

# Items for Consideration of Council

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<b>Schedule of Outstanding Resolutions</b>	<b>9</b>
<b>Mayoral Minute</b>	<b>17</b>
<b>Reports from Director Development Services</b>	<b>19</b>
1. ORIGIN: Strategic Town Planning Unit	23
<b>Dual Occupancy Controls - Casuarina Beach.</b>	<b>23</b>
2. ORIGIN: Development Assessment Unit	27
<b>Proposed Tourist Resort including 271 Accommodation Units and the Use of the Existing Building as Reception, Recreation and Restaurant at Lot 2 DP 777875 &amp; Lots 5, 7 &amp; 8 DP 822830 Nos. 136-150 Dry Dock Road, Tweed Heads South</b>	<b>27</b>
3. ORIGIN: Development Assessment Unit	81
<b>Amendment to Development Consent 0606/2000DA for Alterations and Additions to an Existing Dwelling at Lot A DP 406115 No. 18 Seaview Street, Kingscliff</b>	<b>81</b>
4. ORIGIN: Strategic Town Planning Unit	95
<b>Social Plan Update 2001/2002 – Implementation Report</b>	<b>95</b>
5. ORIGIN: Development Assessment Unit	97
<b>Piggabeen Road Deviation - West Tweed Heads</b>	<b>97</b>
6. ORIGIN: Strategic Town Planning Unit	131
<b>Tweed Heads Central Area</b>	<b>131</b>
7. ORIGIN: Strategic Town Planning Unit	133
<b>Kingscliff Centres Study</b>	<b>133</b>

## Items for Consideration of Council

8. ORIGIN: Development Assessment Unit 135  
**Notification of Approval of Section 96 Application to Amend Development Consent  
 0740/2000DA for Extensions to Existing Garden Centre (Arkinda Garden Centre) 135**

## Reports from Director Corporate Services 137

9. ORIGIN: Director 137  
**Community Economic Development Conference 2001, 9 to 11 September 2001, Lismore 137**
10. ORIGIN: Administration Services Unit 139  
**First Round Donations 2001/2002 - Requests for Financial Assistance 139**
11. ORIGIN: Administration Services Unit 145  
**First Round Donations 2001/2002 – Festivals Policy 145**
12. ORIGIN: Director 147  
**Outcomes of the Strategic Infrastructure Forum for North Coast LGA's - 29 June 2001,  
 Coffs Harbour 147**
13. ORIGIN: Financial Services Unit 149  
**Monthly Investment Report for Period Ending 31 July 2001 149**
14. ORIGIN: General Manager 153  
**Multicap Development 153**

## Reports from Director Engineering Services 155

15. ORIGIN: Planning & Design Unit 155  
**Creation of Easement in Favour of Tweed Shire Council by Deed of Agreement - Lot 6  
 DP 9042 Dry Dock Road, Tweed Heads 155**
16. ORIGIN: Planning & Design Unit 165  
**Proposed Road Closure of Part of Cabbage Gum Road, Cudgera Creek 165**
17. ORIGIN: Water Unit 170  
**Tweed Coast Estuaries Management Program - Financial Assistance 170**
18. ORIGIN: Planning & Design Unit 172  
**Re-Naming of Crookes Valley Road to "Crooks Valley Road" 172**
19. ORIGIN: Planning & Design Unit 176  
**Classification of Land as Operational - Casuarina Development, Casuarina - Proposed  
 Lot 182 176**

## Items for Consideration of Council

20.	ORIGIN: Planning & Design Unit	179
	<b>Classification of Land as Operational - Glen Ayr Estate, Kildare Crescent, Banora Point being Lot 8 in DP1030979</b>	<b>179</b>
21.	ORIGIN: Director	181
	<b>Installation of Private Communications Infrastructure in Road Reserves</b>	<b>181</b>
22.	ORIGIN: Director	194
	<b>Water Supply and Sewerage Performance Report and Pricing Strategy</b>	<b>194</b>

## Reports from Director Environment & Community Services 201

23.	ORIGIN: Building Services Unit	201
	<b>Alterations and Additions to Existing Buildings</b>	<b>201</b>
24.	ORIGIN: Environment & Health Services Unit	215
	<b>Alternate Waste Disposal Technology</b>	<b>215</b>
25.	ORIGIN: Environment & Health Services Unit	219
	<b>Footpath Dining License Agreements</b>	<b>219</b>
26.	ORIGIN: Environment & Health Services Unit	221
	<b>Premiers Award for Active Citizenship</b>	<b>221</b>
27.	ORIGIN: Environment & Health Services Unit	223
	<b>Proposed Lease - South Tweed Community Centre Offices</b>	<b>223</b>
28.	ORIGIN: Environment & Health Services Unit	227
	<b>Entomological Control Report</b>	<b>227</b>
29.	ORIGIN: Building Services Unit	233
	<b>Building Approval Statistics</b>	<b>233</b>

## Reports from Committees/Working Groups 235

1.	Minutes of the Community Cultural Development Committee Meeting held Thursday 28 June 2001	235
2.	Minutes of the Floodplain Management Committee Meeting Held Wednesday 18 July 2001	240
3.	Minutes of the Communication Committee Meeting held Wednesday 1 August 2001	243
	MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION	248

## Items for Consideration of Council

- |    |  |     |
|----|--|-----|
| 4. | Minutes of the Centenary of Federation Advisory Committee Special Meeting held Thursday 21 June 2001 | 248 |
| 5. | Notes of the Tweed Shire Council Access Advisory Committee Meeting held Thursday 19 July 2001        | 248 |
| 6. | Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 19 July 2001         | 248 |
| 7. | Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 24 July 2001       | 248 |
| 8. | Minutes of the Community Advisory Committee Meeting held Thursday 26 July 2001                       | 248 |
| 9. | Minutes of the Regional Companion Animal Committee Meeting held 30 July 2001                         | 248 |

## Orders of the Day 249

- |    |   |            |
|----|---|------------|
| 1. | Notice of Motion - Cr Marshall  | 249        |
|    | <b>Section 94 Plan for the Banora Point Community Centre and Associated Matters</b> | <b>249</b> |
| 2. | Notice of Motion - Cr Boyd  | 249        |
|    | <b>Election of Mayor</b>  | <b>249</b> |

## Workshops 251

# Items for Consideration of Council

## CONFIDENTIAL

### Confidential Mayoral Minute 5

### Items Deferred in Committee 7

1. ORIGIN: Development Assessment Unit 7

**The Use of Sites 13 and 15, Lot B DP 309747 Byrrill Creek Hamlet, Byrrill Creek Road, Byrrill Creek for the Purpose of a 'Junkyard' without Development Consent 7**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (a) personnel matters concerning particular individuals 7*

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege 7*

### Reports from Director Development Services in Committee 11

1. ORIGIN: Strategic Town Planning Unit 11

**Consultant Selection for Tweed Local Environmental Plan 2000 Amendment No 9, Fernvale/Wardrop Valley 11**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (d) commercial information of a confidential nature that would, if disclosed: (i) prejudice the commercial position of the person who supplied it, or (ii) confer a commercial advantage on a competitor of the council, or (iii) reveal a trade secret 11*

### Reports from Director Corporate Services in Committee 15

2. ORIGIN: General Manager 15

**Complaint - Rezoning of Area E plus Bolster and Abernethy Properties 15**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (a) personnel matters concerning particular individuals 15*

### Reports from Director Environment & Community Services in Committee 19

3. ORIGIN: Director 19

**Storage of Doug Moran Artworks 19**

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (f) matters affecting the security of the council, councillors, council staff or council property 19*

# Items for Consideration of Council

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# Schedule of Outstanding Resolutions

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## 20 SEPTEMBER 2000

### REPORTS FOR DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

27. **Awnings over Footpaths - Risk Management Policy and Procedures**  
**Building Code, Risk Management**

335

Cr Luff

Cr Marshall

**RESOLVED** that Council develops an appropriate Risk Management Policy in conjunction with advice from Council's solicitors.

**Current Status:** Draft Policy nearing completion. Council's Risk Management Consultant to visit Council on 16 & 17 August 2001.

---

## 21 FEBRUARY 2001

### REPORTS FROM DIRECTOR ENGINEERING SERVICES

11. **Tweed Valley Flooding 2 - 4 February 2001**

**Floods, SES**

766

Cr Boyd

Cr Carroll

**RESOLVED** that:-

1. This report be received and noted.
  2. Councillors interested in viewing the ENVIROMON Program contact the Manager Water who will arrange demonstrations.
  3. The Director Engineering Services brings forward a report with recommendations as to the conduct of a flood awareness program.
-

# Schedule of Outstanding Resolutions

4. Council co-operates in a joint public meeting with the SES.

**Current Status:** Report being prepared for Item 3. Other items completed.

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## 21 MARCH 2001

### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

5. Dilapidated Structures - Tumbulgum

PF0460/270 Pt1

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

#### C161

That Council:-

1. Undertakes the work to
  - a) Connect the dwelling situated at Lots 29/30 Section 2 DP 1223 No. 47-49 Bawden Street, Tumbulgum to the council sewer.
  - b) Demolish and remove the dilapidated/illegal ferneries/pergolas situated at Lots 29/30 Section 2 DP 1223 No. 47-49 Bawden Street, Tumbulgum.
  - c) Remove waste materials and disused motor vehicles as required from Lots 29/30 Section 2 DP 1223 No. 47-49 Bawden Street, Tumbulgum.
2. Receives a further report to be submitted on the matter of the repairs/maintenance to the dwelling situated at Lots 29/30 Section 2 DP 1223 No. 47-49 Bawden Street, Tumbulgum.
3. Raises a debt against the property to recover all costs.

**Current Status:** Work still outstanding. Council has scheduled to undertake works on Wednesday, 15 August 2001.

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## 18 APRIL 2001

### REPORTS FROM DIRECTOR ENGINEERING SERVICES IN COMMITTEE

3. Houses on Road Reserve - Reserve Creek Road

R4660 Pt3

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (a) personnel matters concerning particular individuals*

#### C188

That Council enters into confidential discussion with each of the occupants of the premises referred to in the report prior to reporting back to council on a proposed course of action.



# Schedule of Outstanding Resolutions

**Current Status:** To be completed

## REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

### 5. Options Cabarita Beach SLSC New Clubhouse

Surf Life Saving - Cabarita Headland

*Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (f) matters affecting the security of the council, councillors, council staff or council property*

**C190**

That Council:

1. Defers the decision on the options for the location of the Clubhouse; and
2. Initiates a precinct study.

**Current Status:** Brief issued to consultant.

## 5 MAY 2001

### ORDERS OF THE DAY

#### 4. Pacific Highway - Tweed Shire

Notice of Motion, R4031 Pt13, Pacific Highway

**1037**

**Cr Boyd**

**Cr Lawrie**

**RESOLVED** that a comprehensive report be provided to Council covering at least the following aspects which relate to that section of the Pacific Highway which will be reclassified within Tweed Shire when the new Motorway is completed in 2002:

1. Its total length
2. Current traffic counts and those forecast for 2005-2010
3. An assessment of the present condition of the pavement of this section so as to identify how much is in a failed or near failed condition
4. An estimate of the cost to bring the existing pavement up to a satisfactory standard before it becomes a Council responsibility.
5. An assessment of the cost of repairing that section of the river bank subsidence threatening the Highway near the Ampol Service Station in Murwillumbah.

# Schedule of Outstanding Resolutions

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6. A forecast as to the time when the section of the Highway between Murwillumbah and the 4 land section at Stotts Creek will have to be constructed to 4 lane standard.
7. An estimated cost to carry out the construction mention in (6).
8. The number and location of road deaths on this section of Highway over the past 10 years, segregated into those north of Murwillumbah and those south of Murwillumbah.
9. The identification of those sections of this road considered to be black spots such as Murnane's Corner near Burringbar; the turn off at Burringbar to Reserve Creek; and the Railway Bridge at Greenhills.
10. Any other relevant information considered import on this issue.

**Current Status:** Initial meeting held with RTA, discussions continuing.

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## 16 MAY 2001

### ORDERS OF THE DAY

3. **Numinbah Road - Safety Audit**

**Notice of Motion; Numinbah Road; R3780 Pt3**

1068

Cr Marshall

Cr Youngblutt

**RESOLVED** that the General Manager conducts a safety audit of Numinbah Road between Crystal Creek and Chillingham and brings forward a report, including costings of any proposed works, particularly addressing issues of edge linemarking, guide post installation and advance warning signs.

**Current Status:** Report to Council Meeting 5 September 2001.

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## 6 JUNE 2001

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

2. **Development Application 0257/2001DA for the Erection of an Attached Dual Occupancy at Lot 165 DP 1011335 Botanical Circuit, Banora Point (Flame Tree Park Estate)**

**DA0659/235 Pt1**

1080

Cr Boyd

Cr Luff

**RESOLVED** that this matter be deferred to allow the applicant to have discussions with Council Officers with a view to achieving a better design.

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# Schedule of Outstanding Resolutions

**Current Status:** Discussions held, applicants considering amended designs.

## 20 JUNE 2001

### ORDERS OF THE DAY

1. **Main Street Program - Funding Options**  
**Notice of Motion, Wollumbin Street, Street Scaping - M'bah**

1200

Cr Marshall

Cr Boyd

**RESOLVED** that the General Manager be requested to investigate funding options with the view of preparing draft concept plans for the re-development of Wollumbin Street, Murwillumbah, under the Main Street Program.

**Current Status:** To be finalised.

## 4 JULY 2001

### REPORTS FROM SUB-COMMITTEES

1. **Minutes of the Community Cultural Development Committee Meeting held**  
**Thursday 31 May 2001**  
**Cultural Development – Advisory Committee**
3. **Festivals Policy**  
**Cultural Development – Advisory Committee**

1242

Cr Polglase

Cr Marshall

**RESOLVED** that Council's Cultural Advisory Committee calls a meeting of all the existing shire-wide festival organisers for a round table discussion to determine current needs and ways to initiate long-term and sustainable audience development.

**Current Status:** Meeting to be arranged in October/November following completion of festivals.

### ORDERS OF THE DAY

1. **Wardrop Valley Land**  
**Notice of Motion; PF5810/305**

1257

Cr Beck

Cr Carroll

# Schedule of Outstanding Resolutions

**RESOLVED** that a report be brought forward identifying all options considered to this point for the use of Wardrop Valley land.

**Current Status:** To be finalised.

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## 18 JULY 2001

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

#### 4. Banora Point Community Centre - Community Survey

DA1393/320 Pt1

17

Cr Lawrie

Cr Polglase

**RESOLVED** that:

1. Council engages a consultant to undertake a comprehensive survey of owners and residents over the age of 15 within the catchment area of the Section 94 Plan for the Community Centre at Banora Point. The purpose of the Survey is to ascertain the attitude of the community to the construction of the Banora Point Community Centre and outdoor facility. To that end, the Survey should include:
  - a. material to set out the intended purpose of the Centre;
  - b. questions to ascertain what use, if any would be made of the Centre and what organisations would use the centre.
  - c. what alternative use(s) of the land should be considered by Council;
2. That the General Manager reports to Council for its consideration, the proposed choices of consultant.
3. A further information report be presented to Council setting out the methodology and survey questions.

**Current Status:** Brief issued to consultants.

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## 1 AUGUST 2001

### REPORTS FROM DIRECTOR CORPORATE SERVICES

#### 9. Local National Award Winners - Recognition

Civic Awards, Plaques

55

Cr Boyd

Cr Lawrie

**RESOLVED** that consideration be given to establishing local achiever recognition plaques to be located within the Murwillumbah Civic & Cultural Centre, together with criteria for determination of recognition.

# Schedule of Outstanding Resolutions

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**Current Status:** Criteria being developed.

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# Mayoral Minute

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Councillors,

**1. Support for Banana Industry Revitalisation Plan**

**Industrial Development - General**

A letter has been received from the Murwillumbah Banana Industry Committee requesting Council's support in principle for the banana industry's funding application to the Federal Government's Regional Solutions Programme.

This letter forms an attachment to this Business Paper.

This item is for Council determination.

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# Mayoral Minute

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# Reports from Director Development Services

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

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

### **MATTERS FOR CONSIDERATION**

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

# Reports from Director Development Services

## EXTRACT FROM TWEED LOCAL ENVIRONMENTAL PLAN 1987

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

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

# Reports from Director 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/DCP/44 Pt1

**REPORT TITLE:**

**Dual Occupancy Controls - Casuarina Beach.**

**SUMMARY OF REPORT:**

On 1 August, 2001 Council resolved that:

- “1. For the purpose of the application of Tweed DCP No. 44 Dual Occupancy Controls – Tweed Shire to the development known as Casuarina, “dual occupancy” shall be interpreted to exclude a dwelling incorporating a studio or guest suite on a single allotment, whether or not physically separated and/or possessing a separate entrance PROVIDED THAT the said studio or guest suite does not exceed in internal floor area 50m<sup>2</sup> or one third of the internal floor area of the primary dwelling, whichever is the lesser.
2. When 1 above applies, no Section 94 contribution is paid”.

To enable consistent and accurate advice to be given by Council staff when answering enquiries and dealing with development applications for proposals covered by this resolution, further clarification is required from Council regarding the detail of the decision.

**RECOMMENDATION:**

That Council determines this matter.

# Reports from Director Development Services

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## REPORT:

On 1 August, 2001 Council resolved that:

- “1. For the purpose of the application of Tweed DCP No. 44 Dual Occupancy Controls – Tweed Shire to the development known as Casuarina, “dual occupancy” shall be interpreted to exclude a dwelling incorporating a studio or guest suite on a single allotment, whether or not physically separated and/or possessing a separate entrance PROVIDED THAT the said studio or guest suite does not exceed in internal floor area 50m<sup>2</sup> or one third of the internal floor area of the primary dwelling, whichever is the lesser.*
- 2. When 1 above applies, no Section 94 contribution is paid”.*

To enable consistent and accurate advice to be given by Council staff when answering enquiries and dealing with development applications for proposals covered by this resolution, further clarification is required from Council regarding the detail of the decision.

Firstly, as there are no definitions in Tweed Local Environmental Plan 2000 (TLEP 2000) and Development Control Plan No. 44 (DCP44) for “studio” or “guest suite” it needs to be established what is meant by these terms. As reported to the Council meeting on 1 August, 2001, the following are the current definitions in TLEP 2000 (and referenced in DCP44) for a dwelling house, dwelling and multi-dwelling housing:-

*“Dwelling House – a building containing one but not more than one dwelling.*

*Dwelling – a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

*Multi-dwelling Housing – more than one dwelling on an allotment, but does not include a rural worker’s dwelling”.*

If studio and guest suite can include a separate area set aside in the dwelling house where visitors can be “self sufficient” and that area is connected to the owners living area and is not capable of being used or adapted for use as a separately occupied dwelling then the whole building would be defined as a ‘dwelling house’ and DCP44 would not apply and no development contributions would be levied. In these circumstances the Council resolution of 1 August, 2001 would not be required.

On the other hand if the objective of these terms is meant to include a fully self contained living area separated physically from the owners dwelling house (whether attached to it or separate to it) then under TLEP 2000 that area would be defined as a dwelling and the total development on the site would be defined as multi-dwelling housing and as a dual occupancy under DCP44.

To achieve this objective there are two options that could be pursued. These are as follows:-

1. Amend TLEP 2000 to include a definition for “studio or guest suite” and amend the relevant Section 94 Plans.

# Reports from Director Development Services

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2. Not introduce separate definitions for “studio or guest suite” but amend DCP44 by introducing an exemption clause for the type of development covered by the resolution of 1 August, 2001. Such a clause could be added after Clause 1.9 and be along the following lines:-

***“1.10 Exemption***

*The provisions of this Plan shall not apply to dual occupancy development that meet the following criteria:-*

- (i) The internal floor area of one (1) of the dwellings does not exceed 50m<sup>2</sup> or one third of the floor area of the largest dwelling whichever is the lesser.*
- (ii) Subdivision of the development, including strata subdivision, is not proposed. A condition prohibiting this will be attached to the development consent”.*

The first option involves approval by the Minister for Planning and Environment and the full process associated with a LEP amendment. The second option is a much simpler process and only involves Council approval and for this reason would be the preferred approach. The amendment could be made specific to the locality of Casuarina or applied Shirewide. If this form of development is seen by Council as being different to the traditional dual occupancy development then it should apply equally across the Shire.

Both options will require formal public consultation before being finally determined by Council.

The second part of Council’s resolution of 1 August, 2001 relates to Section 94 contributions. If it was the intention to not require any contributions, including water and sewerage headworks then reference will also need to be made to the Water Supply Authorities Act. If this is the case then the loss of income to Council per unit for water and sewerage headworks would be \$6,560.

The exemptions could be achieved by making a note at the end of proposed Clause 1.10 of DCP44 as follows:-

*“NOTE: Development referred to in this Clause is exempt from payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 and Section 64 of the Water Supply Authorities Act, 1987”.*

It should also be noted that developments that meet the definition requirements for a dual occupancy will need to comply with off-street car parking requirements and comply with the requirements of the Building Code of Australia (BCA) particularly with regards fire separation, fire ratings and sound attenuation.

# Reports from Director Development Services

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# Reports from Director Development Services

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2. ORIGIN: Development Assessment Unit

FILE REF: DA1680/785 Pt4

**REPORT TITLE:**

**Proposed Tourist Resort including 271 Accommodation Units and the Use of the Existing Building as Reception, Recreation and Restaurant at Lot 2 DP 777875 & Lots 5, 7 & 8 DP 822830 Nos. 136-150 Dry Dock Road, Tweed Heads South**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for a tourist resort consisting of 271 accommodation units on the former Tweed Rowing and Aquatic Club site. The proposed development seeks a variation to the development standard for height under State Environmental Planning Policy No. 1 (SEPP1), and the approval from NSW Fisheries for the removal of mangroves.

The application and documentation and reports have been assessed by the relevant agencies and technical officers of Council. This report recommends Council assume the concurrence of the Department of Urban Affairs and Planning and issue conditional consent.

**RECOMMENDATION:**

That :-

- A. Council supports the State Environmental Planning Policy No. 1 objection in relation to the height provisions of the Local Environmental Plan and assume the concurrence of the Department of Urban Affairs and Planning.
- B. Development Application 0006/2001DA for the erection of a proposed tourist resort including 271 accommodation units and the use of the existing building as reception, recreation and restaurant at Lot 2 DP 777875 & Lots 5, 7 & 8 DP 822830 Nos. 136-150 Dry Dock Road, Tweed Heads South be approved subject to the following conditions:-

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

**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.

# Reports from Director Development Services

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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.

## 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 for each stage, 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

## Stage 1A

a. Tweed Road Contribution Plan: \$3,893.12

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South – Commercial)

b. Open Space (Structured): \$2,940.00

S94 Plan No. 5

c. Open Space (Casual): \$1,120.00

S94 Plan No. 5

# Reports from Director Development Services

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- d. Emergency Facilities (Surf Lifesaving) \$1,470.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$4,760.00  
S94 Plan No. 18
- f. Cycleways \$1,240.00  
S94 Plan No. 22

## Stage 1B

- a. Tweed Road Contribution Plan: \$2,335.87  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$1,764.00  
S94 Plan No. 5
- c. Open Space (Casual): \$672.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$882.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$2,856.00  
S94 Plan No. 18
- f. Cycleways \$744.00  
S94 Plan No. 22

## Stage 1C

- a. Tweed Road Contribution Plan: \$4,671.75  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$3,528.00

# Reports from Director Development Services

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S94 Plan No. 5

- c. Open Space (Casual): \$1,344.00

S94 Plan No. 5

- d. Emergency Facilities (Surf Lifesaving) \$1,764.00

S94 Plan No. 16

- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$5,712.00

S94 Plan No. 18

- f. Cycleways \$1,488.00

S94 Plan No. 22

## Stage 2A

- a. Tweed Road Contribution Plan: \$3,503.81

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South – Commercial)

- b. Open Space (Structured): \$2,646.00

S94 Plan No. 5

- c. Open Space (Casual): \$1,008.00

S94 Plan No. 5

- d. Emergency Facilities (Surf Lifesaving) \$1,323.00

S94 Plan No. 16

- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$4,284.00

S94 Plan No. 18

- f. Cycleways \$1,116.00

S94 Plan No. 22

# Reports from Director Development Services

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## Stage 2B

- a. Tweed Road Contribution Plan: \$7,007.62  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$5,292.00  
S94 Plan No. 5
- c. Open Space (Casual): \$2,016.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$2,646.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$8,568.00  
S94 Plan No. 18
- f. Cycleways \$2,232.00  
S94 Plan No. 22

## Stage 2C

- a. Tweed Road Contribution Plan: \$3,114.50  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$2,352.00  
S94 Plan No. 5
- c. Open Space (Casual): \$896.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$1,176.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$3,808.00

# Reports from Director Development Services

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S94 Plan No. 18

- f. Cycleways \$992.00

S94 Plan No. 22

## Stage 2D

- a. Tweed Road Contribution Plan: \$2,335.87  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$1,764.00  
S94 Plan No. 5
- c. Open Space (Casual): \$672.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$882.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$2,856.00  
S94 Plan No. 18
- f. Cycleways \$744.00  
S94 Plan No. 22

## Stage 2E

- a. Tweed Road Contribution Plan: \$3,114.50  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$2,352.00  
S94 Plan No. 5
- c. Open Space (Casual): \$896.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$1,176.00

# Reports from Director Development Services

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S94 Plan No. 16

- e. Extensions to Council Administration Offices  
& Technical Support Facilities      \$3,808.00

S94 Plan No. 18

- f. Cycleways      \$992.00

S94 Plan No. 22

## **Stage 2F**

- a. Tweed Road Contribution Plan:      \$5,450.37

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South – Commercial)

- b. Open Space (Structured):      \$4,116.00

S94 Plan No. 5

- c. Open Space (Casual):      \$1,568.00

S94 Plan No. 5

- d. Emergency Facilities (Surf Lifesaving)      \$2,058.00

S94 Plan No. 16

- e. Extensions to Council Administration Offices  
& Technical Support Facilities      \$6,664.00

S94 Plan No. 18

- f. Cycleways      \$1,736.00

S94 Plan No. 22

## **Stage 3A**

- a. Tweed Road Contribution Plan:      \$9,343.49

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South – Commercial)

- b. Open Space (Structured):      \$7,056.00

S94 Plan No. 5

# Reports from Director Development Services

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- c. Open Space (Casual): \$2,688.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$3,528.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$11,424.00  
S94 Plan No. 18
- f. Cycleways \$2,976.00  
S94 Plan No. 22

## Stage 3B

- a. Tweed Road Contribution Plan: \$4,671.75  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$3,528.00  
S94 Plan No. 5
- c. Open Space (Casual): \$1,344.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$1,764.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$5,712.00  
S94 Plan No. 18
- f. Cycleways \$1,488.00  
S94 Plan No. 22

## Stage 3A

- a. Tweed Road Contribution Plan: \$9,343.49  
S94 Plan No. 4 (Version 4.0)



# Reports from Director Development Services

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(Tweed Heads South – Commercial)

- b. Open Space (Structured): \$7,056.00  
S94 Plan No. 5
- c. Open Space (Casual): \$2,688.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$3,528.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$11,424.00  
S94 Plan No. 18
- f. Cycleways \$2,976.00  
S94 Plan No. 22

## Stage 3C

- a. Tweed Road Contribution Plan: \$4,671.75  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$3,528.00  
S94 Plan No. 5
- c. Open Space (Casual): \$1,344.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$1,764.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$5,712.00  
S94 Plan No. 18
- f. Cycleways \$1,488.00  
S94 Plan No. 22

# Reports from Director Development Services

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## Stage 3D

- a. Tweed Road Contribution Plan: \$7,007.62  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$5,292.00  
S94 Plan No. 5
- c. Open Space (Casual): \$2,016.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$2,646.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$8,568.00  
S94 Plan No. 18
- f. Cycleways \$2,232.00  
S94 Plan No. 22

## Stage 4A

- a. Tweed Road Contribution Plan: \$9,343.49  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured): \$7,056.00  
S94 Plan No. 5
- c. Open Space (Casual): \$2,688.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving) \$3,528.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities \$11,424.00

# Reports from Director Development Services

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S94 Plan No. 18

- f. Cycleways \$2,976.00

S94 Plan No. 22

## Stage 4B

- a. Tweed Road Contribution Plan: \$9,343.49

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South – Commercial)

- b. Open Space (Structured): \$7,056.00

S94 Plan No. 5

- c. Open Space (Casual): \$2,688.00

S94 Plan No. 5

- d. Emergency Facilities (Surf Lifesaving) \$3,528.00

S94 Plan No. 16

- e. Extensions to Council Administration Offices

& Technical Support Facilities \$11,424.00

S94 Plan No. 18

- f. Cycleways \$2,976.00

S94 Plan No. 22

## Stage 4C

- a. Tweed Road Contribution Plan: \$9,343.49

S94 Plan No. 4 (Version 4.0)

(Tweed Heads South – Commercial)

- b. Open Space (Structured): \$7,056.00

S94 Plan No. 5

- c. Open Space (Casual): \$2,688.00

S94 Plan No. 5

- d. Emergency Facilities (Surf Lifesaving) \$3,528.00

# Reports from Director Development Services

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S94 Plan No. 16

- e. Extensions to Council Administration Offices  
& Technical Support Facilities      \$11,424.00

S94 Plan No. 18

- f. Cycleways      \$2,976.00

S94 Plan No. 22

## Stage 5A

- a. Tweed Road Contribution Plan:      \$11,679.36  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured):      \$8,820.00  
S94 Plan No. 5
- c. Open Space (Casual):      \$3,360.00  
S94 Plan No. 5
- d. Emergency Facilities (Surf Lifesaving)      \$4,410.00  
S94 Plan No. 16
- e. Extensions to Council Administration Offices  
& Technical Support Facilities      \$14,280.00  
S94 Plan No. 18
- f. Cycleways      \$3,720.00  
S94 Plan No. 22

## Stage 5B

- a. Tweed Road Contribution Plan:      \$4,671.75  
S94 Plan No. 4 (Version 4.0)  
(Tweed Heads South – Commercial)
- b. Open Space (Structured):      \$3,528.00  
S94 Plan No. 5

# Reports from Director Development Services

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- c. Open Space (Casual): \$1,344.00  
S94 Plan No. 5
  - d. Emergency Facilities (Surf Lifesaving) \$1,764.00  
S94 Plan No. 16
  - e. Extensions to Council Administration Offices  
& Technical Support Facilities \$5,712.00  
S94 Plan No. 18
  - f. Cycleways \$1,488.00  
S94 Plan No. 22
2. A **certificate of compliance** (CC) under Part 3 Division 2 of the Water Supply Authorities Act 1987 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

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

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

**Stage 1A**

Water: \$12,676.00  
Sewer: \$9,645.00

**Stage 1B**

Water: \$7,605.60  
Sewer: \$5,787.00

**Stage 1C**

Water: \$15,211.20  
Sewer: \$11,574.00

**Stage 2A**

# Reports from Director Development Services

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Water: \$11,408.40

Sewer: \$8,680.50

## **Stage 2B**

Water: \$22,816.80

Sewer: \$17,361.00

## **Stage 2C**

Water: \$10,140.80

Sewer: \$7,716.00

## **Stage 2D**

Water: \$7,605.60

Sewer: \$5,787.00

## **Stage 2E**

Water: \$10,140.80

Sewer: \$7,716.00

## **Stage 2F**

Water: \$17,746.40

Sewer: \$13,503.00

## **Stage 3A**

Water: \$30,422.40

Sewer: \$23,148.00

## **Stage 3B**

Water: \$15,211.20

Sewer: \$11,574.00

## **Stage 3C**

Water: \$15,211.20

Sewer: \$11,574.00

## **Stage 3D**

# Reports from Director Development Services

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Water: \$22,816.80

Sewer: \$17,361.00

## Stage 4A

Water: \$30,422.40

Sewer: \$23,148.00

## Stage 4B

Water: \$30,422.40

Sewer: \$23,148.00

## Stage 4C

Water: \$30,422.40

Sewer: \$23,148.00

## Stage 5A

Water: \$38,028.00

Sewer: \$28,935.00

## Stage 5B

Water: \$15,211.20

Sewer: \$11,574.00

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 work.

#### (i) Building Work

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

# Reports from Director Development Services

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- 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
  - 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:



# Reports from Director Development Services

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- 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. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to the issue of a construction certificate.

## GENERAL

5. The development shall be completed in general accordance with Plan Nos 2224-Site-DA-J and 2224-TYP-B-01A to 09A prepared by Alex Enborisoff and dated November 2000, the Statement of Environmental Effects prepared by Grummitt Planning Pt Ltd dated April 2001, Plan No. 00083-DA001-A, DA002-A and DA003 prepared by Campbell Leonard and Associates Pty Ltd and dated 15 December 2000 and accompanying documentation, 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. No soil, sand, gravel, clay or other material shall be disposed of off the site.
8. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
9. 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:
1. Easements for sewer, water supply and drainage over **ALL** services on private property.
  2. A 3.5m wide easement exclusively for electricity purposes shall be provided along the southern boundary of Lot 2 DP 777875, Lot 5, 7 & 8 DP 822830.

# Reports from Director Development Services

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The final easement width and location is subject to the mutual agreement of NorthPower and the owners.

3. A main stormwater drainage easement is to be created from Kirkwood Road to the legal point of discharge at Dry Dock Road and an eastern branch easement is to be created to Lot 6 DP 822830, both benefiting Tweed Shire Council, in accordance with Campbell Leonard & Associates Pty Ltd Project "The Riverside" Plan No. DA 002 Rev A submitted with the application.

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.

10. 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.
11. 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.
12. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
13. 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.
14. 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.
15. 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

# Reports from Director Development Services

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

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

17. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:
    - Lot number
    - Builder
    - Phone number of builder or person responsible for site.

# Reports from Director Development Services

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- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
- 18. The length of tenancy of visitors to the tourist resort shall be limited to a period no greater than 3 months.
- 19. Visitors and patrons to the resort shall use the main car parking area on the western side of the lake adjacent to the existing club house facility. This area shall be marked and adequately signed. Service vehicles may utilise other internal road and parking areas.
- 20. In the event that material that is archaeological in nature is uncovered the applicant or/and contractors shall cease activity and contact NSW National Parks and Wildlife Service for their assessment and approval if required.
- 21. Fencing provided to the eastern boundary of the site shall be transparent in construction.

## **Security during construction**

- 22. A perimeter fence and security gates should be erected prior to construction or alternatively a security company should be employed to reduce the opportunity of theft and vandalism. The perimeter fence should be substantial in construction and to a height to reduce the opportunity to be scaled over.
- 23. Security should be designed into the tourist facility whether such is through the use of security screens to all external doors and windows and security door bolts and window locks or the use of security surveillance during the operation of the facility.

## **PRESCRIBED BUILDING**

- 24. 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.
- 25. 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

# Reports from Director Development Services

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- b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
26. 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.
27. 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).
28. 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.
29. 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.
30. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.
31. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
32. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance.

# Reports from Director Development Services

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33. The accommodation buildings within the 25-30 ANEF zone are to be provided with sound attenuation in accordance with the design sound levels stated in AS2021-2000 "Aircraft Noise Intrusion". Details certified by a qualified acoustical engineer are to be submitted to the PCA prior to the commencement of works and the engineer is to certify that the buildings have been completed in accordance with the design prior to occupation.

## **FIRE (BUILDING)**

34. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:
- (i) within each sole occupancy unit, located on or near the ceiling in any storey -
    - (A) containing bedrooms -
      - (aa) between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and
      - (bb) where bedrooms are served by a hallway, in that hallway; and
    - (B) not containing any bedrooms, in egress paths; and
  - (ii) in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a **building occupant warning system** in accordance with Specification 2.2a(6) of the Building Code of Australia which states:

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

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

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

# Reports from Director Development Services

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35. All fire service connections are to be compatible with those of the NSW Fire Brigade.

## DISABLED BUILDING

36. 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.
37. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.
38. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
39. Prominently displayed signs and symbols must be provided to identify for disabled persons all routes and areas where architectural barriers do not exist. Such access must comply with the requirements of Australian Standard AS 1428 Parts 1 and 2.
40. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
41. Disabled car parking spaces are to be provided at the rates provided for under Part D3.5 of the Building Code of Australia and constructed in accordance with Australian Standard AS2890.1.

## SWIMMING POOLS

42. A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "**Code for the Installation of New Swimming Pools**" and Australian Standard AS 1926-1986 (Copy of code enclosed).
- B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- D. It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in

# Reports from Director Development Services

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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).
- 43. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- 44. The spa filter and any pumps or aerators are to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

## FOOD PREMISES

- 45. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.

## SERVICES

### Sewer

- 46. The sewer outfall connection shall be to either Manhole AA/5 or AD/DE as shown on Council's sewer plan for the locality.
- 47. Sewer system shall be provided generally in accordance with documentation prepared by Campbell Leonard and Associates Pty Ltd dated 16/7/2001.

### Garbage

- 48. The applicant shall provide Council with a copy of the standard exemption from liability correspondence from the contractor.

## ROADS/STREETS

- 49. A bus shelter shall be provided on Fraser Drive opposite the development entry for bus usage by patrons of the resort.

## DRAINAGE AND FLOODING

- 50. 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.



# Reports from Director Development Services

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51. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
52. 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*.
53. A survey certificate signed by a registered surveyor is to be submitted to the PCA to certify that the habitable floor level of the building to be at a level of not less than RL 2.95m AHD.
54. 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.
55. 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

# Reports from Director Development Services

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*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*.
56. 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.
57. Section 68 Local Government Act 1993 approval for stormwater drainage works.
- A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works
- will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.
- Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
58. The major legal point of stormwater drainage discharge for the development site shall be the road reserve on Dry Dock Road where a waterway has been constructed to connect under the bridge to Terranora Creek.
59. Underground stormwater drainage with an entry invert level of RL -0.5m (at Kirkwood Road) and exit invert level of RL -1.0m (at the lake), sized to accommodate Q100 stormwater flow from upstream catchments, is to be constructed in the easement from Kirkwood Road to the lake. Underground

# Reports from Director Development Services

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stormwater drainage with an entry level of RL -0.5m (at Lot 6 DP 822830), sized to accommodate Q100 flow from upstream catchments (including lot 6 DP 822830, lot 697 DP 47411 and part Kirkwood Road) is to be constructed in the branch easement. No buildings are to be constructed over the stormwater drainage easements. The level of fill, roads, structures and any obstacles over the easements is not to exceed RL 1.5m.

60. An open drain is to be constructed in the Kirkwood Road, road reserve from Fraser Drive to the main drainage easement referred to in Condition No. 59. The invert level at Fraser drive shall be RL 0.5m and the invert level adjacent to the main easement shall be RL 0.3m.
61. An open drain is to be constructed in the Kirkwood Road, road reserve from adjacent to the eastern most point of Lot 7 DP 822830 to the main drainage easement referred to in Condition No. 59. The invert level at the eastern end shall be RL 2.0m and the invert adjacent to the main easement shall be RL 0.3m.
62. A concrete inlet drop structure is to be constructed at the entry to the underground drainage in the main drainage easement at Kirkwood Road. A similar inlet drop structure is also to be constructed at the entry to the underground stormwater drainage on the branch of the easement.
63. The existing drainage easement (with the consent of those empowered to do so on the 88B instrument) may be extinguished, only after conditions 58 to 62 have been completed and that a copy of the plan of subdivision and 88B instrument have been presented to Council.
64. Where stormwater drainage from one development lot is discharged onto another intervening lot upstream of a legal point of discharge, stormwater drainage easements shall be created to ensure all lots have required drainage rights over intervening lots. Alternatively, all lots may be consolidated into a single lot.
65. Where the proposed fill levels are inconsistent with existing levels on adjoining land, retaining walls (and any necessary ancillary or drainage works) shall be provided on the lot boundaries to ensure the land shaping has no adverse affect on adjoining land. Plans and specifications of the retaining walls and ancillary works and the written approval of the adjacent landowner shall be submitted with the construction certificate application. (As an alternative, the applicant may submit a proposal with the construction certificate application for simultaneous reshaping of both the subject land and adjoining land. Such a proposal must be authorised by all affected owners and indemnify Council from any action resulting from the execution of the proposal or any landforming activity that may adversely affect adjoining land).

## ENVIRONMENT PROTECTION

# Reports from Director Development Services

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66. The wall and roof cladding is to be of a non reflective nature to the satisfaction of the Principal Certifying Authority.
67. 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.
68. 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.
69. 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.
70. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
71. 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.
72. 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.
73. 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.
74. 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.
75. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
76. 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

# Reports from Director Development Services

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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.

77. The burning of builders waste on site by open fire is prohibited.
78. Owners of buildings served by plant involving the operation of “cooling towers”, “evaporative condensers” or “tepid water systems” must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.
79. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.
80. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

## Noise

81. Unit construction is to incorporate the minimum acoustic treatments as specified in the Acoustic Report by Palmer Acoustics.
82. All units are to be provided with air conditioning.
83. All air conditioning units or associated air conditioning plant be acoustically treated to prevent offensive noise to nearby residential developments and premises.

