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

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

Schedule of Outstanding Resolutions

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.

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. Work commenced by owner and being maintained.
2. Report on the repairs/maintenance of the dwelling to be completed after other work completed.

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18 APRIL 2001

REPORTS FROM DIRECTOR ENGINEERING SERVICES IN COMMITTEE

3. Houses on Road Reserve - Reserve Creek Road

R4660 Pt3

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

C188

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

Current Status: To be completed

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

5. Options Cabarita Beach SLSC New Clubhouse

Surf Life Saving - Cabarita Headland

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

C190

That Council:

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

Current Status: Study to be undertaken.

16 MAY 2001

ORDERS OF THE DAY

3. Numinbah Road - Safety Audit

Notice of Motion; Numinbah Road; R3780 Pt2

1068

Cr Marshall

Cr Youngblutt

RESOLVED that the General Manager conducts a safety audit of Numinbah Road between Crystal Creek and Chillingham and brings forward a report, including costings of any

Schedule of Outstanding Resolutions

proposed works, particularly addressing issues of edge linemarking, guide post installation and advance warning signs.

Current Status: To be finalised.

Mayoral Minute

Councillors,

1. Julio Muino 30/10/1954 to 23/5/2001

Condolences

Julio Muino was employed by Council for a period of 13 years (1987 to 2000) before retiring due to ill health.

He originally started work on the outdoor staff and transferred to the Rangers section in 1989 where he continued until his resignation last year.

Sadly Julio's health deteriorated after his resignation and he lost his struggle with cancer on 23 May 2001.

Everyone knew Julio. He was greatly respected, admired and yes, loved, by the people who worked with him or came in contact with him.

Nothing was too much trouble for Julio. He comforted so many people, especially the elderly, who had ongoing problems with dogs.

The arrival of a grandchild only recently gave him a great deal of happiness.

It is hard to believe a big strong, healthy person could leave us so suddenly.

Julio we will miss you. Rest in peace

Mayoral Minute

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Reports from Director Development Services

Reports from Director Development Services

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

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

MATTERS FOR CONSIDERATION

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

Reports from Director Development Services

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Reports from Director Development Services

1. ORIGIN: Development Assessment Unit

FILE REF: GB3/23 Pt3

REPORT TITLE:

Development Application K99/49 – Proposed Bridge and Approaches Over Mooball Creek at Black Rocks Estate

SUMMARY OF REPORT:

Prior to finalising Amendment No. 11 to Tweed Local Environmental Plan 1987, Council entered into a Deed of Agreement in 1994 with Pottsville Development Corporation in relation to the construction of a bridge over Mooball Creek at Black Rocks Estate. The Deed of Agreement requires the developer to pay contributions in conjunction with the various staged releases of the Black Rocks Estate.

In pursuance of the terms of the Deed of Agreement, Council's Engineering Services Division has prepared a design for a 96m long pre-stressed concrete bridge and approaches over Mooball Creek and that design is the subject of the current development application.

Relevant State Agencies have been consulted in relation to the application and this Section 79C assessment concludes that subject to the imposition of appropriate conditions, approval of the application is reasonable.

RECOMMENDATION:

That:-

- A. The State Environmental Planning Policy No. 1 objection to the development standard contained in Clause 24 of Tweed Local Environmental Plan 2000 be upheld and the concurrence of the Director-General of Department of Urban Affairs and Planning be assumed.
- B. Development Application K99/49 for the construction of a bridge and approaches over Mooball Creek and within Crown land, and within Lot 1 DP 824499 and Lot 65 DP 855462 Coast Road, Pottsville be approved subject to the following conditions:-

GENERAL

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

Reports from Director Development Services

- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
3. The development shall be completed in general accordance with the Statement of Environmental Effects prepared by Woodward Clyde and Plan Nos A1-116b/01 to 16 (Issue A) prepared by Tweed Shire Council and submitted on 7 August 2000, except where varied by these conditions.
 4. 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.
 5. No soil, sand, gravel, clay or other material shall be disposed of off the site.
 6. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

ENVIRONMENT PROTECTION

7. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
8. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
9. 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.
10. 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.
11. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
12. 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.
13. 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:

Reports from Director Development Services

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.

14. Compliance with the requirements of the Department of Land and Water Conservation contained in the Department's letter dated 12 January, 1999.
15. Compliance with the "Permit to Cut, Remove, Damage or Destroy Marine Vegetation" issued by NSW Fisheries on 18 December 2000 (Note: The Permit expires on 18 October 2001).
16. Compliance with the "Authority Under Sections 198 to 203 of the Fisheries Management Act to Dredge or Reclaim" issued on the 18th December 2000 (Note: the Authority expires on 18 December 2001).
17. Compliance with the Mangrove and Seagrass Management Plan (Peter Parker, June 2000) to the satisfaction of the Director of Development Services.
18. The development shall be carried out in general accordance with the Black Rocks Bridge Erosion and Sedimentation Control Plan (TSC) and the Environmental Management Plan prepared by Tweed Shire Council and dated May 2001 Version 2.
19. Compensatory plantings of Salt Marsh shall be carried out to the satisfaction of the Director of Development Services.
20. Appropriate signage shall be erected and maintained on the bridge approaches prohibiting the dumping of rubbish and requiring dogs to be restrained.
21. Scour protection shall be provided around the piers and on the creek banks to minimise erosion risks.
22. If any archaeological sites or relics or potential archaeological sites are identified during construction. All work shall cease and the National Parks and Wildlife Service shall be notified.
23. The mid high closed forest (*banksia integrifolia*) community is to remain undisturbed where possible. Any species removed shall be replaced within the community.

Reports from Director Development Services

REPORT:

Applicant: Tweed Shire Council

Owner: Department of Land & Water Conservation, Pottsville Development Corporation Pty Ltd & Tweed Shire Council

Location: Lot 1 DP 824499 and Lot 65 DP 855462 (Pottsville Development Corporation), Coast Road, Road Reserve (Tweed Shire Council), Vacant Crown Land (East Bank of Mooball Creek and Creek Bed) described as Partly R40253 from sale for drainage (notified 17/2/1926), Partly R56146 from sale or lease generally (notified 11/5/1923) and partly below mean high water mark of Mooball Creek (Department of Land & Water Conservation)

Zoning: Part Uncoloured (Mooball Creek) and Part 7(1) Environmental Protection (Habitat)

Est. Cost: Approximately \$1,000,000

BACKGROUND

The requirement to build the bridge proposed in the current development application arises from a Deed of Agreement between Council and Pottsville Development Corporation dated 28 April, 1994. That agreement was entered into prior to finalising Local Environmental Plan Amendment No. 11 which rezoned part of Black Rocks Estate to facilitate residential development. In particular, Clause 5 of the Deed relevantly provides that the Council will construct a two (2) lane vehicular bridge over Mooball Creek to the Coast Road and the Deed goes on to identify the necessary arrangements for contributions by the developer. The Deed provides that construction of a bridge is to commence within 6 months of the release of the linen plan comprising 200 lots.

Whilst 200 lots have not been released to date, it is intended that the necessary development consent be obtained to enable construction to commence not later than the time required by the Deed of Agreement.

OWNERS CONSENT

On 12 January, 1999 the Regional Director of the Department of Land & Water Conservation, as delegate of the Minister, issued owners consent (insofar as that part of the land owned by the Crown is concerned) to lodgement of the development application. That consent is subject to a number of conditions including:-

1. The Department strongly supports the requirement for an Environmental Management Plan for the construction phase of the bridge.
2. The Department also supports the ameliorative measures outlined in the Statement of Environmental Effects in relation to seagrass and mangroves.
3. If and when development consent is granted, the Department will process Council's request for concurrence to the acquisition of the land incorporating the bridge and approaches. Council is therefore requested to forward a copy of the notice of determination of the development application to the Department when it is available.

Reports from Director Development Services

DESCRIPTION OF PROPOSED DEVELOPMENT

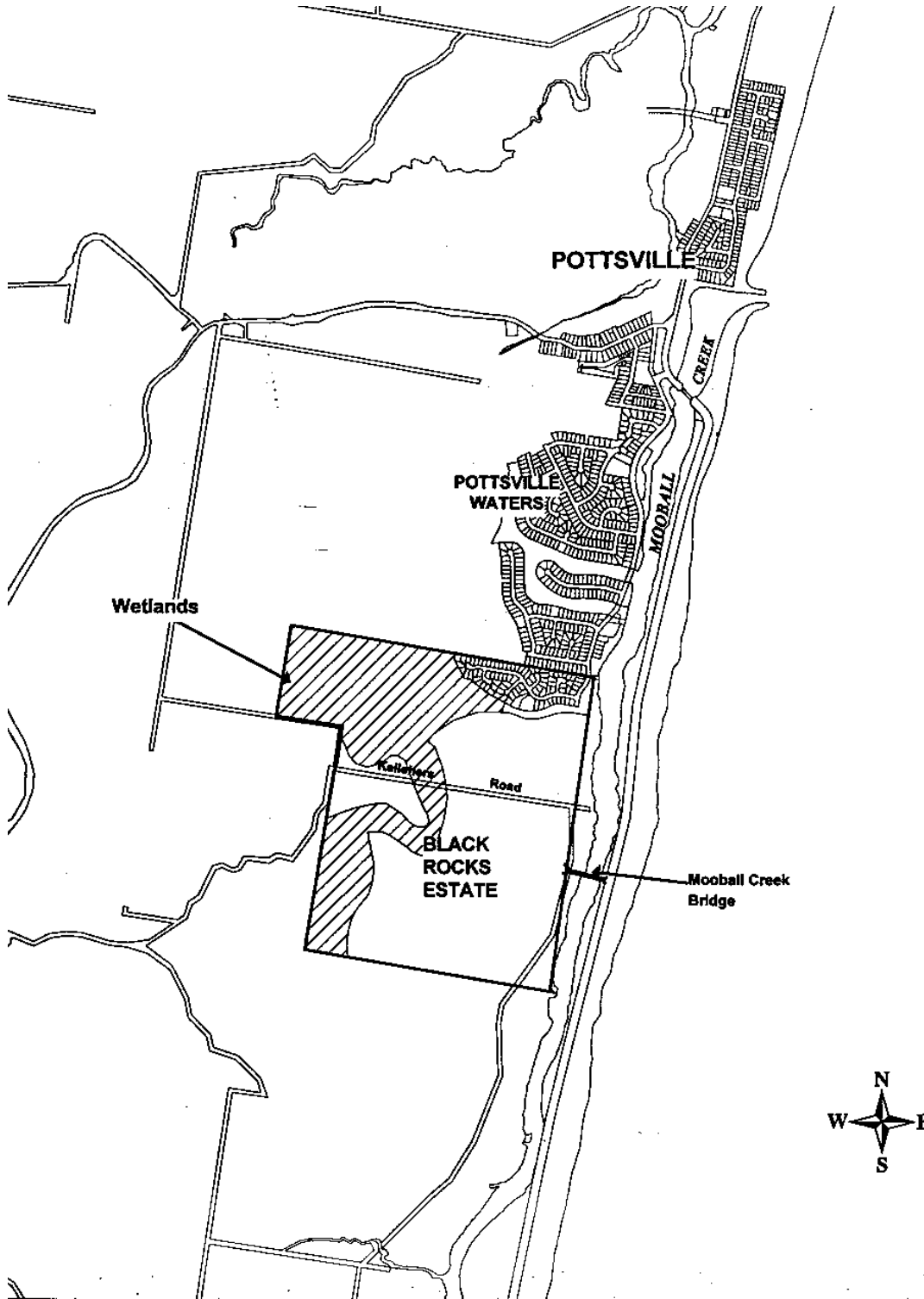
On 19 January, 1999, Development Application K99/49 was lodged proposing the construction of a concrete bridge over Mooball Creek to link the Black Rocks Estate (Overall Drive) to the Coast Road at Pottsville. The proposed bridge is located approximately 2.5km south of Pottsville Village, as indicated on Figure 1. Originally, the bridge design proposed 4 x 16m spans with a total length of 64m. This design involved some permanent filling in Mooball Creek from the western side. Following receipt of comments from the National Parks & Wildlife Service and NSW Fisheries and following further investigations and assessments by the Engineering Services Division, the design was revised and amended plans lodged on 7 August, 2000. The amended proposal provides for:

- * A pre-stressed concrete bridge comprising 6 x 16m spans (total length 96m)
- * A 2.5m wide footway on the downstream side (north side)
- * 2 x 3.892m travel lanes
- * 5 concrete piers each comprising 5 driven concrete piles together with 2 (spill through) abutments, each with 5 driven piles
- * During construction of the bridge temporary filling will be required. In accordance with the recommendations of Winders Barlow and Morrison, a minimum width of 32m (2 spans) would remain open. The impact on the peak water level during temporary filling for bridge construction is 0.07m in the 1:100 year ARI event. The temporary filling would remain in place for approximately 5 weeks.

The bridge is proposed to be located 2.8m above high water level to the underside of the deck planks and the application includes the approach roadworks on both the eastern and western sides and a new (type B) intersection with the Coast Road. A copy of the application plans will be placed on display in the Council chambers on the day of the Council meeting.

Reports from Director Development Services

FIGURE 1



Reports from Director Development Services

Species Impact Statement

Section 78A(8)(b) of the Act provides that a Development Application must be accompanied by:

“If the application is in respect of development on land that is or is part of critical habitat, or is likely to significantly affect threatened species, populations or ecological communities, or their habitats – a Species Impact Statement prepared in accordance with division 2 of part 6 of the “Threatened Species Conservation Act, 1995”.

Further, section 79B(3) of the Act provides that:

“Development Consent cannot be granted for:

- a) development on land that is, or is part of, critical habitat, or*
- b) development which is likely to significantly affect a threatened species, population or ecological community or its habitat*

without the concurrence of the Director General of the National Parks and Wildlife Service or, if the Minister is the consent authority, unless the Minister has consulted with the Minister administering the Threatened Species Conservation Act, 1995”.

For the purposes of administering section 78A, sections 5A and 5C of the Act identify 8 factors which must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities or their habitats (including fish and marine vegetation).

The Statement of Environmental Effects includes an 8 point test report by Woodward Clyde which concludes that there is no critical habitat involved and there is unlikely to be a significant effect.

Having regard to that report and the advice received from the National Parks and Wildlife Service the conclusions are supported and therefore it is considered that an SIS is not required.

CONSULTATIONS

The application appeared to constitute *“integrated development”* under Section 91 of the Environmental Planning and Assessment Act, 1979 and therefore copies of the application were referred to NSW Fisheries and the Department of Land & Water Conservation on the basis that approvals from those agencies are required under the Fisheries Management Act, 1994 and the Rivers and Foreshores Improvement Act, 1948 respectively.

A copy of the application was also referred to the National Parks & Wildlife Service for advice and comment. (The Wooyung Nature Reserve is located approximately 1.5km south of the site).

Responses received to the consultations are summarised as follows:-

Department of Land & Water Conservation

In correspondence dated 22 February, 1999, the Department advised that:-

“ An environmental management plan for soil and water for the construction phase of the development is recommended;*

Reports from Director Development Services

- * *Council is not required to obtain a permit under Part 3A of the Rivers and Foreshore Improvement Act, 1948 and therefore the proposal is not "integrated development" under that Act;*
- * *Approval for vegetation clearing under the Native Vegetation Conservation Act is not required if the clearing is authorised under the Fisheries Management Act, 1994."*

NSW Fisheries

In correspondence dated 16 February, 1999; 21 April, 1999; and 3 August, 1999, NSW Fisheries raised concerns about the length of the bridge, loss of fish habitat, compensatory plantings, sediment transport and stream siltation.

Following further investigations and lengthy negotiations, including increasing the bridge length to 96m and the preparation of a mangrove and seagrass compensation plan for Mooball Creek (Peter Parker, June 2000) NSW Fisheries issued a conditional permit to cut, remove, damage or destroy marine vegetation on 18 December, 2000 (the permit remains in force until 18 October, 2001). On the same date, NSW Fisheries also issued a conditional authority under Sections 198 to 203 of the Fisheries Management Act to dredge or reclaim for the purposes of bridge construction over Mooball Creek. That authority expires on 18 December, 2001. Any development consent issued should include reference to the permit and authority as the conditions attached to each document constitute the "general terms of approval" in relation to "integrated development".

National Parks and Wildlife Service

The Service initially raised concerns relating to flooding, surface water quality, acid sulfate soils, flora, fauna, threatened species, the need for a bridge at this location and Aboriginal Heritage issues. The Statement of Environmental Effects contains an archaeological assessment prepared by Adrian Piper (October 1997). Following further investigations, a letter was forwarded to the National Parks and Wildlife Service in relation to Aboriginal Heritage issues and in particular the existence of a bora ground in the locality of the proposed bridge site. The letter was accompanied by a further report from Mr Adrian Piper which concluded that all avenues for investigation based on the information available had been exhausted and that the bora ground does not occur at the nominated location at Black Rocks. No reply has been received from the National Parks and Wildlife Service to this letter and it is therefore assumed that the Service is satisfied in relation to this issue.

The National Parks and Wildlife Service provided further comment in response to additional information provided by Council on 16 November, 2000. The issues raised in their letter are summarised as follows:-

1. *The maximum increase in flood levels for a Q100 flood event is 1cm, however there is uncertainty as to the ecological impacts to Mooball Creek and Wooyung Nature Reserve.*

Comment

On 9 November, 2000, WBM Oceanics provided further information in relation to flooding by way of a report which concluded as follows:-

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“Apart from a local increase in velocities through the Bridge itself, there is little change in flood behaviour in the Mooball Creek as a result of the construction phase of the bridge. If an extreme flood event was to occur during bridge construction (which is very unlikely as construction is over a 5 week period), a maximum rise in the peak water level upstream of the bridge of 1cm is predicted for a Q100 flood event. Predicted peak water level rise for lesser flood events is less than 1cm. Predicted peak velocities in the Creek channel adjacent to Wooyung Nature Reserve are reduced as a result of bridge construction.”

In addition, WBM have modelled the impact of the construction of a 96m long bridge within the Creek both with and without filling of Black Rocks and that modelling indicates that minor increases in flood levels of 0.05 to 0.07 of a metre are likely to result.

Given the order of accuracy of flood modelling and the underlying assumptions on which the model is based, it is submitted that an increase of 1cm is negligible and unlikely to result in any significant adverse ecological impacts.

- 2. It is noted that all works will be subject to a stormwater management plan, however that the placement of fill within Mooball Creek during bridge construction phase without sediment control measures may result in an unnecessary erosion and sedimentation risk.***

Comment

An erosion and sediment control plan has been prepared to ensure the potential adverse impacts are managed and mitigated. Subject to the imposition of appropriate conditions, it is considered that water pollution concerns can be adequately addressed.

- 3. The WBM Oceanics statement that there is little change in the tidal hydraulics in Mooball Creek as a result of the construction phase of the bridge for a mean spring tide is noted. The National Parks and Wildlife Service request for information as to whether there will be any erosion problems as a result of the filling has not been fully addressed.***

Comment

WBM carried out hydraulic investigations into the proposed bridge structure and concluded that:-

“There is little change in the tidal hydraulics of Mooball Creek as a result of the construction phase of the bridge for a mean spring tide. This change can be quantified as less than 0.1% change in tidal volume upstream of the bridge. There is no detectable change in water levels or velocities in the Creek channel adjacent to the Wooyung Nature Reserve as a result of the bridge. Peak tidal velocities through the bridge construction for the majority of tidal conditions are less than 0.2m per second and only with the highest possible tidal conditions do peak velocities reach 0.4m per second. Thus, erosion problems are unlikely”.

- 4. The Service also requested Council to investigate alternative options for bridge construction which would alleviate the need to temporarily place fill in Mooball Creek***

Comment

Other construction techniques have been investigated, however, the shallow water depths precludes the use of barges for pile driving and head stock constructions. Given that the construction phase filling of the creek will only be required for approximately 5 weeks and subject to the imposition of

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appropriate conditions, it is considered that erosion risks can be appropriately managed and mitigated.

ADVERTISED DEVELOPMENT

Clause 8(3) of Tweed Local Environmental Plan 2000 requires that development for the purposes of roads within the 7(1) zone be advertised and publicly notified. The application was advertised (as 'Integrated Development') and notified from 11 April 2001 to 30 April 2001 following which three (3) submissions were received.

In summary, the submission raises the following concerns:-

- * removal of mangroves;
- * increased bank erosion;
- * affect on the vista of Mooball Creek;
- * in lieu of constructing the bridge, the haul road to the quarry (part of Kellehers Road) could be upgraded to provide an alternate route to Mooball Road for vehicles. A pedestrian bridge could be constructed over Mooball Creek with reduced impacts.

Issues relating to mangroves and bank erosion are addressed elsewhere in this report.

Upgrading of the existing haul road and construction of a pedestrian bridge have also been investigated. However, as the deed of agreement obliges Council to construct a vehicular and pedestrian bridge over Mooball Creek and in view of the environmental issues likely to arise from any proposal to construct the haul road to a public road standard and the costs involved, it is considered that the proposal is the most appropriate option at this stage.

More detailed investigation into upgrading of the haul road to provide a link to Mooball Road could be undertaken at a future date.

ASSESSMENT UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

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

The site of the proposed bridge and approaches is identified on the LEP maps as a "future road corridor". The construction of the bridge within the corridor is consistent with the provisions of Clause 38 of the Plan relating to road corridors.

Mooball Creek is shown as "uncoloured" on the zoning maps. Clause 13 of the Plan provides that development consent is required for development of "uncoloured" land. In deciding whether to grant consent, Council must consider:-

- a. whether the proposed development is compatible with development permissible within the adjoining zone and the character and use of existing development within the vicinity; and
- b. in the case of unzoned land that is below the mean high water mark of the ocean or an estuary, bay, lake or river;

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- i. whether or not the proposed development will alienate the use of the waters of the ocean, estuary, bay, lake or river from recreational uses or from commercial fishing and, if so, whether there is sufficient area in the locality for those uses to mitigate the adverse effect of the proposed development on those uses; and
- ii. the provision of any coastal, estuary or river plan of management in force from time to time that applies to the unzoned land or land in the vicinity; and
- iii. any impact the proposed development may have on the natural environment.

Comments

- a. the adjoining land is zoned 7(l) Environmental Protection (Habitat) and development for the purposes of (roads) is permissible with consent, subject to satisfying the provisions of Clause 8 of the Plan (see comments below in relation to Clause 8).

The adjoining land to the north west is zoned residential and is currently being developed as a residential estate (Black Rocks). Council is currently considering a rezoning application to extend the existing residential zoning to the south. The proposed bridge is generally compatible with the character and use of existing development within the locality and is intended to provide a convenient access to the existing and future stages of Black Rocks Estate. It is therefore considered that approval of the application would be consistent with the requirements of this subclause.

- b. (i) The proposed bridge will not “alienate” the use of Mooball Creek for recreation purposes or commercial fishing. However, some minor “loss” of areas around the piers will occur. The structure is relatively small and any losses are mitigated by the extensive unobstructed areas of Mooball Creek available for recreation.
- (ii) In August 1997, the Cudgen, Cudgera and Mooball Creek Estuary Management Plan was prepared. Section 9.0 of the Plan provides overall management strategies relating to environment protection, recreation, water quality, acid sulfate management plan, hydraulics and morphology.

The Statement of Environmental Effects, subsequent investigations and reports and amendments to the design of the bridge structure (increased to 96m long) adequately address the above strategies and subject to imposition of appropriate conditions, it is considered that approval of the application would not be inconsistent with the Estuary Management Plan.

- iii. Potential adverse impacts arising from the proposed development are adequately addressed in the Statement of Environmental Effects and application plans (as amended). Mitigation measures are also proposed including compensatory plantings of mangroves and seagrasses, a water quality management plan, erosion control measures and compensatory

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plantings of salt marsh. While there will inevitably be some impacts resulting from the development, they can be managed and mitigated and are not such that would warrant refusal of the application.

The land adjacent to Mooball Creek on both the eastern and western side is zoned 7(1) Environmental Protection (Habitat). Development for the purposes of roads is permissible with consent (Item 3 of the land use table) subject to satisfying the provisions of Clause 8(2) of the Plan. Clause 8(2) is in the following terms:-

“The consent authority may grant consent to development specified in Item 3 of the table to Clause 11 only if the applicant demonstrates to the satisfaction of the consent authority that:-

- a. the development is necessary for any one of the following reasons:
 - i. it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development;*
 - ii. it meets an identified urgent community need;*
 - iii. it comprises a major employment generator; and**
- b. there is no other appropriate site on which the development is permitted with consent (other than advertised development) in reasonably proximity; and*
- c. the development will be generally consistent with the scale and character of existing and future lawful development within the immediate area; and*
- d. the development would be consistent with the aims of this plan and at least one objectives of the zone within which it is proposed to be located.”*

The following comments are provided in relation to each of the matters for consideration:-

- (a) (i) The proposed development is required to:-
 - * alleviate traffic volumes on Overall Drive;
 - * create an alternative route for emergency vehicles if Overall Drive is blocked;
 - * provide a shorter distance in travel time to persons travelling to and from southerly destinations and provide a direct cycleway/pedestrian link to the beach for residents of Pottsville Waters and Black Rocks Estate. The proposed bridge site has been selected to ensure that habitat loss is minimised.

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- b. A number of sites were investigated in this locality. The proposed site is the most cost efficient and environmentally sound and appropriate having regard to the various opportunities and constraints applying to the area.
- c. The bridge will be generally consistent with the scale and character of the existing Coast Road and future streets and urban development within the adjacent Black Rocks Estate to the west.
- d. The objectives of the 7(l) zone include:-
 - “- to protect areas or features which have been identified as being of particular habitat significance;*
 - to preserve the diversity of habitats for flora and fauna;*
 - to protect and enhance lands that acts as a wildlife corridor;*
 - to protect areas of scenic value;*
 - to allow for other development that is compatible with the primary function of the zone”*

The aims of the plan include:-

- “a. to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan which was adopted, after extensive community consultation by the Council on 17 December, 1996, the vision of which is:*
 - the management of growth so that the unique natural and developed character of the Tweed Shire is retained and its economic vitality, ecological integrity and cultural fabric is enhanced; and*
- b. to provide a legal basis for the making of Development Control Plans which provide more detailed local planning policies and other provisions that provide guidance for future development and land management such as provisions recommending the following:-*
 - i. that some or all developments should be restricted to certain lands within a zone,*
 - ii. that specific development requirements should apply to certain land in a zone or to a certain type of development,*
 - iii. that certain types or forms of development or activity should be encouraged by the provision of certain incentives; and*
- c. to give effect to and provide reference to the following strategies and policies adopted by the Council:-*

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* *Tweed Heads 2000+ Strategy*

* *Pottsville Village Strategy*

- d. *to encourage sustainable economic development of the area of Tweed compatible with the areas environmental and residential amenity qualities”.*

It is submitted that the development proposal is consistent with the aims contained in Section 4(a) and (d) of the Plan in that it will facilitate continuing urban expansion and improved residential amenity. Further, it is considered that the development is consistent with the secondary objective of the zone in that only small areas of habitat will be disturbed of a type which is reasonably abundant in the locality and for which compensatory plantings are proposed.

In summary, it is concluded that the development satisfies the criteria in Clause 8(2) of the Plan and is therefore permissible, with consent. Advertising of the application as required by Clause 8(3) has been undertaken and submissions received are addressed in the consultation section of this report.

Other Relevant Clauses

Clauses 22 and 23 – Development Near Designated Roads – Control of Access

The Coast Road is a ‘designated road’ and accordingly development consent is required for the proposed junction (Clause 23). In considering the development application, Council must take into account the matters contained in subclause 4(a) to (h) which relate to:-

- a. whether the development is likely 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;
- c. whether or not the development will prejudice any future improvements to, or realignment of the designated road;
- d. whether the location is required for reasons other than only commercial advantage;
- e. whether the development is of a type that is not sensitive to traffic noise;
- f. whether the development would detract from the scenic values of the locality;
- g. where practical, access to the land is provided by a road other than a designated road;
- h. in respect of an application for commercial or retail development near the Pacific Highway certain criteria are met.

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The application plans provide for a “Type B” intersection between the Coast Road and the proposed road. Works include a right turn lane, deceleration/acceleration lanes and intersection lighting together with signage. Having regard to the proposed intersection design and the nature of the development, it is considered that the proposal satisfies the matters in subclause 4.

Clause 24 – Setbacks to Designated Roads

Clause 24(2) of the Plan requires “buildings” used for any purpose to be setback 30m from the Coast Road (the Act defines a “building” as including any “structure” which would include a bridge). The abutment of the bridge is proposed to be located approximately 15m from the alignment of the Coast Road and therefore the development does not comply with the development standard (30m) contained in this clause.

The application is accompanied by an objection to the development standard pursuant to Clause 6 of State Environmental Planning Policy No. 1 contending that the standard is unreasonable and unnecessary for the following reasons:-

- “* *Although the 30m setback applies to bridges this is not considered to be the intent of Clause 24;*
- * *The bridge abutment will be approximately 15m from the Coast Road alignment and located on the creek bank. In view of the space available and the need to provide a bridge 96m long it is not possible to comply with the 30m standard”.*

On the basis that the development standard requiring a 30m setback is arbitrary and having regard to the objectives of the standard (to control development along designated roads) it is considered that the objection is well founded and should be upheld. Council may assume the Director-General’s concurrence in accordance with the delegations contained in Circular B1.

Clause 28 – Development in Zone 7(1) and adjacent land

This clause provides that Council must have regard to any representations made by the National Parks and Wildlife Service and NSW Fisheries and take into consideration:-

- a. the likely effects of the development on the flora and fauna found in the locality; and
- b. the potential for disturbance of native flora and fauna as a result of intrusion by humans and domestic and feral animals, increased fire risk, rubbish dumping, weed invasion and vegetation clearing; and
- c. a plan of management showing how any adverse effects arising from the development are to be mitigated.

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Comments

Representations made by the National Parks and Wildlife Service and NSW Fisheries are addressed in the Consultation section of this report.

- a. the potential impacts on flora and fauna are addressed earlier in this report under the heading "Species Impact Statement"
- b. construction of a bridge as proposed could result in the disturbance of native flora and fauna as a result of intrusion by humans and domestic animals and the dumping of rubbish.

Any potential adverse impacts can be managed and mitigated by appropriate fencing to delineate cycle/pedestrian paths and suitable signage in relation to animals and rubbish dumping. Surveillance by local residents and Council rangers will also assist with maintaining and enforcing any regulatory signage.

- c. in accordance with this clause a satisfactory Environmental Management Plan has been prepared (TSC, March 2001).

Clause 31 – Development adjoining Waterbodies

The clause applies to development on land within such distance as determined by Council of the mean high water mark of various creeks, rivers and streams.

It is understood that Council has not adopted a distance for the purposes of this clause. However, the clause requires Council to be satisfied in relation to:-

- * the effects of the development on the scenic quality of the locality;
- * water quality;
- * marine ecosystems;
- * biodiversity of riverine and estuarine areas or its function as a wildlife corridor or habitat;
- * public access to and use of foreshore areas;
- * consistency with any estuary management plan.

These matters are adequately addressed in the Statement of Environmental Effects and where relevant, are assessed elsewhere in this report. The proposal is generally satisfactory in relation to each of the matters for consideration.

Clause 34 – Flooding

This clause is in the following terms:-

"Where, in the consent authorities opinion, land is likely to be subject to flooding, then it must not grant consent to development on that land unless it has considered:-"

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- a. *the extent and nature of the flooding hazard affecting the land; and*
- b. *whether or not the development will increase the severity of flooding of other land in the vicinity; and*
- c. *whether the risk or severity of flooding affecting the development could be reasonably mitigated; and*
- d. *the impact of the development on emergency services; and*
- e. *the provisions of Tweed Development control Plan No. 5 – Development of Flood Liable Land and any other relevant Development Control Plan.”*

Comment

- a. The land is flood prone, particularly the western side which is low lying and subject to regular inundation.
- b. The Statement of Environmental Effects contains a hydraulic investigation report (WBM June 1997) which addresses the impacts of the bridge on flood behaviour (ie. levels and velocities).

In summary, the report concludes:-

“The presence of the bridge in the post development case will not significantly increase impacts to peak flood levels above that previously predicted without the bridge. However, the filling options within Black Rocks Estate are expected to produce impacts to flood levels although impacts in all the major flood events assessed are not greater than 0.07m. With regard to peak velocities through the bridge structure, the maximum depth and width average velocity expected under the bridge is not expected to be greater than 1.08m per second for any major flood event. It is recommended that some form of scour protection around the piers be provided to minimise any risk of erosion. Temporary filling of the creek and leaving 2 spans open (width 32m) has similar impacts on flood levels, with 0.07m impact in the creek and 0.07m impact on the Estate. Therefore, if temporary filling of the creek was required a minimum width of 32m is recommended to minimise adverse impacts to existing properties”.

Subsequently, WBM prepared a further report (November 2000) addressing flood impacts of the bridge itself (no allowance for future filling of Black Rocks Estate). This further report was prepared following concerns raised by the National Parks and Wildlife Service and in summary the report concludes that:-

“Apart from local increase in velocities through the bridge itself, there is little change in flood behaviour in the Mooball Creek as a result of the construction phase of the bridge. If an extreme flood event was to occur during bridge construction (which is very unlikely as construction is over a 5 week period), a maximum rise in the peak water level upstream of the bridge of 1cm is predicted for a Q100 flood event. Predicted peak water

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level rise for a lesser flood event is less than 1cm. Predicted peak velocities in the creek channel adjacent to the Wooyung Nature Reserve are reduced as a result of the bridge construction”.

In summary, based on the above reports, it is considered that the proposal will not significantly increase the risk and severity of flooding of the land in the vicinity.

- c. The original development application proposed a bridge 64m long and substantial filling of the creek during the construction phase. To mitigate perceived adverse impacts arising from the initial proposal, the application was amended to provide for a 96m long bridge and maintaining a clear waterway area of 48m during the construction phase. Minor increases in water levels (0.05-0.07m and velocities up to 0.4m per second result from the amended proposal).
- d. The proposal will facilitate alternative access by emergency service vehicles to Black Rocks and Pottsville Waters Estate.
- e. The proposal is generally consistent with the provisions of Development Control Plan No. 5 – Development of Flood Liable Land.

Clause 35 – Acid Sulfate Soils

Council’s Acid Sulfate Soil planning maps indicate that the land within Mooball Creek is Class 2. The adjoining land to the west is Class 3 and the adjoining land to the east is Class 4. Clause 35(4) of the plan provides that Council must not grant consent to the works below the ground surface (Class 2 soils) beyond 1m below ground surface (Class 3 soils) and beyond 2m below ground surface (Class 4) soils unless:-

- * A preliminary soil assessment is completed to determine the presence of acid sulfate soils; and
- * Where acid sulfate soils are present, an acid sulfate soil management plan has been prepared.

The Statement of Environmental Effects contains an acid sulfate soil assessment including sampling and testing from four (4) bore holes. The assessment concludes that:-

“The net acid producing potentials in the soils at the site are negligible”.

Therefore, an acid sulfate soil management plan is not required under this Clause however, the management plan prepared pursuant to Clause 28 will address acid sulfate soil management measures generally.

Clause 44 – Development of Land within Likely or Known Archaeological Sites

In summary, this clause requires Council to:-

- a. consider an assessment of how the proposed development would affect any archaeological site based on guidelines prepared by the Director-General of the National Parks and Wildlife Service;

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- b. notify the Director-General of its intention to grant consent and take into consideration any comments received from the Director-General within 28 days after notice was sent;
- c. satisfy itself that any necessary consents or permissions under the National Parks and Wildlife Act have been granted.

In response to the above matters the following comments are provided:-

- a. as reflected in the “consultation” section of this report, an assessment of the effect on the bora ground thought to exist in this locality has been prepared and referred to the National Parks and Wildlife Service (18 October, 2000). The assessment concluded that there is no cultural significance associated with the site at the given location at Black Rocks.
- b. no response has been received from the National Parks and Wildlife Service to Council’s letter of 18 October, 2000.
- c. on the basis that no archaeological sites exist in the area of the proposed bridge, no approvals appear to be required under the National Parks and Wildlife Act, 1974. However, it would be prudent to impose the standard condition relating to the identification of any likely archaeological sites during construction works.

State Environmental Planning Policies (SEPPs)

SEPP44 – Koala Habitat Management

An assessment of the matters for consideration under this policy has been completed by Woodward Clyde. That assessment concludes that the site does not support core koala habitat and there is no requirement for a plan of management. This conclusion is supported.

SEPP55 – Remediation of Land

Implementation of this policy is achieved through Council’s “Contaminated Land Policy”. The Policy requires a preliminary assessment to be made in the first instance in relation to previous and current land uses and contamination risks. The Crown land (east side of Creek) has apparently only be used for recreational purposes and has been sand mined. The private land on the western bank comprises low lying salt marsh and grass land which appears to have been used for grazing. Council’s Environmental Health Unit has assessed the proposal and raised no concerns in relation to contamination risks and therefore having regard to the above and the nature of the development, contamination is not considered to be an issue.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Relevant clauses of this Plan are addressed as follows:-

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Clause 12

This clause provides that Council shall not consent to an application to carry out development for any purpose within adjoining or upstream of a river, stream or inland wetland or fishery habitat unless it has considered the following matters:-

- a. the need to maintain or improve the quality or quantity of flows of water;
- b. the need to conserve the existing amateur and commercial fisheries;
- c. any loss of habitat which will or is likely to be caused by the carrying out of the development;
- d. whether an adequate public foreshore reserve is available;
- e. whether the development would result in pollution of the wetland or estuary;
- f. the proximity of aquatic reserves dedicated under the Fisheries and Oyster Farms Act, 1935;
- g. whether the water course is in an area of protected land;
- h. the need to ensure that native vegetation surrounding the wetland is conserved;
- i. the recommendations of any environmental guidelines prepared by the Environment Protection Authority.

The following responses are provided to the above matters.

In relation to clauses a, b & c appropriate comments are provided earlier in this report.

- d. The proposal will facilitate access to the existing foreshore reserve on the western side of the Creek (Lot 64 DP 855642) and to the beach generally.
- e. A suitable management plan has been prepared to manage and mitigate potential pollution.
- f. Not applicable.
- g. Comments of the Department of Land & Water Conservation in relation to the proposal are contained in the "consultation" section of this report.
- h. Minimal clearing of native vegetation is proposed (about 1000m²) and compensatory plantings of mangroves and seagrass is also proposed.
- i. Not applicable.

Clause 29A – Natural Areas and Water Catchments

This clause provides that Council shall not grant consent for clearing in environmental protection zones unless it is satisfied that:

- wildlife habitat will not be significantly disturbed;

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- the scenery will not be adversely affected;
- soil erosion will be contained

Construction of the bridge and approaches will require the removal of approximately 1000m² of native vegetation, including 20m² of seagrass and 20m² of mangroves. Compensatory plantings of seagrass and mangroves are proposed. In view of the vegetation types to be removed and the relatively small area involved, it is considered that habitat areas will not be significantly disturbed and no significant impacts will result. Soil erosion can be managed by appropriate management plans and conditions.

Clause 32B – Coastal Lands

This clause requires Council to take into account the NSW Government Coastal Policy, the Coastline Management Manual and the North Coast Design Guidelines.

NSW Coastal Policy 1997

Table 2 of the Policy contains a summary of the main strategic actions relevant to development control. This application is generally consistent with the relevant strategies in that it provides for compensatory plantings of seagrass and mangroves, includes measures to manage erosion, sedimentation and water quality, addresses acid sulfate soils and heritage issues and facilitates public access to the beach and foreshore areas.

The proposed development is also generally consistent with the Coastline Management Manual and the North Coast Design Guidelines.

Clauses 81 – Development adjacent to the Ocean or a Waterway

This clause requires Council to be satisfied that there is sufficient foreshore open space, and that buildings will not detract from the amenity of the waterway and that the development is consistent with the principles of any foreshore management plan.

The proposal is consistent with this clause in that having regard to the nature of the proposal, existing foreshore reserves are adequate and the bridge will have a limited impact on the waterway. As discussed previously, the proposal is generally consistent with the Estuary Management Plan for Mooball Creek.

(b) The likely impacts of that development

A Statement of Environmental Effects accompanies the development application and that statement generally addresses relevant issues and proposed satisfactory mitigation measures. In addition, the application has been amended to increase the length of the bridge and alter construction techniques to minimise impacts on the waterway including flood levels and flood behaviour. Key potential impacts are addressed under other heads of consideration in this report. Subject to the imposition of appropriate conditions, it is considered that a potential adverse impact can be appropriately managed and mitigated.

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(c) The suitability of the site for the development

The site has been selected on the basis that it achieves a balance between efficiency and economy and physical impacts on the environment. There are no absolute development constraints on the site and the imposition of conditions will assist in mitigating potential adverse impacts.

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

Submissions are dealt with in the consultation section of this report.

(e) The public interest

Provision of a pedestrian/vehicular link across Mooball Creek will provide an alternative access to Black Rocks/Pottsville Waters if Overall Drive is blocked. The bridge will also facilitate improved access to the beach and reduce traffic volumes on Overall Drive.

Approval of the application would also be consistent with the Deed of Agreement between Council and Pottsville Development Corporation. In summary, it is therefore considered that approval of the application would be consistent with the public interest, notwithstanding that inevitably there will be some habitat disturbance and consequential impacts as a result of the development.

ENVIRONMENT AND HEALTH SERVICES UNIT COMMENTS

No objections are raised to the proposal subject to the conditions contained in the recommendation.

OPTIONS

Council has the following options:-

1. Approve the application unconditionally.
2. Approve the application subject to conditions.
3. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

In the event that an applicant is dissatisfied with the determination of a development application they may appeal to the Land and Environment Court or request the consent authority to review its determination within 28 days. Objectors do not have a right of appeal under Section 98 of the Act, however any person may commence proceedings to remedy a breach of the Act.

CONCLUSION

The foregoing assessment indicates that construction of the bridge in this location is reasonable and justified in the circumstances. Inevitably some adverse impacts will result from the proposal however, it is considered that those impacts can be managed and would not warrant refusal of the application. Conditional approval of the application is therefore recommended.

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2. ORIGIN: Development Assessment Unit

FILE REF: DA0659/235 Pt1

REPORT TITLE:

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

SUMMARY OF REPORT:

Development Consent is sought for an attached Dual Occupancy on a corner allotment that has an area of 900m². The proposed dual occupancy does not address the street appropriately as it has two double garages which dominate the street and create an adverse visual impact. Development Control Plan No. 2 – Multi-Dwelling Housing requires that the maximum width of garages or carports facing the street should be 6m or 50%, whichever is the less. Carports and garages should be set back behind the front facade of the building. The twin double garages are located on the northern side of the building and as such no living area is orientated to the north to maximise solar access in accordance with Development Control Plan No 39. – Energy Smart Homes Policy.

RECOMMENDATION:

That Development Application 0257/2001DA for the erection of an attached Dual Occupancy at Lot 165 DP 1011335 Botanical Circuit, Banora Point (Flame Tree Park Estate) be refused for the following reasons:

1. The proposed Dual Occupancy does not comply with Clause 3.2.1-A4 '*Streetscape, Building Appearance and Front Setbacks*' of Development Control Plan No. 6 – 'Multi-Dwelling Housing' which requires that the maximum width of garages or carports facing the street should be 6m or 50%, whichever is the less. Carports and garages should be set back behind the front facade of the building. The two lots of double garages represent over two thirds (66.33%) of the elevation fronting Botanical Circuit and as such will have a significant adverse visual impact upon the building appearance.
2. The proposed Dual Occupancy does not comply with Clause 3.3.4 '*Car Parking Provision and Dimensions*' of Development Control Plan No. 6 – Multi-Dwelling Housing as the twin double garages have a poor relationship to the street as the garages dominate the street when viewed from the street and create a significant adverse visual impact.
3. The excessive amount of hardstand area from the driveway detracts from the streetscape character and increases stormwater runoff due to reduced infiltration. The proposed 11m wide driveway at the boundary does not comply with Councils Access to Property Pamphlet which requires a 6.00 maximum for driveways for dual occupancies.
4. The proposed Dual Occupancy design does not comply with objective 4.2 'Orientation and solar access' of Development Control Plan No. 39 – Energy Smart Homes Policy. Objective 4.2 requires the preservation of solar access to north facing 'solar collectors' such as windows. The double garages on the northern elevation limit solar access.

Reports from Director Development Services

5. The proposed Dual Occupancy is not in the interest of the public. Clause 2.2 of Draft Dual Occupancy Development Control Plan states that council shall not consent to an application for a dual occupancy on a corner block of less than 1000m².

Reports from Director Development Services

REPORT:

Applicant: K & M Palm Beach Currumbin Realty Pty Ltd
Owner: As above
Location: Lot 165 DP 1011335 Botanical Circuit, Banora Point (Flame Tree Park Estate)
Zoning: 2(c) Urban Expansion

HISTORY

Development application 0257/2001DA was received on the 23/03/01 for the erection of an attached dual occupancy. The applicant was advised in Council's letters dated 3rd April 2001 and 10 May 2001 that the proposed development was not considered satisfactory and was invited to modify the development for the following reasons:

- i. The garages will have a significant adverse impact on the streetscape as they dominate the street frontage. By having the two garages dominate the street frontage the building does not address the street adequately in accordance with the requirement of Development Control Plan No. 6 – Multi-Dwelling housing. It is considered that the landscaping does not adequately address the variation to DCP No 6.
- ii. The extent of hardstand area generated by the driveway and its adverse impact upon the streetscape. Development Control Plan No. 2 – Site Access and Parking Code states the maximum driveways widths at the property boundary and kerb is 6m.
- iii. The building has not been orientated satisfactorily and poor solar access has been provided to the living areas.

PROPOSAL

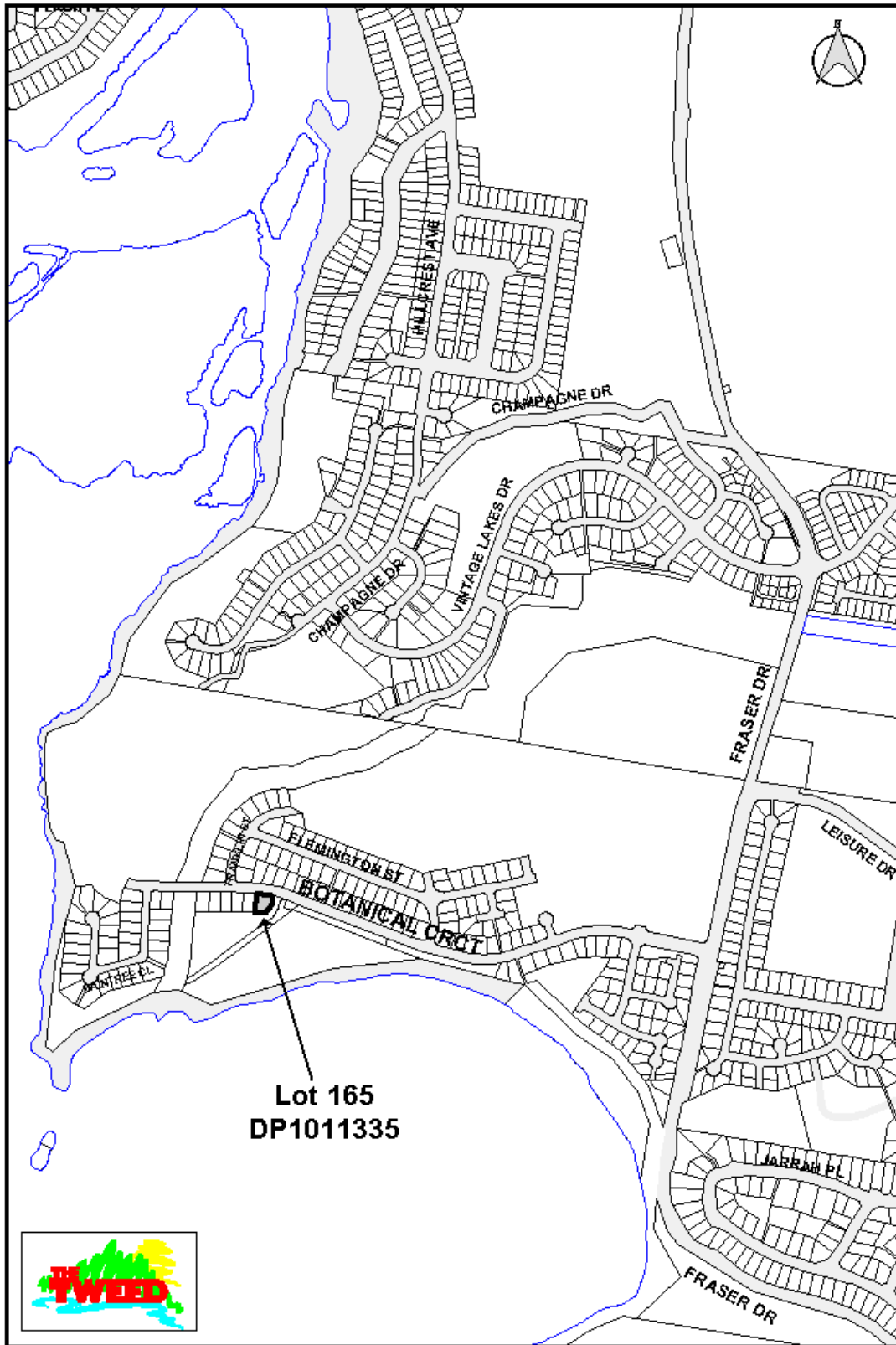
The subject site is located at the intersection of Botanical Circuit and a future road in stage 5a of Development Consent S95/5 for Flame Tree Park Estate Subdivision (see figure 1). The subject site has recently been filled, is flat and contains only grass.

The subject site has an area of 900m² with a frontage of 23.54m to Botanical Circuit and a frontage of 38.725m to the unformed road in stage 5a. The subject site is surrounded by both low density residential dwellings and the undeveloped stage 5a to the south.

The applicant has proposed a single storey attached dual-occupancy with 3 bedrooms and a double garage each. The plans show each dwelling is a mirror reverse of each other and the floor area of the dwellings is 116.92m² each.

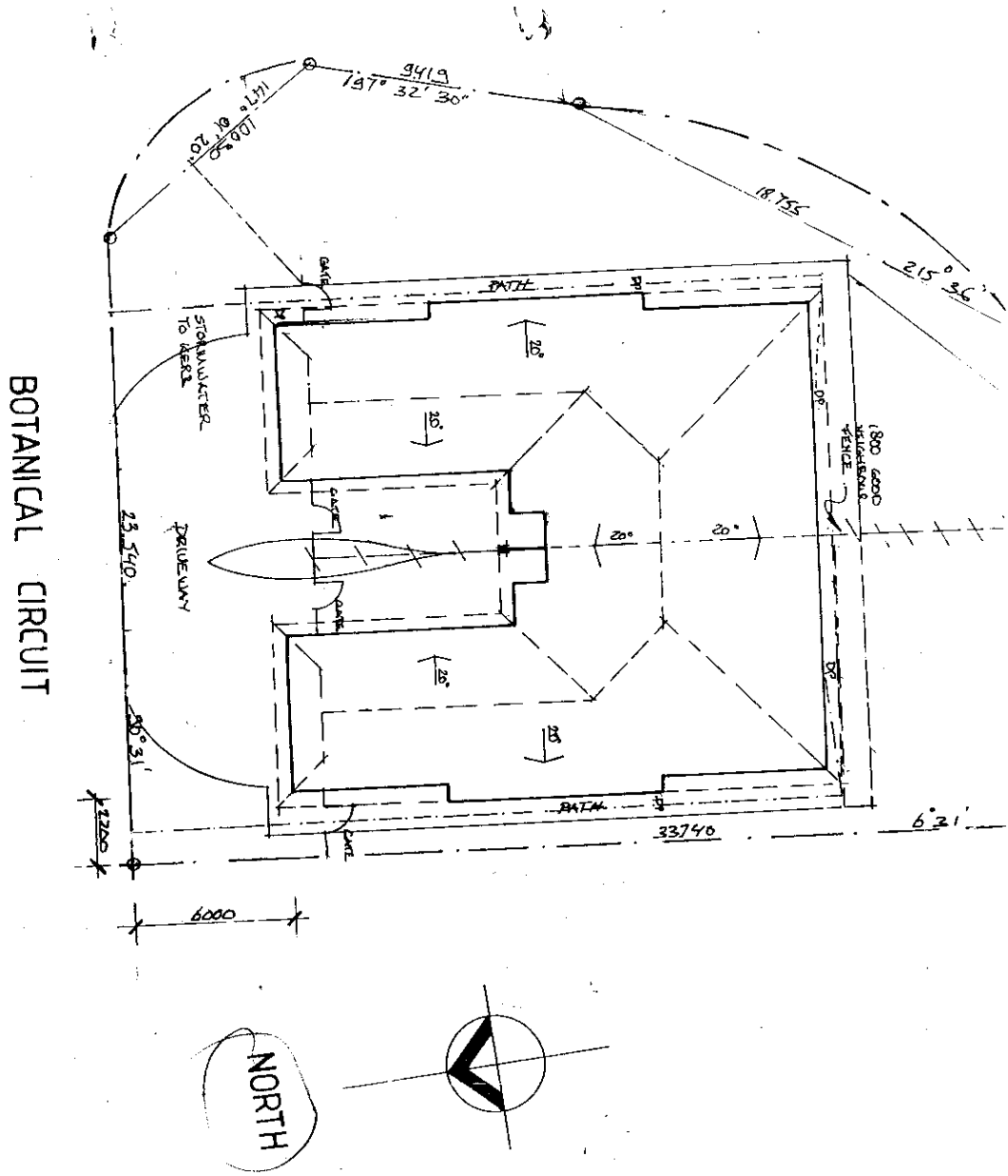
Reports from Director Development Services

FIGURE 1 SITE LOCATION



Reports from Director Development Services

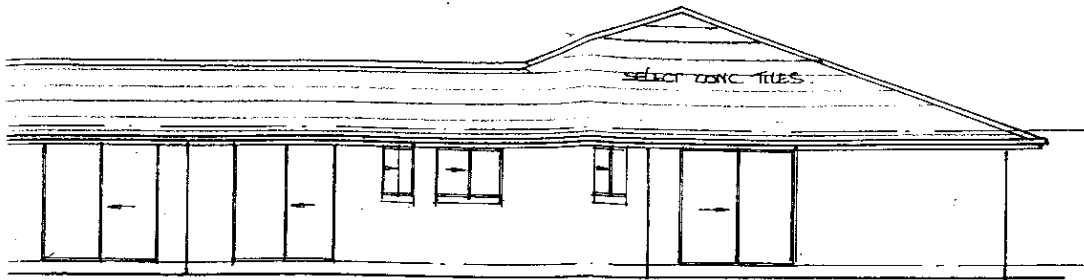
FIGURE 2 – SITE LAYOUT



- 896 & ALL RELEVANT
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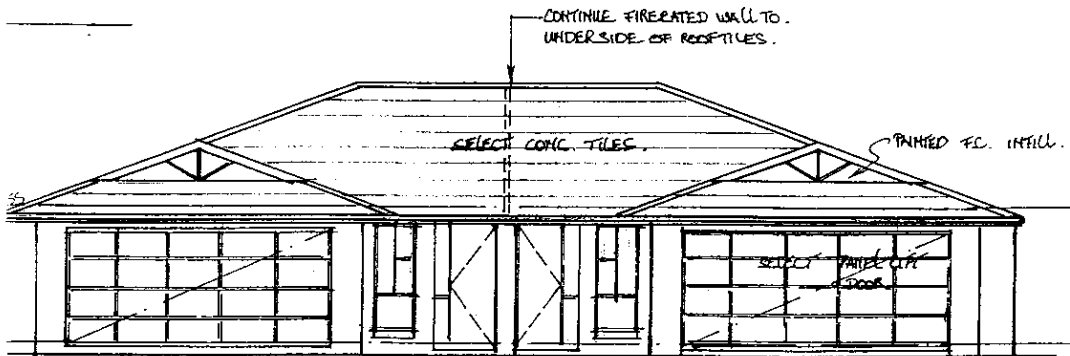
Reports from Director Development Services

FIGURE 3 – FRONT ELEVATION

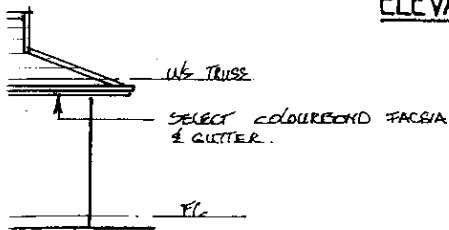


ELEVATION 4

6 W/4 PAINTED FC. SOFFIT.
 SELECT ALUMI / GLASS WINDOWS & SL DOORS.



ELEVATION 1



PROPOSED DUPLEX. AT LOT 165 BOTANICAL CIRC BANORA POINT	DATE: 1-3-01	DRAWN:
	SCALE 1:100	O. EVERS
	DWG N°	WN 03/301

Reports from Director Development Services

FIGURE 4 - DCP NO. 6 REQUIREMENTS

FIGURE 4 - DCP NO. 6 REQUIREMENTS

3.3.4 Car Parking Provision and Dimensions

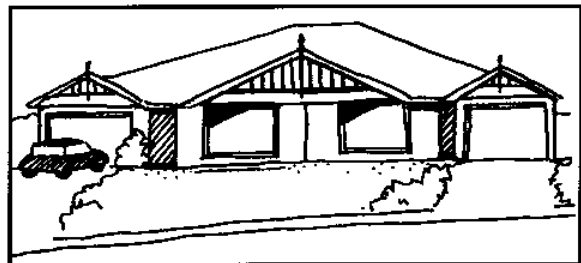
Objectives:

The objectives of this Design Element are as follows:-

- O1. To provide convenient, accessible and safe parking to meet the needs of residents and visitors.
- O2. To encourage the design of access and parking as part of the overall landscape design.
- O3. To allow service vehicles access where necessary.



Poor relationship to street - the garage dominates the dwelling when viewed from the street.



Improved relationship to street - garages do not dominate the dwellings when viewed from the street.



Well integrated parking provision.

FIGURE 27
Car Parking Provision

Performance Criteria:

The design of multi-dwelling housing may achieve the car parking provision and dimension objectives where:-

- P1. Parking requirements for any development have regard to:
 - The number and size of dwellings proposed;
 - Proximity and frequency of public transport;
 - Street width, traffic volume and on-street parking capacity;
 - Need for visitor parking.
- P2. The design of driveways and parking areas have regard to the safety of pedestrians, cyclists and vehicles (see Council's Access to Property Policy).
- P3. Vehicles are able to enter and exit the site in a forward direction.
- P4. The visual dominance of driveways and garages/carports is minimised by:
 - The use of irregular alignment;
 - The selection of paving materials eg. decorative paving and brick banding;
 - Breaking up the appearance of driveways with landscaping;
 - The use of screen planting;
 - Car parking structure designs that add interest to the development.
- P5. The area of driveways are designed to minimise the volume of stormwater runoff and increase the area available for landscaping;
- P6. All car parking spaces are adequately drained, marked and designated on the site.

Acceptable Solutions:

A multi-dwelling housing development must conform with the car parking provision performance criteria by compliance with Development Control Plan No. 2 – Site Access and Parking Code and Council's "Access to Property" pamphlet.

Reports from Director Development Services

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

The subject site is zoned 2(c) Urban Expansion under the provisions of the Tweed Local Environmental Plan 2000 and a Dual Occupancy (multi-dwelling housing) is permissible with the consent of Council.

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

There is not likely to be any significant adverse impacts from any exhibited draft Environmental Planning Instruments.

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

Development Control Plan No. 6 – Multi-Dwelling Housing

The development complies with most aspects of DCP No 6 except for the following sections summarised as follows:

- Clause 3.2.1 - Streetscape, Building and Front Setbacks

“The maximum width of garages or carports facing the street should be 6m or 50%, whichever is the less. Carports and garages should be set back behind the front facade of the building.”

- Clause 3.3.4 – Car Parking Provision and Dimensions

“Objective 1:

To encourage the design of access and parking as part of the overall landscape design;

Performance Criteria 4 - The visual dominance of driveways and garages/carports is minimised by:

- *the use of irregular alignment;*
- *the selection of paving materials eg. Decorative paving and brick banding;*
- *breaking up the appearance of driveways with landscaping;*
- *the use of screen planting;*
- *car parking structure designs that add interest to the development*

Performance Criteria 5 - the areas of driveways are designed to minimise the volume of stormwater runoff and increase the area available for landscaping.”

Reports from Director Development Services

Comment

The proposed Dual Occupancy complies with the Maximum Floor Space Ratio of 0.5:1 as the FSR is 26%. The development has sufficient area for private open space and complies with the 6m setback to the primary street frontage and 3 metres to the secondary street frontage.

However the development is considered to be poorly designed in relation to the proposed two double garages which have a poor relationship to the street due to the garages dominating the dwelling when viewed from the street. It is considered that the dual occupancy should be redesigned to overcome the significant adverse visual impact on the streetscape.

The applicants have referred to two dual occupancies which have been constructed on Lot 527 DP 1010130 Medoc Place, Tweed Heads South (0899/2000da) and Lot 1214 DP 1011945 Riversdale Boulevard (0621/2000DA) and state these are similar to the current application. It is considered that Development Consent 0899/2000DA and 0621/2000DA are not the same as the current application as the buildings have a different orientation for solar access purposes.

Development Control Plan No. 2 – Site Access and Parking Code

Principle 3 of clause 1.6 Plan Principles of DCP No. 2 requires:

“Principle 3. The pursuit of parking and access provisions for new development that are consistent with best practise principles of contemporary urban design with particular regard to-

- *impact on the public function of the access street or lane*
- *impact on streetscape aesthetics*
- *positive contribution to the economic and social vitality of the precinct.”*

Comment

The two proposed double garages dominate the street frontage and create an adverse visual impact on the streetscape. The excessive amount of hardstand area for the driveway detracts from the streetscape character and increases stormwater runoff through reduced infiltration. The proposed 11m wide driveway at the boundary does not comply with Councils Access to Property Pamphlet which requires a 3m minimum to 6.00m maximum for driveways for dual occupancies

Development Control Plan No 39 – Energy Smart Homes Policy

While the Dual Occupancy has a NatHERS certificate stating that the units both have a star rating of 4 the proposed Dual Occupancy design does not comply with objective 4.2 ‘Orientation and solar access’ of Development Control Plan No. 39 – Energy Smart Homes Policy. Objective 4.2 requires the preservation of solar access to north facing ‘solar collectors’ such as windows. The double garages on the northern elevation limit

Reports from Director Development Services

solar access which is not in accordance with Ecological Sustainable Development Principles.

