existing immature species including Banksia Integrifolia from areas to be cleared and obtaining plant material of local providence.*
- * *Monitoring regime (six (6) monthly)*

The works required by the approved plans shall be completed to the satisfaction of Council PRIOR to the issue of a Subdivision Certificate (linen plan) pursuant to this consent.

ii. Dune Management Plan/Lot 500 Management Plan.

The Plan shall be prepared in consultation with the Department of Land and Water Conservation and the National Parks and Wildlife Service and to the satisfaction of Council.

The Plan shall include but is not limited to the following:-

- * *Removal of bitou bush and non-native species of vegetation;*
- * *Rehabilitation of cleared (disturbed areas);*
- * *Planting of banksia integrifolia and other native species;*
- * *Provision of pedestrian and maintenance/emergency vehicle access to the beach.*
- * *Bushfire hazard reduction measures.*

The works required by the approved plan shall be completed to the satisfaction of Council PRIOR to the issue of a Construction Certificate for any future

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development of the adjacent Management lot OR within 5 years of the date of this consent, whichever occurs first.

Prior to carrying out the work the developer/applicant shall obtain any necessary approvals under the Environmental Planning & Assessment Act, 1979 and licences from the Department of Land and Water Conservation for works within Lot 500.

71. *Golf Course Management Plan.*

Any future development application for a golf course on proposed Lot 1 shall be accompanied by a Golf Course Management Plan to the satisfaction of Council.

The Plan shall address, but is not limited to the following matters:-

- * Fertiliser application;*
- * Nutrient removal/treatment;*
- * Control and treatment of stormwater runoff;*
- * Landscaping of the Golf Course with native species, including banksia integrifolia;*
- * Demonstrating that the golf course will be constructed and operated in a manner that does not increase the undeveloped pollutant export to surface or ground receiving waters;*
- * The DA for the golf course shall provide full details of construction, establishment and operation of the course and pollution control devices including level 2 and level 3 modelling in accordance with the EPA Managing Urban Stormwater Council Handbook Appendix F;*
- * Establishment of a groundwater monitoring regime including provisions to address fertiliser application if pollutants exceed defined levels;*
- * Measures to reduce phosphorus load within Cudgen Creek and groundwater;*
- * Measures to decrease nitrogen entering ground water during dry years.*
- * The need to protect the SEPP 14 Wetlands and Environmental Protection zones, including any necessary buffers and minimal clearing of vegetation within 20m of the SEPP 14 Wetland and Environmental Protection zones.*
- * Selection of plant species generally in accordance with DCP No. 25 - Biting Midge.*

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- * *Translocation of immature Banksia Integrifolia and other native species from areas to be cleared, and obtaining native plant material of local providence.*

SCHEDULE A

PERMANENT STORMWATER QUALITY CONTROL

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

(a) General Criteria for Stormwater Treatment Devices

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

- *the type, number and location of devices shall be selected to ensure minimum long term asset ownership costs.*
- *trunk drainage, is to be located in reserves or easements, however as an interim arrangement, the east west trunk drain across the proposed golf course and associated infiltration basin may be located in easements until the final form and layout of the golf course is determined.*
- *devices shall be located for easy cleaning and maintenance access by vehicles and personnel.*
- *devices located off street are to be provided with sealed access and manoeuvring areas (located on easements) for cleaning/maintenance vehicles and equipment.*
- *best quality materials and construction methods shall be used to ensure maximum life expectancy of device components.*
- *Litter racks, baskets and metal components in contaminated or corrosive areas shall be fabricated from stainless steel or marine grade aluminium. Use of other non corrosive materials will be subject to Council approval.*
- *Litter racks and non proprietary GPTs shall be designed for self cleansing and automatic movement of litter to storage bins. Litter/gross pollutant storage bins shall be constructed of reinforced concrete and designed for convenient access and cleaning by mechanised means (eg. excavator, backhoe, suction truck).*
- *Where access for cleaning is required by means of hatches, doors or lids they shall be constructed in high strength/lightweight materials with lockable/easy opening fastening devices*

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- *All devices shall be designed to minimise risk to operators and the public and shall be in accordance with the requirements of the Occupational, Health and Safety Act. Devices where there is risk to the public or the operation of the device is at risk from interference from the public shall be enclosed by a person proof fence.*
- *the sizing of devices shall be increased (where necessary in excess of the size obtained using the EPA publication "Managing Urban Stormwater - Treatment Techniques, November 1977") to ensure cleaning out is required on average no more than 6 times per year*
- *The infiltration rate for infiltration devices shall be determined as follows:*
 - *Conduct percolation tests on the site in accordance with Appendix B of A.S. 1547-1994, Disposal Systems for Effluent from Domestic Premises,*
 - *if the above result yields a rate <3m/day, this rate may be used to design the infiltration device*
 - *if the result is >3m/day, the rate for design may not exceed 3m/day unless this rate is confirmed by determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. Notwithstanding actual tests, the maximum infiltration rate that may be used for design purposes is 6m/day.*

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

(b) Water Sensitive Design

Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse. These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

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(c) *Specific Requirements*

- *Road and street drainage and gross pollutants. Where consistent with other land use requirements, grassed swale drainage (Ref 5.2) is to be used in preference to pipes or hard lined channels. Litter and gross pollutants greater than 50mm are to be retained for flows up to the ARI 3 month storm (deemed to be 40% of the ARI one year event) by means of litter baskets or pits (ref 4.1) or litter racks (ref 4.2). These devices are to be sized to require cleaning on average not more than six times per year, based on a yield of 1cu.m /ha/year. Whilst a sufficient number of litter/gross pollutant collection devices shall be provided to ensure all road stormwater is screened for litter and gross pollutants, the number of devices shall be minimised. Where practical, devices will be located downstream of entry pits at locations servicing a minimum 50 ultimate lots or equivalent.*

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

- *where on street parking is required, unless cars can be excluded from swale area*
- *on roads serving small lots with numerous driveways*
- *where gradients are <1% or >5%)*
- *An infiltration basin shall be provided on the trunk drainage system prior to discharge to Cudgen Ck. This basin is to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) and infiltrate this storm within a 24 hour period. A gross Pollutant Trap (Ref 4.4) is to be constructed upstream of the infiltration basin to remove sediment, litter and gross pollutants.*
- *Underground road/street/parking area drainage shall pass through a Gross Pollutant Trap (Ref 4.4) prior to discharge to the swale drain along the eastern (coastal) frontage of development.*
- *Roof drainage. All future roof drainage is to be discharged to infiltration trenches located on each contributing allotment or on other land appropriately title burdened to the contributing allotment. Infiltration trenches shall be designed in accordance with the following criteria:*
 - *As a minimum requirement, trenches are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) and infiltrate this storm within a 24 hour period, before surcharging occurs*
 - *Surcharge overflow from the infiltration area to the street gutter, interallotment or public drainage system must occur by visible surface flow.*

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- *Runoff is to be pre treated to remove contaminants prior to entry into the absorption areas (to maximise life of absorption areas between major cleaning/maintenance overhauls).*
- *If the site is under strata or community title, the strata/community title plan is to ensure that the absorption areas are contained within common areas that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).*
- *Swale Drains shall be designed in accordance with (Ref 5.2).*

(d) Proposed Golf Course

An application for a future golf is required to provide full details of construction, establishment and operation of the golf course and proposed pollution control devices and practices. Level 2 and level 3 modelling (EPA Managing Urban Stormwater: Council Handbook, Appendix F) is required to verify that pollutant export will not increase above values in the following table.

<i>Pollutant</i>			
<i>Nutrients</i>	<i>Maximum permissible load that may be discharged kg/ha/year</i>		
	<i>Average year (1719mm)</i>	<i>Wet Year (2185mm)</i>	<i>Dry Year (929mm)</i>
<i>Suspended solids (SS)</i>	300	400	120
<i>Total Phosphorus (TP)</i>	0.8	1.1	0.35
<i>Total Nitrogen (TN)</i>	4.5	6	1.5
<i>Litter</i>	<i>Retention 70% of annual litter load greater than 5mm</i>		
<i>Coarse sediment</i>	<i>Retention of 90% of annual load of sediment coarser than 0.125 mm</i>		
<i>Oil and grease (hydrocarbons)</i>	<i><10 mg/litre in flows up to 40% of Q1 peak.</i>		

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Further, there will be a condition on the future golf course consent that a surface and ground water monitoring regime is to be established and if pollutants exceed defined levels, then all golf course fertilising is to cease until effective corrective action is taken.

SCHEDULE B

EROSION AND SEDIMENT CONTROL DURING CONSTRUCTION

1.0 General

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

The aims of erosion and sediment control are:

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

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

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

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

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

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

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

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

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

2.0 Preparation of Erosion and Sediment Control Plan (ESCP)

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

- a. Plans of external and internal catchments
- b. Site layout to include
 - plans showing existing site topography and final contours with cut and fill locations identified. property boundaries and lot lines

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- *staging of works, including staging of site clearing and topsoil stripping*
 - *location of all site access points, parking areas, site facilities and on site roadways/tracks*
 - *location of site storage and stockpile areas (sand, gravel, topsoil, building materials, fuel etc)*
 - *Utility plans*
 - *erosion risk mapping - identification of low, medium, high and extreme erosion risk areas*
 - *topographic site limitations which may include:- excessive slope gradients; unstable or hazardous terrain; flood inundation areas; rock outcrops; active coastal dune systems; land subject to wave attack; existing erosion; water bodies; drainage problem areas; areas of potential mass movement.*
- c. *Vegetation layout*
- *general location, nature and condition of existing vegetation*
 - *location plan of protected trees and bushland, non disturbance areas, buffer zones, disturbance control fencing and limits of clearing*
 - *Revegetation landscape plan (including staging)*
- d. *Soil properties*
- *location and limitations of major soil types on site*
 - *identification of all known areas of dispersive soils (more than 10% being dispersive)*
 - *the R and K factors for the RUSLE and Soil Loss Classes (delineated where more than one class occurs)*
 - *soil hydrologic group [“Managing Urban Stormwater, Soils and Construction” NSW Dept of Housing 1998 - Appendix F]*
 - *soil texture group (Type C, F or D)*
- e. *Drainage*
- *plans of both temporary and permanent drainage, including design/capacities, identification of all proposed temporary and final overland flow paths, and any proposed diversions of overland flow paths or watercourses from the site*

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- f. *Erosion and sediment control proposal including*
- *site specific text overview and design philosophy of erosion and sediment control proposal*
 - *location (on plans), type, function, and timing (instigation and decommissioning) of all drainage, erosion and sediment control measures (the location plans must include areas external to the site where these areas impact or are impacted upon by the drainage or ESCP of the subject site). Preliminary calculations of sedimentation pond sizing.*
 - *timetable, integration/sequencing of ESCP with staging of works,*
 - *detailed RUSLE calculations to evaluate current annual soil loss and likely annual soil losses from the proposed development incorporating the proposed ESCP*
 - *water quality monitoring program with water quality criteria goals, parameters to be monitored, monitoring locations, monitoring frequency*
 - *proposed response to failure of system and non compliance with discharge quality standards.*
 - *reporting procedures*

2.2 *Steps in preparation of ESCP*

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

- a. *Location of disturbance and non-disturbance zones, minimising extent and duration of disturbed areas*
- b. *Location of fencing and signage for non-disturbance and buffer zones*
- c. *Location and controls on construction entry/exit points*
- d. *Location of site office, parking, stockpile and material storage areas*
- e. *Determine and locate drainage and sediment controls for d)*
- f. *Location temporary construction roads*
- g. *Division of site into manageable drainage sectors*
- h. *Staging, and programming (soil loss class constraints) of construction works for compatibility with ESCP in each drainage sector*
- i. *Clean water management strategies for each drainage sector (diversion around disturbed, stockpile and risk areas)*

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- j. Controls for channelised flow velocities*
- k. Erosion controls on each disturbed area*
- l. Control of sediment laden runoff*
- m. Control of sediment in surface runoff at site boundaries*
- n. Trapping of sediment within the development*
- o. Location and operation of sediment basins*
- p. Dust control measures*
- q. Revegetation program*
- r. Installation and decommissioning schedule*
- s. Maintenance and monitoring program*
- t. Assessment of effectiveness of ESCP in terms of soil loss (RUSLE) and impact on receiving waters*

2.3 Application of Soil Loss Class

The soils on the development site shall be classified as follows

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

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

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

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

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

3.0 Clearing Vegetation, Soil Disturbance

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

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

<i>Slope %</i>	<i>Buffer Width in Metres</i>
<i>2</i>	<i>15</i>
<i>4</i>	<i>20</i>
<i>6</i>	<i>30</i>
<i>8</i>	<i>40</i>
<i>10</i>	<i>50</i>
<i>12</i>	<i>60</i>

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3.3 *On construction/building sites:*

(i) *the footpath or nature strip must not be disturbed by construction activities other than shown on the plan for:-*

- *access to the site*
- *installation of services*
- *other works specifically approved by Council; and*

(ii) *removal and disturbance of vegetation must be confined to:*

- *the approved envelope area and/or permanent access ways*
- *areas within 3 metres of the outermost projection of approved works and storage areas (or as required by other authorities).*

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

3.4 *For subdivision work:*

(i) *clearing for works must be limited to 2 metres from the edge of any essential construction activity as shown on the engineering plans.*

(ii) *where practical, development must be phased, with clearing undertaken only with the development of each stage; and*

(iii) *understory ground cover vegetation may be slashed, except in areas shown on the plan, providing ground surface disturbance is minimised and a rubber tyred vehicle is used.*

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

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

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- 3.6 *No vegetation is to be removed prior to approval of Council to start work on any stage, and not before the approved sediment control measures are in place.*
- 3.7 *Where practicable vegetative debris must be salvaged either as logs or woodchip for later reuse to control erosion or to rehabilitate the site. Non salvageable material, such as stumps and roots, can be removed.*
- 3.8 *Soil disturbance activities are to be in accordance with [Ref 1] Chapter 4.2 of the manual, slope lengths on batters are not to exceed those in [Ref 1] fig 4.4 and fig 4.5.*

4.0 Access and Roads

- 4.1 *Vehicular access must be confined to a maximum of two locations. Such locations will be shown on the ESCP and subject to the approval of Council.*
- 4.2 *Accesses to construction sites of 1 hectare or more shall be fitted with a shakedown device. A shakedown device shall be either:-*
- *a shaker grid (metal bar cattle grid minimum length 7m), placed to ensure vehicles crossing the grid have sufficient speed to shake off mud and contaminants from vehicles or*
 - *a 10m long shake down area constructed with 50mm diameter crushed rock*

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

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

Shaker grids are required on sites where more than 1,000m³ of material per month is hauled off site.

If material is deposited on a public street, it shall be swept up and removed before the end of that working day.

- 4.3 *If after using shakedown device, material is still adhering to truck wheels and being deposited on public roads, a wheel washing device must be installed and used at site exit locations to ensure no further material is carted off site and deposited on public roads.*
- 4.4 *Runoff from access surfaces must be drained into an adjacent sediment trapping device before leaving the site. Where appropriate, devices to remove soil particles from vehicles must be placed at site exit locations.*

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- 4.5 *On subdivision work, priority must be given to road and shoulder stabilisation based on erosion hazards. Where circumstances preclude the sealing of road shoulders and/or the construction of kerb and gutter, and:*
- (i) *where grades permit grass shoulder (less than 5%), the shoulders and associated table drains must be topsoiled and turfed, having dimensions that simplify maintenance mowing; and*
 - (ii) *where grades do not permit grass shoulders (more than 5%), the shoulders and associated table drains must be stabilised with appropriate erosion control measures (e.g. jute mesh and bitumen, cross drains, erosion matting etc.) and revegetated.*
- 4.6 *On subdivision work newly sealed hard stand areas must be swept thoroughly after sealing/surfacing to prevent excess aggregate or gravel entering street drains.*

5.0 Site Works, Erosion Control

- 5.1 *Site disturbance must not be undertaken before the issue of appropriate approvals.*
- 5.2 *Construction sequence shall be generally in accordance with [Ref 2] A4.8.*
- 5.3 *Schedule the construction program to minimise the potential for soil loss so that at the time from the beginning of land disturbance activities to rehabilitation is minimised.*

Further on lands with a high erosion hazard:

- (i) *confine land disturbance to those times of the year designated in 2.2 for each soil loss class*
 - (ii) *or show special measures on the Plan to address the high erosion hazard*
- 5.4 *Site excavation must be designed and located to minimise cut and fill.*
- 5.5 *Runoff and erosion controls must be installed before clearing and shall include:*
- (i) *Diversion [Ref 1] manual 5.2.3, 5.2.4) of upslope runoff around cleared and/or disturbed areas or areas to be cleared and/or disturbed, providing that:*
 - *such diverted water will not cause erosion*
 - *the upslope catchment area is more than 2,000 square metres*
 - *waters are diverted to a legal point of discharge*

Diversion works are to be designed to carry peak flows at non erosive velocities in bare soil, vegetated or lined drains/banks. Generally, the

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channel should be lined with turf. However, where velocities are designed in excess of 2m per second, non erosive linings such as concrete, geotextiles, grouted rock etc or velocity reducers (check dams etc) are required.

