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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.

5 APRIL 2000

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

3 MAY 2000

ORDERS OF THE DAY

**4. Notice of Motion - Cr Luff
Community Service Programs**

Government Grant - Community Options, Disabled Matters

1622

Cr Luff

Cr Marshall

RESOLVED that Council officers bring forward a report outlining programs Council manages or participates in, for which Federal or State funds are given to Council expressly so it may provide, or assist in providing, some service or benefit to people in Tweed Shire. The report is to focus on community programs related to public transport; support for those who are disabled, disadvantaged or isolated; recreation, fitness or culture; training, education or employment; or safety.

Current Status: Information from various units is being collated for the report.

17 MAY 2000

MAYORAL MINUTE

4. Citizenship Ceremonies

Citizenship

1639

Cr Polglase

Cr Marshall

RESOLVED that Council defers this item to allow the Ministers Fraternal to meet and consider supplying the bibles for citizenship ceremonies at no cost to Council.

Current Status: Awaiting response from the Ministers' Fraternal.

Schedule of Outstanding Resolutions

21 JUNE 2000

NOTICE OF MOTION

- 3. Local Environmental Plan Revision Advisory Committee**
LEP, Notice of Motion - Cr Brinsmead

1810

Cr Brinsmead

Cr Youngblutt

RESOLVED that:-

- 1 Council forms a Local Environmental Plan Advisory Committee (comprising 1 Councillor (Chairperson), the Director Development Services or his representative, 1 person appointed by the Rural Industries, 1 person appointed by TEDC, 1 Planning Consultant from the private sector, 1 person from an Environmental group, and 1 person from a local business organisation) to immediately proceed with a review of the Local Environmental Plan in respect to all Rural land and all Environmental Protection zones and that the Director Development Services may make suggestions to include further community representation in this group as the need may arise;
- 2 The Director Development Services reports to Council regarding the review within six months.

Current Status: Report being prepared.

7 JULY 2000

ORDERS OF THE DAY

- 2. Murwillumbah Main Street Project**
Streetscaping - Murwillumbah, Notice of Motion

44

Cr Lawrie

Cr Carroll

RESOLVED that a report be brought forward on the possibility of providing temporary/permanent shade structures and stencil-crete on the expanded pedestrian areas constructed as part of the Murwillumbah Main Street Project.

Current Status: Concept being prepared prior to consultation with the Murwillumbah Chamber of Commerce.

Schedule of Outstanding Resolutions

19 JULY 2000

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

3. **Proposed Consolidation and Boundary Reconfiguration of Lots 5 - 9 Section 4 DP 9025 and Lot 1 DP 779976 Gray Street, Tweed Heads West**

DA2300/150 Pt1

53

Cr Polglase

Cr Marshall

RESOLVED that this item be deferred to enable the applicant to address the next Community Access Meeting on Wednesday, 9 August 2000.

Current Status: Report to Council Meeting 16 August 2000.

4. **Strategic Planning Work Program**

Strategic Planning Program

55

Cr Marshall

Cr Youngblutt

RESOLVED that Council requests the General Manager to:-

1. Immediately initiate the employment of a full-time Strategic Planner on a three (3) year contract.
2. Report on opportunities for applicant's funding, offsetting the costs of this employment.

Current Status: To be finalised.

ORDERS OF THE DAY

2. **Markets - Sale of Food and Drinks**

Markets - General, Notices of Rescission

71

Cr Polglase

Cr Luff

RESOLVED that Council:-

1. Considers reviewing its policy on Vending of Food on Public Reserves, Streets and Roads, as it applies to markets.
2. Calls for a report on options with a view to placing proposals on public exhibition for comment.

Schedule of Outstanding Resolutions

Current Status: To be finalised.

Schedule of Outstanding Resolutions

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Items Deferred

ITEM DEFERRED FROM MEETING 17 MAY 2000

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

DA2920/121 Pt4

1646

Cr Brinsmead

Cr Lawrie

RESOLVED that this item be deferred to enable the applicant to submit an amended development application.

This item (and the following item) is the subject of a further report at Item 1 of this Business Paper

1. **ORIGIN: Development Control Unit**

FILE REF: DA2920/121 Pt4

REPORT TITLE:

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

SUMMARY OF REPORT:

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

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

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

Items Deferred

RECOMMENDATION:

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

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

Items Deferred

REPORT:

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

BACKGROUND

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

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

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

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

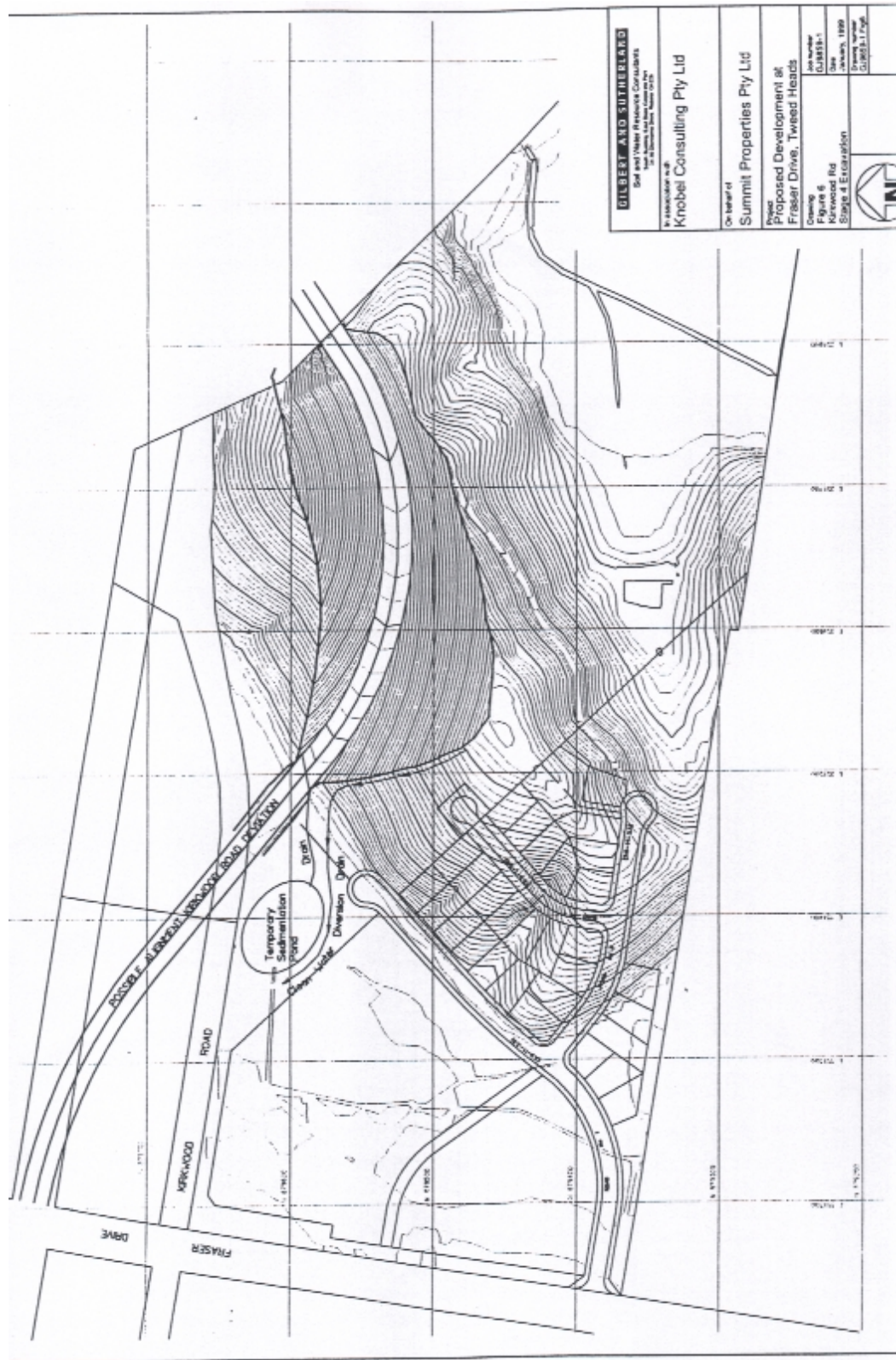
Items Deferred

FIGURE 1



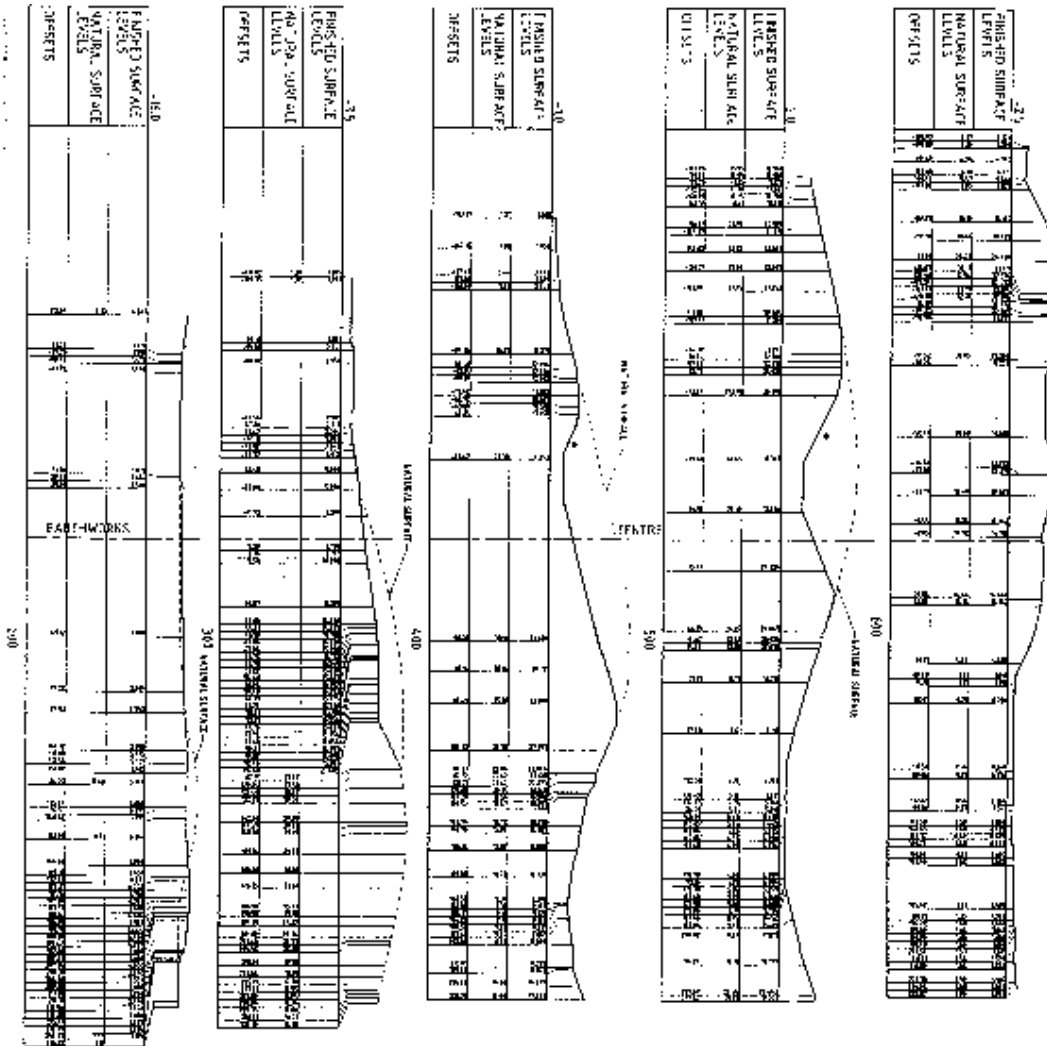
Items Deferred

FIGURE 2



Items Deferred

FIGURE 3



(3)

CD
 Consulting Engineers
 4 TITHE

CONDRIE & DODD
 CONSULTING ENGINEERS
 4 TITHE

BLUMMIT PROPERTIES (AUSTRALIA) PTY LTD
 177 TWEED STREET
 TWEED HEADS
 QUEENSLAND 289172

DATE: 28/07/00
 DRAWN: [Name]
 CHECKED: [Name]

1:1000

Items Deferred

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

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

EVALUATION

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

(a) (i) Any Environmental Planning Instrument

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

"means:

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

Earthworks is defined as:-

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

(ii) Any Draft Environmental Planning Instrument

No draft LEP's apply to the site.

(iii) Any Development Control Plan (DCPs)

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

(iv) The Regulations

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

Items Deferred

(b) **Environmental Impact**

Natural Environment

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

Soil Erosion/Water Quality

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

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

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

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

Flora and Fauna

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

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

Items Deferred

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

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

Scenic Impact

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

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

Measures have been implemented to minimise the visual effects of the development. The earthworks cutting has been designed to maintain the crest of the hill at the Highway frontage of the site at a level of approximately RL 38m which represents a reduction of approximately 2m from its current height. The existing southern extent of the hill has an approximate height of 39m which will be reduced to approximately 32m. In between these two points the cutting for the road alignment will reduce to approximately 8m RL. This will result in a "valley" or V shaped cut being created in

Items Deferred

between the current northern and southern extent of the hill crest. Retaining the height of the hill at its northern and southern extent will somewhat maintain the break in visual topography currently offered by the hill. Additionally, the excavated area is to be landscaped in stages which, in the long term will rehabilitate the site.

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

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

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

Built Environment

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

Noise

The applicant has submitted amended noise details which re-designs the work methodology and extraction plans. The amended noise details require extraction to commence at the southern end of the extraction zone with stockpiling to occur south

Items Deferred

west of this area. The amended details specify that the direction of excavation is to proceed towards the north ensuring that an adequate bench height is maintained so that the top of excavation material is well screened from residential properties to the north.

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

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

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

Truck Movements

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

The impact of the truck movements can be minimised by the use of private internal haul routes and therefore avoiding the use of Council roads apart from for a short distance in the Enterprise Avenue/Traders Way area. This area is generally used for commerce and trade uses and does not contain any residential uses. This course of action will maximise the separation of truck movements from surrounding residential properties thereby minimising the impact from the truck movements.

Items Deferred

Amenity

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

(c) **Suitability of the Site**

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

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

Public Authority Comments

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

Public Submissions

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

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

Noise

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

Items Deferred

Comments

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

Dust

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

Comments

The Environmental Impact Statement contains an Environmental Management Plan for the extraction of the material from the property. Section 3.3 specifically relates to dust management, where it is stated that the objective is to achieve acceptable air quality standards with the control of dust movement off-site during site works. The management measures to achieve this objective include no clearing occurring in situations of high winds, bunding and reshaped areas are to be revegetated in accordance with Council’s requirements, stock piling will be minimised on-site, any dry stock piles will be reduced to a maximum height of 2.5 metres and sprayed with water regularly, the whole road, once complete, is to be sealed to minimise dust, an on-site water cart will be available at all times, and all loads leaving the site will be covered. They state that temporary dust deposition gauges will be established to monitor the movement of dust off-site, with one of these gauges being located in the south west corner of the Palms Village, with the monitoring being undertaken in accordance with Australian Standards 2724.1.

The Environment Protection Authority has also addressed this issue in their suggested general terms of approval. Their terms of approval include requirements that activities

Items Deferred

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

Impact of Trucks on Dry Dock Road and Fraser Drive

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

Comments

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

Vibration from Blasting and Extraction Activities

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

Comments

It is stated in the application that blasting will only occur when hard material is encountered. The Environmental Impact Statement provides that the hill area generally consists of a topsoil layer over a weathered basalt cap. It states that extremely weak to strong basalt is encountered in an around the top of the hill from a depth of 0.25 metres to 13 metres, and that on an elevation basis it would appear that the basalt caps down around RL 28 metres AHD. It is stated that the basalt increases in strength with depth and is highly fractured. Below the basalt cap is a weak argillite which is generally fractured and increasing in strength with depth.

Items Deferred

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

Flora and Fauna

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

Comments

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

Hill Screens Highway Noise

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

Comments

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

Intent of Excavation/Drainage

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

Comments

The subject application mentions the filling of residential land on the site, however it should be noted that this subdivision has already been approved by Council, and part of

Items Deferred

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

Property Values

Comments

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

(e) The Public Interest

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

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

SUMMARY

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

The Noise Report submitted with the application indicates that noise levels from the extraction can be maintained within five decibels above the background noise level, which is the commonly accepted standard used by the Environment Protection Authority to determine acceptability of noise levels. However, it is recognised that some noise increase will occur.

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

Items Deferred

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

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

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

OPTIONS

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

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

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

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

Items Deferred

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Items Deferred

ITEM DEFERRED FROM MEETING 5 JULY 2000

7. *Development Application K99/957 for Earthworks at Lot 9 and 10 DP 822830 Kirkwood Road, Tweed Heads South*

DA2920/121 Pt4

10

Cr Lawrie

Cr Marshall

RESOLVED that Development Application K99/957 for an extractive industry at Lots 9 and 10 DP 822830 and Part Lot 1 DP 823460 Kirkwood Road, Tweed Heads South be deferred to the next meeting of Council.

This item (and the previous item) is the subject of a further report at Item 1 of this Business Paper

7. **ORIGIN: Development Control Unit**

FILE REF: DA2920/121 Pt4

REPORT TITLE:

Development Application K99/957 for Earthworks at Lot 9 and 10 DP 822830 Kirkwood Road, Tweed Heads South

SUMMARY OF REPORT:

This report considers an amended plan submitted by the applicant for development application K99/957 for earthworks at Kirkwood Road, Tweed Heads South. The amended plan proposes to move the northern extent of the proposed cut approximately 20m to the south, away from the neighbouring Palms Village Park. The amended cutting location does not lead to modification of the original assessment and recommendation submitted to Council.

RECOMMENDATION:

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

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

Items Deferred

REPORT:

Applicant: **Summit Properties**

Owner: **Summit Properties**

Location: **Lots 9 and 10 DP 822830 and Lot 1 DP 823460 Kirkwood Road, Tweed Heads South**

Zoning: **6(b) Recreation and 2(e) Residential Tourist**

BACKGROUND

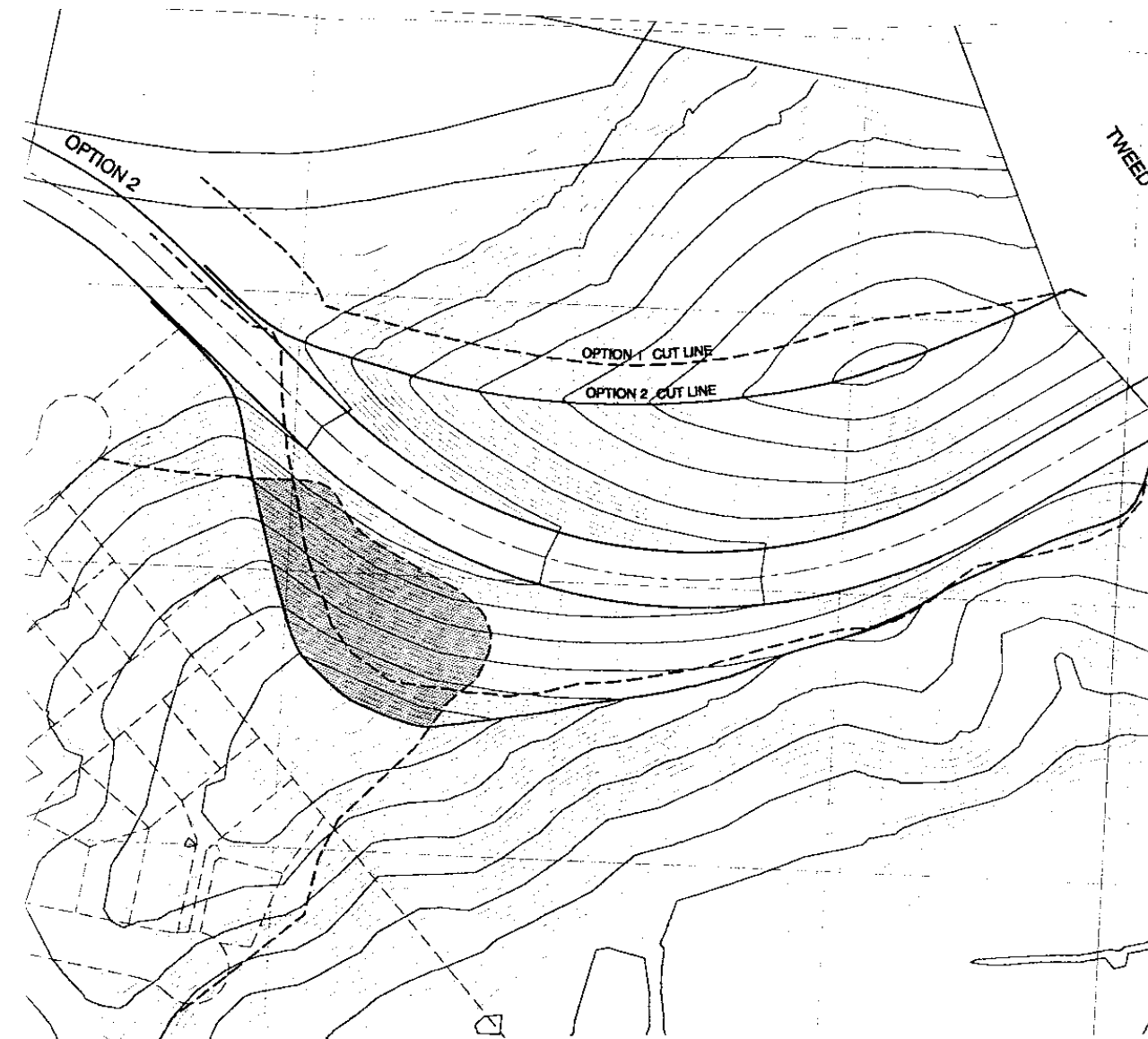
A report was considered by Council on 17 May 2000 regarding development application K99/957 for earthworks at the above property for creation of a road corridor for Kirkwood Road. A copy of this report submitted to the meeting of 7 May 2000 is contained in the “deferred items” section of this business paper.

With regard to the previous report Council resolved that this item be deferred to enable the applicant to submit an amended development application.

The applicant has submitted amended details encompassing a minor shift of the road cutting to the south. The amended cutting area is shown in the diagram below with Option 1 being the option originally considered in the development application and report and Option 2 cut line being the amended cut area the subject of this report.

Items Deferred

SITE DIAGRAM



As can be seen from the diagram the amended application involves moving the cut location on the northern extent by approximately 20m to the south. There will only be a minor alteration to the location of the cutting on the southern extent of the original cut line. The applicant submits that the advantage of the proposed new alignment is that the ridgeline is not lowered, the cutting area is moved southward and the effect on the approved adjoining residential subdivision is minimal. It is submitted that the alterations to the plan were made as a result of a meeting held with adjoining owners located within the Palms Village home park.

It is considered that the amendments to the cut area are insignificant and do not require a review of the assessment conducted on the original proposal, with the only comments requiring amendment would be the proposal now retains an additional 2m of height on the northern extremity of the cut thereby retaining the crest height of the existing hill adjoining the Tweed Bypass.

Items Deferred

Council's Engineering Services Division have advised that the amended alignment is adequate, and if approval is granted conditions of consent relating to the dedication of the road alignment would be applicable.

SUBMISSIONS

Due to the minor change involved in the cut location the application was not readvertised. However, numerous additional objections to the quarry have been received. Approximately 200 submissions were received by 26/6/00. The submissions are generally in petition format with standard letters being submitted objecting to noise and dust. Approximately 5 individual letters of objection were submitted also objecting on the grounds of noise and dust and the impact the development will have on the lifestyle of adjoining residents.

The submissions do not raise any issues which were not previously addressed in the report submitted to Council on 17 May 2000.

CONCLUSION

It is considered that the amended plans represent only a minor alteration to the cut area. Whilst it is recognised that the amended cut line will maintain the crest of the hill at the current height rather than lowering the crest by 2m, and will move the northern cut line by approximately 20m to the south, the overall impact of the proposed development will remain relatively unchanged. It is considered that the original assessment presented to Council on 17 May 2000 does not require alteration as a result of the amended plans.

On this basis, it is considered that no justification exists to amend the original recommendation.

Items Deferred

ITEM DEFERRED FROM MEETING 21 JUNE 2000

4. *Development Application K00/389 for Eleven (11) Swing Moorings at Lot 268 DP 865924 (The Anchorage Harbour), Mariners Drive East, Tweed Heads*

DA3346/40 Pt1

1815

Cr Luff

Cr Marshall

RESOLVED that this item be deferred on the request of the applicant.

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

4. ORIGIN: Development Control Unit

FILE REF: DA3346/40 Pt1

REPORT TITLE:

Development Application K00/389 for Eleven (11) Swing Moorings at Lot 268 DP 865924 (The Anchorage Harbour), Mariners Drive East, Tweed Heads

SUMMARY OF REPORT:

This report considers an application for approval of 11 swing moorings within the Anchorage Harbour, Tweed Heads. The moorings are currently in existence at the site. The application was advertised and objections were received. On merit it is considered that the proposal to retain the moorings is not acceptable due to the lack of land based facilities, and it is recommend that the application be refused.

RECOMMENDATION:

That:-

A. Development application K00/389 for 11 swing moorings at Lot 268 DP 865924 The Anchorage, Tweed Heads be refused for the following reasons:-

1. The proposal is considered to be inconsistent with Clause 13 of Tweed Local Environmental Plan 2000 as it has not been established that the development is compatible with adjoining development in the vicinity due to the lack of land based facilities.
2. The proposal does not satisfy the objectives of Development Control Plan No. 2 which include "provision of sufficient off street car parking facilities to satisfy demands of residents, staff, servicing, loading and unloading" as no off street parking is available for this proposal.
3. The development is likely to have an adverse effect on the amenity of the area due to the lack of land based facilities including parking, loading areas and launching areas for vessels used to access the swing moorings.

Items Deferred

4. The proposal is not in the public interest.
- B. The Moorings be removed with twenty-eight (28) days.

Items Deferred

REPORT:

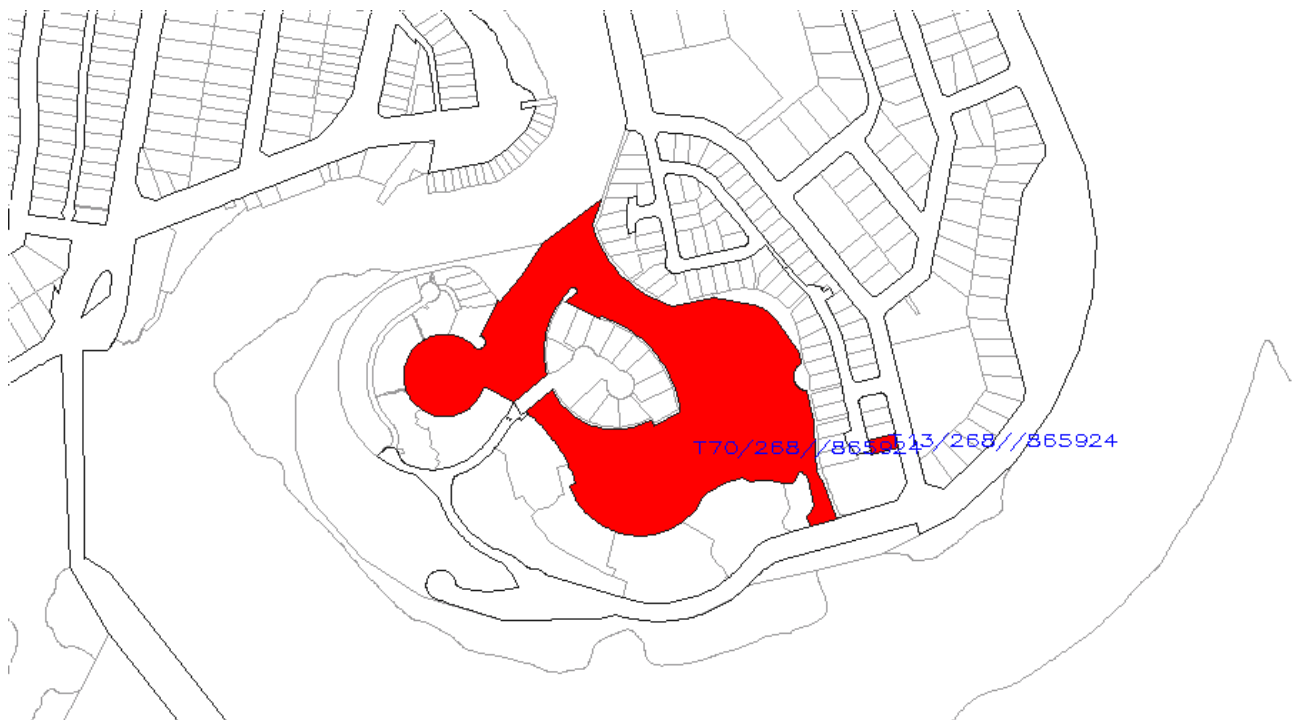
Applicant: B & P Surveys
Owner: Tweed Shire Council
Location: Lot 268 DP 865924 Mariners Drive East, Tweed Heads
Zoning: Uncoloured Land
Est. Cost: \$8,250

BACKGROUND

Approval is sought for 11 swing moorings located within the Anchorage Harbour (Lot 268 DP 865924) Mariners Drive East, Tweed Heads. The moorings currently exist within the harbour and have done for many years, however no formal approval has been granted for this use of the harbour.

This application seeks to legalise the existing situation within the harbour.

SITE DIAGRAM



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**

Tweed Local Environmental Plan 2000 (TLEP 2000)

The Anchorage Harbour is unzoned according to the provisions of TLEP 2000.

Items Deferred

Clause 13 of the LEP applies, which requires the following matters to be considered:

- “(a) whether the proposed development is compatible with development permissible in the adjoining zone and the character and use of existing development in the vicinity, and*
- (b) in the case of unzoned land that is below the mean high-water mark of the ocean or an estuary, bay, lake or river:*
 - (i) whether or not the proposed development would alienate the use of the waters of the ocean, estuary, bay, lake or river from recreational uses or from commercial fishing and, if so, whether there is sufficient area in the locality for those uses to mitigate the adverse effect of the proposed development on those uses, and*
 - (ii) the provisions of any coastal, estuary or river plan of management in force from time to time that applies to the unzoned land or land in the vicinity, and*
 - (iii) any impact the proposed development may have on the natural environment.”*

The surrounding land is primarily subject to residential and open space zonings and is developed for residential purposes. The proposed development for the mooring of boats may or may not be compatible with the surrounding development, depending upon how the mooring facilities are managed and accessed. These issues will be discussed under the following sections of the report.

The proposal involves the private use of a waterway however it is considered that the use will not substantially alienate public use of the area. Navigational passages will not be adversely affected and the proposal is not likely to have an adverse effect on the environment. These issues will be discussed in more detail in the following sections of this report.

(ii) Any Draft Environmental Planning Instrument

No draft Environmental Planning Instruments apply.

(iii) Any Development Control Plans (DCPs)

DCP2 - Site Access and Parking Code

DCP 2 requires the provision of parking for a “marina” at a rate of 0.5 customers parking spaces per mooring.

A marina is defined under TLEP 2000 as “*a pontoon, jetty, pier or similar structure, designed or adapted to provide moorings primarily for boats used for pleasure or recreation, and includes ancillary works such as a slipway and facilities for the provision of fuel, accessories and parts for boats.*” The proposed development clearly meets the requirements of the first part of the definition however, no “ancillary works” are proposed as required by the definition of “marina”. As such the DCP2 requirements

Items Deferred

relating to marina can only be used as a guide in assessing the adequacy of parking. Council should have regard to the objectives of DCP2.

According to DCP2, a total of 5.5 car parking spaces would be required for the proposed swing moorings. The applicant has not proposed to provide any parking for the development and submits that it is proposed to utilise existing public car parking along Keith Compton drive.

Access to the water is not gained directly from Keith Compton Drive, and is gained via public reserves accessible from Quayside Court and Navigators Way. The roads within this subdivision are relatively narrow and do not have ample room for parking.

The proposal does not comply with the objectives of DCP2 and is not considered acceptable in terms of parking provision.

(iv) The Regulations

NSW Coastal Policy

The proposal is affected by the Coastal Policy. Principles within the policy relating to public access to the waterway and foreshore areas would apply.

The proposal will not restrict access to the foreshore, provided that dinghy's or boats used to access vessels moored at the swing moorings are not permanently moored on the public reserve surrounding the waterway.

(b) Environmental Impact

The swing moorings are currently in existence and as such no adverse environmental concerns regarding installation are warranted. Potential for adverse impacts arise from mechanical work on the boats and from people residing on the vessels. Should any approval be granted for the moorings conditions should be imposed preventing mechanical work or people residing on the boats.

(c) Suitability of the Site

The main concern with the proposal is that the site does not have access to any land based facilities normally required for the mooring of boats. The site may not be suitable for the proposed boat mooring due to the lack of services such as parking, toilets and areas for the launching of dinghy's to access the boats anchorage to the swing moorings. This issue was the primary concern raised in objections lodged during the exhibition period.