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

Not applicable.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

The design of the proposed development will have a significant adverse impact upon the existing and future streetscape and amenity.

(c) Suitability of the site for the development

The subject site is not considered suitable for the current design. The dual occupancy needs to be redesigned to better address the street.

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

The development was not advertised and no submissions were received. However two submissions have been made on behalf of the applicant. These are as follows:-

Lance Cotterill of Raine & Horne Tweed Heads/Coolangatta letter dated 22nd May 2001 is as follows:

“Approximately one year ago after an earlier in council meeting we had an on site meeting at Banora Waters and Flame Tree Park to inspect some particular designs of dual occupancies and meet some of the residents. Present were Mayor Beck, the then Deputy Mayor George Davidson, John Griffin, David Broyd, Garry Smith, Stuart Campbell, Paul Bolster and Lance Cotterill.

We inspected a number of dual occupancies built by various builders including Bill Engwirda, Errol Bonnor and Bill Martin where 2 double garages (totalling 12m wide) faced the street. Council staff also spoke to the residents who were extremely happy with the design.

All attendees were asked whether they could see any problem with these designs. Mayor Beck, then Deputy Mayor George Davidson and all council staff said they could see no problem and could see the intelligence and reasonableness of this design. David Broyd concluded that DCP6 would need to be reviewed on this point.

The problem is that council staff are again rejecting this design – the main reason being given that more than 6m of garage is facing the street eg. Lot 165 Botanical Circuit Flame Tree Park, Vendor K & M Palm Beach Currumbin Realty. Builder Bill Engwirda.

Since our on site meeting last year similar designed dual occupancies have been approved as follows:

Reports from Director Development Services

Lot 527 Medoc Place, Vintage Lakes. Vendor Xuereb Family Trust, Builder and design by Errol Bonnor.

Lot 1214 Riversdale Blvd Banora Waters. Vendor Cohen, Builder and design by Errol Bonnor.

We would ask that DCP6 be reviewed on this point as stated by David Broyd. Also presently that the dual occupancy at Lot 165 botanical Circuit be judged without this recommendation under DCP6.”

Mark Stapleton & Associates letter dated 12th April 2001 is summarised as follows:

- “1. The proposed design was faxed to Tweed Shire Council for comment and a Council officer advised that it appeared satisfactory, however it would need to address any variations from DCP 6. Further to the above, a site inspection was carried out in Flame Tree Park and Banora Waters Estates with Lance Cotterill of Raine & Horne Real Estate and numerous Tweed Shire Councillors who agreed that this type of dual occupancy was more than acceptable.*
- 2. The driveway has been designed on previous advice from Tweed Shire Council, in relation to one access instead of two separate driveways to the property. Again, this has been accepted in numerous cases. The area can be reduced to 6 metres if this is required, however this is not entirely practical.*
- 3. The location of the drying areas will be on the dividing fence at the rear of the project.*
- 4. Solar areas will be reduced due to the garages to the north side of the building, however the building has been designed in the main due to the orientation of the property and to provide the best possible living conditions for the occupants. I will also point out that if the dual occupancies were front and back, the living areas of the rear unit would most likely face the south.*
- 5. Private open space is provided at the rear of both units and fencing will be provided on all boundaries to provide privacy to the residents.”*

Comment – Lance Cotterill Submission

The comments above are noted however. The DCP has recently been reviewed and changes exhibited for comment and a report on the matter is likely to be submitted to the next meeting. The review did not identify the need to change that section of the Plan relating to Clause 3.2.1. The development application submitted is not a slight variation from the current controls but goes to the extreme limit of not complying in that:

- a. two double garages protrude forward of the main building façade resulting in the garages dominating the entire front building line;

Reports from Director Development Services

- b. the majority of the front yard of the development would be hardstand area; and
- c. the garages are located on the northern elevation significantly limiting solar access to the units.

This is not considered to be a good urban design outcome and it would be unlikely that any amendments to DCP6 would encourage or permit such an outcome.

Comment – MSA Submission

The applicant has not satisfactorily addressed the variation from DCP No. 6 – Multi-Dwelling Housing as recommended by Council officers.

(e) Public interest

The proposal does not comply with the Draft Development Control Plan for Dual Occupancy Controls. While the draft has not been adopted, the proposed Dual Occupancy is not in the interest of the public as Clause 2.2 of Draft Dual Occupancy Development Control Plan states that council shall not consent to an application for a dual occupancy on a corner block of less than 1000m².

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

In the event the applicant is dissatisfied with Council's determination of the application a right of appeal to the Land and Environment Court is available.

OPTIONS

It is considered that Council has the following options:-

1. Refuse the application as per the recommendation.
2. Approve the application subject to conditions.
3. Invite the applicant to lodge amended plans addressing the various issues.

CONCLUSION

The proposed development will have a significant adverse impact upon the streetscape due to the garages dominating the frontage of the development. The garages make up over two thirds of the front elevation and as such the building does not address the street satisfactorily. The proposed landscaping does not resolve the problem and puts more focus on the garages.

The driveways create excessive hardstand area which also detracts from the streetscape and amenity of the area. Neither has the building been orientated to allow maximum solar access.

Given the non-compliance with the various Development Control Plan requirements it is recommended that the Development Application be refused for the above reasons.

Reports from Director Development Services

3. ORIGIN: Development Assessment Unit

FILE REF: DA1460/565 Pt3 0320/2001DA

REPORT TITLE:

The Extension of the Existing Sealed Driveway which accesses the Kingscliff Library and Meals on Wheels Facility, by approximately 92m to connect to Cudgen Road at Lot 101 DP 870843 Cudgen Road, Kingscliff

SUMMARY OF REPORT:

This report provides an assessment of the proposed extension of the existing sealed driveway which accesses the Kingscliff Library and Meals on Wheels facility, by approximately 92m to connect to Cudgen Road at Lot 101 DP 870843 Cudgen Road, Kingscliff. The site is zoned 5(a) Special Use (Community Facilities) and currently contains the Kingscliff Library. The proposed development incorporates a 4m wide driveway joining the existing driveway and car park with Cudgen Road comprising a total distance of approximately 92m. The purpose of the proposal is to enable vehicular, pedestrian and cycle access between the library and Cudgen Road, to make the Library and the associated Meals on Wheels service more accessible for service vehicles, cyclists and pedestrians.

The application was notified to adjoining landowners and a total of four (4) submissions were received. Issues raised in the submissions include the design of the proposed driveway extension, an increase in traffic on Cudgen Road and the cost of the proposed development. These issues are detailed later in this report.

While it is acknowledged that there are local traffic management issues in Cudgen Road, it is concluded that the design of the proposed access driveway extension is adequate given the traffic volumes which will utilise it, and the management measures to restrict through traffic.

RECOMMENDATION:

That Development Application No. 0320/2001DA for the extension of the existing sealed driveway which accesses the existing Kingscliff Library and meals on wheels facility, by approximately 92m to connect to Cudgen Road, at Lot 101 DP 870843 Cudgen Road, Kingscliff be approved subject to the following conditions:-

GENERAL

1. The development shall be completed in general accordance with Plan Nos A1-1400/01; A1-1400/02; A1-1400/03; A1-1400/04 (as amended); A1-1400/05 prepared by Tweed Shire Council Planning and Design Unit and dated 6 December 2000, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. No soil, sand, gravel, clay or other like material shall be disposed of off the site.

Reports from Director Development Services

4. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
5. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
6. Other than for pedestrian and cycle access, the driveway is to be utilised by service and delivery vehicles only. Staff vehicles are not permitted to utilise this access.
7. Details of proposed management measures for the security devices (ie. chain and bollard measure) are to be submitted for the approval of the Director, Development Services prior to construction. Details are to include the control of the distribution of keys etc.
8. The proposed sign adjacent to the loading bay is to be amended to reflect access for service vehicles only, references to staff are to be deleted.
9. A give way sign is to be provided at the intersection of the access driveway and Cudgen Road to the satisfaction of Council's Director, Engineering Services.
10. A speed hump is to be provided to the satisfaction of Council's Director, Engineering Services.

ENVIRONMENT PROTECTION

11. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
12. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
13. 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.
14. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
15. 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.
16. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section

Reports from Director Development Services

5.5.2 “Stormwater Objectives During the Construction Phase of New Development”. This section requires all new development to comply with Appendix E of the Plan “*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*” and its Annexure A - “Code of Practice for Soil and Water Management on Construction Works”. Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

Reports from Director Development Services

REPORT:

Applicant: Tweed Shire Council
Owner: Tweed Shire Council
Location: Lot 101 DP 870843, Cudgen Road, Kingscliff
Zoning: 5(a) Special Use (Community Facilities)
Est. Cost: \$60,000

BACKGROUND

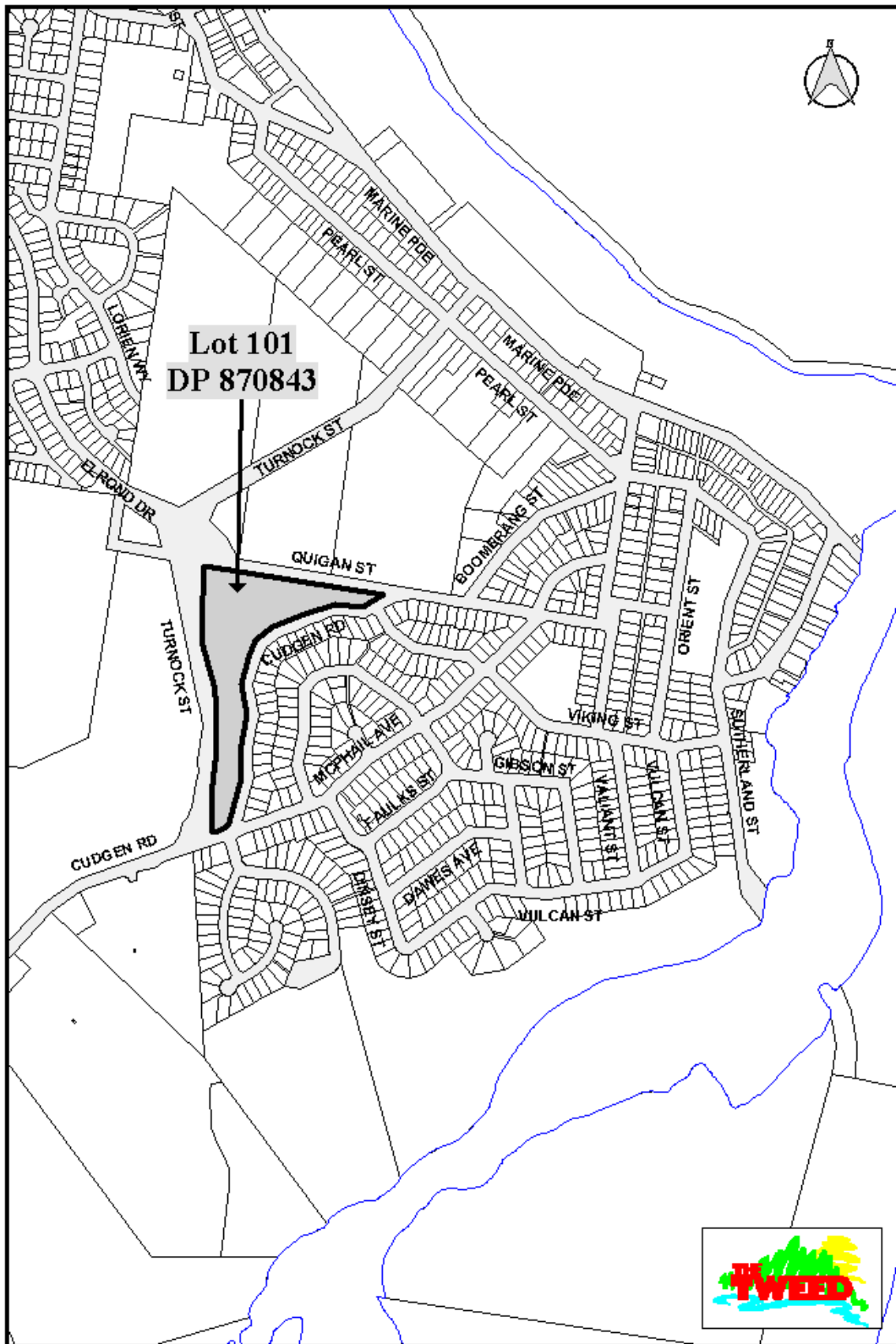
Council is in receipt of a development application for the extension of the existing driveway which accesses the Kingscliff Library and Meals on Wheels facility to connect to Cudgen Road at Lot 101 DP 870843 Cudgen Road, Kingscliff. The subject site contains the Kingscliff Library and Meals on Wheels facility. The area of the site in which the proposed driveway/walkway/cycle access is to be constructed consists of north facing moderate to steep slopes to the north of Cudgen Road and to the east of the Kingscliff Library access road. Levels in this area of the site range from approximately 1.5m to 11.m AHD. Site vegetation comprises mainly grasses and some native rainforest remnant or regrowth species. The proposed development consists of the extension of the existing sealed access driveway for a length of approximately 92m to connect to Cudgen Road. The works involved include:-

- The provision of batters to be topsoiled and turfed.
- Construction of a single traffic lane carriageway 4m wide.
- Provision of a table drain.
- Provision of 3 x 2m wide parallel to kerb car parking spaces east of the Library.
- Upgrading of the existing piped stormwater drainage system.
- Associated traffic signs.

No entry signs are proposed at both ends of the accessway extension. Those adjacent to the Library at the western end of the driveway will indicate “no entry, service vehicles excepted” and “shared zoned pedestrians and motor vehicles.” Signs to be erected at the Cudgen Road intersection (the eastern end) will indicate “no right turn” and “shared zone” facing the access driveway and no entry facing Cudgen Road. It is proposed to install a galvanised chain with a padlock between two (2) bollards at the western end of the driveway to restrict access. Road making and earthwork machinery will be involved in the construction of the driveway extension. The site is zoned 5(a) Special Uses (Community Facilities) and the proposed development is permissible with development consent.

Reports from Director Development Services

SITE DIAGRAM



Reports from Director Development Services

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

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

State Environmental Planning Policies (SEPPs)

No SEPPs apply to the proposed development.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 15 of the NCREP 1988 requires Council to consider the impact of development on rivers, streams and coastal or inland wetland or fishery habitat areas.

The proposed development is not considered likely to result in adverse impacts, in this regard given proposed sediment and erosion control measures during and post construction.

Clause 32B of NCREP 1988 requires the consent authority to consider the provisions of the NSW Coastal Policy 1997. The proposed works are not considered to be inconsistent with the provisions of this policy.

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 5(a) Special Uses (Community Facilities) in accordance with the provisions of TLEP 2000. The primary objective of the zone is:-

“The provide land which is developed or is proposed to be developed, generally by public bodies, for community facilities and services, roads, railways, utilities and similar things”.

The proposed development is ancillary to the existing community use of the site.

Clause 22 – Development Near Designated Roads

Clause 22 applies to land that has frontage to a designated road and requires the consent authority to consider a number of factors prior to granting development consent for any development, as follows:

- 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 not be impeded; and
- c. the development or proposed access to it will not prejudice any future improvements to or realignment of the designated road; and
- e. the development is of a type that is not sensitive to traffic noise or if it is, it is located or adequate measures are included to ameliorate any potential noise impact; and

Reports from Director Development Services

- f. the development would not detract from the scenic values of the locality, particularly from the viewpoint of road users; and
- g. where practicable, access to the land is provided by road other than the designated road.

Council's Traffic Engineer has assessed the proposed development and concluded that given the limited use of the access driveway/cycleway it is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of Cudgen Road. The design of the access point is considered satisfactory subject to conditions including restriction of vehicles to left turn only at the intersection of Cudgen Road, the provision of a give way sign, and the provision of a speed hump. The proposed development is not sensitive to traffic noise. The proposed access driveway is not considered likely to significantly detract from the scenic values of the locality. Access to the land is provided via Turnock Street, however, the proposed driveway extension will cater for service and delivery vehicles. It is considered that the proposed development performs satisfactorily in relation to the provisions of Clause 22.

Clause 35 – Acid Sulfate Soils

The subject works are located on Class 5 land according to the "Acid Sulfate Soil Planning map". No soil assessment or further investigation is required in relation to this clause.

(a) (ii) The provisions of any draft environmental planning instruments (EPIs)

No draft EPIs apply to the proposed development.

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

There are no DCPs which apply to the proposed development.

(a) (iv) Any matters prescribed by the Regulation

As previously stated the proposed development is not considered to be inconsistent with the provisions of the NSW Coastal Policy 1997.

(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

Visual Impact

The proposed development is screened by existing vegetation and is not considered likely to result in significant impacts on the visual amenity of the locality.

Construction

The proposed development is not considered likely to result in significant impacts on the existing environment subject to the imposition of conditions regarding erosion and sedimentation control.

Reports from Director Development Services

Flora/Fauna

The proposed works involve the removal of grass, shrubs and weed species as well as the removal of approximately 4 trees of the species *Macaranga Tanarius*, two adjacent to the Cudgen Road frontage and two in close proximity to the existing Library building. The proposed development is not considered likely to result in significant impacts on flora or fauna.

Access/Traffic

The proposed development will reduce the walking distance from the intersection of the proposed driveway and Cudgen Road by approximately 500m for pedestrians. The anticipated traffic utilising the driveway includes:-

- One garbage truck per week
- One food van to meals on wheels per week
- Two fruit and vegetable vans per week
- Two milk deliveries per week
- Two library trucks per week
- One grease trap pump out truck per month

The proposed community health centre service vehicles will also utilise the driveway. Council officers have confirmed that staff/meals on wheels dispatch vehicles will not be permitted to use the access driveway. Council's Traffic and Transport Engineer has assessed the proposed development and provided comment indicating that the proposed bollard and chain arrangement which will prevent illegal use of the driveway will reduce the potential impact of the proposal on the existing local road network. A give way sign should also be constructed at the Cudgen Road intersection. It is also recommended that a speed hump be required to prevent vehicles building up speeds above the 10km/h sign posted limit. The hump is to be designed so as not to prevent pedestrian access through it.

(c) Suitability of the site for the development

The proposed development involves limited vegetation removal and given the proposed management measures, that is, bollard and chain security provisions, the proposed development is considered acceptable.

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

Although not statutorily required, the proposed development was notified to adjoining land owners. Four (4) submissions were received in response to the exhibition period. The following grounds for objection were raised in relation to the proposed development:

Reports from Director Development Services

Issue	Assessment	Comment
<p>Design issues</p> <ul style="list-style-type: none"> Steepness of ramp – the median grade is shown as 13.65%. The actual gradient point at the Cudgen Road end would appear to be in excess of this figure. Concerned that pedestrians with other than good mobility will be unable to use the access with ease. 	<ul style="list-style-type: none"> Grade at 13% is less than most footpaths on Cudgen Hill and the road to the respite centre. Given the topography of the site, the proposed gradient is considered acceptable. 	
<ul style="list-style-type: none"> The proposed driveway does not intersect Cudgen Road at right angles but rather at an oblique angle which is dangerous for vehicles heading up Cudgen Road. The proposal is for a one way traffic flow up the hill along the extended access and into Cudgen Road. It is suggested that the proposed traffic flow direction be the reverse, ie. down the hill from Cudgen Road. This improves the safety of the intersection with Cudgen Road for vehicles entering the driveway and more fully utilises the already built intersection at Elrond Drive. The proposed driveway will exacerbate the existing problems for properties opposite exiting their driveways into Cudgen Road. Upgrading of the Turnock Street entrance would be more appropriate. The alternative of providing a turning area at the Library is not discussed but would be a much less expensive undertaking. <p>Local Area Traffic Management</p> <ul style="list-style-type: none"> Location of driveway is in a dangerous spot being a downhill side of a sharp bend. Whilst signposted as 50km/h, traffic regularly exceeds this limit. There have been 2 recent incidences of vehicles failing to negotiate the bend which have resulted in cars going down the embankment of the vicinity of the driveway. 	<ul style="list-style-type: none"> All vehicles must exit in an easterly direction, ie. left turn only will be permitted from the intersection on the driveway extension of Cudgen Road. Given the low volumes of traffic which will be utilising the driveway, the design is considered adequate. The road is primarily for pedestrians and cyclists and to provide access for garbage and delivery vehicles which cannot manoeuvre on site at present. Again, given the small volumes of traffic utilising the driveway and the proposed security measures, the proposed development is not considered likely to have significant safety implications. Again, given the small volumes of traffic utilising the driveway and the proposed security measures, the proposed development is not considered likely to have significant safety implications. The pedestrian route proposed facilities movement from Knox Court, Viking Street and Boomerang Street precincts. Whilst the issues raised in relation to local area traffic management in Cudgen Road are legitimate, the proposed development will not significantly impact on the existing local road network. The traffic generated by the proposed driveway extension is not considered likely to significantly affect existing conditions on this portion of Cudgen Road. 	

Reports from Director Development Services

<ul style="list-style-type: none"> The proposal is another traffic generator for traffic using Cudgen Road. Cudgen Road is badly aligned and has no properly formed pedestrian footway, forcing people to walk on the road itself and has limited sight distance, particularly in regard to the many hidden driveways on the top side of the road. 	<ul style="list-style-type: none"> The proposal is not a public thoroughfare. Access is limited to delivery and service vehicles. Traffic impact on Cudgen Road will be negligible. 	<ul style="list-style-type: none"> These issues are not considered to warrant refusal of the proposed development.
<ul style="list-style-type: none"> The close proximity of the McPhail Avenue/Cudgen Road intersection with the Oxford Street/McPhail Avenue intersection does not conform with current AUSTROADS standard. Any reduction of through traffic in Cudgen Road would alleviate the problems associated with this non-conformance. Thought should be given to connecting into the existing informal respite entrance driveway which is used by pedestrians. The provision of the shared pedestrian/cycle vehicular access is unsafe given that no footpath exists on the northern side of Cudgen Road to connect with the driveway extension. Cudgen Road, Quiggan and Boomerang Streets needs to be looked at as a whole. These streets currently have no properly formed footway and bike path and pedestrians are forced onto the roadway. This makes it particularly dangerous given the traffic numbers and speed, as well as the bends and steep driveways that already exist. The proposal will exacerbate this situation. <p>Other</p> <ul style="list-style-type: none"> Concern regarding tree removal. 	<ul style="list-style-type: none"> Approximately 4 trees are proposed for removal. 	<ul style="list-style-type: none"> It is considered that given the minor traffic volumes involved and the restriction on use of the access driveway, these issues do not warrant refusal of the application. Potential environmental impacts of proposed development are not considered to warrant refusal of the application.

(e) Public Interest

The proposed development is not considered likely to prejudice the public interest.

Reports from Director Development Services

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.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Where a applicant is dissatisfied with Council's decision a right of appeal exists to the Land and Environment Court. As Council is also the applicant in this case, this would be unlikely.

No third party appeal rights exist based on merit however, any person could challenge the validity of the consent if they feel that Council has breached the provisions of the Environmental Planning and Assessment Act, 1979 in determining the application.

CONCLUSION

The proposed access driveway/pedestrian/cycleway is considered acceptable given the restrictions placed on the use of the driveway, the low traffic volumes, and the proposed traffic management measures (eg. Give way sign, left turn only into Cudgen Road, speed hump etc).

It is therefore recommended that the proposed development be approved subject to the imposition of conditions.

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Reports from Director Development Services

4. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/S94/MC Pt4

REPORT TITLE:

Section 94 Contribution Plans – State Environmental Planning Policy (SEPP) No 5 Developments

SUMMARY OF REPORT:

The Section 94A Direction that prohibited Councils from levying Section 94 contributions on State Environmental Planning Policy No. 5 (SEPP 5) - Housing for Aged or Disabled Persons was repealed on 3 May, 2001, enabling councils to levy Section 94 contributions for SEPP 5 developments. In conjunction with the repeal, the Department of Urban Affairs and Planning has released guidelines regarding the levying of contributions on housing for the aged and disabled, particularly in relation to the anticipated development creating a need for a particular public facility.

It is proposed that when Council's Section 94 Plans are routinely reviewed, consideration will be given to including any specific exemptions that may apply to SEPP 5 developments.

RECOMMENDATION:

That Council:

1. Notes the repeal of the Section 94A Direction in relation to levying for State Environmental Planning Policy No. 5 developments; and
2. Notes that Council's Contribution Plans will be reviewed and any exemptions that may apply to State Environmental Planning Policy No. 5 developments included in the plans.

Reports from Director Development Services

REPORT:

The Section 94A Direction that prohibited councils from levying contributions on State Environmental Planning Policy No. 5 – Housing for Aged or Disabled Persons was repealed on 3 May, 2001. In conjunction with the repeal, the Department of Urban Affairs and Planning has released guidelines regarding the levying of contributions on housing for the aged and disabled, particularly in relation to the anticipated development creating a need for a particular public facility.

It is proposed that when Council's Section 94 Plans are routinely reviewed, consideration will be given to including any specific exemptions that may apply to SEPP 5 developments.

For the present, all SEPP development constitutes a form of residential development which, for the purposes of S94, will have to contribute in accordance with current plans. It will be open to a developer to seek an exemption to contributions arising from a particular Plan at the time of determination of a Development Application.

Reports from Director Development Services

5. ORIGIN: Development Assessment Unit

FILE REF: DA1460/565 Pt3

REPORT TITLE:

Proposed Community Health Building at Lot 101 DP 870843 Cudgen Road, Kingscliff

SUMMARY OF REPORT:

Development consent is sought for the establishment of a Community Health Building on behalf of NSW Health on council owned land where Kingscliff Library is located. The proposal will improve the health services available within the Kingscliff area. The application is recommended for approval. The lease arrangements have been separately negotiated with the Director of Environment and Community Services.

RECOMMENDATION:

That Development Application 0774/2000DA for the establishment of a community health building at Lot 101 DP 870843 Cudgen Road, Kingscliff be approved subject to the following conditions:-

PREREQUISITES

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

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

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

- a. West Kingscliff - Drainage: \$1216.17

DCP No. 9 S94 Plan No. 7

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

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

Water: \$7180.00

Sewer: \$5940.00

Reports from Director Development Services

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

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

GENERAL

3. The development shall be completed in general accordance with Drawing No 6056 A01, A02, A2, A4, A12 prepared by Thomson Adsett Architects and dated 22/6/2000 and 23/6/2000, except where varied by these conditions.
4. 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.
5. No soil, sand, gravel, clay or other material shall be disposed of off the site, other than to an approved waste disposal facility in consultation with the Director Development Services.
6. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in consultation with the Director of Engineering Services.
7. The provision of 20 off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls and the geotechnical report prepared by Soil Surveys Engineering Pty Ltd dated July 2000.
8. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
9. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
10. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
11. Certified engineering designs are to be submitted for the retaining walls associated with the car park construction prior to commence of works. The design is to have regard to the geotechnical report prepared by Soil Surveys Engineering PTY Limited.
12. The 20 new car parking spaces are to be constructed prior to commencement of works on the building.
13. No needle vending facilities are to be installed within the premises or on the site.

Reports from Director Development Services

14. The retaining walls required to be constructed as part of the new car parking area are to be densely landscaped to minimise the visual impact of these structures. Details are to be submitted to Council for approval prior to commencement of works.

PRESCRIBED (BUILDING)

15. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
16. 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.
17. 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.
18. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia.

ENGINEERING (BUILDING)

19. The footings are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory.
20. Disabled car parking spaces are to be provided at the rates provided for under Part D3.5 of the Building Code of Australia and constructed in accordance with Australian Standard AS2890.1.

ENVIRONMENT PROTECTION

21. Where works extend beyond 1 metre below the natural ground or the works are likely to cause the watertable to be lowered beyond 1 metre below the natural ground surface a preliminary soil assessment shall be conducted in accordance with the ASSMAC Manual 1998 and the details submitted to Council for consideration prior to the commencement of works.

Reports from Director Development Services

22. If the preliminary soil assessment indicates the presence of acid sulphate soils an acid sulphate soils management plan shall be prepared and submitted to Council for approval prior to the commencement of works. All subsequent works shall comply with the approved management plan.
23. Fill materials which are imported to the site shall come from a source that has been tested to indicate that it is free from acid sulphate soil or other contaminants.
24. The recommendations made in Section 5 of the Flora, Fauna and Fire Hazard Assessment Report (28 May 1999) prepared for the library development by Woodward-Clyde Pty Ltd shall be implemented as part of the development.
25. Stormwater disposal and sedimentation and erosion control details shall be provided to Council prior to the commencement of works and shall specifically demonstrate and address measures required to mitigate adverse impacts to the habitat of the wollum froglet during construction, and are to be to the satisfaction of the Director Engineering Services.
26. A plan of bushfire control and landscaping/replanting utilising species endemic to the site (Flora, Fauna and Fire Hazard Assessment Report (28 May 1999)) shall be submitted for the approval of the Director Environment and Community Services prior to the commencement of works.
27. Car park lighting shall not be permitted to spill onto any adjoining residential property or adversely impact the amenity of any adjoining premises.
28. A plan detailing site safety and pedestrian/traffic controls during the construction phase shall be submitted to Council for approval prior to the commencement of works. This plan shall specifically address control of building activities to facilitate safe access and usage of the existing facilities of the site.
29. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
30. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
31. 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.
32. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
33. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.
34. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.

Reports from Director Development Services

35. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

36. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
37. The burning of builders waste on site by open fire is prohibited.
38. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

39. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.
40. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

PLUMBING AND DRAINAGE

41. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- internal drainage, prior to slab preparation;
 - water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - external drainage prior to backfilling.

Reports from Director Development Services

- d. completion of work.
- 42. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- 43. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.

Reports from Director Development Services

REPORT:

Applicant: NSW Health Department
Owner: Tweed Shire Council
Location: Lot 101 DP 870843 Cudgen Road, Kingscliff
Zoning: 5(a) Special Uses (Community Facilities)
Est. Cost: \$788,000

An application (0774/2000DA) has been received from the Health Administration Corporation on behalf of NSW Health Department for the erection of a new community health building located on Council owned land where the existing Kingscliff Library is situated and known as Lot 1 DP 870843 Cudgen Road, Kingscliff. The site also enjoys frontage to Turnock Street. The site also contains the Kingscliff Swimming Complex and Kingscliff Respite Care Facility.

The proposed new community health building is located in the north western portion of the site adjacent to the existing Library. The new building is intended to be erected just to the south west of the existing Library and will be accessed via the existing driveway which services the Library.

Works proposed involve the construction of a single storey community building of approximately 507m² in area. Services anticipated to be provided by the new centre include early childhood support, palliative care services, Aboriginal and Torres Strait Islander services, child and family health services, sexual assault services, mental health services and drug and alcohol counselling services. It is also proposed to construct an additional 20 car parking spaces on site on the south eastern side of the existing driveway. This will involve significant excavations into the embankment located in this area.

It is intended that NSW Department of Health will enter into a lease arrangement with Council for the use of the land. An agreement has been entered into between NSW Health and Council regarding this issue.

As the development is being carried out by a State Government Authority the development is defined as a Crown Development Application and pursuant to Clause 116C of the Environmental Planning and Assessment Act, 1979 the Minister or the applicant must agree to any conditions that the consent authority proposes to impose on any approval relating to the application. The attached conditions forming part of the recommendation have been negotiated with NSW Health and have been agreed upon. Any amendment to these conditions would require further agreement from NSW Health prior to any consent being able to be granted.

CONSULTATION

The proposal was advertised in the Tweed Link for a period of 14 days. At the conclusion of the exhibition period eight (8) submissions and 1 petition containing 32 signatures were received. The primary issue raised by the 8 submissions related to water pressure, or lack of, experienced by residents in the immediate area adjoining the site. Concern was raised that this development would further reduce water pressure in the area and requested that Council rectify this problem as part of this development. These submissions did not object specifically to the proposed development.

The petition received objected to the proposal on the following grounds:-

Reports from Director Development Services

- Usage is shown as likely to be available, such as maternal baby health matters are not suited to an area with no public transport and without commercial activity of any nature.
- Provision for treatment of drug and alcohol addiction is not an activity suited in a residential area.
- Any proposal for vehicular access to Cudgen Road would worsen the traffic problem that already exists on the road.
- Any further encroachment to the limited area of scrub that is still available to existing bird and animal life must have a detrimental affect on gardens etc within the community.

Comment

In regards to the water pressure issue, discussions with Council's Planning and Design Manager indicated that this development would have minimal affect on the existing water reticulation system in the area. Any problem which exists in the area would need to be addressed by Council on a broader basis and it cannot be expected that a single development be required to upgrade the existing system. It should however, be noted that NSW Health have agreed to pay contributions for both water and sewer headworks. These contributions would go towards any future upgrade of the system.

In terms of public access to the site, the site is not ideally located as it is some distance from the existing Kingscliff town centre and no regular bus service currently services the site. However, as demand increases for access to the site, it is likely that bus services will be re-routed along Turnock Street to service this locality. Provision as part of the library development has been made for a bus set down area in Turnock Street with a timber boardwalk providing pedestrian access to the Library and the proposed community health building.

Drug and alcohol counselling staff will be available at the centre however, discussions with NSW Health have indicated that no dispensing or methadone clinics will be operated from the site.

NSW Health did however propose to install a needle vending/dispensing facility at the site. Concern was raised regarding this due to the close proximity of the library and the relatively isolated nature of the site. A condition of consent is proposed which prohibits the installation of such a facility. NSW Health have agreed to this condition however, have reserved the right to submit a development application for such a facility at a latter date.

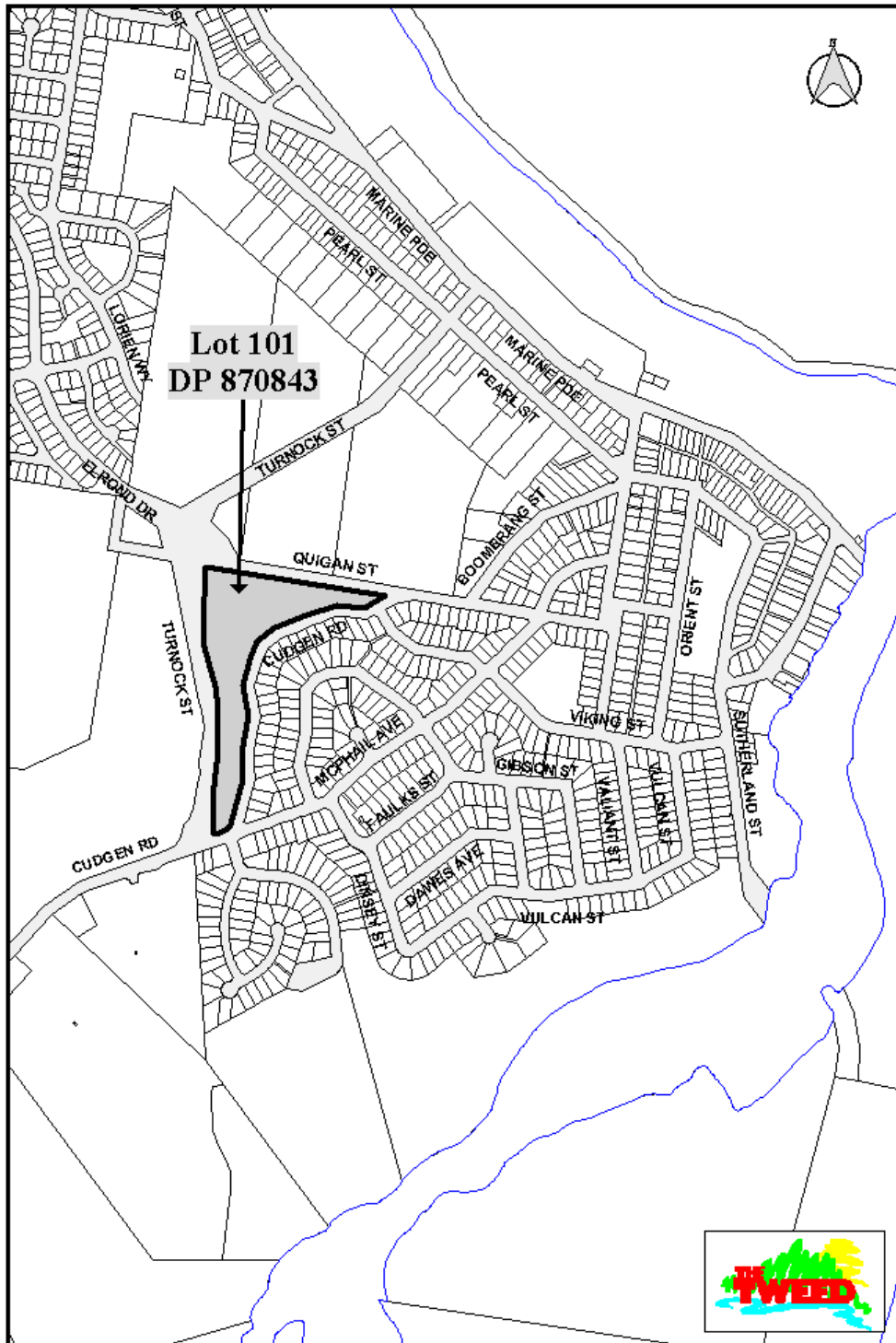
Access to Cudgen Road is not proposed as part of this application however, a separate application has been lodged by Council's Engineering Services Division. This access driveway through to Cudgen Road is intended to be one way and only be available for service vehicles. It will also provide pedestrian/bicycle access through to Cudgen Road for servicing residents to the east of the existing and proposed development. Traffic resulting from this extension of the driveway will be minimal and have limited impact on existing residents in the area. The application for the driveway extension is reported to Council separately as part of this business paper.

Minimal clearing of vegetation will be required, involving the removal of approximately 2-3 trees and some additional fuel reduction works for bushfire protection.

Reports from Director Development Services

It is considered the grounds raised for objection to the proposal in the submissions do not warrant refusal of the application.

SITE DIAGRAM



Reports from Director Development Services

ASSESSMENT

The application has been assessed against the matters for consideration contained within Section 79C of the Environmental Planning and Assessment Act, 1979 as follows.

(a) (i) Provisions of any environmental planning instrument

State Environmental Planning Policies (SEPP's)

There are no SEPP's of particular relevance to the proposal.

North Coast Regional Environmental Plan (NCREP 1988)

Clause 15

Requires Council to have regard to the potential impact of any development on nearby waterways which form part of the drainage catchment of a river, stream, coastal or inland wetland or estuary.

The site is immediately adjoined to the north by low lying paperbark forest and fernland on the flats adjoining an existing drain which crosses under Turnock Street and flows in a north westerly direction to ultimately link up with the drainage regime established in the West Kingscliff residential estate. The site therefore requires careful management in respect to sediment and erosion control and pre-treatment of stormwater generated from car parking and access areas to mitigate potential water quality impacts. The applicant has provided only limited information in respect to water quality management, however intends to largely connect into the existing stormwater drainage system which was installed as part of the library development. Any consent should be conditioned requiring detailed designs of stormwater management controls to be submitted prior to any works commencing.

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 5(a) Special Uses (Community) under the provisions of TLEP 2000. The proposed community health building is permissible in the zone with the consent of Council.

The proposal is consistent with all relevant clauses of TLEP 2000.

A acid sulfate soils management plan was prepared for the library development application prior to construction commencing. The provisions of this Plan may be relevant to this proposal however, the applicant has indicated that there will be no excavations below 1m. Should any excavations occur below this depth then an acid sulfate soils management plan will be required. A condition has been recommended to address this issue.

(a) (ii) Provisions of any draft environmental planning instrument

There are no draft SEPP's, Regional Environmental Planning Policies or Local Environmental Plans applicable to the development at this time.

Reports from Director Development Services

(iii) Development Control Plans (DCPs)

The proposal is affected by DCP No. 2 – Parking Code, DCP No. 5 – Development of Flood Liable Land and DCP No. 43 - Kingscliff. In respect to DCP2 there are no specific provisions relating to community health buildings. It is proposed however, to provide an additional 20 car parking spaces on site. Currently 13 car parking spaces have been provided for the library. The applicant has submitted a traffic and car parking analysis as part of the proposal justifying that the provision of 20 additional spaces will adequately cater for this development.

The 20 new spaces are proposed to be located to the east of the existing service driveway and will be required to be cut into the embankment. Initial concern was raised over the stability of this embankment and the suitability of this area to accommodate these spaces. To support the location of these car parking spaces the applicant commissioned a geo-technical report which confirmed the instability of this area. This report recommends that significant retaining works will be required to ensure the stability of this embankment. A condition of consent is proposed requiring any works to be done specifically in accordance with the recommendations of this geo-technical report. There are limited alternative areas on the site for the provision of car parking.

In respect to DCP5 the subject land is below the Council's design flood level in part. Some further filling is proposed for the establishment of a small building pad area. The building is in part cantilevered over the low lying areas in the north of the site and will achieve a finished floor level of 3.6m AHD which is at Council's design finish floor level for the Kingscliff locality.

In respect of DCP No. 43, this plan identifies the possibility of a future health centre being located on the library site. This plan also identifies the need to establish a pedestrian/cycleway link between this site and Cudgen Road to enhance access to this facility from Kingscliff Hill and the town centre.

(a) (iv) Prescribed matters

The proposal is generally consistent with the provisions of the NSW Government Coastal Policy.

(b) Likely impacts of the development including impacts on the natural and built environment, social and economic impacts in the locality

The proposal raises the following key issues for assessment:

- Design
- Access, transport and traffic
- Utilities
- Soil and water management
- Flora and fauna

Reports from Director Development Services

- Social impact
- Construction impacts

These matters are addressed in turn below.

Design

The proposed building is a single storey structure constructed predominantly of light weight materials similar in theme to that of the architecture contained in the library. The structure is set back approximately 25-30m from Turnock Street and approximately 50m from Cudgen Road. The building is designed to be set amongst the existing vegetation in an existing clearing. The building will largely be screened from Turnock Street by existing vegetation. It is proposed to construct a timber deck at the rear of the building which will connect to the existing timber board walk providing pedestrian access to Turnock Street.

The building uses some passive design elements to provide improved energy efficiency through natural light penetration and cross ventilation.

The building and associated accesses are well separated from the nearest dwellings to the south east on Cudgen Road which are some 60m away (approximately). The modest bulk and scale of the structure, the integration of the structure with the existing site characteristics and the visual interest provided by the building aesthetics should ensure that the building is generally compatible with both the existing library building and its surrounds.

Access, transport and traffic

Vehicle access to the site is proposed via the existing access driveway from Turnock Street which services the library. 20 on-site vehicle spaces are proposed to be provided in addition to the existing 13 spaces which are currently located on the site. Manoeuvrability for delivery vehicles and community transport such as buses will be improved by the extension of the existing driveway through to Cudgen Road. This extension is not proposed as part of this application but rather by separate development proposal which is reported separately as Item 4 of this Business Paper.

The site is somewhat remote from existing public transport (bus services). Existing services are available along Cudgen Road/McPhail Avenue and Turnock Street to Elrond Drive (although this service is currently infrequent). There are no short term plans by the bus operator to extend services along Turnock Street past the site. Therefore, pedestrian links to and through the site from existing services are critical. In this regard a pedestrian link currently exists via a boardwalk to Turnock Street, which links to a pedestrian/bicycle path which extends for the full length of Turnock Street connecting to the existing town centre. The proposed extension of existing driveway has been designed to also provide for pedestrian links from the site to Cudgen Road resulting in improved pedestrian access for residents to the east of the site.

Having regard to the existing pedestrian links and proposed pedestrian links to the site, it is considered that access to the site is satisfactory. Any future amendments to existing

Reports from Director Development Services

bus routes so as to service the site on a more regular basis would also significantly improve public access to the site. The siting of the community health building will further increase demand for public access to the site and may initiate such changes.

Utilities

Reticulated water, sewer, power and telephone are available to the site. Details of connection points are required to be provided and approved by the Director of Engineering Services prior to the commencement of any works.

Stormwater drainage infrastructure has been provided to the existing library facility. It is intended that this development will connect to the existing system. Detailed plans are required addressing drainage prior to commencement of any works on site.

Soil and Water Management

Potential impacts arise in respect to the control of sediment laden stormwater during the construction phase and pollutant laden stormwater from hardstand areas, car parking and accessways, during the operational stages. Council's Engineering Services Division requires a pre-treatment of stormwater discharge from car parking areas and accessways and other hardstand areas prior to discharge. However, it would appear that limited additional drainage works will be required to that already provided to the library development.

Sediment laden waters must be directed to an on site detention structures prior to any discharge of the site. These measures are considered critical as part of any soil and water management of the site. Detailed plans will need to be provided prior to any commencement of works.

Flora and Fauna

A flora and fauna assessment was conducted on the site by Council's consultant for the library development. This assessment identifies that 2 threatened fauna species occur within the study area, those being the Wallum Froglet and the Little Bent Wing Bat and that a further threatened fauna species is likely to occur, namely the Common Bent Wing Bat. Other threatened fauna species known to occur in the locality include:-

- Black Necked Stalk
- Osprey
- Grass Owl
- Black Flying Fox
- Collared Kingfisher
- Koala

No threatened flora was observed on the site.

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Consideration under Section 5A of the Environmental Planning and Assessment Act, 1979 in respect to the above species concludes that the development is unlikely to have a significant effect on any of the fauna identified.

The key potential impacts are impacts on water quality and the removal of a small area of forest for bushfire hazard control. The following recommendations were made by Council's Consultant for the library development and are considered applicable to this development:-

- *“Clearing of paperbark trees and wattle species for the proposed development should be minimised where possible to retain habitat for fruvorius and nectavorius birds and megachiropteran bats of the area;*
- *Landscaped planning should incorporate native species of the area, including common species such as broadleaved paperbark, swamp she oak tuckeroo, coast banksia and blackwood;*
- *Consideration should be given to the hydrological integrity of the conserved vegetation during clearing; and*
- *Engineering/filling works and any soil disturbance activities will require the placement of engineering devices to preclude sediment laden water being discharged inappropriately”.*

In respect to landscaping it is apparent that opportunity exists for significant replacement of vegetation loss due to bushfire hazard control works. The recommended conditions of consent require replacement of vegetation with appropriate species in disturbed areas of the site which are contiguous with the existing forest areas. A condition of consent has been recommended and has been agreed on that works will be carried out in accordance with these recommendations.

Social Impacts

There are clearly positive social impacts resulting from the proposal. The facility will not only provide for improved access to health services in the Kingscliff area but also strengthen the area as a community precinct with the library being located on the same site providing a meeting place for community groups and facilities for the provision of meals on wheels service on the Tweed Coast.

Construction Impacts

Issues associated with water quality management, sediment and erosion control have been previously addressed in this report. Other potential issues relate to noise and site safety. In respect to both matters recommended conditions should ensure that the proposal does not adversely impact on the community. In particular, in respect to noise it is unlikely that any significant adverse impacts will occur given the separation between the site and the nearest affected residence.

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(c) Suitability of the site for the development

The specific attributes of the site and its physical characteristics, there are no prohibitive factors apparent and the site appears capable of sustaining the development in the long term subject primarily to careful management and monitoring of water quality impacts.

(d) Any submissions

The proposal was advertised in the Tweed Link for a period of 14 days. A number of submissions were received which have previously been addressed under the heading "Consultation".

(e) The Public Interest

The proposal is affected by the Tweed Shire Strategic Plan and various Section 94 plans.

Tweed Shire Strategic Plan 2000+

The proposal is generally consistent with the various relevant provisions, subject to careful management of water quality impacts.

Section 94 Plan

The proposal would normally attract Section 94 contributions under the following plans:-

- Tweed Road Contribution Plan
- West Kingscliff (Drainage)
- Council Administration and Technical Support Facilities

As this development is being carried out by a Crown authority, Council's ability to levy Section 94 contributions are limited by the provisions of Planning Circular D6 which lists appropriate contributions for certain types of crown development. The only contribution applicable in accordance with this circular is that relating to drainage. This contribution is proposed to be levied and has been agreed to by NSW Health.

Water and sewerage contributions are also applicable in accordance with Section 64 of the Local Government Act. It is considered that a nexus exists between this development and the need to upgrade and provide infrastructure for the Kingscliff area. This is further justified by a number of submissions relating to water pressure, or lack of, experienced in the area. As a result of negotiations with NSW Health they have agreed to the imposition of this condition requiring the payment of these headwork charges.

OPTIONS

The following options would appear open to Council in respect of this matter.

1. Approve the application subject to the recommended conditions.

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2. Refuse the application.

It should be noted that agreement has been reached with NSW Health on the attached conditions. Should Council wish to refuse the application or amend the recommended conditions, then the application would need to be referred back to NSW Health for agreement prior to the consent or refusal being granted.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should Council wish to refuse or amend conditions of consent and agreement could not be reached with NSW Health the matter would then need to be referred to the Minister for Planning for resolution. This would result in costs to Council in terms of resourcing this process.

CONCLUSION

Despite some access limitations to the site it is considered that the obvious social benefits, proximity to existing library facility, will result in the strengthening and development of a community precinct which outweighs these limitations and will assist in encouraging the provision of better public transport services to the site. The design of the building is compatible with the architecture of the existing library facility and is of a scale and form compatible with the surrounding environment. Some geotechnical constraints exist regarding the construction of an additional 20 car parking spaces however, these can be overcome by appropriate engineering design. The application is therefore recommended for approval.

Reports from Director Development Services

6. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/DCP/18 Pt6

REPORT TITLE:

Draft Development Control Plan No 18 - Tweed Heads

SUMMARY OF REPORT:

The draft Development Control Plan (DCP) No 18 - Tweed Heads, applies to the majority of the Tweed Heads area and is a comprehensive document to guide the future development of the locality (see Attachment 1). The draft DCP is primarily based on the recommendations of the Tweed Heads 2000+ Strategy adopted by Council in 1995, and the Tweed Heads Streetscape Final Master Plan (1997). The draft DCP contains detailed planning and design guidelines for residential and commercial development.

RECOMMENDATION:

That Council:

1. Pursuant to Section 21 of the Environmental Planning and Assessment Regulation 2000, approves the amended version of Draft Development Control Plan No 18 – Tweed Heads.
2. Forwards a certified copy of the approved Development Control Plan to the Director-General of the Department of Urban Affairs and Planning, and
3. Gives public notice of its decision.

Reports from Director Development Services

REPORT:

BACKGROUND

In August, 1995 Council adopted the Tweed Heads 2000+ Strategy. This provided an outline for the future direction of Tweed Heads.

The major recommendations of the Strategy were to:

- Amend the Tweed Local Environmental Plan landuse zones and building heights as they related to Tweed Heads;
- Undertake streetscape improvements in Wharf and Bay Streets; and
- Prepare a DCP for Tweed Heads, incorporating various urban design guidelines.

The streetscape improvements were completed in 1999, and the recommended LEP Amendments were incorporated into Tweed LEP 2000. The Draft DCP for Tweed Heads, which incorporates various urban design guidelines, has been under preparation for a number of years. The document has been developed primarily from the Tweed Heads 2000+ Strategy and the Tweed Heads Streetscape Final Master Plan produced by Landplan Studio in 1997.

An earlier version of the draft DCP was placed on public exhibition between 27 June and 28 July, 2000. Only one public submission was received. This submission is addressed under "Public Exhibition" as the comments are relevant to the current version of the Draft DCP. Subsequent to the exhibition in 2000, a number of development issues arose which indicated that some of the design guidelines contained in the draft DCP needed to be revised, and that a more comprehensive approach to development control in Tweed Heads was required. A revised DCP was subsequently prepared and was presented to Council's Strategic Planning Committee prior to exhibition.

CONTENT AND STRUCTURE OF DEVELOPMENT CONTROL PLAN NO 18

Content

The revised DCP incorporates all the design standards and guidelines pertaining to Tweed Heads in the one document. These include:

- The development guidelines contained in the Tweed Heads Strategy 2000+;
- Additional guidelines for highrise residential development as recommended in the State Government's "Better Urban Living: Guidelines for Urban Housing in NSW" document;
- Development guidelines for the Southern Boatharbour recommended in the Southern Boat Harbour Management Strategy Final Report; and
- Tweed Heads Streetscape Guidelines prepared for Council by Landplan Landscape Architects in 1999.

The underlying philosophy of the DCP has been based on the Strategic Plan Tweed Shire 2000+, the NSW Coastal Policy 1997 and Tweed LEP 2000 - refer to Figure 1 - "Relationship to Other Plans".

Reports from Director Development Services

Structure

The revised DCP has been structured along similar lines to DCP No 43 - Kingscliff, which was recently adopted by Council.

The draft DCP contains the following components:

- Introduction;
- A Vision for Tweed Heads and Structure Plan;
- Precinct Plans and Strategic Policies;
- Building Envelope Controls;
- Commercial Building Design Guidelines;
- Residential Building Design Guidelines;
- Streetscape Work Guidelines.

Area Affected by DCP

The DCP applies to the Tweed Heads locality, generally bound by the State Border to the north and west, and the Tweed River to the east and south, as shown on Figure 2. Although included in the original Strategy, the area south of Tweed Heads Hospital and Solander Street is not included in the DCP, as this area is subject to the provisions of DCP No 19 – Keith Compton Drive, Tweed Heads and DCP No 6 – Multi-Dwelling Housing. There are no specific planning strategies for the excluded area.

A VISION FOR TWEED HEADS

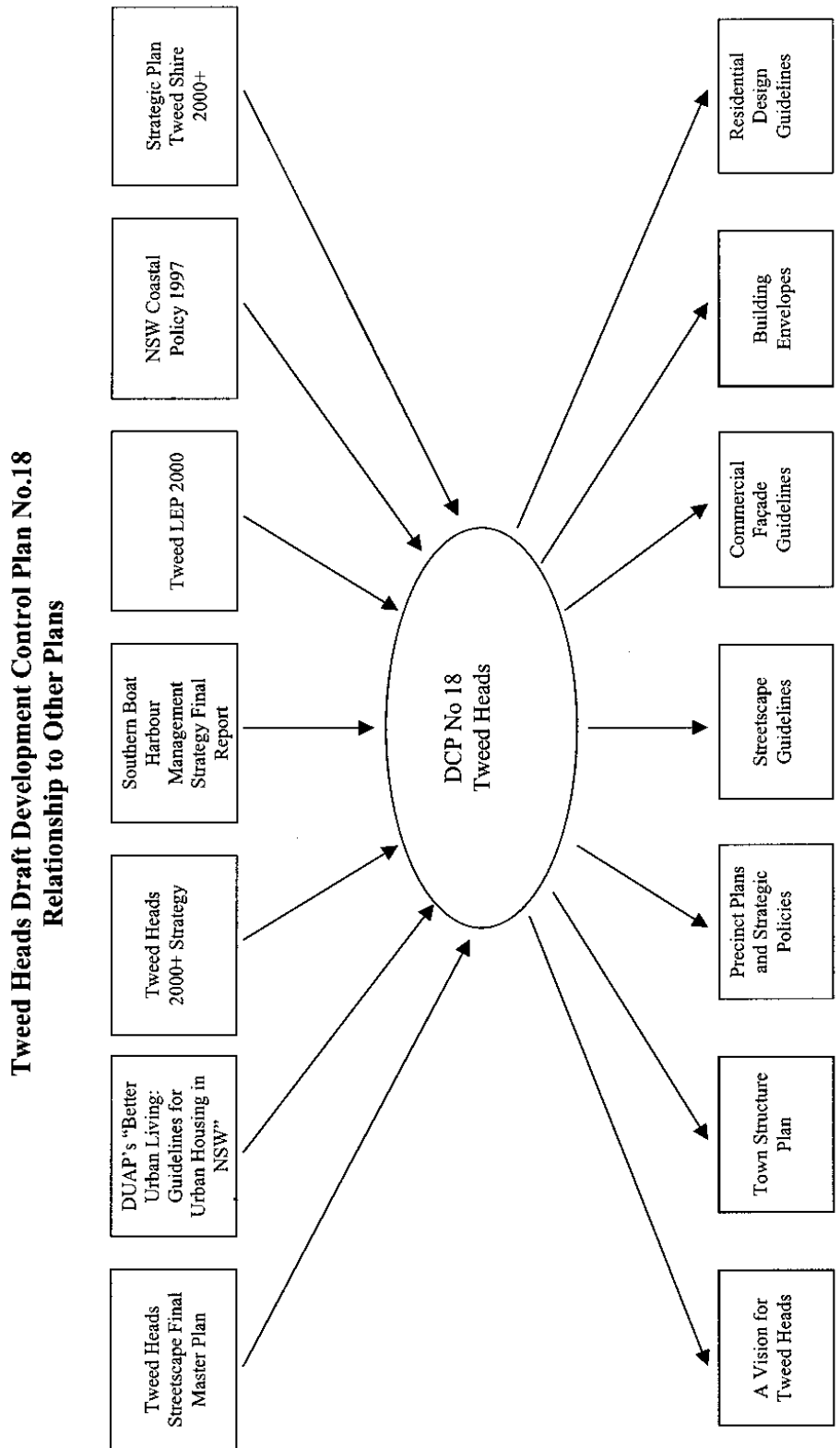
- The Vision contains a Vision Statement and objectives for the future direction of Tweed Heads.
- The Vision Statement for Tweed Heads, as adopted from the Tweed Heads 2000+ Strategy, is:

“To project Tweed Heads as a resident and tourist mecca providing a variety of cultural, recreational and retail experiences, people friendly streetscapes, attractive buildings and a choice of accommodation in a naturally beautiful environment”.

It is the intent of the Vision Statement and associated objectives that Tweed Heads develops as a vibrant centre for residents and tourists, while maintaining a sense of local identity. The Vision will be implemented through a Structure Plan. Key view corridors identified in the 1982 Commission of Inquiry concerning high-rise development in Tweed Shire have also been included.

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FIGURE 1



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PRECINCT PLANS AND STRATEGIC POLICIES

Precincts

- A structure plan divides Tweed Heads into eight distinct precincts, primarily based on their character and intended function.
- The 3(a) Sub-Regional Business Zone forms the Central Precinct, which will be the dominant focus for commercial activities.
- The Southern Precinct primarily caters for commercial development in the 3(b) General Business Zone focussed on the southern half of Wharf Street.
- The Civic Precinct incorporates the key civic facilities of Tweed Heads, which include the civic centre, library, hospital and university campus.
- The Central Precinct will be adjoined by three high density residential precincts, which will facilitate the provision of higher density housing in proximity to available services.
- The Southern Boatharbour and Razorback Hill will develop as separate precincts with their own distinctive characters.

Strategic Policies

The Precinct Plans contain Strategic Policies which address specific development issues and sites. Issues addressed include preferred landuses, floor space ratios and streetscapes.

Strategic Policies for the Southern Boat Harbour Precinct have been sourced from the Southern Boat Harbour Management Strategy.

BUILDING ENVELOPE CONTROLS

Building envelope controls were proposed in the Tweed Heads 2000⁺ Strategy. They set a maximum building envelope for each development site. The envelopes are designed to ensure that the building setback to the street increases, relative to any increase in building height. The envelopes depicted in the DCP have been modified, to cater more effectively for the highrise forms of development permitted in Tweed Heads, and to reduce the impact of bulky buildings. Originally, the envelope controls catered for buildings to be setback 1 metre for every 2 metres of building height. This has now been revised to a setback of 1 metre for every 3 metres of building height, which is more in keeping with the current controls for high-rise development used by Gold Coast City Council.

The envelope controls will now apply to the Special Use Zones, in addition to the Residential and Business Zones as proposed in the Tweed Heads 2000⁺ Strategy.

COMMERCIAL FAÇADE DESIGN

The section of the DCP concerning commercial façade design provides guidelines for the preferred design of commercial building frontages. Details include façade alignment with the street, relationship to adjoining buildings, preferred design of entrances to shops and advertising sign controls.

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Podium Design

The Tweed Heads 2000⁺ Strategy recommended that new buildings in Wharf and Bay Streets present an 8m high podium edge to the street. This requirement has now been made more flexible. New buildings in commercial zones will now be required to present a 2 storey façade to the street, with the overall façade height to be within 1.25m of the height of the facades of adjoining buildings. This requirement is as per the recommendations of the Tweed Heads Streetscape Final Master Plan, which is considered to be both a more flexible and desirable arrangement for the control of building façade design.

Architectural Themes

The proposal in the original draft of DCP 18 for buildings to exhibit an “Art Nouveau” theme has been deleted. This was not a recommendation of the Strategy and it is considered more appropriate that new developments reflect the maritime location and heritage of the locality.

RESIDENTIAL DESIGN GUIDELINES AND DCP 6 AMENDMENTS

The Section of the DCP relating to residential guidelines will apply to residential buildings of 4 or more storeys only. The Guidelines will include provisions concerning building mass, energy efficiency, roof line design, visual privacy, safety, security, access, parking, colours, materials, wind mitigation, overshadowing, balconies and open space. The design guidelines have been adopted from the State Government’s “Better Urban Living – Guidelines for Urban Housing in NSW” document.

Residential buildings under four storeys in height will be subject to the provisions of Council’s DCP 6 – Multi-Dwelling Housing. At present, DCP 6 does not apply to Tweed Heads. To rectify this situation, a draft amendment was made to DCP 6 such that it will now apply to Tweed Heads. The draft amendment was exhibited concurrently with draft DCP 18, and this is subject to a separate report to Council.

The relationship between DCP 6 and DCP 18 will be reviewed in the future to determine whether further integration of these two documents is required.

STREETSCAPE WORK GUIDELINES

The “Tweed Heads Streetscape Guidelines” prepared for Council in 1999 by Landplan Landscape Architects has been incorporated as an Appendix to the DCP.

The Guidelines detail the streetscape theme for Bay and Wharf Streets, and contain guidelines primarily for street furniture and outdoor dining areas. They detail the preferred design and arrangement and colour of street furniture, as well as landscape details.

PUBLIC EXHIBITION

The current version of draft DCP 18 was exhibited between 26 April and 24 May, 2001.

Two submissions were received, which are addressed below. The one submission received to the exhibition of the previous version of draft DCP 18 in July, 2000 is also addressed below.