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

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

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

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

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

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

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

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

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

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

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

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

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

6.0 Stormwater Control

6.1 *When roof structures and piped or artificial stormwater systems are in place, discharge water is to be managed in a manner that reduces the likelihood of*

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erosion. Roof water systems must be functional and discharge to the infiltration system before roof runoff begins. The stormwater system must prevent sediment from being eroded from the site and deposited downstream.

7.0 Sediment Control

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

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

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

- maximum flow in the ARI 3 month storm (deemed to be 40% of the ARI one year event), is not to exceed 1.6l/sec/metre (or the maximum catchment per metre of fence etc is not to exceed 45 m²), and*
- the fence or structure must be structurally viable and able to support hydraulic pressures during the ARI 100 year storm.*
- maximum post spacing 2m or 3m with wire mesh backing*
- In fences or structures longer than 30m, spill through weirs shall be installed at 20-30m spacing*
- Spill through weirs shall consist of a rock filled wall contained between an enclosed steel mesh fence retaining wall. Weir length 1.2m, thickness 0.6m, height 0.5m. Rock shall be 25-50mm aggregate.*
- Sediment is to be removed after each rainfall event and weirs are to be regularly maintained and cleaned to ensure effective operational condition.*
- Straw bales and silt fence geotextiles are to be replaced when damaged or permanently blocked and fully replaced at not more than six monthly intervals.*

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

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

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- 7.6 *Where sediment retention basins are required, they must be designed to treat the design rainfall event sediment-laden stormwater emanating from the site during land development works. They must remain in place and fully operational until removal is authorised or required by Council (usually at the end of the maintenance period). Where required as part of a permanent, public stormwater management system, basins located on public land (or land to be dedicated to the public), may be accepted for Council ownership. Where required as part of a permanent, site stormwater management system, basins located on the site must be retained, operated and maintained in perpetuity by the landowner.*
- 7.7 *Sedimentation Basins - Design shall generally be in accordance with [Ref 1] Chapter 6.3.3 of the manual and manual standard drawings SD6.1 - 6.4 except as varied by the following criteria*
- *Overflow/bypasses are to be designed for 100 year ARI storm. Basins are to be designed so that flows greater than the ARI 3 month storm (deemed to be 40% of the ARI one year event) are transmitted in a manner that does not remobilise and remove existing settled sediment.*
 - *Type C basins settling zone capacity design storm, the ARI 3 month storm (deemed to be 40% of the ARI one year event).*
 - *Type F/D basins settling zone capacity, that necessary to contain the 75th percentile, 5 day rain event (41.5mm)*
 - *Type C basin sediment storage zone capacity, the greater of 100% of the settling zone capacity or the average 2 month soil loss as calculated by the RUSLE.*
 - *Type F/D basins sediment storage zone capacity, the greater of 50% of the settling zone capacity or the average 2 months soil loss as calculated by the RUSLE.*
 - *Basins shall be surrounded by a manproof fence with lockable gates.*
 - *Proprietary devices (Humceptors etc) will only be accepted in lieu of conventional sedimentation basins where they are sized in accordance with the above criteria.*
- 7.8 *Where eroding soils contain more than 10% of dispersible fines:*
- (i) *all waters captured in sediment basins must be treated with an approved flocculating agent. This treatment is to ensure that discharges from such basins contain no more than 50 milligrams per litre of non filtrable residues (or as specified in Council's Stormwater Management Plan). Following settlement of soil materials, the structure must be pumped out using a floating skimmer collection device.*

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- (ii) *sediment retention basins must be maintained at a low water level in readiness for treatment and discharge of further runoff. All sediment captured in basins must be treated and discharged within 5 days of the cessation of a rainfall event; and*
 - (iii) *a minimum stockpile of flocculating agents must be retained onsite to provide for at least three complete treatments. It must be stored in a secure undercover location.*
- 7.9 *All sediment control structures must be operated and maintained in an effective operational condition following good engineering practice. These structures must not be allowed to accumulate sediment volumes in excess of 70% sediment storage design capacity. Materials removed from sediment retention basins must be disposed of in a manner approved by Council that does not cause pollution.*
- 7.10 *All weather compacted gravel vehicular access must be provided to all wetlands, sediment basins, detention basins, trash racks and gross pollutant traps etc.*
- 7.11 *Where practical surface waters from undisturbed lands must be diverted away from pollution control equipment to prevent contamination of clean runoff.*
- 7.12 *Appropriate measures must be provided to ensure that erosion and sediment control works themselves do not cause flooding, erosion or scour.*

8.0 Pollution Control

- 8.1 *Petroleum and other chemical products and must be prevented from entering the stormwater system or contaminating the soil. Impervious bunds must be constructed around all fuel, oil or chemical storage areas with an enclosed volume large enough to contain 110% of the volume held in the largest tank.*
- 8.2 *Adequate trade waste and litter bins must be provided onsite and serviced regularly.*
- 8.3 *Concrete wastes or washings from concrete mixers must not be deposited in any location where those wastes or washings can flow, or can be washed into any areas of retained vegetation or receiving waters.*

9.0 External Site Requirements

- 9.1 *In some circumstances it may be necessary to locate sediment control devices or stabilising works outside the construction site .*
- 9.2 *Where increased stormwater run-off is likely to accelerate erosion of any downstream watercourse, the necessary remedial work shall be provided concurrently with other sediment and erosion requirements.*

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- 9.3 *Where sediment is likely to be transported from the site, all immediate downstream drainage inlets shall have appropriate controls installed.*
- 9.4 *If such works require entry onto private property, written permission shall be obtained prior to the entry and commencement of such works. Documentary evidence to be submitted with the development application.*
- 9.5 *All disturbed areas on other property to be reinstated to original condition and to the satisfaction of the owner. All works to be complete prior to the release of the linen plan of subdivision or building certificate.*

10.0 Rehabilitation and Landscaping

- 10.1 *All ground disturbed must be progressively stabilised and rehabilitated so it no longer acts as a source of sediment.*
- 10.2 *The C-factor [Ref 1] is to be reduced to less than 0.15 (e.g. greater than 50% grass cover) on all lands, stockpiles and other exposed materials scheduled to remain unattended for a duration of more than 20 working days.*
- 10.3 *The final rehabilitation or landscaping program is to be scheduled so that a duration of less than 20 working days will elapse from final land shaping to permanent rehabilitation.*
- 10.4 *All landscaping and rehabilitation must be completed before occupation or use of buildings or premises.*
- 10.5 *Topsoil shall be used in accordance with [Ref 1] Chapter 4.3 of the manual.*
- 10.6 *Revegetation shall be in accordance with [Ref 1] Chapter 7 of the manual.*
- 10.7 *All temporary erosion and sedimentation control works are to be removed when works are completed and revegetation is successfully established on formerly disturbed areas. All redundant materials used for temporary erosion and sedimentation control works are to be removed from the site and all affected areas reinstated.*

11.0 Operation, Maintenance

- 11.1 *All erosion and sediment controls must be operated in accordance with the ESCP and maintained to be fully operational at all times. Worn, damaged or otherwise defective materials and components are to be repaired, refurbished or replaced as they become ineffective for their design purpose.*
- 11.2 *Where more than 2,500 square metres of land are disturbed, a self auditing program must be developed for the site. A site inspection self audit and monitoring program must be undertaken by the land developer:*
- *at least each week*
 - *immediately before site closure*

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- *immediately following rainfall events that cause runoff.*

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

- *installation/removal of any erosion and sediment control device*
- *the condition of each device employed (particularly outlet devices), noting whether it is likely to continue in an effective condition until the next self audit*
- *circumstances contributing to damage to any devices, accidental or otherwise*
- *storage capacity available in pollution control structures, including:*
 - ⇒ *waste receptacles and portable toilets*
 - ⇒ *trash racks*
 - ⇒ *sediment barriers and traps*
 - ⇒ *gross pollutant traps*
 - ⇒ *wetlands/water quality control ponds*
- *time, date, volume and type of any additional flocculants*
- *the volumes of sediment removed from sediment retention systems, where applicable, and the site where sediment is disposed*
- *maintenance or repair requirements (if any) for each device*
- *circumstances contributing to the damage to device*
- *repairs affected on erosion and pollution control devices*

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

12.0 Monitoring

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

<i>Parameter</i>	<i>Frequency</i>	<i>Reporting</i>
<i>Suspended Solids, Non</i>	<i>monthly or during discharge event(defined as >25mm in</i>	<i>as per 11.4. Non complying test results are to be notified</i>

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<i>Filterable Residue (NFR)</i>	<i>any 24 hour period)</i>	<i>within 24 hours to Council officers</i>
<i>Total P, Total N</i>	<i>3 monthly</i>	<i>as per 11.4</i>

13.0 Response to Monitoring, Non Compliance with ESCP, Amelioration Measures

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

- *issue of “stop work notice”*
- *a fine under the provisions of the Protection of the Environment Operations Act 1997*
- *notice to comply pending reinspection of the site.*

13.2 Standard responses to Non Compliance

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

Reports from Director Corporate Services

<i>Indicator</i>	<i>Response</i>	<i>Comments</i>
<i>Suspended Solids (NFR) >50mg/litre</i>	<p><i>Identify if non compliance is due to storm event greater than design storm of control devices. If so accept non compliance. If not then:-</i></p> <p><i>If possible stop discharge and store runoff on site</i></p> <p><i>Use flocculation agents to lower NFR or</i></p> <p><i>Pump contaminated water over grassed filter strips or buffer areas to lower NFR</i></p> <p><i>Identify (by inspection and/or analysis) if non compliance is due to damage of ineffectiveness of erosion and sediment control devices. Repair or redesign/replace if necessary (or required by Council) to ensure future compliance.</i></p>	<i>Non compliance may occur, by design, in > 3month ARI event</i>

CONCLUSION

Following further negotiations with Lenex Pty Ltd, obtaining legal advice and a comprehensive review of the positions with the draft Section 94 Plan No. 25 and the development application for the 6 lot subdivision, associated road and infrastructure for the future development of tourist resort, the Director of Development Services confirms his recommendation that draft Section 94 Plan No. 25 should be re-exhibited for 28 days prior to determination of the development application. The re-exhibition of the draft Section 94 Plan is based upon the Council policy embodied in the resolution of 5 April, 2000 for a monetary contribution in lieu of the dedication of land (albeit this resolution is subject of a rescission motion) and it is recommended that the monetary contribution is appropriately valued at \$992,000 based upon an average value per hectare for the land of \$190,000 per hectare and embellishment costs at \$120,000 per hectare.

Recognising the major employment benefits and economic development benefits embodied in the development application, a number of options are presented in the body of this report including appropriate conditions in the event that Council resolves to approve the development application.

Reports from Director Corporate Services

Reports from Director Corporate Services

7. ORIGIN: Director

FILE REF: Community Access

REPORT TITLE:

Community Access Procedures Review

SUMMARY OF REPORT:

At the workshop of 24 November 1999 Council considered a number of issues associated with a review of the Community Access meeting procedures, following a recommendation from the Communications Committee. The Committee has further revised the procedures and identified a number of matters of concern relating to the effectiveness of the activity.

The procedures have been modified for Council's consideration and adoption.

RECOMMENDATION:

That:

1. The following interim amended procedure for Community Access be adopted and replace the previous procedure:-

“Community Access is an opportunity provided by Council for ratepayers to informally address Councillors on matters of concern, in the Council Chambers, Murwillumbah, on the second Wednesday of each month, commencing at 4:30pm.

***To make an appointment** ring the Administrative Officer on (02) 6672 0540. A time will be allocated. You will need to leave a contact telephone number and indicate what matters you wish to raise. Where the matter is complex or requires confidentiality, the General Manager, may approve a booking for a longer time, or he may decide it would be better dealt with at a workshop.*

Where a number of people wish to speak on the same matter a spokesperson should make a single presentation.

Reports from Director Corporate Services

At Community Access you may speak for five (5) minutes, although a short extension may be allowed. Councillors may then ask questions. You may ask the Administrative Officer to distribute any materials such as written statements, drawings or photographs.

*Following any questions from Councillors, the General Manager, Directors or Mayor may make a comment if appropriate, but **no decision on a matter can be made at Community Access**. If you wish to receive a formal response to your address, you should make the request in writing to the General Manager. In most cases a member of staff will contact you the next day.*

*Any **complaints or allegations** regarding the conduct of elected representatives, management or staff must be in writing and directed to the General Manager. It is unacceptable for people in their address to Council, or in their responses to questions, to make allegations that any resident, member of Council staff, Councillor or other person has acted improperly with regard to their duties or obligations, or has acted in a way that would be unlawful.*

Speaking in this forum does not provide any protection from civil action that could arise if you make defamatory statements or comments”

2. The community be informed of the revised procedure through the Tweed Link.

Reports from Director Corporate Services

REPORT:

The Communications Committee meeting of Wednesday, 24 November 1999 reviewed the protocol for Community Access meeting procedures.

Recommendations were brought forward to a workshop on the evening of 24 November 1999. Various options were discussed, primarily relating to improving the use of time available for people to address the meeting and methods of feedback to presenters. A draft interim procedure has been developed by the Committee and primarily reflects the outcomes of the workshop.

The Communication Committee has identified a number of aspects of the policy that are of concern and require further consideration by Council. These are based on a number of current issues:-

- Extraordinary number of people wanting to address Community Access.
- Expectations of residents that their matter can be presented to the next meeting.
- Time constraints on people wishing to address complex issues.
- Scheduled appointments needing to be rescheduled because of claimed higher priority issues.
- Deferred appointments may impact on timeliness or relevance of issue to presenter.

The Communication Committee believe these aspects are important impact on the effectiveness of the activity. A solution considered by the Committee to these issues involved application of a preliminary assessment (intake system). This approach would enable a determination as to whether or not the residents/group request could be promptly addressed at the time by referral to a officer for response.

INTERIM DRAFT PROCEDURE FOR COMMUNITY ACCESS

“Community Access is an opportunity provided by Council for ratepayers to informally address Councillors on matters of concern, in the Council Chambers, Murwillumbah, on the second Wednesday of each month, commencing at 4:30pm.

***To make an appointment** ring the Administrative Officer on (02) 6672 0540. A time will be allocated. You will need to leave a contact telephone number and indicate what matters you wish to raise. Where the matter is complex or requires confidentiality, the General Manager, may approve a booking for a longer time, or he may decide it would be better dealt with at a workshop.*

Where a number of people wish to speak on the same matter a spokesperson should make a single presentation.

*At Community Access you may speak for five (5) minutes, although a short extension may be allowed. **Councillors may then ask questions.** You may ask the Administrative Officer to distribute any materials such as written statements, drawings or photographs.*

Reports from Director Corporate Services

*Following any questions from Councillors, the General Manager, Directors or Mayor may make a comment if appropriate, but **no decision on a matter can be made at Community Access**. If you wish to receive a formal response to your address, you should make the request in writing to the General Manager. In most cases a member of staff will contact you the next day.*

*Any **complaints or allegations** regarding the conduct of elected representatives, management or staff must be in writing and directed to the General Manager. It is unacceptable for people in their address to Council, or in their responses to questions, to make allegations that any resident, member of Council staff, Councillor or other person has acted improperly with regard to their duties or obligations, or has acted in a way that would be unlawful.*

Speaking in this forum does not provide any protection from civil action that could arise if you make defamatory statements or comments

It is recommended that these revised procedures be adopted and apply on and from the first Community Access meeting in May 2000.

