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# Schedule of Outstanding Resolutions

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## 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.

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## 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:** Report to Council Meeting held 20 September 2000.

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## Schedule of Outstanding Resolutions

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**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.

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**19 JULY 2000**

**REPORTS FROM DIRECTOR DEVELOPMENT SERVICES**

- 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.

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## Schedule of Outstanding Resolutions

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### 2 AUGUST 2000

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

2. **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**

108

Cr Luff

Cr Lawrie

**RESOLVED** that this item be deferred to allow further consultation with Lend Lease to establish what consultation has been held with residents and receipt of the management plan.

**Current Status:** Consultation to be held.

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5. **Section 94 Contribution Plans**

**Section 94 Plan - S94, Notice of Motion**

151

Cr Lawrie

Cr Luff

**RESOLVED** that a report be prepared on the rationale for each of Council's s94 Contribution Plans.

**Current Status:** Workshop being organised for September/October followed by report to Council.

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### 16 AUGUST 2000

#### REPORTS FROM DIRECTOR CORPORATE SERVICES

12. **First Round Donations - 2000/01**

**Donations**

185

Cr Luff

Cr James

**RESOLVED** that a report be brought forward to Council on the allocation of funds from the donation amount towards the purchase of equipment to read the microfilmed copies of the Daily News.

**Current Status:** To be finalised.

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## Schedule of Outstanding Resolutions

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**186**

**Cr Luff**

**Cr James**

**RESOLVED** that Council requests a report on the possible purchase of equipment for use in the Tweed Heads Auditorium, being a hand held microphone and technology for visual arts presentations as requested by the Tweed Cultural and Performing Arts Society.

**Current Status:** Report to the Meeting of 20 September 2000.

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### **20. Alterations to the Council Chambers**

**Civic Centre - Murwillumbah**

**194**

**Cr Davidson**

**Cr Lawrie**

**RESOLVED** that this report be deferred.

**Current Status:** Report to the Meeting of 20 September 2000.

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# Items Deferred

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## ITEM DEFERRED FROM MEETING 16 AUGUST 2000

*7. Erection of Two (2) Farm Sheds for the Purpose of Fruit Packaging (Bananas) and Timber Milling – Lot 2 DP 262635 Baria Road, Burringbar*

*DA0425/20 Pt1*

*181*

*Cr James*

*Cr Luff*

**RESOLVED** that:-

- 1. The matter be deferred to allow Councillors to inspect the site.*
- 2. Council asks the applicant to provide Councillors with a demonstration of the milling proposed for use.*

**7. ORIGIN: Development Control Unit**

**FILE REF: DA0425/20 Pt1**

**REPORT TITLE:**

**Erection of Two (2) Farm Sheds for the Purpose of Fruit Packaging (Bananas) and Timber Milling – Lot 2 DP 262635 Baria Road, Burringbar**

**SUMMARY OF REPORT:**

An application has been received seeking approval for two (2) farms sheds for the purpose of fruit packing (bananas) and timber milling. Adjoining and adjacent property owners were notified and five (5) submissions of objection were received. The most significant impact likely from the sawmill is excessive noise.

The unauthorised sawmill operations were originally brought to Councils attention by complaints from local residents regarding excessive noise. The applicant provided a noise impact assessment which indicates that the noise generated by the sawmill will exceed NSW Environment Protection Authority acceptable noise limit at the nearest affected dwelling which is located approximately 250 metres from the sawmill.

Accordingly, it is considered that the application should not be supported as it will create excessive noise levels which is likely to adversely impact on the residential amenity of the locality.

However, it is considered that the proposed packing shed should be supported only and it is recommended that the applicant be invited to resubmit a development application for the packing shed only which should then be approved under delegated authority.

## Items Deferred

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### RECOMMENDATION:

That :-

- A. The development application submitted by GD Sharp for the erection of two (2) farm sheds for the purpose of fruit packing (bananas) and timber milling at Lot 2 DP 262635 Baria Road, Burringbar be refused for the following reasons:-
  - 1. The proposal will generate noise levels exceeding NSW Environment Protection Authority acceptable noise limits which is likely to adversely impact on the residential amenity of the locality.
  - 2. The proposal is contrary to the public interest.
  - 3. The proposal is not suitable to the locality.
- B. The applicant be invited to resubmit a new development application for the packing shed.

## Items Deferred

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### REPORT:

**Applicant:** GD Sharp  
**Owner:** Mr MR & Mrs ML Murnane  
**Location:** Lot 2 DP 262635 Baria Road, Burringbar  
**Zoning:** 1(a) Rural  
**Est. Cost:** \$5000

### PROPOSAL

An application has been received seeking approval for two (2) farm sheds for the purpose of fruit packaging (bananas) and timber milling at the above property.

The subject land has an area of approximately 2 hectares and has frontage and vehicular access to Baria Road. The land has flat and hilly slopes and is extensively cleared with some stands of trees scattered over the property. A small stream also passes through the property. Existing improvements includes a dwelling house. Bananas are also grown on the property and a sawmill has partially been operating also.

The applicant proposes to erect 2 sheds. One shed will be used for the purpose of banana packing. This shed will have an area of approximately 20m x 10m. The other shed will be used for the sawmilling operations and will have an area measuring 7m x 7m. This shed will have no walls.

The sawmilling operation includes a four wheel drive tractor for timber salvaging, a PTO winch, portable swing saw and saw bench, professional chain saws and generators. Approximately 15-20m<sup>3</sup> per month of timber will be cut at the property, weather permitting. Various species are sourced both locally and from afar. The timber products produced vary from 1200mm wide fitches, to fence posts, joists and bearer, banana props and numerous customised orders. The sawmill will operate between the hours of 8am and 5pm.

Adjoining and adjacent property owners were notified and five (5) submissions of objection were received. Only 3 properties were notified, all of which are in Baria Road, and of those two (2) submissions of objection were received. The other 3 submissions of objection were from owners along Dixons Road which do not adjoin the subject land. These submissions will be discussed in the "Consultation" section of this report.

### HISTORY

The sawmilling operations were brought to Councils attention by way of complaints from some residents in the locality which were concerned with excessive noise, and the unauthorised use. Subsequently, Council advised the operator to cease work and submit a development application to seek Council approval for the sawmill.

### CONSULTATION

The adjoining and adjacent property owners (3 properties) were notified, of the proposal and 5 submissions of objection were received. Of the property owners that were notified 2 submissions of objection were received. The other 3 submissions were from residents along Dixons Road who's properties do not adjoin the subject land.

The submissions of objection are summarised below and comments provided where necessary.

## Items Deferred

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\* **Property values will fall**

**Comment**

This is not a planning consideration and this point is difficult to justify and should not warrant refusal of the application in this instance.

\* **Extra traffic particularly trucks will damage the roads and be a safety problem for children playing in the locality**

**Comment**

The application indicates that only one (1) five ton table top Dodge truck will be used to transport felled logs to the site for processing and the delivery of sawn timber. It is considered unlikely that one truck with perhaps one trip a day would create a significant adverse impact on the quality of the roads. In any case should the proposal be approved a road contribution would be applicable to contribute to road upgrading and maintenance in the locality.

Only one person will operate the sawmill operations. No other persons will be employed.

In relation to the safety of the children playing in the area, again, it is unlikely that the proposal will significantly create an unsafe environment as it is envisaged that the truck would not make more than 1 trip a day.

\* **The sawmill will grow in size**

**Comment**

Should the application be approved then any intensification or expansion of the operation would also need Councils approval and submission of a further development application. At which time the application will be assessed on its merits.

\* **How is waste to be disposed of. Burning of waste undesirable**

**Comment**

Waste sawdust will be stored on site prior to marketing to various landscape gardeners, chicken farms and horse stables. Timber off cuts will be either sold as firewood or burnt on site.

It is considered that the burning of the timber waste is not appropriate and any consent should be conditioned that sawdust and waste timber material shall not be burnt on site and shall be disposed to Councils satisfaction.

\* **The use and storage of chemicals is undesirable for the locality**

**Comment**

The chemicals proposed to be used and stored include 1 x 20 litre container of roundup, 1 x 20 litre container of Lorsban, 1 x 20 litre container of end-sealer for painting on the ends of logs, one litre of lobasive fruit fly spray and 2 x 20 litre drums of heavy grade machinery oil. All these chemicals will be stored in a lock up chemical storage shed within part of the proposed banana packing shed.

## Items Deferred

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The chemicals identified above (Roundup, Lorsban and Lobasive) are common chemicals used for property maintenance and agriculture, particularly bananas. It is unlikely that these chemicals used in their prescribed forms are unlikely to create an adverse impact on the environment of the locality. This is also the case for the paint and machinery oil associated with the sawmilling operations.

Accordingly, it is considered that the chemicals to be used in association with the proposal is unlikely to create a significant adverse impact and this does not warrant refusal of the application in this instance.

- \* **A small stream passes through the subject land and is in close proximity to the sawmill operations and may become contaminated**

### Comment

Both of the proposed sheds are situated approximately 45 metres from the creek and are unlikely to adversely impact on the quality of the creek. Some of the storage area for the timber is located approximately 30 metres from the Creek. However, this area is to be used for storage purposes only and this is also not likely to adversely impact on the quality of the creek.

No excavation work will be undertaken within 40 metres of the subject creek.

- \* **The sawmill operations will create unacceptable noise in the locality**

### Comment

It is accepted that the development, particularly the sawmill operations will create loud noises with the operation of the machinery. All of the submissions received identified this issue of particular concern. It was because of the excessive noise from the sawmill operations that made Council aware of the unauthorised sawmill in the first place.

The nearest dwelling is approximately 250m from the sawmill site.

To determine the amount of noise generated by the proposal and its likely impact on the locality the applicant, at Council's request provided a Sound Level Impact Assessment of Noise Levels from the sawmill.

Council's Environment and Health officer reviewed this Noise Assessment and provided the following comments:-

*"The NSW EPA acceptable noise limit for this rural area is 45dB(A), whilst the Extreme limit is 50dB(A).*

*The acoustic consultant reports the existing background level to be 65dB(A) due to trucks breaking as they exit the Burringbar Ranges on the nearby highway. The proposed equipment operates at varying noise levels, with the highest being 98dB(A) for the chainsaw at 7.5m distance.. The consultant reports that this would be reduced through distance attenuation to about 64dB(A) at 250m, which is the distance to the nearest house of concern.*

*If the reported background noise level were not so high due to the highway traffic, then it would be unlikely that the proposal would be considered favourable. Further, the highway is to be diverted in the foreseeable future. Therefore I do not agree with the consultant's*

## Items Deferred

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*conclusion that the noise levels from the proposed sawmill activities are acceptable, especially given the objections which exist from adjoining residents to the operation.*

*I am unable to support the proposal as the reported operational level of 64dB(A) is clearly above the acceptable extreme limit of 50dB(A), and is likely to cause disturbance of residents.*

*However, should an approval be issued I would suggest that it should be limited to a 12 month period in which time the mill could be operational and the level of local disturbance could be further determined before any longer term approval is considered”.*

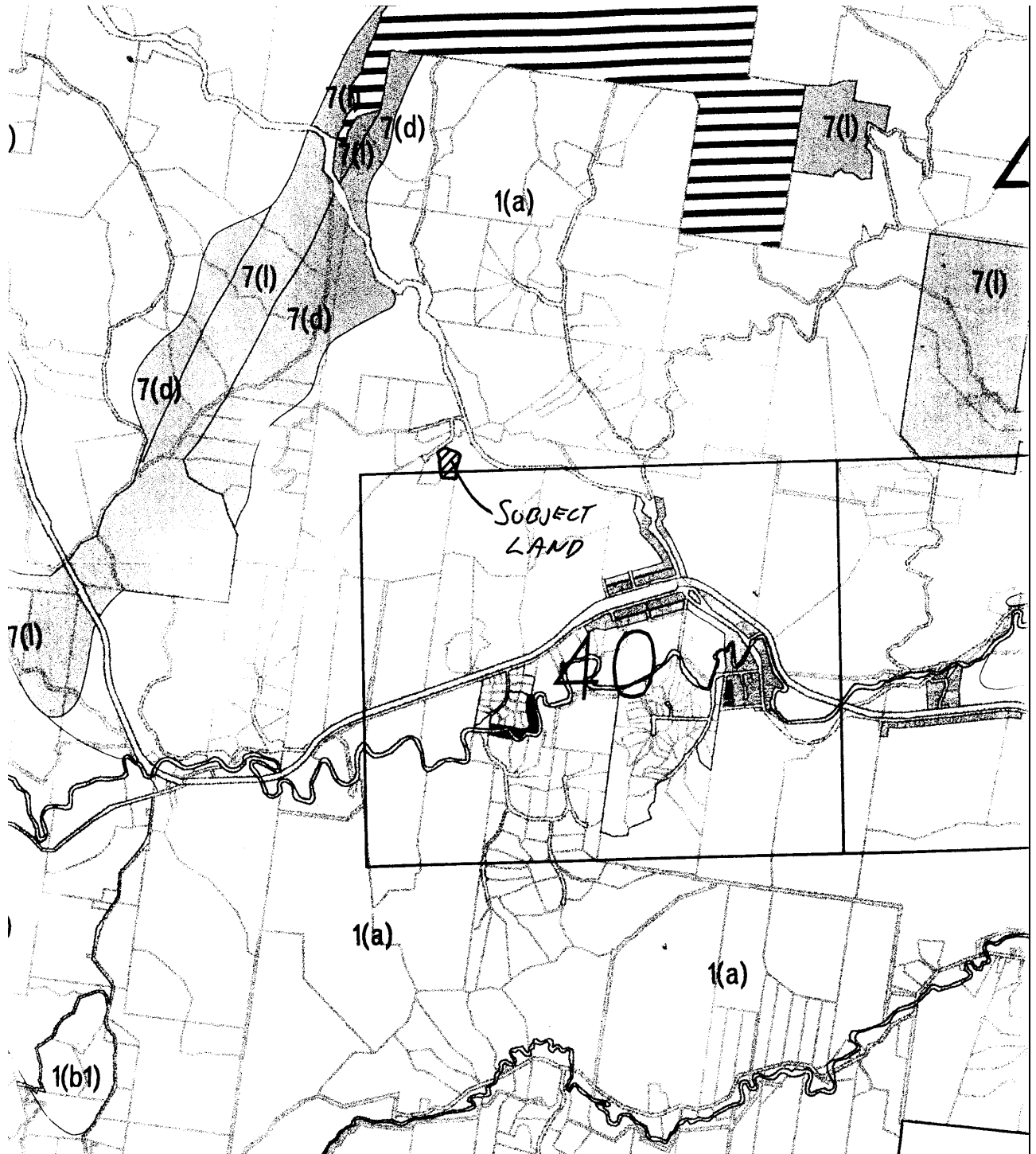
In accordance with the Noise Impact Assessment and the comments provided by Councils Health Officer in relation to the Assessment the proposal (sawmill operations) will create noise exceeding the NSW EPA acceptable noise limit of 45dB(A) and the extreme limit of 50dB(A) which is unacceptable. The nearest dwelling which is approximately 250 metres from the sawmill will still have a noise level of 64dB(A). Accordingly, it is considered that the proposal cannot be supported because it will create excessive noise above the NSW EPA acceptable noise limits.

Event at approximately 300 metres from the sawmill the Noise Impact Assessment indicates that the noise level will be 62dBA, which is also unacceptable.



# Items Deferred

FIGURE 1 – LOCALITY PLAN



## Items Deferred

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### ASSESSMENT

The proposal has been assessed against the matters for consideration contained within Section 79C(1) of the Environmental Planning and Assessment Act, 1979. This assessment appears below.

#### (a) (i) Statutory Provisions

##### Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 1(a) Rural and the proposal is permissible subject to Councils consent.

##### Clause 31 – Development adjoining Waterbodies

This clause applies to land that adjoins the mean high water mark (or the bank where there is no mean high water mark) of a waterbody. As previously discussed in the “consultation” section of this report a small creek passes through the property.

The banana shed will be located approximately 45 metres from the creek and the sawmill shed will be located even further away from the creek. No excavation work will be within 45 metres of the creek. Only some of the storage area for timber will be located within 30 metres of the creek, but this area will not require any excavation works. The land in this area is already substantially cleared and only grassed.

Accordingly, it is considered that the proposal is unlikely to have any significant adverse effects on the scenic quality, water quality, marine ecosystems or the biodiversity of the creek. It is considered that a buffer of approximately 45 metres between the creek and the shed is reasonable under the circumstances.

#### (b) Impacts

The likely impacts of the development where generally discussed in the “consultation” section of this report and it is considered that the most significant impact from the development will be noise generated from the sawmilling operations. As discussed it is considered that the noise is likely to be intrusive to the residential amenity of the locality. The noise level at the nearest affected residence at approximately 250m away from the sawmill was reported to be 64dB(A) which exceeds NSW EPA acceptable noise limit of 45dB(A) and the extreme limit of 50dB(A). Even at 300 metres from the sawmill the noise reading was reported at 62dB(A).

Accordingly, it is considered that the noise exceeding NSW EPA acceptable limits is likely to create a significant adverse impact on the residential amenity of the locality. This noise impact has already been confirmed by existing notifications and complaints to Council in relation to excessive noise being generated from the sawmill which adversely affected some residents in the locality.

Accordingly, it is considered that the application cannot be supported as the noise generated from the sawmill exceeds NSW EPA acceptable limits and this is likely to adversely affect the residential amenity of the locality.

## Items Deferred

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

It is considered that a rural environment is likely to be a suitable location for the development of this nature. However, the location of a sawmill also needs to take into consideration a number of other likely constraints such as topography of the locality and the proximity of other dwellings as sawmilling operations generate loud noises.

In this instance, as discussed, it is considered that the noise being generated by the sawmill will be excessive. The noise level at the nearest affected dwelling even exceeds the NSW EPA acceptable limits. The noise from the sawmill also seems to be carried up the valley as Council has received a number of complaints from residents not adjoining the subject land.

Accordingly, it is considered that this site is not likely to be suitable for the proposed development as the noise generated is likely to create an adverse impact on the residential amenity of the locality. The development would be better suited to the locality that has less residential development.

(d) **Submissions**

As discussed in the “consultation” section of this report adjoining and adjacent property owners were notified and 5 submissions of objection were received. See “consultation” section of this report.

No public authority submissions were received.

(e) **Public Interest**

The public interests has been taken into consideration and it is considered that the proposed development is not suitable to the locality as it likely to generate excessive noise which will adversely impact on the residential amenity of the locality.

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

In the event that the applicant is dissatisfied with Councils determination, a right of appeal exists to the Land and Environment Court. The proposed development is not designated and as such no third party appeal rights exist.

### **OPTIONS**

It would appear that in this instance the following options are available to Council.

1. That the application be refused.
2. That the application be approved subject to appropriate conditions.
3. That the banana packing shed be approved only and the applicant be invited to resubmit a new development application for the packing shed only.

## Items Deferred

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### CONCLUSION

It is considered that the application should not be approved as the proposed development, in particular the sawmilling operations, will generate noise levels exceeding the NSW EPA acceptable noise limit which is likely to adversely impact on the residential amenity of the locality. The subject site is not considered to be a suitable location for a development of this nature. This has also been confirmed by previous complaints received from residents in the locality about excessive noise being generated from the unauthorised sawmill.

It is considered that Option 3 would be the best choice and the banana packing shed be approved only. In this regard it is recommended that the applicant be invited to resubmit a new development application for the packing shed only.

Should Council resolve to approve the application then it is considered that a condition of any consent should limit the use on a 12 month period in which time the mill could be operational again and the level of local disturbance could be further determined before any longer term approval is considered.

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# Reports from Director Development Services

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

The following are the matters Council is required to take into consideration under Section 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

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

**FILE REF: GT1/LEP/2000/4 Pt1**

**REPORT TITLE:**

**Finalising of Tweed Local Environmental Plan 2000 (Amendment No 2000/4) - Proposed Rezoning of Land Located at the Corner of Piggabeen Road and Carramar Street, Tweed Heads West to Enable Residential Development.**

**SUMMARY OF REPORT:**

The purpose of this draft Plan is to rezone the subject land located at the corner of Piggabeen Road and Carramar Street, Tweed Heads West, from its current zoning which is part 7(d) Environmental Protection (Scenic/Escarpment) Zone and part 6(b) Recreation to 2(c) Urban Expansion Zone. This will permit the land to be developed for residential purposes.

Draft Amendment No 2000/4 to the Tweed Local Environmental Plan 1987 was placed on public exhibition for one month during July/August, 2000. A total of two (2) submissions were received.

The land is owned by Council, and therefore independent consultants have been engaged to undertake the evaluation and recommendations for this project. Consultants, Gary Shiels & Associates Pty Ltd, have prepared the draft Plan and evaluated the submissions and prepared this report for Council's consideration.

**RECOMMENDATION:**

That Council forwards draft Amendment No 2000/4 to Tweed Local Environmental Plan 2000 to the Secretary of the Department of Urban Affairs and Planning and requires that the Minister for Urban Affairs and Planning approves the draft Amendment.

## Reports from Director Development Services

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### REPORT:

Gary Shiels & Associates have reported as follows:

#### BACKGROUND

In August 1994, a rezoning application was lodged with Council on behalf of the then owner of the land, Seagulls Rugby League Club, involving the land relating to this draft LEP and the surrounding site. The rezoning was sought to enable parts of the site, known as the Seagulls Sporting Complex, to be developed for residential purposes. A preliminary geotechnical assessment of the site carried out by Soil Surveys Pty Ltd in 1994 concluded that the area, which is the subject of this current draft, LEP, was unsuitable for development being described as the *toe of a landslide*. The zoning of 7(d) Environmental Protection (Scenic/Escarpment) over the area relevant to this draft LEP was recommended by the GeoLINK Group in the rezoning assessment report for reasons of poor stability, vegetation and habitat value, and local visual significance.

Following consideration and exhibition of the rezoning proposal by Council, the rezoning of the whole site from Zone 6(c) *Recreation (Special Purposes)* to part Zone 2(c) *Urban Expansion*; part Zone 6 (c) *Recreation (Special Purposes)*; and part Zone 7(d) *Environmental Protection (Scenic/Escarpment)* came into effect by publication in the Government Gazette No. 77 on 28 June 1996.

The subject site was purchased by Tweed Shire Council in 1996 from the Seagulls Rugby League Club to ensure public ownership of the sportsfields and to enable urban development of appropriate parts of the land zoned 2(c) *Urban Expansion*. As part of Council's subdivision implementation, a detailed geotechnical survey was carried out by Coffey Geosciences Pty Ltd in March 1999, specifically related to the land relevant to this draft LEP. This report was based on a concept proposal for a 5 lot subdivision, over the land. The report identified that the study area was capable of supporting development with some soil and foundation treatment measures and concluded that urban development presented no significant risk of further landslip.

The purpose of this LEP is to enable the extension of the Urban Expansion Zone 2(c) to allow the development of an additional 5 lots over the land currently zoned 7(d) *Environmental Protection (Scenic/Escarpment)* and 6(b) *Recreation*. The land has been identified as suitable for development as described by the recent environmental study and geotechnical report relating to the site.

An Environmental Study was prepared by Gary Shiels & Associates Pty Ltd. The Environmental Study after evaluating the land capability, suitability, services environmental and statutory planning matters concluded that the whole of the study area should be zoned Urban Expansion 2(c) to facilitate a minor extension of the adjacent residential subdivision. The attached Figure 1 shows the current zoning of the site and figure 2 is the subject Draft LEP.

The Draft LEP was placed on public exhibition for a 28 day period between Tuesday 18 July, 2000 to Tuesday 15 August, 2000.

#### PUBLIC SUBMISSIONS

There were no submissions received from the public regarding the proposal.



## Reports from Director Development Services

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### GOVERNMENT AUTHORITIES SUBMISSIONS

**Environmental Protection Authority (EPA):** The EPA has indicated that as the proposal does not appear to present an adverse impact to the environment due in part to the size of the proposed rezoning and as such referral to the EPA may not have been necessary.

In the submission EPA did recommend the following:

*“...that Council ensure that storm water management on the adjoining site is consistent with relevant guidelines and Council’s Stormwater Management Plan. Whilst it may be appropriate to manage the post construction stormwater on the adjoining site Council should ensure that construction phase stormwater is managed as close as possible to its source ie, on the proposed development site and that best practice techniques are used to achieve this.”*

In summary the EPA does not consider that the proposed rezoning will create a negative environmental impact.

**National Parks and Wildlife Service (NPWS):** The response from the NPWS noted that the Environmental Study stated that the study area was in close proximity to a regrowth rainforest area. The NPWS indicated that if Council is of the opinion that critical habitat or threatened species, populations or ecological communities, or their habitats will or may be affected by the environmental study of the draft plan, under the Environmental Planning and Assessment (EP&A) Act 1979, a Section 34A consultation is required. As indicated in the subject environmental study and as noted by the NPWS in the submission:

*“The study area itself does not include significant vegetation or faunal habitats having been cleared, filled and subject to earthworks. However it is located adjacent to the regrowth rainforest area, and any impacts that the land use of the study area may have on this vegetated area must be taken into account.”*

In summary it may be considered that no critical habitat or threatened species, populations or ecological communities, or their habitats will or may be affected by the environmental study or draft plan. As such consultation as directed by Section 34A(2) of the EP&A Act 1979 is not required in this instance.

One other Government Authority, namely the Department of Urban Affairs and Planning, had not responded to Council’s notification concerning the exhibition of the Draft Plan at the time this report was completed.

### COMMENTS CONCERNING SUBMISSIONS

The content of the submissions that were received from the government departments and the complete absence of public submissions, reflect the minor and unopposed nature of the proposal.

## Reports from Director Development Services

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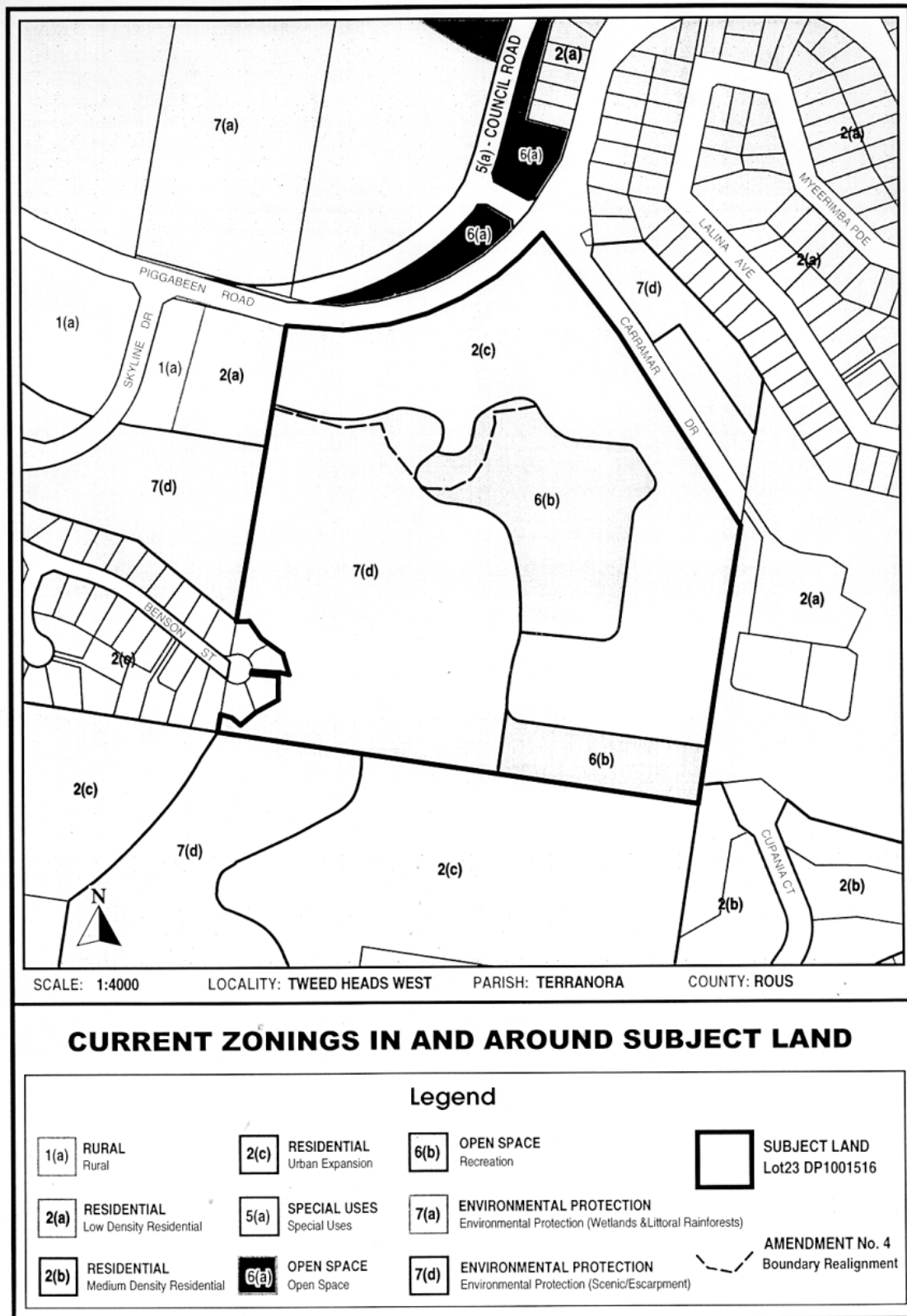
### CONCLUSIONS:

The proposal allows the logical inclusion of suitable land to the Residential Expansion 2(c) zone. No public submissions were received and no issue has been raised in submissions received from government authorities that would justify any change to the rezoning proposal.

Accordingly the Draft LEP should now be finalised by requesting the Minister to make the Plan in the form in which it was exhibited.

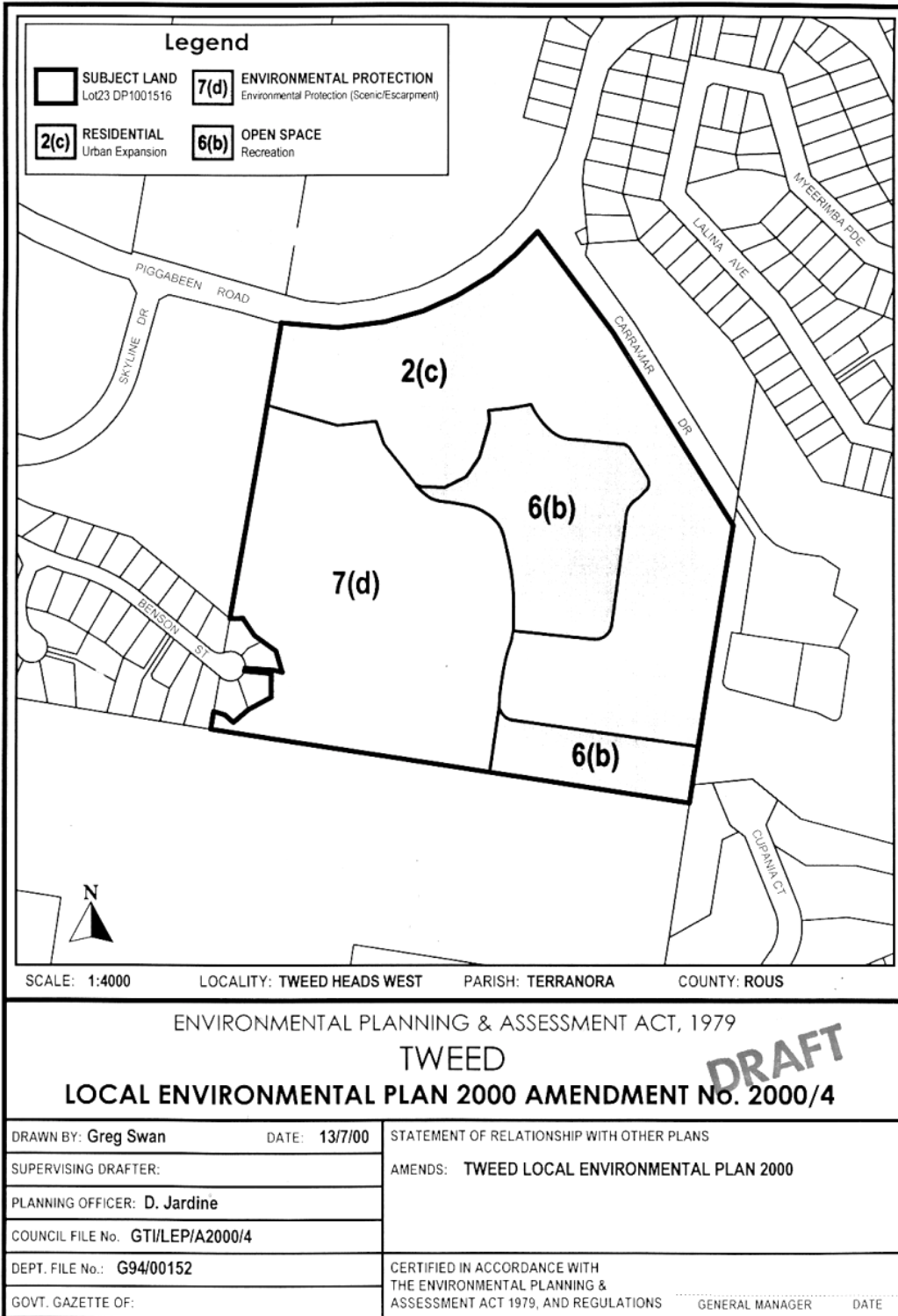
# Reports from Director Development Services

Figure 1



# Reports from Director Development Services

Figure 2



## Reports from Director Development Services

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**2. ORIGIN: Subdivisions Unit**

**FILE REF: GS4/95/119 Pt3; DA1180/10 Pt4**

**REPORT TITLE:**

**Services Agreement - Department of Urban Affairs and Planning and Tweed Shire Council - Certificate under Part 4A of the Environmental Planning and Assessment Act, 1979 as amended.**

**SUMMARY OF REPORT:**

The Department of Urban Affairs and Planning has requested Council to enter into a "Services Agreement" with the Department in relation to processing Part 4A Certificates where the Minister is the Certifying Authority.

A Draft Agreement has been prepared, and subject to the advice of Council's Solicitors, it is recommended that the Draft Agreement be executed under the Seal of Council.

**RECOMMENDATION:**

That the Services Agreement between the Department of Urban Affairs and Planning and Council be executed under the Common Seal of Council subject to the endorsement of the Agreement by the General Manager.

## Reports from Director Development Services

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### REPORT:

The Minister for Urban Affairs and Planning is the consent authority for the Koala Beach Stage 2 subdivision and the Lenen North subdivision. The Minister called both applications in for his determination pursuant to declarations under Section 76A(7) of the Environmental Planning and Assessment Act, 1979.

As a consequence, the Minister is the "Certifying Authority" for all Part 4A certificates (ie, construction certificates, compliance certificates and subdivision certificates).

The Director of Development Services requested the Department to request the Minister to delegate his functions to Council officers to enable the necessary certificates to be issued promptly and efficiently. However at this stage the Minister is apparently not prepared to delegate his functions.

The Department has proposed an alternative arrangement whereby the Department and Council would enter into a Services Agreement. Council would then process all Part 4A certificates and carry out normal inspections and quality control for an agreed fee.

The actual Certificates would be issued by the Regional Director of DUAP as delegate of the Minister based on the recommendation of Council officers.

In pursuance of the above arrangement, Departmental and Council officers have developed the draft Agreement (Annexure 1), which is based on an existing agreement between the Department and Sydney City Council for similar services.

The fees contained in Schedule 2 of the Agreement are in accordance with Council's adopted Fees and Charges with the exception of the fees for Inspection and Compliance Certificates which have been increased from \$70.00 per hour to \$80.00 per hour to defray the additional administrative costs involved in referring all Certificates to the Regional Director for approval.

The Koala Beach Stage 2 Construction Certificate has been lodged, and execution of the Agreement will enable Council officers to complete processing of the application and refer it to the Regional Director for determination.

Lodgement of the Construction Certificate for the Lenen North Subdivision is also anticipated in the near future, and again execution of the Deed will enable that application to be processed expeditiously.

A copy of the draft Agreement has been forwarded to Council's Solicitors for advice, and subject to that advice, and the endorsement of the General Manager, it is recommended that the Agreement be executed under the Common Seal of Council.

## Reports from Director Development Services

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### 3. ORIGIN: Subdivisions Unit

FILE REF: DA1020/245 Pt2

#### REPORT TITLE:

**Integrated Development Application K99/1815 - Proposed Urban Subdivision Creating 45 Residential Lots and The Dedication of Two Public Reserves and Construction of Roads and Associated Civil Works at Lot 335 DP 844423 Champagne Drive, Tweed Heads South – Vintage Lakes Estate – Stages 8A and 8B**

#### SUMMARY OF REPORT:

Development Application K99/1815 proposes a residential subdivision creating 45 lots and the dedication of two public reserves and construction of roads and associated civil works as Stages 8a and 8b of Vintage Lakes estate. The 2 major issues associated with this application is the Comb Crested Jacana habitat and the temporary road to Fraser Drive.

#### RECOMMENDATION:

That Integrated Development Application K99/1815 – proposed residential subdivision creating 45 lots and the dedication of two public reserves and construction of roads and associated civil works be approved on a “deferred commencement” basis 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. Submission of “Contaminated Sites” report in accordance with Environment Protection Authority guidelines to the satisfaction of the Director of Environment and Community Services. Remedial action shall be carried out where necessary to the satisfaction of the Director of Environment and Health.

##### **Schedule “B”**

**Note: This part of the consent will not become operable until Council advises that the matters contained in Schedule A are satisfied.**

## Reports from Director Development Services

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

1. A traffic control plan that complies with the provisions of the RTA document “Traffic Control at Work Sites” Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
2. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
  - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
  - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
3. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services **PRIOR** to the issue of a construction certificate.

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

### **GENERAL**

4. The development shall be completed in general accordance with Figure 5 Revision A of Plans No. 2719/1 prepared by Cardno MBK and dated 14 June 2000, except where varied by these conditions.
5. 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.
6. No soil, sand, gravel, clay or other material shall be disposed of off the site. Unless it is in accordance with the approved Waste Management Plan referred to in condition 3.
7. 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.
8. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.
9. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No K99/1815 have been complied with.



## Reports from Director Development Services

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10. 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 drainage over **ALL** services on private property.
  - ii. Restriction to user on Lots 27 and 280 limiting dwelling design and construction to single storey only.
  - iii. Restriction as to user on all lots except 10, 46 and 47 preventing cutting and or filling operations that modifies the fall of the land and drainage patterns. The design of any prospective dwelling is to take this into account.

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.

11. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
12. 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.
13. 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.
14. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
15. Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final subdivision certificate application.

## Reports from Director Development Services

16. 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.
17. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
18. 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.

### CONTRIBUTIONS

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

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

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

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

#### Stage 8A

- a. Tweed Road Contribution Plan:  
38 lots @ \$1684      \$63,992.00  
S94 Plan No. 4 (Version 4.0)  
(Tweed South – Residential)

## Reports from Director Development Services

### 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)

$\text{\$Unit}$  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. Banora Point West/Tweed Heads South (DCP3)

Open Space (Structured): 38 lots @ \$2407      \$91,446.00

S94 Plan No. 1

c. South Tweed Heads Master Drainage (DCP3 area):

7.728ha @ \$8805      \$68,045.00

S94 Plan No. 2

**Note: In accordance with Councils letter to Cardno MBK dated 15 February 2000 a credit of \$8396.40 applies to Stage 8A.**

d. Community Facilities (DCP3 area):

38 lots @ \$512.60      \$19,478.80

S94 Plan No. 3

e. Street Trees: 38 lots @ \$42.90      \$1,630.20

S94 Plan No. 6

## Reports from Director Development Services

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- f. Shirewide Library Facilities: 38 lots @ \$300 \$11,400.00  
S94 Plan No. 11
- g. Eviron Cemetery/Crematorium Facilities:  
38 lots @ \$126 \$4,788.00  
S94 Plan No. 13
- h. Bus Shelters: 38 lots @ \$23 \$874.00  
S94 Plan No. 12
- i. Emergency Facilities (Surf Lifesaving)  
38 lots @ \$80 \$3,040.00  
S94 Plan No. 16
- j. Extensions to Council Administration Offices  
& Technical Support Facilities  
38 lots @ \$344.81 \$13,102.78  
S94 Plan No. 18
- k. Cycleways – 38 lots @ \$160 \$6,080.00  
S94 Plan No. 22

### Stage 8B

- a. Tweed Road Contribution Plan:  
6 lots @ \$1684 \$10,104.00  
S94 Plan No. 4 (Version 4.0)  
(Tweed South – Residential)

### 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:

## Reports from Director Development Services

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\$Con TRCP - Heavy heavy haulage contribution

and:

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

Dist. average haulage distance of product on Shire roads  
(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

b. Banora Point West/Tweed Heads South (DCP3)  
Open Space (Structured): 6 lots @ \$2407\$14,442.00

S94 Plan No. 1

c. South Tweed Heads Master Drainage (DCP3 area):

0.50ha @ \$8805 \$4,402.50

S94 Plan No. 2

d. Community Facilities (DCP3 area):

6 lots @ \$512.60 \$3,075.60

S94 Plan No. 3

e. Street Trees: 6 lots @ \$42.90 \$257.40

S94 Plan No. 6

f. Shirewide Library Facilities: 6 lots @ \$300 \$1,800.00

S94 Plan No. 11

g. Eviron Cemetery/Crematorium Facilities:

6 lots @ \$126 \$756.00

S94 Plan No. 13

h. Bus Shelters: 6 lots @ \$23 \$138.00

S94 Plan No. 12

## Reports from Director Development Services

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- i Emergency Facilities (Surf Lifesaving)  
6 lots @ \$80                      \$480.00  
S94 Plan No. 16
- j Extensions to Council Administration Offices  
& Technical Support Facilities  
6 lots @ \$344.81                  \$2,068.86  
S94 Plan No. 18
- k. Cycleways 6 lots @ \$160      \$960.00  
S94 Plan No. 22

20. 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:

### **Stage 8A**

Water:      38 lots @ \$3590 \$136,420.00

Sewer:      38 lots @ \$2970 \$112,860

### **Stage 8B**

Water:      6 lots @ \$3590    \$21,540.00

Sewer:      6 lots @ \$2970    \$17,820.00

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

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

## Reports from Director Development Services

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21. The final plan of subdivision for Stage 8A is to allow for the dedication of proposed Lot 46 as Drainage Reserve, and proposed Lot 47 as Public Reserve. The area between Lot 27 and Fraser Drive shall be dedicated as Public Reserve.
22. A 3m wide grassed buffer is required between the proposed rock boulder retaining walls at the rear of Lots 10 to 27 and the lake system/proposed drainage reserve, including any modifications to the depths of blocks that may be required.
23.
  - i. The proposed Lot 10 is to be dedicated as public reserve with Stage 8A, and suitably embellished including a minimum of 100mm thick of quality topsoil, grassing, seating playground equipment and shade cover in accordance with plans to be submitted with the construction certificate for Stage 8A.
  - ii. The proposed public reserve between Fraser Drive and the extension of Leisure Drive and proposed Lot 27, 28 and 29 shall be retained in its natural state subject to condition 42(ii).
24. The playground equipment referred to in condition 23 is to include turfing to a minimum of 10m beyond the bounds of the playground area. Alternatively, the developer may pay a cash contribution for the installation of playground equipment by Council when a minimum of 30% of the estate is occupied.

### FURTHER APPROVALS

25. 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

## Reports from Director Development Services

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- 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.

26. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and
    - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.
27. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

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

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

28. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.



## Reports from Director Development Services

- (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 \$115 per lot
  - relevant development consent or complying development certificate
  - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
  - for a deferred commencement consent evidence that the applicant has satisfied the consent authority on all matters which must be satisfied before the consent can operate
  - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
  - a certificate of compliance from the relevant water supply authority (where applicable)
  - if a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council
  - for subdivision involving subdivision works evidence that:
    - the work has been completed, or
    - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
    - security given to the consent authority with respect to the completion of the work
  - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

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

29. 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:-

## Reports from Director Development Services

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

- Note:** 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.
2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

### **Roadworks**

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

### **Water Reticulation, Sewer Reticulation, Drainage**

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling

## Reports from Director Development Services

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- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

### **Sewer Pump Station**

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

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

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Supply Authorities Act, 1987 to be certified by an "accredited certifier".
30. 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.**

31. 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.

## Reports from Director Development Services

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32. (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.

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.

33. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
  - b. That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)
  - c. That the pavement layers have been compacted to RTA specifications.
  - d. That site fill areas have been compacted to the specified standard.
  - e. That supervision of Bulk Earthworks has been to Level 1 and 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.
34. 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 the Director, Development Services.
35. 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**

36. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet.
37. 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 4 **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.

## Reports from Director Development Services

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38. Engineering drawings to accompany the construction certificate application are to cater for the construction of stormwater drainage system generally in accordance with Figure 11 prepared by Cardno MBK dated October 1999, except where varied by the following:-
- i. The eastern most cul-de-sac is to drain to the west, and the sub-surface drainage is not to drain into Fraser Drive but connect to the system that discharges through Lots 14 and 15.
39. The typical cross section for proposed local roads “Traminer Court and Madiera Street”, is to be 7.5m wide nominal pavement width, with upright kerb and gutter to both sides, contained in a 14m and 15m wide road reserve respectively.
40. The north-south road shall be called Madiera Street and the east-west road shall be called Traminer Court. These names are to be shown on the final linen plans.
41. Engineering drawings to accompany the Construction Certificate Application for the stage 8A temporary access to Fraser Drive , are to be generally in accordance with Figure 13B prepared by Cardno MBK Pty Ltd dated 28/2/00, except where varied by the following;
- i) The typical cross section is to be 7m wide pavement with upright Kerb & Gutter to both sides within a 12 m road reserve.
  - ii) The road centre line is to be offset so as the footpath 3m wide on the northern side and 2 m wide on the southern side.
  - iii) A left turn de-acceleration lane from Fraser Drive in accordance with Austroads is to be provided.
  - iv) A left turn acceleration lane into Fraser Drive that extends northwards so that the merging traffic enters Fraser Drive to the north of the entrance to the Football club is to be provided.
  - v) A “No U turn” sign is to be provided on the left turn exit, in conjunction with a raised median island to prevent right turn into and out of the development. A “ No right turn” sign is to be erected on the western end of the median island.
42. i) Subject to giving the developer a minimum 120 days notice of Council’s intention to let a contract for the signalised section, the developer shall, within four (4) months from the completion of the signalised intersection of Fraser Drive and Leisure Drive by Council the developer shall construct the extension of Leisure Drive within Flame Tree Park Estate.
- ii) Within three (3) months of compliance with Condition 42(i), the temporary access created in stage 8A is to be closed and dedicated as public reserve. The land is to be fully embellished including removal of pavement, and placement of topsoil, grassing and landscaping in accordance with plans to be submitted and approved by Director Development Services with the Construction Certificate Application for stage 8B.