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Submission from July, 2000 Exhibition

The one submission received in relation to last year's exhibition objected to the DCP on the following grounds:

- The minimum 2000m² site area required in order to erect a building more than three storeys in height will not result in more attractive developments;
- The requirements for residential buildings in the 3(b) Business General zone to incorporate a commercial component is unworkable and will not benefit the locality.

Response:

The minimum site area of 2000m² required to erect a building greater than three storeys in height in the commercial zones is intended to encourage the amalgamation of lots, to ensure that integrated commercial development can occur. Therefore, the requirement for a minimum site area to erect a building higher than three storeys has been retained.

The requirement for a residential building in the business zones to incorporate a non-residential component stems from the provisions of Tweed LEP 2000. The LEP allows for residential development in the 3(a), 3(b), 3(d) and 3(e) zones, provided that such development is located above "non-residential" ground floor development. Development at ground floor level does not have to be commercial in nature; only "non-residential". This could include community facilities such as childcare centres, health centres, neighbourhood community centres, public meeting rooms and community art & craft facilities.

The primary function of a business zone is to cater for business and community uses. Therefore, for reasons of access and viability, it is important that the ground floor level of developments be reserved for appropriate non-residential uses. This requirement of the DCP reflects the current LEP business zone provisions and should remain unchanged.

Submission on behalf of Tweed Heads Bowls Club

Jim Glazebrook and associates have made a submission on behalf of the Tweed Heads Bowls Club. The submission details future development concepts for the Bowls Club site and a mixed residential/commercial development on a parcel of land opposite the Club on the north-eastern corner of Wharf and Florence Streets. The submitter requests that Council be aware of the Club's plans when finalising the DCP and that the DCP facilitate the realisation of the Club's development concept.

The development concept includes a medical centre, health centre/gymnasium and accommodation units located adjacent to the existing Golf Club building. These facilities would be complementary to the adjoining Tweed Heads Hospital. The short stay accommodation units could also be used to cater for patients/visitors associated with the hospital. On-site tourist accommodation units would also be provided between the Club building and Wharf Street.

Response:

Based on the conceptual information provided, it is considered that the concept proposed by the Tweed Heads Bowls Club would generally comply with the objectives of draft DCP 18 for the Southern and Civic precincts and that no modification to the DCP is necessary to facilitate the

Reports from Director Development Services

realisation of the development concept. The concept's compliance with the land use definitions of Tweed LEP 2000 would however need to be further considered, but this is not a relevant matter in consideration of the draft DCP.

Submission from Tweed Economic Development Corporation (TEDC)

The TEDC has been involved with the Queensland University of Technology (QUT) and Deicke Richards Architects in the preparation of a concept plan project for the redevelopment of part of Tweed Heads CBD. TEDC is awaiting the final documentation of the project and has requested that Council delay consideration of the draft DCP until it has had the opportunity to include the QUT/TEDC project in its review of draft DCP 18.

Response:

Council has provided ongoing assistance to QUT and Deicke Richards architects in the preparation of the concept plan. The final concept plan provides an urban design focus to the area north of Bay Street, with a particular emphasis on improved physical and visual linkages with Coolangatta. The concept plan provides a number of ideas that appear complementary to draft DCP 18 and have the potential to be incorporated into the DCP as additional "Strategic Policies". These warrant further investigation and should be considered in conjunction with the Gold Coast City Council's (GCCC) plans for Coolangatta which are currently being developed.

The concept also incorporates proposals for the development of lower rise buildings on smaller blocks. This is a significant departure from the adopted Tweed Heads 2000+ Strategy and Tweed LEP 2000. Such a concept will require further detailed consideration.

Further consideration of the QUT/TEDC project and development of the conceptual ideas will take some time and any resultant amendments to the DCP for Tweed Heads would then need to be re-exhibited for public comment. At this stage, it is not considered appropriate to delay the adoption of draft DCP 18 any longer, as this is the principal planning and design guide for the locality that developers and Council staff currently rely upon. The current version is the third draft of a DCP for Tweed Heads.

CONCLUSION

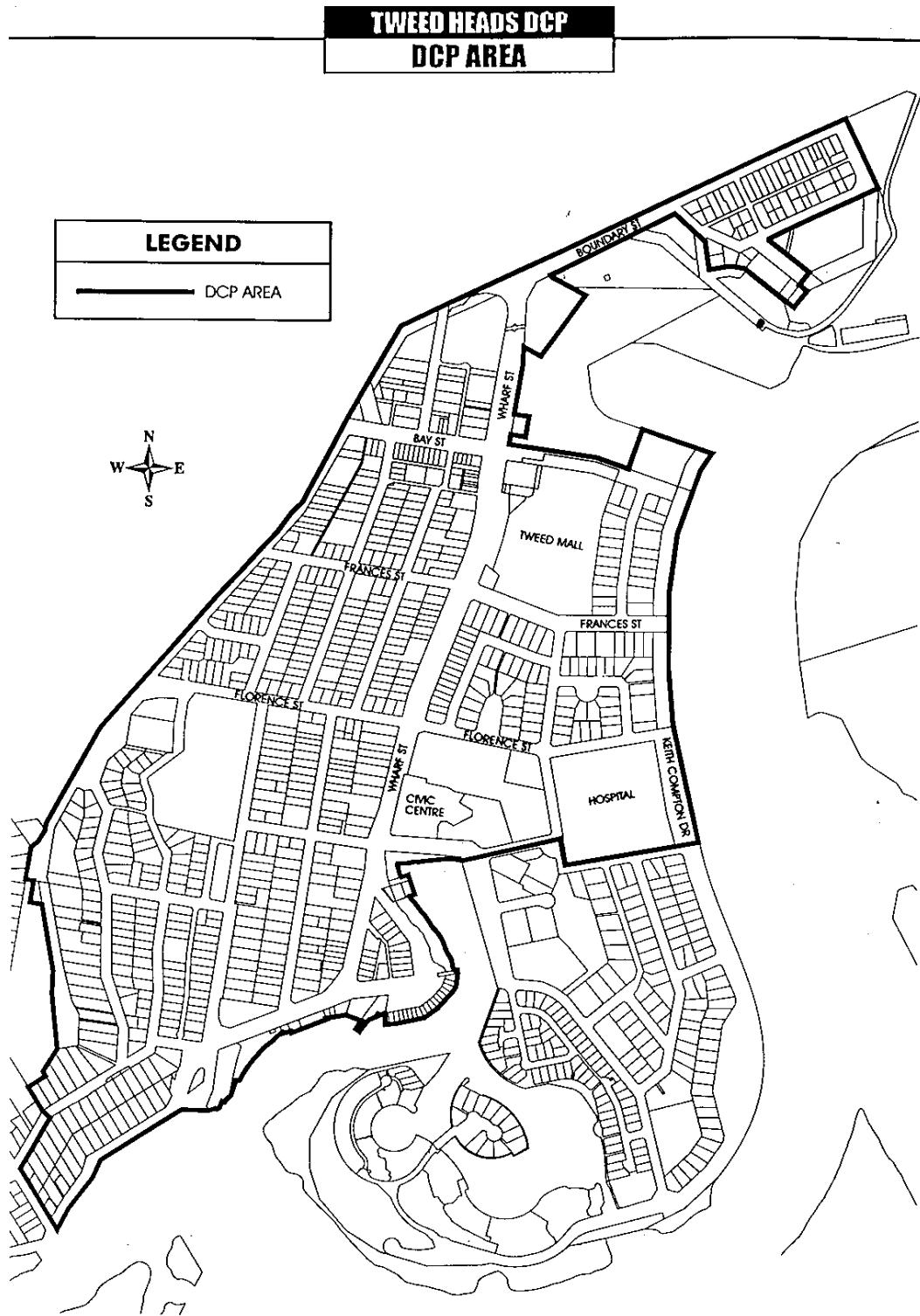
The draft DCP has incorporated the recommendations of a number of planning documents relevant to Tweed Heads. This has resulted in a single comprehensive document to guide future development in the locality.

The DCP will be a significant tool used in shaping the future of what is envisaged to become the Shire's most intensively developed area. It will serve as an important document for Council's planning staff, building industry professionals and all people who have an interest in the future of Tweed Heads.

To ensure that the document remains relevant to the future of Tweed Heads, it will be revised when necessary to ensure compatibility with the GCCC's plans for Coolangatta, and to incorporate new and innovative urban design concepts where relevant.

Reports from Director Development Services

FIGURE 2



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7. ORIGIN: Development Assessment Unit

FILE REF: DA4260/310 Pt2

REPORT TITLE:

Proposed Highway Service Centre at Lot 2 DP 1010771, Pacific Highway, Chinderah

SUMMARY OF REPORT:

Council is in receipt of an application to construct a Highway Service Centre at the above site. The application has been submitted on behalf of BP Australia and incorporates fuel dispensing / storage facilities and two (2) refreshment room areas, one of which is identified as a 'McDonalds' franchise.

The site incorporates an area of approximately 1.656ha and is accessible via both the Pacific Highway off-ramp and Ozone Street (within Industrial Estate).

The site itself has been identified, via a previous Local Environmental Plan (LEP) amendment, as suitable for the proposed development pursuant to the provisions of Schedule 3 of Tweed Local Environmental Plan 2000. Indeed, Council has previously granted consent (DA98/66) for the erection of a 24-hour highway service centre on the same site. Although similar, the application now before Council incorporates numerous design and functional changes, hence the submission of a fresh development application. In this regard, it should be noted that should Council resolve to refuse this application, the applicant still enjoys the benefits of a valid consent over the site. It should also be noted that the new design is considered to be a substantial improvement in terms of design, traffic efficiency and safety and general aesthetics.

The proposal was referred to both the Roads & Traffic Authority (RTA) and the Regional Traffic Committee for comment. In this regard, the applicant has made several amendments aimed at meeting the requirements of both Council officers and the Regional Traffic Committee. Furthermore, the proposal was advertised and notified, with four (4) submissions of objection received during this period. The latter and other associated issues will be addressed within the body of this report.

On the advice of the Roads & Traffic Authority, the proposal is not identified as 'integrated development', as the proposal does not incorporate any access points to a 'freeway' or 'motorway'. Furthermore, the two (2) proposed access points to the Pacific Highway are identical to those identified in development consent 98/66 and have previously been granted consent pursuant to S.138 of the Roads Act.

The proposal has been assessed in terms of both its physical impact and design suitability, in addition to any associated negative impacts.

Notwithstanding the constraints of the site, it is considered, after a review of all relevant issues, that the proposal is suitable to proceed and that conditional development consent be issued.

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RECOMMENDATION:

That Development Application 1375/2000DA submitted by BP Australia Pty Ltd for a Highway Service Centre at Lot 1 DP 1010771, Pacific Highway & Philip Street, Chinderah be approved subject to the following conditions:-

PRE-REQUISITES – CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. The Plan is to incorporate appropriate planting and fencing adjacent to the eastern boundary with the objective of minimising noise impacts. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.
2. Any carparking floodlighting shall not spill beyond the boundaries of the site. A plan of the lighting shall be approved by the Director of Development Services **PRIOR** to the issue of a Construction Certificate.
3. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
4. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

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

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

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

- a. Tweed Road Contribution Plan: \$23,465.30
S94 Plan No. 4 (Version 4.0)
(Kingscliff – commercial)

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Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

- b. Extensions to Council Administration Offices
& Technical Support Facilities \$69.00
S94 Plan No. 18

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

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

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

Water:	11 ET @ \$3590	\$39,490.00
Sewer:	11 ET @ \$2970	\$32,670.00

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

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

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

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

(i) Building Work

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

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

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

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

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

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

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply
- state whether the materials proposed to be used are new or second hand and give particulars of any second hand materials used

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

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

7. All stormwater from upstream catchments shall be conveyed through the site by an approved drainage system to a legal point of discharge. A detailed design plan of conveyance of Q100 flow from upstream catchments through the site (and necessary easements to convey the Plan) shall be submitted to and approved by the Director of Engineering Services prior to submission of the construction certificate application. The construction certificate application shall incorporate the approved Q100 drainage system.
8. A detailed plan of parking shall be submitted prior to the release of the construction certificate. Such plan shall incorporate the following:-
 - a. car spaces 14 to 28 and 78 to 74 are to have raised wheel stops in each space to prevent vehicles overhanging pedestrian pathways.
 - b. Car spaces 50 to 61 need wheel stops or moving the island kerb back 600mm to control vehicle overhang.
9. Submission of plans in triplicate, showing the proposed internal floor plans for the proposed kitchen and food preparation areas. Such plans shall accompany the construction certificate application.
10. The applicant shall demonstrate provision of 'playground' and 'limited emergency repair' facilities via the submission of satisfactory evidence for the approval of the

Reports from Director Development Services

Director of Development Services. Such evidence shall accompany the construction certificate application.

GENERAL

11. The development shall be completed in general accordance with Plan Nos R73572 AN002, R73572 AP002, R73572 AP003, R73572 AP004 & R73572 AP005 prepared by BPOIL and dated 5/4/01, 23/2/01, 19/2/01 & 19/12/00, except where varied by these conditions.
12. 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.
13. All material to be removed off the site to be deposited in a location approved by Council. The Acid Sulphate Soil Management Plan shall be revised to include contingencies for the treatment of any potential or actual acid sulphate soil prior to the material being removed from the site. Prior to and during the removal of material from the site a 10m long "shake down" area is to be provided immediately before the public road and constructed of 50mm diameter crushed rock. Regular maintenance of the "shake down" area is required to ensure no material is deposited on the public roadway.
14. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
15. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
 1. Easements for sewer, water supply and drainage over **ALL** services on private property.
 2. Stormwater drainage easements sufficient to convey passage of runoff from upstream catchments through the site.

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

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

16. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control

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- Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
17. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with AS1428-1993 Parts 1 to 4 - Design for Access and Mobility.
 18. The provision of 74 off street car parking spaces, 12 truck spaces, 4 caravan spaces, 2 coach spaces and 1 service dock. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
 19. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
 20. All traffic control devices, where proposed, shall be accurately notated on a plan, which shall be lodged with the Roads and Traffic Authority for official approval and recording.
 21. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
 22. Garbage storage areas shall be provided in accordance with Council's "**Code for Storage and Disposal of Garbage and Other Solid Waste**".
 23. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
 24. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
 - e. completion of work
 25. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
 - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA prior to occupation of the building; and
 - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-

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- (A) the method of protection; and
- (B) the date of installation of the system; and
- (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- (D) the need to maintain and inspect the system on a regular basis.

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

26. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - 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 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
27. 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.
28. All loading/unloading to take place within the boundary of the subject property.
29. In accordance with Section 109F(i) of the Environmental Planning & Assessment Act, 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall **NOT** be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment.

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30. Pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act , 1979 (As amended) and Clause 68 of the Environmental Planning and Assessment Regulations, 1994 development consent No. 98/66 dated 22/7/1998 shall be surrendered by lodgement of the prescribed form (Form 3), suitably executed, PRIOR to the issue of a Construction Certificate/Subdivision Certificate.
31. All signage, with the exception of traffic signage and signs not requiring consent, are to be subject to a future development application.
32. A physical barrier is to be provided along the Pacific Highway frontage of the rest area and along the exit road adjacent to the rest area. A barrier is also to be provided between the drive through and the terrace/play area of the food outlet. Details of the barriers are to be submitted with the Construction Certificate.
33. A representative of the Local Aboriginal Land Council shall be present at the site during initial land preparation works. If any items of cultural significance are discovered, the applicant shall immediately notify the National Parks and Wildlife Service.
34. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
 - a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

PRESCRIBED (BUILDING)

35. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
 - (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
36. A sign must be erected on the site in a prominent, visible position stating:
 - a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.

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37. 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.
38. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
39. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units)
40. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance.
41. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

ENGINEERING (BUILDING)

42. Prior to the commencement of building work, a certificate signed by a registered professional engineer is to be submitted to the Principal Certifying Authority to certify that adequate consolidation of foundation material has been achieved to support the proposed structure.

FIRE (BUILDING)

43. All fire service connections are to be compatible with those of the NSW Fire Brigade.
44. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.

DISABLED (BUILDING)

45. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

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FOOD PREMISES

46. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.
47. Prior to the commencement of work the Principal Certifying Authority is to be provided with and approve details of the kitchen exhaust system. Such details are to include the location of discharge to the air, capture velocity, size of hood and angle of filters. The system shall comply with Australian Standards SAA 1668 Part 2 Ventilation Requirements.
48. Shop fitters are to liaise with the Principal Certifying Authority prior to fitting out of shop.

ROADS/STREETS

49. Development approval only is granted for a driveway from the development to connect with the adjacent public road.

You will be advised separately of the determination of your application to Council for consent under Section 138 of the Roads Act 1993 to construct or modify a driveway on the public road adjacent to your property

You must receive this separate written consent from Council under Section 138 of the Roads Act 1993 prior to the issue of a construction certificate which includes any works on the adjacent public road and prior to any works taking place on the adjacent public road.

50. The driveway in Ozone Street is to be constructed 6 metres wide at the property boundary and 9 metres wide at the kerb line with a uniform taper if a splay is specified.
51. The following roadworks, drainage and associated works shall be carried out to the satisfaction of the Director Development Services in accordance with engineering plans to be submitted to and approved by the Director Development Services prior to work commencing.
 - i. Construct along the full length of Ozone Street frontage, barrier type kerb and gutter on an approved alignment and pavement to the edge of the existing bitumen pavement.
 - ii. Ozone Street shall be designed and constructed in accordance with Development Control Plan No 16 - Subdivisions Manual and to the satisfaction of the Director, Development Services.
52. In accordance with Clause 10.2 of Development Control Plan No 16 a 1.2m wide footpath constructed of concrete shall be provided for the full length of Ozone Street frontage in accordance with details to be included on the engineering plans.

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53. Detailed design plans for the exit directed to Chinderah Road are to be submitted and approved by Council's Engineering Services Division and where required by the Roads and Traffic Authority prior to work commencing.
54. The owner is to erect "No Stopping" signs adjacent to the Chinderah Road off ramp shoulder for the full frontage of the site to the satisfaction of the Roads and Traffic Authority.
55. The development is not to be signposted in any form directing northbound Highway traffic to the site via Moreton and Ozone Street.
56. All disused invert crossings are to be removed and replaced with kerb and gutter and all disused driveway across the footpath are to be removed and replaced with topsoil and turf to the satisfaction of the Director, Engineering Services.
57. Certification by a qualified Engineer that the works have been performed under his/her supervision in accordance with the approved engineering plans and specifications.
58.
 - (a) A no left turn sign is to be provide at the truck aisle at the Ozone Street Access/Egress to prevent heavy vehicles entering Ozone Street.
 - (b) Painted Giveaway lines and Giveaway signs are to be provided at all car park exits, the drive thru exit and the intersection of the traffic isles.
 - (c) An edge line/delineation line is to be provided across the entry to the truck parking area. A centre line is also required on the traffic isle from Ozone Street to the intersection with the main isle. All linemarking to be provided in accordance with RTA NSW specifications. Replace the giveaway ahead sign on the truck isle with 'pedestrians ahead' W5-1B and W6-22B.
59. A detailed plan is to be submitted for approval of the Director of Engineering Services showing all traffic control devices and signposting prior to work commencing. This plan shall be consistent with signposting and control devices identified in the development application documentation.

DRAINAGE/FLOODING

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

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

61. Erosion and Sediment Control During the Construction Phase of Development
 - (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater*

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- Quality Management Plan*” (adopted by Council 19 April 2000) section 5.5.2 “Stormwater Objectives During the Construction Phase of New Development”. This section requires all new development to comply with Appendix E of the Plan “*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*” and its Annexure A - “Code of Practice for Soil and Water Management on Construction Works”. Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
62. Building materials used below Council's minimum floor level of RL 3.6M AHD must not be susceptible to water damage.
63. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.
64. Permanent Stormwater Quality Treatment
- (a) Permanent stormwater quality treatment shall comply with “*Tweed Urban Stormwater Quality Management Plan*” (adopted by Council 19 April 2000) section 5.5.3 “Stormwater Objectives During the Post Construction or Occupational Phase of Development” . New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the “deemed to comply” provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development,

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prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

65. Section 68 Local Government Act 1993 approval for stormwater drainage works.

A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

TRADEWASTE

66. Any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Councils Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.
67. Pursuant to Section 68 of the Local Government Act, 1993 to ensure there is no unacceptable discharge to Councils sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to the issuing of a Construction Certificate. The development will be required to meet discharge standards in accordance with Councils Trade Waste Policy.
68. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.
69. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.
70. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications showing size, type and location of pre-treatment devices. Including all plumbing and drainage installations to these devices which shall comply with AS3500.
71. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement
72. Trade Waste application fee will be applicable as per Councils Fees and Charges.

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ENVIRONMENT PROTECTION

73. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
74. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
75. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
76. The burning of builders waste on site by open fire is prohibited.
77. 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.
78. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
79. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

80. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz – 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.
81. All works, installations and operations at the site shall comply with the Preliminary Hazard Analysis (KFM Consultants Pty Ltd, March 2001).
82. Should operation of the service station cause odour nuisances for adjacent properties then the operator of the service station shall erect a vapour barrier to the satisfaction of the Director of Environment and Community Services. Prior to the erection of such a barrier a report shall be provided to Council detailing the suitability of the proposed vapour barrier.
83. All works and storage activities shall comply with AS 1940-1993 and AS 1596 – 1997.

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84. Required fire hose reels and fire extinguishers shall be provided and maintained in accordance with the relevant Australian Standards.
85. Activities shall not cause or permit pollution of waters.
86. All installation and operation of fuel storage tanks shall comply with the requirements of the WorkCover Authority of NSW.
87. The Acid Sulphate Soils Management Plan is to be amended to include the following requirements. The amended plan is then to be resubmitted to Council prior to work commencing.

Runoff

Water from the following areas:

- *ponding within bunded areas and within the four designated silt traps, and*
- *flowing through the site stormwater drainage system shall be tested for pH every second day during the 'critical disturbance periods' (as defined in Part 3 of the Acid Sulphate Soils Management Plan), and daily during all rainfall events. After the 'critical disturbance periods' are completed pH testing of water is to be performed once per week. Where any pH testing result falls below 5.5 "then work should stop immediately" and Council contacted in accordance with Part 6 of the Management Plan. Work should not be recommenced without Council approval.*

All water and soil pH testing results shall recorded in writing on-site and be available to Council upon request.

The integrity of site bunding shall be maintained to an effective height of 300mm at all times during construction.

A copy of the Acid Sulphate Soils Management Plan shall be maintained and available on-site at all times.

Imported Fill

Imported fill material shall be tested for potential as acid sulphate soil utilising the 'hydrogen peroxide' method (or any equally effective method) as defined under Part 2 of the NSW EPA Environmental Guidelines - Assessing and Managing Acid Sulphate Soils. Where any pH testing result falls below 3 "then work should stop immediately" and Council contacted in accordance with Part 6 of the Management Plan. Work should not be recommenced without Council approval.

Excavated Soils

All disturbed or excavated soil material from the site shall be retained within the bunded areas and shall be spread and dosed with lime at a rate of 3.5kg/m³ as required by the Management Plan. Following this dosing the soil material shall be pH tested and where pH testing result falls below 4 "then work should stop immediately" and Council contacted in accordance with Part 6 of the Management Plan. A minimum of 5 pH

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measurements shall be taken following each application of lime to an 'area' in accordance with Part 2 of the NSW EPA Environmental Guidelines - Assessing and Managing Acid Sulphate Soils. Work should not be recommenced without Council approval."

88. The applicant shall submit an assessment under Part V of the Environmental Planning and Assessment Act, 1979 in relation to all works external to the site which are required by conditions of this consent.
89. In the event that development on adjoining parcels necessitates the erection of a vapour wall, such shall be erected at the expense of the applicant.

PLUMBING & DRAINAGE

90. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. internal drainage, prior to slab preparation;
 - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c. external drainage prior to backfilling.
91. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
92. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.
93. Temperature and pressure relief lines from hot water systems shall discharge in the open as prescribed in Australian Standard AS 3500.4.1990 Section 4.12.3.
94. Impervious floors, properly graded and drained are to be provided to toilets and amenity rooms.
95. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
96. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
97. Back flow prevention devices shall be installed where ever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

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98. Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
99. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.
100. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
 - * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.

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

101. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.
102. The application to connect to Council's sewer is to be accompanied by the payment of four (4) inspection fees totalling \$286.00.

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REPORT:

Applicant: BP Australia Pty Ltd c/- Mark Baker Town Planning Consultant
Owner: BP Australia Pty Ltd
Location: Lot 1 DP 1010771, Pacific Highway & Philip Street, Chinderah
Zoning: 1(a) Rural Zone
Est. Value: \$6,500,000

BACKGROUND/PROPOSAL

A development application has been received from BP Australia Pty Ltd seeking consent for the erection of a highway service centre at the abovementioned site. The proposal incorporates the following features:-

- 12 self service fuel pumps (vehicles)
- Six (6) self service truck refuelling pumps
- Independent truck, vehicle, coach and caravan parking areas
- Picnic / open space areas
- Drive-thru 'McDonalds' Restaurant
- Additional Café / Refreshment Room facilities ('Flames')
- Underground storage tank facilities
- Signage relevant to on-site facilities
- Access points to both Pacific Highway off ramp and Ozone Street (Industrial Estate)
- 24 hour operation
- Convenience Store
- 1.8m high acoustic fence to proposed picnic area

Council has previously granted development consent for the erection of a highway service centre on the subject site (98/66). The property has since changed ownership and has been redesigned to an extent warranting the submission of a new development application. In general terms, the proposed development is a more compacted version of the previous application.

Prior to receiving the abovementioned development consent, the subject site was subject to an LEP amendment process to facilitate the erection of the proposed development upon what is presently rural zoned lands. The end result of this process was the inclusion in schedule 3 of the LEP of a special clause permitting development such as that proposed on the subject site. These provisions are discussed in greater detail under the heading of 'Any Environmental Planning Instruments'.

The site is located on the eastern side of the Chinderah Bypass section of the Pacific Highway, between the existing Chinderah Industrial Estate and the highway proper. The proposal

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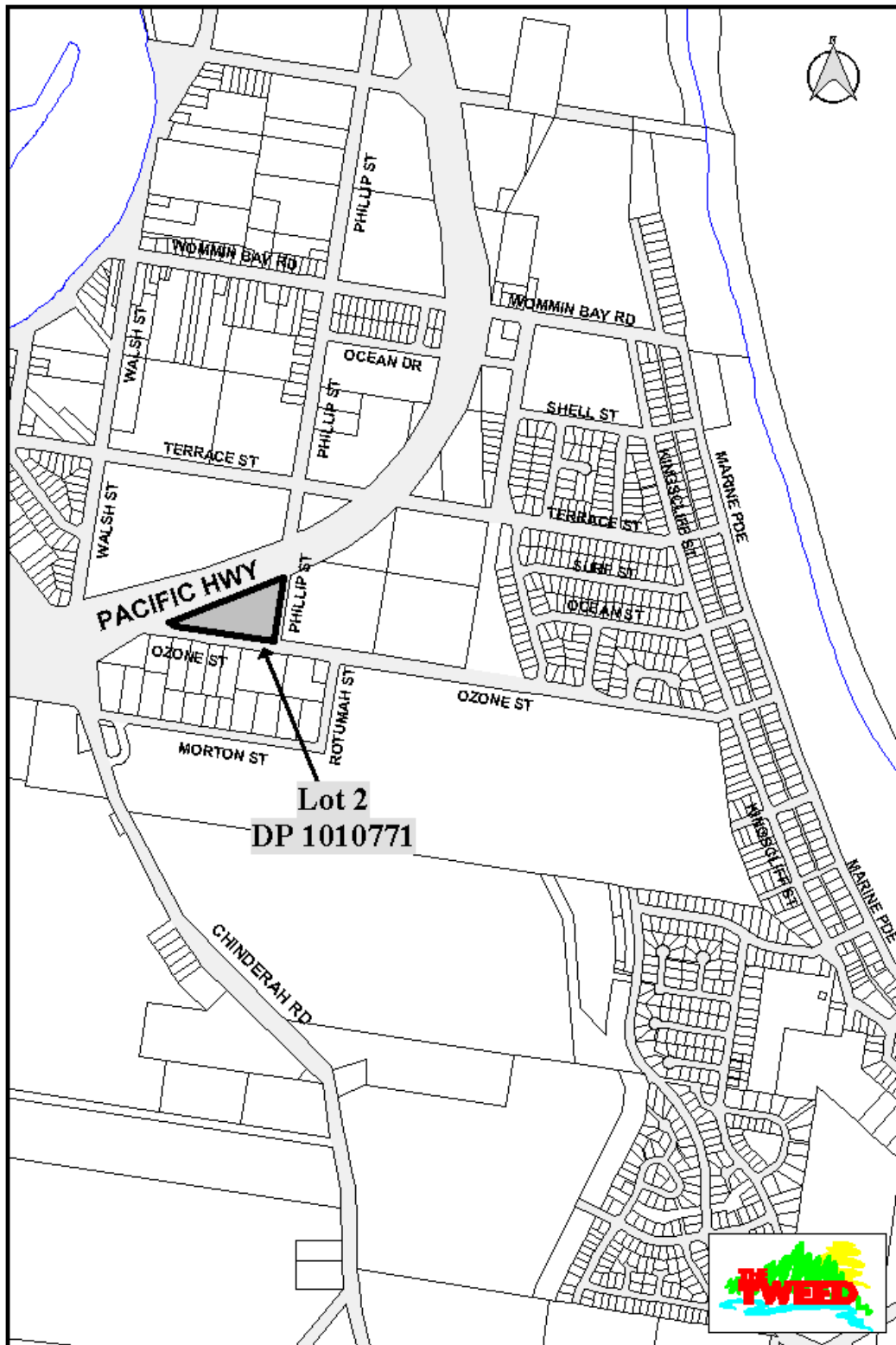
incorporates entrance / exit facilities on the southbound Chinderah / Kingscliff off ramp, whilst also providing for access facilities off Ozone Street (within industrial estate).

Although signage details accompanied the original submission, the applicant has advised Council that they would like to withdraw all references to freestanding signage. In this regard, a further application is proposed to be submitted.

The subject site is identified in Figure 1, whilst the proposal is shown at Figure 2.

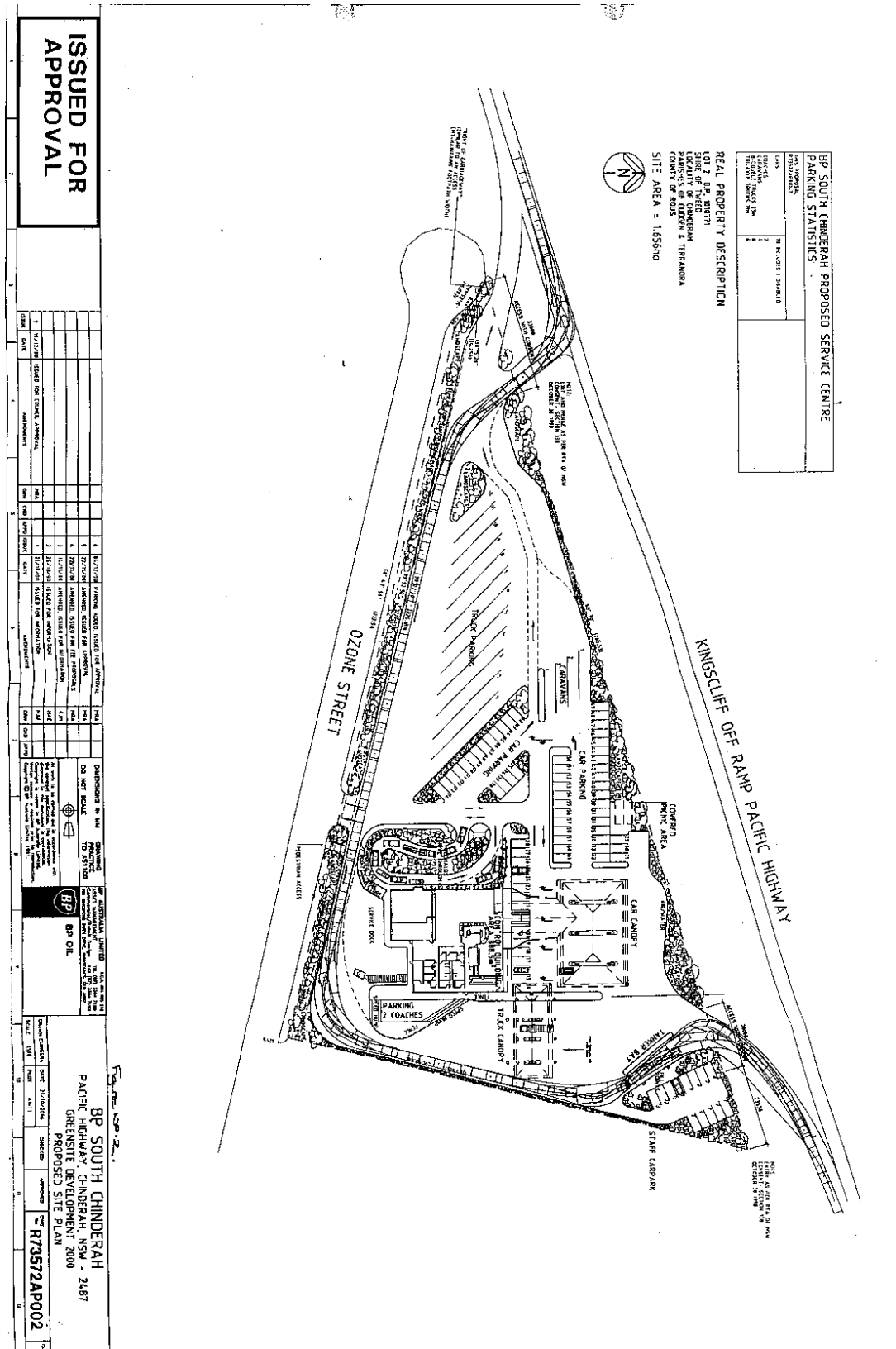
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FIGURE 1



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FIGURE 2



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CONSULTATION

The development application was advertised between 10 January and 24 January and again between 21 March and 4 April, with the latter period considered necessary in order to exhibit additional information submitted by the applicant. The four (4) submissions of objection received by Council are discussed in detail under the heading of ‘Public Interest’.

The subject application was also referred to both the RTA and the Regional Traffic Committee (RTC) for comment. Although no formal response has been received from the RTA within the time period permitted under State Environmental Planning Policy No. 11 – Traffic Generating Developments, RTA officers have advised Council staff that the comments of the Regional Traffic Committee will suffice for the purposes of assessment. The subject application was twice referred to the Regional Traffic Committee for comment. The committee identified a number of minor areas of concern in relation to parking layout, vehicular access (car and truck) and pedestrian / vehicular manoeuvrability throughout the site. The applicant has since amended the proposal to address the majority of concerns highlighted by the RTC, with Council’s Traffic & Transport Engineer also recommending relevant conditions to ensure the suitability of the proposal.

EVALUATION

Following is an evaluation of the proposal under Section 79C(1) of the Environmental Planning & Assessment Act, 1979.

(a) (i) The provisions of any Environmental Planning Instrument

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 1(a) Rural pursuant to the provisions of TLEP 2000. Service Stations are permitted in this zone, subject to satisfying the provisions of clause 8(2). Notwithstanding the latter, Clause 53 of TLEP permits development for the purposes specified in schedule 3 of the plan on land also identified within the schedule. In this regard, schedule 3 of TLEP 2000 provides (in relation to the proposed development)for the following:-

Additional development permitted with development consent	
Lot 3 DP 830660 and the adjoining part of Phillip Street, Chinderah.	Development for the purpose of a “highway service centre” being an integrated development which has direct access to a controlled access road or motorway, and contains service station facilities with separate car and truck refuelling bays, a convenience shop within the service station, having a floor area of not more than 240 square metres, from which food, drinks and other convenience goods are sold, or offered for sale, to the traveling public, refreshment room facilities, including sit-down, takeaway and drive-through fast food outlets, adequate short-term parking facilities for cars, buses and trucks, toilet and

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	washroom facilities, rest areas and playgrounds, advertising structures, and limited emergency repair facilities, with such facilities serving the needs of highway motorists and commercial users, and fuel and fast food made available 24 hours, 7 days per week.
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With the exception of ‘limited emergency repair facilities’, the proposal is considered to be consistent with the provisions of the abovementioned schedule. The applicant has argued that the activities identified within the schedule (inc. emergency repair facilities) are indicative of what would be permissible with the consent of Council, rather than an absolute requirement.

Notwithstanding this, the application incorporates a convenience store (possibly containing batteries etc) and a picnic area, it is arguable as to whether the application has satisfactorily complied with the requirement to provide ‘playground’ and ‘limited emergency repair’ facilities. Despite the applicant arguing that each of the activities mentioned in the schedule are indicative of what is permissible, rather than an absolute requirement, it is considered that an appropriate condition be applied to ensure consistency. In this regard, it is pertinent to note that the existing consent over the site also does not clearly provide for playground or limited emergency repair facilities. Notwithstanding, it is considered that the applicant be required to provide such facilities via the imposition of an appropriate condition of consent.

In reference to Clause 8(2) of TLEP 2000, the applicant has submitted as follows:-

- “(a) *The development is necessary for both the following reasons:*
- i. As a highway service centre, the proposed development needs to be located on a site with appropriate access for users of the Pacific Highway.*
 - ii. The proposal meets an urgent community need in that past and future upgrading of the Pacific Highway has restricted the availability of refuelling opportunities for users of the highway.*
- (b) The proposed site is the only site with appropriate rights conferred under the Tweed LEP. These rights are contained in Schedule 3 of the LEP.*
- (c) The development will be generally consistent with the scale and character of existing and future lawful development in the immediate area. Adjacent development is of an industrial nature characterised by large bulky structures and expansive vehicle manoeuvring areas. While the proposal shares some of these characteristics it does so in a way that softens the appearance of the development.*
- (d) The proposed development is consistent with the aim of the Tweed LEP which is to implement the economic sustainable development within the*

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Shire. The proposal does not impact on ecological integrity and the development incorporates a high level of measures to ensure that no environmental harm is caused by its operation. The development has also been assessed as consistent with the objectives of the zone. This assessment was endorsed by the Council in conferring the rights to the property as noted at (b). Nevertheless we believe the development meets the objective of the zone that enables those uses that are not suitable in or near urban areas to be accommodated”.

The above argument is supported, having regard to the nature of the proposal, the provisions of TLEP 2000 and the particular provisions of Clause 8(2). Particular reference is also made to the inclusion of the site in Schedule 3 of the LEP.

Clause 22 – Development near designated roads

The subject land has frontage to an RTA designated road (Pacific Highway) and incorporates two (2) new access points, being the proposed entrance and exit facilities (to highway only). This clause requires that 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
- (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

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- (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.

Comment

In respect of the abovementioned provisions, the following comments are offered:-

- (a) & (b) These issues will be discussed in the "Access, Traffic & Transport" section titled Section 79(C)(1)(b).
- (c) The application was referred to both the RTA and the Regional Traffic Committee, with neither raising any objections in this regard.
- (d) The nature of the proposed development necessitates close proximity to the designated road. It is also noted that a commitment via the LEP has been given for development of this sort on the subject site.
- (e) The development is not sensitive to traffic noise.
- (f) Whilst the issue of visual impact will be discussed later in this report, no significant adverse impacts are considered likely in this regard.
- (g) Given the nature of the proposal, it is considered impracticable to provide primary access from any other road than the adjacent Pacific Highway. It should also be noted that an alternative access / exit point is located directly off Phillip Street.
- (h)
 - (i) The RTA have not objected to the proposed development in this regard.
 - (ii) The subject site enjoys the benefits of a site-specific enabling clause permitting development of this type. Neighbouring properties (with frontage to the Pacific Highway) are restricted by current zonings, thereby limiting the potential for ribbon development.
- (iii) This issue is further discussed under the heading of 'Access, Traffic & Transport' later in the report.
- (iv) The proposed development is entirely focussed on the utilisation of passing trade and is spatially separated from the existing Chinderah town centre. It is considered unlikely that the proposed development will generate any significant impact upon the continued utilisation and growth of Chinderah proper.

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Clause 24 – Set backs to designated roads

This clause applies to land located within the 1(a) Rural Zone and requires a setback of 30m between any building (which includes a structure) and a designated road. The proposal incorporates both advertising signs and the proposed canopy within the 30m setback. Accordingly, the applicant has submitted an objection to the 30m standard under the provisions of State Environmental Planning Policy No. 1 – Development Standards. This issue is discussed in greater detail under the heading of ‘State Environmental Planning Policies’.

Clause 34 – Flooding

This clause requires that where land is likely to be subject to flooding, then it must not grant consent to development unless it has considered:-

- (a) the extent and nature of the flooding hazard affecting the land, and
- (b) whether or not the development would increase the risk or severity of flooding of other land in the vicinity, and
- (c) whether the risk or severity of flooding affecting the development could be reasonably mitigated, and
- (d) the impact of development on emergency services, and
- (e) the provisions of Tweed Development Control Plan No. 5 – Development of Flood Liable Land and any other relevant development control plan.

The previous consent incorporated a detailed flood analysis prepared by WBM Oceanics on behalf of the then applicant, with this analysis again forming the basis of flood impact assessment for the proposed development. It should be noted that WBM oceanics also undertook flood studies of the wider Tweed River floodplain and the Chinderah Bypass. Council’s Water Unit Manager has undertaken an assessment of the proposal and has raised no objections in relation to the conclusions of the WBM analysis, subject to conditions aimed at ameliorating potential impacts.

The proposed development is considered to be consistent with the relevant provisions of TLEP 2000 in relation to flooding.

Clause 35 – Acid Sulfate Soils

The proposed development is on land identified as Class 3 on Council’s Acid Sulfate Soil Planning Maps. Accordingly, the applicant has submitted an Acid Sulfate Soil Management Plan in relation to the proposed development. Council’s Environment & Health Unit has raised no substantive objections, subject to compliance with relevant conditions.

Clause 47 – Advertising Signs

This clause refers to the erection of advertising structures, with a particular reference to the need to obtain development consent for the erection of signs upon rural zoned lands. In this regard, clause 47(3)(b) provides for the following:-

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Development for the purposes of an advertisement on land within a rural zone may be carried out with development consent only if it is not prohibited under subclause (4) and it is either:

- (a) a temporary sign in zone 7(a), 7(d) or 7(l), or
- (b) an advertisement that directs the travelling public to a specific tourist facility, lawful business or place of scientific, historic or scenic interest and the consent authority is satisfied that:
 - (i) the principal purpose of the advertisement is to direct the travelling public to that building or place, and
 - (ii) the dimensions and overall size of the advertisement are not larger than would reasonably be required to so direct the travelling public, or
- (c) an advertisement relating to a lawful use on the land on which the advertisement is to be displayed.

The proposed development is considered to be consistent with the relevant provisions of TLEP 2000 as it pertains to signage. In this regard, the applicant has requested the deletion of freestanding signs from the proposal. Such signs will be subject to a future development application.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

The proposed development is considered to be generally consistent with the relevant provisions of NCREP 1988.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No. 1 – Development Standards

The applicant has submitted an objection to the 30m setback standard referred to under Clause 24 of TLEP 2000. In this regard, the application incorporates the erection of the fuel-dispensing canopy within the 30m setback. The applicant has argued that the proposed non-compliance with the standard is not unreasonable for the following reasons:-

“Compliance with the 30m setback stipulated in clause 24 for all other uses (including those proposed in this application) is unnecessary to achieve the objective of this section of the LEP. Visual openness of the site will be achieved through a number of means including:

- *Low site cover of buildings and structures of approximately 13%*
- *All buildings and structures within 30m of the frontage are open sided structures and are not enclosed buildings are hence have reduced apparent bulk*

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- *All buildings and structures on the site are single storey with a maximum height of 6.8m further reducing the apparent bulk of the buildings and structures*
- *The site is located on the off-ramp to the highway and the setbacks to the through lanes of the highway are greater. It is estimated that the closest lane of the highway is 24m from the property boundary at the relevant point and hence the effective setback of buildings and structures is greater than that prescribed;*
- *The site is located below the main highway and hence the apparent bulk of the buildings and structures is reduced*
- *Strict compliance with the requirements of Clause 24 is unreasonable having regard to approvals granted over the site which enable the erection of a fast food outlet within three (3) metres of the boundary of the designated road.”*

Having regard to the applicant's argument and the relevant provisions of TLEP 2000, it is agreed that the proposal is unlikely to impose any significant adverse impact within the locality, with particular reference to visual permeability, motorist safety and general aesthetics. The applicants submission to permit flexibility to the 30m setback identified in Clause 24 of TLEP 2000, is supported.

State Environmental Planning Policy No. 11 – Traffic Generating Development

The application was referred to the Roads & Traffic Authority in accordance with the provisions of SEPP No. 11. Although no formal response has been received to date, let alone within the identified time period of 21 days, RTA officers have advised that the comments of the Regional Traffic Committee will suffice for the purposes of assessment. As stated previously, the applicant has amended the proposal to more closely reflect the recommendations of the committee. Council's Traffic & Transport Engineer has reviewed the amended plans, with no objections subject to the imposition of relevant conditions on any consent.

State Environmental Planning Policy No. 33 – Hazardous & Offensive Development

In accordance with the provisions of SEPP No. 11 and due to the proximity of fuel tanks to adjoining property boundaries, the applicant has submitted a preliminary hazard analysis in order to identify any potential hazards or risks associated with the proposal. The following represents the conclusion of the preliminary hazard analysis submitted to Council:-

“The preliminary hazard analysis of the proposed development indicates that the design of the service station will provide the general public with a modern and safe refuelling facility. The design incorporates all of the latest standards for storing and handling both LPG and flammable liquids”.

Having regard to the submitted preliminary hazard analysis, characteristics of the site and adjoining properties and relevant technical papers / guidelines, no significant

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adverse impacts are considered likely. Council’s Environment & Community Services Division have reviewed the proposal and recommended suitable conditions in this regard.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The applicant has submitted a fauna and flora analysis of the area and carried out an 8-part test in accordance with S.5A of the Environmental Planning & Assessment Act, 1979. On the basis of information submitted, the proposed development site is not consistent with the definition of ‘Core Koala Habitat Area’ or ‘Potential Koala Habitat’. Accordingly, the submission of a Koala Plan of Management is not considered necessary.

(ii) The provisions of any draft Environmental Planning Instrument

No draft environmental planning instruments are applicable to the subject site.

(iii) Any Development Control Plan (DCPs)

DCP No. 2 – Site Access & Parking Code

Development Control Plan provides for parking schedules relevant to various landuses within the shire. It should be noted that the proposal represents a significant reduction in scale in comparison to the existing approval and consequently also provides for a reduced number of parking spaces.

The following table demonstrates the proposal’s compliance with Council’s requirements:-

Proposal	Council Requirement	Parking Proposed
McDonalds Restaurant (Drive Thru)	12/100m ² GFA and 1 per staff member. Proposal incorporates approx 220m ² GFA and approx seven (7) staff – Council Requirement = 33 spaces.	33 Spaces
Flames Restaurant / Zip Café and Truckies Dining (Sit Down)	1 space per 3 seats and 0.5 space per staff member. Proposal incorporates 72 spaces and approx three (3) staff – Council Requirement = 27 spaces	27 Spaces
Convenience Area / Console Area	3.5 per 100m ² and 0.5 space per 100m ² for staff parking. Proposal incorporates approximately 325m ² of console / convenience / ancillary areas – Council	14 Spaces

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	requirement = 13 spaces	
Truck Parking	Minimum one (1) articulated truck parking per service station	12 truck spaces
Caravan Parking	No Council requirement	4 caravan spaces (capable of cross utilisation)
Delivery Vehicles	1 per convenience store, 1 per fast food outlet and 1 per refreshment room.	The proposal incorporates the provision of a large Service Dock / Delivery Bay at the rear of the Control Building. This area is capable of servicing all uses within control building.

After consultation with Council's Traffic & Transport Engineer and recommendations from the Regional Traffic Committee, the proposed parking calculations are considered to be consistent with the relevant provisions of Development Control Plan No. 2 – Site Access & Parking Code.

DCP No. 5 – Development of Flood Liable Land

The subject land has a ground level varying from 1.3m to 1.9m AHD. The adopted design flood level for the site is 3.3m AHD. DCP No. 5 indicates that for commercial and industrial development of flood liable land for drainage purposes only, land will be required to be filled to the approximate level of the centre line of the adjacent road unless adequate alternative stormwater drainage is provided.

The statement of environmental effects indicates that it is proposed to fill the site to a level of 3.4m AHD, with the remaining, relatively undeveloped portions of the site grading back to natural ground level. DCP No. 5 does not provide any minimum floor levels for commercial development within the Chinderah area.

The applicant has submitted a flood analysis prepared by WBM Oceanics. This analysis concludes that as a result of the proposed filling (approximately 20,000m³) there is likely to be no measurable impact on flood levels and flood behaviour during a major flood event. Council's Manager Water Unit has reviewed the proposal and raised no objections in this regard.

DCP No. 15 – Advertising Signs

The proposal is considered to be generally consistent with the relevant provisions of DCP No. 15 – Advertising Signs. In this regard, the majority signage proposed will be subject to a separate development application.

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(iv) Any matter prescribed by the Regulation

Disabled access facilities will be considered in accordance with the provisions of the Building Code of Australia.

The proposal is not inconsistent with the Coastal Policy.

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

The proposed development, will by its very nature, alter the existing environment. It is however generally concluded that potential adverse impacts associated with the proposed development can be satisfactorily ameliorated via the imposition of relevant conditions. Those issues identified in the assessment of the proposal are addressed as follows:-

Context & Setting

The subject site is located on the eastern side of the Pacific Highway Chinderah Bypass and forms a buffer between the highway and the existing Chinderah Industrial Estate.

Immediately to the north of the site is vacant rural lands in private ownership, whilst road infrastructure (Chinderah Underpass and Off-ramp) adjoin the property to the south and west respectively. No residential dwellings are located in close proximity to the site.

From a wider perspective, the subject site enjoys close proximity to the urban areas of Tweed Heads, Kingscliff & Murwillumbah. Furthermore, in general terms, the site is well located to take advantage of the passing traveller.

Acid Sulfate Soils

The proposal incorporates the removal of topsoil, the placement of underground storage tanks and the subsequent filling and development of the site. The proposed development site has been identified as possessing Class 3 Acid Sulfate Soils pursuant to Council's records. Accordingly, the applicant has submitted an Acid Sulfate Soil Management Plan, which includes comment on the ability of the proposed underground tanks to withstand acidic soil conditions. Council's Environment & Health Unit has assessed the proposal and raised no objections in relation to this matter. Suitable conditions are applicable.

Earthworks/Flooding

The proposed development incorporates substantial earthworks inclusive of the importation of approximately 20000 cubic metres of fill. Whilst the submitted sedimentation and erosion control plan satisfactorily addresses the management of such works, the actual amount of fill is substantial and represents a significant traffic management issue during the construction period (approximately 1200 truck loads). Notwithstanding, the location of the site on the opposite side of the Tweed River Floodway (relative to Chinderah Bypass) is likely to shelter the site from adversely impacting upon the flow of flood waters within the area. Suitable conditions pertaining

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to flood free storage and construction will also assist in minimising any adverse impacts in relation to flooding. Further comment in relation to flooding is provided under the heading of 'Development Control Plan No. 5 – Development of Flood Liable Land'. The imposition of relevant conditions is recommended.

Pollution/Hazardous Risk

The proposed development provides for the storage, dispensing and collection of hazardous gases and flammable liquids. Accordingly, there is potential for serious adverse impacts to occur in relation to the operation of the proposed highway service centre. The preliminary hazard analysis submitted by the applicant concludes as follows:-

“The preliminary hazard analysis of the proposed development indicates that the design of the service station will provide the general public with a modern and safe refuelling facility. The design incorporates all of the latest standards for storing and handling both LPG and flammable liquids”.

Subject to appropriate conditions, the element of hazard / risk associated with the proposed development is considered satisfactory. In this regard it is pertinent to note that the applicant has argued that the proposed setback distance of 10m between the adjacent northern boundary and the proposed underground tank filling point is satisfactory. Whilst it is agreed that at the present moment (with adjoining property undeveloped) the proposed setback is satisfactory, this assessment could potentially change in the near future. In relation to the latter, Council is presently in receipt of a rezoning request for the adjoining property. In any event, the erection of a vapour wall 2m high and 27m long is necessary (pursuant to industry guidelines) should the adjoining property be developed. An appropriate condition is recommended in this regard.

Fauna & Flora

An updated fauna and flora analysis, inclusive of an eight (8) part test, was requested by Council to assist in the assessment and determination of the subject application. The report concludes that exotic species and a small number of native specimens dominate the site and that as a result of past clearing, the development site contains little conservation value. This conclusion is supported.

It is evident that adjoining lands to the north possess habitat of significantly greater value than the subject site. In this regard, it is considered necessary to impose relevant conditions aimed at minimising impacts on the adjoining land.

Landscape/Scenic Quality

The subject land stands adjacent to the Pacific Highway Chinderah Bypass and contains no structures or significant stands of mature vegetation. Immediately to the south east of the subject site is the established Chinderah Industrial Estate, whilst undeveloped rural lands lie to the north. At present, the subject land does not provide for any significant landscape or scenic features and development of the site for a highway

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service centre should not significantly affect the overall landscape or scenic quality of the locality.

By virtue of the type of facility that is proposed, large areas of hard stand surfaces are required for vehicular movements and parking. Although somewhat short on landscaping, it is considered that the proposed development will not create any significant adverse impacts in this regard and that refusal on this basis could not be justified.

Social/Economic Impacts

Highway service centres such as that proposed, provide facilities needed by the travelling public via the provision of convenient access to fuel, amenities, food and rest facilities. The proposal also provides opportunities for both short and long term employment generation.

The issue of competition with other service stations was considered during the LEP review process where it was considered that existing service stations did not provide the same type and level of service as a highway service centre. In this regard it was thought that the proposed highway service centre will cater to Pacific Highway based traffic only and will therefore not detract from passing local traffic. Whilst this argument is agreed with to an extent, it is likely that local residents will utilise the proposal for the purposes of fuel purchase and food consumption, thereby decreasing the existing market share of established competitors. Notwithstanding the latter, refusal of the proposal on this basis is considered unjustified.

Archaeological Impact

A Cultural Heritage Assessment of the subject site accompanied the applicants submission for consent. In this regard, the assessment concludes as follows:-

“The assessment did not locate any artefacts or places of cultural significance within the study area. However ground surface visibility was poor due to heavy grass cover and regrowth and the possibility of surface and sub-surface cultural material cannot be discounted. On this basis, the following recommendations are made to reflect the findings of the assessment:

Recommendation No. 1 – That a monitor be present during initial land clearing and soil disturbance to ensure that archaeological material is not destroyed.

Recommendation No. 2 – The traditional owners of the land have asked for the Forest Red Gum on the north-eastern corner of the site to be retained IF POSSIBLE. It is noted that this is a cultural request, rather than an archaeological request. Because the land surface will be filled to a depth of approximately 1.5m, it is unlikely that the tree would survive trenching and subsequent landfill operations. On this basis, it is recommended that if the design proposal can accommodate the retention of the tree, it should be preserved.”

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In relation to the abovementioned tree, the applicant has submitted the following argument:

“We point out that this tree, while a mature specimen, is estimated to be only 30-40 years old. That is, it dates from the 1960’s or the 1970’s. On this basis it is clear that the tree has little likelihood of direct association with the traditional occupation of the land by indigenous communities. While respecting the views and comments of the Local Council we seek to differentiate between those matters of archaeological importance and those of environmental importance. While the particular tree may be one of a species common in the area, it has not been identified in the fauna and flora study of being neither a threatened species nor one that has particular importance in an environmental sense”.

Having regard to the submitted fauna and flora study and inspection of the site, the applicant’s argument is considered to be of merit. Indeed, given that the site has evidently been cleared in the past, it is unlikely that the tree in question is in fact greater than 40 years of age. A suitable condition is recommended in relation to the presence of an archaeological representative during initial site clearing works.

Drainage

Although no detailed design drawings have been submitted by the applicant in relation to stormwater collection and disposal, it is considered likely that this issue can be adequately addressed at the construction stage. Council’s Infrastructure Engineer has undertaken an assessment of the proposal and recommended the inclusion of an appropriate and relevant condition.

Traffic, Transport & Access

Council’s Traffic & Transport Engineer has undertaken an assessment of the proposal and the relevant issues raised by the Regional Traffic Committee. An assessment was also undertaken in relation to the applicants’ argument pertaining to the levying of Tweed Road Contributions. In this regard, the proposal’s relationship with Pacific Highway traffic is noted. No substantive objections were raised by Council’s Traffic & Transport Engineer, subject to the imposition of relevant conditions and contributions.

In regard to those comments offered by the Regional Traffic Committee, it is considered that all issues raised have been satisfactorily addressed with the exception of the provision of a covered playground area. This issue is discussed in greater detail under the heading of background/proposal.

(c) Suitability of the Site for the Development

Although constrained by size and relative location (to highway off ramp), the proposed development enjoys the benefits of a commitment given by its inclusion in schedule 3 of TLEP 2000. Indeed, having regard to the constraints of a small site and irregular configuration, the proposal is considered to provide for a satisfactory design standard, sufficient to cater for the needs of both the passing traveller and local resident alike. It is considered that the proposal is likely to have few impacts in relation to adjoining

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properties. Subject to the imposition of relevant conditions, the subject site is considered able to satisfactorily accommodate the proposed development.

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

A total of three (3) submissions of objection were received during the formal exhibition period. A summary of the issues raised within these submissions is provided below:-

Issue	Comment
1. Schedule 3 requires the applicant to compulsorily incorporate the inclusion of 'limited emergency repair facilities' and 'playground' into the proposal.	This issue is discussed under the heading of Tweed Local Environmental Plan 2000.
2. Site layout is unsatisfactory in relation to (i) inadequate truck and coach parking, (ii) difficult and unsatisfactory heavy vehicle manoeuvrability, (iii) conflict between vehicles, pedestrians and heavy vehicles, (iv) undefined pedestrian network, and (v) inadequate landscape provision.	The proposed site layout is constrained and is not without issues of concern. In this regard, the applicant has undertaken a number of amendments to the proposal in accordance with the recommendations of both the regional traffic committee and Council's Engineering Services Division. The proposed design is considered to be of a standard warranting support. Although minimal, the amount of landscaping provided is considered satisfactory and not unlike that shown on any service station of a similar size.
3. Setback distances from fuel storage facilities to adjoining property (north) is inadequate and requires treatment at the expense of the applicant.	Whilst it is acknowledged that treatment at the northern boundary may be necessary in the future, there is no requirement at present. In the event that treatment is required, either through development of the adjoining property or intensification of the proposed use, such treatment shall be prepared at the expense of the service station operator. An appropriate condition has been recommended in this regard.
4. The provision of rear access to Ozone Street is unsatisfactory on safety grounds and compromises the integrity of the industrial area.	It is considered that the provision of rear access facilities to Ozone Street are an integral part of the application and assist in the safe movements of vehicles into and out of the site. Council's Traffic & Transport Engineer has raised no objections to this arrangement, nor is it considered likely to jeopardise the continued use and integrity of the existing industrial area.
5. The proposal will cause economic hardship for other service stations within the area.	Whilst the majority of patrons will be from passing traffic on the Highway itself, the proposed development will to a lesser extent also attract patrons from the local area. In this

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	regard, it is likely that the proposal will decrease the customer base of existing local service stations to some extent. Although this objection has merit, refusal of the application on this ground is considered to be unjustified.
6. The proposed exit design is unsatisfactory. B Double trucks will not be able to exit the site safely without jeopardising the safety of other motorists.	The applicant has amended the proposal in accordance with the recommendations of both the Regional Traffic Committee and Council's Traffic & Transport Engineer. Subject to the imposition of relevant conditions, no adverse impacts are considered likely in this regard, with the proposed access / exit arrangement complying with good engineering practice.
7. The site is too small to adequately accommodate the proposed development.	The constraints of the allotment in terms of both size and configuration are acknowledged, however, the site enjoys a commitment for development under the LEP. Furthermore, the proposed design layout, although not without problems, is considered to be of a standard warranting support.
8. Possible damage to Sydney-Brisbane fibre optic cable and possible community power disruption to local residents.	Noted. This issue does not warrant refusal of the application.
9. Rural electric fence located along northern boundary and is a possible source of ignition.	Noted. This issue does not warrant refusal of the application.
10. Including commercial development, the proposal is an overdevelopment of the site.	Overall site development in terms of building is only 14%, however with the inclusion of hardstand areas, it is acknowledged that the site is relatively congested. It is however considered that the proposed design is satisfactory and warrants the support of Council. This issue does not warrant refusal of the application.
11. Lack of footpath along Ozone Street frontage.	Noted. This issue does not warrant refusal of the application.

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(e) The Public Interest

Although not without issues of concern, the proposed development is considered to be of a generally satisfactory standard, with particular regard to the inherent constraints of the site. In terms of the public interest, and on the balance of evidence submitted, it is considered that the benefits of the proposal outweigh the negatives.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

In the event that the applicant is not satisfied with Council's determination, a right of appeal to the Land & Environment Court exists.

OPTIONS

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

1. That the application be approved subject to conditions
2. Refuse the application

CONCLUSION

The application has been assessed by Council's Environment & Community Services and Engineering Services Divisions and no objections were raised by either division subject to the imposition of relevant conditions on any consent.

There a number of issues with the proposed development, each of which have been discussed within the Section 79C assessment within this report. As previously discussed, a commitment for this form of development has been given via the provisions of schedule 3 of the LEP and despite the documented shortcomings of the proposal, it is considered that the proposal is generally satisfactory and warrants Council support.

The proposed development is recommended for conditional approval.

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8. ORIGIN: Development Assessment Unit

FILE REF: DA1180/920 Pt1

REPORT TITLE:

Conversion of an Existing Dwelling into Two (2) Separate Dwellings at Lot 3 DP327289, No. 18 Coast Road, Hastings Point

SUMMARY OF REPORT:

Council has received a development application to convert an existing two storey dwelling into two separate dwellings with a ground floor dwelling and a first floor dwelling. The land also contains an existing single storey residential flat building comprising three dwellings. The land has an area of 1132m² and is zoned 2(b) medium density. The land is located on the eastern side of Coast Road and adjoins the Coastal Reserve.