## Fill

84. The fill imported to the site will need to be from an approved source and be uncontaminated.

## Midges

85. The beach areas under proposed buildings be revetted with crushed rock from Mean Low Water mark.

## Acid Sulfate Soils

86. The acid sulfate soil management plan shall be amended as follows:-
  - The action criteria for lime addition will be triggered when the SCR value is >0.03% for medium to coarse textured soils (given the proximity of the marine water bodies),
  - The acceptable pH parameter for the retention basin drainage is to be <0.2 unit charge from the measured pH value of the receiving water body.

# Reports from Director Development Services

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- Contact details of all persons responsible for implementation of any aspect of the ASS Management Plan are to be provided to Council.
87. The development is to be carried out in accordance with the ASS Plan (as amended by condition 86) prepared by VRS Dames & Moore Hardcastle and Richards Woodward Clyde dated 27/7/01 and 1/8/01.

## **Lighting**

88. All artificial lighting in the development is to be installed so as not to create a nuisance to the occupants of the adjoining land and where required such lighting shall be installed so as not to shed light onto adjoining land.

## **Flora Fauna**

89. The Blackbutt community (community one) shall be incorporated into the landscape buffer strip along Fraser drive.
90. The majority of the forest red gums in community ten shall be retained on the subject land and incorporated into the landscape design.
91. Where possible local native flora species shall be incorporated in the landscaped areas. These shall be selected to provide a foraging resource for nectarivorous and frugivorous birds and bats.

## **PLUMBING AND DRAINAGE**

92. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a internal drainage, prior to slab preparation;
  - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c external drainage prior to backfilling.
  - d completion of work.
93. A. A plumbing 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.
94. 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.
95. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

# Reports from Director Development Services

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96. 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.
97. Area below the spa is to be graded, drained and ventilated.
98. Prior to commencement of any works on the site a plumbing and drainage inspection fee of \$6565 is to be submitted to Council.
99. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
100. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
101. Back flow prevention devices shall be installed where ever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
102. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.
103. 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.

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

The applicant shall obtain a permit under s205 of the Fisheries Management Act 1994 to permit the removal of marine vegetation below the highest astronomical tide (HAT) line of the foreshore.

# Reports from Director Development Services

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Effective habitat compensation will be set as a condition of issue of a permit required by the proponent under s205 of the Act. NSW Fisheries will require that habitat compensation be conducted on a 1:1 basis, for the removal or damage of mangroves on the boat lake foreshore.



# Reports from Director Development Services

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## REPORT:

**Applicant:** The Gatto Group c/ Grummitt Planning  
**Owner:** R & H Southwood, R & D Lindsay and Carringville Pty Ltd  
**Location:** Lot 2 DP 777875, Lots 5, 7 & 8 DP 822830 Dry Dock Road Tweed Heads South.  
**Zoning:** Zoning partly 6(b) Recreation and 2(e) Residential Tourist Zone  
**Est. Cost:** \$13, 175, 000  
**Building Class:** 3 for units and 5, 6, 9b for existing clubhouse

## BACKGROUND

Council received a development application for a tourist resort on the subject land on the 22<sup>nd</sup> December 2000. On review of the application it was clearly deficient of the required supporting documentation and necessary fees for referrals to other consent authorities. As such the applicant was requested to submit the required documentation resulting in the application before Council for consideration. The original proposed development was for a tourist resort consisting of 291 accommodation units. All of the proposed tourist units were three storey in height. This proposal and supporting documentation was placed on exhibition and advertised for comment.

Following the close of submissions the applicant and representatives of The Palms Village with the assistance of Council staff mediated some of the concerns raised in relation to the original proposal. The applicant revisited the design and modified components to address the concerns and this now forms the proposal before Council.

## PROPOSAL

The proposal is for a tourist resort consisting of 271 accommodation units. The proposed tourist units vary in height with 20 of the proposed buildings being two storey and the remaining 77 buildings being three storey in height. The tourist units on the eastern side of the lake and northern extent fronting Dry Dock Road are proposed to be two storey in height with a progression to three storeys in height at the southern end of the subject land.

The proposal will be constructed in five stages with Stage 1 involving the refurbishment of the existing clubhouse building and all site works, such as filling, drainage, water supply and sewerage connections. Each stage will result in the following number of accommodation units:

Stage 1 – 28 units

Stage 2 – 63 units

Stage 3 – 66 units

Stage 4 – 72 units

Stage 5 – 42 units

**Total – 271 units**

# Reports from Director Development Services

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The proposed accommodation units are to be self-contained with individual kitchen facilities. These are proposed in groups with a range of occupancy rates from single room to a combined unit of two bedrooms.

The proposal includes the use of the existing facility, formerly the Tweed Rowing and Aquatic Club premises, as the reception, recreation and restaurant. The proposed theme of the resort is nautical with a focus on the water or rainforest to be created on the site. The existing access from Fraser Drive is the proposed point of entry with the existing car parking being available for patrons and guests.

The application is accompanied by an extensive landscaping plan that details seven different landscaping components proposed over the site and provides plant species lists. Buffer areas are provided to boundaries and the landscaping proposed involves extensive plantings.

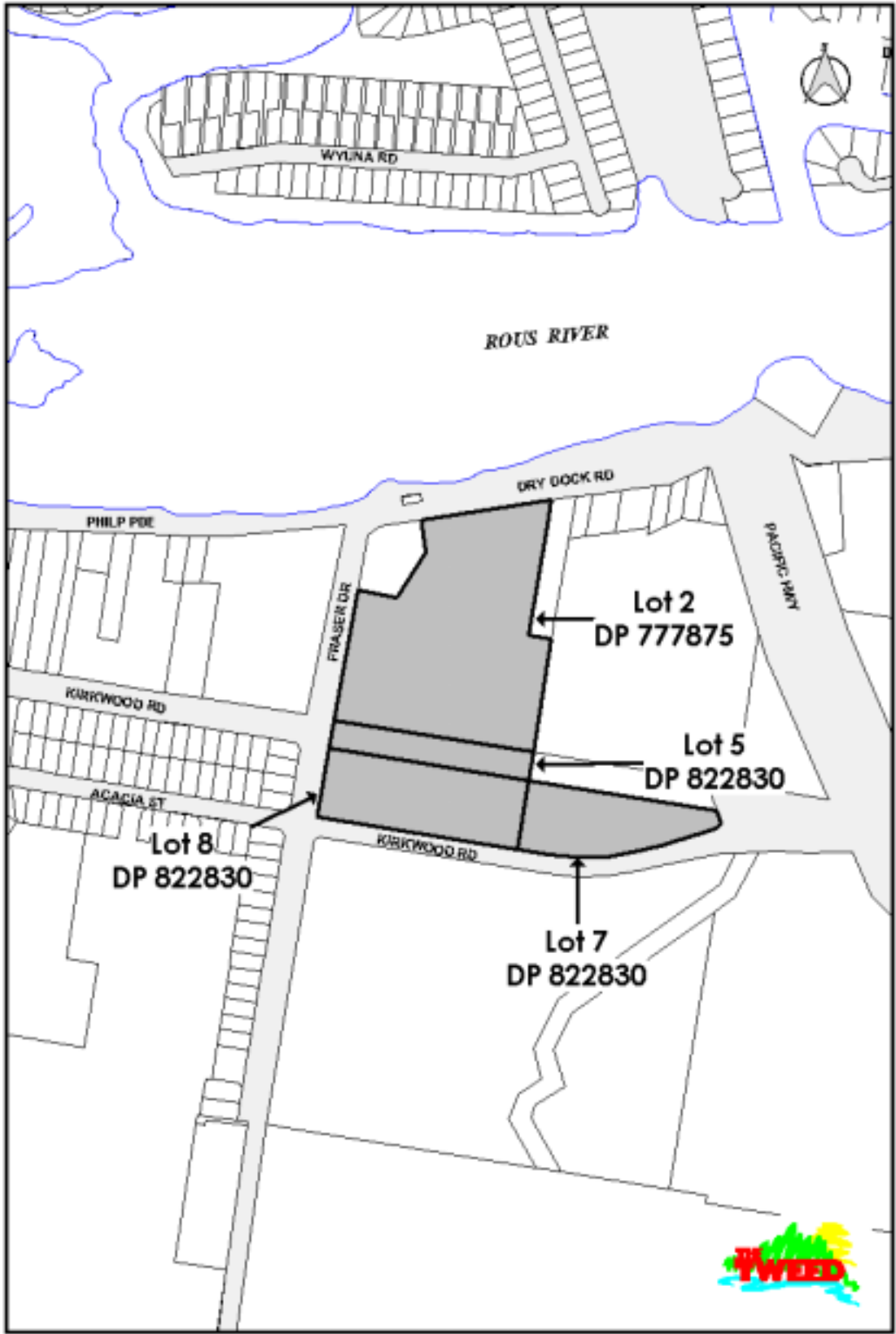
The existing lake is proposed to be sectioned off by a floating pontoon and protective mesh to provide a sheltered waterway on the upstream side for swimming, canoeing and sailing. The beach in front of the existing clubhouse is proposed to be used for foreshore recreation. The proposed pontoon would also provide limited mooring facilities for small boats wanting to use the restaurant facilities of the resort. The proposal does not involve any marina component.

# Reports from Director Development Services

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## SITE DIAGRAM

# Reports from Director Development Services



# Reports from Director Development Services

## ASSESSMENT OF RELEVANT HEADS OF CONSIDERATION UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

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

The subject land is partly zoned 6(b) Recreation and 2(e) Residential Tourist under the provisions of the Tweed Local Environmental Plan 2000 (LEP). The majority of the subject land is zoned 6(b) Recreation with the majority of works contained therein. The remaining component of the site that is zoned 2(e) Residential Tourist currently supports the existing car parking facility on the site and is proposed to have some enhancement however no substantial works.

The proposal is for a tourist resort. The definition for a tourist resort in the LEP is:-

*“A largely self-contained holiday destination establishment which provides:*

- a) tourist accommodation, and*
- b) on-site facilities to satisfy all, or substantially all, of the recreational, entertainment, dining and other holiday needs of its resident tourists.”*

The primary objectives of 6(b) Recreation is:-

*“To designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.”*

The secondary objective of this zone is:-

*“to allow for other development that is compatible with the primary function of the zone.”*

The proposed development is generally considered to be consistent with the objectives of the zone. Clause 11 of the LEP allows for tourist resorts in the 6(b) Recreation Zone providing such has satisfied the provisions of clause 8(2) of the LEP. In this regard the applicant made a submission that will form part of this assessment.

Clause 8(3) of the LEP also required the advertising of the proposed development in accordance with the advertised development provisions of the Environmental Planning and Assessment Act 1979. This aspect of the proposed development will be addressed in the public notification section of this report.

The primary objective of the 2(e) Residential Tourist Zone is:

*“To encourage provision of family orientated tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short term accommodation and day tourist facilities.”*

# Reports from Director Development Services

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The component of the subject land affected by the 2(e) Residential Tourist zone will continue to be used as a car park which is considered to be generally consistent with the objectives of the zone.

Clause 15 of the LEP pertains to the availability of essential services. In this regard Clause 15(2) states that Council must not grant consent to the carrying out of development on any land unless:

- a. *A water supply and facilities for the removal or disposal of sewage and drainage are available for that land, or*
- b. *Arrangements satisfactory to the consent authority have been made for the provision of that supply and those facilities.*

In this regard the applicant has submitted engineering documentation to support a proposed vacuum sewerage system for the development. An assessment of this aspect of the proposed development and the suitability of the site is further addressed in this report.

Clause 16 of the LEP pertains to height of building provisions. The subject land is in an area identified as being of a three-storey height limit. The proposed development exceeds this height in part for which the applicant has submitted an objection under State Environmental Planning Policy No. 1 – Development Standards. An assessment of this aspect of the proposed development forms part of this report.

Clause 17 of the LEP intends to ensure consideration of development that may have a significant social or economic impact. Clause 17(2) states:

*“Where the consent authority considers that a proposed development is likely to have a significant social or economic impact in the locality or in the area of Tweed, the consent authority may only grant consent to the proposed development if it has considered a social impact statement in respect of the proposed development.”*

The applicant has submitted a social impact assessment with the proposed development that is further assessed under this report.

Clause 22 (4) of the LEP applies to development near designated roads. These provisions apply to part of the Fraser Drive frontage of the subject land. Council may grant consent upon satisfying the matters contained in Clause 22(4), namely:

- “(a) the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*

# Reports from Director Development Services

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- (b) *the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*
- (c) *the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*
- (d) *where the land is in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*
- (e) *the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*
- (f) *the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and*
- (g) *where practicable, access to the land is provided by a road other than the designated road, and*
- (h) *in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development:*
  - (i) *would not compromise the Highway's function as the North Coast's primary inter- and intra-regional road traffic route, and*
  - (ii) *would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and*
  - (iii) *would not compromise highway safety and efficiency, and*
  - (iv) *would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientated site."*

These matters are addressed in the assessment of the suitability of the road environment.

Clause 32 of the LEP relates to aircraft noise with the objective being to prevent certain noise sensitive developments from locating in proximity to Coolangatta Airport and its flight paths. The majority of the subject land is affected by the 25-30 ANEF contour. In this regard Clause 32(3) states:

*"Consent must not be granted to development for the purpose of a caravan park, childcare centre, hospital or educational establishment or for residential development (including subdivision for residential purposes, but not including the erection or use of a dwelling house) within the 25 or higher ANEF contour."*

# Reports from Director Development Services

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The applicant provided an assessment of the use of this clause in respect of the proposed development. As residential development is not defined in the LEP or the EP & A Act 1979 the Macquarie dictionary definition is used being, "catering for guests who stay permanently or for extended periods.

A tourist resort as defined under the LEP is argued to offer short-term accommodation for travellers or tourists and is considered to be consistent with a commercial premises rather than a residential flat building. In this regard the applicant contends that Council is empowered to consider the proposed development. In addition the tourist accommodation has been designed with regard to the required Australian Standard for aircraft noise.

Clause 34 of the LEP requires Council to consider a number of factors in relation to flooding prior to issuing any approval. Consideration is required to be given to extent and nature of flooding, whether the severity of flooding will increase as part of the proposal, flood mitigation where possible, emergency services and the provisions of Development Control Plan No. 5 – Development of Flood Liable Land. As the subject land is below the design flood level the applicant has proposed filling the subject land to ensure the floor levels comply with the required minimum level of 2.95m AHD. This will involve filling the site by an average of 0.8m.

Clause 35 of the LEP relates to acid sulfate soils with the objective generally being to manage disturbance of acid sulfate soils. As the subject land is identified as Class 2 land Council must have regard for an acid sulfate soil assessment in accordance with Clause 35(4) of the LEP. The applicant has provided one as part of the submission that forms an assessment under this report.

Clause 37 of the LEP relates to development in proximity to electricity transmission line corridors. The subject land is identified as being affected by such a corridor. Council referred the application to NorthPower in accordance with Clause 37(3) for comment. The content of the submission received is addressed in this report.

Clause 38 of the LEP relates to future road corridors. The subject land is partly affected by a future road corridor being the Kirkwood road extension. Council's Engineers have provided comments in relation to the proposed development and the future road corridor; these are addressed in this report. Generally the proposal has addressed all of the requirements of the Tweed LEP 2000. There are no impediments to Council favourably considering the application.

## North Coast Regional Environmental Plan 1988

Clause 15 of the Regional Environmental Plan 1988 (REP) relates to development within adjoining or upstream of a river, stream or wetland. The clause states that:

*"The Council shall not grant consent to a development application 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*



# Reports from Director Development Services

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*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;*
- 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 development;*
- d. Whether an adequate foreshore public reserve is available and whether there is adequate public access to that reserve;*
- e. Whether the development would result in pollution of the wetland or estuary and the measures to eliminate pollution;*
- f. The proximity of aquatic reserves dedicated under the Fisheries and Oyster Farms Act 1935 and the effect the development will have on these reserves;*
- g. Whether the water course is in an area of protected land as defined in section 21A 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 recommendation of any environmental guidelines or water quality study prepared by the Environment Protection Authority.”*

The proposed development is not in conflict with the provisions of clause 15 of the REP. Further detail in this regard is addressed in this report.

Clause 32B relates to development of coastal lands. As the subject land is in the area affected by the NSW Coastal Policy an assessment under these provisions is required. Particularly, Council shall not consent to the carrying out of development which would impede public access to the foreshore area. The proposal has been designed considering the objectives of the Coastal Policy and maintains the existing foreshore access in the locality.

Clause 32B(4) states that Council shall not consent to the carrying out of development on urban land at Tweed Heads if carrying out the development would result in beaches and adjacent open space being overshadowed for periods therein identified. The proposed development is not considered likely to result in overshadowing of beaches or adjacent public open space.

Clause 75 of the REP states that Council shall not grant consent to an application for tourism development unless it is satisfied that:

# Reports from Director Development Services

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- a. The standard of road access is adequate to service the scale of the development proposed;*
- b. If the proposal involves permanent accommodation, all social and community services reasonably required by those residents exist in close proximity to the development;*
- c. The development will not be detrimental to the scenery or other significant features of the natural environment; and*
- d. Reticulated water and sewerage services are available, or arrangements satisfactory to the council have been made for the provision of those facilities.”*

The following report further assesses the issues raised in Clause 75. Council's Engineers have assessed the adequacy of the road network in relation to the proposed tourist facility and are satisfied that the standard of the road is adequate. The proposal will not involve any permanent occupation and will be restricted in its operation in this regard. The following report assesses the environmental attributes of the locality. The applicant has provided an Engineering report and documentation to the satisfaction of Council's Engineer in respect to water and sewerage services.

The proposed tourist resort is therefore considered to be generally consistent with the objectives of Clause 75 of the REP.

Clause 81 of the REP relates to development adjacent to the ocean or a waterway. Clause 81(1) states:

*“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 proposed development does not obstruct foreshore access to the Terranora Inlet. Dry Dock Road separates the foreshore open space from the subject land. Existing open space and pedestrian cycleway networks are not effected by the development of the subject land.

The applicant has modified the proposed development to provide buildings that present to the lake and consider that the design of the proposal does not detract from the amenity of the waterway. There is no foreshore management plan applying to the area.

# Reports from Director Development Services

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The proposed development is not considered to be inconsistent with the relevant clauses of the REP.

## State Environmental Planning Policies

### State Environmental Planning Policy No. 1 – Development Standards

The aim of State Environmental Planning Policy No. 1 – Development Standards (SEPP1) is to provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act.

The applicant has accompanied the development application with an application under SEPP1 in relation to the height limitation of the subject land. The height limitation is three storeys under the LEP. The proposal includes the buildings along the lake overhanging the water partly and this would be more than 1.5m above ground level, thereby constituting a storey.

The objective of the height of buildings provisions is:

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

The applicants submission under SEPP1 states that the standard is considered unreasonable for the following reasons:

- The buildings appear to all external views as three storey construction, having three storeys of tourist accommodation as do other accommodation buildings on the site.
- The impact of additional height is only viewed internally from the water.

The applicant has not further justified the departure from the standard in relation to the objective, however the following assessment is provided in this regard.

The applicant contended that the height of the development is appropriate to the location as, if it were not for the presence of a man made lake, the proposed buildings would comply with the height provisions of the LEP. The height of the development is appropriate to its location in that from all public spaces the buildings are viewed as three storey structures.

Surrounding development has not been undertaken to the 3 storey height limitation of the zone. Adjoining development is generally single storey with elevated two storey homes being characteristic of the general locality. The proposed buildings are not strictly in keeping with the existing character of the area rather the proposal involves the development of the land to its full potential.

The environmental characteristics of the subject land are not significantly impacted upon through the height and scale of the proposed development. The natural

# Reports from Director Development Services

characteristics of the land are limited to the man made lake, as the land is generally devoid of other natural attributes. The environmental characteristic of the lake are not considered to be reduced through the erection of buildings on its foreshore as these structures will appear as three storey buildings with the majority of the foundation area being submerged in the tidal zone.

The proposed SEPP1 objection is considered to be reasonable and could therefore enable assumed concurrence being issued should Council consider the proposal warrants conditional consent.

## State Environmental Planning Policy No. 11 – Traffic Generating Developments

Schedule 2 of SEPP11 includes tourist facilities where there are 50 or more accommodation units. An assessment of the proposal concludes that as the access is not from an arterial road or a road connecting with an arterial road within 90 metres the proposal did not require referral to the Roads and Traffic Authority.

Council’s Traffic Engineer has assessed the traffic report submitted as part of this development application. The Engineers comments and further assessment of this issue are provided in this report.

## State Environmental Planning Policy No. 44 – Koala Habitat

As the subject land is greater than 1 hectare in size the applicant has provided an assessment under State Environmental Planning Policy No. 44 – Koala Habitat. This assessment concludes that the subject land does not support an adequate number of trees of the species type to constitute core koala habitat and as such no koala management plan is required to accompany the application.

## **Draft Environmental Planning Instruments**

The Department of Urban Affairs and Planning have placed on public exhibition draft amendments to State Environmental Planning Policy No. 1 – Development Standards. The development proposal before Council is considered to generally satisfy the intent of the draft document and is not in conflict with draft changes.

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

### Development Control Plan No. 2 – Access and Car Parking

The applicant prepared an assessment of the proposal in relation to Development Control Plan No. 2. The following table details the requirements and compliance.

<b>Standard</b>	<b>Requirement</b>	<b>Complies/variation</b>
Customer Car Parking	1/unit plus component for visitors, 271 units	271 provided and additional spaces available for visitors, complies

# Reports from Director Development Services

Standard	Requirement	Complies/variation
Staff Car Parking	0.5/staff, 52 staff	26, complies
Bicycle Parking	1/2 car park	149 required, 75 proposed variation

The proposed car parking complies with DCP 2 requirements with a variation to the required bicycle parking. The applicant has proposed 75 bicycle parking racks which are considered to be a reasonable amount given the opportunity at the resort to use unit areas for more informal bicycle parking should such be required. In the circumstances it is considered that a variation is justified.

## Development Control Plan No. 5 – Development of Flood Liable Lands

The subject land is identified as being flood liable with Development Control Plan No. 5 setting the minimum floor levels required for development in the locality. The applicant has undertaken an assessment of the existing levels of the subject land and has determined the levels of earthworks required to ensure the development complies with these requirements.

The earthworks plan submitted to Council involves an averaging of 0.8m fill across the site to achieve the 2.95mAHD floor level requirement.

## Development Control Plan No. 25 – Biting Midge and Mosquito Control in the Tweed

With the subject land being affected by biting midges Council's Entomologist provided comments to assist the applicant in addressing the issue. The applicant submitted a statement of the proposed action to be taken in relation to biting midges. The design measures to be adopted include:

- Provision of crushed rock facing to embankments, from mean low water mark to mean high water mark particularly under buildings overhanging the waterway.
- Raking of sand beach areas on a weekly basis during the summer period.
- Spraying of biological chemicals or larvicides only where the above measures are not effective.

In addition the applicant contends that ponding water will be minimised at all costs and that units will be fitted with screens for visitors comfort. Guests will also be provided with personnel insect repellents. It is considered that the applicant has adopted the requirements to minimise biting midge on the subject land and has therefore satisfied the DCP.

## (b) **Likely Impact on the Environment**

### Filling of site and vegetation removal

# Reports from Director Development Services

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The proposed development involves an average of 0.8m of fill over the site. This will therefore result in the site being cleared of any remaining vegetation. The applicant has prepared a flora and fauna assessment of the site and concluded that the proposal will not result in a significant effect on any threatened species, habitat of ecological endangered communities.

The applicant has provided an erosion and sedimentation control management plan with measures to ensure the proposed earthworks do not result in an adverse environmental impact.

## Removal of vegetation/habitat

The applicant provided a flora and fauna assessment of the site that identified the vegetation communities and assessed their significance. The report assessed the impacts of the development on the plant communities and concluded as follows. There are two forest communities on the subject land with the majority of the site being covered by grassland.

The site has an area of tall open forest - Blackbutt that fronts Fraser Drive, this will be retained as part of a landscape buffer for the development. There is an area of tall open forest – Forest red gum that contains approximately 10-15 Forest red gums in an area of the site that requires filling. The majority of these trees will be incorporated into the landscape design where practical.

Other impacts to the flora communities on the site include the loss of mangroves in the intertidal zone. NSW Fisheries have assessed this matter and resolved an outcome with the applicant. The disturbance of the site through development could potentially result in the intrusion of weeds to the site. This potential impact would require control during the construction phase. Additionally any vegetation that is not to be retained should be mulched and used on the subject land as part of the extensive landscaping proposed.

The fauna impacted on, due to the changes to the plant communities on the subject site, have been identified as mainly foraging nectarivorous and frugivorous birds and bats. The fauna report recommends as a management measure the landscaping should include planting that will provide forage habitat.

Other impacts to the fauna communities on the site could include the introduction of the cane toad through their eggs being present in the imported fill. As such, the fill to be used on the site will need to be sourced from areas where Cane toads do not occur.

The fauna report has examined the species known to occur in the area and concluded through eight part tests that the development is not likely to place any of these species at risk of extinction.

## Mangroves removal and Fisheries requirements

The proposal includes the extension of units into the lake by pylon construction. This would therefore involve the disturbance of a number of seedling mangroves currently

# Reports from Director Development Services

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established in the tidal extent of the lake. NSW Fisheries were referred the application as integrated development and advised that they had no objections to the proposed development providing that habitat compensation is conducted on a 1:1 basis for the removal and damage of mangroves.

The habitat compensation will be set as a condition of issue of a permit required to remove or destroy mangroves. A condition of consent to satisfy fisheries conditions would be imposed should Council consider the proposal warrants approval.

## Works within 40 metres of bank of river

The proposed development was referred to Department of Land and Water Conservation as it was considered that the proposal may constitute integrated development. Department of Land and Water Conservation responded by advising that the application does not require a 3A permit under the Rivers and Foreshore Improvement Act 1948. As such the applicant will not be required to make further application to that authority for works involved in the development.

## Water Quality

The proposal has addressed water quality aspects through an Acid Sulfate Soils (ASS) Management Plan and a Soil and Water Management Plan. These Environmental Management Plans (EMP) have been provided to assure Council that necessary mitigation measures will be adopted during construction.

The ASS investigation found that material had a nil to low acid production level. When combining this with the level of fill required and disturbance during construction, the soil material is not considered to be a constraint to the development of the site.

Further, Council's Environmental Health Officer has provided an assessment of the documentation and recommends a number of conditions be imposed. These are included in the recommendation of this report.

The current drainage is proposed to discharge to the existing boat harbour. Existing offsite drainage crossing the subject site will be directed into this waterbody and protected by an easement. The applicant has provided a stormwater management plan that has been assessed by Council's Engineers. A number of conditions of consent would be required including the registration of an easement over the subject land protecting existing drainage and future drainage through the site.

A number of drainage conditions are also proposed to ensure construction and operation of the site does not result in an adverse impact to quality of the man made lake and Terranora Inlet.

## Over shadowing of adjacent property

The proposed tourist facility originally included three storey units on the eastern side of the lake. The adjoining residents in The Palms Village Manufactured Home Park were concerned that the development may result in the overshadowing of their homes by the

# Reports from Director Development Services

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proposed units. In response to this the applicant reduced the height of these units to two storey.

Given the setback from the side boundary, the orientation of the tourist units (these being on the western side) and the proposed two storey height it is not considered likely that the proposed development will result in any overshadowing of neighbouring property.

## Visual impact from colour, height, elevation

The proposed tourist facility originally included three storey units over the entire site. These presented a visual prominence to Dry Dock Road that was further impacted on due to the bulk in the building design. In response to concern raised in this regard the architect has modified the proposed units to be two storey on the eastern side of the lake and two storey for one unit depth on the western side of the lake at the Dry Dock Road frontage.

The applicant was relatively amenable to the colour selection being to the approval of the Director of Development Services or subject to a colour scheme. The applicant contended that the extensive landscaping proposed as part of the development enhances the proposal and softens the effect of the scale of the development. The proposed landscape plan is considered to be effective in achieving this outcome.

## (c) **Suitability of the Site**

### Local Road Network

The proposed tourist facility will be accessed from Fraser Drive. The Fraser Drive frontage of the proposal is defined as a designated road under the LEP to a minor extent.

The applicant provided a traffic report that assesses the proposed development. The actual entry into the tourist resort is not from the designated road section of Fraser Drive.

Council's Engineers have carried out a complete assessment of the proposal as required for designated roads and are satisfied that the proposal will not generate an adverse impact to the local road network.

In addition, the subject land is identified as being subject to a future road corridor under the Tweed Local Environmental Plan 2000. Council's Planning and Design Unit have an alignment for the proposed future road however such was to be located south of the alignment identified on the plan. As such, Council's Engineers did not raise an objection to the location of the proposed tourist units on the subject land.

### Noise

The applicant provided an acoustic report that assessed the impact of aircraft noise on the site in relation to the proposed development. Council's Environmental Health



# Reports from Director Development Services

Officer has assessed the proposal and report and concluded that a number of conditions will need to be imposed on a development consent.

These conditions include each unit being constructed in accordance with the acoustic report, the requirement for air conditioning in each unit and that each air conditioning unit is acoustically treated. These measures are considered to reduce the impact of aircraft noise on the visitors to the tourist facility when indoors.

There is a potential that the future Kirkwood road alignment will join the property on the southern boundary. The impact of vehicle noise from the adjacent roads will be reduced through the design of each unit.

## Site Contamination

The applicant provided site contamination analysis that advised “*the area did not contain surface staining or other features such as tank storage or waste piles*”.

The site was filled with dredged material from the dredging to form the man made lake. Based on the site history review the potential for contamination was low. All test results were satisfactory.

## Electricity Easement

The subject land is affected by an electricity transmission easement under the Tweed Local Environmental Plan 2000. North Power advised that the proposed tourist facility should provide a 3.5m wide easement along the southern boundary of the subject land to enable the location of the transmission easement when such is required. The easement performs a strategic function in the distribution network and needs to be provided.

## Vacuum Sewerage System

The applicant has proposed that the site be serviced by a vacuum sewerage system. Council’s Engineer has assessed the proposed servicing and advised of necessary arrangements required for connection to Council’s sewerage system. These requirements would be imposed as a condition of consent.

## **Public Submissions**

The proposed development was publicly notified in accordance with section 79A of the Environmental Planning and Assessment Act 1979. The public notification period for the application was from 2/5/2001 to 16/5/2001 in which 109 submissions were received of which there were two proforma letters totalling 49 and 12 respectively. A further 48 submissions were received as individual letters. The issues raised in these submissions are addressed in the follow table.

Issue	Assessment	Comment
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# Reports from Director Development Services

Issue	Assessment	Comment
Height limitation exceeded	The applicant has provided an application under SEPP1 that objected to the height limitation of the subject land. This objection primarily raised that the buildings appear as three storey from all public places with the water being the only point where the units will appear slightly higher.	The SEPP1 objection is considered reasonable and would warrant the use of assumed concurrence in issuing a conditional approval.  This issue does not warrant refusal of the application.
Additional strain on sewerage and other services	Councils Engineers have assessed this issue and are satisfied the proposal can be adequately serviced.	This issue does not warrant refusal of the application.
Additional traffic on local road network reduction in safety	Councils Engineers have assessed this issue and are satisfied the proposal can be adequately serviced.	This issue does not warrant refusal of the application.
Loss of view	The proposal is not obstructing any views to public open space. The view from the Palms to the lake will be modified by extensive landscaping.	Proposal does not raise a conflict with views to public space.  This issue does not warrant refusal of the application.
Loss of Privacy	With the proposed tourist units being distanced from adjoining residences by access road and landscaping it is not considered privacy will be reduced. Units are designed to overlook lake not adjoining residences.	Privacy objectives are maintained. Condition Nos. 5 & 11 have been imposed on the consent.  This issue does not warrant refusal of the application.
Noise from development	Social and recreational activities carried out at the resort will have to observe noise level standards as required. Most activities will centre on the existing clubhouse and this is also where the majority of vehicle noise will be contained.	Offensive noise levels are not inconsistent with proposed use. Condition No. 69 has been imposed on the consent.  This issue does not warrant refusal of the application.

# Reports from Director Development Services

Issue	Assessment	Comment
Height of dividing fence	The proposed fencing was in accordance with Council Policy.	The applicant has agreed to the use of transparent fencing material between The Palms and the tourist facility. Refer to Condition No. 21.  This issue does not warrant refusal of the application.
Loss of wind/sunlight	The proposal will not overshadow adjoining residences. The proposal is dispersed with adequate breezeways between buildings.	This issue does not warrant refusal of the application.
Fire risk	The proposal will need to be built in accordance with the Building Code of Australia.	Condition No. 27 has been imposed in this regard.  This issue does not warrant refusal of the application.
Dust during construction	Proposal is accompanied by an EMP which will ensure construction phase impacts are minimised.	This is regulated by Condition Nos. 5, 67, 68 & 69 have been imposed in this regard.  This issue does not warrant refusal of the application.
Traffic Impacts	Traffic noise will be located primarily on western side of lake adjacent to existing clubhouse. Engineers have assessed local road network to be adequate for proposal.	This is regulated by Condition No. 19.  This issue does not warrant refusal of the application.
Vegetation Removal/Loss of Habitat	Proposal includes the retention of significant trees and the reuse of trees where filling is required. The proposal will significantly increase vegetation cover over site. Marine vegetation removal will be with the permission of NSW Fisheries.	Condition Nos. 5, 89, 90 & 91 are imposed to ensure outcome.  This issue does not warrant refusal of the application.

# Reports from Director Development Services

Issue	Assessment	Comment
Residential Development in Flight Path	Proposal is commercial in nature not residential. Proposal is permissible under the LEP.	Condition No. 18 is imposed to ensure occupancy length.  This issue does not warrant refusal of the application.
Conflict with Lake Users	The existing lake is private property and is not required to be accessible to the general public. Use of the lake is on the terms of the owner of the land.	The regulation of use of the lake is a civil matter between owner and guests.  This issue does not warrant refusal of the application.
Tourist Resort Design/Density	The applicant modified the bulk of the design by reducing a number of tourist unit buildings to 2 storey. Extensive landscaping is intended to compliment and provide a context for the buildings. Colour and external finish is to be sympathetic to locality.	Applicant has adopted changes and through Condition Nos. 5, 11 & 66 the site will be made sympathetic in design.  This issue does not warrant refusal of the application.
Water Quality	The proposal includes soil and water management plan that provide controls to mitigate impacts from ASS or soil dispersal during construction. Councils Engineers have been satisfied with the proposed design.	A number of conditions will regulate this issue including Condition Nos. 5, 52, 86 & 87.  This issue does not warrant refusal of the application.
Aircraft Noise	The proposal is designed in accordance with Australian Standard for aircraft noise. This will mitigate noise impact on visitors at the resort.	A number of conditions will regulate this issue including Condition Nos. 5, 81, 82 & 83.  This issue does not warrant refusal of the application.

# Reports from Director Development Services

Issue	Assessment	Comment
Archaeological Impacts	No evidence of archaeological sites were found in assessment of the site.	To ensure no sites are disturbed Condition No. 20 has been imposed.  This issue does not warrant refusal of the application.

Following the close of submissions the applicant agreed to meet with representatives of The Palms to mediate some of the issues raised in the objections received from the residents. Mediation with the Palms residents was considered to be an option to resolve some of the issues.

Following the applicant modifying the proposed plan the residents of The Palms tendered a letter withdrawing objections on the basis of Plan No. 2224-SITE-DA-J being tendered with Council. This letter resulted in 43 of the original submissions being withdrawn which equates to 66 submissions remaining. This substantially reduced the number of submissions.

## Public Authorities

The development proposal was referred to NSW Fisheries and Department of Land and Water Conservation as Integrated Development. The comments provided by these agencies have been assessed in this report and are reflected in the conditions of consent.

In addition, the proposal was referred to NorthPower as it was considered the agency had an interest in the proposal. The comments provided are reflected in the conditions of the consent.

The NSW Police Service has also provided comment on the proposal in terms of crime prevention. The recommendations of the Police Service and included security surveillance of the property during construction, adequate fencing and security devices on all units. These conditions have been imposed.

## (d) Public Interest

The proposed tourist resort on the subject land would result in the site being utilised to its full development potential. The West Tweed area has been characterised by residential subdivision and caravan park style developments. The proposal is a significant investment in both capital and recreational/social infrastructure to the general locality.

The proposal may lead to change in the general locality through modifying the landscaping and formalising the use of the subject site, one that has been under utilised

# Reports from Director Development Services

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in recent years. With this change comes perceived adverse impacts and benefits both difficult to quantify.

One of the local values identified in the submission received was for responsible development both during construction and operation and the maintaining of the tranquil lifestyle orientated atmosphere currently enjoyed by local residents.

In this regard it is considered that the development will achieve the local values through implementation of the landscape plan, EMP and overall interest will be ensured through the imposition of conditions of consent addressing these aspects and concerns raised.

## OPTIONS

1. Approve in accordance with recommendation.
2. Refuse the development application.

## LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should the applicant be dissatisfied with Council's determination of the proposal a right of appeal would exist to the Land and Environment Court. Similarly, should any person be dissatisfied with Council's processing of the application, a person may under Section 123 of the Environmental Planning and Assessment Act, 1979 take action in the Court. Such would be limited to the "process" and not merit consideration.

## CONCLUSION

The proposed development is considered to be suitable for the subject land and is not likely to generate an environmental impact, that, through implementation of the conditions of consent, cannot be mitigated.

The applicant has revisited the proposal to ensure all issues raised during the assessment are satisfied.

The applicant provided extensive investigation into the proposal with Engineering Infrastructure design and assessment, investigation into the flora/fauna of the site, traffic report and road assessment, acoustic design and engineering, architectural design, landscaping plans and complete contamination and soil assessment.

Referral of the application to NSW Fisheries led to their favourable assessment with a permit being required prior to works. In all other statutory provisions the proposal has been found to be complete and compliant which is represented in the above report. Given the favourable assessment of the proposal, conditional consent is warranted.

# Reports from Director Development Services

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3. ORIGIN: Development Assessment Unit

FILE REF: DA4970/190 Pt1

**REPORT TITLE:**

**Amendment to Development Consent 0606/2000DA for Alterations and Additions to an Existing Dwelling at Lot A DP 406115 No. 18 Seaview Street, Kingscliff**

**SUMMARY OF REPORT:**

An application under Section 96(2) of the Environmental Planning and Assessment Act, 1979 has been received seeking to modify consent 0606/2000DA for alterations and additions to an existing dwelling at the abovementioned land. The modifications involve reducing the height of the approved upper structure by approximately 1.8 metres and moving the southern wall of the upper structure south by 0.8 to 0.9 metres and increasing the floor area by approximately 5.1m<sup>2</sup>.

The original application was not recommended by the Director Development Services but was approved by Council. It is considered that an opportunity now exists to improve the height, bulk and scale of the development compared to that which was approved, albeit that views from adjoining residences will still be lost.

Negotiations were undertaken with the applicant to further modify the proposal so that some views could be made available from adjoining residences, but this was not successful. Should the application not be supported the applicant can still rely on the original approval which from a planning point of view is a less desirable outcome in relation to scale, bulk and height to that which is proposed.

**RECOMMENDATION:**

That Development Application 0048/2001S96 for amendment to Development Consent 0606/2000DA for alterations and additions to an existing dwelling at Lot A DP406115 18 Seaview Street, Kingscliff be modified as follows:-

**Condition 1 be amended to read as follows:**

1. The development shall be completed in general accordance with Plan Nos WD-01 to WD-12 dated 23 February 2001 prepared by Philip Follent Architects, except where varied by these conditions.

**An additional condition be added to read as follows:-**

24. The roof is to have low reflectivity. Details on the colours and materials to be used are to be submitted and approved by the Director of Development Services prior to the issue of a construction certificate.

# Reports from Director Development Services

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## REPORT:

**Applicant:** Peter Gladwin & Jude Robb  
**Owner:** Peter Gladwin & Jude Robb  
**Location:** Lot A DP406115 18 Seaview Street, Kingscliff  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$60,000

## BACKGROUND

Council at its meeting 4 October 2000 resolved to approve alterations and additions to an existing dwelling and construction of a swimming pool at Lot A DP 406115 (No. 18) Seaview Street, Kingscliff.

The application was recommended for refusal by the Director Development Services 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.

However, as mentioned above, Council at its meeting 4 October 2000 resolved to conditionally approve the development.

## PROPOSAL

An application has now been received under Section 96(2) of the Environmental Planning and Assessment Act, 1979 requesting modification to the approved alterations and additions. The proposed modifications involve lowering the approved upper level into the roof of the existing dwelling. This will lower the height of the upper structure by approximately 1.8 metres. The modification also proposes to extend the southern wall of the upper structure approximately 0.8 metres to the south which will increase the floor area by approximately 5.1m<sup>2</sup>.

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 and Seaview Street to the west.



