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Items for Consideration of Council

CONFIDENTIAL

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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 5

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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

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3. ORIGIN: Environment & Health Services Unit 15

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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 15

Schedule of Outstanding Resolutions

20 SEPTEMBER 2000

REPORTS FOR DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

27. Awnings over Footpaths - Risk Management Policy and Procedures

Building Code

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.

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.

7 MARCH 2001

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

4. **Installation of a Telecommunications Facility at Lot 8 DP 804836 No 349 Pottsville Road, Sleepy Hollow**

DA4420/94 Pt1

796

Cr Luff

Cr Boyd

RESOLVED that:

1. Development Application No 1229/2000DA for the installation of a telecommunications facility at Lot 8, DP 804836, Pottsville Road, Sleepy Hollow be deferred and the applicant requested to provide additional information in relation to the assessment of alternative siting options.
2. A further report be forwarded to Council following receipt of the additional information.

Current Status: To be finalised.

21 MARCH 2001

REPORTS FROM SUB-COMMITTEES

2. **Minutes of the Tweed River Management Plan Advisory Committee Meeting held Wednesday 7 February 2001**

Tweed River Management Plan

6. **Commercial Boat Operations on the Tweed Estuary**

Boating, Development Applications

887

Cr Marshall

Cr Boyd

RESOLVED that Council investigates development of a by-law to charge a penalty fine for vessels illegally moored on public facilities.

Current Status: To be finalised.

Schedule of Outstanding Resolutions

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:

1. Planning in progress to implement Item 1.
2. Report on the repairs/maintenance of the dwelling to be completed after other work completed.

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.

Current Status: To be completed

Schedule of Outstanding Resolutions

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: Study to be undertaken.

Items Deferred

ITEM DEFERRED FROM MEETING 7 MARCH 2001

4. *Installation of a Telecommunications Facility at Lot 8 DP 804836 No 349 Pottsville Road, Sleepy Hollow*

DA4420/94 Pt1

796

Cr Luff

Cr Boyd

RESOLVED that:

1. *Development Application No 1229/2000DA for the installation of a telecommunications facility at Lot 8, DP 804836, Pottsville Road, Sleepy Hollow be deferred and the applicant requested to provide additional information in relation to the assessment of alternative siting options.*
2. *A further report be forwarded to Council following receipt of the additional information.*

This item is the subject of a further report at Item 3 of this Business Paper

4. ORIGIN: Development Assessment Unit

FILE REF: DA4420/94 Pt1

REPORT TITLE:

Installation of a Telecommunications Facility at Lot 8 DP 804836 No 349 Pottsville Road, Sleepy Hollow

SUMMARY OF REPORT:

This report provides an assessment of a proposed Telecommunications Facility at Lot 8 DP 804836 No 349 Pottsville Road, Sleepy Hollow. The site is zoned 1(a) Rural and contains a rural tourist facility "Pioneer Plantation". The proposed tower is 30 metres high.

Although not statutorily required, the application was notified and advertised in accordance with Council policy. Four (4) submissions and one (1) petition with 25 signatures were received and are detailed in this report.

The most significant potential impact in relation to the proposal is the visual impact. However, given the nature of the proposed development, the location of the site and the general topography of the area, it is considered that the proposal is satisfactory in this regard.

Items Deferred

The siting of the tower on land containing a rural tourist facility is not considered ideal. In relation to siting options, the Statement of Environmental Effects submitted by the applicant indicates that only one other site was evaluated in the site selection process and was discounted “primarily on radio frequency grounds”. Given the limited consideration and assessment provided regarding the siting of the tower, it is recommended that the determination of the application be deferred pending the provision of additional information from the applicant to address this issue.

RECOMMENDATION:

That:

1. Development Application No 1229/2000DA for the installation of a telecommunications facility at Lot 8, DP 804836, Pottsville Road, Sleepy Hollow be deferred and the applicant requested to provide additional information in relation to the assessment of alternative siting options.
2. A further report be forwarded to Council following receipt of the additional information.

Items Deferred

REPORT:

Applicant: Optus Mobile Pty Ltd

Owner: Harsha Holdings PTY LTD

Location: Lot 8, DP 804836, No. 349 Pottsville Road, Sleepy Hollow

Zoning: 1(a) Rural

Est Cost: \$130,000.00

BACKGROUND

Council is in receipt of a development application from Optus Mobile Pty Ltd for the erection of a telecommunications facility (mobile phone base station) at Lot 8 DP 804836 Pottsville Road Mooball. The proposal is not a “Low Impact Facility” as defined in the Commonwealth Telecommunications Act 1997 and in accordance with that Act development consent is required from Council for the proposal.

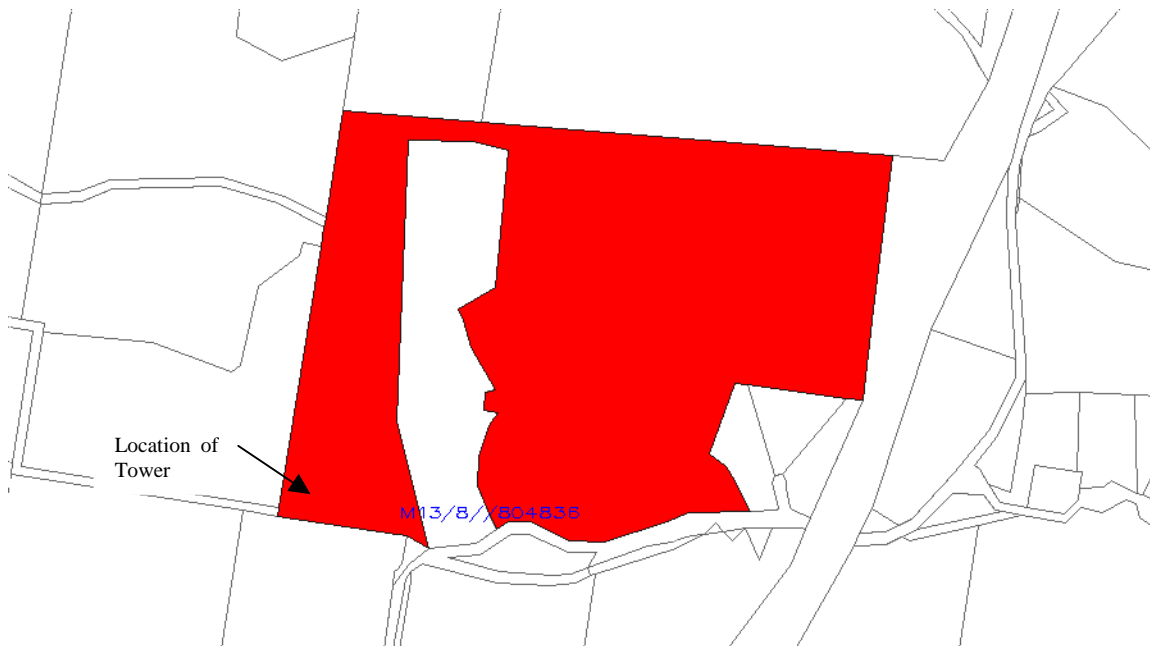
The subject site contains a rural tourist facility “Pioneer Plantation”. The proposed development involves the installation of a 30 metre high telecommunications lattice tower supporting two (2) omni antennas pole mounted on a headframe and one (1) 600mm in diameter radio communications dish leg mounted to the lattice tower at 26 metres in height. All electronic equipment would be accommodated in an equipment shelter erected at the base of the lattice tower. The proposal will also involve the erection of security fencing. The area in which the base station will be sited is adjacent to the southern boundary of the property and approximately 350 metres to the west of the existing main Pioneer Plantation building.

The Statement of Environmental Effects submitted with the development application indicates that coverage to the Sleepy Hollow area requires upgrading. Although the area has Optus mobile telecommunications coverage, the level of service is poor and Optus customers are experiencing call “dropouts” because of capacity problems with surrounding base stations.

The site is zoned 1(a) Rural and telecommunications infrastructure is permissible with development consent.

Items Deferred

Site Diagram



Considerations Under Section 79c Of The Environmental Planning And Assessment Act 1979

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

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No. 44 – Koala Habitat Protection – The site is not identified as potential Koala habitat and a Plan of Management is not required.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

The proposal is considered to be consistent with the provisions of this Plan. Clause 12 of NCREP 1988 relates to the impact of development on agricultural activities. The proposed development is not considered likely to result in adverse impacts on the use of adjoining or adjacent agricultural land or cause a loss of prime crop or pasture land.

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 1(a) Rural under the TLEP 2000. The proposal is defined as “telecommunications infrastructure” which is permissible with consent in the 1(a) Rural zone. The proposal is considered to be consistent with the objectives of the zone.

Clause 22 of TLEP 2000 requires Council to be satisfied of a number of factors prior to granting consent to development on land which has frontage to a designated road, including the following:

- (a) the development is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and

Items Deferred

- (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, 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 within 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, 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.

Pottsville Road is a designated road. The proposed development will not generate sufficient traffic to constitute a traffic hazard, materially reduce the capacity or efficiency of the designated road, or impede traffic movement on the designated road. Access to the proposed tower will be gained via the existing access to "Pioneer Plantation" and the development will not prejudice any future improvements to, or realignment of the road. The development is required to be sited in the locality for reasons related to radio frequency grounds. The development is not a type that is sensitive to traffic noise. The proposed tower will be visible from both the Pottsville Road and from the proposed Yelgun to Chinderah Motorway. The proposed tower will be painted "mist green" and is located in an area of significant vegetation which will assist in screening it.

Clause 24 of TLEP 2000 applies to land zoned 1(a) Rural and requires the proposed tower to be setback 30 metres from Pottsville Road which is a designated road. The tower is setback approximately 180 metres from the Pottsville Road.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

No draft environmental planning instruments are applicable to the proposed development.

(a) (iii) Development Control Plans (DCP's)

There are no DCPs which apply to this proposal.

(a) (iv) Any Matters Prescribed by the Regulations

There are no prescribed matters which affect this proposal.

(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

Context and Setting

The south-western corner of the site in which the tower is proposed is characterised by a ridge which runs in an east-west direction at an elevation of approximately 100 metres. The facility is proposed to be constructed within an area adjacent to a banana plantation. The site is located in a rural area which is used for a number of agricultural pursuits. The steeper and more elevated land

Items Deferred

in the general locality contains native forest. There are a number of dwellings in the locality with the closest located approximately 150 metres from the proposed tower.

Visual Impact

Due to the proposed height of the tower, its location on a ridgeline and the necessity for the antennae to be above the tree line to function properly, the tower and antennae will be visible from surroundings areas. The tower will be most visible as viewed from the north-east on Pottsville Road heading in a southerly direction. The tower will also be visible from the proposed Yelgun to Chinderah Motorway. The structure will be less visible from the west due to the intervening ridge system.

The applicant has submitted the following comments in relation to visual amenity:

“...the telecommunications tower will be located adjacent to significant vegetation which will assist in screening a portion of the facility from rural dwellings. In addition to the screened vegetation, the proposed facility will be painted “mist green” to blend in with the surrounding vegetation, thus minimising any adverse views.

Additionally, the equipment shelter will also be painted “mist green” to colour match with the proposed infrastructure. As such, adverse views of the Optus shelter will be mitigated.”

It is considered appropriate to paint the tower a blue / grey tone rather than a green colour so that it blends in with the sky when viewed from a distance. The existing vegetation surrounding the site of the proposed tower will reduce the potential visual impacts of the facility.

These facilities have a visual impact due to the selected locations for their siting generally being in elevated areas. These facilities are essential public infrastructure and given the proposed measures to reduce the potential visual impact, it is concluded that the proposal is acceptable in this regard.

Access/Traffic

Access to the site is proposed via the existing access to Pioneer Plantation and internal access tracks. Minimal traffic will be generated by the proposal following construction and the existing road network is capable of catering for it.

Environmental Impacts

The earthworks proposed include minor grading of the site and standard conditions will be placed on any consent concerning erosion control.

Social/Economic Impacts

The proposal will not create any adverse noise impacts on residents in the locality. The proposal is satisfactory in relation to electromagnetic radiation.

The proposal will result in an improved mobile phone network and should not result in significant adverse social or economic impacts.

Items Deferred

(c) Suitability of the site for the development

Adjacent developments do not represent a constraint to the proposed development. The land can be adequately serviced and potential environmental impacts can be satisfactorily managed. The Statement of Environmental Effects submitted with the development application provides a limited assessment of potential alternative sites. One site, Cowell Park, Pottsville Road, Mooball, was considered and discounted “primarily on radio frequency grounds, as the desired coverage from the proposed base station could not be achieved from this site”. The suitability of siting the proposed tower on land containing a rural tourist facility has not been adequately addressed by the applicant. It is recommended that the applicant be requested to provide a further, more detailed assessment of potential alternative siting options.

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

Although not statutorily required, the proposed development was advertised and adjoining land owners notified of the proposed development. Four (4) submissions and one (1) petition with 25 signatures were received. The following grounds for objection were raised in relation to the proposed development:

Issue	Assessment	Comment
<p>Health Risk</p> <p>Banana packing shed approximately 50m away and homes within c. 150m – concern regarding radiation</p>	<p>Optus have provided information stating that on the basis of relevant research on EME to date, the proposed mobile telecommunication base stations will not pose a risk to human health. The standards set by the Australian Communications Authority for exposure to radio signals is 200 micro watts per square centimetre. The conclusions of tests performed by Optus are that RF fields at ground level from their base stations are up to 1000 times below the ACA standard of 200 microW/cm². In relation to the proposed development the maximum field strengths that the site is expected to generate at peak usage have been calculated. The maximum power flux density level, has been</p>	<p>It is considered that the potential health risk of the proposal does not warrant refusal of the application on the basis of information available.</p>

Items Deferred

Issue	Assessment	Comment
	calculated to be 0.076 micro/Wcm ² , at a distance of 18 metres from the site. This measurement is 0.038% of the current standard.	
Proposal will be visible from verandah of adjacent property	The proposed development will be visible from surrounding properties and roads. It is considered that given the proposed measures to mitigate the potential visual impact, the proposed tower is acceptable. Existing vegetation will screen the tower to some degree as viewed from surrounding properties. It is also proposed to require the tower to be painted a blue / grey colour which will reduce the potential visual impact of the tower.	The potential visual impact of the development is not considered to warrant refusal of the proposal.
Impact on Property Values Facility will devalue property	There is no information available to support this statement.	This issue does not warrant refusal of the application.

(e) Public interest

The proposal is beneficial to the public interest in terms of the improved mobile phone service in the locality.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS:

If the applicant is not satisfied with Council's determination, they have a right of appeal to the Land and Environment court.

OPTIONS:

Options in this instance appear to be as follows:-

Items Deferred

1. Defer the application pending the provision of additional information addressing alternative siting options as per the recommendation.
2. Approve the application subject to conditions as per the recommendation.
3. Refuse the application.

CONCLUSION

The application has been reviewed by Council's Environment and Community Services Division and no objections raised to the proposal subject to conditions. The applicant has provided a limited assessment of potential alternative siting options. It is considered appropriate to defer the application pending the provision of additional information to address this issue.

Items Deferred

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Reports from Director Development Services

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

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

MATTERS FOR CONSIDERATION

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

Reports from Director Development Services

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Reports from Director Development Services

1. ORIGIN: Strategic Town Planning Unit

FILE REF: White Paper; Acts & Ordinances - EPA

REPORT TITLE:

White Paper on the Review of Plan Making Provisions of the Environmental Planning and Assessment Act

SUMMARY OF REPORT:

The Minister for Urban Affairs and Planning has put forward a White Paper on the Review of the Plan making provisions of the Environmental Planning and Assessment Act. This deals with the following critical elements of the planning system: LEP, DCP, S94 Contribution Plan, Regional and State Planning Policies.

The White Paper presents the Government's position on the Review of the Plan making process. It does not include the detailed legislative proposals to achieve the Review; that is anticipated later this year. Meaningful comment has therefore been made difficult.

Nevertheless, from the outset it must be said that an overhaul of the Plan making process is overdue. The current system is cumbersome and does not provide an integrated outcome of social, economic and environmental issues which is appropriate for growth areas such as the Tweed.

However, there are concerns in respect of the Review.

RECOMMENDATION:

That the Acting Director of Development Services be delegated to inform the Department of Urban Affairs and Planning of Council's comments based on the section entitled "Issues Arising From Plan First" as set out in this report.

Reports from Director Development Services

REPORT:

The White Paper was the subject of a Council Workshop on 11 April, 2001.