The ground floor of the dwelling was being utilised without development consent as two separate holiday flats. This was first brought to Council's attention in 1986 and despite various undertakings from the Land Owners, the flats were not removed. A notice to serve an order under Section 121H of the Environmental Planning and Assessment Act, 1979 to have the flats removed by taking out the kitchen facilities was sent to the owner on 15/9/2000. The order was subsequently served on 11/10/2000. The applicant has since removed the kitchens which was confirmed during a site inspection on May 16, 2001 by Council's Building Services Unit.

In summary the proposal fails to satisfy and comply with Council's planning requirements under DCP 2 Site Access and Parking Code and DCP 6 Multi Dwelling Housing, and is considered to be an over development of the site. The application is recommended for refusal.

RECOMMENDATION:

That Development Application 0050/2001DA for the conversion of an existing dwelling house to a multi-dwelling house at Lot 3, DP 327289, No. 18 Coast Road, Hastings Point, be refused for the following reasons.

1. The proposed development does not satisfy the objectives of the zone.
2. The proposed development does not comply with the car parking requirements of Development Control Plan No. 2 - Site Access and Parking Code.
3. The proposed development does not comply with the planning guidelines of Development Control Plan No. 6 – Multi Dwelling Housing, in particular:-
 - a. Part 3.1.3 - Site Density – Minimum Landscaped areas
 - b. Part 3.3.1 - Building Envelope and Siting – Setbacks
 - c. Part 3.3.2 – Views, Visual and Acoustic Privacy
 - d. Part 3.3.4 – Car Parking Provision and Dimensions
4. The proposal is an overdevelopment of the site.

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5. The proposal is likely to create an undesirable precedent.

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REPORT:

Applicant:	David Henderson
Owner:	David Henderson
Location:	Lot 3 DP 327289 No. 18 Coast Road, Hastings Point
Zoning:	2(b) Medium Density Residential
Est. Cost:	\$20,000

Council has received a development application to convert an existing two storey dwelling into two separate dwellings with a ground floor dwelling and a first floor dwelling. The land also contains an existing single storey residential flat building comprising three dwellings. The land has an area of 1132m² and is zoned 2(b) medium density. The land is located on the eastern side of Coast Road and adjoins the Coastal Reserve.

HISTORY

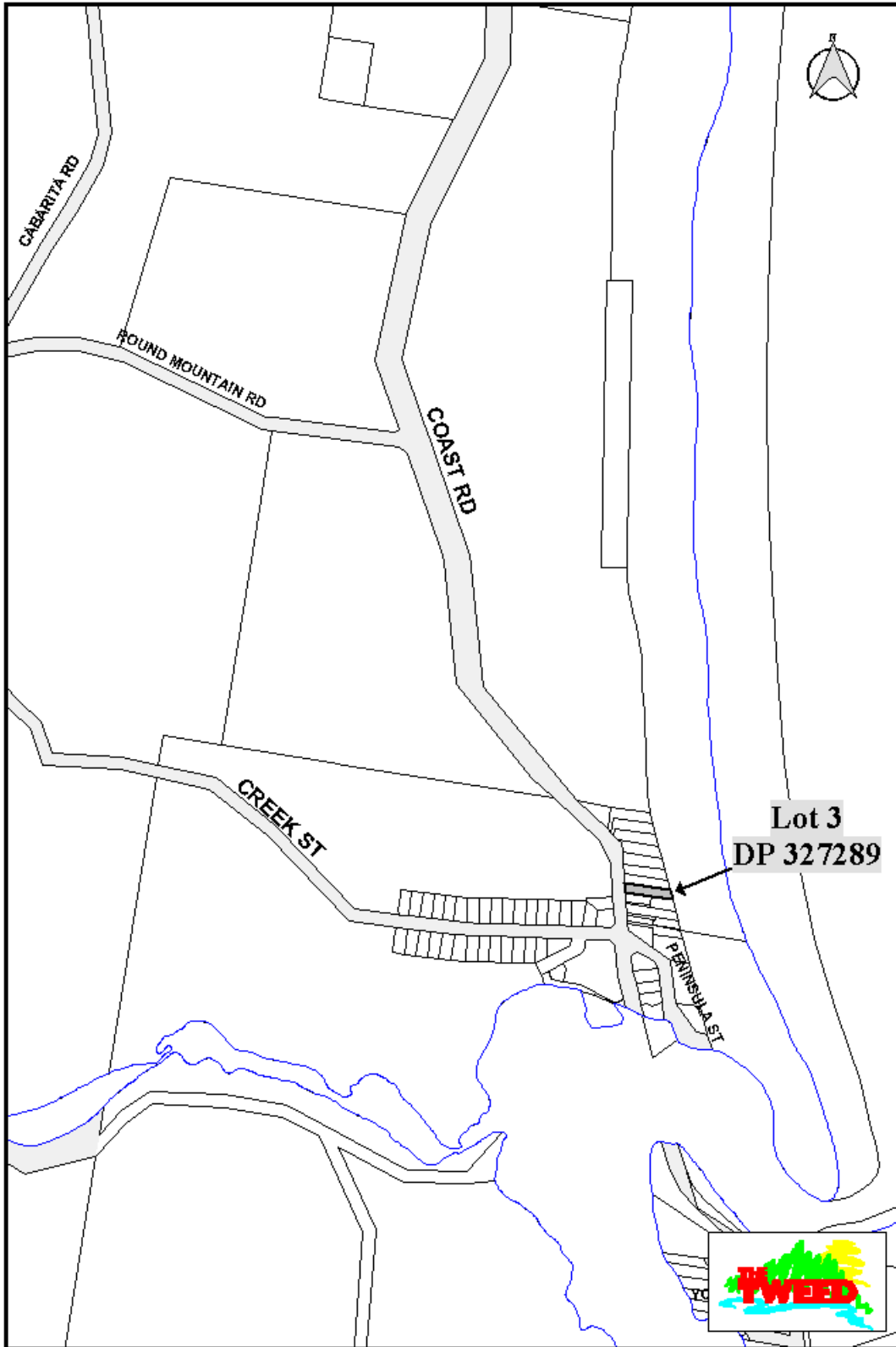
The dwelling was originally approved in 1970 under Building Application 184/70. The ground floor component was approved as a laundry and domestic storage area. A further Development Application (T4/3483) was approved for a residential flat building comprising three dwellings on land facing Coast Road. This building was completed during 1985. It appears that during 1986 it came to Council's attention that the dwelling had been converted into three flats (two ground floor units and a first floor unit). Various correspondence passed between Council and the owners of the property requesting that the ground floor flats be removed, with the owners responding that the building was approved as flats.

Building Application 839/92 was approved for the removal of kitchen facilities from the ground floor flats and a file note dated 29/7/93 indicates that these works were undertaken in accordance with the approval. A further site inspection dated 18/4/96 revealed that the kitchens had been reinstated and then subsequently removed on 25/8/98. Another file note dated 2/12/98 indicates that the flats had again been reinstated. Over the past two years Council has written to the current owner on three occasions requesting that he rectify this illegality.

Council received and approved a Development Application (K98/678) for a deck to the "dwelling house". As a condition of this consent the applicant was required to remove all kitchen facilities prior to the issue of the construction certificate. A notice of intention to serve an order under Section 121H of the Act to have the flats removed by removing the kitchen facilities was sent to the owner on 15/9/2000. The order was subsequently served on 11/10/2000. To halt any further proceeding the applicant submitted this development application (0050/2001DA) to convert the ground floor into one flat, but has since removed the kitchens anyway. This was confirmed during a site inspection carried out on May 16, 2001 by Council's Building Services Unit.

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SITE DIAGRAM



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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

Tweed Local Environmental Plan 2000 (TLEP 2000) – Clause 9

The land is zoned 2(b) Medium Density Residential and the proposal is permissible with Councils consent. However it is considered the proposal fails to satisfy the primary objective of the zone in that the development does not achieve good urban design outcomes. In this regard the proposal does not comply with Council's development controls for car parking and provision of open space, is unable to maintain privacy for residents and overall is considered to be an overdevelopment of the site.

Clause 15 – Essential Services

The land is adequately serviced by water, sewer and stormwater.

Clause 36 – Coastal Erosion outside Zone 7(f)

Proposal forwarded to Department of Land and Water Conservation who had no objection to the proposal in relation to the likelihood of coastal processes affecting the site.

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

No Draft EPI's affect this proposal

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

DCP No 2 – Site Access and Parking Code

Car parking for the proposal is calculated at 1.5 spaces per dwelling. With 5 dwellings, the proposed development is required to provide 8 car parking spaces (7.5 rounded up to 8). The applicant has requested that the car parking required be rounded down to 7 spaces as three of the dwellings are only 50 m² in area each. However Casual Observation of the site over the past six months indicates that existing car parking is inadequate, and there are often vehicles parked in the landscaped area at the front of the property. It is considered that no variation should be granted in this instance to the car parking controls. Further Coast Road is inappropriate to carry any spill over of car parking, with the area in front of the property a designated no parking/no stopping zone.

DCP 6 – Multi Dwelling Housing

The proposal fails to comply with DCP 6 in a number of areas. These being Setbacks, Landscaping, Privacy and car parking.

Setbacks: Proposal is defined as a residential flat building and a three meter setback is required from side and rear setbacks under Part 3.3 of the DCP. The existing building is only setback 1200 mm from side boundaries

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Landscaping: Under Part 3.1, 340 m² (calculated by dwelling size – i.e. two large dwellings and three small dwellings) of the site area is to be landscaped or able to be landscaped. Plans submitted claim this area has been complied with, but under this proposal only 280 m² of the site is available for landscaping, with the remaining 852 m² taken up by buildings, garages, driveways and other hard stand areas.

Car Parking: Proposal fails to comply with DCP 2 and therefore does not conform with the car parking requirements of Part 3.3.4

Privacy: Due to narrow setback from side boundaries, and direct access to the beach being available from the rear boundary, it is considered that privacy of residents can not be assured. Bedrooms are to be located on the southern side of the dwelling, and a rumpus room is sited on the northern side of the building. Residents staying in the existing flats are able to walk past the unit, and there is insufficient room to enable the unit to be screened from the walkway. It is inappropriate for the ground floor to be utilised as a separate dwelling, and the proposal is unable to satisfy the second objective of Part 3.3.2.

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

Fire Regulations: The application has been assessed by Council's Building Unit. The proposal would involve a change of Building Classification from Class 1a to Class 2. The proposal can comply with the Building Code of Australia.

(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

Proposed development will have an Impact on the built environment in that there is insufficient car parking provided onsite, and the Coast Road considering traffic volumes is not an acceptable place for visitor parking.

(c) Suitability of the site for the development

The proposed location of the unit with its limited setbacks from the side boundaries and the impact on residents privacy from other residents accessing the beach indicate that the ground floor of the dwelling is unsuitable for conversion into a second dwelling. Further the lack of car parking on-site and minimal landscape areas further suggest that the proposal is an overdevelopment of the site.

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

No submissions were made in accordance with the Act or Regulations

(e) Public interest

Proposed development may create a dangerous precedent due to the non compliance with DCP 2 and DCP 6 which indicates that the development in its current configuration is an overdevelopment of the site. The proposal is recommended for refusal

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OPTIONS

1. Adopt the recommendations as listed above by refusing the development application.
2. Approve the application subject to conditions of Consent.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

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

CONCLUSION

Due to the non compliance with Council's various planning policies applicable to this proposal, the proposal being an overdevelopment of the site, and the likelihood of the proposal creating an undesirable precedent, it is recommended that the application be refused.

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9. ORIGIN: Development Assessment Unit

FILE REF: DA1020/245 Pt3

REPORT TITLE:

Application to Modify Consent No. K99/1815 - Stage 8 Vintage Lakes Estate - 45 Lot Residential Subdivision at Lot 335 DP 844423 Champagne Drive, Tweed Heads South

SUMMARY OF REPORT:

Council has received an application to modify/delete a number of conditions of Development Consent K99/1815 for Stage 8 of Vintage Lakes Estate. The development comprising 45 residential lots was approved on 6 September 2000 subject to conditions.

The conditions that are proposed to be modified/deleted relate to drainage works contributions and credits, the dedication of a residential lot as public reserve, local road construction, the construction of a bus bay and shelter, the amendment of the consent to allow individual bulk earthworks and civil construction certificates and the provision of an overland flow path between two lots.

The applicant is particularly concerned about a condition requiring the dedication of Lot 10 as public reserve containing playground equipment, and has requested that the matter be forwarded to Council for determination in the event that Council staff do not support the deletion of the subject condition. The proposed deletion is not supported for a number of reasons as detailed in this report.

The application was advertised however, no submissions were received.

RECOMMENDATION:

That Development Consent No. K99/1815 for Stage 8 of Vintage Lake Estate be amended as follows:-

1. Amend the Section 94 contributions for South Tweed Heads Master Drainage (DCP3 area) and the note contained in Condition 19(i)(c) to:

Stage 8A – 3.1909ha @ \$8805 \$28,096.00

Stage 8B – 0.4053ha @ \$8805 \$3,569.00

Note: A credit of \$18,396.40 applies to Stage 8A.

2. That Condition 23(i) remain as is.
3. That Condition 24 remain as is.
4. That Condition 39 remain as is.
5. That Condition 41(i) be amended to:

“Engineering drawings to accompany the Construction Certificate Application for the stage 8 temporary access to Fraser Drive, are to be generally in accordance with Figure 13B prepared by Cardno MBK Pty Ltd dated 28/2/00, except where varied by the following:

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- i. The typical cross section is to be 7m wide pavement within a 12m road reserve. Guide posts or red edge pavement reflectors are to be provided at 5 metre intervals.”*
6. That Condition 42(i) be amended to:

“Subject to giving the developer a minimum 120 days notice of Council’s intention to let a contract for the signalised section, the developer shall enter into arrangements with the adjoining landowner for the construction of the extension of Leisure Drive within Flame Tree Park Estate. The construction is to be completed within four (4) months from the completion of the signalised intersection of Fraser Drive and Leisure Drive by Council.”
7. That Condition 43(ii) remain as is.
8. That Condition 44 be deleted.
9. That Condition 54 remain as is.
10. That the following condition be imposed to permit the issuing of separate construction certificates for bulk earthworks, such condition shall be located as the first condition in Schedule B:-
 1. Notwithstanding the provision of any other condition of this consent, prior to the issue of a separate construction certificate for bulk earthworks, the following conditions are required to be complied with:-

Condition 1 of Schedule “A”, 2, 3, 4, 5, 6, 7, 8, 9, 12, 17, 18, 20 (Heavy Haulage Component only), 28, 53, 54, 60, 64, 67, 77, 85, 90, 95(vii).

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REPORT:

Council is in receipt of an application to modify Development Consent K99/1815- Stage 8 Vintage Lakes Estate. The proposal incorporates a number of key changes as follows:-

1. Modification of Condition No. 19 – Section 94 Contributions South Tweed Heads Master Drainage (DCP3 area). The applicant has requested that the land area on which the calculation is based be amended to deduct drainage reserve/buffer areas. The applicant has also requested that the credit applied to Stage 8A be increased to reflect that further works are not required to be undertaken on the subject land.
2. Deletion of Conditions 23(i) and 24. The applicant has requested the deletion of these conditions which require the dedication of a residential lot (Lot 10) as public reserve and the provision of playground equipment.
3. Modification of Conditions 41(i), 42(i) and 43(ii) and (iii). The applicant has requested amendments to these conditions regarding local road construction and the extension of Leisure Drive.
4. Delete Condition 44. The applicant has requested the deletion of this condition which requires the construction of a bus bay and shelter.
5. Deletion of Condition 54. The applicant has requested the deletion of this condition which requires the provision of an overland flow path between Lots 14 and 15.
6. Inclusion of a condition allowing the separate issue of a construction certificate for bulk earthworks.

ASSESSMENT

The proposed modifications are dealt with individually as follows:-

Amend Condition 19 – S94 Contribution South Tweed Heads Master Drainage (DCP 3)

Amend from:

STAGE 8A c. South Tweed Heads Master Drainage (DCP3 area):
7.728ha @ \$8805
\$68,045.00
S94 Plan No. 2

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

STAGE 8B c. South Tweed Heads Master Drainage (DCP3 area):
0.50ha @ \$8805
\$4,402.50

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S94 Plan No. 2

Amend to:

STAGE 8A c. South Tweed Heads Master Drainage (DCP3area):

3.1909ha @ \$8805

\$28,096.00

S94 Plan No. 2

STAGE 8B c. South Tweed Heads Master Drainage (DCP3 area):

0.3991ha @ \$8805

\$3,514.00

S94 Plan No. 2

Note: In accordance with Councils letter to Cardno MBK dated 15 February 2000 a credit of \$18 396.40 applies to Stage 8A.

Applicant's Submission:

The areas referred to in the condition are incorrect. In the case of Stage 8A the area referred to is the total undeveloped area most of which will remain in its natural state and be dedicated as either Drainage Reserve or Public Open Space (Habitat Area). In the case of Stage 8B, the stated area is incorrect. The correct areas of residential development (including roads etc) are:

Stage 8A 3.1909ha

Stage 8B 0.3991ha

Council has acknowledged in the past that the residential envelopes only are contributory to the Drainage Scheme.

The applicant also seeks to have the credit reduced by a further \$10 000. The credit relates to works already completed with Stage 5A. The Weir structure has been completed and accepted, and the balance of the "Levee Wall" component under the subject Consent K99/1815.

The applicant was advised by Council (letter dated 15 February 2000) that the claim for credit for the wetland modifications to the value of \$50 000 was acknowledged and accepted however, the claim for the construction of the culvert/weir structure to the value of \$10 000 cannot be supported until the levee wall component is completed in conjunction with the Stage 8 works. The applicant's response to Council letter dated 28 February 2000, states that there are no further works required, or possible, in relation to the Western Drainage Scheme within the Vintage Lakes Estate boundaries. The applicant argues that the narrow "levee" section is to accommodate a low level pedestrian walkway as has been shown in previous plans submitted, and that it will enjoy the same status as all other similar Public Open Space within the estate. The applicant states that the "levee wall" component (as described by Council) comprises the site fill on the adjacent development, over which the applicant has no control and that the written consent to the "spill" of batters over the

Reports from Director Development Services

common boundary has been given by both parties. The applicant argues that the approach of “phasing in” the ultimate drainage scheme is consistent with that taken by Council in the case of other development.

Assessment:

Calculation of areas

Section 94 Contribution Plan No 2 – Banora Point West Drainage Scheme contains information regarding the areas that should be included and excluded in the calculation of the area to which the contribution should be applied. Section 3.2 of the plan states that public open space required to be provided does have some impact in terms of drainage and therefore attracts a contribution. In relation to the proposed development it is therefore appropriate to include Lot 10 in the calculation of the land area. However, in relation to approved Lots 46 and 47, these areas are required as buffer/habitat areas and do not constitute ‘open space’ required to be provided for the subdivision. The exclusion of these areas from the calculation of the land area to which the section 94 Plan applies is consistent with the provisions which apply to residual lands which state that residual land left undisturbed in private title does not attract a levy contribution. The plan also specifies that lakes and drainage corridors should attract a contribution if on privately-owned land. The lake/drainage areas have been dedicated to council and therefore should not be included in the area calculation. The applicant’s submission that the area on which the levy is calculated for Stage 8A should be 3.1909 ha is supported on the basis that the areas referred to above, which should be excluded from the calculation, have been deducted.

The applicant’s submission also states that the area for the calculation of the levy for Stage 8B should be 0.399 ha and that the 0.50 ha referred to in the consent is incorrect. These areas have been re-calculated (by simply adding the areas of Lots 40 to 45 as nominated on the approved plan) and it is concluded that the area should be 0.4053 ha.

Drainage Scheme Credit

Discussions with Council’s Development Engineer indicate that the owners of Vintage Lakes Estate propose to rely on the filling of the adjacent Flame Tree Park land to satisfy the remaining levee wall component of drainage works required. On this basis, it is considered reasonable to credit the claim for the works as it is not proposed to undertake any further works on the subject land in this regard.

Recommendation:

- That the Section 94 Contributions for South Tweed Heads Master Drainage (DCP3 area) be amended as follows:

STAGE 8A 3.1909 ha @ \$8805	\$28, 096.00
STAGE 8B 0.4053 ha @ \$8805	\$3, 569
- That the Note relating to the credit for drainage works be amended to \$18, 396.40, to reflect the additional \$10 000 credit as requested.

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Delete Conditions 23(i) & 24 – Dedication of Public Reserve / Provision of Playground Equipment

Amend from:

23. i. The proposed Lot 10 is to be dedicated as public reserve with Stage 8A, and suitably embellished including a minimum of 100mm thick of quality topsoil, grassing, seating playground equipment and shade cover in accordance with plans to be submitted with the construction certificate for Stage 8A.
 - ii. The proposed public reserve between Fraser Drive and the extension of Leisure Drive and proposed Lot 27, 28 and 29 shall be retained in its natural state subject to condition 42(ii).
24. The playground equipment referred to in condition 23 is to include turfing to a minimum of 10m beyond the bounds of the playground area. Alternatively, the developer may pay a cash contribution for the installation of playground equipment by Council when a minimum of 30% of the estate is occupied.

Amend to:

23. The proposed public reserve between Fraser Drive and the extension of Leisure Drive and proposed Lot 27, 28 and 29 shall be retained in its natural state subject to condition 42(ii).

Applicant's Submission:

The applicant is seeking to delete Condition 23(i) and Condition 24 and requests that should Council staff not agree to the deletion the matter be referred to Council for determination. The applicant has submitted drawings to support the proposed modification. Stage 8 is a compensatory stage created in exchange for the lots lost by the retention of the 'Jacana' ponds adjacent to Stage 6 and that the concept was suggested by NPWS in 1996.

The applicant argues that on completion of the estate the developer will have contributed a total area of public open space equivalent to about 940 m² per lot. The applicant provided the following information in the development application in relation to the provision of casual open space:

The parkland comprises "fingers" of land protruding into the main pond system, each containing natural couch grass and fringed re-growth vegetation. It is proposed that all fringing vegetation be retained, except for exotic growth and weeds (Lantana Bush etc) which will be removed. The couch grass surface is to be retained and embellished by the construction of gravel pedestrian trails, park seating and selected planting.

The embellished parks will be contained within the larger Public Reserve – Lot 42 (total about 3.9ha) and comprise a total embellishment area of about 7000m² which is intended to satisfy the Casual Open Space component for the 47 lots created by Stages 8A and 8B.

A formal children's playground, several of which have been provided elsewhere in Vintage Lakes, is not considered appropriate to the area, which should be presented for the quiet enjoyment of the public in a waterfront setting.

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The applicant states that the conditions of consent indicate acceptance of the 7000m² (now approximately 8000m²) of embellished Casual Open Space adjacent to the lots, but either disregards, or disagrees with, the last point in the above proposal.

The applicant also states that consultation with DLWC and NPWS resulted in the requirement of the dedication of an additional 20m strip adjacent to the ponds and the resultant loss of two additional lots.

The applicant argues that a total of 4 ha of Casual Open Space is proposed to be dedicated as part of Stage 8, of which about 8000m² is to be embellished for public enjoyment and the remaining area of about 3.2ha will be provided for habitat protection and the balance of the Western Drainage Scheme.

The applicant states that the requirement for 630m² of casual open space in addition to the 8000m² is unfair and unreasonable. The applicant also states that Condition 23 is inconsistent with Council's policy for casual open space which requires 33m² per lot, or a total of 1452m² for Stage 8. The applicant argues that the placement of a children's playground adjacent to residential lot boundaries is to the detriment of the amenity of the adjacent lots, and that if the playground has to be installed there is ample room within the 8000m² area without the need to seize one of the best lots in the estate. The applicant states that in recent consultations with Council regarding other subdivisions Council officers have required a minimum area of 1500m² to 2500m² per individual park for the installation of playground equipment, with a buffer of about 20 metres to the nearest lot boundary and that this cannot be achieved on 630m² of land. The submission argues that the estate is well serviced by embellished casual open space and that a children's playground is proposed within in the adjacent Flame Tree Park Estate. This park will be located a maximum of c. 250 metres from Stage 8 allotments.

Assessment:

The applicant has included buffer / habitat protection areas in the calculation of open space provision for Stage 8. NSW National Parks and Wildlife Service (NSW NPWS) agreed to reduce the required buffer to the swamp sclerophyll forest from 50 metres to 20 metres. While the applicant argues that the 20 metre buffer required by NSW NPWS has resulted in the surrender of two allotments, it is important to note that the required buffer was reduced by some 30 metres and that the imposition of the full 50 metre buffer would have resulted in a significantly reduced lot yield. Due to the compensatory nature of Stage 8 concessions have been made in relation to the required buffers. The buffer area is required to be revegetated and correspondence from the Department of Land and Water Conservation states that "...the use of the buffer area as a park land with swings etc. would not be consistent with the function of the buffer zone which is to protect the Jacana habitat". The site is required to be revegetated and it is not appropriate to include the area in the calculation of open space provision given its primary role is for environmental protection purposes. The buffer area will not be a grassed / playground area and it is appropriate that the Stage 8 lots contain an area containing playground equipment.

Council has advised the applicant that the area to the north of the boundary between the 2(c) Urban Expansion and 6(b) Recreation zones is to be dedicated as drainage reserve. The area to the south of the zone boundary will be dedicated as public reserve. However, this area is required to be revegetated with the exception of the 3 metre wide pedestrian access required along the northern boundary of the lots and the portion to the west of Lot 10 (see plan). The areas of proposed public

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reserve adjacent to Fraser and Leisure Drives were identified by the applicant as unsuitable for inclusion in the adjacent allotments for reasons related to potential visual impact and noise. It is not appropriate to include these areas in the calculation of open space provision for Stage 8. The only areas which should be included in the calculation of open space provision are those areas which are useable namely, Lot 10 and the 2(c) zoned land to the west of this lot. The primary function of the drainage reserve and the buffer areas is not to provide open space for residents of the estate. Irrespective of the total area of open space provided within the estate as a whole, there is no open space provided within Stage 8 of the subdivision. There is also no direct link between the open space provided in association with Stage 5 and Stage 8 and on the basis of the physical separation of Stage 8 from the other stages of the development it is considered that the provision of a playground is required within the Stage 8 area. It is not appropriate for this stage of the subdivision to rely on the open space provided within the adjacent Flame Tree Park subdivision.

The applicant states that Lot 10 is insufficient in area to provide a playground however, Lot 10 and the area to the west of Lot 10 will total in excess of 1000 m² of casual open space. The alternative would have been to require the dedication of a further allotment to provide additional open space. The proposed casual open space is considered to be of sufficient area given the siting of the playground and its location in relation to the buffer areas. The provision of a playground in this location is not considered likely to result in significant impacts on the amenity of surrounding lots.

Recommendation:

That conditions 23 and 24 remain in their current form.

Amend Condition 39 – Local Road Construction

Amend from:

39. The typical cross section for proposed local roads “Traminer Court and Madiera Street”, is to be 7.5m wide nominal pavement width, with upright kerb and gutter to both sides, contained in a 14m and 15m wide road reserve respectively.

Amend to:

39. The typical cross section for proposed local roads “Traminer Court and Madiera Street”, is to be 7.5m wide nominal pavement width, with roll top kerb to both sides, contained in a 14m and 15m wide road reserve respectively.

Applicant’s Submission:

The applicant states that upright kerb is inappropriate for narrow local roads and that it would necessitate the needless construction of layback gutter crossings.

Assessment:

Roll top kerbs encourage illegal parking on footpaths. Council policy developed as a result of changes to the Traffic Act require subdivisions to incorporate measures to prevent vehicles parking on footpaths. Clearly a potential problem exists adjacent to the reserve and such illegal parking should be discouraged by using upright kerb and gutter.

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Recommendation:

That Condition 39 remain in its current form.

Amend Condition 41(i) – Local Road Construction

Amend from:

41. Engineering drawings to accompany the Construction Certificate Application for the stage 8A temporary access to Fraser Drive, are to be generally in accordance with Figure 13B prepared by Cardno MBK Pty Ltd dated 28/2/00, except where varied by the following;
- (i) The typical cross section is to be 7m wide pavement with upright Kerb & Gutter to both sides within a 12 m road reserve.

Amend to:

41. Engineering drawings to accompany the Construction Certificate Application for the stage 8A temporary access to Fraser Drive, are to be generally in accordance with Figure 13B prepared by Cardno MBK Pty Ltd dated 28/2/00, except where varied by the following;
- (i) The typical cross section is to be 7m wide pavement within a 12 m road reserve.

Applicant's submission:

The applicant states that the requirement for kerb and gutter along the 20m length of the temporary road is excessive for the following reasons:

The life of the temporary road will be about 12 months. The adjoining stages 4(c) and 4(d) of Flame Tree Park are proceeding and bulk earthworks consent has been issued on K99/165 (CC 30/2000 of 12/10/00).

Kerb and gutter along the temporary road is not necessary for the conveyance of stormwater.

Assessment:

On the basis of the applicant's submission it is considered that the requirement for the kerb and gutter can be deleted subject to the provision of guide posts or red edge pavement reflectors at 5 metre intervals.

Recommendation:

That condition 41(i) be amended to:

41. Engineering drawings to accompany the Construction Certificate Application for the stage 8A temporary access to Fraser Drive, are to be generally in accordance with Figure 13B prepared by Cardno MBK Pty Ltd dated 28/2/00, except where varied by the following;
- (i) The typical cross section is to be 7m wide pavement within a 12 m road reserve. Guide posts or red edge pavement reflectors are to be provided at 5 metre intervals.

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Amend Condition 42(i) – Extension of Leisure Drive

Amend from:

42. i) Subject to giving the developer a minimum 120 days notice of Council's intention to let a contract for the signalised section, the developer shall, within four (4) months from the completion of the signalised intersection of Fraser Drive and Leisure Drive by Council the developer shall construct the extension of Leisure Drive within Flame Tree Park Estate.

Amend to:

42. i) Subject to giving the developer a minimum 120 days notice of Council's intention to let a contract for the signalised intersection, the developer shall, within four (4) months from the completion of the signalised intersection of Fraser Drive and Leisure Drive by Council the developer shall enter into arrangements with the adjoining landowner for the construction of the extension of Leisure Drive within Flame Tree Park Estate.

Applicant's submission

The applicant states that the owners have agreed to fund half of the cost of the extension of Leisure Drive from Fraser Drive to the ultimate entry to Stage 8A, being that length of the road fronting the Stage 8B lots. The applicant argues that the owners of the subject land would have no right to construct the road within the adjoining land (Flame Tree Park) owned by Metricon.

Assessment:

The present wording of this condition seeks to ensure that the arrangements negotiated between the owners of the two estates will enable the construction of the road in the proposed location. While the proposed amendment is considered acceptable in terms of its intent, it does not contain the timeframe for the construction of the road. It is recommended that the amendment to this condition include a timeframe for completion of the works.

Recommendation:

That Condition 42(i) be amended as follows:

Subject to giving the developer a minimum 120 days notice of Council's intention to let a contract for the signalised intersection, the developer shall enter into arrangements with the adjoining landowner for the construction of the extension of Leisure Drive within Flame Tree Park Estate. The construction is to be completed within four (4) months from the completion of the signalised intersection of Fraser Drive and Leisure Drive by Council.

Amend Condition 43 (ii) & (iii) – Bond for Roadworks

Amend from:

43. A bond, equal in value to the estimated cost of construction plus 25% and to the satisfaction of Director Development Services, is to be paid prior to the issue of Subdivision Certificate for stage 8A, for the following items;

Reports from Director Development Services

- i) Closure and embellishment of the temporary access road to Fraser Drive as per condition 42(ii).
- ii) Construction of the Leisure Drive extension as per condition 43(i).
- iii) Construction of the bus bay and ancillary works as per condition 44.
- iv) Landscaping works

Amend to:

43. A bond, equal in value to the estimated cost of construction plus 25% and to the satisfaction of Director Development Services, is to be paid prior to the issue of Subdivision Certificate for stage 8A, for the following items;
- i) Closure and embellishment of the temporary access road to Fraser Drive as per condition 42(ii).
 - ii) The value of the half width construction of the extension of Leisure Drive fronting Stage 8B.
 - iii) Landscaping works

Applicant's submission:

The proposed amendment to the wording of 43(ii) reflects the proposed amendment to condition 42(i) above. The proposed deletion of 43(iii) relates to the submission below requesting the deletion of Condition 44 requiring the construction of a bus shelter.

Assessment:

While the owners of Vintage Lakes and Flame Tree Park have each agreed to pay half of the construction costs, the bond is required to reflect the full cost of the construction of the extension of Leisure Drive to ensure that Council has sufficient funds to undertake the work in the event that either of the developments do not proceed. In the event that the bond reflected only 50% of the construction cost and Flame Tree Park did not proceed Council could be in the position of having to provide the remaining 50% of the funds.

Recommendation:

- That Condition 43(ii) remain in its current form.
- That Condition 43(iii) be deleted for the reasons outlined below.

Delete Condition 44 – Construct Bus Bay and Shelter

44. Construction of a bus bay and shelter, in conjunction with the closure and embellishment of the temporary access to Fraser Drive. The location is to be designed in conjunction with Fraser Drive & Leisure Drive intersection treatment, including the following specific work to be shown on the engineering drawings submitted with the Construction Certificate Application for stage 8B;

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- i) The geometric layout is to provide for a de-acceleration taper of 21m length, 3m wide holding lane of 25m length and an acceleration taper of 15m length, or to the satisfaction of Director Engineering Services.
- ii) The pavement is to be 200mm thick 32MPa concrete reinforced with F82 mesh and control joints.
- iii) Upright kerb & gutter is to be provided for the full length, including a concrete ribbon footpath 100mm thick extending from the bus shelter to link up with the path as indicated in Figure 13 prepared by Cardno MBK dated December 1999.
- iv) All associated surface and sub-surface drainage.

Applicant's submission:

The applicant argues that Section 94 contributions have been levied for bus shelters and that a bus shelter is to be erected on the frontage to Flame Tree Park Estate, south of the intersection of Fraser and Leisure Drives and within 100 metres of the Vintage Lakes Estate boundary.

Assessment:

It is agreed that the construction of a bus shelter is no longer required on the basis that a bus bay is incorporated in the Flame Tree Park subdivision.

Recommendation:

That Condition 44 be deleted as requested.

Delete Condition 54 – Design and Construction of Overland Flow Path between Lots 14 & 15

54. The overland flow path between proposed lots 14 and 15, as shown on Figure 11 prepared by Cardno MBK dated October 1999, is to be designed and constructed to cater for a Q100 storm event including the following provisions;
- i) Minimum of 300mm of freeboard.
 - ii) The width of the drainage reserve to be dedicated as Public Pathway is to be sufficient to provide for a minimum of 3m pathway and any retaining structures required to obtain a minimum of 300mm of freeboard.
 - iii) Not withstanding item ii) above, the absolute minimum overall width shall be 4m.
 - iv) A pathway, minimum 3m in width, extending from the kerb and gutter to the trash rack outlet device, including provisions for the maintenance of the track rack to the satisfaction of the Director Engineering Services, is to be constructed to a minimum 150mm 25Mpa concrete reinforced with F82 mesh, complete with control joints and lockable bollards.

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

Reports from Director Development Services

Applicant's submission:

The applicant has requested the deletion of this condition for the following reasons:

- No pathway is proposed between lots 14 and 15. Civil Engineering Design has determined that all overland flows from the Estate will exit via the westernmost cul-de-sac and a drainage path between lots 14 and 15 is now not required.
- A 4m wide drainage easement only is to be dedicated along the eastern boundary of lot 14. The drainage easement will contain the GPT and Trash Rack pit. Maintenance of the GPT will be from the road frontage and maintenance of the Trash Rack will be via the maintenance trail at the rear of the lots as required by Condition 22.
- The entire Stage 8A area has been slightly lifted to accommodate the above proposal and public pathways between lots are to the detriment of the amenity of the lots.
- NPWS and DLWC officers have requested that easy pedestrian access to the habitat area at the rear of lots 15 to 27 be discouraged.

Assessment:

The applicant has provided detail to demonstrate that the alternative drainage proposal can be achieved. Nevertheless, the width and standard of the proposed 3 metre wide public pathway, along the northern boundary of proposed Lots 10 to 27 inclusive are not adequate to support Council's maintenance vehicles. The access to GPT and trash rack pit for maintenance purposes is required to be constructed of an all-weather hardstand surface. The existing overland flow path is to remain and is not considered likely to result in significant impacts on the amenity of the adjacent lots.

Recommendation:

That Condition 54 remain in its current form.

Inclusion of a condition permitting separate construction certificates

Applicants Submission

The applicant wishes to amend the consent to allow the separate issuing of construction certificates for both civil works and bulk earthworks. This will allow for greater flexibility in the implementation of the proposal.

Assessment

The applicants request is considered to be satisfactory and consistent with the approach taken in similar circumstances relating to larger subdivisions. An appropriate condition should be imposed to ensure that all matters are satisfactorily addressed at the relevant stage of implementation.

Recommendation

That an appropriate condition be imposed to allow for the issuing of separate construction certificates.

Reports from Director Development Services

CONCLUSION

The modification to the areas of the site which are included for the purposes of calculating the Section 94 contributions for drainage works is generally supported. Similarly, the request for additional credits for drainage works undertaken is also considered acceptable.

Several of the proposed amendments to the conditions regarding local road construction are considered to warrant support as detailed in this report. The deletion of the condition requiring the provision of a bus shelter and bay is also supported on the basis that one has been provided adjacent to Flame Tree Park.

The applicant's request for the deletion of Condition 54 regarding the construction of an overland flow path between Lots 14 and 15 is not supported on the basis that in addition to its drainage role, it is also required to provide vehicular access to the GPT and trash rack pit for Council maintenance vehicles.

The deletion of Conditions 23(i) and 24 requiring the dedication of Lot 10 as public reserve and the provision of playground equipment is not supported. As detailed in this report the applicant's argument is based on the inclusion of buffer areas and drainage reserves in the calculation of casual open space provision. The buffer areas are required to be revegetated by the Department of Land and Water Conservation and do not constitute useable open space.

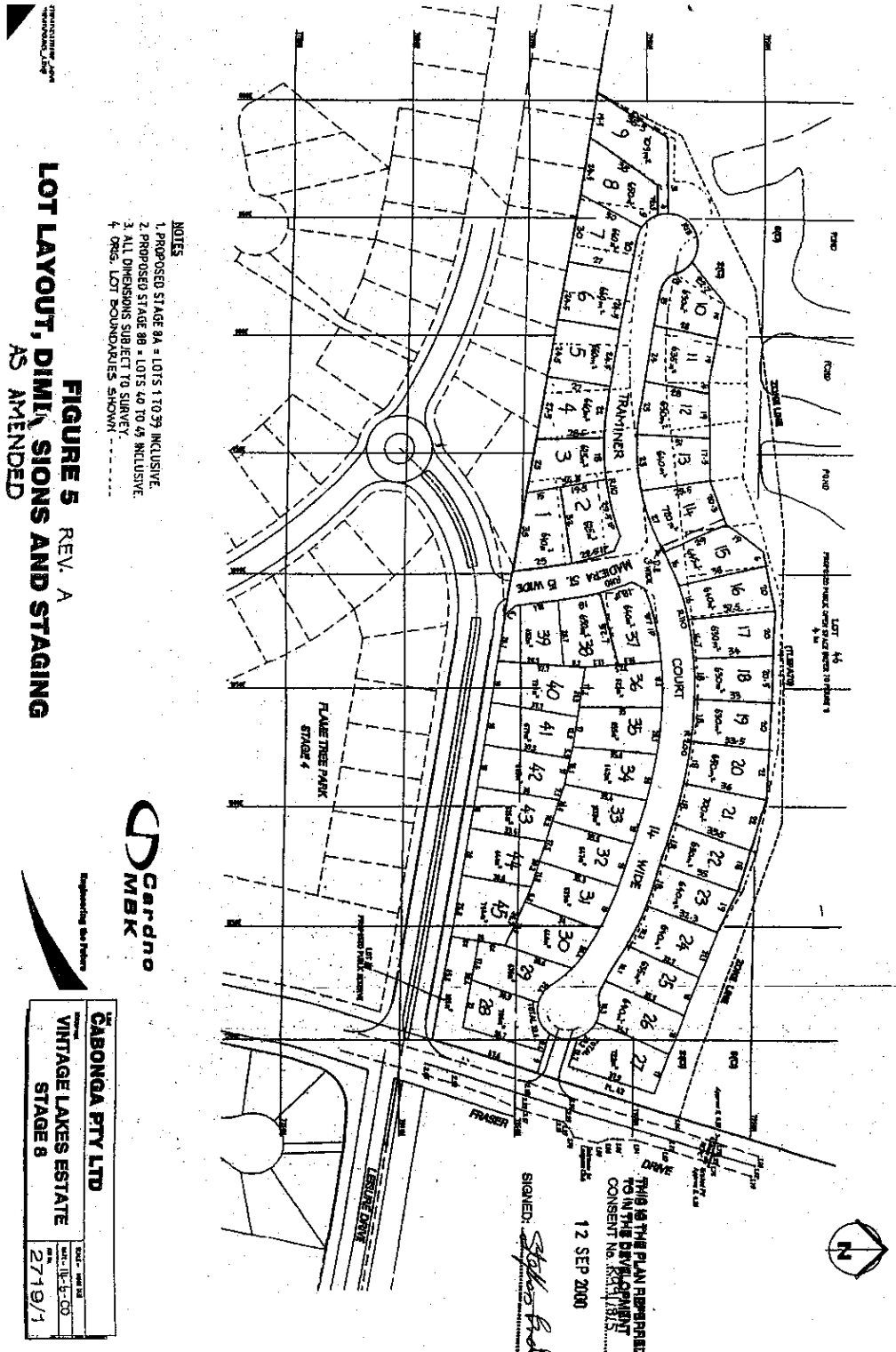
The applicant's argument that sufficient open space is provided in the earlier stages of the subdivision is also not supported on the basis of the physical separation of Stage 8 from these areas. It is not appropriate for the development to rely on open space provision within Flame Tree Park Estate. The applicant's submission that the buffer required by DLWC and NSW NPWS has already resulted in the loss of two lots, and that the further loss of a lot is not acceptable holds little weight in view of the concessions granted at the development application stage. A buffer of 50 metres was originally required from the Jacana habitat however, a reduction of this to 20 metres was accepted having regard for the history of the development. Had the 50 metre buffer been imposed the yield of Stage 8 would have been significantly less than that approved.

An area of casual open space including playground equipment is considered to be necessary within Stage 8 of the proposal and Lot 10 and the area to its west provide an appropriate site for the provision of such an area.

No objections are raised in relation to the issuing of separate construction certificates for both bulk earthworks and civil works.

Reports from Director Development Services

FIGURE 1 – APPROVED LOT LAYOUT, DIMENSIONS AND STAGING



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10. ORIGIN: Strategic Town Planning Unit

FILE REF: DA1393/320 Pt1

REPORT TITLE:

Banora Point Community Centre

SUMMARY OF REPORT:

This report recommends appointment to the Establishment Committee of two nominees, and further liaison with two other nominees.

RECOMMENDATION:

That Council:

1. a) Appoints the following nominees to fill the two positions available for local organisations on the Banora Point Community Centre Establishment Committee:
 - i) The Family Centre Community Projects Inc.
 - ii) Centaur Primary School P & C Association.
- b) Requests the Establishment Committee to liaise closely with the other two nominees for whom there are no positions available, being the Salvation Army Tweed Community Church Sports and Lifestyle Centre, and Tweed Heads Community Preschool Inc and Greenbank Community Preschool Inc.

Reports from Director Development Services

REPORT:

PUBLIC MEETING

The proposal to construct a Banora Point Community Centre using S94 funds levied for that purpose has reached the stage of final design . At its Meeting on 4 April, Council agreed to consult the community on design and organisation for the Centre by appointing an Establishment Committee comprising one Councillor, Council officers, Banora Point Residents Association and participating local organisations.

At the public meeting held at the Salvation Army Centre on 8 May the current stage of the Banora Point Community Centre project was explained, and expressions of interest to fill two positions on the Establishment Committee for local community organisations or intending stakeholders in the Centre were called for.

NOMINATIONS

Four written expressions of interest were received following the meeting:

i) The Family Centre Community Projects Inc.:

“ is a community-based organisation servicing Tweed Shire. Our service began in 1988 and has provided a strong voice for families and young people in our evolving community over that period. Target groups are families with dependent children, young people under 25 years, and children under 12. In addition we provide marriage education groups, provide volunteers to families with children under 3, and community development projects. A large proportion of the people who access our services reside in Banora Point. Our representative, who resides in Banora Point, would be advocating on behalf of families and young people who form a large part of Banora Point’s population”.

ii) Tweed Heads Community Preschool Inc. and Greenbank Community Preschool Inc.:

“ have combined and previously placed a submission to Council to be a part of the future Community Centre – to incorporate a Community Preschool and possibly Occasional and After School Care. We feel that this would be an asset and serve the community’s needs”. The principal also is a long term committee member of the Twin Towns Police and Community Youth Club.

iii) The Salvation Army Tweed Community Church Sports and Lifestyle Centre:

“which provides indoor sports, religious and social facilities on a site adjacent to the proposed Community Centre.”

iv) Centaur Primary School P& C Association:

“The P&C feels that with the Centre being built adjacent to the school, the children need representation to ensure their safety, and that the proposed Centre take into consideration the needs of the youth in the Banora Point area. As a parent group of the area this can be achieved by having a representative on the Establishment Committee”.

Reports from Director Development Services

ASSESSMENT CRITERIA

All local community organisations are eligible to be represented on the Establishment Committee, but only two places have been allocated. Selection is therefore necessary. The essential criteria are:

- the local connection of the organisation in representing or supporting community development in Banora Point, or
- its intention to become a stakeholder in the Centre by leasing space or operating activities on the site.

ASSESSMENT COMMENTS

Only one of the four organisations, the Preschool, is not operating locally at present.

One other organisation, the Salvation Army Centre, has already been involved in the process of developing the proposed Community Centre (negotiations were undertaken to allow the Salvation Army access road to cross the Council site, and to avoid duplication in planning of facilities for the two centres), and will need to be consulted in the development process whether it is represented on the Committee or not.

The other two organisations, The Family Centre and the P&C, can be regarded as a core local community service provider and a core local community support organisation, and should have the highest priority.

The Preschool and the Salvation Army, if they were not appointed, could be given assurances that the Establishment Committee would consult with or co-opt them for those parts of its work relevant to their interests.

CONCLUSIONS

All four organisations are relevant to the Establishment Committee, but the Family Centre and the School P & C Association can be regarded as more basic to the local community fabric. The Salvation Army is also basic, but because of its close involvement with the proposed Centre can participate without necessarily being on the Committee.

Council may wish to reconsider the size of the Establishment Committee and allow all four nominees to be members.

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11. ORIGIN: Development Assessment Unit

FILE REF: DA0960/730 Pt3

REPORT TITLE:

Application to Modify Development Consent K99/1450 for a Tourist Resort – Carool Winery

SUMMARY OF REPORT:

The purpose of this report is to clarify Council's resolution of 18 April, 2001, as the applicant claims it was Council's intent to delete the requirement to upgrade the section of Carool Road located between 2.5km to 2.85km measured from the roundabout at Bilambil. Council's resolution of 18 April clearly required this section of road to be upgraded, however advice from the Director of Engineering Services confirms that this requirement could be deleted.

RECOMMENDATION:

That Development Consent K99/1450 for the construction of a tourist resort comprising a winery building, 16 accommodation units, 4 bungalows and an 18 hole golf course at Lot 1 DP 121377 and Lot 250, 251, 263 and 264 DP 755685, No. 363 Carool Road, Carool be amended by the replacement of the existing Condition 2 with the following condition:-

2. Carool Road from 2.85km to 3.1km from the intersection of Carool Road and Bilambil Road is to be upgraded to provide a Type D pavement by a 1m widening on the top side bank.

Detailed engineering plans are to be submitted and approved by the Director of Engineering Services prior to commencement of works. All works are to be completed prior to the issue of a occupation certificate for Stage 1.

Reports from Director Development Services

REPORT:

BACKGROUND

Council at its meeting of 7 March, 2001, resolved as follows:-

“a) Amendments to staging of the development as requested;

b) The amendment of Condition 2, Schedule B, to read as follows:

“2. Carool Road between the roundabout at the intersection of Carool Road and Bilambil Road and the development site is to be upgraded to provide a Type D pavement. This will involve the upgrading of two sections, as follows:

a. From 2.5km to 2.8km being widened by 1.0m;

b. From 3.1km to 3.6km being widened on the top side bank.

Detailed engineering plans are to be submitted and approved by the Director, Engineering Services prior to commencement of works. All works are to be completed prior to the issue of an occupation certificate for Stage 1.

Alternatively, the payment to Council of \$28,000 as a pro-rata payment for the subject works. Should the monetary payment be acceptable, all monies are to be paid prior to release of the construction certificate for Stage 1 or 2.

c. The amendment of Condition 1, Schedule B, inserting after each TRCP No 4 contribution amount the following:

“The payment of the contribution will be permitted by four instalments over a period of three years subject to a bank guarantee being provided for the full amount”.

d. The deletion of the requirement under Condition 54 for line marking of the car park area.

2. The applicant be advised that Council is not prepared to support requested modifications to:

a) Delete the requirement to upgrade Carool Road to Type D standard;

b) Allow for the payment of Section 94 contributions over 5 years;

c) Allow the payment of Section 94 contributions on completion of each Stage;

d) Delete Condition 3 requiring consolidation of all allotments into a single allotment;

e) Submit landscaping plans at the roof stage;

Reports from Director Development Services

- f) *Allow construction vehicles to use the existing access;*
 - g) *Condition 62, which currently restricts the use of the golf course to guests staying at the resort.*
3. *The applicant be requested to amend the S96 application in accordance with 1. above. Should the applicant agree to this, that the consent be modified under delegated authority by the Director of Development Services.*
 4. *Should the applicant not be prepared to amend the application as recommended, the application be refused as Council cannot approve part and refuse part of an application.*
 5. *The applicant be advised that a separate application in accordance with Section 96(2) of the Environmental Planning and Assessment Act 1979 is required to be submitted, along with the applicable fees, should he wish to amend the consent relating to the pro-shop to allow the issue of a construction certificate prior to 50% of the accommodation units being completed.*

It should, however, be noted by the applicant that there appears to be no justification for this amendment as the golf course is restricted to the use of guests staying at the resort only, and there would be no significant demand for the construction of the pro-shop prior to at least 50% of the accommodation units being completed.”

This motion was rescinded at the ordinary meeting of 21 March, 2001 and the following subsequent resolution adopted:-

“RESOLVED *that the applicant be advised Council is prepared to amend Development Consent K99/1450, as follows:*

1. a. *From 3.1km to 3.6km being widened on the top side bank.*

Detailed engineering plans are to be submitted and approved by the Director Engineering Services prior to commencement of works. All works are to be completed prior to the issue of an occupation Certificate for Stage 1.

Alternatively, the payment to Council of \$28,000 as a pro-rata payment for the subject works. Should the monetary payment be acceptable, all monies are to be paid prior to release of the second construction certificate.

- b. *The amendment of Condition 1, Schedule B inserting after each TRCP No 4 contribution amount the following:*

“The payment of the contribution will be permitted by four instalments over a period of three years subject to a bank guarantee being provided for the full amount.”

- c. *Allow construction vehicles to use the existing access;*
- d. *Condition 62 be amended to allow the golf course to be used by “guests visiting or staying at the resort”.*

Reports from Director Development Services

- e. *The deletion of the requirement under Condition 54 for line marking of the car park area.*
2. *The applicant be requested to amend the S96 application in accordance with above.*
3. *Retain condition 3 requiring consolidation of all allotments into a single allotment.*
4. *A construction certificate be issued at Stage 1 relating to the pro-shop”*

This resolution omitted to indicate that Council supports the applicant’s request to amend the staging of the development and therefore a further report was submitted to clarify this issue to the Council meeting held on 18 April, 2001. Council at this meeting resolved as follows:-

“RESOLVED that Development Consent K99/1450 for the construction of a tourist resort comprising a winery building, 16 accommodation units, 4 bungalows and an 18 hole golf course at Lot 1 DP 121377 and Lot 250, 251, 263 & 264 DP 755685, 363 Carool Road, Carool be amended as follows:-

1. *Condition 1 of Schedule B be amended to read as follows:-*
 1. (i) *Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.*

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

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

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

Stage 1 (Golf Course and Four (4) Bungalows)

- a. *Tweed Road Contribution Plan:* \$16,380.00

S94 Plan No. 4 (Version 4.0)

(Bilambil Heights - Commercial)

The payment of the contribution will be permitted by four instalments over a period of 3 years subject to a bank guarantee being provided for the full amount.

- b. *Open Space (Structured):* \$856.00

S94 Plan No. 5

Reports from Director Development Services

- c. *Extensions to Council Administration Offices
& Technical Support Facilities* \$952.00
S94 Plan No. 18

Stage 2 or 3 (Winery Building)

- a. *Tweed Road Contribution Plan:* \$26,208.00
S94 Plan No. 4 (Version 4.0)
(Bilambil Heights - Commercial)

The payment of the contribution will be permitted by four instalments over a period of 3 years subject to a bank guarantee being provided for the full amount.

Stage 2 or 3 (16 accommodation units)

- a. *Tweed Road Contribution Plan:* \$16,380.00
S94 Plan No. 4 (Version 4.0)
(Bilambil Heights - Commercial)

The payment of the contribution will be permitted by four instalments over a period of 3 years subject to a bank guarantee being provided for the full amount.

- b. *Open Space (Structured):* \$6,848.00
S94 Plan No. 5

- c. *Extensions to Council Administration Offices
& Technical Support Facilities* \$7,616.00
S94 Plan No. 18

2. *Condition 2 of Schedule B be amended to read as follows:*

2. *Carool Road between the roundabout at the intersection of Carool Road and Bilambil Road and the development site is to be upgraded to provide a Type D pavement. This will involve the upgrading of two sections as follows:*

- a. *from 2.5km to 2.85m being widened by 1.0m*
b. *from 2.85 to 3.1m being widened on the top side bank.*

Detailed engineering plans are to be submitted and approved by the Director Engineering Services prior to commencement of works. All works are to be completed prior to the issue of a occupation certificate for Stage 1.

Reports from Director Development Services

Alternatively, the payment to Council of \$28000 as a pro rata payment for the subject works. Should the monetary payment be acceptable all monies are to be paid prior to release of the second construction certificate.

3. *Condition 52 of Schedule B be deleted.*
4. *Condition 54 of Schedule B be amended to read as follows:-*
 54. *All access driveways and parking areas are to be sealed. Detailed engineering plans are to be submitted and approved prior to commencement of work. All driveways and parking areas are to be designed in accordance with the provisions of Council's Development Control Plan No. 2 and are to be constructed as part of Stage 1 with the exception of the requirement to linemark parking spaces.*
5. *Condition 62 of Schedule B be amended to read as follows:*
 62. *The golf course is restricted to use by guests visiting or staying at the resort."*

This resolution clearly required the section of Carool Road between the roundabout at the intersection of Carool Road and Bilambil Road and the development site to be upgraded to provide a Type D pavement from 2.5km to 2.85km as well as between 2.85km and 3.1km.

PROPOSAL

The applicant has requested that Council delete Condition 2(a) of Schedule B of the current consent which requires the section of Carool Road from 2.5km to 2.85km being widened by 1m.

The reason for this request is that the applicant believes that it was the intent of Council to delete this requirement and this was reflected in Council's resolution of 21 March, 2001 where 1(a) of this resolution stated as follows:-

- "a. From 3.1km to 3.6km being widened on the top side bank.*

Detailed engineering plans are to be submitted and approved by the Director Engineering Services prior to commencement of works. All works are to be completed prior to the issue of an occupation Certificate for Stage 1.

Alternatively, the payment to Council of \$28,000 as a pro-rata payment for the subject works. Should the monetary payment be acceptable, all monies are to be paid prior to release of the second construction certificate."

The applicant also claims that from discussions with Council Engineering staff that this requirement was also unnecessary.

For these reasons the applicant feels that this condition was placed on by error and therefore has requested its deletion.

ASSESSMENT

The resolution of 21 March, 2001, particularly in regards to the requirement to upgrade the road was not clear as the original reports to Council recommended that the condition relating to the roadworks be amended so that the applicant was not required to do any additional roadworks past

Reports from Director Development Services

the new driveway entrance to the development. Council originally adopted this resolution which required two sections of Carool Road to be upgraded. The section between 2.5km and 2.85km and 2.85km to 3.1km. At that time this condition also provided for the applicant to pay a monetary contribution of \$28,000 in lieu of doing the works. This resolution was subsequently rescinded and replaced with the new resolution.

The new resolution stated that the applicant was to upgrade the road between 3.1km to 3.6km which was the section of road past the driveway. This amended condition also retained the provision for the payment of \$28,000 to Council in lieu of doing the works.

It was assumed that it was the intent of Council at the time to amend the condition in relation to requiring works past the proposed new driveway to be done and that by the resolution still containing the option of payment of \$28,000 that Council intended to retain the requirement to upgrade the section between 2.5km to 2.85km.

This amended resolution also failed to address the issue of re-staging of the development. Subsequently, a further report was submitted to Council on 18 April, 2001 which sought clarification of the resolution of 21 March, 2001 and recommended to Council that the application to modify the development consent be approved in line with amendments to conditions as was believed to be the intent of Council's previous resolution. Council at this meeting resolved to adopt this recommendation with the requirement to upgrade the section of road between 2.5km to 2.85km.

Subsequent to Council's last resolution a further inspection was undertaken by the Manager of Works and the Director of Engineering Services. The section of roadway between 2.5 and 2.85km has a seal width between 5 and 5.5m. Type D requires a 6m seal on a 8.6m formation. While the seal is less than the required 6m, there is sufficient formation to allow the safe passing of 2 vehicles, which is the objective of a Type D road. This section of roadway is consistent with the balance of the road to the Carool Road roundabout. Therefore while it is essential that upgrading works are undertaken between Chainage 2.85 and 3.1km, the condition requiring upgrading between 2.5 and 2.8km could be waived.

Based on this advice it would appear reasonable for Council to delete this requirement.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should Council refuse to support the current Section 96 application, the applicant has a right of appeal to the Land and Environment Court.

OPTIONS

1. That Council requires the upgrade of the section of Carool Road between 2.5km to 2.85km.
2. That Council deletes the requirement to upgrade the section of Carool Road between 2.5km to 2.85km.

CONCLUSION

As a result of the various recommendations adopted by Council regarding this matter it is not clear whether the section of Carool Road between 2.5km to 2.85km was required to be upgraded. The applicant claims that it was not the intent of Council to require this section of road to be upgraded and therefore the amendment to Condition 2(a) adopted by Council on 18 April, 2001 was incorrect

Reports from Director Development Services

and therefore he requests that this condition be deleted. From the amended resolution of 21 March, 2001, it was interpreted that the requirement to upgrade this section of road be maintained and that Council intended to delete the requirement to upgrade the section of road past the new driveway entrance to the property. This appeared to be confirmed in Council's resolution of 18 April, 2001. Given the latest advice from DES it would be reasonable to delete this requirement.

Reports from Director Development Services

12. ORIGIN: Development Assessment Unit

FILE REF: DA1993/10 Pt5

REPORT TITLE:

The Erection of a Multi-Dwelling Housing Development Comprising 46 Dwellings (Precinct 7) at Lot 3, DP 883645, Kirkwood Road, Tweed Heads South

SUMMARY OF REPORT:

Council granted Development Consent 0005/2001DA for the erection of a multi-dwelling residential development comprising of 46 dwellings for a future Master Lot known as Precinct 7. This Master Lot, Precinct 7, is to be created from the Subdivision of Lot 3, DP 883645, Kirkwood Road, Tweed Heads South. The applicant has lodged a Section 96 application to have Condition's No. 4 and 8 deleted from the Consent, and have the application fee of \$350 refunded.

The two conditions in question require the following:

4. Prior to the issue of the construction certificate for the erection of any buildings, the Master Lot known as Precinct 7 or Proposed Lot 3 under Development Consent S98/31 is to be registered with the Lands Titles Office.
8. Condition No. 31 of Development Consent S98/31 to be complied with prior to the release of the construction certificate for the erection of any buildings.

Condition No. 31 of Development Consent requires the submission and approval of sedimentation, erosion and pollution control plans, the installation of these measures and the construction and installation of trash racks/ gross pollutant traps and sedimentation ponds/ infiltration ponds.

The two Conditions were placed on the consent to ensure that the development proceeded in a co-ordinated manner, to ensure that all necessary infrastructure is in place necessary to service the 46 dwellings, including, public roads, water, sewer, stormwater and to ensure appropriate measures were put in place for sedimentation, erosion and pollution control during the construction phase of the dwellings. The conditions are not out of the ordinary and are in accordance with the objectives and provisions of Clause 15 of Tweed Local Environmental Plan 2000 and Part 19.2.2 of Development Control Plan No. 16, Subdivision Manual.

The application has been reviewed and the following has been recommended to protect the integrity of the environment; to ensure all necessary infrastructure has been constructed to Council's minimum standards for future residential development, and so that the public interest will not be compromised.

RECOMMENDATION:

That Development Consent 0005/2001DA for the erection of a multi-dwelling housing development comprising 46 dwellings (within Precinct 7) at Lot 3, DP 883645, Kirkwood Road, Tweed Heads South, be amended in the following manner:

Reports from Director Development Services

1. **Amend Condition No. 4 so that it reads:**
 4. Prior to the issue of the Construction Certificate for the erection of any buildings, Stage 3B of the Subdivision Consent S98/31 (as amended on 9/4/2001) be completed, and the Subdivision Certificate for this Stage be released by Council.
2. **Add the following two Conditions as Prerequisites**
 - # A certificate to be submitted to Council by a Registered Surveyor certifying that Precinct 7 has been filled to a minimum of 2.65 metres AHD prior to the issue of the Construction Certificate for any building.
 - # A Geotechnical Report to be submitted to Council from a Registered Geotechnical Engineer certifying that the filling operations comply with Australian Standard AS3798-1996.
3. It is further recommended that the Section 96 Application Fee of \$350.00 not be refunded.