# Reports from Director Development Services

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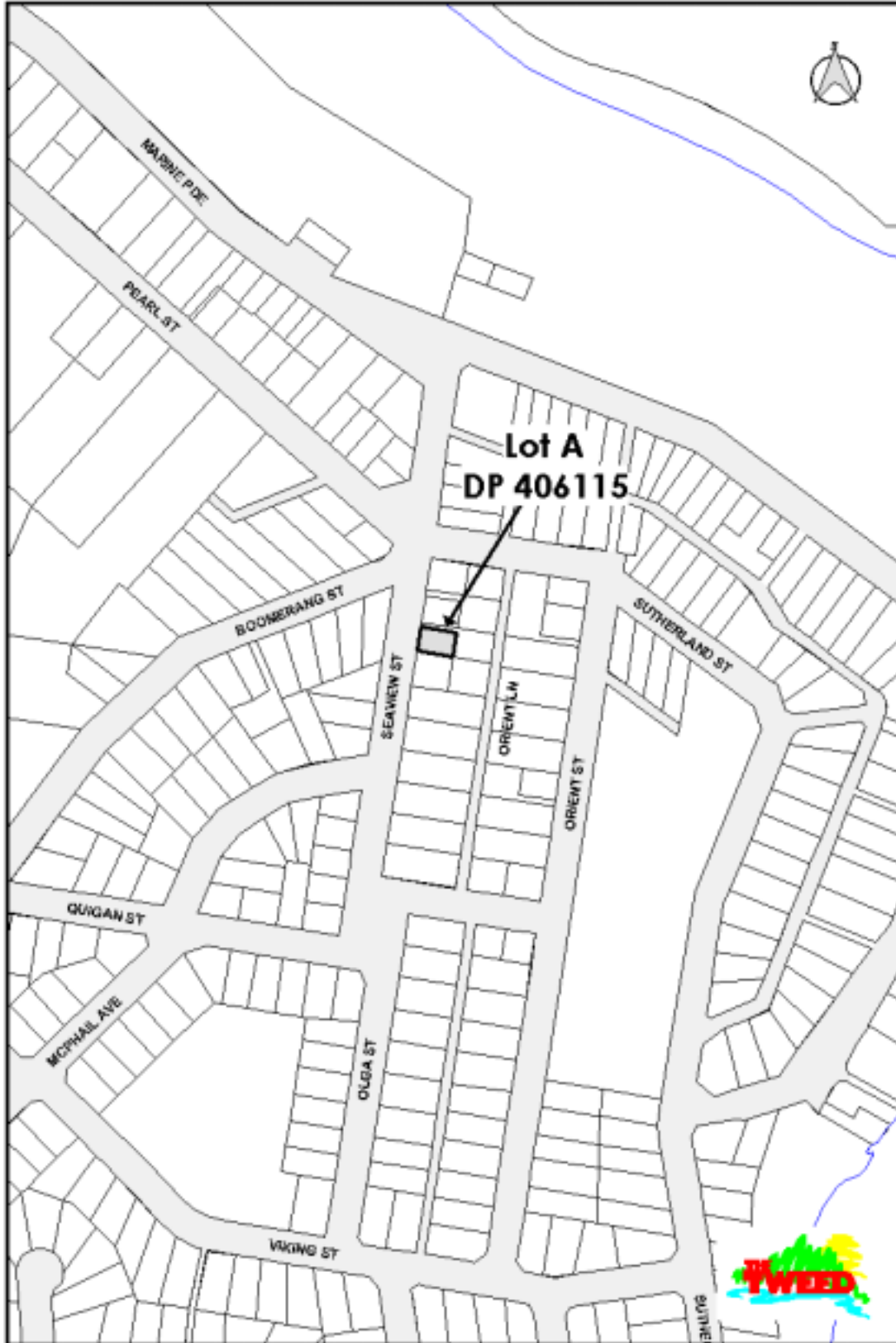
Adjoining property owners were notified and three (3) submissions of objection were received. The details of these submissions will be discussed in the “Consultation” section of this report.

# Reports from Director Development Services

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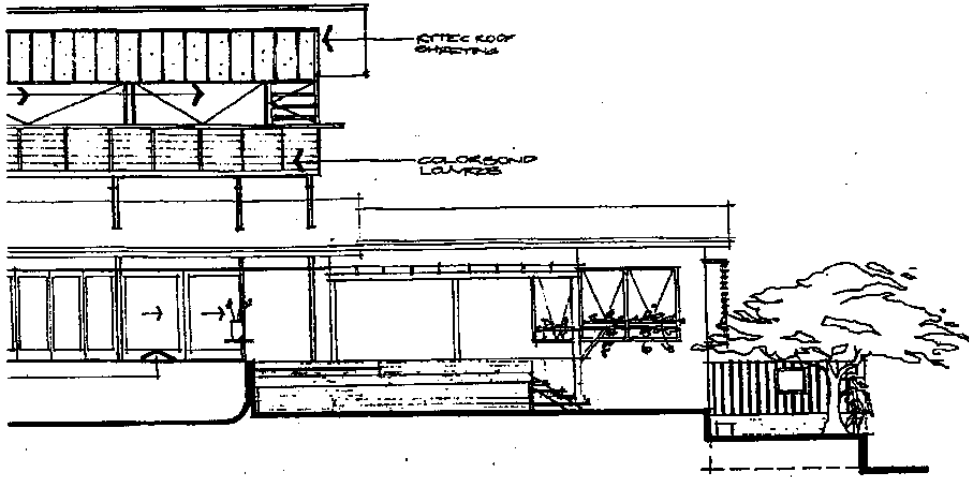
## SITE DIAGRAM

# Reports from Director Development Services

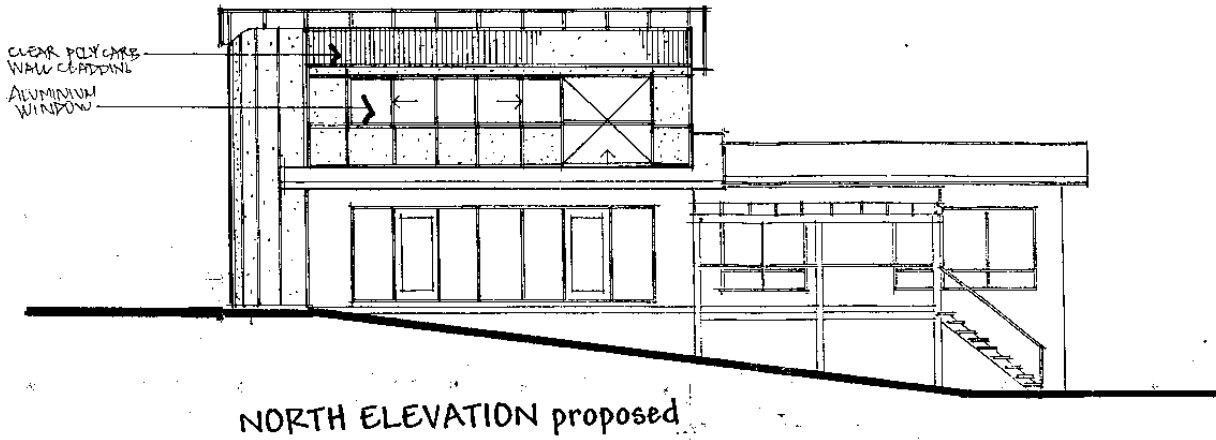


# Reports from Director Development Services

## APPROVED PLAN

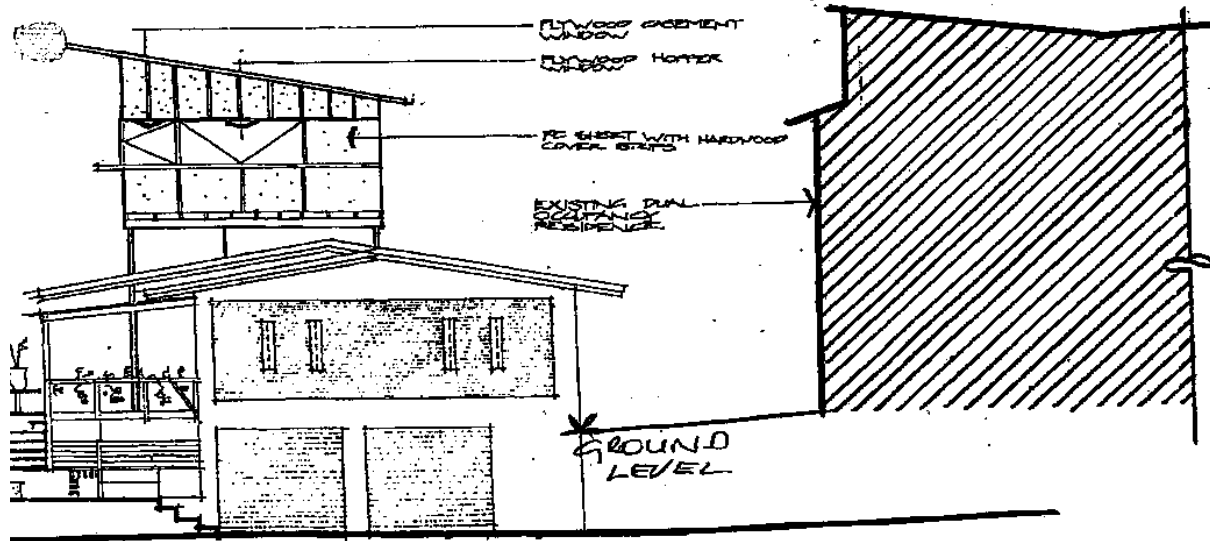


## PROPOSED AMENDMENT TO APPROVED PLAN

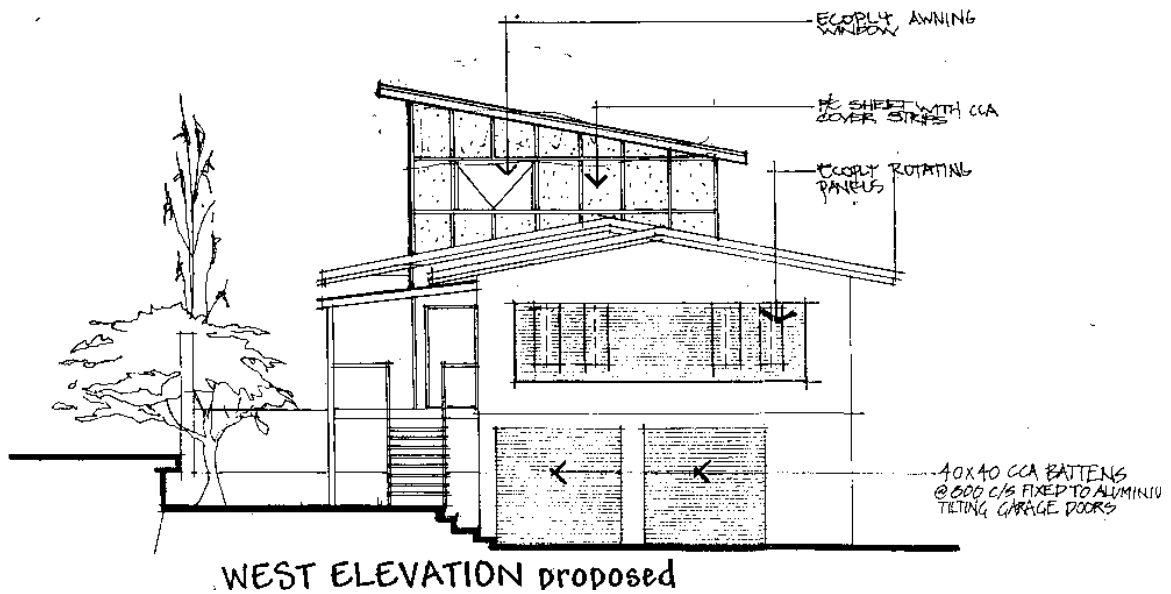


# Reports from Director Development Services

## APPROVED PLAN



## PROPOSED AMENDMENT TO APPROVED PLAN



# Reports from Director Development Services

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## CONSULTATION

Adjoining owners were notified and a total of three 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 where relevant is also provided by a Consultant (Jim Glazebrook & Associates) on behalf of the applicant.

- \* The height, bulk and scale of the proposal is still considered to be excessive and not consistent or compliment adjoining development.

### Applicant's Response

*"The subject property is adjoined on its southern boundary by a rather bulky two storey duplex building of recent construction. The property on the northern boundary contains a two storey residence which again is rather bulky and of recent construction. On the eastern (rear) boundary there is a two storey home unit development. The properties adjoining the eastern (home units) and southern (duplex) boundaries obtain views over the roof of the existing applicants residence. The adjoining northerly residence is below the level of the subject property but has effectively obscured about 80% of the views formerly available to the north from the applicants residence. The existing applicants residence is somewhat diminished by the scale and bulk of the recently constructed dwelling and duplex on its either side boundary.*

*The overall height of the proposed building is to be reduced by about 1800mm. This is a significant reduction and a major feature of the proposed modification. In the context of neighbouring properties (refer comments above) it is considered that bulk and scale are not issues of any consequence".*

### Comment

By reducing the height of the approved structure as proposed, it should ensure that the height is consistent with the height of the dwellings on the adjoining lots.

It is considered that reducing the height of the approved additions and incorporating it into the roof of the existing dwelling as proposed will substantially reduce the impacts in terms of height, bulk and scale. The proposal will now compliment the existing dwelling while at the same time will be generally consistent with the built character of the locality.

- \* Overshadowing

### Applicants Response

*"Shadow diagrams have been submitted to show impacts related to both approved and modified situations. These indicate that the modified proposal would have a slightly less shadow impact, particularly in relationship to the adjoining southerly property".*

### Comment

# Reports from Director Development Services

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The proposed modifications will reduce the height of the upper structure by approximately 1.8 metres. Therefore, the impact of overshadowing will be improved to that which was approved and would be to the benefit of the neighbouring properties, particularly those to the south.

\* Impact on privacy.

## Applicants response

*“The proposed modifications would maintain essentially the same relationship to neighbours and privacy impacts would not be worsened”.*

## Comment

Reducing the height of the structure should ensure that the privacy at adjoining residences will now be preserved, compared to that which was originally approved by Council.

The proposal will also increase the floor area of the approved structure by approximately 5.1m<sup>2</sup>. Alterations to the approved floor plan mean that the structure will be 0.8 metres closer to the southern boundary of the site and the dwelling to the south.

An objector has indicated that the additional floor area and the alterations are located closer to their dwelling which will impact on their privacy. To compensate for this the objector recommends that the upper structure should be moved to the east and the windows on the southern elevation redesigned to preserve their privacy.

In this instance, as mentioned by the applicants consultant, it is agreed that the proposed modifications will maintain essentially the same relationship to neighbours and privacy impacts would not be worsened to that approved. Only two (2) small windows each measuring 0.4m x 1.2m are proposed on the southern elevation of the building which should ensure that the privacy of the residence to the south is preserved.

\* Loss of views

## Applicants response

*“At our site meeting it was generally agreed that the issue of (coastal) views was generally the most critical. There are two immediately affected neighbours, viz the home units to the east and the duplex building to the south. Neither neighbour would have their situation worsened by the proposed modification. However, we did discuss at our meeting two suggestions:-*

- (i) relocation of the rear stairwell and,*
- (ii) the lowering of the roof pitch.*

*It was felt that concessions by the applicant in this regard would possibly slightly improve the view impacts for residents of the adjoining units. Our clients have now had the opportunity to further evaluate these suggestions in conjunction with their architect. However regretfully advise that they are not able to agree to those concessions. Generally the reasons are that,*

# Reports from Director Development Services

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- *both the roof pitch and transparent stairwell are integral architectural features of the building design. Both the aesthetics and amenity of the building would be unacceptably reduced,*
- *the stairs could not be satisfactorily relocated without significant additional expense and/or unacceptable functional/amenity impacts with respect to the main downstairs living area of the residence and,*
- *the possible benefits to be gained do not outweigh the costs to achieve them.*

*Our clients are prepared to remove the vegetation along their eastern boundary to potentially open up some further views to the home unit residents. This would be a sacrifice, by our clients, of some privacy screening, but they are prepared to make this offer as an act of neighbourly goodwill.*

*I would like to emphasise that our clients have seriously considered potential neighbour impacts and how these might be reduced to acceptable levels. We believe this is evident in the design outcome, particularly when compared to neighbouring buildings. This Section 96(2) application offers a building of significantly reduced height, albeit of less architectural interest, without exacerbating any impacts on neighbours. In the circumstances we submit that the application is appropriate for approval”.*

## Comment

It is considered that those most affected by the loss of views will be the residents in the units to the east of the site, particularly units 4 and 5. The stairwell will generally eliminate all their views to the north and east. Discussions with the applicant were undertaken in an attempt to look at other options of relocating the stairwell. However, the applicants consultant has indicated relocating the stairwell is not an option.

It is considered that some views should be made available to those residents of units 4 and 5 to the east of the site. However, the options to modify the proposal so that some views could be achieved have not been successful. It would be difficult to condition the relocation of the stair, although desirable, as Council originally approved the stair in this location.

A further option was also discussed with the residents of the units to locate the upper structure to the west towards Seaview Street so that some views would be available to the east. However, moving the structure towards Seaview Street would result in the dwelling being 3 storeys and would not comply with the 2 storey height limit at the locality.

Unfortunately, as this is an application under Section 96(2) to modify the original proposal approved at Council’s meeting there is difficulty to have the proposal modified so that views could be achieved. The applicant has continually advised that if the proposal is not approved they would then revert back to the original approval.

Therefore, an opportunity now exists to improve the appearance and design of the upper structure albeit that views will still not be available from the units to the east.



# Reports from Director Development Services

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Generally, the proposed modification will not improve views from adjoining residences. However, the proposal is an improvement in relation to the height, bulk and scale of the building and compliments the building and is consistent with the built character of the locality.

- \* Inconsistency between approved plans and proposed plans.

## Applicants response

*“The existing roof of the existing dwelling in the proposed plan is intended to remain the same distance from the southern boundary.*

*It is intended, as part of the amendment to development consent 0606/2000DA, that the southern wall of the proposed second floor plan be approximately 900mm closer to the southern boundary than the southern wall of the approved second floor”.*

## Comment

The inconsistency largely related to the plans of the roof of the existing dwelling. The approved plans indicate that the distance between the southern wall of the proposed structure to the southern gutter of the existing roof is approximately 5.2m, whereas the modified plan now provides approximately 3.8m, a difference of 1.4m, where it should be 900mm.

However, as confirmed by the applicants architect the upper structure will only be approximately 900mm closer to the southern boundary. This was also confirmed during an inspection of the dwelling where the location of the southern wall of the upper structure in the existing dwelling was identified which indicated it to be approximately 800mm to 900mm further south to that which was originally approved. A check of the approved and modified floor plans of the upper structure also confirms this. Therefore the submitted plans are considered to be accurate and will result in the southern wall of the approved structure being moved approximately 800mm to 900mm to the south.

- \* Glare from roof.

## Comment

Any approval can be appropriately conditioned to ensure that glare from the roof is reduced by way of appropriate materials and/or colours.

- \* Asbestos roof removal.

## Comment

The original consent is already conditioned to provide that the removal of the asbestos roof be undertaken in strict accordance with the requirements of the WorkCover Authority.

## **ASSESSMENT**

This application to modify a consent has been submitted under Section 96(2) of the Environmental Planning and Assessment Act, 1979 as it is considered that the proposed modifications are substantially the same development to that approved by Consent No. 0606/2000DA.

# Reports from Director Development Services

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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) The provisions of any environmental planning instrument**

Tweed Local Environmental Plan 2000

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

It has already been established in the original application that although the proposal is not consistent with the zone objectives in that it will not achieve maximum densities it is considered to be satisfactory because the original application is for the additions and alterations to an existing dwelling only.

**(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**

Minimal physical works are likely and these are unlikely to create any significant adverse environmental impacts. The removal of the asbestos roof has already been adequately conditioned to ensure that the work is undertaken in accordance with the WorkCover Authority.

It is considered that the adverse impacts in relation to height, scale and bulk of the original structure have been reduced and are now considered to be satisfactory. However, the loss of views is still a concern, particularly to those residents in the units to the east of the site. However, as discussed in the "Consultation" section of this report discussions were undertaken with the applicant in an attempt to achieve some views from the units, but the applicant was not willing to modify the proposal.

In this regard consideration needs to be given to the fact that this is a Section 96 application to modify an approval given by Council. It is considered that the proposal is an improvement to what was approved albeit that views will be lost to some of the residents in the units to the east.

If this application was refused the applicant can still rely on the original approval which is considered to have greater impacts in terms of bulk, height and scale.

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

The subject land is surrounded by two storey developments and it is accepted that the subject site at some stage would also go to two storeys to be consistent and to take advantage of the views to the north and east. The existing dwelling is part one and two storeys. Therefore, any additional floor can only be located over the single storey section only as the locality is affected by a two storey height limit.

It is considered that the proposal is more suitable to the site compared to that which was originally approved by Council. This has largely been achieved by lowering the height

# Reports from Director Development Services

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of the approved structure by approximately 1.8 metres and incorporating it into the roof of the existing dwelling so that it compliments it.

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

As discussed in the "Consultation" section of this report, adjoining and adjacent property owners were notified and three (3) 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 proposal should be supported as it is an improvement to what was originally approved in terms of the height, scale and bulk of the development, albeit that some views will still be lost, particularly from the units to the east of the site.

Should the proposal be refused the applicant can still rely on the original approval.

## OPTIONS

The following options are available to Council:-

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

## 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.

## CONCLUSION

Under the circumstances it is considered that an opportunity now exists to improve the height, scale and bulk of the structure. It is still accepted that views will still be lost, particularly from the unit development to the east. However, taking into consideration the improvements in relation to height, scale and bulk and that the applicant can still rely on the original approval it is considered that the application should be supported.

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# Reports from Director Development Services

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

**FILE REF:** Social Plan

**REPORT TITLE:**

**Social Plan Update 2001/2002 – Implementation Report**

**SUMMARY OF REPORT:**

The Social Plan is essential to assist the growing Tweed population (one of the fastest growing in the State) to make social adjustments to new circumstances and to live full lives.

Local Government Regulations that require the preparation of social plans were amended in January, 1998. Objectives of the Social Plan include promoting fairness in the distribution of the community's resources, improving accountability and giving better opportunities for consultation about decisions affecting peoples' lives.

The original 1999 Social Plan has been updated annually. This 2001 update was exhibited for 28 days up to 30 May, 2001, together with the Management Plan, and no submissions were received. The Plan is now recommended for adoption.

**RECOMMENDATION:**

That Council adopts the Social Plan Update 2001.

# Reports from Director Development Services

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## REPORT:

The Social Plan is essential to assist the growing Tweed population (one of the fastest growing in the State) to make social adjustments to new circumstances and to live full lives.

Local Government Regulations that require the preparation of social plans were amended in January, 1998. Objectives of the Social Plan include promoting fairness in the distribution of the community's resources, improving accountability and giving better opportunities for consultation about decisions affecting peoples' lives.

The original 1999 Social Plan has been updated annually. This 2001 update was exhibited for 28 days up to 30 May, 2001, together with the Management Plan, and no submissions were received. The Plan is now recommended for adoption.

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# Reports from Director Development Services

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5. ORIGIN: Development Assessment Unit

FILE REF: R4300 Pt7

**REPORT TITLE:**

**Piggabeen Road Deviation - West Tweed Heads**

**SUMMARY OF REPORT:**

Tweed Shire Council proposes the construction of a new road to bypass a section of Piggabeen Road, West Tweed Heads, between Anconia Avenue and Carramar Drive.

The development would involve works within State Environmental Planning Policy Wetland Nos. 1 and 3, and affects other land known historically to be utilised by koalas.

Council is in receipt of a development application, accompanied by both an Environmental Impact Statement and Fauna Impact Statement.

The proposal raises key issues in respect of:

- loss of significant wetland areas,
- potential impacts upon koalas,
- environmental/residential amenity,
- water quality management, and
- traffic management.

Those issues have been reconciled within the context of State Government and Council statutory and policy provisions. In particular,

- compensatory wetland regeneration is proposed at a ratio of approximately 25:1, and
- koala management measures would be implemented in accordance with the provisions of a Koala Management Plan, including:
  - i. exclusion fencing,
  - ii. fauna underpasses,
  - iii. habitat replacement.

Despite some short term impacts, the development would deliver considerable community benefits through:

1. significantly improved road traffic conditions for motorists,
2. significant improvement in residential amenity for affected residents of Piggabeen Road,

# Reports from Director Development Services

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3. substantial increase in the area of wetlands in the locality,
4. reinstatement and enhancement of koala food trees.

On balance, the proposal is suitable for approval.

## RECOMMENDATION:

That :-

- A. The concurrence of the Director of the Department of Urban Affairs and Planning be requested in respect of that part of the development affecting State Environmental Planning Policy No. 14 Wetlands - Nos. 1 and 3.
- B. Subject to A above that application 93/404, for the construction of a new road (Piggabeen Road Bypass) at Lot 1 DP 622561, Lot 1 DP 576001, Lot 4 DP 837715 and Lot 925 DP 31277 Tweed Heads West, be approved under the provisions of Part IV and V of the Environmental Planning and Assessment Act 1979, subject to the following conditions:
  1. The development to be completed in general accordance with the Environmental Impact Statement prepared by Tweed Shire Council dated October 1993 and addendum report dated April 1995, except as varied by the following conditions.
  2. Compensatory wetland restoration to be carried out in accordance with Development Consent No. 0439/2001DA. Restoration work to commence within three (3) months of the commencement of works authorised by this approval.
  3. Implementation of the amelioration measures identified in Sections 6.0, 6.1, 6.2 and 6.3 of the Fauna Impact Statement prepared by Peter Parker, dated February 1999.
  4. Implementation of the Koala Management Plan contained within the Fauna Impact Statement prepared by Peter Parker dated February 1999.
  5. Acid Sulfate Soil Management measures shall be implemented in accordance with an acid sulfate soil management plan submitted to and approved by the Director, Environment & Community Services, prior to the commencement of any work.
  6. (i) Road noise amelioration measures shall be implemented in accordance with an acoustic assessment submitted to and approved by the Director, Environment & Community Services.
    - (ii) The acoustic assessment shall be conducted by an appropriately qualified and experienced acoustics consultant and shall address the requirements of the EPA publication "Environmental of the Criteria for Road Traffic Noise" (May 1999).
    - (iii) The acoustic assessment shall consider, inter alia,



# Reports from Director Development Services

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- existing noise levels associated with Piggabeen Road,
  - predicted noise levels associated with the proposed bypass, and
  - the nature and timing of any mitigation measures (where necessary).
7. (i) Where practical, toothed palm lily (*Cordyline congesta*) stems affected by the proposed roadworks are to be located and transplanted in areas immediately adjacent to the proposed road, prior to the commencement of any work.
- (ii) The removal and transplanting of toothed palm lily stems to be supervised by an appropriately qualified person.
8. 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 prior to the commencement of any works. 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 Engineering Plans referred to in (a) above, shall be accompanied by an Erosion and Sediment Control Plan for the construction phase of the development, prepared in accordance with Section D7.07 of Tweed Shire Council Aus-Spec D7 - Stormwater Quality.
9. 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.
10. 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.
11. Permanent Stormwater Quality Treatment

# Reports from Director Development Services

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- (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) Prior to the commencement of any work, a detailed Stormwater Management Plan 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."
  - (c) Specific requirements:
    - (i) details of ongoing maintenance of stormwater infrastructure, including ponds and culverts.
12. Compliance with the conditions contained in the letter of the National Parks and Wildlife Service dated 5 July 1999, namely:
- i. The "floppy top" koala fencing proposed be constructed for the entire route of the proposed development on both sides of the road with 20m turned in sections at fence ends.
  - ii. The two (2) culverts proposed to be constructed as fauna underpasses be purpose specific for fauna use, being designed as a dry, level area, rather than having an additional function of drainage.
  - iii. "Furniture" consisting of habitat elements should be provided in underpasses to make the route safer and more attractive to use by fauna. These should include a horizontal beam/log supported at a height of 2m if culvert height allows (see point (iv) below), by "refuge" posts at a maximum of 10m intervals and protruding either side of the culvert where it should terminate in a tall post/log, as well as unsuspended logs, soil and leaf litter. Posts/logs used should be 20cm to 40cm in diameter.
  - iv. Fauna underpass structures should be a minimum of 3m wide by 1.5m high, and if the elevation of the proposed roadway relative to the surrounding area allows, 3m x 3m.
  - v. Fauna underpass structures should be positioned where fauna, and koalas in particular, are most likely to use them. Such position should be based on monitoring of koala movements in the area. Positioning that allows a culvert height of 3m to be achieved while providing dry conditions may also be a factor for consideration if elevation of proposed works is limiting.

# Reports from Director Development Services

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- vi. Care be taken to minimise damage to bush hen habitat (broad leaved paperbark and grassy wetland areas) and measures be taken to rehabilitate any such damage.
  - vii. Monitoring of rehabilitation including recording of fauna observations be undertaken as described in section 14 of the Koala Plan of Management and be applied to include monitoring of bush hen habitat rehabilitation.
13. A representative of the Local Aboriginal Land Council shall be present at the site during initial site preparation works. If any items of cultural heritage significance are discovered, the applicant shall immediately notify the National Parks and Wildlife Service.
  14. Compliance with the requirements of the Director, Environment & Community Services as follows:
    - i. All sedimentation and erosion control devices to be maintained in a functional condition.
    - ii. Sedimentation/stilling ponds to be constructed so that the centre of the waterbody is a minimum of 2.0m in depth.
    - iii. Consultation with Council's Entomologist in respect of stormwater control pond design to minimise breeding conditions for mosquitos and biting midge.
  15. Prior to the commencement of any works, potential flooding impacts are to be quantified by an appropriately qualified and experienced consultant, to the satisfaction of the Director, Development Services.
  16. A more detailed landscaping plan/rehabilitation strategy is to be submitted to and approved by the DDS prior to the commencement of works.

The plan should consolidate and detail reforestation/revegetation proposals, including hose works required by the conditions of approval.
  17. 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.
  18. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
  19. 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.
  20. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
  21. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit

# Reports from Director Development Services

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- provided with an air curtain over the top. Separate approval is required prior to any burning.
22. 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.
  23. 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.
  24. 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.

# Reports from Director Development Services

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## REPORT:

**Applicant:** Tweed Shire Council

**Owner:** Tweed Shire Council

**Location:** Lot 1 DP 622561, Lot 1 DP 576001, Lot 4 DP 837715 and Lot 925 DP 31277  
Piggabeen Road, West Tweed Heads

**Zoning:** 5(a) Special Uses (Council Road)

**Est Cost:** \$ 1.13 million

## BACKGROUND

Tweed Shire Council has proposed a bypass of Piggabeen Road, between Anconia Avenue and Carramar Drive, for more than a decade.

The need for a bypass road was identified in the Lower Tweed Transportation Study (Dennis Johnston & Associates, 1990) and arises as a result of:

- the poor horizontal and vertical alignment of that part of Piggabeen Road which would be bypassed,
- limitations on opportunities to upgrade the road on its current alignment,
- expectations of a substantial increase in traffic volumes within a twenty (20) year planning period.

Indeed, Council itself had previously identified the need for the road deviation in the mid 1980's, and has previously secured an approval for the bypass in 1988, which subsequently lapsed.

The proposal involves the construction of a new road between Anconia Avenue and Carramar Drive at West Tweed Heads. Figure 1 illustrates the location and approximate alignment of the new road.

The new road would involve the construction of a 10.4 metre wide rural road formation by cut and fill, with a 7.0m sealed pavement width.

Cut and fill embankments would generally extend beyond the formation for a distance of about 2.5 to 3.0m, but would extend up to 6.0m for a short distance where the fill embankment is up to 4.0m in height.

Figure 2 is a long section of the proposed bypass road. The road would be approximately 1515m (1.5km) in length between the work limits.

Figure 3 is a typical cross section.

The application currently under consideration was submitted in October 1993. Since that time, finalisation of the application has been delayed as a result of the need to complete additional environmental investigations, including:

- i. completion of a Fauna Impact Statement,
- ii. identification of suitable areas for compensatory wetland replacement, and

# Reports from Director Development Services

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- iii. completion and approval of a Wetland Restoration Plan.

In the interim, Council has also further investigated in some detail, options for upgrading Piggabeen Road on its current alignment, including consultation with the local community.

Following completion of those additional investigations and most recently, approval of a Wetland Restoration Plan, Council intends to proceed with the bypass option, subject to development approval.

Council reaffirmed its commitment to pursue development approval for the bypass road through the Tweed LEP 2000, in so far as the land retains its zoning as a Council Road.

## CONSULTATION

Upon receipt of the application, Council undertook its statutory duty to advertise the proposal and notify adjoining and affected owners. Government agencies and other Statutory Authorities were also notified of the proposal at that time. That process occurred in November/December 1993. In response to the formal exhibition, a total of ten (10) submissions were received, including five (5) Government Agency responses, four (4) public submissions and one (1) from Council's entomologist.

The submissions are considered in the "Evaluation Section" of this report, however, it is relevant to note that the NSW National Parks and Wildlife Service raised concerns regarding the impacts of the development on endangered fauna, in particular, the koala.

In September 1994, Council participated in a conference with the various Government Agencies which had raised issues in respect of the proposal. The conference resulted in the issues being narrowed, and in April 1995, Council completed an Addendum Report which was again referred to the relevant Government Agencies.

The Addendum Report satisfied the previous concerns of all agencies (subject to numerous conditions) except the National Parks and Wildlife Service. In June 1995, the National Parks and Wildlife Service advised Council that an Fauna Impact Statement (FIS) was required as a result of the potential impacts of the development upon the koala.

From June 1995 until October 1998, Council and National Parks and Wildlife Service traded correspondence on the need for an FIS or otherwise. At the same time, Council further consulted the community to gauge support or otherwise for the proposal. The community consultation included the exhibition of alternative plans to upgrade Piggabeen Road on its current alignment.

Finally in October 1998, Council resolved to proceed with the development application and to complete the preparation of an FIS.

In mid 1999, the FIS was formally exhibited together with a copy of the EIS, and was also referred to the National Parks and Wildlife Service for review. One (1) public submission was received in addition to a response from the National Parks and Wildlife Service. These submissions are also considered in the "Evaluation Section" of this report.

# Reports from Director Development Services

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In August 1999, the Department of Urban Affairs and Planning advised that the application could proceed to determination, but that the Department would wish to be satisfied regarding the delivery of compensatory wetlands prior to the Director issuing her concurrence.

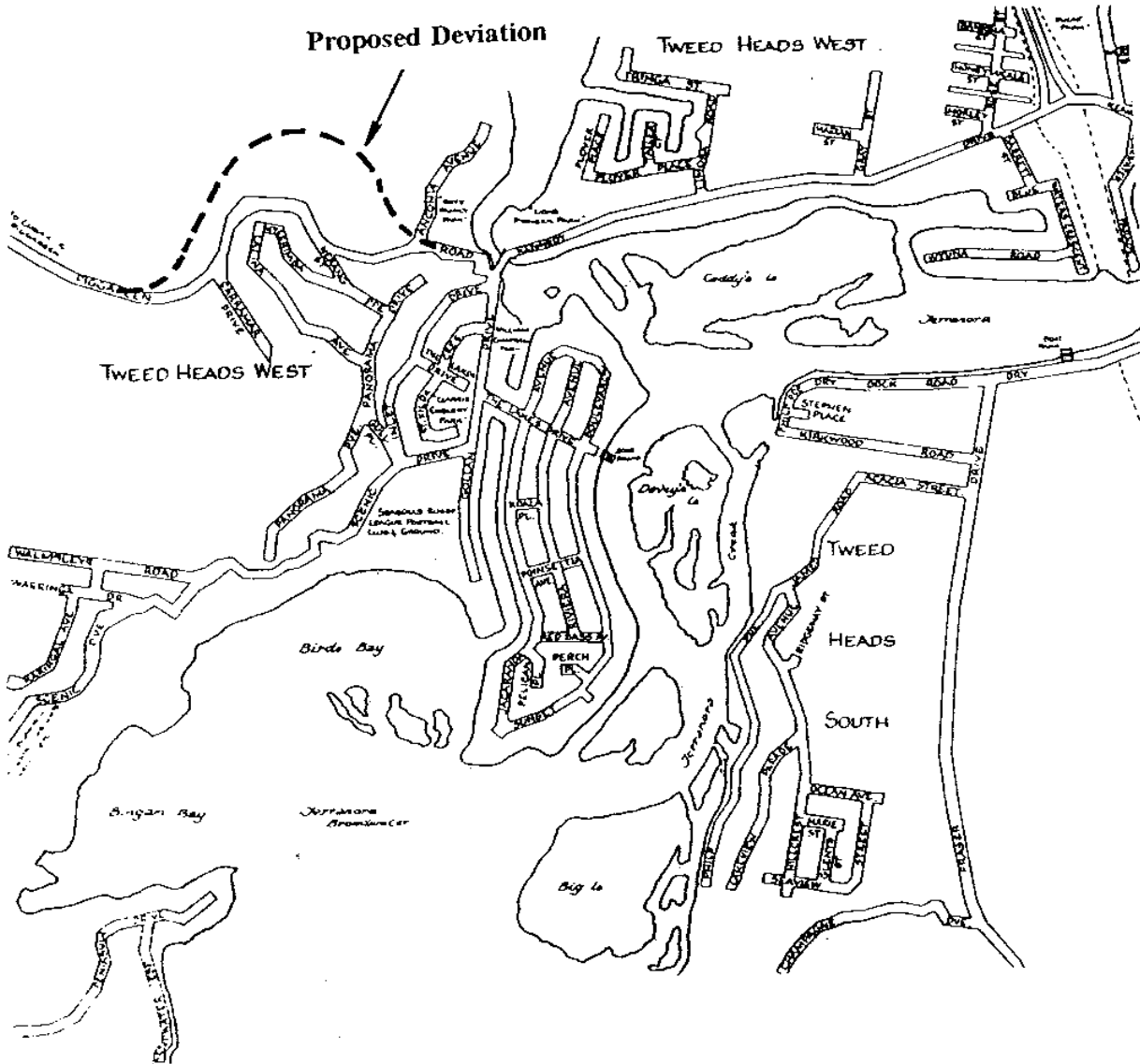
On this basis, Council has subsequently investigated options for compensatory wetland areas and reached agreement with the owners of the Cobaki Lakes site, to rehabilitate an area of approximately 37.0 hectares of land within the site adjacent to the western foreshore of the Cobaki Broadwater, as wetlands.

A Wetland Restoration Plan prepared by TSC in conjunction with the Department of Land & Water Conservation (DLWC) has been prepared, and development consent for the restoration work was approved in June 2001 (Development Consent - 0439/2001 DA).

# Reports from Director Development Services

FIGURE 1

FIGURE 1.  
LOCATION.