## Reports from Director Development Services

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43. A bond, equal in value to the estimated cost of construction plus 25% and to the satisfaction of Director Development Services, is to be paid prior to the issue of Subdivision Certificate for stage 8A, for the following items;
- i) Closure and embellishment of the temporary access road to Fraser Drive as per condition 42(ii).
  - ii) Construction of the Leisure Drive extension as per condition 43(i).
  - iii) Construction of the bus bay and ancillary works as per condition 44.
  - iv) Landscaping works
44. Construction of a bus bay and shelter, in conjunction with the closure and embellishment of the temporary access to Fraser Drive. The location is to be designed in conjunction with Fraser Drive & Leisure Drive intersection treatment, including the following specific work to be shown on the engineering drawings submitted with the Construction Certificate Application for stage 8B;
- i) The geometric layout is to provide for a de-acceleration taper of 21m length, 3m wide holding lane of 25m length and an acceleration taper of 15m length, or to the satisfaction of Director Engineering Services.
  - ii) The pavement is to be 200mm thick 32MPA concrete reinforced with F82 mesh and control joints.
  - iii) Upright kerb & gutter is to be provided for the full length, including a concrete ribbon footpath 100mm thick extending from the bus shelter to link up with the path as indicated in Figure 13 prepared by Cardno MBK dated December 1999.
  - iv) All associated surface and sub-surface drainage.
45. i. Construction of concrete ribbon footpath, minimum 100mm thick and 1.2m wide, along the northern side of the proposed "Traminer Court" and Madiera Street and the northern side of the extension of Leisure Drive generally in accordance with Figure 13 prepared by Cardno MBK dated December 1999.
- ii. Alternatively, the developer may pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.
- iii. If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on. The maintenance bond shall be lodged prior to release of the subdivision certificate.

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46. Provision of temporary turning areas for refuse vehicles at the end of roads which will be extended in subsequent stages until such time as the road is extended or a dedicated turning area is provided at the end of the road. These temporary turning areas shall be constructed with a minimum 9m radius, 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.
47. 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.
48. Submission of landscaping plans with the construction certificate application, generally in accordance with figure 14 and 15 prepared by Cardno MBK dated December 1999 for works to be completed prior to the issue of a Subdivision Certificate for Stage 8A to the satisfaction of the Manger Recreation Services
49. Prior to the issue of a Subdivision Certificate for stage 8A, an open style fence of minimum 1200mm and a maximum of 1600mm in height with protective capping treatment generally in accordance with the "security fence" as depicted in Figure 15, or other approved style, is to be installed to the rear of all lots having benefit of the rock retaining wall i.e. Lots 9 and 11 to 27.
50. The landscaping works as approved, are to be maintained to a standard that is satisfactory to the Manger Recreation Services, until stage 8A is accepted as "Off Maintenance

### **DRAINAGE/FLOODING**

51. Construction a levee in accordance with figures 20 & 21 2719/1 dated 10/2/00 prepared by Cardno MBK, including landscaping and pathway to be completed in conjunction with bulk earthworks, and prior to any pavement construction, in accordance with plans to be submitted with the Construction Certificate Application for stage 8A."
52. The Operational Phase Stormwater Quality Management strategy is to be generally in accordance with Figure 12 prepared by Cardno MBK dated October 1999, except that a suitably sized Gross Pollutant Trap including a hard stand area for maintenance is to be installed/constructed instead of the trash rack device.
53. 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 Application for stage 8A. The use of the existing finger pond as a temporary sedimentation pond is not permitted. A temporary sedimentation pond for use during the construction phase can be placed in a clear area of the proposed buffer zone between the pond and the pathway. The sedimentation pond is to be filled and suitably embellished upon completion of the civil works in accordance with the Vegetation Management Plan referred to in Condition 99.

## Reports from Director Development Services

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54. The overland flow path between proposed lots 14 and 15, as shown on Figure 11 prepared by Cardno MBK dated October 1999, is to be designed and constructed to cater for a Q100 storm event including the following provisions;
- i) Minimum of 300mm of freeboard.
  - ii) The width of the drainage reserve to be dedicated as Public Pathway is to be sufficient to provide for a minimum of 3m pathway and any retaining structures required to obtain a minimum of 300mm of freeboard.
  - iii) Notwithstanding item ii) above, the absolute minimum overall width shall be 4m.
  - iv) A pathway, minimum 3m in width, extending from the kerb and gutter to the trash rack outlet device, including provisions for the maintenance of the track rack to the satisfaction of the Director Engineering Services, is to be constructed to a minimum 150mm 25Mpa concrete reinforced with F82 mesh, complete with control joints and lockable bollards.

Detailed calculations are to be submitted with the Construction Certificate Application for stage 8A.

55. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
56. No filling to be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

57. 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.
58. i. Dedication of the proposed drainage reserve at no cost to Council.
- ii. An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.



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59. Permanent Stormwater Quality Treatment
- (a) 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 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. 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.
  - (b) 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) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
60. The land to be filled to the design flood level of RL 2.65m AHD.
61. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix 6, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798-1996. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798-1996.
62. Prior to final acceptance of the Stormwater system and release of the maintenance bond a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.
- All costs associated with the CCTV inspection and repairs shall be borne by the applicants.
63. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.

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64. 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 good condition until the maintenance bond is released.
65. 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.

66. All lots shall drain to the street or other approved drainage structure with a minimum allotment grade of 1%.

### SERVICES

#### Sewer

67. Prior to the issue of a Subdivision Certificate for stage 8A, construction of a sewer reticulation system is to be provided to all lots, including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary, generally in accordance with engineering drawings to be submitted and approved with the Construction Certificate Application. The sewer strategy chosen can be one of the following;
- i) Construction of sewer reticulation generally in accordance with Figure 9 of plan No 2719-1 prepared by Cardno MBK dated October 1999 including connection into the existing main at the intersection Ellis and Botanical Circuit in Flame Tree Park. OR
  - ii) Construction of a temporary gravity sewer main that commences at the lowest receiving manhole and extends in a southerly direction, eventually connecting with the existing gravity main at the intersection of Ellis St and Botanical Circuit.

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

## Reports from Director Development Services

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### Water

68. 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 generally in accordance with Figure 10 prepared by Cardno MBK and dated December 1999, in accordance with engineering drawings to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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

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

### Electricity

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

### ENVIRONMENT PROTECTION

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

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

72. 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.
73. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
74. 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.
75. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

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76. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

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

- i) Contours and terraces where the height exceeds 1m.
  - ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
  - iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
  - iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
  - v) The landscaping shall be completed to the satisfaction of the Director Development Services PRIOR to the issue of a Subdivision Certificate.
  - vi) A bond shall be lodged prior to the issue of the Subdivision Certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.
77. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
78. 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.
79. 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.
80. 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.

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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.

81. The following restrictions apply to dog and cat ownership and control on all residential lots:-
- 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 or modified only with the consent of Council.

82. 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.
83. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
84. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.
85. To reduce the problem of insect pests, a bright diversionary light such as a mercury vapour street lamp is to be installed on the edge of the lake. The light shall be situated where it is visible from as much of the lake as possible. A good site would be on one of the lake side fringes of the proposed park, between the lake and Stage 8. The exact location shall be to the satisfaction of Councils Entomologist.
86. Care shall be exercised with tree planting so that growth will not foul the existing power lines on the footpath and consequently require frequent pruning.

## Reports from Director Development Services

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87. If items such as stone artefacts, bone or other cultural materials are believed to have been discovered then works at and adjacent to the material must cease and the National Parks and Wildlife Service and the local Aboriginal Land Council are to be informed immediately. Works shall not recommence until approval by both bodies if necessary has been granted.
88. Prior to the removal of any vegetation, the Tweed Byron Aboriginal Land Council is to be advised so that they may be afforded the opportunity to have their representative on site to monitor the works.
89. All imported fill material is to be from an approved source and shall be free from any contamination whatsoever including any potential to generate acid sulfate material. The haulage route for the transportation route is to be approved by Councils Director of Development Services.
90. The development is to be carried out in accordance with the Flora and Fauna Assessment carried out by Woodward Clyde particularly the "Amelioration of Impacts" for Vintage Lakes Stages 5 and 6 (GS4/94/147).

### **CONDITIONS IMPOSED BY NSW FISHERIES PURSUANT TO SECTION 91A OF THE ACT**

91. Native fish shall be removed from the shallow water ponds by a net approved by the NSW Fisheries prior to reclamation and release at a location agreed to by NSW Fisheries.
92. The existing shallow water pits on the site shall be reclaimed as per the details supplied in the Integrated Development Application K99/1815.
93. Reclamation of the shallow water ponds shall not be completed until a permit has been obtained from NSW Fisheries under S201 of the Fisheries Management Act, 1994.

### **CONDITIONS IMPOSED BY DEPARTMENT OF LAND & WATER CONSERVATION PURSUANT TO SECTION 91A OF THE ACT**

94. Prior to the issue of a Construction Certificate for Stage 8A, a Vegetation Management Plan is to be submitted for the approval of Council and NPWS. The Vegetation Management Plan shall make provisions for:
  - i. Re-vegetation of a 20m buffer zone between the high bank of the lake and the base of the retaining wall to assist in the protection of the Comb Crested Jacana habitat.
  - ii. An access/maintenance track 3m in width immediately adjacent to the northern boundary of Lots 9 to 27 inclusive.
  - iii. The erection of a suitably sized structure to the satisfaction of the Manager Recreation Services that contains education material on the Comb Crested Jacana and the need to maintain the surrounding habitat at a location immediately adjacent to the access/maintenance track adjoining the proposed Lot 10.

## Reports from Director Development Services

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- iv. The prevention of removal or damage to, any trees, shrubs, bushes or grasses to create the temporary sedimentation basin device prior to a joint inspection and approval by an officer of Council and DLAWC.
- v. The prevention of removal or damage to, any trees, shrubs, bushes or grasses to construct the stormwater outlet device prior to a joint inspection and approval by an officer of Council and DLAWC.
- vi. Appropriate sedimentation and erosion control measure to be implemented and maintained during the construction of each stage.
- vii. The revegetation is to be completed prior to the commencement of any filling works.
- viii. Suitable screening of the revegetated buffer for duration of the construction works.
- ix. Regular maintenance of the revegetation until the expiry of the defects liability period, including the payment of a bond equal in value to 10% of the cost of the revegetation works to ensure adequate maintenance is carried out. The bond is to be returned upon the expiry of the defect liability period.
- x. The construction of a secondary education structure in the form of a viewing platform built adjacent to the stormwater outlet device. The design and construction of this platform is to take future and ongoing maintenance of the outlet device into account.
- xi. The construction of a temporary sedimentation pond for use during the construction phase can be placed in a clear area of the proposed buffer zone between the pond and proposed drainage/public pathway. The sedimentation pond is to be filled and suitably revegetated in accordance with item (i).

## Reports from Director Development Services

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### REPORT:

**Applicant:** Cardno MBK  
**Owner:** Cabonga Pty Ltd  
**Location:** Lot 335 DP 844423 Champagne Drive, Tweed Heads South  
**Zoning:** Part 2(c) Urban expansion and Part 6(b) Recreation  
**Est Cost:** N/A

### BACKGROUND

Council received Integrated Development Application S94/147 on the 23<sup>rd</sup> September 1994 originally proposing a residential subdivision creating 69 lots and construction of an artificial waterway. After advice was received from the National Parks and Wildlife Services (NPWS) that the development was likely to effect the environment of endangered fauna the applicant was advised that a Fauna Impact Statement was required as per the provisions of Section 77(3)(d1) of the Act. The effect of the development on the flora and fauna was considered to justify the preparation of a Fauna Impact Statement primarily due to the anticipated impact on the Comb Crested Jacanas.

The acceptability of the environmental impact of the development could not be resolved and accordingly the applicant significantly amended the application on the 12 December 1996. Development Consent was issued on the 11<sup>th</sup> June 1997 for the construction of 36 residential lots with 29 lots in stage 5A and a further 7 lots in stage 6. No work was proposed in the lagoon providing habitat for the Jacanas and only one pond filled and one pond expanded to connect two existing ponds.

As a result of negotiations with NPWS, the proponent lodged an amended application so as to retain the existing pond system and to extend stage 8 in the less environmentally sensitive area to partially compensate for the loss of lakefront allotments. Development Application S95/83 was received on the 4<sup>th</sup> September 1995 seeking approval for a 25 lot residential subdivision at lot 335 DP 844423 Fraser Drive, Tweed Heads South (stage 8) but it was not accepted as a valid application as an associated rezoning application had not been finalised. It was considered premature to proceed with the development application and rezoning in the immediate area of the Western Drainage Scheme until the final design of the scheme was determined.

On 16<sup>th</sup> June 1993 Council resolved to prepare a draft Local Environmental Plan (LEP) to rezone the land and Tweed Local Environment Plan 1987 (Amendment No. 70) was gazetted on the 5<sup>th</sup> August 1999. This plan rezoned land in the Banora Point West locality from Zone 6(c) (Recreation (Special Purposes) Zone) to Zone No. 2(c) (Urban Expansion Zone) under the Tweed Local Environmental Plan 1987. The rezoning was subject to a deed of agreement between Cabonga Pty Ltd and Tweed Shire Council and involved the dedication of public open space.

Amendment No. 9 to Development Control Plan No. 3 was publicly exhibited on Monday 22 March to Monday 19 April 1999. This amendment proposes a change in land use designations at Flame Tree Park Estate, Vintage Lakes and the Old Egg and I site at Minjungbal Drive, Tweed Heads South. This is being reported to Council on 6 September 2000 (separate report) with a recommendation for adoption.



## Reports from Director Development Services

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### PROPOSAL

Council consent is sought for a residential subdivision creating 45 residential lots and the dedication of two public reserves and the construction of roads and associated civil works. The initial proposed plan for 47 residential lots was modified to allow for a buffer area. The subject site is located opposite the intersection of Fraser Drive and Leisure Drive and on the southern side of the Western Drainage Scheme. The subject site is zoned Part 2(c) Urban Expansion and Part 6(b) Recreation.

The proposed subdivision is to be carried out in two stages as follows:-

- a. Stage 8A – 41 residential lots (lots 1 – 39) plus public reserve lot of 4 ha (lot 46)
- b. Stage 8B – 6 residential lots (lots 40 to 45) plus public reserve of 885m<sup>2</sup> (lot 47)

The residential lots range in size from 625m<sup>2</sup> to 739m<sup>2</sup> with the average lot size being 642m<sup>2</sup>. The total length of new road is 435m and is based on a single east-west road with cul-de-sac heads with lots abutting each side and a connecting road to the Flame Tree Park Estate to the south. The proposed road names are “Traminer Court”(east – west road) and “Maidera Street”(north- south road) which are considered to be in accordance with councils road naming policy and are consistent with the Vintage Lakes theme.

Stage 8A relies on a temporary access to Fraser Drive until the construction and dedication of the Leisure Drive extension which will give frontage and access to lots 44 to 45 and replace the temporary access to Fraser Drive. The applicant proposes that the temporary road will be removed on connection of “Maidera Street” to Leisure Drive. After the temporary road is removed the area will be embellished and a pathway will be constructed within the road reserve linking Traminer Court with Fraser Drive.

The applicant proposes to fill and sewer both stages as part of the Stage 8A works. The filling works will involve approximately 2m to 3m with the finished surface levels varying between RL 2.65 AHD (min) to RL 3.08 AHD. The applicant states that the residential lots will be separated from the adjoining 6(B) land by a physical rather than linear buffer. This will consist of a natural stone retaining wall to the prescribed fill height, utilising rock won from the balance of the estate, and topped by a fence along the rear boundaries of lots 10 to 27 and side boundaries of lots 27, 28 and 9.

The applicant proposes to dedicate and embellish approximately 7000m<sup>2</sup> of area within the larger public reserve (lot 46). The applicant originally intended to dedicate this land as parkland with frontage to the western cul-de-sac and the existing pond system and integrated into the “Estate Masterplan and Pedestrian Trails. However, it is considered that this land should be dedicated as drainage reserve as the Department of Land and Water Conservation (DLAWC) and the National Parks and Wildlife Service (NPWS) require a 20 metre vegetated buffer between the waters edge and the retaining wall.

The application is accompanied by a Statement of Environmental Effects by Cardno MBK and the following reports by the applicant’s consultants:

- Flora & Fauna Impact Assessment by Mr Peter Parker.
- Archaeological assessment by Mr Adrian Piper.
- Geotechnical assessment (including PASS) by Soil Surveys Pty Ltd.

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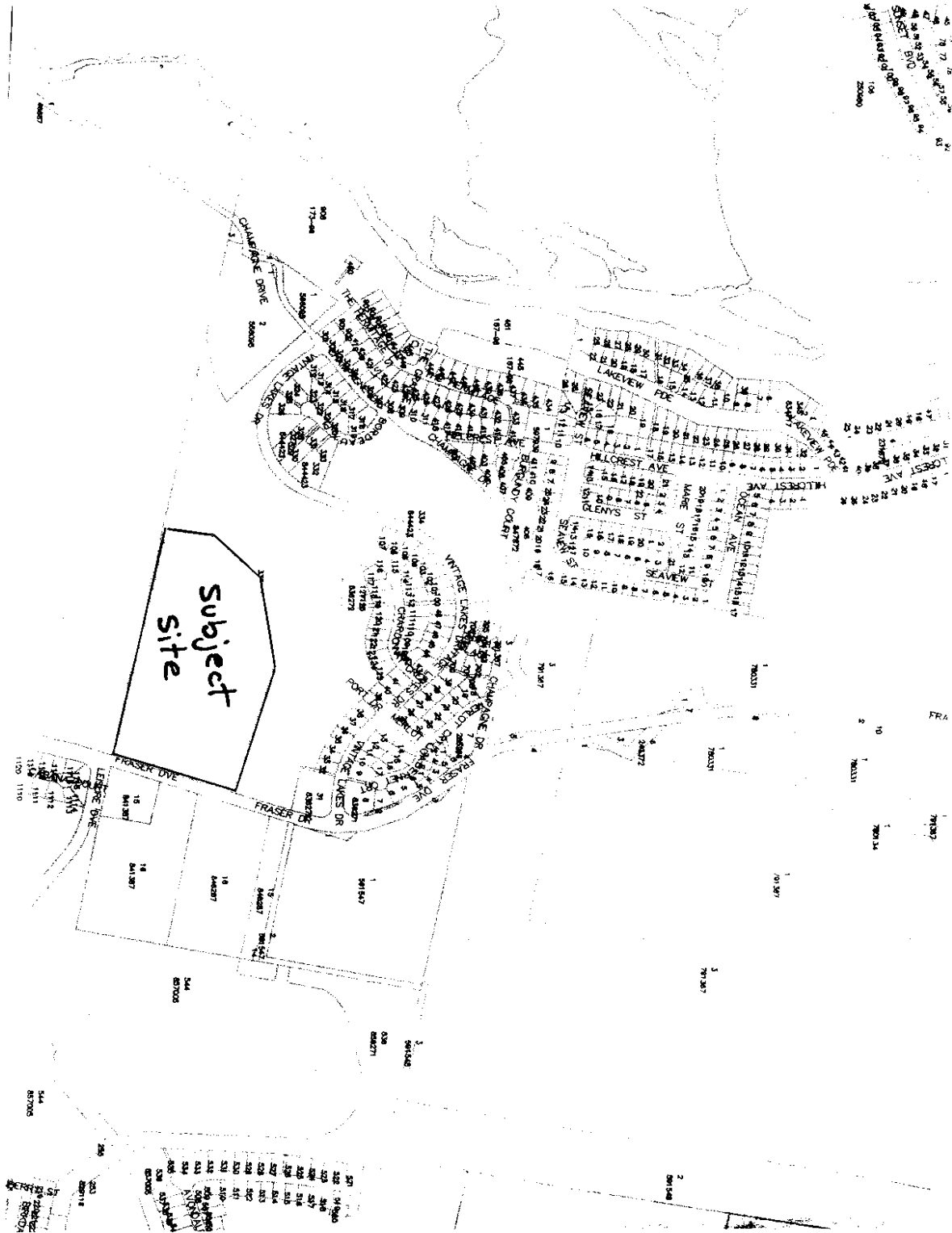
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- Acoustical report by Richard Heggie.

The locality plan is attached as figure (1), while the lot size layout and road layout is shown in figure 2. Full sized copies of these plans will be available for inspection at the Council chambers on the day of the meeting.

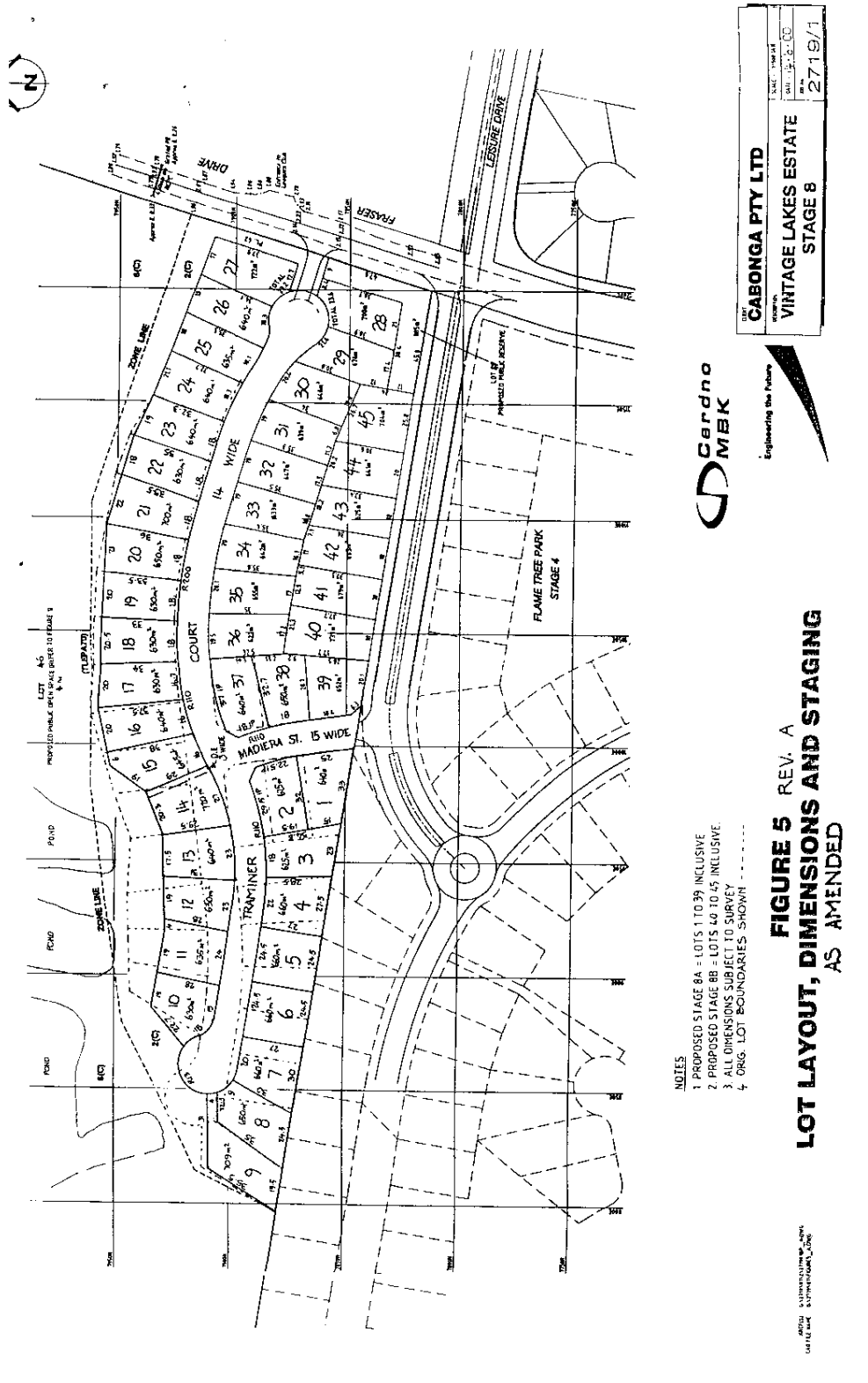
# Reports from Director Development Services

Figure 3 - Locality Plan



# Reports from Director Development Services

Figure 4 - Lot Layout Plan



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### CONSULTATION

The application was referred to the following government authorities:

- North Power.
- Department of Land and Water Conservation.
- NSW Fisheries.
- NPWS.

In addition, the application was publicly exhibited for a period of fourteen days between 17<sup>th</sup> January 2000 and 1<sup>st</sup> February 2000. No written submissions were received from the public during the advertising period. Adjoining owners were not notified as the undeveloped stages of Flame Tree Park are to the south and the Western Drainage Scheme to the north.

The Vintage Lakes Estate proposal has been the subject of extensive discussions and negotiations between the applicants, government authorities and council officers, especially in regards to the Western Drainage Scheme. The recent rezoning has also addressed many of the issues associated with the proposed subdivision.

A summary of the government authorities submissions is provided below with comments where appropriate:

#### **NSW Fisheries**

The NSW Fisheries has reviewed the Integrated Development Application and has no objections subject to the following “general terms”:

- Native fish shall be removed from the shallow water ponds by a method approved by NSW Fisheries prior to reclamation and released at a location agreed to by NSW Fisheries.
- The existing shallow water pits on the site shall be reclaimed as per the details supplied in the Integrated Development Application K99/1815.
- Reclamation of the shallow water ponds shall not be completed until a permit has been obtained from NSW Fisheries under s.201 of the Fisheries Management Act 1994.

#### **Comment**

The NSW Fisheries “general terms” have been imposed as conditions.

#### **North Power**

North Power has no objections to the proposed subdivision as the existing network along Fraser Drives road reserve will accommodate any upgrading requirements. Care needs to be exercised with tree planting in lot 49 (proposed public reserve) so that growth will not foul the existing power lines on the footpath and consequently require frequent pruning.

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### Comment

Clause 37 'Electricity transmission line corridor' of the TLEP 2000 requires that council notify and consider any submissions by North Power. The majority of the site contains existing trees and landscaping will be focused around the foreshore park area to be embellished, which is well outside Electricity transmission corridor. The imposition of a standard condition will satisfy North Powers concerns.

### National Parks and Wildlife Services (NPWS)

The comments from NPWS are as follows:

*"It is understood that this application is for subdivision of Stage 8 of the Vintage Lakes Estate (Estate), Tweed Heads. This Estate has been the subject of extensive consultation between Tweed Shire Council, the proponent and the National Parks and Wildlife Service (NPWS) since 1995. In particular, the Director-General of National Parks and Wildlife provided requirements for a Species Impact Statement for the original development proposal which encompassed Stage 8. As a result of this consultation, certain areas previously proposed for residential and ancillary development have been proposed for public dedication. As no Species Impact Statement has been provided with the current application, it is assumed that Council has relied upon information provided by the proponent and the proposed public dedication of lands on the Estate to determine that there is unlikely to be a significant impact on threatened species, populations or ecological communities, or their habitats.*

*Section 2 of the Statement identifies that Stage 8 was included in the proposal for the Estate to compensate for land proposed for residential development that has since been included in land for public dedication. It was understood that the 25 "lost" lots would be provided in Stage 8 adjacent to Fraser Drive and Leisure Drive with a buffer of approximately 50m to the heavily timbered swamp sclerophyll forest. The Statement at Section 4 proposes 47 residential lots within Stage 8 to the edge of the swamp sclerophyll forest. This is contrary to the concept discussed in previous consultations in that the number of lots proposed and the land area required has almost doubled.*

*Whilst it is acknowledged that the proposed retaining wall and fence may achieve a degree of protection for the swamp sclerophyll forest by limiting human ingress and the disposal of garden refuse from adjacent backyards, concerns are held regarding bushfire hazard, potential water pollution from backyard runoff and potential mosquito control.*

*It is unclear from the Statement what pollution control measures are proposed for stormwater drainage after construction. Whilst the NPWS is keen to see an increased flow rate through the wetland, concerns are held regarding the potential to overload the existing ponds and associated wetland areas, including the swamp sclerophyll forest, with sediment and nutrients from stormwater being directed through discharge point "E". It is important that these materials are prevented from entering the wetland system.*

*The Statement provides at Annexure 1 "A Flora and Fauna Survey of Vintage Lakes Estate South Tweed Heads" by Peter Parker (November 1999). Section 4.2.5.1 states that "SEPP 44 (State Environmental Planning Policy No 44 – Koala Habitat Protection) does not*

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*apply In his case as these two species (Eucalyptus robusta and Eucalyptus tereticornis) did not occupy more than 15% of the site". It is understood that the test for potential koala habitat under SEPP44 is whether koala food trees listed in Schedule 2 constitute at least 15% of the total number of trees in the upper and lower strata of the tree component. There are records of koalas in the locality and anecdotal evidence (John Martindale, NPWS) of a koala within the subject site adjacent to Kirkwood Road. It is recommended that, prior to determination of the application, further assessment be undertaken with regard to the potential impact the proposed development may have on koalas and of the need to retain adequate koala feed trees within the subdivision.*

*The Statement provides at Annexure 2 "An Archaeological Survey at the Vintage Lakes Estate, Fraser Drive, South Tweed Heads" by Adrian Piper, 1994. It is recommended that should Council determine this application by consent, the recommendations contained at section 4 of Mr Piper's report be included in any conditions of consent."*

### Comments

The NPWS concerns have been addressed under the following headings:

- Section 5A 'Significant effect on the threatened species, populations or ecological communities, or their habitats' of the Environment Planning and Assessment Act, 1979.

Section 5A must be assessed in order to determine if a proposed development is likely to have a significant effect on threatened species, populations or ecological communities or their habitats. If there is likely to be a significant impact then the preparation of a Species Impact Statement is required.

The Comb-crested Jacana is listed as a threatened species and the species have been recorded to the north of the site (Woodward Clyde 1995). Furthermore, vagrants are expected to occasionally utilise ponds covered with lily pads. Peter Parker has advised that the Comb Crested Jacana's (CCJ) Habitat will not be adversely affected by the filling in of the two ponds as these ponds do not have any lily pads and therefore are not utilised by the Jacanas.

However written advice was received from Dr David Rohweder via DLAWC that CCJ have been recorded in the main lake area as they forage where there are water lilies and this includes between the two 'fingers' of land on the south eastern corner of the main pond Dr Rohweder states that adults & chicks have been observed foraging and at times there have been breeding displays as recently as April 2000, and five times before that from October 1998 to November 1999.

It is considered that the effect on the CCJ can be minimised by including management measures to reduce any adverse impacts on the CCJ through hessian screening, timing of works etc. The retaining wall and fence will also help reduce impacts. However, after negotiations between the applicant, NPWS, DLAWC and council it was decided to modify the original subdivision layout plan to include a 20 buffer which was to be vegetated to reduce the impact upon the Jacanas. Accordingly it is considered that a Species Impact Statement is not required.

A restriction on cats and dogs on the site will help reduce predation on wildlife and the build up of nutrients in the pond system. A restriction on the use of native landscaping species only, for those lots fronting the swamp forest may help reduce the risk of invasive weed species.

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- Increased allotments from the original proposal put forward to NPWS in 1995.

The original development application received on 4/9/1995 proposed 25 residential lots which were located in the south eastern corner of the site with a 30m buffer to the main ponds but still abutted the swamp forest. The NPWS commented on this application in a letter dated 23<sup>rd</sup> September 1996 as follows:

*“The NPWS considers that the main conservation value of the area lies in the wetlands and adjacent paperbark and swamp sclerophyll forest. The NPWS recommends that these areas of conservation be zoned environmental protection with suitable buffers. As compensation, the proposed rezoning of 6(c) lands for urban purposes south of the recommended buffers and adjacent to the “Egg & I” property may require further investigation with regard to allowing a limited extension of potential urban development in conjunction with proposals before Council for that property.”*

As a result of negotiations with NPWS in 1995 the applicant lodged an amended application so as to retain the existing pond system and to extend stage 8 from 25 lots to 42 lots as a ‘trade off’ for the loss of lots in the more environmentally sensitive areas of the previous stages of Vintage Lakes Estate.

- Bushfire Hazard

The residential allotments abut a large stand of trees and comments were sought in regard to bushfire hazard. The comments from Councils Deputy Fire Control Officer are summarised as follows:-

*“Initially it was thought that there would be a fire danger for the houses backing onto approximately 70m deep forest. However a second site inspection revealed that the water in the wet areas was affected by tidal influence as the level of water was lower than our initial inspection. Given that the water height is affected by the tide it means that this area will not dry up in drought conditions and therefore lowering the fire danger considerably. The widest part of the trees is only 30m wide and given the amount of water beneath them it would be unlikely that a crown fire would burn to endanger the houses adjoining. Therefore with the new evidence available I consider that the proposed development should proceed.*

- Development Control Plan No. 25 Biting Midge & Mosquito Control

The comments from councils Entomologist is as follows:

*“The only pest insect problems anticipated with the Vintage Lake & Western Drainage Scheme is non-biting midge (Chironomids).*

*These midges breed in very large numbers in the substrate of nutrient rich water bodies. The adult stages are strongly attracted to light and can pass through regular insect screens. Chironomids are a problem for residents living close to the Banora Water lagoons and drainage channels, the flying midges swarm around external and internal house lights at night.*



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*It is recommended that a bright diversionary light such as a mercury vapour street lamp be installed on the edge of the lake. The light should be situated where it is visible from as much of the lake as possible. A good site would be on one of the lake-side fingers of the proposed park, between the lake and stage 8.*

*The developer should consult with Council's entomologist on exact positioning of the light during development."*

Accordingly it is considered that there is unlikely to be any adverse impacts in relation to DCP No. 25 subject to conditions.

- Pollution Control Measures

The NPWS and DLAWC initially requested a 50m and 20m buffer respectively from the residential lots to the waters edge and the forest boundary. The original proposed plans only show a 4m buffer to the waters edge and a buffer ranging from 0 to 5 metres to the tree line and the filling of two of the shallow ponds. The subdivision plans now show a 20m buffer to the lake edge and a 3m buffer to the swamp forest.

While the NPWS is keen to see increased flow rates through the wetland, they had concerns regarding the potential to overload the existing ponds and associated wetland areas, including the swamp sclerophyll forest, with sediment and nutrients from stormwater being directed through the discharge point between lots 15 and 16 to the pond system. NPWS now considers the 20m vegetated buffer satisfactory.

The applicant proposes that the entire finished surface profile will be an inverted 'v' formation, having the proposed roads as the lowest points, and all future dwelling houses draining to the street with a minimum 1% grade. The potential for the overland flow of nutrients and sediments to the pond system, may be reduced by increasing the gradient to 3%.

The soil and water management measures proposed by the applicant is summarised as follows:

1. Carry out base line water monitoring in the receiving ponds as per the EMP.
2. Construct temporary sand bund and filter arrangement in the receiving pond. The receiving pond will be that section of the pond adjacent to lots 15 and 16. An earth bund wall will be constructed so as to act as a temporary sedimentation pond.
3. Erection and maintenance of filter fence where necessary.
4. On completion of all civil works and establishment of grassed surfaces, remove filter fabric and top layer of rock bund to RL -1.10. Balance of sand bund below RL 0.0 to remain.
5. Continue the water quality monitoring program as per the approved EMP.

Some thought was given to requiring the applicant to make the temporary sedimentation pond permanent but this was likely to cause the small pond to eventually experience eutrophication as the solids build up even with occasional circulation of water with the main lake system via pipes. However, the use of a finger pond as a temporary sedimentation pond is not desired by NPWS and DLAWC and accordingly it is recommended that a condition be imposed requiring the construction

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of a temporary sedimentation pond within the 20m buffer zone and that a suitably sized Gross Pollutant Trap instead of the proposed trash rack device.

Having regard to the advice of the NPWS and DLAWC it is considered that the 20m buffer proposed in the amended application is adequate.

### **Department of Land and Water Conservation (DLAWC)**

DLAWC was notified of the Integrated Development Application on the 27<sup>th</sup> January 2000. DLAWC advised that they have concerns in regards to issuing a permit to excavate within the Riparian Buffer and want to see a 20 metre buffer from the retaining wall to the pond system. DLAWC's letter of 16 August 2000 is as follows:-

*"I refer to your correspondence dated 10 August 2000 in relation to the revision of conditions of a proposed 3A permit under the Rivers and Foreshores Improvement Act (1948).*

*The Department accepts the requirement for the provision of a vegetation management plan as requested in our letter dated 18 July 2000 with the provisions (i) to (vi) listed in your letter, to be implemented as per Councils illustrated map. Please note that the Vegetation Management Plan must be approved by the NPWS for the protection of Jacana habitat.*

*The Department will accept the width of the access track to be 3m instead of 2m to allow more effective maintenance of the area by Council.*

*As outlined in our letter dated 26 May 2000, the Department would not issue a permit to construct a temporary or permanent sedimentation basin in the pond as this is the habitat of the Comb Crested Jacana. The Department recommends the construction of a temporary sedimentation basin in a clear area of the proposed buffer zone between the pond and the house lots. This temporary basin is to be filled after the civil works are completed and the landscape is stabilised. The site would then be vegetated according to the vegetation management plan for the buffer.*

*The Department supports Councils recommendation for the installation of a structure which will improve the water quality such as a sediment trap and/or gross pollutant trap."*

### **Comment**

Development consent could not be issued without the approval of DLAWC. Suitable conditions have been imposed which now satisfy the requirements of DLAWC.

### **EVALUATION**

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

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(a) (i) **Planning Instruments**

Tweed Local Environmental Plan 2000 (TLEP 2000)

The land, the subject of the proposed subdivision, is zoned part 2(c) Urban Expansion and part 6(b) Recreation, under the provisions of the Tweed Local Environmental Plan 2000. The proposed subdivision is permissible with the consent of council and the proposed dedication of the land zoned 6(b) Recreation is considered satisfactory on merit and consistent with the zone objectives.

The proposed residential lots comply with the minimum 450m<sup>2</sup> development standard of clause 11 of the TLEP 2000.

Part 7 Hazards and Buffers

Clause 31. – Development adjoining waterbodies

(1) Objectives

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

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- (a) the rehabilitation of land adjoining the waterbed to create a vegetated riparian zone or wetland,
  - (b) works to stabilise the bank or shoreline of a waterbed.
- (5) In determining a distance for the purposes of this clause, the consent authority shall have regard to:
- (a) the preservation of the scenic quality of foreshores, and
  - (b) minimising the risk of pollution of waterways, and
  - (c) the protection of foreshore ecosystems,
  - (d) the intended or planned use for the foreshore.

### **Comment**

Please refer to previous comments on impacts to the riparian zone. While there will be some impacts, these impacts are not considered to be significant given the dual nature of the Western Drainage Scheme for drainage purposes and as a habitat for wildlife. Certain conditions have been imposed to try and reduce nutrients and sediments gaining access to the lake system. It is considered that adequate public access to the foreshore has been provided and suitable conditions have been imposed to improve natural surveillance in regards to the type of fencing to be utilised.

A suitable condition has been imposed requiring rehabilitation of the foreshore areas with removal of exotic weeds and some plantings to be carried out. It is considered that the embellishment of the proposed public reserve will help preserve the scenic quality of the foreshore and provide a buffer to the Jacanas.

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

#### Clause 15, Rivers, Streams and Wetlands

#### Development control-wetlands or fishery

15. The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:-
- (a) the need to maintain or improve the quality of quantity of flows of water to the wetland or habitat;
  - (b) the need to conserve the existing amateur and commercial fisheries;
  - (c) any loss of habitat which will or is likely to be caused by the carrying out of the development;
  - (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve;

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- (e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution;
- (f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves;
- (g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion; and
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved; and
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment

### **Comment**

No significant adverse impacts are expected subject to the imposition of conditions requiring stormwater quality treatment.

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

#### SEPP 44 – Koala Habitat Protection

The SEPP 44 report concludes that the Schedule 2 feed tree species did not occupy more than 15% of the site. However SEPP 44 states that “potential koala habitat” means areas of native vegetation where the schedule 2 feed tree species constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. Further discussions with Peter Parker clarified the issue as he stated that only 2 actual schedule 2 trees were on site. Accordingly, a Koala Plan of Management is not required.

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

#### Development Control Plan No.3 – South Tweed Heads/Banora Point West

DCP No. 3 – indicates that the area to be subdivided is classed as public open space and lake/waterway and accordingly DCP No.3 needs to be amended such that the land is classed Residential.

Amendment No. 9 to Development Control Plan No. 3 was publicly exhibited on Monday 22 March to Monday 19 April 1999. This amendment proposes a change in land use designations at Flame Tree Park Estate, Vintage Lakes and the Old Egg and I site at Minjungbal Drive, Tweed Heads South. The amendment to Vintage Lakes Estate is being reported to council on 6 September 2000 (separate report) with a recommendation for approval.

#### Development Control Plan No 16\_ Subdivisions Manual

The proposed subdivision is considered to be generally in accordance with DCP 16.

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### Development Control Plan No 39 – Energy Smart Homes Policy

DCP No 39 – ‘Energy Smart Homes Policy’ was adopted by council on the 7<sup>th</sup> April 2000. The proposed subdivision complies with the preferred required alignments for streets with Traminer Court running east-west and Madiera Street running north-south. The lot orientation and shape is also considered satisfactory as one axis is within 30<sup>0</sup> east and 20<sup>0</sup> west of true solar north.

However the existing trees in the swamp forest will restrict solar access to those lots north of Traminer Court, especially as the trees grow taller, and as such the trees will preclude full compliance with the subdivision provisions of DCP 39. It is calculated that 18 out of 45 lots (40%) will be affected by overshadowing. There may be some scope to design a satisfactory dwelling at the development application stage however it is likely that some exemptions may need to be given by council due to the trees overshadowing these blocks. A reduction to the minimum 6m setback to the street for the lots may improve solar access.

Ideally there should be a buffer near the tree line and the dwellings set back so as to maximise solar access, however, given that the development application for the subdivision was lodged prior to the adoption of DCP No 39 – ‘Energy Smart Homes Policy’ it is considered that the variation to DCP No 39 should be supported.

#### **(iv) Clause 66(a) Government Coastal Policy**

##### Clause 1.2 Objective

*“To conserve the diversity of all native plant and animal species and to protect and assist the recovery of threatened and endangered species.”*

##### **Comment**

The swamp forest and buffer will be dedicated to council thus helping to biodiversity in the area.

##### Clause 1.3 Objective

*“To improve water quality in coastal and estuarine waters and coastal rivers where it is currently unsatisfactory and to maintain water quality where it is satisfactory.”*

##### **Comment**

DCP No 3 - Banora Point West Drainage Scheme includes much of the land in the Banora Point West and Tweed Heads South. The provisions of DCP 3 allow the development of the South Tweed Floodplain by filling and draining, and the creation of a floodway corridor, including a series of Lakes, thus providing an adequate, efficient and environmental safe drainage system.

The Western Drainage Scheme has a dual nature, its primary purpose being for drainage and an incidental secondary purpose as a habitat for wildlife. A temporary sedimentation basin and permanent gross pollutant trap will be similar to other residential estates draining into the Western Drainage Scheme and will improve the

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quality of water entering the system. The Western Drainage Scheme effectively functions as a sedimentation pond before the water drains into Trutes Bay.

**(b) The Likely Impacts of that Development, including Impact on both the Natural and Built Environment, and Social and Economic Impacts in the Locality**

Context and Setting

- Scenic qualities/landscape

There is unlikely to be any significant adverse impacts in regards to visual amenity as sufficient trees will be retained to form a visual buffer screen. The proposed stage 8 subdivision is considered to be compatible with surrounding subdivisions.

- Acoustic privacy

An acoustical report was compiled by Richard Heggie & Associates which recommended that a 1.8m high solid fence be constructed along Fraser Drive and that only single-storey dwellings be constructed on Lots 27 and 28.

- Boundary treatments/fencing

The subject site is required to be filled which will result in a rock retaining wall being constructed approximately 2 to 3m in height within the boundary of the actual residential allotments. Figure 15 of the proposed plans shows a 2m high CCA treated pine shiplap weatherboard fence at the rear of those allotments abutting the swamp forest and a 1.6m high alloy picket/spade top decorative security fence along the western boundary of proposed lot 9. The applicant has proposed a 2m high fence to deter people from throwing garden refuse over the fence and into the swamp forest.

It is considered that those lots abutting the swamp forest should have an open style of fence for the following reasons:

1. It will improve solar access and air circulation for lots 10 to 27.
2. The open fence will help discourage residents from disposing garden waste over the fence as the resultant garbage will be visible to the actual resident and adjoining residents. The open fence will discourage dumping within the reserve.
3. The open fence will improve visual amenity.
4. The open fence will promote security for pedestrians and residents through improved natural observation.

Access, Transport & Traffic

The applicant comments are as follows:

*“The two roads, Maidera Court and Traminer Court, are proposed to contain a 7m carriageway within a 14m formation. Maidera Street forms the ultimate connection with Leisure Drive within the Flame Tree Park Estate, the intersection with which will be funded by Cabonga Pty Ltd (stage 8B).”*

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*Should stage 8 pre-date stage 4 of Flame Tree Park Estate, it is proposed that access to stage 8A will be gained via a temporary 6m wide road between the eastern end of Traminer Court and Fraser Drive (see Figures 13 & 13A). The temporary road will be contained within the public Reserve lot 46 in stage 8A, and is a permitted use within such land i.e. it will not be necessary that the temporary road be dedicated as "Public Road" unless so required by council. The Stage 8B lots will be filled and sewerage as part of the Stage 8A works."*

### Comments

The proposal was referred to the traffic committee meeting held 16 March 2000 for comments. Council at its meeting of 5<sup>th</sup> April 2000:

*"Resolved that the Committee supports the proposal provided that:-*

- 1. A left turn lane into the site is provided in accordance with Austroads standards.*
- 2. The left turn from the site is extended northwards so that merging traffic enters Fraser Drive north of the entrance to the football club and that a 'No U turn' be provided on the left turn exit.*
- 3. The consent is conditioned that the owner removes the temporary connection road as soon as alternative access via Flame Tree Park is available and that the cost of such works should be bonded."*

A suitable condition has been imposed addressing the above requirements.

### Public Domain/Pedestrian Linkages

The applicants comments are as follows:

*"Stage 8 will complete, and give effect to , the masterplan concept (see figure 18 of plans provided on table at council meeting). The public amenity of this lakeside land will be enhanced by the construction of the pedestrian trail to stage 5, and thus complete the walking circuit."*

### Comment

The proposed subdivision will have satisfactory pedestrian links to the rest of Vintage Lakes Estate, Fraser Drive and Flame Tree Park Estate.

### Natural hazards

- Flooding

The land will be filled to a minimum level of 2.65m, thus complying with DCP No 5 – Development of Flood Liable Land.

### Acid sulphate soils

Councils Environment & Health Unit comments are summarised as follows:



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*“Councils acid sulphate planning map indicates that the proposed development site is classified as Class 2 disturbed terrain. Class 2 relates to works below the ground surface and works by which the water table is likely to be lowered. It is generally considered that given the depth of the watertable, that sand was generally found in bore holes and the fact that imported fill will be placed over the developed area to a depth of at least 1.0m, that acid sulphate soils is unlikely to be an issue.”*

### Technological hazards

The applicant states that the site was used for the extraction of sand some 30 years ago. Due to the concerns of possible hydrocarbon contamination with fuel spillages associated with the use of heavy machinery, council Environment and Health unit have requested soil testing in accordance with the appropriate guidelines and remediation where necessary. It is considered that this can be dealt with as a deferred commencement matter.