Reports from Director Corporate Services

8. ORIGIN: Administration Services Unit

FILE REF: PF4240/480 - Permissive Occupancy

REPORT TITLE:

Licence to Use Land adjacent to Permissive Occupancy 1975/8, Riverside Drive, Tumbulgum

SUMMARY OF REPORT:

The current lease over the land adjacent permissive occupancy 1975/8 has now expired and requests have been received that the licence be renewed.

RECOMMENDATION:

That:-

1. A licence agreement for the land adjacent to permissive occupancy 1975/8 be entered into with Mr Joseph & Mrs Patricia Hocter.
2. The licence be for the period up until 30 September 2006.
3. The rental be \$100 per annum.
4. All necessary documentation be completed under the Common Seal of Council.

Reports from Director Corporate Services

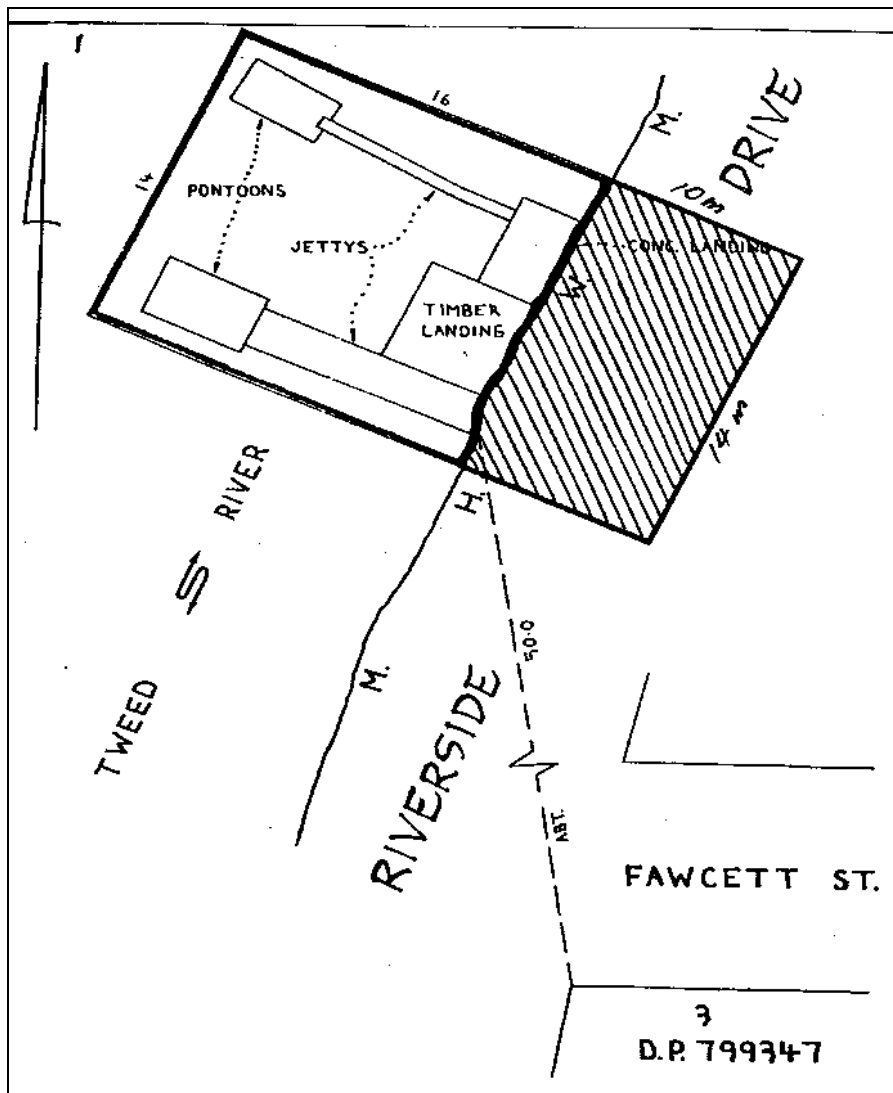
REPORT:

Adjacent to permissive occupancy 1975/8 is an area of land of approximate 140 square metres which is used by the owners of Tumbulgum Store, Mr and Mrs Hoctor for the purpose of boat hire, unloading of boats, canoes, etc.

The lease has expired and now requires renewal. It is proposed to renew the lease for a period up until 30 September 2006, which coincides with the expiry date of the permissive occupancy.

The rental figure has been determined by the Valuer-General's office. The area to be leased is hatched on the diagram below.

Figure 1



Reports from Director Corporate Services

9. ORIGIN: Financial Services Unit

FILE REF: GA4/1/36 Pt1

REPORT TITLE:

Draft Management Plan 2000/2003 and Budget 2000/2001

A detailed report is produced as a preliminary to the Draft Management Plan 2000/2003, Budget 2000/2001 and Fees and Charges 2000/2001 documentation which is an attachment to this Business Paper.

Reports from Director Corporate Services

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Reports from Director Corporate Services

10. ORIGIN: Director

FILE REF: Conferences

REPORT TITLE:

NSW Cultural Summit

SUMMARY OF REPORT:

Council is advised that the NSW Cultural Summit 2000 is to be held in Wagga Wagga on 7, 8 and 9 May and is an initiative of the Local Government and shires Associations and the NSW Ministry for the Arts.

RECOMMENDATION:

That Council confirms the attendance at the Summit of Cr M Boyd.

Reports from Director Corporate Services

REPORT:

Council is advised that the NSW Cultural Summit 2000 is to be held in Wagga Wagga on 7, 8 and 9 May and is an initiative of the Local Government and shires Associations and the NSW Ministry for the Arts.

Cr Max Boyd and Cultural Development Officer, Lesley Buckley, have been invited to discuss the development of Council's Cultural Policy as part of a panel session.

Accordingly it is recommended that council confirms his attendance.

Reports from Director Corporate Services

11. ORIGIN: Director

FILE REF: Industrial Land Investigation Study, Airport - Coolangatta/Tweed

REPORT TITLE:

Gold Coast Airport Enterprise Park Feasibility Study

SUMMARY OF REPORT:

The Project Management team for the Gold Coast Airport Enterprise have appointed a team of consultants to undertake the study. The team is comprised of Spiller Gibbins Swan, PPK and Humphreys Reynolds Perkins and is expected to complete the study by the end of July 2000.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

Negotiations between Tweed Shire Council, Tweed Economic Development Corporation, State and Regional Development (NSW), Gold Coast City Council, Queensland State Development and the Southern Corridor Regional Economic Development Organisation have resulted in lands south of the Coolangatta Airport being identified as regionally significant for specialised light industry.

These organisations have all contributed to this project which demonstrates the regional significance of the area as well as demonstrating the spirit in which cross border relations can be conducted.

The consultations brief has identified the following objectives:-

1. Establishing the feasibility of developing the study area as a transport/aviation related, light industry/commercial business enterprise park.
2. Identifying the infrastructure requirements of the proposed business enterprise park including its relationship to the proposed multi-nodal transport node.
3. Identifying the environmental and planning issues impacting on the proposal to develop the study site as a business enterprise park.
4. Identifying opportunities for attracting private sector investment in the area.

On 3 April the project management team appointed a team of consultants to conduct the study. The consultants consisted of:-

- Spiller Gibbins Swan (Principal) Economics and Marketing
- PPK Traffic Engineering and Infrastructure Planning
- Humphreys Reynolds Perkins Land Use and Environmental Planning

It is anticipated the project will be completed by the end of July.

Reports from Director Corporate Services

12. ORIGIN: Director

FILE REF: Tourist Gateway

REPORT TITLE:

Tweed Gateway Tourism Information Centre

SUMMARY OF REPORT:

The Minister for small business and Minister for Tourism has written advising Council of the proposal to establish a Tourism Gateway Centre at Chinderah.

The Council would be aware that a Steering Committee had met with a consultant and identified a number of potential sites between the Queensland border and the Chinderah area, appropriate for a new style information centre. The consultant has carried out an analysis of the proposals and advises that the potential operator of a site has agreed in principle to establish a centre on a current approved development site.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The NSW Government announced, prior to the last election, a proposal to establish in North and South NSW six (6) Tourism Information Gateway Centre. The identification of sites within the Tweed region has been considered by a Steering Committee.

A consultant was engaged by Tourism NSW and has carried out an assessment of a number of sites. One of the sites identified was an approved service centre located on the Pacific Highway at Chinderah.

The Minister has written advising of progress and the opportunity that this represents for co-operation with Queensland tourism of the site and linked technology. A copy of the letter from the Hon. Sandra Nori MP, is attached.

Reports from Director Corporate Services

13. ORIGIN: Director

FILE REF: TEDC

REPORT TITLE:

Tweed and Economic Development Corporation (TEDC) Monthly Performance Report - January to March 2000

SUMMARY OF REPORT:

The Tweed Economic Development Corporation, Chief Executive Officer's report for January to March 2000 is detailed in the report and the Profit and Loss account will be available on a quarterly basis.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

Tweed and Economic Development Corporation (TEDC) monthly performance report from January to March 2000 is provided in accord with the Agreement criteria in Clause 5.1.

This report should also be read in conjunction with the attached CEO's Report to the Board, the report on the meeting with Coffs Harbour Future Development Corporation, as well as the previously issued TEDC Industrial Land Report "Where to now?"

5.1.1 Implementation of Business Plan:

The Board continues to see the promotion and supply of industrial land as the major priority to address the need for job creation in the Tweed Shire.

Notification of whether funding has been approved for the Agricultural Land Viability and Sustainability Study as identified in the Strategic Plan should be received in early April.

5.1.2 Referrals to Tweed Shire Council:

The TEDC continues to facilitate meetings between investors and Tweed Shire Council, including meetings in regard to Chinderah Bay Marina, Chinderah boat manufacturer, industrial land, Gold Coast Airport Enterprise Park Feasibility Study, Tweed Heads CBD, Bullet Supercars, ARITC, et al.

Tweed Shire Council has referred two industrial land inquiries to TEDC in the month of March.

5.1.3 New Businesses and Ventures:

TEDC continues to promote the industrial land issue, and a consultant has been selected to conduct the Gold Coast Airport Enterprise Precinct Feasibility Study, which is expected to be completed in approximately 16 weeks.

On the industrial land issue, a tour of available land has been arranged for the afternoon of 11 April 2000. The press are to be invited.

The TEDC met with Coffs Harbour Future Development Corporation to discuss the possible involvement of the Tweed in the North Coast Superannuation Fund and the North Coast Business Angels Scheme. Ian Carpenter, Director Corporate Services represented Tweed Shire Council at the presentations.

A small (new to the Tweed) commercial air-conditioning operation contacted the TEDC for business assistance.

A new educational institution venture also made contact with the TEDC for advice on how to proceed in the Tweed.

5.1.6 Comparison of Quarterly Profit & Loss and Budget will follow pending ratification by the Board at the meeting scheduled for 27 April 2000.

Reports from Director Corporate Services

5.1.7 Quarterly Bank Reconciliation will follow pending ratification by the Board at the meeting scheduled for 27 April, 2000.

5.1.8 Promotional Activities

TEDC's newsletter *Tweed Business Links* was printed and distributed with the *Around Tweed Valley* (free to home) magazine. Some 25,500 copies were distributed in this way. Nearly 100 other copies were mailed direct to TEDC members, Councillors and other interested parties. The response by the general public and businesses has been very positive and TEDC has received a large number of calls from the general public on issues raised in the newsletter as well as calls from those seeking assistance on business-related matters.

The visit by the delegation from Kochi City, Japan, arranged in conjunction with ARITC, gave the Tweed both national and international exposure.

Potential jobs:

Industrial land – Gold Coast (conservatively)	300 to 600 jobs
Chinderah Bay Marina and related businesses	170 jobs
Boat manufacturer	35 jobs
Resort development	?? jobs
Australian Native Wines (on hold)	15 jobs
Bullet Super Cars	10 to 25 jobs
Total	680 ++ jobs
Total jobs created by TEDC assisted projects to 1 April 2000	3

In summary, the TEDC has:

- In association with other participants, sought submissions for and appointed a consultant to conduct the Gold Coast Airport Enterprise Park Feasibility Study;
- Continued to facilitate liaison between Tweed Shire Council and the Chinderah Bay Marina Project;
- Held discussions with the proponent of a major resort development;
- Continued to hold meetings and facilitate connections in the rural industries of the Tweed;
- Introduced Bullet Supercars to DSRD, who have offered support funding to Bullet Supercars;
- Attended a meeting of the Association of Independent Regional Development Organisations (AIRDO) in Sydney to discuss the future directions for the organisation;
- Begun the process of examining the North Coast Super Fund and the North Coast Business Angels scheme which both offer an opportunity to keep local investor funds in the local region;

Reports from Director Corporate Services

- Continued discussions with TSC, Tweed Shire Town Centres Committee (TSTCC) and TACTIC on amalgamation. Council resolved that the TSTCC should become a part of the TEDC on 1 April 2000, however the TEDC Board still has a number of significant matters that need to be resolved before amalgamation can take place.

Meetings Held Between 1 January 2000 to 31 March 2000:

New Business	27
Existing Client	49
Government & Government Agency	20
Tweed Shire Council	21
Community Organisations*	0
Total	117

* Meetings with Tweed Shire Town Centres Committee and its representatives have been classified as meetings with Tweed Shire Council.

Note: This list does not include undocumented, one off or "off the street" meetings.

Documented Phone Calls Between 1 January, 2000 to 31 March, 2000

January	66
February	176
March	140
Total	382

Note: This list does not include undocumented phone calls or casual requests for general information.

Number and Category of TEDC Members for FY1999/2000

Standard Members	29
Sponsors	8
In Kind Sponsors	4
Subscribers	7

Dates of Board Meetings for 2000

It is proposed that TEDC Board meetings will be held on:

Reports from Director Corporate Services

27 January, 24 February, 30 March,
27 April, 25 May, 7 July,
31 August, 28 September, 26 October,
7 December, 2000.

Monthly reports will be sent to Tweed Shire Council as soon as practical following the end of each, non-quarter, month.

Quarterly reports (including Financial Statements) will need to be ratified at the Board following the end of the quarter before being forwarded to Tweed Shire Council.

Inquiries for Industrial Land since 1 July 1999: 13

Reports from Director Corporate Services

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Reports from Director Corporate Services

14. ORIGIN: Financial Services Unit

FILE NO: Monthly Investment Report

REPORT TITLE:

Monthly Investment Report for Period Ending 31 March 2000

SUMMARY OF REPORT:

Details of Council's investments as at 31 March 2000.

RECOMMENDATION:

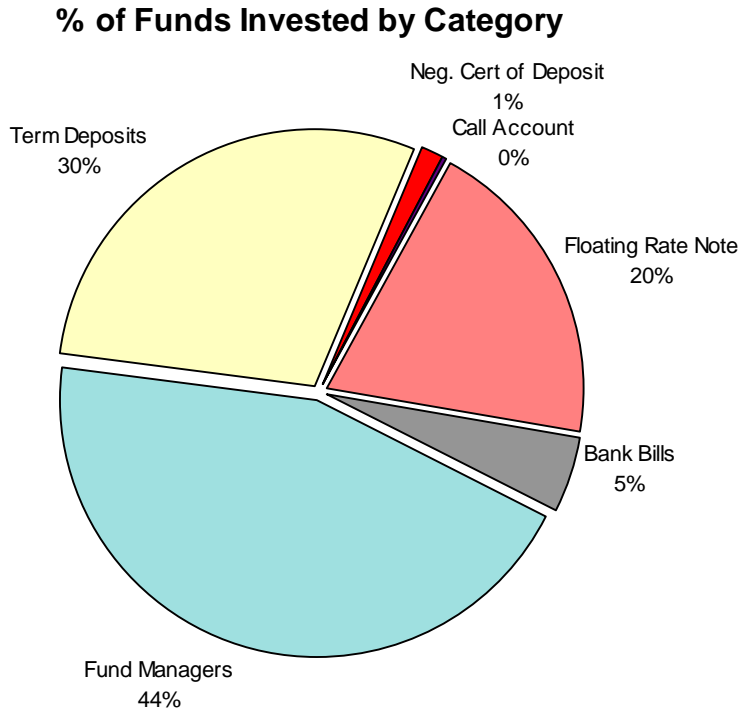
That this report be received and noted.