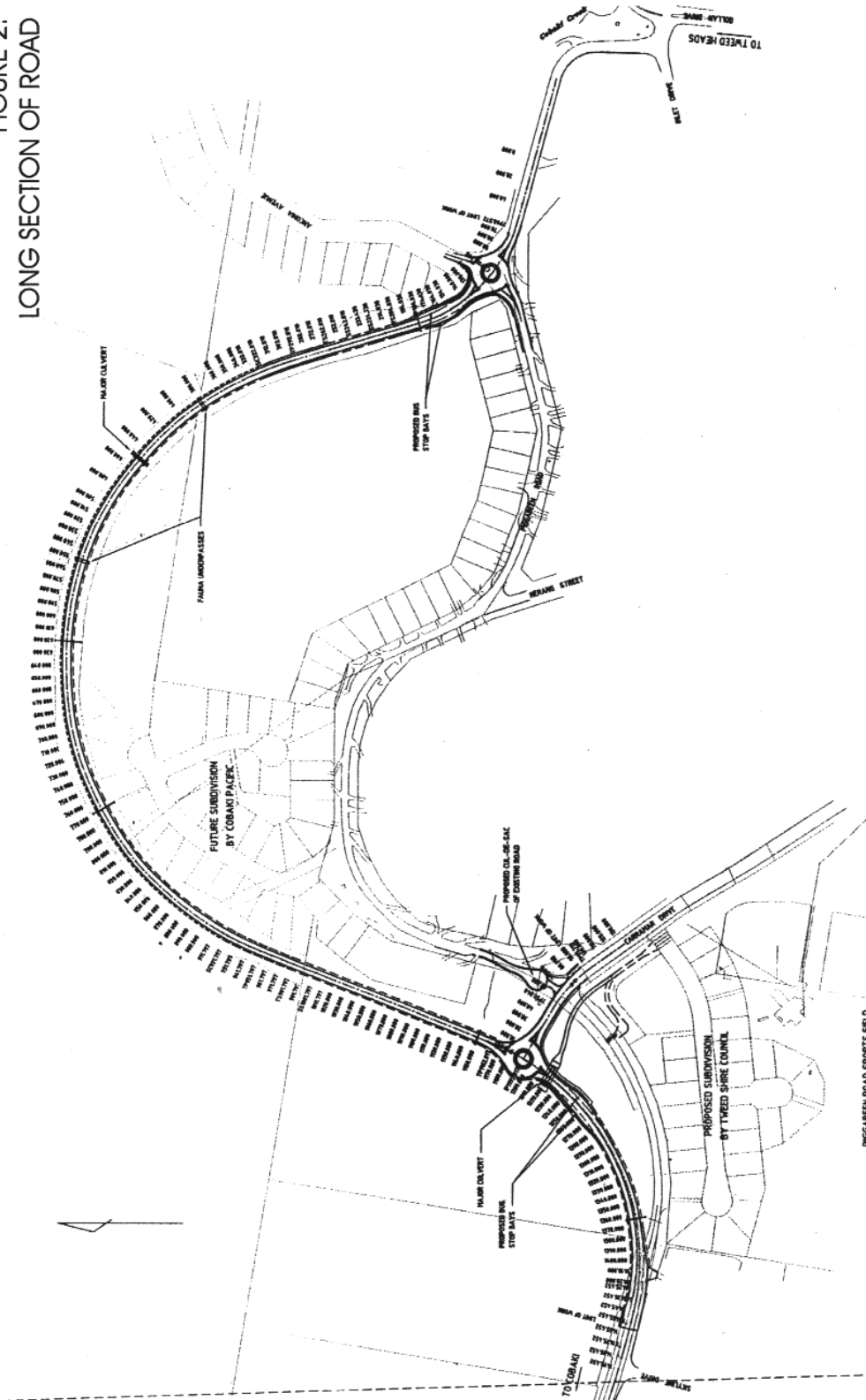
# Reports from Director Development Services

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FIGURE 2

# Reports from Director Development Services

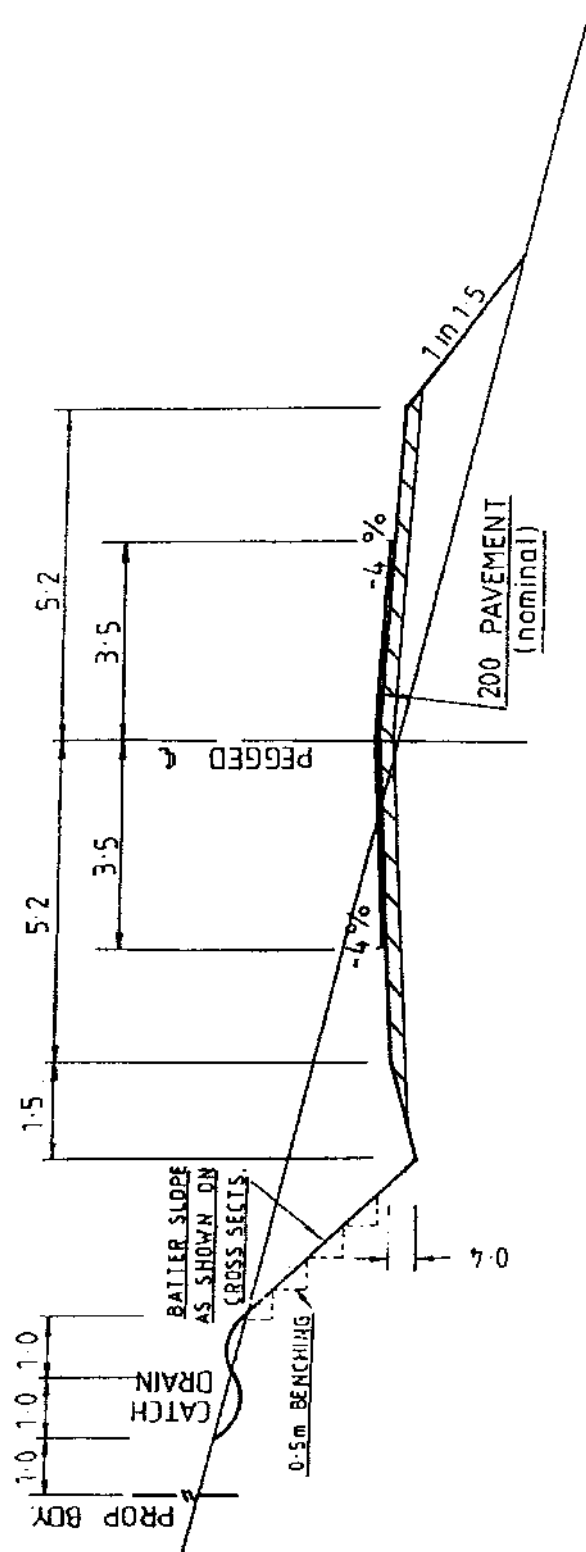
FIGURE 2.  
LONG SECTION OF ROAD



# Reports from Director Development Services

FIGURE 3

FIGURE 3.  
TYPICAL CROSS SECTION.



# Reports from Director Development Services

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## EVALUATION

Since the application was lodged in 1993, there have been numerous changes in legislation, statutory requirements and Council policy. Significantly those changes have included:

- Amendments to the Environmental Planning and Assessment Act 1979 (EPA Act 1979).
- Repeal of the Tweed LEP 1987 and gazettal of the Tweed LEP 2000.
- Introduction of the Threatened Species legislation.

While the application must be considered against contemporary standards and policies, such as those contained in the Tweed LEP 2000, the statutory processes implemented and the framework for assessment of the application are affected by the savings and transitional provisions of the EPA Act 1979, and Threatened Species Act, 1995.

As the development application was lodged with Council prior to the amendments to the EPA Act 1979, which occurred in 1997, the application must be assessed under the unamended EPA Act 1979. Consequently, the following assessment addresses the matters for consideration contained in Section 90 of the unamended Act.

Similarly, despite the introduction of the Threatened Species legislation in 1995, the savings and transitional provisions of the Threatened Species Act required the preparation of a Fauna Impact Statement under the previous Endangered Fauna (Interim Protection) Act 1991 (now repealed).

## SECTION 90 ASSESSMENT

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

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

The land, the subject of the application is zoned 5(a) Special Uses (Council Road) under the provisions of the Tweed LEP 2000.

Roads are allowed without the need for development consent in the 5(a) zone. In this regard, the proposed works would require assessment under Part 5 of the Act.

Development consent is required, however, for those parts of the road which pass through SEPP 14 Wetlands Nos. 1 and 3. Furthermore, the concurrence of the Director of the Department of Urban Affairs and Planning would be required for this part of the development.

Other relevant provisions of the Local Environmental Plan include:

**Clause 17** considers the need for social impact assessment.

The EIS document contains information in respect of social and economic impact of sufficient detail, to adequately address the considerations contained in clause 17.

Social and economic considerations are addressed below (refer S. 90(d) ).

# Reports from Director Development Services

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**Clause 34** requires consideration of flood impacts.

It is proposed that the road would be constructed to a level approximately 0.4m below the adopted 100 year flood level. The road would be located within the flood plain of the Cobaki Broadwater.

While the EIS generally concludes that the development would not adversely affect flood flows and levels in the locality, there is little information provided in support of that conclusion. In its response to the EIS in 1993, the Public Works Department (which had responsibility for such matters at the time), raised some concern regarding the impact of the development on flooding within the catchment.

Issues potentially arise with respect to:

- i. local drainage;
- ii. affluxes and detention times; and
- iii. flood velocities.

Local drainage issues relate primarily to the need to direct local gullies and flows to suitably sized openings (culverts) within the road formation, to prevent stormwater from ponding or "backing up" in smaller storm events.

The EIS indicates a good understanding of the local drainage systems. A number of piped culvert structures would be provided within the road formation to allow the passage of stormwater flows. Further information has been obtained from Council's Engineering Services Division demonstrating that the culverts have been sized to cater for flows generated by the twenty (20) year storm event.

With respect to flooding issues, Council's Manager, Water has subsequently advised that more recent flood analysis and modelling within the catchment of the Cobaki Broadwater by Winders, Barlow & Morrision (WBM) would indicate that the development would not lead to any significant flood impact.

While satisfied that the impacts are likely to be minor, some quantification of those impacts should be completed for future planning purposes and public information.

It is recommended that potential flood impacts be quantified.

**Clause 35** requires an assessment of the impact of development upon acid sulfate soils.

Water quality investigations completed as part of the EIS indicate that the low lying sections of the bypass route are influenced by acid soil conditions within the locality.

Despite initial concerns regarding the impact of the development on potential acid soils, the Department of Agriculture and New South Wales EPA have subsequently concluded that the development would be unlikely to lead to any significant disturbance of acid soils. Further, water quality monitoring would identify any problems arising.

# Reports from Director Development Services

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Since the application was lodged in 1993, there has been a significant advancement in understanding of acid sulfate soil.

Council's acid soil planning maps indicate that those parts of the bypass route passing through SEPP 14 Wetlands 1 and 3 are within Class 2 land. The balance of the route is within Class 5 land.

Within the Class 2 land, the development would involve filling only, and would not require excavation.

While an acid sulfate soil management plan is not strictly required under clause 35, there remains a prospect that acid soils would be disturbed and that acid runoff would be encountered during construction.

It is recommended that an acid sulfate soil management plan be prepared prior to the commencement of any development.

## **North Coast Regional Environmental Plan 1988**

The development is generally consistent with the relevant provisions of the REP.

In respect of provisions relating to the protection of wetlands (clause 15), it is noted that:

- i. stormwater flows from the road, together with existing upstream stormwater would be treated prior to discharge to the wetland areas north of the road in accordance with a detailed stormwater management plan which satisfies the requirements of Council's Urban Stormwater Management Policy;
- ii. construction impacts would be managed through the implementation of a detailed sedimentation and erosion control plan;
- iii. the area of wetland vegetation lost as a result of the development (ie. approximately 1.5 hectares) would be replaced at a ratio of approximately 25:1, in a single area of 37 hectares immediately adjoining the existing SEPP 14 Wetland No. 1.

## **State Environmental Planning Policies (SEPP's)**

### **SEPP 14 - Coastal Wetlands**

The bypass route passes through both SEPP 14 Wetland Nos. 1 and 3. A total of approximately 1.5 hectares of wetland would be affected.

In accordance with the policy, the proposed development constitutes designated development, thereby requiring the preparation of an Environmental Impact Statement.

Furthermore, any approval would require the concurrence of the Director of the Department of Urban Affairs and Planning.

# Reports from Director Development Services

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## SEPP 44 - Koala Habitat Protection

An assessment of the land the subject of the development application (Peter Parker, FIS, February 1999) indicates that the policy does not apply in this instance.

Notwithstanding, a Koala Plan of Management has been prepared as part of the Fauna Impact Statement and is recommended for implementation.

### (a) (ii) **Draft Environmental Planning Instruments**

No such plan affecting the proposal.

### (a) (iii) **Draft Environmental Planning Policy**

No such plan affecting the proposal.

### (a) (iv) **Development Control Plans (DCP's)**

#### DCP No. 5 - Development of Flood Liable Land

Flooding is addressed under S.90 (a)(i) above.

### (a1) **Conservation Agreements/National Parks & Wildlife Service Act 1974**

The land is not the subject of any plan of management or conservation agreement.

### (b) & (c) **Environmental Impacts/Views and Landscape**

Potential environmental impacts arise in respect of:

- loss of wetland vegetation;
- water management;
- acid sulfate soil disturbance;
- flooding;
- environmental noise; and
- views/landscape impacts.

#### **Loss of Wetland Vegetation**

Estimates of the amount of wetland vegetation directly affected by the development vary, however, Tweed Shire Council's most recent assessment indicates that the total area is in the order of 1.4 to 1.5 hectares. That represents approximately 0.9% of the total area of SEPP 14 Wetland Nos. 1 and 3.

While any loss of SEPP 14 Wetland vegetation is significant, this must be considered in the context of management proposals for the balance of the wetlands, together with the extent of any ameliorative replacement.

# Reports from Director Development Services

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In this regard, the following considerations are relevant:

- The quality of water entering the wetland areas from the road would be better than the quality of waters currently discharging into these areas (refer water quality comments below);
- The roadside margins would be reforested with broad leaved paperbark and swamp she oak to reduce "edge effects" (refer FIS - 5.6.1).
- An area of approximately 37 hectares of land immediately adjoining SEPP 14 Wetland No. 1 would be established as wetland by way of compensation, in accordance with Development Consent No. 0439/2001 DA. This represents a replacement ratio of approximately 25:1, more than twice that recommended (10:1) by the Department of Urban Affairs and Planning.

## Water Management

Having regard to the sensitivity of the surrounding receiving environment, the management of water is a key aspect of mitigating the impacts of the development, particularly in the medium to long term.

The EIS contains a reasonable examination of the hydrology of the locality, particularly in the wetland areas. The investigations include some limited but useful water quality testing.

The proponent commits through the EIS and proposed management measures, to the maintenance of existing hydrological conditions as near as practicable. This would be achieved by a number of measures, including:

- The direction of waters within the existing catchments, to existing flowpaths;
- The placement of drainage structures under the bypass road, on existing flowpaths;
- The invert level of drainage structures be set to maintain flow conditions and water levels on both sides of the road.

In respect of water quality, management measures would be implemented to ensure that the quality of water discharged from the road would be better than the quality of water in the catchment. Indeed, the proposal would also improve the quality of waters from upstream catchments, prior to entering the wetland areas north of the bypass road.

While a range of control measures are proposed, including:

- stilling ponds,
- energy dissipaters,
- cut off and diversion drains,



# Reports from Director Development Services

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- revegetation of embankments,
- silt fencing/bunding etc.,

those measures should be reassessed in light of contemporary standards and mitigation techniques. In this regard, it is recommended that a detailed water management plan be prepared in accordance with Council's Urban Stormwater Management Plan. The plan should consider the construction and operational stages of the development and address:

- erosion and sediment control,
- stormwater management,
- water quality monitoring parameters, and
- hydrological conditions.

## Environmental Noise

The EIS contains a preliminary, but limited assessment of environmental noise. That assessment was based on the NSW Roads & Traffic Authority's (RTA) Interim Traffic Noise Policy (1992).

In 1999, the EPA in consultation with the RTA, produced its "Environmental Criteria for Road Traffic Noise". The policy varies both the method of noise measurement and the acceptable noise criteria from those adopted in the EIS.

Having regard to the predicted noise levels in the EIS, for both existing and projected traffic volumes, it is likely that amelioration measures would need to be implemented to achieve acceptable noise levels at the nearest affected dwellings.

The EIS already acknowledges the likely need for mitigation measures such as:

- open graded AC sheet road seal,
- physical barriers.

It is recommended that a revised acoustic assessment be completed addressing the EPA's road traffic noise guidelines. That assessment would need to identify:

- road traffic noise on the existing Piggabeen Road alignment,
- predicted noise levels associated with the bypass road, and
- the nature and timing of any mitigation measures (where necessary).

## Views/Landscape

While located at the outer limit of the West Tweed urban area, the construction of a road in the location proposed, would not be incongruous with expectations of visual amenity in the locality.

# Reports from Director Development Services

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The most significant visual impacts would be associated with the cut embankments around the intersection of Anconia Avenue and at the western end of the route (chainage 880-900) adjacent to the recently completed Cobaki Pacific subdivision.

Having regard to the nature of the work and the surrounding topography/ landscape conditions, the visual impacts would be confined to a limited catchment centred upon the elevated residential areas south of Piggabeen Road, and to a lesser extent, some residential properties along Anconia Avenue.

Impacts would be mitigated by;

- existing intervening vegetation would limit exposure to parts of the road,
- the curvilinear alignment of the road would limit exposure to parts of the road,
- revegetation of cut and fill batters,
- reforestation of roadside margins.

## (cl)-(c5) Impact on Threatened Species

A number of rare and threatened plant species have been recorded within or near the proposed road alignment.

Of those, only the smooth scrub turpentine (*Rhodaminia Maideniana*) and toothed palm lily (*Cordyline Congesta*) are potentially directly affected by the road works. Neither plant is listed as "vulnerable" under the Threatened Species Act 1995.

The FIS (Peter Parker, February 1999) concludes that a number of *Cordyline* stems would require removal. It is recommended that those stems be relocated where practical or replaced in the vicinity of the site in suitable locations identified by an appropriately qualified person.

Indirect impacts would potentially occur as a result of:

- edge effects, and
- changes in hydrology

Replanting of appropriate plant and tree species within and adjacent (on land owned by TSC) would mitigate against edge effects.

In relation to local hydrology, the proposed water management measures outlined in Section 90(1)(b) above, should ensure that the development will not lead to any adverse indirect impacts upon any ROTAP or other significant plant species.

A Fauna Impact Statement (FIS) (Peter Parker, February 1999), specifically considers the impact of the development upon Endangered Fauna.

# Reports from Director Development Services

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Parker has recorded a total of three (3) endangered mammals and one (1) endangered bird species in the locality, comprising:

- osprey (*Pandion haliaetus*)
- koala (*Phascolarctos cinereus*)
- little beat ring bat (*Miniopteris australis*)
- greater broad nosed bat (*Scotteanax rueppellii*)

It is noted, however, that a number of other endangered fauna species have previously been recorded in the locality, and it is likely that the following endangered species would also occasionally occur at the site,

- rose crowned fruit dove (*Ptilinopus regina*)
- superb fruit dove (*Ptilinopus superbus*)
- white eared monarch (*Monarcha leucotis*)
- bush hen (*Amaurornis olivaceus*)
- blossom bat (*Syconycteris australis*)
- northern long eared bat (*Nyctophilus bifax*)
- black flying fox (*Pteropus alecto*)

Parker concludes that in respect of the identified bird and bat species, the development is unlikely to result in any significant impact upon those species, primarily due to:

- the lack of suitable habitat within the study area,
- the small amount of suitable forested areas to be cleared compared with the forested areas remaining in the locality,
- the wide ranging characteristics of some of the species.

In respect of the bush hen, Parker concludes that the greatest threat to the species locally, is predation by dogs and cats as a result of continuing urbanisation. Mitigation and amelioration measures proposed would limit the likelihood of significant impacts on this species. Further, conditions recommended by the NPWS require bush hen habitat replacement.

The most significant arboreal mammal recorded at the site, the koala, is discussed in detail.

A single individual was located in suitable habitat south of the proposed road, on land owned at that time by Cobaki Pacific Pty Ltd. That habitat was subsequently cleared pursuant to Development Consent No. S94/149.

# Reports from Director Development Services

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Despite concerted efforts aimed at specifically locating the koala, Parker concludes that there is very little evidence of a koala population within the study area.

A community survey undertaken as part of the FIS preparation, reveals that the number and frequency of sightings of koalas has declined markedly in the past 10 to 15 years. Parker concludes that based on the most recent evidence, one (1) or two (2) koalas may occur in the locality from time to time.

A Koala Plan of Management is proposed and is recommended for implementation.

Mitigation and amelioration measures proposed include:

- exclusion (floppy top) fencing for the full length of the bypass road,
- two (2) “fauna” underpasses to allow linkages between habitat areas north and south of the proposed road,
- revegetation of Council owned land adjoining the road corridor with koala preferred food trees to improve habitat.

Monitoring of similar measures completed as part of the construction of the Old Bogangar Road upgrade, would indicate that the measures are effective in mitigating the effects of road construction in areas utilised by koalas.

## (d) Social and Economic Effect

The key social and economic implications of the development relate to;

- amenity issues, and
- community benefits

Amenity issues primarily arise in respect of the local resident population. It is expected that the development would generally improve residential amenity as a result of,

- improved traffic and pedestrian safety conditions in Piggabeen Road,
- lower internal noise levels associated with road traffic.

While some short to medium term visual impacts are expected, the mitigating factors discussed in Section 90(1)(b) above would result in acceptable impacts.

Community benefits include a broader range of considerations and would extend to the broader population beyond the local area.

Anticipated community benefits include:

- improved road safety,
- improved travel times and less vehicle “wear and tear”,
- environmental restoration and rehabilitation,

# Reports from Director Development Services

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- improved environmental management (stormwater, habitat).

The cost of the new road (\$1.13 million) is now slightly less than upgrading the existing road on its current alignment (\$1.167 million).

A cost/benefit analysis undertaken as part of the preparation of the EIS indicates that there are considerable efficiencies to be gained by constructing the new road, when compared with upgrading the existing road. The analysis is based on road use cost savings over a thirty (30) year operational phase, and takes into account the initial construction costs which are offset by reduced operational costs.

## **(e) & (f) Design, Location Etc. Sign and Shape of Land**

The road location and horizontal alignment are illustrated in Figures 1 and 2. A description of the development and a typical cross section of the road area also found in the "Background" section of this report.

The land, the subject of the application, has been acquired by Council on the basis of its corridor requirements. The land is suitably sized to accommodate the road and ancillary works.

## **(g) Risks**

There are no prohibitive risks apparent.

Issues relating to flooding and acid sulfate soils have been addressed in Section 90(1)(b) above.

## **(h) Relationship to Adjoining Development**

The key issues arising from the proximity of the development to other development in the locality, have already been canvassed in this report and include,

- noise (amenity),
- visual impacts,
- flooding,
- improved road safety and travel times, and
- environmental restoration of 37.0 hectares of land within the Cobaki Lakes Estate.

Subject to appropriate conditions and ongoing management, the development is unlikely to adversely impact upon other development in the locality.

## **(i)(j)&(k) Traffic & Transport Matters**

The Piggabeen bypass would be accessed via a roundabout at the intersection of Piggabeen Road and Anconia Drive at its eastern end, and a roundabout at the new

# Reports from Director Development Services

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intersection of Carramar Drive (extension) and the bypass at its western end. Further to the west, the bypass road rejoins Piggabeen Road (refer Figure 2).

Piggabeen Road currently carries about 2,700 vehicles per day (AADT). Significant development(s) west of the proposed bypass (Cobaki Lakes, Terranora Resort together with the development of currently undeveloped urban zoned land, is likely to lead to traffic volumes in the order of 14,350 vehicles per day (AADT) by the year 2021. Those volumes would significantly exceed the environmental and geometric capacity of the existing road.

The proposed bypass road has been designed to accommodate the predicted flows, at a design speed of 70 kph.

The proposed bypass road would improve travel times and safety for public transport users and operators. It is proposed that bus stop bays be provided at both the eastern and western ends of the bypass road.

**(l) Utilities**

There are no special utility services required to facilitate the development.

**(m) Landscaping/Vegetation Management**

The proposal would result in the loss of approximately 1.9 hectares of vegetation in total (FIS, Peter Parker, February 1999).

Ameliorative regeneration of approximately 35 hectares of wetland vegetation would occur on land to the north west of the site.

In addition, reforestation of roadside verges and other land adjoining the bypass road would occur in accordance with proposals in the EIS and the recommendations contained in the FIS.

It is recommended that a landscape plan/rehabilitation concept be prepared which more accurately details the range of ameliorative plantings proposed.

**(m1) Soil Erosion**

Without careful management there is potential for erosion and sediment mobilisation.

Measures are proposed in the EIS to mitigate erosion, however, as noted above (refer S.90(1)(b) ), it is recommended that those measures be reassessed in the context of Council's contemporary standards.

It is recommended that a detailed sediment and erosion control plan be implemented in accordance with Council's Urban Stormwater Management Policy.

**(n) Public Authority Representations**

# Reports from Director Development Services

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As outlined in the "Consultation" section of this report, a number of government Authorities made written submissions in response to the exhibition of the application. The issues raised and the subsequent resolution of those issues is discussed below:

## NSW Agriculture

### Issues :

- Insufficient quantification of extent of acid sulfate soils.
- Analytical methods adopted in the EIS are a field method only - more appropriate testing methods should be used.
- A management plan, including monitoring protocols, should be implemented.

### Comment

In September 1994, NSW Agriculture participated in a conference with Council, wherein it was satisfied that its concerns would be satisfactorily addressed by the imposition of conditions.

As outlined above (S.90(1)(a) ), since the application was lodged in 1993, there has been a significant advancement in understanding of acid sulfate soils.

It is unlikely that the development would lead to any significant acid generation.

The development does not involve any excavation of low lying potential acid sulfate soils.

It is recommended, however, that an acid sulfate soil management plan be implemented, including water quality monitoring.

## Maritime Services Board/Waterways Authority

### Issues :

The Waterways Authority raised no objections to the proposal.

## Environment Protection Authority

### Issues :

- Sediment and erosion control plan should be implemented prior to commencement of works.
- Supervision and monitoring of acid soils to prevent acid discharges.
- Sediment traps should be constructed on southern side of road formation with appropriate access for maintenance.
- Open graded asphalt should be utilised over the whole route to reduce road noise levels.

# Reports from Director Development Services

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## Comment

The above matters can be addressed by way of suitable conditions of consent.

With respect to the requirement for open graded asphalt, this would be appropriate where recommended by an contemporary acoustic report.

## Public Works Department

### Issues :

- Limited data to support flood impact assessment - implications of further filling near road corridor.
- Maintenance arrangements to be documented and carried out routinely.

## Comment

Flooding issues are considered in S.90(1)(b) above. Council's Manager, Water advises that the development is unlikely to result in any significant increase in flood impact. Notwithstanding, it is recommended that flood impacts be quantified for future planning and public information purposes.

Proposals for maintenance of drainage structures would be documented as part of the required stormwater management plan.

## National Parks & Wildlife Service

### Issues :

- Concern over fragmentation and loss of koala habitat and bush hen population.
- Query understanding of purpose of "seven (7) point test" and Endangered Fauna (Interim Protection) legislation.
- Consultation with local Aboriginal group(s) recommended.
- Minimal value of ponds near Carramar Drive for fauna habitat.

## Comment

As noted in the "Consultation" section of this report, Council and NPWS traded correspondence regarding the need or otherwise for a full Fauna Impact Statement until 1998, when Council resolved to complete a Fauna Impact Statement.

The Fauna Impact Statement was subsequently referred to NPWS for comment in 1999. While the NPWS no longer had any approval role, the Service advised that the FIS competently addressed the relevant issues and recommended a number of conditions which should be imposed on any approval.



# Reports from Director Development Services

Issues relating to Aboriginal heritage have been satisfactorily addressed. A condition of approval is recommended in respect of any archaeological relics or cultural materials uncovered during works.

**(o) Amenity**

This issue has been addressed above (refer S.90(1)(b) ).

The development would generally lead to an improvement in residential amenity in the locality.

**(p) Submissions**

ISSUE	COMMENT
<p><u>Submission 1 :</u></p> <ul style="list-style-type: none"> <li>Impacts on Flora &amp; Fauna - Removal of many endangered species of flora.</li> <li>More feasible to upgrade existing alignment</li> <li>Survey of local residents would reveal a preference for upgrading the existing road.</li> </ul>	<p>Flora and Fauna issues have been discussed in detail above. The likely impacts are sustainable having regard to the management and amelioration measures proposed.</p> <p>It is difficult to sustain this argument. The capital cost of an upgraded of the existing alignment exceeds the cost of the new road. A cost/benefit analysis reveals long term economies through construction of the new road. There is strong local opposition to the upgrading of the existing alignment.</p> <p>A survey of local residents in 1998, overwhelming rejected any proposal to upgrade Piggabeen Road on its current alignment.</p>
<p><u>Submission 2 :</u></p> <ul style="list-style-type: none"> <li>Affect on Flora/Fauna unjustified.</li> </ul>	<p>The justification for the proposal is the improved road safety, traffic and amenity conditions which would be achieved. While Council must ultimately balance the competing issues, it is considered that the proposal is sustainable.</p>

# Reports from Director Development Services

ISSUE	COMMENT
<ul style="list-style-type: none"> <li>• Other than two residents with direct access, no one will benefit - Proposal just creates subdivision potential for adjoining land.</li> <li>• Upgrading existing alignment preferable and more cost effective.</li> </ul>	<p>This statement could not be sustained. The benefits of the proposal are addressed in S.90(1) above. The road would be a limited access road.</p> <p>See comments under Submission 1 above. The new road is more cost effective and preferred by an overwhelming majority of local residents.</p>
<ul style="list-style-type: none"> <li>• Noise impacts - buffer</li> </ul>	<p>In order to provide additional buffers between the road and nearby residential development, the road alignment would need to be located further north, resulting in greater impacts on State significant wetlands.</p> <p>Noise mitigation measures would be implemented to ensure internal noise levels at the nearest affected residence would be within acceptable limits.</p> <p>It is likely that noise levels experienced by local residents would be improved by the proposed development.</p>
<p><u>Submission 3 :</u></p> <ul style="list-style-type: none"> <li>• Noise impacts – buffer</li> <li>• Increased light spill - headlight glare</li> <li>• Extent of reforestation at corner of Anconia Avenue &amp; Piggabeen Road.</li> </ul>	<p>See comments under Submission 2 above.</p> <p>There <u>may</u> be some light spill to adjoining properties, particularly where the road is within close proximity to nearby dwellings. It is expected that noise barriers (where constructed) and reforestation of roadside margins would mitigate potential impacts in these locations. It should be noted that light spill would occur on the existing alignment.</p> <p>It is likely that reforestation would extend to this corner on the northern side of the new road. However, a landscape plan/rehabilitation strategy detailing the extent of the reforestation would need to be prepared.</p>

# Reports from Director Development Services

ISSUE	COMMENT
<p><u>Submission 4 :</u></p> <ul style="list-style-type: none"> <li>• Affect on wetland more serious than depicted in the EIS - direct loss, fragmentation "double" that identified in the EIS</li> <li>• Affects on endangered Fauna - affect is significant.</li> <li>• Mitigation measures are vague and not secure.</li> <li>• Areas of compensatory wetland are not in Council ownership - how achieved?</li> </ul>	<p>While the author provides no scientific basis for claims regarding indirect impacts, estimates of areas directly affected by the bypass route vary significantly. More recent estimates by Tweed Shire Council indicate that an area of approximately 1.5 ha would be affected, compared with 1.17 ha in the EIS (1993).</p> <p>Council agreed to the preparation of a Fauna Impact Statement in 1988.</p> <p>The impacts of the development on Fauna are discussed in detail in S.90(1)(cl) - (c5) above.</p> <p>At the time of the submission, there was some uncertainty surrounding mitigation measures, particularly wetland and habitat replacement.</p> <p>Those issues have now been satisfactorily resolved via the Fauna Impact Statement recommendations, and the wetland restoration authorised under development consent 0439/2001DA.</p> <p>Significant areas of land adjoining the bypass route are now in Council ownership and would be available for reforestation.</p> <p>Wetland restoration would also occur on land within the Cobaki Lakes Estate under authority from the landowner. A Section 88B Instrument would be registered against the title to that land protecting the wetland restoration area.</p>

# Reports from Director Development Services

ISSUE	COMMENT
<p><u>Submission 5</u> :</p> <p>(Council Entomologist)</p> <ul style="list-style-type: none"> <li>• Potential for increased mosquito breeding.</li> <li>• Ephemeral ponding to be avoided.</li> <li>• Sedimentation ponds to meet specified design requirements.</li> </ul>	<p>The comments of Council's Entomologist have been incorporated within the recommended conditions of approval.</p>

Following exhibition of the Fauna Impact Statement in 1998, one (1) public submission was received.

The author provides a lengthy critique of the FIS and contests the conclusions reached in the FIS regarding various fauna species including;

- Various frog species,
- Freckled duck,
- Black Biltern,
- White-eared Monarch,
- Migratory birds,
- Northern Long-Eared Bat,
- Square-Tailed Kite,
- Bush Hen,
- Large Footed Myotis, and
- Yellow-Eyed Cuckoo Shrike

The impacts on the *Cordyline Congesta* are also questioned.

The author provides no scientific data to support claims that certain species occur on the site or, would be adversely affected by the development.

Further, the author appears to have misinterpreted the extent of works and the areas directly affected by the road formation.

# Reports from Director Development Services

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Council's consultant, Peter Parker has responded to the issues raised in the submission as follows:

*“Further to your request for my comments on the submission on the above project I make the following response:*

1. *Habitat value frogs: suitable scientific data is available in the published literature to discount saline habitats as suitable for frogs;*
2. *Wallum froglet and Wallum tree frog: a considerable effort was targeted at searching for these species or listening for their calls. Further, an earlier survey at the site also failed to detect their presence. The author supplies no evidence that they may be present. Finally, the author is incorrect in stating that the proposed road deviation would destroy the southern swamp.*
3. *Black bittern: the area identified in the FIS as being suitable for the black bittern was the large waterbody located to the north of the proposal. This area will not be affected.*
4. *White-eared monarch: this species may occur at the site as a vagrant during suitable seasonal conditions. However, the area of wildlife habitat proposed for removal does not constitute critical habitat for this species. Further, the author states that he has bush walked the area over a number of years but provides no records of this species;*
5. *Migratory bird treaties: These treaties do not apply as the species listed in the treaties are migratory wading birds that do not occur at the site.*
6. *Eastern long-eared bat: a considerable effort using harp traps, mist nets and echo locating devices was used to target this species. It was not recorded at the site and the author fails to supply any evidence that it may occur. However, the habitats at the site are suitable for this species and the protection of essential habitat elements and reforestation is considered the best ameliorative measure;*
7. *Square-tailed kite: This species is wide-ranging in its distribution. The northern waterbody and surrounding vegetation may serve as potential roosting sites. However, there is no evidence that it occurs in the area although vagrants may occur seasonally or opportunistically;*
8. *Large-footed myotis: This species roosts in caves and culverts. The author simply doesn't understand its roosting requirements;*
9. *yellow-eyed cuckoo shrike: The author's record of this species appears questionable “I believe that I have seen this species”. Moreover, the majority of figs along the route will be unaffected by this proposal;*

# Reports from Director Development Services

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10. *Open forest to woodland: The removal of approximately 20 tallowwood trees will be offset by substantial reforestation;*
11. *Rare or threatened plant species: the statutory protection of plants was not addressed in a fauna impact statement nor is it required to be."*

**(p1) Other Statutory Matters for Consideration**

There are no other relevant matters for consideration.

**(q) Circumstances of the Case**

No other matters of particular relevance.

**(r) Public Interest**

A number of key public interest issues arise in respect of the proposal, including:

- improved road safety,
- improved residential amenity for residents of Piggabeen Road,
- improved traffic concerns and travel times,
- economies associated with the construction of a new road compared with upgrading the existing road,
- loss of significant wetlands,
- potential impacts upon habitat of threatened fauna species.

On balance, it is considered that the public interest would be better served by completion of the proposed bypass, subject to the recommended conditions.

**(s) Prescribed Matters**

The proposal is affected by the NSW Government Coastal Policy.

The proposal does not result in any inconsistency with the Coastal Policy.

Substantial ameliorative restoration of wetlands is proposed, to compensate for the loss of State significant wetlands as a result of the proposal.

## **PART V OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

With the gazettal of the Tweed LEP 2000, much of the proposed bypass road is permissible without the consent of Council, however, requires assessment under Part V of the Act.

In this regard, the above assessment adequately covers the matters for consideration contained in Section 111 of the Act and clause 82 of the Environmental Planning and Assessment Act Regulation 2000.

# Reports from Director Development Services

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Having regard to Section 111 of the Act and Clause 82 of the Environmental Planning and Assessment Act Regulation 2000, it is concluded that that part of the development subject to environmental assessment under Part V of the Act would be unlikely to have a significant effect on the environment, having regard to the management and ameliorative measures proposed.

## **COMMENTS OF ENGINEERING SERVICES DIVISION/ENVIRONMENT & COMMUNITY SERVICES DIVISION**

The Director, Engineering Services raises no objection to the proposal.

The Director, Environment & Community Services raises no objection, subject to conditions addressing:

- sediment and erosion control,
- maintenance of stormwater devices,
- entomological issues, and
- noise control.

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

Any approval is subject to the concurrence of the Director of the Department of Urban Affairs and Planning.

In the event that the applicant is dissatisfied with the determination, it has the right of appeal to the Land and Environment Court.

In this instance, objectors would also enjoy a right of appeal, which must be exercised within twenty eight (28) days of the date of determination of the application.

The financial considerations are outlined above (S.90(1)(d) ). A cost/benefit analysis indicates that there are long term economies in proceeding with the proposed development.

## **OPTIONS**

Council's options are:

1. Resolve to support the application subject to conditions and seek the Director's concurrence, or
2. Refuse the application.

## **CONCLUSION**

The proposed development raises issues in respect of:

- loss of significant wetlands,
- potential impact upon koalas,
- environmental/residential amenity,

# Reports from Director Development Services

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- water quality management, and
- traffic management.

Environmental investigations undertaken by the applicant indicate that potential impacts can be satisfactorily managed and/or ameliorated through a range of management plans and compensatory works, including:

- compensatory wetland regeneration,
- koala management plan,
- erosion, sediment and stormwater management measures, and
- noise control measures.

While some short term impacts would result, the development would deliver considerable longer term benefits through:

- improved road corridors for motorists,
- significant improvement in residential amenity for affected residents of Piggabeen Road,
- economies in construction of the new road (capital and maintenance costs),
- substantial increase in the area of wetlands in the locality,
- reinstatement and enhancement of koala food trees.

The proposal has been considered in the context of the Tweed LEP 2000 and North Coast Regional Environmental Plan, and assessed under the relevant provisions of Part IV and V of the Environmental Planning and Assessment Act 1979.

On balance, the proposal is considered suitable for conditional approval.

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# Reports from Director Development Services

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

**FILE REF:** GT1/DCP/18 Pt6

**REPORT TITLE:**

**Tweed Heads Central Area**

**SUMMARY OF REPORT:**

Tweed Economic Development Corporation (TEDC) presented to a Council Workshop on 8 August, 2001 the outcome of its Tweed Heads Central Area Study. The view expressed at the Workshop was that the Study should be exhibited for public comment.

**RECOMMENDATION:**

That Council endorses the exhibition of the Tweed Heads Central Area Study by the Tweed Economic Development Corporation (TEDC).

# Reports from Director Development Services

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## REPORT:

Tweed Economic Development Corporation (TEDC) presented to a Council Workshop on 8 August, 2001 the outcome of its Tweed Heads Central Area Study. The genesis of this study was that following a meeting in early 2000 with the owner of the Myer site, Lance Cottrell, EMT and Tom Senti (TEDC), it was felt by Council officers that due to the owner's declared preference to dispose of the property, the revitalisation of Tweed Heads was essentially reliant on that sale. To this end it was decided to develop a marketing plan for the Tweed Heads central area that demonstrated the site potential and incorporated the precepts of draft DCP 18. This would also be a useful Council planning tool late in 2000. This work was commissioned from QUT by TEDC following some discussions with the Director of Development Services.

QUT subsequently engaged Diecke Richards to amalgamate and integrate the best ideas emerging from the project. The Queensland University of Technology (QUT) and Diecke Richards Architects completed the design project for central Tweed Heads earlier this year.

The material has now been provided by TEDC to a Council workshop, and the view expressed at the Workshop was that the Study should be exhibited for public comment.

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# Reports from Director Development Services

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

**FILE REF:** GT1/29/2 Pt1

**REPORT TITLE:**

**Kingscliff Centres Study**

**SUMMARY OF REPORT:**

The Kingscliff Centres Study has assessed options for the location of a future District Centre for the Kingscliff District. It was presented to a Council Workshop on 8 August, 2001. The Study has concluded that West Kingscliff is the most appropriate location.

**RECOMMENDATION:**

That :-

1. Council places the draft Kingscliff Centres Study prepared by Patrick Partners on public exhibition for a period of twenty-eight (28) days for public comment.
2. Council provides copies of the Study to major stakeholders.

# Reports from Director Development Services

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## REPORT:

### BACKGROUND

Council commissioned Patrick Partners Consultants in February, 2001 to prepare a Centres Study for the Kingscliff District area. The aim of the Study was to consider the optimum location and size of District/town/neighbourhood centres in the District. The District essentially includes Kingscliff, West Kingscliff, Casuarina (Kings Beach) and Kings Forest.

A draft Study prepared by Patrick Partners has now been submitted and was subject to a Council Workshop on 8 August, 2001.

### IMPLICATIONS FOR COUNCIL

To date, Council's policies have indicated that the District Centre for the Kingscliff District would preferably be located at Kings Forest (Tweed Shire Strategic Plan 2000+, Policy and Action No 108), as this would ultimately become the largest, contiguous urban area in the District, once fully developed. The level of accessibility required for a District Centre is unlikely to be achieved at Kings Forest.

On these grounds the Study considers that a District Centre would be more appropriately located at West Kingscliff, where the required level of accessibility can likely be achieved.

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# Reports from Director Development Services

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8. ORIGIN: Development Assessment Unit

FILE REF: DA5940/460 Pt1

**REPORT TITLE:**

**Notification of Approval of Section 96 Application to Amend Development Consent 0740/2000DA for Extensions to Existing Garden Centre (Arkinda Garden Centre)**

**SUMMARY OF REPORT:**

Following the submission of a Section 96 application to amend Development Consent 0740/2000DA requesting a review of Section 94 road contributions Council's Development Assessment Panel on 1 August, 2001 approved the amendment by agreeing to a reduction in the contributions from \$5899 to \$2681.

The reduction was granted on the basis that the cafe is primarily used by customers visiting the garden centre and therefore does not generate the same volume of traffic as a normal cafe would.