The Minister for Urban Affairs and Planning has put forward a White Paper on the Review of the Plan making provisions of the Environmental Planning and Assessment Act. This deals with the following critical elements of the planning system: LEP, DCP, S94 Contribution Plan, Regional and State Planning Policies.

The White Paper presents the Government's position on the Review of the Plan making process. It does not include the detailed legislative proposals to achieve the Review; that is anticipated later this year. Meaningful comment, as will be made clear in this report, has therefore been made difficult.

Before identifying the consequences of the Review there follows:

- a brief description of the Review;
- a brief review of current problems.

THE REVIEW

The White Paper states that Plan First will:

- Simplify the current complex web of plans and processes;
- Provide greater certainty to business and the community and clear accessible information to users;
- Coordinate decisions and actions that shape the future of neighbourhoods and environments;
- Recognise the diversity and dynamic nature of our neighbourhoods and environment by managing whole places, drawing together different issues into a single plan;
- Better involve the community and key interest groups, including those that are often marginalised: older people, young people, and ethnic and indigenous communities;
- Produce strategies and plans that are up-to-date and actively implemented, and have measured results;
- Produce strategies and plans that help to deliver:
 - Sustainable management of our resources;
 - Environmental protection;
 - Jobs and infrastructure;
 - Suitable and affordable housing;
 - Healthy and vibrant communities;

Reports from Director Development Services

- Neighbourhoods that are attractive and safe.

To achieve this Plan First contains three levels of planning documents: local plans, regional strategies and State Planning Policies. These are detailed in Figure 1. The key elements of these plans are:

- A whole-of-government strategic approach to urban, regional and rural planning, to help achieve sustainability;
- Clear rules for businesses and landholders in plans that are user-friendly and easily accessible;
- A more versatile planning 'toolbox' for implementing plans and delivering results;
- Greater community involvement in plan making;
- Working towards sustainability;
- Minimising referrals through a more strategic approach;
- Evaluating cumulative impacts;
- Regular monitoring and review.

Looking specifically at Council's involvement, a local Plan will:

- Be the strategic whole of council plan;
- Provide a single mechanism that coordinates and focuses a council's planning activities;
- Be a single plan, replacing in some cases hundreds of local environmental plans and development control plans;
- Cover a whole of government area, setting the direction for at least 3-5 years;
- Be consistent with the regional strategy and implement its outcomes in local areas;
- Not only contain development controls applying to a local government area but will bring together other council programs – it will provide a whole of council framework for social and community planning, heritage conservation and section 94 planning, and provide a focus for state of the environment reporting.

Its relationship with Council's Management Plan is set out in Figure 2. The Local Plan will contain a strategic component (framework and directions for achieving a sustainable local area) and actions for implementation. The process for preparation will be based on the following:

1. Pre-plan consultation;
2. Community involvement in preparation of the draft plan;
3. Draft plan exhibited, along with a statement of consistency with the regional strategy;

Reports from Director Development Services

4. At least one 'examination in public' of the draft plan to allow full public debate on the plan;
5. Draft plan finalised by the council;
6. The Regional Forum provides advice to the Minister for Urban Affairs and Planning on the statement of regional consistency;
7. Draft plan and Regional Form advice submitted to the Minister for Urban Affairs and Planning seeking concurrence;
8. The council approves the plan.

The Regional Strategy is based on similar principles to the Local Plan. It will be a region's principal environmental planning document. It will be compiled through a multi-disciplinary process involving State agencies and local councils, and be submitted to Regional Forums who will prepare a report on the Strategy, prior to it being submitted to the Government for approval. The Forum will be made up of key players in the Region.

The Tweed is included in the North coast Region which stretches from the State Border to Taree as indicated by Figure 3.

ISSUES ARISING FROM PLAN FIRST

Without the Legislation it is hard to make detailed comments. Nevertheless, from the outset it must be said that an overhaul of the Plan making process is overdue. The current system is cumbersome and does not provide an integrated outcome of social, economic and environmental issues which is appropriate for growth areas such as the Tweed. More importantly, the current system of Regional and State plans and policies does not provide a comprehensive strategic framework for planning by local councils. Therefore, notwithstanding the lack of detail in the White Paper as to how the system will actually work in practice, the review should be welcomed as it:

1. Promises a more rigorous and integrated basis for planning than the current system;
2. Reflects much of the approach to planning in the Tweed.

A number of concerns at the White Paper were expressed at Council's Workshop, including:

1. The resources required to make the Review work, particularly for councils;
2. The format of local plans, particularly any removal of zones;
3. Consequently the status of a local Plan and its relationship with the appeals process;
4. The identification of the Region; the make up and status of the Regional Forum and the ability of State Government to provide the resources for the Forum to implement its Plan;
5. The ability of the State Government to produce a State Planning Policy.

Reports from Director Development Services

Reports from Director Development Services

2. ORIGIN: Development Assessment Unit

FILE REF: DA4040/5115 Pt2

REPORT TITLE:

Proposed Rural Tourist Facility at Lots 1, 2 & 3 in DP 567745, Pacific Highway, Fernvale

SUMMARY OF REPORT:

The above development application was last before Council at its meeting dated 7 February 2001 when it was resolved to invite the applicant to undertake further consultation with the Roads & Traffic Authority (RTA) in order to resolve outstanding issues relating to traffic safety and intersection works at the above mentioned site.

The proposal incorporates the establishment of a rural tourist facility and upgrading of the existing Pacific Highway intersection to facilitate the same. In this regard the RTA was consulted, as their approval for works within the road would be required. After consideration of the proposal, the RTA has advised that approval would not be granted on the basis that proposed access arrangements are unsatisfactory. Council's Engineering Services Division has also supported this view.

Despite all other issues being considered generally satisfactory, the lack of adequate and safe access and egress is considered to be a determining constraint to the granting of approval. Given the stance of the RTA, the applicant has canvassed the option of issuing deferred commencement consent, with the carrying out of required road works being the deferred matter. As access to the development is a critical and unresolved issue, it is not considered appropriate to issue deferred commencement consent. Furthermore, there is no certainty when and if Council will take control of the road, nor what conditions or level of future usage will apply. For the latter reasons, the granting of approval, albeit on a deferred basis is considered to be inappropriate. Rather, the applicant would be best advised to re-submit an application for development when ownership of the road, speed restrictions and level of usage is resolved.

RECOMMENDATION:

1. That Development Application 0990/2000DA for the establishment of a rural tourist facility at Lots 1, 2 & 3 in DP 567745, be refused for the following reasons:-
 - a. The Roads and Traffic Authority has refused to grant approval to the proposed access arrangements.
 - b. The proposal is inconsistent with the provisions of Clause 75 of the North Coast Regional Environmental Plan 1988.
 - c. The proposal is unsatisfactory to the Roads and Traffic Authority (RTA) traffic safety with sight distances not complying with AUSTRROADS standards.
2. That Council invites the applicant to resubmit an application upon resolution of ownership and conditions of the adjacent Pacific Highway.

Reports from Director Development Services

REPORT:

Applicant: Mr P Youngblutt
Owner: N & S Walker & B & S Roach
Location: Lots 1, 2 & 3 DP 567745, Pacific Highway, Fernvale
Zoning: 1(a) Rural Zone

PROPOSAL

Council is in receipt of an application for the establishment of a rural tourist facility at the above location. The proposal incorporates a distinct eco / agricultural tourism theme, inclusive of the following:-

1. Sales (fruit and vegetables, artefacts) and display building and parking for ten vehicles and a coach.
2. Guided tours through existing formal gardens and fruit orchards.
3. Self service fruit picking and interpretation attractions.

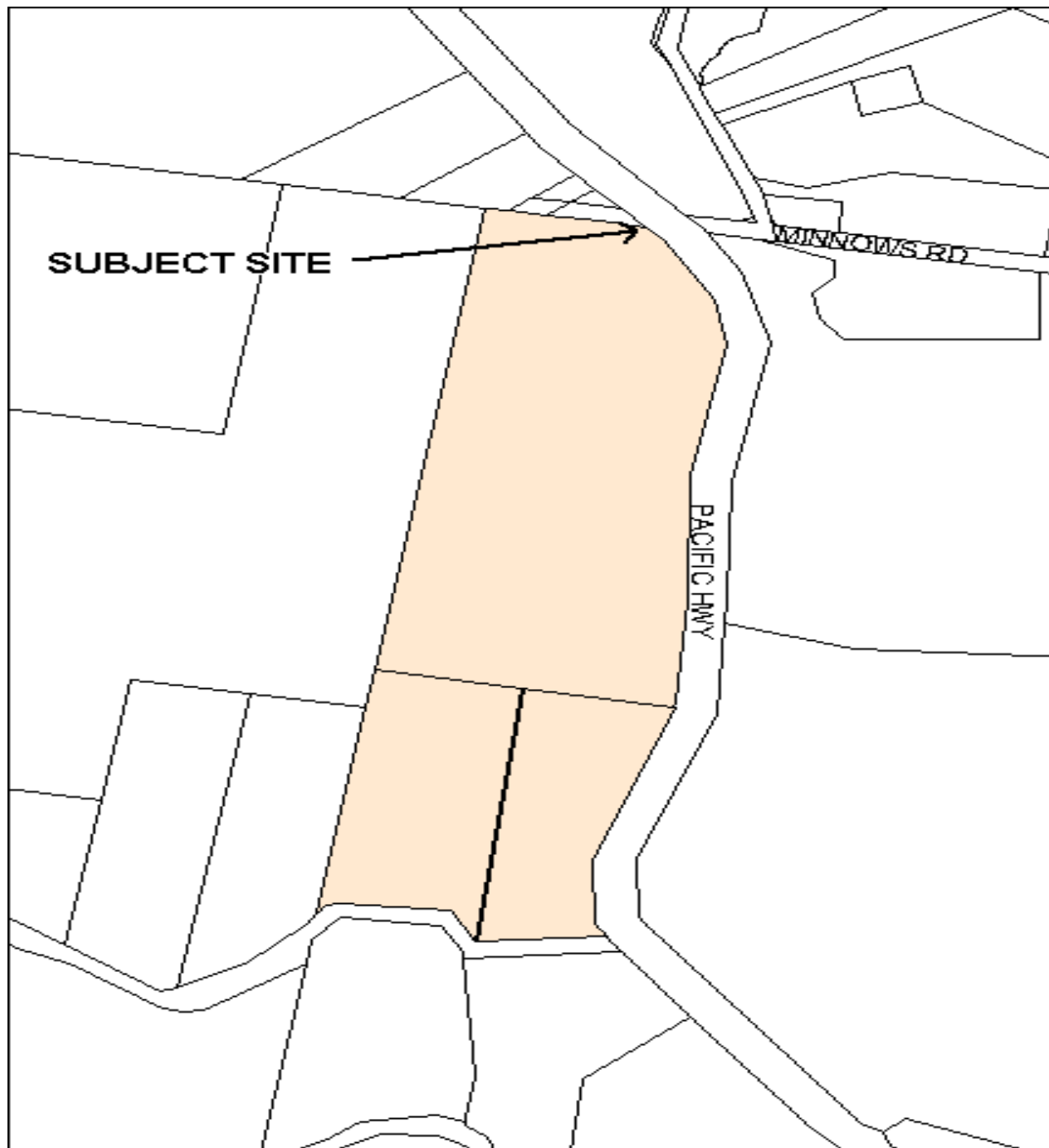
Upgrading of the existing Pacific Highway access arrangements are proposed in association with the proposal.

It should be noted that the development proposal does not incorporate the existing roadside stall at the site, with the latter since closed and removed.

A SEPP No. 1 objection has been submitted in relation to the minimum setback standard (30m) contained within clause 24 of TLEP 2000.

Reports from Director Development Services

FIGURE 1



Reports from Director Development Services

Figure No. 2 depicts a general overview of the proposal and site.

BACKGROUND/HISTORY

Council resolved at its meeting dated 7 February 2001 to invite the applicant to undertake future consultation with the RTA in order to resolve outstanding issues relating to traffic safety. Since that the applicant has provided Council with the following request:-

'Continued pressure, from the Roads & Traffic Authority and others, leaves us with no alternative but to close our roadside fruit stall at Lot 1 Pacific Highway, Fernvale. We will discontinue trading and close our stall on Sunday 29 April 2001.

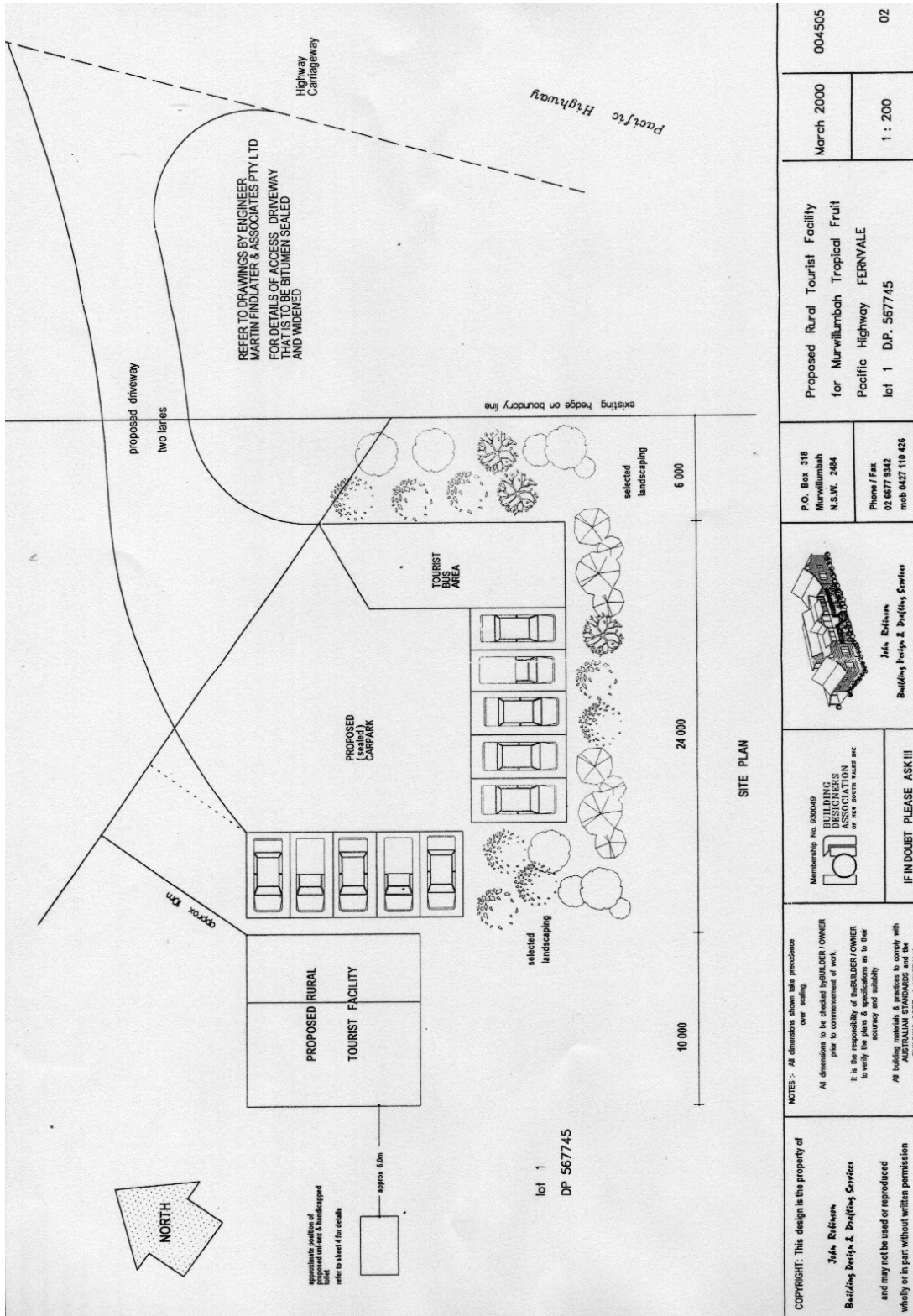
There was a resolution of Council that I renegotiate our application for a Development Application for a Rural Tourist Facility with the Roads & Traffic Authority. Due to the Roads & Traffic Authority's objections, I now believe that there is no alternative but to ask the Council to approve a deferred commencement consent, to take place after the opening of the Chinderah-Yelgun bypass when this part of the highway becomes the responsibility of Tweed Shire Council'.

In effect, the applicant is requesting that Council grant consent on a deferred basis, with the objective being that the consent only becomes operational upon control of the adjacent highway being transferred to Council. This course of action is considered to be neither practical nor appropriate, given that no certainty is attributed to the conditions by which or when Council will take control of the road, let alone the future usage and speed environment.