Reports from Director Development Services

REPORT:

Applicant: Gary Shiels & Associates Pty Ltd

Owner: Kirkwood Estates Pty Ltd & Broadsteel Pty Ltd

Location: Lot 3, DP 883645, Kirkwood Road, Tweed Heads South

Zoning: 2(c) Urban Expansion

Est Cost: Not applicable

BACKGROUND

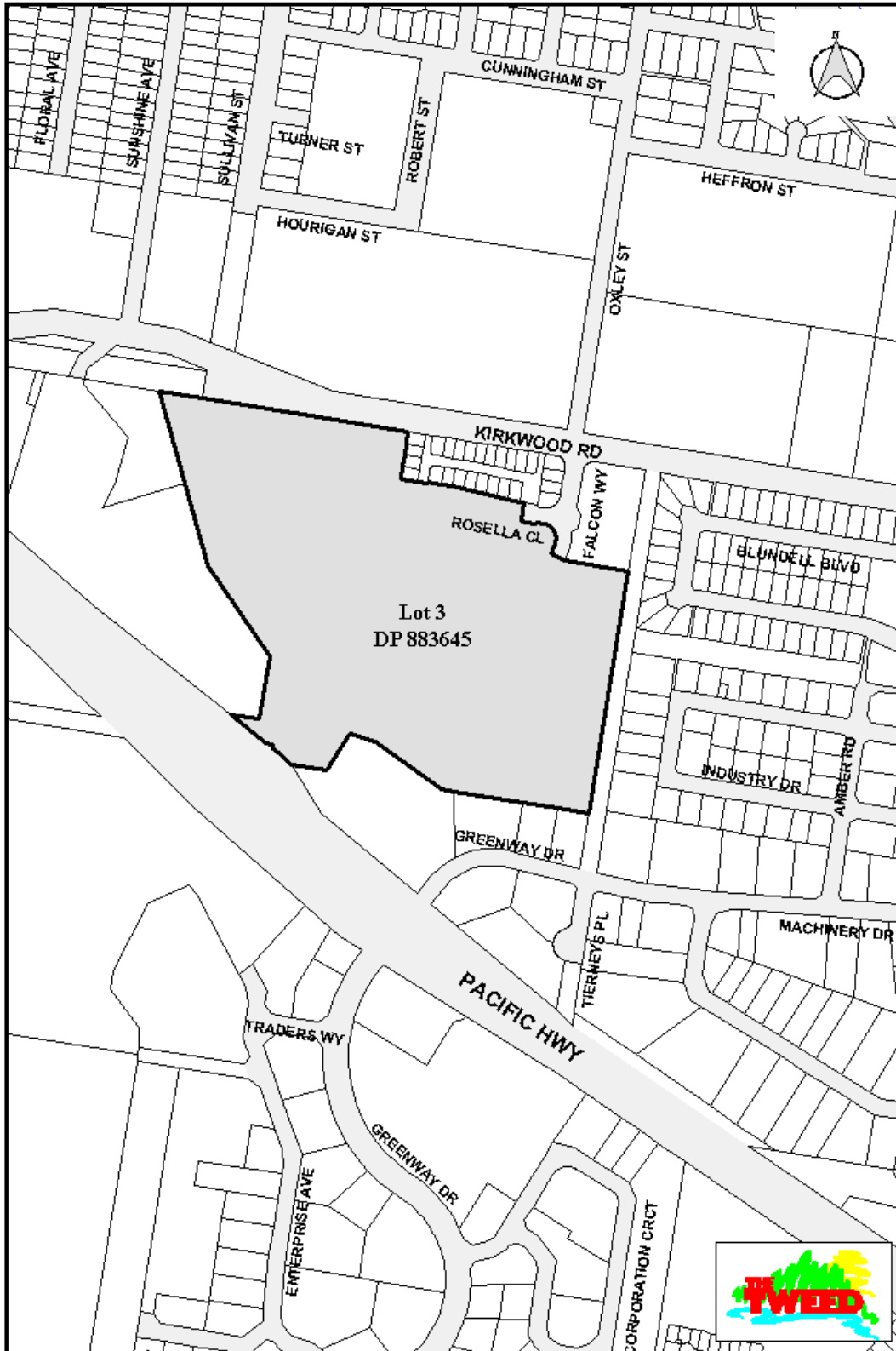
Council granted development consent (0005/2001DA May 4, 2001) for a medium density development comprising 46 dwellings on a development lot known as Precinct 7 to be created by the subdivision of Lot 3, DP 883645, Kirkwood Road, South Tweed Heads.. This Subdivision was initially approved by Council on September 11, 1998 under Development Consent S98/31. This Subdivision Consent has been amended twice to alter the staging of the subdivision and to change the titling arrangements from Torrens Title to Community Title. Filling of the land commenced at the end of April 2001.

The applicant has submitted a Section 96 Application to amend Development Consent 0005/2001DA by the deletion of Conditions 4 and 8. Condition No. 4 requires the development Lot known as Precinct 7 to be registered with the Lands Title Office prior to the issue of a Construction Certificate for the erection of any building. Condition No 8 requires the applicant to comply with Condition No. 31 of the Subdivision Consent S98/31 prior to the issue of a construction certificate for the erection of any building. This requires the submission of sedimentation and erosion control plans, the installation of trash racks and gross pollutant traps and the construction of sedimentation ponds/infiltration ponds.

The applicant has proposed that he be allowed to commence construction works on the 46 dwellings prior to the registration of the master lot known as Precinct 7 with the Lands Title Office, and prior to compliance with Condition 31 of the Subdivision Consent. The applicant has proposed that work on Public Utilities such as roads, water, sewer, stormwater and sedimentation and erosion control measures would be undertaken concurrently with the construction of the 46 dwellings. The applicant has requested Council refund the Section 96 Application fee of \$350.00 as these matter should have been resolved prior to the Consent being issued.

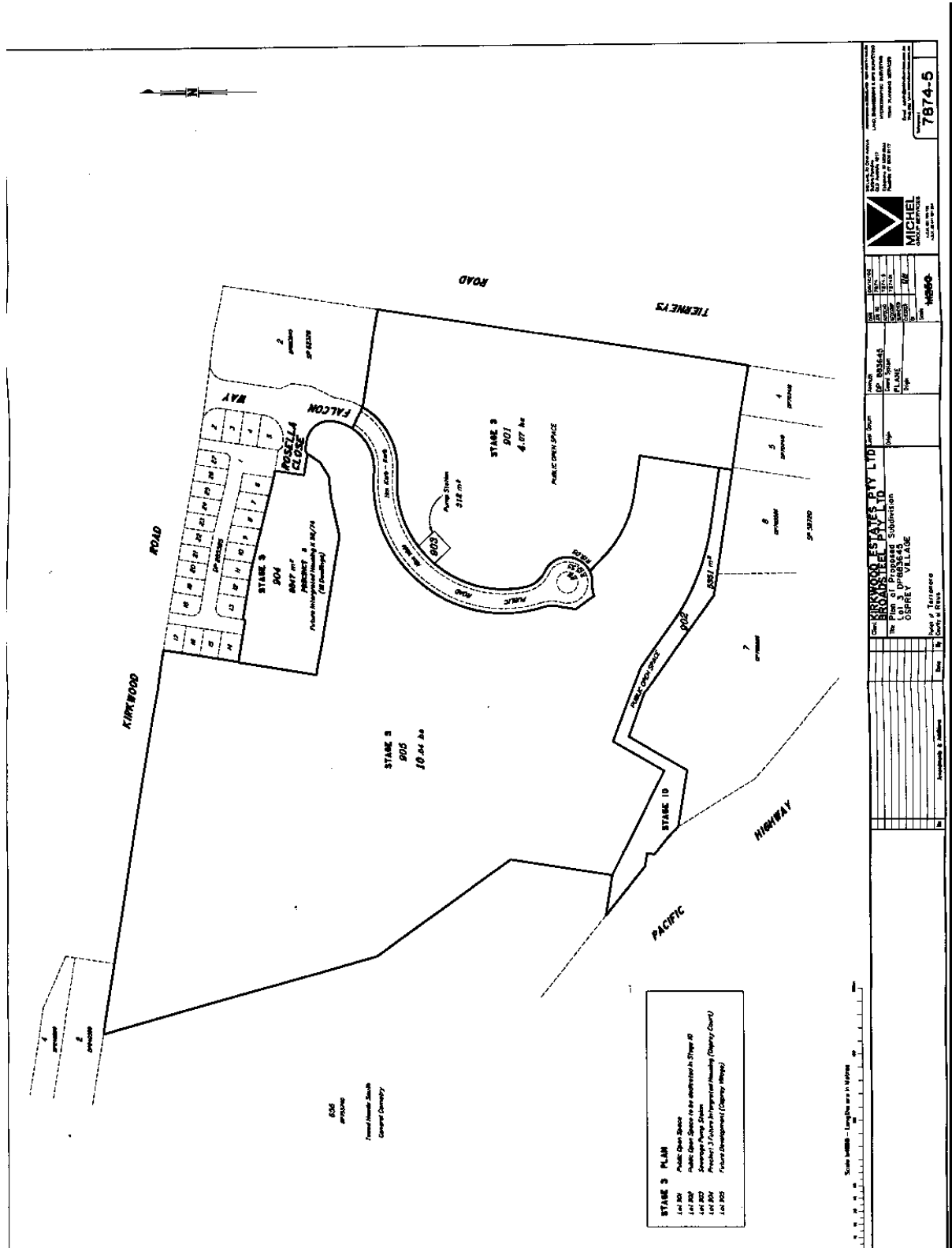
Reports from Director Development Services

SITE DIAGRAM



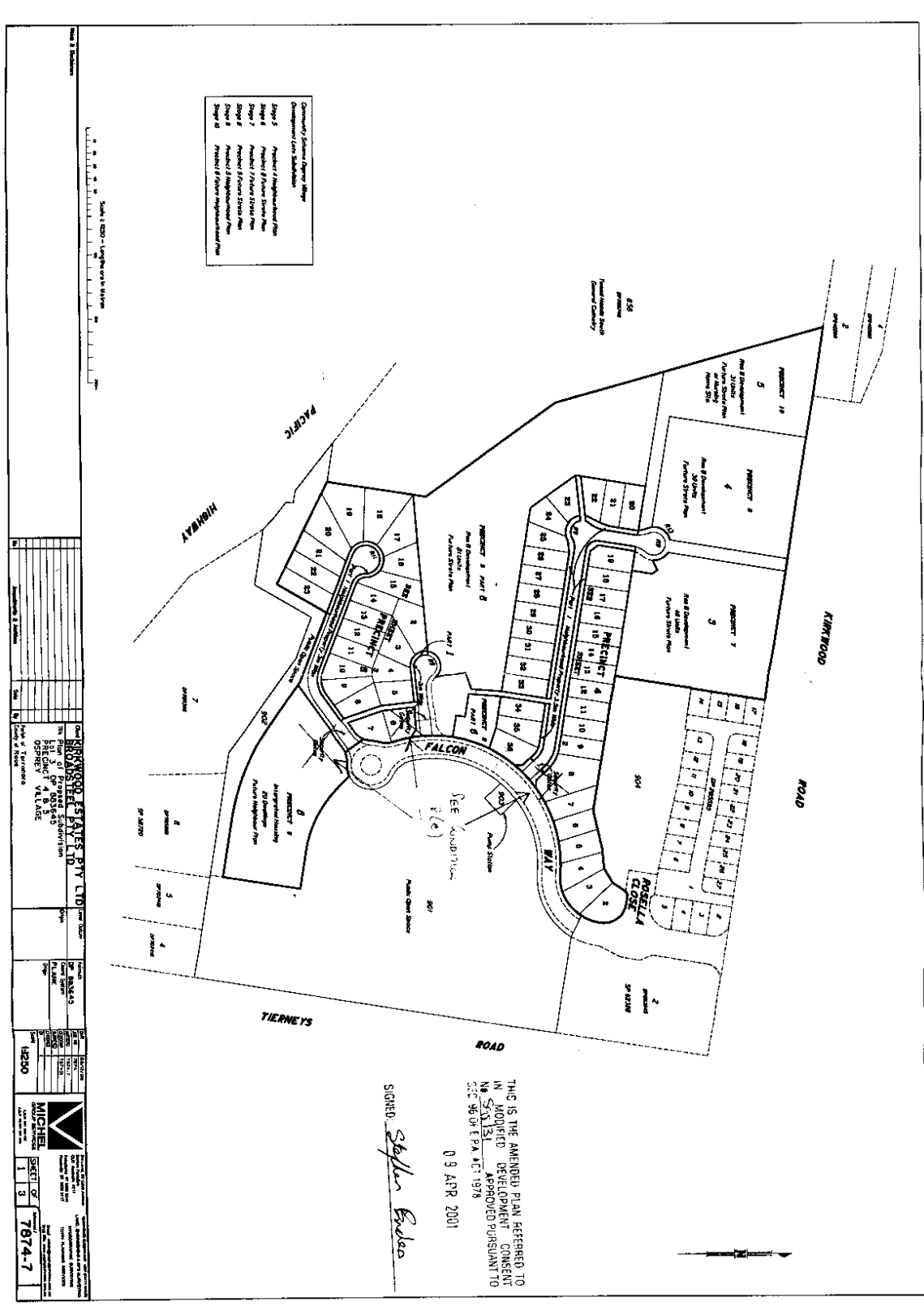
Reports from Director Development Services

PLAN OF SUBDIVISION FOR STAGE 3B AS APPROVED UNDER CONSENT S98/31



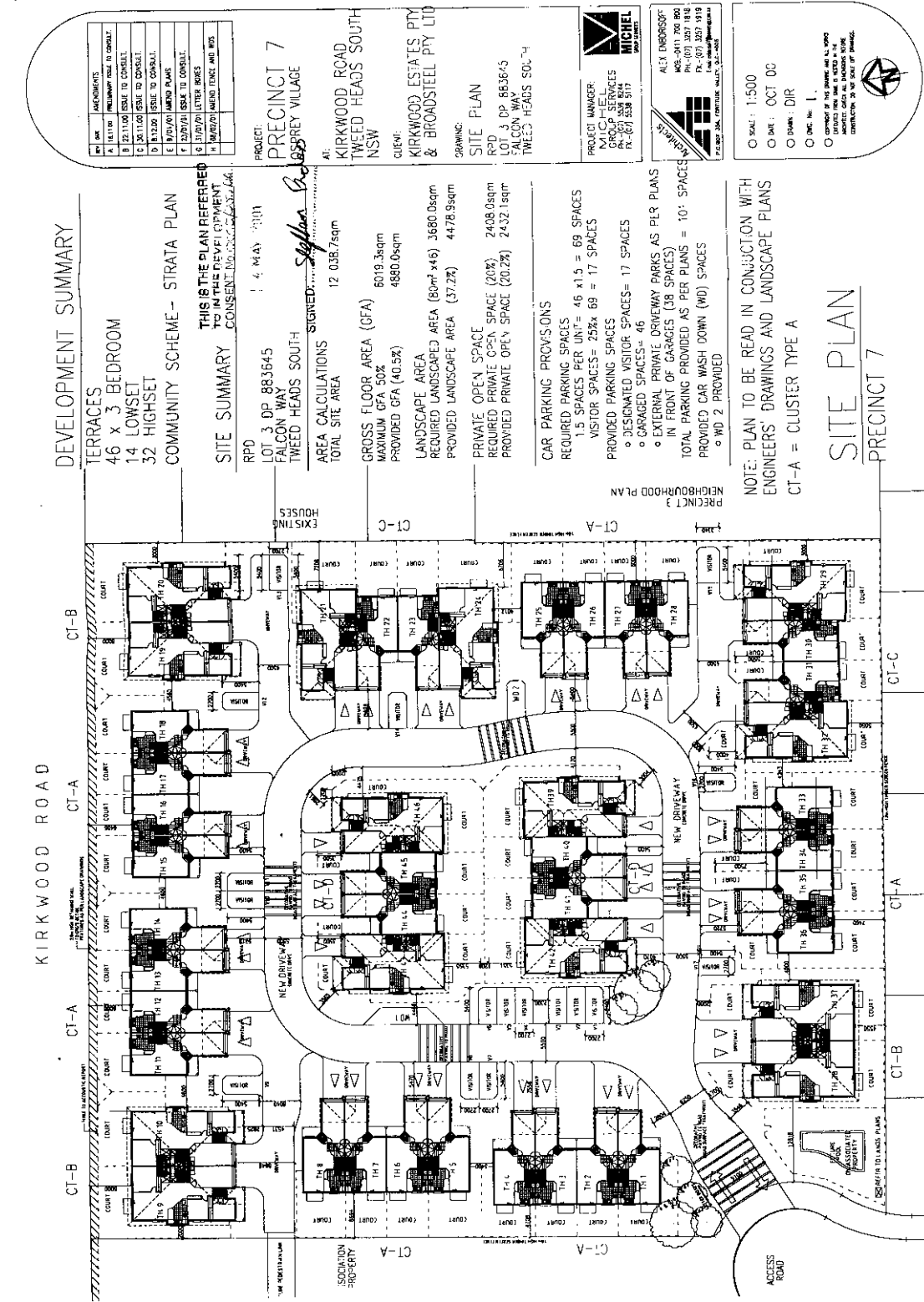
Reports from Director Development Services

PLAN OF SUBDIVISION FOR STAGE 4 AS APPROVED UNDER CONSENT S98/31



Reports from Director Development Services

BUILDING LAYOUT FOR PRECINCT 7



Reports from Director Development Services

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

Tweed LEP – Clause 15 Availability of Essential Services

The objectives of this clause are as follows:-

“1) Objectives

- *To ensure that development does not occur without adequate measures to protect the environment and the community’s health. and*
- *To ensure that development occurs in a co-ordinated and efficient manner.”*

The second part of Clause 15 requires the following:

“2) Consent must not be granted to the carrying out of development on any land unless:

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

It is considered that Council could only approve the development with the imposition of the two conditions in question for the following reasons.

1. If Precinct 7 is registered with the lands title office, then Council will be satisfied that all necessary infrastructure is in place to service the future dwellings. This includes:
 - a. The extension of a Public Road being Falcon Way and the construction of an internal road to service the Precinct;
 - b. The construction of a necessary sewer pump station.
 - c. Water, sewer, stormwater, electricity and telephone has been extended to Precinct 7;
2. The construction of sedimentation ponds and infiltration ponds, the installation of trash racks and gross pollutant traps, and the submission and approval of sedimentation, erosion and pollution control plans will ensure any stormwater leaving the site which is likely to carry silt etc can be treated effectively before it enters an adjoining stormwater canal and ultimately the Tweed River. Further, the compliance with this condition will aid the developer in complying with the provisions of the Protection of the Environment Operations Act 1997 during the construction of the dwellings. It is noted that Council has approved the Sedimentation, Erosion and Pollution Control Plans and discussions with the

Reports from Director Development Services

Project Manager for the Subdivision indicate that the Condition should be complied with by late June/ early July weather permitting.

3. Without the imposition of these conditions the development may occur in an uncoordinated fashion. Similar situations have arisen in the past where Council has granted developers concessions to enable construction of dwellings prior to the necessary infrastructure being put in place. Such examples include.
 - a) The Endless Summer Estate – Caloola Drive, Tweed Heads: Council allowed the construction of dwellings on lots within this estate while the infrastructure was being constructed during the late 1980's. Unfortunately dwellings were completed and occupied prior to a sewer pump station being commissioned which constituted a health risk for the Council to deal with.
 - b) The Villa World Estate – Gollan Drive Tweed Heads West: This development completed during 2000 created a number of problems in that the dwellings were constructed and contracts were drawn up for sale prior to the linen plan for subdivision being released. Council was unable to release the linen plan for a number of months until all conditions of consent were satisfied. These included the construction of the driveways to the correct grade, the infrastructure completed to satisfy Council's minimum standards, and survey details that the land had been filled to the appropriate height, and compacted to the appropriate standard.

As this development was not completed in a co-ordinated manner various Council staff were continuously contacted by developers, real estate agents, future residents and their solicitors alike to release the linen plan. If the linen plan was released when the dwellings were completed then Council would have been accepting sub standard infrastructure and a non compliant development which may have proven to be a financial liability at a latter stage to Council and ultimately the rate payers of the Shire.

4. In accordance with DCP 16 – Subdivision Manual, Part 19.2.2 it is standard policy to require development lots to be fully serviced with all public utilities for building occupancy prior to the linen plan of subdivision being released by Council. This has the effect of restricting the future construction of residential development on development lots until such time as the linen plan is registered with the Lands Title Office, but ensures Council is satisfied with the standard of roads, water, sewer and stormwater infrastructure. Normally Council will not even accept development applications for proposed lots like Precinct 7 until they are registered with the Lands Title Office. However to facilitate the development of this land Council agreed to process five separate applications on five separate Development Lots being Precinct 6, 7, 8, 9 and 10.

Section 96 of the Environmental Planning and Assessment Act 1979

Proposed amendments can be considered under the provisions of Section 96 of the Environmental Planning and Assessment Act.

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Condition No 4

The subdivision consent is for a Community Title Development to be constructed in Five Stages. This staging arrangement has been approved as proposed by the applicant in their latest Section 96 Application issued on April 9, 2001. The following is a summary of the subdivision stages.

The first stage (known as stage 3A under Consent S98/31 – the first two stages have been completed under separate approvals) granted approval for bulk earthworks, ie the filling of the land which is currently underway. This stage also requires the developer to demonstrate that the land has been filled in such away that a desired level of compaction has been achieved which is suitable for the construction of residential buildings on.

The second stage (known as Stage 3B) required the developer to extend Falcon Way, construct a sewer pump station, and install all necessary public infrastructure such as water, sewer, stormwater measures, electricity and telephone.

The third stage (known as Stage 4) would see the creation of the Seven Master Lots known as Precinct 4 to 10, and the construction of the private roads and the laying of private services connecting this private infrastructure to Council's Infrastructure.

The fourth and fifth stages (Known as Stages 5 and 6) approved the further subdivision of Precincts 4 and 5 for single dwellings.

As Condition No. 4 now stands the applicant would be required to complete the third stage (Stage 4) before Council would release the Linen Plan of Subdivision so that it could be registered with the Lands Title Office. As explained previously this is normal practice by Council to ensure that the subdivision of the land and its subsequent development is carried out in a co-ordinated and efficient manner and to ensure that all services and public infrastructure are constructed to Council's Minimum Standards, and that the development does not adversely impact upon the environment nor the health of the community. This is in accordance with Clause 15 of Tweed LEP 2000 and Part 19.2.2 of DCP 16 –Subdivision Manual.

However, should Council wish to delete this Condition the following risks are noted for their consideration:

1. The dwellings are completed and occupied without all essential services being connected to them, which may lead to a health risk.
2. The dwellings are completed and future homebuyers have initiated contracts with the developer prior to the completion of the essential services and infrastructure being completed to Council's Minimum Standard. Council is then perceived by the Public as hindering homebuyers in their attempt to move from rental accommodation to home ownership. Council staff are then further pursued by these home owners and their solicitors to release the Linen Plan, which diverts Council resources from dealing with other Development Applications, and creating further delays.

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3. That dwellings are erected on land that has not been filled to the required levels or compacted satisfactorily.

As an alternative Council could amend the Condition requiring the first two stages be completed prior to allowing buildings to be erected. This will ensure that all **public** infrastructure is installed including a new sewer pump station, the extension of Falcon Way, and water, sewer and stormwater services are provided to Council's minimum standard. The developer will therefore be required to complete the private neighbourhood road and install private infrastructure to the development from the public infrastructure in conjunction with the construction of the dwellings. Further should this approach be pursued then an additional condition should be added to the Consent to ensure that the land has been adequately filled to a height of 2.65 m AHD and compacted in accordance with AS3798-1996.

Condition No. 8

It is recommended that this condition should not be deleted for a residential development of this scale as it is fundamental to have sedimentation and erosion control and water quality measures in place and operational prior to building activity commencing so that the integrity of the environment is not placed at risk. In this instance stormwater will discharge to adjoining stormwater canals and eventually into the Tweed River. Sediment is a known factor in affecting water quality which in turn affects the ecosystem of mangroves and fish breeding grounds. The protection of these systems is essential not only for the aquatic flora and fauna that they support, but also for the Tweeds Tourism and Fishing Industries, and the recreation of visitors and residents alike.

No other details have been submitted in the Section 96 Application as to how sedimentation, erosion and pollution would be controlled specifically for Precinct 7.

However, should Council support the deletion of this Condition it is recommended that the following Condition be adopted to ensure that specific sedimentation, erosion and pollution controls are in place for Precinct 7.

- * Details to be submitted and approved by the Director of Development Services prior to the issue of the Construction Certificate for any building, for sedimentation and erosion control measures to be installed specifically for Precinct 7. Such measures are to be in accordance with the publication "Managing Urban Stormwater" prepared by the NSW Environment and Protection Authority (Vol 1-3), and are to be implemented prior to Construction work commencing within Precinct 7. The plans must consider the maintenance requirements of the control measures and a Maintenance Manual for the Pollution Control Devices shall also accompany the plans. These plans are to make provision for a reduction in total phosphorous to achieve levels in accordance with the aims of the above publication.

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(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

As discussed above there are risks associated with the deletion of the two conditions and the development may adversely impact upon the environment by not having appropriate sedimentation and erosion control measures in place.

(e) Public interest

It is not in the public interest to delete the two conditions, due to the risk to the environment, both natural and built, and to ensure that the development occurs in a co-ordinated manner, whereby all public infrastructure is in place and operational prior to construction activities commencing on-site. This removes any risk of future residents moving into the dwellings prior to the infrastructure being completed to Council's satisfaction. The applicant has argued that time is all important, but the subdivision was approved on 11 September 1998 and earthworks have only just commenced. It is therefore considered unreasonable for Council to vary its policies and standard practices which serve the public interest in this instance to allow this development to occur without the proper infrastructure and sedimentation erosion and pollution controls in place.

OPTIONS

1. Approve the Application by amending Condition No 4 requiring that the second stage of the subdivision be completed prior to issue of the Construction Certificate for Precinct 7. Condition No. 8 remains unchanged. Two additional conditions are recommended to demonstrate that the land has been filled to the appropriate height of 2.65 metres AHD, and an appropriate level of compaction has occurred on the property in accordance with Australian Standard 3798-1996.
2. Approve the Application by deleting Condition No. 4, but amend Condition No 8. by requesting site specific sedimentation and erosion control measures for Precinct 7. Two additional conditions are recommended to demonstrate that the land has been filled to the appropriate height of 2.65 metres AHD, and an appropriate level of compaction has occurred on the property in accordance with the Australian Standard 3798-1996.
3. Refuse the Application.
4. Approve the Application and delete both conditions

CONCLUSION

The two conditions were placed on the consent to ensure that the development proceeded in a co-ordinated manner, to ensure that all necessary infrastructure is in place necessary to service the 46 dwellings, including, public roads, water, sewer, stormwater and to ensure appropriate measures were put in place for sedimentation, erosion and pollution control during the construction phase of the dwellings. The conditions are not out of the ordinary and are in accordance with the objectives and provisions of Clause 15 of Tweed Local Environmental Plan 2000 and Part 19.2.2 of Development Control Plan No. 16, Subdivision Manual.

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It is recommended to protect the integrity of the environment, to ensure all necessary infrastructure has been constructed to Council's minimum standards for future residential development, and so that the public interest will not be compromised that the Section 96 Application not be approved as requested, but adopt Option 1.

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13. ORIGIN: Development Assessment Unit

FILE REF: DA4040/5115 Pt2

REPORT TITLE:

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

SUMMARY OF REPORT:

The abovementioned application was reported to Council at its meeting dated 16 May, 2001. In this regard Council resolved as follows:-

- “1. Council supports the approval of this development on a “deferred commencement” basis 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.*
- 2. A report be brought forward to the next Council meeting recommending appropriate conditions.”*

Not only does this report set out appropriate conditions in accordance with the resolution of Council, it also incorporates relevant conditions pertaining to the erection of the structure, associated toilets and the sale and preparation of food.

RECOMMENDATION:

That Council determines the application.

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REPORT:

Applicant: Mr P Youngblutt
Owner: N & S Walker and B & S Roach
Location: Lots 1, 2 and 3 DP 537745 Pacific Highway, Fervnale
Zoning: 1(a) Rural

BACKGROUND

Council is in receipt of an application to establish a Rural Tourist Facility on the abovementioned site. This matter was reported to Council at its meeting dated 16 May, 2001 (see attachment) where the following resolution was carried:-

- “1. Council supports the approval of this development on a “deferred commencement” basis 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.*
- 2. A report be brought forward to the next Council meeting recommending appropriate conditions.”*

In accordance with the resolution of Council, a list of recommended conditions follow, with the conditions structured to incorporate a “deferred commencement” format.

The issuing of a deferred commencement consent requires the consent authority to nominate a time period in which the applicant must satisfy the deferred matter. Furthermore, a period of five (5) years is given in which the consent must be acted upon. Having regard to these requirements, it is considered that a period of two (2) years be given in which the deferred matter must be satisfied, thereby allowing sufficient time in which the applicant must gain approval under Section 138 of the Roads Act and the Pacific Highway be transferred to Council ownership.

PROPOSED CONDITIONS

DEFERRED COMMENCEMENT

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule “A”. Such evidence is to be provided within two (2) years of the date of notification.

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

SCHEDULE “A”

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

1. That approval under Section 138 of the Roads Act be gained for all works required by this consent.

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2. That the ownership and control of the Pacific Highway adjacent to the subject land has been transferred to Council.

SCHEDULE B

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

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

1. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted for approval by Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
2. (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

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

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

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

- a. Tweed Road Contribution Plan:
\$2,211.30

S94 Plan No. 4 (Version 4.0)

(Keilvale – Commercial)

- b. Extensions to Council Administration Offices
& Technical Support Facilities
\$69.00

S94 Plan No. 18

3. Access to the property is to be upgraded to an Austroads Guide to Traffic Engineering Practice Part 5 – Rural Type A Intersection including:-
 - Sight distance of 170m in both directions;

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- Sealed shoulders 3m wide to allow through traffic to pass turning vehicles; and
- No stopping signs 50m each side of the access on the eastern and western sides of the road.

Detailed engineering plans incorporating the above requirements are to be submitted for the approval of Council prior to the release of the construction certificate.

4. A detailed Traffic Plan of Management for the construction phase is to be submitted and approved by Council's Director of Engineering Services prior to the release of the construction certificate.
5. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.

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

(i) Building Work

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

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

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

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

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

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

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply

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

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

GENERAL

6. The development shall be completed in general accordance with Plan Nos 004505 (1 to 4) prepared by John Robinson and dated March 2000, except where varied by these conditions.
7. 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.
8. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
9. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
 1. Creation of a right of carriageway servicing the proposed development site.

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

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

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

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

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

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- v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
- 13. The glazier is to supply the PCA with certification that all glazing complies with AS 1288 and AS2047 of the Building Code of Australia.
- 14. Manufacturers certification is to be provided to the PCA from the Roof Truss manufacturer to certify the roof truss design.
- 15. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.
- 16. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
- 17. All trade materials, product and plant to be kept within confines of the building at all times.
- 18. All loading/unloading to take place within the boundary of the subject property.
- 19. The proposed structures are not to be used or adapted for separate residential habitation or occupation.

PRESCRIBED (BUILDING)

- 20. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
 - (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
- 21. 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

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- b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
22. 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.
23. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
24. 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.
25. 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.

DISABLED (BUILDING)

26. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.
27. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.

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28. Prominently displayed signs and symbols must be provided to identify for disabled persons all routes and areas where architectural barriers do not exist. Such access must comply with the requirements of Australian Standard AS 1428 Parts 1 and 2.
29. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
30. Disabled car parking spaces are to be provided at the rates provided for under Part D3.5 of the Building Code of Australia and constructed in accordance with Australian Standard AS2890.1.

FOOD PREMISES

31. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.
32. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. **Note:** Stud framed walls will not be acceptable. Intersections of all floors with walls shall be covered to a radius of not less than 25 millimetres.
33. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.
34. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises.

DRAINAGE/FLOODING

35. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2-1998. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.
36. All surface and seepage waters liable to be a nuisance are to be collected and diverted clear of the building site by an approved drainage system separate to the roof water system.

ENVIRONMENT PROTECTION

37. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

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38. 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.
39. 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.
40. 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.
41. The burning of builders waste on site by open fire is prohibited.
42. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
43. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.
44. The wall and roof cladding is to be of a non reflective nature to the satisfaction of the Principal Certifying Authority.
45. All foods shall be stored in a clean and wholesome condition in accordance with the Food Act, 1989.
46. A drinking water quality management plan shall be prepared and submitted for the approval of Council prior to the commencement of operations. All operations shall be in accordance with the approved plan.
47. Council officers may inspect the premises annually with each inspection subject to the requisite fee.
48. Council approval to install and operate the on-site sewage management facility shall be obtained prior to the installation of the proposed facility.
49. A hot water basin is to be provided for the ease and convenience of staff members within the food preparation and display area.
50. A garbage storage area shall be provided in accordance with Council's "**Code for Storage and Disposal of Garbage and Other Solid Waste**".

PLUMBING & DRAINAGE

51. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

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- a internal drainage, prior to slab preparation;
 - b water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c external drainage prior to backfilling.
 - d. completion of work.
52. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
53. It is a condition of this consent to operate a system of sewage management that this clause is complied with.
- (i) The sewage management facilities used in the operation of the system must be maintained in a sanitary condition and must be operated in accordance with the relevant requirements of this Regulation.
 - (ii) A sewage management facility used in the operation of the system must not discharge into any watercourse or onto any land other than its related effluent application area.
 - (iii) The conditions (if any) of any certificate of accreditation issued by the Director-General of the Department of Health under this Division in respect of the plans or designs for any components of the sewage management facilities must be complied with.
 - (iv) The person operating the system of sewage management must provide details of the way in which it is operated, and evidence of compliance with the relevant requirements of this Regulation and of the conditions of the approval, whenever the Council reasonably requires the person to do so.
54. Water plumbing shall **not** be installed in concrete slabs or be laid under slabs on the ground.
55. Impervious floors, properly graded and drained are to be provided to wet areas.
56. It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the Council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.
57. Drainage lines must not penetrate footings unless certification is first obtained from a practising Structural Engineer.
58. The licensed Plumber/Drainer is to liaise with Council's Health and Building Surveyor to determine the location and design of the septic tank installation.
59. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

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60. All drainage lines are to be continuously bedded in accordance with the provisions of Section 5.4 AS 3500.2 - 1990.
 61. Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
 62. Council is to be notified, in writing, of any proposed changes to the waste treatment device.
 63. The finished floor level of the building should finish not less than 225mm above finished ground level.
-

Reports from Director Development Services

14. ORIGIN: Strategic Town Planning Unit

FILE REF: Development Control Plan

REPORT TITLE:

Development Control Plan – Socio-Economic Assessment

SUMMARY OF REPORT:

This report describes the purpose, content and implications of the draft Development Control Plan for Socio-Economic Impact Assessment which implements Clause 17 of the Local Environmental Plan 2000. It concludes that the Development Control Plan will enable better development outcomes to be achieved by increasing the focus on social and economic issues in considering development applications.

RECOMMENDATION:

That Council exhibits the draft Development Control Plan - Socio-Economic Impact Assessment, Requirements for the Assessment of Socio-Economic Impacts of Developments - attached to this report in accordance with Section 72 of the Environmental Planning and Assessment Act 1979.

Reports from Director Development Services

REPORT:

The draft DCP for Socio-Economic Impact Assessment is an appendix to this report. It has been prepared in consultation with the Development Assessment Unit.

BACKGROUND

The Environmental Planning & Assessment Act does include as one of many matters for consideration 'social and economic impacts in the locality' (S79(c)(1)(b)). Subsequently, when Council adopted the Tweed Local Environmental Plan 2000, a specific clause was included to help assess these impacts:

"17. Social impact assessment

(1) Objective

- *To ensure proper consideration of development that may have a significant social or economic impact.*

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

(3) The social impact statement must:

- (a) identify the likely future impacts of the development and the affected community; and*
- (b) analyse the impacts in terms of magnitude, significance, duration, effect on current and future conditions and community services, and the like; and*
- (c) determine and assess possible measures for the management or mitigation of likely impacts".*

The Tweed is now established as a 'high growth' area, and there have been many comments about the need to ensure quality in urban development, increase employment rates and some controversial issues about the compatibility of particular developments. It is important in these circumstances to establish a statutory framework that enables best practice procedures and outcomes. It has become normal practice to require detailed environmental impact assessments to be carried out for proposed developments in some circumstances, and there is an equal need to carry out detailed economic impacts and social impact assessments in some circumstances.

PURPOSE OF DCP

The overall Objective of Socio-Economic Impact Assessment is included in Clause 17 of the LEP and is:

"to ensure proper consideration of developments that may have a significant social or economic impact

Reports from Director Development Services

to effectively implement this the objectives of the draft DCP are as follows:

- (a) To ensure that applications for certain developments that are likely to have a significant social and economic impact are properly considered, in accordance with Section 79C of the Environmental Planning and Assessment Act 1979, the Tweed Shire 2000+ Strategic Plan (policies 46 and 125) and the Tweed Local Environmental Plan 2000.*
- (b) To set out Council's requirements for Socio-Economic Impact Statements as identified in Clause 17 of the Tweed Local Environmental Plan 2000.*
- (c) To achieve maximum benefit for the community from development activity, and mitigate negative impacts.*
- (d) To achieve economic growth through employment generating activities that adopts the concepts of Ecologically Sustainable Development."*

IMPLICATIONS FOR DEVELOPMENT ASSESSMENT

The DCP should have the effect of clarifying issues and assisting in identifying development which may have a significant social or economic impact. Council should be able to deal with development issues more effectively and systematically, and be able to identify with more certainty developments which do not have significant issues.

Socio-Economic Impact Assessment is not easy to apply to the multiplicity of diverse developments dealt with by local government. It has more often been applied to large scale economic developments which can justify a major assessment over a long period. It therefore needs a clearly defined framework and systematic approach, which the DCP provides.

EARLY CONSULTATION

The preparation of this draft has gone through a lengthy process of pre-exhibition consultation with internal and external agencies.

Other Councils were consulted to understand different approaches assessing social and economic impacts of development.

The Development Assessment Unit has given ongoing and critical advice on the mechanisms and structure of the DCP.

CONCLUSIONS

The DCP is designed to enable better outcomes by ensuring that social and economic considerations have been given proper regard, and that mitigation measures for any negative impacts have been considered. It will provide a framework for easily identifying developments which have significant impacts.

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15. ORIGIN: Development Assessment Unit

FILE REF: DA2131/230 Pt3

REPORT TITLE:

Amendment to Development Consent 0944/2000DA for the Erection of a 3 Storey Residential Flat Building Comprising 8 x 3 Bedroom Dwellings at Lot 40 DP 237678, No. 20 Frances Street, Tweed Heads

SUMMARY OF REPORT:

Council issued development consent (0944/2000DA) for a three storey residential flat building at No. 20 Frances Street, Tweed Heads. As a condition of that consent (Condition No. 21) the applicant was required to comply with Development Control Plan No. 39 Energy Smart Homes Policy in relation to the installation of energy efficient hot water systems which achieve a 3.5 Star Energy Efficiency Rating for the development. This condition has the effect of requiring the developer to install gas or solar water heaters rather than the standard electric systems. The applicant has submitted a Section 96 Application to have this condition deleted.

The applicant is also seeking a minor amendment to the design of the building and wishes to replace a window with a sliding door on the ground floor of the western side of the building. This minor amendment to the design of the building is recommended for approval. However the deletion of Condition No. 21 is not recommended for approval for the following reasons:

- Undermine the integrity of Council's Development Control Plan No. 39 Energy Smart Homes Policy reducing the effectiveness of Council's endeavours to reduce greenhouse gas emissions at a domestic level;
- It will create an undesirable precedent for multi dwelling housing development;
- The applicant has failed to demonstrate that gas hot water systems are economically unviable in this instance, despite Council requesting such costing details;
- Gas mains are located nearby for the development to connect to or provision could be made in the underground car park for the siting of a gas tank.

RECOMMENDATION:

That development consent 0944/2000DA for the erection of a residential flat building comprising 8 dwellings at Lot 40, DP 237678, No. 20 Frances Street, Tweed Heads, be amended in the following manner:

Condition No. 7 be amended to read

7. The development shall be completed in general accordance with Plans Nos 3600/WD/ - 01D, 02D, 04C, 05C, 06C, 07C, & 09A prepared by Pat Twohill Pty Ltd and dated July 2000, and Plans Nos 1 and 2, dated May 2001 except where varied by these conditions.

Reports from Director Development Services

REPORT:

Applicant: Mr KG Gessell

Owner: Crown Pastoral Co Pty Ltd, Deepwood Pty Ltd & Mr K Gessell

Location: Lot 40, DP 237678, No. 20 Frances Street, Tweed Heads

Zoning: 2(b) Medium Density Residential

Est Cost: 1200000

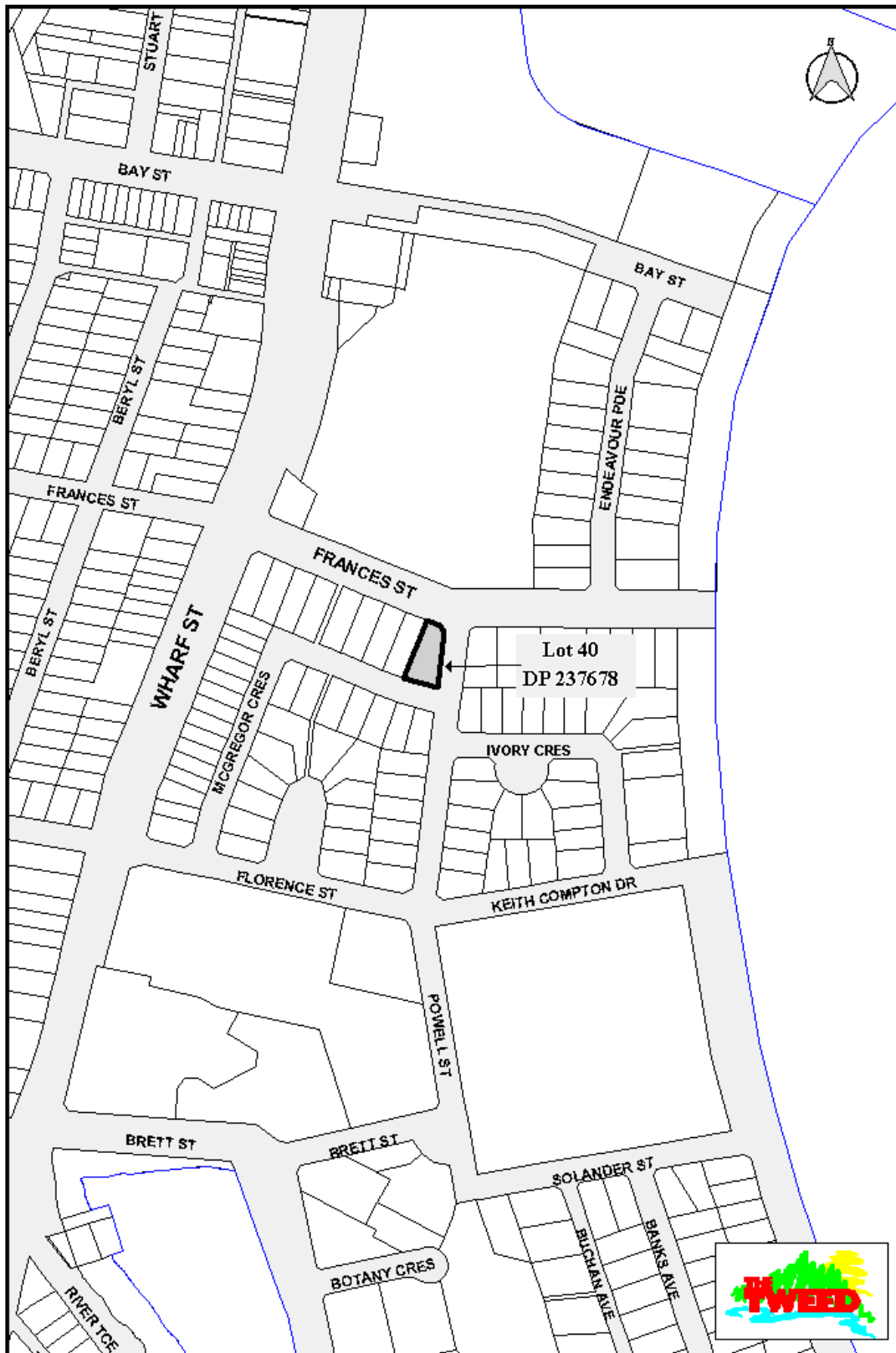
BACKGROUND

Council issued development consent (0944/2000DA) for a three storey residential flat building at No. 20 Frances Street, Tweed Heads. As a condition of that consent (Condition No. 21) the applicant was required to comply with DCP No. 39 Energy Smart Homes Policy in relation to the installation of energy efficient hot water systems which achieve a 3.5 Star Energy Efficiency Rating for the development. The applicant has submitted a Section 96 Application to have this condition deleted.

The applicant is also seeking a minor amendment to the design of the building and wishes to replace a window with a sliding door on the ground floor of the western side of the building.

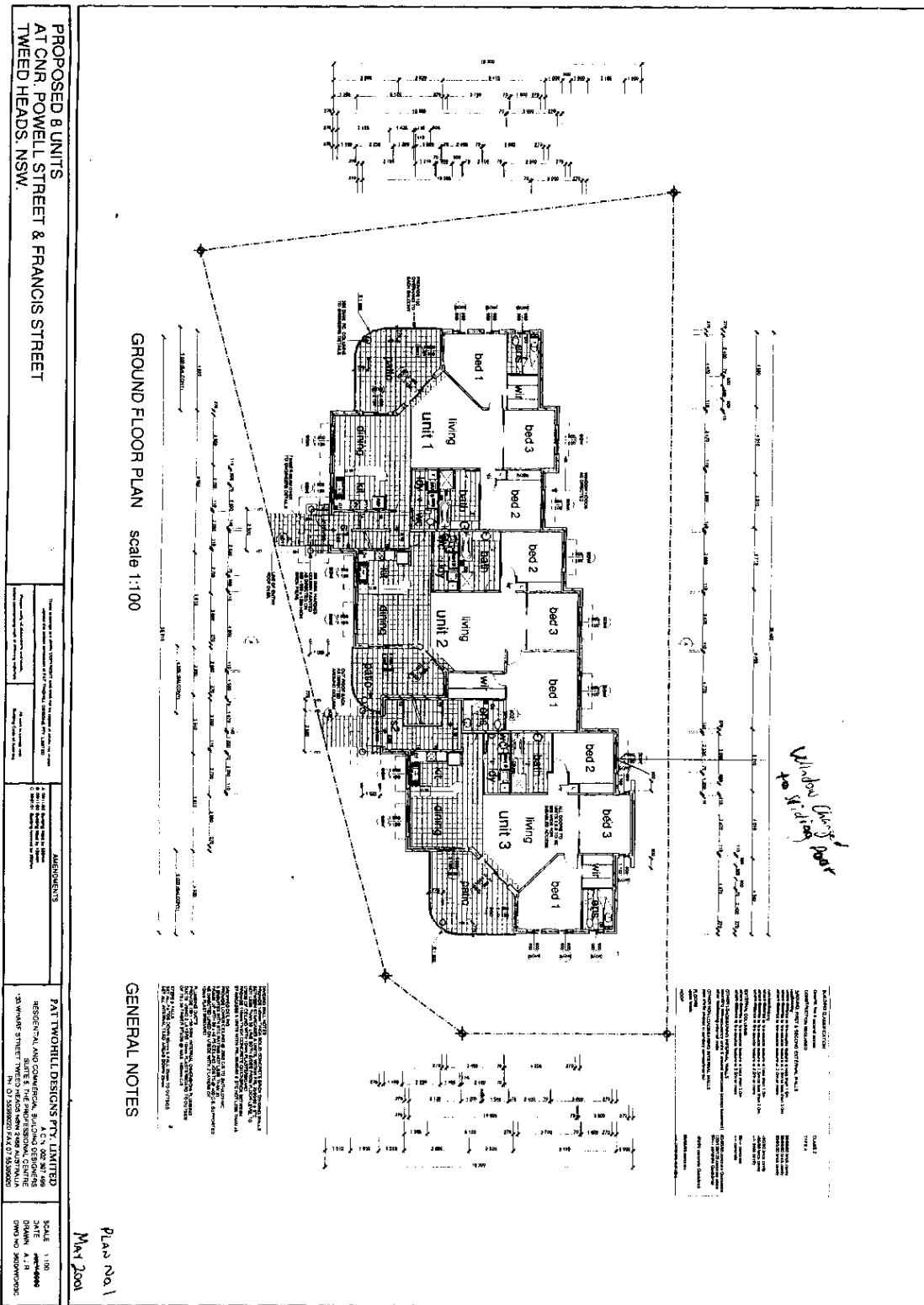
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SITE DIAGRAM



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AMENDED FLOOR PLAN



CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT

Reports from Director Development Services

ACT 1979

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

Section 96 Environmental Planning and Assessment Act 1979 (EPA Act 1979)

The proposed substitution of a sliding door for the window is consistent with the provisions of Section 96(1)(A) of the EPA Act 1979 and is considered to be substantially the same development. The Sliding Door will provide access from a bedroom within Unit 3 onto a landscaped podium level. Proposed amendment is minor in nature, and will not affect the overall appearance or function of the building.

The deletion of Condition No. 21 also falls within the ambit of Section 96 of the EPA Act 1979, and the development with or without energy efficient hot water systems will remain substantially the same development. The merits of deleting the condition are discussed below.

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

Development Control Plan No. 39 Energy Smart Homes Policy

The overall guiding principle of the Development Control Plan is to ensure dwellings through their design, construction, and use of appliances use less energy more efficiently. By good solar design and orientation and use of appropriate materials and appliances an energy efficient home is approximately \$1000 a year cheaper to run than a non energy efficient home. By reducing household use of energy, this in turn will also have a positive effect on reducing greenhouse gases.

Condition No. 21 was placed on the Consent to ensure that the development complied with Part 4.9 of DCP No. 39. The objective of this part is to require the installation of energy efficient hot water systems and water efficient devices that minimise greenhouse gas generation. As a preferred outcome all dwellings should be fitted with an energy efficient hot water system which achieves a minimum energy efficient rating of 3.5 stars.

The applicant sought a variation on cost grounds alone and submitted details highlighting the difference in costs between a standard electric system and a solar system. No additional information was submitted with the application as to why an exemption should be granted. Considering that gas is located nearby in Wharf Street, Gas systems are comparably priced with continuous supply electric systems and similar types of development approved in Tweed Heads were required to install energy efficient Hot Water Systems, a variation was not granted.

This is in accordance with Council practice since the introduction of the DCP in April 2000 with multi dwelling development such as dual occupancy development, townhouses, villas and residential flats have been required to comply with Part 4.9 of the DCP. The following is a list of some of the Development Applications approved by Council in the Tweed Heads- Banora Point area which are required to or have complied with the Hot Water System Requirements of DCP No. 39.

0582/2000DA – Botanical Circuit, Banora Point: Dual Occupancy

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0620/2000DA – Riverside Boulevard, Banora Point: Dual Occupancy

0621/2000DA – Riverside Boulevard, Banora Point: Dual Occupancy

0674/2000DA – 241 Darlington Drive, Banora Point: Dual Occupancy

0697/2000DA – 2 Kerry Court, Banora Point: Dual Occupancy

0746/2000DA – 18 Enid Street, Tweed Heads: Residential Flat Building

0755/2000DA – 17 Vail Court, Bilambil Heights: Dual Occupancy

0899/2000DA – 5 Medoc Place, South Tweed Heads: Dual Occupancy

0945/2000DA – Flemington Street, Banora Point: Dual Occupancy

0940/2000DA – Cnr Enid and Frances Street, Tweed Heads: Residential Flat Building.

1087/2000DA – 30 Thompson Street, Tweed Heads: Residential Flats

0001/2001DA – Kirkwood Road, Tweed Heads South: Villa Development (81 dwellings)

0002/2001DA – Kirkwood Road, Tweed Heads South: Villa Development (20 Dwellings)

0005/2001DA – Kirkwood Road, Tweed Heads South: Villa Development (46 Dwellings)

An exemption can be sought from Council on having to comply with the Energy Smart Homes Policy and there are a number of circumstances whereby such an exemption can be sought. These include block geometry, topography, novel construction, , overshadowing from neighbouring buildings, cost effectiveness, with approval of an exemption subject to merit assessment. To date Council has not granted exemptions on the Hot Water System requirement on cost grounds alone for multi-dwelling development, as compliance with the policy can generally be achieved.

The applicant has submitted in the Section 96 Application that an exemption should be granted on the following grounds.

1. It is economically unviable over a five year period to comply with the policy.
2. Energex say that it is not viable to provide gas to the site.
3. The building has not been designed for the installation of solar heaters, or for storage of a main gas cylinder or individual gas tanks for each dwelling.
4. Applicant wasn't advised during the DA process that he would be required to comply with the policy.

The applicant was requested to provide a cost analysis of Electric Systems, Gas Systems with supply from a Centralised Tank, and Gas Systems with supply from Energex demonstrating the economic viability of such systems over a 5 year period. No details

Reports from Director Development Services

were submitted for a proper analysis of what the costs involved were or written confirmation as to what the cost would be to extend the gas from Wharf Street to the Site. The applicant during discussions with Council Development Assessment Panel estimated this cost to be \$250,000.

Discussions with Energex estimated the cost of extending the mains to the site would be \$14,000, a figure far less than the amount quoted during the Panel meeting. Energex also advised that they could supply the gas, but it was unviable for them to provide gas to this property alone. However this may not make it unviable for the developer to provide gas to the property, and the applicant has failed to demonstrate this in relation to the supply and connection of Electric Hot Water Systems.

It is correct that the applicant was not advised by Council that an exemption would not be granted until they received their approval, however the applicant was fully aware of the Council Policy and sought a variation, which was assessed by Council and a determination made on the information submitted. Further the applicant's Private Certifier who prepared the application was also fully aware of the requirement and has had similar dealings with Council in relation to other development in Tweed Heads. In relation to the design of the building, it is recognised that the building is not designed for the installation of solar hot water systems, however it is considered that the car parking area could be re-configured as the developer has provided four additional spaces to what is required to enable the installation of a main gas cylinder or even individual cylinders.

(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

Should Council support the deletion of the condition, this will have a cumulative impact on the environment in relation to greenhouse gases. As stated above the aims and objectives of DCP 39 is to reduce greenhouse gases through the installation of energy efficient appliances. Electric Hot Water Systems are not energy efficient, hence there 1 star energy efficiency rating. By approving the deletion of this condition the development will have a negative impact on reducing greenhouse gas emissions. Further Council runs the risk of setting an undesirable precedent and future applications for multi-dwelling development will also be seeking an exemption on similar grounds of cost.

The proposed replacement of a window for a sliding door on the ground floor in Unit 3 will enable residents of this Unit to have direct access onto the landscaped podium from the bedroom. It is considered that the impact on neighbourhood amenity from this minor change is negligible as the podium was designed for outdoor living use and is readily accessible from the northern and eastern side of the Unit.

(e) Public interest

As discussed above the request for an exemption to the policy does not have merit, and to ensure that the principles of DCP No. 39 are not placed in jeopardy by creating a precedent for multi dwelling housing it is considered that it is not in the public interest to grant a variation to the Hot Water System requirements. The condition to install

Reports from Director Development Services

energy efficient HWS has been placed on a number of consents for multi dwelling housing developments issued since the policy came into force. There are no other circumstances that restrict this development from complying with Condition No. 21 and as such it is recommended that the Consent should not be amended by the deletion of the applicable condition.

OPTIONS

1. Approve the minor variation in design to the building, but refuse the application to delete Condition No. 21.
2. Approve the minor variation in design to the building, and delete Condition No. 21 as requested.

CONCLUSION

The minor change in design to the building with the replacement of a window with a sliding door is consistent with the provisions of Section 96 of the Environmental Planning and Assessment Act 1979 and will not affect the privacy or amenity of the neighbourhood or adversely impact upon neighbours to the west. This change to the opening to the building is recommended for approval.

It is recommended that Condition No. 21 not be deleted as it will create an undesirable precedent for multi dwelling housing development, undermine the integrity of Council's Energy Smart Homes Policy reducing the effectiveness of Council's endeavours to reduce greenhouse gas emissions at a domestic level. Gas mains are located nearby, and provision could be made in the underground car park for the siting of a gas tank. Further the applicant has failed to demonstrate that gas hot water systems are economically unviable in this instance, despite Council requesting such costing details.

Reports from Director Development Services

16. ORIGIN: Strategic Town Planning Unit

FILE REF: Industrial Land Investigation Study, TEDC

REPORT TITLE:

Coolangatta Airport Enterprise Park Feasibility Study

SUMMARY OF REPORT:

The area immediately south of the Coolangatta Airport has long been identified as strategically important for specific employment generating activities. Recent developments within the local vicinity, specifically the Tugun Bypass and the Coolangatta Airport Draft Master Plan, have opened up opportunities to further consider the future of this area. Subsequently the report entitled "Coolangatta Airport Enterprise Park Feasibility Study" which was commissioned by Tweed Economic Development Corporation (TEDC). This report was publicly released by TEDC on Friday 25 May, 2001.

RECOMMENDATION:

That Council progresses the findings of the "Coolangatta Airport Enterprise Park Feasibility Study" by:-

1. Contacting the Department of Land and Water Conservation to discuss their intentions for the remaining portion of Reserve 59360 from any acquisitions by the Roads and Traffic Authority for the Tugun Bypass.
2. Notifying the Reserves Trust of its intentions to consult with the Department of Land and Water Conservation regarding the future use of Reserve 59360.
3. Consulting with the landowners within the study area about Council's intentions once the extent of the potential area for consideration is determined.

Reports from Director Development Services

REPORT:

BACKGROUND

This study was commissioned and managed by TEDC, and was funded by Gold Coast City Council, Tweed Shire Council, the NSW Department of State and Regional Development, Queensland State Development Department, Queensland's Southern Corridor Regional Development Organisation.

A copy of the Study is attached as Appendix 1.

On Friday 25 May a media release by TEDC outlining the Coolangatta Airport Enterprise Park Feasibility Study has been finalised and is now public availability. Both New South Wales and Queensland ministers of the relevant departments involved endorsed this public announcement.

In 1996 Council adopted the Strategic Plan that identified a specific action (# 67).

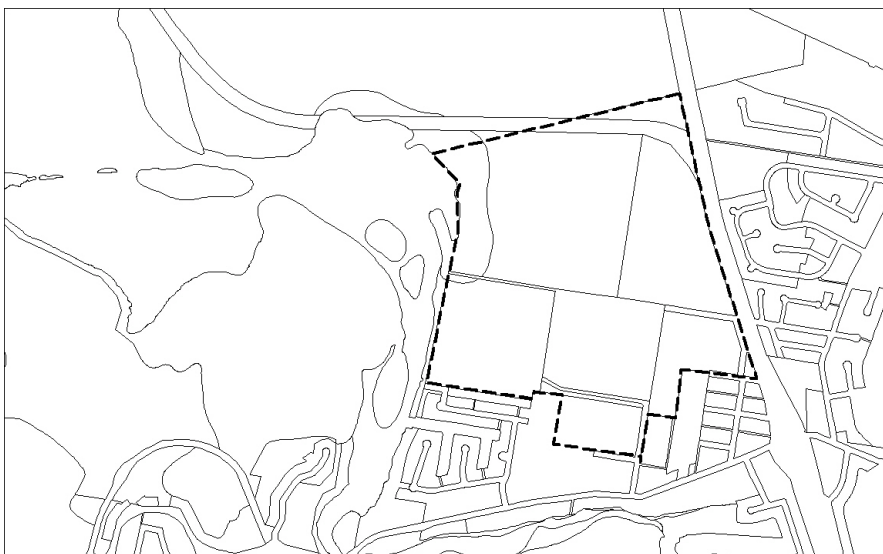
“Council will pursue, in conjunction with the Federal Airports Corporation, the creation of an aviation industry precinct in the high noise affected areas south of the Coolangatta Airport”.

A majority of the zoning identified in the study at that time was zoned 1(d) Development Investigation under the 1987 Tweed Local Environmental Plan. Council deleted the 1(d) Development Investigation zone when it adopted the Tweed Local Environmental Plan 2000. Subsequently all the land previously zoned 1(d) was zoned to 1(a) Rural.

In February 2000 an investigation into the availability of industrial land within the Tweed Shire was conducted and it was concluded that there is a distinct shortage of industrial land. Further investigations in that report identified the area directly south of the Coolangatta Airport a strategically important site for industrial purposes especially considering its location to key infrastructure such as the airport and the Pacific Highway.

THE COOLANGATTA AIRPORT ENTERPRISE PARK FEASIBILITY STUDY

The Study Area



Reports from Director Development Services

Objectives

The project objectives were to investigate the following issues for the study area;

- The feasibility of developing the area,
- The infrastructure requirements,
- Planning and environmental issues,
- Opportunities in attracting private sector investment.

This project was never intended as a planning study in its own right but a feasibility study. To that end the report identifies the environmental and planning issues but does not go into the details of these issues. Therefore this study on its own will not prove suitable for draft LEP Amendment purposes.

The notional demand rate for the study area was determined to be between 3 to 7 Ha/annum. This is in contrast to the current demand rate identified in the Potential Industrial Land Investigation which was about 4 Ha/annum compared to a Gold Coast estimate of between 12 – 14 Ha/annum within their area.

Through national and international trends the study investigated the potential demand for industrial uses of the land. This established three types of demand;

1. Firms servicing the Airport,
2. Firms servicing the regional market,
3. Firms servicing export demand.

With these potential demands for the site the Study identifies likely industries to be targeted for the area are;

- Boat building / fibre glassing,
- Food and beverage manufacturing,
- Storage and distribution,
- The herbal industry,
- Aircraft parts and manufacturing,
- Turf farming.