This report is for the information of Councillors and is for noting.

**RECOMMENDATION:**

That this report be received and noted.

# Reports from Director Development Services

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## REPORT:

Attached to this Agenda is a copy of a report submitted to Council's Development Assessment Panel (DAP) on 1 August, 2001 regarding an application made to amend Development Consent 0740/2000DA for extensions to an existing garden centre known as Arkinda Nursery. The extensions were for the erection of a small café and an expansion of the garden centre. The history of the application is documented in this report.

The amendment was for the deletion or reduction in the contributions required for roads under Council's Section 94 Plan.

Council's Development Assessment Panel agreed to support a reduction in contributions from \$5899 to \$2681. The report to DAP outlines the reasons for the reduction.

Prior to this application being determined the applicant had paid the original amount and complied with all other outstanding conditions.

As a result of the amendment the applicant will be entitled to a refund of \$3,218.

This matter is reported to Council for information as this matter has been outstanding for some time and was subject to legal action.

## LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

As the matter has been satisfactorily resolved by compliance with all conditions the need for legal action has been avoided.

## CONCLUSION

Council's Development Assessment Panel on 1 August, 2001 supported a Section 96 application to amend Development Consent 0740/2000DA by reducing contributions required to be paid for roads. All other conditions of consent which were outstanding have been complied with.

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# Reports from Director Corporate Services

9. **ORIGIN:** Director

**FILE REF:** Councillors - Conferences

**REPORT TITLE:**

**Community Economic Development Conference 2001, 9 to 11 September 2001, Lismore**

**SUMMARY OF REPORT:**

Registration and program details have been received for the Community Economic Development Conference from 9 to 11 September 2001 in Lismore.

**RECOMMENDATION:**

That:

1. Any Councillor(s) interested in attending the Community Economic Development Conference from 9 to 11 September 2001 be authorised to attend.
2. The Mayor's Secretary to register their attendance.

# Reports from Director Corporate Services

## REPORT:

Registration and program details have been received for the Community Economic Development Conference from 9 to 11 September 2001 in Lismore.

The annual Community Economic Development Conference is hosted by the NSW Department of State and Regional Development and provides a valuable opportunity for community, business and local government representatives to share their vision and ideas for developing a strong economic future in regional NSW.

The conference will commence at 11.00am on Sunday, 9 September and conclude with lunch at 1.00pm on Tuesday, 11 September.

The conference is open to anyone interested in and involved in community economic development, including community economic development practitioners, community representatives, local government councillors and staff.

## Highlights Include:

- Keynote address by Ian Kiernan, Executive Chairman, Clean Up Australia (by arrangement with Celebrity Speakers – The Christine Maher Group)
- Regional Cuisine conference dinner
- Presentation on the Cellulose Valley concept
- Visit to the arts precinct in Lismore
- Workshop sessions on Tourism, Events, Making the most of investment opportunities, alliances and strategic partnerships, technology, farmstays and B & Bs, a Guide for new Main Street/Small Towns Programs, and the Townlife Development Program – Getting Started.

## FINANCIAL IMPLICATIONS

Registration	\$330.00
Accommodation	\$160.00 (approx. \$80 per night)
Total	\$490.00

## 2001/2002 BUDGET ALLOCATION

Allocation	\$23,100.00
Expenditure to date	\$608.00
Balance	\$22,492.00



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# Reports from Director Corporate Services

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**10. ORIGIN:** Administration Services Unit

**FILE REF:** Donations

**REPORT TITLE:**

**First Round Donations 2001/2002 - Requests for Financial Assistance**

**SUMMARY OF REPORT:**

In accordance with Council's Donations Policy an amount of \$10,667.00 is available for distribution to various organisations in the first round of applications for 2001/2002.

A number of applications have been received and are now submitted for Council's consideration.

**RECOMMENDATION:**

That Council determines the applications for donations submitted by various organisations, as in accordance with the adopted Policy, and the funds voted in the 2001/2002 years budget.

# Reports from Director Corporate Services

## REPORT:

Council, at its meeting held on 17 March 1999, adopted the Donations Policy. As a result of the Policy, the first round of applications for 2001/2002 have been received and are now documented for Council's consideration.

The 2001/2002 budget first round allocation for donations is \$10,667.25, being 75% of \$15,000.00 less \$777.00 already distributed to the Murwillumbah Rugby League Club.

<b>Applicant</b>	<b>Donation Requested</b>	<b>Purpose</b>
1 <sup>st</sup> Chinderah Scout Group	\$2,000.00	Re-stumping of the scout hall; re-glazing of windows broken by vandals; new tents for the cubs; and life jackets for the canoes.
Australian Volunteer Coast Guard, Kingscliff Flotilla	\$2,000.00	To upgrade equipment and maintenance of buildings.
Blind & Vision Impaired Support Group (NSW Far North Coast) Inc.	\$2,000.00	Funds will be expended on petrol and car insurance contribution to enable volunteers to visit elderly blind and vision impaired residents; take them to shopping centres, medical appointments, etc.
Blind Citizens Aust. – Tweed Valley Branch	\$750.00	To enable Blind Citizens Australia, Tweed Valley Branch to keep operating.
Bogangar Cabarita Beach Residents Assoc.	\$250.00 - \$300.00	Purchase paintbrushes and spray pack to remove graffiti from buildings and structures.
Cabarita Beach Table Tennis Club Inc.	\$1,000.00	Table Tennis table, net and delivery.
Church of Christ – Tweed Heads 'Drop in'	\$1,000.00	To buy new equipment for Friendship Club, particularly a new mat for indoor bowls.
Cooloon Children's Centre Inc.	\$1,000.00	To provide activities free of charge to children at Kids Fest 27 October.
Cooloon Children's Centre Inc.	\$1,000.00	To celebrate children in our community as part of Children's week in NSW 21-27 October.
Cooloon Children's Centre Inc.		A rebate/donation for rates paid 1995, 1996, 1997, 1998, 1999, 2000 and 2001.
Lifeline – Gold Coast	\$3,484.00	To pay rates on rented building in Beryl Street, Tweed Heads and to expand counselling services.
Lifeworx Christian Church		Assist in staging annual Christmas on the Harbour "Carols by Candlelight" charity event.

# Reports from Director Corporate Services

Applicant	Donation Requested	Purpose
Mt Burrell Cultural Gardens	\$1,000.00	The amount requested will be combined with funds raised by the organisation to purchase a computer and printer.
Mt Warning Playgroup	\$1,200.00	Funds will be used to purchase and install clear, vinyl cord and pulley control, drop blinds to part of the existing verandah area of the pre-school.
Murwillumbah Community Gardens	\$1,000.00	Purchase garden tools and equipment.
National Federation of South Sea Islanders	\$1,995.00	Purchase a personal computer and printer necessary for the operation of the association.
Neighbourhood Watch	\$2,000.00	Newsletters and product safety literature for community circulation.
Northern NSW Ecotourism Assoc. (NNETA)	\$1,200.00	To cover 2/3 of the cost of preparing, printing and mailing/distributing 500 copies of the quarterly NNETA newsletter for 1 year.
Northern River Symphony Orchestra Inc.	\$3,010.00	Purchase 43 music stand lights @ \$70 each.
Out of Hours Centre (OOSH) – Uki	\$1,000.00	Purchase lockable cupboards, computer software and children’s games.
Pottsville Community Pre-School	\$300.00	To maintain ‘soft-fall’ area for the safety of children and regulations.
Pottsville Community Pre-school	\$2,000.00	To purchase a computer and printer, with particular relevance to early child care.
Pottsville District Sub-branch RSL of Australia	\$2,000.00	Constructing a memorial walkway and landscaping between memorial gates and existing cenotaph. Memorial plaques are to be placed each side of the walkway.
Quota International of Murwillumbah	\$1,000.00	Towards a “surround sound system”, costing \$2,500, to be installed in the Murwillumbah Primary School.
Sanctuary 7	\$3,000.00	Construction of “pantry style” cupboards for the storage of food for residents.
South Tweed over 50s Friendship Group Inc.	\$1,617.00	Indoor bowls mats and bowls.

# Reports from Director Corporate Services

Applicant	Donation Requested	Purpose
Sporting Shooters Association of Aust (NSW) – Tweed District Branch	\$700.00	To purchase a computer system.
Terranora Girl Guides	\$5,000.00	To construct storage facilities for camping and activity equipment presently stored in one of the leaders garages.
Terranora Retirement Village Computer Support Network	\$1,200.00 - \$15,000.00	To purchase two second-hand computers, tables and printers.
The Compassionate Friends – Tweed Heads	\$3,000.00 - \$5,000.00	Set up a computer and small office and produce advertising leaflets for residents.
The Rotary Club of Tweed Heads South Inc.	\$4,500.00	To purchase building materials to build a BBQ and gazebo, together with tables and seating.
Tweed District Rescue Squad		Purchase equipment, training for members, on-going maintenance of 3 vehicles and upgrading of communication systems.
Tweed River Historical Society	\$550.00	To build a cabinet to house a valuable collection of pharmaceutical bottles and items of a bygone era.
Tweed Theatre Co. Inc.	\$3,000.00	To produce a production of the folk opera “Jesus Christ Superstar”.
Tweed Valley Vehicle Restorers Club Inc.	\$1,000.00	To help fund the 2002 annual rally (20 <sup>th</sup> year) to be held 4-5 May – advertising, printing, trophies, entry forms/information sheets, etc.
Twin Towns Friends Association Inc.	\$1,000.00	Administration costs – need to keep service operating.
University of the Third Age – Tweed Coast Inc.	\$300.00	Funds will be used for hiring of computers and a donation to the tutor for providing classes for residents.

The total approximate amount of donations requested is \$57,056.00.

## APPLICATION CRITERIA

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.

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# Reports from Director Corporate Services

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- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
  - No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
  - The funds are not to be used for a social activity for members of the organisation exclusively.
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# Reports from Director Corporate Services

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# Reports from Director Corporate Services

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**11. ORIGIN:** Administration Services Unit

**FILE REF:** Festivals-Policy

**REPORT TITLE:**

**First Round Donations 2001/2002 – Festivals Policy**

**SUMMARY OF REPORT:**

Further to the adoption of Council's Policy on festivals, applications were sought and are now submitted for Council's determination.

**RECOMMENDATION:**

That Council:

1. Determines the applications for festivals, as in accordance with the adopted Policy, and the funds voted in the 2001/2002 years budget.
2. In the future refers all requests for financial assistance under the Festivals Policy to the Cultural Advisory Committee for the Committee to prioritise individual submissions and provide recommendations to Council, as in accordance with the adopted Cultural Policy.

# Reports from Director Corporate Services

## REPORT:

Council, at its meeting held on 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of applications for 2001/2002 have been received and are documented for Council's consideration.

The 2001/2002 budget allocation for festivals is \$31,930.00. In accordance with the Policy 70% of the funds allocated, being \$22,351.00 can be allocated to first round applications.

Applicant	Amount Requested	Purpose
Murwillumbah & District Senior Citizens Week Committee	\$3,000.00	Seniors Expo.
Tweed Valley Banana Festival & Harvest Week Inc.	\$8,500.00	For the 2002 Tweed Valley Banana Festival.

In the 2000/2001 budget allocation for festivals, funds were distributed as follows:

Tweed Banana Festival	\$8,500.00
Art, Food & All That Jazz	\$7,214.00
Greenback Fishing Competition	\$1,500.00
Mooball Fish 'n' Nana	\$1,500.00
Wintersun	\$7,500.00
Tweed Coolangatta Chess Club	\$2,000.00
Rotary Club 2001 Convention	\$1,500.00

The second round allocation for 2001/2002 for festivals closes early next year and Council may consider referring all requests for financial assistance to the Cultural Advisory Committee for the Committee to prioritise individual submissions and provide recommendations to Council, as in accordance with the adopted Cultural Policy.



# Reports from Director Corporate Services

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12. **ORIGIN:** Director

**FILE REF:** Regional Co-ordinator Program

**REPORT TITLE:**

**Outcomes of the Strategic Infrastructure Forum for North Coast LGA's - 29 June 2001, Coffs Harbour**

**SUMMARY OF REPORT:**

Attached is a report on the outcomes of the forum hosted by the Regional Co-ordination Management Group, for Mayors, General Managers and Senior staff of Local Government areas on the North Coast.

**RECOMMENDATION:**

That this report be received and noted.

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# Reports from Director Corporate Services

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## REPORT:

Attached is a report on the outcomes of the forum hosted by the Regional Co-ordination Management Group, for Mayors, General Managers and Senior staff of Local Government areas on the North Coast.

Jacqui Parry from the NSW Premier's Department has indicated in the report that the way forward is:

- Feedback from participants will guide us in taking the next steps.
- Forum participants indicated a generally strong level of support for proceeding with an integrated plan for the North Coast, though there were some cautionary comments from a few participants.
- The Regional Co-ordinator will be having follow-up discussions with participants, and will be meeting with the Executive Director of Infrastructure Coordination Unit, and key staff in NSW Premier's Department in July 2001 to discuss possible models, process and funding.
- The next Service Coordination meeting with North Coast Local Government Areas will be on 10 December 2001, and will focus on Human Services Infrastructure.
- This forum outcomes paper is intended to stimulate interest in and comment on the way forward for strategic infrastructure planning on the North Coast.

Your input and feedback on the document can be forwarded by email to the Regional Co-ordinator [jparry@nor.com.au](mailto:jparry@nor.com.au).

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# Reports from Director Corporate Services

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**13. ORIGIN:** Financial Services Unit

**FILE REF:** Monthly Investment Report

**REPORT TITLE:**

**Monthly Investment Report for Period Ending 31 July 2001**

**SUMMARY OF REPORT:**

This report is provided to Council to advise details of monies Council has invested in accord with Section 625 of the Local Government Act 1993.

**RECOMMENDATION:**

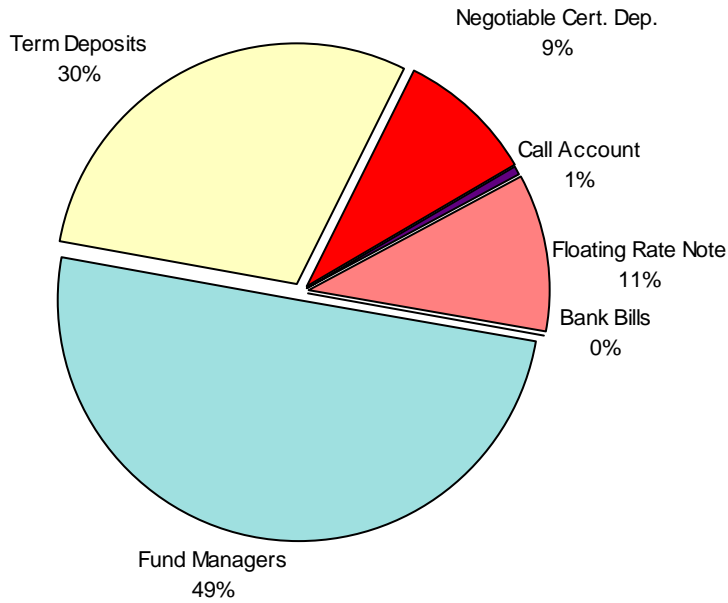
That this report be received and noted.

# Reports from Director Corporate Services

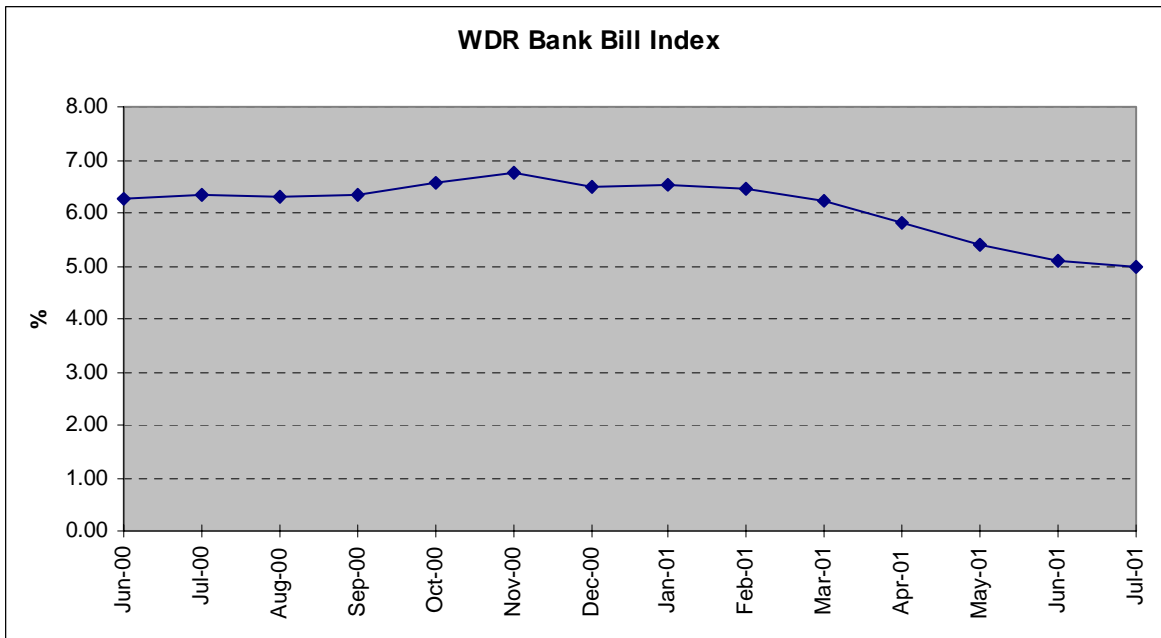
## REPORT:

### 1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY:

**% of Funds Invested by Category**



### 2. INVESTMENT RATES – 90 DAY BANK BILL RATE (%):

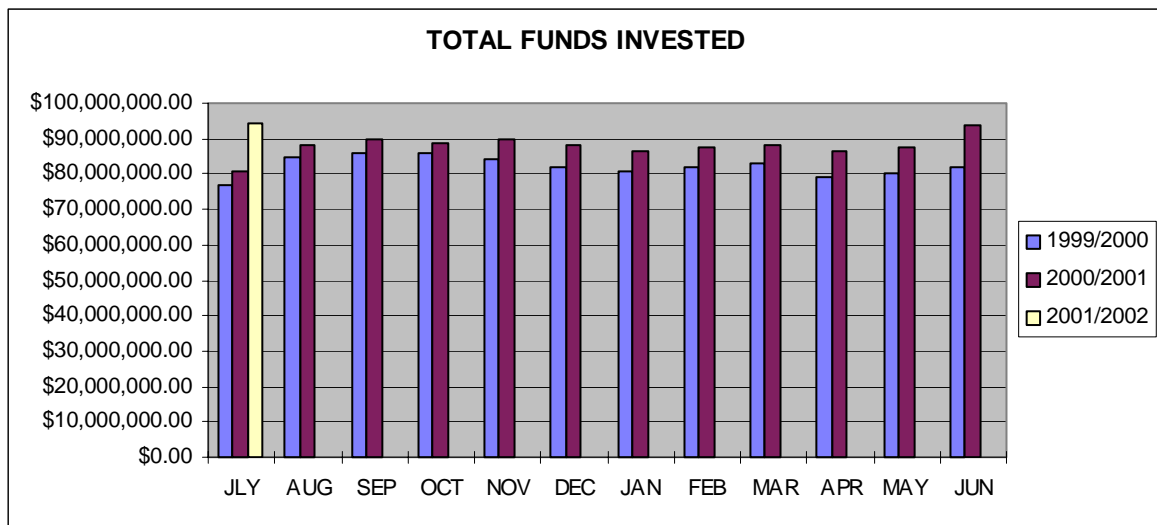


# Reports from Director Corporate Services

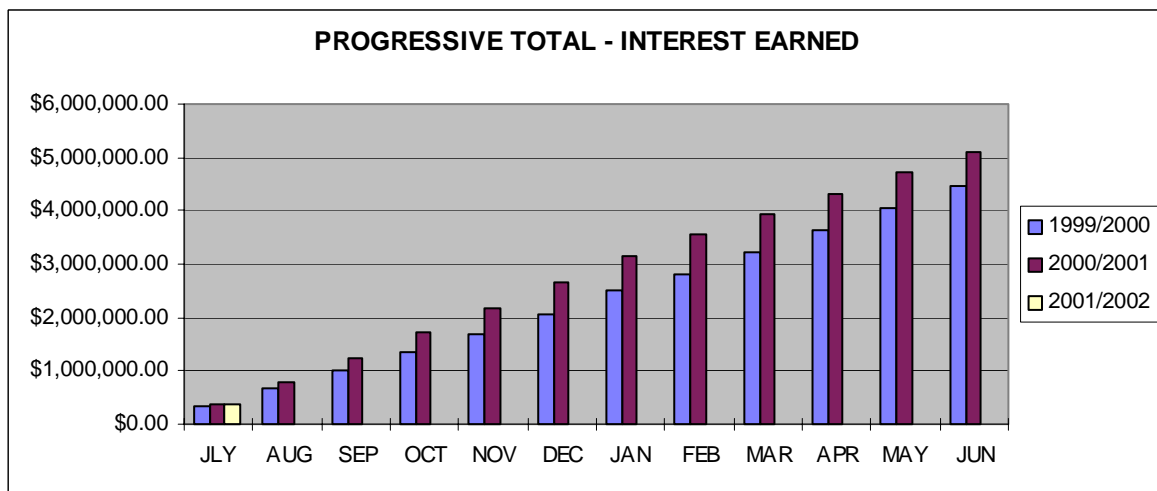
## 3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS – NET OF FEES:

Fund	30 Days	90 Days	1 Year
ANZ	5.12	5.23	6.15
Deutsche	5.30	5.26	-
Macquarie Diversified	4.64	6.25	-
National Mutual	5.48	5.14	6.24

## MONTHLY COMPARISON OF TOTAL FUNDS INVESTED:



## 5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED:



# Reports from Director Corporate Services

## 6. MARKET COMMENTARY:

The RBA meeting on 7 August 2001 has seen no change in the cash rate. Economists have cited that concerns over higher inflation in the first half of 2001 and strong domestic data over the past month would have contributed to the decision.

Overall, the recent run of stronger data lowers the chances of any further reduction in interest rates by the RBA. Although weaker global markets remain a concern it is expected that rates will remain on hold until early 2002, when the RBA is expected to return policy to a "neutral" setting (ie begin to move rates 50bp higher).

## 7. INVESTMENT SUMMARY AS AT 31 JULY 2001

### GENERAL FUND

BANKS	23,596,991.27	
FUND MANAGERS	4,407,414.45	
LOCAL GOVT. FIN. SERVICES	1,000,000.00	
CALL	582,988.10	<b>29,587,393.82</b>

### WATER FUND

BANKS	3,000,000.00	
FUND MANAGERS	26,240,900.59	
LOCAL GOVT. FIN. SERVICES	5,000,000.00	<b>34,240,900.59</b>

### SEWERAGE FUND

BANKS	3,500,000.00	
FUND MANAGERS	16,598,138.84	
LOCAL GOVT. INV. SERVICE	10,500,000.00	<b>30,598,138.84</b>

### TOTAL INVESTMENTS

**94,426,433.25**

It should be noted that the General Fund investments of \$29.5 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

## STATUTORY STATEMENT – LOCAL GOVERNMENT FINANCIAL MANAGEMENT REGULATIONS (SEC.19)

I certify that Council's investments have been made in accordance with the Local government Act 1993, the Financial Management Regulations and Council's investment policies.



**R R Norvill CPA**  
**Responsible Accounting Officer**  
**Manager Financial Services**

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# Reports from Director Corporate Services

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14. **ORIGIN:** General Manager

**FILE REF:** DA3740/470 Pt1

**REPORT TITLE:**

**Multicap Development**

**SUMMARY OF REPORT:**

Further to Council's resolution of 18 July 2001, Multicap has been requested to provide financial details and the current status of the proposed development for Murwillumbah.

The requested details are expected prior to Council's meeting of 15 August 2001.

Details of Council's sponsorship to Multicap, together with a variation is attached.

**RECOMMENDATION:**

That this report be received and noted.

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# Reports from Director Corporate Services

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## REPORT:

Council at its meeting of 18 July 2001 resolved:

*“that the General Manager be requested to bring forward a report by 15 August 2001, on the current status of the Multi Cap development proposal for Murwillumbah, initially set to commence in December 1999.”*

A request was lodged with Multicap on 3 August 2001 and as at 9 August 2001, advice from Multicap was that they are awaiting formal confirmation regarding donors.

It was indicated that this information would be available prior to Council’s meeting of 15 August 2001 and every attempt will be made to circulate the information prior to the consideration of this report.

Details of Council’s sponsorship to Multicap, together with a variation is attached.

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# Reports from Director Engineering Services

**15. ORIGIN: Planning & Design Unit**

**FILE REF: PF1680/555**

**REPORT TITLE:**

**Creation of Easement in Favour of Tweed Shire Council by Deed of Agreement - Lot 6 DP 9042 Dry Dock Road, Tweed Heads**

**SUMMARY OF REPORT:**

There has been an on-going dispute regarding the ownership of the subject property which adjoins the Billabong Caravan Park. In 1999 Council lodged a Possessory Title Application in pursuit of its claim of ownership.

Upon the property is an open stormwater drain and sewer rising main within which Council has installed a concrete lining. It was in the course of processing the Development Application for this installation that it was brought to Council's attention that Council was not the registered proprietor of the subject property.

To resolve the dispute regarding the ownership of the subject property, a Deed of Agreement has been drawn which details the process that would create an Easement for Services 6.095 wide over the subject property for the benefit of Council.

The terms and provisions of the Deed of Agreement had been negotiated with the owners, YBOS Pty Ltd, and approved by Council in March, 2001. The Deed of Agreement executed by YBOS Pty Ltd, in duplicate, has been tendered for Council's endorsement and execution under Common Seal. A copy of the Deed follows.

**RECOMMENDATION:**

That:-

1. Council endorses the terms of the Deed of Agreement; and
2. The Deed of Agreement be executed under the Common Seal of Council.

# Reports from Director Engineering Services

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## REPORT:

There has been an on-going dispute regarding the ownership of the subject property which adjoins the Billabong Caravan Park. In 1999 Council lodged a Possessory Title Application in pursuit of its claim of ownership.

Upon the property is an open stormwater drain and sewer rising main within which Council has installed a concrete lining. It was in the course of processing the Development Application for this installation that it was brought to Council's attention that Council was not the registered proprietor of the subject property.

To resolve the dispute regarding the ownership of the subject property, a Deed of Agreement has been drawn which details the process that would create an Easement for Services 6.095 wide over the subject property for the benefit of Council.

The terms and provisions of the Deed of Agreement had been negotiated with the owners, YBOS Pty Ltd, and approved by Council in March, 2001. The Deed of Agreement executed by YBOS Pty Ltd, in duplicate, has been tendered for Council's endorsement and execution under Common Seal. A copy of the Deed follows at the end of this report.

# Reports from Director Engineering Services

## DEED OF AGREEMENT

This Deed made the                      day of                      2001.

**BETWEEN:**            **TWEED SHIRE COUNCIL** of Tumbulgum Road, Murwillumbah in the State of New South Wales (hereinafter referred to as "Council") of the One Part.

**AND:**                    **YBOS PTY LTD** of Holden Street, Tweed Heads South in the State of New South Wales (hereinafter referred to as "Ybos") of the Other Part.

### **RECITALS**

- A. Council has constructed or is responsible for maintenance of the Works upon the Land.
- B. Council and Ybos both claim an interest in possession constituting Possessory Title in respect of the Land.
- C. Provided the Ybos Possessory Application is successful and Ybos causes the Instrument to be Registered and grants for the benefit of Council the Easement, Council has agreed to withdraw and not subsequently pursue the Council Possessory Application.
- D. Council and Ybos wish to record in this Deed the manner in which they will co-operate to achieve granting by the Registrar General of the Ybos Possessory Application, Registration of the Instrument and granting of the Easement.

### **OPERATIVE PROVISIONS**

#### **1. INTERPRETATION**

1.1 In this Deed unless the contrary intention appears:

"Council's Caveat" means the Caveat pursuant to Section 74F of the Real Property Act lodged by Council in respect of the Land and having Registration No. 6720002D.

"Council Possessory Application" means the Application For a Possessory Title in respect of the Land made by the Council pursuant to Section 45D of the Real Property Act and having Registration No. 5946086H.

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# Reports from Director Engineering Services

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“Deed” means this Deed of Agreement.

“Easement” means the easement referred to in the Instrument.

“Instrument” means an instrument pursuant to Section 88B of the Conveyancing Act in the form of that comprising Schedule One to this Deed.

“Land” means Lot 6 in Deposited Plan 9042.

“Plan” means the plan comprising Schedule Two to this Deed.

“Registrar General” means the Registrar General for the State of New South Wales appointed pursuant to Section 5 of the Real Property Act.

“Registration” means registration of a dealing at the Land and Property Information Office.

“Works” means the open earth drain and concrete lined drain on the Land shown in the Plan.

“Ybos Caveat” means the Caveat pursuant to Section 74F of the Real Property Act lodged by Ybos in respect of the Land and having Registration No. 6720002D.

“Ybos Possessory Application” means the Application For a Possessory Title in respect of the Land to be made by Ybos pursuant to Section 45D of the Real Property Act.

- 1.2 A reference to a person includes a reference to a Body Corporate.
- 1.3 Words in the singular include the plural and words in the plural include the singular.
- 1.4 Words importing one gender include all genders.
- 1.5 Any reference in this Deed to any statute or regulation includes all amendments and revisions made from time to time to that statute or regulation.
- 1.6 Any note appearing as a heading in this Deed has been inserted for convenience of reference only.
- 1.7 All sums referred to are shown exclusive of Goods and Services Tax (if any) applicable unless this Deed specifically states that a particular sum is inclusive of Goods and Services Tax.

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# Reports from Director Engineering Services

3

- 1.8 Where any party comprises more than one person the agreements entered into by that party are entered into jointly and severally by the person comprising that party.

## 2. THE YBOS POSSESSORY APPLICATION

- 2.1 Ybos shall cause to be prepared and lodged for Registration within 30 days from the date of this Deed:-
- (a) The Ybos Possessory Application; and
  - (b) A withdrawal of the Ybos Caveat.
- 2.2 Council shall cause to be prepared and lodged for Registration within 30 days from the date of this Deed:
- (a) A withdrawal of the Council Possessory Application; and
  - (b) A withdrawal of the Council Caveat.
- 2.3 Ybos shall do all such acts, matters and things including (without limitation) satisfying any requisitions issued by the Land and Property Information Office in respect of the Ybos Possessory Application so as to achieve granting by the Registrar General of the Ybos Possessory Application.
- 2.4 Council shall take reasonable endeavours to co-operate with Ybos to assist Ybos achieve granting by the Registrar General of the Ybos Possessory Application.

## 3. GRANT OF EASEMENT

- 3.1 Subject to the Registrar General granting the Ybos Possessory Application, and effective from the date of that grant, Ybos grants in favour of Council the Easement.
- 3.2 Ybos shall, as soon as practicable after being requested by Council so to do (whether before or after Registration of the Ybos Possessory Application) sign and return to Council the Plan and the Instrument.
- 3.3 Forthwith upon Registration of the Ybos Possessory Application Ybos shall do all such acts, matters and things (including without limitation production at the Land and Property Information Office of the Certificate of Title to the Land) as may be required to achieve registration of the Plan and the Instrument.

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# Reports from Director Engineering Services

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4

3.4 Ybos shall not mortgage charge lease or otherwise encumber its interest in the Land or consolidate the Land with any other land until Registration of the Plan and the Instrument has taken place.

## 4. **PROPER LAW**

The proper law of this Deed will be the laws in force in the State of New South Wales and the parties by their execution of this Deed agree to submit to the jurisdiction of the courts of Australia.

## 5. **STATUTORY RIGHTS NOT AFFECTED**

Nothing contained in this Deed or done pursuant to its terms shall in any way affect any statutory duty power or function of either party.

## 6. **SEVERABILITY**

Council and Ybos agree that each obligation under or pursuant to this Deed is a separate and independent obligation and if any provision of this Deed or its application to any party person or circumstance is or becomes invalid void voidable or otherwise unenforceable for any reason whatsoever then:

- (a) the provision or its application to such party person or circumstance shall be severable from this Deed;
- (b) the remainder of this Deed or the application of such provision to such other parties persons or circumstances shall not be affected thereby;
- (c) the provision may be replaced with a valid and enforceable provision which so far as possible achieves the same purpose or effect as the invalid void or otherwise unenforceable provision was intended to achieve provided that in so doing the basic purpose and intend of this Deed is preserved.

## 7. **COSTS**

7.1 The cost of preparing and of Registration of any document which, pursuant to a provision of this Deed, a party is required to prepare and register shall be borne by that party.

# Reports from Director Engineering Services

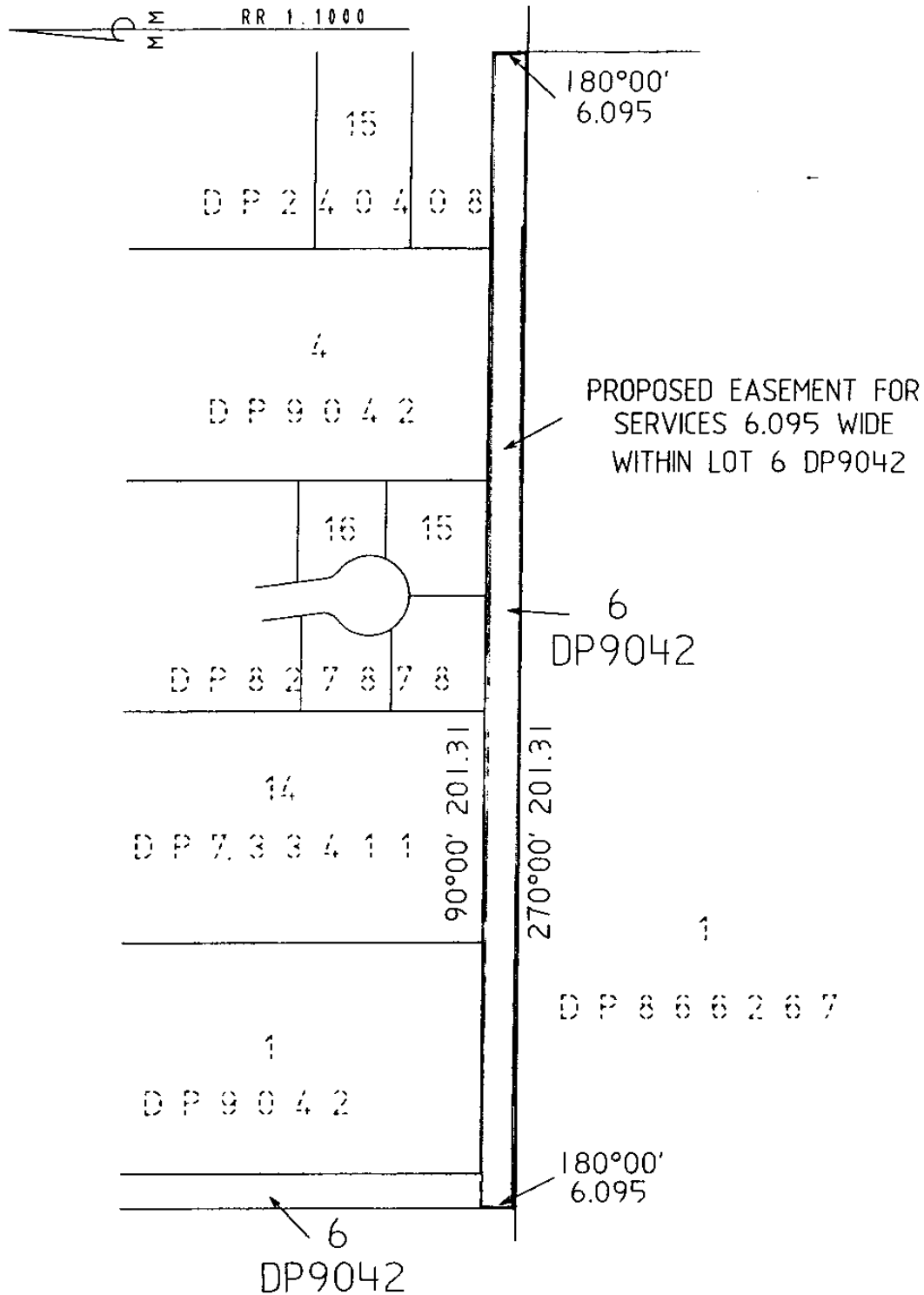
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- 7.2 Subject to 7.1, Ybos and Council shall be responsible for payment of their own legal fees costs charges and expenses incurred in the preparation and execution of this Deed or any disbursements created pursuant to or contemplated by this Deed.
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# Reports from Director Engineering Services

Page 6 - Schedule One - THE PLAN





# Reports from Director Engineering Services

Page 7 - Schedule Two - THE INSTRUMENT

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919-1964**

Lengths are in metres

Sheet 1 of 1 Sheet

Plan: DP

**PART 1**

Plan: DP

Full name and Address of Proprietor of the Land:

YBOS PTY. LIMITED (ACN 002 304 574) a Company duly incorporated and having its registered office at Holden Street, Tweed Heads South, New South Wales 2486.

1. Identity of Easement Firstly referred to in the abovementioned Plan:

Easement for Services 6.095 wide.

**Schedule of Lots, etc. Affected**

Lots burdened

Authority Benefited

Lot 6 in DP9042

Tweed Shire Council

**PART 2**

1. **NAME OF PERSON EMPOWERED TO RELEASE VARY OR MODIFY RESTRICTION FIRSTLY REFERRED TO IN THE ABOVEMENTIONED PLAN:**

Tweed Shire Council

**Dated at** this day of 2001.

**Given** under the Common Seal of YBOS )  
PTY. LIMITED (ACN 002 304 574) )  
by authority of the Board of Directors in )  
the presence of: )

# Reports from Director Engineering Services

IN WITNESS whereof the parties have hereunto set their hands and seals on the day and year first hereinbefore written.

COMMON SEAL

THE COMMON SEAL of **TWEED** )  
**SHIRE COUNCIL** was affixed on the )  
day of )  
2001 in the presence of: )

.....

.....

THE COMMON SEAL of **YBOS** )  
**PTY LTD** was affixed on the )  
day of )  
2001 in accordance with its )  
Constitution in the presence of: )

.....  
Executed by Andrew Paul Tribe as  
Attorney for YBOS Pty Ltd.  
ACN 002 304 574 Pursuant to Power  
of Attorney. Registered Book 4312  
No: 473

.....  
DIRECTOR / SECRETARY

# Reports from Director Engineering Services

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**16. ORIGIN:** Planning & Design Unit

**FILE REF:** GS4/95/117 Road Closures - Cudgen

**REPORT TITLE:**

**Proposed Road Closure of Part of Cabbage Gum Road, Cudgera Creek**

**SUMMARY OF REPORT:**

Council has negotiated an exchange of land for road purposes with an owner at the junction of Cabbage Gum Road and Cudgera Creek Road, Cudgera.

The attached subdivision plan details that part of Cabbage Gum Tree Road which is to be closed upon registration of the plan included in this report. No purchase price has been negotiated as the parcel will be transferred in lieu of the road opening (within Lot 2 in DP 619570) adjacent to the subject lot which creates access to Cabbage Gum Tree from Cudgera Creek Road.

The registered proprietors of the parent property will retain ownership of the proposed Lots 9 and 10 until such time as a decision is made as to whether to close the crown road which crosses both these Lots and proposed Lot 12.

**RECOMMENDATION:**

That:-

1. Council approves the closing of part of Cabbage Gum Road, hatched area in the following plan.
2. The applicants bears all legal and survey costs.
3. The purchase price of the road be waived in lieu of the road opening within Lot 2 DP 619570.
4. The title of the closed road be consolidated with the adjacent land.
5. Easements be created over public authority reticulation services, if any, and
6. All necessary documentation be executed under the Common Seal of Council.