The suitability of this request is discussed in greatest detail under the heading of Traffic & Transport Engineers Comments.

Reports from Director Development Services

Figure No. 2



COPYRIGHT: This design is the property of JMA Architects Building Design & Drafting Services and may not be used or reproduced wholly or in part without written permission	NOTES: - All dimensions shown take precedence over facility. All dimensions to be checked by BUILDER/OWNER prior to commencement of work. It is the responsibility of BUILDER/OWNER to verify the plans & specifications as to their accuracy and suitability. All building materials & products to comply with AUSTRALIAN STANDARDS and the BUILDING CODE OF AUSTRALIA	Membership No. 030049 BUILDING DESIGNERS ASSOCIATION of New South Wales Inc	<p>JMA Architects Building Design & Drafting Services</p>	P.O. Box 316 Murwillumbah N.S.W. 2464 Phone / Fax 02 6677 8342 mob 0427 110 428	Proposed Rural Tourist Facility for Murwillumbah Tropical Fruit Pacific Highway FERNVALE lot 1 DP. 567745	March 2000	004505
	IF IN DOUBT PLEASE ASK!!!	JMA Architects Building Design & Drafting Services	1 : 200	02			

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EVALUATION

The application has been assessed under the matters contained in Section 79C of the Environmental Planning & Assessment Act, 1979. This assessment is detailed in the following report.

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is located within the 1(a) Rural Zone and the proposal is permissible with the consent of Council. Pursuant to the provisions of TLEP 2000, the proposal is considered to be consistent with the relevant objectives of the rural zone.

Clause 22 of TLEP 2000 refers to land with direct frontage to a designated road. Clause 22(2) & (4) state, inter alia:

“(2) *This clause applies to land that:*

- (a) *has frontage to a designated road, or*
- (b) *relies on a designated road for its sole means of vehicular access, or*
- (c) *is within Zone 1 (a), 1(b), 1(c), 7 (a), 7 (d), 7 (f) or 7 (l) and has direct access to another road at a point less than 90 metres from that road’s intersection with a designated road.*

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

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

Reports from Director Development Services

- (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."*

The applicant has submitted a traffic impact assessment, which contains a schedule of proposed upgrading works to the existing access point, whilst also arguing that the proposal satisfactorily complies with the abovementioned provisions of clause 22 of TLEP 2000.

The proposal was referred to both the Roads & Traffic Authority (RTA) and Council's Engineering Services Division for comment. Following is the RTA's response to Council:-

"I refer to your letter dated 5 October 2000, your reference DA4040/5115 Pt2.

The Roads and Traffic Authority (RTA) cannot agree to the development of a tourist facility adjacent to the Pacific Highway at this location. The type of activity proposed will generate right turn traffic and pedestrian movements across a high speed rural Highway.

The available sight distance in each direction along the Highway is below the minimum 250m Safe Intersection Sight Distance recommended by AUSTRROADS for 100km/h speeds.

Reports from Director Development Services

The development application does not detail how sight distance or restricting pedestrian movements across the Highway will be achieved. The proponent should be made aware substantial excavation and road pavement construction will be necessary to safely cater for traffic generated by this proposal.

I would like to draw Council's attention to RTA Technical Direction 96/10 "Street Vending". This publication jointly prepared by the RTA and the Department of Local Government in Section 6.3 specifically restricts "Street Vending" where safety is compromised and the speed limit is greater than 80km/h. The existing fruit stall at this site has been operating without approval for some time.

The RTA is concerned operations may continue without completing the necessary roadworks. Substantial excavation and road pavement construction is necessary to both continue operating or to safely cater for this new proposal.

The RTA cannot give concurrence to a tourist facility at this site until such time as pedestrian movements across the Highway are restricted and safe entry exit to the site is provided".

It is evident from the above response that the RTA are of the opinion that the proposal (inclusive of proposed upgrading works) is unsatisfactory and does not provide for safe and efficient pedestrian and vehicular entry / exit movements to and from the site.

In addition, the Director of Engineering Services has reviewed the application and has also expressed concern at the adequacy of the proposed works, and supports the above comments provided by the RTA.

Further discussion of traffic safety issues is provided under the heading of 'likely impacts'.

Clause 24 of TLEP 2000 refers to minimum setback requirements for development adjoining a designated road. In this regard, a setback of 30m is required. The proposal provides for a 10m setback only and therefore does not comply with this development standard. The applicant has submitted a SEPP No. 1 objection to this requirement, which has been assessed in this report (see under heading – State Environmental Planning Policies).

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 75(1) of NCREP 1988 refers to tourism development and requires Council not to grant consent to such development unless it is satisfied of the following:-

Development Control – Tourism Development

75(1) The Council must not grant consent to tourism development unless it is satisfied that:

Reports from Director Development Services

- a. *adequate access by road, railway or water transport (or any combination of them) exists or will be provided to service the development, taking into account the scale of the development proposed; and*
- b. *if the proposal involves permanent residential accommodation, all social and community services reasonably required by those residents exist in close proximity to the development; and*
- c. *the development will not be detrimental to the scenery or other significant features of the natural environment; and*
- d. *reticulated water and sewerage are available, or arrangements satisfactory to the Council have been made for the provision of those facilities.*

As stated previously, both the RTA and Council's Engineering Services Division are not satisfied that adequate access arrangements will be provided (see subclause (a)), with genuine concerns raised in relation to vehicular and pedestrian safety. The engineering details submitted by the applicant are considered to be inadequate and do not demonstrate that significant adverse impacts are unlikely to occur. It is therefore considered that the proposal is inconsistent with the relevant provisions of NCREP 1988.

State Environmental Planning Policy No. 1 – Development Standards (SEPP No. 1)

The proposed sales and display building is located (at its nearest point) only 10m from the adjacent Pacific Highway road reserve. In this regard, the applicant has submitted a SEPP No. 1 objection to the 30m setback requirement of TLEP 2000 (Clause 24). The following argument has been offered by the applicant:-

- a. The proposed setback is visually consistent with the established character of the area;
- b. The proposal is not visually prominent due to the topography of the site, when viewed from either south or northbound lanes;
- c. Existing vegetation on the site will provide significant screening from the adjacent highway, thereby ameliorating any distractive value of the proposal; and
- d. The imposition of a larger setback would achieve no greater purpose in relation to achieving a satisfactory streetscape and a safe and efficient road environment.

Having regard to the argument submitted by the applicant and a review of on-site conditions, strict imposition of the 30m setback standard is considered both onerous and unjustified. A variance to the requested 10m is considered satisfactory and unlikely to detract from the objective of the standard.

(ii) Any Development Control Plans (DCPs)

DCP No. 2 – Site Access & Parking Code

Reports from Director Development Services

The proposal makes provision for 10 off street parking spaces and a designated coach space. In this regard, the proposal exceeds the requirements of DCP No. 2 – Site Access & Parking Code.

(b) Likely Impacts

The proposed development does not provide for adequate access and exit facilities to and from the site. The latter has been a longstanding issue, with previous correspondence entered into between the applicant, Council and the RTA in relation to the existing roadside stall on the site. The RTA has stated that they are unwilling to support the proposal. In this regard, the RTA have made particular reference to the lack of adequate sight distances (150m- south and 130m north are provided) for an area located within a 100km/hour speed zone, whilst also expressing concern at the extent of excavation required to provide a safe traffic environment. It is noted that pursuant to AUSTRROADS Guidelines, a minimum 250m sight distance is required within a 100km speed zone.

Council's Engineering Services Division has also reviewed the proposal and concurs with the RTA. Despite acknowledging that the adjacent highway, may in time, be downgraded, it is considered premature to permit a development such as that proposed upon the site at this stage or without adequate prior knowledge of future road usage / control. Should the adjacent highway be reclassified in the future, the applicant may be in a stronger position to gain support from Council officers.

The applicant was invited to respond to the initial comments provided by the RTA. In this regard, the following points were offered:-

1. Pacific Highway traffic has greatly diminished in recent times as a result of increased usage of the Coast Road. Furthermore, traffic will significantly decrease upon completion of the awaited bypass. In regards to the latter, control of the subject road will be passed on to Council.
2. We have been trading as a roadside stall since 1992, during which not a single vehicle or pedestrian accident has occurred. There is considerable space to pull off the road, and pedestrians and drivers both have a flat stretch with a clear line of sight before they decide to either cross the road or move back into the flow of traffic.

Although it is acknowledged that usage of the highway may decrease in the near future, the adjacent road remains classified as a state highway under the control of the RTA with no set indication of when (or if) the road will be transferred into Council control. As stated previously, upon completion of the bypass and in the event that the adjacent road is reclassified, the applicant may be able to mount a stronger argument in favour of the proposal. Until such time, it is considered premature to grant any form of development consent including deferred commencement as requested.

Traffic & Transport Engineers Comment

Reports from Director Development Services

Council's Traffic and Transport Engineer has assessed the proposal in light of the applicants request for a deferred commencement consent and provided the following comments:-

“The Roads & Traffic Authority are opposed to any approval being given for the reasons previously supplied to Council. The RTA has not determined the future status of the existing highway.

I am of the opinion that once the motorway is completed the application may be reconsidered subject to certain conditions and changed circumstances.

The Motorway EIS indicates that in 2016 the traffic volume south of Murwillumbah will be 5,360 vpd as compared to the current volume of 12,369 vpd (and of 4,262 vpd in 2001 if the Motorway was open (EIS)).

The application states a maximum of 20 vph entering and leaving the site which means in future a Type A intersection may be acceptable.

If when the highway is handed over to Council then the design and construction would depend on the speed environment at the site and a design demonstrating and providing sight distance of 170 metres in both directions for 100kph as well as meeting all other requirements for the provision of an Austroads Type A intersection (Guide to Traffic Generating Development).

No stopping signs would also be required on both sides of the highway for 50 metres each side of the access to discourage pedestrians from crossing the road.

However, before this could occur the road would have to be de-classified and an assessment made on the volume and composition of traffic and the speed environment. These factors affect the standard of the intersection required and will involve traffic survey data being collected.”

It is considered that the above comments further confirm the inappropriateness of issuing deferred commencement consent in the absence of a clear resolution of both the ownership of the adjacent road and future conditions. In this regard, it is recommended that the application be refused and the applicant invited to resubmit a proposal upon resolution of the identified issues.

The proposed access arrangements traverse Lots 2 & 3 in DP 208563. Although the consent of the owners of the abovementioned properties has been supplied in relation to the lodgement of the application, these arrangements would need to be formalised by way of a right of carriageway in the event that approval is granted.

The proposal incorporates the provision of a single unisex / handicapped toilet for public use. In this regard, suitable conditions can be applied in relation to effluent disposal facilities. Furthermore, a water quality management plan should be submitted

Reports from Director Development Services

in the event that approval is granted. A suitable condition can be applied in this regard. All other relevant services are available to the site.

Given existing vegetation and existing landform, it is considered that the proposal is unlikely to have a deleterious impact upon the rural amenity of neighbouring residents or character of the area. It is also acknowledged that the proposal has some potential to provide economic benefits in relation to the proponents of the operation and the attraction of visitors to the shire in general.

(c) Suitability of the Site

Although the subject site is considered generally satisfactory in relation to the proposed development, the lack of adequate access arrangement is considered to be a significant limiting factor. Given the advice of both the RTA and Council's Engineering Services Division, it is considered that until such time that the existing road environment is altered, the subject site cannot suitably accommodate the proposed development.

(d) Submissions

As stated previously, the RTA were invited to make comment in relation to the proposal. Their response has been previously tabled in this report.

(e) The Public Interest

Having regard to the contents of this report and with particular reference to comments provided by both the RTA and Council's engineers, the proposed development is considered to have the potential to compromise the public interest in terms of traffic safety.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should the applicant be dissatisfied with Council's determination of the matter, a right to appeal in the Land & Environment Court is available.

OPTIONS

In this instance, the following options are considered available:-

1. Refuse the application as per the recommendation.
2. Invite the applicant to amend the proposal and undertake further consultation with the RTA.
3. Issue a "deferred commencement" consent requiring approval under Section 138 of the Roads Act to be obtained prior to the consent becoming operational and the ownership of the Pacific Highway to have been transferred to Council.

CONCLUSION

The proposed development is considered to be unacceptable as there are significant limitations in relation to the provision of safe and efficient vehicular and pedestrian access.

Reports from Director Development Services

Works within the road reserve requires approval from the RTA and as the subject rod is still within the ownership of the RTA, they have indicated that they would not grant an approval to the proposal. Furthermore, it is considered that pursuant to the provisions of both TLEP 2000 and the North Coast REP 1988, the provision of adequate access arrangements has not been satisfied. Although it is acknowledged that traffic usage of the adjacent road is likely to decrease, the fact remains that the road, is at present, classified as a state highway with a 100km speed limit. As stated previously, in the event that the adjacent road is reclassified, the applicant may be able to resubmit the proposal for assessment.

The issuing of a deferred commencement consent is considered an inappropriate course of action, given the uncertainty over road ownership and future conditions. Furthermore, as a result of this uncertainty, Council is unable to determine a likely time restriction on this consent.

Accordingly, the proposal is recommended for refusal with the applicant invited to resubmit upon resolution of outstanding matters.

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3. ORIGIN: Development Assessment Unit

FILE REF: DA4420/94 Pt1

REPORT TITLE:

Installation of a Telecommunications Facility at Lot 8 DP 804836 No. 349 Pottsville Road, Sleepy Hollow

SUMMARY OF REPORT:

This report provides an assessment of a proposed Telecommunications Facility at Lot 8 DP 804836 No 349 Pottsville Road, Sleepy Hollow. The site is zoned 1(a) Rural and contains a rural tourist facility "Pioneer Plantation". The proposed tower is 30 metres high.

The proposed Telecommunications Facility was reported to Council's meeting of 7 March 2001. The report concluded that the applicant had provided a limited assessment of alternative siting options and that it was appropriate to defer the application pending the provision of additional information to address this issue. The following resolution was made in relation to the subject application:

- "1. Development Application No 1229/2000DA for the installation of a telecommunications facility at Lot 8, DP 804836, Pottsville Road, Sleepy Hollow be deferred and the applicant requested to provide additional information in relation to the assessment of alternative siting options.*
- 2. A further report be forwarded to Council following receipt of the additional information."*

The applicant submitted additional information on 27 March 2001 however, it was considered that the information submitted failed to adequately address the basis for the conclusions reached. Following a further request from Council, the applicant provided additional detail including a number of photomontages on 24 April 2001.

It is considered that the information provided by the applicant adequately addresses alternative siting options and the basis for the selection of the subject site for the proposed telecommunications tower.

Although not statutorily required, the application was notified and advertised in accordance with Council policy. Four (4) submissions and one (1) petition with 25 signatures were received and are detailed in this report.

The most significant potential impact in relation to the proposal is the visual impact. However, given the nature of the proposed development, the location of the site and the general topography of the area, it is considered that the proposal is satisfactory in this regard.

Reports from Director Development Services

RECOMMENDATION:

That Development Application No. 1229/2000DA for the installation of a telecommunications facility at Lot 8 DP 804836 Pottsville Road, Sleepy Hollow be approved subject to the following conditions:-

GENERAL

1. The development shall be completed in general accordance with Plans Nos B0813-FIG2 Rev 1 and B0813-FIG3 Rev 1 prepared by Connell Wagner and dated 30/9/99, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. 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. completion of work
4. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
 - i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site in accordance with Section 78i of the Environmental Planning & Assessment Amendment Regulations 1998.
 - iii. A sign has been erected on the site in accordance with Section 78H of the Environmental Planning & Assessment Amendment Regulations 1998.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 78c of the Environmental Planning and Assessment Amendment Regulations 1998.
5. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.

Reports from Director Development Services

6. The tower shall be painted in a blue / grey colour, the details of which are to be submitted to Council for approval prior to the commencement of construction.

PRESCRIBED (BUILDING)

7. A sign must be erected on the site in a prominent, visible position stating:
 - a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
8. 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.
9. 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.
10. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

ENGINEERING (BUILDING)

11. The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of building work.

Reports from Director Development Services

12. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval of the structural design, prior to work being commenced on that part.
13. On completion of work a certificate signed by a practising structural engineer is to be submitted to the PCA to certify the structural adequacy of the structure.

ENVIRONMENT PROTECTION

14. 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.
15. 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.
16. 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.
17. 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.

18. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
19. Soil material shall not be exported or transported from the site as a result of the proposed works.
20. Electromagnetic emissions shall be below those maximum levels specified in the Radio communications Act, 1992.
21. Erosion control measures shall be in place prior to the commencement of works.