Reports from Director Corporate Services

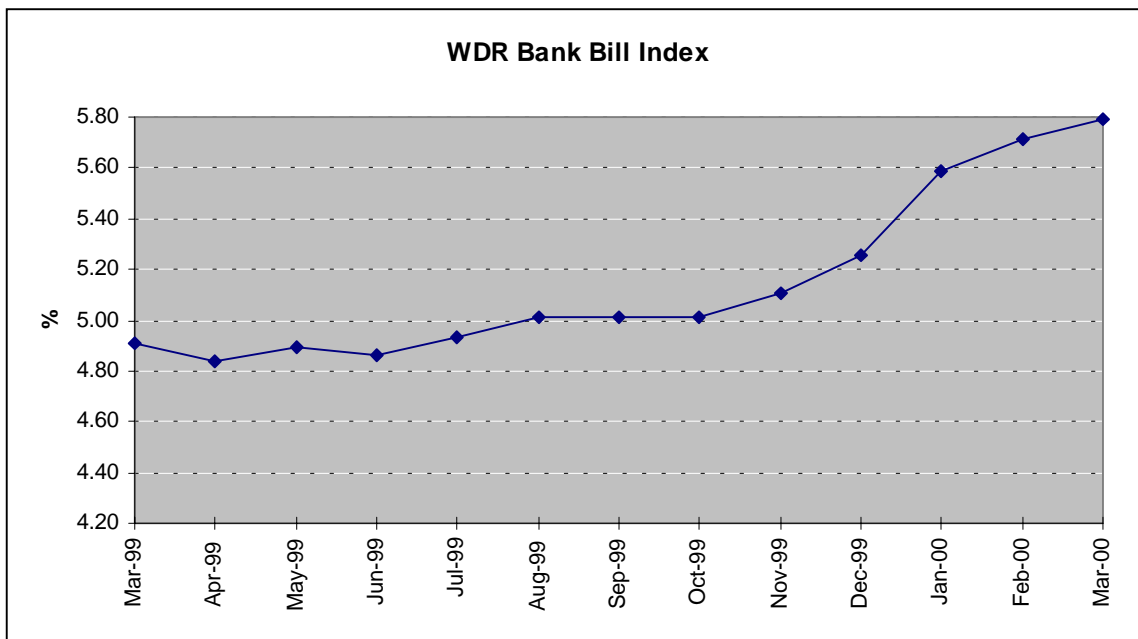
REPORT:

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 (%)

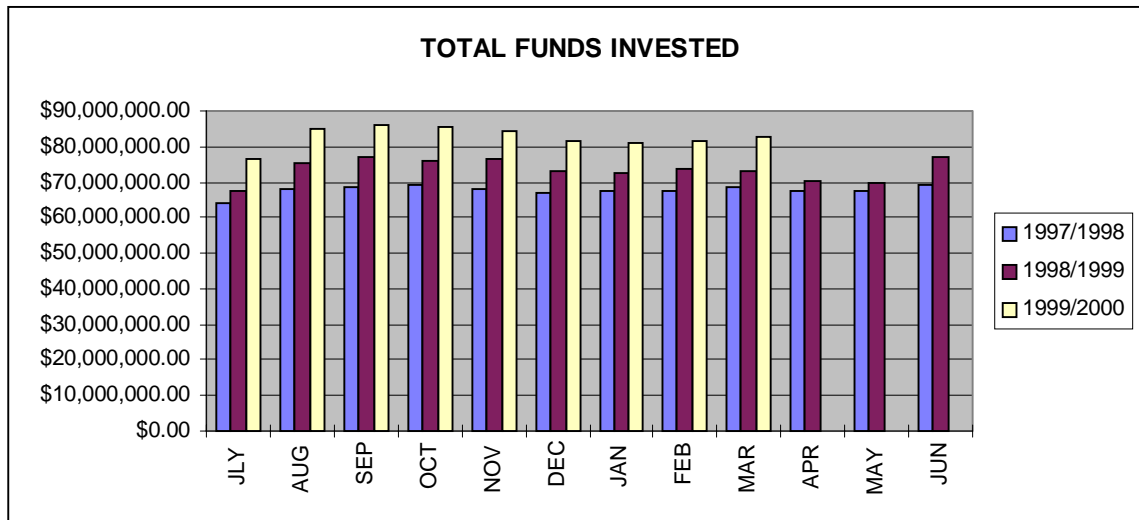


Reports from Director Corporate Services

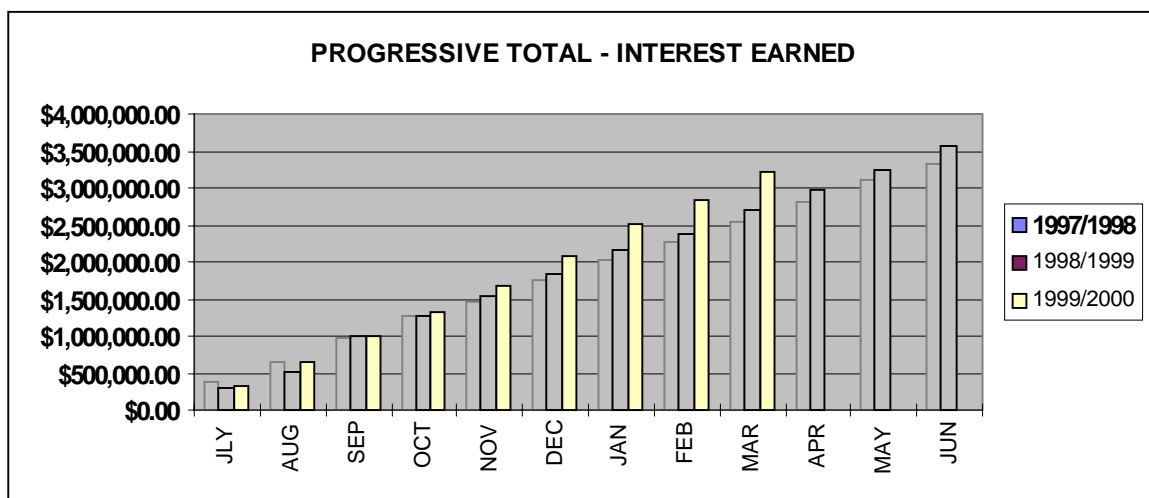
3. ANNUALISED RATE OF RETURN FOR FUND MANAGERS - NET OF FEES

Fund	30 Days %	90 Days %	1 Year %
ANZ	5.75	5.98	5.35
Bankers Trust	5.39	5.58	5.05
Macquarie	5.89	5.62	4.86
National Mutual	5.49	5.72	5.25

4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



Reports from Director Corporate Services

6. MARKET COMMENTARY

Mixed signals in economic data kept interest rates unsettled during March. Surging oil prices, strong domestic employment growth and a weak Australian dollar all contributed to rate rise concerns in the market. On the other hand, slow retail sales, weak consumer sentiment and depressed business survey results kept the market off balance. The market consensus was that the RBA would raise rates, the question was when.

Inflation pressures, specifically the A\$ at its lowest level in one and a half years, prompted the RBA to raise rates by a further 0.25% on 5 April. This was the central bank's third increase in five months, raising rates a total of 1.00% since November.

With the RBA still in a "tightening bias" another rate hike of 0.25% - 0.50% is widely expected by the end of 2000, with some economists expecting another rate rise as early as May.

7. INVESTMENT SUMMARY AS AT 31 MARCH 2000

GENERAL FUND

BANKS			20,485,612.75	
FUND MANAGERS			83,659.65	
LOCAL GOVT.	FIN.		2,000,000.00	
SERVICES				
CALL			320,735.73	22,890,008.13

WATER FUND

BANKS			4,000,000.00	
FUND MANAGERS			26,044,535.67	
LOCAL GOVT.	FIN.		4,000,000.00	34,044,535.67
SERVICES				

SEWERAGE FUND

BANKS			2,056,000.00	
FUND MANAGERS			10,480,126.20	
LOCAL GOVT.	INV.		13,311,895.42	25,848,021.62
SERVICE				

TRUST

FUND MANAGERS			50,000.00	50,000.00
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TOTAL INVESTMENTS **82,832,565.42**

Reports from Director Corporate Services

It should be noted that the General Fund investments of \$22.89 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

STATUTORY STATEMENT - LOCAL GOVERNMENT FINANCIAL MANAGEMENT REGULATIONS (SEC 19)

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Financial Management Regulations and Council's investment policies.



R R Norvill CPA
Responsible Accounting Officer
Manager Financial Services

Reports from Director Corporate Services

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Reports from Director Engineering Services

15. ORIGIN: Water Unit

FILE REF: Stormwater Management Plans

REPORT TITLE:

Tweed Urban Stormwater Quality Management Plan

SUMMARY OF REPORT:

The Tweed Urban Stormwater Quality Management Plan has been developed in response to the direction issued to all NSW Councils by the Environment Protection Authority under Section 12 of the *Protection of the Environment Administration Act, 1991*.

The Direction requires that the Plan be submitted to the Environment Protection Authority by 24 April 2000.

The Plan was required to provide an implementation strategy for three years and is to be reviewed late 2000 following advice on success of grant applications for particular Capital Works. Acceptance and endorsement of this Management Plan by both Council and the NSW EPA will provide greater incentive for provision of grant monies to Council for implementation of Stormwater Management initiatives.

The NSW Stormwater Trust is providing funds for the production of this Plan on a 1:1 basis up to a total of \$30,000.

Council was successful in receiving a \$112,000 grant through the Stormwater Trust in 1998 for construction of a stormwater treatment device in Tierney Place, Tweed Heads South.

In 1999 Council received a \$168,000 Stormwater Trust Grant for construction of an artificial wetland along Duffy Street, Tweed Heads South.

Two grants are being applied for in the 2000 funding round for employment of a stormwater educator to focus on industrial areas and construction of a wetland in Lavender Creek Drain, Murwillumbah.

RECOMMENDATION:

That:-

Reports from Director Engineering Services

1. Council adopt the Tweed Urban Stormwater Management Plan.
2. That copies of the plan be made available in Council Civic Centres and Libraries.

Reports from Director Engineering Services

REPORT:

The Tweed Urban Stormwater Quality Management Plan has been developed in response to the direction issued to all NSW Councils by the Environment Protection Authority under Section 12 of the *Protection of the Environment Administration Act, 1991*.

The Direction requires that the Plan be submitted to the Environment Protection Authority by 24 April 2000.

This Plan has been prepared for the urban areas of Murwillumbah, Tweed Heads and surrounding areas, and Tweed Coast Villages, in accordance with the direction.

The purpose of the Plan is to ensure Urban Stormwater management is addressed by Council and that issues are incorporated into the planning, budgetary and ongoing works activities of Tweed Shire Council.

The Plan is predominantly limited to the estuarine reaches of the Tweed River and Cudgen, Cudgera and Mooball Creeks as all urban centres are adjacent to these waterways.

Generic actions such as stormwater education and awareness programs are discussed in relation to the smaller villages and rural residential areas of the Tweed.

A summary of the contents of the Plan follows. The most important section of the Plan is Section 9 – Implementation.

A copy of the Plan has been provided separately.

1 Introduction

Provides the background and structure of the plan.

2 Catchment Description

This section provides available information on the catchments and waterways encompassed by the Tweed River and its tributaries as well as Cudgen, Cudgera and Mooball Creeks. This includes land use, topography, soils and climate.

3 Catchment Conditions

Available information was collated on hydrology, flooding, water quality and vegetation.

4 Water Quality Values and Objectives

Much consultation has been undertaken in the last five years on water quality issues in Tweed Shire. This section discusses the environmental values adopted by the community of Tweed Shire for its waterways.

For the estuarine areas of Tweed waterways this includes protection of aquatic ecosystems, commercial shellfish production and primary contact recreation.

Reports from Director Engineering Services

5 Stormwater Management Objectives

This section defines the Objectives for water quality from both existing and new urban development.

The short-term and long-term objectives for Stormwater Management in the Tweed are listed in Table 5.1.

6 Stormwater Management Issues

The issues relating to urban stormwater in Tweed Shire are collated within this section. Issues were identified by a number of means such as those identified in previous management plans, by Council staff from observation or complaints, and through the community consultation survey and workshops.

The high priority sites included:

- Terranora Broadwater – stormwater run-off from upstream residential sources namely construction activity
- Keith Compton Drive – tree litter and blocked drains
- Jack Evans Boat Harbour – pollution entering the waterways
- Endless Summer Canal – pollution
- Lavender Creek drain, Murwillumbah – general concern over state of waterway/drain

7 Stormwater Management Options

In this section, all potential management options, both structural and non-structural, are listed. An assessment is then made of how effective each of these options is for particular issues within each sub-catchment. This allowed specific management options to be allocated for each stormwater management issue identified.

8 Evaluation of Potential Management Options

A Benefit-Cost Analysis was undertaken on the range of specific management options to provide a priority listing for implementation by Tweed Shire Council.

9 Implementation

This is the MOST important section of the Management Plan. A three year program of implementation for Tweed Shire Council to undertake is outlined in this section.

10 Monitoring

This includes comment on how Council will monitor the success or otherwise of the Plan, including water quality monitoring and review of the Plan implementation.

Reports from Director Engineering Services

11 Reporting and Revising the Plan

Incorporates the results of monitoring of this Plan into the State of the Environment Report and establishes a yearly review of this Plan to allow for implementation to be included in budget considerations.

Conclusions, References and Appendices

This Plan provides a program for Council that aims to achieve environmental, social and economic benefits for waterways adjacent to urban areas in Tweed Shire by reducing stormwater pollution.

Reports from Director Engineering Services

Table 9.1: Implementation timetable for 2000-2001.

Option Rank	Option No.	Option Description	Responsibility	% contribution by Council	Capital Cost (\$)	Annual Operational & Maintenance Cost (\$)
2000-2001 Options						
1	OP21	Develop specific guidelines for stormwater management during subdivision, construction and operational stages of all new development, especially within the Terranora Broadwater catchment	MP&D MBuild ME&H	100%	\$5,000	
2	OP1	Environmental audit and education campaign in the South Murwillumbah industrial estate to facilitate change of practices	ME&H MWWater	30% TSC 70% Grant funds	\$20,000	\$2,500
3	OP16	Environmental audit and education campaign in the Tweed Heads South industrial estate to facilitate change of practices	ME&H MWWater	30% TSC 70% Grant funds	\$20,000	\$2,500
5	OP27	Targeted education campaign aimed at residential areas adjacent to canals in Tweed Heads and Pottsville	TRMPAC MWWater	100%	\$5,000	\$1,000
6	OP24	Install CDS or similar on stormwater line running onto Cabarita Beach	MWater TCC	50% TSC 50% NHT	\$50,000	\$2,000
8	OP32	Council to develop and implement strict guidelines for staff and contractors for grass mowing and slashing	MRec MWorks	100%	\$5,000	\$2,000
10	OP6	Lavender Creek Drain - design and construct an integrated stormwater quality improvement design including trash racks, sediment basins and revegetation	MWorks MP&D	35% TSC 65% Grant funds	\$600,000	\$10,000
11	OP17	Investigate and mitigate source of high faecal coliforms in Water Street open drain	MWater MWorks	100%	\$5,000	
12	OP36	Increased regulation and enforcement of stormwater quality issues - particularly building works and industrial areas	ME&H MBuild	100%	\$1,000	\$60,000
13	OP35	Develop a DCP to manage stormwater quality and quantity on new developments and regulate (create specific position to regulate and educate) including requirement for production of a stormwater facilities operational management strategy	MP&D MBuild ME&H	100% - fee structure required	\$10,000	\$60,000
14	OP10	Trial litter baskets in side pits in commercial and residential areas around Tweed Heads and monitor over one year	MWater MWorks	50% TSC 50% NHT	\$40,000	\$6,000
18	OP23	Investigate location of stormwater pipe breach upstream of Jack Julius Park stormwater line and relay pipe (reduced maintenance cost for CDS Unit installed)	MWorks	100%	\$10,000	

Reports from Director Engineering Services

Option Rank	Option No.	Option Description	Responsibility	% contribution by Council	Capital Cost (\$)	Annual Operational & Maintenance Cost (\$)
2000-2001 Options						
20	OP29	Continue Tweed Stormwater Awareness Campaign	TRMPAC MWater	ME&H 100%	\$30,000	\$5,000 to be met by Council
21	OP37	Develop and implement a licencing and monitoring program for all on-site sewage management facilities within the Shire	ME&H	100% - fee structure required	\$60,000	\$60,000
24	OP25	Develop and implement an operational management strategy for the Bogangar Drainage Canal and other sedimentation ponds, stormwater wetlands	MWorks MWater	100%	\$5,000	\$10,000
33	OP26	Upgrade Sewer Pumping Station at Creek Street	MWater	100%	\$500,000	
35	OP22	Develop and implement an operational management strategy for the Western Drainage Scheme	MWorks	100%	\$5,000	\$30,000

MP&D = Manager Planning and Design MWorks = Manager Works MWater = Manager Water
 MDev = Manager Development Services MSubd = Manager Subdivisions MBuild = Manager Building Services
 ME&H = Manager Environment and Health MRec = Manager Recreation Services MFin = Manager Finance
 TRMPAC = Tweed River Management Plan Advisory Committee TCC = Tweed Coastal Committee

NOTE 1: Provision for maintenance of all stormwater treatment devices to be given a high priority in budget allocations.