# Reports from Director Engineering Services

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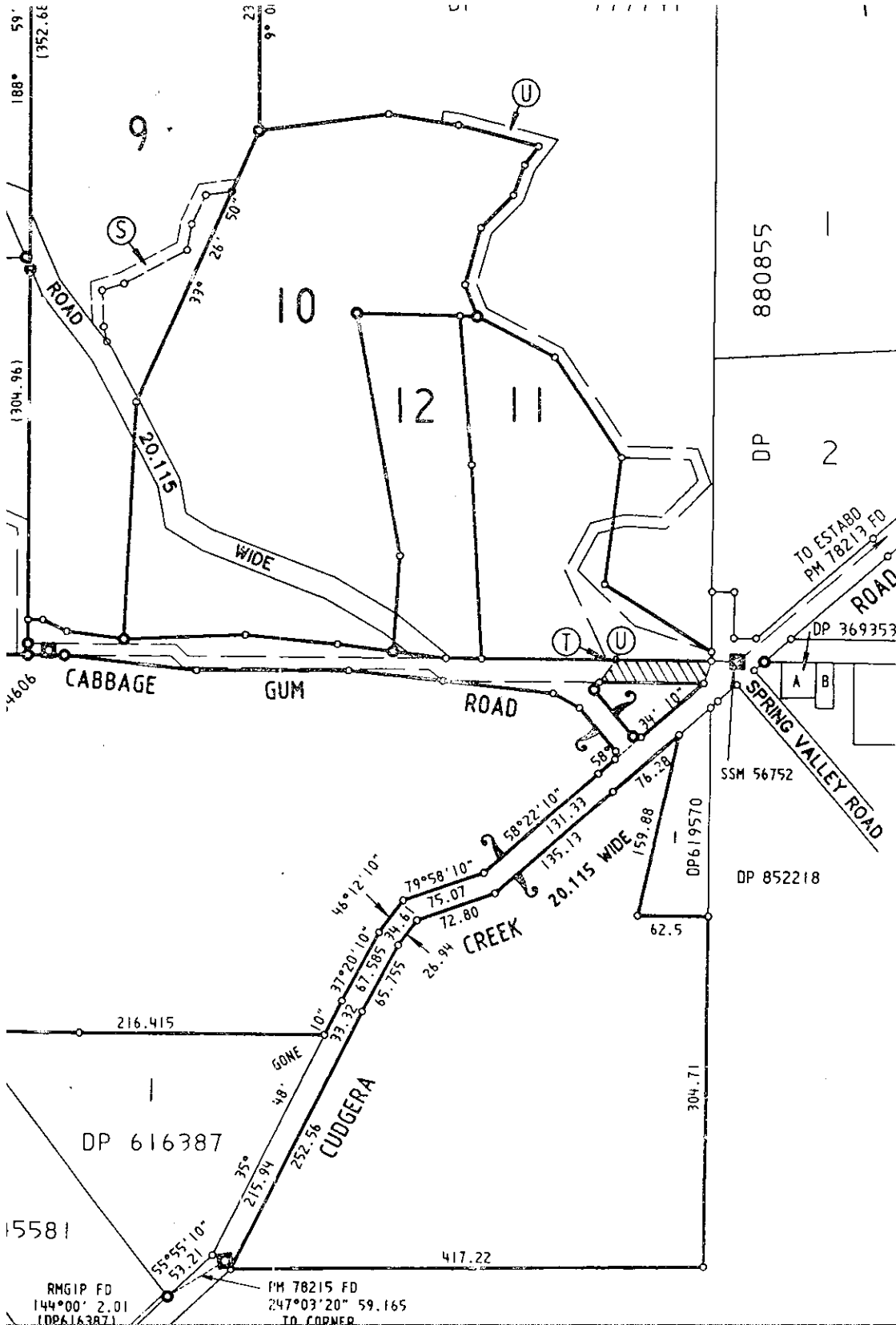
## REPORT:

Council has negotiated an exchange of land for road purposes with an owner at the junction of Cabbage Gum Road and Cudgera Creek Road, Cudgera.

The attached subdivision plan details that part of Cabbage Gum Tree Road which is to be closed upon registration of the plan included in this report. No purchase price has been negotiated as the parcel will be transferred in lieu of the road opening (within Lot 2 in DP 619570) adjacent to the subject lot which creates access to Cabbage Gum Tree from Cudgera Creek Road.

The registered proprietors of the parent property will retain ownership of the proposed Lots 9 and 10 until such time as a decision is made as to whether to close the crown road which crosses both these Lots and proposed Lot 12.

# Reports from Director Engineering Services



# Reports from Director Engineering Services

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# Reports from Director Engineering Services

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# Reports from Director Engineering Services

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**17. ORIGIN:** Water Unit

**FILE REF:** Estuary Management – Tweed Coastal Committee

**REPORT TITLE:**

**Tweed Coast Estuaries Management Program - Financial Assistance**

**SUMMARY OF REPORT:**

The Minister for Land and Water Conservation, Richard Amery MP, has advised Council that financial assistance of up to \$40 000 will be made available to Council on a 1:1 basis for implementation of the Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks.

This funding has been made available through the Department of Land and Water Conservation's Estuary Management Program. It is matched by \$40,000 provided in the 2000/2001 budget of Council to finance Council's contribution for implementation of the Tweed Coast Estuaries Management Program.

**RECOMMENDATION:**

That Council:-

1. Accepts the financial assistance from the Department of Land and Water Conservation's Estuary Management Program on a 1 to 1 basis and
2. Votes the expenditure of \$40 000 from the Tweed Coast Estuaries Management or Council's contribution.



# Reports from Director Engineering Services

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## REPORT:

The Minister for Land and Water Conservation, Richard Amery MP, has advised Council that financial assistance of up to \$40 000 will be made available to Council on a 1:1 basis for implementation of the Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks.

This funding has been made available through the Department of Land and Water Conservation's Estuary Management Program. It is matched by \$40,000 provided in the 2000/01 budget of Council to finance Council's contribution to the Tweed Coast Estuaries Management Program.

The funds are to be used for the implementation of the Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks. The following draft works program is to be confirmed at the next meeting of the Committee.

**TWEED COASTAL CREEKS  
ESTUARY MANAGEMENT PLAN  
2000/2001 PROGRAM**

Riparian Buffer Zone Rehabilitation on Cudgen, Cudgera and Mooball Creeks	\$30,000
Mooball Creek – Bank Stabilisation	\$20,000
Water Quality Monitoring – in Cudgen, Cudgera and Mooball Creeks	\$10,000
Stormwater Quality Improvement Projects	\$20,000
<b>TOTAL</b>	<b>\$80,000</b>

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# Reports from Director Engineering Services

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**18. ORIGIN:** Planning & Design Unit

**FILE REF:** R1440 Pt 1

**REPORT TITLE:**

**Re-Naming of Crookes Valley Road to "Crooks Valley Road"**

**SUMMARY OF REPORT:**

Council has received a written submission from Mrs Olga Vidler, a local historian, seeking the re-naming of Crookes Valley Road to *Crooks Valley Road* so that the name reflects the pioneering heritage of the founding farmers.

The Geographical Names Board does not object to the re-naming, should Council resolve to re-name the road.

Council has written to the 2 remaining members of the Crooks family, Mr Fred Crooks and Mrs Narelle Formica, in relation to the re-naming of the road. Both have responded with their consent and approval to the re-naming of the road.

**RECOMMENDATION:**

That Council:-

1. Adopts "*Crooks Valley Road*" in lieu of the current name of "Crookes Valley Road";
2. Publicises its intention allowing one month for objections to the proposal; and
3. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

# Reports from Director Engineering Services

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## REPORT:

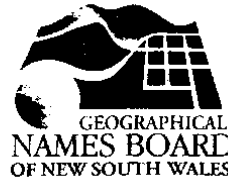
Council has received a written submission from Mrs Olga Vidler, a local historian, seeking the re-naming of Crookes Valley Road to *Crooks Valley Road* so that the name reflects the pioneering heritage of the founding farmers in the valley.

The Geographical Names Board does not object to the re-naming, should Council resolve to re-name the road. A copy of their reply to Mrs Vidler's submission follows.

# Reports from Director Engineering Services

Your Ref:  
Our Ref:  
Contact: Greg Windsor  
Telephone: 02 63328419  
Fax: 02 63328296

Received:  
3/05/01.



28 May 2001

Ms. Olga Vidler <sup>O.A.M.</sup>  
3 Wommin Lake Cres.,  
Fingal Head,  
N.S.W., 2487

PO Box 143  
Bathurst NSW 2795

Tel (02) 6332 8214  
Fax (02) 6332 8217

gnb@lic.gov.au  
<http://www.lic.gov.au/gnb/>

Dear Ms. Vidler,

Thank you for your correspondence dated 03 April 2001 regarding the correct spelling of *Crookes Valley Road*.

Unfortunately the Geographical Names Act excludes the naming of roads from the Board's jurisdiction.

Road naming is legislated under the Roads Act 1993. This act empowers the Authority in charge of the road to name it, in this case Local Council.

The Board does, however, publish guidelines to help Councils in this process. Guideline 5.2 states, "Where names have been changed or corrupted by long established local usage, it is not usually advisable to attempt to restore the original form; that spelling which is sanctioned by general usage should be adopted."

This guideline was developed to minimise confusion for Emergency Services and addressing applications

On 12 July 1971 a field completion survey recommended that the name *Crookes Valley Road* was in use and locally known.

This being the case the Board would support Council in this matter.

~~The Board is, however, extremely conscious that the history origin and meaning of names should be documented and would advise Council that the information you have supplied be recorded against the road name.~~

It is also noted that the Historical Locality, first gazetted on the 19 June 1972 is spelt *Crookes Valley*. The Board may consider renaming this feature if Council agree and submit a proposal.

I will also update the origin records against this feature to include the information you have submitted as well as record *Crooks Valley* as a variant name for the Historical locality.



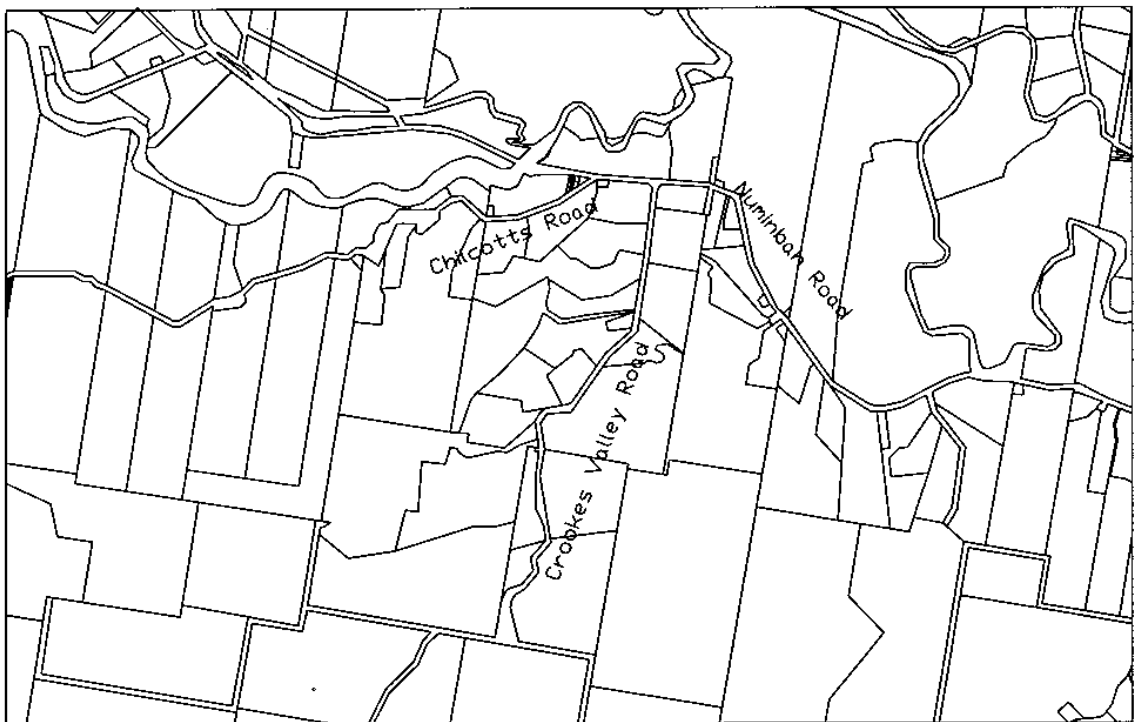
# Reports from Director Engineering Services

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It should be noted that the Geographical Names Board will update origin records to record *Crooks Valley* as a variant name for the historical locality.

Council has written to the 2 remaining members of the Crooks family, Mr Fred Crooks and Mrs Narelle Formica, seeking their approval to the re-naming of the road. Both have responded with their consent and approval to the re-naming of the road.

A map of the subject road follows:-



# Reports from Director Engineering Services

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**19. ORIGIN:** Planning & Design Unit

**FILE REF:** DA1180/382 Pt13

**REPORT TITLE:**

**Classification of Land as Operational - Casuarina Development, Casuarina - Proposed Lot 182**

**SUMMARY OF REPORT:**

Consolidated Properties Pty Ltd, the developers of the Casuarina development, propose to transfer land to Council which contains a Sewage pumping Station, as a Pumping Station.

The proposed Lot 182 should be classified as Operational under the provisions of Section 31 of the Local Government Act, 1993.

**RECOMMENDATION:**

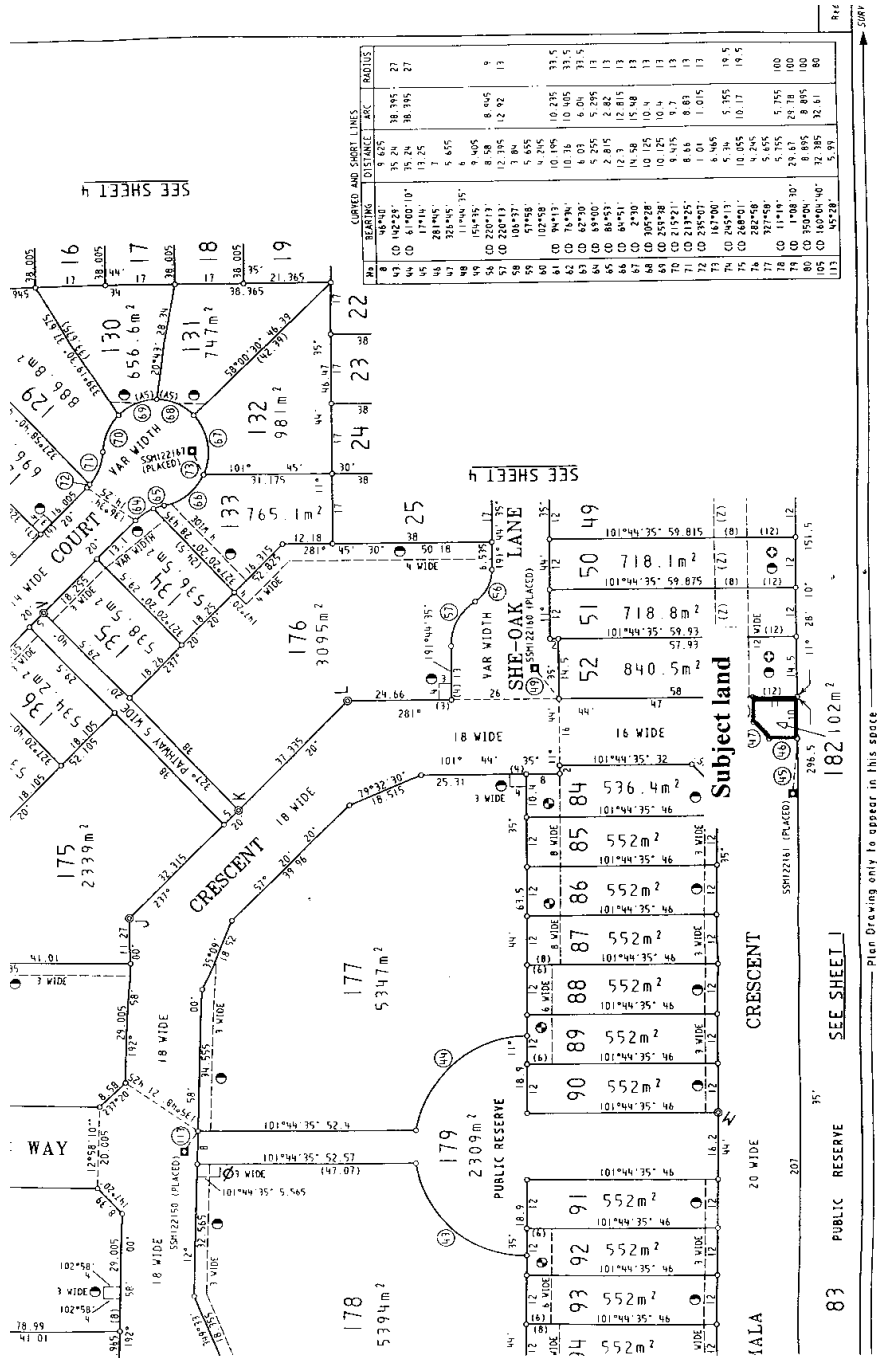
That the land proposed to be transferred to Council as a Pumping Station, described as proposed Lot 182 in the subdivision of Lot 1 in DP 811425 and Lots 5,6 and 7 in DP 1014470 be classified as Operational under Section 31 of the Local Government Act, 1993.

# Reports from Director Engineering Services

## REPORT:

Consolidated Properties Pty Ltd, the developers of the Casuarina development, propose to transfer land to Council which contains a Sewage Pumping Station, as a Pumping Station.

The proposed Lot 182 should be classified as Operational under the provisions of Section 31 of the Local Government Act, 1993.



# Reports from Director Engineering Services

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# Reports from Director Engineering Services

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20. ORIGIN: Planning & Design Unit

FILE REF: DA1675/5 Pt1

**REPORT TITLE:**

**Classification of Land as Operational - Glen Ayr Estate, Kildare Crescent, Banora Point being Lot 8 in DP1030979**

**SUMMARY OF REPORT:**

Glen Ayr Estate Pty Ltd, the developers of the Glen Ayr Estate, transferred the subject property to Council as a Drainage Reserve.

Lot 8 in DP 1030979 should be classified as Operational under the provisions of amended Section 31 of the Local Government Act, 1993 which provides that land transferred to Council may be classified within 3 months after acquisition.

**RECOMMENDATION:**

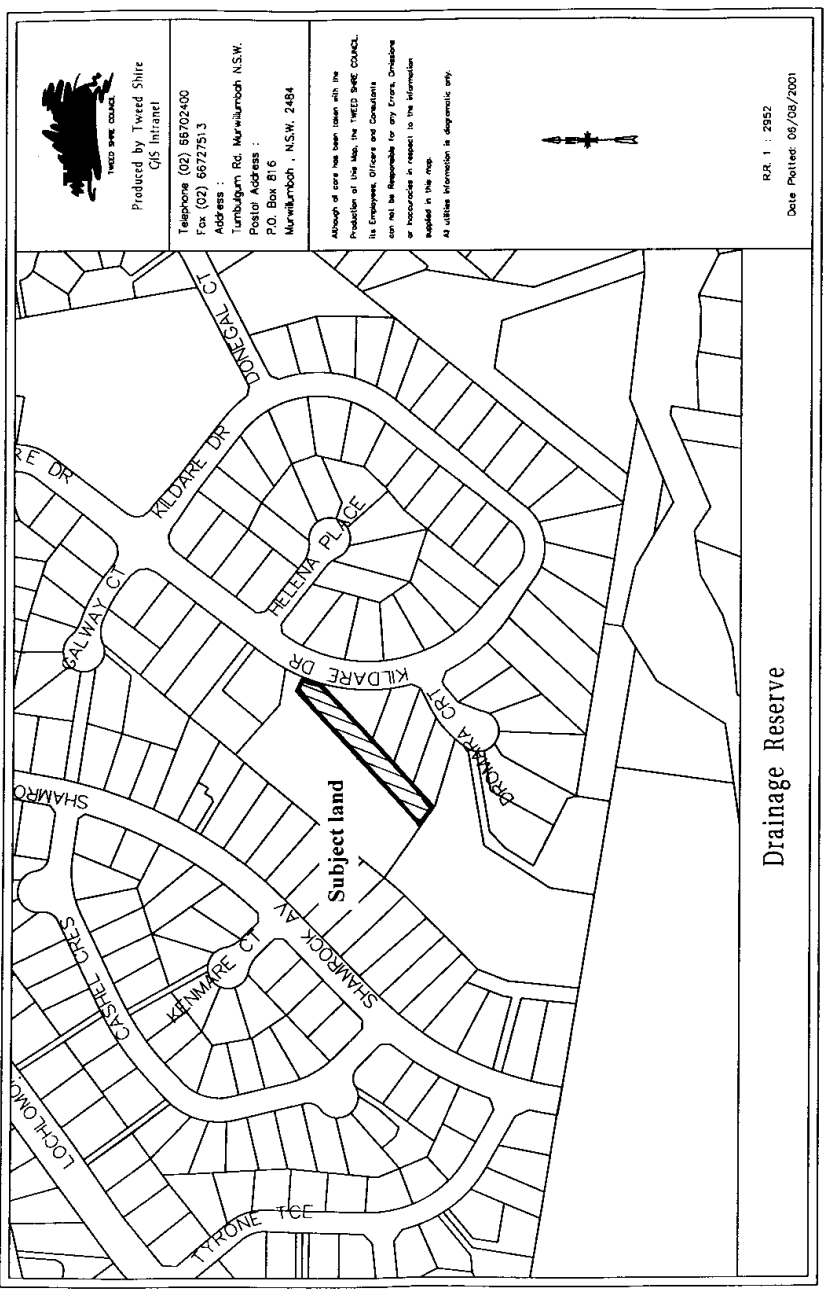
That the land transferred to Council in the subdivision of DP 850786, now being Lot 8 in DP 1030979 as a Drainage Reserve, be classified as Operational under Section 31 of the Local Government Act, 1993.

# Reports from Director Engineering Services

## REPORT:

Glen Ayr Estate Pty Ltd, the developers of the Glen Ayr Estate, transferred the subject property to Council as a Drainage Reserve.

Lot 8 in DP 1030979 should be classified as Operational under the provisions of amended Section 31 of the Local Government Act, 1993 which provides that land transferred to Council may be classified within 3 months after acquisition.



# Reports from Director Engineering Services

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21. ORIGIN: Director

FILE REF: GS4/96/135 Pt19

**REPORT TITLE:**

**Installation of Private Communications Infrastructure in Road Reserves**

**SUMMARY OF REPORT:**

A request for in principle agreement for private telecommunication infrastructure to be located in road reserves within the Casuarina Beach Estate has necessitated the need for Council to expedite a policy position and charging strategy in relation to the provision of such infrastructure.

- The potential income to Council for charges levied under S611 for underground cables is significant.
- The recent Federal Court decision has strengthened Local Government's ability to sustain such charges.
- A number of utilities (underground power, water, sewerage, telecommunications, drainage, street lighting) already co-exist in the roadway between back of kerb and the property boundary.
- For long term efficiency and service reliability it is in the interest of all utility providers to minimise the number of telecommunication conduits in the road reserve.
- In the first instance it is recommended that the preferred position is for Telstra to provide cabling for private providers within its existing infrastructure.
- The Casuarina Beach application can be granted an in principle consent subject to the applicant providing additional information in regard to Telstra's approval of the current installation.

**RECOMMENDATION:**

That Council:-

1. Seeks discussions with Telstra prior to determining its preferred position in relation to the granting to other providers a consent to take up footpath allocations within Tweed Shire.
2. Grants an in principle consent generally, as outlined in this report to Kings Beach No. 2 subsequent to satisfactory details being provided from Telstra in relation to conduits already laid within Telstra's footpath allocation.

# Reports from Director Engineering Services

## REPORT:

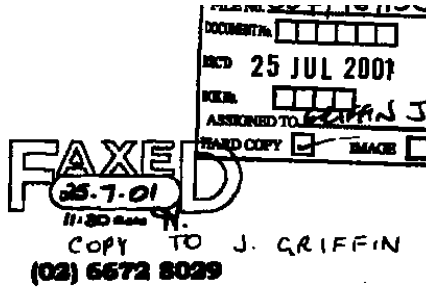
The following letter was received from the developers of the Casuarina Beach Estate requesting in principle agreement for the granting of an easement or similar tenure over part of the footpath in each of the Estate streets. The application raises a number of issues relating to the provision of such infrastructure.

25<sup>th</sup> July 2001

The General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

Dr. J Griffin

FAX:



**RE: CASUARINA BEACH ESTATE COMMUNICATIONS NETWORK**

We refer to the above and in particular to recent discussions held with Councillors with respect to the provision of an internal communications network for the owners at Casuarina Beach.

As you know, it is our intention to deliver to the occupants of Casuarina Beach, not only the enjoyment of living by the sea, but also state of the art technology that offers the occupants a range of services such as security, life saving information, and child minding information by merely being linked to the Town Centre and the outside world by a privately owned telecommunications linkup.

In accordance with operational works, as recently approved and now completed, within Casuarina Beach, a conduit has been placed underground within the footpath of each street which will have the capacity of linking the occupants of Casuarina Beach to the Town Centre and the outside world.

We advise that we have commenced negotiations with a number of Telco corporations in terms of the provision of the appropriate infrastructure to be placed within the said conduits as currently constructed. We understand that if negotiations are successful, (which we believe they will be) Casuarina Beach will be the leading light in terms of the provision of such services within a residential estate.

# Reports from Director Engineering Services

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We believe that there is an opportunity for Council and ourselves to benefit financially from any arrangements that may be negotiated with the corporations. To enable this matter to move forward, we request that your Council by resolution agree to the following:-

Your Council grant to Kings Beach Project No. 2 Pty Ltd, or other entity appointed by ourselves, a licence / easement (or similar tenure) over the footpath area of Casuarina Beach for the purposes of the laying, repair, replacement and maintenance of cable/s located within the licence or easement area. The documents as prepared would of course contain the usual covenants relating to the repair of or any damage caused to the footpath within the licence / easement area or abutting the licence / easement area. It is our proposal that in exchange for the provision for the licence / easement for a peppercorn rent, Kings Beach Project No. 2 Pty Ltd or our appointee would share a portion of the profits derived with Council (say 5% of the profits) from the use of the services by the local community at Casuarina Beach.

Unfortunately, we are unable to come to the Council with a fixed proposal at this stage as the telecommunication companies have advised that they are only prepared to finalize negotiations once Council resolves to support our proposal subject to financial arrangements being resolved between ourselves and your Council as to the distribution of income from the provision of the services.

We therefore request that this matter be placed before your Council at its next meeting on the 1<sup>st</sup> August 2001.

The resolution that we seek from your Council is as follows:-

- Council support granting of an easement/licence or a similar tenure to Kings Beach Project No. 2 Pty Ltd or an appointee of Consolidated Properties Group Pty Ltd over the footpath area in each of the streets constructed in the Casuarina Beach Estate for the purposes of laying, repair, replacement and maintenance of cables to be inserted in conduits within the footpath so as to allow for the provision of intranet and internet services to each dwelling within Casuarina Beach.
- The Council is to reach agreement with Kings Beach Project No. 2 Pty Ltd or Consolidated Properties Group Pty Ltd as to the reasonable consideration to be paid to Tweed Shire Council for the granting of the easement/licence or similar tenure.

The above proposed resolution is of great importance to us so that we can continue our negotiations with the supplier of the cables.

# Reports from Director Engineering Services

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## CASUARINA BEACH APPLICATION

The above letter refers to “a conduit being placed underground within the footpath of each street” in Casuarina. At the time of writing this report the applicant had advised that the conduit has been laid in the footpath adjacent to and in conjunction with the Telstra cabling. It is not clear whether or not Telstra has consented to this arrangement.

## INSTALLATION OF UNDERGROUND COMMUNICATION CABLES

In 1995 Council entered into negotiations with a private company for the installation of underground communications and paid television cabling in the Tweed Shire local government area.

Council resolved to enter into a commercial agreement with Central Coast Cablevision Pty Ltd. The General Manager was given delegated authority to sign the agreement and to continue negotiations with Central Coast Cablevision Pty Ltd in regard to network maintenance and servicing being undertaken by Council as a commercial service to Central Coast Cablevision Pty Ltd. Central Coast Cablevision Pty Ltd were a licensed private pay TV provider. The proposed agreement was to be issued as a consent under Section 139 of the Roads Act, 1993.

In return for this consent Council was to be granted an annual rental per connected property and free access to a community channel for Council and community television broadcasting services. A copy of the then proposed consent is reproduced below:-

# Reports from Director Engineering Services

## ROADS ACT 1993

### CONSENT

1. **WHAT IS THE NATURE OF THIS DOCUMENT?**
  - 1.1 This document is evidence of a consent given by us **THE COUNCIL OF THE CITY OF Tweed Shire**, Civic and Cultural Centre, Murwillumbah, N.S.W. 2484 under Division 3 of Part 9 of the Roads Act 1993.
2. **TO WHOM IS THIS CONSENT GIVEN?**
  - 2.1 This consent is given to you **CENTRAL COAST CABLEVISION PTY LIMITED (ACN 065 283 098)** of 2/24-28 Glennie Street West, North Gosford and may be acted upon by that person's servants, agents and contractors.
  - 2.2 The structure and all parts thereof when erected remain the property of the Applicant.
  - 2.3 The consent is personal to the Applicant. It may be transferred by the Applicant with the consent in writing of the Council. That consent will not be unreasonably withheld.
3. **WHAT IS THE CONSENT FOR?**
  - 3.1 This consent is to enable you
    - 3.1.1 to erect a structure in public roads;
    - 3.1.2 to carry out work in public roads;
    - 3.1.3 to dig up and disturb the surface of public roads for the purposes of the work and the structure.
  - 3.2 The structure is a system of underground communication cables and other equipment reasonably required for the effective operation of the cables including line amplifiers, splitter boxes, nodes and connection pedestals.
  - 3.3 The work is the installation, replacement or upgrading of the structure.
4. **WHERE MAY ACTION BE TAKEN IN ACCORDANCE WITH THIS CONSENT?**
  - 4.1 You may erect the structure and carry out the work in accordance with this consent within any part of the local government area of the City of Tweed Heads comprising all areas which we may from time to time approve in writing in, on or over public roads within the meaning of the roads Act 1993 for which we are the roads authority within the meaning of that Act and nowhere else. Extension of the structure and carrying out of the work will not be unreasonable withheld.
5. **WHEN DOES THIS CONSENT BEGIN AND END?**
  - 5.1 This consent begins on

# Reports from Director Engineering Services

5.2 This consent ends when

5.2.1 we revoke it on our initiative; or

5.2.2 we revoke it at your request.

6. **HOW MAY THIS CONSENT BE REVOKED OR SUSPENDED AND WHAT ARE THE CONSEQUENCES?**

6.1 We may revoke the consent under section 140 of the Roads Act 1993. If that section is repealed, this consent is revoked when that repeal occurs.

6.2 Without in any way limiting the reasons for which we may revoke this consent, we may revoke or suspend it in the following circumstances:

6.3 **Warning Notice**

6.3.1 If, in our opinion, any of the requirements of this consent are not being met, we may issue a warning notice to you.

6.3.2 The warning notice will be in writing, and it will be delivered to you by post at your address shown in this consent.

6.3.3 You must reply in writing to the warning notice. The reply must reach us within 7 days of the date of the warning notice.

6.3.4 In the reply, you must tell us:

6.3.4.1 what will be done to meet those requirements; or

6.3.4.2 the reasons for any disagreement with those requirements.

6.3.5 If we decide that compliance with any of the requirements in the warning notice is necessary, we will inform you in writing within 7 days after receipt of your reply.

6.3.6 As soon as you receive notice of our decision, you must make sure that any requirements contained in the notice are complied with immediately.

6.4 **Suspension and revocation**

6.4.1 We may suspend or revoke this consent if any of the following occur:

6.4.1.1 you do not meet the requirements of this consent; or

6.4.1.2 you gave us information in your application for this consent that was untrue or incomplete or misleading; or

6.4.1.3 you do not reply to a warning notice; or

6.4.1.4 you do not do what you told us you would do in reply to our warning notice; or



# Reports from Director Engineering Services

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6.4.1.5 you receive notice of our decision that we still require you to comply with any of the requirements in the warning notice and you do not meet those requirements; or

6.4.1.6 you hinder or prevent us carrying out any check; or

6.4.1.7 you do not pay any of our charges on time.

6.4.2 We may also suspend or revoke this consent if, in our opinion, the structure:

6.4.2.1 becomes unsafe; or

6.4.2.2 is likely to cause environmental damage; or

6.4.2.3 could harm any person

6.4.3 You may request us in writing to revoke this consent 30 days after the date of the request, but:

6.4.4 you cannot request us to revoke this consent while in breach of any of the conditions of this consent; and

6.4.5 although we will consider the request, we will tell you by notice in writing delivered to you by post.

## 6.5 Notice

6.5.1 If we decide to suspend or revoke this consent, we will tell you by notice in writing delivered to you by post.

## 6.6 Consequences

6.6.1 When you receive a notice under 6.5.1, you must cease further work on the structure in the case of suspension or cancellation.

6.6.2 If you do not cease work on the structure when required, we may take legal action against you.

6.6.3 We are not liable to pay you compensation if we suspend or revoke this consent.

## 7. WHAT ARE THE LEGAL LIMITATIONS ON THIS CONSENT?

7.1 This consent is limited in its operation by the provisions of the Roads Act 1993 and any Regulations made under that Act. We grant this consent only within the limits permitted by that Act and Regulations.

7.2 This consent is also limited by the terms of our requirements and conditions set out in this document.

## 8. THE CONDITIONS OF THIS CONSENT

8.1 Prior to carrying out works

# Reports from Director Engineering Services

- 8.1.1 Not less than 21 days prior to the commencement of the works under this consent:
- 8.1.1.1 you must submit engineering drawings showing the position of the structure in relation to property boundaries and to any other significant physical features to the Electricity Authority, Telstra Corporation, Australian Gas Light Company, Optus and the Water Supply Authority and obtain from them plans of their utility services (as defined in the Roads Act 1993) installed in the roads and their comments in relation to the proposed works; and
  - 8.1.1.2 you must submit those drawing and a written specification of the method of carrying out the work to us for approval together with those plans and comments. That approval may be granted on such conditions as we may require or may be refused in our absolute discretion.
  - 8.1.1.3 should written response not be received from other public utilities within 21 days, then it is deemed that those utilities have no special requirement in relation to the proposed cable installation.
- 8.1.2 Not less that 7 days prior to commencement of the works under this consent you must make the occupiers of properties adjoining each road in which the work is to be carried out aware of those works by publication of a notice in a newspaper circulating in the City of Tweed Heads or by any other reasonable method required by us.

## 8.2 Carrying out the work

- 8.2.1 You must install all cables within 2.1 metres and 2.4 metres from the boundary of each road or in other positions approved by us in writing.
- 8.2.2 You must install all cables not less than 300 millimetres below the surface of the footway and 1.0 metres below the carriageway of each road and above the level of any water main within the road. In the case of fibre optic cable you must lay the cable not less than 500 millimetres below the surface of the road and must provide a tracer wire laid between 50 and 100 millimetres above the cable to enable electronic location of the cable and to act as a physical warning of the cable.
- 8.2.3 You must not unreasonably interfere with the use of the road or any other land by other persons while carrying out any work.
- 8.2.4 You must comply with our procedures manual entitled "Guidelines for Control of Traffic on Roadworks."
- 8.2.5 The work must be carried out only between 7.00am and 6.00pm on Mondays to Fridays, between 8.00am and 4.00pm on Saturdays and at other times approved by us in writing.
- 8.2.6 You must comply with our Tree Preservation Order.
- 8.2.7 All work must be carried out promptly and in a proper and workmanlike manner and by the method approved by us.

## 8.3 Following completion of the work

# Reports from Director Engineering Services

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# Reports from Director Engineering Services

- 8.3.1 Following completion of each part of the work approved by us, you must submit to us not later than 2 weeks prior to commencement of the use of that stage, works as executed plans for our approval.
  - 8.3.2 The works as executed plans must show the location of the structure as installed in relation to property boundaries and road alignment and must contain such other information as we may require from time to time.
  - 8.3.3 You must restore the surface of the road to its former condition immediately after carrying out any work.
  - 8.3.4 You must repair any subsidence or other deterioration of the road which occurs within 6 months after carrying out any work.
  - 8.3.5 You must provide at all times a cable locating service to our reasonable satisfaction.
  - 8.3.6 You must relocate the structure if we require you to do so because of work we consider necessary to carry out on the road.
  - 8.3.7 You must maintain the structure and the surface of the road affected by the work in a satisfactory state of repair at all times.
- 8.4 Bank guarantee**
- 8.4.1 Prior to commencing any work, you must lodge with us a bank guarantee for not less than \$10,000.00 payable at any time while this consent continues to secure the satisfaction of all of your obligations under this consent.
- 8.5 Other road authorities**
- 8.5.1 You must obtain a separate consent from the Roads and Traffic Authority in respect of any part of the structure laid within freeways and from the Minister administering the Roads Act 1993 in respect of any part of the structure laid within Crown roads.
- 8.6 Indemnities and insurance**
- 8.6.1 You must indemnify us and the Water Supply Authority and Telstra Corporation in respect of any damage to the system due to:
    - 8.6.1.1 incorrect location of the structure by you; or
    - 8.6.1.2 the failure of or damage to any other utility service in the road; or
    - 8.6.1.3 maintenance of any other utility service within the road; or
    - 8.6.1.4 the carrying out of any work on the road by us,and in respect of any damage caused by you to any other utility services except where that damage is caused by the negligence of us or any of the providers of utility services referred to in paragraph 8.1.1.1 or any of our or their employees or agents.

# Reports from Director Engineering Services

- 8.6.2 You must indemnify us against liability to pay any taxes or charges payable now or later in respect of the work.
- 8.6.3 You must at your cost keep current an insurance policy covering liability to the public in an amount not less than \$10,000,000.00 or such other amount as we reasonably require from time to time (for each accident or event) and must produce to us the policy on request, and a certificate of currency on 1 July in each year.

## 8.8 Miscellaneous

- 8.8.1 You must provide us with free access to a community channel operating through the structure for Council and community television broadcasting purposes.
- 8.8.2 You can enter into agreements with other persons and organisations who wish to share access to the structure.
- 8.8.3 This consent does not entitle you to exclusive rights to the installation of a cable television service within the Council's local government area.
- 8.8.4 You must pay all reasonable legal costs incurred by us in connection with the preparation of this consent.
- 8.8.5 You must comply with all laws relating to the work.

## 8.9 Resolving disputes

- 8.9.1 We will try to resolve any disputes by discussing them with you, but if there is any dispute which we cannot resolve by discussing it together, our decision is final, but you may take legal action against us if you think our decision is unfair.

Central Coast Cable Vision Pty Ltd never proceeded with the consent, the market determining satellite connection as the preferred option for delivering pay TV services in this area.

### SECTION 611 CHARGES – TELECOMMUNICATIONS CARRIERS

On the 21 December 2000 the federal court upheld Councils power to levy S611 charges on telecommunication carriers for cables above and below ground.

A formula for calculating S611 charges has not been provided by the court or the legislation. Some Sydney councils have levied charges which it is understood are currently under appeal. Any commercial consideration made by Tweed Shire Council in relation to Casuarina Beach needs to

# Reports from Director Engineering Services

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ensure that the precedent established by levying such charges will not compromise Council from ultimately levying reasonable charges on the national carriers.

## COMMERCIAL CONSIDERATIONS

Council's 1995 agreement proposed a flat rate of \$1 per connected property per year. This rate was negotiated with the provider at the time in the absence of any history or case law.

It is understood that some Sydney Councils have sought valuation advice relating to the cost savings and revenue benefits enjoyed by telecommunication companies. Charges have been levied on the basis of cost saving benefits arising by reason of cables being installed below ground and cost saving benefits arising as a result of Council's expenditure on maintenance of services and ancillary works. These savings have been estimated to be in the order of \$460 per kilometre of cabling installed below ground annually. In addition to this the revenue benefit component has been determined as 6% of the gross revenue earned by the provider. In the absence of obtaining particular local valuation advice and further legal advice, the cost of which could be significant Council could establish a Section 611 charge being \$460 per kilometre plus 6% of gross revenue.

## TECHNICAL CONSIDERATIONS

Council has established specific footpath allocations for utility providers.

A significant operational aspect for Council in determining such applications is to ensure that cables are physically located such as to minimise disturbance to other utilities. This is essential to ensure future damage is minimised by all of the utility providers located within the footpath. Unresolved issues here include the potential for Council to receive applications by other providers and the difficulty in establishing a proper allocation. An alternative position for Council could be to direct such private applications to the national providers for inclusion within their allocation including the option of Telstra providing the required services through their existing cable network. In regard to the long term management and operation of utility services within the road reserve this may well be a preferred position for this Council to take.

The Telecommunications Act deals with the issue of providing third party access to monopoly infrastructure.

## CONCLUSION

1. The potential income to Council for charges levied under S611 for underground cables is significant.
2. The recent Federal Court decision has strengthened Local Government's ability to sustain such charges.
3. A number of utilities (underground power, water, sewerage, telecommunications, drainage, street lighting) already co-exist in the roadway between back of kerb and the property boundary.
4. For long term efficiency and service reliability it is in the interest of all utility providers to minimise the number of telecommunication conduits in the road reserve.

# Reports from Director Engineering Services

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5. In the first instance it is recommended that the preferred position is for Telstra to provide cabling for private providers within its existing infrastructure.
  6. The Casuarina Beach application can be granted an in principle consent subject to the applicant providing additional information in regard to Telstra's approval of the current installation.
  7. It is recommended that the in principle consent granted to Kings Beach No. 2 Pty Ltd be generally as outlined in this report and that charges be established at \$460/kilometre plus 6% of gross revenue, both levied on an annual basis.
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# Reports from Director Engineering Services

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**22. ORIGIN:** Director

**FILE REF:** Water Management–Policy–Pricing, Sewerage Management-General

**REPORT TITLE:**

**Water Supply and Sewerage Performance Report and Pricing Strategy**

**SUMMARY OF REPORT:**

Tweed Shire Council reports annually at a state and national level on its water supply and sewerage performance. Comparison reports against specific criteria are subsequently issued.