### Social and Economic impacts in the locality

No significant adverse impacts are likely.

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

The proposed subdivision is considered satisfactory subject to the site being filled and vegetated buffer being provided.

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

Please refer to consultation section.

#### **(e) The Public Interest**

The applicant states that there is approximately 4.47 of public open space to be dedicated. The applicant originally proposed to embellish that land around the lake system for casual open space, however NPWS and DLAWC required a 40m vegetated buffer. This buffer was later negotiated down to a 20 wide vegetated buffer which now precludes the land as usable open space.

Section 94 Contribution Plan No 1 – “Banora Point West/ Tweed Heads South open space contribution” requires public open space (excluding lakes and drains used in Trunk Drainage work) be provided in the following proportions:

- i. 1.7 hectares (60%) structured open space (sportsfields) per 1000 persons;
- ii. 1.13 hectares (40%) casual open space (neighbourhood parks, etc) per 1000 persons.

The proposed 45 lot residential subdivision requires the dedication of 1149.21m<sup>2</sup> of casual open space or the payment of 45 x \$1059.00 = \$47655.00

It is considered that embellished open space should be provided within stage 8 as the open space lots within previous stages are not within 500m of stage 8. It is considered

## Reports from Director Development Services

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that proposed lot 10 should be conditioned to be dedicated as passive public open space along with some of the adjacent land not within the 20 buffer zone to the lake. The most distant residential lot from lot 10 is 310m which complies with the requirement for casual open space to within 500m of each residential allotment. Proposed lot 10 (630m<sup>2</sup>) along with the adjacent land (450m<sup>2</sup>) totals approximately 1080m<sup>2</sup> in area which is deemed to satisfy the casual open space requirement of 1149.21m<sup>2</sup>. It is considered that the approximate 4.47ha of land to be dedicated as drainage reserve covers this shortfall. Councils Recreation Services unit have no objections to the dedication of lot 10 as casual open space. It is recommended that a condition be imposed requiring the dedication of lot 10 as public open space in lieu of section 94 contributions of \$47655.00.

Councils recreation services unit have no objections to the dedication and future maintenance of the vegetated area subject to budgetary constraints.

A contribution will be payable for structured open space.

### **Building Services Unit**

No objections subject to conditions.

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

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

### **OPTIONS**

The following options are available to Council:

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

### **CONCLUSION**

The proposed subdivision is considered satisfactory on merit and compatible with surrounding residential development and preserving the habitat of the Comb-Crested-Jacana. It is also desirable that the swamp forest and surrounding land and lake system be dedicated to council to allow public ownership of the Western drainage scheme. Conditional approval is therefore recommended.

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## Reports from Director Development Services

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### 4. ORIGIN: Subdivisions Unit

**FILE REF: GT1/DCP/3 Pt8**

### **REPORT TITLE:**

**Proposed Amendment to Development Control Plan No. 3- Banora Point West - Tweed Heads South**

### **SUMMARY OF REPORT:**

At its meeting on 3 March 1999 Council resolved to amend Development Control Plan No. 3 to facilitate approval of the Vintage Lakes Stage 8 and Flame Tree Park Stage 4 development applications. Following public exhibition of the amendment and consideration of the two submissions received it is recommended that the amendment be adopted as exhibited.

### **RECOMMENDATION:**

That Council:-

- A. Adopts the Development Control Plan No. 3 amendment as exhibited subject to inclusion of the following principles in the Plan relating to development of the "Neighbourhood Business" site with Flame Tree Park Estate Stage 4 (Lot 433):-
  1. Orienting the proposed service station and shop layout so that at least one of the businesses capable of providing a suitable "public area" located on the (quiet) side road frontage. It should be set back sufficiently to allow an intervening treed outdoor area that has no included parking between the development and the street, the parking for it being off the service station concourse. Freestanding frontage advertising is acceptable subject to obtaining any necessary consents.
  2. Providing an integrated public transport stop and shelter.
  3. Integrating safe separated pedestrian and cycle movement into and through the site.
  4. Controlling design, façade design advertising and lighting to minimise the adverse visual impact of the development on Fraser Drive and providing effective landscaping on the perimeter and through the site.
  5. Confining security lighting spill within the site.
- B. Gives public notice of the amendment in accordance with the Act and Regulations.

## Reports from Director Development Services

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### REPORT:

#### BACKGROUND/PROPOSAL

At its meeting on 3 March 1999 Council resolved as follows:

*“RESOLVED that Council:-*

- 1. Prepares a draft amendment to Development Control Plan No. 3 – Banora Point West/Tweed Heads South as shown in Figure 3 of this report and also include the alterations to the open space and residential land adjacent to the existing drain east of Minjungbal Drive, Tweed Heads South as previously resolved by Council.*
- 2. Places on exhibition the proposed amendments to Development Control Plan No. 3 (Amendment No. 9) in accordance with the requirements of the Environmental Planning and Assessment Regulations.”*

The purpose of the draft amendment is to alter the land use designations as follows:

1. Alter the public open space and residential land use designations to the north of the existing drain on the eastern side of Minjungbal Drive, Tweed Heads South.(Egg & I site)
2. Alter the Residential “A” area on the corner of Fraser Drive and the unformed section of Leisure Drive at Flame Tree Park to “neighbourhood business”.
3. Alter the public open space and lake land use designations at Vintage Lakes to Residential “A” consistent with Amendment No. 70 of the Tweed Local Environmental Plan 1987.

The exhibited amendment to DCP3 is shown on the attached Figure 1.

In pursuance of this resolution the Draft Amendment was exhibited for a period of 28 days from Monday 22<sup>nd</sup> March 1999 to Monday 19<sup>th</sup> April 1999.

During that period 2 submissions were received. The submissions object to the proposed commercial centre at Flame Tree Park Estate – Stage 4 and the proposed land use designation changes at Vintage Lakes and the lack of information for the changes to the land use designation changes near Minjungbal Drive. The key issues raised in the submissions are summarised as follows:-

#### A. Flame Tree Park Estate

1. *Pollution*
2. *Precedence*
3. *Lighting*
4. *Highly inflammable liquids*
5. *Security*
6. *Devaluation*
7. *Petrol tanker routes*

## Reports from Director Development Services

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8. *Is a service station required?*
9. *Grocery shop/stores*
10. *Higher density development*
11. *Underground Petroleum Tanks*
12. *Acid sulphate soils*

### Comments

In considering the issues raised it should be noted that the proposed DCP amendment is essentially designed to identify a site for a “neighbourhood business” area west of Fraser Drive. The issues raised in the submission are mainly matters of detail which will need to be addressed in any subsequent design of the development and assessed as part of the development application.

The Flame Tree stage 4 development application proposes the creation of a lot (433) with an area of 5486m<sup>2</sup> on the corner of Fraser Drive and the western future extension of Leisure Drive for the purposes of commercial development. The shape and location of the lot is generally consistent with the exhibited draft amendment to the DCP.

A concept plan of the proposed neighbourhood business site has been submitted by the developers consultants showing a service station (at the northern part of the site) and 5 shops with left in left out vehicular access from Fraser Drive. Car parking is proposed within the area between Fraser Drive and the shops.

The concept raises a number of issues relating to urban designs; traffic management; pedestrian/vehicle conflicts and buffers to adjacent residential areas; however these issues are capable of resolution by appropriate design and therefore do not warrant rejection of a neighbourhood business site in this locality.

In terms of the distribution of “neighbourhood business sites”, a small “local shop” site is identified by DCP3 at the corner of Woodlands Drive and Leisure Drive, some 600m east of the proposed site.

The existing Banora Point Shopping Centre at the corner of Leisure Drive and Darlington Drive is located approximately 2km to the east.

The existing Tweed Heights shopping centre at the corner of Ash Drive and Amaroo Drive is located about 1.5km to the south.

Given the likely future traffic volumes on Fraser Drive of greater than 20,000 vehicles per day, the ultimate population west of Fraser Drive in Vintage Lakes and Flame Tree Park (about 2500 to 3000 persons) and the planning objective of providing convenient neighbourhood facilities within about 300 to 400m walking distance of residences, it is considered that the proposed site is appropriately located and sized to assist in reducing vehicle dependency consistent with ESD principles and contemporary urban planning practice.

## Reports from Director Development Services

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### B. Vintage Lakes Estate

1. *New South Wales Coastal Policy 1997*
2. *Flooding*

#### **Comments**

The Vintage Lakes site was rezoned by LEP amendment 70 gazetted on 5 August 1999.

Issues relating to the Coastal Policy and Flooding were addressed as part of the amendment.

The current Vintage Lakes Stage 8 Development application also addresses these issues as does the report and recommended conditions.

The purpose of the DCP3 amendment is essentially to overcome the inconsistency between the DCP land designations (open space and lake) and the 2(c) zoning introduced by Amendment 70.

### C. Egg & I site

1. *Lack of information*

#### **Comments**

The purposes of this amendment is to correct mapping inconsistencies between DCP3 and Tweed LEP 2000 in relation to land designated as open space, lake and residential land use adjacent to the existing drain east of Minjungbal Drive.

In approving a subdivision of the land, Council at its meeting on 16 December 1998 also resolved to amend DCP3 when a amendment is next being proposed to correct the anomaly.

#### **Current Development Applications**

Separate reports on the Vintage Lakes - stage 8 subdivision and Flame Tree Park Estate – stage 4 are contained in this Business Paper and their determination in accordance with their respective recommendation relies on council adopting the recommendation in relation to this DCP 3 amendment.

#### **Planning & Design Unit comments**

A number of issues have been raised in relation to the detailed design of future development of the Neighbourhood Business site (Lot 433) based on the concept plan tabled by the applicant.

In particular, the detailed design of the site should satisfy the following principles:-

1. Orienting the proposed service station and shop layout so that at least one of the businesses capable of providing a casual community meeting place is located on the (quiet) side road frontage. It should be set back sufficiently to allow an intervening treed outdoor area that has no included parking between the development and the street, the parking for it being off the service station concourse. Freestanding frontage advertising OK.
2. Providing an integrated public transport stop and shelter.
3. Integrating safe separated pedestrian and cycle movement into and through the site.

## Reports from Director Development Services

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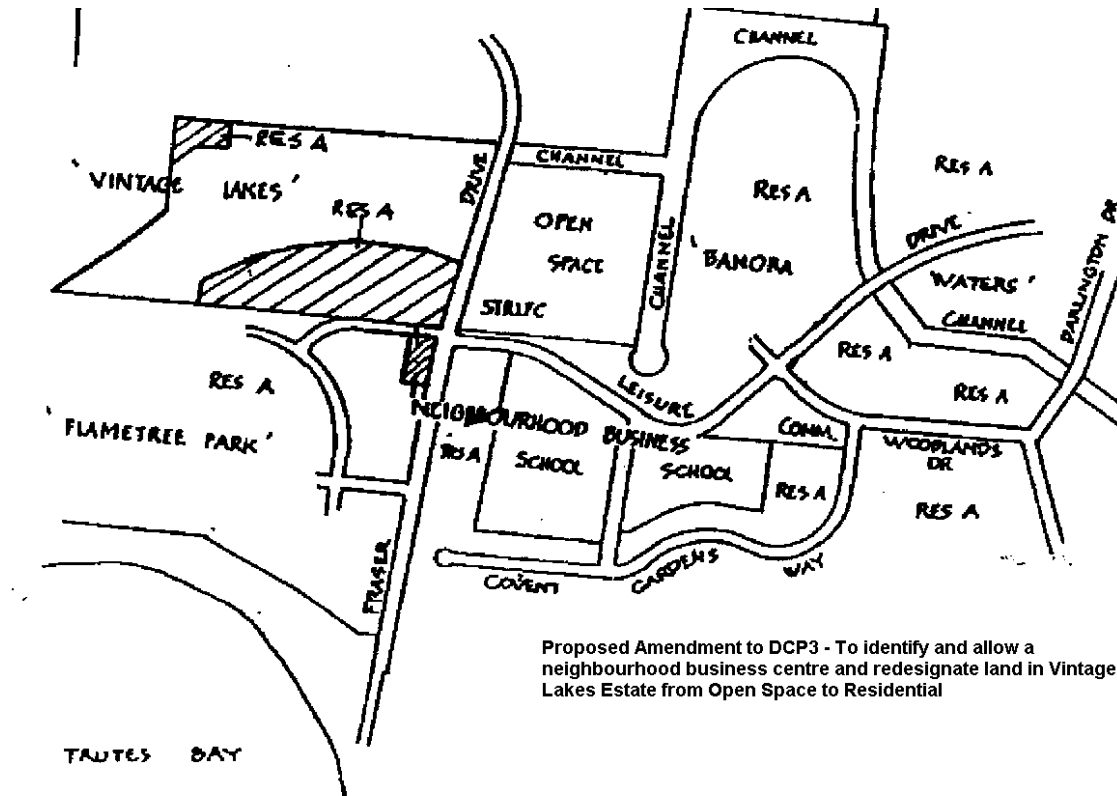
4. Controlling hard landscaping, façade design advertising and lighting to minimise the adverse visual impact of the development on Fraser Dive. Providing soft landscaping on the perimeter and through the site.
5. Confining security lighting sill within the site.

### CONCLUSION

Subject to inclusion of appropriate principles in the Plan relating to development of the neighbourhood business site, it is considered that the DCP3 amendment should proceed to facilitate the termination of the Flame Tree Park and Vintage Lakes Development Applications.

# Reports from Director Development Services

FIGURE 1 – PROPOSED AMENDMENT TO DEVELOPMENT CONTROL PLAN NO. 3 - BANORA POINT WEST/TWEED HEADS SOUTH





## Reports from Director Development Services

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### 5. ORIGIN: Development Control Unit

**FILE REF: DA0659/55 Pt2**

#### **REPORT TITLE:**

**Proposed 81 Lot Subdivision at Part Lot 52 DP 881261 Fraser Drive, Tweed Heads South (Flame Tree Park Stage 4)**

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

This report considers an application for an 81-lot subdivision at the above location known as stage 4 of the Flame Tree Park development. The subject application incorporates the cleared and vacant north eastern portion of the Flame Tree Park Estate. The subject site is predominantly cleared and filling will be required to the design flood level.

A draft amendment to DCP 3 – South Tweed Heads/West Banora Point has been publicly exhibited and that amendment is the subject of a separate report in the Business Paper. Subject to adoption of the amendment this development application will be generally consistent with DCP3 (as amended).

The application is otherwise satisfactory and conditional approval is therefore recommended.

#### **RECOMMENDATION:**

That development application K99/165 for an 81 lot subdivision of Part Lot 52 DP 881261 Fraser Drive, Banora Point West (Flame Tree Park Estate Stage 4) be approved subject to the following conditions:-

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

##### **General**

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

## Reports from Director Development Services

### Contributions

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

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

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

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

### Stage 4A

- a. Tweed Road Contribution Plan:

32 lots @ \$1684 per lot \$53,888.00

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South Residential)

### 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)

## Reports from Director Development Services

- \$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.      Banora Point West/Tweed Heads South (DCP3)  
Open Space (Structured): 32 lots @ \$2407      \$77,024.00  
S94 Plan No. 1
- c.      South Tweed Heads Master Drainage (DCP3 area):  
3.662ha @ \$8805      \$32,244.00  
S94 Plan No. 2
- d.      Community Facilities (DCP3 area):  
32 lots @ \$512.60      \$16,403.20  
S94 Plan No. 3
- e.      Street Trees: 32 lots @ \$42.90      \$1,372.80  
S94 Plan No. 6
- f.      Shirewide Library Facilities:  
32 lots @ \$300      \$9,600.00  
S94 Plan No. 11
- g.      Eviron Cemetery/Crematorium Facilities:  
32 lots @ \$126      \$4,032.00  
S94 Plan No. 13
- h.      Bus Shelters:  
32 lots @ \$23      \$736.00  
S94 Plan No. 12
- i.      Emergency Facilities (Surf Lifesaving)  
32 lots @ \$80      \$2,560.00  
S94 Plan No. 16

## Reports from Director Development Services

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- j. Extensions to Council Administration Offices  
& Technical Support Facilities

32 lots @ \$344.81      \$11,033.90

S94 Plan No. 18

- k. Cycleways: 32 lots @ \$160    \$5,120.00

S94 Plan No. 22

### Stage 4B

- a. Tweed Road Contribution Plan:

20 lots @ \$1684 per lot \$33,680.00

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South Residential)

### 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)

$\text{\$Unit}$                     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. Banora Point West/Tweed Heads South (DCP3)

Open Space (Structured): 20 lots @ \$2407      \$48,140.00

S94 Plan No. 1

## Reports from Director Development Services

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- c. South Tweed Heads Master Drainage (DCP3 area):  
2.138ha @ \$8805      \$18,825.00  
S94 Plan No. 2
- d. Community Facilities (DCP3 area):  
20 lots @ \$512.60      \$10,252.00  
S94 Plan No. 3
- e. Street Trees: 20 lots @ \$42.90      \$858.00  
S94 Plan No. 6
- f. Shirewide Library Facilities:  
20 lots @ \$300      \$6,000.00  
S94 Plan No. 11
- g. Eviron Cemetery/Crematorium Facilities:  
20 lots @ \$126      \$2,520.00  
S94 Plan No. 13
- h. Bus Shelters:  
20 lots @ \$23      \$460.00  
S94 Plan No. 12
- i. Emergency Facilities (Surf Lifesaving)  
20 lots @ \$80      \$1,600.00  
S94 Plan No. 16
- j. Extensions to Council Administration Offices  
& Technical Support Facilities  
20 lots @ \$344.81      \$6,896.20  
S94 Plan No. 18
- k. Cycleways: 20 lots @ \$160      \$3,200.00  
S94 Plan No. 22

## Reports from Director Development Services

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### Stage 4C

- a. Tweed Road Contribution Plan:  
29 lots @ \$1684 per lot \$48,836.00  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South Residential)

### 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)

$\text{\$Unit}$  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. Banora Point West/Tweed Heads South (DCP3)  
Open Space (Structured): 29 lots @ \$2407 \$69,803.00  
S94 Plan No. 1
- c. South Tweed Heads Master Drainage (DCP3 area):  
3.238ha @ \$8805 \$28,510.00  
S94 Plan No. 2
- d. Community Facilities (DCP3 area):  
29 lots @ \$512.60 \$14,865.40  
S94 Plan No. 3

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- e. Street Trees: 29 lots @ \$42.90      \$1,244.10  
S94 Plan No. 6
- f. Shirewide Library Facilities:  
29 lots @ \$300              \$8,700.00  
S94 Plan No. 11
- g. Eviron Cemetery/Crematorium Facilities:  
29 lots @ \$126              \$3,654.00  
S94 Plan No. 13
- h. Bus Shelters:  
29 lots @ \$23              \$667.00  
S94 Plan No. 12
- i. Emergency Facilities (Surf Lifesaving)  
29 lots @ \$80              \$2,320.00  
S94 Plan No. 16
- j. Extensions to Council Administration Offices  
& Technical Support Facilities  
29 lots @ \$344.81      \$9,999.50  
S94 Plan No. 18
- k. Pursuant to the provisions of S94 Plan No. 1 proposed lot 436 shall be increased in area to 2000m<sup>2</sup> and dedicated as passive open space and suitably embellished at no cost to Council including grassing, landscaping, seating, playground equipment and shade cover in accordance with detailed plans to accompany the Construction Certificate application. The embellishment shall be completed prior to the issue of a Subdivision Certificate for Stage 4C.
- l. Cycleways: 29 lots @ \$160      \$4,640.00  
S94 Plan No. 22

### **Stage 4D**

- a. Tweed Road Contribution Plan:  
2 lots @ \$1684 per lot      \$3,368.00

## Reports from Director Development Services

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South Residential)

### 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)

$\text{\$Unit}$  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. Banora Point West/Tweed Heads South (DCP3)

Open Space (Structured): 1 lot @ \$2407 \$2,407.00

S94 Plan No. 1

c. South Tweed Heads Master Drainage (DCP3 area):

1.388ha @ \$8805 \$12,221.00

S94 Plan No. 2

d. Community Facilities (DCP3 area):

1 lot @ \$512.60 \$512.60

S94 Plan No. 3

e. Street Trees: 2 lots @ \$42.90 \$85,80

S94 Plan No. 6



## Reports from Director Development Services

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- f. Shirewide Library Facilities:
  - 1 lot @ \$300            \$300.00
  - S94 Plan No. 11
- g. Eviron Cemetery/Crematorium Facilities:
  - 1 lot @ \$126            \$126.00
  - S94 Plan No. 13
- h. Bus Shelters:
  - 2 lots @ \$23            \$46.00
  - S94 Plan No. 12
- i. Emergency Facilities (Surf Lifesaving)
  - 1 lot @ \$80            \$80.00
  - S94 Plan No. 16
- j. Extensions to Council Administration Offices  
& Technical Support Facilities
  - 1 lot @ \$344.81        \$344.81
  - S94 Plan No. 18
- k. Cycleways: 1 lot @ \$160    \$160.00
  - S94 Plan No. 22

Council acknowledges that the developer has constructed the Western Drainage Scheme channel within the Flame Tree Park in accordance with S94 Plan No. 2 and as such credit is available and the contribution will be reduced by an amount determined based on the unit rates contained in the section 94 plan.

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 979 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:

## Reports from Director Development Services

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### Stage 4A

Water: 32 lots @ \$3590 \$114,880

Sewer: 32 lots @ \$2970 \$95,040

### Stage 4B

Water: 20 lots @ \$3590 \$71,800

Sewer: 20 lots @ \$2970 \$59,400

### Stage 4C

Water: 29 lots @ \$3590 \$104,110

Sewer: 29 lots @ \$2970 \$86,130

### Stage 4D

Water: 2 lots @ \$3590 \$7,180

Sewer: 2 lots @ \$2970 \$5,940

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

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

5. Subdivision work in accordance with a development consent must not be commenced until:-
  - (a) a construction certificate for the subdivision work has been issued by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and
    - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

## Reports from Director Development Services

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

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

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

### GENERAL

8. Any future development application for shops and/or a service station on proposed Lot 433 shall address SEPP33 – Hazardous and Offensive Development and the specific provisions of DCP No. 3, as amended relating to the development of this site.
9. The development shall be completed in general accordance with Drawing G248/94-CP16E prepared by Heilbronn and Partners Pty Ltd and dated 16/8/2000, except where varied by these conditions.
10. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
11. No soil, sand, gravel, clay or other material shall be disposed of off the site.
12. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
13. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.
14. A Subdivision Certificate will not be issued by the General Manager for each stage until such time as all conditions of Development Consent No K99/165 relating to that stage have been complied with.
15. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
  - i. Easements for sewer, water supply and drainage over **ALL** services on private property.
  - ii. All lots with frontages to Fraser Drive (except Lot 433) and the proposed Stage 1 access road shall have a restriction as to user placed to prevent direct vehicular access.
  - iii. All lots with frontage to Fraser Drive shall have a 1 storey height limit and a 6 metre setback from Fraser Drive.

## Reports from Director Development Services

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However, those lots within Stage 4A with a frontage to Fraser Drive shall be subject to the following setbacks:-

- a. The non-habitable areas of the building may be constructed within the 6 metre setback and the habitable portions/areas of dwellings may also be constructed within the 6 metre setback subject to suitable acoustic attenuation to the satisfaction of the Director of Environment and Community Services.
  - b. Those lots with frontage to both Fraser Drive and internal roads shall have a three (3) metre setback for dwellings to the internal road and a five point four (5.4) metre setback for garages to the internal roads.
  - c. Dwellings may be 2 storeys if they are setback from Fraser Drive of 6 metres and have acoustic treatment of the upper floor to the satisfaction of the Director of Environment and Community Services.
- iv. A restriction as to use shall be created over Lot 433 prohibiting vehicular access from Fraser Drive other than at a location approved by Council.

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

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

16. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
17. 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.
18. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
19. All unnecessary easements shall be extinguished prior to release of the linen plan of subdivision for the relevant stage.

## Reports from Director Development Services

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20. Where new state survey marks and/or permanent marks are placed, a copy of the locality sketch relating to the marks shall be submitted with the final subdivision certificate application.
21. All retaining walls in excess of 1.0 metre in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
22. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
23. All traffic control devices, where proposed, shall be accurately notated on a plan, which shall be lodged with the Roads and Traffic Authority for official approval and recording.
24. No retaining walls or similar structures are to be constructed over Council's sewer main.
25. 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.
26. The pathway proposed between Lots 473/474 and 414/415 shall be relocated to a location adjacent to Lots 462/444 or alternatively an additional pathway shall be provided adjacent to Lot 462/444.

### **FURTHER APPROVALS**

- 27A. 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) 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:

## Reports from Director Development Services

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- 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.

- 27B. Notwithstanding Condition 27A a construction certificate may be issued for earthworks and earthworks may be carried out prior to the issue of a construction certificate for all civil works subject to compliance with the following conditions: 10, 11, 12, 13, 16, 18, 22, 23, 24, 25, 34, 40, 43, 44, 45, 48, 49, 50, 51, 54, 55, 61, 62, 63, 64, 65, 66, 67, 68, 71, 72, 73 and 75.
28. 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 \$115 per lot.
  - relevant development consent or complying development certificate
  - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)

## Reports from Director Development Services

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- for a deferred commencement consent evidence that the applicant has satisfied the consent authority on all matters which must be satisfied before the consent can operate
- evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
- a certificate of compliance from the relevant water supply authority (where applicable)
- if a subdivision is the subject of an order of the Land and Environment Court under section 40 of the Land and Environment Court Act 1979 evidence that required drainage easements have been acquired by the relevant council
- for subdivision involving subdivision works evidence that:
  - the work has been completed, or
  - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
  - security given to the consent authority with respect to the completion of the work
- Work as Executed Plans for **ALL** works

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

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

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

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

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

## Reports from Director Development Services

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

### **Roadworks**

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

### **Water Reticulation, Sewer Reticulation, Drainage**

- a. Excavation
- 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



## Reports from Director Development Services

### Sewer Pump Station

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

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

- iii. 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".

30. 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.**

31. 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.

32. (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.

## Reports from Director Development Services

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- (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.

33. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
  - b. That the pavement materials used comply with the specifications in RTA Form 3051 (June 1998)
  - c. That the pavement layers have been compacted to RTA specifications.
  - d. That site fill areas have been compacted to the specified standard.
  - e. That supervision of Bulk Earthworks has been to Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
  - f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
34. 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 the Director, Development Services.
35. 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

36. 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 9 **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.
37. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events.

## Reports from Director Development Services

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Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.

- ii. Those lots/stages with frontage to Fraser Drive shall have a 2.1m high noise barrier constructed in accordance with the noise report by Richard Heggie Associates Pty Ltd dated 28 April 1995. A plan detailing location and construction details shall be submitted. This construction shall be completed prior to linen release of each relevant stage.
- iii. A cycleway and concrete kerb and gutter is to be constructed along the entire frontage to Fraser Drive to the satisfaction of the Director of Development Services. This construction shall be completed prior to the linen plan release of each relevant stage.

Council acknowledges that if the developer constructs this cycleway a credit will apply against the contributions required by Section 94 Plan No. 22 based on the unit rates contained in the Plan.

- iv. Subject to giving the developer a minimum 120 days notice of Council's intention to let a contract for the signalised section, the developer shall, within four (4) months from the completion of the signalised intersection of Fraser Drive and Leisure Drive by Council the developer shall construct the road connecting Fraser Drive and Botanical Circuit within Stages 4A, 4C and 4D.
- v. Condition 21(i)(d) of Development Consent S95/5 shall be complied with immediately following commissioning of the signalised intersection of Fraser Drive and Leisure Drive.
- vi. To ensure that pedestrian access from the estate across Fraser Drive is available at a signalised intersection, the linen plan for Stages 4C and 4D shall not be released until the signalised intersection is completed.
- vii. As a condition of any future development of Lot 433, sufficient land shall be dedicated within the north eastern section of Lot 433 to provide for a left turn lane, two through lanes and a right turn lane on the Fraser Drive frontage of the site. The dedication shall include a splay corner to maintain a 3.5m wide footpath.
- viii. Any two way access driveway to the site from the new access road off Fraser Drive (extension of Leisure Drive) shall be 60 metres from Fraser Drive to minimise traffic confusion in accordance with Austroads Guide to Traffic Generating Development Part 5 Clause 3.2
- ix. The new access road (extension of Leisure Drive) is to include 1 through lane and 1 turning lane in each direction with a 1.2 metre median island, the exact dimensions will be determined by the intersection design which will be undertaken by Council.

## Reports from Director Development Services

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- x. A bus layby and shelter shall be provided on the Fraser Drive frontage south of the access driveway. A credit will apply to the contributions required pursuant to this consent pursuant to Section 94 Plan No. 12.
- 38.
- i. In accordance with Development Control Plan No. 16 a 1.2m wide footpath constructed of concrete or paving blocks shall be provided for the full length of the 18m wide road in Stages 4A and 4C and a 2.2m wide footpath on the southern side of the 24m wide road in Stages 4C and 4D. The design and construction standard shall comply with Draft Auspec TSC Version.
  - ii. Alternatively, the developer may pay a cash contribution to the value of the works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.
  - iii. If the developer elects to construct the footpath prior to the issue of a Subdivision Certificate, a cash maintenance bond equal to 25% of the contract value of the footpath shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on. The maintenance bond shall be lodged prior to release of the subdivision certificate.
39. Provision of temporary turning areas for refuse vehicles at the end of roads which will be extended in subsequent stages until such time as the road is extended or a dedicated turning area is provided at the end of the road. These temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.
40. 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.
41. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

### **DRAINAGE/FLOODING**

42. Prior to the issue of a construction certificate for Stage 4C:
- i. The Western Drainage Scheme shall be commissioned and fully operational; and
  - ii. The existing easement to drain water parallel to the northern boundary of the site shall be extinguished.
43. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
44. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

## Reports from Director Development Services

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No filling of any description is to be deposited, or remain deposited, within adjacent properties.

45. All fill is to be graded so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted with the Construction Certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill or cut batters shall be contained wholly within the subject land.

46. 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 or that all Q20 24 hour runoff from impervious areas of the site can be disposed of, on site, by means of infiltration.
47. 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.
48. 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*.
49. The land to be filled to the design flood level of RL 2.65m AHD.
50. 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.

## Reports from Director Development Services

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51. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 2 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.
52. All stormwater from roof catchment to be connected directly into road drainage pits if available, or to kerb and gutter, along the frontage of the site.
53. Prior to final the issue of a compliance certificate for stormwater work and also prior to the end of the defects liability period CCTV inspections 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.

54. All imported fill material shall be from a source approved by the Director, Engineering Services

If fill is to be hauled by truck from an approved fill site, then the following requirements shall apply:

- i. The haul route shall be via the Pacific Highway, Dry Dock Road, Terranora Road and Fraser Drive only. The final route shall be approved by Council prior to haulage commencing.
55. 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.

### SERVICES

#### Sewer

56. 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.

## Reports from Director Development Services

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

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

### Water

57. 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.

**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.

58. The temporary stage 1 water connection shall be closed prior to linen release for Stage 4A when the permanent connection shall be provided.

### Telephone

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

### Electricity

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

### ENVIRONMENT PROTECTION

61. 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.
62. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
63. 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.
64. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

## Reports from Director Development Services

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65. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

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

- i) Contours and terraces where the height exceeds 1m.
  - ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
  - iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
  - iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
  - v) The landscaping shall be completed to the satisfaction of the Director Development Services **PRIOR** to the issue of a Subdivision Certificate.
  - vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.
66. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
67. 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.
68. 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.
69. 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.



## Reports from Director Development Services

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

70. The following restrictions apply to dog and cat ownership and control on **all** residential lots:-
- 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 or modified only with the consent of Council.

71. 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.
72. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
73. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.
74. All lots are to comply with DCP37 which requires 80% of all lots to achieve a five star rating with the remainder achieving a minimum of three or four stars.
75. Water quality management mitigation measures shall be in accordance with the Revised Soil and Water Management Plan Flame Tree Park Stage 2 by Gilbert and Sutherland, November 1997.

## Reports from Director Development Services

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### REPORT:

**Applicant:** Heilbronn & Partners Pty Ltd  
**Owner:** Metricon Pty Ltd  
**Location:** Pt Lot 52 DP 881261  
**Zoning:** 2(c) Urban Expansion  
**Est Cost:** Nil

### BACKGROUND

Council is in receipt of a development application for the creation of 81 allotments at the above location. The proposal, also referred to as stage 4 of the Flame Tree Park development, is situated in the north eastern section of the subject property, abutting Fraser Drive and the future extension of Leisure Drive.

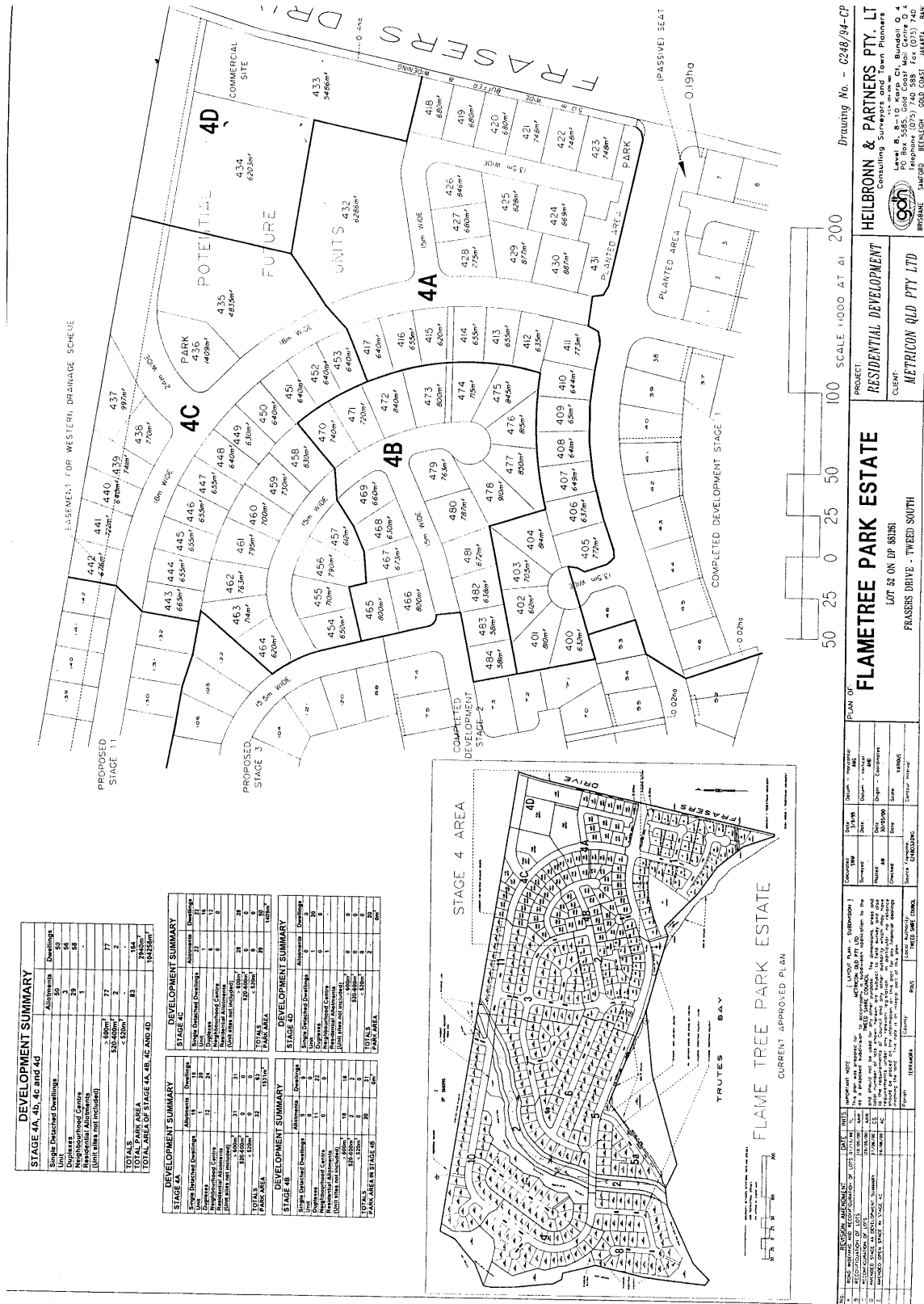
The proposal forms part of the wider Flame Tree Park development of which approximately 375 allotments have already gained development consent (S95/5).

The site is located at the intersection of Fraser / Leisure Drive. Adjacent to the northern boundary of the subject site is the Vintage Lakes Estate (of which proposed stage 8 is the subject of a separate report).

The proposal represents a key aspect in the interface between Flame Tree Park, the proposed neighbourhood business site and the intersection of Fraser and Leisure Drives. In this regard, consideration has been given to the adequacy of both the location of access points and the relationship of the proposed commercial site with adjoining residential properties & Fraser Drive. These issues will be discussed in greater detail within the body of this report.

# Reports from Director Development Services

## SITE DIAGRAM



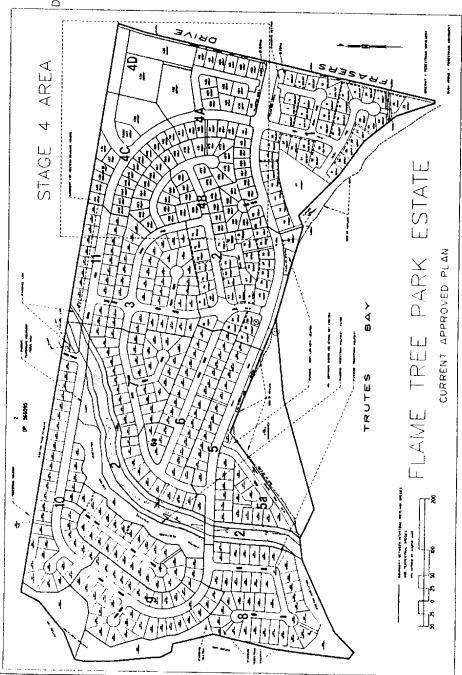
STAGE 4A, 4B, 4C and 4D	
Single Detached Dwellings	43
Units	3
Garages	2
Neighbourhood Centre	1
Neighbourhood Amenities	2
Other Amenities (not included)	2
<b>TOTALS</b>	<b>53</b>
TOTAL AREA	10458m <sup>2</sup>

STAGE 4A	
Single Detached Dwellings	13
Units	3
Garages	2
Neighbourhood Centre	1
Neighbourhood Amenities	2
Other Amenities (not included)	2
<b>TOTALS</b>	<b>25</b>
TOTAL AREA	5128m <sup>2</sup>

STAGE 4B	
Single Detached Dwellings	0
Units	0
Garages	0
Neighbourhood Centre	0
Neighbourhood Amenities	0
Other Amenities (not included)	0
<b>TOTALS</b>	<b>0</b>
TOTAL AREA	0m <sup>2</sup>

STAGE 4C	
Single Detached Dwellings	22
Units	0
Garages	0
Neighbourhood Centre	0
Neighbourhood Amenities	0
Other Amenities (not included)	0
<b>TOTALS</b>	<b>22</b>
TOTAL AREA	4330m <sup>2</sup>

STAGE 4D	
Single Detached Dwellings	0
Units	0
Garages	0
Neighbourhood Centre	0
Neighbourhood Amenities	0
Other Amenities (not included)	0
<b>TOTALS</b>	<b>0</b>
TOTAL AREA	0m <sup>2</sup>



Drawing No. - 6248/94-Cp

SCALE 1:1000 AT A1 200

50 25 0 25 50

COMPLETED DEVELOPMENT STAGE 1

PLANTED AREA

(PASSIVE) SEAT

PARK

FRASERS DRIVE

TRUTES BAY

FLAMETREE PARK ESTATE

LOT 82 ON DP 8888

FRASERS DRIVE - TWEED SOUTH

PROJECT: **FLAMETREE PARK ESTATE**

CLIENT: **METRICON QLD PTY LTD**

CONSULTING SURVEYORS AND TOWN PLANNERS

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## Reports from Director Development Services

### SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

The subject proposal has been assessed against the relevant provisions of the Environmental Planning and Assessment Act, 1979.

#### (a) (i) The provisions of any environmental planning instrument

##### Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 2(c) Urban Expansion under the provisions of TLEP 2000. The proposal is permissible with the consent of Council. Pursuant to Clause 11 of the LEP each lot must be a minimum of 450m<sup>2</sup> in area. The proposal is consistent with Council's requirements in this regard.

Clause 17 of the TLEP 2000 requires the provision of a Social Impact Assessment where the consent authority considers that a proposal is likely to have a significant social or economic impact in the locality. Whilst it is acknowledged that the proposal is of a significant scale, relatively few constraints or likely adverse impacts are evident or expected. It is considered that a social impact assessment is not required.

The subject site is adjacent to a designated road (Fraser Drive) and therefore requires assessment pursuant to the provisions of Clause 22 of TLEP 2000. Clause 22(4) of the TLEP 2000 provides for the following:

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

- (a) The development (because of its nature, appearance, cumulative affect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for other similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*
- (b) the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*
- (c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*
- (d) where the land is in Zone 1(a), 7(a), 7(d), 7(f), or 7(l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*
- (e) the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*

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- (f) *the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and*
- (g) *where practical, access to the land is provided by a road other than the designated road, and*
- (h) *in respect of any application for commercial or retail development near the Pacific Highway in Zone 1(a), 7(a), 7(d), 7(f) or 7(l), the development:*
  - (i) *would not compromise the Highway's function as the North Coast's primary inter- and intra-regional road traffic route, and*
  - (ii) *would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and*
  - (iii) *would not compromise highway safety and efficiency, and*
  - (iv) *would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientate site."*

Whilst it is acknowledged that the proposal is of a substantial scale and likely to have a significant impact on the traffic safety and efficiency of Fraser Drive, numerous discussions have been held between the applicant and Council officers in relation to the existing and future treatment of both existing accesses to Flame Tree Park and the intersection of Leisure Drive and Fraser Drive. Council's Section 94 Plan No. 4 identifies the need for traffic lights at the intersection of Leisure Drive and Fraser Drive. Given the extent of traffic currently utilising Fraser Drive and the likely future utilisation associated with those stages of Flame Tree Park yet to be released, the timing of the erection of the proposed lights is crucial. In regards to the latter, the erection of the lights in shortest possible time is preferable. A suitable condition has been suggested in this regard. The proposal is considered to be consistent with Clause 22 of the TLEP 2000. Further comments in relation to traffic and transport issues are provided under the heading of "likely impacts".

Clause 23 of the TLEP 2000 relates to the controlling of access to designated roads and the requirement to gain development consent for the construction of any roads that form a junction or intersection with a designated road. The proposal identifies the provision of a road in the northern section of the subject site. Whilst it is not proposed to join this road with Fraser Drive at this point in time, the road will eventually form an access at the intersection of Fraser Drive and Leisure Drive. Suitable conditions are applicable in this regard, with particular reference to the timing of intersection treatment and the construction of the proposed road.

Clause 32 of TLEP 2000 refers to aircraft noise and the likely impacts of flight paths associated with Coolangatta Airport on proposed developments. The subject site is not in an area identified as prone to aircraft noise.

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Clause 35 refers to Acid Sulphate Soils. In this regard, the subject site is identified as possessing class 2 acid sulphate soils. Accordingly, the applicant has submitted a detailed acid sulphate soil management plan which is to the general satisfaction of Council's Environmental Health Unit.

Clause 37 of TLEP 2000 provides for a requirement that Council must not grant consent to development located within an electricity transmission line corridor, without notifying North Power and taking into consideration any relevant response. In this regard, no response was received by North Power and it is therefore assumed that North Power raise no objections to the proposal.

Clause 44 of the TLEP refers to the development of land within likely or known archaeological sites. In this regard, detailed archaeological assessment was undertaken in relation to the initial approval to subdivide the subject land (subdivision S95/5). No significant archaeological values were evident in relation to the subject assessment.

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

#### Clause 43 – Residential Development

This clause provides for a requirement that the density of dwellings is maximised in accordance with site characteristics and that proposed road widths are not excessive for the function of the road. The proposal is considered to be satisfactory in this regard.

#### Clause 66 – Adequacy of Community & Welfare Services

The subject land is in close proximity to both Tweed Heads and Banora Point where a number of relevant community and welfare services are available. It is noted that normal contributions are applicable for community services in accordance with Section 94 Plan No. 3.

### State Environmental Planning Policy No. 11 (SEPP 11) – Traffic Generating Development

Pursuant to the provisions of SEPP 11, the proposal was referred to the local traffic committee for comment. Several issues of concern were identified as follows:

- 1. The location of proposed duplex allotments in relation to the main access road*
- 2. The proposed roundabout in the vicinity of proposed lot 468 should be extended to provide a fourth leg.*
- 3. The proposed commercial site shall not be permitted to allow for right turn access into or out of the site from either road frontage due to the channellisation required for the intersection of Fraser Drive and Leisure Drive.*
- 4. The access road on the eastern side of Botanical Circuit to be moved north to provide direct street frontage to proposed lot 490 and a roundabout constructed at the crossroad created.*

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5. *The access road between proposed lots 424 and 423 should be connected through to Botanical Circuit with 'left in' and 'left out' only.*
6. *The access road servicing lots 413 to 430 appears to be too narrow given the high number of duplex lots fronting it.*
7. *The Roads & Traffic Authority to advise on whether a signalised intersection at Leisure / Fraser Drive and the new access road will be permitted.*
8. *The committee is also concerned about pedestrian access Fraser Drive, which needs to be addressed as part of this application.*

In light of the committees concerns, the applicant was invited to submit amended details addressing the above issues. The applicant has since provided Council an amended design that satisfactorily addresses the concerns of the local traffic committee. It should be noted that the RTA have since confirmed the need to provide for signalised treatment at the intersection of Leisure / Fraser Drives. Further comment in this regard is provided under the heading of 'likely impacts'.

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

#### Development Control Plan No. 3 – Banora Point West / Tweed Heads South (DCP No. 3)

The provisions of DCP No. 3 affect the subject area. This plan stipulates future development patterns within the subject area, including both residential and commercial forms of development.

The proposal (as amended) is not entirely consistent with the provisions of DCP No. 3, with particular reference to the inclusion of a proposed "Neighbourhood Business" area within the subject site. DCP No. 3 does not provide for the inclusion of any commercial sites within the subject area, whilst also generally restricting residential development to single dwellings only.

However, Council has resolved to amend DCP3 to provide for a Neighbourhood Business area and subject to adoption of that amendment this application will be generally consistent with DCP3.