In response to these issues the applicant has provided advise that vehicles used to access the swing moorings generally park on Keith Compton Drive and that it is unlikely that all boats would be in use at the one time and hence parking requirements will be less than 11 spaces with ample kerbside parking being available.

The applicant states that *"the boat is picked up from the swing mooring by the owner. It is then moved to a public marina where it refuels and collects passengers. The boat then spends a day or longer out "on the water" before returning via the marina to the*

Items Deferred

swing moorings". It is also stated that access to the boat is gained through the network of paths and pathways surrounding the harbour.

The pathway network within the Anchorage has not been designed for boat launching and is generally of a passive recreation nature comprising landscaping, seating and walkways. No nearby boat launching facilities exists and as such access to the swing moorings are likely to continue being through the Anchorage open space network.

It is considered that inadequate land based facilities exist for the moorings and on this basis the site is not considered suitable for the swing moorings.

(d) Submissions

The application was advertised and a total of 5 public submissions were received. One submission raised no objection to the existing moorings and the other submissions objected to the proposal on the following grounds:

* Parking

Objections were raised regarding the lack of parking.

This issue has been discussed under the section of this report relating to Development Control Plan No. 2, where it was concluded that the proposal does not comply with parking objectives and that inadequate parking facilities are available.

* Dinghy's Parked on Beaches

The objectors have stated that resident opposition exists to dinghy's being parked on beaches, with Council previously being involved in attempting to have these dinghy's removed.

The parking of dinghy's on the beaches would clearly have an adverse impact on the use of the public reserve area. It would result in the isolation of this area from public use. It is considered that the parking of dinghy's on the beach for use in accessing the moorings is unacceptable.

* Leasing arrangements

It is stated that the lease agreement should be available for Councillors and ratepayers to satisfy themselves that there is a commercial financial return to the Shire.

The harbour is currently leased from Council by Lendlease Residential. Lendlease have previously been issued approval from Council to issue subleases within the harbour. This resolution was specifically made to facilitate the installation of pontoons for boat moorings.

* Rock walls

The objectors raise concerns regarding the state of the rock walls surrounding the harbour and request that further use of the area by boats will accelerate the subsidence and erosion.

Items Deferred

It is considered that the position of the 11 swing moorings is unlikely to cause a substantive increase in boat movement within the harbour. The boats are generally used on an infrequent basis, and must adhere to general navigational rules.

* Incorrect information

It is submitted that an additional 6 moorings were installed in 1988 and that only 5 moorings were present until this time.

Council does not appear to have any record of when the moorings were installed and the applicant states that they were installed in the early 1980's.

Public Authority Submissions

The application was referred to NSW Fisheries, Department of Land and Water Conservation and the Waterways Authority.

NSW Fisheries and DLWC did not raise any objection to the proposal.

The Waterways Authority advised that the mooring layout and spacing allow the general public and commercial vessel navigational access through the area. They advise that they raise no objections to the moorings but would resist any further moorings for navigational reasons.

The advise that two issues that the Authority has had problems with is "liveaboards" and boat maintenance and they advise that neither activity should be permitted.

They also advised that Council should investigate where dinghy's to access the vessel would be launched on the foreshore in this sensitive area.

(e) The Public Interest

Issues relating to the public interest have been addressed throughout this report.

In summary, it is considered that the development is not in the interests of the general public due to the lack of land based facilities such as parking, and boat launching areas. On this basis the proposal is likely to cause conflict with the use of the area by the general public.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

Should the applicant be dissatisfied with the outcome of the application a right of appeal to the Land and Environment Court would exist.

OPTIONS

Council has 3 main options available.

1. Approve the application as submitted.
2. Approve the application with stringent conditions regarding the use of the moorings and access.

Items Deferred

3. Refuse the application due to the adverse effect on the public and the area due to lack of land based facilities to service the proposed moorings.

CONCLUSION

In conclusion it is considered that the moorings would have an unacceptable impact as inadequate land based facilities exists for their use. No parking is available and no formal launching area for dinghy's to access the mooring is available. It is recommended that the application be refused due to the inadequacy of the land based facilities and the adverse impact that use of the moorings would cause.

Items Deferred

ITEM DEFERRED FROM MEETING 19 JULY 2000

24. Joey's Pouch Educational Childcare Centre

PF5840/9010 Pt2, Pre school – Joey's Pouch

84

Cr Davidson

Cr Marshall

RESOLVED that this item be deferred to the next Council meeting for further investigation.

24. ORIGIN: Environment & Health Services Unit

FILE REF: PF5840/9010 Pt2, Pre school – Joey's Pouch

REPORT TITLE:

Joey's Pouch Educational Childcare Centre

SUMMARY OF REPORT:

Council is advised that the above premises which is owned by Council, built by a Commonwealth Government Grant, and managed by a community committee, has extensive problems with white ant attack.

RECOMMENDATION:

That Council:-

1. Commits to the expenditure of \$15,000 for repairs and white ant prevention treatment to Joey's Pouch building.
2. Such funds to be provide from the first budget review.

Items Deferred

REPORT:

Council is advised that the above premises, which is owned by Council, built by a Commonwealth Government Grant, and managed by a community committee, has extensive problems with white ant attack.

The current situation is that repair works including the replacement of walls in kitchen, pantry, office and stove areas have been undertaken and additional works are ongoing as further damaged walls and nests are discovered.

The Committee has expended all their available funds and most of a \$20,000 grant fund they were given for the replacement of the white ant damaged timbers and provision of external barrier treatments.

As these further works are required to ensure the structural stability of the building, being a Council asset, it is considered that they should be completed. The contractor currently engaged estimates that a maximum of \$10,000 will be required.

In addition, it would appear that further works around the perimeter of the building are still required to ensure future protection of the structural integrity of the building when the current repair works are completed. Quotes for these works would need to be obtained but are estimated to be \$5,000.

Accordingly, it is recommended that such funding be provided from their next budget review.

There are no funds in the current budget for these items.

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 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; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

Reports from Director Development Services

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Reports from Director Development Services

1. ORIGIN: Development Control Unit

FILE REF: DA2920/121 Pt4

REPORT TITLE:

Development Application K99/957 for Earthworks at Lot 9 and 10 DP 822830 Kirkwood Road, Tweed Heads South

SUMMARY OF REPORT:

This report considers an amended plan submitted by the applicant for development application K99/957 for earthworks at Kirkwood Road, Tweed Heads South. The amended plan proposes to move the northern extent of the proposed cut approximately 20m to the south, away from the neighbouring Palms Village Park. The amended cutting location does not lead to modification of the original recommendation submitted to Council on 17 May 2000.

This report must be read in conjunction with the reports of 5 July 2000 and 17 May 2000 which are Items Deferred in this Business Paper.

Council considered a further report in relation to this matter on 19 July 2000, and it resolved as follows:-

“that Council considers the overall road network to be an important issue and the Director Development Services bring forward conditions of approval for consideration by Council, in the event of Council approving the application.”

RECOMMENDATION:

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

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

Reports from Director Development Services

REPORT:

Applicant: Summit Properties

Owner: Summit Properties

Location: Lots 9 and 10 DP 822830 and Lot 1 DP 823460 Kirkwood Road, Tweed Heads South

Zoning: 6(b) Recreation and 2(e) Residential Tourist

BACKGROUND

Council considered a report in relation to this matter on 19 July 2000, and it resolved as follows:-

“that Council considers the overall road network to be an important issue and the Director Development Services bring forward conditions of approval for consideration by Council, in the event of Council approving the application.”

In the event that Council resolves to approve this application, draft conditions of approval are included in the “Options” section of this report.

Council originally resolved on 17 May 2000 that this item be deferred to enable the applicant to submit an amended development application.

The applicant has submitted amended details encompassing a limited realignment of the road cutting to the south. The amended cutting area is shown in the diagram below with Option 1 being the option originally considered in the development application and report and Option 2 cut line being the amended cut area the subject of this report.

This report and recommendation must be considered in conjunction with the previous reports to Council of 17 May 2000 and 5 July 2000 which are Items Deferred in this Business Paper.

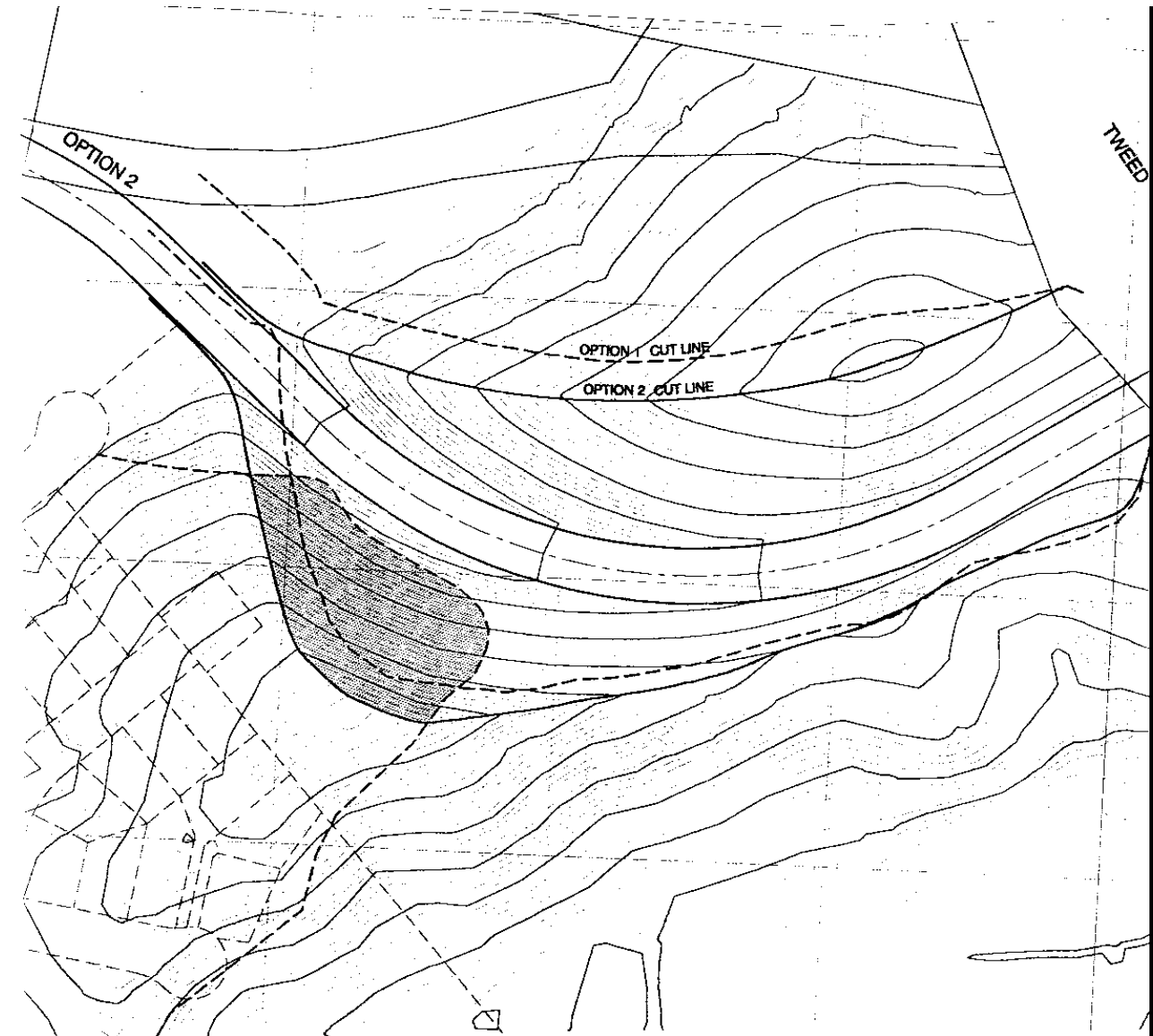
Reports from Director Development Services

FIGURE 1 – SITE DIAGRAM



Reports from Director Development Services

FIGURE 2 – EARTHWORKS AREA



As can be seen from the diagram the amended application involves moving the cut location on the northern extent by approximately 20m to the south. There will only be a minor alteration to the location of the cutting on the southern extent of the original cut line. The applicant submits that the advantage of the proposed new alignment is that the ridgeline is not lowered, the cutting area is moved southward and the effect on the approved adjoining residential subdivision is minimal. It is submitted that the alterations to the plan were made as a result of a meeting held with adjoining owners located within the Palms Village home park.

It is considered that the amendments to the cut area are insignificant and do not require a review of the assessment conducted on the original proposal, with the only comments requiring amendment would be the proposal now retains an additional 2m of height on the northern extremity of the cut thereby retaining the crest height of the existing hill adjoining the Tweed Bypass.

Reports from Director Development Services

Council's Engineering Services Division have advised that the amended alignment is adequate, and if approval is granted conditions of consent relating to the dedication of the road alignment would be applicable.

SUBMISSIONS

Due to the limited extent of change involved in the cut location the application was not readvertised. However, numerous additional objections have been received approximately 200 submissions were received by 26/6/00. The submissions are generally in petition format with standard letters being submitted objecting to noise and dust. Approximately 5 individual letters of objection were submitted also objecting on the grounds of noise and dust and the impact the development will have on the lifestyle of adjoining residents.

The submissions do not raise any issues which were not previously addressed in the report submitted to Council on 17 May 2000.

OPTIONS

The following options are essentially available to Council:-

1. Refuse the application as recommended.
2. Approve the application subject to the following conditions or conditions modified by Council.

IN THE EVENT OF COUNCIL RESOLVING TO ISSUE CONSENT CONDITIONS OF APPROVAL

PRE-REQUISITES - conditions that must be complied with prior to the commencement of work on site

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

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

(ii) GST

- 1.1 In this Clause 1:

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

Reports from Director Development Services

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.

(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 construction certificate or subdivision certificate, whichever occurs first. 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)

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\$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

GENERAL

2. The development shall be completed in general accordance with the Environmental Impact Statement dated July 1999 by Outline Planning Consultants and the additional information submitted on 23 December, 1999 by Outline Planning Consultants including the additional Noise Information by R Heggie dated 8 December 1999 and the Environmental Management Plan dated December 1999, except where varied by these conditions.
3. The proposed development is to be carried out in accordance with the recommendations of the Flora and Fauna Assessment for Proposed Bulk Earthworks, Fraser Drive, Tweed Heads by James Warren and Associates dated January 1999, including the provision of a Conservation and Rehabilitation Zone. The conservation zone is to include vegetation communities to the south and east of the site.
4. Surface water monitoring is to be carried out in an appropriate location for water quality monitoring of wetland areas adjacent to the proposed haul road.
5. The Environmental Management Plan for material extraction is to be amended to include reference to the statutory requirement under Section 90 of the National Parks and Wildlife Service Act, 1974 that it is an offence to knowingly damage or destroy relics without the prior consent of the Director General of the National Parks and Wildlife Service.
6. Erosion and Sediment Control During the Construction Phase of Development
 - (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
 - (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
7. Earthen berms with channel grades in excess of 2% conveying concentrated flows are to be protected with vegetation to prevent scour.
8. i. Excavation works at the site are to cease immediately upon registration of the linen plan for the subdivision approved by virtue of Development Consent K98/11 on Lot 9 DP

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- 822830 and Lot 1 DP 823640 Kirkwood Road/Fraser Drive, Tweed Heads South. Rehabilitation of the site is to commence prior to or immediately upon registration of this subdivision plan and is to be completed within 6 months of registration.
- ii. Extraction at the site is to cease 4 years from the date of commencement. Council is to be notified in writing of the commencement dated within 4 weeks of work commencing. Registration of the site is to commence immediately and is to be completed within 6 months.
9. All vehicles used in the process of hauling materials from the site are to be fitted with fully operating and effective exhaust and silencer systems.
 10. The name, address and contact phone numbers of the contractor and site manager are to be provided to Council prior to the commencement of each contract stage works of the project.
 11. Separate approval is to be obtained for any site proposed to be filled with material extracted by virtue of this consent.
 12. No fuel storage is to be undertaken on the site without separate Council approval being obtained.
 13. All existing sealed Council roads that form a part of any approved haulage route are to be maintained free from dust and dirt which can be attributed to haulage vehicles leaving the site.
 14. A preliminary acid sulfate soil assessment is to be carried out to ascertain the presence or absence of acid sulfate soils within the area of proposed works where excavation below 5.0m AHD will occur and the assessment submitted to Council for its consideration. Where this assessment ascertains that acid sulfate soils are present, then an acid sulfate soils management plan is to be prepared and submitted to Council for consideration. Such plan is to be prepared in accordance with EPA published guidelines.
 15. If any material of aboriginal/archaeological significance is discovered as a consequence of earthworks, all work is to cease and advice is to be sought from the National Parks and Wildlife Service.
 16. Erosion and sedimentation control details are to be submitted to Council for approval prior to start of works, together with details of responsible engineer. All sediment and erosion control matters are to be to the satisfaction of the Director of Engineering Services.
 17. Adequate provisions are to be made for the removal of refuse/garbage from the site.
 18. Any security flood lighting used on the site is to be shielded so as to prevent nuisance to any adjacent residences.
 19. All haulage roads are to be either sealed or watered as required in accordance with approved Environmental Management Plans (EMPs) for the project. Haul routes for the material is limited to those detailed in the Environmental Impact Statement and no vegetation is to be destroyed by the use of the haul route. No material is to be hauled along Fraser Drive, Dry Dock Road or onto the Pacific Highway.

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20. If material is to be hauled across Fraser Drive, the following is required to be submitted and approved by the Director of Engineering Services prior to any haulage occurring:-
 - a. Traffic Control Plan
 - b. Details on the duration of haulage
 - c. Details of method of removing mud/dirt from Fraser Drive.
21. Within 6 months of completion of the approved earthworks and rehabilitation, the applicant shall at no cost to council dedicate the proposed Kirkwood Road realignment corridor as shown in Council report Figure 2 dated 5 July 2000, or an alternative route as approved by the Director of Engineering Services.

DRAINAGE/FLOODING

22. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in a condition to the satisfaction of the Director of Engineering Services.
23. 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 extraction works.

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

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

ENVIRONMENT PROTECTION

24. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
25. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
26. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
27. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
28. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
29. 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

Reports from Director Development Services

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.

30. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of Council's Director of Engineering Services. Erosion and sedimentation control devices should be installed in accordance with the publication "Managing Urban Stormwater Soils and Construction" prepared by the NSW Department of Housing. All erosion and sedimentation control shall be maintained throughout the period of extraction and rehabilitation.

ENVIRONMENT PROTECTION AUTHORITY (GENERAL TERMS OF APPROVAL)

Information supplied to the EPA

31. Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:
- the development application Development Application K99/957 submitted to Tweed Shire Council on 15 July 1999;
 - Environmental Impact Statement for the "Proposed Earth Works Kirkwood Road Extension" dated July 1999 relating to the development ; and
 - All additional documents supplied to the EPA in relation to the development, including an Environmental Management Plan dated December 1999.

Fit and Proper Person

32. The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act, 1997, having regard to the matters in s.83 of that Act.

Limit Conditions

Pollution of Waters

33. Except as may be expressly provided by a licence under the Protection of the Environment Operations Act, 1997 in relation to the development, section 120 of the Protection of the Environment Operations Act, 1997 must be complied with in and in connection with the carrying out of the development.

Concentration of Limits

34. For each discharge point or utilisation area specified in the table/s below, the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentrations limits specified for that pollutant in the table.

Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.

To avoid any doubt, this condition does not authorise the discharge or emission of any other pollutants.

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Discharge from sedimentation pond			Water and Land		
Pollutant	Units of measure	50% concentration limit	90% concentration limit	3DGM concentration limit	100% concentration limit
NFR	mg/L			-	50
PH					6.5-8.5
Dust deposit gauges			Air		
Pollutant		Units of measure		100% concentration limit	
Dust		g/m ²		2g/m ² per month	

Waste

35. The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act, 1997.

This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act, 1997.

Noise Limits

36. Noise from the premises must not exceed:-

- an L_{A10} (15 minute) noise emission criterion of 56dB(A) (7am to 6pm) Monday to Friday for the first 12 weeks of the project and, from then on:
- an L_{A10} (15 minute) noise emission criterion of 48dB(A), except as expressly provided by these general terms of approval.

Noise from the premises is to be measured at any residence in the Palms Village to determine compliance with this condition.

Definition

37. L_{A10} (15 minute) is the sound pressure level that is exceeded for 10% of the time when measured over a 15 minute period.

Note: Noise measurement

Reports from Director Development Services

For the purpose of noise measures required for these conditions, the L_{A10} noise level must be measured or computed at any point in the Palms Village over a period of 15 minutes using "FAST" response on the sound level meter.

For the purpose of the noise criteria for this condition, 5dBA must be added to the measured level if the noise is substantially tonal or impulsive in character. The location or point of impact can be different for each development, for example, at the closest residential receiver or at the closest boundary of the development. Measurement locations can be:

- 1 metre from the facade of the residence for night time assessment;
 - at the residential boundary;
 - 30 metres from the residence (rural situations) where boundary is more than 30 metres from residence
38. The noise emission limits identified in Condition 36 apply for prevailing meteorological conditions (winds up to 3m/s), except under conditions of temperature inversion. Noise impacts that may be enhanced by temperature inversions must be addressed by:
- documenting noise complaints received to identify any higher level of impacts or patterns of temperature inversions;
 - where levels of noise complaints indicate a higher level of impact then actions to quantify and ameliorate any enhanced impacts under temperature inversion conditions should be developed and implemented.

Hours of Operation

39. All construction work at the premises must only be conducted between Monday to Friday between the hours of 7.00am and 6.00pm.
40. Activities at the premises, other than construction work, may be carried on Saturdays between the hours of 8.00am and 1.00pm.
41. This condition does not apply to the delivery of material outside the hours of operation permitted by condition 45 and 46, if that delivery is required by police or other authorities for safety reasons, and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is to be provided to the EPA and affected residents as soon as possible, or within a reasonable period after the delivery in the case of emergency.
42. The hours of operation specified in Condition 45 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

Blasting

Overpressure

43. The overpressure level from blasting operations on the premises must not:
- Exceed 115dB (Lin Peak) for more than 5% of the total number of blasts over a period of 12 months; and

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- Exceed 120dB (Lin Peak) at any time.

The air blast overpressure values stated above apply when the measurements are performed with equipment having a lower cut-off frequency of 2Hz or less. If the instrumentation has a higher cut off frequency then a correction of 5dB should be assessed to the measured value. Equipment with a lower cut-off frequency exceeding 10Hz should not be used for the purpose of measuring airblast overpressure.

Ground vibration (ppv)

44. Ground vibration peak particle velocity from the blasting operations at the premises must not:
- Exceed 5mm/s for more than 5% of the total number of blasts over a period of 12 months; and
 - Exceed 10mm/s at any time.

when measured at any point within 1 metre of any affected residential boundary or other noise sensitive location such as a school or hospital.

Time of Blasting

45. Blasting operations on the premises may only take place between the hours of 9am and 5pm Monday to Friday.

The hours of operation for blasting operations specified in this condition may be varied if the EPA, having regard to the effect that the proposed variation would have on the amenity of the residents in the locality, gives written consent to the variation.

Frequency of Blasting

46. Blasting at the premises is limited to 1 blast each day on which blasting is permitted.

Operating Conditions

Dust

47. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.
48. Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.
49. An on site water cart will be used at all times to minimise dust.

Stormwater/sediment control

50. The Environmental management Plan (EMP) must be implemented.

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Monitoring and recording conditions

Monitoring records

51. The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act, 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions 52 and 53.
52. All records required to be kept by the licence must be:
 - in a legible form, or in a form that can readily be reduced to a legible form;
 - kept for at least 4 years after the monitoring or event to which they relate took place; and
 - produced in a legible form to any authorised officer of the EPA who asks to see them.
53. The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken:
 - the time(s) at which the sample was collected;
 - the point at which the sample was taken; and
 - the name of the person who collected the sample.

Requirement to monitor concentration of pollutants discharged

54. For each monitoring/discharge point or utilisation area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

Discharge from sedimentation pond

Water and Land

Pollutant	Units of Measure	Frequency	Sampling Method
NFR	mg/L	Monthly during times of discharge	Grab sample

Dust deposit gauges

Air

Pollutant	Units of Measure	Frequency	Sampling Method
Dust	g/m ² per month	Once every two weeks for the first three months then once every month	Total sample

Testing methods - concentration limits

55. Monitoring for the concentration of a pollutant emitted to the air required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment

Reports from Director Development Services

Operations Act, 1997, in relation to the development or in order to comply with a relevant local calculation protocol must be done in accordance with:

- any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or
- if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that testing; or
- if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.

Note: The Clean Air (Plant and Equipment) Regulation 1997 requires testing for certain purposes to be conducted in accordance with test methods contained in the publication “Approved Methods for the Sampling and Analysis of Air Pollutants in NSW”).

56. Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area required by Condition 54 must be done in accordance with:

- the Approved Methods Publication; or
- if there is no methodology required by the Approved Methods Publication or by the general terms of approval or in the licence under the Protection of the Environment Operations Act, 1997 in relation to the development or the relevant load calculation protocol, a method approved by the EPA in writing before any tests are conducted,

unless otherwise expressly provided in the licence.

Blasting Monitoring

57. For the purpose of blast monitoring, the ground vibration or the overpressure must be measured at residents in the Palms Village.

Reporting Conditions

58. The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act, 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

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General Conditions

Community Liaison

59. The applicant must establish a community environment liaison committee, comprising representatives of the community and the applicant, that will meet at least once per month for the first three months of the project and then at least once every six months. Discussion at the meetings must include implementation of the development consent and other statutory approvals, and provide adequate time for the community to raise matters of concern associated with the environmental impact of the development, with a view to achieving mutually satisfactory solutions.
60. The maximum extraction is 540,000m³ over a maximum four (4) year period.

CONCLUSION

It is considered that the amended plans represent only a relatively limited alteration to the cut area. Whilst it is recognised that the amended cut line will maintain the crest of the hill at the current height rather than lowering the crest by 2m, and will move the northern cut line by approximately 20m to the south, the overall impact of the proposed development will remain relatively unchanged. It is considered that the original assessment presented to Council on 17 May 2000 sustains as a result of the amended plans, and the recommendation is unchanged.

Reports from Director Development Services

2. ORIGIN: Development Control Unit

FILE REF: DA3346/40 Pt1

REPORT TITLE:

Development Application K00/389 for Eleven (11) Swing Moorings at Lot 268 DP 865924 (The Anchorage Harbour), Mariners Drive East, Tweed Heads

SUMMARY OF REPORT:

This report relates to the deferred item No. 4 from the meeting of 21 June 2000. The applicant has now submitted a management plan which aims to address the concerns raised by Council in the previous report.

Should Council accept that a Management Plan is sufficient to control adverse affects from the development a list of appropriate conditions of consent are attached. It is considered that a Management Plan could partially overcome issues raised in the previous report. However, various amendments are required to the Plan before it could be accepted as being adequate. It is proposed to recommended a “deferred commencement consent” with final approval of the Management Plan being required prior to the consent becoming operable.

RECOMMENDATION:

That Development Application K00/389 for eleven (11) “swing moorings” at Lot 268 DP 865924 (The Anchorage Harbour), Mariners Drive East, Tweed Heads be approved by way of “deferred commencement” consent subject to the following conditions:-

“Deferred Commencement”

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 six (6) months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule “A”. The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule “B”.

SCHEDULE “A”

Conditions imposed pursuant to Section 80(3)of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

1. A management plan is to be submitted to and approved by the Director of Development Services prior to commencement of use of the swing moorings. This management plan is to detail the method by which parking and mooring of dinghy’s is to be controlled within the Anchorage Islands development. Operation of the swing moorings is to be carried out in accordance with the approved management plan at all times and the management plan is to only be amended or varied with the approval of the Director of Development Services.

Reports from Director Development Services

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

1. The development shall be completed in general accordance with Plan No. 11520D prepared by B & P Surveys dated 15 March 2000, except where varied by these conditions.
2. Of the 11 swing moorings, a maximum of 6 moorings are to be leased to persons residing outside of the Anchorage Islands development at any one time. The remaining moorings are to be available for use of the residents only.
3. Dinghy's and vessels used to access boats moored at the moorings are not to be parked on beaches or a public reserve within the Anchorage development for more than a one hour period.
4. Motor vehicles used to access the swing moorings are not to be parked in Quayside Court or Navigators Way.
5. The licence/lease agreement for the pontoons is to be submitted to and approved by the Director Corporate Services prior to any work commencing on the development. The terms of the licence/lease are not to be altered without the prior approval of Council. The licence/lease is to include the following:
 - a. a prohibition on subleasing of the structure
 - b. that the licence/lease holder maintain insurance for the vessel, and for public liability (minimum \$10,000,000)
 - c. regular maintenance of pontoon and boats moored in harbour (to overcome potential leaks, spills etc.)
 - d. compliance with the conditions of this development consent
6. No repairs on boats are to occur from the pontoons.
7. Sullage pump out from any boats moored at the pontoons is to occur only at an approved facility and not into the harbour.
8. A clear navigational channel of not less than 20m (measured between vessels on any opposite pontoons) is to be maintained at all times.

Reports from Director Development Services

REPORT:

BACKGROUND

This report relates to the deferred item No. 4 of Councils meeting of 21 June 2000 regarding Development Application K00/389 for the erection of 11 swing moorings at Lot 268 DP 865924 Mariners Drive East, Tweed Heads (The Anchorage Harbour).

The original report presented to the meeting of 21 June is included in the deferred items section of this business paper.

The application was recommended for refusal for reasons relating to compatibility of development with adjoining residential development, the lack of land based facilities associated with the proposal, that the proposed parking arrangements were not considered adequate, that the proposal will have an adverse affect on the amenity of the area and that the proposal is not in the interests of the public.

The applicant requested deferral of this item at the Council meeting. A meeting has now been held between the applicant and representatives of Council where it was recommended that the applicants submit a management plan to address the issues raised in the recommendation for refusal.

A copy of the Swing Mooring Management Plan is attached.

The Management Plan provides, in relation to parking, to prohibit vehicles parking in Quayside Court or Navigators Way and specifies that the available car parking locations in the vicinity of the harbour are at the end of Island Drive adjacent to the Anchorage Islands jetty, on Island Drive, and in Keith Compton Drive between Island Drive and Brett Street. With regard to dinghy storage, it is specified that no provision is made for dinghy storage within the Harbour and that the storage of dinghy's on the Harbour beach is strictly prohibited. It specifies that dinghy's may be carried by hand to the Harbour foreshore beaches for launching purposes via public access points or alternatively public boat ramps are to be used for launching purposes.

The Management Plan would partially assist in overcoming problems likely to arise from the moorings, such as parking in Navigators Way/Quayside Court. However, various amendments are considered necessary to the Plan before it can be considered adequate.

It is considered that the concerns identified in the previous report could also be alleviated by the imposition of conditions restricting use of the moorings, so that a maximum of 6 of the moorings are leased to persons residing outside of the Anchorage. This would reduce the number of vehicles and dinghy's being landed from the public area.

Should Council resolve to approve the application it is suggested that final approval of the management plan be delegated to the Director of Development Services as a "deferred commencement" condition, with final approval being required prior to the consent becoming operable.

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3. ORIGIN: Subdivisions Unit

FILE REF: GS4/98/9 Pt2

REPORT TITLE:

Proposed Order to Complete Development - Development Consent S98/9 - 48 Lot Residential Subdivision at Lot 3 DP 811390 and Lot 6 DP 853589 Scenic Drive, Bilambil Heights (Jefferson Properties)

SUMMARY OF REPORT:

Bulk earthworks have been commenced on site pursuant to development consent S98/9, however no work has been carried out for some months. Complaints have been received in relation to the unsightly state of the site and pavement damage in Scenic Drive. In addition, erosion and water pollution may occur in the event of major rainfall events, particularly in view of the large disturbed area and steep slopes. In the circumstances it is proposed that a notice to complete be issued.

RECOMMENDATION:

That Council:-

1. Issues a notice of its intention to give an Order pursuant to Section 121B (Item 16) of the Environmental Planning and Assessment Act, 1979 as amended, requiring the owner to complete the development on Lot 3 DP 811390 and Lot 6 DP 853589 Scenic Drive, Bilambil Heights, within 12 months, in accordance with Development Consent S98/9.
2. Issues a notice of its intention to give an Order, pursuant to Section 121B (Item 15) of the Environmental Planning and Assessment Act, 1979 as amended, requiring the owner to comply with Conditions 4, 5, 7, 8, 29 and 32 of Development Consent S98/9 within 40 days of the date of the Order.

Reports from Director Development Services

REPORT:

On 23 March 2000, development consent was issued to Jefferson Properties Pty Ltd for a 48 lot residential subdivision of Lot 3 DP 811390 and Lot 6 DP 853589 Scenic Drive, Bilambil Heights.