These reports have been consolidated into a single Water Supply And Sewerage Performance Monitoring Report 199/2000 for Tweed Shire Council.

The Council of Australian Government (COAG) has set a Water Reform Agenda. The State's performance in complying with that agenda impact on Commonwealth Government competition payments to the state.

Council's current pricing policy for water includes a fixed charge with a "free allowance" – this year set at 250kL's. The "free allowance" is inconsistent with the Water Reform Agenda. Tweed Shire Council is now the largest non complying authority in New South Wales.

This report recommends that Council moves to a new pricing structure for 2002/2003 that eliminates the "free allowance".

**RECOMMENDATION:**

That Council:-

1. Notes the Water Supply and Sewerage Performance Report for 1999/2000.
2. Places copies of the report in the Murwillumbah and Tweed Heads Civic Centres and advises of such in the Tweed Link.
3. Advises the Department of Local Government and Department of Land and Water Conservation of its intention to move to a new pricing structure for water incorporating no free allowance for 2002/2003.



# Reports from Director Engineering Services

## REPORT:

### PERFORMANCE REPORT

As Council would be aware, Tweed Shire Council reports on a wide range of operating criteria on an annual basis to the Minister for Land & Water Conservation. In response to the data provided Council receives performance comparison reports against all NSW operators. As Council has more than 10,000 connections its results are also included in the monitoring report for the Australian Non-Major Urban Water Utilities.

For the benefit of reporting to Council and the community these reports have been consolidated in the Water Supply & Sewerage Performance Monitoring Report 1999/2000. A copy of the report has been provided separately to Councillors. This report recommends that copies of the report be made available at both Civic Centres. A full report of the 1999/2000 NSW Water Supply and Sewerage Performance Comparisons report is available from the Director Engineering Services.

Of particular interest is Council's comparison with the major authorities. The major authorities are those with connections of 50,000 assessments. They include all of the metropolitan authorities and Gold Coast City Council. The table below details Council's performance against the major authority average for the key criteria.

### TWEED'S PERFORMANCE COMPARISON WITH MAJOR AUTHORITIES

CRITERIA	TWEED	MAJOR AUTHORITY AVERAGE
Average Residential Consumption (kL/property)	220	280
Unaccounted for Water	12%	14%
Economic Real Rate of Return	6%	4%
Water Quality Complaints (per 1,000 properties)	2	17
Water Customer Interruption Frequency (per 1,000 properties)	40	95
Water Average Customer Outage Time/Property (minutes)	8	20
Water – Number of Breaks (per 100km main)	2	13
Water Operating Costs (\$/property)	170	225
Wastewater Economic Real Rate of Return (%)	4.9%	4%
Wastewater Average customer Outage Time (minutes per property)	1.1	2.3
Sewage Overflows (per 100km main)	2	10
Wastewater Operating Cost (\$/property)	240	200
Business Performance – Debt to Equity	.04	.12

# Reports from Director Engineering Services

Average Bill for Residential Customers (\$/property)	\$230	\$310
Average Bill for Residential customers (\$/property)	\$400	\$330

There are 69 non-major utilities. On any assessment Tweed Shire Council continues to perform strongly.

## PRICING STRATEGY

The Minister for Land and Water Conservation in his letter to Council dated 15 June 2001 indicated his strong support for the report's recommendation in regard to pricing principles.

The performance report strongly encouraged Councils to comply with the Independent Pricing and Regulatory Tribunal's (IPART) pricing principles for Local Water Authorities including the setting of cost effective annual charges and adopting a tariff that is independent of land value with no water allowance.

Council will be aware that its current pricing strategy for water supply services is a fixed charge of \$220. This fixed charge provides an entitlement up to 250kL's after which a volumetric charge of .73¢ per kL is levied. The provision of water services is a responsibility of the state and territory authorities. In the case of New South Wales this has been devolved to local government and statutory authorities. The commonwealth government's role is mainly policy development and co-ordination. The Council of Australian Government (COAG) Water Reform Agenda and National competition Policy are the two principle sources of government policy stimulating reform in the urban water industry at the national level.

## NATIONAL COMPETITION POLICY

National Competition Policy, initiated by the Hilmer report, and now embodied in the Competition Policy Reform Act, 1995 and the competition Principles Agreement, provides a framework for the reform process. Competition principles relevant to the water industry include:

- Independent pricing oversight of water businesses as government business enterprises.
- Competitive neutrality, e.g. tax equivalent regimes and removal of anti-competitive practices as defined in the Trade Practices Act 1974.
- Structural reform of public monopolies to encourage greater efficiencies.
- Review of legislation (to identify anti-competitive elements).
- Access to services of significant infrastructure facilities.

The key feature of the Competition Principles Agreement has been a requirement that the States and Territories achieve defined reform milestones. The Commonwealth has made two substantial payments to the States, based on progress towards the reform goals. A third tranche will be made in 2001 and at this time analysis of performance is occurring.

# Reports from Director Engineering Services

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Council's current pricing policy does not strictly comply with the COAG agenda but nevertheless has generally met with wide acceptance by the community. In August 2000 a lengthy submission was made to the Department of Local Government in response to a request by the Department to justify Council's pricing strategy and continuance of a "free allowance" philosophy.

The issue has been raised by DLWC again in the Minister's letter. It is understood that Tweed Shire Council is now the largest "non-complying" authority in New South Wales. There are obvious implications for Council, particularly given that both state agencies involved (Department of Local Government and Department of Land and Water Conservation) potentially see Tweed's non compliance as a possible basis for the Commonwealth withholding part of the NSW government COAG payments. This report therefore recommends that Council resolves to adopt a two part or inclining block tariff for 2002 including a fixed charge independent of land value with no water allowance.

The introduction of the new pricing structure would need to be implemented along with a community consultation and education program. A number of options will be pursued during the year and reported to Council for ultimate inclusion in the 2002/2003 management plan. The review will include pricing options and billing strategies. It may be appropriate to go to quarterly or more frequent billing options, including the possibility of electronic meter reading. This is particularly timely given the implementation of Council's new financial computer business system.

## PRICING OPTIONS

Pricing options involve adopting a fixed charge and a volumetric charge that generally reflects the long term marginal operating cost. Volumetric charges can be a flat rate charge (i.e. the same charge for every kL consumed) or an inclining block charge where the first 100 or 200 kL's used could be billed at a lower charge than subsequent kL's.

The inclining block tariff can be structured so as to minimise the impact of the two part tariff while the average rate strategy more accurately reflects real cost, minimises cross subsidy and is easier to administer.

The overall impact of the proposed change is to reduce the cost for the very small user (since they are currently paying for 250kL's whether consumed or not) and for the very large consumers but at the same time increasing the cost for the large group of consumers with average annual consumption of between 300 and 400 kL's.

Regardless of the pricing strategy finally adopted the required total income yield does not change (currently \$7M). The table below provides an example of some of the options that are available.

Interestingly, Gold Coast City Council have recently adopted a single service fee of \$173 and a flat rate consumption charge of 60¢ per kL.

# Reports from Director Engineering Services

## Water Pricing Structure - Examples of Some Options

Current Structure: \$220 for first 250 kL, \$0.73 per kL thereafter	Theoretical income yield * 7,007,995
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### Alternate Structures

	Fixed Charge	----- price per kL -----				
		0-100kL	101-200kL	thereafter		
Structure 2	\$ 120.00	\$ 0.25	\$ 0.55	\$ 0.65		6,584,345
Structure 3	\$ 120.00	\$ 0.35	\$ 0.50	\$ 0.70		6,780,399
Structure 4	\$ 120.00	\$ 0.61	\$ 0.61	\$ 0.61		7,024,768
Structure 5	\$ 160.00	\$ 0.51	\$ 0.51	\$ 0.51		7,031,164

\* actual income is also affected by vacant lots, connections on non-rateable properties and strata titled units.

kL consumption band	% connections	Average total charge				
		Current	Struct 2	Struct 3	Struct 4	Struct 5
<1	1.62%	\$220	\$120	\$120	\$120	\$160
1-100	10.59%	\$220	\$128	\$139	\$154	\$188
101-200	22.85%	\$220	\$207	\$183	\$215	\$239
201-300	28.42%	\$220	\$232	\$239	\$272	\$287
301-400	17.22%	\$289	\$294	\$306	\$330	\$336
401-500	8.23%	\$362	\$359	\$376	\$391	\$386
501-600	3.79%	\$436	\$425	\$447	\$453	\$438
601-700	1.71%	\$508	\$489	\$516	\$513	\$489
701-800	1.00%	\$579	\$552	\$584	\$572	\$538
801-900	0.69%	\$656	\$621	\$658	\$637	\$592
901-1000	0.47%	\$728	\$684	\$727	\$697	\$642
1001-2000	1.92%	\$1,046	\$968	\$1,032	\$962	\$864
2001-5000	0.85%	\$2,215	\$2,009	\$2,153	\$1,940	\$1,681
5001-10000	0.32%	\$4,889	\$4,389	\$4,717	\$4,174	\$3,549
10001-20000	0.23%	\$10,375	\$9,274	\$9,977	\$8,758	\$7,382
20001-50000	0.07%	\$21,872	\$19,512	\$21,002	\$18,365	\$15,414
50001-100000	0.02%	\$41,592	\$37,071	\$39,912	\$34,844	\$29,191

Subject to Council's concurrence to the recommendation in this report detailed options will be provided for Council's consideration and community consultation.

# Reports from Director Engineering Services

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# Reports from Director Environment & Community Services

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**23. ORIGIN:** Building Services Unit

**FILE REF:** DA4000/670

**REPORT TITLE:**

**Alterations and Additions to Existing Buildings**

**SUMMARY OF REPORT:**

On 15 November 2000 a report was referred to Council in relation to a proposed three (3) storey addition to an existing residence on property described as Lot 16 DP 24426 Oyster Point Road, Banora Point. As a result of several issues, Council resolved not to approve the proposal and invited the applicant to submit an amended application for Council's consideration. Amended plans have now been received.

**RECOMMENDATION:**

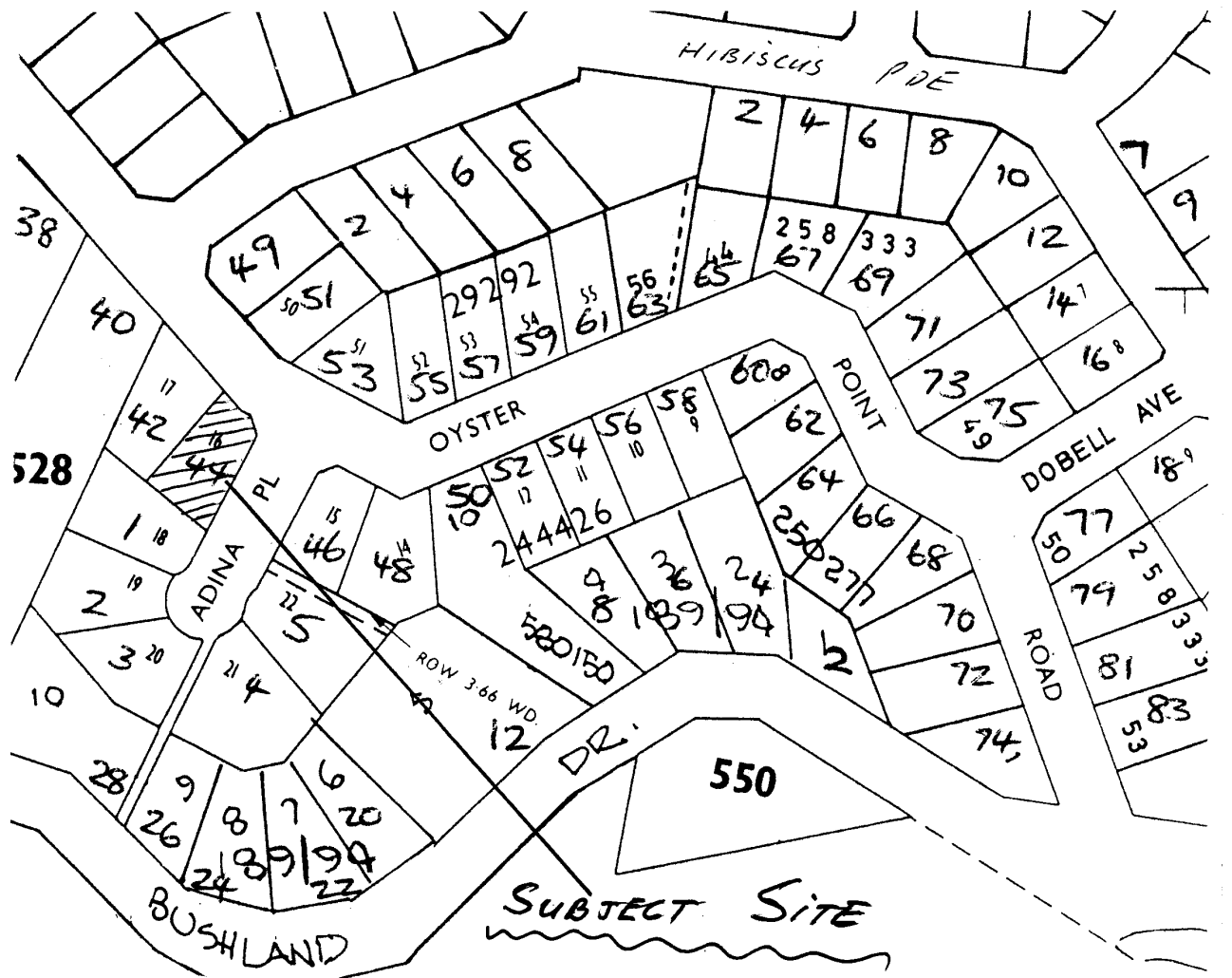
That the amended plans for the two (2) storey addition on premises described as Lot 16 DP 244426 Oyster Point Road, Banora Point be approved subject to external wall cladding being of a light to medium colour as determined by Council's Director of Environment & Community Services Division.

# Reports from Director Environment & Community Services

## REPORT:

On 1 November 2000 the following report was referred to Council for consideration in relation to proposed alterations and additions to an existing residence on property described as Lot 16 DP 244426 (44) Oyster Point Road, Banora Point.

*“An application has been received for alterations and additions to an existing dwelling on property described as Lot 16 DP244426 (No 44) Oyster Point Road, Banora Point, which is located on the western corner of Adina Place and Oyster Point Road.*



The proposal consists of a three (3) storey addition to an existing 2 and 3 storey residence and is identified as being 8 metres in length and 7 metres wide.

An inspection of the site revealed that the property is adjoined by two sites, both of which are of a lower level than the area to which the proposal relates.



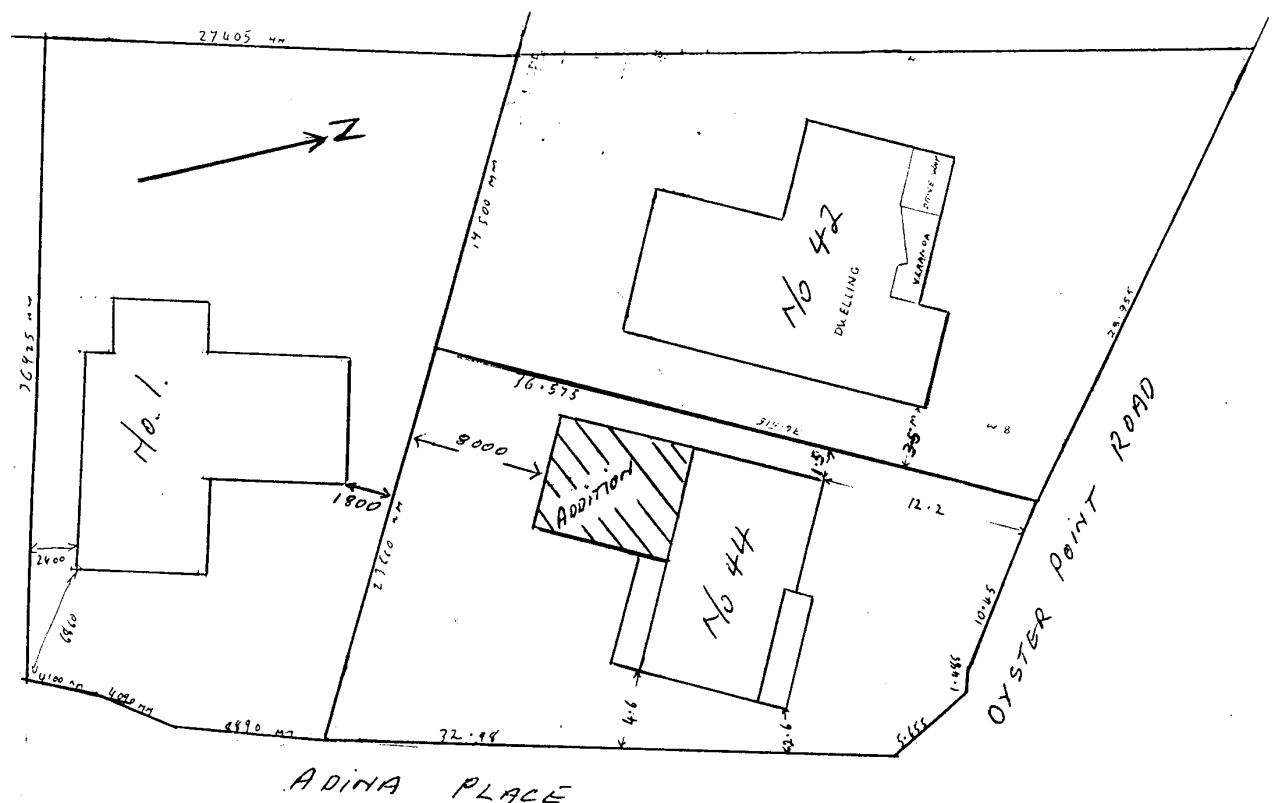
# Reports from Director Environment & Community Services

A letter notifying of the proposal was forwarded to both adjoining property owners and submissions objecting to the proposal have been submitted from both, one of which (from No 42 Oyster Point Road) was accompanied by a submission prepared by Jim Glazebrook and Associates (Town Planners and Development Consultants).

As a result of the objections a letter was forwarded to the applicant identifying the main issues raised to give the applicant the opportunity to address these concerns.

The existing dwelling on the site is dark brick with a concrete tiled roof and is partly 2 and partly 3 storeys in height.

A site plan is provided below, which was taken from original building approvals, to identify the setbacks and orientations of the proposal in relation to the adjoining sites.



In relation to the submission by the owners of No 1 Adina Place, the main point of concern relates to the likely over-shadowing caused by the proposal.

A site inspection identifies that the property is on the low side of No 44 and has a row of small trees along the boundary line.

The northern end of the dwelling is occupied by a garage which stands approximately 9.8 metres away from the proposal at its nearest point and while it is acknowledged that some over-shadowing will occur to the northern end of the building and property, the proposal is

# Reports from Director Environment & Community Services

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*not considered unreasonable from this aspect due to the setback of the proposal from this boundary and the orientation of the sites.*

*In regard to the issues raised on behalf of the owners of No 43 Oyster Point Road, the submission from Jim Glazebrook and Associates has been reproduced below for Council's information:*

***“Re: 0933/2000DA – Lot 16 DP 244426 No 44 Oyster Point Road, Banora Point***

## ***Alterations & Additions to an Existing Dwelling***

*We advise that we act for Mr Norman & Mrs Gloria Hill who own property at No 42 Oyster Point Road, Banora Point which is adjacent to the proposed development site. Mr & Mrs Hill reside in the dwelling on this land.*

*We have had the opportunity to review the plans for the proposed addition and wish to make a submission by way of objection to the proposed development on behalf of Mr & Mrs Hill. Specifically, our objection relates to the following matters;*

- (i) Mr & Mrs Hill's dwelling is located to the west of the subject land and therefore the critical elevation of interest to Mr & Mrs Hill is the west elevation. A review of the plans indicates that this elevation, and in fact none of the elevations, contain a scale or any written dimensions. Additionally the plans do not contain any existing or proposed levels. This information is essential to enable neighbours to determine the exact extent of the likely impact of the proposal upon them and is also essential to enable Council's officers to properly assess and consider the application.*
- (ii) The development application was not accompanied by a Statement of Environmental Effects. The applicant indicated on the development application form that “the proposed development is considered to have negligible effect”. The proposal is for a 3 storey addition to an existing dwelling in an existing residential area and, given the size of the lots in the locality, an addition of this size has the potential to impact on adjacent properties. Therefore, a Statement of Environmental Effects should be submitted to demonstrate how the applicant has considered the impact that the proposal will have adjacent developments, particularly in relation to the amenity of neighbouring dwellings.*
- (iii) Regardless of the deficiencies identified in the development application documentation, as outlined in (i) and (ii) above, the Hills object to the proposed addition on a number of grounds relating to the potential impact that an addition of the size proposed would have on their enjoyment of their property. In particular, the Hills believe that they will be significantly affect by loss of views, potentially affected by loss of privacy and also affected by loss of natural sunlight and south easterly*

# Reports from Director Environment & Community Services

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*breezes to the sitting/living room and second bedroom. These issues are discussed in the point below.*

(iv) Loss of views

*The proposed dwelling addition measures approximately 8 metres x 7 metres, is three storeys in height, and is adjacent to the rear of the Hill's dwelling. The Hill dwelling in this location is two storeys in height and the land level is slightly lower than that of the development site. The proposed addition is adjacent to a bedroom and garage/workshop on the ground level and adjacent to a bedroom and sitting room on the upper level of the Hill's dwelling. Mr & Mrs Hill presently enjoy views of the Tweed River, Kingscliff and Fingal from their sitting room. The pleasant views which are currently enjoyed will be intercepted by a three storey wall.*

(v) Loss of privacy

*The western elevation contains six (6) windows. Due to the fact that there are no levels or scale shown on the plans, the location and size of these windows in relation to the Hill residence is difficult to determine. The Hills consider that the proposed addition has the potential to impact on their privacy, although the extent can not be determined without the plan information described above.*

(vi) Sunlight

*The lower level bedroom and garage/workshop, and the upper level second bedroom and sitting room, are located on the eastern side of the house. Therefore, these rooms receive sunlight in the morning. In the afternoon they received little natural light at all. The construction of a three storey structure, adjacent to the windows in these rooms, will significantly reduce the amount of natural light which they receive during the favourable AM daylight hours.*

(vii) Breezes

*South easterly sea breezes provide relief during the hot summer months in this location. The Hills use the sitting room to relax and capture these breezes as the other living room in their house does not have the location advantage of this room. Mr & Mrs Hill believe that construction of a three storey addition as proposed will significantly impact on these cooling summer breezes and consequently, unacceptably diminish the amenity and enjoyment of the living room and bedrooms on the eastern side of their house.*

# Reports from Director Environment & Community Services

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*In conclusion, we submit that this development application is deficient in terms of the information provided on the plans and the fact that a Statement of Environmental Effects was not submitted. Furthermore, due to the size and location of the proposed addition, the Hill's enjoyment of their home will be significantly diminished and an objective assessment of the merits of the application indicate that the proposal should either, not be approved or, that it should be modified to ameliorate, as far as possible, potential impacts on the Hill's property.*

*Mr & Mrs Hill have written to a number of Councillors requesting that the development application be report to Council for its determination."*

*Concerning (i) amended plans have now been submitted to Council by the applicant which identify scales and indicate the roof line of the proposal will match that of the existing three storey portion of the building.*

*These plans have been viewed by the owners of No 42.*

*Concerning (ii) a "Statement of Environmental Effects" has now been submitted by the applicant together with further information in respect of the proposal.*

*Concerning (iii) these issues are covered individually below.*

*Concerning (iv) the views identified in the submission will be lost in the event that the proposal is approved and constructed. However it should also be noted that the construction of a two (2) storey proposal in the same location and site coverage would have the same effect with respect to views from the sitting room and second bedroom.*

*Concerning (v) as indicated in the submission a certain amount of privacy will be lost as a result of the proposal being constructed. The submission from the applicant indicates that trees could be utilised along the boundary to provide some shielding, however while sufficient space between the dwellings may exist to provide trees, it would be extremely difficult to screen the outlook from windows, particularly from level 3.*

*Concerning (vi) the amount of sunlight and natural light for the eastern side of No 42 will be reduced with the construction of the proposal as indicated. It should also be noted that with the use of dark brown coloured bricks to match the existing building the possibility of any reflected light will be minimised.*

*Concerning (vii) the submission identifies that south east breezes will be affected by the proposal and while it is acknowledged that breezes from this direction will be affected it must also be acknowledged that the finished ground level of the proponents site is higher than that of No 42 and therefore a proposal two (2) storeys in height and in the same location would have a similar impact on breezes from this direction.*

*In conclusion Council is advised that the impact of the proposal and each of the issues raised by the adjoining property owners have been considered and while the position of the proposal, considering the setbacks identified, is not unreasonable, the visual appearance*

# Reports from Director Environment & Community Services

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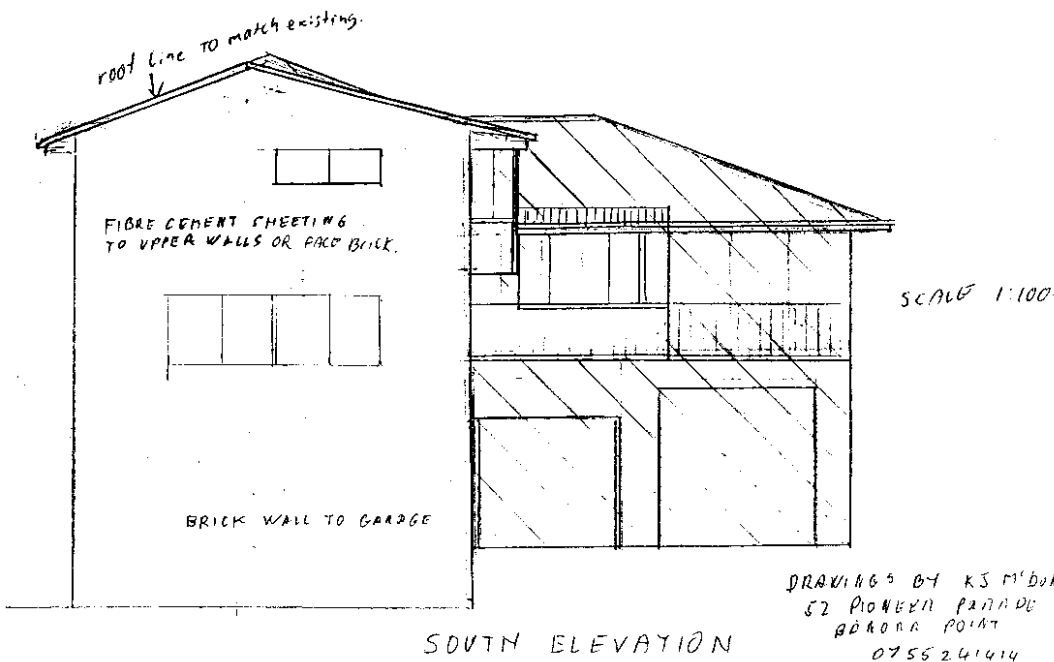
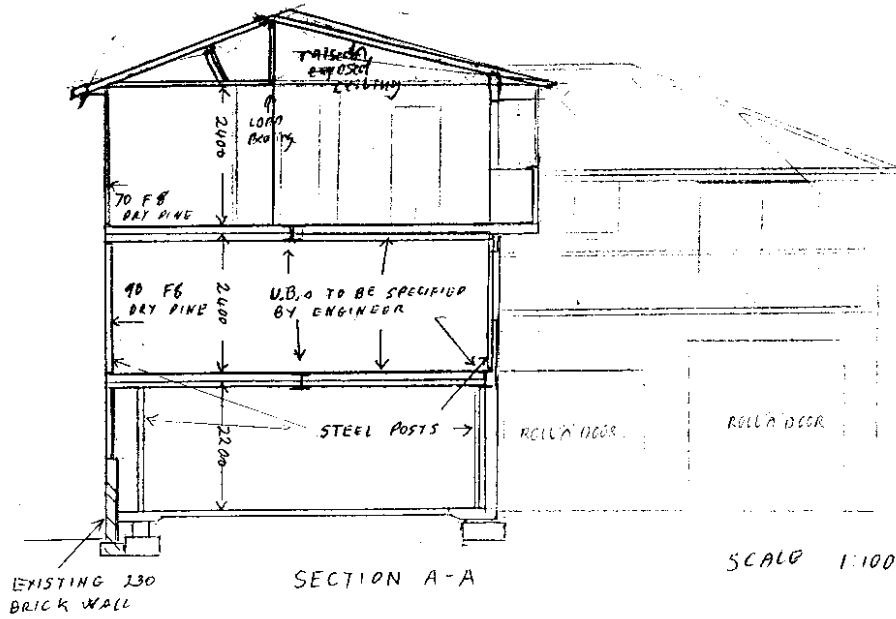
*when viewed from these properties in relation to the intended height and bulk has an undesirable impact on amenity.*

*It is also considered that the colour and overall height of the proposal will substantially affect the amount of natural light available to the eastern side of number 42 Oyster Point Road and therefore it is recommended that the current proposal not be approved by Council and that the applicant considers amending the proposal to address these issues in an effort to minimise the impact on the adjoining properties.*

*Elevations of the proposal follow for council's information.*

# Reports from Director Environment & Community Services

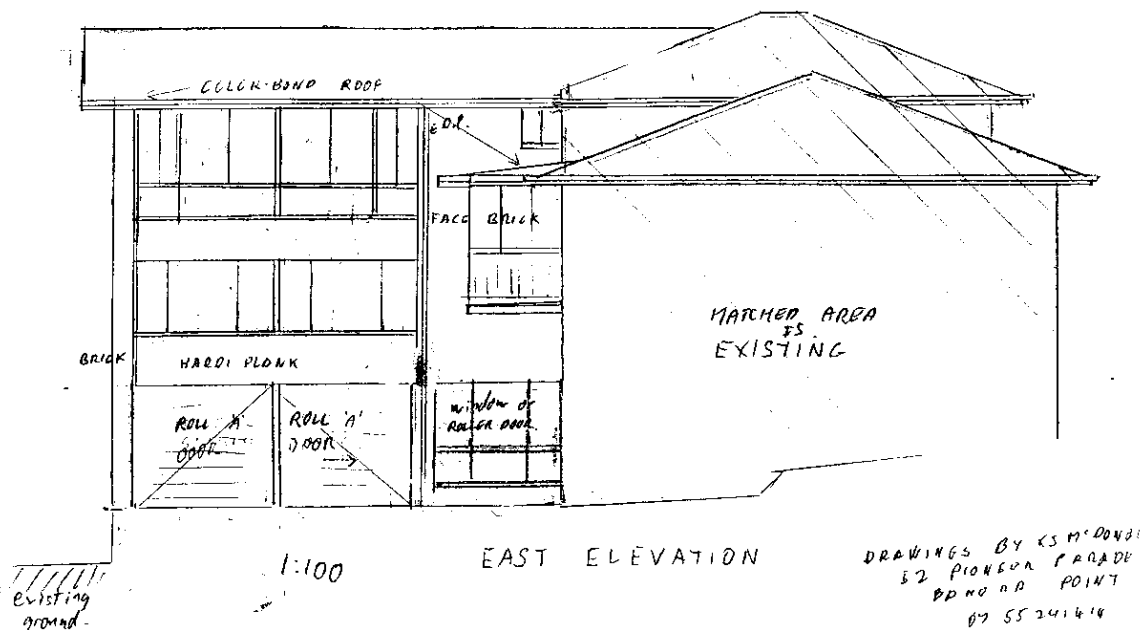
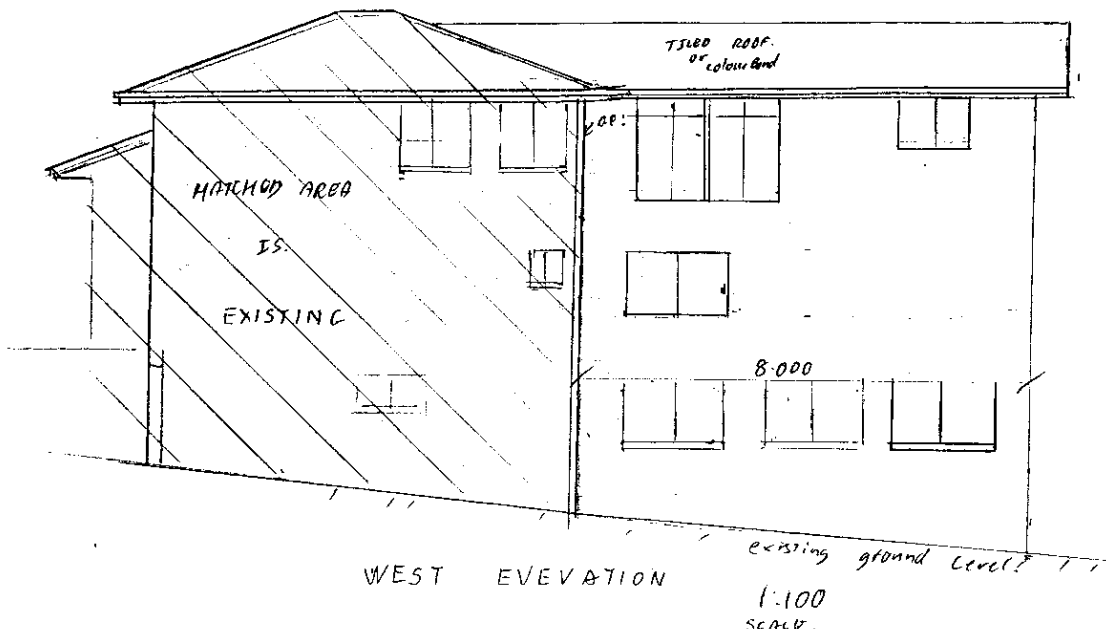
PROPOSED EXTENSIONS TO RESIDENCE AT LOT 16 OYSTER POINT RD  
BANORA POINT FOR KS + BJ M'DONALD



DRAWINGS BY KS M'DONALD  
52 PIONEER PARADE  
BANORA POINT  
0755 241414

# Reports from Director Environment & Community Services

PROPOSED EXTENSIONS TO RESIDENCE AT LOT 16 OYSTER POINT Rd  
BANORA POINT FOR KJ + BJ M'DONALD



# Reports from Director Environment & Community Services

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“

Amended plans have now been received whereby the applicant proposes to reduce the proposal from 3 storeys to 2 storeys and provide the addition with a flat roof in lieu of the originally proposed pitched roof which will result in an overall reduction of height as compared with the original of approximately 3 metres.

The proposal will maintain the same footprint and setback on the site as the original, however, the overall bulk of the development is reduced.

As a result of the submissions in relation to the original application, letters were forwarded to both adjoining property owners to advise of the amended proposal which has resulted in a reply from the owners of No 42 Oyster Point Road which is situated on the western side of the subject site.

The concerns raised have been reproduced below for Council's information:

## Loss of Views

**The proposed addition is adjacent to a bedroom and sitting room on the upper level of our house and we presently enjoy the views of the Tweed River, Kingscliff and Fingal. These are the only rooms within the house which have these views. The proposed extension would completely eliminate these views from the bedroom and significantly restrict views from the sitting room.**

## Reduction in Sunlight

**The lower level bedroom and garage/workshop, and upper level second bedroom and sitting room are located on the eastern side of the house and these rooms receive sunlight in the morning. The proposed extension would significantly reduce this natural lighting.**

## Loss of Breezes

**South easterly sea breezes provide relief during the hot summer months and we use the sitting room to relax and capture these breezes. The other living areas of the house unfortunately do not have the same locational advantage of the sitting room. The proposed extension will adversely impact on these cooling breezes and unacceptably diminish the amenity and enjoyment of the sitting room and second bedroom.**

## Potential Loss of Privacy

**There is a distinct possibility that there could be a loss of privacy depending on the placement of a fairly large window in the upper level of the extension, west elevation. (The windows on the lower level are considered to be of lesser concern.) However, the extent cannot be assessed in the absence of relevant information. At this stage it seems prudent to simply flag the potential for this occurring.**

## Conclusion

**With respect, it is our very strong view that the amended application does not address Council's grounds for previous refusal and this is simply because the proposal to have a**



# Reports from Director Environment & Community Services

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**two level extension rather than three levels offers only marginal relief. In effect, the amended proposal equates to building a brick wall starting from the rear of the applicant's house, extending some two metres beyond our rear wall and slightly higher than our adjacent wall. To increase the height of the wall in question, we suggest, would not significantly exacerbate the visual effect or the natural light aspects - the two grounds for Council's previous rejection. In the circumstances, it is recommended be either refused or amended so that, as far as possible, it satisfies Council's previous grounds for refusal. (As far as we are concerned, perhaps a single level extension would be an acceptable compromise.)**

As can be seen by the above submissions the issues raised are basically identical to those raised in the original submission.

Concerning loss of views:- As identified in the submission, the views to the east from sitting room and second bedroom would be lost in the event that the current proposal is approved and constructed. The view from No 42 towards Fingal and Kingscliff generally at right angles across the rear of No 44. It should also be noted that the finished ground level of No 42 is lower than that of No 44 and therefore it would be difficult for the applicant to construct an addition in this position without an effect on views unless restricted to single storey with a low pitched roof which, from discussions, would not satisfy the requirements of the owner of No 44. It is therefore difficult to consider refusal of the proposal based on the issue of views.

Concerning reduction of sunlight:- While there would be some reduction of sunlight to the rear position of the residence the original impact has been reduced by the removal of the third storey and provision of a flat roof in lieu of a pitched roof. Furthermore the applicant has proposed fibre cement cladding in lieu of the originally proposed dark brickwork and the applicant has verbally advised that the cladding could be painted in a light to medium colour if required so that the available reflected light is not reduced.

Concerning 'loss of breezes':- While the proposal will have some effect on easterly and south-easterly breezes, the buildings are set 4-5 metres apart and as the minimum permissible setback of dwellings in this situation is 1.8 metres, it is considered that sufficient airflow and breeze paths will be maintained.

Concerning potential loss of privacy:- The existing residence on No 44 currently has two balconies on the southern side of the building which overlook the rear windows and portion of the rear yard of No 42 and while a large window is proposed on the second level of the western wall which services a proposed rumpus area, it is difficult to assume that the window will have a greater impact on privacy as would the existing balconies.

## CONCLUSION:

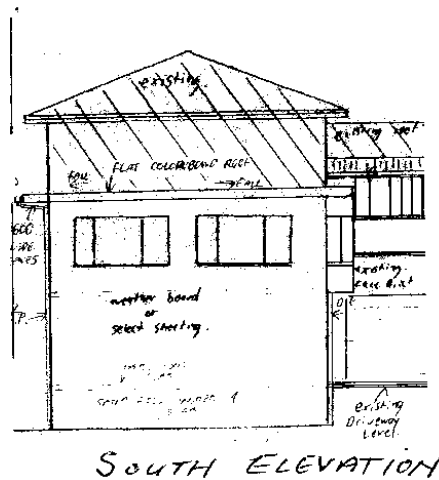
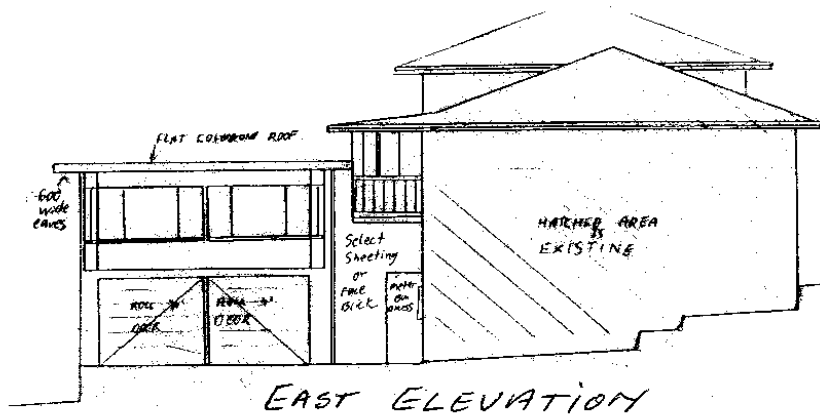
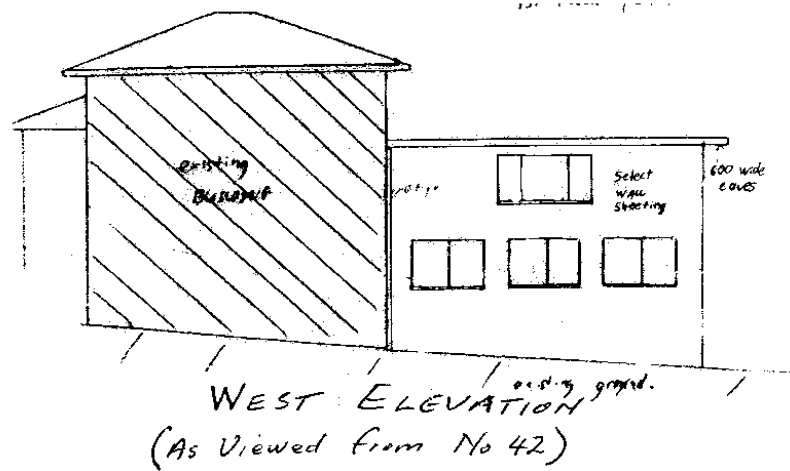
Having considered each of the issues raised, it is felt that the amended proposal could be given favourable consideration being satisfied that the impact on views on the adjoining sites has been reduced and that the reduction in height has lessened the impact on available natural light to the adjoining property.