Reports from Director Development Services

REPORT:

Applicant: Optus Mobile Pty Ltd
Owner: Harsha Holdings PTY LTD
Location: Lot 8, DP 804836, No. 349 Pottsville Road, Sleepy Hollow
Zoning: 1(a) Rural
Est Cost: \$130,000.00

BACKGROUND

Council is in receipt of a development application from Optus Mobile Pty Ltd for the erection of a telecommunications facility (mobile phone base station) at Lot 8 DP 804836 Pottsville Road Mooball. The proposal is not a "Low Impact Facility" as defined in the Commonwealth Telecommunications Act 1997 and in accordance with that Act development consent is required from Council for the proposal.

The subject site contains a rural tourist facility "Pioneer Plantation". The proposed development involves the installation of a 30 metre high telecommunications lattice tower supporting two (2) omni antennas pole mounted on a headframe and one (1) 600mm in diameter radio communications dish leg mounted to the lattice tower at 26 metres in height. All electronic equipment would be accommodated in an equipment shelter erected at the base of the lattice tower. The proposal will also involve the erection of security fencing. The area in which the base station will be sited is adjacent to the southern boundary of the property and approximately 350 metres to the west of the existing main Pioneer Plantation building.

The Statement of Environmental Effects submitted with the development application indicates that coverage to the Sleepy Hollow area requires upgrading. Although the area has Optus mobile telecommunications coverage, the level of service is poor and Optus customers are experiencing call "dropouts" because of capacity problems with surrounding base stations.

The proposal was reported to Council's meeting of 7 March 2001. The report concluded that the applicant had provided a limited assessment of alternative siting options and Council resolved to defer the application pending the provision of additional information to address this issue.

The applicant submitted additional information on 27 March 2001 however, it was considered that the information submitted failed to adequately address the basis for the conclusions reached. Following a further request from Council, the applicant provided additional detail including a number of photomontages on 24 April 2001.

It is considered that the information provided by the applicant adequately addresses alternative siting options and the basis for the selection of the subject site for the proposed telecommunications tower.

The site is zoned 1(a) Rural and telecommunications infrastructure is permissible with development consent.

Reports from Director Development Services

Site Diagram



Considerations Under Section 79c Of The Environmental Planning And Assessment Act 1979

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

State Environmental Planning Policies (SEPP's)

State Environmental Planning Policy No. 44 – Koala Habitat Protection – The site is not identified as potential Koala habitat and a Plan of Management is not required.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

The proposal is considered to be consistent with the provisions of this Plan. Clause 12 of NCREP 1988 relates to the impact of development on agricultural activities. The proposed development is not considered likely to result in adverse impacts on the use of adjoining or adjacent agricultural land or cause a loss of prime crop or pasture land.

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 1(a) Rural under the TLEP 2000. The proposal is defined as “telecommunications infrastructure” which is permissible with consent in the 1(a) Rural zone. The proposal is considered to be consistent with the objectives of the zone.

Clause 22 of TLEP 2000 requires Council to be satisfied of a number of factors prior to granting consent to development on land which has frontage to a designated road, including the following:

Reports from Director Development Services

- (a) the development is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and
- (b) the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and
- (c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated, 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 within 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, 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.

Pottsville Road is a designated road. The proposed development will not generate sufficient traffic to constitute a traffic hazard, materially reduce the capacity or efficiency of the designated road, or impede traffic movement on the designated road. Access to the proposed tower will be gained via the existing access to "Pioneer Plantation" and the development will not prejudice any future improvements to, or realignment of the road. The development is required to be sited in the locality for reasons related to radio frequency grounds. The development is not a type that is sensitive to traffic noise. The proposed tower will be visible from both the Pottsville Road and from the proposed Yelgun to Chinderah Motorway. The proposed tower will be required to be painted "blue/grey colour" and is located in an area of significant vegetation which will assist in screening it.

Clause 24 of TLEP 2000 applies to land zoned 1(a) Rural and requires the proposed tower to be setback 30 metres from Pottsville Road which is a designated road. The tower is setback approximately 180 metres from the Pottsville Road.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

No draft environmental planning instruments are applicable to the proposed development.

(a) (iii) Development Control Plans (DCP's)

There are no DCP's which apply to this proposal.

(a) (iv) Any Matters Prescribed by the Regulations

There are no prescribed matters which affect this proposal.

(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

Reports from Director Development Services

Context and Setting

The south-western corner of the site in which the tower is proposed is characterised by a ridge which runs in an east-west direction at an elevation of approximately 100 metres. The facility is proposed to be constructed within an area adjacent to a banana plantation. The site is located in a rural area which is used for a number of agricultural pursuits. The steeper and more elevated land in the general locality contains native forest. There are a number of dwellings in the locality with the closest located approximately 150 metres from the proposed tower.

Visual Impact

Due to the proposed height of the tower, its location on a ridgeline and the necessity for the antennae to be above the tree line to function properly, the tower and antennae will be visible from surroundings areas. The tower will be most visible as viewed from the north-east on Pottsville Road heading in a southerly direction. The tower will also be visible from the proposed Yelgun to Chinderah Motorway. The structure will be less visible from the west due to the intervening ridge system.

The applicant has submitted the following comments in relation to visual amenity:

“...the telecommunications tower will be located adjacent to significant vegetation which will assist in screening a portion of the facility from rural dwellings. In addition to the screened vegetation, the proposed facility will be painted “mist green” to blend in with the surrounding vegetation, thus minimising any adverse views.

Additionally, the equipment shelter will also be painted “mist green” to colour match with the proposed infrastructure. As such, adverse views of the Optus shelter will be mitigated.”

It is considered appropriate to paint the tower a blue / grey tone rather than a green colour so that it blends in with the sky when viewed from a distance. The existing vegetation surrounding the site of the proposed tower will reduce the potential visual impacts of the facility.

These facilities have a visual impact due to the selected locations for their siting generally being in elevated areas. These facilities are essential public infrastructure and given the proposed measures to reduce the potential visual impact, it is concluded that the proposal is acceptable in this regard.

Access/Traffic

Access to the site is proposed via the existing access to Pioneer Plantation and internal access tracks. Minimal traffic will be generated by the proposal following construction and the existing road network is capable of catering for it.

Environmental Impacts

The earthworks proposed include minor grading of the site and standard conditions will be placed on any consent concerning erosion control.

Social/Economic Impacts

Reports from Director Development Services

The proposal will not create any adverse noise impacts on residents in the locality. The proposal is satisfactory in relation to electromagnetic radiation.

The proposal will result in an improved mobile phone network and should not result in significant adverse social or economic impacts.

(c) Suitability of the site for the development

Adjacent developments do not represent a constraint to the proposed development. The land can be adequately serviced and potential environmental impacts can be satisfactorily managed. The Statement of Environmental Effects submitted with the development application provided a limited assessment of potential alternative sites. One site, Cowell Park - Pottsville Road, Mooball, was considered and discounted "primarily on radio frequency grounds, as the desired coverage for the proposed base station could not be achieved from this site". The application was deferred from Council's meeting of 7 March 2001 and the applicant was requested to provide additional information in relation to alternative siting options.

The applicant has submitted additional information in relation to potential alternative sites. Site assessments have been prepared for three sites other than the subject site. The alternative sites are Cowell Park - Pottsville Road, Quarry - Pottsville Road, and the existing Telstra Tower - Burringbar Range. The alternative sites were rejected on the basis of not meeting the radio frequency objectives and potential visual impacts on surrounding dwellings and road users. The additional information submitted is considered to adequately address alternative siting options and provide a satisfactory basis for the selection of the subject site.

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

Although not statutorily required, the proposed development was advertised and adjoining land owners notified of the proposed development. Four (4) submissions and one (1) petition with 25 signatures were received. The following grounds for objection were raised in relation to the proposed development:

Reports from Director Development Services

Issue	Assessment	Comment
<p>Health Risk</p> <p>Banana packing shed approximately 50m away and homes within c. 150m – concern regarding radiation</p>	<p>Optus have provided information stating that on the basis of relevant research on EME to date, the proposed mobile telecommunication base stations will not pose a risk to human health. The standards set by the Australian Communications Authority for exposure to radio signals is 200 micro watts per square centimetre. The conclusions of tests performed by Optus are that RF fields at ground level from their base stations are up to 1000 times below the ACA standard of 200 microW/cm². In relation to the proposed development the maximum field strengths that the site is expected to generate at peak usage have been calculated. The maximum power flux density level, has been calculated to be 0.076 micro/Wcm², at a distance of 18 metres from the site. This measurement is 0.038% of the current standard.</p>	<p>It is considered that the potential health risk of the proposal does not warrant refusal of the application on the basis of information available.</p>

Reports from Director Development Services

Issue	Assessment	Comment
Proposal will be visible from veranda of adjacent property	The proposed development will be visible from surrounding properties and roads. It is considered that given the proposed measures to mitigate the potential visual impact, the proposed tower is acceptable. Existing vegetation will screen the tower to some degree as viewed from surrounding properties. It is also proposed to require the tower to be painted a blue / grey colour which will reduce the potential visual impact of the tower.	The potential visual impact of the development is not considered to warrant refusal of the proposal.
Impact on Property Values Facility will devalue property	There is no information available to support this statement.	This issue does not warrant refusal of the application.

(e) Public interest

The proposal is beneficial to the public interest in terms of the improved mobile phone service in the locality.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS:

If the applicant is not satisfied with Council’s determination, they have a right of appeal to the Land and Environment court.

OPTIONS:

Options in this instance appear to be as follows:-

1. Approve the application subject to conditions as per the recommendation.
2. Refuse the application.

CONCLUSION

The application has been reviewed by Council’s Environment and Community Services Division and no objections are raised to the proposal subject to conditions. The applicant has provided sufficient information in relation to potential alternative siting options to support the location of the facility on the subject site.

Reports from Director Development Services

Reports from Director Development Services

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Reports from Director Development Services

4. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/S94/7 Pt1

REPORT TITLE:

Contribution Plan No 7 Amendment

SUMMARY OF REPORT:

Contribution Plan No 7 enables the levying of contributions which will be required as a consequence of increased demand generated by development in the West Kingscliff area and redevelopment in the existing area of Kingscliff covered by the Plan.

This amended Contribution Plan was exhibited for 28 days until 30 April, 2001 following a Council resolution on 21 March, 2001. There were no submissions received in response to the exhibition.

This Plan was amended to take account of the following changes:

1. Deletion of the community centre for Kingscliff (covered by CP 15);
2. Deletion of the cycleways component (covered by CP 22);
3. Deletion of the Collector Road – Crescent Street component (covered by CP 4);
4. Alteration to the drainage section to reflect recent studies;
5. An amendment to the contribution rate to reflect a change in occupancy rates.

RECOMMENDATION:

That Council:-

1. Approves the amended Section 94 Contribution Plan No 7 as advertised; and
2. Gives public notice of its decision in accordance with the Environmental Planning and Assessment Regulations 1994, in the Tweed Link, specifying that the amended Contribution Plan comes into effect on the date of the notice.

Reports from Director Development Services

REPORT:

CONTRIBUTION PLAN NO 7

Contribution Plan No 7 enables the levying of contributions which will be required as a consequence of increased demand generated by development in the West Kingscliff area and redevelopment in the existing area of Kingscliff covered by the Plan.

This amended Contribution Plan was exhibited for 28 days until 30 April, 2001 following a Council resolution on 21 March, 2001. There were no submissions received in response to the exhibition.

This Plan was amended to take account of the following changes:

- Deletion of the community centre for Kingscliff – this Centre is being funded through contributions collected under Contribution Plan No 15 (Shire Wide Community Facilities), and therefore the amendment is necessary so that contributions are not received under both Plans for the same facility. Any duplication of payment will require a refund of funds.
- The cycleways section has been removed as this is now covered by Contribution Plan No 22 – Shire Wide Cycleways.
- ‘Collector Road – Crescent Street’ section has been removed as this is now covered by Contribution Plan No 4 – Tweed Road.
- The section on drainage has been altered for the following reasons:
 - The area covered by the Plan has been amended to be based on the West Kingscliff Drainage Catchment (rather than DCP 9), however much of the area is still common to both;
 - The Plan now calls up the “Kingscliff Catchment & Drainage Management Plan, Revision 3, 23/3/00” (Drainage Management Plan) prepared by WBM Oceanics Australia;
 - The works under this Plan are redefined in accordance with the Drainage Management Plan;
 - There is an advisory note that stormwater quality works are excluded from this Plan;
 - The formula has been tidied up to show more clearly how credits for dedication of land and works in kind are treated;
 - There is a new definition of the development area for the purpose of calculating contributions. The new definition takes into account site redevelopment as well as new subdivision development;
 - The Schedule 1 – Contribution Rates: the drainage contribution calculation has been revised to account for increases in rates for land acquisition, area to be acquired, length of drain, cost of study and additional rates for landscaping and maintenance access. The rate has increased from \$11,784.63 per hectare to \$16,070 per hectare.
- The occupancy rates for single residential and medium density development have reduced from 2.86 and 2.23 persons respectively to 2.6 and 1.7 persons.

Reports from Director Development Services

PUBLIC EXHIBITION

A notice in the form required by the Environmental Planning and Assessment Regulation 1994 was placed in the Tweed Link on 3 April, 2001 and the exhibition period was for 28 days to 30 April, 2001.

There were no public submissions relating to the exhibited plan.

The Environmental Planning and Assessment Regulations 1994 (30) provides that:

“...a Council may:

- approve the Plan in the form exhibited;*
- approve the Plan with such alterations as the Council thinks fit; or*
- decide not to proceed with the Plan.*

Council must give public notice of its decision in a local newspaper within 14 days after the decision is made.”

It is recommended that Council publishes a notice of approval of the Plan, as exhibited, in order to bring it into effect.

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5. ORIGIN: Development Assessment Unit

FILE REF: DA4970/130 Pt1 0007/2001S96

REPORT TITLE:

Modification to Development Consent K99/620 for a Proposed Mixed Commercial/Residential Development at Lot 1 DP 9453 Section 3, No. 8 Seaview Street, Kingscliff

SUMMARY OF REPORT:

Council is in receipt of an Application to Modify Development Consent K99/620 – proposed mixed commercial/residential development. The proposal essentially incorporates a request to increase the height of the subject building to approximately 18.4m AHD and lower the existing lane levels to provide for workable grades to proposed basement parking. Whilst it is acknowledged that some views will be lost in relation to the proposal, it is considered that alternative views are available that will offset the expected impacts. The proposed modification is recommended for approval, subject to the modifications suggested below. Although the application to modify consent shared no net increase in height over what was originally assessed, the applicant has now advised that the final building height is likely to be approximately 500mm higher than the marker level used in the original height assessment. Given the concerns raised by Council Officers in the original assessment (overdevelopment and excessive bulk and scale), it is considered that the proposal is unsatisfactory and likely to exacerbate concerns originally identified. Furthermore, it is considered that sufficient scope exists to satisfactorily design the building to provide for safe basement parking access without further adding to the height of the building. Accordingly, it is considered that a condition be imposed restricting the development to a level of 17.9m AHD. No objection is raised in relation to the modification of rear lane levels.

RECOMMENDATION:

That:-

1. Application 0007/2001S96 for modification to Development Consent K99/620 – proposed mixed commercial/residential development at Lot 1 Sec 3 DP 9453, No. 8 Seaview Street, Kingscliff be approved, subject to the inclusion of the following condition under the heading of general:-
 1. *The subject building must not be erected at a height greater than 17.9m AHD, with the only exception being the approved roof projection located above the central internal staircase.*
2. Condition No. 5 of Development Consent No. K99/620 be amended as follows:-
 5. *The construction of the unnamed lane at the rear of the property between Hungerford Lane and the property boundary with Sutherland Street with Kerb & Gutter on the north east side and a 5.5m wide pavement with any necessary drainage. Detailed Engineering Plans for the laneway construction are to be submitted and approved by the Director of Engineering Services prior to the*

Reports from Director Development Services

release of the construction certificate. Such plans shall also show the method of treatment proposed in relation to the existing gate access on the opposite side of the unnamed lane. In this regard, plans must be submitted showing laneway levels, proposed steps within lane and dimensions of clearance.

Reports from Director Development Services

REPORT:

Applicant: Craig Telling
Owner: Mr Craig Telling & Ms Kim Goodger
Location: Lot 1 DP 9453 Section 3 No. 8 Seaview Street, Kingscliff
Zoning: 3(b) General Business

BACKGROUND

Council is in receipt of an application to modify Development Consent No. K99/620 – Mixed Commercial / Residential Development at the above location.