The consent was subsequently modified on 27 October 1999 and the conditions of the consent as modified, are as follows:-

“GENERAL

1. *The development shall be completed in general accordance with Plan No 3761-6, prepared by Schlencker Surveying (Qld) Pty Ltd and dated 12/7/97 and Plan No. C2233:00:11 Amendment A prepared by Burchill Partners and dated 8/9/1999, except where varied by these conditions.*
2. *The submission of the preferred names(s) for the proposed street(s)/road(s) in the subdivision for approval. Approved street names are to be shown on the final linen plans.*
3. *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 including the realignment of existing Northpower and Telstra services to the relevant authorities satisfaction.*
4. *Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.*
5. *All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.*
6. *On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.*
7. *All work associated this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.*
8. *The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.*
9. *No soil, sand, gravel, clay or other material shall be disposed of off site with the exception that:*

Up to 42,000m³ of excess spoil may be removed from the site BUT shall only be delivered to a site or sites for which development consent authorising filling has been issued.

In the event that the development consent for the proposed site to be filled does NOT contain a condition requiring the payment of a “Heavy Haulage” contribution pursuant to S94 Plan No 4 (TRCP) a contribution shall be paid prior to release of the linen plan, based on the following formula:

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

Reports from Director Development Services

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

10. *The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.*
11. *The linen plan of subdivision will not be endorsed by the General Manager and released for registration until such time as all conditions of development consent No S98/9 have been complied with.*
12. *Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plans to be submitted with the Engineering plans and approved by the Director of Development Services prior to any commencement of works.*

CONTRIBUTIONS

13. *Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan prior to release of the linen plan of subdivision. These charges will remain fixed for a period of 12 months from the date of this approval and thereafter in accordance with rates applicable in Council's adopted Fees and Charges current at the time of the payment.*

- a. *Tweed Road Development Contribution*

47 lots @ \$1727.51 *\$81,192.97*

Section 94 Plan No 4 Sector 4

- b. *Street Trees:- 47 lots @ \$42.90*

S94 Plan No. 6 *\$2,016.30*

- c. *Shire Wide Library Facilities: 47 lots @ \$300*

S94 Plan No. 11 *\$14,100.00*

Reports from Director Development Services

- d. *Eviron Cemetery/Crematorium Facility:*
- | | |
|-----------------|------------|
| 47 lots @ \$85 | \$3,995.00 |
| S94 Plan No. 13 | |
- e. *Bus Shelters: 47 lots @ \$23.00*
- | | |
|-----------------|------------|
| S94 Plan No. 12 | \$1,081.00 |
|-----------------|------------|
- f. *Emergency Facilities (Surf Lifesaving): 47 lots @ \$80*
- | | |
|-----------------|------------|
| S94 Plan No. 16 | \$3,760.00 |
|-----------------|------------|
14. *A certificate of compliance (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1997 is to be obtained to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Council before subdivision survey plans are released. Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:*
- | | |
|------------------------------|--------------|
| Water:- 47 lots @ \$3310/lot | \$155,570.00 |
| Sewer:- 48 lots @ \$2770/lot | \$132,960.00 |
- 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.*

FURTHER APPROVALS

15. *Submission of an application for the subdivision of land under Part 12 of the Local Government Act, 1919, including:*
- i. *Engineering plans for roadworks, drainage and associated works (3 copies);*
 - ii. *Engineering plans for outfall sewerage reticulation (3 copies);*
 - iii. *Engineering plans for water supply reticulation including (3 copies);*
 - iv. *A Plan showing the location of all service conduits (water, Northpower & Telstra) is to be submitted and approved with the engineering plans.*
 - v. *The final linen plan and seven (7) copies together with any applicable Section 88B Instrument, accompanied by linen fees of \$100.00 per lot.*
- | | |
|-------------------------|------------|
| ie. 48 lots @ \$100/lot | \$4,800.00 |
|-------------------------|------------|
16. *The following roadworks, drainage and associated works shall be carried out to the satisfaction of the Director Development Services in accordance with engineering plans to be submitted to and approved by the Director Development Services prior to work commencing.*

Reports from Director Development Services

- (i) *Construct a AUSTRROADS “Type C” intersection at the intersection of the proposed entrance road and Scenic Drive to provide for right turns into subdivision. The design of the intersection is to provide for adequate safe intersection sight distance in both directions including necessary buffers as required.*
 - (ii) *Construct a suitably sized Bus Bay and shelter on both sides of Scenic Drive.*
 - (iii) *Construct a footpath area and 1.2 metres concrete strip footpath behind the existing kerb on the northern side of Scenic Drive including any necessary batter stabilisation.*
17. *Prior to submission of the linen plan, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to release of the linen plan. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.*
 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.*
 19. *The provision of outfall sewerage reticulation to all lots in accordance with engineering plans to be submitted to and approved prior to work commencing.*
 20. *Prior to lodgement of engineering plans permission is to be granted by the adjacent landowners affected by proposed sewerage connections.*
 21. *The provision of Town Water to each lot in accordance with plans to be submitted and approved prior to work commencing.*
 22. *Inter allotment drainage shall be provided to ALL lots where roof water from dwellings, driveways and paved accesses cannot be conveyed to the street gutter by gravitational means. Where inter-allotment drainage has not been provided, Certification by a duly qualified Engineer is to be provided stating that roof water from the building envelope can be conveyed to the street gutter by gravitational means.*
 23. *Certification by a qualified Engineer that the Civil Engineering works have been performed under his/her supervision in accordance with the approved engineering plans and specifications.*
 24. *A “Soil and Water Management Plan” shall be submitted and approved by the Director Development Services prior to approval of the engineering plans. The Plan shall provide for appropriate pollution and erosion control measures including a water quality monitoring program where required during both the construction and operations phases in accordance with the publication “Managing Urban Stormwater” prepared by the NSW Environment Protection Authority (Vol 1-3).*
 25. *The production of written evidence from Telstra certifying that satisfactory arrangements have been made for the provision of underground telephone supply.*

Reports from Director Development Services

26. i. *The production of written evidence from Northpower certifying that reticulation of underground electricity has been completed; and*
- ii. *The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Street lighting is to include the satisfactory illumination of the proposed intersection with such lights to be capable of being energised following a formal request by Council.*
27. 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 linen plan to allow the land to be classified.*
- iii. *The proposed sewer pump station shall be designed and constructed to ensure that no odour nuisance arises and the site shall be suitably visually and acoustically screened to the satisfaction of Council.*

Failure to comply with this condition may result in delays in linen release.

28. *Stormwater drainage easements are to be granted over the downstream properties through to the natural watercourse to cater for all discharge points from the subdivision. These easements are to be granted free of cost to Council prior to the subdivision linen plan release.*
29. *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.*
30. *Where the construction work is on or adjacent to public roads, parks and drainage reserves the developer 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.*
31. *All proposed building pads are to be above the highest recorded flood level, including provision for any localised overland flow, such that at least 300mm freeboard is provided to the satisfaction of the Director Development Services.*

ENVIRONMENT PROTECTION

32. *Developer to take all necessary precautions to minimise impact from dust during filling operations from the site and also from construction vehicles.*
33. *The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit*

Reports from Director Development Services

- provided with an air curtain over the top. Separate approval is required prior to any burning.*
34. *Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00am and 7.00pm Monday to Saturday and no work on Sundays.*
35. *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 likely affected residence.*
36. *Implementation of the ameliorative measures as proposed in the Flora and Fauna Report accompanying the application, prior to release of the linen plan.*
37. *Removal of the existing dwellings prior to release of the linen plan.*
38. *No structures, service installations or saleable land is to be developed within 20m of the escarpment as shown on Drawing No. 1 from Golder Associates - Project Number 97630034-1 dated 5/11/97. An 88B Restriction as to User is to be created over the affected allotments.*
39. *Certification by a qualified Engineer that the Civil Engineering works have been performed under his/her supervision in accordance with the approved engineering plans and specifications. Certification to be submitted with the linen plan.*
40. *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.*
41. *The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.*
42. *The proposed park shall be dedicated and embellished in accordance with approved plans PRIOR to release of the linen plan. Embellishment shall include grading, grassing, drainage, landscaping and the provision of playground equipment to the satisfaction of the Manager of Recreation Services.*
43. *The shape of proposed Lot 11 shall be amended to delete the acute angle at the north western corner. The amendments shall be shown on the engineering plans and linen plan required under Part 12 of the Local Government Act."*

Reports from Director Development Services

A copy of the site plan is attached as Figure 1.

The modification (to condition 9) was to enable some excess spoil to be removed from the site and used by Villa World at the Seagulls site as fill material.

On 9 December 1999, a Construction Certificate was issued to enable Bulk Earthworks only to be carried out on the site (in pursuance of development consent S98/9 (as modified)) and works subsequently commenced.

In February 2000, Council received complaints in relation to burning of stockpiled trees on the site and pavement damage in Scenic Drive, following which the developer was requested (on 21 February 2000) to repair the damaged pavement and kerb and comply with Condition 33 of the consent.

Following further complaints further letters were forwarded to the developer on 15 March 2000 and 9 June 2000 requesting repairs to the damaged pavement.

No response has been received to Councils letters.

In addition, the developer was requested to advise of their intentions in relation to completion of the development, however again no response has been received.

The key concerns arising from the partially completed development include:-

- The development site is unsightly;
- In view of the large area of disturbed land soil erosion as a result of wind and rainfall is likely to occur resulting in pollution of waterways;
- Damage has occurred to the pavement in Scenic drive adjacent to the site as a result of haulage traffic

OPTIONS

To address the various issues Council may issue an Order, pursuant to Section 121B of the Environmental Planning and Assessment Act, 1979, requiring the development to be completed within a specified time period, being not less than 12 months.

Council may also issue an Order under the same section requiring the developer to comply with the conditions of the development consent relating to dust abatement, site rehabilitation and restoration of damaged infrastructure.

Prior to issuing such Orders, Council is required, pursuant to Section 121H of the Act, to give notice to the owner of Councils intentions to give the Order.

The developer may then make representations to Council in relation to why the Order should not be given following which council may give the Order as proposed or in a modified form, or not give the Order.

Section 121N of the Act provides for a right of appeal to the Land and Environment court by the person to whom the Order is given.

Reports from Director Development Services

In the event that the developer fails to comply with an Order, Section 121ZJ of the Act provides that council may do all such things as are necessary or convenient to give effect to the order including the carrying out of any work required by the Order. Any expenses incurred by council in carrying out work pursuant to the Orders may be recovered by council in any court of competent jurisdiction as a debt due to the council by the person required to comply with the Order.

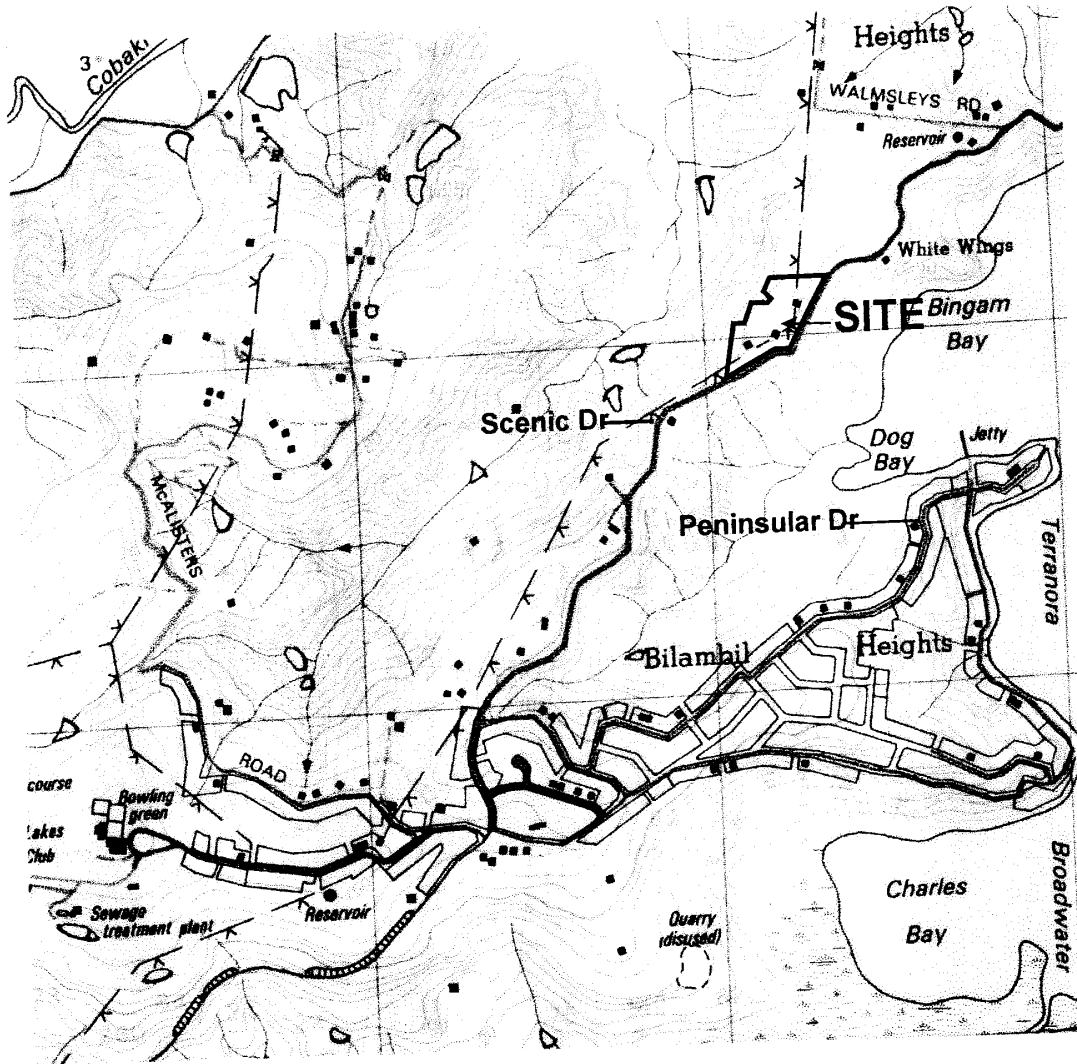
In relation to the pavement damage Council could carry out the necessary repairs and then try to recover the costs as a sundry debtor. However, in the first instance it is considered that the Orders option is the most appropriate.

CONCLUSION

In view of the lack of a response to Councils written requests to the developer in relation to completion of the development and having regard to the unsightly nature of the site it is considered that Council should give notice of its intention to serve orders requiring completion of the development and compliance with the consent conditions.

Reports from Director Development Services

FIGURE 1 – SITE PLAN



Reports from Director Development Services

4. ORIGIN: Subdivisions Unit

FILE REF: GS4/95/123 Pt3

REPORT TITLE:

Request to Amend Deed of Agreement and Koala Management Plan - Black Rocks Estate - Pottsville Development Corporation

SUMMARY OF REPORT:

James Warren and Associates, on behalf of Pottsville Development Corporation, have requested Council to amend the Deed of Agreement dated 28 April 1994 and the Koala Management Plan dated July 1996 in relation to fencing of land to be dedicated, and in particular the Koala Habitat area. The proposed amendments are considered to be appropriate and are therefore recommended.

RECOMMENDATION:

That :-

- A. Clause 4.3(iii)(a) of the Deed of Agreement dated 28 April 1999 between Council and Pottsville Development Corporation be amended as follows:-

“(a) to dedicate to the Council the area of land identified as Koala habitat as generally indicated by green edging and stipple on Annexure D to this Agreement and Mooball Creek buffer generally indicated by red edging and black hatching on Annexure E. The land so dedicated shall subsequently be fenced wherever there is an interface with land developed for residential purposes and other wise in accordance with the Management Plan detailed in Clause 4.2 to the satisfaction of Council prior to the release of the linen plan pursuant to Part XII of the Local Government Act 1919 for the subdivision of the land other than the land comprised in Stage one and Stage two as defined in Clause 4.2. Such fencing shall be at the cost of the party seeking the release of the linen plan; and

(b)”

- B. The documents be amended to specifically include future Stages 8, 9 and 10.
- C. The amended Deed be executed under the Common Seal of Council.
- D. Pottsville Development Corporation be required to meet any legal costs incurred by Council in amending the Deed.
- E. Clause 6.5(v) of the Koala Management Plan dated July 1996 be amended as follows:-

“All dedicated land where it has an interface with residential development, shall be fenced in compliance with Clause 4.3(iii)(a) and (b) (as amended) of the Deed of Agreement and prior to the release of the linen plan for Stage 3B. Within Area A (Figure 1) it would be better to discourage the presence of Koalas by using Koala proof fences (there are few fences that can be said to be truly “Koala

Reports from Director Development Services

proof” but the use of tall smooth-sided fences to discourage their use by Koalas), eg. Zincalume and paling fences, not provided preferred Koala food trees, and having a smaller lot size. However, there are certain strategies which should be implemented within Area A to reduce the possibilities of damage to any Koalas straying into the area. These strategies should be covered by any future Section 88(B) instruments. They include:

- *Swimming pools are to be totally enclosed within Koala-proof fences, this should preclude the need for escape ropes or ladders.*
- *The use of roads designed to calm traffic movements; and*
- *Control of dogs (mainly no straying).*

None of these strategies are designated to encourage Koalas but are to assist in the reduction of damage to Koalas which happened to enter Area A.

It should be noted that Area A includes Stages 3a, 3b, 4, 5, 6, 7, 8, 9 and 10.”

Reports from Director Development Services

REPORT:

BACKGROUND

1.0 The Deed of Agreement

Prior to finalising Local Environmental Plan Amendment No. 11 in relation to the Black rocks Estate, council entered into a Deed of Agreement with Pottsville Development Corporation on 28 April 1994. The relevant provisions of the Deed of Agreement in relation to this request are summarised as follows together with comments thereon:-

“Clause 4.2

After a development application has been approved for seventy (70) lots in Stages 1 & 2 as marked in purple and pink respectively on Annexure ‘C’ the owner shall submit a management plan to provide an appropriate future koala habitat such plan to include the planting of koala food trees and appropriate fencing around the boundaries of the area so designated and more particularly defined in Clauses 4.3(iii)(a) and (b) hereafter. The plan to be approved by the Director, Development Services on behalf of Council.”

Comment

In pursuance of Clause 4.2 a Koala Management Plan dated July 1996 was prepared by Woodward-Clyde and approved on 12 July 1996.

“Clause 4.3

(iii) The land to be provided as public reserve shall be primarily for the following purposes:

- (a) to dedicate to the council the area of land identified as koala habitat as generally indicated by green edging and stipple on Annexure “D” to this Agreement and Mooball Creek buffer generally indicated by red edging and black hatching on Annexure “E”. The land so dedicated shall subsequently be fenced in accordance with the Management Plan detailed in clause 4.2 to the satisfaction of Council prior to the release of the linen plan pursuant to Part XII of the Local Government Act, 1919 for the subdivision of the land other than the land comprised in Stage one and Stage two as defined in Clause 4.2 Such fencing shall be at the cost of the party seeking the release of the linen plan; and*
- (b) to plant the land identified as koala habitat with koala food trees in accordance with the management plan prior to the linen release detailed in Clause 4.3 (iii)(a).”*

Comment

In accordance with the provisions of this clause, the Koala Habitat area (Lot 61 DP 855459 – 10.83ha) has been transferred to Council ownership.

In relation to fencing of Lot 61, Clause 6.5(v) of the Koala Management Plan (July 1996) is in the following terms:-

Reports from Director Development Services

“(v) All dedicated land shall be fenced in compliance with Clause 4.3(iii)(a) and (b) of the deed of agreement and prior to the release of the linen plan for Stage 3(b). Within Area A it would be better to discourage the presence of Koalas by using Koala proof fences (there are few fences that can be said to be truly “Koala proof” but the use of tall smooth-sided fences do discourage their use by Koalas), eg Zincalume and paling fences, not providing preferred Koala food trees, and having a smaller lot size. However, there are certain strategies which should be implemented within Area A to reduce the possibilities of damage to any Koalas straying into the area. These strategies should be covered by any future Section 88B instruments. They include:-

- Swimming pools are to be totally enclosed within Koala-proof fences, this should preclude the need for escape ropes or ladders.
- The use of roads designed to calm traffic movement; and
- Control of dogs (mainly no straying).

None of these strategies are designed to encourage Koalas but are to assist in the reduction of damage to Koalas which happen to enter Area A.”

Black Rocks Subdivision – Development Consent S95/123 – Stages 3 to 7

On 12 July 1996, conditional development consent S95/123 was issued for a 128 lot residential subdivision comprising Black Rocks Stages 3 to 7. The consent authorises the release of Stage 3 in two substages (Stage 3(a) – 31 lots and Stage 3(b) – 11 lots).

Condition 54 of the consent requires compliance with the Koala Management Plan prior to release of the linen plan for Stage 3(b).

The Stage 3(a) linen was released on 17 April 2000 and therefore fencing of Lot 61 will be required prior to release of the Stage 3(b) linen plan.

In this regard, the applicants Environmental Consultants, James Warren and Associates, have requested amendments to the Deed of Agreement and Koala Management Plan.

The amendments are summarised in the following extracts from Mr Warren’s proposal.

“The two (2) issues of concern which have been identified, with respect to the proposed development of Stage 3B of the estate, are as follows:

- *The complete fencing of dedicated land would effectively isolate Koala habitat on the Black Rocks Estate from adjoining habitats to the west; and*
- *The fencing of dedicated land would close the eastern portions of Kellehers Road, making access from Dunloe Park (to the west) to Black Rocks Estate (to the east) impossible.*

Proposal

Figure 1 shows the existing and proposed development stages for the Black Rocks Estate. Stage 3B will not have an interface with the main wetland/forested habitats to the west.

Reports from Director Development Services

Koalas may access Stage 3B via the floodway, however, it is considered to be an unlikely event as no trees of any description will occur within the floodway.

Future Stages 4, 6 and 7 will have an interface with the Koala habitat areas to the west. It is this interface which requires fencing. The fence should not cross Kellehers Road. Interfaces between the Scenic Escapement zone and the Habitat Zone to the south of Kellehers Road with Stages 9 and 10 will need to be fenced when development reaches these stages.

The proposal for fencing, as described above, will effectively prevent direct access by Koalas to residential areas. It is considered that there is only a very small likelihood that Koalas will enter the residential areas via the floodway and Kellehers Road. This conclusion is based on:

- *No Koala activity has been detected within lands covered by Stages 3A, 3B, 4, 5, 6 or 7 during previous surveys (Mitchell McCotter 1992, Warren and Denny 1993 and Woodward-Clyde 1996).*
- *There are no potential food trees currently occurring within these areas.*
- *Koalas are highly unlikely to move eastwards through these areas. Stages 3A, 3B, 4, 5, 6 and 7 do not occur within a Koala corridor or dispersal area ie. no known Koala habitats occur to the north-east, east or south-east.*

Recommendation

It is recommended that Clause 4.3(iii)(a) of the Deed of Agreement and Section 6.5(v) of the KPOM be amended as follows:-

- *Clause 4.3(iii)(a) should read “the land to be provided as public reserve shall be primarily for the following purposes:*
 - (a) *to dedicate to the Council the area of land identified as Koala habitat as generally indicated by green edging and stipple on Annexure D to this Agreement and Mooball Creek buffer generally indicated by red edging and black hatching on Annexure E. The land so dedicated shall subsequently be fenced wherever there is an interface with land developed for residential purposes and other wise in accordance with the Management Plan detailed in Clause 4.2 to the satisfaction of Council prior to the release of the linen plan pursuant to Part XII of the Local Government Act 1919 for the subdivision of the land other than the land comprised in Stage one and Stage two as defined in Clause 4.2. Such fencing shall be at the cost of the party seeking the release of the linen plan; and*
 - (b).....
- *Section 6.5(v) should read “All dedicated land where it has an interface with residential development, shall be fenced in compliance with Clause 4.3(iii)(a) and (b) (as amended) of the Deed of Agreement and prior to the release of the linen plan for Stage 3B. Within Area A (Figure 1) it would be better to discourage the*

Reports from Director Development Services

presence of Koalas by using Koala proof fences (there are few fences that can be said to be truly “Koala proof” but the use of tall smooth-sided fences to discourage their use by Koalas), eg. Zincalume and paling fences, not provided preferred Koala food trees, and having a smaller lot size. However, there are certain strategies which should be implemented within Area A to reduce the possibilities of damage to any Koalas straying into the area. These strategies should be covered by any future Section 88(B) instruments. They include:

- *Swimming pools are to be totally enclosed within Koala-proof fences, this should preclude the need for escape ropes or ladders.*
- *The use of roads designed to calm traffic movements; and*
- *Control of dogs (mainly no straying).*

None of these strategies are designated to encourage Koalas but are to assist in the reduction of damage to Koalas which happened to enter Area A.

It should be noted that Area A includes Stages 3a, 3b, 4, 5, 6, 7, 8, 9 and 10.”

Comments

The attached Figure 2 shows the relationship between the residential lots and the Koala habitat area (Lot 61 DP 855459).

It should be noted that Stages 8, 9 and 10 shown on figure 2 have not been approved and will be the subject of a future development application.

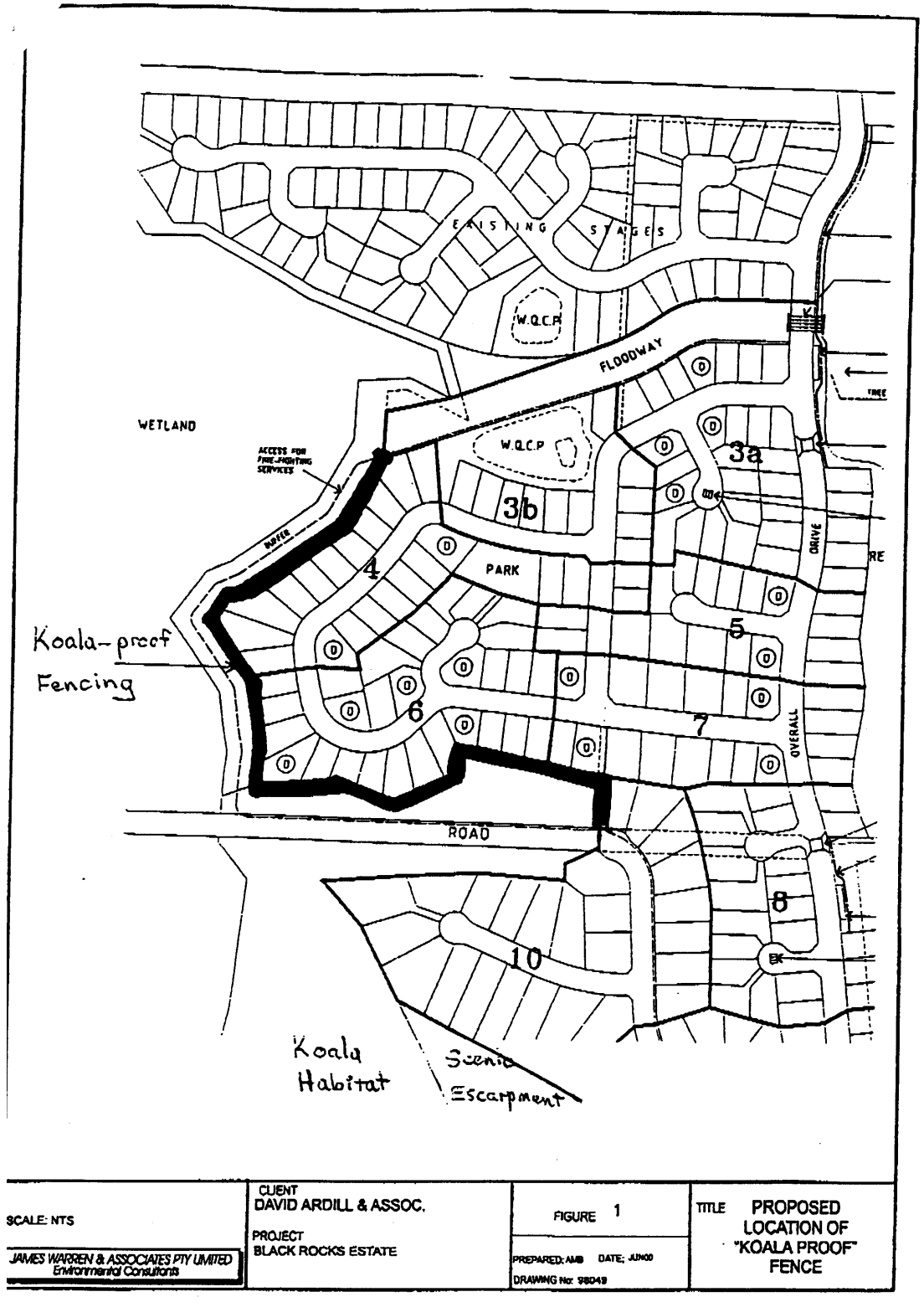
For the reasons put forward by Mr Warren, it is considered that perimeter fencing of Lot 61 (Koala Habitat) is not the most appropriate management option.

The objective is to discourage Koala movements into the residential area and accordingly the amendments to the Deed of Agreement and Koala Management Plan prepared by Mr Warren are supported.

However, to avoid the need to further amend both documents when an application for future stages 8, 9 and 10 is lodged, it is recommended that the documents be amended to clearly include fencing of the interface with those stages in addition to the approved Stages 3 to 7.

Reports from Director Development Services

Figure 1



Reports from Director Development Services

5. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/LEP/2000

REPORT TITLE:

Tweed Local Environmental Plan 2000 - Adoption of NSW Sugar Industry Best Practice Guidelines for Acid Sulphate Soils (May, 2000).

SUMMARY OF REPORT:

Tweed Local Environmental Plan 2000 (TLEP 2000) includes provisions for the management of Acid Sulphate Soils, and arrangements for that management to be supervised by the NSW Sugar Milling Cooperative Ltd.

In order to bring these provisions into effect, the TLEP 2000 requires that Council adopt the Sugar Industry Best Practice Guidelines

The Director-General of the Department of Urban Affairs and Planning has approved the Guidelines and has set out two requirements:

- An annual audit and compliance process by the Cooperative already noted; and
- Review of the Guidelines in one year.

In view of the innovation of the provisions it is essential that Council is included in both of those requirements.

RECOMMENDATION:

That Council adopts the NSW Sugar Industry Best Practice Guidelines for Acid Sulphate Soils (May, 2000), subject to:

- Council's inclusion in the review of the Guidelines in one year and this review including Council's role in the audit process.

Reports from Director Development Services

REPORT:

Tweed Local Environmental Plan 2000 (TLEP 2000) includes provisions for the management of Acid Sulphate Soils, and arrangements for that management to be supervised by the NSW Sugar Milling Cooperative Ltd.

In order to bring these provisions into effect, the TLEP 2000 requires that:

“the Sugar Industry Best Practice Guidelines have been approved by the Director-General of the Department of Urban Affairs and Planning in consultation with the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) and the Department of Agriculture and have been adopted by the Council”

The Director-General (DG) has approved the Guidelines and Council is now required to adopt them to bring the TLEP provisions into effect. The basis of the Guidelines is:

- All cane farms are required to have a drainage management plan lodged and endorsed by the Coop;
- The Guidelines include the requirements for the preparation of those plans;
- Any disturbance of soil below 300mm in acid sulphate soil areas to be consistent with a management plan;
- Farmers to keep records of land forming and the Coop is to audit 10 farms selected by Council and assess compliance with the Guidelines. The results are to be sent to Council, and an annual report submitted to the Director-General.

In approving the Guidelines the DG has set out two requirements:

- An annual audit and compliance process by the Coop already noted; and
- Review of the Guidelines in one year.

Nevertheless, the original intent was that Council should be responsible for the audit process. This has not been adopted by the State Government. There is also some evidence of imprecision in the language of the Guidelines:

“Any disturbance should be consistent with a Management Plan”

rather than “shall”.

The State Government has accepted these arrangements. The Sugar Cooperative and its members are also liable for any breaches of planning and/or other environmental law. Finally, Council could withdraw its approval of the arrangements if it was dissatisfied with their operation.

In view of the innovation of the provisions it is essential that Council is included in the nominated requirements.

Reports from Director Development Services

6. ORIGIN: Strategic Town Planning Unit

FILE REF: xxx

REPORT TITLE:

Town Planner - Housing Officer from the Department of Urban Affairs and Planning.

SUMMARY OF REPORT:

Funding has been received from the Department of Urban Affairs and Planning (DUAP) for this position. The original intention of DUAP was to extend to Byron Council after 18 months - 2 years. Byron Shire Council would prefer to be involved from the outset. DUAP have endorsed the revised arrangement negotiated with Byron Shire Council. As the recipient of the funding, Council is requested to endorse this revised arrangement.

RECOMMENDATION:

That Council endorses the involvement of Byron Shire Council from the outset of this project.

Reports from Director Development Services

REPORT:

Council resolved on 1 March, 2000 that:

“Council:-

- 1. Accepts the funding grant offer of \$44,000.00 from Area Assistance Scheme for a Town Planner – Housing with initial local focus of 18 months; and with “roll out” sub-regional emphasis, based on a 30 hour week (B3L2);*
- 2. works with the Housing Markets Branch to develop a Housing Officer position;*
- 3. Works with the Housing Markets Branch to seek support and development funds from the Affordable Housing Service”.*

The terms of the funding by DUAP were to include a regional “roll-out”, after an 18 months to 2 year period concentrating on Tweed issues. It was originally intended that the “roll-out” would be achieved by including Byron Shire Council in the project.