# Reports from Director Environment & Community Services

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A copy of elevations of the amended proposal is reproduced following:-

# Reports from Director Environment & Community Services



# 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:** Waste Minimisation

**REPORT TITLE:**

**Alternate Waste Disposal Technology**

**SUMMARY OF REPORT:**

Council, at its meeting of 4 April 2001, resolved to participate in the Working Party to investigate alternate waste disposal technologies. The first meeting of the Working Party was held on 6 August 2001 at which a Memorandum of Understanding was adopted along with the appointment of legal consultants, the probity auditor and engineering consultants. It is recommended that Council approves the Memorandum of Understanding document and also approves the expenditure of \$10,760 as Council's share of Phase One of the project.

**RECOMMENDATION:**

That Council:-

1. Approves the Memorandum of Understanding document.
2. Approves the expenditure of \$10,760 as Council's share of the estimated costs of the Expression of Interest phase of the project and votes the sum of \$30,000 to the project from the Waste management reserves.
3. Completes all documentation under the Common Seal of Council where necessary.

# Reports from Director Environment & Community Services

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## REPORT:

Council will recall that at its meeting of 4 April it was resolved:-

“ ..... *that Council advises the Gold Coast City Council that Council is prepared to:-*

- 1. Participate in the Working Party to establish parameters for a regionally co-operative approach for identifying and establishing an alternative waste treatment facility or facilities; and*
- 2. Nominate three (3) Councillors to be representatives on the Working Party and these Councillors be Crs Marshall, Beck and Brinsmead.*

This resolution followed an invitation from the Mayor of Gold Coast City Council for Tweed Shire Council to participate.

The first meeting of the Working Party was held on 6 August 2001 where a Memorandum of Understanding was presented for agreement and a recommendation for the appointment of legal advisers, probity auditors and consultants for the preparation of Expressions of Interest documents were approved. A draft budget was also approved which totals \$255,000.

There are two phases to the project:-

1. Expressions of Interest phase scheduled to be completed by the end of October 2001 at an estimated cost of \$113,000.
2. Tender phase scheduled to be completed by the end of February 2002 at an estimated cost of \$142,000.

It is proposed to split expenses on a per capita basis of which Tweed Shire Council's split is 9.5% and the total cost to Council is \$24,225, phase one costing \$10,760 and phase two \$13,465. The original report to Council indicated that the process might cost \$50,000 and therefore is less costly than expected. These contributions can be met from the existing waste budget reserves, some of which are provided for future planning.

Section 55 of the Local Government Act 1993 requires Council to invite tenders before entering into a contract and the legal consultants have advised that the proposed process satisfies this requirement.

A copy of this legal advice and the Memorandum of Understanding document, it is anticipated, will be available to Councillors prior to the meeting.

The Memorandum of Understanding document has been prepared after extensive consultation between officers of the participating Councils and the legal consultants and it is recommended for approval.

It is also recommended that Council approves the expenditure proposed for Stage One of the proposal, the Expressions of Interest phase of which Council's share is \$10,760 and votes a sum of \$30,000 from the Waste Management reserves to be expended on the project.

# Reports from Director Environment & Community Services

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A legal opinion as to the correct wording of the resolution will be provided and this may require an amendment to the resolution before the meeting.

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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:** Footpath Dining

**REPORT TITLE:**

**Footpath Dining License Agreements**

**SUMMARY OF REPORT:**

Part 5 of Council's existing Footpath Restaurant Policy E10.4 states that *"Approval will not be given for footpaths on classified roads"*.

As the Coast Road is a classified Road, the Policy prohibits the establishment of footpath dining license agreements for restaurants in that part of Cabarita.

Officers suggest that the relevant part of the Policy be amended to read *"Approval will not be given for dining agreements for footpaths on classified roads without the consent of the Roads and Traffic Authority"*.

**RECOMMENDATION:**

That Council approves Part 5 of the existing Footpath Restaurants Policy E10.4 to be amended to read *"Approval will not be given for dining agreements for footpaths on classified roads without the consent of the Road and Traffic Authority"*.

# Reports from Director Environment & Community Services

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## REPORT:

Part 5 of Council's existing Footpath Restaurant Policy E10.4 states that *"Approval will not be given for footpaths on classified roads"*.

As the Coast Road is a classified Road, the Policy prohibits the establishment of footpath dining license agreements for restaurants in that part of Cabarita.

A footpath dining agreement is currently being sought by a new restaurant owner.

The consent of the Roads and Traffic Authority (RTA) is required to dining agreements on classified roads as per Section 125(3) of the Roads Act.

To facilitate the establishment of suitable dining agreements at Cabarita in future, officers suggest that the relevant part of the Policy be amended to read *"Approval will not be given for dining agreements for footpaths on classified roads without the consent of the Roads and Traffic Authority"*.

As the amendment is of a minor nature, officers do not believe that advertisement of the proposed Policy amendment is necessary.

The suggested amended Policy would permit footpath dining to occur at Cabarita with the consent of the Roads and Traffic Authority and subject to the operator having a suitable agreement with Council.

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# Reports from Director Environment & Community Services

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**26. ORIGIN:** Environment & Health Services Unit

**FILE REF:** Civic Awards

**REPORT TITLE:**

**Premiers Award for Active Citizenship**

**SUMMARY OF REPORT:**

Council would be aware that this is the International Year of Volunteers 2001. To acknowledge that the NSW Government has established the Premiers Award for Active Citizenship to heighten community awareness of the contributions that volunteers make to society. The Awards will honour outstanding individuals who give their time and energy to their local community.

**RECOMMENDATION:**

That Council endorses the action taken and nominates the General Manager or his nominee, Manager Environment and Health and Community Worker Aged and Disabled to form the Selection Committee.

# Reports from Director Environment & Community Services

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## REPORT:

Council would be aware that this is the International Year of Volunteers 2001. To acknowledge this the NSW Government has established the Premiers Award for Active Citizenship to heighten community awareness of the contributions that volunteers make to society. The Awards will honour outstanding individuals who give their time and energy to their local community.

The Awards can be hosted by local councils and International Year of the Volunteer Committees who will call for nominations from their communities and select a shortlist of recommended local recipients. The Awards will be presented by the Premier or his representative at a local ceremony.

The selection criteria for the Awards is:-

- Demonstrated personal commitment to the community by freely giving time
- Innovative and outstanding contribution to the community
- Set an example that inspires, motivates or involves others in volunteering.

Each local government area is able to nominate 5 people, two of whom will receive an Award.

The State Government suggests that a small committee be established to oversee the awards and as nominations must be received by 1 September such a Committee has been formed including members of the Voluntary Tweed Advisory Committee and Council officers.

Due to the timeframe involved, the committee has arranged appropriate publicity in the Link and nomination forms.

As the Volunteer Co-ordinator's Network Committee members may be seen to have a conflict of interest in determining the five (5) nominations, it is considered that such should be undertaken by appropriate Council officers, recommended to be the General Manager or his nominee, Manager Environment and Health and the Community Worker Aged and Disabled.

This report is submitted for Council information.

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# Reports from Director Environment & Community Services

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27. **ORIGIN:** Environment & Health Services Unit

**FILE REF:** South Tweed Community Centre

**REPORT TITLE:**

**Proposed Lease - South Tweed Community Centre Offices**

**SUMMARY OF REPORT:**

When the South Tweed Community Hall was constructed it included behind the stage area, two offices which at the time were provided for an identified need for casual use by small community groups. To date this use has not materialised and such use has only been accessed twice. There have been requests from organisations to permanently lease these offices, the latest of which is for the Tweed Valley Respite Service Inc.

**RECOMMENDATION:**

That Council determines this matter.

# Reports from Director Environment & Community Services

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## REPORT:

When the South Tweed Community Hall was constructed it included behind the stage area, two offices which at the time were provided for an identified need for casual use by small community groups. To date this use has not materialised and such use has only been occurred twice. There have been requests from organisations to permanently lease these offices, the latest of which is for the Tweed Valley Respite Service Inc. A copy of their letter appears as an attachment to this business paper.

To rent of offices permanently so that they are independent to users of the Hall will require some minor modification, which would be recouped by any rent.

The issue for Council determination is whether to maintain the offices for casual use by small community groups or lease same. From the experience over the past 12 months there appears little demand and therefore it is considered that Council should look to proceed with the lease option for a period of two – three years and then review the demand.

Further, as other groups have shown interest in leasing and have been advised that the offices were not available, Council could call for Expressions of Interest, for the lease or simply proceed to enter into an arrangement with the Tweed Valley Respite Service Inc which requires expanded accommodation due to its increase in programs.

Thus Council's options are:-

1. To "test the market" by calling for expression of interest for the lease of the offices for community purposes; or
2. Enter into an agreement with Tweed Valley Respite Service Inc, after requesting a suitable rent similar to the rates charged in the HACC Centre.

# Reports from Director Environment & Community Services

## Tweed Valley Respite Service Inc.

(A State and Federal HACC Community Service Funded through DAD&HC)

PO Box 1411

Kingscliff NSW 2487

Telephone (07) 5524 8185

Fax (07) 5524 8735

Email tvrs@norex.com.au

HACC  
DISABLED MATTERS  
LEASE - COUNCIL PROP  
TWEED SHIRE COUNCIL  
FILE No. SOUTH TWEED COMMUNITY CTR  
DOCUMENT No. [ ] [ ] [ ] [ ] [ ] [ ]  
RECD 24 JUL 2001  
BOX No. [ ] [ ] [ ] [ ]  
ASSIGNED TO: BUCKLEY D  
HARD COPY  IMAGE

16<sup>th</sup> July 2001

Mr Don Buckley  
Director  
Environment and Community Services  
Tweed Shire Council  
PO Box 816  
Murwillumbah NSW 2484

Dear Mr Buckley,

I write on behalf of Tweed Valley Respite Service Inc to request consideration of the following matters:

- TVRS Inc has recently been notified that it has been successful in its bid to conduct a Community Access and Day Program across the Tweed Shire. The key element of this service will be to provide access to day programs for adults with disabilities through the provision of a variety of activities and services from various locations throughout the Tweed including the South Tweed HACC Hall, the Murwillumbah HACC Centre and other Community Centres from time to time. It is likely that services will be provided for up to fifty service users a week.
- Management and administration of this new program will be based at the South Tweed HACC centre along with the current management functions for other programs conducted by the Tweed Valley Respite Service including the Host Family Program and the ATLAS (Adult Training, Learning and Support) Program.

However with the addition of the new program, issues of adequate office accommodation arise as there will be the need to increase the numbers of staff to conduct the program. Currently four staff members are housed at the HACC centre and it is now anticipated that new staff will comprise a Manager, Community Placement Officer, five support workers and an administrative assistant. The five support workers do not require permanent office space but do require access to an office station from time to time for report writing and confidential meetings with service users.

- We are requesting permission to occupy and lease the two currently unused offices at the rear of the South Tweed Community Hall. It is envisaged that one office would provide permanent accommodation for the Manager and Administrative Assistant and the other office would be used on a more flexible basis. This flexibility would arise because Day Program staff would be working in the field most of the time with service users and in programs and would only be accessing office space on occasions.

# Reports from Director Environment & Community Services

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- In using one office on a permanent basis and one office on an occasional basis we envisage that the original intention of Council to provide access to other community services who may wish to use the space from time to time can be retained while still generating an income which can assist in maintaining the Hall as a quality community facility.
- In addition if we are able to occupy the offices attached to the Hall we will move the ATLAS program from its currently small office in the HACC Centre. This office may then also be considered suitable for flexible use by community organisations requiring space from time to time. We would retain usage of the other office currently occupied by TVRS Host Family Services.
- We anticipate that rental costs and conditions of use of the new offices would require some further discussion before any final decision would be made and would need to take into account a permanent rental fee for one office and an adjusted fee for the other office taking into account that it would be accessible to other community groups.
- It may also be necessary to discuss access to the offices in terms of connecting with the HACC Centre and minimising interruptions for users of the Hall.
- We will also be regularly booking the Hall for conducting day programs on an average of once or twice a week.
- We would also appreciate the opportunity to discuss the possibility of creating a secure locked space for overnight vehicle storage at the Centre. We will be purchasing an eighteen seater bus to provide transport for people with disabilities to programs and this the most practically housed at the South Tweed facility.
- However our priority at present is to resolve our accommodation issues and to maintain an integrated disability service that administers and manages its programs from a central base.

The new Community Access and Day Program is a long awaited service that will provide support and training activities to substantial numbers of people with disabilities who may be otherwise socially and geographically isolated across the Tweed Shire. We hope Tweed Shire Council will favorably consider our request and look forward to further discussions with you about these matters.

Please do not hesitate to contact me on 0755 248285 if any further information is required.

Yours faithfully



Rosemary Hendry

Chairperson



# Reports from Director Environment & Community Services

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**28. ORIGIN:** Environment & Health Services Unit

**FILE REF:** Noxious Pests

**REPORT TITLE:**

**Entomological Control Report**

**SUMMARY OF REPORT:**

The following report outlines nuisance insect and vermin control carried out during the period May to July and an annual summary of activity.

**RECOMMENDATION:**

That this report be received and noted.

# Reports from Director Environment & Community Services

## REPORT:

### BITING MIDGE

#### Seasonal activity

Biting midge nuisance complaints have remained low throughout the season. There were 4 biting midge related enquires /complaints from residents over the report period.

#### Control

Biting midge larvicide treatments were carried out during July to canal beaches and foreshores at the following sites: The Anchorage, Endless Summer Estate, Crystal Waters Estate, Blue Waters Estate, Tweed Waters Estate and the old Aquatic Club. Oxley Cove Estate will be treated during August. The following table shows midge larval numbers where pre and post spray counts have been completed. Counts are expressed as average midge larvae per square metre of intertidal beach.

SITE	PRE SPRAY/SQ. M.	POST SPRAY/SQ. M.
The Anchorage	984	56
Crystal Waters	1408	64
Endless Summer	576	96
Tweed Waters	1568	112
Control unsprayed	688	784

### MOSQUITOES

#### Revision of mosquito taxonomy and names

There has been a recent taxonomic revision of the worldwide genus *Aedes* which has led to changes in the scientific names of some of this regions common mosquito species. Two species regularly mentioned in these reports to change name are: the common saltmarsh mosquito, *Aedes vigilax*, now known as *Ochlerotatus vigilax*, and *Aedes funereus*, which now becomes *Verrallina funerea*.

#### Seasonal activity

Mosquito breeding was light over the report period with a little activity in the saltmarsh areas and some patchy activity in fresh to brackish water areas..

Carbon dioxide baited traps recorded very low numbers of mosquitoes over the report period. The domestic container breeding mosquito *Aedes notoscriptus* was the most commonly caught mosquito in traps followed by the saltmarsh breeding species *Culex sitiens* and *Ochlerotatus vigilax*.

#### Control

Ground based mosquito control, utilising biological larvicides, was limited to pockets of *Ochlerotatus vigilax* and *Verrallina funerea* breeding around Cobaki and Tweed Heads South.

# Reports from Director Environment & Community Services

## ARBOVIRUS

There were 9 notified Ross River virus cases in the shire over the report period and 5 Barmah Forest virus cases. The majority of the arbovirus notifications occurred in May.

## OTHER PESTS

There were 55 requests for information on miscellaneous pests over the report period. Most requests related to identification of suspected fire ants. No fire ants were identified.

Rodent baiting was carried out in May and July along Tweed River rock walls and Council reserves. Cockroach control was carried out in July to infested sewer mains at Tweed Heads and Murwillumbah.

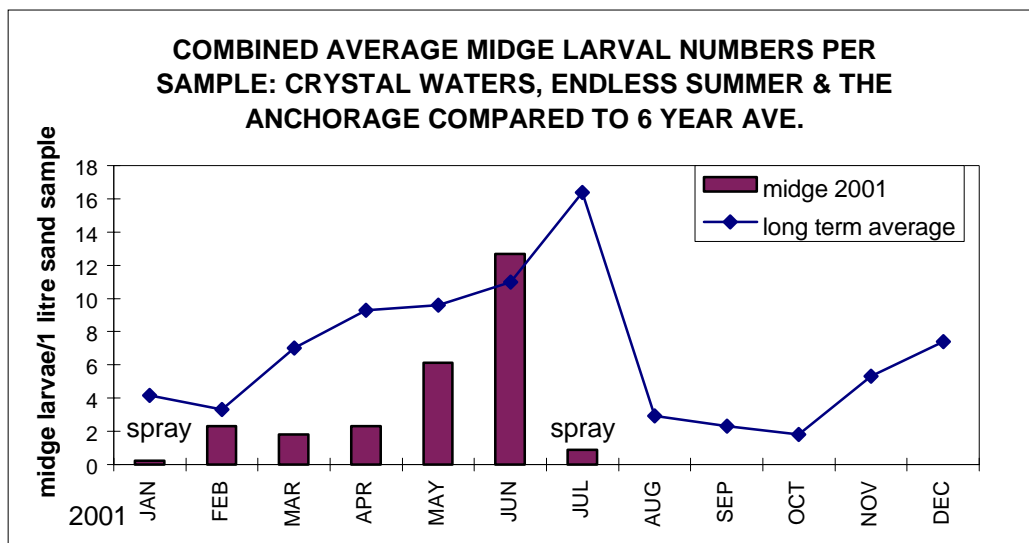
## ANNUAL SUMMARY OF BITING INSECT CONTROL

### BITING MIDGE

#### Seasonal abundance

Biting midge complaint numbers were well below average for every month of the year.

Midge larval numbers on canal beaches were below average during summer, rising to above average prior to July canal sprays. The following graph depicts combined average biting midge larval numbers in 3 principal Tweed River canals compared to long term averages.



#### Control

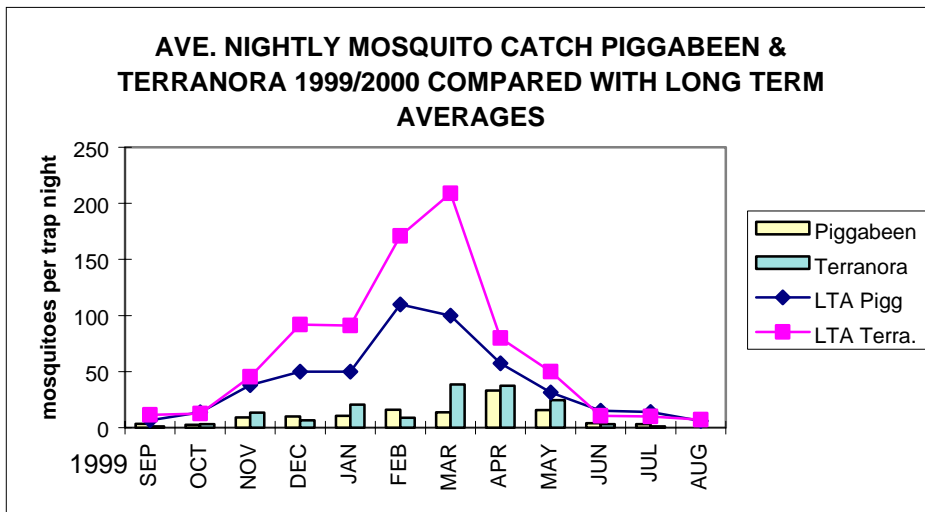
Biting midge larvicide treatments were carried out to midge infested canals during January 2001 with a second treatment during July. Post spray testing confirmed very good control at all sprayed sites.

## MOSQUITOES

### Seasonal abundance

# Reports from Director Environment & Community Services

The Tweed 2000/2001 mosquito season began with less than average mosquito nuisance and complaint. The situation changed dramatically during the February to April period with record numbers of mosquito related complaints from coastal residents. Adult mosquito catch numbers did not reflect the nuisance situation as the majority of the problems were along the coastal strip where *Verallina funerea* bred prolifically in tea-tree swamp following very heavy rain and tidal storm surges flooding coastal creeks. The usually dominant pest mosquito species, *Ochlerotatus vigilax* was controlled by aerial spraying and was not a major nuisance during the later part of the season. The following graph depicts average nightly mosquito catches at West Tweed Heads and Terranora this season compared to long term averages.



## Control

Control activity included ground based application and the use of fixed wing aircraft. Ground based spraying utilised the biological larvicide Bti and the insect growth regulator methoprene, applied to *Ochlerotatus vigilax* and *Verallina funerea* breeding areas.

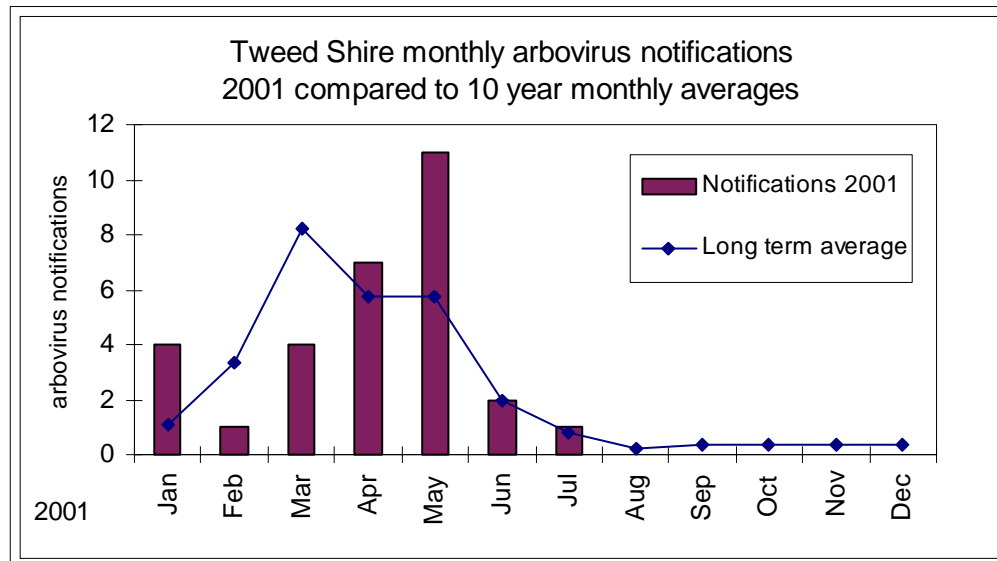
Four aerial applications to control saltmarsh mosquitoes were necessary during the season. Abate sand granules were applied on 4 November and 14 January to vigilax breeding areas at Terranora and on 5 February and 14 March to mixed vigilax/funerea breeding sites at Chinderah and Bilambil.

## ARBOVIRUS

Arboviral activity was moderate for the season. May was the peak notification month with 13.75 arbovirus cases per 100,000 population. Total notifications for January to August 2001 = 22 Ross River virus and 8 Barmah Forest virus

The following graph depicts arbovirus notifications this year compared with long term monthly averages.

# Reports from Director Environment & Community Services



## SEASONAL OUTLOOK, BITING INSECTS 2000/01

### BITING MIDGE

Major canal dredging in all Tweed canal estates to restore canal beaches last season has primed beaches for extensive biting midge breeding over the next few years. Midge larval numbers rose sharply in Autumn in all canal systems. Canal sprays will need to be very effective to curb adult emergence this season.

### MOSQUITOES

Huge numbers of *Verallina funerea*, (the major mosquito problem species last season) were observed during March and April laying eggs around drying pools and depressions throughout the coastal tea-tree and casuarina wetlands. A large reserve of dormant eggs must now exist in these wetlands. If prolonged heavy rainfall floods these wetlands before these eggs lose their viability, plagues of coastal mosquitoes may ensue.

# Reports from Director Environment & Community Services

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# Reports from Director Environment & Community Services

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**29. ORIGIN:** Building Services Unit

**FILE REF:** Buildings, Building Activity Collection-Statistics

**REPORT TITLE:**

**Building Approval Statistics**

**SUMMARY OF REPORT:**

Information was requested at Council's meeting held on Wednesday, 20 June 2001, during Question Time, regarding statistical information relating to building approvals over the last ten (10) years. This report details information prepared from Council's files in this regard.

**RECOMMENDATION:**

That this report be received and noted.

# Reports from Director Environment & Community Services

## REPORT:

Information was requested at Council's meeting held on Wednesday, 20 June 2001, during Question Time, regarding statistical information relating to building approvals over the last ten (10) years. This report details information prepared from Council's files in this regard.

### Building Approval Statistics

Year	Number of Applications Received	\$ Value of Applications Received
1991	1577	118,865,001
1992	1724	118,865,753
1993/94	2010	148,863,753
1994/95	1785	137,757,949
1995/96	1714	108,408,533
1996/97	1742	139,244,706
1997/98	1890	144,470,921
1998/99	1720	70,725,904
1999/00	1828	112,139,784
2000/01	1518	149,197,303



**Dr J Griffin**  
General Manager



# Reports from Committees/Working Groups

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**1. Minutes of the Community Cultural Development Committee Meeting held Thursday 28 June 2001**

**Community Cultural Development Committee**

**VENUE: ROUS ROOM**

**TIME: 3.30PM**

**PRESENT:**

Cr. Boyd; Glenda Nalder; Judith Sutton; Gary Corbett; Lesley Buckley; Brad Pearce (Acting Manager, Environment & Health), Mark Tickle

**APOLOGIES:**

Cr. Carroll

**MINUTES OF PREVIOUS MEETING:**

**Moved: Cr Max Boyd**

**Seconded: Glenda Nalder**

**RESOLVED** that the Minutes of the Community Cultural Development Committee meeting held 31 May 2001 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

**1. Tony King Resignation & Tweed Art Network (TAN)**

The committee acknowledged the enormous contribution Tony has made to Council's advisory committee as well as the cultural landscape of the Tweed. His enthusiasm will be hard to replace.

# Reports from Committees/Working Groups

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Lesley advised that confirmation regarding TAN and Tweed Valley Arts Council (TVAC) merger/alliance would be ratified following TVAC AGM.

*Lesley to send a letter of appreciation and thanks to Tony on behalf of the CAC.*

**MOVED:** Cr. Boyd  
**SECONDED:** Glenda Nalder

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## GENERAL BUSINESS:

### 2. Economic Development Strategy 2001 – Presented by Mark Tickle

Mark tabled draft working paper – *Community and Cultural Industry Development Strategies 2001 – 2003* for Committee's response and input.

In developing the Community and Cultural Industry development strategies Mark has focused on key objectives that directly relate to and consider Council's Cultural Policy: Land, Employment, Investment and Business Leadership -

Notes on discussion:

Partnership and working relationship with Tweed Economic Development Corporation and other key providers such as TACTIC will be crucial to the outcome

#### **Re: Key Objective 1. Land**

#### **Project & Actions - *Conduct a study to identify heritage of the Tweed***

Lesley provided information by Dennis McManus, Program coordinator for the Heritage Council of NSW (Information as at 1999).

Currently only 31 items are included on the State Heritage Inventory. This includes everything listed under the LEP, the Heritage Act and the Register of the National Estate. Legal protection is afforded to only 21 of those items.

The process local government can take:

#### 1. Heritage consultant is contracted to survey Shire

Apparently TSC received funding in 1995 (\$11,250). The consultancy was started (\$4,000 used) and then stalled leaving \$7250 unspent

Apparently a further \$10,00 was allocated in 1996. These funds have not been used

*Lesley to follow up*

#### 2. The findings are implemented, LEP listings enlarged

Ongoing management and heritage items

# Reports from Committees/Working Groups

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May involve the employment of a Heritage Adviser, the establishment of a local heritage fund, the formation of a heritage committee.

*Funding is available for some of the above, usually on a dollar for dollar basis.*

*Lesley to follow up funding opportunities to complete study*

According to the Heritage Office, our lack of heritage management is a disaster waiting to happen. We can't protect our heritage unless we know what we have to protect.

It was noted that we need guidance on indigenous issues.

## **Key Objective 4 - Business Leadership**

### **Project & Actions - Investigate the feasibility and opportunities based on an arts and crafts incubator concept for the Tweed**

TAN'S stalled initiative to research and survey the economic value of the Arts and cultural industry of the Tweed would provide the statistical information required for the feasibility study. TAN has done much in the way of costing and researching potential consultants.

*The Committee to come back with ideas and additions that will assist the drafting of the management plan.*

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## **3. Public Art Policy**

In order to facilitate the development of a Public Art Policy it was decided to establish a Public Art Working Party, initially comprising, Gary Corbett, Glenda Nalder and Lesley Buckley.

The Working Party will oversee the drafting of Tweed's Public Art Policy. The role of the Working Party will also include the promotion of Council's aims via education and advocacy for public art.

*Lesley to set initial meeting date.*

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## **4. Cultural Development Officers monthly report**

Lesley Buckley tabled her monthly report for the information of members.

# Reports from Committees/Working Groups

## 5. Committee Expansion

### Community Cultural Development Committee

As a number of representatives from various cultural organisations have ceased coming to the meetings it is recommended that Council contact the following organizations and invite them to appoint a new representative.

**Moved: Glenda Nalder**

**Seconded: Max Boyd**

#### RECOMMENDATION:

That Council contacts the following organisations to invite them to appoint a new representative.

- Tweed Valley Arts Council
- Combined Historical Society
- TAFE

#### NEXT MEETING:

The next meeting of the Community Cultural Development Advisory Committee will be at 3.30pm, Thursday 2<sup>nd</sup> August 2001 in the Rous Room.

The meeting closed at 5.20pm

*Director's Comments: Nil*

#### DIRECTOR'S RECOMMENDATIONS:

##### Business Arising:

### Community Cultural Development Committee

#### Committee Recommendation:

That Council contacts the following organisations to invite them to appoint a new representative.

- Tweed Valley Arts Council
- Combined Historical Society
- TAFE

#### *Director's Recommendation:*

*That the Committee's recommendation be endorsed.*

# Reports from Committees/Working Groups

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# Reports from Committees/Working Groups

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## 2. Minutes of the Floodplain Management Committee Meeting Held Wednesday 18 July 2001

File No: Floodplain Management

**VENUE:**

Civic Centre Murwillumbah

**TIME:**

10.00am

**PRESENT:**

Cr Beck, Cr Boyd, Cr Marshall, Cr Brinsmead; Messrs P Reynolds, J Everingham, T Flood (SES) J Henley & J Wilson (TSC)

**APOLOGIES:**

Mr I Taylor (Department of Land & Water Conservation)

**MINUTES OF PREVIOUS MEETING:**

**Moved: T Flood**

**Seconded: J Henley**

**RESOLVED** that the Minutes of the Floodplain Management Committee Meeting held Friday 22 January 1999 be accepted as a true and accurate record of the proceedings of that meeting.

**GENERAL BUSINESS:**

### 1. East Murwillumbah/Dorothy Street Levees

The proposal for the upgrading of the levee protecting East Murwillumbah to exclude the 1:100yr flood and the provision of a levee to this height to protect the Dorothy/William Street area was submitted for funding under the Federal Government 3 year Regional Flood Mitigation Program. This program is now in its third year and on the basis of priorities assigned for these NSW projects, is not likely to be funded. There have however been reports that the Federal Government may provide a similar program with increased funding, in coming years.

**Moved: Boyd**

**Seconded: Everingham**

**RESOLVED** that a deputation from the Committee meet with the Federal Member for Richmond, Mr Larry Anthony MP, preferably on-site at the earliest opportunity.

# Reports from Committees/Working Groups

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## 2. Floodplain Management Manual - 2001

### Floodplain Management

Changes in the new manual were outlined and discussed. It was agreed that DCP 5 and current advice provided by Council on 149 Certificates needed to be brought into line with the new Manual.

Decided that these issues should be managed by an expanded Floodplain Management Committee.

### RECOMMENDATION:

That:-

1. The Floodplain Management Committee manage the review of DCP5 and flood information provided on 149 Certificates.
2. The Committee comprise the current membership of Crs Beck, Boyd, Brinsmead and Marshall, John Henley and a nominee of the Director Development Services, Mr Tom Flood (SES), Dept of Land & Water Conservation, Mr M J Everingham, Mr P Reynolds (Murwillumbah) and in addition M/s Felicia Cecil, Mr Bruce Graham and the Presidents of the Tumbulgum & Pottsville Progress Associations, or their nominees be invited to join the Committee for this review.

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## 3. DCP 4 and Restricted Development Below Flood Level

The recent approval by Council of a building at Tumbulgum permitting the enclosure of an area below the design flood level of well in excess of 50sq metres was discussed. It was suggested that where flood flow restrictions were not crucial, variations may be able to be approved if the owner accepts more responsibility in flood events.

Decided that the Manager Water, John Henley report to Council on an option providing a restriction on the property title, or similar, in such instances.

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### NEXT MEETING:

The next meeting of Floodplain Management Committee Meeting will be held when required.

The meeting closed at 11.20am

<b>Director's Comments:</b>
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<i>Nil</i>
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# Reports from Committees/Working Groups

## DIRECTOR'S RECOMMENDATIONS:

### 2. Floodplain Management Manual - 2001

Floodplain Management

#### Committee Recommendation:

That:-

1. The Floodplain Management Committee manage the review of DCP5 and flood information provided on 149 Certificates.
2. The Committee comprise the current membership of Crs Beck, Boyd, Brinsmead and Marshall, John Henley and a nominee of the Director Development Services, Mr Tom Flood (SES), Dept of Land & Water Conservation, Mr M J Everingham, Mr P Reynolds (Murwillumbah) and in addition M/s Felicia Cecil, Mr Bruce Graham and the Presidents of the Tumbulgum & Pottsville Progress Associations, or their nominees be invited to join the Committee for this review.

***Director's Recommendation:***

*As per Committee recommendation.*



# Reports from Committees/Working Groups

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## 3. Minutes of the Communication Committee Meeting held Wednesday 1 August 2001

**File No: Communication Committee**

**VENUE:**

Oxley Meeting Room

**TIME:**

1.20pm

**PRESENT:**

Cr Carroll, Ms Jude Robb, Mr Ray Carlile, Director Corporate Services (I Carpenter), Civic Liaison Officer (M Smith)

**APOLOGIES:**

Nil

**MINUTES OF PREVIOUS MEETING:**

**Decision:** that the Communication Committee meeting held Wednesday 4 July 2001 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

### 2. Contacting Council

I Carpenter reported that an advertisement had been placed in the Tweed Link outlining ways that residents can contact Council.

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**AGENDA ITEMS:**

### 1. Additional Community Representative

**Communication Committee**

**RECOMMENDATION:**

That the:

1. Two (2) community representatives on the Communication Committee remain for the rest of this Council's term in office.
  2. New Council considers the appointment of a third community representative via advertisement and the Committee determines the successful applicant.
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# Reports from Committees/Working Groups

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## 2. Resignation - Elected Member

The resignation of Cr Wendy Marshall was read and accepted. It was decided not to seek a replacement Councillor now, considering appointments to Council's Sub-committees is usually made in September.

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## 3. Tweed Link

M Smith reported that Tweed Shire Council was a finalist in the 2000 RH Dougherty Award for Annual Community Reporting and Excellence in Communications. Council was highly commended in the excellence in communications in the 60,000 to 100,000 residents bracket.

The reports from the finalists were reviewed at the meeting.

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### GENERAL BUSINESS:

## 4. Annual Report

Community members reported good feedback on the Annual Report. A request was received for more financial information next year. It was recommended to the editor of Tweed Link that residents be notified when the more detailed audited annual report is available at libraries. The report is with IT for inclusion on the website.

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## 5. Position of Part-time Journalist

The committee was informed that Marion Walsham had been appointed to the part-time journalist position at Council.

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## 6. Registering Mail

### Communication Committee

The committee asked about what progress had been made in relation to an earlier request by the committee for clarification regarding the procedures to register mail addressed to the Mayor.

# Reports from Committees/Working Groups

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## RECOMMENDATION:

That all inwards and outwards correspondence (mail, fax and e-mail) addressed to the Office of the Mayor be processed in accordance with Council's standard records management procedures.

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### 7. "Sustaining the Tweed" Logo

The Director of Environment and Community Services Don Buckley addressed the committee regarding Community Options developing a variation of the "Sustaining the Tweed" logo for use on their brochures. He reported that the Executive Management Team supported the concept of using the logo on Council brochures and allowing suitable adaptations to the logo for the differing Council programs.

**Decision:** That the Communications Committee supports the branding of all Council brochures with the Tweed corporate logo but also supports the use of the adaptations of "Sustaining the Tweed" logos in conjunction.

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### 8. Communication Committee Achievements

Community member Ms Jude Robb listed the achievements to date of the communications committee during the life of this council:

<b>December 1999</b>	Documenting the roles and responsibilities of members of the Communication Committee.
<b>February 2000</b>	Committee initiated the introduction of proof reading strategies to enhance the quality and consistency of literature produced by Council.
<b>May 2000</b>	Review of Council Policy regarding the access to and use of Community Access Procedures.
<b>June 2000</b>	Review of proposed policy and guidelines for use of Electronic Communication Devices.
<b>August 2000</b>	Commencement of review of Consultation guidelines within the Council Communication Policy.
<b>August 2000</b>	Review of Communication Policy.
<b>October 2000</b>	Film Policy
<b>December 2000</b>	Community consultation model, the 'Simalto Communication Survey Tool' recommended to Council.
<b>April 2001</b>	Review of Council correspondence management system.
<b>April 2001</b>	Standards of Customer Service (Telephone)
<b>May 2001</b>	Dealing with People draft policy (Difficult Complainants)
<b>July 2001</b>	Resolution from Committee re standards of written communication from Council staff.

# Reports from Committees/Working Groups

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## 9. Consultation Policies

The Civic Liaison Officer and the Director of Corporate Services were asked to obtain models and policies of consultation policies of other Councils.

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### NEXT MEETING:

The next meeting of the Communication Committee will be held at Tweed Heads Civic Centre at 3.30pm on Thursday, 13 September 2001.

The meeting closed at 2.45pm.

***Director's Comments:***

*That the recommendation of agenda items 1 and 6 be adopted.*

### DIRECTOR'S RECOMMENDATIONS:

#### 1. Additional Community Representative

**Communication Committee**

#### Committee Recommendation:

That the:

1. Two (2) community representatives on the Communication Committee remain for the rest of this Council's term in office.
2. New Council considers the appointment of a third community representative via advertisement and the Committee determines the successful applicant.

***Director's Recommendation:***

*That the Committee's recommendation be endorsed.*

#### 6. Registering Mail

**Communication Committee**

#### Committee Recommendation:

That all inwards and outwards correspondence (mail, fax and e-mail) addressed to the Office of the Mayor be processed in accordance with Council's standard records management procedures.

***Director's Recommendation:***

*That the matter be referred to the General Manager and Mayor to develop a protocol for handling*

# Reports from Committees/Working Groups

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*inwards/outwards correspondence addressed to or from the mayor that is relevant to the Council.*

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# Reports from Committees/Working Groups

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## MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

4. Minutes of the Centenary of Federation Advisory Committee Special Meeting held Thursday 21 June 2001
  5. Notes of the Tweed Shire Council Access Advisory Committee Meeting held Thursday 19 July 2001
  6. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 19 July 2001
  7. Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 24 July 2001
  8. Minutes of the Community Advisory Committee Meeting held Thursday 26 July 2001
  9. Minutes of the Regional Companion Animal Committee Meeting held 30 July 2001
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# Orders of the Day

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**1. Notice of Motion - Cr Marshall**

**Section 94 Plan for the Banora Point Community Centre and Associated Matters**

**Notice of Motion, DA1393/320 Pt1**

*That Council holds a meeting, chaired by the General Manager, at the South Tweed Community Centre, to provide information of the requirements of the Section 94 Plan for the Banora Point Community Centre, the need for the centre and the proposed and possible uses of the building and that the architect be invited to participate at the meeting.*

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**2. Notice of Motion - Cr Boyd**

**Election of Mayor**

**Notice of Motion, Elections-Mayoral**

*That the date for the election of Mayor be Wednesday, 5 September 2001.*

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# Orders of the Day

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# Workshops

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Councillors,

Following are details of upcoming Workshops of Council:-

**1. Coastal Hazard Study Workshop**

**Coastal Management**

**Date:** 12 September 2001

**Time & Duration:** 3.00pm – 4.00pm then continued 7.30pm – 9.30pm

**Organiser:** Director Engineering Services

**Resolved by Council:** *(Endorsed by EMT 8/8/2001)*

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# Workshops

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