The applicant has suggested the inclusion of the proposed commercial site on the following grounds:

1. *Proximity of the site to Fraser Drive and the associated public and private transport opportunities;*
2. *Opportunities to provide a retail service to tourists travelling along Fraser Drive enroute to nearby tourist facilities;*
3. *To provide numerous access opportunities for the residents of the immediate area and neighbouring estates;*

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4. *The subject location provides for direct links to nearby open space and transport corridors; and*
5. *The proposal will be able to serve the population increase resulting from the approved and future development.*

Further to the above, it is considered that from a traffic (both vehicular and pedestrian) efficiency and planning perspective, the proposed commercial site will provide significant benefits in relation to the servicing of residents to the west of Fraser Drive ie. within both Vintage Lakes and Flame Tree Park. The benefits of this are directly associated with the likely reduction in through traffic from west of Fraser Drive to existing commercial opportunities to the east of the subject site. It may also prove beneficial to provide commercial opportunities upon this site to assist in the servicing of likely future residents of identified potential development land to both the north and south of the Fraser / Leisure Drive intersection. It should however be noted that significant engineering treatment is required to commercial site to efficiently operate in such proximity to the intersection of Fraser and Leisure Drives. Whilst Council's Engineering Services Division has raised no significant objections in this regard, detailed assessment and design will be undertaken as further applications are received for development on the site.

Whilst no medium density sites are identified within DCP No.3, no significant adverse impacts are considered likely in relation to their proposed inclusion. Indeed, the siting of the proposed medium density lots in close proximity to primary access points is considered desirable.

Two (2) separate open space parcels are proposed within the subject site. Proposed lot 436 (1409m<sup>2</sup>) is situated in the north-eastern corner of the site in the vicinity of the proposed medium density sites. Whilst the location and configuration of this parcel are considered to be a marked improvement on the proposal originally tabled, the proposed size is considered inadequate, with a minimum 2000m<sup>2</sup> preferred. Council officers have advised the applicant of this concern, who has responded by way of letter on 15 August 2000. This response is summarised as follows:

### ***“Open Space Dedication***

*It is noted that development approval S95/05 of the site by Council dated 10 August 1995 included reference to drawing number G248/94-CP7. This plan indicated a total dedication of passive open space of 8.44 hectares for the site that included future development of the north east corner shown cross hatched.*

*Using current rates of population statistics of 2.6 persons per separate dwelling and 1.7 for medium density the projected demand for passive open space based on Council's DCP requirements for the total site (all stages) is as follows:*

*July 2000 - 1390 persons x 11.32m<sup>2</sup> = 15.735m<sup>2</sup>*



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*Based on the foregoing criteria this development provides some 8.44ha of dedication of passive open space, which is 6.87 hectares in excess of requirements.*

*Review of the above figures clearly shows that the estate in fact provides for significantly more passive open space than required. It is acknowledged that Council in Condition 47 item (ii) requests a further dedication of passive open space in the future stage 4 area of 2000m<sup>2</sup>. This dedication has been exceeded as the current application for this area shows a proposed dedication of 2936m<sup>2</sup>.*

*Whilst we note Council officer negativity to the acceptability of the area adjoining the main entry road for passive park purposes, the reality is that this area is used extensively by on the site residents for passive seating, walking, bike riding, meeting place and as a community focus point. It is our view that the area proposed to be dedicated in stage 4 should be included as part of the passive dedication.*

*In view of the foregoing it is our position that the concept as now proposed adequately addresses the needs for the estate for public open space.”*

### **Comment:**

Whilst it is acknowledged that the total dedication of open space across the site is substantial and indeed, in excess of that required, a large majority of that area is unable to be used for the purposes of quality useable passive recreation. The latter formed the basis of Council's request for an additional 2000m<sup>2</sup> of open space within the stage 4 area (consent S95/5). The applicant's assertion that that area located at the entrance to Flame Tree Park is suitable for inclusion as passive open space is not agreed with. In this regard, the use of this area by existing residents is considered to be indicative of the lack of quality useable passive open space within close proximity to the subject site, whilst the functional long-term use of this area for open space purposes is considered unable to be preserved. Having regard to the applicant's response and the above comments, the inclusion of land located at the entrance to the estate for passive open space requirements is considered unsatisfactory. It is therefore considered important to ensure that the proposed open space area (identified as proposed lot 436) is of a suitable size and configuration.

The applicant initially identified a number of 'duplex' allotments in accordance with the provisions of DCP No. 3. After discussions with Council officers, all reference to 'duplex' allotments has been deleted from the proposed development plans.

In light of the proposed departures from the existing provisions of DCP No. 3, Council has previously resolved to amend the DCP and place the amended plan on exhibition. The exhibition period has ceased, with two (2) submissions of objection received. The proposed amendment to DCP No. 3, is subject to a separate report within this agenda.

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### Development Control Plan No. 16 – Subdivision Manual (DCP No. 16)

The proposal is considered to be generally consistent with the relevant provisions of this plan.

### Development Control Plan No. 25 – Mosquitoes & Biting Midge (DCP No. 25)

Council's Entomologist has reviewed the proposal and raised no objections. No significant adverse impacts are considered likely in this regard.

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

The subject site is predominantly cleared, level and adjacent to existing or identified development lands. Detailed assessment of the proposal has not identified any significant constraints or indeed, likely adverse impacts. Those issues that have been identified as potential areas of concern are considered to have been satisfactorily addressed by the applicant, subject to the imposition of relevant conditions of consent.

The application is accompanied by a Flora & Fauna assessment for the proposed stage 4 development. The conclusion of this assessment is as follows:-

*“This report addresses the potential impacts of the proposed development of a small site located to the west of Fraser Drive in Tweed Heads South. The land is to be developed as stage 4 of the Flame Tree Park estate. The site is described as Lot 3 in DP 790131, Parish of Terranora, County of Rous.*

*The site supports a low closed grassland community and a small number of individual trees. No intact vegetation communities remain on-site.*

*No regionally significant (Sheringham & Westaway 1995), ROTAP (Briggs & Leigh 1995) or Threatened (Threatened Species Conservation Act 1995) flora was recorded from the site.*

*A review of the habitat requirements and distribution of those species listed as Threatened in the Fisheries Management Amendment Act (1997) revealed that an analysis of impacts on Threatened Fish and Marine Vegetation is not required to accompany the DA.*

*A small number of Threatened Fauna Species are considered potential occurrences at the site over time. An analysis of the potential impacts of the proposed activity on these species has been addressed in this report. Predominant impacts relate to the removal of Eucalypts, which provide a minor forage resource for nectarivorous birds and bats.*

*Analysis of the provisions of Section 5A of the Environmental Planning & Assessment Act (1979) revealed that the proposed development is unlikely to have a significant impact on any Threatened Species, Population or Ecological Community. A Species Impact Statement is not required to accompany the DA.*

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*Analysis of the provisions of SEPP 44 indicates that the site supports potential Koala habitat. A Koala Plan of Management is not required for the proposed development”.*

Having inspected the site and relevant documents and having regard to the above, the proposal is considered unlikely to create any significant adverse impacts in relation flora and fauna.

The applicant has submitted a detailed Soil and Water Management Plan and an Acid Sulfate Soil Management Plan in relation to the proposed development. Council’s Subdivision Engineer and Environment & Health Services Unit have reviewed the documents and raise no objection. In regard to the latter, relevant conditions have been incorporated into the recommendation.

Council’s Traffic & Transport Engineer has undertaken an assessment of the proposal (as amended). Whilst significant concerns were raised in relation to the plans originally submitted by the applicant, the proposal has since been amended to the general satisfaction of Council officers. Of particular note in this regard is the siting of the proposed access road adjacent to the northern boundary of the subject site. The majority of this proposed road is located within proposed sub-stage 4D and it is therefore likely that the proposed road will not be constructed until the overall proposal is nearing completion. As the proposal is directly related to the foreshadowed intersection treatment of Fraser / Leisure Drive, a suitable conditions is required to ensure that the proposed road is opened in conjunction with the completion of works at the intersection.

The proposal is considered unlikely to create any significant adverse social or economic impacts within the subject site or indeed, the wider area.

**(c) Suitability of the Site**

As discussed throughout section (b) of this report it is generally considered and accepted that the site is suitable for the development. The site has a history and commitment given by both the LEP and DCP for urban development in this location.

Having regard to the above and the details submitted by the applicant, the subject site is considered able to satisfactorily accommodate the proposed development.

**(d) Any Submissions**

The proposal was not statutorily required to be advertised.

**(e) The Public Interest**

Given the lack of likely adverse impacts associated with the proposal and Council’s long-term commitment for development upon the site, the proposal is considered unlikely to compromise the public interest.

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### FINANCIAL/RESOURCE/LEGAL IMPLICATIONS

Should the applicant be dissatisfied with the outcome of the application, a right of appeal exists to the Land & Environment Court.

### OPTIONS

Council has two main options in relation to the proposal. These options are listed as follows:

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

### CONCLUSION

The foregoing Section 79C assessment reveals that the application is generally satisfactory on merit and conditional approval is therefore recommended subject to Council adopting the exhibited amendments to DCP 3 as recommended.

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**6. ORIGIN: Subdivisions Unit**

**FILE REF: GS4/97/93 Pt2**

**REPORT TITLE:**

**Release of Caveat over Lot 1 DP 881169 Gollan Drive, Tweed Heads West (Former Seagulls Stadium Site) - Villa World Limited**

**SUMMARY OF REPORT:**

Council has registered a caveat over the subject land as a means of securing compliance with the conditions of development consent S97/93 and the Tripartite Deed of Agreement between Seagulls, North Sydney Rugby League Football Club and Council.

Villa World have now completed development of Lot 1 and have also complied with all conditions of the consent and agreement relating to that lot and accordingly the caveat may now be released.

**RECOMMENDATION:**

That:-

1. The caveat over Lot 1 DP 8811699 be released; and
2. All documents be executed under the Common Seal of Council.

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### REPORT:

On 6 February 1998 conditional development consent S97/93 was issued for a 3 lot subdivision of Lot 1 DP 700873 Scenic Drive, Gollan Drive, West Tweed Heads (The Seagulls Land).

To facilitate prompt release of the linen plan of subdivision, Council entered into a tripartite Deed of Agreement with Seagulls and North Sydney Leagues Club Limited to secure compliance with a number of consent conditions.

Council also registered a caveat over the lots as a further means of securing compliance.

The linen plan was subsequently registered as DP881169 on 26 October 1998 following which lots 1 and 3 were purchased by Villa World and Lot 2 (incorporating the existing Seagulls Club) was acquired by Norths.

Villa World have now completed development of Lot 1 and have also complied with all conditions of consent S97/93 relating to that lot.

The existing caveat over Lot 1 can therefore be released and this will facilitate registration and sale of the current Villa World development.

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### 7. ORIGIN: Development Control Unit

**FILE REF: DA4970/190 Pt1**

**REPORT TITLE:**

**Proposed Alterations and Additions to an Existing Dwelling at Lot A DP 406115 Seaview Street, Kingscliff**

**SUMMARY OF REPORT:**

An application has been received seeking approval for alterations and additions to an existing dwelling at the abovementioned land. The proposal will provide an additional storey to an existing single and two-storey dwelling. The additions will be over that part of the dwelling which is single storey only.

Adjoining property owners were notified and five (5) submissions of objection were received. The submissions raised concerns in relation to loss of views, overshadowing, excessive height of the structure, the structure is not architecturally sympathetic to the existing building or the locality, detracts on streetscape, the bulk and scale of the structure is disproportional and loss of privacy.

It is considered that the proposed additions are: excessive in height and not in character with the existing dwelling or adjoining development; are an overdevelopment of the site and are likely to create adverse impacts on the residential amenity and character of the locality especially the adjoining dwellings.

It is considered that the bulk, scale and the design of the proposed additions should be reduced and modified to make it more acceptable and compatible with the existing dwelling and the locality. Accordingly, the proposal, as is, should not be supported.

Plans of the proposal will be available at the Council meeting together with a scale model prepared by the applicants architect.

The owners of the land have also requested to address Council on the proposal.

**RECOMMENDATION:**

That the application submitted by Peter Gladwin and Jude Robb for alterations and additions to an existing dwelling at Lot A DP 406115 Seaview Street, Kingscliff be refused for the following reasons:-

1. The proposed additions are excessive in height and out of character with adjoining developments.
2. The scale, bulk and design of the additions are not consistent or compatible with the existing dwelling and the locality.
3. The proposal will detract on the residential character and amenity of the locality which is undesirable.
4. The proposal is contrary to the public interest.

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### REPORT:

**Applicant:** Peter Gladwin and Jude Robb  
**Owner:** As above  
**Location:** Lot A DP 406115 Seaview Street, Kingscliff  
**Zoning:** 2(b) Medium Density Residential  
**Estimated Cost:** \$60,000

### PROPOSAL:

An application has been received seeking approval for alterations and additions to the existing dwelling at the abovementioned land. The proposal involves the addition of another storey to an existing part single-storey and part two-storey dwelling. The additions are to that part of the dwelling which is single storey only. The dwelling will still be only two-storeys in height. The additional floor will have an area of 57.4m<sup>2</sup> and is proposed to be used as the master bedroom. A swimming pool is also proposed. Some alterations are also proposed to the existing dwelling which include additions of garage doors, new decking and new timber and glass doors.

The additions will not be built into the roof of the existing dwelling but rather the floor of the additions will be positioned approximately 0.5m above the top of the existing roof line. The additional floor will be positioned on nine (9) posts that will be constructed within the dwelling and rise above the roof of the dwelling. The roof of the dwelling which is made of asbestos will remain largely untouched. From the top of the roofline of the dwelling the additions will rise a further 4.5m in height (see attached plans).

The subject land has an area of approximately 373.1m<sup>2</sup> with frontage and vehicular access to Seaview Street. Existing improvements include a part single-storey and part two-storey dwelling generally constructed from fibro cladding with an asbestos roof. The land has a moderate fall to Seaview Street. The land is bound by a two storey dwelling to the north, residential units (two storeys) to the east, a two storey attached dual occupancy to the south, Seaview Street to the west. Adjoining property owners were notified and five submissions of objection were received. The details of these submissions will be discussed in the consultation section of this report.

### CONSULTATION:

Adjoining owners were notified and a total of five submissions of objection were received. The submissions of objection are summarised below and comments provided where necessary. In addition a response to each of the issues is also provided by the applicant.

❖ The proposal is not architecturally sympathetic to the existing building and the locality.

### Applicant's Response

*"Our architectural practice has a proven history of dedication to design. Over 20 architectural awards demonstrate a design skills and attention to detail to produce new buildings and renovations which are genuine contributions to the built environment and an advancement of building design. Buildings nearby vary enormously in their visual expression and there exists no one single style. Indeed, one pop-up extension to a building to the south-east at No 18 exhibits no consideration of visual impact or visual quality."*



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*The proposed extension addresses the issue of visual composition adeptly and is in keeping with the character of the original building. It is a simple extension but has been articulated by its window design, overhangs and edge detailing as a very lively and in no way, a second rate pop-up extension."*

### Comment

As discussed in Section b and c of this report it is agreed that the design of the proposal is not consistent with the existing building and the locality. It is considered that the proposal should be redesigned so that it is more sympathetic with the dwelling and residential development in the locality. These design changes include lowering the height of the structure and incorporating it into the main dwelling and a reduction in height of the southern wall of the proposal and pitching the roof similar to the dwelling.

#### ❖ Loss of views

### Applicant's Response

*"Views from other sites have been considered in determining the position of the extension. It has been setback from the street to accommodate the views from No 20 Seaview Street. No loss of view is experienced from No 14 and the narrow end of the extension is presented to No 16 to impact as little as possible on the view opportunities from No 16."*

### Comments

The subject site is surrounded by two-storey developments and it is accepted that at some stage the subject dwelling would also go to 2 storeys to be consistent with surrounding development and to take advantage of the views. Subsequently it is likely that any development at this site would block some views from adjoining properties. What also needs to be considered is the extent of this loss of views.

In this instance it is considered that the amount of views lost from adjoining properties as a result of the proposal is likely to be reduced to an acceptable level if the proposal is redesigned and down-scaled as discussed in sections b and c of this report.

#### ❖ Overshadowing

### Applicant's Response

*"The orientation of the extension creates minimal shadow impact on neighbours and indeed the position has been located to reduce any detrimental impact on neighbours. The balconies of neighbouring properties at No 16 are not affected and most of the shadow remains on the roof and within the property of the building being extended. The earlier removal of the roof over the stair was done to reduce any shadow impact on any other properties, particularly to No 16."*

### Comment

The applicants submitted shadow diagrams and these indicate that the proposal will cast shadows over adjoining development, particularly to the south and east, during particular times of the day. It is considered that the overshadowing is excessive due to the scale of the development. It is

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considered that the impact of overshadowing on adjoining properties is likely to be reduced if the proposed structure is redesigned and downscaled as discussed in this report.

- ❖ The proposal will create a wind tunnel effect

### Applicant's Response

*"No adverse impact is anticipated to neighbouring properties."*

### Comment

It is difficult to determine how much impact the proposal would have on winds. It is considered that the impact in this instance is not likely to change the wind patterns or the velocity in the locality.

- ❖ The height of the structure is excessive when compared to adjoining buildings

### Comment

It is agreed that the height of the structure is excessive and is inconsistent with adjoining development.

It is envisaged that the height of the proposed structure will generally be the same as those buildings to the south and east of the site which are located on higher ground. It is considered appropriate that the height of the structure should be lowered and be consistent with the fall of the land and with the roofline of the buildings to the north, south and east.

The reduced level (RL) at the top of the roof of the existing dwelling is approximately RL 25.1m. The proposed additions will increase this to approximately RL 29.0m. The RL at the top of the roof on the buildings to the south and east are RL 29.4m and RL 28.6m respectively. Obviously the proposed additions will be at a height similar to the buildings to the south and east which are located on higher ground due to the topography, whereas the dwelling to the north of the site, which is two-storeys and is on lower ground level, has a roof height of approximately 25.8m. This is only RL 0.7m higher than the height of the roof of the subject dwelling without the proposed additions. Subsequently, the proposed additions do not necessarily have to be so high to achieve views to the north and west.

It is considered that the height of the proposed additions should be reduced to a height that is more consistent with adjoining development. It is considered that the development would still enjoy views to the north and west and the impact to the residents to the south and east would also be reduced.

- ❖ Detracts from streetscape

### Comment

Even though the proposed additions are located to the rear of the site away from the street, it is considered that due to the height of the structure and its inconsistency with the rooflines in the locality the proposal would stand out and be out of character with the streetscape, which is not considered appropriate.

- ❖ Bulk and scale disproportional and the proposal looks like a tower

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### Applicant's Response

*"The extension is modest in size and located and orientated to provide no adverse impact on the streetscape. Its form is openable and transparent in part and the roof edge is thin to reduce any sense of solid or bulky form. The roof over the stair and the traditional dog leg stair have been removed after initial consultation with neighbours to reduce any sense of bulk and shadow impact."*

### Comments

It has been discussed in this report, and generally agreed, that the proposed structure is not in character with the existing building and adjoining developments. It is considered that the height of the structure should be reduced together with some design changes as discussed in this report, to make it more compatible with the locality.

The additions are separated from the main dwelling and could be considered to be a separate dwelling.

- ❖ Loss of privacy

### Applicant's Response

*"The privacy of adjoining properties has been considered already by amending the design to reduce extent of glazing facing No 20. However, some glazing has been left to maintain a transparency of the building and indeed to allow No 20 to look through part of the extension towards the view to the south-east. The walls and windows are located to reduce overlooking of neighbours properties, windows in No 14 are small in size and do not compromise privacy."*

*The view from the extension is towards the north, north-east and the north-west (the street). It does not look over the unit block at No 16 at all."*

### Comment

Due to the excessive height of the structure it is considered that it may adversely impact on the privacy of adjoining residences. It is considered that the most affected is the dwelling to the south as the southern elevation of the proposed structure has three windows which face the adjoining dwelling. These windows have views directly into the formal areas of adjoining house.

No windows are proposed on the east elevation so that the impact on the dwellings to the east should not be significant, however, the excessive height of the structure is still likely to detract on their privacy.

It is considered that a reduced height of the structure would improve privacy on adjoining dwellings without significantly detracting on the privacy of the proposed additions.

- ❖ Two-storey height limit

### Applicant's Response

*"The extension sits over a single storey section of the original house. No part of the completed residence would be more than two storeys above the adjoining ground level. The garage does occur below the building but only for part of the depth of the building and not below the extension."*

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*Because the extension is located so far back from the street, it will not read as a three storey structure.”*

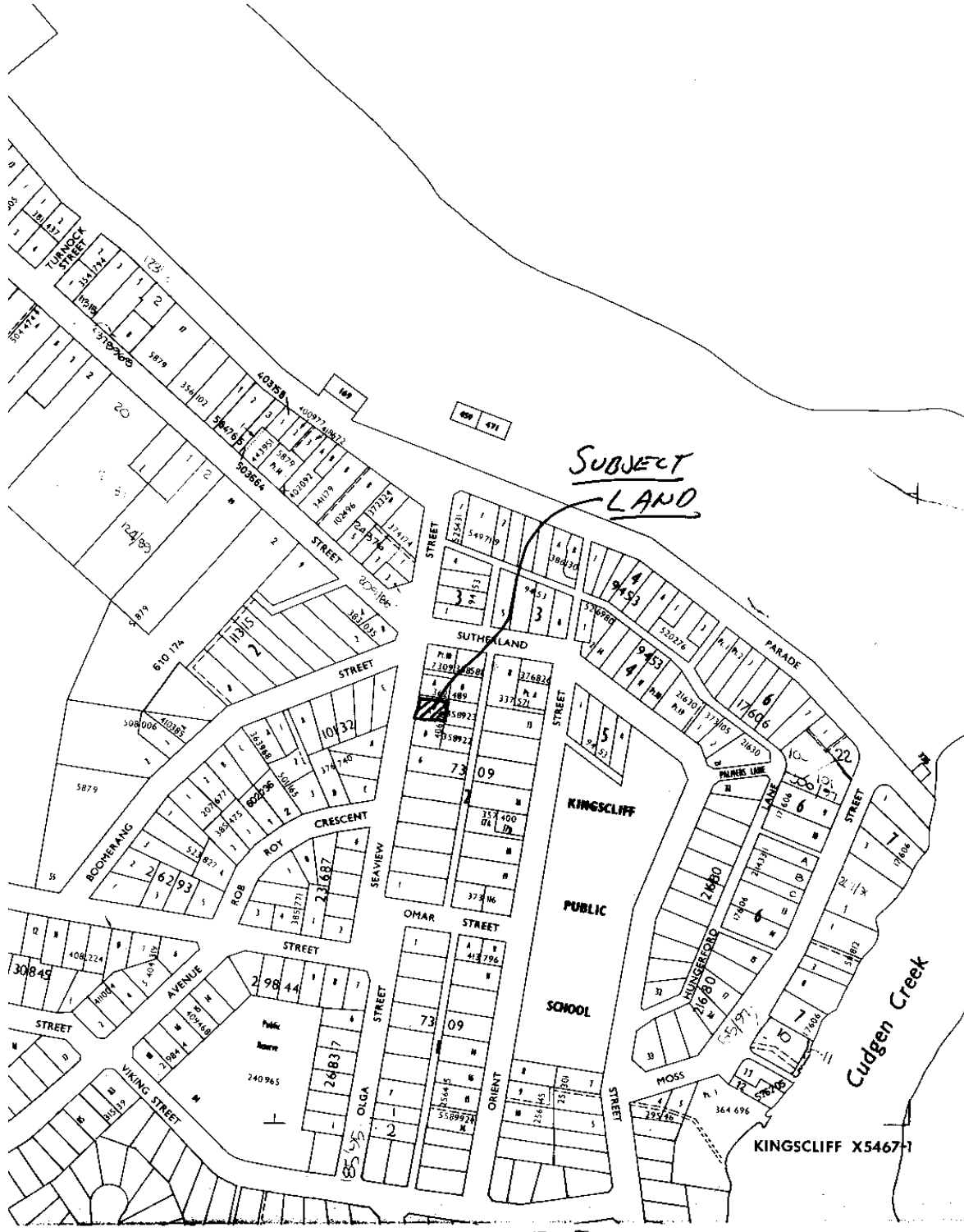
### Comment

The existing building is part single storey and part two storey. The proposed additions will be positioned over that part of the dwelling which is single storey only. Therefore the dwelling with the proposed additions will still be only two storeys in height.

The maximum space between the floor of the proposed additions and the roof of the dwelling is approximately 1.2m. Subsequently, this base is not considered to be a storey as it does not exceed 1.5m in height.

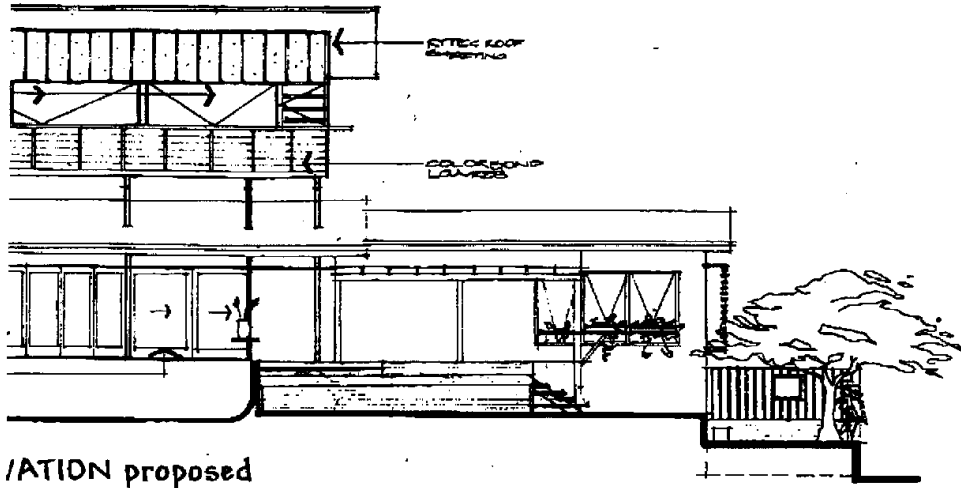
# Reports from Director Development Services

Figure 5 - Locality Plan



# Reports from Director Development Services

Figure 6 - Proposed Elevations



ELEVATION proposed

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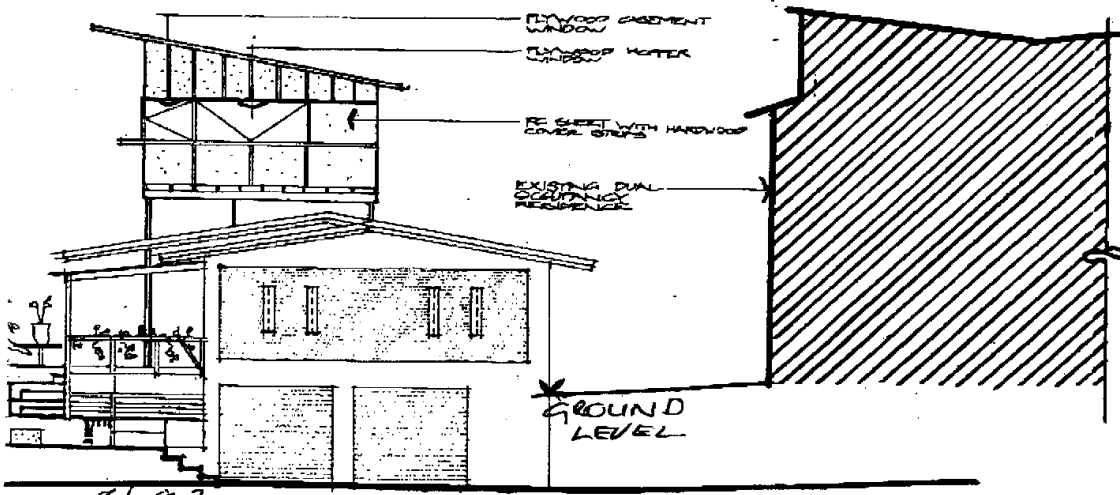
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18 Seaview St.  
 KINGSCLIFF

PROJECT NO.  
 811.275  
 SCALE  
 1:100  
 DATE  
 14.8.00

DRAWING NO.  
 CD-100



868.2  
 ELEVATION proposed 72

9.0 93

## Reports from Director Development Services

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### ASSESSMENT

The proposal has been assessed against the matters for consideration contained in Section 79(c) (i) of the Environmental Planning and Assessment Act 1979. This assessment appears below:-

**(a) (i) Statutory Provisions**

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land zoned 2(b) Medium Density Residential. The proposal is permissible subject to Council's consent.

The 2(b) zone objectives are as follows:-

Primary Objection:

- *To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.*

Secondary Objectives:

- *To allow for non-residential development which supports the residential use of the locality.*
- *To allow for tourist accommodation which is compatible with the surrounding locality.*
- *To discourage the under-utilisation of land for residential purpose, particularly close to Tweed Heads sub-regional centre.*

In regard to the above objectives it is considered that the proposal does not comply as it will not achieve maximum densities ie medium density housing. The proposal will still create a single dwelling ie low density. However, consideration needs to be given to the fact that this application is not for a new dwelling but for additions and alterations to an existing dwelling. In addition to the subject land only has an area of 373.1m<sup>2</sup> and at best the site could only accommodate a dwelling house. Therefore consistency with the zone objectives would be considered to be unreasonable and difficult to achieve under the circumstances.

Consideration also needs to be given to Clause 8(i) – consent considerations of the TLEP 2000 which provides as follows:-

- (1) *The consent authority may grant consent to development (other than development specified in Item 3 in the table to clause 11) only if*
- It is satisfied that the development is consistent with the primary objectives of the zone within which it is located.*
  - It has considered those other aims and objectives that are relevant to the development.*

## Reports from Director Development Services

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- iii. *It is satisfied that the development would not have unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out on the area of Tweed as a whole.*

In relation to the above, as already discussed, under the circumstances as the proposal is for alterations and additions to an existing dwelling on an allotment with an area of only 373.1m<sup>2</sup>, it would be unreasonable to expect the proposal to comply with the zone objectives in this instance.

The locality can be described as having a mix of single dwellings and medium density development. The adjoining allotment to the north has also recently had a two-storey dwelling constructed.

### Clause 16 – height of buildings

The objective of this clause is as follows:-

*To ensure that the height and scale of the development is appropriate to its location, surrounding development and the environmental characteristics of the land.*

The height of the existing dwelling where the proposed additions are to be located over is single storey or approximately 5m in height from the natural ground level at its lowest point to the top of the roof.. The proposal will add an additional 4.5m in height for the addition of a further storey.

The floor level of the additions will be approximately 0.5m above the top of the existing roofline and then the additions will rise a further 4 metres in height.

It is considered that the height of the additions is excessive and should be reduced. The proposed height of the structure is likely to create adverse impact on the adjoining properties in regard to overshadowing and visual appearance.

The scale of the development in terms of height, is also considered to be excessive. It would be more appropriate to lower the height of the proposed additions and incorporate it more into the roof of the dwelling. This is likely to reduce impacts on adjoining properties in terms of bulk appearance and overshadowing.

In relation to the southern wall of the additions, it is also considered that this wall should be reduced in height so as to reduce the visual appearance and bulk from the dwellings to the south-east. One option here may be to pitch the roof similar to that on the existing house thereby reducing this wall height.

Generally, it is considered that the height and scale of the proposed additions is excessive and should be reduced so that the impact on the adjoining properties is also reduced. Reducing the height of the structure, particularly by incorporating it more into the roof and structure of the dwelling would likely improve the appearance and design and create a development that is consistent with the existing dwelling and adjoining development.



## Reports from Director Development Services

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### (b) **Impacts**

Minimal physical works are likely and these are unlikely to create any significant adverse environmental impacts.

As previously discussed the height of the proposal is of concern and it is likely that this has the potential to create adverse impacts on adjoining residences in terms of visual appearance. It is considered that this impact is likely to be reduced by redesigning the proposed additions to reduce the height of the structure and incorporate it more into the structure of the existing dwelling. In addition the southern wall of the additions also needs to be reduced and this may be achieved by incorporating a pitched roof similar to the existing dwelling so that it has a height similar to the northern wall.

It is accepted that the proposal will create additional overshadowing on adjoining properties, particularly the properties to the south and east. What also needs to be considered is the extent of this impact. The applicant has provided shadow diagrams and these diagrams generally indicate that the proposal will cast shadows over adjoining development but it is considered that this overshadowing is not significant and the residences will still enjoy considerable sunshine during the day. Those most affected by overshadowing are those residents in the units (5 units) to the east of the development. The residents are mostly affected by overshadowing in the afternoon at 3.00pm. However, it is considered that the residents of these units will still enjoy adequate sunshine up until this time which is considered adequate. However, if the height of the proposal was reduced as discussed in this report, it is likely that these units would enjoy more sun and that overshadowing would be reduced, which is favoured.

The proposal is also likely to create unacceptable visual impacts due to its scale, design and height. This will mainly affect the properties to the south and east again. The occupants in these dwellings will generally view an additional wall up to 4.5m in height which is unsightly. It is considered that the southern wall of the additions should be reduced in height and the roof pitched to reduce this impact and create a design which is more acceptable and consistent with the existing building and adjoining buildings.

### (c) **Suitability of the site for the development**

The subject land is surrounded by two storey development and it is accepted that the subject site and some stage would also go to two storeys to be consistent with adjoining development and to take advantage of the views to the north and west. Nevertheless, such development still needs to take into consideration its likely impacts and consistency in terms of scale, height and design etc. with the existing dwelling and adjoining residences.

In this regard the proposed development, in its present form, is not suitable to the site because of its excessive height and inappropriate design. The additions should be lowered and incorporated into the roof of the existing dwelling. This is likely to reduce the height and scale of the development and create a design that is more consistent with existing dwelling and adjoining dwellings. In addition it is also considered that the southern wall of the additions is excessive in height and should be reduced and the roof pitched to be consistent with the roof pitch of the existing dwelling.

## Reports from Director Development Services

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**(d) Submissions**

As discussed in the “*Consultation*” section of this report, adjoining and adjacent property owners were notified and five (5) submissions of objection were received.

No public authority submissions were received.

**(e) Public Interest**

The public interests have been taken into consideration and it is considered that the proposed development is not suitable to the locality and it is considered that the height, design and scale, of the additions should be reduced and be more sympathetic to the existing dwelling and the adjoining development.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

In the event that the applicant is dissatisfied with Council’s determination, a right of appeal exists to the Land and Environment Court. The proposed development is not designated and as such, no third party appeal rights exist.

**OPTIONS:**

It would appear that in this instance the following options are available to Council:-

1. That the application be refused.
2. That the application be approved subject to appropriate conditions.

**CONCLUSION:**

Having regard to the above Section 79(c) (i) assessment it is considered that the proposal should not be supported. It is considered that the proposed additions are excessive in height, and the scale and design are not consistent or compatible with the existing dwelling or the residential character of the locality, particularly the adjoining dwellings. It is also concluded that the additions will significantly detract from the residential character and amenity of the locality.

It is considered that the height, design and scale of the additions should be reduced to be more sympathetic to the locality and adjoining development.

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## Reports from Director Development Services

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### 8. ORIGIN: Development Control Unit

FILE REF: DA4030/3980 Pt3

#### REPORT TITLE:

**Application to Dredge an Area Along the Central and Western Portion of the Harbour Entrance to Improve Navigation for all Vessels to the Southern Boat Harbour and Facilitate the Erection of a Marina - Crown Land Below Mean High Water Mark Within the Back Channel of Terranora Creek Fronting Lot 709 DP 726652 and Afex Park, Tweed Heads**

#### SUMMARY OF REPORT:

It is proposed to dredge an area of Terranora back channel to construct a 29 berth marina adjacent to the "Old Markwell site". The dredging works are proposed to be carried out over a period of 5-7 days. Material extracted from the channel will be used for reclamation works along the foreshore of Afex Park. The main issues relevant to the proposal are management of Acid Sulphate Soils and sediment dispersion within the waterway.

#### RECOMMENDATION:

That Development Application 0675/2000DA submitted by Norva Investments Pty Ltd for permission for dredging of Crown seabed land being the back channel of Terranora Creek, Tweed Heads adjacent to Lot 709 DP 7226652 and Crown Reserve 87361 (Afex Park) and reclamation works of Apex Park, be approved subject to the following conditions:

#### GENERAL

1. The development shall be completed in general accordance with Plan No 1050-04 and 1050-05 prepared by International Marina Consultants and dated 17 February 2000 and Environmental Impact Statement prepared by Master Planning Services Australia Pty Ltd dated April 2000, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. 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.
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, 3<sup>rd</sup> Edition, NSW Government, or
  - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

## Reports from Director Development Services

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5. A detailed precinct embellishment plan for Afex Park consistent with the preliminary plan previously submitted to Council numbered WDM 01<sup>A</sup> January 1999 prepared by Eldon Botcher Architect is to be submitted to Council. This plan is to include planting details and have regard to strategy 10(a) and 10(e) of the Tweed Heads Southern Boatharbour Management Strategy. This plan is to be approved by the Director Development Services prior to commencement of works.
6. The retaining wall must be certified by a Qualified Structural Engineer verifying the structural integrity of the wall after construction.
7. The embellishment of Afex Park is to be carried out in accordance with the approved plan referred to in condition 5 of this consent at the completion of the marina development referred to in development consent 0685/2000DA.
8. Materials used in the construction of the works are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

### **ENVIRONMENT PROTECTION**

9. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services prior to the commencement of works.

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

10. The appointed contractor is to be responsible for the implementation and compliance with the Acid Sulphate Soils Management Plan prepared by Soil Surveys Engineering Pty Ltd Reg KL2520 and dated 9 February 2000. The contractors name and details are to be supplied to Council prior to works commencing on site.
11. The contractor shall appoint an appropriately qualified Geotechnical Engineer to supervise all aspects of the Acid Sulphate Soil Management Plan prepared by Soil Surveys Engineering Pty Ltd Reg. KL2520 and dated 9 February 2000 unless the contractor possesses such appropriate qualifications to satisfy this condition.
12. The name and contact details of any Geotechnical Engineer appointed to supervise the aspects of the Acid Sulphate Soils Management Plan are to be supplied to Council prior to works commencing on site.
13. All works are to be carried out so as to comply with the requirements and provisions of the Acid Sulphate Soil Management Plan prepared by Soil Survey Engineering Pty Ltd KL2520 dated 9 February 2000.
14. Council's Director Environment & Community Services is to be supplied with the results of all monitoring undertaken in accordance with the requirements of the Acid Sulphate Soils Management Plan upon request and generally as required by the Acid Sulphate Soils Management Plan by no later than 24 hours following their availability to the approved contractor.

## Reports from Director Development Services

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15. If the sedimentation control pond is located in the immediate vicinity of the public reserve (Afex Park) then it shall be securely fenced off so as to restrict access to the pond by members of the public.
16. A siltation curtain shall be deployed around the dredger and maintained to the satisfaction of the Director Environment and Community Services.
17. Waters from the sedimentation pond are not to be released into the river unless the level of suspended solids is less than 50mg/l. Water quality analysis to verify compliance with this requirement is to be carried out and results submitted to Council upon request by Council's Environmental Health Officer.
18. Council is to be provided with details indicating the location of all filter screens and silt fences and the size and location of the proposed sedimentation pond prior to work commencing on site.
19. A turbidity curtain is to be deployed during the period of stabilisation of the spoil associated with the Afex Park foreshore area to control any dispersion of silts.
20. Fuels and other potential contaminants are to be stored in appropriately located and designed areas.
21. Construction site (dredging operation) activities are to be limited within the following times:

Monday to Friday	7am to 6pm
Saturday	8am to 1pm

No construction work is to take place on Sundays or Public Holidays.
22. 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.
23. 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.
24. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
25. 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.

## Reports from Director Development Services

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

26. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.
27. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
28. Any imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.
29. 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 good condition.
30. 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.

31. The water quality control pond shall be fully fenced in accordance with the requirements of AS1926-1993 for children less than five (5) years of age.
32. 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*".
33. The sedimentation pond to be used for controlling the quality of tail water exiting the reclamation area shall be constructed and operated in accordance with part 7 – "Sediment Control" of Annexure A "Code of Practice for Soil and Water Management on Construction Works" above, if the material dredged contains more than 10% of dispersible fines, treatment shall be in accordance with part 7.7. Water shall not be permitted to discharge from the sediment pond unless it has a suspended solids concentration not exceeding 50mg/l.
34. Submission of an Environmental Management Plan prior to the commencement of works incorporating the provisions of the Environmental Impact Statement and

## Reports from Director Development Services

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conditions of this consent. This plan is to be to the satisfaction of the Director Development Services.

35. Submission of a plan prior to the commencement of works detailing the reclamation works prepared and certified by a Structural Engineer and to the satisfaction of the Director Development Services.

### **PRESCRIBED/BUILDING**

36. 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.
37. 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 contractor, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.

### **GENERAL TERMS OF APPROVAL – NSW FISHERIES**

38. The intended works are authorised by the Minister for Fisheries prior to the commencement of any work. See page 76 of the Policy and Guidelines booklet – ie. a permit under S.200 and 201 (dredging and reclamation) of the Fisheries Management Act 1994 must be obtained prior to the commencement of works.
39. The works are restricted to the area described by the development application.

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### REPORT:

**Applicant:** Norva Investments Pty Ltd  
**Owner:** As above  
**Location:** Crown Land Below Mean High Water Mark within the Back Channel of Terranora Creek fronting Lot 709 DP 726652 and Afex Park, Tweed Heads  
**Zoning:** Uncoloured under Tweed Local Environmental Plan 2000  
**Est Cost:** \$35,000

### BACKGROUND

Council has received a development application to dredge an area along the central and western portion of the harbour entrance to improve navigation for all vessels to the Southern Boat Harbour. The dredging is also required to allow the construction of a 29-berth marina. A separate application has been lodged for the marina. Item xxx of this business paper contains a report regarding this development. The two reports should be read in conjunction as the two developments are inter-related.

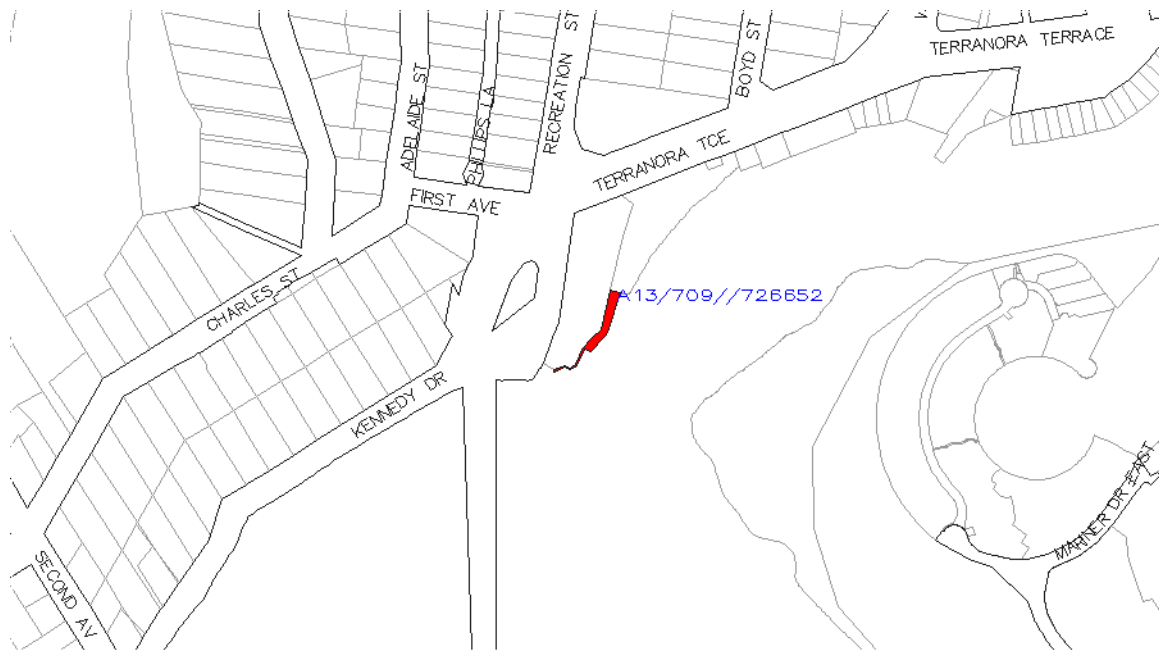
The dredging and marine development is an ancillary component to the multi-use pier two "Fishermans Wharf" style development approved on the adjacent foreshore land. Council on 7 September 1998 approved a commercial/retail complex and associated parking. Council approved a further extension to this development on 29 January 1999. To date construction of this development has not commenced. The development approved comprises two detached commercial buildings one being single storey and the other two storey, refurbishment of the existing car park are within public reserve 87361 and construction of additional 101 car parking spaces in total and construction of a timber board walk within existing boundaries of special lease 1962/11 and a portion of the reserve. There is also a current development application with Council for the establishment of a tavern within one of the approved buildings.

This application for the dredging of the seabed area involves an area of approximately 1410m<sup>2</sup>. In total an estimated 600m<sup>3</sup> of material is to be removed. The dredging will be completed within 5-7 days from commencement. Dredged material is proposed to be used for reclamation works along the foreshore of Afex Park.