A position description has been prepared and submitted to Byron, including appropriate references to Byron components of the project. As a result of discussions, a number of issues have arisen in the joint nature of the project:

- Byron wishes to use the project from the outset rather than after 18 months – 2 years;
- Allocation of time between the two Councils, and any resultant administrative costs;
- Day to day management responsibilities;
- Responsibility for employing the Project Officer.

The following arrangements have been discussed with Byron and recommended for implementation through a Memorandum of Agreement.

- Position employed by Tweed Shire Council who have responsibility for overall management;
- An annual work plan to be prepared by the Manager, Strategic Town Planning and Director, Environmental Planning (Byron). The first plan will be finalised prior to interviews being held for the position, anticipated to be held in mid August. Subsequent annual work plans will be finalised in August each year;
- The Project Officer will commence work for Byron from the outset on the basis of 25% of the available 30 hours a week. The 7^{1/2} hours may be taken as one working day each week or a block period of up to 2 weeks. The precise arrangements will be set out in the annual work plan. During working periods at Byron, the Project Officer will be supervised by the Director, Environmental Planning;
- Each Council will provide necessary administrative support (work station, access to vehicle etc);
- Byron will provide necessary travel allowances.

Reports from Director Development Services

The terms of the funding have been determined by DUAP, including the regional roll-out requirement. Therefore, how the position is allocated between the participating Councils is primarily the responsibility of the funding body. Nevertheless, as the original terms of the funding are now being adjusted, it is appropriate that they be endorsed by Council.

Although Council will receive less from the funding in the initial stages, it will:

- Receive the same amount of resources over the 4 year term of the project;
 - Receive funding for an essential component of its strategic planning which would otherwise be unfunded;
 - Provide a further opportunity for resource sharing between North Coast Councils.
-

Reports from Director Development Services

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Reports from Director Development Services

7. ORIGIN: Development Control Unit

FILE REF: DA0330/90 Pt2

REPORT TITLE:

Erection of a Detached Dual Occupancy Comprising 1 x 3 Bedroom Dwellings and 1 x 5 Bedroom Dwellings

SUMMARY OF REPORT:

An application has been received by Council for a detached dual occupancy development at Fingal Head. The application was lodged prior to the gazettal of Tweed Local Environmental Plan 2000. At the time the Local Environmental Plan was gazetted the application had not been determined and subsequently as a result of a change in zoning to 2(a) the proposal became prohibited development. Council has since resolved to amend the Local Environmental Plan to allow dual occupancy developments in the 2(a) zone subject to meeting density requirements. This amendment is with the Minister for Urban Affairs and Planning awaiting gazettal. It is considered that in the event that the amendment is gazetted this application can be approved under delegation.

RECOMMENDATION:

That Council states its support for Development Application DA0330/90 and that in the event that the Minister for Urban Affairs and Planning approves Amendment No. 1 to Tweed Local Environmental Plan 2000, delegates authority to issue consent to the Director of Development Services for the erection of a detached dual occupancy comprising 1 x 3 and 1 x 5 bedroom dwellings at Lot 413 DP 755740 No. 16 Bambery Street, Fingal Head.

Reports from Director Development Services

REPORT:

Applicant: Douglas Cluer and Dianne Blanckensee
Owner: As above
Location: Lot 413 DP 755740, No. 16 Bambery Street, Fingal Heads
Zoning: 2(a) Low Density Residential
Est. Cost: \$550,000

PROPOSAL

An application has been received seeking approval to erect a detached dual occupancy comprising 1 x 3 bedroom dwelling and 1 x 5 bedroom dwelling. The subject land slopes up from the street and has an area of 923.2m². One dwelling is proposed to be erected at the front of the allotment with the second to the rear. Both dwellings will be two storeys in height. The larger of the two dwellings located at the rear will have a subfloor area containing two bedrooms, media room, laundry, garage, bathroom and kitchenette.

The applicant as part of this application does not propose to subdivide the land. It is indicated that the front dwelling will be used to accommodate the applicants mother.

HISTORY

The application was originally lodged on 14 February 2000 prior to the gazettal of Tweed Local Environmental Plan 2000 on 7 April 2000. Under Local Environmental Plan 1987 the subject land was zoned 2(b) Residential "B". The application originally submitted was three storeys in height and was permissible under the zoning at the time.

The gazettal of Tweed Local Environmental Plan 2000 resulted in the zoning of the land changing to 2(a) Low Density Residential in this area and the permissible height being reduced to two storeys. Tweed Local Environmental Plan 2000 also resulted in the prohibition of dual occupancy development in the 2(a) zone. This therefore made the subject proposal prohibited.

Council on 19 April 2000 resolved to prepare a draft Local Environmental Plan to include provisions for multi-dwelling housing in Zone 2(a) in the following circumstances:

* *Multi-dwelling housing if at a density of not greater than:*

* *one dwelling per 450m² of site area; or*

* *one dwelling per 250m² of site area*

if the site is within 300m distance of a business centre listed under Schedule 8.

This plan has recently been forwarded to the Minister for Urban Affairs and Planning for gazettal.

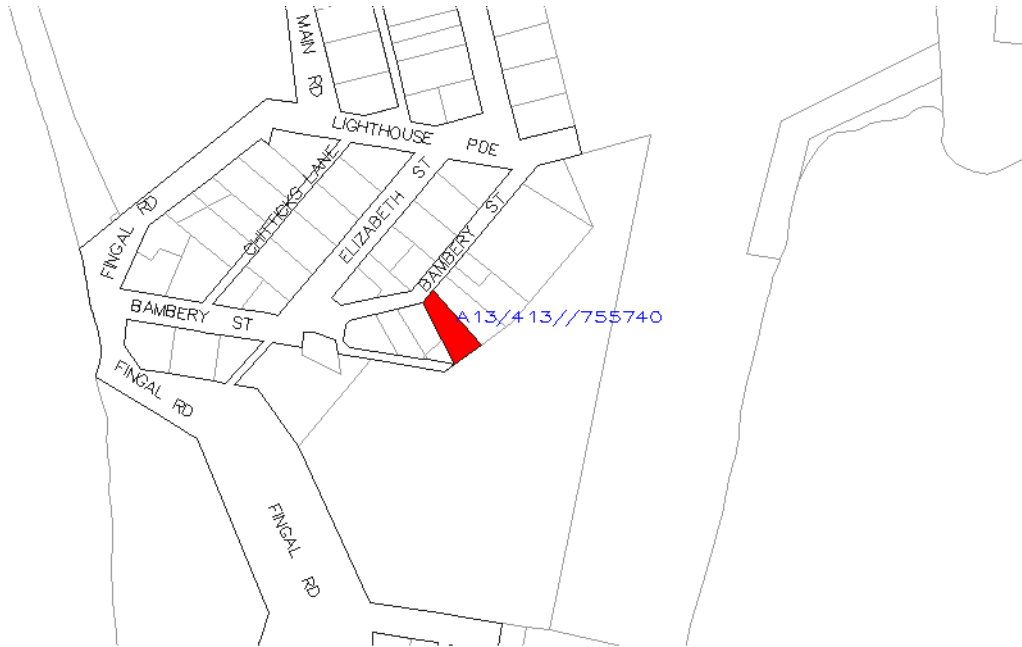
The applicant on 1 June 2000 submitted amended plans which by definition of Tweed Local Environmental Plan 2000 eliminated the 3 storey section of the upper dwelling by lowering the building into the ground so that no more than two storeys exist when measured from any point above 1500mm from natural ground level. A sub-floor level still exists below this level.

It is expected the draft Local Environmental Plan will be gazetted shortly making the subject development permissible. The architect for the applicant has requested Council consider the

Reports from Director Development Services

proposal requesting Council support it subject to the draft Local Environmental Plan being gazetted so as to allow approval to be given quickly on gazettal. This will allow working drawings to be commenced to allow construction to commence as soon as possible.

SITE DIAGRAM



Reports from Director Development Services

Statutory Considerations

(a) (i) **Tweed Local Environmental Plan 2000 (TLEP 2000)**

The subject land is currently zoned 2(a) Low Density Residential under the provisions of TLEP 2000.

The proposed detached dual occupancy would fall within the definition of multi-dwelling housing and is currently prohibited development. Council cannot legally approve the proposal under the current plan.

Draft Environmental Planning Instruments

Draft LEP 2000 – Amendment No. 1

Council on 19 April 2000 resolved to prepare this draft LEP to amend TLEP 2000 to permit multi-dwelling housing on 2(a) zoned land if at a density of 450m² per dwelling or greater. The plan has gone through the relevant statutory processes and has been forwarded to the Minister for Urban Affairs and Planning to be gazetted.

The proposed development contains two (2) dwellings on a single allotment of land having an area of 923.2m² which is in excess of the density requirements proposed. The proposed development meets these requirements.

The objectives of the 2(a) zone will not change. The proposal must be assessed against the relevant objectives which are:-

- “* to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity;
- * to allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objective”.

The subject development will meet the height and density requirements of TLEP 2000 when amended and is considered to be compatible with surrounding development in the area. The proposal is consistent with the objectives of the 2(a) zone.

There are no other applicable draft planning instruments.

Other Relevant Clauses under TLEP 2000

Clause 16 – Height of Buildings

The village of Fingal is located in an area which has a two (2) storey height limit. The subject development has been amended to comply with this restriction as defined by the LEP.

Clause 17 – Social Impact Assessment

The proposed development is not considered to have a significant social and economic impact and does not warrant the need for a social impact assessment in accordance with this clause.

Reports from Director Development Services

Clause 35 – Acid Sulfate Soils

The subject land is located within Class 5 land as defined by the Department of Land and Water Conservation maps. The risk of acid sulfate soils on Class 5 land is low and therefore there are no specified requirements applying to this development.

The proposed development will be permissible on gazettal of Amendment No. 1 to TLEP 2000.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

The proposed development is not inconsistent with the provisions of the Plan.

(ii) Development Control Plans (DCPs)

DCP2 – Site Access and Parking

DCP2 applies to the subject development. Under this plan two (2) parking spaces are required to be provided for each dwelling. Each dwelling contains a double garage providing for a total of four (4) off street parking spaces in accordance with this plan.

The driveway will have a width of 3.0m and adequate area is available for vehicles to leave in a forward direction. Driveways are to be constructed in accordance with Council's "Access to Property" pamphlet.

The proposed development meets the requirements of DCP2.

DCP6 – Multi-Dwelling Housing

The table below provides an assessment of the development compliance with the Acceptable Solutions as outlined in DCP6.

Requirement	Acceptable Solution	Proposed	Compliance
Site area	450 ^{m2}	923.2m ²	•
Floor space ratio	0.5:1	0.55:1	X
Landscaped area	160m ²	>285m ²	•
Setback – front	6.0m	3.5m deck 6.5m building	X•
Building envelope	As per formula	Minor encroachment	X
Height	2 storey's (LEP)	2 storey's	•
Setback – side	900mm	1.5m	•
rear	900mm	2m	•
Window separation	9m	9m	•

Reports from Director Development Services

Requirement	Acceptable Solution	Proposed	Compliance
Useable open space	>20% of site	>20%	•
Carparking	2 spaces/dwelling	2 spaces/dwelling	•
Energy conservation	Compliance with DCP39	Acceptable	•

The subject proposal has three areas of non-compliance of a minor nature. The floor space ratio exceeds 0.5:1 by approximately 0.05. The objective of the site density requirement is:

“To ensure that the building bulk of the new development is compatible with the existing or desired future character of the locality”.

The subject development is located adjacent to the water tower. A number of large dwellings exist to the east. The building is also staggered up the slope of the land. It is considered the bulk of the building is acceptable and the minor variation is acceptable.

The second relates to the front setback where the deck areas on the front dwelling encroach within the 6.0m building line. Considering that these are not fully enclosed structures and the walls of the building exceed the 6.0m requirement it is considered that the encroachment will not significantly impact on the streetscape. The proposed encroachment is considered acceptable.

The third relates to the building envelope. When the building envelope is placed around the building the rear dwelling encroaches this envelope on the top eastern corner by approximately 500mm for a very small area. This encroachment is of a very minor nature and does not compromise the objectives of this requirement. The subject encroachment is considered acceptable.

It is considered the development complies with the objectives of DCP6.

(iv) Any Prescribed Regulation

The NSW Coastal Policy applies to the subject land. The subject development is not inconsistent with this Policy.

(b) Impact on the Environment

Height and Scale

The two houses are designed as a series of skillion and flat roof pavilions which step up the hill, following the site contours. The two houses are two storey in nature when viewed from the street. The rear dwelling physically contains 3 levels however the lower level is proposed to be cut into the hill so as in affect only contain 2 storeys above natural ground level.

Reports from Director Development Services

The building forms one broken down into small scale masses with a variety of façade treatments proposed to assist integration into the site. Existing trees are proposed to be maintained where possible with all roofs being lower than the existing tree canopy. The highest most point of the development is well below the dense tree line which runs along the ridgeline to the rear.

In context with adjacent houses, the development will be similar in scale to surrounding development. The buildings will be considerably lower than the adjoining water tower to the west. It is considered the height and scale of the development is acceptable and compatible with surrounding development.

The applicant has submitted a photomontage which clearly demonstrates this.

Visual Impact

The applicant submitted a number of photographs/photomontages from various critical points around Fingal.

Photos were taken from the following locations:

- * public carpark to the north west
- * lighthouse
- * Fingal Beach south of the site
- * beach car park rear quarry
- * boat harbour

The only point where the development will be visible from is the public car park to the north west of the site. The visual impact of the development when viewed from this point looking, towards Fingal hill, will be acceptable in context with existing development.

Fauna and Flora

The subject site currently contains a two storey brick and fibro dwelling which is proposed to be demolished to accommodate the development. The site is therefore in a relatively disturbed state. With minimal vegetation requiring removal it is not anticipated the development will have a significant impact on any endangered fauna or flora or ecological communities.

Traffic

Bambery Street is a residential street. The proposed development will result in an additional dwelling being erected on the land generating approximately an additional 6.5 trips. The existing road network in the area is capable of accommodating this increase.

Social and economic impacts

Reports from Director Development Services

The development will have minimal social or economic impact. The development is in keeping with the seaside village character of Fingal in terms of design. The development will contribute to employment during the construction period.

(c) Suitability of the site

The subject site has a northerly aspect sloping up from the front to the rear. The site lends itself to the design of the development which maximises solar access to living areas as a result of the orientation.

As the site falls to the street it can be easily drained.

The site is serviced by reticulated water and sewer and is in close proximity to Fingal shopping area

It is considered the site is suitable for the proposed development.

(d) Any Submissions

Public Authorities

No submissions received from any public authorities.

Other Submissions

The application when originally submitted was advertised for a period of 14 days. At the conclusion of the exhibition period 5 submissions objecting to the proposal were received and one (1) in support. The planning grounds for the objections are summarised below:-

- Inconsistent with pending draft LEP 2000
- Out of character with Fingal
- Over development of the site
- Exceeds the proposed 2 storey height limit
- Impact of construction traffic
- Inadequate drainage
- Loss of civic amenity
- Increased traffic
- Streetscape
- Aesthetics
- Cultural-Aboriginal heritage
- Visual impact

Reports from Director Development Services

- Bulk and scale

Many of the above points raised have been discussed as part of this report. The applicant has also satisfactorily addressed all the issues raised in the submissions including those relating to stability and aboriginal heritage.

In response to the gazettal of TLEP 2000 and concerns raised the applicant amended the original proposal to comply with the 2 storey height restriction contained in the LEP.

The amended application was re-advertised and notified to people who previously made a submission. At the conclusion of this second notification period Council received one (1) submission objecting to the proposal. The grounds for this objection related to:

- * height of building exceeds 3 storey's
- * density of development increased as a result of plunge pool
- * similar objections as previous

As previously stated it is considered the development, as amended, now complies with the two storey height limit as defined by TLEP 2000. The density of the development has not changed significantly as this is calculated on internal floor space of the building.

(e) **Public Interest**

It is considered the proposed development in its amended form is generally in the public interest and is compatible with the principle aims and objectives of Tweed Strategic Plan 2000+ which has been incorporated into the provisions of TLEP 2000. It is considered the subject development should be supported.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

Should Council ultimately refuse the application the applicant has the right to appeal the decision in the Land and Environment Court.

OPTIONS

1. Adopt the recommendation.
2. Refuse to support the proposal.
3. Defer consideration of the proposal until the Tweed Local Environmental Plan 2000 Amendment No. 1 is gazetted.

CONCLUSION

The subject development is currently prohibited development under the 2(a) zoning however with the pending gazettal of Amendment No. 1 to TLEP 2000 the development will be permissible. Having considered the amended application on its merits it is considered the proposal warrants support on the gazettal of this plan.

It is recommended that Council resolve to support the application subject to the gazettal of the draft amendment to TLEP 2000 as exhibited and that consent be granted at that time by the Director, Development Services under delegation.

Reports from Director Development Services

It is concluded that Council should state its support for Development Application DA0330/90 and that in the event that the Minister for Urban Affairs and Planning approves Amendment No. 1 to Tweed Local Environmental Plan 2000, delegates authority to issue consent to the Director of Development Services for the erection of a detached dual occupancy comprising 1 x 3 and 1 x 5 bedroom dwellings at Lot 413 DP 755740 No. 16 Bambery Street, Fingal Head and that conditions are anticipated to be as follows:-

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

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

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

- (ii) GST

- 1.1 In this Clause 1:

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

Reports from Director Development Services

by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.

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

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

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

- a. Tweed Road Contribution Plan:
\$1,820.00

S94 Plan No. 4 (Version 4.0)
(Fingal Head – Residential)

- b. Open Space (Casual):
\$173.00

S94 Plan No. 5

- c. Open Space (Structured):
\$220.00

S94 Plan No. 5

- d. Shirewide Library Facilities:
\$150.00

S94 Plan No. 11

- e. Eviron Cemetery/Crematorium Facilities:
\$48.00

S94 Plan No. 13

- f. Emergency Facilities (Surf Lifesaving)
\$41.40

S94 Plan No. 16

- g. Community Facilities (Tweed Coast)
\$554.00

(North Coast)

S94 Plan No. 15

- h. Extensions to Council Administration Offices

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& Technical Support Facilities
\$178.35

S94 Plan No. 18

i. Cycleways

\$50.00

S94 Plan No. 22

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

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

GST

1.1 In this Clause 1:

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

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

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

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

Reports from Director Development Services

- 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.

Water: \$3590.00

Sewer: \$2970.00

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

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

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

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

(i) Building Work

In the case of an application for a construction certificate for building work:

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed plans and specifications

The plan for the building must be drawn to a suitable scale and consist of a general plan and a block plan. The general plan of the building is to:

- show a plan of each floor section
- show a plan of each elevation of the building
- show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground
- indicate the height, design, construction and provision for fire safety and fire resistance (if any)

Where the proposed building work involves any alteration or addition to, or rebuilding of, an existing building the general plan is to be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.

Reports from Director Development Services

Where the proposed building works involves a modification to previously approved plans and specifications the general plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply
- state whether the materials proposed to be used are new or second hand and give particulars of any second hand materials used
- c) where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:
 - details of the performance requirements that the alternative solution is intended to meet, and
 - details of the assessment methods used to establish compliance with those performance requirements
- d) evidence of any accredited component, process or design sought to be relied upon
- e) except in the case of an application for, or in respect of, a class 1a or class 10 building:
 - a list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated, and
 - if the application relates to a proposal to carry out any alteration or rebuilding of, addition to, an existing building, a separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated.
- f) Engineering plans and specifications for all civil engineering works required by this consent.

The list must describe the extent, capability and basis of design of each of the measures concerned.

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.

Home Building Act Requirements

In the case of an application for a construction certificate for residential building work (within the mean of the *Home Building Act 1989*) attach the following:

- (a) in the case of work by a licensee under that Act:
 - (i) a statement detailing the licensee's name and contractor licence number, and
 - (ii) documentary evidence that the licensee has complied with the applicable requirements of that Act*, or

Reports from Director Development Services

- (b) in the case of work done by any other person:
 - (i) a statement detailing the person's name and owner-builder permit number, or
 - (ii) a declaration signed by the owner of the land, to the effect that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in section 29 of that Act.
- * A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* to the effect that a person is the holder of an insurance contract issued for the purposes of that Part, is sufficient evidence that the person has complied with the requirements of that Part.
- 4. 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.
- 5. Prior to issue of construction certificate details are to be provided indicating how adequate water pressure will be provided to the development. This information is to be provided from a suitably qualified hydraulic engineer.
- 6. A demolition work plan for the removal of the existing dwelling is to be approved by Council's Building Services Unit prior to commencement of any demolition work or issue of construction certificate.

GENERAL

- 7. The development shall be completed in general accordance with Plan Nos SK01A, SK02A, SK03A, SK04A, SK05B, SK06B, SK07 prepared by Warren Coyle Architect and dated 27/5/00 and 28/4/00, except where varied by these conditions.
- 8. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- 9. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
- 10. The provision of four (4) off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
- 11. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete

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- c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
12. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of Council. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of work.
13. All necessary on site boundary retaining shall be carried out prior to start of works upon the building proper, with details of retaining walls being submitted to Council for approval prior to start of works.

Please note: Timber retaining walls will not be accepted.

14. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA prior to occupation of the building; and
 - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (A) the method of protection; and
 - (B) the date of installation of the system; and
 - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (D) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

15. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site in accordance with Section 78i of the Environmental Planning & Assessment Amendment Regulations 1998.
 - iii. A sign has been erected on the site in accordance with Section 78H of the Environmental Planning & Assessment Amendment Regulations 1998.

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- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 78c of the Environmental Planning and Assessment Amendment Regulations 1998.
16. The glazier is to supply the PCA with certification that all glazing complies with AS 1288-1994 and AS2047 of the Building Code of Australia.
17. Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.
18. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead".
19. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601-1991 "The Demolition of Structures".
20. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
21. The lower level of the rear dwelling is not to be used or adapted for separate residential habitation or occupation.

PRESCRIBED (BUILDING)

22. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
23. A sign must be erected on the site in a prominent, visible position stating:
- a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
24. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
25. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force

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on the date the application for the relevant construction certificate or complying development certificate was made).

26. A. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
- i. in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number; and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - ii. in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in Section 29 of that Act,
- and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- B. A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
27. The erection of a building in accordance with a development consent must not be commenced until:
- a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and

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- c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
28. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

CAR WASHDOWN

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

SWIMMING POOLS

30. A sign must be erected on the site in a prominent, visible position stating:
- a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
31. A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
- B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- D. It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
- E. The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
- F. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction.
- a. Steel reinforcing prior to the pouring of concrete.
 - b. Swimming pool safety fencing prior to filling the pool with water.
- G. In the event that Council is not utilised as the inspection/certifying authority:-
- a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance

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with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.

- b. The Certifying authority is to be given 24 hours notice in writing for an inspection of the swimming pool safety fencing prior to filling the pool with water.
32. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
33. The swimming pool is to be sited at least one metre horizontally clear of sewer main on site. Any part of the structure within the area of influence of the sewer main is to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design will ensure that all loads will be transferred to the foundation material and will not effect or be effected by the sewer main.
34. The spa pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS1926-1986(Copy of code enclosed)
35. Spa pools shall have suitable means for the drainage and disposal of overflow water.
36. The spa filter and any pumps or aerators are to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
37. The swimming pool is not to be used for commercial purposes without prior Development Consent.

ROADS/STREETS

38. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.
39. 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.

DRAINAGE/FLOODING

40. Internal stormwater lines are to be connected directly into road drainage pits if available along the frontage of the site.
41. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of

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AS/NZS3500.3.2-1998. Note All roof water must be connected to an interallotment drainage system where available.

42. All surface and seepage waters liable to be a nuisance are to be collected and diverted clear of the building site by an approved drainage system separate to the roof water system.
43. All surface runoff from sealed driveway, car parking areas and the like, is to be piped to the street.
44. Stormwater drainage is to be carried out in accordance with the Plan submitted by Mark Trauenleks Consulting Engineer

ENVIRONMENT PROTECTION

45. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
46. 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.
47. Prior to commencement of building works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. Erosion and sedimentation control devices should be installed in accordance with the publication "Managing Urban Stormwater Soils and Construction" prepared by the NSW Department of Housing. All erosion and sedimentation control shall be maintained throughout the period of construction.
48. The wall and roof cladding is to be of a non reflective nature to the satisfaction of the Principal Certifying Authority.
49. The burning of builders waste on site by open fire is prohibited.

PLUMBING/DRAINAGE

50. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a internal drainage, prior to slab preparation;
 - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c external drainage prior to backfilling.
 - d completion of work.
51.
 - a. A permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - b. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

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52. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.
53. The Council approved wet area flashing installer is to supply to the Principal Certifying Authority certification that all wet area flashings have been installed in accordance with the Manufacturer's Specifications, detailing the rooms or areas involved and the date of installation. Note: Only Council approved installers may carry out this work and reference must be made to Council to confirm that such installers are Council approved.
54. Impervious floors, properly graded and drained are to be provided to all wet areas.
55. Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
56. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
 - * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

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8. ORIGIN: Subdivisions Unit

FILE REF: DA1180/668 Pt7

REPORT TITLE:

Proposed Section 96 Modification to Development Consent K99/1360 - 82 Lot Subdivision (Casuarina Beach Stage 2) at Lot 2 DP 1014470 Coast Road, South Kingscliff

SUMMARY OF REPORT:

An application has been received pursuant to S.96(2) of the Environmental Planning & Assessment Act, 1979 to modify development consent K99/1360 – 82 Lot Subdivision, otherwise known as stage 2 of the Casuarina Beach development. The proposal incorporates four (4) key amendments as follows:-

1. Modification of the consent to allow bulk earthworks and civil subdivision works to be subject to separate construction certificate applications. The primary purpose of this is to allow bulk earthworks to occur prior to the issuing of a construction certificate for civil subdivision works.
2. Modification of condition No. 75 to allow for increased construction times.
3. Modification of the Stage 2 consent (K99/136) through the deletion of a section of the table incorporated into Condition No. 44(iv).
4. Modification of approved road layout in the southern section of the stage 2 development.

The proposed modification of the internal road layout incorporates the creation of a further cul de sac and the deletion of an existing connecting road. In order to facilitate the latter, the applicant has proposed to reconfigure lots 34-37.

It is important to note that condition No. 44 of development consent K99/1360 requires each of those roads forming a cul de sac to the west of lots 52-56, 45-49 & 38-42, to be connected by the provision of a road with a reserve of 6.0m and carriageway width of 4.0m. The amended plans submitted by the applicant do not reflect the provisions of this condition and therefore do not accurately reflect the development consent. Nevertheless, Council officers have assessed the proposal as shown on the plans submitted, with comments provided throughout this report.

The applicant has also requested that Council consider a reduction in the applicable fee associated with the assessment of this Section 96 application.

RECOMMENDATION:

That :-

1. That the proposed modification to facilitate the issue of separate construction certificates for bulk earthworks and civil subdivision works be approved subject to the inclusion of the following condition in the pre-requisite section:-

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“Notwithstanding any other condition of this consent, a construction certificate for bulk earthworks may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a construction certificate for all subdivision works subject to compliance with the following conditions – 3, 4, 10, 11, 12, 13, 14, 17, 19, 20, 21, 23, 30 (relating to bulk earthworks only), 31 (relating to bulk earthworks only), 32, 50, 53, 54, 55, 57, 58, 59, 60, 62, 63(d) final dot point, 68, 69, 70, 71, 72, 73, 74, 75, 82, 83 and 84.”

2. Condition 44(iv) of Development Consent K99/1360 be amended as follows:-

“iv. Notwithstanding any steps within the Road Reserve boundary, the minimum road pavement and footway widths shall be maintained for the full length of all roads.

Figure	Road Number	Min. Road Reserve	Min. Carriageway Width	Min. Footway Width
E14	1	20.0m	14.0m	3.0m (paved footway width 1.5m both sides)
E14	2 Ch0.0-Ch360	20.0m	9.0m	5.5m (singled paved footway width 1.2m)
E14	2 Ch360-Ch606	20.0m	11.0m	4.5m (paved footway width 1.2m both sides)
E14	3	20.0m	11.0m	4.5m (single paved footway width 1.2m)
E23	4*	13.5m	7.5m	3.0m
E23	5	13.5m	7.5m	3.0m
E22	6	13.5m	7.5m	3.0m
E22	7*	13.5m	7.5m	3.0m
E22	8	13.5m	7.5m	3.0m
E22	9*	13.5m	7.5m	3.0m

* *These roads shall be linked by roads with reserve width 6.0 metres and a carriageway width of 4.0 metres. The carriageway shall be constructed using coloured pavers or other appropriate treatment and shall incorporate traffic calming devices so as to generally deter other vehicular traffic. The remainder of the roadway width shall be landscaped and vegetated.”*

3. Condition No. 75 of development consent K99/1360 be amended as follows:-

“Construction site work including the entering and leaving of vehicles is to be restricted to between 6.00am to 8.00pm Monday to Saturday and no work on Sundays.”

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4. The proposed modification of the approved internal road and lot layout be refused for the following reasons:-
 - i. The amended layout is unsatisfactory, as it will restrict vehicle and pedestrian connectivity through the site.
 - ii. The amended layout does not facilitate safe manoeuvring of garbage trucks and other rigid axle vehicles.
 - iii. The amended layout is inconsistent with the public interest.
5. The request for a full or partial refund of fees be refused on the basis that the fees applied to date are a more accurate reflection of resources contributed to the assessment of this development.

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REPORT:

Applicant: Consolidated Properties, Kings Beach and Lenen P/L

Owner: Lenen P/L

Location: Lot 2 DP 1014470

Zoning: 2(e) Residential Tourist and 7(f) Environmental Protection (coastal lands)

BACKGROUND/PROPOSAL

On 31 May 2000, development consent was issued for the subdivision of the Kings Beach Stage 1 management lots 1, 2, 12 and parts of 3, 9 & 13 (as per stage 1 consent) into 82 lots. This is otherwise known as stage 2 of the Casuarina Beach development.

Following is the schedule of conditions that were incorporated into the above consent:-

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

1. Prior to the issue of a Construction Certificate a Fire Management Plan is to be submitted and approved by Council. The plan shall address potential environmental impacts, including impacts on threatened species.
2. Prior to the release of the Construction Certificate details are to be submitted on the acoustic fencing and landscaping along Coast Road to the satisfaction of Council. The approved works shall be completed **PRIOR** to release of the linen plan.
3. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, prior to issue of the Construction Certificate. The applicant shall submit evidence to Council that the traffic control plan has been prepared by an authorised person. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
4. 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.
5. A detailed plan of landscaping is to be submitted and approved by Council prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans. The detailed landscaping plan shall include a list of species which ensure no potential for seed transfer to Lot 500 which would conflict with the propagation and maintenance of species specified in the Dune Management Plan and Lot 500 Management Plan.

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6. The Stage 1 linen plan required by the Stage 1 development consent S96/135 shall be registered **PRIOR** to issuing any construction certificate pursuant to this consent. The Stage 2 layout is to be consistent with the lot boundaries of open space lots 8, 9, 10, 11, 12, 13 and 14.

GENERAL

7. Prior to the issue of a Subdivision Certificate pursuant to this consent **ALL** works bonded pursuant to Consent S96/135 for Stage 1 shall be completed to the satisfaction of Council.
8. Submission of separate development applications for further development of the residue lots (lots 19, 29, 30 and 31).
9. The Architectural Design Regulations shall not be included in any legal document to be administered by Council. **NOTE:** Some aspects of the ADR such as setbacks, fencing etc will need to be incorporated into a DCP for control by Council. Accordingly, DCP 11 – Kings Beach will need to be amended to incorporate the following conditions:

- (i) The minimum setback from the street front boundary to the wall of a dwelling is to be not less than six (6) metres.

The minimum setback from the street front boundary to the wall of a single garage is to be not less than 5.4 metres and not less than 5 metres to the wall of a double garage.

Special design elements such as verandas, entrances and the like constructed of open design shall be setback a minimum of 3 metres from the front street boundary.

- (ii) The minimum side boundary setback for any dwelling shall be not less than 900mm to the wall and not less than 675mm to the outer most projection of the eave.
- (iii) The minimum setback from a secondary street boundary of a corner lot to the wall of a dwelling is to be not less than 3 metres.
- (iv) For beachfront lots, the rear building line is the boundary line between the 2(e) and 7(f) zones. No structures are permitted within the 7(f) zone.
- (v) All fencing east of the 7(f) and 2(e) zone boundary shall be a maximum height of not more than 1.2 metres.

The above conditions (i)-(v) can be varied by Council subject to the merits of each development application.

10. The development shall be completed in general accordance with Figures E5 and E6 prepared by Cardno MBK and dated September 1999, except where varied by these conditions.
11. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
12. No soil, sand, gravel, clay or other material shall be disposed of off the site without the approval of Council.

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13. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of Council prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
14. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.
15. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No K99/1360 have been complied with.
16. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
 - i. Easements for sewer, water supply and stormwater drainage over ALL services on private property.
 - ii. A restriction as to user requiring that all roofwater from dwellings shall be discharged to an approved infiltration pit located on the subject property. The infiltration pit shall be approved by the Principal Certifying Authority.