Council granted consent to the abovementioned development at its meeting dated 20 October 1999. In this regard, consent was granted for the erection of a three (3) storey mixed residential / commercial development, comprising five (5) residential units, two (2) commercial units and associated parking facilities.

The original application received objections in relation to the height of the proposed building, however, this issue was not considered to warrant refusal of the application (although the staff recommendation on the original application was for refusal on the basis of overdevelopment of the site and other related matters). In this regard, it was acknowledged that some views would be lost as a result of the proposal (in relation to existing residences on western side of Sutherland Street), however, significant views remain in other directions. To assist Council officers in the assessment of the proposal, a survey marker was attached to an existing tree on the site to reflect the height of the proposal. This issue is once again relevant to the assessment of the proposed modification.

The applicant has requested a modification to the subject consent to provide for a building height increase of 900mm and a lowering of the adjacent lane level by about 380mm. The proposed amendment has been submitted so as to achieve workable gradients to the proposed basement parking area. In support of the application, the applicants consultants have submitted the following:-

'In assessing the height variance it is important to realise that the original height impact assessment was done in respect of a height survey marker which accords with the now proposed building height. The current survey marker was placed on the basis of planned internal ceiling heights of 2700mm. The ceiling heights were subsequently designed and approved at 2400mm. This means that the height survey marker in fact exceeded the actual designed (and approved) height of the building by 900mm (ie.300mm x 3 storeys). In other words, Council's height impact assessment, in respect of the current approval, was done on the basis that the building was going to be 900mm higher than actually proposed i.e. in accordance with the height now proposed by this modification'.

Inspection of the site confirms the presence of the marker, which was utilised in the assessment of the original application, whilst a further assessment was undertaken of the height impact of the approved and modified development.

Reports from Director Development Services

Essentially, the applicant's original argument was that the proposed modification will in no way vary from the height by which the proposal was assessed prior to the granting of development consent. Indeed, upon review of the existing marker, the conclusions of the original height impact assessment (that no adverse impacts will occur) are considered to remain valid.

To assist Council in further assessing the impacts of the proposal, the applicant was requested to provide a surveyed AHD level for the existing marker. In this regard, a level of 17.9m AHD was provided. Upon receipt of the latter level, the applicant advised Council that engineering design (which is yet to be finalised) work done to date, indicates that the final building height will in all probability be approximately 480mm above the survey marker i.e. 18.4m AHD. The applicant has requested that some flexibility be provided for in the event that a height restricting condition is imposed. Having regard to the original concerns identified by Council Officers (overdevelopment of site and excessive bulk and scale), it is considered that a further increase of 500mm is unsatisfactory and should not be supported. Furthermore, the applicant has stated that the objective of the proposed modification is to achieve workable gradients to the proposed basement parking areas. If this is the case, then it is considered that this can be achieved without adding to the height of the proposal and potentially creating significant visual impacts in relation to neighbouring properties and the streetscape of the subject area. Accordingly, it is recommended that a height restricting condition be imposed at a level of 17.9m AHD, that flexibility be permitted in relation to lane levels at the rear of the site. This will allow the applicant scope to work with the final engineering design drawings to action the abovementioned objective.

The applicant has also requested a modification in relation to the approved lane levels at the rear of the site. In this regard, the approved lane level was formed on the basis that the level be similar to that of an existing gate on the opposite side of the rear lane. Following discussions with Council's Design Engineer, the level of the lane is now to be lowered and two (2) steps provided to the subject gate, thereby retaining adequate pedestrian access. By implementing the latter, sufficient vehicular clearance can still be achieved in relation to the proposed parking areas. Council's Design Engineer has raised no objections in this regard.

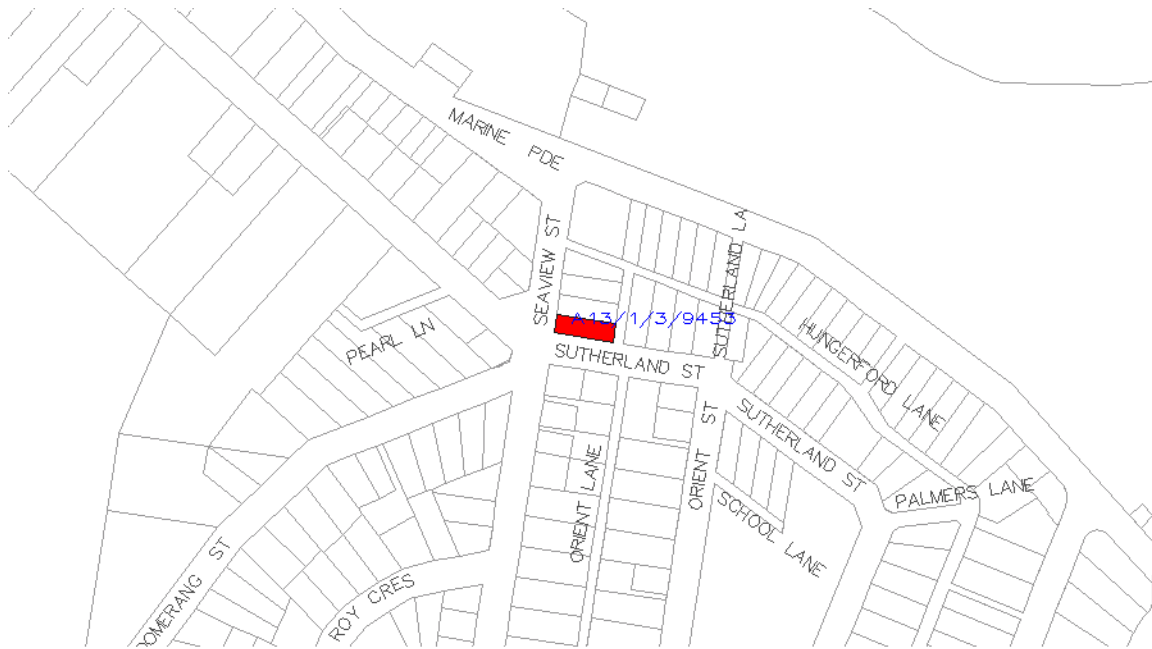
ANY SUBMISSIONS

The proposed modification was advertised in the Tweed Link and adjoining owners notified. In this regard, interested parties were given 14 days in which to make submissions to Council. One (1) submission of objection was received during this period, which further identified concerns in relation to the likely loss of views and sea breezes in relation to No.8 Sutherland Street, immediately to the west of the proposal.

Upon inspection of the site and review of the information supplied by the applicant, it is evident that the final height of the proposal is likely to exceed the original assessed height by no more than 480mm. This issue is discussed in greater detail above.

Reports from Director Development Services

SITE DIAGRAM



CONCLUSION

Having regard to the matters for consideration under Section 79C of the Environmental Planning & Assessment Act, 1979, the proposed application to modify is considered likely to exacerbate original concerns with the development relating to overdevelopment of the site and excessive bulk and scale. The latter assessment relates to the proposed height variance only, with the applicants request to modify rear lane levels considered satisfactory and deserving of Council support.

Reports from Director Development Services

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6. ORIGIN: Development Assessment Unit

FILE REF: DA2920/121 Pt1

REPORT TITLE:

Land & Environment Matter - Development Application K99/957 for the Carrying Out of Earthworks at Lot 9 and 10 DP 822830 and Lot 1 DP 823640 Kirkwood Road and Fraser Drive, Tweed Heads South

SUMMARY OF REPORT:

On 15 July, 1999 Summit Properties lodged a development application with Council seeking consent for the carrying out of earthworks on land known as Lots 9 and 10 DP 822830 and Lot 1 DP 823640 Kirkwood Road and Fraser Drive, Tweed Heads South.

The works proposed by the application involve the staged extraction of approximately 540,000m³ of material from the subject land over a maximum period of 4 years. The proposed development would have affected an area of 5 hectares and was to conform with the future road profile of Kirkwood Road. The material extracted was proposed to be used for the filling of land not associated with the site.

Development Consent was granted to subject works on 11 August, 2000. Following Councils approval for the application a Class 1 appeal was lodged with the Land and Environment Court challenging the merits of Council's approval of the application. A subsequent Class 4 appeal was also lodged challenging the validity of the consent issued by Council on the grounds that the subject use fell within the definition of the "extractive industry" rather than earthworks and that Council did not have the power under Tweed Local Environmental Plan 2000 to approve the application as "extractive industries" were prohibited within the zone.

The Court on 20 April, 2001 handed down the Judgement on the Class 4 matter. The Court ruled in favour of the applicant finding that the application was for the purpose of an extractive industry and therefore was prohibited within the zone. The Court declared that the resolution of Council to grant development consent to Development Application K99/957 on 2 August, 2000 is void and of no affect.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Development Services

REPORT:

On 15 July, 1999 Summit Properties lodged a development application with Council seeking consent for the carrying out of earthworks on land known as Lots 9 and 10 DP 822830 and Lot 1 DP 823640 Kirkwood Road and Fraser Drive, Tweed Heads South.

The works proposed by the application involve the staged extraction of approximately 540,000m³ of material from the subject land over a maximum period of 4 years. The proposed development would have affected an area of 5 hectares and was to conform with the future road profile of Kirkwood Road. The material extracted was proposed to be used for the filling of land not associated with the site.

Development Consent was granted to subject works on 11 August, 2000. Following Councils approval for the application a Class 1 appeal was lodged with the Land and Environment Court challenging the merits of Council's approval of the application. A subsequent Class 4 appeal was also lodged challenging the validity of the consent issued by Council on the grounds that the subject use fell within the definition of the "extractive industry" rather than earthworks and that Council did not have the power under Tweed Local Environmental Plan 2000 to approve the application as "extractive industries" were prohibited within the zone.

The Court on 20 April, 2001 handed down the Judgement on the Class 4 matter. The Court ruled in favour of the applicant finding that the application was for the purpose of an extractive industry and therefore was prohibited within the zone. The Court declared that the resolution of Council to grant development consent to Development Application K99/957 on 2 August, 2000 is void and of no affect.

It should be noted that this Court Judgement did not take into consideration the merits of the proposal nor the appropriateness of the Kirkwood Road extension through this area. The implications of this Judgement in terms of the Kirkwood Road extension is that Council will need to lodge a new development application for the construction of this road in the future. Council would need to assess any future application on its merits at the time.

Attached is a copy of the Judgement for Councils information.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Council has incurred costs in defending this Appeal. Council may also be required to pay the applicants costs, however this issue was reserved by the Court.

Reports from Director Corporate Services

7. ORIGIN: Administration Services Unit

FILE REF: Councillors - Fees

REPORT TITLE:

Mayor and Councillors Annual Remuneration 2001/2002

SUMMARY OF REPORT:

The Local Government Remuneration Tribunal has handed down its report and determination on the fees to be paid to Councillors and Mayors for the period 2001/2002.

RECOMMENDATION:

That Council determines:-

1. The annual fee for the Mayor for the period 1 July 2001 to 30 June 2002.
2. The annual fee for Councillors for the period 1 July 2001 to 30 June 2002.

Reports from Director Corporate Services

REPORT:

The determination of the Local Government Remuneration Tribunal has been received. The Tribunal has awarded an increase in Councillor fees and reassessed some Councils. The adjustment was to recognise the increased responsibilities placed upon Mayors and Councillors in the time period since an increase in the fees was last granted.

The Tribunal increased all minimum and maximum fees by approximately 7% for Councillors and 10% for Mayors.

Tweed Shire Council remains in Category 3 and the annual fees are as follows:

Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
Minimum	Maximum	Minimum	Maximum
\$5,350.00	\$11,770.00	\$11,000.00	\$24,860.00

* This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

The current fee being paid to Councillors is \$11,000.00 and the Mayor \$22,600.00.

Council is to determine and fix the annual fee in accord with Section 248 and 249 of the Act, applicable on and from 1 July 2001.

Reports from Director Corporate Services

8. ORIGIN: Director

FILE REF: TEDC

REPORT TITLE:

Tweed Economic Development Corporation (TEDC) Quarterly Profit/Loss Statement

SUMMARY OF REPORT:

As indicated at the meeting of 18 April 2001, where the Quarterly Report from TEDC was received and noted, the Financial Statements were not included in the report as they had not been ratified by the TEDC Board. The Profit and Loss Statement for the period 1 January 2001 to 31 March 2001 has now been received and tabled for Council's information.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

BACKGROUND

Each quarter the Tweed Economic Development Corporation (TEDC) provides Council with information on their quarterly performance together with details of their financial position in accord with the agreement between Council and the organisation.

The last report to Council, that is meeting 18 April 2001, the board provided details on their activities in the form of their Chief Executive Officer's Monthly Report.

The report indicated that "Financial Statements will need to be ratified by the TEDC Board following the end of the quarter before being forwarded to Tweed Shire Council". The Board has now forwarded that information through to Council and is included in the report as an attachment for the Councillors information.

Reports from Director Corporate Services

9. ORIGIN: Director

FILE REF: Budget

REPORT TITLE:

The Australian Local Government Association Federal Budget Submission

SUMMARY OF REPORT:

The Australian Local Government Association has prepared a pre-budget submission expressing details of Local Governments views on its expectations of the next federal budget. The association has also provided details and bulletins from the National Road Transport Commission for Council's information.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

BACKGROUND

The Australian Local Government Association has prepared a pre-budget submission to the Federal Treasurer outlining expectations of Local Government for the next Federal Budget. The submission includes:

- an increase in the quantum of Financial Assistance Grants;
- an increase in road funding;
- regional environmental extension officers; and
- the institution of enterprise zones within specific regions of Australia.

In the package of information provided from the Australian Local Government Association there has been included three information bulletins from the National Road Transport Commission. Information is provided on:

- The Third Heavy Vehicle Reform Package;
- Performance Based Standards for Heavy Vehicles; and
- Higher Mass Limits for Heavy Vehicles with Road Friendly Suspension.

Details of the ALGA Submission and the information bulletins are attached.

Reports from Director Corporate Services

10. ORIGIN: Financial Services Unit

FILE REF: Financial Reporting

REPORT TITLE:

Financial Report for Period Ending 30 April 2001

SUMMARY OF REPORT:

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

RECOMMENDATION:

That this report be received and noted.