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**FIGURE 1 - SITE DIAGRAM**



# Reports from Director Development Services

FIGURE 2 - DREDGING

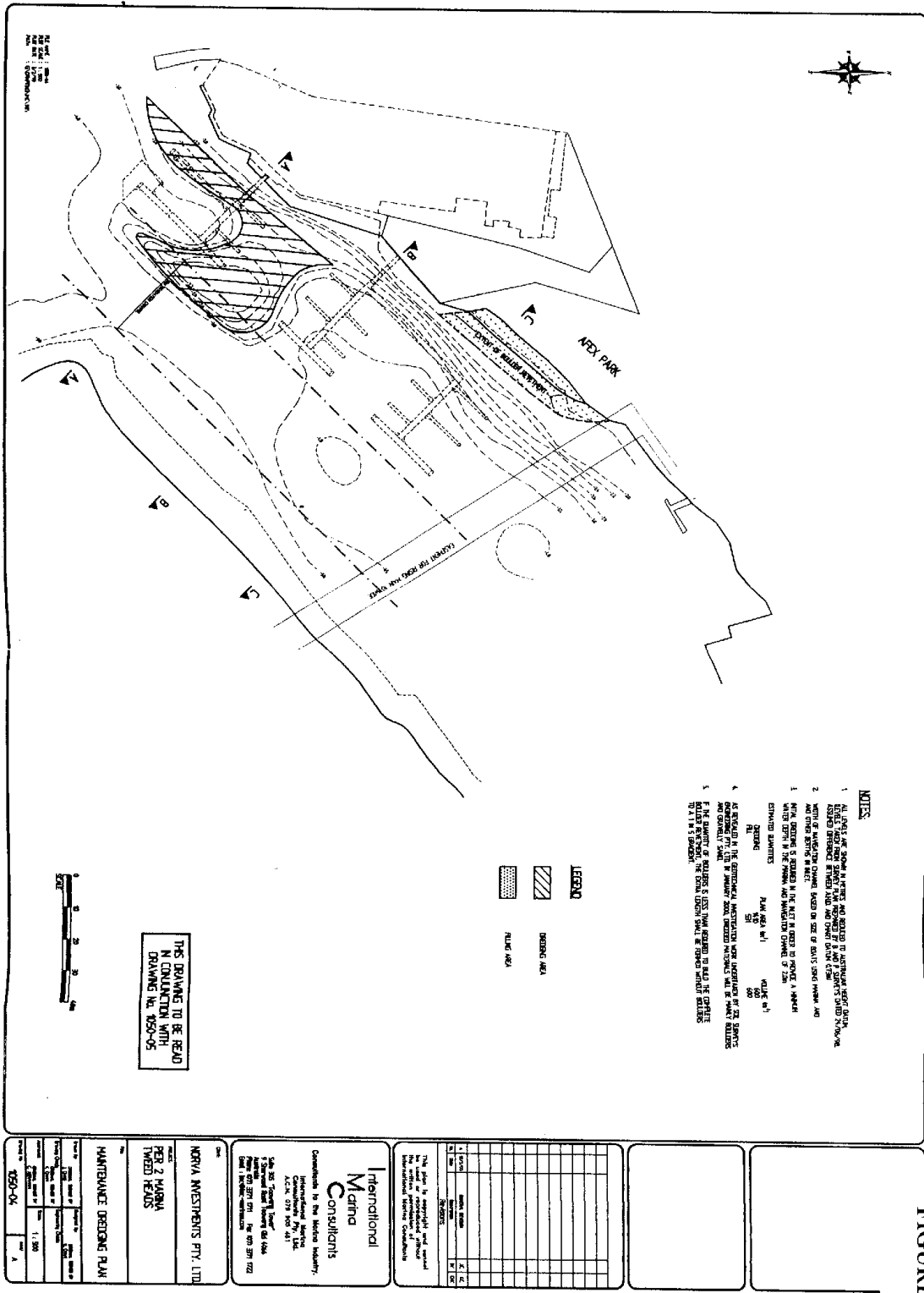
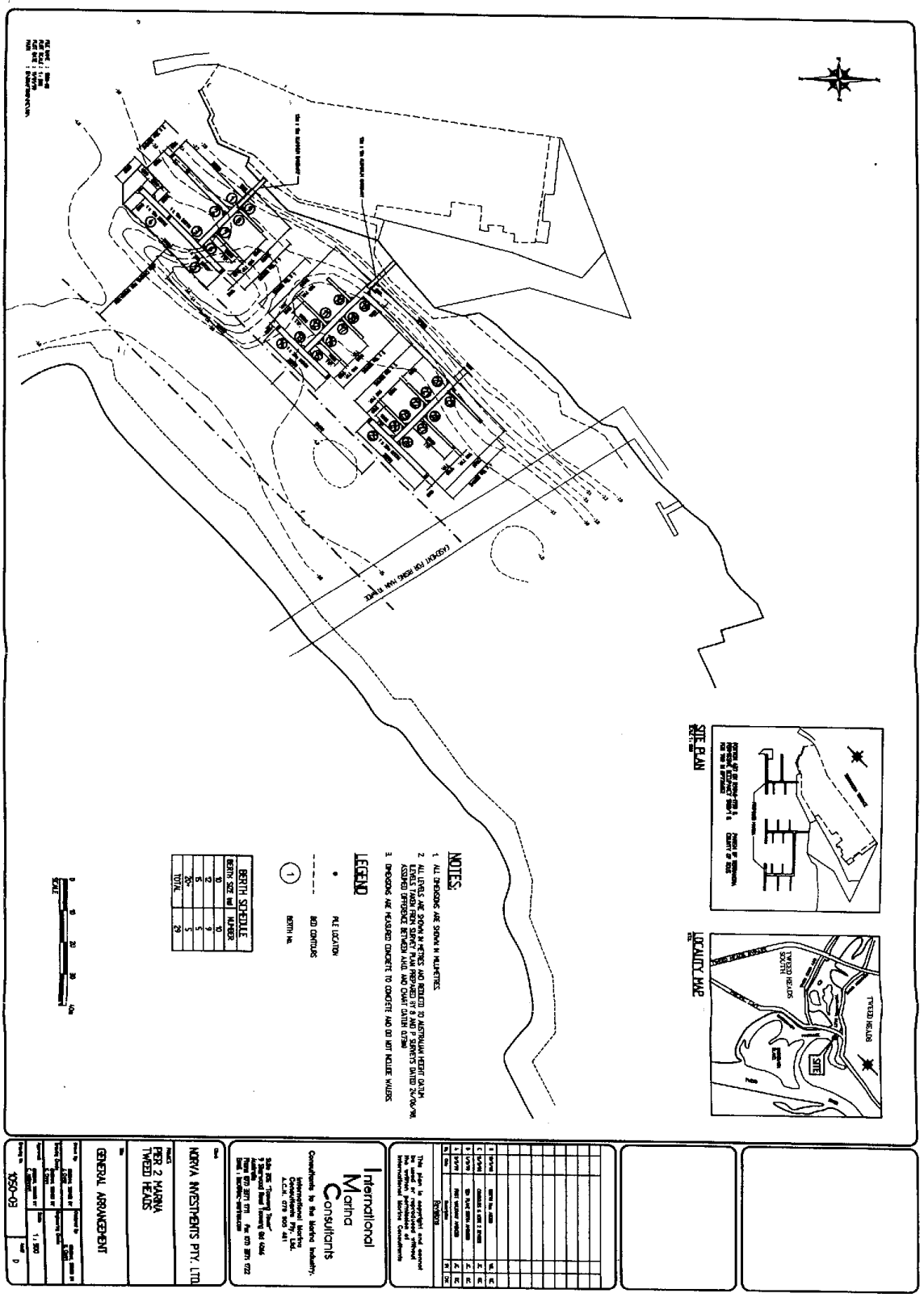


FIGURE 2

# Reports from Director Development Services

FIGURE 3 – MARINA



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### EVALUATION

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

**(a) (i) Any Environmental Planning Instrument**

The subject development is classified as designated development under the provisions of Schedule 3 of the Environmental Planning and Assessment Regulation 1994. As required by the provisions, the development application was accompanied by an Environmental Impact Statement (EIS). The development is also identified as "Integrated Development" requiring the approval of the Department of Land and Water Conservation and NSW Fisheries.

The site of the dredging is located on uncoloured land under the provisions of Tweed Local Environmental Plan 2000 (TLEP 2000). Clause 13 of the LEP states that:-

*"A person must not carry out development on unzoned land except with development consent".*

In deciding whether to grant consent to development on unzoned land, the consent authority must consider:-

- (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 subject development is located adjacent to land zoned 3(d) Commercial (Waterfront) and 6(a) Open Space. The works will improve and maintain navigational routes within the channel and facilitate the erection of a 29-berth marina which is ancillary to a approved commercial waterfront development. It is considered the proposed dredging works are compatible with development permissible in the adjoining zones and the character and use of the existing and approved development in the vicinity.

## Reports from Director Development Services

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The proposed works are below mean high water mark of the estuary. A 30m navigational channel will be maintained on completion of the marina. During the dredging operations the method of dredging will not impede navigation of commercial and recreational craft significantly.

Tweed Heads Southern Boatharbour Management Strategy applies to the subject area. The dredging proposed for the purpose of a marina in this area is consistent with this strategy.

The potential impacts on the natural environment include:-

- Increased erosion and sedimentations
- Changes to tidal hydraulics
- Water quality and acid sulfate soils
- Impact on marine flora and fauna
- Noise during the carrying out of works
- Archaeology
- Contaminated soils

The Environmental Impact Statement has examined all these issues and concluded that the proposal will not have a significant impact subject to appropriate management practices being employed. The proposal will therefore not have a significant impact on the natural environment.

Having considered the above it is considered the proposed development is acceptable and Council may grant consent under the provisions of Clause 13 of TLEP 2000.

### **Clause 31 – Development adjoining water bodies**

The objective of the clause is to protect and enhance scenic quality, water quality, aquatic ecosystems, bio-diversity and wildlife habitat corridors while providing adequate access to waterways.

*(3) Consent must not be granted to development on land to which this clause applies, within such distance as is determined by the consent authority of the mean high-water mark or, where there is no mean high-water mark, the top of the bank or shore of a stream, creek, river, lagoon or lake unless it is satisfied that:*

- (a) the development will not have a significant adverse effect on scenic quality, water quality, marine ecosystems, or the bio-diversity of the riverine or estuarine area or its function as a wildlife corridor or habitat, and*
- (b) adequate arrangements for public access to and use of foreshore areas have been made in those cases where the consent authority considers that public access to and use of foreshore areas are appropriate and desirable requirements, and*

## Reports from Director Development Services

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*(c) the development is compatible with any coastal, estuary or river plan of management adopted by the Council under the Local Government Act 1993 that applies to the land or to land that may be affected by the development, and*

*(d) it has considered the impact of increased demand from domestic water supply on stream flow.*

The development is satisfactory in regard to each of the above points where relevant. This issue is further addressed later in this report.

### **Clause 35 – Acid Sulphate Soils**

The dredging works are to be carried out on land identified as Class 1 land on the “Acid Sulphate Soil Planning Map”. Geotechnical tests carried out indicated that there is a low to moderate risk of acid sulphate soils being present. A satisfactory Acid Sulphate Soils Management has been prepared in accordance with the requirements of this clause.

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

NCREP 1988 applies to the subject land and must be taken into consideration when considering the application. The following clauses within this plan are applicable:-

### **Clause 15 – Wetlands and Fishery Habitats**

*“The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:*

*(a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat;”*

### **Comment**

Water flows will not be significantly affected by the proposal. Appropriate measures are to be put in place to protect the water quality in the area during construction.

*“(b) the need to conserve the existing amateur and commercial fisheries;”*

### **Comment**

A navigational channel of 30m will be maintained providing access to the harbour for commercial and amateur fisherman. The development will have no significant impact on commercial or amateur fisheries. No seagrass will be affected as a result of the proposal.

*“(c) any loss of habitat which will or is likely to be caused by the carrying out of the development;”*

## Reports from Director Development Services

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### **Comment**

No loss of habitat will result from the development.

*“(d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve;”*

### **Comment**

The development adjoins a public foreshore area (Afex Park). The foreshore area will be rehabilitated as part of this proposal.

*“(e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution;”*

### **Comment**

The greatest potential of pollution of the estuary is from acid sulfate soils. Appropriate construction and management practices are proposed to minimise the risk of this occurring.

*“(f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves;”*

### **Comment**

No aquatic reserves exist in the immediate vicinity of the development.

*“(g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion; and”*

### **Comment**

The Department of Land and Water Conservation raised no objections to the proposal.

*“(h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved; and”*

### **Comment**

The fauna and flora assessment submitted with the EIS indicated no impact on any native vegetation.

*“(i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment”.*

## Reports from Director Development Services

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### **Comment**

DLWC & EPA have identified no specific recommendations applicable to this development.

### **Clause 32B – Coastal Lands**

*“In determining an application for consent to carry out development on such land, the council must take into account:*

- (a) the New South Wales Coast Government Policy;*
- (b) the Coastline Management Manual;*
- (c) the North Coast: Design Guidelines*

*The council must not consent to the carrying out of development which would impede public access to the foreshore”.*

The proposed dredging operations are not inconsistent with the NSW Coast Government Policy, Coastline Management Manual or North Coast Design Guidelines. The development will not restrict public access to the foreshore area but rather embellish and improve this area.

### **Clause 81 – Development Adjacent to Ocean or a Waterway**

*“The council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:*

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

The dredged material will be used for reclamation works within Afex Park improving the amenity of this foreshore area. The management trust for this reserve has endorsed the plan for these works. The works are also consistent with Tweed Heads Southern Boat Harbour Management Strategy. No buildings are proposed.

### **Clause 18 – Extractive Industry**

This clause requires the consent authority to include any necessary conditions requiring a sediment control plan and rehabilitation. In this case it would be appropriate to require a sedimentation plan to be submitted along with a landscape plan for the reclamation works.



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### State Environmental planning Policies (SEPPs)

No SEPPs specifically apply to the development.

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

None applicable to this development.

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

No applicable plans apply to the proposed dredging.

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

#### Description of Existing Environment

The site is adjacent to lands that had been previously occupied by the former Markwell Pacific food processing factory, which was subsequently demolished in recent times. The site is also adjacent to Afex Park, the foreshore embankment to Wharf Street (old Pacific Highway) and the Council sewerage pumping station.

The Southern Boatharbour is the primary boating harbour in Tweed Heads and provides mooring and service facilities for the commercial fishing fleet, commercial boat operations and private craft. The adjacent western foreshore has been stabilised by various methods over the years. The western foreshore of Greenbank Island is untreated and has undergone erosion in recent times, considered to be the result of existing boat traffic.

The nearest residences are located to the north west of the site (approximately 160 metres) and east (approximately 180 metres).

The site is situated at the entrance to the Southern Boat Harbour and is relatively sheltered from Terranora Creek tidal current. The tidal prism is considered small and tidal velocities are three to four times less in magnitude than at the nearby Boyds Bay Bridge.

The seabed consists mainly of hard packed accumulated sands and gravels. Anecdotal evidence indicates that boulders and concrete rubble were deposited along the western foreshore and within the channel some 20-30 years ago.

#### Tidal Hydraulics

Details of hydraulic modelling undertaken by Patterson Britton and Partners concludes that the tidal velocities through the proposed dredging area are less than 0.2m/sec. These are reported to be below the threshold of movement of sand and are three to four times below the tidal velocities at Boyds Bay Bridge.

Patterson Britton in their report concluded that the proposed dredging would have no significant impact on tidal flows into or out of the Boat Harbour arm.

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### Erosion and Sedimentation

Bank erosion along the eastern bank of the entrance to the Southern Boat Harbour (The Anchorage) is evident and believed to be primarily the result of wake from boating activity in the area. Much of the left riverbank along the entrance of Terranora Creek has been protected against such wave action.

It is not anticipated that the dredging operations will increase erosion in the area.

The proposed dredged material has been identified as "hard-packed, accumulated sand". Patterson and Britton have stated that "from the available data and our experience we would anticipate that a turbidity problem would not develop as a result of the dredging activity. They have however recommended that a silt curtain be deployed around the dredger to contain any turbid water should it occur.

A curtain should also be deployed around the Afex Park reclamation area. These requirements should be incorporated into conditions of consent.

### Acid Sulphate Soils

Geotechnical investigations were carried out as part of the EIS. The Department of Land and Water conservation Acid Sulphate Soils maps identify the area proposed to be dredged as Class 1 land. Tests carried out indicated a low to moderate level of potential acidity in the materials to be dredged. An acid sulphate soil management plan has been prepared and forms part of the EIS. Dredged material is to be stockpiled, tested, and treated prior to being placed behind the revetment wall constructed as part of the reclamation works. Stockpiles will be bunded with discharge from this area being contained in ponds and treated prior to discharge back to the river. These works will be carried out on the public reserve area adjacent to the reclamation area.

The proposed method of treatment of acid sulphate soils is acceptable and no objection has been raised by Council's Environment and Health section subject to appropriate conditions being placed on any consent granted.

### Marine Flora and Fauna

A fauna and flora assessment including an eight-part test has been carried out. Consideration of 1995 aerial photography, mapping of seagrass by the Public Works Department in 1991 and a site inspection failed to observe the occurrence of any seagrass or macro algae within the proposed dredge area.

The closest areas of seagrass were identified as being approximately 300 metres to the southwest of the site on the northern side of Boyds Island.

It is not expected the dredging will create a sediment disturbance which will affect any seagrass beds in the area.

The eight-point test submitted with the application concludes that there will be minimal potential for adverse impacts on native fauna or threatened species. Based on this submission it is reasonable to conclude that a Species Impact Statement is not required to be prepared.

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### Noise

A Noise Impact Assessment was undertaken by Craig Hill and Associates to assess noise impacts from dredging operations and the subsequent marina development.

The ambient noise levels to the most sensitive commercial and residential properties to the east, north and west of the site were recorded. The report concludes that noise generated as a result of the dredging activities would be within the required criteria of ambient + 20dB(A) for short duration construction of four (4) weeks or less.

### Traffic

The only traffic generated by the development will be during the mobilisation and demobilisation of dredging plant. It is also expected that boulders will be encountered and require removal if not suitable for the reclamation works. For the short duration of the development (5 – 7 days) traffic generation will be minimal and can be adequately accommodated within the existing road network.

### Contaminated Soils

Due to the known history of the local area and findings from the geotechnical investigations the EIS concluded that the potential of contamination was remote. Council's Environment and Health Services Unit concurred to this conclusion.

#### **(c) The suitability of the Site**

Subject to issues previously discussed in this report being managed properly it is considered the site is suitable for the subject works.

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

The subject development was identified as Integrated Development as a result of approvals being required from NSW Fisheries and Department of Land and Water Conservation. In accordance with the Act the applicant submitted a copy of the application to both of these government authorities prior to lodgement with Council.

NSW Fisheries raised no objections to the proposal and issued their general terms of approval subject to two conditions. Thus conditions are required to be attached to any consent granted by Council.

Department of Land and Water conservation advised that a Part 3A permit was not required and raised no objections to the proposal.

Consultation was carried out with National Parks and Wildlife (NPWS) and the Environmental Protection Authority (EPA).

The EPA declined from making a formal submission regarding the proposal as the development does not constitute a scheduled activity under the Protection Of The Environment Operations Act 1997.

NPWS raised a number of issues which are summarised below:-

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### Aboriginal Heritage

The applicant was requested to further investigate the presence of shells found during the geotechnical investigations to establish their origins. National Parks were concerned that the presence of these shells may indicate the presence of an aboriginal site.

The applicant submitted further information indicating the shell content found in the samples were typical of many low lying areas in the Gold Coast area and were not of a concentration to indicate the presence of a "midden". The applicant has concluded therefore that the dredging area does not contain an aboriginal site.

### Foreshore reclamation

NPWS identified the importance of management of issues relating to acid sulphate soils, erosion, bank stability and water runoff during the reclamation works. Appropriate conditions are proposed to ensure these issues are addressed adequately.

### Monitoring

NPWS recommends that water monitoring takes place within the area prior to, during and on completion of works. This will be a condition of consent.

### Public Submissions

The application required advertising under the provisions of the Act for a period of 30 days. At the conclusion of the exhibition period no submissions were received.

## (e) **Public Interest**

Studies and Policies which apply to the site and its future development are as follows:-

### Tweed Heads Southern Boatharbour Management Strategy

This strategy identified the need for reclamation works along the foreshore area of Afex Park and a possible marina adjacent to the old Markwells site.

This application is therefore consistent with this strategy.

### Tweed Heads 2000+

The subject site is located within the southern boatharbour precinct in this document. The need for developing pedestrian links along the foreshore area was a recommendation of this strategy. The proposed foreshore reclamation works will aid in establishing these links along with the proposed boardwalk associated with the adjoining Pier 2 commercial development.

It is considered that the proposal is consistent with this strategy.

The proposed dredging works will facilitate the construction of a Marina and improve navigational routes for commercial and recreational vessels using the Southern Boatharbour. The proposal is consistent with this vision for the area and is considered to be in the public interest.

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

The applicant has a right of appeal to the Land and Environment Court if dissatisfied with Council's determination. Being designated development there are also third party appeal rights to objectors. In this case there were no objections received to the development.

There are no specific financial or resource implications.

### **OPTIONS**

Council's options are essentially limited to a conditional approval or refusal of the application.

### **CONCLUSION**

The proposal is considered to be an appropriate response to the relevant policies for the site and will facilitate the reclamation and improvement to the foreshore area along Afex Park. It also improves the navigation channel for boats using the southern boat harbour while facilitating the establishment of a marina in the area.

The proposal is considered suitable for conditional approval.

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### 9. ORIGIN: Development Control Unit

**FILE REF: DA4030/3980 Pt3**

#### **REPORT TITLE:**

**Application for the Construction of a 29 Berth Marina Facility at the Entrance to the Southern Boat Harbour - Crown Land Below Mean High Water Mark Fronting Lot 709 DP 726652 and Afex Park, Tweed Heads**

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

Council has received a development application for the construction of a 29 berth marina. The proposal is adjacent to the land based component of the "Pier Two" Project on Lot 437 in DP 755740 within Reserve 87361 and Lot 709 in DP 726662. The approved "pier two" development comprises two commercial/retail buildings one single storey and the second two storey.

The applicant has also lodged a second application for the dredging of the channel to facilitate this development. This application is reported to Council as item 8 in this business paper and should be considered in conjunction with this report. The approval history of the "Pier Two" development is detailed in the previous report.

The proposed marina development aims to provide:

- 29 berths for vessels from 10m to 25m in length
- berthing for cruise and charter boat operators
- reticulated water, electricity and pontoon lighting to berthed vessels
- limited public access for visual enjoyment
- an improved 30m wide navigational channel
- minimal need for maintenance dredging
- improved foreshore and embellishment to Afex Park for public benefit
- improved visual enhancement and public access to the Southern Boat Harbour.

The structure covers an area of approximately 3900m<sup>2</sup> being 130m in length (along the foreshore) and 30m in width.

The key issues associated with the development include:-

- car parking
- erosion and sediment control
- maintaining the navigational channel
- visual impact

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- noise impacts
- embellishment of Afex Park
- acid sulfate soils

### RECOMMENDATION:

That Council approves the construction of a 29 berth marina on Crown land adjacent to Lot 709 DP 726652 and Afex Park, Tweed Heads subject to the following conditions:-

### CONTRIBUTIONS

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

- a. Tweed Road Contribution Plan: \$10,647.00

S94 Plan No. 4 (Version 4.0)

(Tweed Heads – Commercial)

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:

Water: \$20,822.00



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Sewer: \$17,226.00

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.

### FURTHER APPROVALS

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.

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

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- 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.

4. A Management Plan, approved by Waterways, is to be submitted to Council prior to the issue of a Construction Certificate, detailing the proposed measures to control marine traffic generally using the channel so as to minimise erosion of Greenbank Island. This plan is to be to the satisfaction of the Director Development Services.

### GENERAL

5. The development shall be completed in general accordance with Plan No 1050-03 Amendment C & D prepared by International Marina Consultants and dated 16/2/00 and 18/7/00 and accompanying Statement of Environmental Effects dated April 2000, except where varied by these conditions.
6. 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.
7. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.

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8. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
9. No items or goods are to be stored or displayed outside the confines of the premises.
10. The marina is not to be used for permanent accommodation or overnight accommodation. The facility is solely for the storage of vessels. Details of the proposed lease arrangements are to be submitted to Council for approval prior to the commencement of the use.
11. Parking associated with the development is to be completed prior to occupation of the Marina.
12. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
13. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
14. 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.
15. On completion of the works a certificate signed by a practising structural engineer is to be submitted to Council to certify the structural adequacy of the completed structure.

### **PRESCRIBED/BUILDING**

16. 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.
17. 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.

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### ENVIRONMENT PROTECTION

18. 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.
19. All boats using the Marina are to be directed to use the sewer pump out facility at South Tweed Heads.
20. No discharge of effluent to waterway from boats moored at the Marina is to occur.
21. 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*".
22. Packing material is to be used on the pile driving helmet to mitigate the generation of offensive noise.
23. Flood lighting installed on the Marina is to be shielded to prevent any nuisance to adjacent residential areas.
24. 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.
25. 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.
26. 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.
27. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
28. Public toilet facilities are to be provided within Lot 437 DP 755740 which are available for use by people using the Marina facility and the general public. Details of the

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location of this facility, to the satisfaction of the Director Development Services, are to be provided prior to issue of the Construction Certificate.

29. The embellishment works required in association with Development Consent 675/2000 are to be completed in accordance with the approved plan prior to occupation of the Marina.

### **GENERAL TERMS OF APPROVAL**

30. The intended works are to be authorised by the Minister for Fisheries prior to commencement of any works.
31. The works are restricted to the area described by the above Development Application.

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### REPORT:

#### BACKGROUND

It is proposed to construct a 29 berth marina berthing facility over Crown seabed along the western foreshore adjacent to Lot 709 DP 726652. The pontoon structure is a heavy floating concrete system that will be positioned by 17 concrete piles and has been designed to take account of the tidal dynamics of the area.

The marina facility is positioned so that boats are in line with tidal currents to minimise drag and to allow the boats to leave on any tide.

A 30 metre navigational channel at a depth of 3 metres will be provided to the east of the proposal.

The marina facility is proposed to operate for the berthing of private and commercial vessels. Live aboard accommodation is not proposed and refuelling and sullage pump out facilities will not be provided. It is proposed to utilise existing services within the immediate area.

The marina will be serviced by reticulated water and power. Rubbish disposal, toilet facilities and other miscellaneous support services will be provided within the land based Pier Two buildings.

Two access gangways will be anchored from the special lease land and from the public reserve to allow the marina to rise and fall within tidal movements. The public will have access to the marina pontoons during daylight hours. Security gates will be installed at the pontoon end of the gangway to secure the premises at night.

#### EVALUATION

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

##### (a) (i) Any Environmental Planning Instrument

The subject application is not classified as designated development under the provisions of the Environmental Planning and Assessment Act, 1979 and therefore has been lodged as a separate application to the application for the dredging works. The proposal is for a 29 berth marina. The threshold for designated development is 30 berths or greater.

The applicant identified the development as Integrated development requiring approvals from NSW Fisheries and the Department of Land and Water Conservation. The subject site is subject to an aboriginal land claim. The claimant, along with all other land owners have consented to the application.

The proposed marina is located on unzoned land under the provisions of Tweed Local Environmental Plan 2000 (TLEP 2000).

Access gangways will be anchored to the adjoining foreshore land zoned 6(a) Open Space.

A marina falls within the definition of "boating facility" under TLEP 2000 and are permissible within the 6(a) zone.

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Clause 13 of TLEP controls development on unzoned land. Clause 13 states:-

*“A person must not carry out development on unzoned land except with development consent”.*

In deciding whether to grant consent to development on unzoned land, the consent authority must consider:-

- (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 subject development adjoins land zoned 3(d) Commercial (Waterfront) and 6(a) Open Space. The 29-berth marina is ancillary to an approved commercial waterfront development. It is considered the proposed marina is compatible with development permissible in the adjoining zones and the maritime character and theme of the existing and approved development in the vicinity.

The proposed works are below mean high water mark of the estuary. A 30m navigational channel will be maintained on completion of the marina. Waterways commented on the proposal raising no objections.

Tweed Heads Southern Boatharbour Management Strategy applies to the subject area. The proposed marina is consistent with this strategy.

The potential impacts on the natural environment include:-

- Increased erosion and sedimentation
- Changes to tidal hydraulics
- Water quality and acid sulfate soils
- Impact on marine flora and fauna
- Noise during construction and on completion
- Archaeology

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- Contaminated soils

The Statement of Environmental Effects has examined all these issues and concluded that the proposal will not have a significant impact subject to appropriate management practices being employed. The proposal will therefore not have a significant impact on the natural environment.

Having considered the above it is considered the proposed development is acceptable and Council may grant consent under the provisions of Clause 13 of TLEP 2000.

### **Clause 31 – Development adjoining water bodies**

The objective of this clause is to protect and enhance scenic quality, water quality, aquatic ecosystems, bio-diversity and wildlife habitat corridors while providing adequate access to waterways.

- (4) *Consent must not be granted to development on land to which this clause applies, within such distance as is determined by the consent authority of the mean high-water mark or, where there is no mean high-water mark, the top of the bank or shore of a stream, creek, river, lagoon or lake unless it is satisfied that:*
- (a) *the development will not have a significant adverse effect on scenic quality, water quality, marine ecosystems, or the bio-diversity of the riverine or estuarine area or its function as a wildlife corridor or habitat, and*
  - (e) *adequate arrangements for public access to and use of foreshore areas have been made in those cases where the consent authority considers that public access to and use of foreshore areas are appropriate and desirable requirements, and*
  - (f) *the development is compatible with any coastal, estuary or river plan of management adopted by the Council under the Local Government Act 1993 that applies to the land or to land that may be affected by the development, and*
  - (g) *it has considered the impact of increased demand from domestic water supply on stream flow.*

The proposed development will take up approximately half the entrance to the channel changing the visual appearance of the area. The marina will enhance the maritime theme in the area and is compatible with surrounding uses. Public access to the marina will be available during daylight hours. Access along the foreshore will be maintained through construction of the land based commercial development.

The proposed development is consistent with the Southern Boat Harbour Management Strategy. No significant demand will be generated for domestic water supply.

The development is satisfactory in regard to each of the above points where relevant.



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### **Clause 35 – Acid Sulphate Soils**

The marina is located on land identified as Class 1 land on the “Acid Sulphate Soil Planning Map”. Geotechnical tests carried out indicated that there is a low to moderate risk of acid sulphate soils being present. A satisfactory Acid Sulphate Soils Management Plan has been prepared in accordance with the requirements of this clause.

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

NCREP 1988 applies to the subject land and must be taken into consideration when considering the application. The following clauses within this plan are applicable:-

### **Clause 15 – Wetlands and Fishery Habitats**

*“The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:*

(a) *the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat;”*

#### **Comment**

Water flows will not be significantly affected by the proposal. Appropriate measures are to be put in place to protect the water quality in the area during construction.

*“(b) the need to conserve the existing amateur and commercial fisheries;”*

#### **Comment**

A navigational channel of 30m will be maintained providing access to the harbour for commercial and amateur fisherman. The development will have no significant impact on commercial or amateur fisheries. No seagrass will be affected as a result of the proposal.

*“(c) any loss of habitat which will or is likely to be caused by the carrying out of the development;”*

#### **Comment**

No loss of habitat will result from the development.

*“(d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve;”*

#### **Comment**

The development adjoins a public foreshore area (Afex Park). The foreshore area will be rehabilitated as part of this proposal. A draft plan has been endorsed by the Reserves Trust. A final plan should be submitted. It is considered the applicant should carry out

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these works as part of the development as the development can be expected to significantly increase patronage of this reserve.

*“(e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution;”*

### **Comment**

The greatest potential of pollution of the estuary is from acid sulfate soils. Appropriate construction and management practices are proposed to minimise the risk of this occurring. Adequate waste management facilities will also need to be made available.

*“(f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves;”*

### **Comment**

No aquatic reserves exist in the immediate vicinity of the development.

*“(g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion; and”*

### **Comment**

The Department of Land and Water Conservation raised no objections to the proposal.

*“(h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved; and”*

### **Comment**

The fauna and flora assessment submitted with the SEE indicated no impact on any native vegetation.

*“(i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment”.*

### **Comment**

DLWC & EPA have identified no specific recommendations applicable to this development.

### **Clause 32B – Coastal Lands**

*“In determining an application for consent to carry out development on such land, the council must take into account:*

*(a) the New South Wales Coast Government Policy;*

## Reports from Director Development Services

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(b) *the Coastline Management Manual;*

(c) *the North Coast: Design Guidelines*

*The council must not consent to the carrying out of development which would impede public access to the foreshore”.*

The proposed marina is not inconsistent with the NSW Coast Government Policy, Coastline Management Manual or North Coast Design Guidelines. The development will not restrict public access to the foreshore area but rather embellish and improve this area.

### **Clause 81 – Development Adjacent to Ocean or a Waterway**

*“The council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:*

(a) *there is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development;*

(b) *buildings to be erected as part of the development will not detract from the amenity of the waterway; and*

(c) *the development is consistent with the principles of any foreshore management plan applying to the area”.*

The marina along with the approved commercial development will improve the amenity of this foreshore area. The works are consistent with Tweed Heads Southern Boat Harbour Management Strategy.

### State Environmental planning Policies (SEPPs)

No SEPPs specifically apply to the development.

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

None applicable to this development.

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

DCP 2 – Site Access and Parking Code applies to the subject development. Under this plan marinas are required to provide 0.5 car parking spaces per berth. Parking is proposed to be provided as part of the “Pier Two” development. Development Consent K98/539 for the pier two development required the provision of 97 car parking spaces which had regard to the proposed future marina development. The construction certificate plans for this development shows 101 spaces.

The applicant has submitted the following assessment of parking demand for the development as a whole (proposed marina and approved commercial/retail).

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	<b>GFA</b>	<b>Car Park Ratio</b>	<b>DCP2</b>	<b>Spaces Provided</b>
Units	2 units	1 per unit	2	2
Commercial	58m <sup>2</sup>	1 per 40m <sup>2</sup>	1.5	2
Retail	105m <sup>2</sup>	6.2 per 100m <sup>2</sup>	6.5	7
Refreshment Room	741m <sup>2</sup>	1 per 6.6m <sup>2</sup>	112	67*
Marina	29 berths	0.5 per berth	14.5	14.5
Public (existing)	-		4 existing	4
<b>Total</b>	<b>904</b>		<b>140.5</b>	<b>96.5</b>

\* The total number of calculated spaces has been reduced for restaurant usage at 60% during normal business hours (9am to 5pm).

The above figures are based on the unamended DCP2. The parking requirements under the current plan would be as follows:-

Units	23 spaces
Commercial	1.5 spaces
Retail	4 spaces
Refreshment Room	111 spaces (67)
Marina	14.5 spaces
Existing (public reserve)	4 spaces
<b>Total</b>	<b>138 spaces</b>
<b>With 40% reduction for refreshment room</b>	<b>95 spaces</b>

As can be seen above the current DCP requires one (1) less space.

Therefore, based on the above and Council's previous acceptance of parking provided on site, it is considered that satisfactory parking arrangements for the marina development can be provided. It should be noted that there is currently an application for the use of one of the approved buildings as a tavern being processed. This application will increase parking demand further on site, if this application is approved. This application will be reported to Council at a later meeting.

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Access and egress to the site was previously considered by Council with reference to the possibility of a future marina. No changes are proposed as part of this application to the approved arrangements.

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

Description of Existing Environment

The site is adjacent to lands that had been previously occupied by the former Markwell Pacific food processing factory, which was subsequently demolished in recent times. The site is also adjacent to Afex Park, the foreshore embankment to Wharf Street (old Pacific Highway) and the Council sewerage pumping station.

The Southern Boatharbour is the primary boating harbour in Tweed Heads and provides mooring and service facilities for the commercial fishing fleet, commercial boat operations and private craft. The adjacent western foreshore has been stabilised by various methods over the years. The western foreshore of Greenbank Island is untreated and has undergone erosion in recent times, considered to be the result of existing boat traffic.

The nearest residences are located to the north west of the site (approximately 160 metres) and east (approximately 180 metres).

The site is situated at the entrance to the Southern Boat Harbour and is relatively sheltered from Terranora Creek tidal current. The tidal prism is considered small and tidal velocities are three to four times less in magnitude than at the nearby Boyds Bay Bridge.

Tidal Hydraulics

Details of hydraulic modelling undertaken by Patterson Britton and Partners concludes that the tidal velocities through the proposed dredging area are less than 0.2m/sec. The marina structure has been designed to take account of the tidal dynamics so that boats will be aligned with tidal currents to minimise drag.

Patterson Britton in their report concluded that the proposed marina would have no significant impact on tidal flows into or out of the Boat Harbour arm.

Erosion and Sedimentation

Bank erosion along the eastern bank of the entrance to the Southern Boat Harbour (The Anchorage) is evident and believed to be primarily the result of wake from boating activity in the area. Much of the left riverbank along the entrance of Terranora Creek has been protected against such wave action.

The proposed marina has the potential to increase erosion along the eastern bank as a result of additional traffic and the main channel being located closer to this area. It is not proposed to carry out any works to stabilise this bank but rather manage the issue through marina traffic management strategies. This approach has been endorsed by NPWS. A condition of consent should be imposed requiring a management plan to be submitted which is endorsed by waterways.

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### Acid Sulphate Soils

Geotechnical investigations were carried out as part of the SEE. The Department of Land and Water conservation Acid Sulphate Soils maps identify the area containing Class 1 land. Tests carried out indicated a low to moderate level of potential acidity in the materials to be dredged. An acid sulphate soil management plan has been prepared and forms part of the SEE. All works will need to be carried out in accordance with this management plan.

The proposed method of treatment of acid sulphate soils is acceptable and no objection has been raised by Council's Environment and Health section subject to appropriate conditions being placed on any consent granted.

### Marine Flora and Fauna

A fauna and flora assessment including an eight-part test has been carried out. Consideration of 1995 aerial photography, mapping of seagrass by the Public Works Department in 1991 and a site inspection failed to observe the occurrence of any seagrass or macro algae within the proposed dredge area.

The closest areas of seagrass were identified as being approximately 300 metres to the southwest of the site on the northern side of Boyds Island.

It is not expected the marina will affect any seagrass beds in the area.

The eight-point test submitted with the application concludes that there will be minimal potential for adverse impacts on native fauna or threatened species. Based on this submission it is reasonable to conclude that a Species Impact Statement is not required to be prepared.

### Noise

A Noise Impact Assessment was undertaken by Craig Hill and Associates to assess noise impacts from the marina development both during construction and operation.

The ambient noise levels to the most sensitive commercial and residential properties to the east, north and west of the site were recorded. The report concludes that noise generated as a result of the construction activities would be outside the required criteria of ambient + 20dB(A) for short duration construction of four (4) weeks or less during a 6 day period while the piles are being driven in. All other construction noise will be within the prescribed levels.

Noise generated on completion of the marina area is expected to be comparable to existing noise levels of boating traffic and are not expected to impact unreasonably on residents in the area. This conclusion was based on the assumption that the facility will not permit liveaboard, refuelling or maintenance of boats on site. A condition should be placed on the consent strictly prohibiting people from staying on boats overnight or for longer periods while moored at this facility.

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### Contaminated Soils

Due to the known history of the local area and findings from the geotechnical investigations the SEE concluded that the potential of contamination was remote. Council's Environment and Health Services Unit concurred to this conclusion.

**(c) The suitability of the Site**

Subject to issues previously discussed in this report being managed properly it is considered the site is suitable for the subject works.

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

The subject development was identified as Integrated Development as a result of approvals being required from NSW Fisheries and Department of Land and Water Conservation.

NSW Fisheries raised no objections to the proposal and issued their general terms of approval subject to two conditions. Thus conditions are required to be attached to any consent granted by Council.

Department of Land and Water conservation advised that a Part 3A permit was not required and raised no objections to the proposal.

Consultation was carried out with National Parks and Wildlife (NPWS), Environmental Protection Authority (EPA) and Waterways.

The EPA declined from making a formal submission regarding the proposal as the development does not constitute a scheduled activity under the Protection Of The Environment Operations Act 1997.

NPWS raised a number of issues which are summarised below:-

### Aboriginal Heritage

The applicant was requested to further investigate the presence of shells found during the geotechnical investigations to establish their origins. National Parks were concerned that the presence of these shells may indicate the presence of an aboriginal site.

The applicant submitted further information indicating the shell content found in the samples were typical of many low lying areas in the Gold Coast area and were not of a concentration to indicate the presence of a "midden". The applicant has concluded therefore that the dredging area does not contain a aboriginal site.

### Bank Erosion

NPWS identified the potential for bank erosion and raised issues regarding potential impacts of this on fauna and flora. NPWS supported the proposal for management strategies to be put in place to minimise the risk of erosion rather than sole use of control bank erosion works.

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### Public Submissions

The application required advertising under the provisions of the Act for a period of 30 days. At the conclusion of the exhibition period one submission was received. Issues raised in the submission include:-

1. What sewerage pump facilities are proposed?

#### **Comment**

It is not proposed to provide these facilities as part of this development as existing facilities exist within the Southern Boatharbour.

2. Waste Collection Provisions

#### **Comment**

Waste collection facilities are proposed to be provided within the land based development.

3. Enforcement to prevent pollution of the waterway.

#### **Comment**

There are significant penalties under the Protection of the Environment Operations Act, 1997 for polluting waterways.

4. Impact of anti-fouling paint on fauna and flora and humans

#### **Comment**

Council's Environmental Officer provided the following comments regarding this issue:-

*"The following are comments in response to the submission regarding the abovementioned development proposal and specifically in relation to the issue raised regarding Anti-fouling Paint.*

*Concern is in relation to Tributylten as a component of anti-fouling pain and whether the proposed marina facility could increase the Tributylten (TBT) levels to a stage that marine flora and fauna will be contaminated.*

*As stated above, TBT is primarily used as an antifoulant paint additive on ship hulls etc to discourage the growth of marine organisms, eg. Barnacles, mussels, tubeworms etc.*

*From available information, TBT by itself is unstable and will break down in the environment unless it is combined with an element such as oxygen. Therefore, TBT is often found as an oxide usually referred to as Tributylten Oxide (TBTO).*

*Studies have shown that TBT dust and vapours have led to skin irritations, headaches, breathing problems, fatigue etc in exposed shipyard works, in mammals generally high levels of TBTO can effect the endochrome glands,*



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*upsetting hormone levels and large doses of TBT may cause damage to reproductive and central nervous systems etc.*

*Much of the concern over the use of TBT however comes from its use as an additive in anti fouling paints for boat hulls and its effects on the marine environment as it is slowly released from the paint into the surrounding water causing exposure to "non-target" marine organisms eg. Oysters and crustaceans such as snails etc. It has the potential to bioaccumulate in fatty tissues in such organisms, with studies showing that in oysters exposed to low levels of TBTO, concentrates of TBT have bioaccumulated up to 6,000 times, however rates of bioaccumulation depend on species.*

*The fate of TBT in the environment and its rate of degradation depends on temperature and the presence of micro-organisms, and eventually TBT breaks down to less toxic tin ion. Under aerobic conditions studies have shown that TBT can take between one to three months to degrade, however, under anaerobic conditions the compound can persist for more than two years. The half life of TBT in water can be around three months.*

*Most recent studies have led to the recognised conclusion that TBT poses an unacceptable risk to valuable marine resources, particularly in sensitive coastal breeding areas subject to concentrated shipping activities.*

*According to information supplied by the NSW EPA on 2/8/00, TBT is only permitted to be used on vessels 25 metres and over in length.*

*Its use in this respect is regulated by the National Regulatory Authority (NRA) as a marine growth pesticide. The NRA also regulates the sale of TBT by permit.*

*In NSW it is also currently subject to a chemical control order, hence its use or removal etc is only by appropriately licensed personnel.*

*The use and sale of TBT as an additive in anti fouling marine paints will be banned by the year 2003 and as it has the potential to still leach from such paints for up to 7 years after the application, its toxic effects in the environment as a result of leaching from boat hulls could be expected to cease after the year 2010, its degradation in sediments would also occur over this period.*

*From discussion with NSW Waterways on 3/8/00, the largest boat currently in use on the Tweed River in the area of the proposed marina is 20 metres, 5 metres less than the minimum length of a vessel to which TBT can currently be legally applied as an anti fouling paint. This size restriction on the application of TBT to vessels has been in force for a number of years, therefore its use on trawlers and "pleasure" vessels has been prohibited for a number of years and such vessels can legitimately therefore be excluded as a source of TBT in the Tweed River.*

*The only other potential source of TBT in the Tweed River could be associated with the activity of the ship way upstream of the proposed marina development.*

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*According to the EPA and as confirmed in discussions with the ship way operator on 4/8/00, the ship way would need to be scheduled under the provisions of the POEO Act if it could accommodate vessels of 25 metres in length, however the maximum vessel it can accommodate is 20 metres in length and the ship way is rated to vessels of up to 50 tonnes only. From discussions with the ship way operator a vessel of 25 metres would likely exceed this boat rating. The operator also advised that consequently TBT anti fouling paint is not applied to the hulls of vessels serviced at the ship way.*

*Therefore, the ship way can be legitimately excluded as a source of TBT for the Tweed River in the vicinity of the proposed marina.*

*The above information would therefore indicate that TBT as a component of anti fouling paint is not currently a major concern for the Tweed River in the vicinity of the proposed marina and although the proposed marina will have facilities to accommodate vessels of over 25 metres in length, this is not to say that such vessels will actually utilise the marina or that such vessels will indeed have hulls treated with TBT. This coupled with the proposed ban on the sale and use of TBT as an additive in anti fouling paints for vessels in 2003 leads to the conclusion that TBT is not an issue that should affect the proposed marina development and hence the issue of TBT as raised should not be considered as the determining factor in relation to either the rejection or approval of the marina development.”*

5. Acid Sulfate Management Plan required.

**Comment**

A acid sulfate management plan has been submitted.

6. Traffic Amenity

**Comment**

Traffic was assessed as part of the original land based part of the development.

(e) **Public Interest**

Studies and Policies which apply to the site and its future development are as follows:-

Tweed Heads Southern Boatharbour Management Strategy

This strategy identified the subject site as a possible location for a future marina.

This application is therefore consistent with this strategy.

Tweed Heads 2000+

The subject site is located within the Southern Boatharbour precinct in this document. The need for developing pedestrian links along the foreshore area was a recommendation of this strategy.

It is considered that the proposal is consistent with this strategy.

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The proposed Marina will improve navigational routes for commercial and recreational vessels using the Southern Boatharbour while maintaining pedestrian links along the foreshore. The proposal is consistent with this vision for the area and is considered to be in the public interest.

### Lower Tweed Boating Strategy 1997

This strategy identified the need for the provision of additional marina facilities within the lower Tweed area. The subject site was identified as a possible site for such a facility. The proposed development is generally consistent with this strategy.

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

The applicant has a right of appeal to the Land and Environment Court if dissatisfied with Council's determination. As the development is not designated development there are no third party appeal rights to objectors.

There are no specific financial or resource implications.

### **OPTIONS**

Council's options are essentially limited to a conditional approval or refusal of the application.

### **CONCLUSION**

The proposal is considered to be an appropriate response to the relevant policies for the site and will provide for additional mooring facilities to meet the identified increase in demand as a result of the opening up of the mouth of the Tweed River. It also improves the navigation channel for boats using the Southern Boatharbour as a result of the associated dredging work.

The proposal is considered suitable for conditional approval.

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## Reports from Director Development Services

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### 10. ORIGIN: Development Control Unit

**FILE REF: DA4315/10 Pt1**

#### **REPORT TITLE:**

**Proposed Tourist Accommodation, Swimming Pool, and Shed at Lot 1 DP 807334 Pimble Valley Road, Crabbes Creek**

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

An application has been received seeking approval for tourist accommodation (cabin), swimming pool and shed at the abovementioned land. The shed is to be used for storage purposes only. The application is reported to Council for determination at the request of a Councillor.

Three (3) submissions of objection were received and raised concerns in relation to loss of privacy, increased erosion from cutting along the western boundary, cabin on Crown Road Reserve, noise, security risk and the proposed (cabin) is not compatible with the locality and likely to create a visual impact.

It is considered that the scale and location of the cabin is such that it is unlikely to detract from the rural residential amenity of the locality. It is considered that the development is generally suitable to the rural residential character of the locality.

#### **RECOMMENDATION:**

That the development application submitted by Cecilia Folkes for tourist accommodation, swimming pool and a shed at Lot 1 DP 807334 Pimble Valley Road, Crabbes Creek be approved subject to the following conditions:-

#### **PREREQUISITES (CONDITIONS WHICH 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.

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- a. Tweed Road Contribution Plan: \$550.00  
S94 Plan No. 4 (Version 4.0)  
(Burringbar commercial)
- b. Open Space (Structured): \$179.00 per bedroom \$358.00  
S94 Plan No. 5
- c. Emergency Facilities (Surf Lifesaving)  
\$27.59 per person \$82.80  
S94 Plan No. 16
- d. Extensions to Council Administration Offices  
& Technical Support Facilities  
\$238.00 per bedroom \$476.00  
S94 Plan No. 18

### GENERAL

- 2. The development shall be completed in general accordance with the plans submitted with the development application, except where varied by these conditions.
- 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.
- 4. 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.
- 5. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
- 6. The provision of 1 off street car parking space. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
- 7. The tourist cabin is to be used for the temporary accommodation of tourists only.