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

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

17. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
18. 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.
19. 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.
20. 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 Council.

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The sign is to remain in place until the Subdivision Certificate is issued.

21. It shall be the responsibility of the applicant to ensure that at all times the 'Optus Cable' which traverses the subject site is protected from construction damage.

The applicant must identify the location of the cable prior to the commencement of construction. The cover over the cable shall not be permanently decreased or increased without the consent of the owner of the cable.

22. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
23. Any damage to property (including pavement damage) is to be rectified to the satisfaction of Council 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.
24. In accordance with Section 109F(i) of the Environmental Planning & Assessment Act, 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.

Open Space

Casual Open Space

25. Management Lots 12 (proposed lot 81) and 13 in the Stage 1 consent S96/135 in so far as they relate to this Stage 2 consent are to be suitably embellished in accordance with condition 39(f) and (g) of Consent S96/135 for Stage 1 prior to the release of the linen plan for Stage 2 including:-
- (i) removal of bitou bush and other noxious weeds
 - (ii) rehabilitation of the area consistent with the Dune Management Plan referred to in Condition 35 of Consent S96/135 for Stage 1 and good practice in this regard
 - (iii) provision of adequate and appropriate security lighting for users of Lots 12 and 13.
 - (iv) provision of suitable related day visitor facilities, generally consistent with drawings contained in Appendix E to the Statement of Environmental Effects for Stage 1 (S96/135) as amended by the Landscape Master Plan submitted with the application.
 - (v) The land between the constructed cycleway/walkway and the Lot 500 boundary and the western boundary of proposed Lot 13 in Stage 1 shall be embellished to

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enable the area to be used for passive open space including picnicking to the satisfaction of Council. Existing tree cover shall be maintained to the maximum extent possible.

- (vi) The cycleway/walkway corridor shall be landscaped and fenced in accordance with plans to be submitted and approved before work commences.
26. Dedication, at no cost, to Council, of the local parks (Lots 20 and 81). These parks are to be suitably embellished including but not limited to filling, topsoiling, grading, seeding, planting, installation of seating and play ground equipment and shade cover. Details to be submitted with the Construction Certificate application to the satisfaction of Council. The embellishment work shall be completed prior to release of the linen plan.

CONTRIBUTIONS

27. (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, Tumbulgun Road, Murwillumbah and Brett Street, Tweed Heads.

(ii) GST

If GST is applicable the following shall apply.

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.

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- 1.3 Any non-monetary contribution or levy payable or imposed as a condition of this contributions plan pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (NSW) (as amended), including, but not limited to, the dedication or transfer of land to the Council or the transfer of some other asset to the Council, whether in tangible or intangible form, and all other non-monetary contributions payable by and on behalf of the applicant are also exclusive of GST.
- 1.4 Liability for GST (payable in respect of any taxable supply under this contributions plan whether monetary or non-monetary) is additional. It is payable by the applicant to the Council at the same time as all and any contributions, levies and other moneys are payable under this contributions plan and development consent.
- 1.5 In respect of any non-monetary contribution or levy referred to in clause 1.3 above, the GST payable shall be calculated as follows:
- GST payable = The GST inclusive market price of the asset x $\frac{1}{11}$.
- 1.6 The Council will issue to the applicant, within twenty one (21) days of a request from the applicant, a tax invoice for the monies paid or the assets transferred by the applicant adjusted by the rate of the GST in accordance with the requirements of the relevant legislation.

a. Tweed Road Contribution Plan:

78 lots @ \$2394 per lot

\$186,732.00

S94 Plan No. 4 (Version 4.0)

(Duranbah/Cabarita/Kings Forest Development - Residential)

Council will apply credits towards this contribution in relation to the amount that is determined as credit pursuant to condition 12(a)(i) of the Stage 1 consent No. S96/135 and Section 94 Plan No. 4.

(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 construction certificate or subdivision certificate, whichever occurs first. 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

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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. Street Trees: 78 lots @ \$42.90 per lot
\$3,346.20

S94 Plan No. 6

c. Shirewide Library Facilities:

78 lots @ \$300 per lot

\$23,400.00

S94 Plan No. 11

d. Eviron Cemetery/Crematorium Facilities:

78 lots @ \$126 per lot

\$9,828.00

S94 Plan No. 13

e. Bus Shelters: 78 lots @ \$23 per lot
\$1,794.00

S94 Plan No. 12

f. Emergency Facilities (Surf Lifesaving)

78 lots @ \$80 per lot

\$6,240.00

S94 Plan No. 16

g. Extensions to Council Administration Offices
& Technical Support Facilities

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78 lots @ \$344.81 per lot

\$26,895.18

S94 Plan No. 18

- h. Cycleways: 78 lots @ \$160 per lot
\$12,480.00

S94 Plan No. 22

Contribution to be credited against cost of works in condition 48 (i).

- i. Structured Open Space: 78 lots @ \$640 per lot
\$49,920.00

S94 Plan No. 19

- j. Community Facilities: 78 lots @ \$497 per lot
\$38,766.00

S94 Plan No. 19

28. In addition to the normal contribution required by S94 Plan No 16 – Emergency Facilities (Surf Lifesaving) an amount of \$55 per lot shall be paid towards the cost of providing Surf Lifesaving facilities within the area between Kingscliff and Cabarita. (ie 78 lots @ \$55 per lot = \$4290).
29. 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

If GST is applicable the following shall apply.

- 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

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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.

Water: 78 lots @ \$3420 per lot
 \$266,760.00

Local Section 64 Water Supply Levy

78 lots @ \$205 per lot
 \$15,990.00

Sewer: 78 lots @ \$2820 per lot
 \$219,960.00

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.

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FURTHER APPROVALS

30. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works proposed and 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.

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. Subdivision work in accordance with a development consent must not be commenced until:-

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- (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.
32. 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 of \$10,000.
- 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 Council.
- The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.
33. 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 - 82 lots @ \$110/lot = \$9020
 - 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)

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- 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.

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.

34. 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/vacuum pots
 - (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:-

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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
- f. Off maintenance

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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".
35. 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.

36. 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.

37. (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.

38. 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.

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- b. That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)
 - c. That the pavement layers have been compacted to RTA specifications.
 - d. That site fill areas have been compacted to the specified standard.
 - e. That supervision of Bulk Earthworks has been to Level 1 and 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.
39. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of Council.
40. 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

41. (i) The section of Coast Road from the southern boundary of the site to the T – junction construction at Road No. 1 shall be restored to an adequate running surface (including any necessary crossfall corrections) by means of the addition of asphaltic overlay surfacing no less than 25mm thick, such work to be completed to the satisfaction of Council.
- (ii) An appropriate shoulder 1.2m in width (to Austroad design standards) shall be provided on the eastern edge of the above road segment.
- (iii) Road reserve widening on the eastern side of the Coast Road corridor from Road No. 1 to the southern boundary of the site shall be dedicated free of cost to Council in accordance with Cardno MBK figure E32 “Approved Coast Road Details” dated 24 September 1999, consistent with the draft Stage 1 linen plan.
- (iv) Suitable traffic noise attenuation structure consisting of earthbunds and/or acoustic fencing shall be provided east of the landscape buffer and clear of the Coast Road reserve for the full length of the site. The landscape buffer as shown in Cardno MBK figure E32 shall be formed, stabilised and landscaped in accordance with plans to be submitted and approved by Council prior to the issue of the Subdivision Certificate.
42. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet.
43. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans referred to in Condition 10 AND the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.

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44. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction of the roads in the subdivision generally in accordance with Cardno MBK Figures E14, E22 and E23 and the table below, except where varied by these conditions.
 - ii. Road cross sections employing “roll-over” kerbing with a minimum of 0.9m abutting grass filter verge containing street lighting and street trees, to discourage parking on the footpath.
 - iii. A native tree planting schedule for each of the roads in the table below showing the location and species of each street tree, clear of driveways and sight lines.
 - iv. Notwithstanding any steps within the Road Reserve boundary, the minimum road pavement and footway widths shall be maintained for the full length of all roads.

Figure	Road Number	Min. Road Reserve	Min. Carriageway Width	Min. Footway Width
E14	1	20.0m	14.0m	3.0m (paved footway width 1.5m both sides)
E14	2 Ch0.0-Ch360	20.0m	9.0m	5.5m (singled paved footway width 1.2m)
E14	2 Ch360-Ch606	20.0m	11.0m	4.5m (paved footway width 1.2m both sides)
E14	3	20.0m	11.0m	4.5m (single paved footway width 1.2m)
E23	4*	13.5m	7.5m	3.0m
E23	5	13.5m	7.5m	3.0m
E22	6	13.5m	7.5m	3.0m
E22	7*	13.5m	7.5m	3.0m
E22	8	13.5m	7.5m	3.0m
E22	9*	13.5m	7.5m	3.0m

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Figure	Road Number	Min. Road Reserve	Min. Carriageway Width	Min. Footway Width
	Coast Road south of Road 8	as required	as exists plus eastern road shoulders to Austroads Standards	Eastern side only: paved footway to standard specified in condition 48(i), plus landscaping, acoustic buffers (see Condition 14 of Stage 1 consent S96/135) and table drains.

* These roads shall be linked by roads with reserve width 6.0 metres and a carriageway width of 4.0 metres. The carriageway shall be constructed using coloured pavers or other appropriate treatment and shall incorporate traffic calming devices so as to generally deter other vehicular traffic. The remainder of the roadway width shall be landscaped and vegetated.

45. Construct a 9.0m kerb radius cul-de-sac at the southern end of road No. 2 including kerb and channel, pavement, asphaltic concrete or other approved surfacing and a 3.0m width footway. The applicant shall either:
 - i. Dedicate a public road over the cul-de-sac or;
 - ii. Register a right of carriageway over the cul-de-sac.
46. The intersection of Road No. 1 and the Coast Road shall be constructed to a Type C “right turn” and Type B “left turn” standard including channelisation, deceleration lane, line marking and street lighting in accordance with Austroads Part 5 Intersections at Grade, such design to allow road dedication and correct kerb lines and road space for ultimate traffic loading, including future signalisation.
47. All permanent cul-de-sacs shall be constructed with kerb radius of 9.0m and a minimum footway width of 3.0m.
48.
 - i. All cycleways, walkways and coastal walkways/cycleways shall be designed generally in accordance with Austroads Guide to Traffic Engineering Practice Part 14 and AMCORD provisions for single and shared footway/cycleways (Element 1.4 and PND17) and constructed in accordance with engineering plans and specifications which accompany the construction certificate application which shall be approved by the Director, Development Services.
 - ii. Pursuant to Section 94 Plan No. 19 and Condition 39(a)-(e) of Development Consent S96/135 issued by the Land and Environment Court on 16 December, 1998, the applicant shall construct all cycleways, walkways and coastal walkways/cycleways applicable to Stage 2 as shown on Map 5 contained within Section 94 Plan No. 19 EXCEPT that the cycleway/walkway shall be constructed within Lot 500 along the

Reports from Director Development Services

eastern boundary of the site to the south eastern corner of proposed Lot 1, and then in a dedicated public road 10m wide corridor parallel to and abutting the southern boundary of proposed Lot 1 to the alignment of the Coast Road in lieu of the route shown on Map 5.

- iii. Alternatively, the developer may, in the case of residential frontage footpaths, pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.
- iv. If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on. The maintenance bond shall be lodged prior to release of the subdivision certificate.
- v. The construction of a minimum of 20 car parks within an area of 1000m² of dedicated public road in the south western corner of Lot 1 and the construction of an emergency four wheel drive access from the Coast Road through the 10m wide corridor to the beach in accordance with plans to be submitted and approved by Council. An additional beach pedestrian accessway shall be constructed adjacent to the emergency four wheel drive access referred to above.

Access to the car park and for emergency vehicles from the Coast Road shall be by way of a junction to be constructed in conjunction with the car parking area to AUSTRROADS standards (including lighting) in accordance with plans to be submitted and approved by Council.

The works shall be completed prior to the release of the Stage 2 linen plan.

49. Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of Council.

DRAINAGE/FLOODING

50. All fill of new residential lots is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate application.
51. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped with the exception of infiltration basins.
52. All roofwater from dwellings shall be discharged to infiltration pits located on each subject allotment. The design of the infiltration pits shall be submitted with the Application for the dwelling and approved by the Certifying Authority.
53. All proposed building pads are to be above the Q100 design flood level, including provision for any localised overland flow, such that at least 300mm freeboard is provided to the satisfaction of the Director Development Services.

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54. 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.
55. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.
56. Prior to final acceptance of the Stormwater system and release of the maintenance bond a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

57. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond/infiltration basins prior to final discharge into any waterway. The sediment ponds or other approved devices are to be maintained in good condition until the maintenance bond is released.
58. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

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

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

59. For the purpose of this condition "trunk drainage" shall be defined as the drain along the coastal frontage of the subject land and the continuation of this drain, downstream to Controlled Outlet No. 7 as generally located on Cardno MBK Figure E24 Rev A.

The ultimate point of discharge for this development (except the west sloping portion of proposed lot 29) shall be Controlled Outlet No. 7. The west sloping portion of proposed lot 29 shall discharge to Controlled Outlet No. 3.

Trunk drainage shall be designed to convey Q_{100} stormwater discharge. The trunk drainage shall be constructed and the land (containing the drain) dedicated to Council. In the section between proposed public reserve lot 81 and Controlled Outlet No. 7, the land to be dedicated shall include the drain and provision for maintenance vehicle access, the maintenance vehicle access shall be constructed to an all weather, two wheel drive standard.

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The trunk drainage along the coastal boundary, and elsewhere, shall be designed to accommodate Q_{100} (no infiltration) flows with a minimum 300mm freeboard.

Where consistent with other land use requirements, grassed swale drainage is to be used in preference to pipes or hard lined channels. In designated public open space areas, open drains will only be permitted if the resultant landform is satisfactory to Council for open space purposes.

Major (Q_{100}) and minor (Q_5) drainage shall be constructed in the eastern extension of Road No. 2 (ie the eastern extension of the road between the end of construction proposed in this application and the coastal drain), this section of Road No. 2 shall also be dedicated to Council.

60. Management Lots 1 & 2 (except the southern part of Management Lot 1 south of chainage 200m on the 50 year erosion "control" line) shall be shaped in accordance with Cardno MBK Figures E8 - E13. Where earthworks are proposed on Crown Land (Lot 500), the written consent of the owner (the Department of Land and Water Conservation) is to be submitted with the construction certificate application, and:

- Bulk earthworks over that part of the site the subject of this application shall be completed sufficient to ensure that road levels are fixed, the drainage system is established and the lot boundaries are at their final level
- Provision shall be made to ensure surface runoff does not discharge onto adjoining land
- Provision shall be made to accept up to Q_{100} natural or existing surface runoff from adjacent land that discharges onto the subject land
- Where the proposed levels are inconsistent with existing levels on adjacent land, retaining walls and any necessary ancillary or drainage works shall be provided on the lot boundaries to ensure the land shaping has no adverse affect on adjacent land. Plans and specifications of the retaining walls and ancillary works and the written consent of the adjacent landowner shall be submitted with the construction certificate application.*

* As an alternative, the applicant may submit a proposal with the construction certificate application for simultaneous reshaping of both the subject land and adjacent land. Such a proposal must be authorised by all affected land owners and indemnify Council from any action resulting from the execution of the proposal or any land forming activity that may adversely affect adjoining land.

61. This condition refers to proposed lots 1, 19, 31, 29 and 30.

Prior to release of any subdivision certificate:

- Sufficient permanent infrastructure must be constructed in the subdivision that creates these 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 the boundaries of these lots or runs adjacent to their boundaries must be constructed in the subdivision that creates the lots.

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- These lots shall be provided with interim and ultimate drainage inlets on the lots or at lot boundaries. The interim period is defined as that time between the creation of the lot and the development of the lots. The lots shall be shaped to ensure all interim Q5 concentrated drainage and surface runoff from slopes longer than 40m is discharged to these inlets. Provision shall be made outside the lots for acceptance and transport of ultimate and interim Q100 flows from the lots.
- Where infrastructure required to serve a future development lot, passes through another lot, easements in favour of Council shall be granted over the infrastructure (and necessary access roads to such infrastructure).
- Any public utilities currently located in these lots are to be either relocated to public land.

62. Permanent Stormwater Quality Treatment

(a) Stormwater Quality Objectives

Permanent stormwater quality treatment shall comply with “Tweed Urban Stormwater Quality Management Plan” (adopted by Council 19 April 2000) section 5.5.3 “Stormwater Objectives During the Post Construction or Occupational Phase of Development” . New development is required to comply with table 5.4 and demonstrate compliance by modelling in accordance with section 5.5.4 of the Plan:

Section 5.5.5 of the plan further advises that treatment that is in accordance with the “deemed to comply” provisions of Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality is deemed to comply with the objectives in 5.5.3.

“Table 5.4 Stormwater Treatment Objectives for Post Construction (Occupational) Phase of Development

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

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Note: The Water Quality Management and Monitoring Program contained in Cardno MBK letter of 21 February 2000 containing proposals for Water Quality Management generally achieves the above objectives.

(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 (eg. Rainwater tanks). 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) Infiltration

- i. Infiltration areas are to be sized with a safety factor of 2 (this is to allow for long term deterioration in infiltration rate).
- ii. runoff entering infiltration trenches/basins shall be pretreated to remove sediment and gross pollutants.
- iii. 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 calculation yields a result $<6\text{m/day}$, this rate may be used for design.
 - If the result is $>6\text{m/day}$, the rate for design may not exceed 6m/day unless this rate is confirmed by independently determining the coefficient of permeability of the soil in accordance with AS 1289.6.7.3. Notwithstanding these tests, the maximum infiltration rate that may be used for design and sizing purposes is 12m/day .

(d) Specific Requirements

Permanent stormwater quality devices are to be designed in accordance with these conditions and "Tweed Urban Stormwater Quality Management Plan" Appendix E – Tweed Shire Council, Aus-spec D7 – Stormwater Quality, and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate Application.

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

- 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

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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, with a safety factor of 2, before surcharging occurs
- Surchage 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 infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- 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.

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%)
- Oil/Grit Separators (ref 4.7), permanent pool 30m³ per untreated, impervious (this excludes the impervious upstream areas discharged into infiltration devices) hectare with 50-70% of this volume in first chamber (or equivalent devices approved by Council) are to be provided in the underground road/hardstand stormwater drainage systems to remove sediment, litter and oil/grease prior to discharge onto the coastal drain/infiltration area, ie. at the following locations: - East side of Roads 9, 7 and 4; east end of public car park; east end of Road 2.
- Infiltration basins (ref 5.6) shall be provided upstream of Controlled Outlet No 7 and controlled outlet No. 3, and sized to infiltrate all runoff from stormwater flows up to 40% of ultimate $Q_{1 \text{ year}}$. Infiltration basin sizing shall be determined on a catchment basis. For the purpose of this consent a "catchment" shall be the total area draining to each controlled outlet (No. 3 and No. 7). The infiltration basins shall be contained within reserves to be dedicated to Council. The basins may only be contained within designated public open space areas, if the resultant landform is satisfactory to the Council for open space purposes. Infiltration basins are to consist of raw dune sand with a minimal vegetation cover of endemic dune grasses. No topsoil, mulch or other vegetative matter is to be used on infiltration basin surfaces and no establishment, operation or maintenance procedures are permitted that may reduce surface permeability.

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SERVICES

Sewer

63. The applicant shall lodge detailed engineering plans with the construction certificate application for the Sewerage Reticulation and Pumping System.
64. i. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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

- ii. Any sewerage works required by the Stage 1 consent S96/135 which have been bonded shall be completed to the satisfaction of the Director of Engineering Services **PRIOR** to the release of the Subdivision Certificate.

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

65. 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.

The Construction Certificate application shall provide reticulation calculations which clearly demonstrate that the proposed 100mm diameter water main servicing proposed Lot 1 has sufficient capacity to ensure that adequate fire fighting flows are maintained at all times.

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

66. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply. The documentation shall be submitted prior to the issue of a Subdivision Certificate.

Reports from Director Development Services

Electricity

67. i. The production of written evidence from NorthPower certifying that reticulation of underground electricity has been completed; and
- ii. The reticulation to include the provision of fully installed electric street and parkland pathway lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council. The proposed location and style of lighting standards (clear of other public utilities, private accesses, and street trees) to be submitted with the Construction Certificate application. The Construction Certificate shall be submitted PRIOR to issue of a Subdivision Certificate.

ENVIRONMENT PROTECTION

68. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
69. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
70. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
71. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
72. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17^o or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

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

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

Reports from Director Development Services

issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

73. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
74. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
75. 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.
76. 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.

77. The following restrictions apply to dog and cat ownership and control on all residential lots:-
 - A.
 - i. Owners of dogs within the development shall have their yards fenced so as to securely contain a maximum of one (1) dog per allotment and the ownership of cats within the development shall be restricted to one de-sexed cat per allotment and such cats shall be restrained within the house or a secure night cage between the hours of 6.00pm and 6.00am.
 - ii. No dog shall be registered without the construction of a dog-proof compound which must be approved by Council and the relevant fee paid by the applicant.
 - iii. No owner can retrieve a dog that has been impounded unless they can demonstrate to Council they have a secure compound.

These ownership and control requirements shall be reinforced by a Restrictions as to User under Section 88B of the Conveyancing Act, 1919-1964.

A Section 88B Instrument creating the restriction as to user shall contain a provision enabling the restriction to be revoked, varied and modified only with the consent of Council.

- B. The applicant shall prepare a list of non-endemic garden plants that have a reputation for becoming environmental weeds on coastal sands on the Tweed. The list is to be

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approved by the Council granting delegated authority to the Director Environment & Community Services. The growing of plants in the list shall be prohibited on the subject land by way of a Restriction as to User under Section 88B of the Conveyancing Act.

A Section 88B Instrument creating the restriction as to user shall contain a provision enabling the restriction to be revoked, varied or modified only with the consent of Council.

78. 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.
79. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
80.
 - i. Submission and approval of a separate development application for those works to be undertaken in accordance with the Dune Management Plan and Lot 500 Management Plan required by consent S96/135 issued by the Land and Environment Court on 16 December, 1998.
 - ii. The Dune Management Plan and Lot 500 Management Plan shall be implemented in accordance with any development consent obtained pursuant to Condition 80(i) to the satisfaction of Council.
81. The Water Quality Monitoring and Management Program prepared by Cardno MBK dated 1 February 2000 is to be implemented and be amended to include an additional 3 groundwater monitoring points.

In addition the water quality objectives table is to be amended to include an objective for groundwater level alterations. These details are to be submitted to the satisfaction of Council prior to the commencement of works. Any alteration to this will need to be to the satisfaction of Council.

82. Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate.

Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment control shall remain in place until final approval is given and the maintenance bond has been released.

83. The Acid Sulfate Soils Management Plan prepared by Cardno MBK dated 1 February 2000 is to be implemented for the duration of the works.

Reports from Director Development Services

Page 8 of the "Reporting" section is to be amended to include "Council will be informed within 7 days of any major complaint results, particularly in relation to exceedences of the nominated range for each water quality parameter".

The details are to be submitted to the satisfaction of the Director Environment and Community Services prior to works commencing.

84. In accordance with Condition 34 of consent S96/135 for Stage 1, prior to issuing a Construction Certificate for 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.
85. PRIOR to any work commencing pursuant to this consent, a suitable fence shall be erected on the alignment of the eastern extremity of the approved work to ensure that no unauthorised works or disturbance occur within Lot 500.
86. In accordance with the provisions of condition 41(d) of Consent S96/135 for Stage 1 and as required by the National Parks and Wildlife Service in their letter dated 24 May, 2000, the following requirements shall be complied with:-
 - i. Drainage swales/open space corridors rising east/west shall be replanted with suitable indigenous vegetation sourced locally to assist the east/west dispersal of wildlife.
 - ii. A minimum of 300 Banksias are to be planted in each development lot in areas of public and private open space. These trees may include large (greater than 10cm DBH) individuals translocated from areas where their clearing is essential for the development design. These trees should be located in clumps and as far away from urban areas and lighting as possible.
 - iii. All large mature Banksias, up to a maximum of 30 per management lot, in public or private open space, drainage swales etc, are to be marked and retained unless their removal is approved by Council in order to satisfy its requirements for open space and/or the proponents design of the development. Where such a tree is removed, it shall be replaced by a tree of similar size, taken from an area where it would otherwise be lost, and translocated into an unconstrained area of the lot.
 - iv. The proponent shall monitor and maintain as necessary any translocated trees for a period of one year from the date of consent in order to promote their survival.
 - v. In respect of the north-western area, as identified in the Gunninah report, clearing is to be deferred for a period of four years from 1 June 1999, or an alternative biological timeframe to be agreed between the applicant, NPWS and Tweed Shire Council.
 - vi. In respect of the commercial area, clearing may commence within four years, from 1 June 1999, in accordance with an agreed biological timeframe provided that adequate mitigation measures can be demonstrated to NPWS and Tweed Shire Council.
87. Compliance with the conditions imposed by the Department of Urban Affairs and Planning in granting concurrence to development in the 7(f) zone as follows:-
 - a. No residential or associated buildings being erected on land zoned 7(f);

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

1. MODIFICATION OF CONSTRUCTION CERTIFICATE PROCESS

The stage 2 consent requires the submission of a construction certificate for ‘all subdivision’ works prior to commencement. In this regard, both bulk earthworks and civil subdivision works are to be subject to a single application for construction certificate.

The intent of this application to modify is to allow for the lodgement of separate construction certificates for bulk earthworks and civil subdivision works respectively. Accordingly, the applicant has requested that the stage 2 consent be amended to facilitate this.

Council’s Subdivision Engineer has undertaken an assessment of the proposal and provided the following comments:-

‘No objection is raised to the proposal subject to the inclusion of an appropriate condition allowing for the separate issue of construction certificate for bulk earthworks’.

Although the applicant has requested that amendments be made to each relevant condition, it is considered that a more effective solution to the matter would be the inclusion of an enabling condition facilitating the proposed modification.

2. MODIFICATION OF CONSTRUCTION TIMES

The applicant has requested modification of Condition No. 75 (as per the attached schedule) to allow for increased permissible construction hours. In this regard, the applicant suggests that construction be permitted to start at 6.00am (rather than 7.00am) and finish at 8.00pm (rather than 7.00pm), Monday to Saturday. Although, Council has traditionally limited construction to the hours proposed on the original consent, it is considered that an extension to the approved times is unlikely to create any significant adverse impacts. In this regard, it is pertinent to note that no established residential areas abut the proposed development site.

3. MODIFICATION OF CONDITION NO. 44(IV)

Condition No. 44(iv) of development consent K99/1360 requires the applicant to provide cycleway and walkway facilities along the eastern side of Coast Road, south of proposed Road 8 (approximately 150m). Condition 48 of the same consent requires the provision of cycleway/walkway facilities adjacent to the ocean within Lot 500, before turning west and joining the Coast Road at the very southern end of Stage 2. The intent of the Stage 2 consent was to facilitate cycleway/walkway construction within Lot 500 and along the southern property boundary

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only. The applicant has therefore requested that the consent be modified to delete the requirement to construct cycleway/walkway facilities along the Coast Road.

It is considered that the application to modify accurately reflects the intent of the consent. In this regard no objections are raised subject to the formal amendment of condition 44(iv).

4. MODIFICATION OF INTERNAL ROAD LAYOUT

The applicant has requested modification of the approved (as per stage 2 consent) internal road layout at the southern end of the stage 2 area. The proposal incorporates the reconfiguration of approved lots 32 to 38, along with the subsequent deletion of the approved through road. A copy of the approved layout plan is attached at figure 1, whilst a copy of the proposed modified layout plan is attached as figure 2. The proposal was referred to Council's Subdivision Engineer, Traffic & Transport Engineer and Waste Management Co-ordinator (re: garbage truck access). Their comments are provided as follows: -

Subdivision Engineer

In relation to the road layout for stage 2 Council officers originally requested that roads 4,7 and 9 be joined to improve the connectivity and circulation of the development and also facilitate access for garbage collection.

Following discussions between the applicant and Council officers it was agreed on planning grounds and not engineering grounds that roads 4, 7 and 9 would be connected however the pavement and carriageway widths would be reduced. Condition 44(iv) of the stage 2 consent (K99/1360) requires the reserve width for these connections to be 6.0m and the carriageway to be 4.0m in width.

This section 96 application as shown in figure E5 rev A proposes the deletion of approximately 40m of road No. 4 thus severing the connection of road No. 4 to road No. 2.

The applicant's proposal has an adverse impact on the connectivity and circulation of the road system and does not facilitate access for garbage collection. Further, Figure E5 rev A is inconsistent with the requirements stipulated in condition 44(iv) of the stage 2 consent. Therefore, on engineering grounds the applicant's proposal as shown on Figure E5 rev A is not supported.

Waste Management Co-ordinator

The proposed modification is considered to be worse than the original proposal and does not provide for adequate vehicular circulation.

Traffic & Transport Engineer

The proposed road alignment alteration in the vicinity of lots 20, 32 and 80 is not considered appropriate in terms of traffic management. The proposed change converts a straightforward interconnected road into two (2) cul de sacs, one being very confusing in layout off the main collector road. Such a wide-open intersection will confuse motorists with a potential to cause traffic accidents, as it is unclear that it is actually an intersection.

The proposal also makes access to roads 13 and 14 more difficult by deleting an access point to the main collector road. This also has the potential to delay emergency service vehicles.

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5. REQUEST FOR PARTIAL REFUND OF FEES

The applicant has requested that Council reduce the fees applicable to the subject Section 96(2) modification. The prescribed fee associated with an application to modify a consent pursuant to Section 96(2) of the Environmental Planning and Assessment Act, 1979 is \$100 or 50% of the fee for the original application, whichever is the greater. In this instance the original application fee was \$8722.00. The applicant has paid the required fee of \$4361.00 and has since requested that the fee be reduced to \$500, with the remainder to be reimbursed. This application is based on the assertion that the suggested fee more accurately represents the “real time” associated with the consideration of this application.

Whilst it is acknowledged that the subject application to modify has required significantly less detailed level of assessment than the original application, it is considered that both the original application fee (\$8722) and the Section 96 application fee (\$4361) fall a long way short of reflecting the actual level of effort, expertise and time attributed to the assessment of this development. On this basis, the applicant’s request for a partial refund of fees is considered unjustified and not supported. Nevertheless, Council may at its discretion, consider the applicants request to be justified and therefore resolve to facilitate the requested refund of fees.

CONCLUSION

Having regard to the issues discussed above and the matters for consideration in S.79(c) of the Environmental Planning & Assessment Act, 1979, proposed modifications 1,2 and 3 are considered to be generally satisfactory and unlikely to create any significant adverse impacts. In this regard, suitable conditions are proposed in relation to the extension of construction times and the release of construction certificates.

However, the proposed modifications to the internal road layout at the southern end of the stage 2 development are not supported. The deletion of the approved through road and the reconfiguration of allotments to facilitate this is considered to be unsatisfactory on a number of grounds, not least being the restriction of vehicular and pedestrian connectivity throughout the site. Significant concern has also been raised in relation to the ability of garbage collection trucks to access each of the proposed cul de sacs, without jeopardising public and private infrastructure and the safety of residents within the street. The proposed road modifications are recommended for refusal.

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9. ORIGIN: Development Control Unit

FILE REF: DA4170/100 Pt2

REPORT TITLE:

Development Application - Proposed Extensions to Kingscliff Shopping Centre

SUMMARY OF REPORT:

Council, at its meeting of 7 June 2000 considered a report on a development application for extensions to the Kingscliff Shopping Centre. At this meeting Council resolved:-

“that this matter be deferred to enable the applicant to improve the application to respond to the reasons for refusal recommended in the report and the Director Development Services report back to Council in 8 weeks.”

Since this resolution, the applicant and various consultants have met with Council officers to discuss amendments to the proposal (See letter by Director of Development Services – Attachment 1). A new concept plan has been prepared by Fulton Trotter Moss Architects as a basis for discussion which addresses some of the recommended reasons for refusal.

The applicant's response dated 24 July 2000 (Attachment 2) explain, that following the last meeting with Council officers on 18 July 2000 all of the items referred to are being addressed by their architect, town planner and engineer.

Amended plans are proposed to be lodged as soon as possible following which the application will need to be renotified. The applicant is progressing the matter and when the amended plans have been lodged and assessed a further report will be made to Council

RECOMMENDATION:

That this report be received and noted.

Reports from Director Development Services

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Reports from Director Corporate Services

10. ORIGIN: Administration Services Unit

FILE REF: Council Management

REPORT TITLE:

Policy Issues Conflict of Interest: Provision of Information to and Interaction between Councillors and Staff: Canvassing of Councillors with regard to Tendering

SUMMARY OF REPORT:

As a result of a notice of motion on these issues, the following report is submitted.