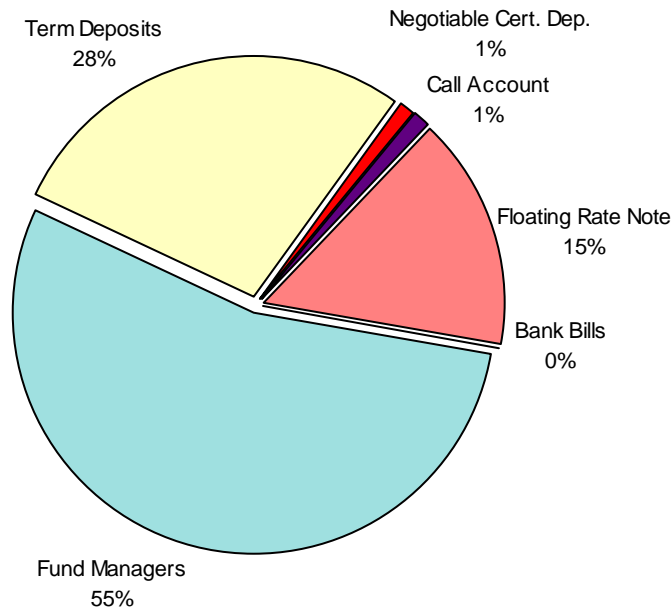
Reports from Director Corporate Services

REPORT:

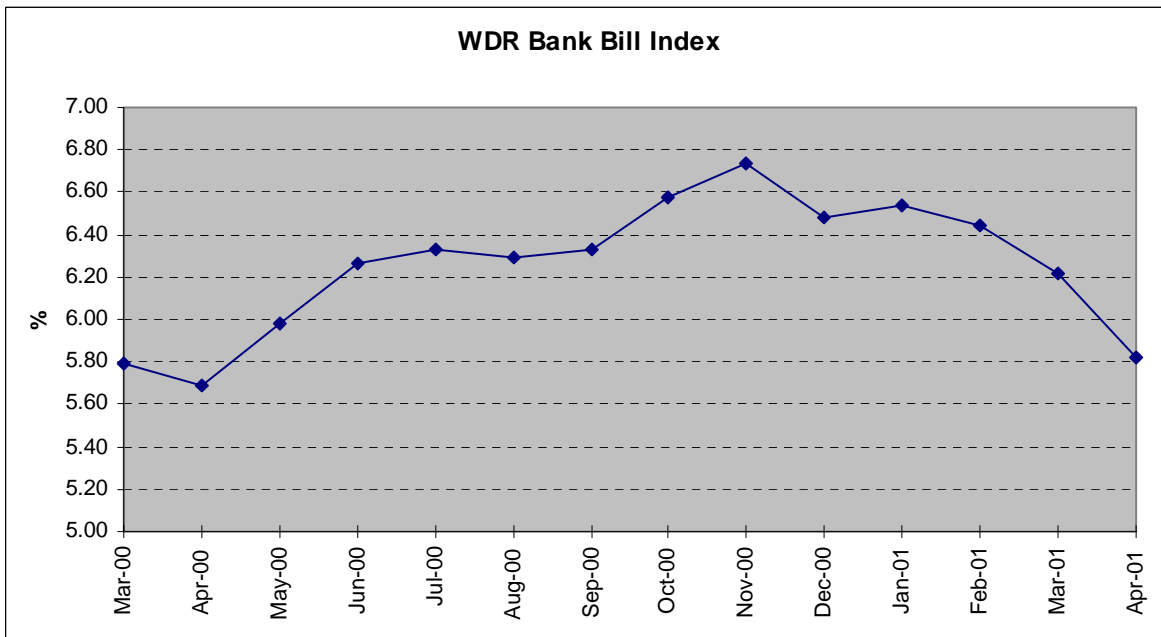
This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

% of Funds Invested by Category



2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)

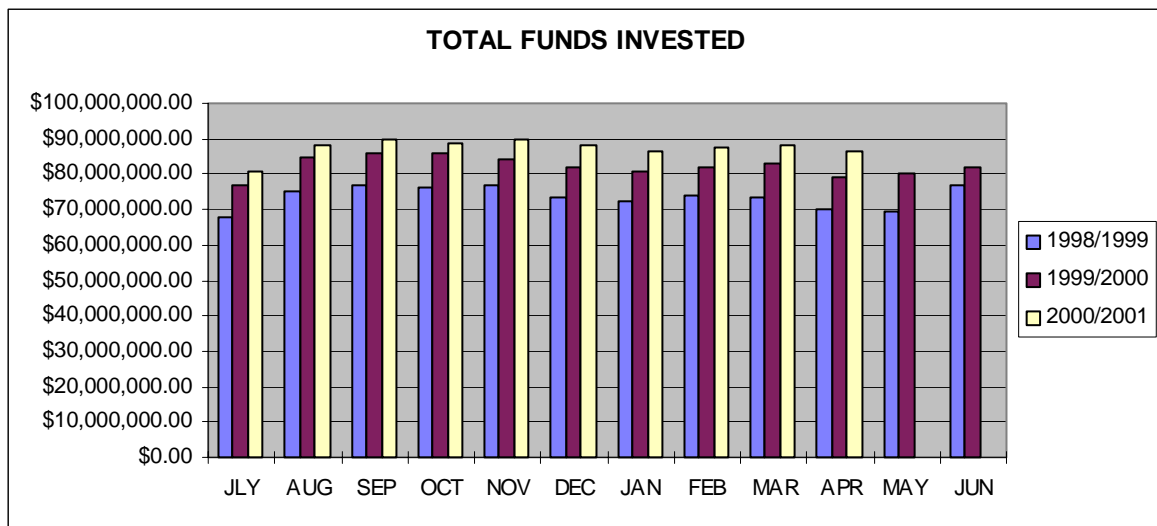


Reports from Director Corporate Services

3. ANNUALISED RATE OF RETURN FOR FUND MANAGERS

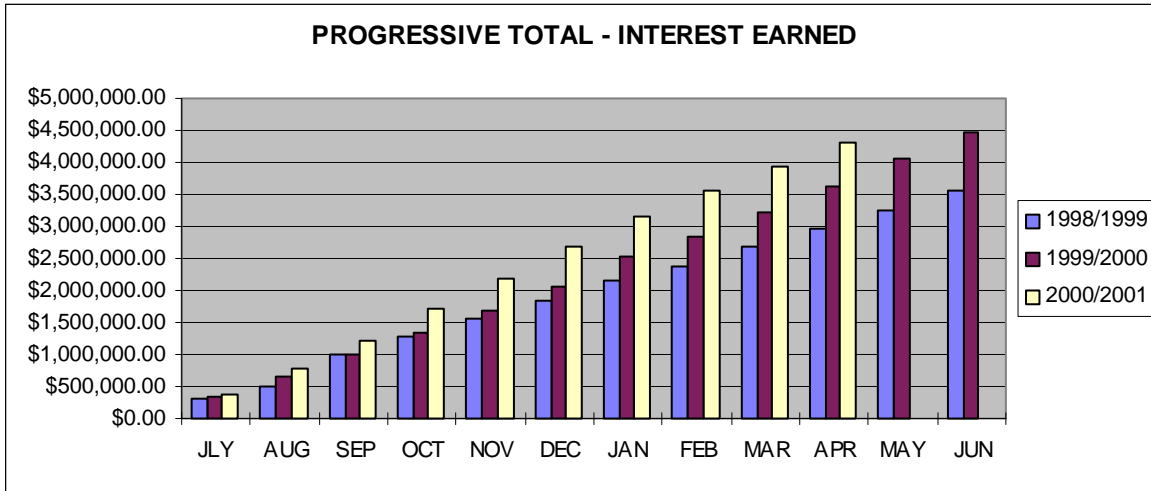
Fund	30 Days %	90 Days %	1 Year %
ANZ	5.55	5.98	6.56
Deutsche	5.88	6.13	-
Macquarie Diversified	4.80	5.82	-
National Mutual	5.41	6.23	6.59

4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



Reports from Director Corporate Services

5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



6. MARKET COMMENTARY

There is a wide range of market opinion whether the Reserve Bank of Australia is finished with this round of interest rate cuts. Expectations range from no further easings up to as much as another 1% cut in total over the next six months.

Unemployment in Australia is generally expected to rise to possibly 7.5% - 8% by December 2001. This as well as weak domestic demand, lower US interest rates and weak global economy make a further easing a distinct possibility.

6. INVESTMENT SUMMARY AS AT 31 MARCH 2001

GENERAL FUND

BANKS	15,613,625.00	
FUND MANAGERS	4,357,914.74	
LOCAL GOVT. FIN. SERVICES	1,000,000.00	
CALL	907,520.16	21,879,059.90

WATER FUND

BANKS	4,000,000.00	
FUND MANAGERS	26,001,461.33	
LOCAL GOVT. FIN. SERVICES	4,000,000.00	34,001,461.33

SEWERAGE FUND

BANKS	3,555,990.00	
FUND MANAGERS	16,394,218.54	
LOCAL GOVT. INV. SERVICE	10,355,567.83	30,305,776.37

TOTAL INVESTMENTS **86,186,297.60**

Reports from Director Corporate Services

It should be noted that the General Fund investments of \$21.8 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

STATUTORY STATEMENT - LOCAL GOVERNMENT FINANCIAL MANAGEMENT REGULATIONS (SEC 19)

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



R R Norvill CPA
Responsible Accounting Officer
Manager Financial Services

Reports from Director Corporate Services

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Reports from Director Engineering Services

11. ORIGIN: Planning & Design Unit

FILE REF: GS4/95/119 Pt3

REPORT TITLE:

Classification of Land as Operational - Koala Beach Estate, Pottsville

SUMMARY OF REPORT:

The Winten Property Group, the developers of Koala Beach Estate, propose to transfer land to Council as a Drainage Reserve.

The proposed Lot 266 should be classified as Operational under the provisions of the Local Government Act, 1993.

RECOMMENDATION:

That the land proposed to be transferred to Council as a Drainage Reserve, described as proposed Lot 266 in a subdivision of Lot 902 DP 1017348 be classified as Operational under Section 31 of the Local Government Act, 1993.

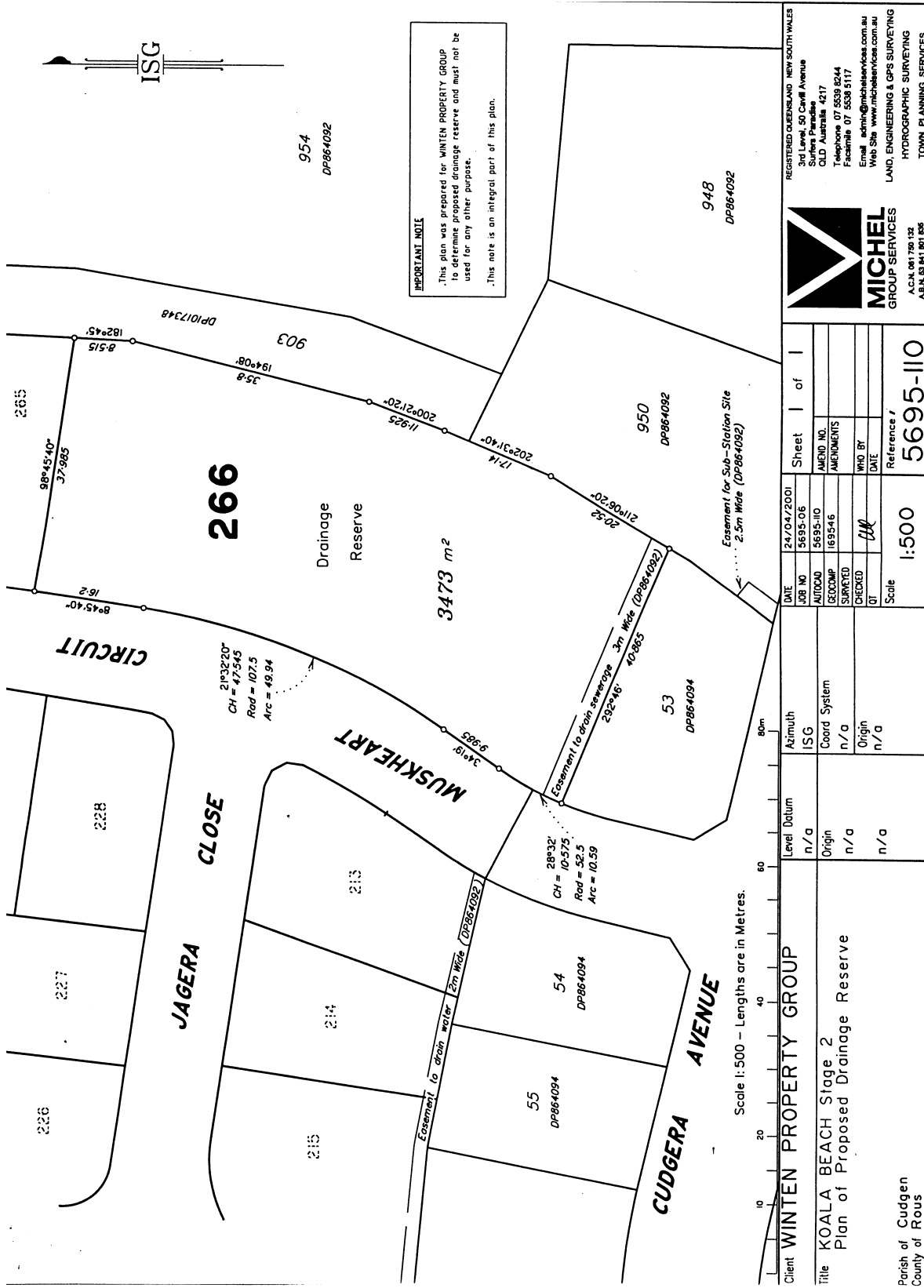
Reports from Director Engineering Services

REPORT:

The Winten Property Group, the developers of Koala Beach Estate, propose to transfer land to Council as a Drainage Reserve.

The proposed Lot 266 should be classified as Operational under the provisions of the Local Government Act, 1993.

Reports from Director Engineering Services



Reports from Director Engineering Services

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12. ORIGIN: Planning & Design Unit

FILE REF: GR3/12/1

REPORT TITLE:

Proposed Road Closure and Purchase - Part of Fernvale Road at Fernvale Adjacent to Lot 6 DP 619717

SUMMARY OF REPORT:

An application has been received to close and purchase part of the road reserve within Fernvale Road at Fernvale. The subject site abuts previous road closures and is considered unnecessary road due to the width of the residual road reserve.

RECOMMENDATION:

That:-

1. Council approves the proposal to close and purchase part of Fernvale Road adjacent to Lot 6 DP 619717
2. The applicants bear all legal and sundry costs involved
3. The applicants purchase the subject land for a price as assessed by the State Valuation Office
4. Easements for services be created for public authority reticulation services, if any, and
5. All documentation be executed under the Common Seal of Council.

Reports from Director Engineering Services

REPORT:

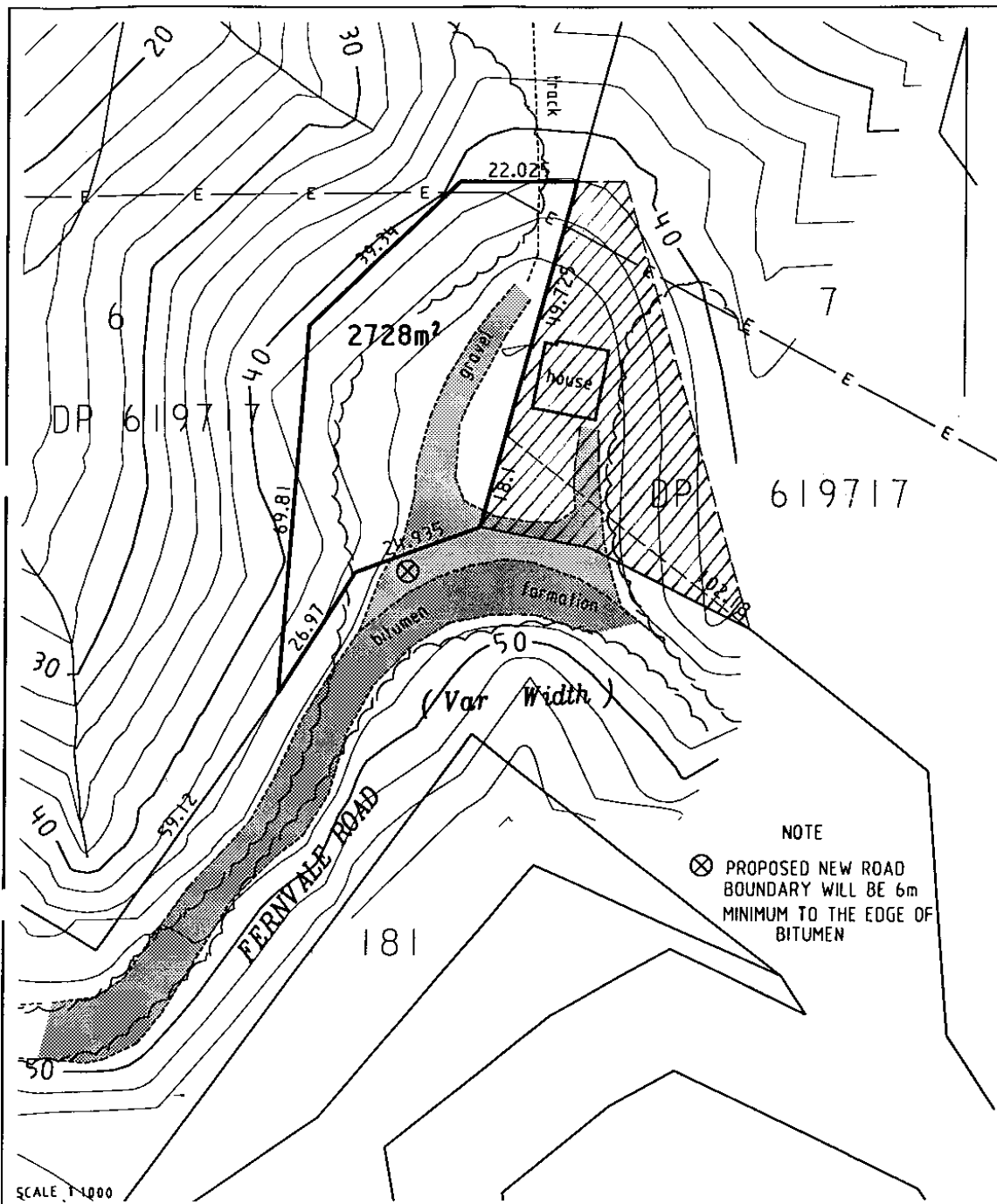
An application has been made by WJ, D, LJ & CS Dickenson, the owners of Lot 6 DP 619717, to close and purchase part of a formed public road being Fernvale Road at Fernvale.

As shown on the sketch attached, the subject land (comprising 2728m²) abuts land being previously closed road as shown hatched on the sketch.