### PRESCRIBED (BUILDING)

- 8. The door to a fully enclosed sanitary compartment must:-
  - i. open outwards; or
  - ii. slide; or
  - iii. be readily removable from the outside of the sanitary compartment;unless there is a clear space of at least 1.2m between the closet pan within the sanitary compartment and the nearest part of the doorway.
- 9. (a) All deteriorated and defective materials are to be replaced by sound materials.

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- (b) The building is to be painted internally and externally.
  - (c) The building is to be set up and completed in a tradesmanlike manner and to Council's satisfaction.
  - (d) The building is not to be occupied until all work is completed and Council's approval to occupy has been granted.
  - (e) Detail's covering the date and time of removal and route to be travelled are to be submitted to Council's Engineering Division prior to commencing work.
10. 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. frame prior to the erection of brick work or any wall sheeting
  - c. completion of work
11. 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.
12. 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.
13. 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.

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**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.

14. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
  - i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site in accordance with Section 78i of the Environmental Planning & Assessment Amendment Regulations 1998.
  - iii. A sign has been erected on the site in accordance with Section 78H of the Environmental Planning & Assessment Amendment Regulations 1998.
  - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 78c of the Environmental Planning and Assessment Amendment Regulations 1998.
15. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.
16. 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.
17. Prior to the issue of any construction certificate, the following fees are to be paid to Council:
  - (a) Road inspection fee - \$260
  - (b) Bond against road or road furniture damage \$1,175
18. A sign must be erected on the site in a prominent, visible position stating:
  - a. that unauthorised entry to the work site is prohibited; and
  - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.



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19. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
20. 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:
  - a. 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
  - b. 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.
21. 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

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- (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
  - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
22. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

### **ENGINEERING (BUILDING)**

23. The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.

### **FIRE (BUILDING)**

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

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

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

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

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

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

### **SWIMMING POOLS**

25. 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).

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- 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 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.

### **ROADS/STREETS**

- 26. Provision of adequate vehicular access in accordance with Council's Access to Property Pamphlet.

### **DRAINAGE/FLOODING**

- 27. 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.
- 28. Permanent Stormwater Quality Treatment
  - (a) 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 of the plan and demonstrate compliance by modelling in accordance

## Reports from Director Development Services

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with section 5.5.4. 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.

- (b) 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) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

### ENVIRONMENT PROTECTION

- 29. 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.
- 30. 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.
- 31. 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.
- 32. 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.
- 33. An aerated effluent disposal system shall be installed, or an alternative to the satisfaction of the Director Environment and Community Services.

### PLUMBING AND DRAINAGE

- 34. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
  - a internal drainage, prior to slab preparation;
  - b water plumbing rough in, prior to the erection of brick work or any wall sheeting;

## Reports from Director Development Services

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- c external drainage prior to backfilling.
  - d. completion of work.
- 35 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.
36. It is a condition of this consent to operate a system of sewage management that this clause is complied with.
- (1) The sewage management facilities used in the operation of the system must be maintained in a sanitary condition and must be operated in accordance with the relevant requirements of this Regulation.
  - (2) A sewage management facility used in the operation of the system must not discharge into any watercourse or onto any land other than its related effluent application area.
  - (3) The conditions (if any) of any certificate of accreditation issued by the Director-General of the Department of Health under this Division in respect of the plans or designs for any components of the sewage management facilities must be complied with.
  - (4) The person operating the system of sewage management must provide details of the way in which it is operated, and evidence of compliance with the relevant requirements of this Regulation and of the conditions of the approval, whenever the Council reasonably requires the person to do so.
37. The licensed Plumber/Drainer is to liaise with Council's Health and Building Surveyor to determine the location and design of the septic tank installation.
38. An evapotranspiration area is to be provided for the disposal of all household effluent. It should be noted that the invert of the tank outlet be a minimum of 150mm above the finished level of the evapotranspiration area. The size and location of the transpiration area is to be discussed with Council's Health & Building Surveyor prior to installation.
39. 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:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C 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.

## Reports from Director Development Services

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### REPORT:

**Applicant:** Cecilia Folkes  
**Owner:** As above  
**Location:** Lot 1 DP 807334 Pimble Valley Road, Crabbes Creek  
**Zoning:** 1(a) Rural  
**Est Cost:** \$30,000

### SUBJECT/BACKGROUND

An application has been received seeking approval for tourist accommodation, swimming pool and a shed at the abovementioned land.

The applicants wish to erect a single storey cabin with a gross floor area of approximately 92.1 m<sup>2</sup> measuring 5.72 metres by 15.67 metres. The cabin is proposed to provide temporary accommodation for tourists wishing to enjoy the area. A pool (plunge pool) is also proposed to be constructed. The pool is to be located next to the cabin for the occupants' enjoyment.

A shed is also proposed to be constructed and has a gross floor area of 54m<sup>2</sup>. The shed is proposed to be used for storage purposes only (building materials) associated with the owner's business. The shed is not proposed to be used in conjunction with the tourist cabin.

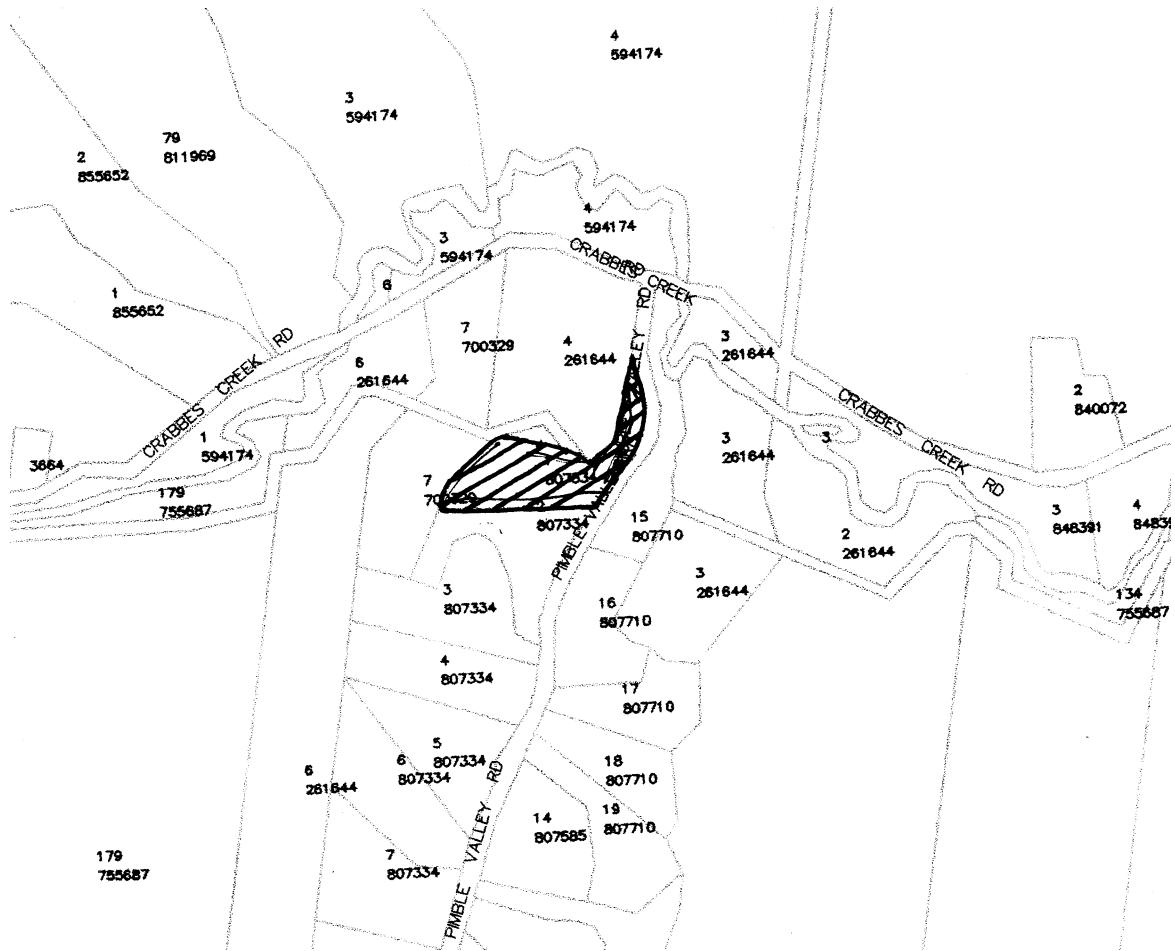
An additional vehicular access from Pimble Valley Road to the cabin and shed is also proposed.

The subject land has an irregular shape and has an area of approximately 2.046 ha with frontage and vehicular access to Pimble Valley Road. The land has moderate and steep slopes and has been extensively cleared with stands of trees scattered over the property. Existing improvements include a dwelling house.

The application was advertised and adjoining owners notified. A total of three submissions of objection were received. The details of these submissions will be discussed further in this report.

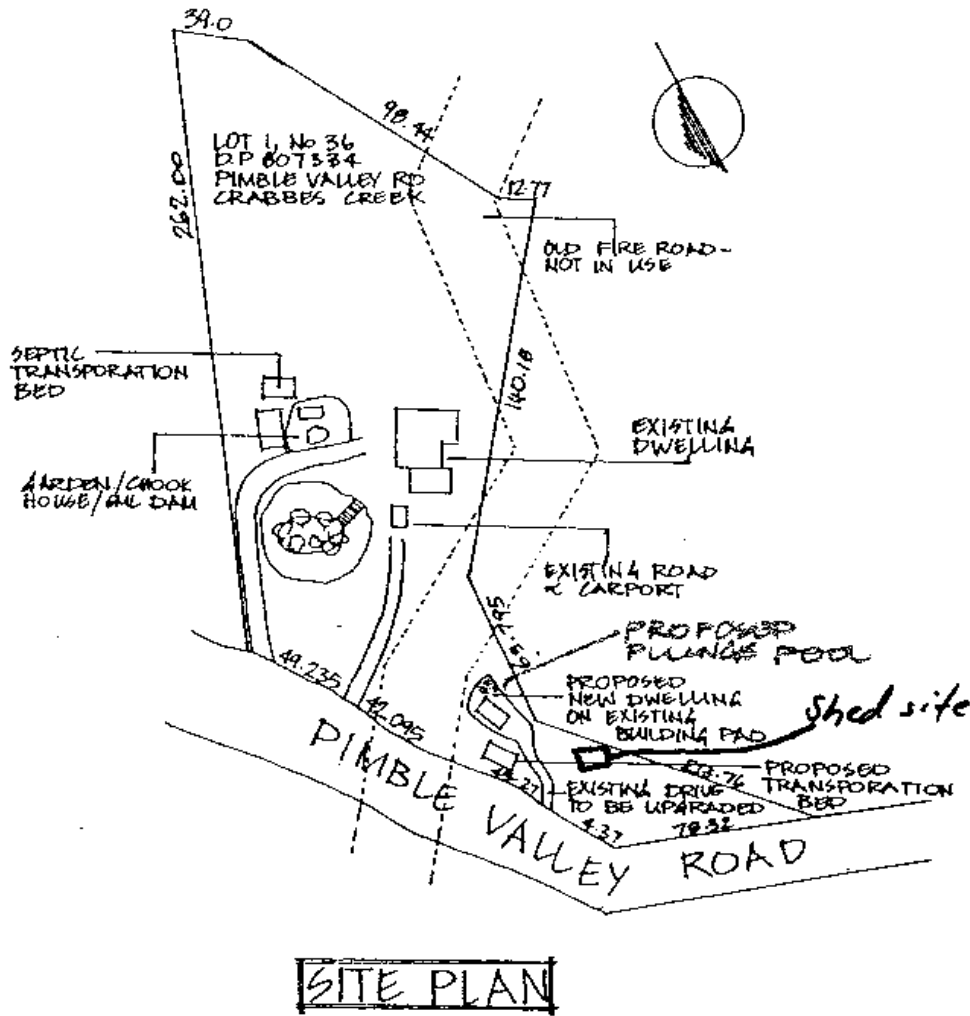
# Reports from Director Development Services

FIGURE 7 – LOCALITY PLAN



# Reports from Director Development Services

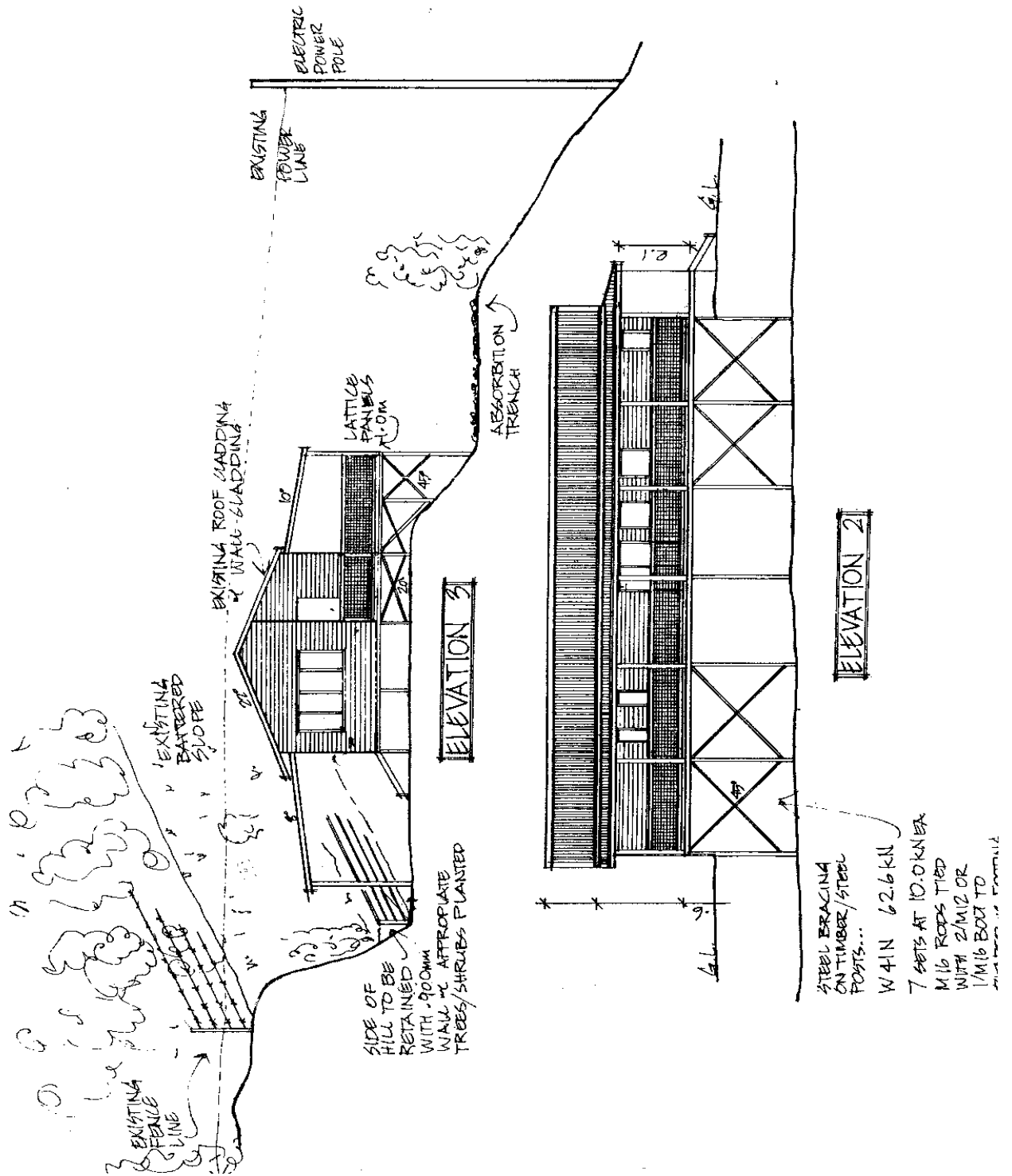
FIGURE 8 - SITE PLAN





# Reports from Director Development Services

FIGURE 9 - ELEVATION PLAN OF CABIN



## Reports from Director Development Services

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The application has been assessed against the matters for consideration in Section 79c(1) of the Environmental Planning and Assessment Act 1979. This assessment appears below:-

**(a) (i) The provisions of any environmental planning instrument**

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

The subject land is zoned 1(a) Rural and the proposal is permissible subject to Council's consent.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

The proposal is likely to involve only minor physical works in the preparation of the new access, driveway and the building sites. Adequate sedimentation and erosion controls measures will be in place. No vegetation is proposed to be cleared and the proposal will involve landscaping around the sites, particularly the tourist cabin.

The creation of an addition vehicle access to the subject property from Pimble Valley Road is not considered to create a significant problem. This section of Pimble Valley Road is straight and adequate sight distance in both directions is achievable. In addition, Pimble Valley Road is a no-through road and impact on traffic and the safety and efficiency of Pimble Valley Road is unlikely to be compromised by the traffic generated by one additional tourist cabin.

The proposal, particularly the tourist cabins, may also have an impact on the privacy of adjoining residents and their dwellings. Two dwellings are located within 75 to 100 metres from the cabin site.

The dwelling to the west is well elevated above the cabin site and due to the topography and the existing vegetation it is unlikely the proposal would detract from the privacy of this residence. The application also proposes to provide additional landscaping along the western boundary which will also act as a visual buffer to the west.

The dwelling to the east is located below the cabin site on the other side of Pimble Valley Road. The street elevation of this house can be seen from the cabin site. However, the main living and entertaining areas of this house are located at the rear which cannot be seen from the cabin site. From the cabin site it would be difficult to achieve a clear view into any window due to the elevation of the cabin above the house. It is considered that a distance of approximately 75-100m from the cabin site is an adequate distance without significantly detracting from the privacy of this residence. In addition, existing vegetation and the proposed landscaping should ensure that the visual intrusion is reduced.

Due to the topography, existing vegetation and proposed landscaping and a distance between the cabin and the houses, it is unlikely that the proposal will significantly detract from the privacy of the nearest residences.

## Reports from Director Development Services

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**(c) Suitability of the site for the development**

It is considered that the site is suitable for the development. As discussed above, the only likely potential impact will be on the privacy of the nearest residences. However, as discussed this is not considered to be a significant impact and does not warrant refusal of the application in this instance.

The locality can be best described as rural/residential with dwelling and farmsheds scattered on large rural acreage blocks. It is considered that the proposed shed and cabin are unlikely to significantly detract from the amenity of the locality and are also generally consistent with the character of the locality.

There are no identified site constraints which would make the site unsuitable for the proposed development.

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

The application was advertised and adjoining owners notified. A total of three submissions of objection were received and the details of these submissions are discussed below and comments provided where necessary:

- Development is too close to adjoining dwellings which will result in a loss of privacy.

**Comment**

As discussed in section (b) and (c) of this report, it is considered that due to the distance (approximately 75-100m) between the proposed and the nearest dwellings, the scale of the development, the topography, the existing vegetation and the proposed landscaping, it is considered unlikely that the development would significantly impact on the privacy of the nearest residences.

- Increased erosion from cutting along western boundary

**Comment**

This cutting along the western boundary is proposed to be retained with a 900mm high block wall and the cutting and slope to the boundary is also proposed to be landscaped. This should ensure that the potential for erosion along the cutting is suitably reduced and controlled.

- Proposed cabin to encroach into Crown road which passes through the property

## Reports from Director Development Services

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### *Comment*

The applicant has provided a survey plan which indicates that the proposed cabin is set back clear of the Crown road.

- The proposal will generate noise

### **Comment**

It is considered that the amount of noise generated by the use of the cabin is not likely to be significant to warrant refusal of the application in this instance. The amount of noise expected for the cabin is likely to be similar to that generated by a conventional dwelling house. In any case, it is considered that there is adequate distance between the cabin site and the nearest dwelling without creating any adverse impacts.

- The proposal will provide a security risk on adjoining dwellings

### **Comment**

This impact is difficult to determine and it is not necessarily a planning consideration. However, it is considered that the proposal is unlikely to create a significant security risk on nearby residences which are located approximately 75-100m from the cabin site.

- Proposal not compatible with locality and is likely to create a visual impact

### **Comment**

As discussed in Section (c) of this report, it is generally considered that the proposal will not significantly detract from the amenity or character of the locality.

### **Environment and Community Services Division Comments**

The Building Services Unit raised no objections subject to standard conditions on any consent.

The Environment and Health Unit raised no objections subject to appropriate conditions on any consent. The applicant, at Council's request, provided a historical use of the site in relation to chemical storage and application. The details provided indicate that the land had always been used for cattle grazing. Therefore the subject land is not considered to be potentially contaminated.

An aerated effluent disposal system shall be installed, or an alternative to the satisfaction of the Director Environment and Community Services.

### **Engineering Services Division Comments**

No objections raised to the proposal.

## Reports from Director Development Services

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### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

In the event that the applicant is dissatisfied with Council's determination, a right of appeal exists to the Land and Environment Court. The proposed development is not designated and as such, no third party appeal rights exist.

### OPTIONS

It would appear in this instance the following options are available to Council:-

1. That the application be refused.
2. That the application be approved subject to appropriate conditions.

### CONCLUSION

It is considered that the proposal is unlikely to create any significant adverse environmental impacts. Only minimal physical works are envisaged and adequate area is available for on-site effluent disposal.

The submissions of objection have been reviewed and it is considered that the reasons for objection do not warrant refusal of the application in this instance. It is considered that scale and location of the cabin and shed are such that they are unlikely to detract from the residential amenity of the locality. It is considered that the development is generally suitable to the rural/residential character of the locality.

Having regard to the above Section 79(C) assessment, it is considered that the application is suitable for conditional approval.

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## Reports from Director Development Services

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### 11. ORIGIN: Subdivisions Unit

**FILE REF: DA5115/155 Pt1**

#### **REPORT TITLE:**

**Draft Local Environmental Plan - Amendment Lots 21 & 22 DP 858402 and Lots 25 & 29 DP 1000571, Snowgum Drive, Bilambil Heights, Marana Park Estate**

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

Council has received a development application proposing a boundary adjustment between Lots 21 and 22 DP 858902 and Lots 25 and 29 DP 1000571, Snowgum Drive, Bilambil Heights.

In assessing the application it has become apparent that the land has been inadvertently zoned 7(d) Environmental Protection (Scenic/Escarpment) which is inconsistent with the previous zoning under TLEP 1987; the current land use and the terms of development consent no. S94/51.

Correction of this zoning anomaly is proposed in conjunction with processing of the development application by the Subdivisions Unit.

#### **RECOMMENDATION:**

That:-

- A. Council, pursuant to Section 54 of the Environmental Planning and Assessment Act, prepares a draft Local Environmental Plan to rezone Lots 21 and 22 DP 858902 and Lots 25 and 29 DP 1000571, Snowgum Drive, Bilambil Heights, from 7(d) Environmental Protection to Residential 2(a) as generally indicated in Figure 3.
- B. A Local Environmental Study is not required as the amendment is designed to correct a zoning anomaly.

## Reports from Director Development Services

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### REPORT:

Council has received a development application no. 0845/2000DA proposing a boundary adjustment between Lots 21 and 22 DP 858902 and Lots 25 and 29 DP 1000571, Snowgum Drive, Bilambil Heights.

Processing of the application reveals that the land has been inadvertently zoned 7(d) Environmental Protection (Scenic/Escarpment) under the Tweed Local Environmental Plan 2000.

The previous zoning under the Local Environmental Plan 1987 was 2(a) Residential.

There are a number of existing residential lots affected by the 7(d) Environmental Protection (Scenic/Escarpment) zone and in addition development consent S94/51 has been issued and remains in force over the residue lot for a 40 lot residential subdivision. It is apparent that the current zoning is a cartographic anomaly which should be corrected in conjunction with the processing of the development application by the Subdivision Unit.

Development consent S94/51 was issued pursuant to Clause 10 of the Local Environmental Plan 1987 (zone boundary variation clause) and in correcting the anomaly it is proposed to locate the zone boundary on the proposed cadastral boundary of the approved lots.

The current zoning under TLEP 2000 is indicated on Figure 1 and the approved subdivision layout under development consent S94/51 is indicated by Figure 2.

The proposed zoning is indicated by Figure 3.

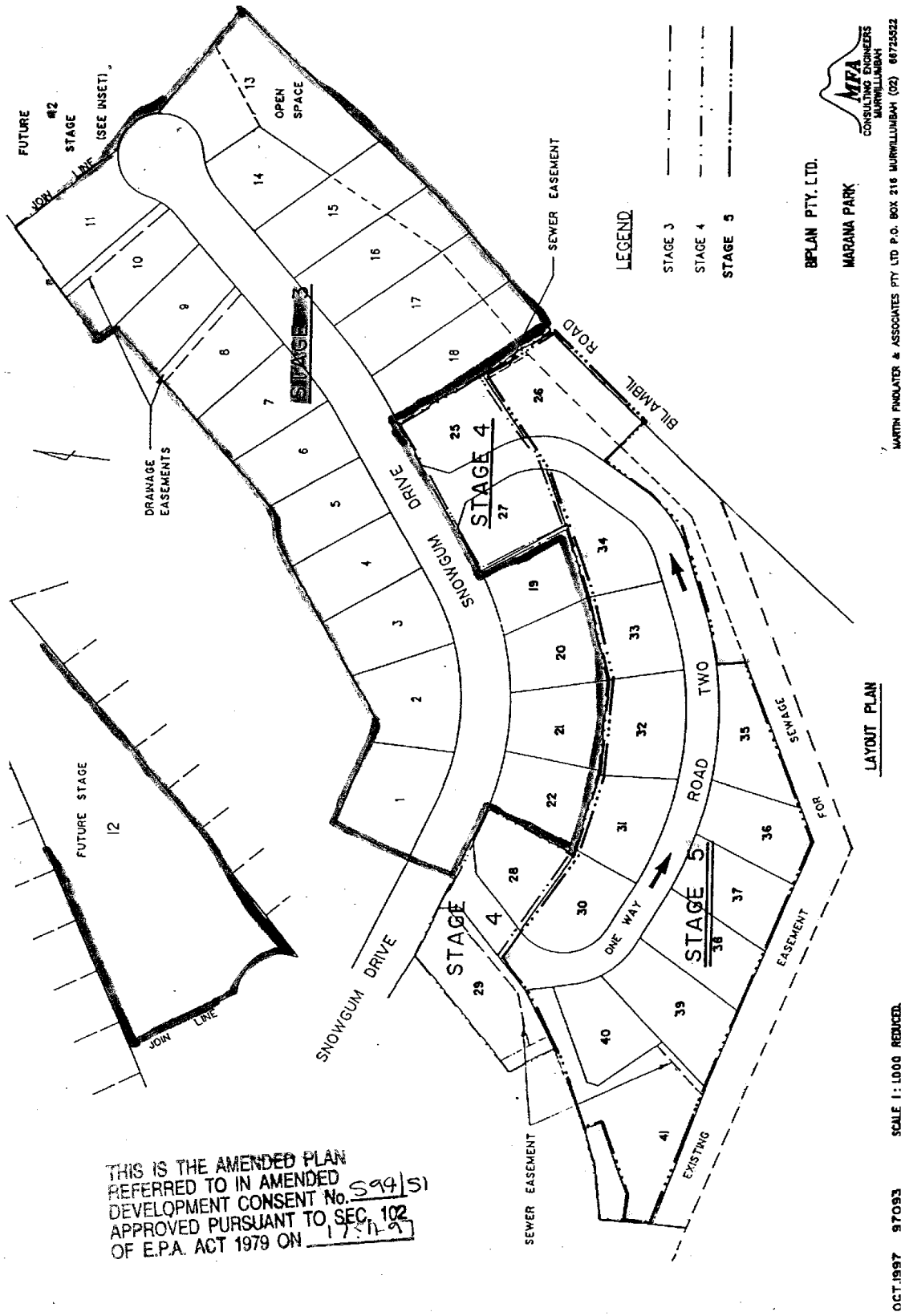




# Reports from Director Development Services

FIGURE 2

FIGURE (2) Development Consent S94/51 subdivision layout plan





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## Reports from Director Development Services

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### 12. ORIGIN: Development Control Unit

**FILE REF: DA4030/3980 Pt3**

#### **REPORT TITLE:**

**Request to Vary Section 94 Contributions for Car parking for Proposed Restaurant at Shop 1, Lot 1 DP 403158, 92 Marine Parade, Kingscliff**

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

Council has received a request from Athol Chambers and Robyn Krause to waive the requirement to pay Section 94 Contributions for car parking for a proposed Mexican restaurant at 92 Marine Parade, Kingscliff. At this time no development application has been lodged as the applicant wished to establish Council's position regarding car parking prior to proceeding.

In support of their request they have provided a submission, detailed in the body of this report.

#### **RECOMMENDATION:**

That:-

1. The applicants be advised that Council is willing to accept a reduced car parking contribution of \$16,100 based on a dining area of 70m<sup>2</sup> and a 40% discount in the parking requirements under DCP No 2 subject to the business only operating after 5.30pm.
2. The applicants further be advised that if they are willing to accept a time limited consent of 5 years that this contribution referred to above may be reduced by a further 75% - should the consent be extended beyond the five year period at the conclusion of this period, the full amount of the contribution would be required to be paid at the rate applicable at the time of payment.

## Reports from Director Development Services

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### REPORT:

#### INTRODUCTION

Council has received a request from Athol Chambers and Robyn Krause requesting that Council waives the requirement to pay Section 94 Contributions for car parking for a proposed Mexican restaurant at 92 Marine Parade, Kingscliff. At this time no development application has been lodged as the applicant wished to establish Council's position regarding car parking prior to proceeding.

In support of their request they have provided the following submission:-

#### *“Submission regarding car parking for the above proposal*

*After a meeting with the development assessment panel, we find that a further 5 car park spaces would be needed at a cost of \$11,500.00 per car space a total of \$57,500, this would make our proposal non-viable.*

*We have a budget of approximately \$80,000 which is the cost of fit out. This is quite a substantial sum of money to invest to give Kingscliff a well known and proven top class Mexican restaurant, which will add to the already well mixed restaurant trade that is making Kingscliff so well known.*

*The proposed Mexican restaurant will be employing local people which will help with the unemployment in the region.*

*The main point of this submission is that the restaurant would only be open for night trading starting at 5.30pm in the evening and most of the other business's around this location would be closed and extra car parking spaces would become available, so car parking and extra traffic for the restaurant should not be a problem.*

#### **Summary**

*Kingscliff business Centre is alive and well, mainly because of the food and restaurant trade. We do know that Council has rules and we are not out to break any, but with the already large contribution of \$77,000.00 on this site for parking we would ask Council to look at our proposal with the view that this is a long term project to benefit both Kingscliff and the local community.”*

#### BACKGROUND

Council, on 29 December 1998 received a development application for the erection of a commercial development on the subject site comprising two ground floor shops with a total area of 249m<sup>2</sup> and four (4) offices on the first floor comprising a total area of 235.1m<sup>2</sup>. Under DCP No 2 at the time, a total of 16 spaces were required however, it was acknowledged that the plan allowed for a concession for first floor commercial space thus reducing the parking requirement to thirteen (13).

The application proposed no on-site parking. In lieu of providing the 13 spaces on-site the applicant offered to pay a contribution of \$77,000. No Section 94 Plan existed at the time of the application and therefore Council had no basis to levy this contribution.

## Reports from Director Development Services

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On 7 April 1999 Council at its Ordinary Meeting, resolved to accept the applicant's offer of \$77,000 and approved the application subject to the contribution being paid. The contribution was subsequently paid and the development has been constructed.

On 26 July 2000 Mr Athol Chambers and Robyn Krause met with Council's Development Assessment Panel to discuss the possibility of establishing a restaurant in Shop 1 of the subject development and in particular, the need to pay Section 94 contributions for increased parking required under DCP No 2. The Development Assessment Panel suggested options which may be available to the applicant and suggested that a written submission be made to Council (attached is a copy of the minutes of this meeting).

A subsequent submission has been made.

### ASSESSMENT OF SUBMISSION

Since the original application for the building was approved, a Section 94 Contribution Plan for car parking in the Kingscliff commercial area has been adopted and DCP No 2 has been amended. It should be noted that the contribution under the adopted Section 94 Plan would equate to \$149,500 which is significantly higher than what was paid. Under the current Section 94 Contribution Plan a contribution of \$11,500 is required for each car parking space which cannot be provided on-site.

Shop 1 was originally approved for the purpose of retail. It has an area of 110.5m<sup>2</sup> of floor area and generates a parking requirement of 4 spaces under the provisions of DCP No 2. A restaurant would require the provision of 9 spaces based on a dining area of approximately 70m<sup>2</sup>. Therefore a shortfall of 5 spaces would exist and at a rate of \$11,500 a contribution of \$57,000 being required.

The applicant's main argument to a concession is based on the premise that the restaurant would not open until 5.30pm which is outside of normal business hours and therefore there would be adequate on-street parking to accommodate the development. This is a reasonable argument and it is generally accepted that a concession of 40% can be applied to restaurants in commercial areas where their peak parking demand is outside of business hours and the premises is located within a commercial zone. This principle was accepted by Council for the "Pier Two" development located in Tweed Heads.

Based on this analysis the proposed restaurant generates a parking demand of 9 spaces under the plan. If a concession of 40% was applied based on the business not being open during business hours, then the development would generate a demand for 5.4 spaces. This would therefore result in a shortfall of 1.4 spaces.

Under this scenario the applicant should be required to pay a contribution of \$11,500 x 1.4 totalling \$16,100.

The applicant at the development assessment panel indicated that he initially intended to enter into a 5 year lease. The Panel advised that consideration could also be given to issuing a 5 year consent and reducing the contribution by 75%. If this was applied to the above figure, a payment of \$4,025 would be applicable. If at the end of the 5 year period, the applicant applied to extend the consent, the remainder of the contribution could be applied.

## Reports from Director Development Services

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Council could choose to apply the full contribution and discount it by 75% based on a time limited consent of 5 years or require payment of the full amount of \$57,000 or require the full payment of the discounted parking rate of \$16,100.

As the applicant only proposes to open after normal business hours, it is considered reasonable to grant a 40% reduction in parking rates. It is also considered reasonable to grant a further concession if the applicant is willing to accept a 5 year consent. However, at the conclusion of the 5 year period the applicant should be required to pay the outstanding amount in full if the consent is further extended as adequate time would have passed to save the required money.

If the applicant requested trading hours to be extended to include lunchtimes for example, then it is considered that the full contribution of \$57,000 should be applied.

### OPTIONS

1. Accept a discounted parking contribution of \$4,025 based on a 5 year consent being agreed to by the applicant.
2. Do not grant a discount and apply the full contribution of \$57,000 in accordance with Council's policies.
3. Apply the contribution of \$57,000 however, reduce it by 75% based on the applicant agreeing to a 5 year consent.
4. Council accepts a discounted parking rate of 40% and requires the full payment of \$16,100 prior to the commencement of the use.

### FINANCIAL/LEGAL IMPLICATIONS

A reduction in the Section 94 contributions for car parking for this development will result in reduced funds being available to carry out works identified in the Kingscliff Section 94 Plan for car parking and therefore reduced physical provision of car parking (unless Council utilises the General Fund). It is of relevance that Council agreed to a reduced rate when the original development was approved.

### CONCLUSION

Council has received a request to waive car parking contributions for a proposed restaurant in Kingscliff, based on the premise the business will only operate outside normal business hours. The proposed restaurant generates a requirement for an additional 5 car parking spaces above that of the approved shop. It is considered reasonable to discount the overall parking requirement for the restaurant use by 40% based on the applicant's submission and consistent with other concessions previously accepted under similar circumstances. This amount could further be reduced by 75% based on the applicant agreeing to a time limited consent of 5 years in line with his lease. This would result in a sum of \$4,025 being required to be paid prior to commencement of the use rather than \$57,000 based on a dining area of 70m<sup>2</sup>.



## Reports from Director Development Services

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### **13. ORIGIN: Development Control Unit**

**FILE REF: DA2800/60 Pt2**

#### **REPORT TITLE:**

**Ministers Determination on Council's Request to Levy Contributions for Water and Sewerage Headworks - Tweed Heads Hospital**

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

Council at its meeting of 21 June 2000 resolved to support a development application for extension to Tweed Heads Hospital subject to a number of conditions. Being a Crown development Northern Rivers Health were required to agree to any conditions of consent. A number of conditions were disputed including a requirement to pay sewer and water headworks contributions to the value of \$187,200.

In accordance with Section 115K the matter was referred to the Minister for Urban Affairs and Planning with a request that the Minister authorise the disputed conditions.

Advice has now been received from the Department of Urban Affairs and Planning that the Minister has not agreed to the disputed conditions.

#### **RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Development Services

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### REPORT:

Council at its meeting of 21 June 2000 resolved to support a development application for extension to Tweed Heads Hospital subject to a number of conditions. Being a Crown development Northern Rivers Health were required to agree to any conditions of consent. A number of conditions were disputed including a requirement to pay sewer and water headworks contributions to the value of \$187,200.

A mediation meeting convened by the Department of Urban Affairs and Planning was held on 27 July 2000. Resolution of the issue relating to payment of contributions was not resolved along with a number of other issues including the requirement to construct a bus shelter.. The outcome of this meeting was reported to Council on 2 August 2000 where Council resolved to delete the requirement to construct a bus shelter and payment of plumbing and drainage fees but to pursue the issue of water and sewer headworks.

The matter was referred to the Minister for Urban Affairs and Planning in accordance with Section 115K of the Act. By letter dated 25 August 2000 from the Regional Director of DUAP, it was advised that:-

*“The Minister has determined, pursuant to Section 115K(d) not to agree to the condition for the reason that the hospital extensions are Government commitment of benefit to the Council and the community, and not appropriate for the imposition of infrastructure charges”.*

The Minister has requested the application be determined within 21 days from the date of the letter notifying Council.

Council has no option but to determine the application with the deletion of condition 1 which required the payment of \$187,200 in water and sewer contributions. The consent will be issued as soon as confirmation that back flow prevention devices will be installed in accordance with AS3500 and the Building Code of Australia.

Northern Rivers Health gave an undertaking to provide this confirmation in writing to satisfy the requirement of proposed conditions 22 and 34 which were disputed.

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# Reports from Director Corporate Services

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**14. ORIGIN: Director**

**FILE REF: Council Management, Local Govt & Shires Association - General**

**REPORT TITLE:**

**Advancing Local Government: Partnerships for a New Century**

**SUMMARY OF REPORT:**

A discussion paper commissioned by the Local Government and Shires Association has been prepared by the UTS Centre for Local Government titled 'Advancing Local Government: Partnerships for a New Century'.

The discussion papers raises a number of issues and provides a number of recommendations from which the Local Government and Shires Association is seeking Councils input.

**RECOMMENDATION:**

That Council:

1. Accepts the invitation to participate in a workshop.
2. Advises the Local Government & Shires Association of NSW that the Shires "A" Division meeting on 12 October 2000 may be an appropriate venue.

## Reports from Director Corporate Services

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### REPORT:

The Local Government and Shires Association of NSW have provided a copy of a discussion paper that they had commissioned called 'Advancing Local Government: Partnerships for a New Century' prepared by the UTS Centre for Local Government – *“The paper looks at the future role of local government in terms of its functions, finance and activities as part of a multi-systems government.”*

The discussion paper raises a number of issues, these are reproduced from the paper and include:

- *“Is there any collective view amongst Councils and/or within the State Government on the contribution Local Government can best make to the good governance of NSW?”*
- *How should functions be divided or shared amongst State agencies and local Councils to produce optimum outcomes?*
- *What are the implications for revenue-raising and resource allocation?*
- *Is rate-pegging any longer responding to genuine and widespread community concerns, or has it become simply a ‘sacred cow’?*
- *What are the consequences of rate pegging for the State Government, given the constraints it imposes on the aggregate level of public sector revenues in NSW?*

*Alongside rate pegging are several other significant restrictions on Local Government revenue which have been applied in recent years. These include:*

- *Constraints on the fees and charges Councils are allowed to levy under other legislation, such as the Environmental Planning and Assessment Act.*
- *Compulsory transfer of important revenue-generating assets to the State, notably electricity distribution authorities (County Councils).*
- *Non-payment of rates to Councils by a number of State commercial enterprises, particularly power stations and State Forests.*
- *Restrictions on borrowings.”*

The paper suggests that the framework for progressing a productive partnership between the State Government and Local Government, together with the Commonwealth aimed at achieving a number of outcomes:

- *“A broad policy framework for ongoing review of the role and functions of Local Government.*
- *Establishing mechanisms to ensure better cooperation and coordination between Local Government and State agencies.*
- *A long-term agreement on enhancing Local Government’s financial capacity.”*

The discussion paper concludes with a number of recommendations, and they are outlined under the following headings:

## Reports from Director Corporate Services

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### ***“CONSISTENT RECOGNITION OF LOCAL GOVERNMENT***

*The State Government and NSW Local Government and Shires Associations should negotiate a protocol which establishes a process for:*

- *Consistent recognition of the role of Local Government by State agencies.*
- *Full consultation with the Associations when new programs or legislation are introduced in order to promote enhanced efficiency in service delivery, consider options for delivery through Local Government, and avoid adverse impacts on Councils.*

### ***STATE – LOCAL PARTNERSHIPS***

*The proposed State-Local Government protocol should also incorporate a set of principles for the negotiation of local or regional partnership agreements which would:*

- *Promote cooperative action involving State agencies, Councils and other parties as appropriate.*
- *Ensure program implementation is tailored to the maximum possible extent to particular community circumstances and needs.*

### ***LOCAL GOVERNMENT ACT***

*The State Government, in full consultation with the NSW Local Government and Shires Associations, should review sections 8 and 21-23 of the Local Government Act with a view to:*

- *Enhancing the Council’s Charter and providing a more purposeful framework for defining the functions of Councils.*
- *If necessary, providing legislative support for a State-Local Government protocol and partnership agreements.*

### ***FINANCING LOCAL GOVERNMENT***

*The State Government and Local Government and Shires Association should undertake a joint review of Local Government financing, which would address both current restrictions on Councils’ revenue raising and also options to expand revenues progressively over the next 5-10 years.*

*Particular consideration should be given to:*

- *Replacing rate capping with a more productive mechanism.*
- *Making optimum use of the rating base.*
- *Sharing competition payments and future growth in GST revenue.*
- *Funding arrangements for specific areas of government activity where Local Government could usefully play an expanded role.*

*The paper concludes by suggesting that prior to the moving of these recommendations there needs to be a high level of debate within the industry to address such matters as:*

- *Whether and how the role of Local Government should continue to expand.*

## Reports from Director Corporate Services

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- *How many Councils may be willing and able to accept additional responsibilities, and the financial 'bottom line' for transfer of functions from the State.*
- *Whether the legal framework for Local Government and functions of Councils should be uniform across the State, or should reflect differences in size and capacity.*
- *Whether ongoing structural reform should be linked to improved relationships with State agencies and a better financial deal for Councils.*
- *Whether concepts such as integrated planning, 'place management', State – Local partnerships or 'best value' provide a useful framework for further development of Local Government's activities.*
- *Simplification of financial reporting so that councillors, staff and the local community can readily understand the annual financial results of the local council."*

Copies of the discussion paper are available from the Secretary Corporate Services.

The Local Government and Shires Association have extended an invitation to Councils to assist by coordinating meetings of groups of Councils to discuss issues arising from the discussion paper. It is therefore recommended that Council advises the Local Government & Shires Association that a meeting of the Shires "A" Division is scheduled for 12 October 2000 and that this appears an appropriate opportunity.

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## Reports from Director Corporate Services

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**15. ORIGIN: Director**

**FILE REF: Voluntary Structural Reform**

**REPORT TITLE:**

**Voluntary Structural Reform Group - Stage 1**

**SUMMARY OF REPORT:**

The subregional group of Councils, comprising of Tweed, Byron, Ballina, Lismore and Kyogle have, following the signing of a Memorandum of Understanding, recently completed Stage 1 of a voluntary resource sharing study.

The Voluntary Structural Reform Committee at its meeting of 28 February 2000 adopted recommendations from a subcommittee to engage a consultant – Master Planning Services Pty Ltd, to undertake phase 1 of the reform project. This phase has now been completed with action now taking place in implementing a number of recommendations arising from the issues and opportunities report.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

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### REPORT:

Council at its meeting of 18 November 1998 adopted and signed a Memorandum of Understanding which enabled subregional Councils of North East New South Wales, including the Tweed, to progress discussions on voluntary structural reform. The Councils that signed the Memorandum included Tweed, Byron, Ballina, Lismore and Kyogle.

A key desired outcome arising from the Memorandum of Understanding was for the authorities to mutually work together and explore opportunities to better enable the authorities to achieve a high level of performance and service efficiency.

The Voluntary Structural Reform Project Team has been comprised of the Mayors and General Managers from each of the local authorities, collectively progressing the analysis of opportunities to resource share, five areas of special project interest, these included development applications and legal services, GST implementation, joint purchasing, emergency services, information technology, and road construction and maintenance activities.

The Voluntary Structural Reform Committee resolved at its meeting of 28 February 2000 to engage, following a call for expression of interest from consultants, Master Planning Services Pty Ltd to undertake the Stage 1 component of the study. The assignment specifications are contained in Attachment A.

The Stage 1 study has now been completed with the production of a report – Attachment B, and issues and opportunities implementation matrix – Attachment C.

The project has demonstrated that by cooperatively sharing and participating in key areas of reform and by maximising opportunities through resource sharing that significant benefits can be obtained by the participating Councils, for example, the implementation of the GST where each Council shared the costs of preparing and implementing GST through their organisations. Cost savings in the vicinity of \$15,000 for each organisation were obtained.

The Voluntary Structural Reform Group is now focussing its attention on implementing a number of key findings from the Stage 1 study and report.

Projects currently being progressed are:-

1. Bulk fuel purchasing – unleaded petrol and diesel.
2. IT opportunities and joint progressing of internet and intranet capacity, including e-commerce through a joint submission/application for Federal funding.

The Committee is also studying and determining priority areas that are to be co-jointly progressed through each of the program area teams.



## Reports from Director Corporate Services

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**16. ORIGIN: Administration Services Unit**

**FILE REF: Shires Association of NSW - Conference**

**REPORT TITLE:**

**Shires Association 2000 "A" Division Meeting**

**SUMMARY OF REPORT:**

Advice has been received of a meeting of the "A" Division of the Shires Association of NSW to be held at the RSM Club, Casino on Thursday, 12 October 2000 commencing at 9.30am.

Details of the meeting are contained in the report.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

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### REPORT:

The following letter has been received from the "A" Division of the Shires Association of NSW:

*"A meeting of "A" Division of the Shires Association of NSW will be held at the RSM Club, Canterbury Street, Casino, on Thursday, 12<sup>th</sup> October, 2000, commencing at 9.30am. Please note this date in your calendar.*

*Cr Chris Vardon, President and Mr Murray Kidnie, Secretary, of the Shires Association of NSW will be in attendance at the meeting. Cr Vardon will make a presentation on Rural Fire Service issues.*

*Other items listed for consideration at this stage are:-*

- 1. Shires Association of NSW Response to Motion 189 at the 2000 Annual Conference re cost of Council elections.*
- 2. Shires Association of NSW Response to "A" Division Motion at 2000 Annual Conference concerning the awarding of costs in Class 1 actions in the Land and Environment Court.*
- 3. Australian Safety Engineering Pty Ltd correspondence re draft guidelines for roadside dining entertainment.*

*A final agenda will be issued to all Councils during the week commencing 2nd October, 2000. To meet agenda timeframe, I would ask that you send me your Council's motions and issues by Friday, 22<sup>nd</sup> September, 2000. Your co-operation would be greatly appreciated."*

It is requested that any Council motions or issues be submitted to the Manager Administration Services, Mr Brian Donaghy, by Wednesday, 20 September 2000 for submission to the Secretary of the Division.