RECOMMENDATION:

That Council:

1. Receives and notes this report.
2. Adopts the Policy submitted and titled "Provision of Information to and Interaction between Councillors and Staff" being:-

"MODEL POLICY: PROVISION OF INFORMATION TO AND INTERACTION BETWEEN COUNCILLORS AND STAFF"

INTRODUCTION

Based on the provisions in the Local Government Act, the councillors and staff have distinctly different roles to play in council. The council is responsible for the strategic direction and for determining the policy framework of council. The council also has a statutory role as the consent authority, under both the Environmental Planning and Assessment Act and the Local Government Act, for applications for development consent and local approvals. The general manager with the senior officers of council is responsible for the effective management of the organization and the carrying out of council's policies and strategic objectives.

However, the distinction between these two roles may be unclear. There often needs to be personal interaction between councillors and senior officers, particularly regarding access to and provision of information, to effectively integrate policymaking and service delivery. This has created the need for guidelines that help councillors and staff to

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understand fully their respective roles and how they should operate, in order to perform their job effectively.

Formalising procedures to specify how these rights should be exercised should be done without trying to restrict a councillor's legal right to access staff and information. This policy is not intended to limit any statutory and common law rights councillors have to access information. However, councillors should avoid any perceptions of wrongdoing when exercising their rights as an elected representative, particularly the appearance of trying to improperly influence staff.

AIMS

This policy will:

- *provide clear communication channels to ensure the speedy provision of accurate information;*
- *recognise the particular circumstances of the council;*
- *require adequate training of staff and councillors on the need for the policy and its requirements;*
- *provide appropriate sanctions for non-compliance; and*
- *be reviewed periodically to monitor its effectiveness and compliance.*

OBJECTIVES

The objectives of this policy are to:

- *provide a documented process on how councillors can access council records;*
- *ensure councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the council;*
- *ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner;*
- *provide direction on councillors' rights of access to council buildings; and*
- *provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.*

INAPPROPRIATE INTERACTIONS

Council's policy is that the following interactions are inappropriate:

- *councillors approaching junior members of staff for information on sensitive or controversial matters;*
- *members of staff approaching councillors directly (rather than via their director, staff representative or union delegate) on staffing or political issues;*

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- *councillors approaching staff outside the council building or outside hours of work to discuss council business;*
- *staff refusing to give information which is available to other councillors to a particular councillor because of the staff member's or councillor's political views;*
- *councillors who have a development application before council discussing the matter with junior staff in staff-only areas of the council;*
- *junior staff being asked to answer questions or provide documents to councillors who are overbearing or threatening;*
- *councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and*
- *staff providing advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.*

STATUTORY PROVISIONS FOR COUNCILLORS AND STAFF

Chapters 9 and 11 of the Local Government Act set out the statutory roles and duties of councillors and the general manager. The introduction to Chapter 9 states that "each council is a statutory corporation. The councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the council in accordance with this Act." Chapter 9 includes the following provisions.

1. The governing body (s.222)

The elected representatives, called "councillors" comprise the governing body of the council.

2. The role of the governing body (s.223)

The role of the governing body is to direct and control the affairs of the council in accordance with this Act.

3. The role of the mayor (s.226)

The role of the mayor is:

- *to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council (for example, urgent demolition orders, authority to financially assist the community by the allocation of resources during natural disasters, commencement of urgent legal action);*
- *to exercise such other functions of the council as the council determines (for example, determining the appropriateness of holding a special event such as a fun run, approval of the general manager's annual leave);*
- *to preside at meetings of the council; and*
- *to carry out the civic and ceremonial functions of the mayoral office.*

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4. The role of a councillor as a member of the governing body (s.232(1))

The role of a councillor is, as a member of the governing body of the council:

- *to direct and control the affairs of the council in accordance with this Act (for example, input into preparation of council's management plan, financial plan and organisational structure);*
- *to participate in the optimum allocation of the council's resources for the benefit of the area (for example, providing input into deciding priorities for construction and maintenance work);*
- *to pay a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions; and*
- *to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.*

5. The role of a councillor as an elected person (s.232(2))

The role of a councillor is, as an elected person:

- *to represent the interests of the residents and ratepayers;*
- *to provide leadership and guidance to the community; and*
- *to facilitate communication between the community and the council.*

6. The role of the general manager (s.335(1))

The general manager is generally responsible for the efficient and effective operation of the council's organization and for ensuring the implementation, without undue delay, of decisions of the council.

7. The functions of the general manager (s.335(2))

The general manager has the following particular functions:

- *to manage the council on a day-to-day basis;*
- *to exercise such of the functions of the council as are delegated by the council to the general manager;*
- *to appoint staff in accordance with an organisational structure and resources approved by the council;*
- *to direct and dismiss staff; and*
- *to implement the council's equal employment opportunity management plan.*

Reports from Director Corporate Services

ACCESS TO COUNCIL RECORDS BY COUNCILLORS

1. Statutory provisions

Section 12 of the Local Government Act provides that the council must provide access to the current version of certain council documents free of charge to all members of the public. These documents are:

- *council's code of conduct;*
- *council's code of meeting practice;*
- *annual report;*
- *annual financial reports;*
- *auditor's report;*
- *management plan;*
- *EEO management plan;*
- *the council's land register;*
- *council's policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors;*
- *register of investments;*
- *returns of the interests of councillors, designated persons and delegates;*
- *returns as to candidates' campaign donations;*
- *business papers for council and committee meetings (but not including business papers for matters considered when a meeting is closed to the public);*
- *minutes of council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:*
 - a) *the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and*
 - b) *such other matters as the council or committee resolves should be made public;*
- *any codes referred to in this Act;*
- *register of delegations;*
- *annual reports of bodies exercising delegated council functions;*
- *local policies adopted by the council concerning approvals and orders;*
- *records of approvals granted and decisions made on appeals concerning approvals;*

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- *records of building certificates;*
- *plans of land proposed to be compulsorily acquired by the council;*
- *leases and licences for use of public land classified as community land;*
- *plans of management for community land;*
- *environmental planning instruments, development control plans and plans made under s.94AB of the Environmental Planning and Assessment Act 1979 applying to land within the council's area;*
- *the statement of affairs, the summary of affairs and the register of policy documents required under the Freedom of Information Act 1989; and*
- *departmental representatives' reports presented at a meeting of the council according to s.433.*

The Local Government (Meetings) Regulation, provides a procedure for councillors to obtain access to council documents, without limiting any common law right of access. Clause 41 provides:

- (1) *The general manager may allow or refuse to allow any councillor to inspect any record of the council that the councillor requests to see.*
- (2) *If the general manager refuses to allow a councillor to inspect any such record, the councillor may, at a meeting of the council, move for the production of the document. However, the councillor must give notice of intention to move the motion.*
- (3) *If the council passes a motion for the production of a council record, the council must ensure that the record:*
 - (a) *is produced immediately and laid on the table for inspection by the councillors; and*
 - (b) *is made available for inspection by any councillor on reasonable notice to the general manager during the council's ordinary office hours on any day that is within one month after the passing of the motion.*

Sections 15(1) and 16(1) of the Freedom of Information Act 1989 also include provisions for members of the public to a general right of access to council documents.

2. Procedures

- *Access to a council file, record of other document can only be provided according to this policy to ensure that access is obtained in ways that are legal and appropriate. This policy does not limit or restrict statutory or common-law rights of access.*
- *Councillor can request the general manager, the public officer or a person nominated by the general manager to provide access to a particular council record.*

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- *Councillors who have a personal (as distinct from civic) interest in a document of council have the same rights of access as any other person.*
- *Councillors are entitled to access to all council files, records or other documents where that document is identified in s.12 of the Local Government Act or to a matter currently before the council.*
- *The general manager shall not unreasonably decide that a document is not relevant to the performance of the councillor's civic duty and deny access to a council document. The general manager must state their reasons for the decision if they refuse access.*
- *Councillors can request access to other documents of the council either by a Notice of Motion to the council or a Freedom of Information application.*
- *The general manager, public officer or a person identified by the general manager, shall keep a record of all requests by councillors for access to information (other than those listed in s.12 of the Local Government Act, the Freedom of Information act or by a Notice of Motion at a council meeting). These requests must be reported regularly to the council.*

INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF

1. During meetings

The interaction between councillors and staff at council meetings and committee meetings is regulated by:

- *S.360 of the Local Government Act;*
- *Cl.21 of the Local Government (Meetings) Regulation;*
- *council's code of conduct and;*
- *council's code of meeting practice (if it exists).*

Section 360 of the Local Government Act enables the council to make regulations in regard to the conduct of meetings, adopt codes of meeting practices and states that meetings must be conducted in accordance with the code of meeting practice.

Clause 21 of the Local Government (Meetings) Regulation details how, in council meetings, councillors can ask questions of other councillors by going through the chairperson. The regulation also details the process councillors must follow if they wish to ask a question of council staff, by going through the general manager.

2. Outside of meetings

The Meetings Regulation (cl.21) makes provision for a councillor to obtain information at a council meeting, or by a Question on Notice at a council meeting.

- *The general manager is responsible to the council for performance and direction of all staff and day-to-day management of council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a council or*

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committee meeting, be directed to the general manager, or person/s nominated by the general manager.

- *Only those senior officers (as defined in s.332) and managers nominated by the general manager can provide advice to councillors.*
- *It is within the discretion of the general manager to require councillors to make an appointment with a senior officer, to put a request in writing, or to put it on notice to the council to obtain detailed or otherwise time consuming information. The general manager must indicate in writing, the reasons for refusing a request.*
- *For all but straightforward advice on administrative matters, councillors should put their requests for information or advice in writing to be answered by the general manager or the appropriate senior officer. These written requests then form part of council records and can be filed appropriately.*
- *A senior officer has the discretion to refer any request for information to the general manager. The senior officer must indicate to the councillor their reasons for the referral.*
- *If a councillor is concerned about any refusal to provide information, they should firstly raise the matter with the general manager (or the mayor if it was the general manager who refused to provide the advice). If the councillor is still dissatisfied they should request the information by way of a Question on Notice to the council.*
- *Councillors must not request staff to undertake work for the councillor or any other person.*
- *A councillor, member of staff or delegate must not take advantage of their official position to improperly influence other councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person.*

ACCESS TO COUNCIL OFFICES

- *As elected members of the council, councillors, are entitled to have access to the council chambers, committee room, mayor's office, councillors' rooms and public areas of the council buildings.*
- *Councillors who are not in pursuit of their civic duties have the same rights of access to council buildings and premises as any other member of the public.*
- *A councillor has no rights to enter staff-only areas without the express authorisation of the general manager or his nominee or by resolution of the council.*

BREACHES OF THIS POLICY

1. Reporting

- *All occasions of a councillor or staff member not complying with this policy should be immediately reported to the general manager.*

Reports from Director Corporate Services

- *Where the report relates to the conduct of a councillor, the general manager shall immediately report the matter to the mayor and to the next council meeting.*
- *Where the report relates to the conduct of staff, the general manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.*
- *Where a councillor believes that the general manager has failed to comply with the policy, the councillor shall immediately report to the mayor who will report the matter to the council.*
- *Before a report to council by the general manager (or the mayor), the general manager (or the mayor) should undertake preliminary inquiries to establish the facts. The preliminary investigations may take any form the mayor and general manager considers appropriate, but must involve discussions with staff member and councillor involved. Natural justice principles need to be satisfied in dealing with an alleged breach.*
- *The council, or a committee of all councillors established for the purpose, must decide whether a matter reported to it under this policy, reveals a breach. The council may take any steps provided for in this policy that it considered reasonable in the circumstances.*

2. Sanctions

Council, having resolved that a councillor has failed to comply with this policy, can, by resolution:

- *require the councillor to apologise to the person concerned;*
- *request a formal apology;*
- *counsel the councillor;*
- *reprimand the councillor;*
- *resolve to make its decision on the matter public;*
- *pass a censure motion at a council meeting (councils should not underestimate the power of public censure as a deterrent);*
- *make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or annual report);*
- *refer the matter to an appropriate investigative body if the matter is serious; and/or*
- *prosecute any breach of the law.*

Sanctions for staff, depending on the severity, scale and importance of the breach, may include:

- *counselling the staff member;*

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- *instituting council disciplinary proceedings; or*
- *dismissal.”*

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REPORT:

Council at its meeting held 16 February 2000 on a notice of motion from Councillor Boyd passed the following resolution:-

“that Council staff prepare policies to cover the following:-

- 1. Conflict of interest;*
- 2. Councillors access to information and their interaction with staff; and*
- 3. Canvassing of Councillors with regard to tendering.”*

CONFLICT OF INTEREST AND COUNCILLORS ACCESS TO INFORMATION AND THEIR INTERACTION WITH STAFF

Some years ago the NSW Department of Local Government in conjunction with the Independent Commission Against Corruption undertook a project to review two problem areas that were identified by both organisations, these being:

- The problems that Councillors and Council staff have with identifying assessing and resolving conflict of interests; and
- Defining the roles and responsibilities of Councillors and staff and how to manage their interaction.

As a result of the project, a booklet was produced titled “Under Careful Consideration Key Issues for Local Government”. The conflict of interest section (although greatly summarised) was included in Council’s Code of Conduct, which is being reviewed by Council at this meeting.

As a further outcome of the project a Model Policy was produced on the provision of information to and interaction between Councillors and staff. This Model Policy is as follows:

MODEL POLICY: PROVISION OF INFORMATION TO AND INTERACTION BETWEEN COUNCILLORS AND STAFF

INTRODUCTION

Based on the provisions in the Local Government Act, the councillors and staff have distinctly different roles to play in council. The council is responsible for the strategic direction and for determining the policy framework of council. The council also has a statutory role as the consent authority, under both the Environmental Planning and Assessment Act and the Local Government Act, for applications for development consent and local approvals. The general manager with the senior officers of council is responsible for the effective management of the organization and the carrying out of council’s policies and strategic objectives.

However, the distinction between these two roles may be unclear. There often needs to be personal interaction between councillors and senior officers, particularly regarding access to and provision of information, to effectively integrate policymaking and service delivery. This has created the need for guidelines that help councillors and staff to understand fully their respective roles and how they should operate, in order to perform their job effectively.

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Formalising procedures to specify how these rights should be exercised should be done without trying to restrict a councillor's legal right to access staff and information. This policy is not intended to limit any statutory and common law rights councillors have to access information. However, councillors should avoid any perceptions of wrongdoing when exercising their rights as an elected representative, particularly the appearance of trying to improperly influence staff.

AIMS

This policy will:

- *provide clear communication channels to ensure the speedy provision of accurate information;*
- *recognise the particular circumstances of the council;*
- *require adequate training of staff and councillors on the need for the policy and its requirements;*
- *provide appropriate sanctions for non-compliance; and*
- *be reviewed periodically to monitor its effectiveness and compliance.*

OBJECTIVES

The objectives of this policy are to:

- *provide a documented process on how councillors can access council records;*
- *ensure councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the council;*
- *ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner;*
- *provide direction on councillors' rights of access to council buildings; and*
- *provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.*

INAPPROPRIATE INTERACTIONS

Council's policy is that the following interactions are inappropriate:

- *councillors approaching junior members of staff for information on sensitive or controversial matters;*
- *members of staff approaching councillors directly (rather than via their director, staff representative or union delegate) on staffing or political issues;*
- *councillors approaching staff outside the council building or outside hours of work to discuss council business;*
- *staff refusing to give information which is available to other councillors to a particular councillor because of the staff member's or councillor's political views;*
- *councillors who have a development application before council discussing the matter with junior staff in staff-only areas of the council;*
- *junior staff being asked to answer questions or provide documents to councillors who are overbearing or threatening;*

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- *councillors directing or pressuring staff in the performance of their work, or recommendations they should make; and*
- *staff providing advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.*

STATUTORY PROVISIONS FOR COUNCILLORS AND STAFF

Chapters 9 and 11 of the Local Government Act set out the statutory roles and duties of councillors and the general manager. The introduction to Chapter 9 states that “each council is a statutory corporation. The councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the council in accordance with this Act.” Chapter 9 includes the following provisions.

1. The governing body (s.222)

The elected representatives, called “councillors” comprise the governing body of the council.

2. The role of the governing body (s.223)

The role of the governing body is to direct and control the affairs of the council in accordance with this Act.

3. The role of the mayor (s.226)

The role of the mayor is:

- *to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council (for example, urgent demolition orders, authority to financially assist the community by the allocation of resources during natural disasters, commencement of urgent legal action);*
- *to exercise such other functions of the council as the council determines (for example, determining the appropriateness of holding a special event such as a fun run, approval of the general manager’s annual leave);*
- *to preside at meetings of the council; and*
- *to carry out the civic and ceremonial functions of the mayoral office.*

4. The role of a councillor as a member of the governing body (s.232(1))

The role of a councillor is, as a member of the governing body of the council:

- *to direct and control the affairs of the council in accordance with this Act (for example, input into preparation of council’s management plan, financial plan and organisational structure);*
- *to participate in the optimum allocation of the council’s resources for the benefit of the area (for example, providing input into deciding priorities for construction and maintenance work);*
- *to pay a key role in the creation and review of the council’s policies and objectives and criteria relating to the exercise of the council’s regulatory functions; and*

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- *to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.*

5. The role of a councillor as an elected person (s.232(2))

The role of a councillor is, as an elected person:

- *to represent the interests of the residents and ratepayers;*
- *to provide leadership and guidance to the community; and*
- *to facilitate communication between the community and the council.*

6. The role of the general manager (s.335(1))

The general manager is generally responsible for the efficient and effective operation of the council's organization and for ensuring the implementation, without undue delay, of decisions of the council.

7. The functions of the general manager (s.335(2))

The general manager has the following particular functions:

- *to manage the council on a day-to-day basis;*
- *to exercise such of the functions of the council as are delegated by the council to the general manager;*
- *to appoint staff in accordance with an organisational structure and resources approved by the council;*
- *to direct and dismiss staff; and*
- *to implement the council's equal employment opportunity management plan.*

ACCESS TO COUNCIL RECORDS BY COUNCILLORS

1. Statutory provisions

Section 12 of the Local Government Act provides that the council must provide access to the current version of certain council documents free of charge to all members of the public. These documents are:

- *council's code of conduct;*
- *council's code of meeting practice;*
- *annual report;*
- *annual financial reports;*
- *auditor's report;*
- *management plan;*
- *EEO management plan;*
- *the council's land register;*
- *council's policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors;*
- *register of investments;*

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- *returns of the interests of councillors, designated persons and delegates;*
- *returns as to candidates' campaign donations;*
- *business papers for council and committee meetings (but not including business papers for matters considered when a meeting is closed to the public);*
- *minutes of council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:*
 - a) *the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and*
 - b) *such other matters as the council or committee resolves should be made public;*
- *any codes referred to in this Act;*
- *register of delegations;*
- *annual reports of bodies exercising delegated council functions;*
- *local policies adopted by the council concerning approvals and orders;*
- *records of approvals granted and decisions made on appeals concerning approvals;*
- *records of building certificates;*
- *plans of land proposed to be compulsorily acquired by the council;*
- *leases and licences for use of public land classified as community land;*
- *plans of management for community land;*
- *environmental planning instruments, development control plans and plans made under s.94AB of the Environmental Planning and Assessment Act 1979 applying to land within the council's area;*
- *the statement of affairs, the summary of affairs and the register of policy documents required under the Freedom of Information Act 1989; and*
- *departmental representatives' reports presented at a meeting of the council according to s.433.*

The Local Government (Meetings) Regulation, provides a procedure for councillors to obtain access to council documents, without limiting any common law right of access. Clause 41 provides:

- (1) *The general manager may allow or refuse to allow any councillor to inspect any record of the council that the councillor requests to see.*
- (2) *If the general manager refuses to allow a councillor to inspect any such record, the councillor may, at a meeting of the council, move for the production of the document. However, the councillor must give notice of intention to move the motion.*
- (3) *If the council passes a motion for the production of a council record, the council must ensure that the record:*
 - (a) *is produced immediately and laid on the table for inspection by the councillors; and*
 - (b) *is made available for inspection by any councillor on reasonable notice to the general manager during the council's ordinary office hours on any day that is within one month after the passing of the motion.*

Sections 15(1) and 16(1) of the Freedom of Information Act 1989 also include provisions for members of the public to a general right of access to council documents.

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2. Procedures

- *Access to a council file, record of other document can only be provided according to this policy to ensure that access is obtained in ways that are legal and appropriate. This policy does not limit or restrict statutory or common-law rights of access.*
- *Councillor can request the general manager, the public officer or a person nominated by the general manager to provide access to a particular council record.*
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INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF

1. During meetings

The interaction between councillors and staff at council meetings and committee meetings is regulated by:

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information and approaches to staff outside the forum of a council or committee meeting, be directed to the general manager, or person/s nominated by the general manager.

- *Only those senior officers (as defined in s.332) and managers nominated by the general manager can provide advice to councillors.*
- *It is within the discretion of the general manager to require councillors to make an appointment with a senior officer, to put a request in writing, or to put it on notice to the council to obtain detailed or otherwise time consuming information. The general manager must indicate in writing, the reasons for refusing a request.*
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- *A councillor has no rights to enter staff-only areas without the express authorisation of the general manager or his nominee or by resolution of the council.*

BREACHES OF THIS POLICY

1. Reporting

- *All occasions of a councillor or staff member not complying with this policy should be immediately reported to the general manager.*
- *Where the report relates to the conduct of a councillor, the general manager shall immediately report the matter to the mayor and to the next council meeting.*
- *Where the report relates to the conduct of staff, the general manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.*
- *Where a councillor believes that the general manager has failed to comply with the policy, the councillor shall immediately report to the mayor who will report the matter to the council.*

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- *Before a report to council by the general manager (or the mayor), the general manager (or the mayor) should undertake preliminary inquiries to establish the facts. The preliminary investigations may take any form the mayor and general manager considers appropriate, but must involve discussions with staff member and councillor involved. Natural justice principles need to be satisfied in dealing with an alleged breach.*
- *The council, or a committee of all councillors established for the purpose, must decide whether a matter reported to it under this policy, reveals a breach. The council may take any steps provided for in this policy that it considered reasonable in the circumstances.*

2. Sanctions

Council, having resolved that a councillor has failed to comply with this policy, can, by resolution:

- *require the councillor to apologise to the person concerned;*
- *request a formal apology;*
- *counsel the councillor;*
- *reprimand the councillor;*
- *resolve to make its decision on the matter public;*
- *pass a censure motion at a council meeting (councils should not underestimate the power of public censure as a deterrent);*
- *make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or annual report);*
- *refer the matter to an appropriate investigative body if the matter is serious; and/or*
- *prosecute any breach of the law.*

Sanctions for staff, depending on the severity, scale and importance of the breach, may include:

- *counselling the staff member;*
- *instituting council disciplinary proceedings; or*
- *dismissal.*

TENDERING

Canvassing of Councillors with regard to tendering was provided for in the 1919 Local Government Act, however this issue is silent in the 1993 Local Government Act. Council's current policy in relation to tender/quotation processing is reproduced for Council's information. Such policy includes a clause that canvassing of Councillors and staff will disqualify prospective tenderers.

"C13 TENDERS/QUOTATIONS PROCESSING

Objective

To speed processing of tenders/quotations and ensure compliance with the provisions of the Local Government (Tendering) Regulation 1993.

STATUTORY PROVISIONS - TENDERS:

Local Government Act 1993, Section 55

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Local Government (Tendering) Regulation 1993

C13.1 Definitions

C13.1.1 Statutory - Section 55

Tender - a contract involving an estimated expenditure or receipt of an amount of \$100,000 or more or such other amount as may be prescribed by the regulations.

C13.1.2 Council

Quotation - a contract to purchase or construct for less than \$100,000 but more than \$2,000 and where more than one supplier or contractor can undertake the scope of the work indicated in the documents.

C13.1.3 Appropriate Person - Designated by the General Manager

Manager Special Projects.

C13.1.4 Persons to Witness Opening - Designated by the General Manager

Manager Works

Manager Development Control

Manager Environment and Health

Plant Supervisor

C13.2 Advertising Requirements

1. *The provisions of Clause 4 of the Regulations must be observed.*
2. *Tenders to be advertised in the Sydney Morning Herald Newspaper, Brisbane Courier Mail and The Link newspaper.*
3. *Advertisements to include:*
 - *the lowest (or highest) or any tender not necessarily accepted.*
 - *canvassing of Councillors and Staff will disqualify.*
 - *preference to be given to goods manufactured or produced in the Commonwealth.*

C13.3 Invitation to Submit Tender/Quotation

1. *All Tenders/Quotations are to be given a number for identification.*
2. *Copies of all advertisements calling tenders or letter inviting quotations are to be given by originating Division Appropriate Person.*

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3. *Tender/Quotation documents must only be issued with a special envelope, with necessary details completed on outside of envelope.*
4. *No Tender/Quotation is to be advertised until documents are completed.*
5. *Tenders/Quotations are to close 4.00pm on Wednesday.*

C13.4 Consideration of Tenders

C13.4.1 A tender/quotation must be in writing and must be enclosed in a sealed envelope.

C13.4.2 A tender/quotation may be submitted by a telex or facsimile machine or other telegraphic device. - See Clause 13 of the Regulation.

C13.4.3 At the time specified for the close of tenders, the appropriate person must remove the envelopes containing the tenders from the tender box and open them in the presence of at least 2 persons designated by the General manager for the purpose and such tenderers, quoters and members of the public as wish to attend.

C13.4.4 Tender/Quotation documents must be completed with:

- a) Tender/Quotation Form plus loose copy;*
- b) Conditions of tender/Quotation;*
- c) Specification;*
- d) General Conditions of Contract*
- e) Plans;*
- f) Deposit, if specified.*

C13.4.5 The Appropriate Person is to prepare a numbered list of all tenders/quotations received and the list is to be endorsed by the witnesses present.

The Tenders/Quotations are to be referred to the originating Division for assessment, report and recommendation before submission to Council.

After determining the originating Division is responsible for preparation of the necessary documentation, issue of Council's Official order etc.

C13.5 Delegation of Authority for Acceptance of Quotations Invited in Accordance with the Regulations

Objective

To speed acceptance of quotations, ordering of goods and/or services required and to ensure that quotations accepted provide to Council the best available value for money according to the quotations received.

Opening

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Quotations to be opened by the Appropriate Person as elsewhere specified.

Registration

After being opened by the Appropriate Person quotations are to be referred to the Records Manager for registration. The Records Manager will then pass the quotations on to the Director of the originating Division.

Assessment

The Divisional Director will have the Quotations assessed by the appropriate Officer who will assess and research each Quotation and return all documents to the Divisional Director with his report and/or recommendation for acceptance.

Assessment to be made on the basis of the best value for money, rather than simply the lowest price.

Acceptance

Upon receipt of all relevant documentation and recommendation the Divisional Director to formally accept Quotation under authority delegated.

Ordering

Divisional Directors to issue instructions for an Official Order to be issued for the goods/services. The pink copy of the Order to show details of acceptance of the Quotation to facilitate payment upon receipt of the supplier's invoice.

Notification

Unsuccessful quoters to be notified by the Officer who carried out the assessment that their Quotation has not been accepted.

Reporting

Documents to be handed to the Manager Administrative Services for inclusion in Report to Council on a monthly basis detailing all Quotations accepted under delegated authority.

Finalisation

All documentation to be returned to Records for filing.”

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11. ORIGIN: Director

FILE REF: Disabled Matters

REPORT TITLE:

Challenge Tweed Incorporated - China Visit

SUMMARY OF REPORT:

The General Manager of Challenge Tweed Incorporated has written advising the Mayor, Cr Lynne Beck of a business development study tour to China on 7 October 2000. The nine-day business trip is to be undertaken through Jin Long International and includes an invitation by the principal of this company Mr Jin Yuan for Tweed Shire Council to send an official with the delegation from Australia.

The General Manager of Challenge Tweed Incorporated is seeking to promote Tweed Shire Council to potential Chinese investors.

RECOMMENDATION:

That Council:-

1. Provides a copy of the information to the Tweed Economic Development Corporation (TEDC) for their consideration.
2. Determines its position on the invitation.

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REPORT:

The General Manager of Challenge Tweed Incorporated has written to the Mayor, Cr Lynne Beck, providing information on a proposed visit to China to promote the Tweed and a joint venture development.

The letter states:-

“On the 7th October 2000, I will be travelling to China for a nine day business trip working with the Chinese’s government and business groups on the establishment of a privately run disability employment service in Taian City. This service will be established as a joint venture between both Chinese investors/Government and Jin Long International (an Australian based trade company). The primary function of the Chinese service will be to provide an employment service based upon the Australian model (Challenge) with Section 10 status under the Disability Services Act 1986. As you can imagine, the provision of disability services in China is well behind those provided here in Australia and this service will provide a model to encourage the Chinese government to expand such services throughout China.

The service in China will manufacture both equipment and personal hygiene products for both people with disabilities and hospitals etc (eg: wheel chairs, lag bags, special underwear and products such as bottles and tubes). The Chinese service will market, package and distribute these products throughout China.

Jin Long International and Challenge Tweed Incorporated plan to negotiate a trade agreement providing Challenge with Marketing, packaging, perhaps some component manufacturing and distribution rights here in Australia, thereby providing considerable numbers of positions for disabled workers and supervisory staff.

During my discussions with Jin Long International, I have secured an in principal agreement for this small trade company to relocate to the Tweed to work more closely with Challenge on this and future business ventures. Naturally, these arrangements are in their early stages and the success of the venture will depend largely upon the completion of business and funding arrangements between the Chinese and Jin Long International.

..... As you can appreciate, Jin Long International maintain many diverse business and government relationships throughout China and our visit will involve many discussions on business, investment opportunities and sister city links here in Australia. I am aware that City officials in Taian City and Chingqing City are interested in discussing the potential for Sister City Links.

The principal of Jin Long International, Mr Jin Yuan, has offered an invitation to Tweed Shire Council to send an official with our delegation, which Council is naturally welcome to accept.....”

FINANCIAL IMPLICATIONS

The General Manager from Challenge Tweed Incorporated is personally meeting the expenses of travelling. Should a Councillor wish to attend the costs are indicated to be in the vicinity of US\$2,390, including airfares and associated accommodation and travel expenses. Council would

Reports from Director Corporate Services

need to determine the value to the Tweed in having a Councillor attend in response to the invitation from Jin Long International. However, as the matter has an economic basis and requests for information regarding the Tweed's tourism features it is suggested that the request for information be forwarded to the Chairman of Tweed Economic Development Corporation and Tweed and Coolangatta Tourism Inc. for their assistance in providing a package of information to assist Challenge Tweed Inc. in their endeavours.

Reports from Director Corporate Services

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Reports from Director Corporate Services

12. ORIGIN: Director

FILE REF: Councillors - Conferences

REPORT TITLE:

Sustainable Economic Growth for Regional Australia (SEGRA) 2000 National Conference - November 2000

SUMMARY OF REPORT:

The Sustainable Economic Growth for Regional Australia (SEGRA) 2000 National Conference is to be held in Ballarat, Victoria between 20-22 November 2000. The theme of the conference is about "Regions Taking Control: Maximising Regional Potential". The conference organisers are currently calling for papers and registration for those wishing to attend.

RECOMMENDATION:

That Council nominates a Councillor to attend the Sustainable Economic Growth for Regional Australia (SEGRA) 2000 National Conference in Ballarat, Victoria from 20-22 November 2000.

Reports from Director Corporate Services

REPORT:

A conference invitation and a call for papers – expression of interest have been received from the SEGRA Secretariat. The invitation outlines the Sustainable Economic Growth for Regional Australia (SEGRA) 2000 National Conference to be held 20-22 November 2000 at Ballarat in Victoria.

The theme for the 2000 Conference is titled “Regions Taking Control: Maximising Regional Potential”. The call for papers and conference agenda is centred on the following topics:

- connecting to global trends
- accessing the telecommunications revolution
- cultivating agricultural innovation
- assessing regional capabilities to maximise strengths
- promoting strategic alliances: government, industry and community
- driving tourism opportunities
- projecting regions: images, media and marketing
- building supportive communities
- establishing innovative local-regional governance
- ensuring environmentally sustainable industries and practices
- managing the political agenda.

Copies of the conference promotional material have been provided to Tweed Economic Development Corporation (TEDC).

It is considered appropriate that a Councillor or Councillors who have a special interest in sustainable economic growth be provided with the opportunity to attend.

The City of Ballarat is located approximately one hours drive from Tullamarine Airport.

FINANCIAL IMPLICATIONS

The cost to attend the conference would include airfares from Coolangatta to Tullamarine Airport, hire of car, accommodation, meals and conference registration fees.

Dependant upon cost of registration, the total expense would be in the vicinity of \$2,300 per person.

Reports from Director Corporate Services

13. ORIGIN: General Manager

FILE REF: Airport-Coolangatta/Tweed

REPORT TITLE:

Coolangatta Airport - Gold Coast Airport Limited

SUMMARY OF REPORT:

The letter reproduced below was prepared in support of Gold Coast Airport Limited (GCAL) application to the Deputy Prime Minister and Member for Transport and Regional Services for an extension of time for resubmission of the fresh Master Plan to accommodate more extensive consultation. Reproduced also is the GCAL letter.

RECOMMENDATION:

That Council endorses the provision of the letter to the Deputy Prime Minister and Member for Transport and Regional Services.