The proposed new round boundaries are designed to be at least 6m from the existing bitumen formation.

The subject site is cleared land being the site of an old road formation and is considered unnecessary for existing or future road purposes due to the width of the residual road reserve.

Reports from Director Engineering Services



Scale 1 1000	Drawn 04/05/01	JOB No 6353H3
BROWN & HAAN Pty Ltd CONSULTING SURVEYORS Suite 7, "Carinya" Cor Commercial Rd & King St MURWILLUMBAH 2484		PROPOSED ROAD CLOSURE OF PART OF FERNVALE ROAD AT FERNVALE FOR: WJ, D, LJ & CS DICKENSON
PO Box 161 Phone/fax 02 6672 1256		

Reports from Director Engineering Services

Reports from Director Engineering Services

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Reports from Director Engineering Services

13. ORIGIN: Director

FILE REF: Water Management - Conferences

REPORT TITLE:

Australian Water Association Federal Convention

SUMMARY OF REPORT:

The Australian Water Association (AWA) is Australia's largest and most influential water industry association with approximately 3,300 individual members and over 500 organisations as corporate members. Tweed Shire Council is a corporate member.

The 19th Bi-annual Conference was held in Canberra in April 2001. Councillor W Polglase, Director Engineering Services, Water & Sewer Design Engineer and Water & Sewer Operations Engineer attended.

This report provides an overview of relevant aspects of the conference. While Council's Water Supply and Sewerage businesses are performing well in traditional activity areas of asset management, financial management and operational control, the conference reinforced the need for Council to expand its role in a number of management areas.

It is proposed to move, over time, to a risk based management approach through the development of a risk based model for Council's water supply and sewerage functions, to review the management of Council's drinking water quality in the light of the national framework that is currently being developed and to increase activity in the areas of community reporting, education and promotion.

RECOMMENDATION:

That this report be received and noted

Reports from Director Engineering Services

REPORT:

The Australian Water Association (AWA) is Australia's largest and most influential water industry association with approximately 3,300 individual members and over 500 organisations as corporate members. Tweed Shire Council is a corporate member.

The 19th Bi-annual Conference was held in Canberra in April 2001. Councillor W Polglase, Director Engineering Services, Water & Sewer Design Engineer and Water & Sewer Operations Engineer attended.

Over the three main days of the conference six concurrent streams were conducted:-

- National water policy and management
- Salinity
- Stormwater agricultural run off and salinity
- Technology – reticulation
- Technology – treatment
- Water resources and allocations

In addition to the running of the concurrent streams, Water and Local Government Workshops were participated in. These workshops provided useful insight into some of the pressing issues emerging from local government in the provision of water and sewerage services. Of particular interest was the workshops held on infrastructure funding and technical standards.

Discussion with workshop participants focussed on the way local government in various states are dealing with issues relating to the implementation of new standards for design and construction. These discussions provided a national perspective and awareness of key issues relating to standards, codes and specifications.

During the course of the conference a comprehensive industry and trade display covering the full range of consultative and managerial services available to equipment manufacturers and scientific instrumentation suppliers was on exhibition. This display provided valuable contact with industry and government representatives and an opportunity to increase awareness of latest advances in both technological and management fields.

MANAGEMENT PERSPECTIVE

The Australian water industry has undergone enormous change over the last eight years. These changes have been driven very much by national competition policy of which water reform was a major COAG objective.

The conference provided an ideal opportunity to reflect on the changes that have occurred in the industry over that time and particularly to review Council's role and current position within the Australian water industry.

Reports from Director Engineering Services

Almost all of the major water utilities are now operating as corporatised state agency businesses. At the major utility end of the industry, vertical integration is becoming increasingly evident. European based multi-national companies are now major stakeholders in the water industry in Australia. These companies operate out of board rooms in London and Paris. Their company structures usually include operation arms, consultants, trade suppliers and manufacturing companies producing infrastructure for the water industry. Such vertical integration almost always locks out opportunities for competing suppliers. Given that the business of water supply and sewerage management is effectively a monopoly service, it is a little difficult to accept that current structures evident within the major utilities have assisted in the delivery of national competition policy objectives. Given essential and monopoly characteristics of water systems well publicised increased revenue returns do not necessarily reflect increased productivity.

Over the last eight years there has been a significant reduction across the nation in the role that local government has in the water industry. New South Wales, Queensland and Tasmania are the only states where local government continues to provide such services. New South Wales has experienced less structural change over this time than any other sector of the water industry in Australia. Interestingly though, New South Wales local government continues to perform well by national comparison. Council might recall the recent Performance Monitoring Report presented to Council incorporating comparisons with national major and non-major utilities. This report demonstrated the relatively high performance of the industry in New South Wales. The New South Wales industry has largely relied on such performance monitoring data and benchmarking to demonstrate its competitiveness nationally as a means of satisfying COAG objectives.

In recent times the Queensland State Government has encouraged local councils to establish their water operations as commercialised business arms of Councils. As an incentive to Councils, the state government has provided significant grants (sourced from COAG payments) to individual Councils. There has been wide acceptance of this across the state. Most Queensland Authorities are now promoting their operations as a commercialised business independent of Council. Interestingly, closer enquiry over the period of the conference would seem to indicate that these "commercial operations" are in fact operating no different to the way most councils manage their water supply and sewerage functions in New South Wales.

Water utility operations in the United States are currently undergoing similar changes as that experienced in Australia over recent years. The American Waterworks Resource Foundation has identified seven primary trends evolving in the U.S. These trends are:-

- Growing infrastructure replacement needs
- Increasingly stringent environmental regulations
- Continued industrial restructuring
- Growing customer expectations
- Transformation of the workplace
- Proliferation of technology

Reports from Director Engineering Services

- Integration of drinking water into water resource management

These trends are evident in Australia, particularly in regard to the operation of the major corporatised utilities.

MANAGEMENT FOCUS FOR TWEED SHIRE COUNCIL

During this period of change within the water industry over the last 10 years Council has continued to operate very much as a traditional authority. While Council's reported performance would indicate that this has been an appropriate strategy, there is nevertheless much to be learned from the wider industry perspective. While Council should continue with its traditional core activities of asset replacement, capital works, environmental upgrades and day to day operational procedures there are a number of areas where it is now considered appropriate for Council to direct some energy and resource. These are:-

- Risk based management approach
- Drinking water quality
- Community reporting, education and promotion
- Asset management and operational activities

RISK BASED MANAGEMENT APPROACH

Water resource management is an increasingly complex process. Contemporary management within the water industry is developing a wider understanding of the various risks associated with water treatment, distribution and associated infrastructure. Risks can be environmental, corporate and financial. Over ensuing years it is proposed that significant investment be made on the development of a risk based model within Council's water supply and sewerage functions. The likely benefits of this process will include:-

- Greater understanding of Council's systems
- Optimisation of the system, not just the component parts
- Better understanding of the system in terms of the critical nature of certain components
- The introduction of better practices

The likely outcome will be a risk based life cycle management strategy. Asset management boundaries will be able to be identified and quantified in terms of risk of failure, severity and reliability of service delivery.

DRINKING WATER QUALITY

Historically, drinking water quality management has revolved around end of tap monitoring. Contemporary management however, in this area is built around the development of preventative strategies from catchment to consumer. Increased consumer expectations supported by government direction significantly increase the scope of management activities and the associated liabilities for

Reports from Director Engineering Services

water authorities. A national framework for the management of drinking water quality is currently in the course of preparation to address these issues.

It would appear that the industry generally is still at odds with government who would prefer a legislative solution rather than this risk management approach.

Council is already heading down the risk management path with its recent decision to undertake a risk based assessment of the Tweed Water Supply Catchment above Bray Park Weir.

COMMUNITY REPORTING, EDUCATION AND PROMOTION

If there is one area in Australia that the water industry has failed to deliver, it is in the area of community education and reporting. The Sydney water crisis (now referred to as “an incident”) again demonstrated the lack of an adequate level of understanding of issues related to the delivery of potable water supplies. Tweed’s own experience with various community consultation initiatives and Local Government Week inspections of water supply and sewerage infrastructure has demonstrated an inadequate level of understanding within our community.

Water resource management will continue to be a major community issue within the Tweed Valley. A pre-requisite to informed community decision making is an understanding and knowledge of how we as an urban community intrude into the water cycle. Major authorities and regional operators are now making a significant investment in community reporting, education and promotion in response to the communities (relevant) recent interest in such matters.

While Council has been active in this area in the past, particularly with National Water Week activities and the development of the Educational Resource Centre, it is considered that Council should embark on more regular and formal reporting of its activities in these areas. Proposals for such will be brought forward to Council during 2001/2002.

ASSET MANAGEMENT & OPERATIONAL ACTIVITIES

An increasing focus on asset management and operational activities will be required to:-

- Optimise economic life
- Reducing risk of supply interruption
- Mitigate liability
- Improve data collection, analysis and associated reporting
- Develop quality based systems to stand increased scrutiny and audit
- Meet increased government reporting requirements
- Ensure an increased emphasis on routine maintenance activities
- Continue development of demand management programs
- Continue development of sewer rehabilitation programs

Reports from Director Engineering Services

The integration of these management strategies into an overall risk management approach to Council's water and sewerage activities will be required in the medium term.

Reports from Director Engineering Services

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Reports from Director Environment & Community Services

14. ORIGIN: Environment & Health Services Unit

FILE REF: Catchment Management Plan

REPORT TITLE:

Feedback on Strategies and Management Actions of the Draft Regional Catchment Management Plan

SUMMARY OF REPORT:

On 9 April 2001 Tweed Shire Council received a letter from the Northern Rivers Catchment Management Board requesting that Council provides input into the development of Strategies and Management Actions for the Catchment Management Plan and feedback on the management targets of the plan.

The role of the NRCMB is to develop a draft Catchment Management Plan for our area by October 2001. The catchment area that it covered is that of the Tweed, Brunswick and Richmond Rivers.

RECOMMENDATION:

That Council endorses the comments on the 'Strategies and Management Actions of the Draft Regional Catchment Management Plan' as provided by Tweed Shire Council, and for those comments to be forwarded to the Northern Rivers Catchment Management Board.

Reports from Director Environment & Community Services

REPORT:

The following tables have been prepared to:

1. Allow comments to be made against each Management Target.
2. To identify Tweed Councils 'Strategies and Management Actions' for each Management Target of the draft Regional Catchment Management Plan.

CATCHMENT TARGET:

A landuse planning framework, which overcomes four principle sources of conflict between human settlement and sustainable use of rural resources, is operational by 2010.

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
100% of all sites of physical, mythical and/or spiritual significance to the Aboriginal community under appropriate management, as agreed to by the relevant Aboriginal custodians, with 95% protected, by 2006.	Culturally significant sites. Areas identified by NPWS database. Areas not identified in any database.		<ul style="list-style-type: none"> • National Parks and Wildlife Service have taken on this responsibility. Council to be advised of status of sites and management status.
Permanently protect in agricultural reserves those large contiguous areas of land mapped as most important for current and/or future food and fibre production, and for rural employment by 2003.	The major areas of our best agricultural land, but particularly the basalt soil areas and alluvial floodplains.		<ul style="list-style-type: none"> • This statement is consistent with the TSC Strategic Plan and LEP.
Human settlement limits defined by 2004.	As above: plus: Land used or planted out for commercial forestry. Quarries and quarry resources. Domestic water supply catchments Culturally significant sites and areas. Habitat areas of high conservation and/or tourism value.		<ul style="list-style-type: none"> • Human settlement should occur in accordance with the Strategic Plan.

Reports from Director Environment & Community Services

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
(1)Reduce conflict related impediments to sustainable use of rural resources by (2)reversing the impacts of all targeted small rural lots by 2010.	As above.		1. This statement is consistent with the Strategic Plan and the LEP. 2. Currently under consideration in the Rural Settlement Strategy and the Rural Viability Strategy.

CATCHMENT TARGET:

An additional 50% of the area of priority and high risk high conservation value ecosystems outside reserves or State Forests be brought under active management by 2011.

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
1. Healthy populations of plants and animals traditionally used by Aboriginal communities are 'looked after' and maintained in targeted locations by 2004. 2. Access by Aboriginal communities to land and water traditionally used for hunting and gathering, be protected in targeted locations by 2004.	Aboriginal cultural heritage sites. Lack of consultation. Limited knowledge of site locations. Destruction of cultural sites. Denied access for cultural activity. Poor health of native vegetation and lack of native animals. Poor living conditions. Loss of culture (stolen generation)		1. Target is consistent with Vegetation Management Plan. 2. Advise the Council is unable to comment on this Management Target until the scope of the issue is identified. • Consideration needs to be given to community access to land. For example, a Management Target may be "Access by the entire community to land and water used for recreational purposes be managed in targeted locations by 2004."

Reports from Director Environment & Community Services

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
High Conservation Value (HCV) riparian vegetation at highest risk under active management by 2006.	HCV riparian vegetation.		<ul style="list-style-type: none"> • Target is consistent Councils current planning processes. • Active management therefore resources required. Where will these resources come from, what resources will be required? • Council needs support from NSW Government to protect riparian zones (HCV) on private lands. • It should be recommended that the state government give consideration to providing a similar level of (SEPP) protection and guiding information for Core Riparian areas as that which is in place for SEPP26 Coastal RF and SEPP14 Coastal wetland areas.
50% of HCV remnants in identified corridors under active management with an increase of 5% in area by 2006.	Isolated remnants within: identified corridors fragmented landscape riparian corridors ridgetop corridors		<ul style="list-style-type: none"> • Target is consistent Councils current planning processes. • Active management therefore resources required. Where will these resources come from, what resources will be required? • Council requires dedicated vegetation management program.
50% of targeted areas of HCV rainforest, coastal dune and heathland, mangroves, seagrass beds, saltmarshes under active management with an increase, where possible, of 10% in area by 2006.	Isolated remnant of native vegetation inc. rainforests, coastal dune, etc etc.		<ul style="list-style-type: none"> • Target is consistent Councils current planning processes. • Active management therefore resources required. • Where will these resources come from, what resources will be required? • Continued support from NSW Govt. for Estuary Management Program of TSC. • Increased coordination between Govt. departments and TSC through Estuary and Coastal Management Advisory Committees.

Reports from Director Environment & Community Services

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
Maintain ecological function of targeted wetlands and commence restoration of 30% of wetlands with high recovery potential by 2006.	Wetlands		<ul style="list-style-type: none"> Active management therefore resources required. Where will these resources come from, what resources will be required? Need to identify wetlands. Requires high level of coordination between Govt. departments and TSC.
Aquatic habitat management and rehabilitation plans implemented in all priority HCV sub-catchments by 2006.	Aquatic habitat		<ul style="list-style-type: none"> Appears a reasonable management target. Requires high level of coordination between Govt. departments and TSC.

CATCHMENT TARGET:

50% reduction in acid and acid product outflow events from targeted hotspots and specific problem sites by 2015.

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
<ul style="list-style-type: none"> 100% of land in McLeod Creek-Main Trust Canal Hotspot operating under an active management program by 2002. 70% of land in the Cudgen Catchment Hotspot operating under an active management program by 2004, and 100% by 2007. 100% of land in Dulguigan Hotspot operating under and active management plan by 2004. 100% of land in other specific problem sites operating under an active management plan by 2010. 	<p>Risk areas: coastal waterbodies that receive runoff from hazard areas, including infrastructure, oysters, commercial and recreational fishing and tourism.</p> <p>Hazard areas: All ASS mapped areas, specifically Hotspots as identified in Hotspots Report (DLWC 1999).</p> <p>Tweed hotspots: McLeods Creek Cudgen Lake Dulguigan Creek</p> <p>Specific problem sites Terranora Lake/ Cobaki (near airport) Blacks Drain Mooball/Pottsville/ Round Mt./ Cudgera Ck.</p>		<ul style="list-style-type: none"> Active management of Tweeds hotspots currently funded by the Federal Natural Heritage Trust and Environmental Trust and by the state Acid Sulfate Soils Program (ASSPro) and the DLWC Hotspot program. Hotspots are managed under Clause 35 of the LEP by requiring approvals for works that will disturb potential acid sulfate soils. Note: the Cane Industry has best management practice guidelines in place.

Reports from Director Environment & Community Services

CATCHMENT TARGET:

To rehabilitate and protect stream health in priority subcatchments by 2011.