NOTE 2: Plan implementation subject to Council budget allocations and grant funding being received.

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16. ORIGIN: Planning & Design Unit

FILE REF: DA5937/740 Pt2

REPORT TITLE:

Classification of Land as Operational - Lake Kimberley, Banora Point

SUMMARY OF REPORT:

The developers of Lakeside Gardens Estate at Banora Point, Bradshaw Developments Pty Ltd, have lodged with Council a subdivision plan wherein the title to Lake Kimberley will be transferred in fee simple to Council.

Lake Kimberley is part of the Eastern Drainage Scheme (between the Twin Towns Golf Course and Shallow Bay) and as such should be classified as Operational Land.

RECOMMENDATION:

That Council, by Resolution, classifies Lake Kimberley being proposed Lot 1 in the subdivision of Lot 117 DP 879797 as Operational Land.

Reports from Director Engineering Services

REPORT:

The developers of Lakeside Gardens Estate at Banora Point, Bradshaw Developments Pty Ltd, have lodged with Council a subdivision plan wherein the title to Lake Kimberley will be transferred in fee simple to Council.

Lake Kimberley is part of the Eastern Drainage Scheme (between the Twin Towns Golf Course and Shallow Bay) and as such should be classified as Operational Land.

Reports from Director Engineering Services

Signature
C.A.

Title
C.A.

Project
TWEED HEADS 96/4 - 4 - 5

Lot Plan
PLAN OF SUBDIVISION OF LOT 117 IN D.P. 879797

Lot
C.O.A. TWEED BANORA POINT TERRANORA ROUS

Surveyor
PHILIP ANDREW WIPER
P.O. BOX 1371 TWEED HEADS NSW 2485
PH: 075522111
FAX: 075522111
The survey was conducted in accordance with the Survey Act 1981 and the Survey Regulation 1996.

Plots used in preparation of Survey/Plan
D.P. 880249 D.P. 879797
D.P. 879201 D.P. 860889
D.P. 879214 D.P. 878285
D.P. 879444 D.P. 880577

Notes
PLAN FOR USE ONLY FOR THE PURPOSES OF THE CONVEYANCING ACT 1919. IT IS INTENDED TO CREATE:
1. EASEMENT TO DRAIN WATER 7 WIDE
2. EASEMENT TO DRAIN WATER 9.5 WIDE
3. EASEMENT TO DRAIN WATER

NO.	BEARING	DIST.	ARC.	ROAD
10	278°40'50"	49.875	147.745	75.0
11	228°40'50"	28.555	26.5	75.0
12	230°41'20"	28.555	26.5	75.0
13	289°37'40"	57.117	117.915	55.8
14	348°15'	31.755	31.46	111.5
15	33°41'	25.085	26.24	69.0
16	92°54'20"	52.75	59.35	44.0
17	103°16'	97.21	97.315	104.0
18	103°18'20"	61.54	61.025	112.0
19	116°11'10"	61.54	61.025	51.0
20	118°49'	32.775	33.365	51.0
21	236°76'	10.445	10.58	19.425
22	226°28'	80.845	93.375	111.0
23	310°42'30"	16.51	17.14	19.78
24	271°27'30"	18.11	18.15	69.0

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17. ORIGIN: Planning & Design Unit

FILE REF: GS4/95/5 Pt10

REPORT TITLE:

Classification of Land as Operational - Proposed Lot 167, Botanical Circuit, Banora Point

SUMMARY OF REPORT:

As a condition of development consent for Stage 5 of the Flame Tree Park Estate at Banora Point proposed Lot 167 in Botanical Circuit, being the site of a sewage pumping station, is to be transferred to Council in Fee Simple.

In accordance with Section 31 of the Local Government Act, 1993 the land should be classified as operational.

RECOMMENDATION:

That Council resolves that proposed Lot 167 in the subdivision of Lot 89 DP 1006590 and Lot 901 DP 1005242, being stage 5 of the Flame Tree Park Estate at Banora Point, be classified as operational land in accordance with Section 31 of the Local Government Act, 1993.

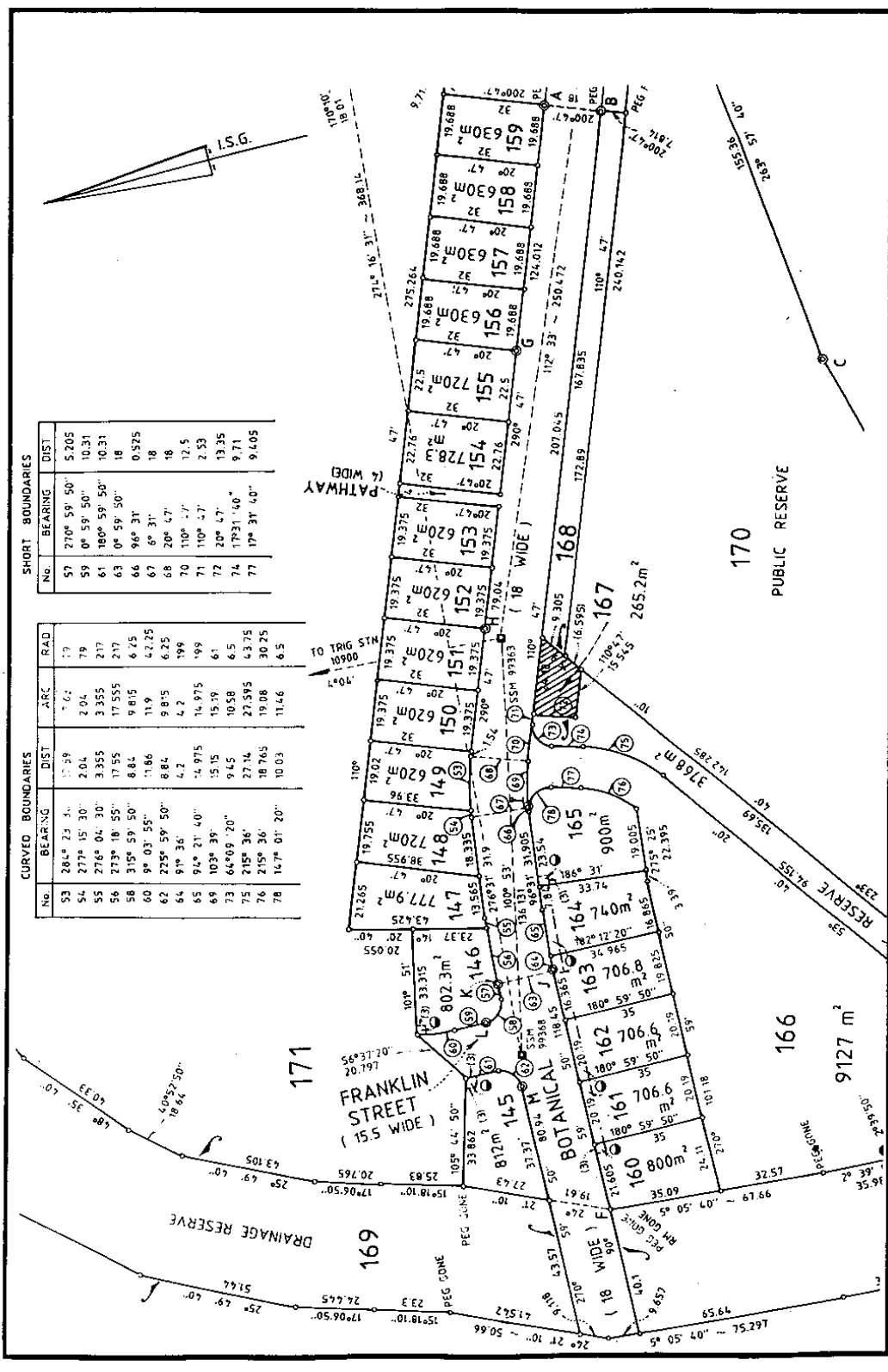
Reports from Director Engineering Services

REPORT:

As a condition of development consent for Stage 5 of the Flame Tree Park Estate at Banora Point proposed Lot 167 in Botanical Circuit, being the site of a sewage pumping station, is to be transferred to Council in Fee Simple.

In accordance with Section 31 of the Local Government Act, 1993 the land should be classified as operational.

Reports from Director Engineering Services



SHORT BOUNDARIES			
No.	Bearing	Dist	
57	270° 59' 50"	5.205	
59	0° 59' 50"	10.31	
61	180° 59' 50"	10.31	
63	0° 59' 50"	18	
66	96° 31'	0.525	
67	6° 31'	18	
68	20° 47'	18	
70	110° 17'	12.5	
71	110° 17'	2.53	
72	20° 47'	13.35	
74	173° 140"	9.71	
77	17° 31' 40"	9.405	

CURVED BOUNDARIES			
No.	Bearing	Dist	ARC RAD
53	284° 23' 4"	11.59	7.62
54	277° 15' 30"	2.04	1.79
55	276° 04' 30"	3.355	2.17
56	273° 18' 55"	17.55	17.555
58	315° 59' 50"	8.84	9.815
60	8° 03' 55"	11.86	11.9
62	225° 59' 50"	8.84	9.815
64	91° 36'	4.2	4.2
65	94° 21' 40"	4.975	4.975
69	103° 38'	5.15	5.15
73	64° 09' 20"	9.45	10.58
75	215° 36'	27.14	27.14
76	215° 36'	18.765	19.08
78	167° 01' 20"	10.03	11.46

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18. ORIGIN: Planning & Design Unit

FILE REF: GS4/94/78 Pt11

REPORT TITLE:

Classification of Land as Operational

SUMMARY OF REPORT:

As a condition of consent for Stage 12 of Banora Waters Estate at Banora Point the developers, Fobuxi Pty and Lanex No. 49 Pty Ltd, will transfer proposed Lot 1228 (Drainage Reserve) to Council in fee simple.

Being part of the Western Drainage Scheme the land should be classified as Operational under the provisions of Sec. 31 of the Local Government Act, 1993.

RECOMMENDATION:

That proposed Lot 1228 Banora Waters Estate, being a subdivision of Lot 1437 DP 1005048, be classified as Operational land under the provisions of Sec. 31 of the Local Government Act, 1993.

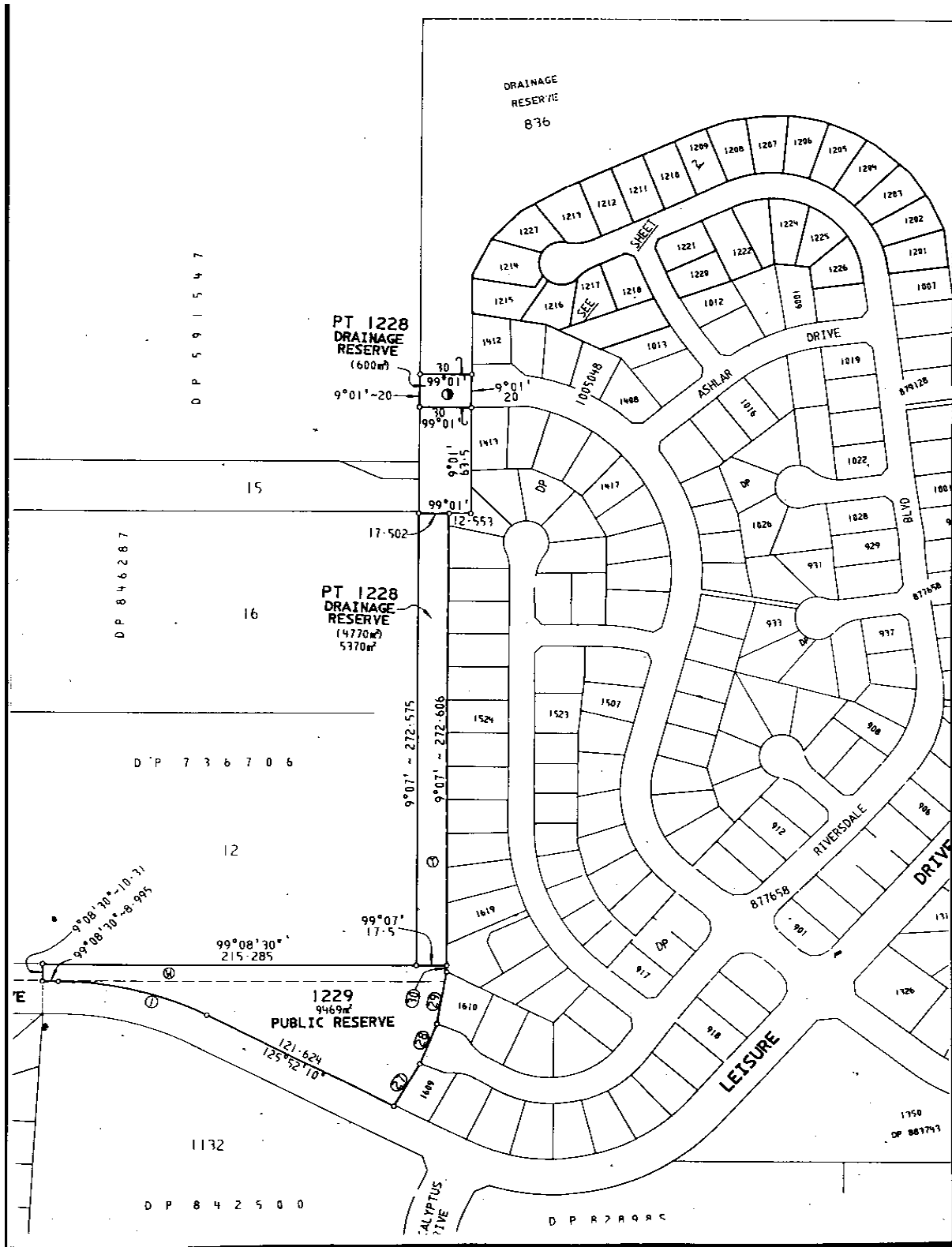
Reports from Director Engineering Services

REPORT:

As a condition of consent for Stage 12 of Banora Waters Estate at Banora Point the developers, Fobuxi Pty and Lanex No. 49 Pty Ltd, will transfer proposed Lot 1228 (Drainage Reserve) to Council in fee simple.

Being part of the Western Drainage Scheme the land should be classified as Operational under the provisions of Sec. 31 of the Local Government Act, 1993.