Engineering and Planning Constraints

Two sub consultants' reports were prepared for planning and engineering issues. Out of these reports the following were raised;

- To facilitate use an LEP amendment will be required
- The area is subject to the Coastal Policy and an LES will be required

Reports from Director Development Services

- Federal Airports legislation (including CASA, OLS, Light Restrictions and ANEF)
- SEPPs (particularly 14 and 44)
- North Coast REP
- Tweed Strategic Plan
- Noise issues
- A DCP will be a suitable instrument to outline preferred pattern of development,
- Issues relating to Recreation Reserve (Crown Land immediately south of the Airport) need to be resolved.

Identified constraints

- existing subdivision approval over small lot industrial subdivision off Tringa St,
- short term intentions of owners may be at odds with long term strategic intention,
- nursery currently trading but part is leased to owners who wish to consider alternative development options,
- land on Gray St has an approval for 101 residential units with adjoining lot seeking approval,
- three sites to north east of Reserve are constrained by Tugun bypass proposal.

Coolangatta Airport Fresh Draft Master Plan

Presently the Federal Government has not approved the Fresh Draft Master Plan for Coolangatta Airport. In April, 2001 a PANS-OPS was gazetted for the Coolangatta Airport. This has been adopted under the Federal Government's Protection of Airspace Regulations and determines that no structure can be constructed beyond its height limitations. The PANS-OPS has changed the glide path to the runway from 1.6% to 2%. This issue will need to be investigated further.

Tugun By-pass

The work involved in the background studies for the Tugun By-pass has discovered significant environmental constraints along the previously selected route. This has led to some minor route alterations to preserve these areas of environmental significance and has led to a significant readjustment of the connection with the Tweed Heads By-pass where it considerably reduces the amount of private land that could be available for industrial uses.

Reserve 59360 represents a critical portion of land to the integrity and lack of fragmentation of the study area. Council is trustee for the reserve but the Minister for the Department of Land and Water Conservation (DLWC) needs to approve any change of use. It is prudent at this stage to send a copy of the report to the Minister. It is also important to identify the need for the remaining portion of the reserve to be considered for industrial purposes while negotiations between DLWC and the Roads and Traffic Authority are underway for land acquisitions for the Bypass.

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One key element of the Tugun Bypass project is that it will allow traffic access directly into the study area without have to use either local urban streets (namely Gray St) and Kennedy Drive. This access is critical for any industrial development to be successfully developed within the study area. Due to development constraints it is important that this access be constructed before any development can commence within the study area. Consequently any potential industrial development within the study area cannot be considered until the Tugun Bypass has been completed.

Currently the Tugun Bypass Project Team are preparing to publicly exhibit the Environmental Impact Study. The findings of this study will have considerable input into any further planning work on the study area.

Conclusions

That Council progresses the findings of the “Coolangatta Airport Enterprise Park Feasibility Study” by:-

1. Contacting the Department of Land and Water Conservation to discuss their intentions for the remaining portion of Reserve 59360 from any acquisitions by the Roads and Traffic Authority for the Tugun Bypass.
 2. Notifying the Reserves Trust of its intentions to consult with the Department of Land and Water Conservation regarding the future use of Reserve 59360.
 3. Consulting with the landowners within the study area about Council’s intentions once the extent of the potential area for consideration is determined.
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17. ORIGIN: Development Assessment Unit

FILE REF: DA2920/121 Pt5

REPORT TITLE:

Development Application K99/957 for the Carrying Out of an Extractive Industry at Lot 9 and 10 DP 822830 and Lot 1 DP 823640 Kirkwood Road and Fraser Drive, Tweed Heads South – Response to Questions

SUMMARY OF REPORT:

This report responds to two questions asked by Councillor Luff at the Council meeting of 16 March, 2001. Questions related to legal costs incurred by Council regarding defending the appeal for earthworks in Kirkwood Road and whether Council were given the opportunity to not defend the appeal.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Development Services

REPORT:

At the Council meeting of 16 May, 2001, two questions were asked during question time regarding the recent Land and Environment Court decision regarding 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. The Land and Environment Court recently ruled that the consent issued by Council was void as the subject works did not constitute earthworks, but rather was an extractive industry which was prohibited within the zone. This judgement was reported to the Council meeting on 16 May, 2001.

In response to this report two questions have been asked regarding the case. These are:-

1. *How much did it cost ratepayers to defend the decision of this Council to approve the application for "extractive industry" at Kirkwood Road?*
2. *Following the approval given by Councillors to the above application, was there a further report to Council that a third party had commenced an action and if so, was that report an item on a meeting agenda that would have allowed Councillors to decide not to defend its consent?*

In response to question 1 it is advised that to date it has cost Council \$15,284.24 for legal expenses. This amount only includes costs for Council's legal representation and not costs which may be awarded against Council. This matter was reserved by the Court and may be subject to a separate hearing.

In response to question 2, it is advised that the application was originally approved on 10 August, 2000. A third party appeal was served on Council on 13 September, 2000. This appeal was a Class 1 appeal against the merits of Council's decision to approve the application. A report on 20 September, 2000 was submitted to Council advising them of this appeal. At this meeting Council resolved as follows:-

"That Council informs the applicant:

- i. A third party appeal has been filed in the Land and Environment Court.*
- ii. Council does not intend to make submissions in support of the approval."*

The applicant being Summit Properties Pty Ltd were subsequently advised that Council did not intend to defend this third party appeal.

A subsequent Class 4 application was submitted to the Land and Environment Court by Ken Lee Solicitors on behalf of the Palms Village Pty Ltd. This Class 4 application challenged the validity of Council's consent and sought that the Court declare that the subject activity was an extractive industry, that an extractive industry was prohibited within the zone and that for this reason the consent was void and of no effect. This application also sought costs against Council.

The notification of the Class 4 appeal was reported to Council on 15 November, 2000 where Council resolved:-

"That the Class 4 application in the Land and Environment Court in relation to Development Application K99/957 be defended by Council".

Reports from Director Development Services

Following a preliminary hearing of the Class 4 matter, a report was submitted to Council on 24 January, 2001 advising of the Land and Environment Court Orders at the conclusion of that days hearing. The Orders primarily related to the requirement of written submissions to be received by certain dates and the matter was stood over for further mention at that time. Council at this meeting resolved that this report be received and noted.

Having regard to Council's resolution of 20 September, 2000 not to make submissions regarding this matter, Council was forced to re-consider this position subsequent to the Class 1 proceedings becoming also Class 4 proceedings and Council needed to defend itself against an order for costs.

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18. ORIGIN: Financial Services Unit

FILE REF: Loans – Annual Program

REPORT TITLE:

2000/2001 Loan Borrowing Program

SUMMARY OF REPORT:

The Department of Local Government has approved Council's 2000/2001 loan allocation of \$2,386,000 for General Fund, \$671,000 for Sewerage Fund and \$1,680,000 for Renewal Loans. The program of works funded by these borrowings were approved by Council in the 2000/2001 adopted budget.

RECOMMENDATION:

That:-

1. The General Manager be authorised to negotiate acceptance of the loan quotations; and
2. The loan applications, mortgage deeds and other documentation be completed under the Common Seal of Council.

Reports from Director Corporate Services

REPORT:

2000/2001 APPROVED BORROWING – MINISTER’S DETERMINATION

The Department of Local Government has approved, under Section 624 of the Local Government Act, 1993, Council’s borrowings for 2000/2001.

STATUTORY REQUIREMENTS FOR LOCAL GOVERNMENT LOANS

Council’s borrowing is controlled by the Federal Government’s “Global Borrowing Program”. The NSW State Government Treasury, through the Department of Local Government, each year determines the borrowing limit of Council, and activities controlled by Council. Borrowing approval given to local government is broken into two sections viz. “General Purpose” borrowing which can be used for any purpose by Council and “Special Purpose” that has conditions imposed by State Government.

BASIS FOR THE USE OF LOAN FUNDS FOR CAPITAL WORKS

The extent to which capital expenditure can be financed out of revenue is limited and, in order to distribute the cost of long term facilities over the period during which benefits will be derived from such facilities, it is usual for Council to finance part of these works from borrowings, and to repay the loan over an extended period. This ensures that the ratepayers currently paying for the facility are those who are currently benefiting from it.

DETAILS OF COUNCIL’S 2000/2001 LOAN BORROWING APPROVED

General Fund

• Infrastructure works	\$2,180,000	
• Other	\$206,000	\$2,386,000
• Sewerage Fund		\$671,000
• Renewal Loans		\$1,680,000

CONDITIONS OF GOVERNMENT APPROVAL

Council is required, under Section 30 of the Local Government (Financial Regulations) 1993, to notify the Director-General of the Department of Local Government within seven (7) days of any borrowings. Details to be provided must indicate name of lender, purpose for which borrowing is being made, the term of the borrowing and rate of interest to be made. Council, in addition, must immediately notify the NSW Government in writing of any amount not being taken up so that it may be reallocated to another Council. Failure to comply may result in Council not being granted a borrowing limit in subsequent years or having its requested borrowing reduced substantially. The Lender’s loan mortgage documents must also be completed under the Common Seal of Council.

Similar “conditions of approval” apply not only to other Councils but to other authorities/departments covered by NSW State Government legislation.

Reports from Director Corporate Services

2000/2001 LOAN PROGRAM – ADOPTED BY COUNCIL IN CURRENT YEAR’S BUDGET

	\$
Boat Ramp	40,000
Kingscliff Swimming Pool	36,000
Public Toilets	150,000
Skate Park	20,000
Roads	500,000
Bridges	1,000,000
Drainage	600,000
Flood Mitigation	40,000
Total	2,386,000

SUMMARY

It is proposed to call for quotations for the supply of these loan funds from various financial institutions. A report will be submitted to Council at a later date on the quotations received and accepted by the General Manager.

Reports from Director Corporate Services

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Reports from Director Corporate Services

19. ORIGIN: Administration Services Unit

FILE REF: Insurance – Risk Management

REPORT TITLE:

Risk Management Proposal

SUMMARY OF REPORT:

Council's Risk Management Program has not been updated for a number of years. The proposal which will be outlined in this report has been received from Logov Risk Management Services Pty Ltd. It is recommended that Council proceed with such proposal.

RECOMMENDATION:

That Council engage Logov Risk Management Services Pty Ltd for the upgrading of Council's Risk Management Policies and to introduce the Strategic Asset Management Program at a cost of fifty thousand dollars (\$50,000).

Reports from Director Corporate Services

REPORT:

Council over a period of many years has used Logov Risk Management Services Pty Ltd (Mr Harry Whiteside as Principal) for Risk Management throughout the organisation. Over this period many policies have been produced and a great deal of training has been undertaken by staff.

The proposal is to upgrade the existing Strategic Defence Initiative Program (SDI). This will involve the creation of a single Asset/Risk Management Policy to be called the Strategic Asset Management Program (SAMP) Policy. The SAMP will apply to the same asset groups as the existing SDI Program and will incorporate all existing SDI Asset Group Policies into a single SAMP Policy.

The proposal will consist of seven (7) phases:

- Phase 1 Review and Assessment.
- Phase 2 Examination, Classification and Analysis of Risk.
- Phase 3 Examination of Risk Exposure Limitation on SAMP.
- Phase 4 Financial Analysis and Risk Exposure Costing.
- Phase 5 Management Structure and Systems.
- Phase 6 Records Management Procedures and Practices.
- Phase 7 Education and Training.

The project will be thirty (30) days in duration and will cost \$50,000.00. Funds have been allocated in this years budget and next years budget to cover such expenditure.

The following asset groups will be involved in the project:

1. Public Roads;
2. Public Car Parks;
3. Public Wharves;
4. Public Footpaths, Walking Trails and Tracks;
5. Public Buildings;
6. Public Parks and Reserves;
7. Swimming Pools;
8. Public (Ocean) Beaches; and
9. Flood and Drainage Systems.

Council over recent years has received an ever increasing number of Public Liability Claims, which have to be defended causing a great strain on resources both in time and money. The Risk Management System currently in place to defend such claims now needs to be updated. The

Reports from Director Corporate Services

proposed SAMP is a Corporate Management System, by the management of risk as a by-product of sound management practice.

The proposed Strategic Asset Management Program will:

1. Create and establish a unified system of quality control throughout the Council by the introduction or formalisation of existing strategic asset management policies, standards and initiatives etc., and to ensure customer service;
2. Create, implement and maintain strategic asset management initiatives that will effectively reduce the Council's exposure to successful litigation in those areas where they are implemented;
3. Attempt to reduce or contain the Council's exposure to insurance premium charges and claims;
4. Assist to create, establish and maintain a comprehensive and practical risk management program to enable corporate risks to be managed in a financially and operationally beneficial manner and for the ultimate betterment of the Council; and
5. Create, establish and maintain an effective and efficient system of claims management.

The Program is designed to assist the Council to formalise the asset management process, reduce operating costs through defined standards and procedures – and to prevent under or over servicing of Assets. As a 'bonus', SAMP, when operationally effective, should 'cap' the Council's exposure to high or excessive insurance premiums and claims costs.

This Proposal, therefore, represents the minimum effort necessary to provide the genesis and future impetus for the Council's corporate risk, asset and resource management strategies and programs.

Reports from Director Corporate Services

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Reports from Director Corporate Services

20. ORIGIN: General Manager

FILE REF: Rates – Levying, Conf/Seminars – General, Presentations

REPORT TITLE:

Local Government Financing

SUMMARY OF REPORT:

The General Manager recently presented a paper at the Financial Awareness Conference at Parkes. The conference resolution is reproduced in this report.

RECOMMENDATION:

That Council informs the Mayor of Parkes, Cr Robert Wilson, of this Council's support for the resolution adopted at the Local Government Financial Awareness Conference, Parkes 2001.

Reports from Director Corporate Services

REPORT:

The General Manager recently presented a paper at the Financial Awareness Conference at Parkes. The conference subsequently resolved:

- “1. *That this Conference identify the erosion of Federal, State and Local Government distribution of funds as not providing local government with the ability to deliver basic services to residents.*
2. *That the State and Federal Government be advised that continuing trends and obligations will result in many rural Councils becoming unviable within five years.*
3. *That as a matter of urgency, the LGSA request the State Minister to convene a Task Force of Federal, State and Local Government representatives to address issues of economic distress for Local Government with a report by January 2002.*
4. *That the conference endorse the current initiatives of the Rate Pegging Task Force, the Local Government Review of Legislative Proposals 2001, the Review of Pensioner Rebates and Enterprise Zones.*
5. *That the Minister of Local Government to be asked to investigate and respond to the conference outcomes that Local Government should have autonomy to raise revenue through additional taxing powers, access to National Competition Policy funding and a share of GST.*
6. *That this Conference endorses the training package being developed by LGMA in collaboration with LGSA DLG/Auditors/CPA and Councillors and officers be strongly encouraged to participate.*
7. *That the Conference expresses strong opposition to Unfunded Mandates.*
8. *That this conference expresses concern about the collapse of HIH to the LGSA and press for urgent resolution including a fund to provide urgent relief to Councils when they are encumbered by significant expenses outside their control.*
9. *That a conference Task Force (with the power to co-opt) be appointed to pursue actions and refer these resolutions to the Local Government Minister, all State members, the ALGA, LG&SA, LGMA and all New South Wales Councils. [That the Task Force be made up of Cr Wilson, Cr Miller, Alan McCormack and John Kleem]”*

Reports from Director Corporate Services

21. ORIGIN: General Manager

FILE REF: Tourism – General, Presentations

REPORT TITLE:

Tourism Impacts

SUMMARY OF REPORT:

The General Manager recently presented a paper at the Tourism Impacts Forum at Parliament House. The adopted resolutions are detailed in this report.

RECOMMENDATION:

That Council endorses the involvement of the General Manager in the Tourism Impacts Working Group.

Reports from Director Corporate Services

REPORT:

The General Manager recently presented a paper at the Tourism Impacts forum at Parliament House.

At the conclusion of the Forum, Local Government and Parliamentary attendees resolved:

“Resolutions

The following resolutions were adopted at the seminar:

That high impact (“hot spot”) councils co-operate in:

- *Developing a methodology for assessing social, environmental and community cost impacts of tourism*
- *Identifying revenue raising measures to meet these costs*
- *and targeting state or federal governments, industry and other groups to provide funding.*

That as part of this project, funding options should include looking at opportunities for increasing council revenues from tourists, or other financing options outside the rate structure.

Further, that methodologies and information derived from “hot spot” council studies be applied to emerging tourist areas.

That the State and Federal Governments be called on to support a system of tourism infrastructure grants.

That mechanisms for increasing the influence of councils over the type of tourism occurs in the area be examined.”

It is planned that a working group of selected individuals from selected (impacted) Councils progress the resolutions.

The General Manager has been invited to be a member.

Reports from Director Corporate Services

22. ORIGIN: Director

FILE REF: TACTIC

REPORT TITLE:

Tweed and Coolangatta Tourism Inc. (TACTIC) Monthly Performance Report - January 2001

SUMMARY OF REPORT:

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance report for January 2001 is provided in accord with the Agreement in criteria in Clause 5.1.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The agreement between Council and TACTIC requires the organisation to report on a monthly basis its performance in accord with a number of specific requirements as detailed in Clause 5.1. The details are provided for the month of January 2001.

5.1.1 The number and category of financial members of TACTIC:

	November 2000	December 2000	January 2001
Gold Members	4	4	4
Ordinary Members	117	122	126
Service Members	20	21	21
Total	141	147	151

5.1.2 The visitor numbers to the World Heritage Rainforest Centre and the Tweed Heads Tourism Centre:

	November 2000	December 2000	January 2001
World Heritage Rainforest Centre	1581 (including 100 from bus groups)	1893	2520 (including 39 from bus groups)
Tweed Heads Visitors Centre	2073	1588	1984
Total	3654	3481	4504

Currently the two centres are undertaking surveys on the type of enquiries received:

World Heritage Rainforest Centre Tweed Heads Tourist Information Centre

Type of Enquiry	No of Enquiries	%	Variance from December	Type of Enquiry	No of Enquiries	%	Variance from December
Tourism	814	66	-3%	Tourism	736	63	-3%
National Parks	188	15	+3%	National Parks	6	1	+1%
Street Directions	140	11	+1%	Street Directions	223	19	-1%
Bus Timetables	14	1	-1%	Bus Timetables	76	7	-2%
Other	90	7	Nil	Other	114	10	Nil

Reports from Director Corporate Services

5.1.3 The provision by TACTIC to Council of updates on current programs conducted by TACTIC:

Internet Site

The TACTIC Marketing Committee at their first meeting held 11 January 2001, resolved to obtain information on website development from local webmasters, and invite them to give a presentation to the TACTIC Marketing Committee to upgrade the TACTIC website.

Review of operations of the tourist Information Centre

Staff and Volunteers

- A familiarisation program is in place whereby volunteers (as a group) will visit at least one TACTIC member per month to further product knowledge. Staff are also encouraged to join these groups if the familiarisation is held outside their working hours. Due to a busy Christmas holiday period, scheduled familiarisation had to be postponed to February. The next familiarisation tour is scheduled for Friday, 9 February at Kouranga Hermitage.
- There is a full agenda for familiarisations to member properties from February 2001 onward.
- A staff meeting was held on 24 January. Points raised at this meeting raised by staff are below.

Strategic Marketing Plan

- Advertising space has been booked in the Open Road publication throughout 2001, commencing with March-April edition.
- The first meeting was held with the TACTIC Marketing Committee on 11 January. Phil Villiers was elected chairperson of the committee. Please find a copy of the minutes of that meeting attached for your perusal and interest.
- The 2001 edition of the yellow pages for the Northern Rivers Region (02 66 area) has been booked. TACTIC will also place ads in the Brisbane and Gold Coast editions of the Yellow Pages over the next 6 months.

Networking

- The next TACTIC Networking Evening will be held at the Imperial Hotel, Murwillumbah on Thursday 8 February 2001. This will need to incorporate an Extraordinary General Meeting so a special resolution can be passed to change the names of the membership categories.

Central Reservations System (CRS)

- The new TACTIC Board of Directors has determined that the CRS is not entirely functional, as entering details into the CRS is doubling up on the work already conducted by the TACTIC staff in their booking procedures.

5.1.4 The comparison between quarterly profit and loss statement and the budget:

See attached Profit and Loss Statement for January 2001.

Reports from Director Corporate Services

5.1.5 The provision by TACTIC to Council of a monthly bank reconciliation:

See attached reconciliation statement for the period ending 31 January for the general account.

5.1.6 The level of involvement by TACTIC in Australian Tourism Exhibition Trade Shows:

International Marketing

- The next International Marketing Event will be the Australian Tourism Exchange (ATE) to be held in Brisbane in May-June. ATE provides a forum for new and existing Australian Tourism product suppliers to meet and generate new and/or increased levels of business with key buyers from the international markets. ATE provides local export-ready operators have the opportunity to sell their product to the international market. TACTIC is participating in this event as part of the Northern Rivers Regional stand.

5.1.7 The provision by TACTIC to Council of details of promotional activities conducted by TACTIC:

TACTIC Marketing Committee

- The first TACTIC Marketing Committee meeting was held 11 January.

Shopping Centre Promotions

- A full itinerary of shopping centre promotions is scheduled to begin again in February 2001.
- Shopping centre promotions have been organised as follows:

February	Australia Fair
March	Logan Hyperdome
April	Sunnybank Plaza
May	Grafton Shopping World
June	Pacific Fair
August	Tweed City (Banana Festival Week)
September	Ipswich (new shopping centre)

Advertising

- TACTIC has booked advertising space in the 2001 edition of the Tweed - Coolangatta Visitors Guide, including advertising for the 2 information centres, drives around the area and promotion of the TACTIC 1800 number.

Domestic Marketing

- The next publication to be produced by TACTIC will be the March edition of the Bus and Coach Mail out.

Trade Events

- Trade events are scheduled to begin again in 2001.

Reports from Director Corporate Services

- The first trade event will be the Brisbane Travel and Snow Show in April.

Familiarisations

- No famils came to the area during January.

Upcoming Promotions

- Shopping Centre Promotion – February at Australia Fair
- Shopping Centre Promotion – March at Logan Hyperdome
- TACTIC Network Night – 8 February at Imperial Hotel, Murwillumbah

5.1.8 The amount of retails sales:

November 2000	December 2000	January 2001
\$2,216.30	\$2,394.02	\$2,684.34

The amount of commission income from goods on consignment - \$54.40

5.1.9 The number and value of the booking system growth:

	November 2000	December 2000	January 2001
Number	52	48	56
Accommodation bookings	\$6,425.10	\$8,319.96	\$3,423.55
Tours	\$3,244.77	\$1,465.11	\$2,328.60
Commission	\$1,074.43	\$1,087.23	\$715.80
Total	\$10,744.30	\$10,873.30	\$9,206.69

(NB: Accommodation and tour bookings totals do not include commission amounts)

5.1.10 Minutes of the Tweed and Coolangatta Tourism Incorporated meeting held 18 January 2001 are attached.

Present: Lee Eyre, James McKenzie, Shane Marshall, Barrie Briggs, Phil Taylor, Melinda Yates.

Informal: Sheridan Hargreaves.

Apologies: Cr Warren Polglase, Cr Bob Brinsmead.

Reports from Director Corporate Services

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Reports from Director Corporate Services

23. ORIGIN: Director

FILE REF: TACTIC

REPORT TITLE:

Tweed and Coolangatta Tourism Inc. (TACTIC) Monthly Performance Report - February 2001

SUMMARY OF REPORT:

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance report for February 2001 is provided in accord with the Agreement in criteria in Clause 5.1.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The agreement between Council and TACTIC requires the organisation to report on a monthly basis its performance in accord with a number of specific requirements as detailed in Clause 5.1. The details are provided for the month of February 2001.

5.1.1 The number and category of financial members of TACTIC:

	December 2000	January 2001	February 2001
Gold Members	4	4	4
Ordinary Members	122	126	129
Service Members	21	21	21
Total	147	151	154

5.1.2 The visitor numbers to the World Heritage Rainforest Centre and the Tweed Heads Tourism Centre:

	December 2000	January 2001	February 2001
World Heritage Rainforest Centre	1893	2520 (including 39 from bus groups)	1471 (including 30 from bus groups)
Tweed Heads Visitors Centre	1588	1984	696
Total	3481	4504	2167

Currently the two centres are undertaking surveys on the type of enquiries received:

World Heritage Rainforest Centre Tweed Heads Tourist Information Centre

Type of Enquiry	No of Enquiries	%	Variance from January	Type of Enquiry	No of Enquiries	%	Variance from January
Tourism	467	57	-9%	Tourism	284	63	Nil
National Parks	76	9	-6%	National Parks	2	1	Nil
Street Directions	76	9	-2%	Street Directions	37	8	-11%
Bus Timetables	16	2	-9%	Bus Timetables	46	10	+3%
Other	179	23	+16%	Other	81	18	+8%

Reports from Director Corporate Services

5.1.3 The provision by TACTIC to Council of updates on current programs conducted by TACTIC:

Internet Site

The TACTIC Marketing Committee decided to use the skills of Impression Imprint to redevelop the TACTIC website. Work on the site will commence in late April and is scheduled to be launched on the web by July 2001.

Review of operations of the tourist Information Centre

Staff and Volunteers

- A familiarisation program is in place whereby volunteers visit at least one TACTIC member per month to further product knowledge. In February volunteers and staff attended famils to Kouranga Hermitage, Poinciana Motel and Fernvale Tea-House and Fairy Gardens.
- Work has commenced on the first TACTIC Volunteer Newsletter, which will be available in early March.
- The TACTIC Network Night was attended by staff and volunteers.
- There is a full agenda for familiarisations to member properties from February 2001 onward.

Networking

- TACTIC held a successful Networking Night held at the Imperial Hotel on 8 February, with many members, staff and volunteers in attendance.
- The next TACTIC Networking Evening will be held at Twin Towns Resort on Thursday 29 March from 6.30pm.

Central Reservations System (CRS)

- The new TACTIC Board of Directors has determined that the CRS is not entirely functional, as entering details into the CRS is doubling up on the work already conducted by the TACTIC staff in their booking procedures, recording booking details, confirmation details forwarded to the customer and operator and in the accounts program, none of which is compatible with the CRS.

5.1.4 The comparison between quarterly profit and loss statement and the budget:

See attached Profit and Loss Statement for February 2001.

5.1.5 The provision by TACTIC to Council of a monthly bank reconciliation:

See attached reconciliation statement for the period ending 28 February for the general account.

Reports from Director Corporate Services

5.1.6 The level of involvement by TACTIC in Australian Tourism Exhibition Trade Shows:

International Marketing

- The next International Marketing Event will be the Australian Tourism Exchange (ATE) to be held in Brisbane in May-June. ATE provides local export-ready operators the opportunity to sell their product to the international market. TACTIC is participating in this event with Northern Rivers Tourism.

5.1.7 The provision by TACTIC to Council of details of promotional activities conducted by TACTIC:

TACTIC Marketing Committee

- A TACTIC Marketing Committee meeting was held on 2 and 28 February.
- Presentations by four (4) local webmasters were delivered to the Marketing Committee to determine whom TACTIC should use to redesign the TACTIC website. Impressions Imprint was the successful webmaster.

Shopping Centre Promotions

- A shopping centre promotion was held on 22 February at Australia Fair with seven (7) co-operative partners for this activity.

Advertising

- Advertising space was booked in the March-April edition of the Open Road publication.
- TACTIC has been nominated as the project manager of a co-operative advertisement in the Open Road Publication for the Northern Rivers Region.
- TACTIC placed an ad in the Sunday Mail on Sunday 18 February in conjunction with a feature on the Tweed – Coolangatta area. Over 80 calls were received from this ad.
- The 2001 edition of the yellow pages for the Northern Rivers Region (02 66 area) was booked.

Domestic Marketing

- The next publication to be produced by TACTIC will be the March edition of the Bus and Coach Mail out.

Trade Events

- TACTIC has been nominated as the project manager of the three (3) trade shows (Brisbane Holiday and Snow Show in April, the Toowoomba Home Show in May and the Brisbane Caravan and Camping Show in June).

Reports from Director Corporate Services

5.1.8 The amount of retail sales:

December 2000	January 2001	February 2001
\$2,394.02	\$2,684.34	\$1,498.91

The amount of commission income from goods on consignment - \$151.23

5.1.9 The number and value of the booking system growth:

	December 2000	January 2001	February 2001
Number	48	56	42
Accommodation bookings	\$8,319.96	\$3,423.55	\$5,482.80
Tours	\$1,465.11	\$2,328.60	\$1,610.72
Commission	\$1,087.23	\$715.80	\$813.48
Total	\$10,873.30	\$9,206.69	\$9,557.14

(NB: Accommodation and tour bookings totals do not include commission amounts)

5.1.10 Minutes of the Tweed and Coolangatta Tourism Incorporated meeting held 8 February 2001 are attached.

Present: Lee Eyre, James McKenzie, Shane Marshall, Barrie Briggs, Phil Taylor, Melinda Yates, Cr Warren Polglase, Cr Bob Brinsmead.

Informal: Sheridan Hargreaves.

Reports from Director Corporate Services

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24. ORIGIN: Director

FILE REF: TACTIC

REPORT TITLE:

Tweed and Coolangatta Tourism Inc. (TACTIC) Monthly Performance Report - March 2001

SUMMARY OF REPORT:

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance report for March 2001 is provided in accord with the Agreement in criteria in Clause 5.1.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The agreement between Council and TACTIC requires the organisation to report on a monthly basis its performance in accord with a number of specific requirements as detailed in Clause 5.1. The details are provided for the month of March 2001.

5.1.1 The number and category of financial members of TACTIC:

	January 2001	February 2001	March 2001
Gold Members	4	4	4
Ordinary Members	126	129	132
Service Members	21	21	21
Total	151	154	157

5.1.2 The visitor numbers to the World Heritage Rainforest Centre and the Tweed Heads Tourism Centre:

	January 2001	February 2001	March 2001
World Heritage Rainforest Centre	2520 (including 39 from bus groups)	1471 (including 30 from bus groups)	2070 (including 188 from bus groups)
Tweed Heads Visitors Centre	1984	696	728
Total	4504	2167	2798

Currently the two centres are undertaking surveys on the type of enquiries received:

World Heritage Rainforest Centre Tweed Heads Tourist Information Centre

Type of Enquiry	No of Enquiries	%	Variance from February	Type of Enquiry	No of Enquiries	%	Variance from February
Tourism	653	71	+14%	Tourism	345	70	+7%
National Parks	94	10	+1%	National Parks	5	1	Nil
Street Directions	75	8	-1%	Street Directions	34	7	+1%
Bus Timetables	12	2	Nil	Bus Timetables	40	8	-2%
Other	81	9	-14%	Other	66	14	-4%

Reports from Director Corporate Services

5.1.3 The provision by TACTIC to Council of updates on current programs conducted by TACTIC:

Internet Site

Initial work on the TACTIC website will commence in late April, with TACTIC collecting relevant data for the website from late April. In the interim period, Tropical NSW will continue to host the existing TACTIC website.

Review of operations of the tourist Information Centre

Staff and Volunteers

- A familiarisation program is in place whereby volunteers visit at least one TACTIC member per month to further product knowledge. In March volunteers and staff attended families to On the Beach Motel, Carool Apartments, Poinciana Motel, Fernvale Tea-House and Fairy Gardens, Hanging Rock Chalets and Cornerstone Cottage and three (3) volunteers took the opportunity to attend an Australian Day Tours tour.
- Staff and volunteers attended the Network Night held at Twin Towns Services Club on 29 March.

Strategic Marketing Plan

- A TACTIC Marketing Committee Meeting was held on 23 March.
- TACTIC placed advertising in the Sunday Mail on Sunday 8 March in conjunction with a feature on Twin Towns new auditorium and the Tweed – Coolangatta area.
- TACTIC will combine with Northern Rivers Tourism to place a co-operative advertisement in the May-June edition of the Open Road Magazine.
- TACTIC will begin a PR campaign in late April for a four (4) month period.

Networking

- Many members, staff and volunteers attended the Network Night held at Twin Towns Services Club on 29 March.
- The next TACTIC Networking Evening will be held at the International Terminal of the Gold Coast Airport in late May. Dates and further details to be confirmed.

Group Bookings

- TACTIC is the nominated booking agent for the Army Reunion to be held in the Tweed-Coolangatta area in October 2001.
- TACTIC is also the nominated booking agent for the Twin Towns – Club Banora Golf Classic in September.

Central Reservations System (CRS)

- The new TACTIC Board website will allow on-line bookings and payments to be made and will supersede the CRS.

Reports from Director Corporate Services

5.1.4 The comparison between quarterly profit and loss statement and the budget:

See attached Profit and Loss Statement for March 2001.

5.1.5 The provision by TACTIC to Council of a monthly bank reconciliation:

See attached reconciliation statement for the period ending 31 March for the general account.

5.1.6 The level of involvement by TACTIC in Australian Tourism Exhibition Trade Shows:

International Marketing

- The next International Marketing Event will be the Australian Tourism Exchange (ATE) to be held in Brisbane in May-June. ATE provides local export-ready operators the opportunity to sell their product to the international market. TACTIC is participating in this event as part of the Northern Rivers Tourism stand.

5.1.7 The provision by TACTIC to Council of details of promotional activities conducted by TACTIC:

TACTIC Marketing Committee

- The next TACTIC Marketing Committee meeting is scheduled for April.

Shopping Centre Promotions

- A shopping centre promotion was held on 15 March at the Logan Hyperdome.

Advertising

- Advertising space was booked in the March-April edition of the Open Road publication.
- Advertising was booked in the Sunday Mail for 8 April.
- TACTIC has been nominated as co-ordinator of a co-operative advertisement in the Open Road Publication for the Northern Rivers Region.

Domestic Marketing

- The next marketing initiative to be undertaken by TACTIC will be the Bus and Coach mail out.

Customer Travel Shows

- TACTIC attended Brisbane Holiday and Snow Show in April, the Toowoomba Home Show in May and will be attending the Brisbane Caravan and Camping Show in June.

Familiarisations

- Dan Luxton, Tourism NSW; Mike Creen The Press (NZ); and Tayler Strong, Otago Daily Times (NZ) visited the area on 2 and 3 March 2001. They visited the World Heritage Rainforest Centre, Tropical Fruit World and Sullivan Pioneer Country and stayed at Twin

Reports from Director Corporate Services

Towns Resort during their stay. They were travelling along the Pacific Coast Touring Route from Sydney to Brisbane and were surprised at the diversity of the Northern Rivers Region.

5.1.8 The amount of retails sales:

January 2001	February 2001	March 2001
\$2,684.34	\$1,498.91	\$1,708.22

The amount of commission income from goods on consignment - \$88.30

5.1.9 The number and value of the booking system growth:

	January 2001	February 2001	March 2001
Number	56	42	47
Accommodation bookings	\$3,423.55	\$5,482.80	\$4,677.30
Tours	\$2,328.60	\$1,610.72	\$2,809.13
Commission	\$715.80	\$813.48	\$931.17
Total	\$9,206.69	\$9,557.14	\$10,214.12

(NB: Accommodation and tour bookings totals do not include commission amounts)

5.1.10 Minutes of the Tweed and Coolangatta Tourism Incorporated meeting held 14 March 2001 are attached.

Present: Lee Eyre, James McKenzie, Shane Marshall, Barrie Briggs, Cr Warren Polglase

Informal: Sheridan Hargreaves.

Apologies: Melinda Yates, Cr Bob Brinsmead

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25. ORIGIN: Administration Services Unit

FILE REF: Councillors - Fees

REPORT TITLE:

Councillors Expenses

SUMMARY OF REPORT:

Further to Council's resolution of 2 May 2001, a report has now been prepared showing all Councillors expenses for the period 1 July 2000 to 18 May 2001.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

A report indicating Councillors expenses was reported to the meeting of 2 May 2001. The report included expenses relating to previous years and as such was difficult to draw comparisons. A further report was requested for Councillor expenses incurred during the financial year.

The Financial Services Unit has now provided figures for each Councillor on a monthly basis for claims submitted and all other costs relating to Councillors.

As stated in the previous report it is still difficult to draw comparison between the costs of various Councillors, as some Councillors do not submit claims on a regular basis.

BECK	Meals	Travel	Stationery	Phone	Mobile Phone	Car Accommo wash	dation	Transport	Parking	Postage	Total
July	49.70										49.70
August	236.91	52.55			263.80						553.26
September	114.55				276.32	13.64					404.51
October	361.10			358.95	202.14	13.64			36.00		971.83
November	439.34		260.50		237.78						937.62
December	370.67		362.68		224.10					7.45	964.90
January	181.13		41.26		224.46	13.64			39.00		499.49
February	240.77		45.54	304.09	124.35		344.55	11.45			1,070.75
March	146.69		0.78		198.88				12.00		358.35
April	122.36			313.45	262.10	13.64		15.00			726.55
May	67.64		19.76								87.40
Total	2,330.86	52.55	730.52	976.49	2,013.93	54.56	344.55	26.45	87.00	7.45	6,624.36

BOYD	Meals	Travel	Stationery	Phone	Mobile Phone			Transport			Total
July	49.70										49.70
August	288.63	788.40			82.70			84.09			1,243.82
September	175.96	549.72		254.55	81.58						1,061.81
October	149.56	370.44			51.10						571.10
November	271.58	563.76			97.74						933.08
December	370.67	466.26			50.66						887.59
January	130.69	502.74		291.91	43.92						969.26
February	99.41				97.91						197.32
March	115.78	519.27		277.68	52.98						965.71
April	92.76	365.37			56.59						514.72
May	64.55	545.49	151.80								761.84
Total	1,809.29	4,671.45	151.80	824.14	615.18	0.00	0.00	84.09	0.00	0.00	8,155.95

Reports from Director Corporate Services

BRINSMEAD	Meals	Travel	Mobile Phone	Workshop	Total					
July	49.70				49.70					
August	106.45				106.45					
September	69.10				69.10					
October	149.56				149.56					
November	271.58				271.58					
December	370.67				370.67					
January	100.69				100.69					
February	99.41				99.41					
March	115.78	768.12			883.90					
April	92.76	406.98		18.18	517.92					
May	64.55				64.55					
Total	1,490.25	1,175.10	0.00	0.00	0.00	18.18	0.00	0.00	0.00	2,683.53

CARROLL	Meals	Phone	Mobile Phone	Total						
July	49.70			49.70						
August	106.45		66.18	172.63						
September	69.10		50.39	119.49						
October	149.56		55.25	204.81						
November	271.58		48.00	319.58						
December	370.67		74.05	444.72						
January	100.69	191.43	54.28	346.40						
February	99.41		51.04	150.45						
March	115.78		74.14	189.92						
April	92.76		69.57	162.33						
May	64.55			64.55						
Total	1,490.25	0.00	0.00	191.43	542.90	0.00	0.00	0.00	0.00	2,224.58

Reports from Director Corporate Services

DAVIDSON	Meals	Travel	Phone	Mobile Phone	Transport	Total					
July	49.70					49.70					
August	206.54	309.42		106.47	20.91	643.34					
September	69.10	309.42	139.32	116.86		634.70					
October	149.56	243.00		95.82		488.38					
November	271.58	192.78		100.18		564.54					
December	370.67			117.17		487.84					
January	100.69	143.64	117.82	65.76		427.91					
February	99.41			98.51		197.92					
March	115.78			97.53		213.31					
April	92.76	328.89		75.18		496.83					
May	64.55					64.55					
Total	1,590.34	1,527.15	0.00	257.14	873.48	0.00	0.00	20.91	0.00	0.00	4,269.02

JAMES	Meals	Travel	Stationery	Phone	Mobile Phone	Total					
July	49.70					49.70					
August	106.45					106.45					
September	69.10					69.10					
October	149.56					149.56					
November	271.58					271.58					
December	370.67		22.84			393.51					
January	100.69	1,775.82		371.38		2,247.89					
February	99.41					99.41					
March	115.78					115.78					
April	92.76					92.76					
May	64.55		67.08			131.63					
Total	1,490.25	1,775.82	89.92	371.38	0.00	0.00	0.00	0.00	0.00	0.00	3,727.37

Reports from Director Corporate Services

LAWRIE	Meals	Travel	Phone	Mobile Phone	Phone/ Photocopy	Total					
July	49.70					49.70					
August	133.72	79.92		50.43		264.07					
September	69.10	49.68		47.70	245.25	411.73					
October	149.56	17.28		44.48		211.32					
November	271.58	17.28		63.68	123.25	475.79					
December	384.31	49.59		49.65		483.55					
January	100.69			49.47	131.75	281.91					
February	99.41	69.54		60.35	340.75	570.05					
March	115.78	36.48		50.20	122.80	325.26					
April	92.76	38.19	35.18	46.78	161.00	373.91					
May	64.55					64.55					
Total	1,531.16	357.96	0.00	35.18	462.74	0.00	1,124.80	0.00	0.00	0.00	3,511.84

LUFF	Meals	Stationery	Mobile Phone	Total						
July	49.70			49.70						
August	131.45			131.45						
September	69.10		39.99	109.09						
October	149.56		62.82	212.38						
November	271.58		39.59	311.17						
December	370.67	13.60	43.68	427.95						
January	100.69		50.36	151.05						
February	99.41		43.78	143.19						
March	115.78		50.37	166.15						
April	92.76		51.90	144.66						
May	64.55	67.08		131.63						
Total	1,515.25	0.00	80.68	0.00	382.49	0.00	0.00	0.00	0.00	1,978.42

Reports from Director Corporate Services

MARSHALL	Meals	Travel	Stationery	Phone	Mobile Phone	Phone Kit	Internet				Total
July	49.70										49.70
August	106.45	858.60	21.27	80.13	200.07	22.73					1,289.25
September	69.10	882.36		93.32	153.46		45.46				1,243.70
October	149.56	1,044.36	12.91	127.48	181.54		18.18				1,534.03
November	271.58	767.34		92.32	185.85		36.36				1,353.45
December	370.67	762.66	61.92		243.95						1,439.20
January	100.69	634.98	40.64	145.68	161.48		18.18				1,101.65
February	99.41	491.91		88.93	107.24		18.18				805.67
March	115.78	864.12	269.53	108.48	166.74		91.68				1,616.33
April	92.76	888.63		106.25	239.23						1,326.87
May	64.55	806.55	67.08								938.18
Total	1,490.25	8,001.51	473.35	842.59	1,639.56	22.73	228.04	0.00	0.00	0.00	12,698.03

POLGLASE	Meals	Travel	Stationery	Phone	Mobile Phone	Transport			Total		
July	49.70								49.70		
August	106.45	282.96		41.77	161.19				592.37		
September	69.10	125.28			173.39				367.77		
October	175.18	249.48			134.01				558.67		
November	271.58				178.37				449.95		
December	382.67	443.88	22.84		143.74				993.13		
January	146.14				133.05				279.19		
February	99.41	233.70			115.37				448.48		
March	115.78	200.64			101.69				418.11		
April	92.76				79.23				171.99		
May	64.55	321.48					13.64		399.67		
Total	1,573.32	1,857.42	22.84	41.77	1,220.04	0.00	0.00	13.64	0.00	0.00	4,729.03

Reports from Director Corporate Services

YOUNGBLUTT	Meals	Travel								Mobile Phone	Total
July	49.70										49.70
August	106.45	118.80								130.01	355.26
September	69.10									123.61	192.71
October	149.56									164.42	313.98
November	311.58	389.88								175.95	877.41
December	370.67									121.57	492.24
January	100.69									111.46	212.15
February	99.41									64.62	164.03
March	115.78									136.27	252.05
April	172.76	442.32								104.76	719.84
May	64.55										64.55
Total	1,610.25	951.00	0.00	0.00	1,132.67	0.00	0.00	0.00	0.00	0.00	3,693.92

Reports from Director Corporate Services

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Reports from Director Corporate Services

26. ORIGIN: Financial Services Unit

FILE REF: GA4/1/36 Pt1, Management Plans, Budget

REPORT TITLE:

Management Plan 2001/2004 and Budget 2001/2002

SUMMARY OF REPORT:

Council's Management Plan for 2001/2004 has been on public exhibition for 28 days. The Plan includes the 2001/2002 Revenue Policy, Budget, Fees and Charges.

The Management Plan provides Council with a unifying focus for the management of all the Shire's activities and operations over the next three years.

RECOMMENDATION:

That:-

1. Council's 2001/2004 Management Plan and 2001/2002 Budget be adopted; and
2. An application be made to the Minister for Local Government for a special increase of 1.25% for Special Rate in the Casuarina Beach locality above the allowable limit of 2.8%.
3. An "opinion" in accordance with Section 495(2) of the Local Government Act 1993 has been formed on the Special Rates proposed to be levied in 2001/2002.

Reports from Director Corporate Services

REPORT:

PUBLIC SUBMISSIONS

In accordance with Council's Resolution No. 1008 of 2 May 2001 the 2001/2004 Management Plan was placed on exhibition for 28 days and submissions invited. No submissions have been received.

BUDGET REVENUE POLICY

Council has the option at this meeting to amend the Management Plans and Budget as well as vary the fees and charges.

BUDGET AMENDMENTS

The following amendments have been made to the draft budget that Council considered on the 2 May 2001.

General Fund

Traineeship and Supports Costs

\$28,000 DR (Increase)

Reduce allocation to "Employees Leave Entitlements" Reserve

\$28,000 CR (Reduce)

% RATE INCREASES COMPARED TO PREVIOUS YEAR

- General Fund Rates (excluding Casuarina Beach Special Rate)
2.8%
- Water Fund Rates
2.8%
- Sewerage Fund Rates
2.8%
- Domestic Waste Management – Garbage Charge
\$10.50

STATEMENT OF INTENTION – APPLICATION FOR SPECIAL VARIATIONS TO GENERAL INCOME – "CASUARINA BEACH SPECIAL RATE" – SEE MANAGEMENT PLAN FOR DETAILS

Council intends to seek approval to increase the annual general increase by 1.25% beyond the approved 2001/2002 variation of 2.8%.

The proposed increase will eventually generate \$250,000 additional rate increase by 2003/2004 and will provide the following range of services.

"Casuarina Beach" Special Rate to be levied in the Casuarina Beach locality only to be used for the purpose of supplying aesthetic appearance by providing a higher level of maintenance to pathways, parkland, gutters, drains, verges/streetscaping, swales, playgrounds, fencing and public facilities such as amenities blocks, seating, showers, street signs, replacement of landscape areas and the like on Council controlled land.

Reports from Director Corporate Services

SPECIAL RATES – COUNCIL TO FORM AN “OPINION”

Section 495 of the Act enables Council to make a special rate for or towards meeting the cost of any “works, services, facilities, or activities” provided or undertaken, or proposed to be provided or undertaken, by Council within the whole or any part of Council’s area, other than “domestic waste management systems”.

By virtue of section 495(2), the special rate is to be levied on such rateable land in Council’s area as, in Council’s “opinion”:

- benefits or will benefit from the works, services, facilities or activities; or
- contributes or will contribute to the need for the works, services, facilities or activities;
or
- has or will have access to the works, services, facilities or activities.

Council is required to form a certain “opinion” as a necessary precondition to the making and levying of a special rate.

The opinion relates to the land which will benefit from, contribute to the need for, or have access to the particular works, services, facilities or activities the subject of the rate.

The opinion must correspond exactly with the “substance” and the “effect” of the rate, that is, all land rated must be identical to the land which will benefit from, contribute to the need for, or have access to the particular works, services, facilities or activities the subject of the rate. Thus, the rate must not be levied on any land which will not, in Council’s reasonable opinion, benefit from, contribute to the need for, or have access to those works, services or activities must be rated.

Reports from Director Corporate Services

GUIDELINES APPLICATION FOR MINISTERIAL APPROVAL FOR SPECIAL VARIATION TO GENERAL INCOME

CIRCULAR NO. 01/29 – 9/4/01

Procedures relating to Special Variations to General Income



In determining whether to apply the full general variation percentage of 2.8% or to apply for a special variation it is essential that councils consider the effects of prevailing economic conditions in their area. Generally it is expected that applications will relate to significant initiatives of a specific nature, demonstrating broad community support and which cannot be funded by other means.

Applications seeking Ministerial approval for special variation in general income may be made by councils in regard to:

- | | |
|-------------------------|---|
| Section 508(2) | Increase in General Income, and |
| Section 548(3)(a) & (b) | Variation in Minimum Ordinary and/or Special Rate(s). |

(a) Reasons for Applying

Generally, an application to exceed the general ratepegging limit for 2001/02 will only be considered in the following circumstances:

- Where a Council proposes to participate in a project which has regional significance. Regional significance would be demonstrated through project participation by several councils and/or the State / Commonwealth contributing funds towards the project or an outcome with a demonstrable economic benefit.
- Where the Council is seeking to fund a major enhancement to community services or facilities. In particular this would include the need to increase income to address infrastructure maintenance or replacement, public health or environmental benefit or protection.
- Where the Council is required to meet substantial increases in Government contributions or charges for example: variation of charges by the Valuer General or NSW Fire Levy.

Reports from Director Corporate Services

In the majority of these circumstances the project funding requirements should have a definite time horizon after which time the special variation would lapse. In the case of service enhancements or additional infrastructure operating costs there is an expectation that productivity improvements will be achieved to offset ongoing costs.

The proposed initiative is also expected to have clear outcomes which are capable of being measured. The outcomes will need to be specified along with the performance measures as part of the council's application.

If a council applies to increase its income beyond the ratepegging amount for any purpose covered in dot point two above by the use of a special rate on certain ratepayers, the council must be able to demonstrate that the affected ratepayers are in favour of the proposal unless it addresses a specific public health or safety issue.

(b) Pre-requisites of an Application

The following pre-requisites apply for applications for special variations for 2001/2002:

- * If council intends to seek approval to increase its general income beyond the approved variation, the council must include within its draft management plan, a statement of its intentions to apply for a special variation and reasons for the increase.
- * Applications to increase general income will generally be given on the basis of a specific period (eg. 3 years). Such an approval will need to be renewed at expiry as a fresh application and will be monitored for implementation during the period. Applications should indicate the period for which the approval is sought.
- * Public notification of the draft management plan inviting submissions (section 405) must also include a clear indication of the council's intention to seek a special variation and the level of the variation sought as a percentage increase of general income (not permissible income).

Councils are reminded of their responsibility to provide both scenarios of proposed rates and charges for the 2001/2002 rating year in their Statement of Revenue Policy, that is, (1) the rating structure for each year of the proposed special variation, if Ministerial approval is granted and (2) the rating structure if the application is not approved.

- * A council may consider conducting a public meeting to discuss the proposal and any other submissions concerning the draft management plan.
- * A council may also submit an independent assessor's report to support its application. This is not mandatory unless requested by the Minister.

Reports from Director Corporate Services

- * Councils seeking approval for an increase in general income to fund or partly fund major building expenditures of \$500,000 or more are required to concurrently undertake a capital expenditure review as per the Department's guidelines in Circular to Councils 97/55.
- * Councils that wish to apply for a special variation **must** ensure that financial statements are lodged on time with the Department, thereby enabling a suitable assessment of Council's financial position. Council's Rating Return will also need to be completed, including any adjustments requested by the Department (refer Circular 00/65).
- * A council also seeking an income adjustment will still be required to submit a separate income adjustment application and will also include this income adjustment sum in its proposed 2001/2002 general income yield on its special variation application form. (See Council Circular regarding adjustments to notional income for newly rateable Crown Land).
- Councils are able to submit SV-1 application forms before expiration of the draft management plan 28 day public exhibition period, however, assessment of the application will not be finalised until receipt of any responses to the special variation proposal of the draft management plan.

(c) Summary of Details required for SV-1

- [1] Why the variation is required (addressing the requirements of this circular).
- [2] Details of rates and charges for 2000/01 and proposed for 2001/02.
- [3] Details of Domestic Waste Management Service Charges for 2000/2001 and proposed for 2001/02.
- [4] Comments on council's current and estimated financial performance.
- [5] The impact of the proposal on ratepayers.
- [6] The level of publicity given to the proposed variation and resulting comments.

Accountability and Responsibility for Revenue Raising Policy

All councils are reminded of the need to ensure that there is adequate community consultation about proposed rating and revenue raising policy. This should involve ratepayers being informed of the full range of rating and charging options available to councils and the reasons upon which proposed policy choices have been based.

Where Ministerial approval is given for a special variation, it will be on the understanding that the Council will regularly provide specific details concerning expenditure and progress towards the completion of the project(s) associated with the variation.

Reports from Director Corporate Services

CONCLUSION

Council's 2001/2004 Management Plan provides Tweed with a unifying focus for management of all the Authorities' activities and operations.

Reports from Director Corporate Services

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Reports from Director Engineering Services

27. ORIGIN: Planning & Design Unit

FILE REF: R1181 Pt 11, Cycleways – Twd Coast

REPORT TITLE:

Roads & Traffic Authority Grants for Cycleways/Walkways

SUMMARY OF REPORT:

The Roads & Traffic Authority has offered Council additional funds of \$30,000 to be used on extending the Coast Road cycleway / walkway. This is in addition to the already received \$73,000. Council has allocated \$107,600 in the current budget and with the additional funds is now almost fully matched on a dollar for dollar basis from the RTA.

Council has been able to secure the additional funds from the RTA due to the efficient and timely construction of the current year's projects along the Coast Road. This has enabled the RTA to divert funds previously allocated to another Council in the region who have been unable to expand their allocation.

RECOMMENDATION:

That Council:-

1. Accepts the additional funding of \$30,000 from the Roads & Traffic Authority for the extension of the cycleway/walkway at Hastings Point.
2. Authorises the expenditure of the funds in (1) above on the cycleway/walkway at Hastings Point.

Reports from Director Engineering Services

REPORT:

The Roads & Traffic Authority has offered Council additional funds of \$30,000 to be used on extending the Coast Road cycleway / walkway. This is in addition to the already received \$73,000. Council has allocated \$107,600 to be in the current budget and with the additional funds is now almost fully matched on a dollar for dollar basis from the RTA.

Council has been able to secure the additional funds from the RTA due to the efficient and timely construction of the current year's projects along the Coast Road. This has enabled the RTA to divert funds previously allocated to another Council in the region who have been unable to expand their allocation.

The funds are to be spent on the Coast Road cycleway project and it is planned to use them on the extension of the recently constructed cycleway at the North Star Resort at Hastings Point extending southward to Young Street and depending on the final tender prices work will also commence extending the cycleway northward from the shop opposite the Hastings Point headland access along the front of Council's caravan part at Hastings Point.

These projects will result in the only missing link between Pottsville and Cabarita being the widening of Hastings Point Bridge and approaches, which are proposed to be included in the 2001/2002 Cycleway/Walkway Program.

Reports from Director Engineering Services

28. ORIGIN: Director

FILE REF: Water Management - Conferences

REPORT TITLE:

2001 AWA Regional Conference

SUMMARY OF REPORT:

The Australian Water Association as the lead agency for the water and wastewater industry in Australia, coordinates various conferences and seminars throughout Australia. One of the most successful and relevant conferences is the Weekend Regional Conference organised by the Queensland Branch of the AWA each year for the South East Region of Queensland.

This year's conference is to be held at Club Banora on the 16, 17 and 18 November 2001.

The Organising Committee have invited both the Gold Coast City Council and Tweed Shire Council to be primary sponsors, with a sponsor fee of \$5,000 each.

RECOMMENDATION:

That joins with the Gold Coast City Council in jointly sponsoring the AWA Regional Conference for a fee of \$2,500 each.

Reports from Director Engineering Services

REPORT:

The Australian Water Association as the lead agency for the water and wastewater industry in Australia, coordinates various conferences and seminars throughout Australia. One of the most successful and relevant conferences is the Weekend Regional Conference organised by the Queensland Branch of the AWA each year for the South East Region.

The location of the conference this year is at Club Banora with delegates and families staying at the new Twin Towns Resort. The Committee have requested Tweed Shire Council to be a primary sponsor of the Conference this year.

This year's conference is to be held on the 16, 17 and 18 November 2001. The sponsors have requested Tweed Shire Council to be a primary sponsor for the conference. The conference will include a half day technical tour of areas around Tweed Heads and the Gold Coast.

Council is a corporate member of the Australian Water Association. As a major water authority there are obvious benefits for Council to be involved in this conference apart from the fact that it is being held in the Tweed Valley. Some years ago Council successfully hosted the same conference at Cabarita Gardens.

The Organising Committee have invited both the Gold Coast City Council and Tweed Shire Council to be primary sponsors with a sponsor fee of \$5,000. Appropriate recognition will be given to both Councils at the conference. Following discussions at officer level with the Gold Coast City Council it is considered that a reasonable response to the requests would be for both the Councils to jointly sponsor the conference at \$2,500 each. The Organising Committee have indicated their acceptance of this approach. Funds are available from Council's 2001/2002 Water Supply and Sewerage budgets.

Reports from Director Engineering Services

29. ORIGIN: Planning & Design Unit

FILE REF: Bridges – Lakes Drive Kirkwood Road, R2920 Pt3

REPORT TITLE:

Tweed Shire Road Network - Proposed Kirkwood Road Access to Tweed Heads Bypass

SUMMARY OF REPORT:

Council previously considered a report on the ultimate Tweed Shire Road Network Review at its meeting on 5 April 2000. Since that time discussions have taken place with the RTA by way of letters and meetings with senior executives of both organisations. The Road Network Computer Model has also been re-run for the different scenarios relating to the report.

Unfortunately progress is not encouraging. The RTA is not supportive of providing ramps from the Tweed Heads Bypass to Kirkwood Road although it has not yet formally refused their construction.

This matter also raises issues regarding the role of the RTA in any re-zoning applications for Area E (Mahers Lane, Terranora).

RTA approval to the northern arterial network, including north facing ramps at Kirkwood road onto the Tweed Heads Bypass is a fundamental pre-requisite to further development and re-zoning in the Lower Tweed Catchment, including Area E.

In the event that RTA approval could not be obtained the only alternative for Council would be to widen Leisure Drive to 4 lanes for its full length, resulting in ultimate traffic volumes close to 30,000 vpd. This would create significant amenity issues within the Banora Point community.

RECOMMENDATION:

That no further funds be allocated to the detailed design of Naponyah Road extension from Mahers Lane to Fraser Drive (other than to complete the environmental impact assessment) until the Kirkwood Road/Tweed Heads Bypass access issue is resolved with the Roads & Traffic Authority.

Reports from Director Engineering Services

REPORT:

Council previously considered a report on the ultimate Tweed Shire Road Network Review at its meeting on 5 April 2000. A copy of the report is reproduced below for Council's information.

REPORT TITLE:

Review of the Ultimate Tweed Shire Road Network

SUMMARY OF REPORT:

Government decisions on the Chinderah/Yelgun motorway and the Tugun Bypass and Council planning decisions have impacted on the Tweed Shire Road network. It is proposed to amend the ultimate long term shire road network to reflect these changes. It is proposed to defer a final decision on the future of the Lakes Drive Bridge project until a number of other related matters are resolved.

RECOMMENDATION:

That:-

1. *The proposed Ultimate Tweed Shire Road Network as designated in Figure 3 and figure 4 be adopted in principle, subject to*
 - (a) *A commitment being made by the NSW and Queensland governments to construct the Tugun Bypass in general accordance with Preferred route C4*
 - (b) *A commitment being made by the RTA to install two north facing freeway ramps at Kirkwood Road*
2. *The proposed Lakes Drive Bridge project be put on hold until the above issues are resolved. If these are resolved satisfactorily Council would then give further consideration to the Lakes Drive Bridge proposal with a view to its abandonment.*
3. *When issues in 1(a) are resolved, Tweed Roads Contribution Plan No 4 is to be amended to reflect the changes in the new adopted road network*
4. *Council pursues early completion of the Tugun Bypass and government funding for the Boyd St interchange*
5. *A planning strategy be prepared to respond to the road network constraints being:-*
 - (a) *Initially connect Cobaki Lakes to Boyd St (Tugun) with no southern road outlet*
 - (b) *Delay the southern outlet to Cobaki Lakes until the northern end is connected to the Tugun Bypass and Boyd St interchange*

Reports from Director Engineering Services

- (c) *Bond Cobaki Lakes Development for cost of southern connection and Cobaki Ck bridge.*
- (d) *Delay Bilambil Heights development until the Tugun Bypass/Boyd St Interchange, Cobaki Parkway and Cobaki Ck Bridge are available for connection of the development to the north.*

REPORT:

1. Background

The ultimate (ie. when land identified as future urban in the Strategic Plan is fully developed and occupied, in about say 30 years) Tweed Shire road network was last determined in 1997 when the Section 94, Tweed Road Contribution Plan No 4 was adopted. This network (see Figs 1 & 2) was based on knowledge at that time and provided for:

Upgraded Pacific Highway on current route south of Chinderah

Some form of bypass west of Coolangatta Airport

Future major developments at Cobaki, Bilambil, Tweed Coast, Area E

Cobaki access to Qld limited by Gold Coast City Council until Tugun Bypass connected

Land use pattern as in the Strategic Plan

Lakes Drive Bridge

2. How was Lakes Drive Bridge Included in the Network?

The 1974 Shire Wide Strategic Plan identified population growth of 14,000 at Cobaki Lakes and 7,300 at Bilambil Heights that would generate an extra 40,000 vehicle trips in the district. In 1984 the Tweed Shire Short Term Residential Strategy was adopted which advised .."Investigations are in hand and designs will be prepared for new distributor links where development pressures are identified." And "...Present proposals include a possible new link between West Tweed Heads and South Tweed Heads,..."

During 1989/90 Council exhibited and adopted the Lower Tweed Transportation Study which included the Lakes Drive Bridge

In 1991 Council dropped the Banksia St option and confirmed Lakes Drive bridge as the preferred means of increasing road capacity to West Tweed.

In 1993, Council adopted the Lower Tweed Transportation Study Section 94 Contributions Plan which included Lakes Drive Bridge.

In 1997 Council adopted the updated Tweed Road Contribution Plan (Section 94 Plan) which also included the bridge as part of the construction schedule.

The Lakes Drive Bridge project has an estimated cost of \$12.5 million in the 1997 TRCP.