Reports from Director Corporate Services

REPORT:

The letter reproduced below was prepared in support of Gold Coast Airport Limited (GCAL) application to the Deputy Prime Minister and Member for Transport and Regional Services for an extension of time for resubmission of the fresh Master Plan to accommodate more extensive consultation. Reproduced also is the GCAL letter.

Please Quote
Council Ref: GA8/2 Pt4 [dltr]

Your Ref No:

For Enquiries
Please Contact: Dr John Griffin

Telephone Direct (02) 6672 0415

117a21.doc

21 July 2000

The Honourable John Anderson
Deputy Prime Minister
and Minister for Transport & Regional Services
Parliament House
CANBERRA ACT 2600

Dear Deputy Prime Minister,

Thank you for your letter of 8 June 2000 relating to the Coolangatta Airport Master Plan.

My colleagues and I have met today with Mr Dennis Chant, (Managing Director of GCAL) and his colleagues to discuss aspects of the Master Plan for the Coolangatta Airport.

Mr Chant advised a desire to extend the period for the submission of the Master Plan from Monday 4 September 2000 to Wednesday 4 October 2000.

This is supported to allow the process of community consultation to be effective, and, important in the process is the briefing of Council by your Departmental officers that you have offered. Difficulty in achieving an appropriate date for this briefing within the current time period is proving most difficult, hence not allowing sufficient time for Council to consider and respond to Gold Coast Airports Limited.

The Mayor, Cr Lynne Beck supports this request.

Reports from Director Corporate Services

We thank you for your interest and involvement in this issue.

Yours faithfully



DR JOHN GRIFFIN
General Manager

cc. *Mr Larry Anthony, MP*
Ms Margaret May, MP
Cr Garry Baidon, Mayor GCCC
Mr Chant, GCAL
Mr Neville Newell, MP
Mayor – Cr Lynne Beck
Councillors – TSC
Directors - TSC

Reports from Director Corporate Services

24-JUL-2000 08:50 FROM GOLD COAST AIRPORT LTD

TO 0266720425

P. 01/01



Gold Coast Airport Limited
A.C.N. 077 200 821
A.B.N. 91 077 200 821

PO Box 112
Coolangatta QLD 4225 Australia

21st July 2000

The Honourable John Anderson
Deputy Prime Minister
And Minister for Transport & Regional Services
Parliament House
CANBERRA ACT 2600

TWEED SHIRE COUNCIL	
FILE No.	AIRPORT - COOLANGATTA TWD.
DOCUMENT No.	[] [] [] [] [] []
RECD	24 JUL 2000
BOX No.	[] [] [] []
ASSIGNED TO	GRIFFIN
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

Dear Deputy Prime Minister

Thank you for your letter of 8th June and the opportunity to discuss the Master Plan process with you on the 15th July. As we pointed out at our meeting we are finding that the three month period for re-submission of the Fresh Master Plan necessitates a compressed period of public consultation.

We feel that it is important that all stakeholders are given adequate time to formulate their responses and there is time to give each response due consideration. To meet both your own and Tweed Council deadlines we have had to limit the public consultation period to three weeks.

There has been feedback from the community and other stakeholders that the period allowed is inadequate. Whilst the process currently underway is in addition to that prescribed under the Airports Act, we feel that it would be counterproductive if some sections of the community do not have adequate time to respond.

We seek your consent to extend the period for re-submission of the Fresh Master Plan from 4th September to 4th October to accommodate more extensive consultation.

Thank you for your assistance in this matter.

Yours faithfully

A D CHANT
Managing Director

CC: Hon. Larry Anthony MP
Ms Margaret May MP
Mayor - Cr Lynne Beck
Mr John Griffin
Mr John Elliot

TOTAL P. 01

Reports from Director Corporate Services

14. ORIGIN: Administration Services Unit

FILE REF: Elections – Ordinary 1999

REPORT TITLE:

Cost of the Conduct of the 1999 Shire Elections

SUMMARY OF REPORT:

Council raised with the Shires Association of NSW the cost of conducting the 1999 election. This was raised at the recent Annual Conference and the reply has now been received.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

Council has been concerned as to the increased costs in the conduct of the 1999 State Elections. This matter was raised at the 'A' Division Conference of the Shires Association held in Casino on Monday, 7 February 2000, where it was resolved to refer this matter onto the Shires Association Annual Conference held in Sydney on 6 and 7 June 2000.

A resolution was passed at the conference that the matter be referred to the Electoral Commissioner for comment. The following response has been received through the Shires Association:-

"Motion 189 raised by Tweed Shire Council was a Category 2 motion raised at the recent Annual Conference about increased costs of Council elections.

A submission made to the Electoral Commissioner has now received a response.

The Electoral Commissioner indicates that without conducting a complete audit of all the direct costs incurred by Councils (such as advertising, polling offices, etc) or all the individual costs recovered by this office from the Councils from the 1991, 1995 and 1999 elections, it is difficult for him to accurately assess the figures quoted and comment on them. The Electoral Commissioner wonders whether there are any particular areas of concern to the Councils where costs in 1995 and 1999 were significantly greater than in 1991.

The Electoral Commissioner appreciates that the returning officer fees have increased somewhat at each election. He is sure that the duties of the returning officer have become more complex with greater responsibility, having to deal with greater numbers of candidates, formation of groups, lodgement of Group Voting Tickets, coping with the complexities of the scrutiny and count of ballot papers etc.

The production of larger ballot papers (now required to be printed with a fugitive ink background), group voting tickets and candidate information sheets etc. have resulted in increased costs and with voters making greater use of postal and pre poll voting, the provision of substantially more pre poll and postal vote stationery and extra staff required to deal with the increased workload, have all contributed to increased costs.

The cost of advertising is of growing concern to Councils and to the Electoral Commissioner and this matter was in fact raised by the General Manager at Copmanhurst Shire following their recent election. The Electoral Commissioner undertook to review the advertisements to see whether there were any practical alternatives to the present format. It must be remembered however that these advertisements and their content are prescribed by the legislation.

Initiatives have been implemented to reduce costs and from 1995, the requirement that there be 2 polling official at each table issuing votes was dispensed with, thereby effecting considerable savings for Councils.

With regard to the costs recovered from the Tweed Shire from the Electoral Commissioner, in 1991 this amount was \$7,386.89 or 11% of the actual cost but it did not include a component for returning officer training and payment, or for bar encoded rolls; in 1995 the amount recovered was \$21,694.16 or 22% of the actual cost of the election and in

Reports from Director Corporate Services

1999, the amount was \$29,590.08 or 18% of the actual cost. It is clear therefore that the majority of costs incurred by Councils are "local" costs associated with advertising and payment of polling officials.

The Electoral Commissioner understands the concerns of Councils and will continue to look for areas where costs may be reduced. However, if you are able to identify any other areas of significant cost increase you might please let the Commissioner know."

Reports from Director Corporate Services

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Reports from Director Corporate Services

15. ORIGIN: Administration Services Unit

FILE REF: Election Procedures, Elections - Referendums

REPORT TITLE:

Referendum Election Matters

SUMMARY OF REPORT:

Minute No. 1809 seeks information on the introduction of a ward system for elections, the costs involved and ways of informing the general public for such a change. This report is now submitted in response to this resolution.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

Council at its meeting held on 21 June 2000 at Minute No. 1809 passed the following resolution:-

“That Council considers holding a referendum in the next 18 months on the introduction of a Ward System following consideration of the following:-

- a. Council seeks and provides information to the community, including information on the costs and fosters informed debate on the ward system.*
- b. The General Manager be asked to bring forward a report providing information on the history of Wards in the Tweed, the likely costs of providing information to the public, and the cost of a referendum, within eight (8) weeks.”*

In response to this resolution the following information is submitted.

COUNCIL POLLS AND CONSTITUTIONAL REFERENDUMS

Part 3, expression of community opinion of the Local Government Act 1993, provides that a Council may take a poll of electors for its information and guidance on any matter.

A constitutional referendum is a poll instituted by a Council in order to give effect to a matter referred to in Section 16 of the Local Government Act 1993.

Section 16 of the Local Government Act 1993 deals with matters that can be dealt with at a constitutional referendum, these being:-

- create or abolish all wards in its area;
- change the way in which the Mayor is elected to office, that is, by election either by the Councillors or by the electors;
- increase or decrease the number of Councillors (in accordance with the limits under s 224);
- change the way Councillors are elected for an area divided into wards;

The effect of a constitutional referendum is that any decision made (this being supported by the majority of votes cast) is binding on the Council until changed by a subsequent constitutional referendum, but such a decision does not apply to a by-election held after the constitutional referendum and before the next ordinary election.

Reports from Director Corporate Services

TYPES OF EXPRESSION			
COUNCIL POLL		CONSTITUTIONAL REFERENDUM	
QUESTION TO BE DETERMINED			
Any question		<ul style="list-style-type: none"> • Creation or abolition of all wards. • Change in the way in which the Mayor is chosen. • Change in number of Councillors. • Change in the way Councillors are elected for an area divided into wards. • Change in voting system used in council elections. 	
RESULT OF POLL			
IF YES	IF NO	IF YES	IF NO
Council chooses whether or not to proceed.		Change must proceed.	Change cannot proceed until passed by a later constitutional referendum.

COSTS TO CONDUCT A CONSTITUTIONAL REFERENDUM

Voting at a constitutional referendum is compulsory and is to be run by officers appointed by the State Electoral Office along the same conditions as an ordinary election. Advice from the State Electoral Office indicates the cost would be approximately 10% less than that of an ordinary election due to less hours being required for the counting of the votes cast. The cost of conducting the 1999 general shire elections was \$164,606.00.

PROVISION AND COST OF PROVIDING INFORMATION TO THE COMMUNITY AND FOSTERING INFORMED DEBATE ON THE WARD SYSTEM

In consultation with the Civic Liaison Officer a number of different strategies were discussed, these being:-

- Press releases being forwarded to media outlets, which would start a series of articles on this report to Council.
- Advertisement in the Tweed Link with the case for and against wards with a repeat article as the debate progressed and the proposed model for Tweed Shire became more defined.
- Further press releases could arise from comparison between Councils that do and do not have wards systems.

Reports from Director Corporate Services

- Write to the various progress associations and community organizations within the Shire outlining Council's plan to inform the community on this issue and ask for feedback. Perhaps some Councillors or staff could offer to be guest speakers at various meetings. Advertisement in the Tweed Link could ask such organizations to inform Council of their views.
- As general discussion in the community increases on this issue, Council could call a series of public meetings at various locations throughout the Shire to further debate the issue.
- Public displays on suggested divisions of the Shire into wards to be displayed at Council offices and libraries.

These are only some suggested methods by which the public could be informed on the introduction of a ward system. Costs estimated to be in the order of \$5,000.00.

WARD SYSTEM

History

What is a ward? A ward is an area of a Local Government region. In the 1919 Local Government Act areas of a Local Government region were signified by wards in the case of a municipal or city council, or ridings in the case of a shire council. In history a riding was an area that a person could cover by riding a horse in a day. The term riding was abolished in the 1993 Local Government Act and only the term wards remain.

Tweed Shire has worked under both the ward system (previously ridings) and the undivided area system. The riding system was in force for the years 1961-1965 and 1971-1977. Ridings were abolished as a direction from the Minister for Local Government by notice in the Government Gazette No. 80 of 30 May 1980.

Information received from the State Electoral Office dated 17 July 2000 indicated that of the 177 Councils throughout the State of New South Wales, 80 Councils adopt the ward system (45.19%).

DIVISION OF AREAS INTO WARDS

Section 210 of the Local Government Act 1993 provides that a Council may divide its area into divisions called "wards", abolish all wards, alter ward boundaries and name or rename a ward. It is to be noted that a Council must not divide an area into wards or abolish all wards unless it has obtained approval to do so at a constitutional referendum.

A by-election held after an alteration of a ward boundaries and before the next ordinary election is to be held as if the boundaries have not been altered.

REVISION OF WARD BOUNDARIES

Section 211 of the Local Government Act 1993 places an obligation on Councils which have areas divided into wards to keep the ward boundaries under review. A Council must submit any proposed changes to the boundaries of its wards to the Electoral Commissioner and to the Australian Statistician for consideration before the end of the third year of each term of office. Council must also consult the Electoral Commissioner and the Australian Statistician to ensure that as far as practicable the proposed boundaries of its wards correspond to the boundaries of appropriate subdivision (within the meaning of the Parliamentary Electorates and Election Act 1912) and census districts.

Reports from Director Corporate Services

This section also provides that a boundary charge must not result in a variation of more than 10% between the numbers of electors in each ward in each area.

ADVANTAGES AND DISADVANTAGES OF THE WARD SYSTEM

So as to provide a neutral view on the advantages and disadvantages of the ward system, the Local Government and Shires Association were approached on this issue. In reply they advise that in 1995 the Association appointed a consultant to prepare a number of cases to support a range of constitutional referenda then to be held in conjunction with the 1995 general election.

The Association has provided a copy of the “yes” and “no” case that was provided to Gosford City Council. At that time the Association suggested to Council that:

- The case is in ‘plain English’.
- Any changes are referred to the Association to ensure that a neutral bias remains.
- Suitable advertising and preparation of referendum publicity is the responsibility of Council to arrange.
- Appropriate guidelines and large print copies of the “yes” and “no” case should be on display at all polling centres.

QUESTION: Do you support the division of the City into electoral wards?

YES CASE

NO CASE

1. Distribution of Representation

- Wards would allow Council to have areas of similar population, each represented by elected Councillors.
- It is possible that the absence of wards could result in an uneven level of representation across the City.
- Wards would prevent an imbalance in representation created by Councillors being elected from one part of the City at the expense of another part.

2. Local Issues

- Councillors elected to a ward would be more likely to identify with local issues.
- The interests and needs of ward residents may be better represented through the local knowledge of Councillors.

The Big Picture

- Councillors should be concerned with the total City and its needs.
- Wards invite parochial issues and narrow thinking.
- The wider interests of the City are more important for all residents.

Representation

- Councillors should make decisions as individuals without ward influence.
- Residents may feel remote from other Councillors and their views with a ward system.
- Councillors tend not to be as involved in other wards.

Reports from Director Corporate Services

3. Identity

- Residents would be able to identify with Councillors representing their area.
- Consultation with the community would be restricted to locality.
- Councillors should be encouraged to have a better understanding and feel for the area.

4. The Public Interest

- Representation of local opinion is guaranteed in respect of major issues.
- Opportunities for “political” or “philosophical” groupings are negated.
- Local communities should be better informed about Council agendas and priorities.
- Local issues may be ignored in favour of wider community benefit.

Decision Making

- Councillors could be encouraged to favour local interests above the overall needs of the City.
- There could be a tendency to divide expenditure equally in the wards rather than works and projects having citywide benefit.
- Decisions could be biased towards local representation rather than the corporate interest.

Forward Planning

- Long-term priorities must be assessed according to need rather than locality.
- Limited resources should be directed towards City priorities with Councillors being able to express preferred options.
- Wards could encourage the residents to think and act against the planning, economic and social future of the City.

ALTERNATIVE METHOD FOR ELECTION OF COUNCILLORS FOR AN AREA DIVIDED INTO WARDS

Section 279 of the Local Government Act 1993 provided that the Councillors for an area that is divided into wards are to be elected in accordance with either Section 280 or 281 of the Local Government Act 1993.

The method of election under Section 280 of the Local Government Act 1993 (method 1) applies unless a decision made at a constitutional referendum is in force, which:-

- requires the method of election under Section 281 (method 2) to apply; and
- specifies the number of Councillors to be elected by an electorate comprising all the electors for a ward and the number of Councillors to be elected by an electorate comprising all the electors for the area.

Ward Election of Councillors – Method 1

Each Councillor for an area that is divided into wards may be elected by an electorate comprising all the electors for a ward. The same number of Councillors is to be elected for each ward. The Mayor is excluded when determining that number if the Mayor is to be elected by all the electors for the area.

Reports from Director Corporate Services

Under 280 of the Local Government Act 1993 the same person is not to be a candidate for election as a Councillor in more than one ward, unless the election is for the Mayor.

Election of Councillors partly by wards, partly by area – Method 2

The councillors for an area that is divided into wards may be elected:

- as to some of them – by an electorate comprising all the electors for a ward; and
- as to the others – by an electorate comprising all the electors for the area.

The same number of councillors is to be elected for each ward. The Mayor is excluded when determining that number if the Mayor is to be elected by all the electors for the area.

Advice from the State Electoral Office indicates that method 2 being the election of Councillors partly by wards, partly by area is not used by any of the 80 Councils who have a ward system.

ELECTION OF MAYOR

Section 282 of the Local Government act 1993 provided that the Mayor of an area who is to be elected by the electors must be elected by an electorate comprising all the electors for the area even if the area is divided into wards.

The Mayor of an area who is to be elected by the Councillors for the area must be elected by the Councillors from among their number. A Mayor elected for an area is one of the Councillors of the Council for the area.

Double candidature

A person may be a candidate for election as Mayor and a candidate for election as a Councillor at the same time. If the person is elected to the office of Mayor, the person is taken not to be elected as a Councillor. In that case, the position of Councillor is to be filled by the next elected candidate.

If a person is a candidate for election for a ward, the person must not at the same time be a candidate for election for another ward or a candidate for election by all the electors of the area.

CONCLUSION

The decision that Council now has to make to further Minute No. 1809 passed at its meeting of 21 June 2000, is how it intends to inform the community on the introduction of a Ward system and its associated issues, as well as the possibility of the conduct of a referendum.

If a referendum was to be conducted the following issues could need to be determined:-

- The number of Wards for the Shire.
- Would the Councillors or the electors elect the Mayor?
- Would the number of Councillors be decreased or increased (minimum 5, maximum 15)?
- What would be the method of election of Councillors for the area divided into Wards?

Reports from Director Corporate Services

The costs involved would be approximately \$5,000.00 for public consultation and approximately \$150,000 for the conduct of a referendum. No such allocation has been made in the current years budget.

Reports from Director Engineering Services

16. ORIGIN: Works Unit

FILE REF: R0915

REPORT TITLE:

Cadell Road Mebbin - Maintenance Limits

SUMMARY OF REPORT:

Following further representations by the residents of Cadell Road to Council at Community Access on 10 May 2000 negotiations have been held with National Parks & Wildlife Service and State Forests. Negotiations have concentrated on the upgrading and future maintenance of the road.

National parks & Wildlife Service has offered \$10,000 as a one-off payment and the residents \$4,000 towards upgrading if Council accepts ongoing maintenance.

RECOMMENDATION:

That Council accepts responsibility for maintenance of Cadell Road from Kyogle Road to the Mebbin National Park boundary and that upgrading to an acceptable gravel standard with contributions accepted from both NPWS and local residents.

Reports from Director Engineering Services

REPORT:

Following further representations by the residents of Cadell Road to Council at Community Access on 10 May 2000 negotiations have been held with National Parks & Wildlife Service and State Forests. Negotiations have concentrated on the upgrading and future maintenance of the road.

The current responsibility level of the road is as below:-

CHAINAGE (KM)	FORMATION	RESPONSIBILITY
00 – 0.4	Bitumen Seal	Tweed Shire
0.4 – 1.9	Unsealed	Multiple Occupancy
1.9 – 3.4	Unsealed – no gravel	Crown Road
3.4 – 12.3	Unsealed – gravel	National Parks & Wildlife Service

National Parks & Wildlife Service has a commitment to maintain the length of road (3.4 – 12.3) within the National Park and has offered a one-off contribution of \$10,000 towards upgrading the section outside the Park (0.4 – 3.4).

State Forests has indicated that as the road is no longer within a State Forest it will not contribute but if any logging is carried out before 30 June 2001 it will maintain the road to pre-logging conditions.

The residents of the Multiple Occupancy have committed \$4,000 towards any upgrading.

National Parks & Wildlife Service is entering upon an upgrading program of the National park and additional through traffic is anticipated. This will bring further pressure on Council to accept maintenance of the section up to the Park boundary at 3.4km.

The estimated cost to reform and gravel the road is \$26,000. This would require Council to fund \$12,000 from its road funding and an anticipated \$3 – 4,000 per year maintenance.

As part of the upgrading the resident's contribution would be used to seal another 200m of the road under the existing policy.

Reports from Director Engineering Services

17. ORIGIN: Planning & Design Unit

FILE REF: GT1/S94/4 Pt4, Section 94 Plan

REPORT TITLE:

Tweed Road Contribution Plan No. 4, South Kingscliff Amendments

SUMMARY OF REPORT:

The Kings Beach coastal development between Kingscliff and Bogangar/Cabarita Beach will require upgrading of the intersections on the Coast Road as traffic numbers increase. The Kings Beach Court Order Consent, Condition 14(iv) required a bond for the intersection upgrading which was to be superseded by a section 94 plan. To implement this condition it is proposed to include the intersections as local area works in the works schedule of the Tweed Roads Contribution Plan. Draft version 4.2 of the Tweed Road Contribution Plan No 4 has been prepared to implement the changes. The draft plan has been exhibited and no submissions have been received. It is proposed to adopt the draft plan as exhibited.

RECOMMENDATION:

That Council, in accordance with clause 30 of the Environmental Planning and Assessment Regulation 1994, approves the draft Tweed Road Contributions Plan (contributions Plan No 4 - Version 4.2) in the form it was publicly exhibited.

Reports from Director Engineering Services

REPORT:

1. BACKGROUND

The current version of Tweed Road Contribution Plan No 4 - *Version 4.1* was adopted by Council 1 January 1999, to amend Heavy Haulage provisions.

When fully developed, the Kings Beach Coastal developments between Kingscliff and Bogangar/Cabarita Beach require upgrading of the intersections with the Coast Road:

INTERSECTION 1 (NORTHERN END)

Signalisation	100,000
Road Works	340,000
	440,000

INTERSECTION 2 (MIDDLE)

Roadworks	330,000
	330,000

INTERSECTION 3 (SOUTHERN END)

Same as 1	
	440,000

TOTAL	
	\$1,210,000

The Kings Beach Court Order Consent (S96/135), Condition 14(iv) required a bond for the intersection upgrading which was to be superseded by a section 94 plan. Further it is not equitable to impose construction costs of these items on individual developments as the benefits will be shared over time by all development in the Kings Beach area. Including these works in the TRCP as local area works implements the S96/135 condition and enables the costs to be shared by all beneficiaries by distributing development contributions in accordance with predicted traffic use.

It is proposed to amend the works schedule of the TRCP to include the above items as local area works for Kings Beach.

2. CONTRIBUTIONS

The following development and traffic generation is expected from the local contribution area:

DEVELOPMENT	AMOUNT	TRIP END GENERATION RATE	DAILY TRIP ENDS
Single dwellings	668	6.5	4,342
Units	1734	3.9	6,762

Reports from Director Engineering Services

DEVELOPMENT	AMOUNT	TRIP END GENERATION RATE	DAILY TRIP ENDS
Retail 1	1,500 sq m	as per TRCP including modification factor	350
Retail 2	6,600 sq m	as above	3,447
Total			14,901

Contribution per trip end = $\frac{\text{Cost of Works}}{\text{Number of trip ends}} = \frac{\$1,210,000}{14,901} = \$ 81.2$ per trip end

3. DRAFT VERSION 4.2 AMENDMENTS TO SECTION 94 CONTRIBUTION PLAN NO. 4 - TWEED ROAD CONTRIBUTION PLAN

The following amendments are proposed for draft version 4.2 of the above plan.

- (a) Amend Table 2 of the Executive Summary by inserting a row in the table for the Kings Beach Development

TABLE 2 - TRCP HOUSEHOLD CONTRIBUTIONS

Sector	Locality	Standard Contribution	Local Contribution	Total Contribution
1	Tweed Heads	\$ 1,288	\$ -	\$ 1,288
2	Tweed South	\$ 1,684	\$ -	\$ 1,684
3	Cobaki	\$ 2,544	\$ -	\$ 2,544
4	Bilambil Heights	\$ 4,393	\$ -	\$ 4,393
5	Terranora	\$ 2,571	\$ 2,771	\$ 5,342
6	Kingscliff	\$ 1,820	\$ -	\$ 1,820
7	Duranbah/Cabarita	\$ 2,394	\$ -	\$ 2,394
	Kings Forest Dev.	\$ 2,394	\$ 1,378	\$ 3,772
*	Kings Beach Dev	\$ 2,394	\$ 554	\$ 2,948
8	Pottsville	\$ 3,370	\$ -	\$ 3,370
	Koala Beach / Leisure Gardens	\$ 3,370	\$ 580	\$ 3,950
9	Murwillumbah	\$ 1,936	\$ -	\$ 1,936
10	Keilvale	\$ 2,394	\$ -	\$ 2,394
11	Burringbar	\$ 1,295	\$ -	\$ 1,295
12	Rural - Inner Zone	\$ 7,096	\$ -	\$ 7,096

Reports from Director Engineering Services

13	Rural - Outer Zone	\$ 10,824	\$ -	\$ 10,824
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* Additional row

(b) Insert additional row into Table 3.1 to describe the local area No. 4, Kings Beach

TABLE 3.1 - LOCAL AREA CONTRIBUTIONS

No.	Locality	Developments	Application
1	Terranora	Terranora, Area E	All of Sector 5
2	Cabarita	Kings Forest	Schedule 4
3	Pottsville	Leisure Gardens, Koala Beach	Schedule 5
4	Duranbah/Cabarita	Kings Beach	land between Pacific Ocean and Cudgen Ck, south of DP 14895 (Cudgen Seaside City) and north of Cudgen Nature Reserve

(c) Amend Section 5.1 "Works" by inserting the following paragraph at the end of existing text.

"Version 4.2 of this plan amends Table 5.1(d) "Works Schedule" and Schedule 6 "TRDS Project Costings" by adding an additional item 137 for the new Local Area No. 4.

137 Cudgen Ck to Bogangar - 3 i/s- Kings Beach, Total Cost \$1,210,000"

(d) Amend Table 6.2 by inserting additional row for Kings Beach development

TABLE 6.2 - LOCAL AREA TRIP END UNIT COSTS

Location	Value of Works _{local}	New Ends	Trip \$Local End _{cost}	Trip Comments
Terranora	\$ 6,794,160	16,748	\$406	<ul style="list-style-type: none"> Applies to all of Sector 5 Work Items 126 - 132
Cabarita	\$ 6,906,240	34,255	\$202*	<ul style="list-style-type: none"> Applies to the Kings Forest Development only Work Items 133 - 134
Pottsville	\$ 823,223	9,652	\$85**	<ul style="list-style-type: none"> Applies to Leisure Garden and Koala Beach Estates only Work Items 135 - 136
Duranbah/Cabarita	\$1,210,000	14,901	\$81	Applies to Kings Beach Development only
Total	\$15,733,623	--	--	

* For estimation purposes only - the Kings Forest Development will be required to construct the road

** For estimation purposes only - Work Items 135 - 136 are to be equally shared between the parties, Leisure Gardens and

Reports from Director Engineering Services

Koala Beach Estates, with costs and timing of the contribution subject to negotiation and surety.

(e) Amend Table 7.3 by adding a row for Kings Beach Local Contribution

TABLE 7.3 - TRCP \$TOTAL TRIP END_{cost} AND HOUSEHOLD CONTRIBUTIONS PER SECTOR

Sector	Locality	\$Standard Trip End cost	\$Local Trip End _{cost}	\$Interest Trip End _{cost}	\$Total Trip End _{cost}	Trip Ends Hou se- hold	Admin. 5%	Household Contribution
1	Tweed Heads	\$130	\$ -	\$59	\$189	6.5	1.05	\$1,288
2	Tweed South	\$188	\$ -	\$59	\$247	6.5	1.05	\$1,684
3	Cobaki	\$314	\$ -	\$59	\$373	6.5	1.05	\$2,544
4	Bilambil Heights	\$585	\$ -	\$59	\$644	6.5	1.05	\$4,393
5	Terranora	\$318	\$406	\$59	\$783	6.5	1.05	\$5,342
6	Kingscliff	\$208	\$ -	\$59	\$267	6.5	1.05	\$1,820
7	Duranbah/ Cabarita	\$292	\$ -	\$59	\$351	6.5	1.05	\$2,394
	Kings Forest Developm ent	\$292	\$202	\$59	\$553	6.5	1.05	\$3,772
*	Kings Beach Developm ent	\$292	\$81	\$59	\$432	6.5	1.05	\$2,948
8	Pottsville	\$435	\$ -	\$59	\$494	6.5	1.05	\$3,370
	Koala Park Leisure Gard.	\$435	\$85	\$59	\$579	6.5	1.05	\$3,950
9	Murwillu mbah	\$225	\$ -	\$59	\$284	6.5	1.05	\$1,936

Reports from Director Engineering Services

TABLE 7.3 - TRCP \$TOTAL TRIP END_{cost} AND HOUSEHOLD CONTRIBUTIONS PER SECTOR

Sector	Locality	\$Standard Trip End cost	\$Local Trip End _{cost}	\$Interest Trip End _{cost}	\$Total Trip End _{cost}	Trip Ends Hou se- hold	Admin. 5%	Household Contribution
10	Keilvale	\$292	\$ -	\$59	\$351	6.5	1.05	\$2,394
11	Burringbar	\$131	\$ -	\$59	\$190	6.5	1.05	\$1,295
12	Rural - Inner Zone	\$981	\$ -	\$59	\$1,040	6.5	1.05	\$7,096
13	Rural - Outer Zone	\$2,232	\$ -	\$59	\$2,291	4.5	1.05	\$10,824

* addition to table

(f) Amend “**CONTRIBUTION PLAN No 4 VERSIONS/EDITIONS**” by adding:

“Draft Version 4.2 amends the works programme by addition of intersection works on the Coast Rd south of Kingscliff, and consequently amends the contribution schedule “

Reports from Director Engineering Services

18. ORIGIN: Planning & Design Unit

FILE REF: GT1/S94/4 Pt4, Section 94 Plan

REPORT TITLE:

Tweed Road Contribution Plan No. 4, South Tweed Heads Amendments

SUMMARY OF REPORT:

The development proponent of the former "Egg and I" site has sought to include the Minjungbal Drive/Shallow Bay Drive intersection valued at \$300,000 in the works schedule of the Tweed Roads Contribution Plan. As the result of negotiations with the developer it has been accepted that the intersection has distributor status. Inclusion in the TRCP will enable the developer to receive credits in return for construction of the intersection.

Draft version 4.3 of the Tweed Road Contribution Plan No 4 has been prepared to implement the change.

RECOMMENDATION:

That:-

1. Council adopts the draft Tweed Road Contributions Plan (Contributions Plan No 4 - Version 4.3) as a basis for exhibition and community discussion/consultation.
2. The draft plan Version 4.3 be exhibited as required by the Environmental Planning and Assessment Regulations to repeal and replace Version 4.2.

Reports from Director Engineering Services

REPORT:

1. BACKGROUND

The current version of Tweed Road Contribution Plan No 4 - *Version 4.1* was adopted by Council 1 January 1999, to amend Heavy Haulage provisions. Version 4.2, to include intersections at Kings Beach as local works, is recommended for adoption by Council at this meeting.

Shallow Bay Drive (which is a continuation of Rivendell) is to proceed east from Minjungbal Drive to connect with Eastlakes Drive.

The site east of Minjungbal Dr and south of Shallow Bay Dr has been granted consent for a large retail development and retirement village. Shallow Bay Drive is required to access both of these developments. When fully constructed it will also provide a public benefit in providing an alternate access for the residential areas around Eastlakes Drive and an alternate route to east Banora Point.

In negotiations with the developer it has been argued that the Minjungbal Dr/Shallow Bay Drive intersection has by virtue of its crossroads and motorway off ramp management role effectively become an intersection of two distributors and therefore should be included in the works schedule of the Tweed Roads Contribution Plan and furthermore the cost of works on the intersection should be eligible TRCP credits.

These arguments have been accepted as reasonable by Council's engineers.

2. PROPOSED WORKS

The proposed works include

- Full signalised intersection and associated roadworks
- Relocated off ramp from the Tweed Heads Bypass
- Necessary relocation of drainage and other services

Estimated Cost \$300,000.

3. CONTRIBUTIONS

It is proposed to include the above intersection in the works schedule of the TRCP. The cost of the works is minor compared to the overall works schedule, therefore no revision is proposed to the contributions schedule as part of this amendment. (note: a major amendment to the contributions schedule is envisaged when a final decision is made on the Lakes Drive Bridge)

4. DRAFT VERSION 4.3 AMENDMENTS TO SECTION 94 CONTRIBUTION PLAN NO. 4 - TWEED ROAD CONTRIBUTION PLAN

Draft version 4.3 amends the above plan as follows:-

- (a) Amend Section 5.1 "Works" by inserting the following paragraph at the end of existing text"-
- "Version 4.3 of this plan amends Table 5.1(b) "Works Schedule" and Schedule 6 "TRDS Project Costings" by adding an additional item 138:-*
- "138 Minjungbal Dr / Shallow Bay Dr Intersection, Total Cost \$300,000"*

Reports from Director Engineering Services

(b) Amend “**CONTRIBUTION PLAN No 4 VERSIONS/EDITIONS**” by adding

“Draft Version 4.3 amends the works programme by addition of intersection works at Minjunjbal Dr/Shallow Bay Dr. “

Reports from Director Engineering Services

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Reports from Director Environment & Community Services

19. ORIGIN: Environment & Health Services Unit

FILE REF: L3770.10, Leases – Council Property

REPORT TITLE:

Future Use Option No 1, Nullum Street, Murwillumbah

SUMMARY OF REPORT:

Council owns the premises located above which has been used since 1982 for community support purposes. This report provides options for future use.