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19. ORIGIN: Planning & Design Unit

FILE REF: R2060 Pt2

REPORT TITLE:

Fingal Road Realignment

SUMMARY OF REPORT:

Council has recently reconstructed a section of Fingal Road between Nos. 1 and 19. The remaining length of Fingal Road is at the end of its service life. The new road between Nos. 1 and 19 was relocated towards the residential properties with a resultant footpath width of 5.5m. The remainder of Fingal Road requires reconstruction within the next five years. It is proposed to reduce the footpath width from, in some areas, 30m to at least 7.5m. This will enable the creation of a larger river foreshore for public enjoyment.

RECOMMENDATION:

That Council:

1. Endorses the proposed realignment of Fingal Road to a new road alignment providing at least 7.5m between residential property boundaries and the kerb and gutter, for the purposes of public exhibition.
2. Place the proposed road realignment plan on public exhibition for a period of 28 days.
3. Distributes a copy of the plan to local residents and to resident and ratepayer organisations and actively seek comments.

Reports from Director Engineering Services

REPORT:

Council has previously provided funds to improve alignment, surface and high tide vulnerability of Fingal Road. Roadworks between Nos. 1 - 19 have recently been completed. The existing pavement between No. 19 and Lagoon Road is nearing the end of its service life and will require reconstruction shortly.

The river foreshore is extremely popular with locals and tourists alike, being intensely used during holiday periods despite its narrowness. It is one of the most scenic and accessible river foreshores in the Shire. Although the foreshore road reserve is generally more than 50m wide, the present road is often located more than 30m from the property frontages. In many instances, the abutting owners have extended their front gardens and landscaping onto the 'intervening reserve', effectively capturing this public land for private use.

Meetings were held with the Fingal Progress Association and Fingal Road residents and land owners at the Fingal Primary School on the 16 March 1999 and again on 18 May 1999. A petition was received from the majority of residents on Fingal Road requesting the distance from the front boundary to the kerb and guttering be a minimum of at least 7.5m.

During the preliminary consultation with residents and land owners in the Fingal area a number of complaints were received concerning the proximity of the proposed new road to their homes. Specifically, issues of noise, traffic speed and drainage were identified. The first stage of the roadworks has now been constructed and is located 5.5m from the front boundary. It appears that the initial concerns have been unfounded as speed and noise have been reduced and properties have been able to discharge drainage to the kerb and gutter or drainage system.

Given the significance of the river foreshore to tourism and recreational enjoyment, it seems only appropriate to align any new road so that the public availability of the reserve is maximised. A draft design has been prepared generating some 2.5ha of additional foreshore.

Relocating the road to the east also allows convenient construction with the existing road being retained until the new road is completed. The opportunity will be taken to ensure that the future design speed environment is generally no more than 60kph by the use of appropriate traffic control devices. The new road will be re-graded to lift it above tidal inundation levels without negatively impacting on local property drainage. It is proposed that local drainage conditions would be improved in conjunction with the reconstruction works. The proposed roadworks will not solve the problem of major flooding as the highest recorded flood level in the locality is RL 2.45 AHD and most properties along Fingal Road have a natural surface level of approximately RL 1.9m AHD.

Recent vehicle counts show that approximately 2,000 vpd use Fingal Road during the week and approximately 3,000 vpd use Fingal Road on the weekend.

Reports from Director Engineering Services

The 85th percentile vehicle speeds measured on this section of road are as follows:

Section	Date	Volume	85 th % Km/hr
Between Nos. 1 - 19 (before road realignment)	3/9/99	2,332	74.5
Between Nos. 1 - 19 (after recent upgrade)	16/12/99	2,493	65

The 85% speed reduction obtained in the new section of road is significant and consistent with the design intent and advice given to the local community prior to construction.

Council has previously recognised that any roadworks undertaken in this area must of course be done with minimum impact on the reasonable amenity expectations for residents on a busy road fronting a popular recreation facility. In this regard the Engineering Services Division has gone to some lengths to ensure that during the consultation process with abutting frontage owners the reasonable rights to conventional residential amenity be respected.

As abutting residents have in some instances effectively already colonised the land between the road and their front boundaries with landscaping and other improvements, a practice which has recently accelerated, there will inevitably be some loss of some (fairly immature) vegetation. As this planting is largely haphazard and uncoordinated it does not present a major loss of landscape character to the locality.

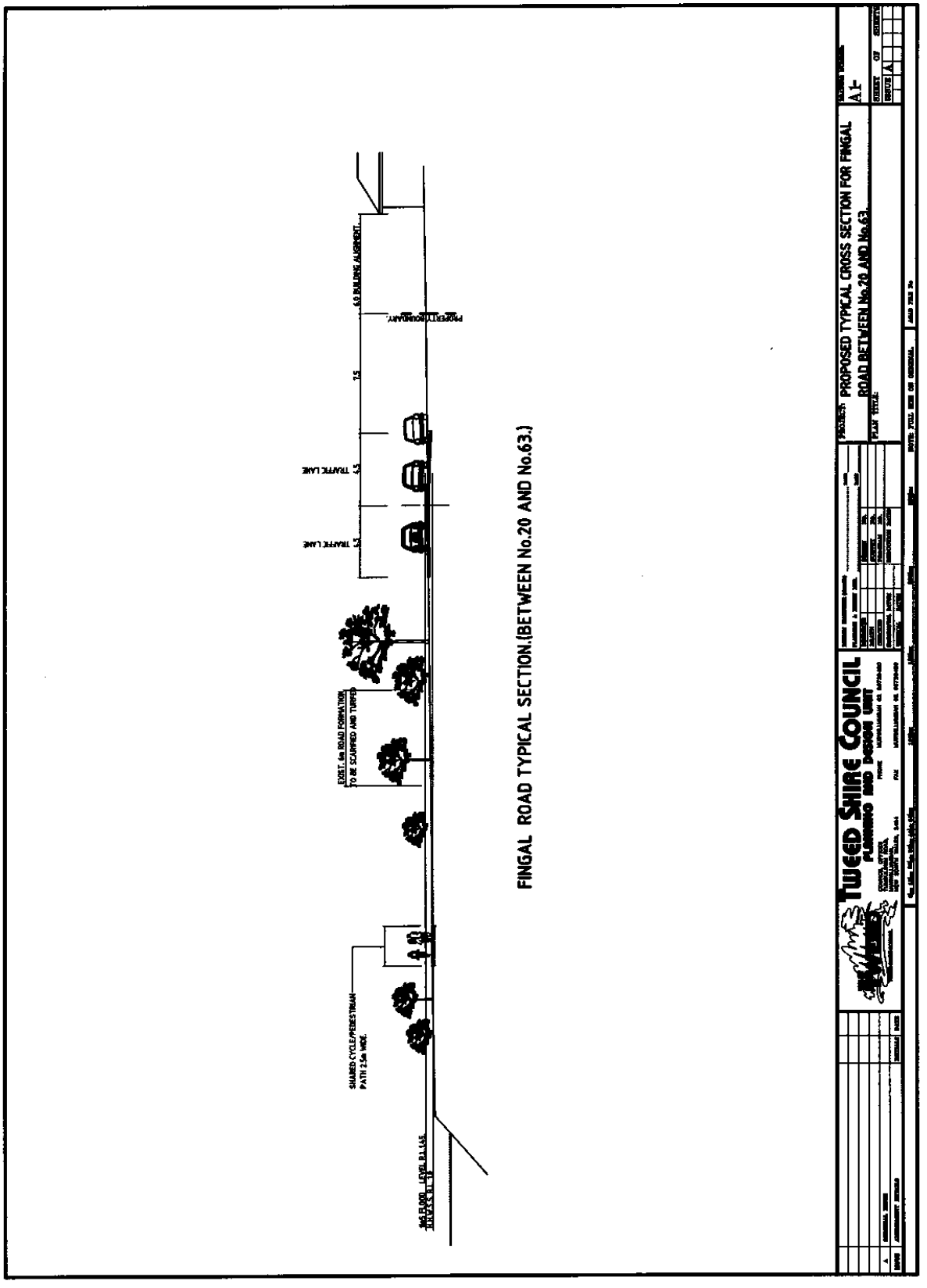
If Council decides to proceed with the relocation of Fingal Road it will be critical that a foreshore landscape development plan be prepared to detail hard and soft landscaping.

The proposal for the next section of road is to locate the kerb and gutter on the eastern side of the road a minimum of 7.5m from residential property boundaries. The proposed road width is 9.0m with an AC surface and roll top kerb and gutter on the residential property side only. A 2.5m shared cycleway/pedestrian path would be located near the river bank and the existing pavement would be removed and replaced with turf.

The vast majority of residents in the urban area have a kerb and gutter alignment 3.5m from their property boundary. The proposed 7.5m alignment is considered to be generous, particularly given that pedestrian and cycle activity will not occur within this verge area.

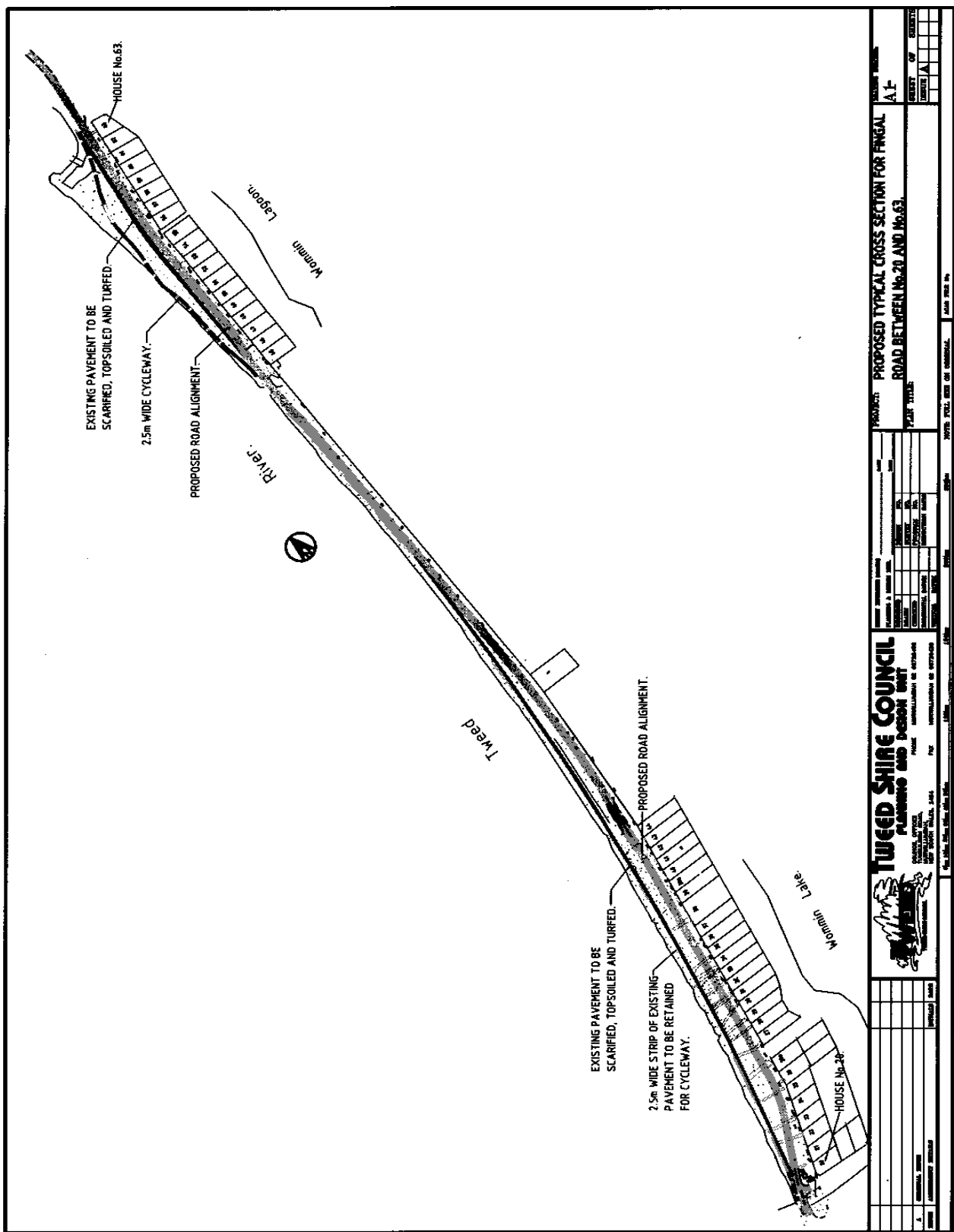
Below is a cross section of the proposal as well as a plan of the proposed works. A set of 3 A3 coloured plans of the proposal have been distributed to Councillors separately.

Reports from Director Engineering Services



TWEED SHIRE COUNCIL PLANNING AND DESIGN UNIT		PROJECT: PROPOSED TYPICAL CROSS SECTION FOR FINGAL ROAD BETWEEN No.20 AND No.63	
DRAWN BY: [] CHECKED BY: [] DATE: []		SCALE: [] SHEET NO: [] OF []	
PROJECT NO: [] DRAWING NO: []		CLIENT: [] PROJECT TITLE: []	
APPROVED BY: [] DATE: []		NOTES: []	

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20. ORIGIN: Planning & Design Unit

FILE REF: Geographical Names Board

REPORT TITLE:

Point Danger Signage (Cook's Point Danger)

SUMMARY OF REPORT:

Following the deferral of a report and recommendations to Council at its meeting of 15 December 1999 an informal Sub-Committee has presented its report and recommendations.

RECOMMENDATION:

That Council determines this report.

Reports from Director Engineering Services

REPORT:

A report and recommendation presented to Council at its meeting held on the 15 December 1999 was deferred pending a report from an informal Sub-Committee comprising Councillors Boyd, Brinsmead, Luff and James.

- The previous report and recommendation are as follows:-

“17. ORIGIN: Planning & Design Unit

FILE REF: Geographical Names Board

REPORT TITLE:

Point Danger Signage (Cook's Point Danger)

SUMMARY OF REPORT:

A representative of the Geographical Names Board of NSW, Mr Jack Devery of the Geographical Society of NSW, addressed Council at a meeting held on 10 November 1999 outlining the Board's findings published as “Cook's Point Danger”. Mr Devery recommended removal of the existing plaques and erection of a plaque (being Plaque B in this report) in lieu.

RECOMMENDATION:

That :-

- 1. The existing plaques at Point Danger and Fingal Head Lighthouses be removed and,*
- 2. A new plaque be erected at Point Danger Lighthouse as follows:*

“REPORT of the GEOGRAPHICAL NAMES BOARD OF NEW SOUTH WALES

22 October 1998

The Board examined the data recorded on Cook's voyage and all submissions made on the location of Cook's Point Danger.

The Board unanimously concluded that this point of land, at present named Point Danger, was the feature which was named and mapped by James Cook as Point Danger in May 1770.

Plaque erected by TWEED SHIRE COUNCIL

1999”

- 3. Gold Coast City Council be given the opportunity to co-author the plaque at Point Danger.*
- 4. A new plaque be erected at Fingal Head Lighthouse as follows:*

“REPORT of the GEOGRAPHICAL NAMES BOARD OF NEW SOUTH WALES

Reports from Director Engineering Services

22 October 1998

The Board examined the data recorded on Cook's voyage and all submissions made on the location of Cook's Point Danger.

The Board acknowledged that there are differences of opinion on the interpretation of a descriptive account made some 228 years ago. However the Board unanimously concluded that the point of land, at present named Point Danger, was the feature which was named Point Danger, was the feature which was named and mapped by James Cook as Point Danger in May 1770.

Plaque erected by TWEED SHIRE COUNCIL

1999"

Reports from Director Engineering Services

REPORT:

Following Council’s resolution at its meeting held 5 May 1999, a letter has been received from Gold Coast City Council:

“That Tweed Shire Council be advised that Council would prefer the removal of the original plaque, but has no objection to the proposed second historical plaque to the Point Danger Lighthouse, with the text and wording as indicated on the draft format.”