Reports from Director Engineering Services

ADOPTED NETWORK 1997 - TWEED SHIRE

NUMBERS ARE ULTIMATE TRAFFIC VOLUMES (Vehicles per Day)

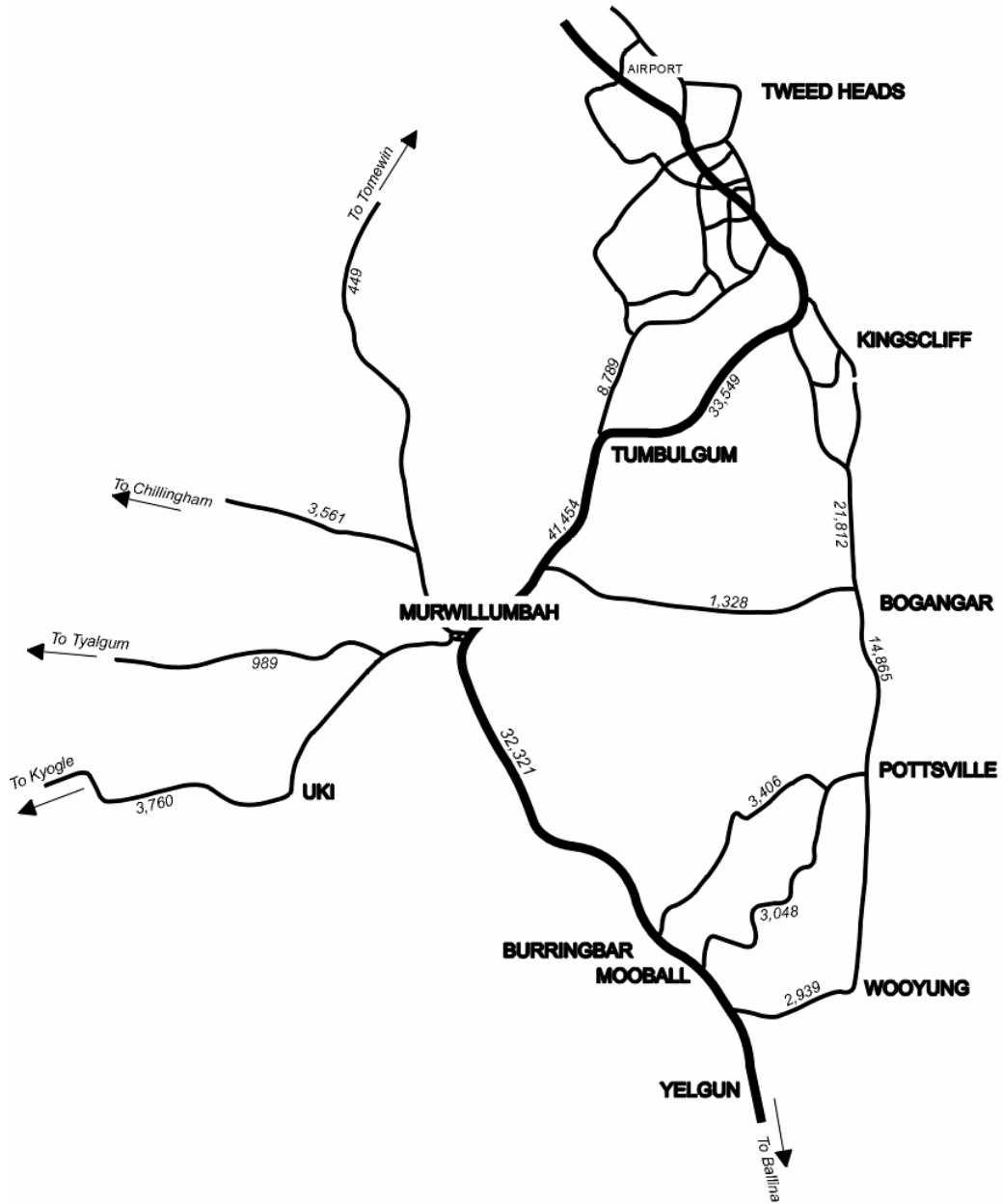


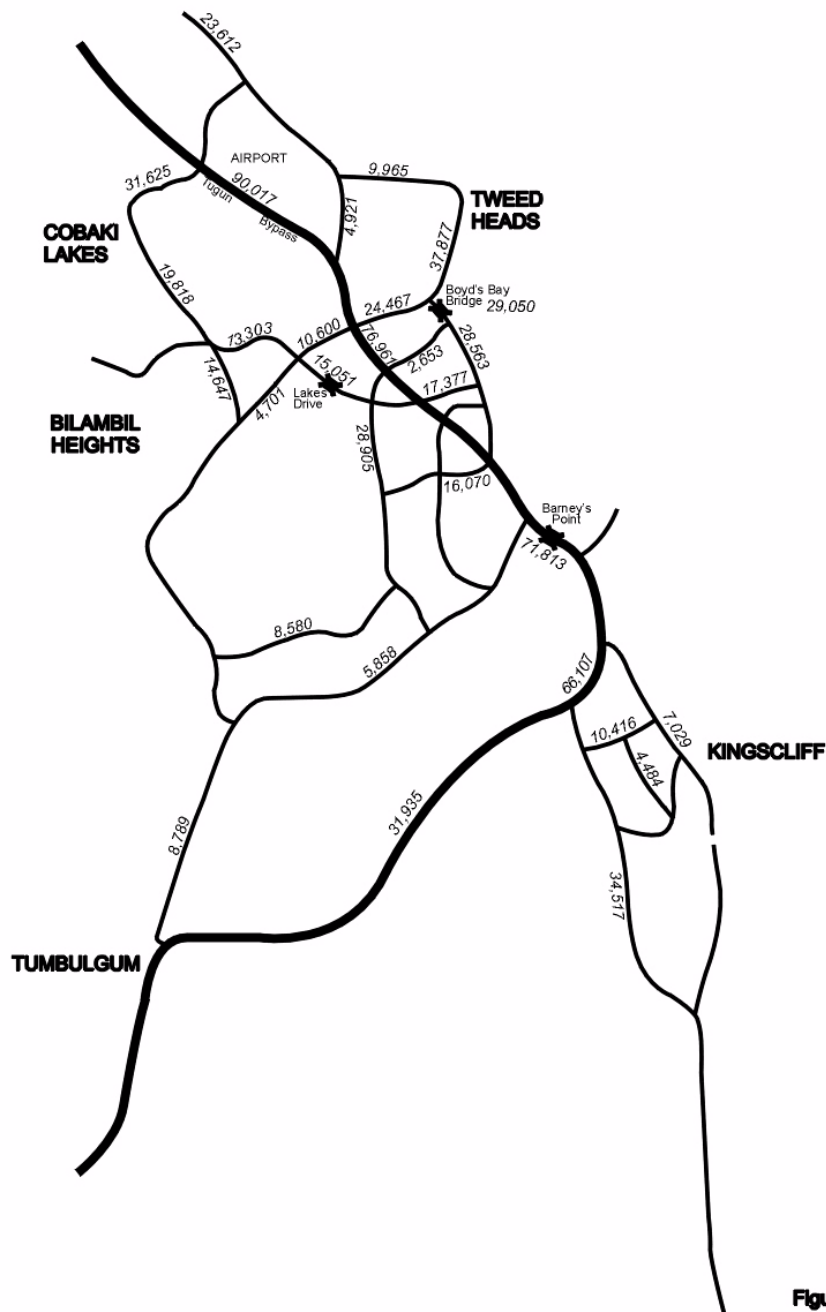
Figure 1

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page1

Reports from Director Engineering Services

ADOPTED NETWORK 1997 - LOWER TWEED

NUMBERS ARE ULTIMATE TRAFFIC VOLUMES (Vehicles per Day)



network.odr
page2

Figure 2

Reports from Director Engineering Services

3. What Has Changed Since 1997

- *The RTA have abandoned the concept of upgrading the Pacific Highway south of Chinderah on its current alignment and have adopted and commenced construction of the Chinderah/Yelgun Motorway.*
- *Route C4 has been adopted for environmental assessment of the Tugun Bypass and now includes a Parkes Drive exit (which improves access to West Tweed Heads north of Kennedy Drive) and a Boyd St interchange now located on the Queensland side of the border.*
- *Lakes Drive Bridge Development Application has been exhibited, but, not determined because there has been substantial community concern, some environmental issues have not yet been resolved, and there remain questions on whether the bridge is really necessary.*
- *The Proposed 1998 LEP has proposed land use changes in West Tweed Heads that may reduce population density and traffic generation north of Kennedy Drive.*
- *The Coast Rd is to remain open at Cudgen Ck south of Kingscliff.*

The proposals to reduce traffic generation north of Kennedy Drive and provide Parkes Drive with access to the Tugun Bypass will lower the predicted future traffic volumes on Kennedy Drive. Traffic on Kennedy Drive can also be controlled in the short to medium term by:

- *Initially connecting Cobaki Lakes to Boyd St (Tugun) with no southern outlet*
- *Delaying connection of a southern outlet to Cobaki until the north end is connected to the via the Tugun Bypass/Boyd St interchange*
- *Delay Bilambil Hts development until it can be connected across Cobaki Ck Bridge, and though Cobaki Lakes (Cobaki Parkway) to the Tugun Bypass/Boyd St interchange.*

As short and long term traffic volumes on Kennedy Drive can now be managed to acceptable levels, and given the high cost, environmental and public concerns with the proposed Lakes Drive Bridge it is appropriate to reassess the need for the bridge.

4. Proposed Network

In response to the changes in (3) above a new ultimate Tweed Shire road network is proposed. This network features

- *Deletion of Lakes Drive Bridge*
- *2 north facing freeway ramps at Kirkwood Rd (was 4), subject to RTA agreement*
- *Minor upgrade of Kennedy Drive*
- *Bridge to remain on Coast Road at Cudgen Ck, south of Kingscliff*

Reports from Director Engineering Services

- *Time sequencing of Cobaki Lakes and Bilambil Heights developments and isolation of Cobaki Lakes from the rest of Tweed until the Tugun Bypass is connected.*

The proposed network has been modelled by consultants Veitch Lister to assess ultimate long term traffic volumes. This modelling shows:-

- *Kennedy Dr traffic is up, but, kept to 19,039 at Cobaki Bridge*
- *There is increased traffic on the motorway bridges across Terranora Ck and Barneys Point*
- *Traffic is substantially reduced on the Pacific Hwy south of Chinderah*
- *Coast Road traffic is reduced*
- *Tumbulgum Bridge traffic is reduced*

The proposed network is shown in figures 3 & 4

Reports from Director Engineering Services

PROPOSED NETWORK 2000 - TWEED SHIRE

NUMBERS ARE ULTIMATE TRAFFIC VOLUMES (Vehicles per Day)

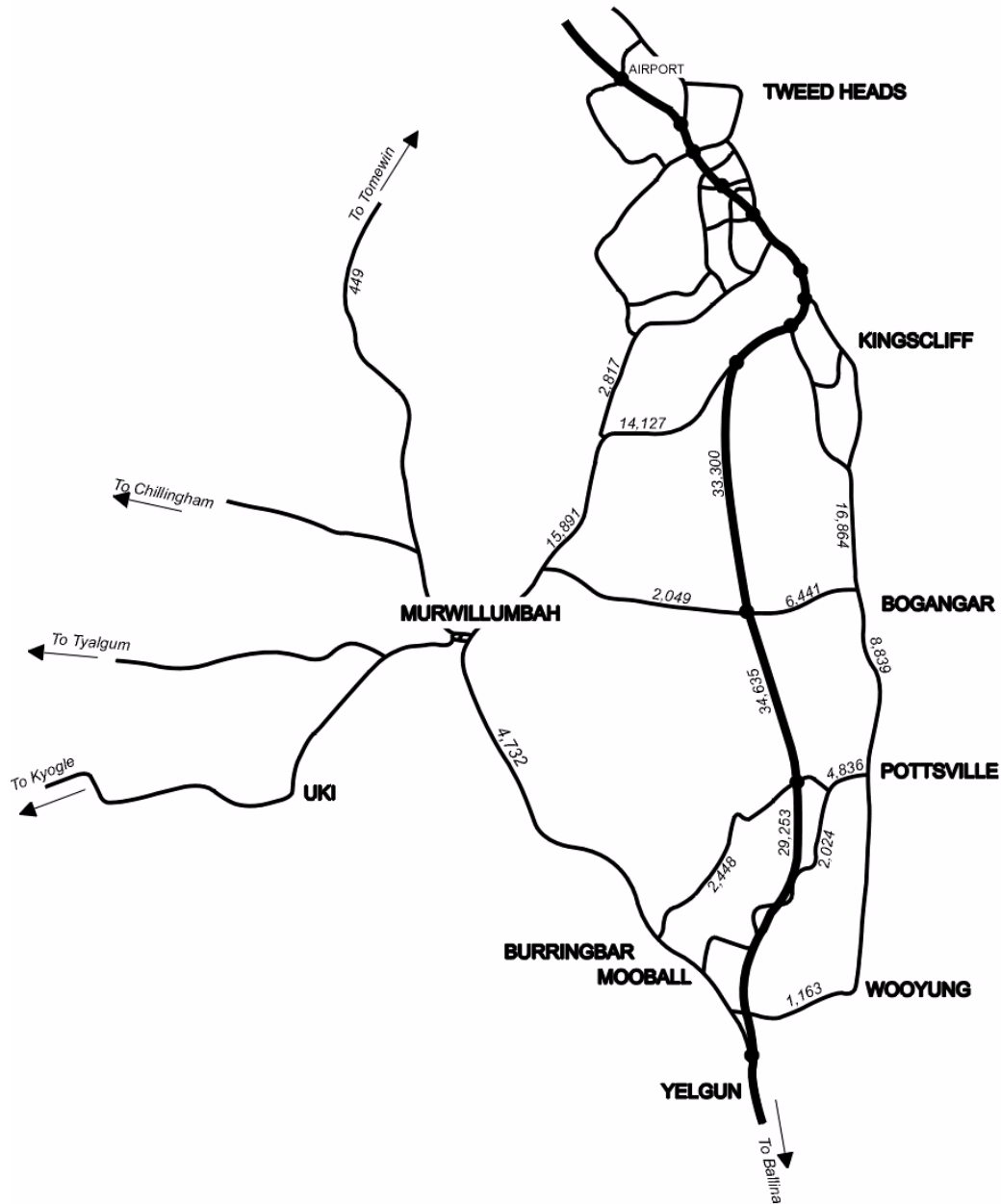


Figure 3

network.cdr
page3

Reports from Director Engineering Services

PROPOSED NETWORK 2000 - LOWER TWEED

NUMBERS ARE ULTIMATE TRAFFIC VOLUMES (Vehicles per Day)

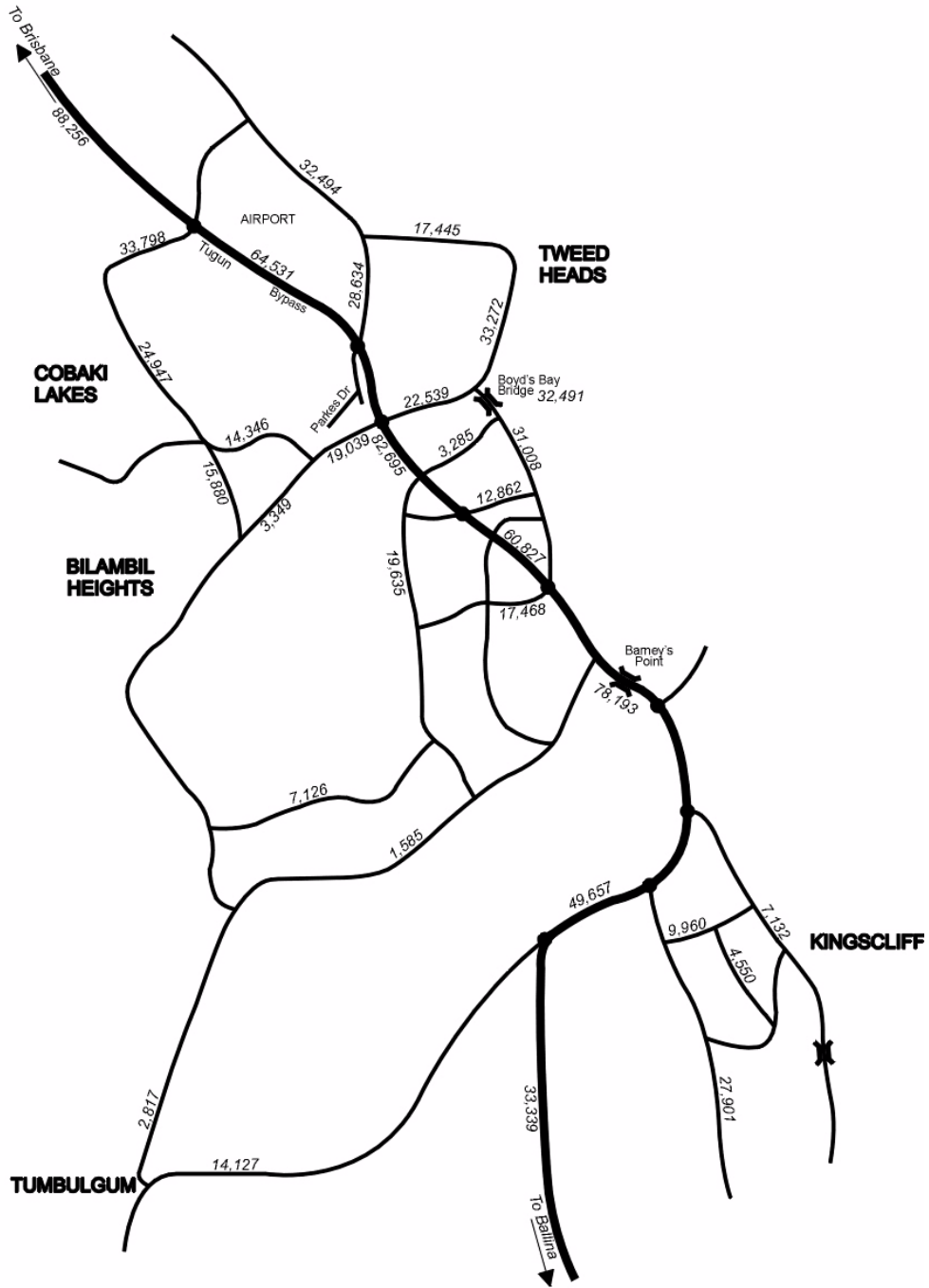


Figure 4

network.cdr
page4

Reports from Director Engineering Services

5. Risks with Adoption of Proposed Network

There are some risks in adopting the proposed network at this stage and these include:

- The Tugun Bypass is not committed and environmental/financial issues may delay or stop the project*
- The RTA is not committed to freeway ramps on Kirkwood Rd*
- Cobaki Lakes will be isolated from Tweed until the Tugun Bypass and Boyd St interchange are available*
- Cobaki Lakes development will be capped by agreements with the Gold Coast City Council until the Tugun Bypass and Boyd St interchange are available*
- There is a risk of the Boyd St upgrade bond being payable if traffic on Boyd St is allowed by Tweed Shire Council actions to exceed the limit agreed with Gold Coast City Council*
- A comprehensive review of the contribution schedule in the TRCP (section 94 contributions plan) will be delayed until these issues are resolved*

Possible consequences of these risks include;

- Tugun Bypass not Proceeding*
 - Cobaki Lakes development being limited by agreement with Gold Coast City Council*
 - Bilambil Heights cannot proceed*
 - Kennedy Drive traffic is unrelieved by Parkes Drive exit*
- No Freeway Ramps at Kirkwood Rd (see figure 5)*
 - Unacceptable traffic increases on Wharf St, Boyds Bay Bridge, Dry Dock Rd and Leisure Drive*
 - Kirkwood Road underutilised*
- Economic benefits of Cobaki Lakes development may be isolated to Queensland*
- A period of uncertainty for TRCP rates*

6. Implementing the Proposed Network

The risks in adopting the proposed network can be managed and minimised by:

- Restricting development at Cobaki and delaying the southern road connection to the rest of Tweed until the Tugun Bypass/Boyd St interchange is available*
- Delay commencement of Bilambil Heights development until the Tugun Bypass/Boyd St interchange and road/bridge connection through Cobaki Lakes are available*

Reports from Director Engineering Services

- *Urgently negotiating with The RTA to obtain commitment to the Kirkwood Road freeway ramps and the Parkes Drive exit*
- *Pursuing an early commitment to and construction of the Tugun Bypass*
- *Pursuing a resolution of the location (which side of the state border) and responsibility for funding of the Boyd St interchange*

Early resolution of these issues will also minimise the isolation period of Cobaki Lakes

Reports from Director Engineering Services

EFFECT OF KIRKWOOD RD RAMPS

RAMPS IN - PLAIN NUMBERS (Vehicles per Day)

RAMPS OUT - NUMBERS IN BRACKETS

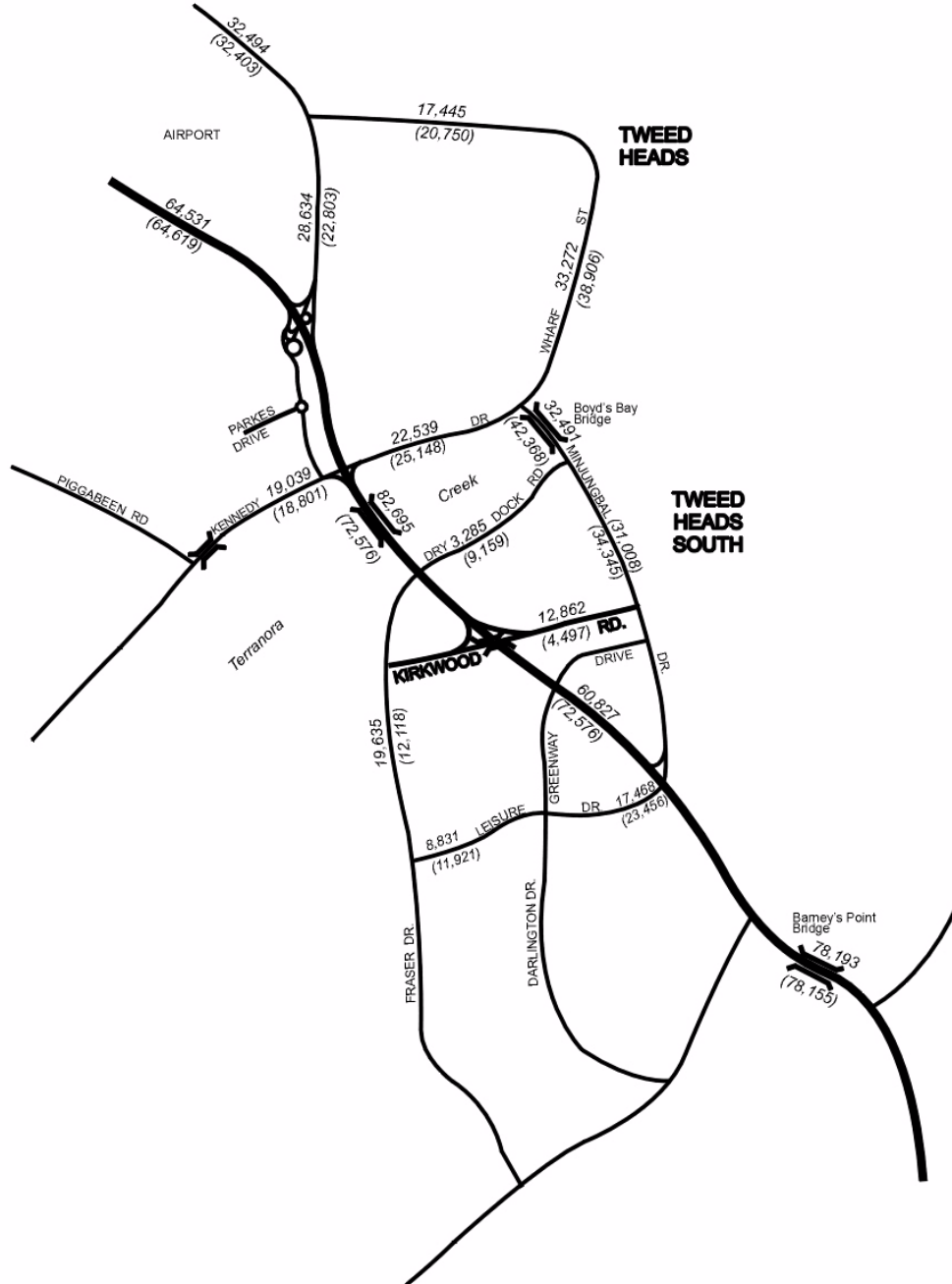


Figure 5

network.cdr
page5

Reports from Director Engineering Services

Action Since April 2000 Resolution:

Part 1 of the Council's resolution involved pursuing a commitment from the Roads & Traffic Authority (RTA) to allow construction of two north facing freeway ramps at Kirkwood Road. Council has since engaged the RTA in negotiation by letters and meetings. Copies of correspondence from Council and the RTA are reproduced here providing a detailed summary of the communications to date.

The last RTA letter (dated 20 April 2001) raises other issues that are further discussed in this report, including a potential RTA objection to the Area E re-zoning.

Reports from Director Engineering Services

30 June 2000

The Zone Manager
Roads & Traffic Authority
PO Box 576
GRAFTON 2460

Dear Sir

Tweed Heads Bypass - Kirkwood Road Proposed Partial Interchange

Council is seeking your Authority's cooperation in key strategic planning of traffic arrangements in the lower Tweed area, with particular regard to the above works. We believe such an interchange to be demonstrably in the community interest, and ultimately in the mutual interest of both Council and the RTA.

As you are aware Council has been planning the Tweed Distributor Road Network since 1990 when the Lower Tweed Transportation Study was released. You were a party to this study, which endorsed provision of a full interchange with the Pacific Highway (Tweed Heads Bypass) and Kirkwood Road as an integral component of the road network.

In January 1997, this document was significantly revised in the Tweed Road Development Strategy (TRDS) prepared by VLC traffic consultants. After extensive modelling, the above interchange was again identified as crucial to the road network. (See enclosed plan).

Following your history of verbal and written advice, the adopted distributor (sub-arterial) road network once more included the Lakes Drive Bridge over Terranora Inlet providing a connection from Bilambil Heights to Kirkwood Road. This provision was included, to some large extent, because your advice had been that the Pacific Highway was not to cater for local traffic movements, and Council should identify and obtain consent for its own local traffic crossing of Terranora Creek at another site. (In reality of course, the Tweed Bypass is already an integral part of the Tweed Shire road local network as it both bisects and links the heavily populated urban areas of Tweed Heads and Banora Point and includes interchanges at Kennedy Drive and Darlington Drive.) A brief inspection of the Terranora Creek area is enough to confirm that, apart from the existing RTA crossing, only one other (highly constrained) crossing opportunity actually exists in practice, and this impacts on an island gazetted under SEPP14. Its approaches are through quiet residential streets.

....Cont./2....

Reports from Director Engineering Services

Roads & Traffic Authority

30 June 2000

Nevertheless Council lodged a Development Application for a bridge at this site in 1998. This application was strongly criticised by National Parks, Fisheries and local environmentalists on a number of counts and presently remains on hold pending our (so far unsuccessful) demonstration that remediation issues can be satisfactorily resolved. Additionally, the social impacts have generated a large community groundswell of opposition which enjoys some Councillor support. In consequence, planned urban development in the catchment is currently suspended indefinitely awaiting some resolution of the road network.

In pursuit of viable alternatives, the TRDS modelling was again re-run in 1999 to take account of the Road & Traffic Authority's commitment to construct the Yelgun-Chinderah Motorway, the adoption of a "Preferred Route" for the Tugun Bypass linking Queensland and NSW (Option C4), and the new Tweed Local Environmental Plan 2000; all which have significant impacts on the network model.

The review demonstrated that it would be possible to abandon the proposed Lakes Drive Bridge and still allow development in the Shire to proceed provided that:-

- i) The Tugun Bypass is constructed including a full interchange at Boyd Street (Qld) and local access is obtained from Parkes Drive (NSW) to the Bypass western access service road (partly Rose St) via a roundabout.
- ii) A partial interchange at Kirkwood Road and the Pacific Highway (Tweed Heads Bypass) is constructed; consisting of two north facing access ramps to enable northbound access to the Highway from Kirkwood Road and southbound access from the Highway to Kirkwood Road.

Enclosed is a diagram showing the predicted ultimate average daily traffic volumes for the distributor road network with and without the Kirkwood Road ramps to the Highway. It can be seen that the consequences of not having the north facing Kirkwood Road ramps are unmanageable in terms of capacity on existing heavily constrained Shire roads.

From the model results the inclusion of the two north facing ramps at Kirkwood Road have a minimal net impact on the Tweed Heads Bypass and the total number of ramps accessing the Bypass would remain the same with the proposed deletion of the north facing ramps on Kennedy Drive.

The most significant impact is on the Terranora Creek Bridge on the Pacific Highway taking the ultimate volumes of traffic from 72 576 vpd to 82 695 vpd but it should be noted that the Authority will have to provide greater capacity on the bridge whether or not the Kirkwood Road ramps are constructed. The impact of the Kirkwood Road ramps is that the additional capacity on the bridge will need to be provided earlier than if the ramps weren't constructed. It should be noted also that the proposed access ramps actually decrease the ultimate traffic volume on the Pacific Highway (Tweed Heads Bypass) between Kirkwood Road and Sextons Hill from 72 576 vpd to 60 827 vpd with the ramps and the length of locally generated trips is less than without the ramps, thereby reducing the impact of the local generated trips on the Pacific Highway.

Reports from Director Engineering Services

....Cont.3....

Roads & Traffic Authority

30 June 2000

In this scenario, traffic safety on the Bypass is not expected to be compromised because the ramps at Kirkwood Road will not generate "weaving traffic" as vehicles will merge onto the Bypass in the left hand outside lane and exit from the same lane at Kennedy Drive and vice versa in the southbound direction.

The Roads & Traffic Authority's agreement to the construction of a roundabout on Parkes Drive and the Tugun Bypass Access Road (North of Kennedy Drive) is important to the Tweed Network because it allows the catchment northwest of Kennedy Drive to access the Tugun Bypass via Parkes Drive without impacting on Kennedy Drive. This intersection is a logical and efficient addition to the network.

Given the above information Council is seeking approval in principle from the Roads & Traffic Authority for the following projects:

1. **Kirkwood Road and Tweed Heads Bypass - Tweed Heads South**
 - northbound on ramp
 - southbound off ramp
2. **Parkes Drive - Tweed Heads**
 - Intersection (roundabout) with the Tugun Bypass Access Road.

Approval in principle of these projects is requested subject to detailed design. Your prompt consideration is sought to enable the long term planning of the Tweed Shire distributor road network to proceed with certainty. Funding of such works (except the earlier capacity improvements on Terranora Creek Bridge) is covered by Council's Section 94 road development budget.

If you require any further information regarding this matter, please contact Mr P Morgan on the above number.

Yours faithfully

Mike Rayner
Director
ENGINEERING SERVICES

Reports from Director Engineering Services

Mr Wes Stevenson g:\pacific\wes\prog\tweedshi.doc
(02) 6640 1014
wesley_stevenson@rta.nsw.gov.au
10/438.1187;11

The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

TWEED SHIRE COUNCIL	
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Roads and Traffic
Authority
www.rta.nsw.gov.au

Pacific Highway Office

21 Prince Street
Grafton NSW 2460
Telephone (02) 6640 1000
Facsimile (02) 6640 1001
PO Box 546
Grafton NSW 2460

Attention: Mr Mike Rayner

TWEED SHIRE ROAD NETWORK

Dear Sir

I refer to your letter of 29 June 2000 (ref: GB3/22 Pt6) seeking the RTA's agreement to proposed changes to connections to the Pacific Highway at Kirkwood Road and Parkes Drive.

I have to advise that the RTA does not agree with Council's proposal for north-facing ramps at Kirkwood Road. The reasons for this position are that:

- it is not appropriate for the Pacific Highway to be used for short trip lengths for "local" purposes.
- there are grave concerns for road safety and traffic efficiency with the interaction of the existing and proposed ramps.
- the proposal would require the State to bring forward expenditure on increasing the capacity of the Terranora Creek Bridge without the through traffic gaining much benefit from that investment.

However, the RTA has no objection in principle to Council providing its own bridge across Terranora Creek near to the Pacific Highway crossing. If Council wished to pursue this option further, agreement with the RTA on clearances between the bridges would need to be reached.

Reports from Director Engineering Services

I understand that the impact of the connection of Parkes Drive to the proposed road linking the Tugun Bypass and Kennedy Drive is being assessed in the development of the EIS for the Tugun Bypass. While the RTA has no objection in principle to the connection, a final decision would be dependent on a satisfactory outcome being indicated in that impact assessment

Yours faithfully



Steve Warrell
Acting Pacific Highway Manager

11 AUG 2000

Reports from Director Engineering Services

12 December 2000

Mr Peter Collins
Road & Traffic Authority
PO Box 576
GRAFTON 2460

Dear Mr Collins

Kirkwood Road - Access to Tweed Bypass (Pacific Highway)

I refer to the meeting between yourself, other Roads & Traffic Authority and Council officers on 29 August, 2000 regarding the above subject.

At that meeting it was suggested that Council investigate the potential to construct a bridge over Terranora Inlet adjacent to the Pacific Highway Bridge to cater for local traffic.

Enclosed is a preliminary road and bridge layout demonstrating the potential of the above proposal. It would appear that the construction of an adjacent local road and bridge is possible within the Authority's road reserve for the Highway. However, it is also evident that such construction would severely restrict the Authority's ability to undertake the inevitable future upgrading of this section of the Pacific Highway to six (6) lanes.

Problems created are the limited scope to relocate the northbound off ramp to Kennedy Drive and the difference in longitudinal levels as a result of Council's lower design speed for the local road network.

This and other options such as upgrading Kennedy Drive and Leisure Drive (thereby loading traffic onto the Highway at the respective interchanges) are not considered to deliver the most efficient road network in terms of highway or local traffic.

As previously noted if Council upgrades Leisure Drive to channel traffic to the Sextons Hill interchange, the predicted ultimate/average daily traffic on the Pacific Highway between Sextons Hill and Kirkwood Road will increase by 11750 vehicles per day from 60827 to 72576 vehicles per day (vpd). However, with the Kirkwood Road northern ramps the impact of local traffic on the Highway between Kirkwood Road and Kennedy Drive is an increase of 10120 vpd from 72576 vpd to 82695 vpd.

It is evident from these figures that even without the new ramps at Kirkwood Road locally generated traffic will use the Highway utilising existing interchanges. Such usage, whilst not in accordance with Roads & Traffic Authority philosophy, is always going to be reality when highways and motorways bisect urban areas as shown by the above figures.

Reports from Director Engineering Services

We believe road planning authorities should simply acknowledge this fact and continue to provide the most efficient road network for all road user groups.

Council considers the provision of north facing on and off ramps to the Highway at Kirkwood Road the best solution as demonstrated by Council's traffic modelling. This is because it limits the length of the highway impacted upon by local traffic and delays the need for the Roads & Traffic Authority to increase road capacity between Kirkwood Road and Sextons Hill (Leisure Drive interchange).

Council would be prepared to negotiate with the Roads & Traffic Authority on a financial contribution to compensate for the road capacity consumed on the highway between Kennedy Drive and Kirkwood Road by local traffic if the Kirkwood Road ramps were agreed upon. It is requested that the Roads & Traffic Authority considers the above issues further and respond to Council as soon as practicable.

We believe we have adequately investigated and conjectured the range of practical solutions available, as undertaken at our meeting in August. We believe the outcome as described above is that a common facility is the most environmentally acceptable most efficient and most affordable solution to all common problems. Your concurrence is sought.

If you require any further information regarding this matter, please contact Mr P Morgan on the above number.

Yours faithfully

Don McAllister
Manager
PLANNING & DESIGN

Reports from Director Engineering Services

14 February 2001

Mr Peter Collins
Roads & Traffic Authority
PO Box 576
GRAFTON NSW 2460

Dear Mr Collins

Kirkwood Road - Access Ramps

Council previously wrote to the Authority regarding the above subject on 12 December 2000 and our records indicated that we have not yet received a response.

Council considers this issue a matter of urgency. It would be appreciated if you could respond as soon as possible. A copy of the previous letter is attached for your information.

If you require any further information regarding this matter, please contact Mr P Morgan on the above number.

Yours faithfully

Don McAllister
Manager
PLANNING & DESIGN

Reports from Director Engineering Services

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Roads and Traffic Authority
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PO Box 546
Grafton NSW 2460

The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

LAKES DRIVE BRIDGE
KIRKWOOD RD

TWEED SHIRE COUNCIL	
FILE No.	R2920 Pt3
DOCUMENT No.	6611919
RECD	24 APR 2001
BOX No.	
ASSIGNED TO	MORGAN P.
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TWEED SHIRE ROAD NETWORK

Dear Sir

I refer to your letter of 8 December 2000 (your ref: GB3/22 Pt6 - R2920 Pt2 - R1075) advising of the result of investigations into provision of a local road bridge over Terranora Creek and again requesting the RTA's agreement to widening of the existing Terranora Creek Bridge for local traffic.

The sketch plan provided by Council seems to indicate that there is sufficient room for Council to construct a bridge for local purposes, while allowing for widening of the existing bridge.

Also, while it is recognised that the range of movements at the Kennedy Road intersection with this option would be somewhat difficult to manage, there are considered to be more serious traffic and safety concerns associated with Council's proposal for the existing bridge.

As stated in the RTA's previous letter, preliminary analysis of the use of the lane between the on-ramps and off-ramps (with widening to six lanes) indicates that this lane would be little used by through vehicles. In effect, the widening to six lanes would not benefit the through traffic.

An option of widening to eight lanes, with motorists undertaking "local" trips not required to merge at all with through traffic, has also been considered. This arrangement would overcome the RTA's concerns about the value of widening of the bridge. However, there remains a major concern with this option in that there would be insufficient distance between the on-load and off-load ramps for weaving movements that would also occur.

To some extent, the concerns about 'weaving' length may be alleviated by extension of the additional lanes southwards past Kirkwood Road, with looped exit and entry ramps to Kirkwood Road. This arrangement would be more expensive than Council's proposal and would seem to far out-weigh the cost of the 'local bridge' alternative. Council would also need to demonstrate that all of the RTA's concerns could be overcome by this arrangement, before an agreement on its implementation could be reached.

Reports from Director Engineering Services

It is noted that Council has offered to contribute to the provision of the additional roadway capacity. Under the 'eight lane' option above, it is considered that Council's contribution would be required for an additional two lanes across the bridge and between the ramps, the ramps themselves to and from Kirkwood Road and a proportion of the adjustment of the Kennedy Road ramps.

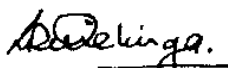
Council would need to weigh up the cost of this contribution against the cost of provision of its own bridge. To be taken into consideration is the State Road requirement of meeting SM 1600 bridge loadings (the additional costs of this requirement would be avoided if the 'local' road bridge were constructed separately).

In these circumstances, I suggest that Council examine more closely the alternative of providing a separate structure and road links to cater for the 'local' trips over Terranora Creek. It is also suggested that Council should compare the environmental impacts and costs of these options with its original proposal of a Lakes Way bridge.

Generally speaking, the RTA needs to be satisfied that road transport networks can be developed adequately to cater for traffic growth accompanying re-zoning prior to it supporting zoning changes. In this case, Council would need to demonstrate how it proposes to cater for additional traffic on the Terranora Creek Bridge as a consequence of re-zoning the western areas of Tweed Heads and specify its contribution to that work. A proposal to upgrade Leisure Drive would probably not meet this criterion.

I recognise that this issue is quite complex and I would be prepared to discuss it further with Council and/or its Officers if it would assist.

Yours faithfully



L R Wielinga
Pacific Highway Manager

20.06.01

Reports from Director Engineering Services

The above letters summarise progress to date.

Note that Council's letter dated 12 December 2000 raised another option that was not previously canvassed, which is the widening of Leisure Drive to four lanes between Fraser Drive and Darlington Drive rather than constructing Kirkwood Road and the Motorway ramps.

This option, whilst feasible would create a significant amenity issue for residents along Leisure Drive if the estimated traffic volumes (ultimate) increase to 18,000 vpd at Fraser Drive (883 vpd with Motorway ramps) and to 30,000 vpd at Darlington Drive (17,468 vpd with Motorway ramps). These estimates also assume restricting traffic on Dry Dock Road to around 8,000 vpd (currently 7,600 vpd).

Given the contents of the RTA's most recent letter received on 24 April 2001, it is also emerging that these discussions will be critical to whether Area E proceeds or not. If Council cannot obtain the ramps from Kirkwood Road to the Tweed Heads Bypass it will result in the need to widen Leisure Drive to four (4) lanes to cater for the traffic generated from the release areas (including Area E).

It is therefore recommended that any further funding for investigating the Naponyah Road link be suspended, other than to complete an environmental impact assessment for the project to determine the feasibility of progression to detailed design. The cost of preparation of an application to lodgement stage is estimated at \$50,000.

Costings and net present values for the following three projects have been prepared to enable an indicative comparison of costs to Council and the RTA to be made.

The three projects are:-

1. (a) Construct a Council road and bridge from Kennedy Drive to Kirkwood Road.
(b) Construct Kirkwood Road from Fraser Drive to the Tweed Heads Bypass.
2. (a) Construct north facing ramps onto Tweed Heads Bypass and contribute funds to RTA for extra 2 lanes on Terranora Creek Bridge.
(b) Construct Kirkwood Road from Fraser Drive to Tweed Heads Bypass.
3. Widen Leisure Drive to 4 lanes from Fraser Drive to the Tweed Heads Bypass.

Reports from Director Engineering Services

	COST & IMPACTS				
	COUNCIL	RTA	NPV COUNCIL	NPV RTA	TOTAL NPV COST
Option 1 Council Bridge & Road between Kennedy Drive & Kirkwood Road	Construct in 2006 at \$13.164M	Construct 1 extra lane in both directions in 2016 at \$21.725M	<u>\$11.355M</u>	<u>\$13.944M</u>	<u>\$25.3M</u>
Option 2 Kirkwood Road ramps & contribution to Tweed Heads Bypass upgrade	Construct Kirkwood Road ramps in 2006 at \$6.053M. Contribute to bridge widening 2011 at \$4.62M Total = \$10.675M	Widening between Kennedy Dr and Kirkwood Road in 2011 at \$7.645M – widen between Kirkwood Road and Sexton Hill in 2016 at \$14.08M Total = \$21.725M	\$5.221M <u>\$3.438M</u> <u>\$8.659M</u>	\$5.689M <u>\$9.037M</u> <u>\$14.726M</u>	<u>\$23.4M</u>
Option 3 Upgrade Leisure Drive to 4 lanes	Construct Leisure Drive to 4 lanes from Fraser Dr to Tweed Heads Bypass in 2006 at \$2.56M	Construct 1 extra lane in both directions between Sexton Hill and Kennedy Drive in 2011 at \$21.725M	<u>\$2.208M</u>	<u>\$16.165M</u>	<u>\$18.4M</u>

* Timeframes assumed only * Assumed real return of 3% * Assumed value of NPV invested in current year

From the above table it is apparent that option 3 is the cheapest for Council but there are significant amenity issues, as mentioned earlier. The last paragraph of the letter from the RTA dated 20 April 2001 (see copy above) warns that the RTA is likely to oppose any re-zoning applications that adversely impact on the Motorway, particularly at Terranora Creek. This appears to be a reference to the option of widening Leisure Drive to accommodate the Area E re-zoning which would load traffic onto the Motorway at the Sexton Hill interchange.. Therefore in the absence of agreement by the RTA to the north facing Kirkwood Road / Tweed Heads Bypass ramps and the foreshadowing of an RTA objection to an Area E re-zoning based on widening Leisure Drive to four lanes, the progression of Area E to a defensible re-zoning appears to be in doubt. (Note that this traffic impact occurs largely irrespective of proceeding with Lakes Drive Bridge or not.)

Further meetings have been scheduled with the RTA in time to further assess the above issues however until a definite outcome has been negotiated it is recommended that no further funds be expended on Naponyah Link Road other than the current Environmental Assessment.

Further update reports will be submitted to Council as the issues raised above are progressed.

Reports from Director Engineering Services

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Reports from Director Engineering Services

30. ORIGIN: Water Unit

FILE REF: GR1/6 Pt8, Sand By-pass

REPORT TITLE:

Tweed River Sand Bypassing Project

SUMMARY OF REPORT:

Construction and commissioning of the Sand Bypass Project (TRESBP) was completed on 4 May 2001. The system will now be operated by a company set up by the contractor, McConnell Dowell and known as the Tweed River Entrance Sand Bypassing Company Pty Limited. This company holds the Concession Agreement to operate the system until 30 September 2024 when all assets will pass to the two State Governments.

RECOMMENDATION:

That :-

1. This report be received and noted.
2. A subsidy of up to \$5,000 be sought from the Department of Land & Water Conservation for the development of a dune management plan for Durambah Beach consistent with the EIS for the Sand Bypassing Project.

Reports from Director Engineering Services

REPORT:

Construction and commissioning of the Sand Bypass Project (TRESBP) was completed on 4 May 2001. The system will now be operated by a company set up by the contractor, McConnell Dowell and known as the Tweed River Entrance Sand Bypassing Company Pty Limited. This company holds the Concession Agreement to operate the system until 30 September 2024 when all assets will pass to the two State Governments.

The operator is paid on the basis of sand pumped and is also responsible for the maintenance of a prescribed navigation channel at the entrance to the Tweed River. Mobile dredging may be required at times to remove sand that bypasses the pumping jetty and infills the entrance channel. The Project Directors will order annually target quantities to be delivered by the permanent system. In reality the actual quantities will be dictated by the natural sand movement past the pumping jetty. Pumping will normally occur at night for 8 – 9 hours/day.

Initial nourishment of Duranbah Beach has been completed with approximately 66,000cm delivered. The target program to 30/9/02 provides for a further 60,000cm to Duranbah in about March 2002. The original EIS for the project predicted significant change to Duranbah as witnessed during recent storm events. In recognition of community concern and interest in Duranbah Beach, the Department of Land & Water Conservation has suggested that Council prepare a dune management plan for Duranbah Beach as a component of its coastal management strategy. Funding would be available on a \$1 for \$1 basis and the expected cost of such a plan should not exceed \$10,000. Council's contribution of up to \$5,000 can be funded from the current budget.

Recent publicity has focussed on the loss of trees and vegetation in the vicinity of the sand pumping jetty on Letitia Spit. The EIS for this project identified a shoreline retreat (erosion) of about 90 metres at the jetty decreasing southward for 1000 – 1500 metres. The impacts therefore that are currently being observed by the community are consistent with the EIS predictions and project approval.

The EIS similarly predicted the erosion that occurred at Duranbah prior to nourishment and the longer term realignment of this beach.

Reports from Director Engineering Services

31. ORIGIN: Water Unit

FILE REF: Floodplain Management – Annual Conference

REPORT TITLE:

NSW Floodplain Management Authorities Annual Conference

SUMMARY OF REPORT:

The 41st Annual Conference of the Floodplain Management Authorities of NSW was hosted by Wentworth Shire Council at Wentworth and attended by over 200 delegates from 8 – 11 May 2001. The Conference was opened by the Minister for Land & Water Conservation, the Hon. Richard Amery.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Engineering Services

REPORT:

The 41st Annual Conference of the Floodplain Management Authorities of NSW was hosted by Wentworth Shire Council at Wentworth and attended by over 200 delegates from 8 – 11 May 2001. The Conference was opened by the Minister for Land & Water Conservation, the Hon. Richard Amery who highlighted in his opening address:-

- The release of the Government's revised Floodplain Management Manual.
- The need for floodplain planning to seriously consider rare events and not be limited to the 1:100 year level.
- His recognition of the need to plan and prepare for flood events in preference to providing relief after events.
- The allocation of \$14M by his Government for floodplain management in 2001/2002.
- The unfortunate reduction in Federal Government funding in recent years.
- His support for the return to the 2:2:1 funding formula from the current 1:1:1 formula currently demonstrated by the Federal Government and the opportunities that the forthcoming elections may provide.
- A promise to provide Councils with early advice of funding allocations for 2001/2002.

Specific matters of interest to Council during the Conference were:-

- A paper by Messrs B Druery, D McConnell and C Druery has determined that localised flow velocities around objects such as houses on a floodplain can be 3 – 4 times the average flow velocity. This is significantly higher than previously assessed and has implications for the safety of developments and people on a floodplain.
- There was a strong emphasis throughout the Conference on the recently released Floodplain Management Manual that requires consideration of rare flood events greater than the 1:100 year flood in any assessment of development on a floodplain. Flood liable land in the new manual is now defined as land susceptible to flooding by the probable maximum flood (PMF). Such an event is likely to be significantly higher on the Tweed than the 1:100 year flood event. The manual emphasises "strategic floodplain management" and a separate report on the manual is being prepared for Council's consideration.
- Annual membership of the NSW Floodplain Management Authorities has increased to \$870, from \$800 in more recent years.
- The 2003 Conference is to be held in February, prior to the NSW State Election and will be hosted by Forbes Shire Council.
- Cr Allan Ezzy from Holroyd City Council was re-elected as Chair for a further 2 years as was Cr Chris Holstein from Gosford City Council, as Deputy Chair.

Reports from Director Engineering Services

- A presentation was made to Mr Mike Geary, who has left the Department of Land & Water Conservation, in recognition of his contribution to the Authorities over many years.
 - Three (3) papers were presented to the Conference by officers from Gold Coast City Council who now appear to be directing significant resources to floodplain management and are now well advanced with planning.
 - The Conference adopted a prioritisation schedule for all flood mitigation proposals in NSW. This schedule will be submitted to the State Advisory Committee for submission to the Federal Government. The East Murwillumbah/Dorothy Street Flood Levee Project only rates 91st in the 124 projects submitted to the State Advisory Committee. There were a further 50 projects not submitted. This project is therefore unlikely to receive funding in the foreseeable future unless there is a significant increase in Federal Government funding or political re-prioritisation.
 - Greenhouse impacts were again raised in papers presented. It appears that the Re-insurance Industry is now accepting that climates are changing and attempting to factor into premiums likely consequences.
 - An officer from the SES advised in the last 12 months that the estimates for flood damage are ten times (10 x) the annual average damages, yet no record flooding has occurred. He also requested that Councils seek input from SES State Headquarters into any Land & Environment Court matters involving flood issues and into any major changes to local SES facilities.
 - The Bureau of Meterology is now providing flood levels, rainfall and flood forecasts on its web site. This will allow ready access by residents with internet access to local flood information. Local Tweed data will be available on this site as it becomes available.
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Reports from Director Engineering Services

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32. ORIGIN: Recreation Services Unit

FILE REF: The Anchorage, Regulatory Signs, Parking - Illegal

REPORT TITLE:

Signage - The Anchorage

SUMMARY OF REPORT:

Issues have risen due to the 'parking' of boats on a small beach in the Anchorage development (Figure 1). Approximately eighteen (18) months ago a sign was erected notifying "Permanent Parking of boats Prohibited". This sign (along with palm trees on the beach) is now being utilised to chain the boats to. Consequently, Council may consider amending the sign to advise unattended boats may be impounded.

RECOMMENDATION:

That Council erects a sign on the beach indicated in Figure 1 of this report to advise unattended boats may be impounded. The final wording of the sign to be determined in consultation with Council's Solicitors.

Reports from Director Environment & Community Services

REPORT:

Approximately eighteen (18) months ago, an issue arose on a small beach area within the Anchorage Development (Figure 1). The issue involved the beach being utilised as a boat 'parking area'. The result being that the beach was often completely filled with parked boats, some upturned and some upright.

Consequently, in an attempt to address the situation a sign was erected notifying "Permanent Parking of Boats Prohibited". Whilst this was affective to a large degree, several people are now chaining their boats to palm trees or the sign itself. As this is a small beach, these boats have a significant impact. Additionally, the chains and boats themselves present significant safety issues.

Consequently, it may be worth considering amending the sign to advise that if boats are left unattended they may be impounded under the provisions of the Impounding Act 1993.

Should Council resolve to have such signage erected, it is recommended that advise is sought from Council's Solicitors as to appropriate wording to avoid any possible future issues associated with the impounding of boats.

Reports from Director Environment & Community Services

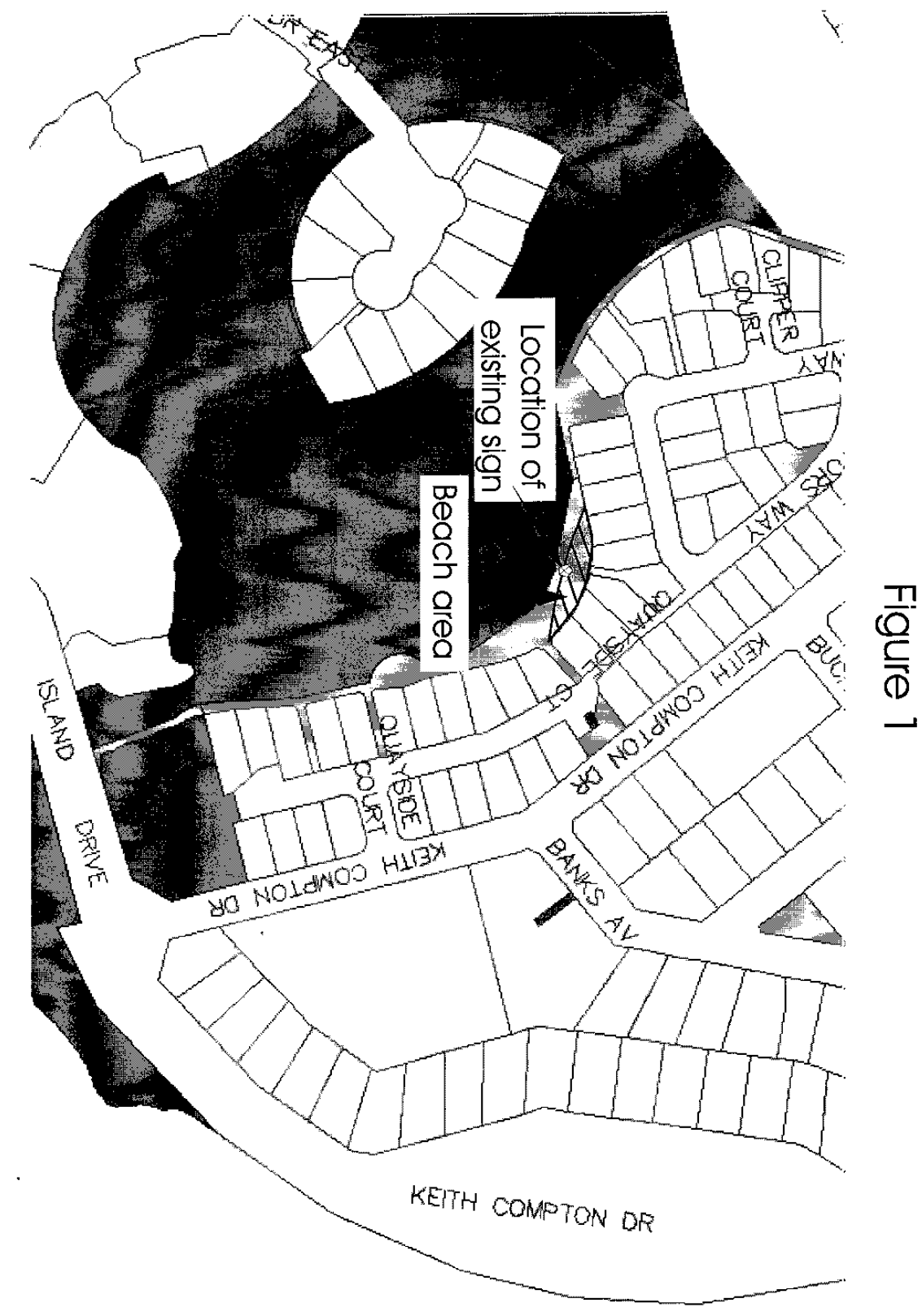


Figure 1

Reports from Director Environment & Community Services

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33. ORIGIN: Environment & Health Services Unit

FILE REF: Surf Lifesaving - Cabarita Headland, 4100.30

REPORT TITLE:

Use of Council Building by Cabarita Headland Surf Life Saving Club

SUMMARY OF REPORT:

Council has resolved to review the use of its premises in Pandanus Parade, Cabarita Beach by the Cabarita Headland Surf Lifesaving Club (SLSC) in April 2001.

The building has been regularly inspected and its integrity verified by a structural engineer it is considered that the surf club should be allowed to continue occupation until the beginning of the 2003 surf season. Such to be subject to the regular inspection by a structural engineer.

RECOMMENDATION:

That Council:

1. Approves the continued temporary use of its building in Pandanus Parade, Cabarita Beach by the Cabarita Headland SLSC subject to regular inspection and verification of the building by a structural engineer.
2. Reviews the situation in June 2002.

Reports from Director Environment & Community Services

REPORT:

Council has previously resolved to allow the continued occupation of its building in Pandanus Parade, Cabarita Beach by the Cabarita Beach SLSC until April 2001. This was subject to a continued review of the integrity of the building by a structural engineer.

To date the engineering reports have verified that the occupation could continue subject to the existing additional support to the building awning and the exclusion of access to person from thereunder.

As any decision associated with the construction of a new premises for the surf club is awaiting further research and report, it is considered reasonable that subject to regular inspection by the structural engineer and verification of the integrity of the building that the surf club occupation should be allowed to continue at least until the beginning of the surf season in 2002 when such should be reviewed.

Reports from Director Environment & Community Services

34. ORIGIN: Environment & Health Services Unit

FILE REF: SES

REPORT TITLE:

Sale of SES Flood Boat

SUMMARY OF REPORT:

The SES have requested that a flood boat, trailer and motor provided by Council in the 1970's be sold, as they are past their economic life, and the proceeds be returned to the SES for new equipment. As these assets, which are still Council assets, and were provided for the SES it is considered that their request be approved.

RECOMMENDATION:

That Council proceeds to sell its flood boat, trailer and motor known as SES 111 and return the profit from the sale to the Murwillumbah SES for new equipment purchase.

Reports from Director Environment & Community Services

REPORT:

Council is advised that the request as below has been received from the Tweed SES Controller for the sale of an old flood boat and trailer.

“FRD SES 111 was purchased by Council in the mid 70’s. It has had at least one replacement motor fitted since then. This FRB has now reached the end of its use-by date and is no longer safe to be used in flood conditions.

The hull is in very poor condition. It leaks where attempts have been made to repair cracks and has electrolysis through it. The stern also flexes excessively. The motor is reasonably new and is in good condition. It appears as though the trailer is original and is in fair condition.

SES State HQ have supplied a new punt and an application has been made for a 4.93 V-Hull from State. These boats will be allocated to Tumbulgum when required and will be more than capable of replacing SES 111.

A request is made for Council to sell SES 111 and for the proceeds to be returned to Murwillumbah SES so we can purchase additional equipment for the two (2) new boats.”

As the boat, trailer and motor, which are still a Council asset, were originally provided by Council to the SES it is considered that their request should be approved.

Reports from Director Environment & Community Services

35. ORIGIN: Recreation Services Unit

FILE REF: Les Burger Fields, 1190.1240

REPORT TITLE:

Crown Land - Les Burger Fields

SUMMARY OF REPORT:

Since November 1999, Council has been attempting to secure access over a portion of Crown Land being part of Lot R 40253 (Figure 1).

This portion of land provides the current access to the Les Burger Fields and building, and area utilised for parking and the site of the proposed skate park.

Additionally, Council resolved to negotiate with the Department of Land and Water Conservation (DLWC) and New South Wales Parks & Wildlife Services (NPWS) to secure use of a portion of R 40253 for use as sports fields.

Whilst Council has a licence from DLWC for access across the Crown Reserve, DLWC have advised that to secure long term access, Council should acquire the site under the Land Acquisitions (Just Terms Compensation) Act 1991.

To facilitate the construction of the skate facility on this land, DLWC have advised it will be necessary for Council to provide procedural rights under the Native Title Act 1993.

RECOMMENDATION:

That Council:

1. Requests Mr Neville Newell make representation to the Department of Land and Water Conservation on Council's behalf requesting the areas referred to as areas A and B in this report be placed under Council's management without the requirement for Council to purchase the land.
2. Discharges its notification requirements to perform works on these areas by providing procedural rights under the Native Title Act 1993.

Reports from Director Environment & Community Services

REPORT:

INTRODUCTION

Since November 1999, Council has been attempting to secure access over a portion of Crown Land being part of Lot R 40253 (Figure 1).

This portion of land provides the current access to the Les Burger Fields and building, and area utilised for parking and the site of the proposed skate park.

Additionally, Council resolved to negotiate with the Department of Land and Water Conservation (DLWC) and New South Wales Parks & Wildlife Services (NPWS) to secure use of a portion of R 40253 for use as sports fields.

BACKGROUND

In a letter dated 19 November 1999, Council advised DLWC of their requirements to procure a portion of R 40253 for access to the building and playing fields at Les Burger Fields, Cabarita. Advice on the appropriate avenue to achieve this outcome was requested.

Council received a reply dated 11 May 2000 stating the most appropriate means of securing access is for Council to acquire the site under the Land Acquisitions (Just Terms Compensation) Act 1991. In the interim, DLWC would favourably consider the granting of a licence under the provisions of the Crown Land Act 1989.

At its meeting held 5 July 2000, Council resolved that the Manager Recreation Services negotiate with DLWC and NPWS to implement boundary alterations west of the building for use as sports fields.

As a result of these negotiations, a proposal for the Crown to amend property boundaries to:

- include the two areas required by Council (the area for access and the area for sports fields) into Reserve R 726500 (sports fields) and;
- include sections of R 91482 (Round Mt Pony Club & Sports Fields) into R 40253 by way of compensation.

was forwarded to DLWC (Figure 1). In the interim a temporary licence was applied for.

In a letter dated 6 February 2001, DLWC reiterated that the most appropriate means of securing this land (that required for access) was to acquire the site under the Land Acquisition Act, 1991.

A temporary licence was issued and signed by Council on 11 May 2001.

Comment:

A State Valuation Office valuation of both portions of land was attained to provide an indication of likely cost to Council to acquire this land. Area A (Access: Figure 1) was valued at \$65,000 and area B (Sports Fields: Figure 2) at \$130,000.

With consideration to the fact that:

1. These areas are required by Council to provide a community benefit; and

Reports from Director Environment & Community Services

2. Council currently contributes a net total of \$370,000/pa to the care and maintenance of Crown Land in Jack Evans Boatharbour and the Single Coastal Reserve (figure does not include contributions to other Crown Lands within the Shire).

It may be considered reasonable that Council receives these areas at no cost through boundary alterations to existing reserves.