RECOMMENDATION:

That a further report be prepared in relation to the property value and possible location and funding of a purpose built facility.

Reports from Director Environment & Community Services

REPORT:

Councillors will recall that at the Community Access session on 12 July 2000 the Tweed Training and Enterprise Company's, Mr Peter Beck and the Tweed Palliative Support Group's, Ms Helen Lewis addressed Council in relation to the future use of Council's premises located at No 1 Nullum Street, Murwillumbah. This report addresses options for such future use.

On the property stands a timber clad "dwelling" which has been used for various community support purposes since 1982. The land is zoned 2(b).

The building is unoccupied at the present with the most recent occupant, the Tweed Training and Enterprise Company Limited, moving to premises in the commercial area of Murwillumbah. However, some of their equipment is still stored in the premises.

Tweed Training and Enterprise Company has requested that Council enters into a lease arrangement with them for the use of the building until March 2003 when their Job Network contract is due to expire. They propose to manage and maintain the property on a day to day basis and to provide it as a base for other community groups such as Murwillumbah Community Support Service, Tweed Early Intervention Group and Tweed Valley Palliative Care Group.

The building has been modified over a period with the conversion of a laundry to a disabled toilet, the removal of cupboards etc from the kitchen and other minor interior alterations to allow better use for community support purposes.

In relation to options for future use, the following are listed:-

1. Convert the house back to a dwelling and rent it.

Comment: The rent received compared with outgoings would have only minimal impact on the budget and so is not recommended.

2. Agree to Tweed Training and Enterprise Company Ltd's request.

Comment: While such would satisfy those community groups who would get use out of the building. The slope of the site, vehicle access and floor plan are not considered ideal for such use, but are better than having no premises.

3. Dispose of the property and reinvest in a Community Service use.

Comment: Depending on the use of the funds, this is an option that should be further explored. It is considered that if funds from such sale were simply used as a short term inclusion in the general fund that there would be no long term advantage and the community groups would be deprived of a viable resource. However, if such funds were channelled into the construction of a purpose-built centre then not only the community groups that are prepared to be involved would benefit but such would have the potential to provide a much needed service to other groups.

4. Demolish the dwelling and make some entrepreneurial use of the 2(b) zoning.

Comment: This could be explored but is not considered core business but any profit could be used to provide a new community facility.

Reports from Director Environment & Community Services

From the above options it is considered that No 3 is the most appropriate and that a further report should be presented in relation to value of property and possible location of a purpose built facility etc.



Dr J Griffin
General Manager

Reports from Director Environment & Community Services

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Reports from Sub-Committees

1. Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 13 July 2000

GB4/1/2

VENUE:

Pottsville Environment Centre

TIME:

5.00pm

PRESENT:

Committee Members:, Cr Max Boyd, Cr Henry James, Ms Kate McKenzie (Land Care Co-ord), Len Greer (Pottsville Dune Care), Tom Kelly (Kingscliff North), Stewart Brawley

Informal: Jeanette Davidson, Cliff Chadburn (Recorder)

APOLOGIES:

Frank Mc Leod

MINUTES OF PREVIOUS MEETING:

Moved: Cr Boyd

Seconded: Len Greer

RESOLVED that the Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 11 May 2000 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

3. Coast Care Grant 1999/00 - Cabarita Headland Walkway

Necessary approvals for construction of the walkway have been received. Construction will include 1-inch water pipes as handrails in an attempt to limit visual impact. Additionally, Pandanus palms will be planted on the northern slope of the headland to screen the boardwalk.

4. Kingscliff Rehabilitation Mining Site

General discussion about the future of the site and naming of the area.

Reports from Sub-Committees

CORRESPONDENCE:

1. Cabarita Beach Residence Association – Cabarita Representative

Members voted at their general meeting 12 June 2000 to appoint Mrs Jeanette Davison as the Cabarita Beach representative of Dune Care, replacing Ms Liz Turrell.

Moved: Kate McKenzie

Second: Henry James

RECOMMENDATION:

That Jeanette Davison replace Liz Turrell as representative Cabarita Beach Dune Care on the Tweed Dune Care Advisory Committee.

2. Mr Stuart Ball – Surfrider Foundation

Mr Ball contacted Council by way of e-mail requesting information on the progress of the Greencorp project and any planned works at Duranbah. Mr Ball stated the Surfrider foundation was interested in assisting with any works at Duranbah. Mr Ball was forwarded Twin Towns Coastcare contacts to liaise with on this matter.

3. Dorrroughby Environment Education Centre

Copy of Coastcare Funding Application for the Northern Rivers Coastcare Schools Project received. The project aims to establish a curriculum-based environmental education program in north coast schools and linked to on-ground activities concerned with dune rehabilitation.

GENERAL BUSINESS:

1. ‘Reconciliation park’ - Fingal

Mr Frank Krasna and Rev K. Hawthorn have approached Council with a proposal to utilise Council land (community land) on the corner of Bamerry Street and Lighthouse Parade to establish an indigenous/reconciliation area. The area is currently overrun with Ochna and other assorted weeds. It was recommended Mr Krasna meet with Council staff and representatives of Fingal Dune Care to further discuss their proposal.

Reports from Sub-Committees

2. Dune Care Conference

The next conference will be held at Lake Ainsworth in 2002.

3. Koala Wanderers

General discussion regarding concerns with some of the proposed routes for the walking trail. The proposed route to be tabled at the next Dune Care meeting.

4. Sepp 26 program

The project is on hold as funding was via the Sustaining the Tweed Program cut from the 2000/2001 budget. Suggested inspection tour of Dune Care sites by Councillors to inform of the works undertaken by Dune Care groups and meet some of the members.

Moved: Cr Boyd
Second: Len Greer

RECOMMENDATION:

That an inspection/information tour of Dune Care works be organised for Councillors.

5. Green Corps Notification

Promotion and information of the Green Corp project to be included in the Tweed Link. Suggested Cool FM should be approached also.

6. Next Green Corp Application

Closing date 28 August 2000. Kate McKenzie to co-ordinate application.

7. Recognition of Jack and Pat Kasperson

Tom Kelly requested the recognition of Jack and Pat Kasperson as founding members of the Kingscliff Dune Care group and for the works they have undertaken by naming the small cleared area north of the Kingscliff North Caravan Park 'Kasperson Park'.

Reports from Sub-Committees

Moved: Tom Kelly

Second: Len Greer

RECOMMENDATION:

That Council considers naming the small cleared area north of Kingscliff North Caravan Park 'Kasperson Park'

NEXT MEETING:

The next meeting of the Tweed Dune Care Advisory Committee will be held 14 September 2000.

The meeting closed at 6.30pm

Director's Comments:

In considering the recommendation under item 7 it is questioned if Jack and Pat Kasperson have made a greater contribution to dune care than a significant number of other persons and it is not clear that such a naming is warranted.

That Council adopts the following recommendations:

(A) As detailed under item 4.

(B) That Council take no action at this stage regarding the naming of the area north of the North Kingscliff Caravan Park.

Reports from Sub-Committees

2. Minutes of the Local Traffic Committee Meeting held Friday 14 July 2000

Traffic Committee

VENUE:

Oxley Room

TIME:

Commencing at 9.00am.

PRESENT:

Committee Members: Cr George Davidson; Tweed Shire Council; Mike Baldwin, Roads and Traffic Authority; Lewis Molnar, NSW Police; Mr Neville Newell, MP, Member for Tweed.

Informal: Chairman: Mr Paul Morgan, Mr Ray Clark and Maree Morgan Tweed Shire Council.

APOLOGIES:

Mr Don Page MP, Member for Ballina.

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 22 June 2000 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

BUSINESS ARISING:

4. Byangum Road

R0880 Pt2

From meeting held on Thursday 22 June 2000 (Item 4):

Due to recent motor vehicle accidents along Byangum Road near Barnaby (sic) Street this matter is tabled for discussion by the Committee.

In the last 6 months a resident has had two insurance claims because of vehicles entering the property and causing damage. On 16 June a vehicle left the road and smashed into the electric light post in front of 110 Byangum Road and on the 17 June another vehicle smashed into the electric light post in front of 108 Byangum Road. It is reported that on the evening of 17 June two cars and a motor bike hit the kerb and damaged their vehicles.

The applicant is requesting provision of Armco railing on the apex and exit of the corner heading west on Byangum Road.

The Road Safety Officer Ray Clark tabled an accident data report for this road and suggested that chevron signs could be installed on this curve.

The RTA Representative advised that the Armco barriers have to be a certain length.

Reports from Sub-Committees

The Chairman suggested that a Road Safety Audit be completed on Byangum Road, assessing sight distance, speed, signage, pavement markers, pedestrian facilities etc.

The Road Safety Officer advised the Committee that the local police are going to step up breath testing in this area and provide input into the Road Safety Audit.

RECOMMENDATION:

That a Road Safety Audit be undertaken on Byangum Road as a matter of priority and referred to the next Local Traffic Committee meeting.

The Police Representative advised that most of the incidents are alcohol related and breath testing in the vicinity could be a practical solution especially on Friday and Saturday nights. Police have advised that they will concentrate more on this section of Byangum Road.

The Road Audit was tabled and it was noted that a guardrail was not assessed as being warranted along Byangum Road, however, enhanced Police patrols for speeding and random breath testing will occur and improved signage and linemarking was recommended which will include reflectorised pavement markers on selected curves.

The Road Audit is reproduced as follows:-

“ROAD SAFETY AUDIT STAGE 5 EXISTING ROAD

PROJECT DESCRIPTION

The Local Traffic Committee at its June meeting requested that a Road Safety Audit be undertaken on Byangum Road, Murwillumbah.

A Road Safety Audit Process is a formal procedure for checking the design, implementation and operation of road works from a safety perspective.

The road length under review is 2.64km and is measured from the roundabout at Murwillumbah Street to the intersection with Hall Drive.

The road is considered to be an urban distributor with around 7,000 vehicles per day (1998)

The road is zoned at 60kph as per RTA guidelines and consists of many curves and hills.

ACCIDENT DATA

Reported crashes:

22 crashes reported between 1995 and 1999

11 Casualty crashes

6 occurred in the rain

Mapping of the crashes has identified the intersections of Short St, Tombonda and Hall Dr as having significance.

Reports from Sub-Committees

Anecdotal data from police and residents:

Residents report that a majority of crashes are not reported, involve single vehicles and occur on Friday and Saturday nights. There does not appear to be a strong correlation between wet roads and crashes, indicating that the road surface is not a major contributing factor.

Police sources concur with the above.

Auditor and Audit Process Details

The audit was carried out by Council officers Ray Clark and Trevor Harris and involved several passes over the area by vehicle, day and night, and on foot at particular locations.

AUDIT FINDINGS AND RECOMMENDATIONS

Overtaking opportunities

Very limited due to the double centre line along the length of the section. It is unlikely that this would lead to driver frustration or contribute to a crash.

Readability by drivers

The streetlighting and tree lines conform with the road alignment.

Intersections

There are several intersections that are deficient in regards to sight distance when accessing Byangum Rd.

Frangella Dr, 34m sight distance to right

Recommendation:

Consider installation of stop sign

Tombonda Rd, right sight distance obscure by bush on private property in no. 150. Also, there is a waste skip on the naturestrip area in this location.

Recommendation:

Approach resident and request foliage be trimmed and skip removed.

Pedestrians

There are several pedestrian attractants in the area including a public school in Riverview St., a primary/secondary school in Hall Drive and a pre-school in Joshua Street.

There are no pedestrian crossing facilities along the length of the road and limited formed footpaths.

There is a need for pedestrian facilities in the William St, Prince St, Myrtle Sts areas. Bushes from property on corner of William and Byangum Rd obstruct pedestrian sight distances.

Reports from Sub-Committees

Driveways obstruct naturestrip on curve near Wade St and Harwood Sts (east side of road)

Definite squeeze point for pedestrians between Badoo and Joshua Sts. There is steep banks on either side of the road.

Recommendation:

Consider the installation of kerb blisters to narrow the road west of William Street.

Consider installation of formed footpath along the length of the area in question and remove obstructions from naturstrip areas.

Trim foliage overhanging naturestrip at house on western side of William Street and Byangum Road

Lighting

A night time inspection revealed that delineation of the road was a priority.

Signs

There are few advisory sign on the road section under examination. The 25kph advisory sign on the easterly approach to Short street is obscured by foliage.

The bike lane ends sign west of Hall Drive is damaged.

Recommendation:

Consider installation of speed advisory signs and chevron hazard markers on the approaches to Harwood Street intersection.

Consider installation of speed advisory signs and chevron hazard markers on approaches to Barnby Street intersection.

Consider installation speed advisory signs on approaches to Thompson/Spring St intersection.

Consider installation of speed advisory sign and chevron hazard markers on (heading east) approach to Myrtle Street intersection.

Consider speed advisory sign (35km/h) 150m west of Tombonda Road.

Install speed advisory sign (25km/h) and chevron hazard markers on approach to Short Street intersection.

Marking and delineation

There are double centre lines along the length of the road. The only section to have an edge line is from Murwillumbah Street to Wollumbin Street.

There are raised reflective pavement markers (RRPMs) at the Short Street intersection.

Reports from Sub-Committees

Recommendation:

Install RRPMs on approaches to Myrtle Street, Thompson Street, William Street, Harwood Street Barnby Street and Tombonda Streets intersections.

Physical objects

There are several power poles that are within a metre from the edge of the road. The most obvious ones that seem particularly badly placed on curves are in front of number 100, 221, 219 and 314 Byangum Rd.

Barrier between Thompson and Harwood Sts has no end flares.

Recommendation:

Consider relocating or shielding power poles

Consider upgrading guardrail

Access to property

There are several driveway accesses constructed over the gutter that could be a obstacle to cyclists and drivers. The ones that are considered particularly bad are in front of the approach (heading west) to Harwood Street on outside of curve.

Dangerous gutter crossover just east of Badoo Avenue.

Recommendation:

Install edge line where kerb access structure present hazard eg opposite curve at Short Street and opposite Harwood Street.

Install a painted edge line for 40m at the corner of Spring Street.

Consider modification of the gutter crossover near Badoo Avenue or delineate.

Concluding Statement

The audit has been carried out for the sole purpose of identifying any features of the road which could be altered or removed to improve its safety.

The road section under review is considered to have inadequate delineation for drivers, particularly at night.

The identified problems have been noted and recommendations are put forward for you to consider for implementation.

Where roadside hazards cannot be relocated, a safety barrier should be built to reduce the severity of collisions. However, it should be determined that the protective barrier does not become a greater hazard than the object that it is intended to shield. Guardrails may be considered unsuitable for use in urban situations due to standards requiring appropriate end treatments, thus making their required length unattainable due to driveway placement and its reduction of sight distance needs for exiting traffic.

Reports from Sub-Committees

PROJECTED COSTING AND TIMEFRAME

Westbound	Cost	Time frame	Short term (before end October)	Long term (dependant on funding)
		Immediate		
<i>RRPMs through William Street intersection</i>	\$237		yes	
<i>Trim foliage near cnr William Street</i>	\$100	yes		
<i>Painted edgeline with RRPMs opposite Short Street</i>	\$48		yes	
<i>Painted edgeline for 40m at the corner of Spring Street</i>	\$14		yes	
<i>RRPMs on approaches through Spring Street</i>	\$237		yes	
<i>25km/h speed advisory sign approaching Spring Street</i>	\$100		yes	
<i>Kerb blisters to narrow road east William Street</i>	\$3,000			yes
<i>Stop sign on Frangella Street</i>	\$100		yes	
<i>Painted edge line opposite Harwood Street (to avoid gutter crossovers)</i>	\$14		yes	
<i>3 chevron hazard markers on curve west of Wade Street before rock retaining wall</i>	\$240		yes	
<i>RRPMs + 2 chevron hazard markers to highlight the Barnby Street intersection</i>	\$237		yes	
<i>35km/h speed advisory sign 150m west of Tombonda Road plus RRPMs</i>	\$195		yes	
<i>Concrete footpath along length of Road</i>	\$62,000			yes
Eastbound				
<i>Cycleway ends sign reinstated at Hall drive</i>	\$25	yes		
<i>Request resident of 150 remove skip from naturestrip and trim foliage</i>	nil	yes		
<i>Power pole relocation at no. 100, 221, 219, and 314</i>	\$6,000			yes
<i>Upgrade guardrail between Thompson and Hardwood Streets</i>	\$1,800			

Reports from Sub-Committees

<i>Westbound</i>	<i>Cost</i>	<i>Time frame</i> <i>Immediate</i>	<i>Short term</i> <i>(before end</i> <i>October)</i>	<i>Long term</i> <i>(dependant</i> <i>on funding)</i>
<i>New guardrail as determined by Works Unit in accordance with RTA guidelines</i>	<i>\$5,000 per site</i>			<i>yes</i>
<i>Edgeline and reflectors to avoid gutter crossover just east of Badoo Avenue</i>	<i>\$100</i>		<i>yes</i>	
<i>35km/h speed advisory sign opposite Kinears access</i>	<i>\$100</i>		<i>yes</i>	
<i>3 chevron hazard markers just west of Barnby Street</i>	<i>\$240</i>		<i>yes</i>	
<i>25km/h curve advisory sign on approach to Spring Street</i>	<i>\$100</i>		<i>yes</i>	
<i>3 chevron hazard markers of corner of Short Street</i>	<i>\$240</i>		<i>yes</i>	

RECOMMENDATION:

That:-

- A. The recommendations from the Byangum Road Road Safety Audit with regard to signage, linemarking and raised pavement markers be implemented as a matter of priority.

These recommendations are:-

1. RRPMs through William Street intersection
2. Trim foliage near corner William Street
3. Painted edgeline with RRPMs opposite Short Street
4. Painted edgeline for 40m at the corner of Spring Street
5. RRPMs on approaches through Spring Street
6. 25km/h speed advisory sign approaching Spring Street
7. Stop sign on Frangella Street
8. Painted edgeline opposite Harwood Street (to avoid gutter crossovers)
9. Three chevron hazard markers on curve west of Wade Street before rock retaining wall
10. RRPMs and 2 chevron hazard markers to highlight the Barnby Street intersection
11. 35km/h speed advisory sign 150m west of Tombonda Road plus RRPMs

Reports from Sub-Committees

12. Cycleway ends sign reinstated at Hall Drive
 13. Request resident of 150 to remove skip from naturestrip and trim foliage
 14. Edgeline and reflectors to avoid gutter crossover just east of Badoo Avenue
 15. 35km/h speed advisory sign opposite Kinears access
 16. Three chevron hazard markers just west of Barnby Street
 17. 25km/h speed advisory sign on approach to Spring Street
 18. Three chevron hazard markers on corner of Short Street
- B. The Works Unit investigates:-
- a. Upgrade guardrail between Thompson and Harwood Streets
 - b. New guardrail as determined by Works Unit in accordance with RTA guidelines
-

7. Leisure Drive, Banora Point

R3035

Further data is available from the Engineering Services Division regarding data from recent crossing warrant counts in the vicinity of Club Banora and Winders Lodge.

This item has previously been discussed at Local Traffic Committee and is reproduced below:-

Item 15 from the meeting held 4 February, 1999:

“Request received for a pedestrian crossing and warning signs for the aged facilities on Leisure Drive, Banora Point. A driver saw a blind man crossing the road with a white cane who almost got knocked down by a passing vehicle.

The possibility of a roundabout or pedestrian traffic lights was discussed. It was noted this has been the subject of many applications for safe crossing. The possibility of a zebra crossing being placed where the current refuge is, which lines up with the shopping centre access was noted, however the RTA warrants for a zebra crossing are not met.

RECOMMENDATION:

That the Applicant be advised that funding is being sought for a pedestrian facility at Leisure Drive Banora Point near Winders Place, the Shopping Centre and Club Banora.”

Item 8 from meeting held 22 October, 1999:-

“Request received for a pedestrian crossing on Leisure Drive, opposite the first bus stop to allow people to cross the road in comparative safety.

Reports from Sub-Committees

RECOMMENDATION:

That:

- 1. The Committee recommends that the application for a pedestrian crossing on Leisure Drive be denied due to the warrants for a pedestrian crossing not being met.*
- 2. The applicant be informed that the decision is not based on cost factors but based on RTA levels of usage that have been determined as the minimum requirements for safety at pedestrian crossings.”*

Item 5 from meeting held on 16 March 2000:-

“Further request received for a pedestrian crossing on Leisure Drive as elderly people at Palm Lakes are finding it difficult to cross the road to get to the shopping centre.

Mr McKenniery stated that he understands that the warrants have not been met but requested that another survey take place in the near future because of the population growth and the increase in younger families as well as older people in the more senior accommodation. Mr McKenniery noted that elderly people will cross at a refuge, however if a pedestrian crossing is in use it puts some of the responsibility back on to the driver. As some older people are sight impaired it was requested that refuges and pedestrian crossings be installed away from roundabouts.

The Chairman advised that if there was approval for a pedestrian crossing it would be where the current refuge is located. The Committee was informed that the last count was two years ago and it was so far under the warrants there is no possibility that it would meet the pedestrian warrants even though it does meet the vehicle numbers required. Twenty two pedestrians were counted in one hour during the last count and 50% were elderly with 270 vehicles counted. The Chairman explained how the warrants work. The Committee noted that in the two year period there has not been enough growth in the area to meet the warrants. Mr McKenniery was advised that disability groups had been requested to lobby to have the warrants reduced as lowering the warrants is not under Council’s control and the Zone Manager of the RTA Grafton should be contacted in this regard. Mr McKenniery asked if further counts are performed that someone from the Tweed Valley Branch or Guide Dogs Association could be in attendance. This was confirmed as being a possibility but would occur at short notice.

The Committee noted that as the traffic and pedestrian counts do not meet the Roads and Traffic Authority warrants a pedestrian crossing cannot be installed at this time.

For Council’s information.”

The RTA Representative stated that the location does not meet the reduced warrant. The Chairman queried the reduced warrants fro the elderly and the meeting was advised that each situation can be re-assessed at the discretion of the RTA.

It was noted that the request for the provision of a pedestrian crossing on Leisure Drive was not able to be implemented by Council due to the warrants not being met. As the warrants

Reports from Sub-Committees

are set by the NSW RTA, which is a State Government Authority, it was decided that the Local Member for Tweed should pursue the matter through State Government channels.

RECOMMENDATION:

That the Local Member for Tweed be requested to pursue the matter of Pedestrian Crossing Warrants through State Government channels with the RTA.

Pedestrian crossing counts were tabled and appear hereunder. It was noted that the number of pedestrians in each of the count periods exceeded the minimum number required for a zebra crossing as did the number of vehicles. However, the product of these figures did not exceed the RTA warrant levels of 60,000, but in exceptional circumstances the zone manager has the authority to accept the lower value of 45,000 which is exceeded.

	<i>Wednesday 14/6</i>	<i>Tuesday 11/7</i>	<i>Thursday 13/7</i>
<i>Time</i>	15:20 - 16:20	11:30 - 12:30	10:00 - 11:00
<i>Pedestrians</i>	45	64	54
<i>Vehicles</i>	1,300 est.	742	838
<i>PxV</i>	58,500	46,336	45,252
<i>% elderly</i>	40%	50%	>50%

The Committee suggests that Council formally requests the RTA Zone Manager to authorise the lower warrant level of 45,000 given that the crossing is used by a high proportion of elderly pedestrians and given the growing nature of the surrounding area, the volume of pedestrians and traffic will continue to rise in any case.

RECOMMENDATION:

That Council formally requests the RTA Zone Manager to approve the installation of a "zebra" crossing on Leisure Drive adjacent to the shopping centre.

GENERAL BUSINESS:

1. Covent Gardens Way & Woodlands Drive

R5975 R1393

Request received for the:

- 1) Installation of speed humps to slow alleged speeding traffic; and
- 2) Installation of a "give way" sign at the intersection of Covent Gardens Way & Woodlands Drive.

Reports from Sub-Committees

The “give way” sign is adequate given that it is a standard “T” intersection on two local roads and speed humps are not supported in local areas due to the issue of noise generation.

Council’s mobile radar unit will be deployed in this vicinity when available.

It is suggested that traffic counters could be placed in the streets in question to determine the extent of the problem but this would depend on priorities with other survey sites.

For Council’s information.

2. Corner Frances & Beryl Streets

R2131 Pt2

Request received for the installation of parking restriction signage to be placed in Frances Street to stop access being denied to the business.

The problem is acknowledged however it could be rectified that adjustments be made to the driveway. It is suggested that Council’s Driveway Inspection Officer contact the proprietor to meet on site and resolve the issue.

For Council’s information.

3. Round Mountain Road

R4840

Request received for the Committee to consider several safety issues along Round Mountain Road.

- 1) Poor condition of the road since commencement of the Yelgun to Chinderah Motorway construction works by AbiGroup.
- 2) Roadside slashing along the roadside to enable better visibility for road users especially where horse riders, group trail rides and native wildlife is concerned.
- 3) Concerns have been raised as to the speed of buses along Round Mountain Road.

The issues were noted and it was agreed that the Road Safety Officer would undertake an inspection with Cr Davidson to ascertain what action could be taken to improve the roadside amenity in regards to the construction of the Yelgun to Chinderah Motorway. It is an unavoidable fact that during the construction of the Motorway some temporary adverse impacts will occur on several Council roads affected but that they will be reinstated by the RTA at the completion of the project.

The bus operator has been contacted and advises that the bus drivers utilising Round Mountain Road are experienced drivers however this matter will be drawn to their attention.

For Council’s information.

Reports from Sub-Committees

4. Marine Parade, Kingscliff

R3340 Pt4

Prompt action has been requested to rectify the dangerous traffic situation at the entrance/exit to the Kingscliff North Holiday Park on Marine Parade. Vehicles parking in car spaces especially on the northern side of the entrance/exit on Marine Parade are blocking the site distance for motorists leaving the park. Drivers need to intrude onto the southbound lane of Marine Parade before being able to see any oncoming traffic.

An inspection of these parking spaces has identified that workmen from the adjacent building sites are mainly occupying them and are parking in areas not intended for car parks. Unfortunately the existing edge lines do not have any enforceable meaning so no parking signs are required.

RECOMMENDATION:

That "No Parking" signs be erected approximately 6m each side of the entrance driveway to the Kingscliff North Caravan Park..

5. Pacific Highway, Sextons Hill

R4031 Pt12

It was requested by the RTA representative that Council bring forward suggestions to address pedestrian and cyclist access issues on Sextons Hill.

Officers from Council's Design Unit examined the site and determined that it was well used on both sides by pedestrians, including vulnerable users pushing strollers, and cyclists. The present conditions are deemed to be very unsafe for both the longitudinal and transverse movements.

It was assessed that it was not possible to create a safe walkway within the existing paved areas of the roadway.

Crash data indicates that Sextons Hill meets Federal Black Spot criteria in that there were 49 casualty crashes from 1995 to 1999 with 66 people injured, however this relates to vehicle accidents not pedestrians and therefore offers little in terms of providing pedestrian facilities.

It is recommended by Council's Design Unit that the RTA be requested to pursue the following:-

- A walkway be constructed along the eastern side of the crash barriers from Laura Street to the Barneys Point Bridge access ramps.
- Installation of an overhead walkway linking Pioneer Parade and East Banora Point.
- Installation of interim signs advising pedestrians and cyclists that it is unsafe for them on Sextons Hill.

The RTA representative suggested that Council address this issue in its forward plan for Walkways/Cycleways and it would be treated on its merits. The production and submission

Reports from Sub-Committees

of a proposal that could be a staged development was suggested. It was pointed out that the problem was caused by the RTA failing to consider pedestrians and cyclists in its recent upgrade of Sextons Hill (about 5 years ago) and that the RTA should fully fund and undertake the necessary works to rectify this error from other sources other than the Cycleway Program.

The Police also had concerns regarding the lack of pedestrian facilities.

It is suggested that perhaps the guardrail could be moved to allow a suitable width for pedestrian access as an interim measure until the last section of the motorway is constructed.

The RTA representative advised that Council could pursue the source of providing a safe pedestrian walkway/cycleway. The RTA will not provide signage to stop pedestrians walking along the highway as they are not enforceable by the Police.

RECOMMENDATION:

That Council formally requests the RTA to provide a safe pedestrian cycleway path over Sextons Hill due to its omission by the RTA in the upgrade works undertaken by the RTA on Sextons Hill.

6. Traffic Concerns Amaroo Drive, Banora Point

R0115

Request received for:-

1. A painted parking/cycle lane line to be provided on Amaroo Drive from Darlington Drive to Ash Drive to narrow traffic lanes to reduce traffic speeds.
2. Extension of a painted cycle lane line from Ash Drive to Fraser Drive on Amaroo Drive.
3. Implementation of 60kph speed signs to be erected in Amaroo Drive at the Darlington Drive end.

The provision of delineated cycle lane on both sides of Amaroo Drive is part of Council's Cycleway Program.

The Police representative advised that this would not slow the traffic down to any great extent but felt that a shared zone along this section would be a beneficial outcome. The Chairperson advised that this work would be done this financial year if funds permit.

For Council's information.

7. Upper Burringbar Road, Burringbar

R5690

Request received for a 40kph speed limit to be imposed at the end of Upper Burringbar Road, Upper Burringbar. The RTA Representative advised that the RTA would not support a 40kph

Reports from Sub-Committees

speed zone in a rural area and that Council's minimum design speed should be used for the road designed and constructed accordingly.

RECOMMENDATION:

That the request for a 40 kph speed limit at the end of Upper Burringbar Road, Upper Burringbar be refused.

8. Clothiers Creek Road

R1160 Pt5

Request received for the installation of guardrail in the vicinity of Waterlily Close and Norths Lane along Clothiers Creek Road to improve traffic safety on this section of road.

Advised that this issue arose approximately eight years ago and resealing the road pavement alleviated the problem then. An 80 kph zone exists in this vicinity. Clothiers Creek Road has been identified for upgrading as part of the Works Program over the next four to five years.

RECOMMENDATION:

That:-

1. The Manager Works be requested to assess the status of the road seal.
 2. Installation of yellow & black chevron curve warning signs be installed in the vicinity of Waterlily Close and Norths Lane along Clothiers Creek Road.
-

9. Chinderah Motorway Ramp

R1075 Pt5

Late item tabled by Cr Davidson. Noted that heading north on the Chinderah Motorway there are no signs stating "Wrong Way Go Back" with "No Entry" on all off ramps. The RTA Representative requested Council erect the required signage. The most appropriate signage is "No Entry" signs at the end of each off ramp.

RECOMMENDATION:

That "No Entry" signs be installed at the end of the Chinderah Interchange off ramps.

NEXT MEETING:

The next meeting is scheduled for Thursday 17 August 2000.

The meeting closed at 10:50am.

Reports from Sub-Committees

Director's Comments:

7. *Leisure Drive, Banora Point*

Subsequent discussions have been held with the RTA and Council staff and the RTA have advised that a formal request is not necessary and that given Leisure Drive is a local road and the reduced warrant have been met the RTA have no objection to Council providing the crossing.

Reports from Sub-Committees

MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

- 3. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 20
July 2000**
-

Outstanding Inspections

1. Council Land - Mt Nullum

12. *Use of Land - Mt Nullum*

Land Development – Mt Nullum

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 Motion - Cr Lawrie

Rates Payments

Rates - Payments, Notice of Motion

That Council considers the payment of rates at the Post Office.

2. Notice of Motion - Cr Lawrie

Contaminated Land

Pollution - Contaminated Soils, Notice of Motion

That:-

- 1. Copies of all certifications held by Council regarding remediated land and/or dip sites, be made available to Councillors;*
 - 2. Council give consideration to releasing in full/part some/all of said certifications, as the situation in question requires.*
-

3. Notice of Motion - Cr Luff

Recreation Facilities - Level of Service

Parks - Maintenance & Improvements, Notice of Motion

That Council requests the Manager Parks and Recreation to make a workshop presentation to give and discuss with Councillors, information including:

- A description of current level of service; cost of same; the cost if current level of service were raised,*
 - Effects of increased demand for services due to acquisition of new open space etc in new developments.*
-

Orders of the Day

4. Notice of Motion - Cr Polglase

Roads Construction - Budget

R2000 Pt1, R3130, McAllisters Road, Farants Hill Road, Notice of Motion

That Council considers the allocation of \$200,000 from within the existing roads construction budget for the sealing of McAllisters Road and Farrants Hill Road from the end of the bitumen seal to the school bus turnaround. The Director Engineering Services to bring forward a report on how this can be achieved.

5. Notice of Motion - Cr Lawrie

Section 94 Contribution Plans

Section 94 Plan - S94, Notice of Motion

That a report be prepared on the rationale for retaining each of Council's s94 Contribution Plans.