A request to the Geographical Names Board for its concurrence to the erection of a second plaque was answered as follows:

“I refer to your letter of the 6 August 1999 in which Council requests that the Board give concurrence to the erection of a second plaque of explanation to the Point Danger Lighthouse.

The Board considered the request at its August 1999 meeting and determined that both the Tweed Shire Council and the Gold Coast City Council may make any joint observations they wish on the Committee findings. If Councils wish to make an interpretation of those findings and erect a plaque to that effect it is entirely the responsibility of both Councils.

Let it be noted that the Board did not give concurrence to the erection of the first plaque and stated in previous correspondence to Council the following:

“.....In the circumstances, the Board is of the opinion that no useful purpose would be served by the erection of the plaque on the lighthouse.”

The Board therefore would see no positive purpose in the erection of the second plaque.”

An overview of the various proponents is attached.

Plaques at Point Danger and Fingal Head

PARTY	POSITION	
	PLAQUE 1 <i>(existing)</i>	PLAQUE 2 <i>(proposed)</i>
Tweed Shire Council	<i>Placed without authorisation from GCCC or GNB</i>	<i>Resolved erect plaque as compromise</i>
B Chick	<i>Keep</i>	<i>Not addressed</i>
B Stafford	<i>Remove</i>	<i>Not addressed</i>
Gold Coast City Council	<i>Prefer removal</i>	<i>No Objection</i>
Geographical Names Board	<i>Not endorsed</i>	<i>No Objection</i>

Reports from Director Engineering Services

PLAQUE 1 - (existing)

<p><i>MAP NOT SHOWN</i></p>	<p>A Chart of NEW SOUTH WALES or the East Cost of New Holland Discover'd and Explored BY Lieutenant J. Cooke Commander of his MAJESTY'S BARK ENDEAVOR in the Year MDCCLXX</p>
<p><u>REPORT OF THE GEOGRAPHIC NAMES BOARD</u> 7TH SEPTEMBER 1971.</p> <p>IT IS THE OPINION OF THE COUNSELLORS THAT THE NAME POINT DANGER WAS INTENDED BY CAPTAIN COOK TO BE APPLIED TO THAT POINT NOW DESIGNATED FINGAL HEAD.</p> <p>IT IS FURTHER THE OPINION OF THE COUNSELLORS THAT THE NAME WAS ERRONEOUSLY APPLIED TO THE HEADLAND FORMING THE NORTHERN ENTRANCE TO THE TWEED RIVER BY ASSISTANT SURVEYOR JAMES WARNER IN 1840, AND THAT THE ERROR APPEARS TO HAVE BEEN PERPETUATED FROM THAT DATE.</p> <p>PLAQUE ERECTED BY TWEED SHRE COUNCIL 1988</p> <p>GOLD COAST CITY COUNCIL</p>	

Reports from Director Engineering Services

PLAQUE 2 - (proposed)

***REPORT of the GEOGRAPHICAL
NAMES BOARD OF NEW SOUTH
WALES***

22 OCTOBER 1998

The Board unanimously concluded, as a definitive statement, that the present Point Danger is correctly designated as Cook's Point Danger.

The Board, in reaching this conclusion, examined all submissions and recognised that there will be differences of opinion on the interpretation of a descriptive account made some 228 years ago.

*Plaque erected by TWEED SHIRE
COUNCIL*

GOLD COAST CITY COUNCIL

1999

Mr Jack Devery representing the Geographical Names Board of NSW in his address to Councillors on 10 November 1999 offered the following options for a new plaque at Point Danger:

Plaque A:

REPORT of the GEOGRAPHICAL NAMES BOARD OF NEW SOUTH WALES

22 October 1998

The Board unanimously concluded, as a definitive statement, that the present Point Danger is correctly designated as Cook's Point Danger.

The Board, in reaching this conclusion, examined all submissions and recognised that there will be differences of opinion on the interpretation of a descriptive account made some 228 years ago.

Plaque erected by TWEED SHIRE COUNCIL

& GOLD COAST CITY COUNCIL

1999

Reports from Director Engineering Services

Plaque B:

REPORT of the GEOGRAPHICAL NAMES BOARD OF NEW SOUTH WALES

22 October 1998

The Board examined the data recorded on Cook's voyage and all submissions made on the location of Cook's Point Danger.

The Board unanimously concluded that this point of land, at present named Point Danger, was the feature which was named and mapped by James Cook as Point Danger in May 1770.

Plaque erected by TWEED SHIRE COUNCIL

& GOLD COAST CITY COUNCIL

1999

Plaque C:

REPORT of the GEOGRAPHICAL NAMES BOARD OF NEW SOUTH WALES

22 October 1998

The Board examined the data recorded on Cook's voyage and all submissions made on the location of Cook's Point Danger.

The Board acknowledged that there are differences of opinion on the interpretation of a descriptive account made some 228 years ago. However, the Board unanimously concluded that the point of land, at present named Point Danger, was the feature which was named Point Danger, was the feature which was named and mapped by James Cook as Point Danger in May 1770.

Plaque erected by TWEED SHIRE COUNCIL

& GOLD COAST CITY COUNCIL

1999"

Reports from Director Engineering Services

Minutes and Recommendations from the Sub-Committee are as follows:-

“WORKING GROUP - Options for marking POINT DANGER

Meeting 10 December 1999

Peter Gielis (TSC Property Officer), Cr Max Boyd, Cr Bob Brinsmead, Cr Bronwynne Luff

Apology - Cr Henry James was not able to attend due to being out of the area

Attendees each brought their draft proposal for plaque/plaques to the meeting. These were discussed and several modifications made.

Attendees agreed that -

- 1. the coastline around the Tweed River was different in 1770 from what exists today,*
- 2. Cook did not have a close or clear view of that part of the coast, so his perception of the form of the completely uncharted coast may have differed from its real form at the time*
- 3. the statement in the existing plaque regarding Surveyor James Warner is incorrect,*
- 4. the existing plaques should be removed, and that*
- 5 in 1971 the Geographical Names Board NSW considered the evidence and gave the opinion "that little doubt exists that the feature named Point Danger by Captain Cook was in actual fact the feature now known as Fingal Head" ,*
- 6 in 1998 the Board changed its view and adopted a conclusion with a number of points, one of which stated: "It is reasonably certain that the present Point Danger was considered by Cook to be part of his Point Danger, and that it may have been his Point Danger exclusively."*

Since there was not acceptance of a single proposal the meeting agreed to put all the proposals to Council.

Meeting 5 April 2000

Peter Gielis (TSC Property Officer), Cr Bob Brinsmead, Cr Bronwynne Luff, Cr Henry James, Cr Max Boyd

Notes of previous meeting were discussed. Cr James agreed with all points noted. Cr Brinsmead dissented on point 1, and Cr Boyd on point 4.

There was further discussion on the proposals for wording on plaques and possible courses of action. All agreed -

Reports from Director Engineering Services

1. *that when Cook looked at a feature and named it Point Danger he probably saw the landmark now known by that name. He had however sailed some distance to the north from his position the day before and he may have believed it was the same landmark which he had remarked the previous day, namely Fingal Head.*
2. *that the text of any plaque placed in NSW in the Shire should be chosen by Tweed Shire Council*

and to RECOMMEND to Council that

3. *the four options produced by the working group be exhibited for comment and that*
4. *as well as making a decision on the wording of any summary for a plaque, Council should consider using photo anodised aluminium signs to install a longer text with more detail including a reference to historical materials in Tweed Heads Library.”*

Option 1:

Submitted by Cr M Boyd

When sailing up the east coast of Australia in 1770 Lieutenant James Cook named Pt Danger and Mt Warning following a close encounter with a number of rocky shoals off present day Fingal Head. He described these features and present day Cook Island in the ship's log and with a rough chart.

In 1971 the Geographical Names Board decided that:

“In the view of the evidence submitted by the Board's Counsellors and previously considered by the Board, that little doubt exists that the feature named Point Danger by Captain James Cook was in factual fact the feature now known as Fingal Head. However as the name has been known in its present position for over 130 years and having in mind the wording of the Letters of Patent of 6th June, 1859 in which the position of the Queensland - New South Wales border is linked with the position of Point Danger, the Board was not prepared to assign the name to any feature or position other than that to which it is currently associated.”

As a result of the continuing controversy about this issue a re-enactment voyage authorised by the NSW Geographical Names Board was undertaken in November 1989,.

The expert participants and their reported conclusions are as follows:

1. *“From the re-enactment voyage I now have no doubt that Captain Cook's ... point of land under which lies a small island ... was intended to be today's Fingal Head.”*

Ron Benjamin, Acting Chief Surveyor

2. *“In my opinion the headland named by Captain cook as Point Danger is the headland known as Fingal Head.”*

D. Halls, Senior Surveyor, North Coast Branch, Land Information Centre.

3. *“From a mariner's viewpoint I am of the opinion that the present Fingal Head was the headland named by Captain James Cook to be Point Danger.”*

Reports from Director Engineering Services

R J Driver, Senior Inspector FPV Tracker II

In a further review, of 22nd October 1998, the NSW Geographical Names Board underwent a change in thinking and reported the following conclusions:

“From an analysis of Cook’s private log, the official log of the Endeavour, Cook’s journal and the journals of Cook’s Officers and relating that analysis to modern nautical charts and maps of the area, it is suggested that the following conclusions may be drawn:

- 1. It seems reasonably certain that Fingal Head was not considered by Cook to be Point Danger, or any part of Point Danger.*
- 2. It is reasonably certain that the present Point Danger was considered by Cook to be part of his Point Danger, and that it may have been his Point Danger exclusively.*
- 3. There are however, some features of the analysis which indicate that the present Point Danger was not exclusively Cook’s Point Danger.*

There is the possibility that Cook, when he was 8 miles offshore and with no prior knowledge of the local terrain, considered that the southerly arc of coastal hills extending from Point Danger through Razorback to Banora Point was one point, and named this point as his Point Danger.

- 4. However, even if the wider interpretation of Cook’s Point Danger as proposed in paragraph 3 is accepted it still comes down to the fact that the present Point Danger is the only part of Cook’s Point Danger on the coastline.*
- 5. It is the opinion of the Geographical Names Board committee, that the present Point Danger is as currently designated.*

However, no claim is made that this analysis “proves” these facts. The Committee acknowledges that there are bound to be differences of opinion on the interpretation of a descriptive account made some 229 years ago.”

The controversy continues, but there is agreement that the two landmark names, Point Danger and Fingal Head should remain as they are currently named.

Interested researchers can obtain further details at Tweed Shire Council’s public libraries.

Option 2:

Submitted by Cr B Luff

Captain Cook’s Point Danger

For two centuries there has been a controversy about which landmark Captain James Cook named Point Danger in 1770. Some are convinced it was the ‘point of land’ now known as Fingal Head.

In 1970 the Geographical Names Board agreed with that view as did those who sailed on a re-enactment voyage in 1989. In 1998 the Names Board changed its view.

The controversy however continues. There is however agreement that the names should remain unchanged and as they are today. Tweed Shire Council Library holds further information.

Reports from Director Engineering Services

Option 3:

Submitted by Cr H James

When sailing up the east coast of Australia in 1770 Lieutenant James Cook named Point Danger and Mt Warning following a close encounter with a number of rocky shoals off present day Fingal Head. He described these features and present day Cook Island in the ship's log and a rough chart.

The name Point Danger was subsequently applied to the headland straddling the NSW - Queensland border - immediately north of the Tweed River entrance.

However it has been claimed that the name Point Danger was intended by Captain cook to be applied to the point now called Fingal Head.

This view was shared by a committee that reported to the Geographical Names Board of NSW in 1971 and a re-enactment committee that reported to the Board in 1989.

In 1998 Geographical Names Board issued yet another report which, with some qualifications, reversed the earlier conclusions - saying it is reasonably certain that the present Point Danger was the one named by Cook.

The qualifications include admissions that the analysis in the 1998 report does not prove the case and that Cook's original description of the features leaves room for doubt.

The controversy continues, but there is agreement the names should remain as they are today.

(Pt Danger plaque) Cook's original description can be read on the south panel inside the memorial. From the platform in front of this panel you can look south and see Cook Island, Fingal Head, and in heavy seas, the breaking reefs of Cook's chart.

(Fingal Head plaque) The island referred to by Cook (now Cook Island) is visible from the headland. In heavy seas, the breaking reefs of Cook's chart are visible further out to sea. Present day Point Danger is visible to the north.

Tweed Council library holds further information.

Option 4:

Submitted by Cr R Brinsmead

In 1970 the Geographical Names Board of NSW agreed with some historical reviewers who claimed that the headland presently known as Point Danger was not the Point Danger first named by Captain James Cook in May 1770. They contended that Cook's Point Danger was the headland which is now known as Fingal Head which is immediately South of the mouth of the Tweed River.

However, the Geographical Names Board of New South Wales issued this Report 22 October 1998:

"The Board examined the data recorded on Cook's voyage and all submissions made on the location of Cook's Point Danger.

The Board acknowledged that there are differences of opinion on the interpretation of a descriptive account made some 228 years ago. However, the Board unanimously concluded that the point of land, at present named Point Danger, was the feature which was named and mapped by James Cook as Point Danger in May 1770."

Reports from Director Engineering Services

Reports from Director Engineering Services

21. ORIGIN: Planning & Design Unit

FILE REF: GD1/2/3, GT1/DCP/9 Pt3

REPORT TITLE:

Kingscliff West Drainage Strategy

SUMMARY OF REPORT:

Consultants WBM Oceanics have completed a report on drainage management for the Kingscliff catchment. This report will guide drainage strategy in the Kingscliff West area. DCP 9 and Contributions Plan 7 will require amendments to reflect the new drainage strategy.

RECOMMENDATION:

That:-

1. An amendment to Development Control Plan No. 9 West Kingscliff incorporating the drainage strategy in the report "Kingscliff Catchment & Drainage Management Plan" prepared by WBM Oceanics Australia and Council's *Stormwater Management Plan*".
2. An amendment to Section 94 Contributions Plan No.7 West Kingscliff be pursued reflecting the revised drainage strategy and cost adjustments.

Reports from Director Engineering Services

REPORT:

1. Background

Consultants WBM Oceanics prepared a report "Kingscliff Drainage Strategy Plan" in 1994 primarily dealing with hydraulic (drain capacity, flooding) issues in the Kingscliff catchment.

Drainage in the West Kingscliff area is currently managed by part 3.E - Drainage & Water Quality Management, of *Development Control Plan No. 9 West Kingscliff* and *Section 94 Contributions Plan No.7 West Kingscliff*. These plans were initially adopted some years ago and reflected drainage management principles current at that time.

These plans are now inconsistent with current standards for stormwater quality and treatment and drain hydraulics have been altered by the Chinderah Bypass. In 1998 WBM Oceanics were engaged to review the drainage strategy.

The consultants have prepared a revised drainage strategy and report after extensive consultations with council officers and owners of remaining undeveloped land within the catchment. The final report was issued 24 March 2000.

The total cost of the report is approximately \$29,000. Of this \$21,156 was advanced by Gales Holdings which will be a credit towards future Section 94 Contributions for drainage works in the Kingscliff Catchment. Gales Holdings consultants and other stakeholders were extensively involved in the review process.