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# Reports from Director Engineering Services

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**17. ORIGIN: Planning & Design Unit**

**FILE REF: R4060 Crown Reserves, DA1180/655 Pt1**

**REPORT TITLE:**

**Acquisition of Easements for Drainage Within Crown Reserve 1001008 at Cabarita Beach**

**SUMMARY OF REPORT:**

Following the resolutions of the Tweed Coast Reserves Trust at its meeting held on 12 April 2000 and the subsequent approval by the Department of Land and Water Conservation to the acquisition of easements for drainage within Crown Reserve 1001008 at Cabarita Beach, it is now intended to acquire those easements under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991.

**RECOMMENDATION:**

That:-

1. Council approves the acquisition of easements for drainage within Crown Reserve 1001008 at Cabarita Beach under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 for the purposes of the Local Government Act, 1993; and
2. All necessary documentation be executed under the Common Seal of Council

## Reports from Director Engineering Services

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### REPORT:

The following resolutions approving the acquisition of easements for drainage within Crown Reserve 1001008 at Cabarita Beach were passed at a meeting held by the Tweed Coast Reserve Trust on 12 April 2000:-

*“..... that the Tweed Coast Reserve Trust approves the installation of a CDS stormwater unit on an existing stormwater drain within Crown Reserve 1001008, being Lot 7001 DP 755701 at Cabarita Beach”*

*“.... that:-*

- 1. The Tweed Coast Reserve Trust approves the acquisition of an easement for drainage 3.2 wide within Crown Reserve 1001008, being Lot 7010 DP 755701, for augmentation of the stormwater drainage system at Palm Avenue, Cabarita Beach; and*
- 2. All necessary documentation be executed under the Common Seal of Council.”*

The Department of Land and Water Conservation has advised by letter dated 7 August 2000 that there are no objections in the interests of the Department to the acquisition of easements over Crown Land under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991.

# Reports from Director Engineering Services



LOCATION OF PROPOSED CROSS POLLUTANT TRAP  
 DLWC'S (by TWEED SHIRE COUNCIL)  
 REQUEST FOR EASEMENT FOR EXISTING DRAINAGE INFRASTRUCTURE

TSC's proposed easement


© TWEED SHIRE COUNCIL 2000

[ ALL PROPOSALS TO BE INCORPORATED ]  
 [ IN ONE CONSENT OF OWNER. ]

Although all care has been taken with the Production of this Map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the Information supplied in this map.



Drawn : P.R. (Engineering Services) PLOTTED : 12 April 2000

<p>TWEED SHIRE COUNCIL                  GenMap System                  Engineering Services  <b>A4</b> PLANNING &amp; DESIGN</p>	<h2>Stormwater</h2>	<p>Telephone (02) 66720400                  Fax (02) 66727513                  Address :                  Tumbalum Rd. Murumbidgee N.S.W.                  Postal Address :                  P.O. Box 816                  Murumbidgee, N.S.W. 2484</p> 
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## Reports from Director Engineering Services

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## Reports from Director Engineering Services

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### 18. ORIGIN: Planning & Design Unit

**FILE REF:** Sewerage Treatment – Hastings Point-Augment-Stage3

**REPORT TITLE:**

**Hastings Point Sewage Treatment Works Augmentation Financial Assistance Offer**

**SUMMARY OF REPORT:**

The Minister for Agriculture and Land and Water Conservation, the Hon. Richard Amery MP, has offered Council financial assistance under the New South Wales Country Towns Water Supply and Sewerage Program for costs associated with the completion of the augmentation investigation work only. Funds will be provided at the rate of 50%. Expenditure of \$103,900 is envisaged to complete the investigation work. Council has also foreshadowed a capital expenditure programme of some \$2.3M for design and construction works. The proposed design and construction works caters for future growth only and unfortunately does not qualify for capital works funding.

**RECOMMENDATION:**

That the Minister's offer for the costs associated with the completion of the Hastings Point Sewage Treatment Works augmentation investigation work be accepted in accordance with the standard conditions of financial assistance.

## Reports from Director Engineering Services

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### REPORT:

An offer has been received from the Minister for Agriculture and Land and Water Conservation, the Hon. Richard Amery, MP, of a grant of financial assistance of a further \$51,950 for costs associated with the completion of the augmentation investigation work only. Funds will be provided under the Country Towns Water Supply and Sewerage Program at the rate of 50%. Expenditure of \$103,900 is envisaged to complete the investigation which will bring the total expenditure to \$963,000.

### PROJECT BACKGROUND

Following a review of the Hastings Point Sewage Treatment Works (STW) operation by consultants, Sinclair, Knight, Merz (SKM) in 1999, a range of works were undertaken to increase the capacity of the STW to 16,000 Equivalent People (EP). The major works recommended by SKM in their Concept Design Report included:

- Grit removal
- Screening
- Changes to the operational cycles of the process tanks
- Sludge lagoon upgrading
- Modifications to the effluent pond
- Chemical dosing
- Tertiary filtration

It has now become apparent that SKM's recommended works, whilst significantly enhancing the overall treatment process and dunal disposal system, did not achieve the expected result in regard to process tanks and flow balancing capacity. The Department of Public Works and Services (DPWS) were engaged by the Department of Land and Water Conservation (DLWC) and Council to examine the previous report by SKM, review the operation of the existing plant from both a hydraulic and process perspective and identify the preferred option(s) for achieving the required 16,000 EP capacity. The DPWS were also asked to configure the plant to facilitate possible future expansion to 24,000 EP with minimal redundancy of works necessary to achieve the required 16,000 EP capacity.

The DPWS have completed a report which recommends a range of additional works which will achieve a plant capacity of 18,000 EP. It should be noted that the range of works necessary to achieve a plant capacity of 16,000 EP is essentially the same as the works that would deliver a plant capacity of 18,000 EP.

The proposed works include:

- Upgrade of the inlet works
- Provision of chemical dosing facilities
- Flow balancing to ensure overflows of partially treated effluent to Christies Creek do not occur in storm events below 1:20 years recurrence periods



## Reports from Director Engineering Services

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- New effluent pumping station
- New effluent rising main
- Additional sludge lagoon
- Flow balancing facility
- Additional filtration facility
- Augmentation of chlorine dosing system

An additional allowance of \$103,900 was required to fund costs incurred to date (covered by the subsidy offered). In addition, \$2,049,000 is required to design, construct and commission the Stage 1 works which will increase plant capacity to 12,000 EP.

A further amount of approximately \$250,000 will be required to design, construct and commission the Stage 2 of the works. Stage 2 works are required by the year 2006 and will increase plant capacity to 18,000 EP.

Space has been set aside within the existing sewage treatment works site for a future possible expansion to 24,000 EP. The requirement for this stage has to be further investigated in the future.

### **CURRENT POSITION**

Changes to the NSW Country Towns Water Supply and Sewerage Program introduced in 1996 limits financial assistance to correcting pre 1996 deficiencies in infrastructure where that deficiency relates to quality of effluent or quantity of effluent up to the population in 1996. The proposed design and construction work caters for future growth only and does not qualify for capital works funding. Council will need to make provision of \$2,049,000 for the next two years and \$250,000 in the year 2006 to fund the proposed design and construction works.

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## Reports from Director Engineering Services

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## Reports from Director Engineering Services

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### 19. ORIGIN: Planning & Design Unit

**FILE REF:** Street Scaping-Mbah

**REPORT TITLE:**

**Murwillumbah Streetscape Improvements**

**SUMMARY OF REPORT:**

In response to Council's resolution of 5 July 2000 a review of the constructed streetscape facilities has been conducted in conjunction with members of the Murwillumbah District Business Chamber Ltd. A number of desirable changes and additions have been identified costing approximately \$50,000. This amount of funding is available in the current program budget for Murwillumbah Streetscape. Implementation is recommended.

**RECOMMENDATION:**

That Council:-

1. Authorises the construction and installation of the additional shade structures, seating and street furniture in the Murwillumbah Streetscape program as scheduled in this report at an estimated cost of \$47,000.
2. Amends its adopted masterplan by approving the conversion of one (1) carparking bay outside the Riverside Thai in Commercial Road to a concrete footpath extension with associated bollards, chain and drain covers, estimated to cost \$3,000.
3. Defers consideration of further potential footpath extensions and parking bay removals outside licensed premises in the Murwillumbah CBD pending receipt of individual development applications with letters of support from the Murwillumbah District Business Chamber Ltd.

## Reports from Director Engineering Services

### REPORT:

At its meeting of 5 July 2000, Council resolved on a notice of motion from Cr. Lawrie 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.” This report responds to that resolution.

To instigate the process, Council design staff conducted a review of outcomes and opportunities within the Main Street constructed streetscape, with the goal of improving amenity and functionality where possible, mainly by means of additional shade, seating and other furniture within the adopted masterplan layout. The opportunities for stencilled concrete surfacing were examined but raised expensive difficulties with natural edge, lease definitions, long term uniform colour maintenance, existing already variegated finishes and durable lip creation. It was considered probably more appropriate to soften any harsh concrete expanses using bollard definition, shade and vegetation. A first round of ideas was developed and submitted to a panel of Murwillumbah District Business Chamber Ltd members for comment. Following their assessment, some elements were deleted and some added. Whilst all this extended the scope of the resolution somewhat, it was an attempt to reflect the perceived intention of performance improvement as closely as possible.

The resulting schedule of amendments to the detailed plan is tabled below:-

Street	Location	Provision
Brisbane Street	Outside Westpac Bank	1 seat 1 shelter 12m of bollards and chain
Murwillumbah Street	Outside Westpac Bank	1 seat 10m of bollards and chain
	Outside ANZ Bank	2 seats
	Outside Marguerite's	1 treatment to top of brick wall
	Outside Courthouse Hotel	1 seat
	Outside Centre Point Arcade	2 centre stand umbrellas 14m of bollards and chain 3 potted trees
	Outside Murwillumbah Plaza	1 centre stand umbrella 14 m of bollards and chain
	Outside Palm Court	1 bus shelter (POSSIBLE)

## Reports from Director Engineering Services

Street	Location	Provision
		2 potted trees
Wharf Street	Outside J H Williams	14m of bollards and chain 2 potted trees
	Outside Newman's Frocks & O'Connor's Shoes	8m of bollards and chain
	Outside Commonwealth Bank & The Eatery	20m of bollards and chain
	Outside Karni's	1 treatment to top of brick wall
Parking area at pool & Civic Centre	Path at Pool Fence	Wheel stops to 17 parking spaces
	Bike racks	Painted emblem to all new bike racks

Locational drawings will be provided to Councillors at the meeting.

The estimate for the scheduled work is \$46,730. Due to the economies effected through uncomplicated construction details so far, there is budget residual of approximately \$50,000 which may be applied to the additional works.

Supplementary to this work, an application has been received from the proprietor of the Riverside Thai for creation of a 6m x 2m footpath extension for outdoor dining purposes on the Commercial Road frontage of her business. This work is estimated to cost \$3,000. She argues that as an existing (and popular) footpath dining operator she should enjoy the same benefits enjoyed by others outside existing restaurants. The proposal is supported by a letter from the Murwillumbah District Business Chamber Ltd. This change to the parking supply and footpath shape differs from the original traffic master plan and should be separately approved by Council.

Similar requests for footpath extensions that will consume kerbside parking have also been mooted by hotels in the CBD. These will have greater parking impacts and raise additional issues of possible disproportionate capital advantage of licensed premises (which may contain gaming machines), the control of liquor consumption in public places, later expectation of substantial covering structures and the assignment of liability for construction costs. Ultimately it is about what vision Council and the business community share for the town. It is therefore recommended that any extensions of licensed premises' trading area into the street be dealt with case by case on their merits, as development applications or Part 5 applications are lodged.



# Reports from Director Environment & Community Services

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

**FILE REF: 2890.190**

**REPORT TITLE:**

**Proposal to Become Trustee - Reserve No 3766 Lot 7 Section 10 DP 758571 Kingscliff Street, Kingscliff - Former Girl Guides Site**

**SUMMARY OF REPORT:**

The Department of Land and Water Conservation has offered the above site to Council.

**RECOMMENDATION:**

That Council determines this matter.

## Reports from Director Environment & Community Services

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### REPORT:

Council is advised that the Department of Land and Water Conservation (DLAWC) has offered to Council to be trustee of Reserve No 37666 being Lot 7 Section 10 DP 758571 No 28 Kingscliff Street, Kingscliff

The land has constructed upon it a timber framed asbestos cement sheeted hall which was used by the Girl Guides Association. The land has an area of approximately 1000m<sup>2</sup> and is zoned 2 (b) with the current Reserve purpose being for Girl Guides. In this regard the Department of Land and Water Conservation has advised that there should be no difficulty in changing the purpose to a similar purpose such as public hall or public recreation.

The building is currently used once per week for Yoga classes and as such has a potential to generate some small income. It has little off-street car parking and a driveway that is located close to the roundabout of the intersection of Beach Street making parking along the street also questionable.

The building requires partial re-wiring and provision of a new meter box as well as some structural works to allow it to be approved as a public hall. The works are estimated to cost \$5,000/\$6,000. As well, on going maintenance of the grounds and buildings is estimated to be approximately \$1,000 per year, this however may be offset by some rental income.

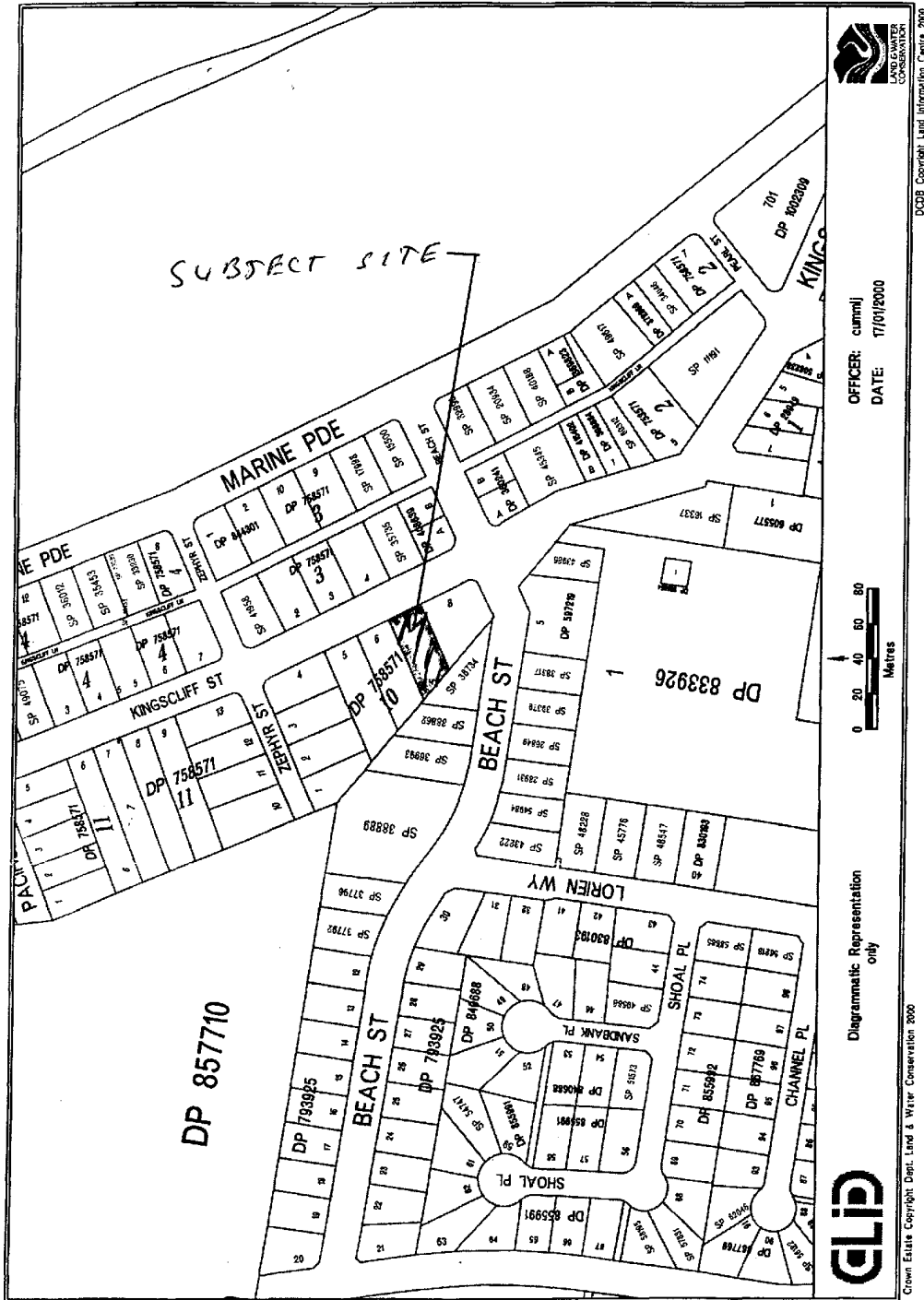
The reserve is offered to Council with or without the building being in place. However, even without the building the land will require maintenance and is considered by the Manager Recreation Services to be of little use for a neighbourhood park because of its location next to Kingscliff Street, no footpath access and the topography of the land.

Notwithstanding the above, as Kingscliff develops there may be some opportunities for use of this site and perhaps the building and as such is being offered at no cost, Council may wish to accept the offer.



# Reports from Director Environment & Community Services

Figure 10- Site Diagram



DataWorks Document Number: 5309

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## Reports from Director Environment & Community Services

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**21. ORIGIN: Recreation Services Unit**

**FILE REF: Tree-Removal/Lopping**

**REPORT TITLE:**

**Removal of Cadagi**

**SUMMARY OF REPORT:**

At its meeting held 3 March 1999, Council considered a report regarding the removal of Cadagi (Eucalyptus tore liana) from the shire's streets. This program did not receive funding in the 2000/2001 budget deliberations. However, Council has received offers to have these trees removed at the proponent's expense. As cost is the main factor prohibiting their removal, Council needs to consider its approach to such offers.

**RECOMMENDATION:**

That Council determines its position from the options available.

## Reports from Director Environment & Community Services

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### REPORT:

At its meeting held 3 March 1999, Council considered a report regarding the removal of Cadagi (*Eucalyptus tore liana*) from the shire streets. That report and resultant resolution is reproduced as follows:-

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

*At its meeting of 20 January 1999 Council resolved:*

*“...that:-*

- 1. Council develops a program for the removal of eucalypts from public areas where falling limbs pose a threat to the safety of people and buildings.*
- 2. This program embodies the replacement of eucalypts with more suitable species.*
- 3. This program be advertised for public comment.”*

#### ***RECOMMENDATION:***

*That this report be received and noted and the program for removal of Cadagi be considered in the 2000/2001 budget.*

## Reports from Director Environment & Community Services

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### **REPORT:**

*At its meeting of 20 January 1999 Council resolved:*

*“...that:-*

- 1. Council develops a program for the removal of eucalypts from public areas where falling limbs pose a threat to the safety of people and buildings.*
- 2. This program embodies the replacement of eucalypts with more suitable species.*
- 3. This program be advertised for public comment.”*

*With reference to point 1, Council currently pursues a policy of removing or taking remedial action in instances where there is an identified threat to the safety of people and buildings.*

*With response to point 2, trees removed are replaced with suitable species where appropriate.*

*Council's issues with eucalypts, particularly in street plantings, is almost exclusively in dealing with one particular species, the Cadagi (*Eucalyptus tore lianas*). A recent petition from Blundell Boulevarde that went before Council involved the Cadagis, and Council files contain a number of letters from several different streets in the Shire, dating back to 1986 requesting these trees be removed.*

*These trees were introduced into the Shire many years ago and promoted by the reforestation committee for use as a windbreak, boundary tree. As they are fast growing and flower young, it appeared to make an ideal street and parks tree for the Tweed. However, as evidenced by the many and constant issues created by the Cadagis extreme leaf and fruit fall, this is obviously not the case.*

*Mr Bruce Chick has deemed them a problem tree and the Far North Coast County Council (FNCCC) has them listed as “weeds considered to pose potential risk to the Environment” stating:*

*“Council is aware that some Councils are planting some of the plants on this list of potentially serious weeds. They are being used as street trees and in parks and gardens. Some of the more commonly planted species include Cadagi (*Eucalyptus tore liana*)...”*

*However, although this species has caused many problems within the Shire and will increasingly continue to do so as specimens grow, they are not removed as they are not causing damage to infrastructure nor are they deemed a safety risk.*

*There is conceivably more value to Council and the community in developing a “program for the removal of *Eucalyptus tore lianas* from street plantings where the residents request their removal”.*

*In pursuing such a program, there are several important considerations that will need to be addressed:*

## Reports from Director Environment & Community Services

1. **Costs** - A recent count numbered 505 Cadagis in streets alone. At an average cost of approximately \$250 per tree to remove, grind the stump and replace, the potential cost to Council of such a program is \$126,250. Council's tree unit budget currently only covers approximately two thirds of the actual costs of the unit. The difference is made up through 'external' jobs (other units within Council). Consequently, funds will need to be committed by Council specifically for this program. This commitment will have to span several years.
2. **Aesthetics** - Several streets in the Shire are completely planted in Cadagis. Keith Compton Drive contains 180 trees alone. To remove all the trees from these streets at once would not only be costly, but will leave the area denuded and bare for some time resulting in both a loss in amenity and shade.
3. It is possible not all people in these streets (or local area) object to these trees. A program of consultation in each instance where a complete street of trees requires removal will be necessary.
4. It must be made explicit in any such program that the policy of removal applies solely to one species. The constant issues associated with this species and the concerns raised by the FNCCC isolate this as a problem species. Council cannot afford, nor is it desirable to remove all trees upon request.
5. Any such program would need to fit into the tree gangs' usual works commitments.
6. Recreation Services was denied funds in the 1998/99 budget for basic maintenance of new open space acquired within the Shire. This year, more areas have been acquired. The responsibility of Council to provide basic maintenance of its open space areas should not be compromised for such a project.

To instigate such a program, a commitment of \$25,000 per year over 5 years will be required from Council. Recreation Services would administer and prioritise the program giving consideration to demand and aesthetics.

As it is unlikely funds will be available for this work in the upcoming budget it is recommended this program be considered for commencement in the 2000/2001 budget.

### RESOLUTION:

#### 18. Program for Removal of Eucalypts

GT3/3 Pt4 534 134 464

917

Cr Polglase

Cr Nowland

**RESOLVED that this report be received and noted and the program for removal of Cadagi be considered in the 2000/2001 budget.**

A budget item for commencement of this program was considered in the 2000/2001 budget deliberations but did not received funding.

## Reports from Director Environment & Community Services

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Whilst Council will continue to remove trees that are causing damage to infrastructure or are in ill health, request for the removal of these trees continues.

An instance has now arisen where a residents of "Pelican Harbour" on the Corner of Keith Compton Drive and Botany Crescent have offered to pay for the removal of the Cadagi from the front of these units.

As cost is the limiting factor in removal of these trees, and other residents of the shire may wish to pursue the same course if available, Council needs to consider its approach to such offers.

### COMMENT

Council has 3 options in this instance:-

1. Approval for the removal of Cadagi at the proponent's expense provided they are replaced with suitable trees that take into consideration the future streetscape; trees to be removed by Council's tree unit at cost price;
2. Not to offer the option of removal of Cadagi at the proponent's expense.
3. Reconsider the allocation of funds to commence the removal/replacement program, with residents then having the option to pay for the removal of trees outside this program.

Perhaps the two main factors that require consideration are equity and the affects on a streetscape.

Obviously, in streets such as Keith Compton Drive and Toolooma Street where large numbers of trees exist, not all residents who would like the trees removed from the front of their place can afford the associated costs. This is likely to raise conflict both between residents and between residents and Council.

Additionally, the removal of sections of trees, such as that proposed in Keith Compton Drive will have marked affects on the streetscape. Aside from the immediate affect of the removed trees, there may be longer term effects from the differing ages of replacement trees.

Option three will provide the means to minimise both these potential issues. A program of removal considering streetscape and past requests for removal could be initiated with the option for residents to pay for removal outside this program.

Should funds be unavailable, options one and two are for Council's consideration.

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## Reports from Director Environment & Community Services

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**22. ORIGIN: Building Services Unit**

**FILE REF: DA2060/115 Pt1**

**REPORT TITLE:**

**Building Enclosure Below Council's Design Flood Level - Lot 90 DP 582072 Fingal Road, Fingal Head**

**SUMMARY OF REPORT:**

A development application has been received by Council for a proposed two storey dwelling and detached open boat shed at Lot 90, Number 12 Fingal Road, Fingal.

The proposed dwelling is in a flood prone area and the ground floor area would contravene Council's Development Control Plan No 5 which generally limits enclosed areas below flood levels to 50m<sup>2</sup>.

**RECOMMENDATION:**

That Council invites the applicant to amend the proposal to comply with the 50m<sup>2</sup> requirements of Development Control Plan No 5 and in the event that the applicant does not agree to amend the proposal that this application be refused as it will not conform with the 50m<sup>2</sup> enclosure requirements of Development Control Plan No 5.

## Reports from Director Environment & Community Services

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### REPORT:

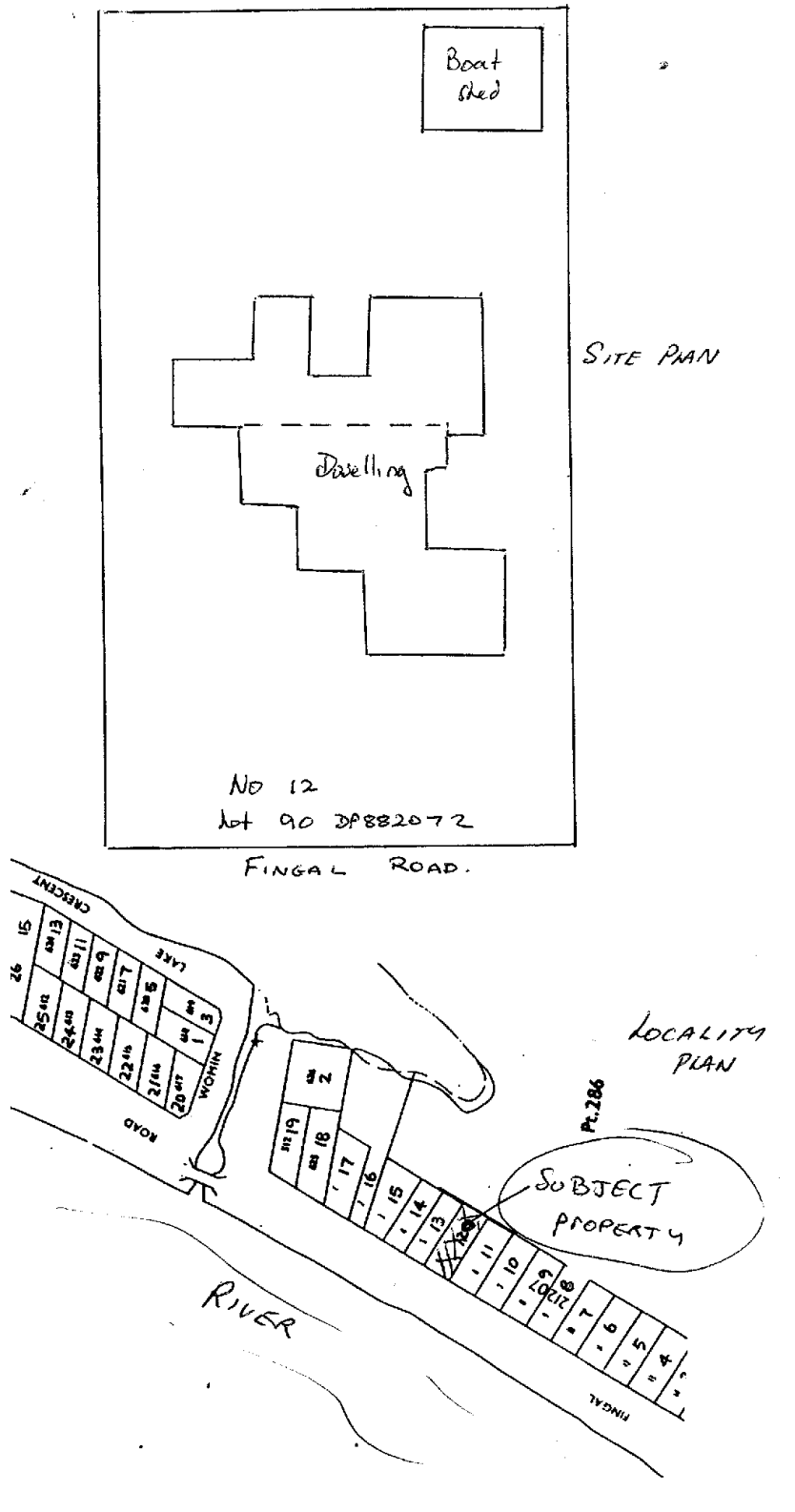
A development application has been received for a new double storey dwelling and detached boat shed on flood prone land at 12 Fingal Road, Fingal Head.

The ground floor plan of the proposed dwelling is not consistent with Council's Development Control Plan (DCP) No 5 as more than 50m<sup>2</sup> of the ground floor area is proposed to be enclosed below the design flood level of 3.03m AHD. The natural ground floor level is noted at 1.85m AHD.

The following site/locality plan and floor plans are provided for clarification.

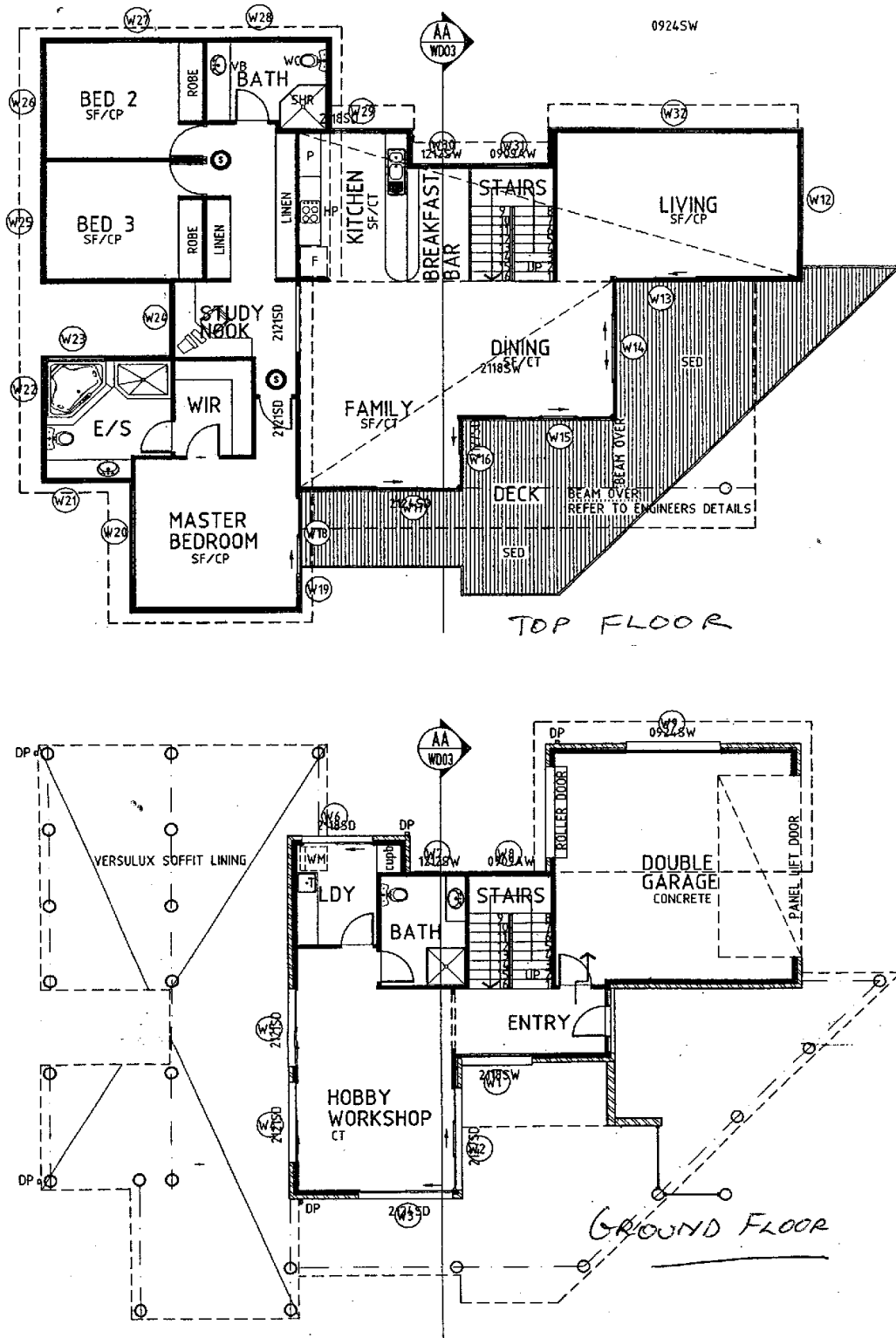
# Reports from Director Environment & Community Services

Figure 11 - Site/Locality Plan



# Reports from Director Environment & Community Services

Figure 12- Floor Plans



## Reports from Director Environment & Community Services

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The ground floor enclosed area of the dwelling totals 89m<sup>2</sup> and the boat shed will have mesh openings in the construction to allow the free flow of flood waters.

The requirements of DCP No 5 have been discussed with the owner who requests that Council gives consideration to the additional 39m<sup>2</sup> of enclosed area with regard to DCP No 5 which states in part:-

**“Development** *The area below Council’s design flood level is not to be totally enclosed. Consideration will be given on application, to permitting the enclosure of laundry, stairway entry and double garage space, provided that such an enclosure does not significantly restrict flood flows.*

*An area of 50m<sup>2</sup> will generally encompass these facilities. Any larger enclosures will only be considered when the application can demonstrate that the additional area enclosed will not provide any greater restriction to flood flow.*

*The free flow of flood water must be a major consideration in the design of any area to be enclosed.*

*In fill development of residentially zoned land will be permitted with the exception of allotments within the extreme hazard zones identified in the Cameron McNamara report of September 1984.”*

Council may recall that a similar proposal was approved at its meeting of 7 June 2000 where an application for a double garage of 36m<sup>2</sup> was proposed and together with the existing dwelling enclosure of 70m<sup>2</sup>, created a total of 107m<sup>2</sup> enclosure below the design flood level.

The Building Services Unit requested advice from Council’s Manager of the Water Unit with regard to the proposal and also the background, objectives and legal ramifications of DCP No 5. This advice is provided as follows:-

*“DCP No 5 embodies Council’s floodplain management plan as developed and adopted after lengthy consultation and review. A major aim of the plan was to contain the increase in potential flood damage by limiting the potential for flood damage to new dwellings.*

*The area below flood level that may be enclosed was limited to 50m<sup>2</sup>.*

*Desirably no area should be enclosed, however, it was accepted that in many areas it is impractical to raise garage areas and laundries. It was also accepted that security often required the enclosure of a stairwell/entry area. The area of 50sq metres is consistent with the current NSW Government Floodplain Development Manual and draft Floodplain Management Manual.*

*Approvals consistent with DCP 5 should provide Council with the indemnity available under the Local Government Act. Approvals contrary to DCP 5 potentially leave Council liable in the event of any future litigation.*

*If the current allowance of 50m<sup>2</sup> enclosure is considered inadequate, then it would be appropriate to review DCP 5 rather than issue approvals that are contrary to its requirements.”*

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The difficulty with the DCP appears to be in the wording which says –

*“Any larger enclosures will only be considered when the applicant can demonstrate that the additional area enclosed will not provide any greater restriction to flood flow.”*

*The difficulty with the DCP appears to be in the wording.*

This essentially involves a full Hydraulic Engineers flow analysis which is beyond the scale/economics of the basic domestic proposal.

In light of the above it appears that Council has the following options for resolution:-

1. Approve the application as submitted with standard conditions thus allowing a full enclosure of 89m<sup>2</sup> below the design flood level –
  1. *The development shall be completed in general accordance with Plan No's P223WD02A prepared by Glen Peterson Architects, except where varied by these conditions.*
  2. *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.*
  3. *The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.*
  4. *Front external wall of the building is to stand a minimum of 6 metres from the front boundary of the property.*
  5. *Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.*
  6. *The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:*
    - a. *footings, prior to pouring of concrete*
    - b. *slab, prior to pouring of concrete*
    - c. *frame prior to the erection of brick work or any wall sheeting*
    - d. *final inspection prior to occupation of the building*
    - e. *completion of work*
  7. *The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:*
    - (i) *Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and*

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- (ii) *Certification of the works performed by the person carrying out the works is to be submitted to Council prior to occupation of the building; and*
- (iii) *A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-*
  - (A) *the method of protection; and*
  - (B) *the date of installation of the system; and*
  - (C) *where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and*
  - (D) *the need to maintain and inspect the system on a regular basis.*

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

8. *The building is to be used for single dwelling purposes only.*
9. *In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:*
  - i. *All required erosion and sedimentation control devices have been installed and are operational.*
  - ii. *Required toilet facilities have been provided on the site in accordance with Section 78i of the Environmental Planning & Assessment Amendment Regulations 1998.*
  - iii. *A sign has been erected on the site in accordance with Section 78H of the Environmental Planning & Assessment Amendment Regulations 1998.*
  - iv. *All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.*
  - v. *That the licensee has complied with the provisions of Section 78c of the Environmental Planning and Assessment Amendment Regulations 1998.*
10. *The glazier is to supply the PCA with certification that all glazing complies with AS 1288-1994 and AS2047 of the Building Code of Australia.*
11. *Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.*
12. *In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the*

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*approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.*

13. *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.*
14. *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.*
15. *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.*
16. *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.*
17. *All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).*
18. *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*



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- (ii) *has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and*
  - c. *the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.*
- 19. *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.*
- 20. *The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.*
- 21. *An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 1a building, or dwelling or dual occupancy and within sole occupancy units in a townhouse.*

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

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

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

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

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

- 22. *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.*

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23. *All roof waters and water from open car park areas to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available.*
24. *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.*
25. *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.*
26. *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.*
27. *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.*
28. *All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Council's Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.*
29. *Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:*
  - a *internal drainage, prior to slab preparation;*
  - b *water plumbing rough in, prior to the erection of brick work or any wall sheeting;*
  - c *external drainage prior to backfilling.*
  - d. *completion of work.*
30. 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.*
31. *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.*
32. *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*

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*and reference must be made to Council to confirm that such installers are Council approved.*

33. *Impervious floors, properly graded and drained are to be provided to xxxx*
34. *Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.*
35. *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.*
36. *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:-*
  - \* *43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and*
  - \* *50°C 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.*

2. Refuse the application as submitted.
3. Require amendments to comply with the 50m<sup>2</sup> enclosure requirements of DCP 5.
4. Approve the application as submitted subject to a full Hydraulic Engineer's report certifying that the proposed dwelling will not significantly restrict flood flows, and the following standard conditions:
  1. *The development shall be completed in general accordance with Plan No's P223WD02A prepared by Glen Peterson Architects, except where varied by these conditions.*
  2. *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.*
  3. *The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.*
  4. *Front external wall of the building is to stand a minimum of 6 metres from the front boundary of the property.*
  5. *Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.*
  6. *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*

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- b. *slab, prior to pouring of concrete*
  - c. *frame prior to the erection of brick work or any wall sheeting*
  - d. *final inspection prior to occupation of the building*
  - e. *completion of work*
7. *The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:*
- (i) *Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and*
  - (ii) *Certification of the works performed by the person carrying out the works is to be submitted to Council prior to occupation of the building; and*
  - (iii) *A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-*
    - (A) *the method of protection; and*
    - (B) *the date of installation of the system; and*
    - (C) *where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and*
    - (D) *the need to maintain and inspect the system on a regular basis.*
- Note:** *Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.*
8. *The building is to be used for single dwelling purposes only.*
9. *In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:*
- i. *All required erosion and sedimentation control devices have been installed and are operational.*
  - ii. *Required toilet facilities have been provided on the site in accordance with Section 78i of the Environmental Planning & Assessment Amendment Regulations 1998.*
  - iii. *A sign has been erected on the site in accordance with Section 78H of the Environmental Planning & Assessment Amendment Regulations 1998.*
  - iv. *All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.*

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- v. *That the licensee has complied with the provisions of Section 78c of the Environmental Planning and Assessment Amendment Regulations 1998.*
10. *The glazier is to supply the PCA with certification that all glazing complies with AS 1288-1994 and AS2047 of the Building Code of Australia.*
11. *Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.*
12. *In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.*
13. *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.*
14. *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.*
15. *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.*
16. *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.*
17. *All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).*

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18. *The erection of a building in accordance with a development consent must not be commenced until:*
- a. *detailed plans and specifications of the building have been endorsed with a construction certificate by:*
    - (i) *the consent authority; or*
    - (ii) *an accredited certifier; and*
  - b. *the person having the benefit of the development consent:*
    - (i) *has appointed a Principal Certifying Authority; and*
    - (ii) *has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and*
  - c. *the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.*
19. *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.*
20. *The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.*
21. *An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 1a building, or dwelling or dual occupancy and within sole occupancy units in a townhouse.*

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

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

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

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

## Reports from Director Environment & Community Services

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- A Certificate of Compliance is to be submitted to Council prepared by the licensed Electrical Contractor certifying that the installation complies with the above, prior to occupation of the building.*
22. *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.*
  23. *All roof waters and water from open car park areas to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available.*
  24. *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.*
  25. *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.*
  26. *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.*
  27. *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.*
  28. *All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Council's Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.*
  29. *Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:*
    - a *internal drainage, prior to slab preparation;*
    - b *water plumbing rough in, prior to the erection of brick work or any wall sheeting;*
    - c *external drainage prior to backfilling.*
    - d. *completion of work.*

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30. 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.*
31. *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.*
32. *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.*
33. *Impervious floors, properly graded and drained are to be provided to xxxx*
34. *Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.*
35. *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.*
36. *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:-*
- \* *43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and*
  - \* *50<sup>0</sup>C 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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## Reports from Director Environment & Community Services

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

**FILE REF: Drugs Related Matters**

**REPORT TITLE:**

**Drugs and Community Action Strategy**

**SUMMARY OF REPORT:**

The Premier's Department has advised of the above strategy which is to be developed for the region.

It is considered that Council should hold a workshop with the Project Manager to better understand the direction and issues of such strategy.

**RECOMMENDATION:**

That Council holds a Workshop with the Project Manager of the Regional Drugs and Community Action Strategy.

# Reports from Director Environment & Community Services

## REPORT:

Council is advised that the letter as set out below has been received:-



PREMIER'S DEPARTMENT  
NEW SOUTH WALES

TELEPHONE: (02) 6620 1612  
FACSIMILE: (02) 6620 1613  
jennifer.parke@premiers.nsw.gov.au  
PO BOX 73 LISMORE NSW 2480

DRUGS AND COMMUNITY ACTION STRATEGY  
NORTH COAST  
120 DALLEY STREET  
LISMORE NSW 2480

TWEED SHIRE COUNCIL	
FILE NO.	DRUGS RELATED
DOCUMENTS	MAILED
RECD	25 JUL 2000
BOX No.	
ASSIGNED TO	EDWARDS G
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

19 July 2000

Dr John Griffin  
General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

Dear John,

I am writing to introduce myself and to provide information on the Drugs and Community Action Strategy (DCAS), a key initiative of the NSW Drug Summit, 1999.

I commenced employment with the Premier's Department in April 2000. I am based in the Lismore and Armidale Premier's Department Regional Coordinator's offices and cover south to Taree, north to Tweed Heads, and the New England region.

I am responsible for identifying existing, and establishing new local Community Drug Action Teams (CDATs). My role is to advise and support the CDATs and facilitate the development, implementation and monitoring of local Drug Action Plans to assist agency and community action on drugs.

CDATs are partnerships between government departments and agencies, community organisations, and groups who have come together to address one or more common goals related to better management of drug issues at a local level.

Their role is to:

- provide the key mechanism to establish and foster coordinated local action to address those illicit drug issues which particular communities identify as having the highest priority, and
- to ensure the extension and effectiveness of existing partnerships within communities, and encourage pooling of resources and the building of new partnerships between all sectors of communities.

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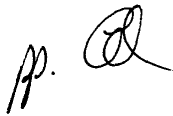
The functions of the CDATs are to:

- develop and implement a local Drug Action Plan setting out priorities, identifying strategies, projects and activities together with measurable monitoring and evaluation information;
- report on activity in respect of their local Drug Action Plan to the Regional Coordination Management Groups through the Regional Project Manager;
- facilitate community education campaigns on illicit drug issues in their localities;
- disseminate information developed through the Community Drug Information Strategy;
- ensure coordination of specific initiatives under the Government Plan of Action;
- liaise with other government and non government initiatives and programs
- maximise links wherever appropriate with other local and regional initiatives that promote shared responses to drug issues and avoid duplication of effort (e.g. *Families First, Community Safety Committees*).

The first stage of my work is to develop a regional Strategic Directions Statement. The Strategic Directions Statement sets out in broad terms what the DCAS (at the regional level) hopes to achieve and describes the infrastructure CDATs can draw on to achieve identified outcomes. To achieve this, I will be collating data on illicit drug use, identifying specific drug issues in communities, programs and services available and gaps and opportunities.

As part of my consultations, I will be making contact with the Community Services staff in your council. I am happy to meet with you (if I have not done so already!) and other Councillors and provide additional information if required.

Yours sincerely,



Jennifer Parke  
Project Manager  
Drugs and Community Action Strategy  
North Coast/New England

To further understand the direction and issues raised therein, it is recommended that a Workshop be arranged with the Project Manager.

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## Reports from Director Environment & Community Services

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## Reports from Director Environment & Community Services

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

**FILE REF: Overgrown Land - Private**

#### **REPORT TITLE:**

#### **Control of Overgrown Private Land**

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

Council currently regulates the control of overgrown private land parcels within residential areas. Given the local climate and suitable growing season the number of land parcels requiring notification and control by Council each year is significant.

The land requires clearing as it can become a nuisance or hazard for reasons of fire, vermin or safety.

Officers believe that many of the land owners concerned utilise Council's services as a form of notification and administration of their uncleared land, rather than monitoring the condition of the land and organising contract slashing services themselves.

The administration of overgrown land has become a considerable burden upon Council resources, due to the formal notification and associated inspections required under the Local Government Act.

Therefore it is proposed that following reasonable initial notification, owners of land who do not comply with Orders served by Council requiring land to be cleared, will be issued with a Penalty Infringement Notice.