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
Protect access to all priority areas of cultural significance to the Aboriginal community for the continuing use and care of the physical, spiritual and mythical values of sites that specifically relate to water by 2003.	Aboriginal cultural heritage issues. Lack of consultation. Loss of culture Limited knowledge of site locations. Destruction of cultural sites/areas. Denied access for cultural activity. Poor living conditions Poor water quality and lack of flow.		<ul style="list-style-type: none"> TSC to be advised of sites and management actions by NPWS.
Water sharing rules established in priority sub-catchments by 2006.	Upper Tweed River, Brays Creek, Pumpinbil Creek, Upper Oxley River, Mid Tweed River, Sheen Creek, Cobaki Creek, Piggabeen, Bilambil Creek.		<ul style="list-style-type: none"> Given the relative importance of the Bray Park catchment on the Tweed River in terms of the protection of town water supply this catchment should be given the highest priority in the Tweed Valley. (MR)
A coordinated approach to water quality monitoring established and implemented by 2006.	Tweed Catchment		<ul style="list-style-type: none"> Well advanced in the process. Have a model others may wish to adopt. Additional water quality and ecological monitoring being undertaken at regular intervals through Coastal Estuary and ASS Management Advisory Committee of Council. An interim Water Quality Management Plan adopted by TSC.
10% reduction in 2001 per capita reticulated water usage by 2011.	Major growth centres: Tweed Heads, Alstonville, Byron Bay, also industry, STP's general community and local government.		<ul style="list-style-type: none"> An appropriate action to deliver this management target to undertake a demand management program across the local government areas involved.

Reports from Director Environment & Community Services

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
Best management practices to address key water quality issues in the targeted areas will be developed promoted and adopted for key industries and local government by 2003.	Selected industries and/or subcatchments /streams in the Tweed Catchment		<ul style="list-style-type: none"> • TSC needs support from NSW Govt. to provide regulation/enforcement in rural/agricultural industries. • Interim Water Quality Management Plan adopted. Further resources required to implement. • Soil and erosion control through planning.
Severe streambank erosion rehabilitated on targeted stream sections with high recovery potential by 2006.	Targeted works in the six priority classification of stream condition as identified in the River Styles Report for the Tweed Catchment.		<ul style="list-style-type: none"> • a). Tweed River Estuary Bank Management Plan adopted by TSC - identifies high priority sites and potential management actions. • b). Similar process to a). required for freshwater reaches. • Need ability to enforce on private lands (with some assistance from DLWC).

Reports from Director Environment & Community Services

Management Targets	Risk Landscape	Responsibility	Tweed Council's Management Actions / Comments
All treated effluent from STP's to be of reuse standard by 2010, with 50% non-potable reuse of all dry weather discharge from STP's by 2011.	Banora Point, Bogangar, Kingscliff, Murwillumbah, Tumbulgum, Tweed Heads, Tyalgum.		<p>These management targets raise a number of serious questions in regard to the sustainability of the target as set. While some 10 years ago there was a strong government agency and community push for land based disposal of effluent there is now general consensus that this is not the most sustainable option in all circumstances. The far north coast is an area of relatively high rainfall and in the case of the Tweed Valley in particular the steep slopes of the Caldera hardly lend themselves to effluent reuse and these areas are remote from the urban communities. The flood plain areas of the Valley have heavily impermeable soils and generally high water tables. Most farmers spend their time attempting to get water off their property. Over the last 3 months there would have been little opportunity in the Tweed Valley for broad based land disposal of effluent.</p> <p>In regard to effluent disposal the management target needs to be much more strategic and should read something like "all effluent will be returned to the water cycle in a ways that minimises impact or maximises the benefit based on an holistic assessment of the environment". Many existing effluent schemes consign large volumes of water from Point A to Point B. The attendant electrical energy consumes fossil fuel and releases greenhouse gas into the atmosphere while at the same time delivering questionable community benefits, particularly in relation to projects like irrigation of golf courses or sporting fields.</p>

Reports from Director Environment & Community Services

15. ORIGIN: Environment & Health Services Unit

FILE REF: Children & Family Services

REPORT TITLE:

Policy Framework for Children and Family Services for Local Government in New South Wales

SUMMARY OF REPORT:

Council has received a copy of the Policy Framework for Children and Family Services for Local Government in New South Wales produced by the NSW Local Government Community Services Association and the Local Government and Shires Association of New South Wales. Within the policy the role of Local Government is set out.

There are many functions that Council can become involved in, however such involvement is dependent on adequate resourcing. Currently no such resourcing is provided. The full policy document is available from the Director Environment & Community Services.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

Council has received a copy of the Policy Framework for Children and Family Services for Local Government in New South Wales produced by the NSW Local Government Community Services Association and the Local Government and Shires Association of New South Wales. Within the policy the role of Local Government is set out below.

Reports from Director Environment & Community Services

ROLE OF LOCAL GOVERNMENT

1 Charter and role of Local Government in NSW

Local Government's charter involves providing directly or on behalf of other governments adequate, equitable, appropriate, efficient and effective services, and facilities (Section 8 *Local Government Act 1993* as amended).

The charter highlights principles relating to:

- community leadership;
- regard for cultural and linguistic diversity;
- planning and providing for the needs of children;
- facilitation of "stakeholder" participation and feedback.

2 Unique position of Local Government

The charter makes it clear that Local Government is a **sphere of government with a legitimate** role in providing a wide variety of services that local residents require.

Local Government is the prime means by which local and regional communities express their identity, enhance their wellbeing, care for their environment and relate to Commonwealth, State and Territory governments. Councils derive legitimacy in communities from their accountability as a democratic forum for local decision-making. Local Government's capacity to act in the local community is based on an established and wide range of functions, which are capable of adjustment or expansion to new roles and responsibilities.

Local Government can choose to involve itself in the provision, management or operation of the following "community service" functions:

- services for children, families, young people, people with disabilities and older people;
- public health;
- cultural, educational and information services;
- public transport;
- sport, recreation and entertainment;
- housing.

Local Government is required to enact regulatory functions that impinge on people and services to people. This requires Councils to develop a social or community plan, and include in their management plan and annual report, a statement regarding access and equity activities planned or undertaken. Local Government social planning, community development and human services play important roles in contributing to the physical, psychological and social health, welfare and wellbeing of residents.

Local Government is the appropriate sphere of government to take a lead role in social planning and community services for its residents because:

- it is in the best position to identify and respond to the unique needs of the local area;

Reports from Director Environment & Community Services

- it is easily identifiable and democratically accountable to residents for the quality of services provided;
- it has a capacity for flexibility and adaptation;
- it recognises preventative strategies that encourage social cohesion, better communities and positive economic outcomes.

Local Government:

- is a partner with other spheres of government, the community and the non-government sector in developing holistic local and regional economic and social policies;
- facilitates processes of community development by which the community defines its collective and individual needs and organises to address those needs;
- acts as the advocate for its communities to other spheres of government and the non-government sector.

Local Government:

- is the primary planner at the local level, especially in measuring and mitigating the impact and maximising the benefits of development;
- will actively engage citizens in its social planning and community development to maximise the use of local skills to craft local solutions to local problems;
- seeks to build links with local non-government organisations to support mutually agreed solutions;
- seeks to understand the local community and uses data on population mix and service use to assist in planning of services;
- states explicitly its social and cultural goals in management plans and social plans;
- seeks to promote integrated planning between council sections to integrate social, cultural and housing planning with physical and corporate planning, and between council, other spheres of government and the non-government sector
- promotes the development of non-urban models as appropriate, which mitigate the disadvantage arising from rural and isolated communities.

Local Government performs a range of roles arising from its mandate as a voice for community aspirations and concerns. As well as providing social and physical infrastructure, making policy and conducting planning and regulation in the interests of the community, Local Government relates to Commonwealth and State and Territory governments as:

- an advocate for community concerns and community-based groups;
- a coordinator of integrated service delivery packages;
- an agent for service delivery on behalf of central governments;
- a broker for information relevant to the locality between all spheres of government, business, community organisations, and local residents.

Local Government's efforts are applied in partnership with Commonwealth and State governments through cooperative policies and programs on a national or large regional scale. Program delivery in this way avoids both compartmentalising functions and complex coordinating mechanisms necessary for programs incorporating multiple goals. Local Government, with responsibility for outcomes within a defined geographical area, can take a holistic approach to governance, seeing social, cultural, environmental and economic aspects as interrelated dimensions of the community.

Reports from Director Environment & Community Services

As can be seen above there are many functions that Council can become involved in, however such involvement is dependent on adequate resourcing. Currently no such resourcing is provided. The full policy document is available from the Director Environment & Community Services.



Dr J Griffin
General Manager

Reports from Committees/Working Groups

1. Minutes of the Tweed Shire Council Access Committee Meeting held 15 March, 2001

Community Access

VENUE:

HACC Centre, South Tweed Heads

TIME:

3.30pm

PRESENT:

Kristen Forster, Bill McKennariey, Una Cowdroy, Brenda Chapman, Graham Williams, Stephen Pollitt, Ron Douglas, Mick O'Brien, Ross Cameron.

APOLOGIES:

Cr Marshall, Marg Cooper, Ray Clark, Shirley Pigram, Anna Fisher, Andrew Maglaras.

MINUTES OF PREVIOUS MEETING:

As there was no quorum the previous minutes were not ratified and no resolutions were made, however, the following points were discussed.

Amendment to Business Arising Item No 7 – It is the Prime Minister's Gold Medal Award. There were 600 entrants for awards not 60.

BUSINESS ARISING:

1. Terms of Reference

Committee agreed that no changes are needed to the Terms of Reference.

Reports from Committees/Working Groups

2. Beach Access

Community Access

Waiting on design and quote for the beach access ramp. Proposed ramp will be concrete. To get the correct gradient it will need to be a V shaped ramp – not straight down. There will be a viewing platform half way down. Also disability access picnic table installation and disability car park. To get further onto the beach people will need a beach wheelchair. A Northcott “Freewheeler” beach wheelchair costs \$3,500 and delivery costs. Everyone at the meeting was in favour of purchasing the chair from remaining Access Committee funds.

RECOMMENDATION:

That \$3,500 of the remaining annual Access Committee budget be committee to purchasing a beach wheelchair subject to ratification at the next meeting.

3. Pottsville Dune Care Beach/Swimming Access

Community Access

Pottsville Dune Care are applying for funds to build a small set of stairs and a ramp down to the water on the south side of the bridge over Mooball Creek at Potts Point.

The site is sheltered from the inlet’s currents and is about midway between the bridge and the ocean. The Dune Care Group have requested a letter of support for their funding application.

RECOMMENDATION:

That the Tweed Shire Access Committee write a letter to support the project in concept and subject to regulations and all relevant approvals being obtained.

4. Cudgen Headland Surfclub Disability Day

Ideally this annual event could be held as the launch of the beach access site. Need to get a date that the site is planned to be completed and work from there. Will discuss at next meeting.

5. Tweed City Shopping Centre

Kristen talked to Su Guard and Brett Rolls, Tweed City Management. They plan to black out old pedestrian crossing into gardens and trim plants that are protruding onto the pathway. Letter of thanks still be written.

Reports from Committees/Working Groups

6. International Day of People With A Disability

Evaluation meeting to be held Wednesday 28 March, 2-4pm at HACC Centre.

7. Prime Minister's Gold Medal Access Awards

Publicity photo and article appeared in the Daily News 23 February, 2001.

8. Disability Parking Space Murwillumbah

Waiting for update from Traffic Committee

9. Murwillumbah Bowls Club

The issues of lighting and disability car parking have been referred to the Manager of Engineering Services.

10. Carelink – Access Committee Representative

Far North Coast Carers Respite sent Cr Marshall the information she requested.

11. Murwillumbah Pool Parking

Report next meeting.

12. Pedestrian Crossing

Corner of Wollumbin and Nullum Street. Waiting for news about the possibility of a crossing at the new government offices.

Reports from Committees/Working Groups

13. DDA Draft Action Plan

Add went into Tweed Link on 3 March about public display of Council's DDA Action Plan. Interested Committee members took a copy of the draft. The document can be requested by calling 6670 2440. Submissions/comments are to be made by 11 April, 2001.

14. Outdoor Dining Policy

Committee interested to get an update on the adoption of this policy. It was commented that there had been great improvement in disability access in Murwillumbah since the Main Street upgrading but there were still a few difficult places.

15. Audio Information Service

Tweed Link on tape. Bill concerned that the public notices were not included in the audio taping of the Tweed Link. He was concerned about the legal aspect of not making this available. The Audio Information Service deleted these notices off their tap due to many people saying that they did not want it.

16. Correspondence In

In:

Jason Mthiou –

Cabarita Bowling Club disability access

Cabarita Hotel – steps into the public pub

Pedestrian Crossing form Cabarita Post Office to other side - bad gutter ramp

No footpaths in old part of Cabarita

Requests a pedestrian walkway from Ti-tree Avenue to the park and that a path be paved through the park.

ACTION: Ross Cameron to send a letter to Cabarita Bowls Club and Hotel to do a site inspection and provide advice on disability access. Ross will also reply to Jason informing him or our actions. Pedestrian crossing ramp to be brought to the attention of the engineers.

Reports from Committees/Working Groups

17. Olympic Mini-Bus

Ex-Olympic mini-bus grants – invitation for expressions of interest – Ageing and Disability Department.

18. Technical Aid to the Disabled

Pamphlet on service/computer loan service.

19. National Disability Advisory Council Tweed Consultations

Notice of NDAC of DOCS are running a public consultation on Monday 9 April, 2001, 1pm-3.30pm at Tweed Heads. The Council is interested to hear the concerns, issues and needs of people with a disability. Council provides advice to the Minister. More details will be provided by the Council when confirmed.

ACTION: Mail information out to Committee members it becomes available.

20. Invitation – Public Presentation of Disability Access Internet Directory

By the Horizon Foundation Gold Coast on Wednesday 28 March 2001.

21. Vice-chair Position

Ron Douglas informed the meeting that he will have to step down from the vice chair position after May meeting.

NEXT MEETING:

3.30pm – 5.30pm Thursday 17 May, 2001 Buchanan Street Meeting Room, Murwillumbah.

The meeting closed at 5.30pm

<p><i>Director's Comments:</i> <i>Endorsed.</i></p>

Reports from Committees/Working Groups

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DIRECTOR'S RECOMMENDATIONS:

2. Beach Access

Access Matters

Committee Recommendation:

That \$3,500 of the remaining annual Access Committee budget be committed to purchasing a beach wheelchair subject to ratification at the next meeting.

Director's Recommendation:

The recommendation under Item 2 will be implemented under delegated authority

3. Pottsville Dune Care Beach/Swimming Access

Access Matters

Committee Recommendation:

That the Tweed Shire Access Committee writes a letter to support the project in concept and subject to regulations and all relevant approvals being obtained.

Director's Recommendation:

That Council sends the letter recommended under item 3.

Reports from Committees/Working Groups

MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

2. Minutes of the Tweed Shire Local Emergency Management Committee Meeting held Tuesday 13 February 2001
 3. Minutes of the Community Development and Support Expenditure Scheme Committee Meeting held Wednesday 11 April 2001
 4. Minutes of the Tweed Shire Council Centenary of Federation Committee Meeting held 12 April 2001
 5. Minutes of the Local Environmental Plan Advisory Committee Meeting held Tuesday 17 April 2001
 6. Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 24 April 2001
 7. Minutes of the Companion Animal Committee Meeting held Monday 7 May 2001
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Reports from Committees/Working Groups

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Orders of the Day

1. Notice of Motion - Cr Lawrie

Referendum - Ward System of Voting

Notice of Motion; Elections - Wards

That Council conducts a referendum prior to Christmas 2001 regarding the introduction of a ward system of voting.

2. Notice of Rescission - Cr Luff, Cr Carroll and Cr James

Seaside City Local Environmental Study - Selection of Consultants

Notice of Rescission, GT1/LEP/2000/3 Pt4; LEP – Seaside City

That Council resolution at Minute No C204 in relation to Item 2 Orders of the Day dealt with In Committee of the Meeting held 2 May 2001 being:-

".....that Council accepts the quote from the McInness Group to prepare the Local Environmental Study and Draft Local Environment Plan in respect of the Seaside City land."

be rescinded.

3. Notice of Motion - Cr Marshall

Numinbah Road - Safety Audit

Notice of Motion; Numinbah Road; R3780 Pt2

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.

Orders of the Day

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Workshops

Councillors,

Following are details of upcoming Workshops of Council:-

1. TACTIC Workshop – Funding Agreement

Date: 23 May 2001
Time & Duration: 4.30pm – 5.30pm
Organiser: Ian Carpenter
Resolved by Council: No

2. Bush Fire Risk Management Workshop

Date: 23 May 2001
Time & Duration: 7.30pm – 9.00pm
Organiser: Don Buckley
Resolved by Council: Resolved 4/4/2001

Workshops

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