2. Kingscliff Catchment & Drainage Management Plan - 2000

The conclusions and recommendations of the report can be summarised as:-

- Continued development of the catchment will significantly increase export of nitrogen, phosphorous and suspended solids in stormwater discharged from the catchment.
- The drainage and management plan recommends developers implement mechanisms to ensure stormwater pollutant export is not increased above existing levels
- An off line 3 hectare wetland situated in the area currently occupied by the sewerage treatment ponds could be designed to treat stormwater runoff from existing development

Recommendations for new development:-

- New developments should utilise grass swales wherever practical for conveyance of runoff
- Development and fill is not to cause ponding on adjacent land and overland flow paths must remain open. The drainage of existing properties must not be adversely affected as a consequence of fill operations
- A second buffer strip should be incorporated between the existing development along Lorien Way and Blue Jay Circuit, and new development proposed for the adjacent undeveloped land. Again, this buffer strip should incorporate an overland flow corridor and be designed to preserve existing vegetation

Reports from Director Engineering Services

- Rainwater tanks be installed in all new residential, commercial and industrial developments
- To further reduce stormwater runoff to the piped network, infiltration trenches should be installed in suburban blocks, commercial and industrial subdivisions
- Industrial developments with pollutant export potential should be fitted with structural stormwater treatment devices appropriate to the site, eg. Humeceptor or Ecosol type units
- The use of impervious paving should be discouraged. Modular paving should be installed wherever practical. This will be of particular importance in car parks and industrial subdivisions
- Developers are encouraged to incorporate small wetland systems into new subdivisions to further reduce the pollutant load and provide public amenity
- A meandering channel system incorporating pond and riffle systems should be developed for the peripheral southern sections of the Kingscliff Drain
- It is imperative that fill with an appropriate level of porosity be used throughout new developments. Guidelines recommend a minimum percolation rate of 15mm/hr for infiltration measures.
- Existing, vegetated, open channel drainage systems should be maintained and enhanced wherever practical
- Linear parklands should be established along the drainage corridor incorporating pedestrian/cycle pathways which link residential areas with the waterway, parklands and other significant recreation facilities

The report also re-examined flooding and drainage issues resulting from filling and development of the catchment and the impact of the Chinderah bypass. Hydraulic modelling indicated that flood levels from local catchment drainage would be acceptable. The report also confirmed that hydraulic behaviour would be comparable using a revised standard cross section for the main drainage reserve submitted by Council's Engineering Services Division.

3. Implementation

The principles of the drainage report can be implemented by appropriate amendments to Development Control Plan No. 9 West Kingscliff . The DCP should also be amended to reflect Council's adopted *Stormwater Management Plan*.

Section 94 Contributions Plan No.7 West Kingscliff will also require amendment to incorporate the revised standard cross section for the main drainage reserve and cost adjustments.

Reports from Director Engineering Services

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Reports from Director Environment & Community Services

22. ORIGIN: Environment & Health Services Unit

FILE REF: Cemetery Companion Animals

REPORT TITLE:

Pet Crematorium/Pet Cemetery

SUMMARY OF REPORT:

At the Council meeting of 5 April 2000 it was resolved as follows:-

'That a report be brought forward before Council by the Director Environment and Community Services on the feasibility and financial implications of establishing a Pet Crematorium or Pet Cemetery in the Tweed Shire.'

As a result of this resolution officers visited the Mid Town Pet Centre at Tallebudgera which provides both the services in question.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

At the Council meeting of 5 April 2000 it was resolved as follows:

'That a report be brought forward before Council by the Director Environment and Community Services on the feasibility and financial implications of establishing a Pet Crematorium or Pet Cemetery in the Tweed Shire.'

As a result of this resolution officers visited the Mid Town Pet Centre at Tallebudgera which provides both the services in question and operates a boarding kennel for small cats and dogs. Customers of the Pet Service are drawn from an area between Murwillumbah to Oxenford.

The owner of this establishment has previously provided advice to a number of council's Australia wide who have considered the establishment of pet cemeteries or pet crematoriums. The following advice was received:

Pet Cemetery

On average between the period 1974 to 2000 there have been placed 2 dogs per year in the cemetery. The fee is \$155 for a burial (with no other on going fees) and this fee has not increased since the early 1970s. An increase in fees has not been feasible, as customers are not willing to pay more for the service. Therefore the cemetery runs at a loss and is subsidised by other activities on the property.

The cost of a basic monument or plaque is around \$100.

The manager stated that in his experience ratepayers have some difficulty with local authorities establishing pet cemeteries, as they would rather see the money spent elsewhere. Adjoining owners also tend to object to their establishment due to a fear that their land value will fall.

The manager clearly stated that his advice to councils has been not to establish pet cemeteries, as they create a long term maintenance commitment. He also stated that people rapidly loose interest in their pets graves. However, once established it is not possible to decommission the pet cemeteries. The overall comment on pet cemeteries was a negative one.

Pet Crematorium

As noted above a service is provided to an area between Murwillumbah to Oxenford, and 70 - 80 animals are cremated per year. The manager stated that from the total population there are a minimal number of pet owners interested in this service.

The fee for a cremation is \$135, and additional fees are charged if the animal is to be collected or transported. Council officers gained the impression that this service is marginally profitable once the significant establishment costs are paid.

Reports from Director Environment & Community Services

A small crematorium furnace would cost in the order of \$85,000. A mortuary for cold storage prior to cremation is also required, along with a support building.

CONCLUSION

Both of the services in question would be useful and desired by a small percentage of pet owners. However difficulties exist with both, mainly the ongoing maintenance commitment to a cemetery and significant establishment costs for a crematorium.

It is worthwhile to note that the services are currently available at Tallebudgera for any pet owners within Tweed Shire.

Reports from Director Environment & Community Services

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Reports from Director Environment & Community Services

23. ORIGIN: Environment & Health Services Unit

FILE REF: Community Health Program Health Plan, Public Health Act

REPORT TITLE:

National Environmental Health Strategy.

SUMMARY OF REPORT:

A national environmental health strategy has been developed through collaborative effort of State, Territory, Local & Commonwealth Governments.

An implementation framework is to be developed to assist putting concepts of the strategy into practice. A copy of this strategy has been provided with the business paper.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

Council is advised that Dr Kevin Buckettt, Director, Environmental Health Section, Commonwealth Department of Health and Aged Care has written advising of the National Environmental Health Strategy as set out below.

"I am pleased to provide you with a copy of the National Environmental Health Strategy. The National Environmental Health Strategy has been developed through the collaborative efforts of the State and Territory Health Departments, Local Government, Commonwealth, and key stakeholder groups, under the auspices of the National Public Health Partnership Group.

The Strategy has been prepared in response to widespread concern that current environmental health management practice is fragmented across a range of jurisdictions and organisations. The strategy provides a framework to enable links between the different sectors to be formed so that a unified and strategic approach to environmental health management can be developed.

Environmental health management plays a key role in the health of all Australians and is a cornerstone of Public Health. The Strategy recognises that environmental health covers a broad range of disciplines and aims to provide a national framework for co-operation between all sectors. The development of a national framework serves to increase the ability and capacity of those providing environmental health services in Australia by outlining clear processes for improving the assessment, prevention, control and management of environmental health hazards.

An important aspect of the Strategy is the formation of the enHealth Council which will have responsibility for implementing the strategy and providing national leadership and advice on environmental health issues. The Chair of the enHealth Council is Professor Christine Ewan.

An Implementation Framework is being developed to assist Environmental Health Managers in putting the concepts identified in the Strategy into practice. It is intended that the Implementation Framework will be made available through the enHealth council early next year."

A hard copy of this strategy has been provided to Councillors with the Business Paper.

As noted above an implementation framework is being developed and until such is provided to Council it is recommended that this report be received and noted.



Dr J Griffin
General Manager

Reports from Sub-Committees

1. Minutes of the Community Cultural Development Committee Meeting held 15 February 2000

Cultural Development - Advisory Committee

VENUE:

Rous Room

TIME:

3.30

PRESENT:

Cr. Carroll; Cr. Boyd, Geoff Edwards, Tony King; Glenda Nalder; Judith Sutton, Lesley Buckley

APOLOGIES:

Gary Corbett

MINUTES OF PREVIOUS MEETING:

Moved: Cr Max Boyd

Seconded: Glenda Nalder

RESOLVED that the minutes of the meeting held 10 December be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. Auditorium Upgrade

The committee were advised that:

- Conceptual Designs by INARC Design Company are currently on display for public comment.
- INARC Design Company are developing a fully developed scale plan and will submit this to Council within the week
- Lesley Buckley has liaised with council Plumber to discuss the addition of a unisex disabled access toilet
- All tradespeople are to come together for a meeting when the scale plan becomes available
- The committee also heard that an idea was put forward by Terry Cleal, Murwillumbah Theatre Company Artistic director, that funds could be raised to help complete stage 2 of the refurbishment project by selling off the Tweed Carpet as mounted or otherwise squares.
- Lesley Buckley to liaise with appropriate tradespeople to estimate costs involved to complete stage 2 as per the design proposal.

Reports from Sub-Committees

It is noted that the committee are pleased with the outcome of the designs and recommend that the construction work should be expedited, particularly in view of the April State of the Arts 2000 Forum.

Moved - Cr. Boyd

Seconded: Glenda Nalder

2. Strategy for Committee Expansion:

A core group of people, as identified in the proposed listing, are to be invited to serve as a Reference Group to advise the Cultural Advisory Committee on issues pertaining to and relevant to the Cultural Policy.

Invitations would be made to individuals relative to one or more of the eight strategic elements in order to identify specific projects or ideas that match policy objectives.

Visual Arts and Crafts is to be the first and specific art form to be addressed.

This initiative is to be announced at the State of the Arts 2000 regional forum

3. Policy Task - Public Art Policy

Cultural Development - Advisory Committee

Lesley Buckley advised the committee that she has begun to develop a Task List in line with the *Distinctiveness* element of the Cultural Policy.

In order to promote and manage both current and future Public Art and cultural assets a Public Art Policy has been drafted and has been circulated to Council staff. This includes: Geoff Edwards; Don McCallister; Gary Corbett; and Rose Wright.

The draft has been amended and will be forwarded to Cultural Advisory Committee for response and amendments.

A sub-committee of the Cultural Advisory Committee (a Steering Committee/Reference Group), would be convened for special projects.

It was noted that consciousness raising and promotion were the keys to encouraging both council and developer contributions to support the inclusion of art and design in new developments.

The committee heard of examples in Queensland and Western Australia, where 2% of budget is allocated to Public Art and Design - Wagga and North Sydney Council also have similar allocations.

A public Art Database and Slide Register has been compiled. It was noted that this was specifically for Public Art professionals or those interested in Public and Place making projects.

It was suggested that this should be expanded to include Tweed Visual Arts and Crafts People and that this database should be promoted.

A Cultural Trail needs to be developed to help promote existing cultural and Public Art assets.

Reports from Sub-Committees

It was noted that FANTAST youth mural project needs to be acknowledged by both council and the community.

Moved by Cr. Boyd.

Seconded by Cr. Carroll

RECOMMENDATION:

That Council writes a letter acknowledging and congratulating FANTAST for the excellent contribution they have made to Public Art in the Tweed.

4. State of the Arts 2000 - Far North Coast Regional Arts Forum

The committee were advised that:

- Michael Goss from the NSW Ministry was unable to attend.
 - The Northern Rivers Writers Centre was now to be included
 - Entertainment and creative inclusions/suggestions include:
 - Northern Rivers Symphony Orchestra. It was noted that the fee for the full orchestra would be \$700, and that the Orchestra has offered a string quartet/ensemble for free.
 - The committee agreed that the fee for Forum Registration could be lifted by \$5 to accommodate the \$700 Orchestra fee.
 - The Bungulung elders and Dancers had been invited to open the Forum
 - Kingscliff Aboriginal Youth Dancers had also shown an interest in dancing
 - The Philharmonic Choir was also to perform
 - The Tweed Valley Arts Council were also presenting a Saturday evening production, "An evening with Noel and Gertie". Delegates were to be given free tickets to the performance. The Tweed Valley Arts Council and Tweed Arts Network would also contribute to the cost of dinner for the delegates.
-

5. Publicity and promotions:

Media Release to all regional media outlets: Community Arts Network (NSW & Qld); Ministry Bulletin; Regional Council's; NORPA; Southern Cross Uni; Regional Arts NSW publication; LGSA Website and email database; Cultural/Arts database; TAN newsletter; TVAC newsletter; CPM newsletter.

ABC Radio - Arts Today

Weekend Review

ABC Arts on Sunday

Reports from Sub-Committees

NEXT MEETING: 3.30PM THURSDAY 16 MARCH 2000 IN ROUS ROOM

Director's Comment: Recommend that Council adopts resolution under Item 3.

Reports from Sub-Committees

MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

2. Minutes of the Public Transport Committee Meeting held Tuesday, 21 March 2000

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 Brinsmead, Cr Marshall and Cr Youngblutt**

Proposed Six (6) Lot Subdivision, Associated Road and Infrastructure as Staged Development Based on a Masterplan for Future Tourist Resort Complex at Lots 194, 301 and 312 DP 755701 Coast Road, South Kingscliff

Kings Beach Dev, DA1180/10 Pt3, Notice of Motion

That Council resolution at Minute No 1479 in relation to Item 3 of the Meeting held 5 April 2000 being:-

".....that that this item be deferred until after the re-exhibition period of the Draft Section 94 Contribution Plan No. 25."

be rescinded.

2. **Notice of Rescission - Cr Brinsmead, Cr Marshall and Cr Youngblutt**

Finalisation of Draft Section 94 Contributions Plans No. 25 and Draft Strategic Planning Policies - Kings Beach North

Kings Beach Devel., Section 94 Plans, GT1/S94/25, Notice of Motion

That Council resolution at Minute No 1475 in relation to Addendum Item 13a of the Meeting held 5 April 2000 being:-

".....that:-

A. *Council re-exhibits Draft Section 94 Contribution Plan No. 25 with the following alterations:-*

1. *In lieu of requiring the dedication of 3.2ha of Coastal Open Space to public ownership, financial contributions be required from Lenen Pty Ltd (in relation to the development of lots 312, 301 and 194) based on the State Valuation Office valuations of 1.8ha of land zoned 7(f) Environmental Protection and 1.4ha of land zoned 2(t) Tourism.*

2. *That in addition embellishment costs of that 3.2ha at \$120,000 per hectare be provided.*

B. *The Director Development Services be delegated to amend the text of the Draft Section 94 Contribution Plan No. 25 to effect Part A of this resolution.*

be rescinded.

Orders of the Day

3. Notice of Rescission - Cr Beck, Cr Youngblutt and Cr Luff

Staffing - Contract Senior Strategic Planner

Strategic Planning Program, Notice of Motion

That Council resolution at Minute No 1520 in relation to Item 3 Orders of the Day of the Meeting held 5 April 2000 being:-

".....that:-

- 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."*

be rescinded.

4. Notice of Motion - Cr Polglase

Kingscliff Sewage Treatment Plant

Sewerage Treatment - Kingscliff, Notice of Motion

That council offers to enter into a legal agreement with Gales Holdings to further explore the ultimate relocation of the Kingscliff Sewage Treatment Plant to an alternative site conditional upon:

- 1. Gales Holdings securing a suitable alternative site and all necessary approvals for the construction of a 50,000 person sewage treatment plant.*
 - 2. The agreement being subject to Gales Holdings providing a \$5M security up front (held in interest bearing trust), being the cost difference identified in the Consultant's report. The agreement to allow sufficient flexibility to recover any increased costs that may be incurred.*
-

5. Notice of Rescission - Cr Luff, Cr Marshall and Cr Youngblutt

Council Meetings

Orders of the Day

Council Meetings, Notice of Motion

That Council resolution at Minute No 1472 in relation to Item 2 of the Meeting held 5 April 2000 being:-

".....that Council Policy No C2.17.2 "Ordinary Council Meetings - Time and Place", be changed to read:-

- 1. "The ordinary meetings of Council are held in the Council Chambers, Civic and Cultural Centre, Tumbulgum Road, Murwillumbah, on the first and third Wednesday of each month commencing at 2.00pm to 10.30pm with a meal break between 6.30pm and 7.30pm.*
- 2. Community Access to be held on the second Wednesday of each month between 4.30pm and 6.30pm.*
- 3. Ordinary meetings of Council may be held at other venues as determined by Council"*

(The change embodied in the above is to change the commencing time from 4.00pm to 2.00pm)

be rescinded.

6. Notice of Motion - Cr Marshall

Signage - The Anchorage, Tweed Heads

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

"That:-

- 1. Signs be erected under section 632 of the Local Government Act 1993 at both ends of the timber walkways on The Anchorage Estate, Tweed Heads for the following:*
 - No Skateboards*
 - No Bicycles*
 - No Rollerblades*
 - Dogs must be kept on a leash*
- 2. Signs be erected at the four main entry points to The Anchorage Estate, Tweed Heads for the following:-*

Dog Control

- Dogs must be kept on a leash*
- Owners to collect faeces*

Orders of the Day

Penalties Apply”