#### **RECOMMENDATION:**

That Council notes the Penalty Infringement Notices will be issued for non compliance with Orders requiring the clearing of overgrown land, where the land owner has been suitably notified as outlined in this report.

## Reports from Director Environment & Community Services

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### REPORT:

Council currently regulates the control of overgrown private land parcels within residential areas. Council is regularly notified by residents of their proximity to adjoining overgrown land and is requested to arrange clearance of same. Given the local climate and suitable growing season the number of land parcels requiring notification and control by Council each year are significant. It is not uncommon for Council to arrange for the clearance of an individual land parcel more than once per year.

The land requires clearing as it can become a nuisance or hazard for reasons of fire, vermin and safety. Shire residents rightly expect that Council will negate such hazards.

The administration of overgrown land has become a considerable burden upon Council resources, due to the formal notification and associated inspections required under the Local Government Act. The mechanism utilised to require clearance of land is the issue of an Order under section 124 of the Act.

The basic sequence required to be followed under the legislation is as follows:

1. Notification received from public or property identified by an officer of Council.
2. Ranger carries out initial inspection.
3. A Notice of Intention to Serve an Order is issued.
4. A second inspection is carried out.
5. If the land has not been cleared, then an Order requiring that the land be cleared is served.
6. The land is reinspected.
7. If the land has not been cleared, then Council slashing contractor is requested to carry out the work.
8. The land is reinspected to ensure the work has been satisfactorily completed, the contractor is paid and an invoice is forwarded to the land owner.
9. Council may have to follow-up payment of account.

Officers believe that many of the land owners concerned utilise Council's services as a form of notification and administration of their uncleared land, rather than monitoring the condition of the land and organising contract slashing services themselves. Due to the process required by the Act, this results in a burden on Council resources.

It can be seen that no less than 4 inspections are required when the process 'runs smoothly'. It is not uncommon to receive multiple initial notification (and associated inspections) before the officer deems that the land warrants clearing and the above formal process actually commences.

The Act provides for Council to issue a Penalty Infringement Notice for \$330 for non compliance with an Order. This penalty amount is believed to be intended to assist Councils in recovering the costs associated with such regulatory practices. Whilst this amount may be viewed as excessive by

## Reports from Director Environment & Community Services

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some, officers believe that it should be considered in light of the above administrative process, and the fact that the owner will be notified in advance of Council's intent to issue such a penalty.

An alternative approach to the issuing of such infringement notice is to amend the fee adopted by Council under its current Fees and Charges. Alteration of this fee would require public notification in accordance with the Act. The average amount collected under Council's current fee structure is \$30. This is viewed as inadequate and does not in any way begin to recover Council's true costs.

*The key point which should be noted is that the intent of adopting a position where such penalties are issued for non compliance is not a revenue collection initiative, but rather an attempt to have the owners of the land organise and administer the clearance of the land themselves.*

It is proposed that in both the Notice of Intention to Serve an Order and in the Order itself it will be clearly stated that Council intends to issue a Penalty Notice for non compliance.

Therefore it is proposed that following reasonable initial notification, owners of land who do not comply with Orders served by Council requiring land to be cleared, will be issued with a Penalty Infringement Notice.

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## Reports from Director Environment & Community Services

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## Reports from Director Environment & Community Services

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### 25. ORIGIN: Environment & Health Services Unit

**FILE REF: Markets-General**

#### **REPORT TITLE:**

**Markets - Sale of Food and Drinks**

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

At the Council meeting of 19 July Council resolved to consider reviewing its Policy on Vending of Food, and to *'call for a report on options with a view to placing proposals on public exhibition for comment.'*

The Policy includes an Objective *"to cause minimum financial impact to nearby retail outlets"*. The Policy permits the sale of *"home made or home grown"* produce at markets and the sale of drinks *"provided there are no nearby retail outlets that may be affected"*.

Effectively, the Policy has restricted the sale of more 'commercial' or conventional fast foods at markets, such as soft drinks and takeaway foods which are deemed to be available from local retailers.

Several options are open to Council in reviewing the existing Policy, which are briefly listed in this report.

#### **RECOMMENDATION:**

That Council determines if it will call for public comment in respect of the current Policy E10.10 Vending of Food on Public Reserves, Streets and Roads and which of the options listed will be part of that public comment.

## Reports from Director Environment & Community Services

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### REPORT:

At the Council meeting of 19 July Council resolved to consider reviewing its Policy on Vending of Food on Public Reserves, Streets and Roads, and to 'call for a report on options with a view to placing proposals on public exhibition for comment.'

The Policy includes an Objective "to cause minimum financial impact to nearby retail outlets". The Policy permits the sale of "home made or home grown" produce at markets and the sale of drinks "provided there are no nearby retail outlets that may be affected".

Effectively, the Policy has restricted the sale of more 'commercial' or conventional fast foods at markets, such as soft drinks and takeaway foods which are deemed to be available from local retailers.

The relevant Policy states:

#### ***"E10.10 Vending of Food on Public Reserves, Streets and Roads***

##### ***Objective***

*To control the vending of food on public reserves, streets and roads to maintain the highest levels of public health, safety and convenience of persons using public reserves, streets and roads and to cause minimum financial impact to nearby retail outlets.*

##### ***Policy***

*Approval will not be given for the vending of food on Public Reserves, Streets and Roads within the Tweed Council area except in the following circumstances:*

- 1. Where a specific one-off event has been approved by Council then the organising body may apply for approval for the vending of food. Such approval will be subject to the vendors complying with Council's "Code for the Vending of food at Markets and One-Day Events".*
- 2. Where Council approval has been granted for the conducting of a Market or similar on a regular basis on a reserve only "home made" or "home grown" produce may be sold, provided "home made" products are correctly pre-packaged and labelled and their sale complies with the "Code for the Vending of Food at Markets and One Day Events".*
- 3. Where Council approval has been granted for the conducting of market or similar, on a regular basis on a reserve, then approval may be given for the sale of drinks provided there are no nearby retail outlets that may be affected and the sale of drinks complies with the requirements of the "Code for the Vending of Food at Markets and One Day Events".*

Council has considered a number of reports on the sale of food at markets in the last two years. Council last considered a report on the Policy on 5 July 2000, involving a request to sell food at the Knox Park Murwillumbah Market. A copy of that report is included at the end of this report.

## Reports from Director Environment & Community Services

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In the past, Council has resolved to maintain the Policy as there are retail outlets which sell food and drink products in reasonable proximity to the relevant markets and which could be affected by an amendment to the Policy. The restriction is no doubt considered restrictive by the Market Managers and stall holders, who would like to expand the market products.

The possibility of expanding the markets may be offset against the interest of permanent local retailers who have established businesses, employ people and are likely to work long hours, seven days per week (particularly in the take away food trade).

Market is defined under the Tweed Local Environmental Plan 2000 as:

*'a temporary outlet for the sale of local crafts and goods ... ....'*

Of significance to the part of the policy which states:-

*".... a large proportion of which are not available through normal commercial outlets"*.

Were Council to consider amending the Policy it would be appropriate that public comment be sought and this was part of the resolution.

The various options which have been identified include:

- Maintain the existing Policy and restrictions.
- Withdraw the Policy, permitting an unlimited number of food and drink traders to operate at the markets, subject to compliance with relevant food safety standards.
- Vary the existing Policy to permit the sale of 'exotic' foods and drinks (asian, oriental etc) which are not commonly available from local retailers, or the most likely to be available at that time subject to compliance with relevant food safety standards.
- Vary the existing Policy to permit a restricted number of approved food vans (say two) selling any type of food and drinks, subject to compliance with relevant food safety standards.
- Vary the existing Policy to permit the sale of food and drinks by existing permanent local food retailers or charitable groups who are approved by the Market Manager, subject to compliance with relevant food safety standards.
- Consider any other options which may be proposed through the public comment process.

One factor that needs to be considered is that the markets being considered under this policy are those on private property. With this in mind it has been a primary concern to ensure that the operators would compliment or enhance local trades and local communities.

The operators who sought to operate these markets knew this was a condition of approval. In fact, if the markets had been publicly offered with food stall capacity, the submissions received from prospective operators may have been different.

### **Petitions and Letters**

Historically local retailers, particularly at Pottsville (and as reported in a Daily News article of 17 July 2000), have objected to removal of the limitations over sale of food.

## Reports from Director Environment & Community Services

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Council has already received the following written comment in relation to this matter:

- A petition which included 77 signatures supporting the sale of food and drinks at the Markets at Pottsville.
- 69 signed copies of a standard letter supporting the sale of food and drinks at the Markets at Pottsville.

### **PREVIOUS REPORT OF 5 JULY 2000:**

#### *REPORT:*

*During the recent process of considering the issue of approvals to operate markets on public land within the Shire the issue of sale of food at markets has been raised. Mr Phillip Keese, the current operator of the Knox Park Murwillumbah Market, has stated that his application to operate the markets after 1 July 2000 is contingent upon Council permitting at least two food vans to operate at the market.*

*Recently officers became aware that two food vans had been selling food and drinks at the market and gave a direction that this should not be continued, in accordance with Council's relevant Policy. Mr Keese makes the point that the success of the Knox Park Markets is marginal, and is greatly dependant upon these food vans. Without the food vans he has verbally stated that he would withdraw his application to operate the market.*

*Officers note that the Knox Park Market is within close walking distance to a number of food outlets and the CBD.*

*Council has considered this matter a number of times in recent years. Copies of the last two reports to the Council meetings of 16 December 1998 and 15 December 1999 are provided at the end of this report.*

*Importantly, Council has previously resolved not to amend Policy E10.10 which provides for relevant restriction over the sale of food. On 15 December 1999 Council also resolved however to permit one ice cream van to trade at the Pottsville Market.*

*The relevant Policy states:*

#### **“E10.10 Vending of Food on Public Reserves, Streets and Roads**

##### **Objective**

*To control the vending of food on public reserves, streets and roads to maintain the highest levels of public health, safety and convenience of persons using public reserves, streets and roads and to cause minimum financial impact to nearby retail outlets.*

##### **Policy**

*Approval will not be given for the vending of food on Public Reserves, Streets and Roads within the Tweed Council area except in the following circumstances:*

1. *Where a specific one-off event has been approved by Council then the organising body may apply for approval for the vending of food. Such approval will be subject tot he*

## Reports from Director Environment & Community Services

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*vendors complying with Council's "Code for the Vending of food at Markets and One-Day Events".*

- 2. Where Council approval has been granted for the conducting of a Market or similar on a regular basis on a reserve only "home made" or "home grown" produce may be sold, provided "home made" products are correctly pre-packaged and labelled and their sale complies with the "Code for the Vending of Food at Markets and One Day Events".*
- 3. Where Council approval has been granted for the conducting of market or similar, on a regular basis on a reserve, then approval may be given for the sale of drinks provided there are no nearby retail outlets that may be affected and the sale of drinks complies with the requirements of the "Code for the Vending of Food at Markets and One Day Events".*

*The Policy includes an Objective "to cause minimum financial impact to nearby retail outlets". The Policy permits the sale of "home made or home grown" produce at markets and the sale of drinks "provided there are no nearby retail outlets that may be affected".*

*The restriction is no doubt considered restrictive by the Market Managers such as Mr Keese and stallholders, who would like to expand the market products.*

*Council permits public reserves to be used for markets to help stimulate the existing local economy. If the Policy were amended to permit the sale of food and drinks it may have a detrimental impact on local retailers and minimise any stimulative effect on the economy.*

*Were Council to consider amending the Policy it would be appropriate that it be placed on public advertisement for comment. Further, if Council were to vary the Policy for one market then there is likely to be an outcry from other Market Managers who have sought similar variations in the past.*

*It is recommended that Council not amend the current adopted Policy relating to sale of food on public reserves.*

*However, if Council were to vary the policy, permitting food vans to operate, it is suggested that the number of vans be limited to two (2).*

If Council determines to seek public comment on options it will need to specify on which of the options it needs to comment.

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## Reports from Director Environment & Community Services

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## Reports from Director Environment & Community Services

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

**FILE REF: Surf Lifesaving, 4100.30**

**REPORT TITLE:**

**Relocation of Cabarita Beach Surf Life Saving Club to Temporary Premises and Demolition of Council Owned Premises**

**SUMMARY OF REPORT:**

Following a meeting between Council and Cabarita Beach Surf Life Saving Club it was agreed that the Council owned building occupied by the Surf Club has deteriorated to such an extent that it would be unusable by the Club for the upcoming surf season and should be demolished. To assist the surf club in the interim it was proposed that a Council owned 2 bedroom demountable be placed on the surf club land as temporary accommodation and other forms of assistance be provided.

**RECOMMENDATION:**

That Council confirms the action taken and determines the source of funding for the assistance and building demolition in its budget review process.

## Reports from Director Environment & Community Services

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### REPORT:

Council is advised that on 18 August a meeting was held to consider the future direction of Cabarita Beach Surf Club. Attending this meeting were representatives from the Surf club and Surf Lifesaving NSW, the Deputy Mayor and Council officers. This meeting was a follow-up to a similar meeting held on 4 April.

The major outcome from the meeting was the concern about the deteriorating condition of the Council owned building in Pandanus Parade, Cabarita Beach which has been occupied by the Surf Club.

The condition of the building has been the subject of reports by the media in recent times and a recent inspection has revealed that it has reached the end of its economic life and requires demolition. The building was constructed in the 1960s.

It was agreed at the meeting that in the interest of safety both of the public and the club membership that the use of the building for the upcoming surf season was not possible and it would be necessary for the surf club to move into temporary accommodation while it planned for its future building. The club owns the land in front of the existing building being used as a club house.

To assist in the temporary accommodation a demountable 2 bedroom dwelling which was used as a caretaker's residence at Stotts Creek Waste Depot, but is now redundant, has been offered to the club as well as exclusive use of the dressing area of the public toilet located on the adjoining reserve.

In addition Council is investigating provision of a site shed for an office/communication facility.

This temporary accommodation will require the relocation of the Bogangar Precinct Team office and investigations into alternative sites are underway.

The placement of the demountable, and the demolition of the existing 2 storey brick structure both required development approval and to this end, applications are being submitted and processed.

While there are costs associated with these works to assist the relocation of the surf club and to demolish the building, these actions have had to be taken in the interest of public safety and to assist in keeping the club operative while it continues to investigate the goal it has had for some time being to move into its own building. It is recommended that the source of such funds be determined in Council's budget review process.



## Reports from Director Environment & Community Services

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

**FILE REF: Noxious-Insects/Posts, Weeds/Plants**

**REPORT TITLE:**

**New South Wales Lantana Biological Control Task Force - Funding**

**SUMMARY OF REPORT:**

The above Taskforce which Council has supported over the previous 3 years requests Council's support for the next three (3) years.

**RECOMMENDATION:**

That Council advises the NSW Lantana Biological Control Taskforce that it is unable to provide funding in 2000/2001.

## Reports from Director Environment & Community Services

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### **REPORT:**

Council is advised that over the past three (3)years it has contributed \$2,000 each year to the NSW Lantana Biological Control Taskforce. This was funded from the Agenda 21 program.

The Taskforce through the newsletter as reproduced below, has requested Council indicates its funding intentions for the next three (3)years.

Due to the vast problem that lantana causes throughout the Shire and the advances being made by the Taskforce in its control, it is considered that this is an extremely worthwhile project. However, there are insufficient funds in the Agenda 21 budget this year to support Council's involvement. Therefore it is recommended that Council advises that it is unable to participate in the program.

The Newsletter is reproduced as follows for Councillor's information.

# Reports from Director Environment & Community Services

## NSW Lantana Biological Control Taskforce

ABN 66 584 795 708

PO Box 238 CASINO 2470



# NEWSLETTER NO 6

JULY 2000

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NSW Agriculture  
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### FUNDING IMPORTANT

Exciting times are ahead. Falconia is released. Prospodium is close to release and a number of other agents are close to final host specificity testing. We really do need your support, financially and on the ground. If you have not already committed funding to this project, please consider it now. Every little bit helps. New privacy laws prevent me from listing the contributors to the project but so far we have received over \$30,000 for 2000-2001 with more pledged.

I can say the NSW National Parks & Wildlife Service are again major sponsors to this project

The replacement of Catchment Management Committees with Catchment Boards has seen the removal of small projects funding, which contributed significantly to pledges for the first three years of the NSW project. This funding was really appreciated. It is hoped that similar funding may become available through the new Boards, but we cannot rely on this happening.

### FALCONIA RELEASED

*Falconia intermedia*, a sap sucking insect from Jamaica, has been approved for release in Australia. Adults and nymphs suck the sap from the leaves, stunting the plant and reducing flowering. This in turn, allows other plants to compete for the same space, further restricting the Lantana.

Falconia is potentially very damaging and is perhaps the most promising insect to be released to date. Work still needs to be done on its potential climatic range.

Adults are very fertile and the breeding cycle is only about three weeks. This means that large numbers can be bred up and released in a short time. This coupled with improved release strategies could see Falconia have a significant place in the suite of agents released to attack Lantana.

## Reports from Director Environment & Community Services

It only attacks *Lantana camara* and *Lippia alba*, an introduced weed.

### FUNGUS HERE SOON

The fungus *Prospodium tuberculatum* has passed all its host specificity testing and the application for release of the disease was submitted to Australian Quarantine & Inspection Service (AQIS) in June 2000.

Hopefully approval for release will be granted in about three to four months time.

The rust is highly host specific and only affects pink-flowered biotypes of Lantana. It is a leaf rust fungus.

Overseas test indicate that the rust fungus can be very damaging. Greatest benefits, as with most agents, are expected when it is working alongside other bio control agents.

### OTHER AGENTS IN PIPELINE

Two stem boring cerambycid beetles, *Parvander xanthomelas*, from Mexico and *Aerinica multipunctata* from Brazil are being studied with a view to bringing them into quarantine. Both are potentially very damaging as the developing larvae tunnel down the stems resulting in branches dying back and the plants being stunted.

A budmite, *Aceria lantanae*, is being studied in South Africa. The mite can build up very quickly to large numbers, causing large galls to form at the tips of the growing branches. Damage to plants in the laboratory and in the field can be quite severe. Plants can stop flowering completely, lose their leaves and become stunted. The Plant Protection Research Institute (PPRI) in South Africa is also studying a gall fly, *Eutreta xanthochaeta*, which causes plants to become stunted.

CABI Biosciences in meso-America have identified three other fungi, two with the potential to be released as bio control agents. These are the rust fungus, *Puccinia lantanae*, and a web blight, *Ceratobasidium lantanae-camarae*. These could be considered for release within this three year term of this project.

Surveys are also being undertaken to find other insects and pathogens.

### TRIENNIAL REPORT RELEASED

At last I am in a position to provide contributors with a copy of the report for the first three years of the NSW project.

A copy of the report is enclosed with this newsletter for all previous and current financial contributors to the Taskforce.

Additional copies of the report are available from the Secretary at a cost of \$22.00 each, including GST. Any individual or organisation paying for a copy of the report can deduct the cost from any funding pledged to the Taskforce. That is provided the pledged funding is in excess of \$200.00

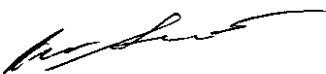
### SECRETARIES COMMENT

This newsletter is short because I know you will be more interested in studying the triennial report than in reading this Newsletter.

I do trust that you are inspired to pledge funding for at least the next 12 months, but preferably for each of the next three years. A pledge form is enclosed, so please fill it in and return it to me.

We would appreciate any stories or press clipping about Lantana that we can circulate through the Newsletter. Thank you for your support

The Taskforce is registered for the GST and TAX INVOICES are available. The ABN is showing at the top of the Newsletter



Bruce Scott  
Secretary

## Reports from Director Environment & Community Services

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**28. ORIGIN: Director**

**FILE REF: Garbage-Depot Stotts Creek**

**REPORT TITLE:**

**Secure Storage Facility - Stotts Creek**

**SUMMARY OF REPORT:**

Council has previously resolved to ask the Department of Agriculture to relinquish the agreement to allow the construction of a secure storage site at Stotts Creek.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Environment & Community Services

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### REPORT:

Council, at its meeting of 16 February 2000, resolved as follows:-

*“... that Council approaches New South Wales Agriculture to determine if it is prepared to withdraw from and no longer be bound by the agreement with Council for use of dedicated land at Stotts Creek Waste Depot for temporary storage of contaminated dip waste.”*

The request was conveyed to the Department of Agriculture on 29 February 2000.

The Department has now replied as follows:-

# Reports from Director Environment & Community Services

NC 270/6/2 SP:SG  
c:\wordata\pearmain\StottsCkTwdCouncil



**NSW Agriculture**

**Directors Unit**

Wollongbar  
Agricultural Institute  
Bruxner Highway  
WOLLONGBAR NSW 2477  
Australia  
  
Telephone (02) 6626 1200  
Facsimile (02) 6628 1744  
<http://www.agric.nsw.gov.au>

Mr Don Buckley  
Director Environment & Community Services  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

7 August 2000

**Re: Secure Storage Facility – Stotts Creek**

TWEED SHIRE COUNCIL	
FILE NO	ORANGE DEPOT
DOCUMENT No	STOTTS CK
RECD	10 AUG 2000
BOX No	
ASSIGNED TO	BUCKLEY D
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

Dear Mr Buckley

I refer to my letter of 3 April 2000 and our recent discussions regarding the above.

The whole question of how the government intends to handle Dipmac priority sites is currently under review by a number of agencies. Obviously the government's intentions with regard to the proposed temporary secure storage at Stotts Creek are central to these considerations.

I anticipate that the matter will be resolved in the near future. I can assure you that when a decision is made, Tweed Council will be promptly advised.

Yours sincerely

**JOHN WILLIAMS**  
REGIONAL DIRECTOR OF AGRICULTURE  
North Coast

Head Office: 161 Kite Street, Locked Bag 21, ORANGE NSW 2800. Telephone (02) 6391 3100. Facsimile (02) 6391 3336

It is recommended that this reported be noted.

## Reports from Director Environment & Community Services

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# Reports from Sub-Committees

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## 1. Minutes of the Tweed Shire Occupational Health & Safety Committee Meeting held Wednesday 12 July 2000

GP15/3 Pt4 401

Occupational Health & Safety

**VENUE:**

Tweed Heads Office

**TIME:**

7.30am

**PRESENT:**

Bob Jones (Chairperson), Geoff Hussey (Secretary), Rod Harper, Reg Norvill, Tracey Dawson, Ian Carpenter, Norm Hunt, Brian Alexander, Bob Missingham and Stewart Brawley.

**APOLOGIES:**

Ivan Dusi, Cr. Wendy Marshall

**MINUTES OF PREVIOUS MEETING:**

**Moved:** Bob Missingham

**Seconded:** Tracey Dawson

**RESOLVED** that the Minutes of the Occupational Health and Safety Committee Meeting held Wednesday 14 June 2000 be accepted as a true and accurate record of the proceedings of the meeting.

**BUSINESS ARISING:**

**1. Fire Extinguishers**

Only provided in vehicles for insurance purposes and are placed in vehicles from 1 tonne upwards. Several vehicles do not have extinguishers but these are being provided when they are being serviced.

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**2. Night Wands**

Can be provided for about \$70.00 and are only available in pink colour.

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**3. Grave Shoring**

EMT have resolved that Geoff Edwards and Stewart Brawley pursue the matter.

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## Reports from Sub-Committees

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### 4. Civic Centre Evacuation

An unplanned evacuation was held on 23/6/2000 when the fire alarm went off. There were several problems experienced during this evacuation:

- Some staff did not react quickly.
  - Many staff did not reach the assembly area for a role call.
  - Some staff re entered the building while the alarm was still running
  - A member of the public was allowed in the building while the alarm was still running.
  - Fire brigade took 50 minutes to arrive
  - A debriefing will be held next week to discuss the problems and Tracey will email all stall SWP 4 – Emergency Evacuation.
- 

### AGENDA ITEMS

#### 1. Reports on Injuries

- 80/00 John Traves and Jennifer Taylor – no incident but potential hazardous situation on Civic Centre roof gaining access to flag pole.
- 77/00 Locksley Miller – needle stick injury
- 79/00 Mark Falls – slipped on wet floor in Norries Headland toilet block. Previously reported as potential public liability problem.

Workers compensations costs remain high due to 3 or 4 claims where staff have not returned to work

### RECOMMENDATION:

That the floor surface at Norries Headland toilet block be placed on maintenance program.

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#### 2. Safety Inspections

The committee or sub-committees do carry out regular inspections as required by the OHS (Committees in Workplace) Regulation 1999.

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#### 3. Employee Participation

Council staff have participated in the development of the WSMS with hazard identification, risk assessment and risk control. Safety Committee involves staff participation through a consultative process.

## Reports from Sub-Committees

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**RESOLVED** that:

- Safety Committee minutes to be place on notice boards regularly.
  - HRU fortnightly bulletin could include a regular page for safety.
  - All staff are encouraged to participate in OHS and Hazard Identification at induction sessions.
- 

**4. OHS Committee Constitution**

**GP15/3 Pt4 401, Occupational Health & Safety**

The constitution was reviewed and the following amendments are required.

Minutes are to be referred to the Executive Management Team and Council

Meetings are to be held monthly on the second Wednesday.

**RECOMMENDATION:**

That the following alterations to the Constitution be endorsed:-

1. Minutes are to be referred to the Executive Management Team and Council
  2. Meetings are to be held monthly on the second Wednesday.
- 

**5. New Committee Members**

Committee training should be scheduled as soon as possible after elections and new members provided with OHS policy and constitution.

---

**6. Minutes Management**

Minutes to be placed on notice boards and circulated to members as soon as possible after each meeting.

---

**7. General Ledger costing**

General discussion about costing and “iceberg effect” and will be investigated when Aurion System is installed.

---

**8. Compliance Clause**

**GP15/3 Pt4 401**

Endorsed by the Safety Committee commencing with “Failure to comply .....” And will be included in December/January review.

# Reports from Sub-Committees

## RECOMMENDATION:

That the compliance clause be adopted commencing with “Failure to comply .....”.

### 9. Reports from Safety Reps

Tracey Dawson – a meeting was held with the keyboard operators and they expressed concern about lack of follow up on survey carried out in 1999. Workloads and deadlines are of major concern as the recommended rest breaks from the VDU are not followed eg. Business papers, late reports etc. It is well documented that working under these conditions can lead to stress related problems such as Occupational Overuse Syndrome.

Other areas of concern include noise – photocopiers, printers, scanners, air conditioning and work stations located near stair wells software being used can also lead to problems as the mouse may have to be operated continually.

Sub Committee to be formed, Ian Carpenter, Brian Donaghy, Geoff Hussey and Tracey Dawson and meet urgently to work through issues raised.

### 10. Committee Inspection

**GP15/3 Pt4 401**

The committee inspected the Kingscliff Streetscape pot plants estimated to weigh 500kg – 800kg.

## RECOMMENDATION:

That:-

1. Kingscliff Streetscape pot plants are not to be manually handled by 4 – 5 staff.
2. When a few plants have to be moved, Rodney Dodd’s gang truck with lifting crane be organised or when a large number of plants are to be moved the crane truck be organised through the Works Unit.
3. The purchase of a suitable crane is to be considered in Recreation Services Unit when plan is replace.

## NEXT MEETING:

The next meeting of the Occupational Health and Safety Committee will be held on 9 August 2000.

The meeting closed at 9.30am

*Director’s Comments: Recommendations referred to EMT for consideration of adoption.*

## Reports from Sub-Committees

### 2. Minutes of the Tweed Coastal Committee Meeting held Wednesday 2 August 2000

File No: Coastal Committee

**VENUE:**

Canvas and Kettle Restaurant, Murwillumbah.

**TIME:**

1.30pm

**PRESENT:**

Cr Wendy Marshall (Chair), Cr Max Boyd, Cr Henry James, Ted Griffiths (Kingscliff Coastguard), Gary Thorpe (Hastings Point DuneCare), Rhonda James (Caldera Environment Centre), Craig Venner (Pottsville Beach DuneCare), Richard Hagley, Tim Rabbidge (Department of Land and Water Conservation), John Henley, Stewart Brawley, Jane Lofthouse (Tweed Shire Council).

**INFORMAL:** Max Enklar, Bob Loring (NSW Fisheries), Geoff Edwards, Ian Munro, Richard Adams, Chris Larkin, Stephen Enders (Tweed Shire Council), Craig Witt (WBM Oceanics).

**APOLOGIES:**

Cr R Brinsmead, Terry Kane (Cabarita Beach-Bogangar Residents Association), John Harbison (Pottsville Progress Association), Lance Tarvey (NSW National Parks and Wildlife Service), Neville Newell (Member for Tweed).

**MINUTES OF PREVIOUS MEETING:**

**Moved:** C Venner

**Seconded:** Cr M Boyd

**RESOLVED** that the minutes of the meeting held Wednesday 7 June 2000 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

Nil

#### 1. Correspondence Inwards - Boat Launching Facility, Hastings Point

##### Boating

Discussion on the proposed development of a boat shed and launching facility off Peninsula Drive, Hastings Point by the Tweed Coast Sea Rescue group. NSW Fisheries and the Development Control Unit of Council requested a comment from the Tweed Coastal Committee as to the consistency of the proposal with the Estuary Management Plan For Cudgera, Cudgera and Mooball Creeks.

Noted that the mangrove permit granted by NSW Fisheries was for the project to remove the old bridge abutments and artificial obstructions under the Cudgera Creek road bridge. As no tenders were received for this project, it is unlikely that this project will proceed at this time.

The provision of facilities such as those proposed was not considered in the Estuary Management Plan.

## Reports from Sub-Committees

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**Moved:** J Henley

**Seconded:** C Venner

**RESOLVED** that the proposal for construction of a boatshed and launching facility is not inconsistent with the Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks and that the proponents need to liaise further with NSW Fisheries.

Carried with following vote. Please note that NSW Fisheries representatives were invited to this meeting but are not voting members on this Committee.

For	7
Against	0
Abstain	4

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Chris Larkin and Stephen Enders leave 1.30pm.

### 2. Correspondence outwards

Noted – to Waterways Authority in support of speed limits in the Coastal Creeks.

### 3. Tweed Coastline Hazards Study Inception Meeting

#### Coastal Management

Craig Witt from WBM Oceanics Australia outlined the framework for a Coastline Hazards Study and detailed some of the issues to be covered. These include short term and long term recession, entrance instability and coastal inundation. Discussion on community consultation locations and methods. Allowance has been made for four public consultation meetings and one final community meeting.

### 4. Cudgera Creek Bridge Obstructions - tender outcome

#### Bridges, Cudgera Creek

Tenders were invited from five companies who had previously expressed interest in the project to remove rubble and rock from underneath Cudgera Creek Bridge and the old bridge abutments. No tenders were received at the close of the submission period.

Gary Thorpe produced an expression of interest from an earthworks contractor. Noted that the NSW Fisheries permit for mangrove removal expires 30 September 2000.

**Moved:** G Thorpe

**Seconded:** C Venner

**RESOLVED** that further tenders be sought for the removal of rubble and rock from underneath Cudgera Creek bridge and the old bridge abutments.

## Reports from Sub-Committees

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### GENERAL BUSINESS:

#### 5. SEPP 26 Funding

#### Rainforests, SEPP

Craig Venner noted that with the removal of the Agenda 21 funding from the budget, the program to continue rehabilitation of the SEPP 26 Littoral Rainforest areas is not funded.

**Moved:** C Venner

**Seconded:** G Thorpe

**RESOLVED** that Council be requested to review the decision on providing funds for maintenance in SEPP 26 Littoral Rainforest areas.

### RECOMMENDATION:

That Council reviews the decision on providing funds for maintenance in SEPP 26 Littoral Rainforest areas.

---

#### 6. Black Rocks Drain

#### Pollution - Water

Craig Venner brought in a sample of discoloured water from a drain created as part of the new section of Black Rocks Estate. The sample was found to have high iron levels. These results are to be passed to the Environment and Health Services Unit for investigation.

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### NEXT MEETING:

The next meeting of the Committee is to be held on 27 September 2000 at the Canvas & Kettle Restaurant commencing at 1.30 pm.

The meeting closed at 2.30pm.

*Director's Comments: Nil.*

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## Reports from Sub-Committees

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### 3. Minutes of the Communication Committee Meeting held Wednesday 9 August 2000

#### Communication Taskforce

**VENUE:**

Oxley Room

**TIME:**

2.20pm

**PRESENT:**

Cr Davidson, Ms Jude Robb, Director Corporate Services (I Carpenter), Civic Liaison Officer (M Smith)

**APOLOGIES:**

Mr Ray Carlile, Crs Carroll and Luff.

**MINUTES OF PREVIOUS MEETING:**

**Moved:** Cr Davidson

**Seconded:** J Robb

**RESOLVED** that the Communication Committee minutes for the meeting held Wednesday 12 July 2000 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

#### 2. Consultation Policy

Copies of Consultation and Participation Guidelines as prepared by the Civic Liaison Officer were distributed to committee members for further discussion at the next meeting.

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### 4. Report on Council's Communications Policy

#### Communication Taskforce

**Moved:** Cr Davidson

**Seconded:** J Robb

**RECOMMENDATION:**

That the questions and answers regarding the Tweed Link prepared by the Civic Liaison Officer, at the request of the Communications Committee, be received and the response be adopted.

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## Reports from Sub-Committees

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### GENERAL BUSINESS:

#### 1. Ill-health of Communication Committee Member

**Decision:** That the Civic Liaison Officer write to Mr Carlile noting his inability to attend because of continuing illness and express the committee's appreciation of his contribution and wish him a speedy recovery.

---

#### 2. Wording on Public Signage

**Moved:** J Robb  
**Seconded:** Cr Davidson

### RECOMMENDATION:

That the wording on public signage better reflects legislative and community attitudes.

---

### NEXT MEETING:

The next meeting of the Communications Committee will be held on Wednesday, 13 September 2000 at 2.00pm.

The agenda should include discussion on:

1. An annual community interface in the three major areas of Tweed Heads, Murwillumbah and Kingscliff by way of a public and/or Council meeting. Dr John Griffin be invited to attend to discuss this.
2. A request has been received that the wording of the Friendship Force proclamation be discussed at the next meeting.

### Cr Marshall attended the meeting.

There be no further business the meeting closed at 3.10pm.

### **Director's Comments:**

*That the recommendation in Item 4 (Business Arising) and Item 2 (General Business) be adopted.*

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## Reports from Sub-Committees

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### 4. Minutes of the Local Traffic Committee Meeting held Thursday 17 August 2000

**Traffic Committee**

**VENUE:**

Oxley Room

**TIME:**

Commencing at 9.00am.

**PRESENT:**

**Committee Members:** Mike Baldwin, Roads and Traffic Authority;

**Informal:** Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council.

**APOLOGIES:**

Cr George Davidson, Mr Neville Newell, MP, Member for Tweed, Mr Don Page, MP, Member for Ballina and Andrew Lawler, NSW Police.

**MINUTES OF PREVIOUS MEETING:**

**RESOLVED** that the Minutes of the Local Traffic Committee Meeting held Friday 14 July 2000 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**BUSINESS ARISING:**

**GT2/1 Pt3 451**

Nil.

## Part A

**GENERAL BUSINESS:**

**1. Speed Review – Nunderi**

**Speed Zones, R3760**

Engineering Services have requested that a speed review of local streets in the residential area of Nunderi be undertaken.

It is proposed that cul-de-sac roads off Norths Lane be designated as a 50kph area.

The Chairman declared an interest in the area of Nunderi.

The Road Safety Officer reported that he had inspected the area and suggested that Eviron Road be signposted at 100kph as it is currently not signposted. Norths Lane connects to Eviron Road and it was suggested that 80kph be placed in this area near the park which was not supported by the RTA Representative as the length of road needs to be a minimum of 1km for an 80 kph zone. It was therefore decided that Norths Lane should be 80kph for its full length between Eviron Road and Clothiers Creek Road. He also suggested that the side

## Reports from Sub-Committees

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streets off Norths Lane all be signposted at 50kph to be consistent with Council's Resolution regarding 50kph local area speed limits throughout the Shire. The RTA Representative suggested that new signage stating it is a 50kph area could be used.

### RECOMMENDATION:

That:-

1. 50kph area signage be installed in the locality of Nunderi on all residential cul-de-sac streets including Garden Avenue, Elvadale Court, Pinegold Place, The Grove and Kyndalyn Court.
2. Norths Lane be signposted as 80kph.
3. Eviron Road have de-restrict signs erected.

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### 2. Wardrop Valley Road & Fernvale Road

**R5810 & R2040**

Request received for the installation of mirrors at:-

1. The intersection of Fernvale and Wardrop Valley Roads. It is reported that at this intersection line of sight is totally inadequate and that loose gravel and dust makes driving conditions more difficult.
2. The corner of 554 Wardrop Valley Road. It is reported that line of sight is totally inadequate and that loose gravel and dust makes driving conditions more difficult. It is also reported that most days the gate to the banana plantation is open, requiring oncoming vehicles to move over to the wrong side of the one lane road.

The Chairman reported that after inspection it was noted that it is a gravel road and is naturally dusty. It is the intersection of two rural roads both with very low volumes of traffic. Due to the narrow widths and steep grades travel speeds are low and the intersection is considered adequate. No action is considered necessary at this location. The committee agreed that in the circumstances no action is warranted.

A banana storage shed opposite no. 554 Wardrop Valley Road does have a gate but it was not open at the time of the inspection. It was noted that it is located on a hairpin bend and sight distance is limited, however vehicle speeds are low because of the road geometry.

### RECOMMENDATION:

That the banana storage shed owners be requested that they ensure that the gate opposite 554 Wardrop Valley Road is closed when not in use.

## Reports from Sub-Committees

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### 3. Gull Place and Scenic Drive

**R2325 & R4930**

Request received for “No Stopping” zones to be located opposite the junction of Gull Place and Scenic Drive. This is to enable vehicles heading west along Scenic Drive to pass vehicles stopped and turning right into Gull Place.

The Committee unanimously supported the installation of “No Stopping” signs on Scenic Drive opposite the intersection with Gull Place as vehicles are parking and vehicles turning right into Gull Place hinder through traffic continuing up Scenic Drive.

#### **RECOMMENDATION:**

That “No Stopping” signs be installed on Scenic Drive 30m each side of the junction with Gull Place.

---

### 4. Sierra Vista Boulevard & Simpson Drive

**R5042 & R5050**

Request received for a “Give Way” sign at the intersection of Sierra Vista Boulevard and Simpson Drive, Bilambil Heights.

This provision of a “Give Way” sign at the intersection was supported by the Committee due to the limited sight distances available due to the geometry of Sierra Vista Boulevard.

#### **RECOMMENDATION:**

That a “Give Way” sign be installed on Sierra Vista Boulevard at the intersection of Simpson Drive, Bilambil Heights.

---

### 5. Florence Street, Tweed Heads

**R2100**

Request received for:-

1. Pedestrian refuge on Florence Street
2. Reduced urban speed limit of 50kph on Florence Street

The Committee acknowledged that pedestrians could experience difficulties and recommended that a pedestrian refuge be installed in a suitable location when funds become available.

The provision of an urban speed limit of 50kph for Florence Street was not supported as Florence Street is a distributor road and part of the 50kph urban speed limit strategy was that such important network links should stay at 60kph to encourage their use by traffic.

## Reports from Sub-Committees

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For Council's information.

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### **6. Bellerive Place and Tralee Drive, Banora Point**

**R5551**

Request received for:-

1. The installation of a warning sign, such as "Concealed Entrances" on the southern side of Tralee Drive.
2. The provision of a concave traffic sight mirror on the western side of Tralee Drive in line with the centreline location of Bellerive Place.

It is reported by the residents of Bellerive Place that safety issues are of concern as they exit the cul-de-sac. At the intersection of Tralee Drive line of sight distance to the north is limited to a maximum of no more than 15m, while to the south line of sight is sufficient providing street and front garden vegetation is kept trimmed. The line of sight to the north is hindered by a rock retaining wall on the footpath boundary line of the property on the corner of Bellerive Place and Tralee Drive.

It is also claimed that traffic flow in Tralee Drive has increased markedly and that even though the residential speed in Tralee Drive is 50kph "near misses" occur almost daily. Another contributing factor to the situation is the sweeping curve in Tralee Drive. Many drivers perceive a road narrowing when none exists. They watch for oncoming traffic taking no note of vehicles exiting Bellerive Place.

The Road Safety Officer has inspected the site and requested that the resident of Lot 43 Tralee Drive trim the foliage. The Road Safety Officer has also noted that sight distance is still poor and suggests the installation of a "Stop" sign and that Recreation Services be requested to remove the trees on the naturestrip.

The Committee did not support the installation of a "Concealed Entrances" sign as it is a local urban road used generally by local traffic and drivers would be aware that there is an intersection and such a sign would have little impact on these regular users who live in the area.

It was noted that the bushes have been cut back to increase the sight distance and a "Stop" sign is not supported as it is a local urban road used only by local traffic.

### **RECOMMENDATION:**

That a "Stop" sign be erected on Bellerive Place at the Tralee Drive intersection.

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### **7. Peninsula Drive, Bilambil Heights**

**R4200**

Request received for assistance in making it safer for the occupants of no. 1 Peninsula Drive to enter their driveway without fear of being hit from behind as they are on a blind corner. It

## Reports from Sub-Committees

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is reported that the improved condition of the road seems to be encouraging motorists to speed more around the bend, worsening the situation.

It was noted that the installation of a retaining wall has made the situation worse. Council's Works Unit has advised they will install a convex mirror subject to Local Traffic Committee approval. It was noted that Peninsula Drive is a 50kph road and a convex mirror could be installed at this location. The Committee supported the installation of a convex safety mirror opposite the driveway of 1 Peninsula Drive.

### **RECOMMENDATION:**

That the installation of a convex safety mirror be installed opposite the driveway of no. 1 Peninsula Drive.

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## **Part B**

### **1. Shallow Bay Drive/Minjungbal Drive, Tweed Heads South**

**DA4030/2822 Pt4**

Development application received for a fast food outlet at Lot 1 DP 1008592, Shallow Bay Drive/Minjungbal Drive, Tweed Heads South.

Local Traffic Committee comments are sought in accordance with the mandatory provisions of SEPP11 - Traffic Generating Development.

It was noted that the layout of the fast food outlet was different to the original approved plan. The Committee is concerned about the location of the delivery/loading dock as it appears delivery trucks have to reverse through the car park and over a pedestrian crossing which is unsafe.

Adequate signage is required to ensure that vehicles do not enter the drive through from the wrong direction.

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### **NEXT MEETING:**

The next meeting is scheduled for Friday 22 September 2000.

The meeting closed at 10:28am.

<i>Director's Comments: Nil</i>
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## Reports from Sub-Committees

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### **MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION**

- 5. Minutes of the Tweed Shire Council Centenary of Federation Committee Meeting held 13 July, 2000**
  - 6. Minutes of the Community Advisory Committee Meeting held 27 July, 2000**
  - 7. Minutes of the Tweed Shire Council Access Committee Meeting held 20 July, 2000**
  - 8. Minutes of the Tweed Games Committee Meeting held Tuesday 1 August 2000**
  - 9. Minutes of the Community Cultural Development Committee Meeting held 3 August**
  - 10. Minutes of the Tweed Shire Occupational Health & Safety Committee Meeting held Wednesday 9 August 2000**
  - 11. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 17 August 2000**
  - 12. Notes of the Community Cultural Development Committee Meeting held 24 August 2000**
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## Reports from Sub-Committees

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# Outstanding Inspections

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## 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.*

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# Outstanding Inspections

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# Orders of the Day

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**1. Notice of Motion - Cr Lawrie**

**Ward System - Referendum**

**Elections - Referendum, Notice of Motion**

*That Council conducts a referendum about the possible introduction of the Ward system of voting by no later than September 2001.*

---

**2. Notice of Rescission - Cr Beck, Cr Brinsmead and Cr Youngblutt**

**Coolangatta Airport Draft Master Plan**

**Airport - Runway Extension, Rescission Motion**

*That Council resolution at Minute No 158 in relation to Item 3 of the Meeting held 16 August 2000 being:-*

*".....that the Federal Minister for Transport be informed that:-*

- 1. Tweed Shire Council opposes the Fresh Master Plan for Coolangatta Airport to the extent that the Plan proposes the extension of runway and surrounding operational areas beyond the airport land and onto a reserve for public recreation (Lot 319).*
- 2. The reason for opposition is the combination of adverse effects on the natural environment, public open space and the amenity of residents in the flight path.*

*be rescinded."*

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**3. Notice of Rescission - Cr James, Cr Luff and Cr Beck**

**Point Danger Signage (Cook's Point Danger)**

**Geographical Names Board, Rescission Motion**

*That Council resolution at Minute No 170 in relation to Item 27 of the Meeting held 16 August 2000 being:-*

*".....that:-*

- 1. The current plaques be removed.*
- 2. A plaque be placed at Point Danger in accordance with the resolution of the Gold Coast City Council:-*

## Orders of the Day

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*“In 1970 the Geographical Names Board of NSW agreed with some historical reviewers who claimed that the headland presently known as Point Danger was not the Point Danger first named by Captain James Cook in May 1770. They contended that Cook’s Point Danger was the headland which is now known as Fingal Head which is immediately South of the mouth of the Tweed River.*

*However, the Geographical Names Board of New South Wales issued this Report 22 October 1998:*

*“The Board examined the data recorded on Cook’s voyage and all submissions made on the location of Cook’s Point Danger.*

*The Board acknowledged that there are differences of opinion on the interpretation of a descriptive account made some 228 years ago. However, the Board unanimously concluded that the point of land, at present named Point Danger, was the feature named and mapped by James Cook as Point Danger in May 1770.”*

***be rescinded.”***

---

#### **4. Notice of Rescission - Cr Youngblutt, Cr Lawrie and Cr Brinsmead**

##### **Southern Boat Harbour - Commercial Charter Operations**

##### **Boating Facilities, Jetties, Southern Boat Harbour, Rescission Motion**

*That Council resolution at Minute No 200 in relation to Item 26 of the Meeting held 16 August 2000 being:-*

*“.....that:-*

- 1. Council applies for development approval for the operation of a floating office adjacent to the public pontoon at River Terrace, Tweed Heads.*
- 2. Upon receipt of development approval, Council offers a licence at \$1.00/rental for 3 months, and then renewable monthly at Council’s sole discretion, to the Tweed River Charter Operators Association Incorporated to manage the operations of the office for the operators, conditional upon Tweed Endeavour Cruises having vacated the jetty.*

***be rescinded.”***

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## Orders of the Day

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**5. Notice of Motion - Cr Marshall**

**Public Telephone - Murwillumbah Swimming Pool**

**Pool - Murwillumbah, Telephones, Notice of Motion**

*That the General Manager be requested to bring forward a report to Council by the meeting of 20 September 2000 on the possible installation, costs etc of a public telephone at the Murwillumbah Swimming Pool.*

---

**6. Notice of Motion - Cr Marshall**

**Water Management Bill 2000**

**Water Management, Notice of Motion**

*That the General Manager be requested to forward a letter to the Minister for Land and Water Conservation expressing extreme concern at the current content and direction of the White Paper called the Water Management Bill 2000 which would have adverse and severe ramifications on the growth and development of the Tweed shire should it be passed by the State Government.*

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## Orders of the Day

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