To achieve this end, it is recommended Council request Mr Neville Newell approach the Department of Land and Water Conservation on Council's behalf regarding the above.

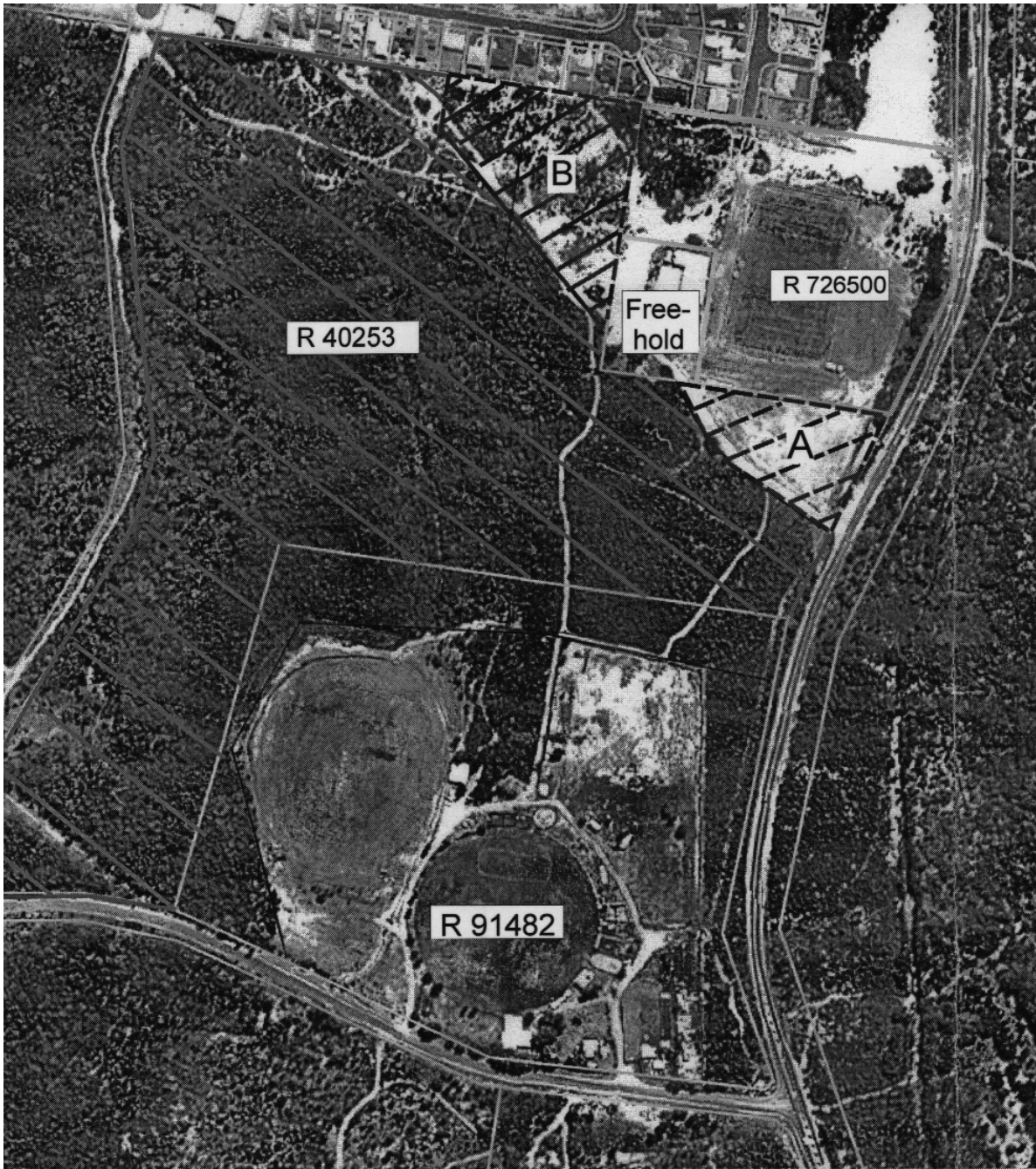
SKATE PARK (NATIVE TITLE)

At its meeting held 6 December 2000, Council resolved to confirm the site at Les Burger Fields as the site for the proposed skate park. The site selected is within area A (Figures 1 & 2). The licence received by DLWC for this area states the purpose for which the premises may be used as "use and maintenance as access to Les Burger Fields".

DLWC officers have indicated that the purpose specified on the licence does not allow the construction of a skate facility. However, they are prepared to amend the licence to include construction provided Council provides procedural rights under the Native Title Act 1993.

This involves notifying the Native Title Representative Body for the area of the proposal and providing the opportunity for comment. This action may be prudent prior to undertaking any actions regardless of Council's tenure of the area in relation to the above negotiations (licence, trustee, freehold, etc). It will also be necessary prior to DLWC providing owners consent to a Development Application.

Reports from Director Environment & Community Services



Crown Reserve, Les Burger Fields and Round Mountain Reserve

Figure 1



Reports from Director Environment & Community Services



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36. ORIGIN: Environment & Health Services Unit

FILE REF: Garbage – Stotts Ck Depot, Temp Storage Contaminated Soils

REPORT TITLE:

Secure Storage Facility at Stotts Creek Waste Depot

SUMMARY OF REPORT:

Council at its meeting 20 February 2000 resolved to ask NSW Agriculture whether it would withdraw from the agreement with Council to use part of Stotts Creek Waste Depot for a secure storage site for storage of contaminated dip waste.

Correspondence has now been received from the Minister for Agriculture stating that the government "will no longer pursue the Stotts Creek option".

RECOMMENDATION:

That:

1. The report be received and noted.
2. Mr J Duyker and Mr F Moller be provided with a copy of this correspondence.

Reports from Director Environment & Community Services

REPORT:

Council at its meeting 16 February 2000:

“Resolved that Council approaches New South Wales Agriculture to determine if it is prepared to withdraw from and no longer be bound by the agreement with Council for use of dedicated land at Stotts Creek Waste Depot for temporary storage of contaminated dip waste.”

A reply has now been received from Richard Amery MP the Minister for Agriculture, Minister for Land and Water Conservation (copy attached) advising that the Department “will no longer pursue the Stotts Creek option”.

Reports from Director Environment & Community Services



Minister for Agriculture
Minister for Land and Water Conservation

TEMP STORAGE OF CONTAMINATED
TWEED SHIRE COUNCIL 50
FILE No. GARBAGE STOTTS C
CITY: [] [] [] [] [] []
18 MAY 2001
BOX No. [] [] [] []
ASSIGNED TO: PERCY J
HARD COPY IMAGE

Dr John Griffin
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Dr Griffin

15 MAY 2001

I am writing to you with regard to the proposal to construct a temporary secure storage for contaminated dip soil at Tweed Council's Stotts Creek waste disposal facility.

The Government has recently concluded a complete review of its approach to the remediation of the DIPMAC priority sites. This review was prompted largely by the fact that, despite its best endeavours, the Government has not been able to remediate these sites. Tweed Shire represented the only area where some form of temporary action was possible, due to the co-operation of Tweed Council in making a site available for a temporary secure storage. However, the Government has concluded that, for a number of reasons, it will no longer pursue the Stotts Creek option. In particular this is due to the technical difficulties involved in constructing and maintaining such a storage. More importantly, developments in remediation technology over the past 18 months or so have been such that long-term storage of contaminated soil pending remediation is no longer likely to be required.

I would like to record formally the Government's sincere appreciation of the assistance and support shown by Tweed Shire Council in trying to provide an answer for what has been an intractable problem. I appreciate that both Council and its staff have been subject to some local criticism for supporting the proposal which is very much to be regretted. The Government will continue to pursue the development of an effective, economic remediation technology and I will ensure that Tweed Council is kept informed of progress in this area.

Yours sincerely

RICHARD AMERY MP
MINISTER FOR AGRICULTURE
MINISTER FOR LAND AND WATER CONSERVATION

Officers will now enter formal discussions for the surrender of the agreement.

It is also considered that a copy of the correspondence should be forwarded to Mr J Duyker and Mr F Moller.

Reports from Director Environment & Community Services

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37. ORIGIN: Environment & Health Services Unit

FILE REF: Pollution - Acid Sulfate Soils

REPORT TITLE:

DLWC Acid Sulfate Soil Hot Spots Program

SUMMARY OF REPORT:

The Cudgen Lake catchment is one of seven sites included in Stage 1 of a two-stage program aimed at ameliorating the impacts of acid discharges from the worst affected areas in the state. The total funding for the seven sites in Stage 1 is \$3.4 million and is due for completion by June 2003. Council's co-operation is sought in acting as a site manager to oversee the preparation of a management plan and to implement works, in conjunction with landholders, that aim to reduce the intensity, frequency and duration of acid discharge events.

RECOMMENDATION:

That Council accepts the:-

1. Role of site manager for the Cudgen Lake catchment acid sulfate soil hot spot under the Department of Land and Water Conservation's Acid Sulfate Soils Hot Spots Program.
2. Funds and votes the expenditure.

Reports from Director Environment & Community Services

REPORT:

Cudgen Lake has a record of acute and chronic water quality problems many of which relate to acid discharge from acid sulfate soils in the catchment floodplain.

The Cudgen Lake Catchment Rehabilitation Project has accumulated detailed baseline soil and water quality data, which together with the existing stakeholder liaison committee (Cudgen Lake Catchment Rehabilitation Committee), has attracted funding through the DLWC 'Hot Spot' program.

Ongoing monitoring of soil and water quality has resulted in sources of acid discharges being identified across the floodplain. The hot spot program will now progress the development of a management plan and targeted amelioration works in consultation with landholders. DLWC will remain actively involved and provide technical and other support, but it is expected the Council will drive the process. As most of the affected areas are on private property, the continued good working relationship Council has with landholders is critical to the success of the project.

Total funding is on an "as required" basis and appears to be untied. This is very different to most funding programs with a 50:50 contribution from Council and other stakeholders the usual arrangement. \$25,000 is available immediately to commence the development of a management plan.

SUMMARY

As noted previously, the Cudgen Lake Catchment is one of only seven areas funded in NSW in Stage 1 of the 'Hot Sport' program and the funding arrangements appear to provide an excellent opportunity to implement best management practices in land use at little or no cost to landholders with potentially large reductions in acid discharges leading to associated water quality improvements in Cudgen Lake.

FINANCIAL IMPLICATIONS

Council will need to provide 'in-kind' support to this project (Cudgen lake Catchment Rehabilitation Co-ordinator's input) although the initial \$25,000 may help offset any resource implications.

Reports from Director Environment & Community Services

38. ORIGIN: Environment & Health Services Unit

FILE REF: Drug Related Matters

REPORT TITLE:

National Drug Strategy Local Government Committee - Focussing on the Role Local Government in advising drug related problems

SUMMARY OF REPORT:

Council has received correspondence from the chairperson of the Local Government Committee, a newly formed part of the Intergovernment Committee on Drugs. The chairperson is seeking to identify Councils that would be interested in participating in a policy/information network about alcohol and drug related issues.

RECOMMENDATION:

That Council provide written response to the chairperson expressing support for the concept of an information network and a willingness to participate in order to exchange information on drug issues relevant to local government.

Reports from Director Environment & Community Services

REPORT:

A National Drug Strategy Local Government Committee (LGC) has been formed to facilitate a local government perspective on current national policy regarding drug use. The LGC will provide local government advice and expertise on policies and strategies relevant to local government, and has the full support of the Australian Local Government Association.

The newly appointed chairperson of the LGC is the Chief Executive Officer of Brisbane City Council. Correspondence has now been received from the LGC Chairperson seeking an expression of interest from Council in the concept of information network about alcohol and drug related issues. The network is intended to develop a database of relevant drug and alcohol information from a broad range of Councils. Ideas and issues arising from the network discussions can then be communicated directly to the LGC. The correspondence and accompanying Terms of Reference for the Local Government Committee are reproduced below.

As there is no financial contribution proposed to become part of the networks and as this is a topical issue within the community it is considered that Council should advise of its support for the concept.

Reports from Director Environment & Community Services



Thursday 12 April 2001

Dr John Griffin
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Brisbane City Council

Office of the Chief Executive
GPO Box 1434
Brisbane Qld 4001
Australia
Telephone 07 340 38888
Facsimile 07 340 36211

TWEED SHIRE COUNCIL	
FILE No.	DRUG RELATED
DOCUMENT No.	[] [] [] [] [] []
REC'D	23 APR 2001
BOX No.	[] [] [] []
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Dear Dr Griffin,

It is widely acknowledged that drug use, both legal and illicit, is an escalating problem in our communities. Local governments have become increasingly engaged in combating a wide variety of problems arising from drug use. These include unsafely discarded needles in streets and parks; intoxication and violence; passive smoking in public places; drug dealing, using and overdoses in public places; the negative impacts on small business; as well as responding to public fear and anxiety.

At a national policy level, the response to drug problems in the past in Australia has been reliance on a partnership between the Commonwealth and the States, and specifically between health and law enforcement agencies. However, the recent "*National Drug Strategic Framework 1998-2003*" has recognised the far reaching impact of drug use on all parts of the community and the valuable role that local government and other agencies can play in tackling drug-related problems. This new strategic direction envisages a close collaboration between the three spheres of government as well as the building of partnerships with other stakeholders.

The Council of Capital Cities Lord Mayors (CCCLM) forum has been advocating a closer working relationship between Federal, State and Local Government for some time. This position was recognised last year by the Ministerial Council on Drug Strategy (MCDS) when they requested that a Local Government Committee should be established as part of the Intergovernmental Committee on Drugs (IGCD). This new Local Government Committee has been formed to provide local government advice and expertise on policies and strategies relevant to local government, and also a broad local government perspective to the development of national drug action plans. The Committee has the full support of the Australian Local Government Association (ALGA). For your information, I have enclosed the Terms of Reference of the Committee along with a contextual statement agreed with the Commonwealth. I have also attached a list of the Committee members. It is a committee of officers and I have been appointed as its chairperson.

Reports from Director Environment & Community Services

On behalf of the ICGD Local Government Committee, I am seeking to identify those councils that would be interested in participating in a policy/ information network about alcohol and drug related issues. The network could, for example, take the form of an E-mail group, discuss drug issues of relevance to local government and exchange information and experience. The network could also help to establish a database of relevant alcohol and drug information that could then be made available to local councils. Ideas and issues arising from network discussions could then be communicated to ICGD and the Ministerial Council.

I am particularly interested in obtaining a perspective from across Australia and from as broad range of Councils – rural, provincial centres and metropolitan Australia as is possible so that the National Drug Strategy Local Government Committee can represent their perspectives.

At this stage, I am seeking an expression of interest in the concept of a network. If you are interested in participation, please provide the name, address, E-mail and fax numbers of a contact person from your council, and any information on activities your council is involved in. For further information contact me on (07) 3403 4500, or you can Email me on ceo@brisbane.qld.gov.au.

Yours sincerely


Jude Munro
Chief Executive Officer

Reports from Director Environment & Community Services

ATTACHMENT A

NATIONAL DRUG STRATEGY LOCAL GOVERNMENT SUB-COMMITTEE

TERMS OF REFERENCE

- To provide a reference point and high level advice and expertise to the National Expert Advisory Committees on priorities and strategies to address drug issues relevant to local government authorities.
- To contribute a local government perspective to the development of national drug action plans under the National Drug Strategic Framework.
- To identify emerging issues related to the harmful use of drugs within local government authorities.
- To provide advice and direction to ensure the development and application of strategies that are responsive to the issues experienced across the full range of local government authorities.
- To monitor and report on local government participation initiatives under the national drug strategy action plans.

Reports from Director Environment & Community Services

ATTACHMENT B

Local Government & Drugs A Contextual Statement

Preamble

Local Government is in a strong position to contribute to advancing the objectives of the National Drug Strategic Framework. A great deal of work via a range of measures including social and public health are undertaken through local governments to address the harms caused by drug abuse. The Intergovernmental Committee on Drugs Local Government (IGCD) Sub-Committee will allow perspectives from local government to be considered under the Framework in a manner consistent with that provided by other committees of IGCD.

Drugs have an impact on local government authorities in Australia in the management of their cities and towns and on the well-being of the communities they represent and serve. These impacts include:

Public Space Management

- The management of public space e.g. drug dealing in public spaces;
- Restriction of people's freedom of movement because of fear of verbal abuse and assaults;
- Impact of homelessness and vagrancy;
- Dealing with intoxicated peoples;
- Littering on streets, parks and beaches by injecting equipment;
- Security – public disturbance, inter-group rivalry;
- Public anxiety and risk associated with drug using and drug dealing in public spaces;

Impact on the Community, Traders and Agencies

- Negative impact on the image of a town or a city;
- Dealing with complaints from local traders and residents;
- Families seeking financial and counselling support;
- Building a positive community approach in the face of a sense of community helplessness;
- Fear in the community, and particularly in parents, that more and more young people are using illicit drugs and developing problems as a result of this use;

Safety and Crime

- Security for young people;
- The wide occurrence of crime by which many drug dependent people raise the money to buy illicit drugs;

Reports from Director Environment & Community Services

Inter-Agency coordination and service development

- Advocacy resources for changes to State and Federal-funded services;
- Development of local laws and their enforcement and links to the police;
- Development of community services, including recreation programs for young people;

Impact on the Health and Welfare of Individual Drug Users

- The escalating number of drug overdoses and overdose deaths;
- The spread of infections, particularly Hepatitis C and HIV/AIDS;
- Young men and women working in the sex industry to finance their drug use.

Impact on Council Employees

- Impact on Council employees, the recruitment, training, counselling and support of Council employees who deal with people who are intoxicated or affected by drugs;

Reports from Director Environment & Community Services

ATTACHMENT C

NATIONAL DRUG STRATEGY LOCAL GOVERNMENT SUB-COMMITTEE

MEMBERSHIP

Chair- Jude Munro

LOCAL GOVERNMENT

Ms Jude Munro
Chief Executive Officer
City of Brisbane
69 Ann Street
BRISBANE QLD 4000

Ph: (07) 3403 4500
Email: paceo@brisbane.qld.gov.au

Heather Scovell
Group Manager Community Services
City of Melbourne Council
GPO 1603M
Melbourne 3001

Ph: (03) 9658 9944
Email: heasco@melbourne.vic.gov.au

Alan Young
City Manager
Fairfield City Council
PO Box 21
Fairfield NSW 1860

Ph: (02) 9725 0202
Email: ayoung@fairfieldcity.nsw.gov.au

Mandy Press
Port Phillip City Council
Private Bag No 3
Post Office St Kilda 3182

Ph: (03) 9209 6519
Email: mpress@portphillip.vic.gov.au

Intergovernmental Committee on Drugs (IGCD) Representatives

Mr Jack Johnston
Deputy Commissioner
Tasmanian Police
47 Liverpool Street
HOBART TAS 7000

Ph: (03) 6230 2420
Fax: (03) 6230 2117
Email: deputy.commissioner@police.tas.gov.au

Mr Graham Strathearn
Chief Executive Officer
Drug and Alcohol Services Council
161 Greenhill Road
PARKSIDE SA 5063

Ph: (08) 8724 3327
Fax: (08) 8274 3399
Email: strathearn.graham@saugov.sa.gov.au

Mr Kevin Larkins
Mental Health Division
WA Health Department
2nd Floor, C Block
189 Royal Street
EAST PERTH WA 6004

Ph: (08) 9222 4065
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Email: kevin.larkins@health.wa.gov.au

Mr George Nolan
Assistant Commissioner
Operations Support Command
7th Floor
Queensland Police Headquarters
100 Roma Street
BRISBANE QLD 4000

Ph: (07) 3364 4708
Fax: (07) 3364 4746
Email: nolan.george@police.qld.gov.au

Reports from Director Environment & Community Services

39. ORIGIN: Building Services Unit

FILE REF: DA3010/565 Pt1, DA3010/190 Pt1

REPORT TITLE:

Boulders on Foot Path in front of 45 Lalina Avenue, Tweed Heads West and Building Works not in accordance with approval at 47 Lalina Avenue, Tweed Heads

SUMMARY OF REPORT:

Council recently approved alterations and additions at No. 47 Lalina Avenue, West Tweed Heads, however the owner has erected temporary roof framing and plastic roof sheeting which is not in accordance with the approval, is considered to be unsightly and is subject to a complaint from an adjoining property owner.

RECOMMENDATION:

That Council issues a notice of intention to serve an order under the provisions of the:-

1. Environmental Planning and Assessment Act on Mr Michael Langenbach of 47 Lalina Avenue Tweed Heads West to remove the temporary timber roof framing and plastic roof sheeting from the front and rear decks at Lot 124 DP 32024 No. 47 Lalina Avenue Tweed Heads West within twenty one days of the date of that notice and advise that representation may be made to Council by 11 July 2001.
2. Local Government Act on Ms Elisabeth Cross of 45 Lalina Avenue Tweed Heads West to remove boulders from the collapsed retaining wall from the footpath in front of lot 5 DP 856739 No 45 Lalina Avenue Tweed Heads West within 21 days from the date of that notice and advise that representation may be made to Council by 11 July 2001.

Reports from Director Environment & Community Services

REPORT:

This report to Council has been prepared in response to a request from a Councillor concerning the situation which currently exists at 47 Lalina Ave Tweed Heads West concerning building work which has been carried out and is not in accordance with the plans which were approved by Council.

Ms Elisabeth Cross lives at 45 Lalina Ave and Mr Michael Langenbach lives at 47 Lalina Ave.

Ms. Cross has been in dispute with Mr Langenbach since the construction of Ms Cross's house in 1999 about various issues concerning her house and concerning additions that Mr Langenbach has commenced .

Mr Langenbach's premises is a two storey brick dwelling with metal tile pitched roof with a swimming pool in the rear yard and timber decks attached to the front and rear of the dwelling .

The following is a general chronological account of the events in this matter so far:-

In 1999 Mr Langenbach was granted Development Consent to extend onto the existing deck at the front of his dwelling. These works have since been completed and comprise a timber framed deck with no roof.

In July 2000 Mr Langenbach submitted a Development Application and Construction Certificate Application to Council to construct a timber framed roof over the existing front deck, add onto the rear deck and construct a timber framed roof over the rear deck.

An inspection of the site was carried out by Council's Building Surveyor prior to determination of this application and it was considered that in accordance with Council's neighbour notification policy it was warranted to notify the adjoining property owners.

Five adjoining or potentially affected property owners were notified on 18/9/00

On 27/9/00 Ms Cross phoned Council's Building Surveyor and advised that she intended to lodge a written objection to the proposal .

Ms Cross subsequently wrote several letters to Council and raised several objections to the proposal however after negotiations with the Applicant and after viewing the proposed building site from Ms Cross's premises it was concluded that the proposed additions would not adversely affect the amenity of Ms Cross's property to any greater degree than could be reasonably expected in this situation. No other objections were received and subsequently the proposal was approved on 18/10/2000. Mr Langenbach intended to carry out the building works himself as an owner /builder.

Works commenced on the construction of the rear deck in December 2000 and on 21/3/01 Ms Cross telephoned Council with concerns that the building works were not being carried out in accordance with the approval , Ms Cross's raised several issues with the construction works however the main areas of concern were:-

- no privacy screen to rear deck thereby affecting her privacy,
- temporary roof framing and plastic sheeting to rear deck which was unsightly,

Reports from Director Environment & Community Services

- rear deck apparently being used prior to completion ,
- temporary roof framing and plastic sheeting to front deck which was unsightly.

The above matters were confirmed by Council's Building Surveyor on 27/3/01 and subsequently a letter was sent to Mr Langenbach, on 29/3/01 advising that the above matters and other minor matters were not in accordance with the Development Consent and were considered to be unsightly.

A direction was given in that letter to remove the temporary roof framing and plastic roof sheeting from both decks and carry out other works to bring the construction into conformity with the approval.

On 2/4/01 Mr Langenbach responded in writing to Council's letter of 24/3/01 advising that the roof framing and plastic roof sheeting to the front and rear deck was temporary and was necessary to protect him and his tools from the elements during construction.

On 3/4/01 Ms Cross confirmed her objection to the current situation with the building works on 47 Lalina Avenue in writing and requested that Council take action to have the non-complying aspects of the construction removed (copy included at end of report).

Council replied to Mr Langenbach's letter on 23/4/01 advising that the temporary roof framing and plastic sheeting was not in accordance with Development Consent 0986/2000 DA and therefore must be removed. Mr Langenbach was further advised that if the above materials were not removed from the front and rear decks within 14 days from the date of that letter then Council would issue a "notice of intention" to serve an Order under the provisions of the Environmental Planning and Assessment Act to remove these materials.

On 29/4/01 Mr Langenbach wrote to Council with a proposal to install a more attractive "temporary" roof to the front deck consisting of waterproof shade cloth on a timber frame.

It was considered that this proposal was not satisfactory on the grounds of structural stability, appearance and the probable objection from Ms Cross.

Mr Langenbach was advised in writing on 2/5/01 that Council was not prepared to accept his proposal and that he must construct only what was approved in his Development Consent.

Mr Langenbach has not given any undertaking as to when the building works will be completed and under the provisions of the Environmental Planning and Assessment Act there is no time limit on when building works must be completed. Concern is raised by Council's Building Services Unit that the current "temporary" roof construction may become a quasi long term situation which would be undesirable.

On 6/5/01 Mr Langenbach submitted a five page letter in response to Council's letter of 2/5/01 outlining concerns about Council's treatment of him in this matter and his perception that Council is not acting properly on complaints that he has made from time to time about Ms Cross.

Mr Langenbach's letter of 2/5/01 is reproduced in full at the end of this report.

In this letter Mr Langenbach advised that since November 1999 he has made several complaints to Council concerning Ms Cross's property but claims that nothing has been done to resolve these complaints.

Reports from Director Environment & Community Services

A brief outline of the issues that Mr Langenbach has complained to Council about are listed below. Several of Council's Building Surveyors have had some degree of involvement in these issues at various times.

- Use of boundary fence as retaining wall - a small amount of fill was placed against the fibro dividing fence between Ms Cross's property and Mr Langenbach's property during construction of Ms Cross's dwelling. Council's Building Surveyor recalls advising Mr Langenbach by telephone that a small amount of fill would not adversely affect a corrugated fibro fence as this type of fence is buried partly in the ground. Site inspection by Council during construction of the dwelling revealed that substantial fill had been placed at front of Ms Cross's property against the dividing fence. The Builder was interviewed and advised that a boulder wall was proposed for this area. Mr Langenbach was advised accordingly and such a retaining wall has subsequently been constructed.
- Extension to Boundary Fence - lattice screen erected adjacent to boundary fence which is approximately 750mm higher than boundary fence between the two properties. Mr Langenbach's property is already excavated below the level of Ms Cross's property and is located to the north of Ms Cross's property therefore no overshadowing of Mr Langenbach's pool or rear yard would occur.

Due to the history of disputes between the two property owners it is considered that the screen would be of benefit both parties.

- Stormwater runoff - in January 2001 two rainwater downpipes on the northern side of Ms Cross's property were disconnected from the stormwater drainage pipeline which drains to the street due to the apparent blockage of this pipeline which was causing overflowing of the gutters. Council's Building Surveyor inspected the property on 5/1/01 in response to a complaint from Mr Langenbach and observed that a temporary stormwater drainage pipeline from each of the above downpipes had been installed on the ground, one discharged towards the street at the front of the house and one discharged in the rear yard in a location where water from this pipeline may have caused a nuisance to Mr Langenbach. Ms Cross was contacted concerning this matter however she advised that she was in dispute with the Builder of her dwelling over several matters including stormwater and that the present situation concerning the stormwater pipes was only temporary. Reinspection by Council on 12/2/01 concerning the matter of a collapsed retaining on Ms Cross's property onto Council's footpath revealed that the rear downpipe was now discharging towards vacant land at the rear of her property and was now unlikely to affect Mr Langenbach. This matter is temporary and will be addressed when Ms Cross's dispute with her builder is resolved – possibly by the end of June 2001 according to Ms Cross's letter dated 21 May 2001 (copy included at end of report).
- Damage to Gutter in front of common boundary between 45 and 47 Lalina Ave - minor gutter damage exists in front of the common boundary between the two properties however this matter has been referred to Council's Engineer and may be repaired on a maintenance programme if considered to be warranted by that Department.

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- Driveway –appears not to comply with Council’s Vehicular Access to Property Policy in that it has been constructed above natural ground level where it crosses the footpath. This matter has been referred to Council’s Engineer and further action may be taken as considered necessary by that Department.
- Fence on Nature Strip- as previously stated, part of the boulder retaining wall at the front of Ms Cross’s property collapsed onto the footpath earlier this year during heavy rainfall. Council’s Building Surveyor investigated the matter at that time and was given the impression by Ms Cross that the wall would be rebuilt quickly therefore no further action was taken at that time .The star pickets mentioned in Mr Langenbach’s letter form part of a fence that surrounds the collapsed portion of the retaining wall on the footpath .Council recently wrote to Ms Cross directing her to remove the rocks from the footpath forthwith however she responded in writing soon after advising that she is in dispute with the Builder over various matters associated with the construction of her house and has been advised to do no work until this matter is resolved .
- Garden on Footpath – several small shrubs have been planted on the footpath in front of Ms Cross’s property however these are not considered to be of any consequence to pedestrians and can easily be removed if and when a footpath is constructed in this area.

The above matter appears to have degenerated into a situation where claim and counter claim are being made by the respective property owners and where there is little apparent attempt by either party to comply with directions and requests which have been given.

It is therefore recommended that the following course of action be adopted by Council in order to force a resolution of the major issues:

1. Issue a notice of intention to serve an order under the provisions of the Environmental Planning and Assessment Act on Mr Michael Langenbach of 47 Lalina Avenue Tweed Heads West to remove the temporary timber roof framing and plastic roof sheeting from the front and rear decks at Lot 124 DP 32024 No. 47 Lalina Avenue Tweed Heads West within twenty one days of the date of that notice and advise that representation may be made to Council by 11 July 2001.
2. Issue a notice of intention to serve an order under the provisions of the Local Government Act on Ms Elisabeth Cross of 45 Lalina Avenue Tweed Heads West to remove boulders from the collapsed retaining wall from the footpath in front of lot 5 DP 856739 No 45 Lalina Avenue Tweed Heads West within 21 days from the date of that notice and advise that representation may be made to Council by 11 July 2001.

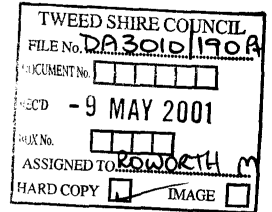
Reports from Director Environment & Community Services

Michael Langenbach

Business Consultation Technical Consultation

47 Lalina Avenue
Tweed Heads 2485 NSW
ph.: 07 5599 8551
fax: 07 5599 7247
e-mail:
miki@onlinealive.com.au
ABN.: 20 112 917 743

To the General Manager
Tweed Shire Council
att. R. Paterson
P.O. Box 816
Murwillumbah NSW 2484



LOT 124 DP 32024
47 LALINA AVE TH

May 6, 2001

re.: DA3010/190 Pt 1, re. temporary roof (cover over workplace) at the front of my house

Dear Mr. Paterson,

I received your letter dated May 2 and I am starting to get confused. You provide me with three reasons why you do not accept my proposal for a good looking temporary cover of my work area but in my view none is acceptable.

1.) your concerns about structural stability are unfounded. I graduated in June 1978 at the University of Freiburg/Germany in Technology (General Engineering) and I am qualified to judge that a waterproof shadecloth (Polyshade) roof fitted to the two existing solid bearers (designed to hold and actually hold a steel sheet roof) as to my drawings is well strong enough to withstand any storm (the "unsightly" existing cover did withstand storms over 90km/h in february/march without any problem at all and it is by far not as strongly fixed as my proposed good looking temporary roof). But as "engineers" we have to look at the "worst case cenario" and I am sure you will agree that a Polyshade roof can be destroyed in extreme weather conditions (like any other roof !) but it can not cause damage. After a cyclone we would see a piece of plastic flapping in the wind while the concrete tiles from next door would fly like mortar shells through the air.

2.) your concerns about the temporary nature of the structure in lieu of the permanent roof are based on what? If you have reasonable concerns I want to know the reasons. What do you base your judgment on? Have I given your department reason in the past to not trust my word? And if so, please tell me when and why. Please provide me also with the information which timeframe you regard as reasonable to justify the term "temporary" in respect of the fact that the building works legally stretch over at least 20 years. (I pass a house in Kennedy Drive since more than 8 years literally wrapped in plastic and you seem not to take action).

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Besides many other reasons this temporary roof is important for me to:

- protect me from the sun while working. Skin cancer is a very serious issue and you should support everybody on building sites to protect themselves as good as possible. And a shaded workarea is, besides slip slop slab, an excellent precaution. I also wear a hat while working even it does not fit me and looks awkward on my head and restricts me in some activities while building.
- cover the parts of the old roof where I have to remove tiles to prevent leaking
- provide us with information on where to fit and where not to fit transparent sheets in the final roof
- dry out the soil in front of the house to stop the concrete slab from lifting up and destroy itself (problems with old roots and hollows under the slab) and prepare the ground for a solid concrete slab.
- make it possible to work even in light rain which considerably helps to speed up the building process in the interest of all parties involved

3.) "anticipated objections from neighbours". Now, here I want to go a little bit more into detail. You choose plural and I suppose you talk about ratepayers when you use the term neighbour. I used this opportunity to talk with my neighbours bar one and all five that border direct to my property do not mind my temporary roof at all and even support me. Neighbour number six I did not talk to for various reasons but this neighbour, Elizabeth Cross at 45 Lalina Avenue, even expressed objections about me living here in Lalina Avenue and in Australia in general. I even got attacked by her fiance because of my race. So, what can I say? For this neighbour nothing would be right anyway and all she wants is make my life difficult, throw as many spanners in the works as possible. I even walked over the road and asked my neighbours there and none objected to my temporary roof or had any concerns about it. So, let's face it, there is only one neighbour that complains, not neighbours.

To sum it up:

I have a temporary sheet roof covering my building site and therefore workplace, a neighbour complains about how it looks, you refuse my offer to make it look good (as you can see I was even willing to spend my money to satisfy the demand "good looking") but there is also no written rule or regulation (according to Mark Roworth from your department) concerning the temporary cover of a workplace, building site or similar, so there is no rule I break and no regulation I offend. But for me the impact on my health and the structural impact on my house (slab) are in my view much stronger reasons than the visual impact on a notorious complaining neighbour whom I am obviously unable to satisfy whatever I do. You come to me with a vengeance to remove something that is obviously protecting me from skin cancer as well as serving many other purposes for no other reason than "unsightly" in the eyes of one neighbour. Just imagine how you would feel if I for example tell you to take off your protective glasses while you work with power tools just because I do not like how it

Reports from Director Environment & Community Services

looks.

What the general looks of Lalina Avenue concerns, there are a lot more severe eyesores to be fixed by your department than my little piece of plastic. Just take the time to look around and judge for yourself. But keep in mind that most residents are quite happy as it is.

I want to use this opportunity, as you, the Manager of the Building Services, are involved in this "plastic sheet matter" directly, to also express my astonishment about the priorities your department has established. I have made numerous complaints to your department since november 1999 and never ever anything has been undertaken to resolve any of the problems mentioned, which reach in my opinion much further than "unsightly" because they have been about property damage and safety issues.

- In november 1999 I rang your department because Mrs. E. Cross used the existing fibro fence as a retaining wall and two Inspectors confirmed my concerns when visiting but I was told that , because the building is in progress, this is only temporary and nothing can be done. Even the builder shared my concern and promised me to remove the excess soil. After the house was finally approved and the term "temporary" certainly not valid any more, I was told that a fill of 300 to 400mm would be acceptable. I was told this after I rang your department, I have not been notified by your department of the change of opinion. A very, very dubious decision, you can not show me one fibro fence that kept standing straight when loaded uneven over time. Only a short time later I had to stabilize the fence with posts to prevent it from falling over. Also the fill has since increased even more, it seems there is nothing much I can do.
- Early 2000, while I was on holidays with my family, Mrs. E. Cross erected against my expressed objection a privacy screen along the rear fence extending the hight of the existing 1.8m fence by 1.1m. From my side of the property I now face a 3.6m "fence", a clear breach of your rules and regulations. I complained numerous times to your department, without success.
- On december 22, 2000 I rang up your department because excessive water on my property and along the rear retaining wall which came from Mrs. Cross'es property. Mrs. E. Cross had directed the two northern downpipes towards my property, one to the front and the other one to the back. A clear breach of rules and regulations as well as common sense. I was concerned about the damage this had already caused to my rear retaining wall (cracking) and extremely concerned for my big timber retaining wall up front. The scene was visited by one of your Inspectors and I asked for a written report of the action your department is taking. Till today I do not know what goes on, I have not received anything and I rang your department numerous times about this matter. As I expected the storm water drained improperly caused excessive and unnecessary damage. But this time I was lucky, it was her rockwall that collapsed (the bottom had washed out, when it was raining you could see the

Reports from Director Environment & Community Services

water draining out there), not my timberwall. Mrs. E. Cross reconnected the front stormwaterpipe properly the same day despite pouring rain (obviously she knew what caused the wall to collapse), the rear downpipe is still drained to the rear garden, much to the concern of me and the other neighbours involved (I spoke with Alan Kent about this yesterday).

- Since december 1999 I ask your department numerous times to fix the gutter at the border of number 45 to me, mainly to prevent the damage to spread to my drain system. This damage has been caused by the backhoe which was unloaded during building activities at number 45. Now the damage has spread to my property and to my drainpipe, nothing has ever been done. This is not only unsightly, it also is dangerous and if the damage is not repaired soon, the problem gets bigger and bigger.

In all the above instances my complaints and concerns have never been heard by your department but because E. Cross complains about a temporary plastic roof you become very active and even personally involved and try to resolve the matter quite forceful without giving any leeway to accommodate my needs and respect my circumstances at all. This seems very strange to me.

I also want to use this opportunity to complain in writing and personally to you about the following matters concerning Mrs. E. Cross:

- The driveway at her property is extremely dangerous constructed. There is absolutely no need for this design. I have seen one man fall and numerous dangerous situations where running children were involved. In the evening and at night you can not see the step when you walk. When Alan Kent developed the property, he had to provide a 2m near flat naturestrip. Now your department seems not to value this important public part anymore.
- I insist on the immediate removal of the steel "starposts" on the naturestrip in front of her property. This is extremely dangerous, especially in regards to children using this area.
- She would also be well advised by you not to use the naturestrip as her extended garden, 2m from the kerb should be freely accessible. I have seen nasty incidents between her (and her fiance) and other neighbours (who are obviously very angry about this) and I also observed very aggressive actions taken on this behalf (plants kicked over, plants pulled out). The planting of bushes this close to the kerb also restricts the visibility into the corner for no good reason. There is enough space for a wide naturestrip as well as plants. It is also in everyones interest to keep the naturestrip clear, so when Lalina Avenue gets kerb and gutter one day, there is enough space to accommodate the urgently needed car parking spaces and footpath.
- I ask you to take immediate action about cleaning up the debris caused by the

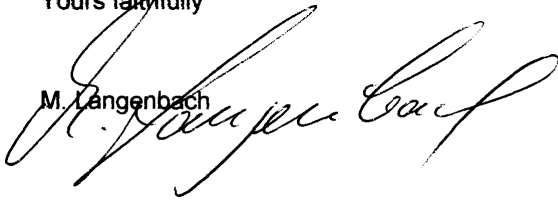
Reports from Director Environment & Community Services

rockwall collapse and fill in the trench. This is not only unsightly but also dangerous and unnecessary.

All I want is to do what I do the way I think is the best for all parties involved. I want to finish my building activity as I feel comfortable with, impacting as little as possible as well as working as save as possible. Building work always is accompanied by inconvenience and I am very proud in the care I take for others and how little I impact on my neighbourhood (noise, dust etc).

Yours faithfully

M. Langenbach



Reports from Director Environment & Community Services

Tweed Shire Council
 Manager Building Services.

3rd April 2001.

Mr. Rick Paterson

Dear Sir,

REGISTER

TWEED SHIRE COUNCIL	
FILE No.	DA3010/190
DOCUMENT No.	507712
REC'D	3 APR 2001
C.No.	<input type="checkbox"/>
SIGNED TO	ROWORTH M
HARD COPY	<input checked="" type="checkbox"/>
IMAGE	<input type="checkbox"/>

Re - our conversation on Tuesday 3rd April 2001,
 about the extensions; being built next door
 at 47 Lalina Ave. LOT 124 DP 32024

Mr. Mark Roworth checked the structure now
 standing and agreed; it was an eyesore and
 that the neighbour did not have approval
 for this construction (on approx. 28th March)
 He also stated the decking was not supposed
 to be used until a privacy screen or wall
 was built. The neighbours use this area
 on regular occasions; and can see into
 my property; especially my ensuite window.
 If this construction is not pulled down; he
 can not possibly build what was supposed
 to be constructed. - He has no council
 approval for what is built. - The front
 verandah is also an eyesore and has
 a similar roof construction; this has

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now being standing for over 15 months; the back roofing has been up ~~since~~ for approximately 5 months; and looks to be a semi-permanent structure -

I would like the council to review this situation seriously, and as soon as possible; I want this eye sore taken down;

Yours faithfully
Elizabeth Cross.

Reports from Director Environment & Community Services

MS. E. CROSS
45 LALINA AVE
WEST TWEED HEADS. 2485

21st May 2001

MR. R. PATERSON

Re your letter 16 th May 2001

I am sure the council is well aware of my building dispute with Mr. J.J. Miller through the Dept. Fair Tribunal. This dispute has been on going for 18 months due to the terrible work this builder has performed on my home. There are many issues in dispute the stormwater drains are one of these issues, no rectification work can be done until the matter is resolved, possibly by the end of June 2001. The neighbours who have complained are exaggerating the problem I have done my best under the circumstances to prevent excessive run off, I also would like to see all the problems rectified but I CANNOT legally touch or repair anything until the dispute is finalized.

The same applies to the rock retaining wall, built by Mr. Ray Ruddy authorized by the builder, I believe this wall has no council approval or engineers drawings therefore may have to be demolished and rebuilt by a licenced contractor. This problem I will also rectify as soon as legally possible.

The collapsed part off the wall has been partitioned off as to aware pedestrians. As there is no formal footpath I cannot see this been a great problem at the time being.

If the council is concerned about the blocking of the so called footpath, then maybe it should take a good look at Lalina Ave., as a whole. There are unregistered cars sitting on the footpath, boats and trailers parked on the footpath and nature strip, the residents of many properties leave wheely bins out on the road on the footpath and road edge often obstructing vechiles, there are commercial vechiles and machinery parked every night and at weekends on the footpath, many have broken the existing curb and guttering, the situation of my property having a few rocks fallen onto the footpath is minor to the rest of the street. I INTEND TO RECTIFY my situation is any one else ?

Yours Faithfully



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40. ORIGIN: Building Services Unit

FILE REF: GB2/1, Building - Code

REPORT TITLE:

Requirements for Wire Balustrade Construction

SUMMARY OF REPORT:

This report addresses concerns raised by Mr B Giddy at Community Access on 9 May 2001 relating to inconsistencies in interpretation of requirements for wire balustrade construction, and suggests options to result in the formulation of standards to specify guidelines or requirements for such balustrades, and measures to result in more uniformity of approach for local balustrade manufacturers and approval authorities.

RECOMMENDATION:

That Council:-

- (a) Endorses and adopts the current Council interpretation which will ensure that Council's legal interests are protected for those projects which Council is involved with.
- (b) Advises Balustrade Manufacturers and Accredited Certifiers operating in the area of Council's interpretation and recommend that they comply.
- (c) Forwards representations to the Australian Building Codes Board and the Australian Standards Association identifying the problem and requesting those Bodies provide guidelines or requirements within the Building Code of Australia and/or the appropriate Australian Standards to specify precise requirements for wire balustrade construction having regard to their flexible nature.

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REPORT:

BACKGROUND

Council will recall that Mr Bradley Giddy, representing Argon Aluminium, addressed Council's Community Access meeting on 9 May 2001, following submission of a letter dated 17 April 2001 as follows:-

Reports from Director Environment & Community Services



Aluminium & Stainless Welding Fabrication & Repairs

Resinco Pty Ltd T/as Argon Aluminium
A.B.N. 42 078 962 400

9 Industry Drive,
Tweed Heads South
N.S.W. 2486

Tel: (07) 5524 4505
Fax: (07) 5524 5087

' Quality Aluminium & Stainless Steel Specialists '

17th April 2001

General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

TWEED SHIRE COUNCIL	
FILE No.	BUILDING CODE
DOCUMENT No.	[] [] [] [] [] []
RECD	18 APR 2001
BOX No.	[] [] [] []
ASSIGNED TO	BUCKLEY D
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

Dear Sir

There would appear to be a discrepancy concerning as to what exactly constitutes a legal wire balustrade system within the Tweed Shire.

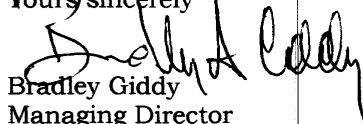
Council building inspectors recommend post centres at 900mm and wire centres at 90mm, and if a project was being certified by council, then this is the standard required.

However, if the project is being externally certified, then the above council requirement is disregarded. These certification companies maintain their balustrades meet BCA requirements, which is of a lesser standard than that required by council.

As a manufacturer and installer of the above wire systems, I request that council investigate the matters raised in order to clarify where we stand as suppliers.

I feel these issues should be raised at a general meeting of the council so that all councillors and officers are aware of the issues and that this correspondence be formally entered into the minutes.

Yours sincerely


Bradley Giddy
Managing Director
ARGON ALUMINIUM

Sales Aluminium Stainless Bronze Brass Cast Iron



Reports from Director Environment & Community Services

The concerns and conflicts expressed by Mr Giddy are long standing in the Building Industry, and result from there being no specific requirements for wire type balustrade constructions.

Such balustrades generally consist of vertical steel, aluminium or timber post supports at one to two metre spacings with tensioned horizontal wires spaced at varying distances apart ranging from 50mm to 200mm forming the infill portion of the balustrade.

While these balustrades are considered to be effective when constructed utilising closely spaced vertical and horizontal components, and ensuring that the wires are maintained adequately tensioned at all times, these balustrades are not considered effective if either the vertical or horizontal components are excessively spaced or the wires are not maintained adequately tensioned at all times.

BUILDING CODE OF AUSTRALIA REQUIREMENTS

For Class 1 buildings (dwellings) the Building Code of Australia prescribes that:

“A continuous balustrade or other barrier must be provided along the side of any roof to which access is provided, any stairway or ramp, any floor, corridor, hallway, balcony, verandah, mezzanine, access bridge or the like and along the side of any path of access to a building, if –

- (i) it is not bounded by a wall; and*
- (ii) any level is more than 1m above the adjoining floor or finished ground level; and*

The height of a balustrade or other barrier must be in accordance with the following:

- (a) (i) The height must not be less than 865mm above the nosings of the stair treads or the floor of a ramp.*
- (ii) The height must not be less than -*
 - (A) 1m above the floor of any access path, balcony, landing or the like; or*
 - (B) 865mm above the floor of a landing to a stair or ramp where the balustrade or other barrier is provided along the inside edge of the landing and is not more than 500mm long.*
- (b) A transition zone may be incorporated where the balustrade or other barrier height changes from 865mm on the stair flight or ramp to 1m at the landing.*
- (c) Openings in balustrades (including decorative balustrades) or other barriers must be constructed so that any opening does not permit a 125mm sphere to pass through it and for stairs, the space is tested above the nosing line.*
- (d) A balustrade or other barrier must be designed to take loading forces in accordance with AS 1170.1.*

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- (e) *For floors more than 4m above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.”*

Generally similar provisions exist for other classifications of buildings such as residential flats, shops, offices, etc.

The issues of greatest concern relate to items (c) and (e) above.

Taking item (c) to begin with, a wire balustrade with horizontal wires spaced vertically at 120mm spacings would technically comply with this provision provided that the wires were well tensioned. However, should the wires be not tensioned or have lost their tension over time, then practically the balustrade would not comply as it would allow a sphere of 125mm to pass through.

The Building Code is considered somewhat deficient in this regard as it does not stipulate a force to be resisted by the wires to prevent the passing of the sphere when force is applied to the sphere. Apart from the force that is prescribed under the provisions of AS1170.1 (Loading Code) and referenced at (d) above which relates to resisting direct live and static loads applied to the balustrade components, as follows:-

“Parapets, balustrades and railings, together with members and connections which provide structural support, shall be designed to sustain the following live loads:

- (a) *Handrails, balustrades and the like to platforms, stairways, balconies and landings of private dwellings shall be designed to resist separately the following loads:*
- (i) *0.6 kN acting inward, outward or downward at any point on the handrail.*
 - (ii) *0.4 kN/m acting inward, outward or downward on the handrail.*
 - (iii) *The wind load acting on or transmitted to the handrail.*
- (b) *All other handrails, balustrades and the like, including parapets and railings to all roofs, shall be designed to resist a static load of 0.75kN/m acting inward, outward or downward, or the appropriate wind load, whichever produces the most adverse effects.”*

Other legislation such as the Swimming Pool Act referencing Australian Standard AS1926, prescribes that it is necessary for an opening in a barrier in similar circumstances, to resist a force of 150 newtons steadily applied.

Item (e) above will prohibit the use of wire balustrades construction in locations where floors are situated more than four metres above ground level.

COUNCIL’S INTERPRETATION SINCE 1997

Because of the uncertainties arising from the Building Code of Australia shortcomings, and because many varied interpretations could be deduced, Council’s Building Services Unit prepared and adopted the following explanatory interpretation which staff have applied since 31 January 1997.

Reports from Director Environment & Community Services

M E M O R A N D U M

TO : All Health & Building Surveyors
FROM : Director Environment & Community Services
SUBJECT : Balustrades of Flexible Materials
FILE :
DATE : 31 January 1997

Numerous enquiries have been received requesting Council approval for the use of balustrades constructed of or incorporating flexible materials such as stainless steel ropes, chains, etc.

The BCA provisions require persons to be restricted from falling through balustrades, and provide that balustrades will comply if constructed in a manner which prevent a sphere of 125mm diameter from passing through any opening in the balustrade.

Obviously, flexible materials will not always provide for compliance with the above prescriptive performance requirement, dependent on size and tautness of materials.

To provide for consistent advice to be given to inquirers, the following construction requirements are considered to be acceptable for balustrades incorporating flexible components.

1. Only constructions to a maximum floor level height of 3.0m above finished ground level are permitted to contain balustrades incorporating flexible materials utilising wires, ropes, chains, etc. as restraining materials as rails or balustrades.
2. The maximum clear opening spaces within any such balustrade does not exceed 450mm (horizontally) and 110mm (vertically).
3. Adequate provision is made for the tensioning of flexible materials to ensure that such components are maintained in a taut state.

Please ensure the above requirements are observed

D R Buckley
Director Environment & Community Services

Reports from Director Environment & Community Services

CURRENT SITUATIONS

This Council interpretation was generally applied and accepted and provided some uniformity of approach. However, more recently since the introduction of Accredited Certifiers into the approval/inspection process provided for under the amended Environmental Planning and Assessment Act legislation, various interpretations are being made and inconsistent outcomes have been occurring whereby wire balustrades not conforming with Council interpretation are being constructed and installed.

This then impacts on the various Balustrade Manufacturer's ability to compete with each other, with the obvious result that the least compliant structure involving the least material and cost, is cheapest, and this then determines that this manufacturer will often win the job.

Mr Giddy's problem occurs because he agrees with Council's interpretation, and is concerned that he needs to discharge his duties by complying with Council's determination to ensure that a safe and compliant balustrade is produced by his company to offset any potential litigation. Because some other manufacturers do not observe the Council interpretation he is less competitive.

OBSERVATIONS

While ever no prescribed standard or requirement exists, specifically providing for wire balustrades, under the Building Code of Australia or in an Australian Standard, there will always be varying determinations of a balustrade construction which is considered to comply with the Building Code of Australia. The more approval and inspection authorities there are will add even further interpretations.

OPTIONS

There are limited options to help address this issue including:-

- (a) Council endorsing and adopting the current Council interpretation which will ensure that Council's legal interests are protected for those projects which Council is involved with.
- (b) Advising Balustrade Manufacturers and Accredited Certifiers operating in the area of Council's interpretation and recommending that they comply.
- (c) Forwarding representations to the Australian Building Codes Board and the Australian Standards Association identifying the problem and requesting those bodies provide guidelines or requirements within the Building Code of Australia and/or the appropriate Australian Standards to specify precise requirements for wire balustrade construction having regard to their flexible nature.

Reports from Director Environment & Community Services

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Reports from Director Environment & Community Services

41. ORIGIN: Environment & Health Services Unit

FILE REF: Casuarina Beach Development, Art Gallery - General

REPORT TITLE:

Casuarina Beach Sculpture Proposal

SUMMARY OF REPORT:

The Tweed River Regional Art Gallery has been approached to manage the selection, development and installation of a major public artwork at the Casuarina Beach Development. The Programme will be fully funded by Consolidated Properties in conjunction with Geoffrey Pie, Casuarina Beach Town Architect.

RECOMMENDATION:

That Council approves the Gallery's management and administration of the Casuarina Beach Sculpture program on behalf of Consolidated Properties.

Reports from Director Environment & Community Services

REPORT:

The Tweed River Regional Art Gallery has held discussions with Consolidated Properties regarding the management of the Casuarina Beach Sculpture Program. Consolidated Properties initiated discussions in late 2000. The Art Gallery Director was approached by Mr Don O'Rourke and Mr Geoffrey Pie to manage the program.

The aim of the project is to develop and install a series of major sculptures at the three main Gateways to the Casuarina Beach development. The first will commence in the 2001/2002 financial year.

The Gallery will be paid a management fee for the coordination of the program. The fee will be used to increase the employment hours of existing Part-Time Staff to ensure the smooth operation of the Gallery whilst the Director is involved in the management of the Sculpture project.

The initiative will become a model for collaboration between Public Galleries and commercial interests towards the installation of Public Art and the employment of artists.

The project is fully funded by Consolidated Properties.

Reports from Director Environment & Community Services

42. ORIGIN: Environment & Health Services Unit

FILE REF: Aged Services

REPORT TITLE:

NSW Committee on Ageing - Public Consultations

SUMMARY OF REPORT:

The NSW Committee on Ageing (NSWCOA) will be conducting three (3) public consultations in the Tweed Shire.

Thursday June 14 – 10:00am to 12noon – Murwillumbah Auditorium

Thursday June 14 – 1:30pm to 3:30pm – Tweed Civic Centre

Friday June 15 – 10:00am to 2:00pm – for Indigenous Community – Cooloon Place

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

The NSW Committee on Ageing advises the NSW Government through the Minister on Ageing about issues and concerns affecting older people in New South Wales.

About 6-7 members of the NSW Committee on Ageing will be in attendance at the Tweed Shire consultations. These people include:

Mr John Mountford (Chairperson)
Mrs Heather Johnson (Deputy Chair)
Mrs Nan Bosler
Ms Raeleen Berriman
Mr Harry Collins
The Hon. Ross Free
Dr Dawn Linklater
The Hon. Eric Bedford

Consultations will be held in:

Murwillumbah 14 June 2001
10:00am to 12noon - Civic Centre Auditorium
Registration & refreshments from 9:30am.

Tweed Heads 14 June 2001
1:30pm to 3:30pm – Tweed Civic Centre
Registration & refreshments from 1:00pm.

‘Listening to our elders’ – Indigenous Consultations
15 June 2001
10:00am to 2:00pm – ‘Cooloon Place’ Aboriginal & Torres Strait Island
Health Centre.

Reports from Director Environment & Community Services

43. ORIGIN: Environment & Health Services Unit

FILE REF: South Sea Islander Matters

REPORT TITLE:

Multicultural Heritage Award for South Sea Islander Display

SUMMARY OF REPORT:

The South Sea Islander Room Cultural and Historical display was successful in gaining a commendation in the 2001 Energy Australia National Trust Heritage Awards. The display received a commendation in the Multicultural Heritage category.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

Tweed Shire Council has been commended for the South Sea Islander Room Display at the Tweed Heads Civic Centre.

The Council has received a commendation from the National Trust of Australia (NSW).

The judges in the 2001 Energy Australia National Trust Heritage Awards said the South Sea Island Display at Tweed Heads showed good collaboration between the community and Council.

Kristen Forster who submitted the award application with the assistance of the Tweed Link team said the display was a joint project between the Australian South Sea Island Federation, the Lower Tweed River Historical Society and Council.

Tweed Shire Council was the only corporate or government organisation to receive a commendation in that section.

Other entries in corporate/government sections were a Chinese Heritage Night by Warringah Council and Reclaiming the Past lecture series from Historic Houses Trust.



Dr J Griffin
General Manager

Reports from Committees/Working Groups

1. Minutes of the Tweed River Management Plan Advisory Committee Meeting held Wednesday 4 April 2001

File Ref: River Management

VENUE:

Canvas & Kettle Restaurant, Murwillumbah Civic Centre

TIME:

9.30am.

PRESENT:

Cr W Marshall (Chair), Cr M Boyd, Cr H James (Tweed Shire Council); Messrs C Cormack (Waterways Authority); R Hagley, (Department of Land and Water Conservation); B Loring (NSW Fisheries); R Quirk (Tweed River Advisory Committee & NSW Cane Growers' Association); J Henley, G Edwards, G Judge, Ms J Lofthouse (Tweed Shire Council).

INFORMAL: Ben McDonald, Mike Melville (ASS research); Mark Tunks (Tweed Shire Council).

APOLOGIES:

T Rabbidge (Department of Land and Water Conservation); L Tarvey (National Parks and Wildlife Service); R James (Caldera Environment Centre); N Newell (State Member for Tweed); A Blundell (T & J Blundell).

MINUTES OF PREVIOUS MEETING:

Moved: Cr H James

Seconded: J Henley

RESOLVED that the Minutes of Meeting held Wednesday 7 February 2001 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

7. Recreational Waterway Use (Minutes 29 November 2000 and 7 February 2001) **Boating**

Carl Cormack, Waterways Authority, commented that talks were ongoing between the ski boat users and rowing club with a greater level of information sharing about upcoming events which has reduced conflict on the water.

Reports from Committees/Working Groups

9. Program Status

Estuary Management

- A.** A Council resolution overturned the Committee resolution to defer the upgrade of Kennedy Drive Boat Ramp.

Discussion on further action to take to reduce numbers of boat users at Kennedy Drive.

Moved: Cr H James

Seconded: Cr W Marshall

RESOLVED that the use of the Fingal Head boat ramp be encouraged through erection of a sign at Kennedy Drive promoting the superior and uncrowded facilities at that ramp and that the matter be referred to the Traffic Committee to consider a ban on trailer parking on Kennedy Drive in the vicinity of the boat ramp.

RECOMMENDATION:

That Council refers the matter of boat trailer parking on the street adjacent to the Kennedy Drive boat ramp to the Traffic Committee for consideration of banning parking of trailers along Kennedy Drive in the vicinity of the boat ramp in an effort to reduce conflict between recreational users of Ray Pascoe Park.

- B.** Request for update on the Lavender Creek Stormwater Project. Suggested that the Education Campaign to reduce stormwater pollution at the source be extended to the whole community. Noted that Council needs to take a tougher stance on dumping of garden waste adjacent to waterways and enforce regulations more vigorously.

RESOLVED that the Consultants, Montgomery Watson, be invited to the next meeting to present an update of the Lavender Creek Stormwater Project.

10. Flood Issues

Floods

C Cormack noted that there has been another minor flood since discussion at the last meeting of the February flood. Commented on the amount of flood debris on riverbanks and properties and queried what assistance was available to remove large debris. Waterways Authority could organise a barge to move debris to suitable site on riverbank for access by Council to remove.

R Hagley noted that there was potential to seek funds for flood debris clean up through the Natural Disasters Program as the area was declared a Natural Disaster Area.

Reports from Committees/Working Groups

3. Correspondence Inwards - Estuary Management Plan Review

Estuary Management

A submission was provided to Minister Amery at the time of the Tweed Cabinet Meeting requesting consideration of continued funds for implementation of the Tweed River Estuary Management Plan. The Department of Land and Water Conservation is preparing a response.

J Henley left at 10.20am.

4. Bird Monitoring in the Tweed River Estuary

Fauna Protection, Monitoring

The land adjacent to Duroby Creek has been identified and ownership established. A portion of the land is under SEPP 14 Wetlands and is partly zoned 1a Rural and 7a Environmental Protection (Wetland and Littoral Rainforest).

L Tarvey and David Rohweder to provide more detail on the actual location of bird habitat.

6. Commercial Boat Operations on the Tweed Estuary

Boating, Development Applications

Waterways Authority have a regulation pertaining to public jetties stating that vessels must not be left for longer than 1 hour and that someone able to move the vessel is to be in attendance at all times.

RESOLVED that Council authorises and erects signs at public wharves consistent with the Waterways Authority regulation to the effect that “vessels not to be left unattended” and “vessels may tie-up for up to one hour only”.

RECOMMENDATION:

That Council authorises and erects signs at public wharves consistent with the Waterways Authority regulation to the effect that “vessels are not to be left unattended” and “vessels may tie-up for up to one hour only”.

AGENDA ITEMS

1. Acid Sulfate Soil Management Projects

Pollution – Acid Sulfate Soils

Mike Melville and Ben McDonald presented some of the findings to date from research in the region on Acid Sulfate Soil management. A report “*Water quality monitoring of McLeod’s Creek and adjacent drains*” was distributed.

A comparison was made between a wet and dry period in early 90’s and water quality in the McLeod Creek drain system at present. A 1990 flood event saw low pH values throughout the

Reports from Committees/Working Groups

McLeod Creek system and the 1991 dry period monitoring found acidic conditions at the top end of the system which had been buffered by the time it reaches the end of the system.

Current monitoring indicates that the water in the lower end of McLeods Creek never falls below pH5. The upper part of the system still registers low pH levels.

TRMPAC has supplied funds to support this research. These funds have been used to purchase weather and water quality monitoring stations.

Some of the points highlighted by research in this region have been that the acidity in the landscape is not necessarily due to drainage, that the drains act predominantly as the conveyance mechanism for the acid water. It has been established that re-flooding areas will not fix the problem as the soil is already oxidised. It is now considered that this oxidation primarily occurred during previous extreme climatic events such as severe droughts.

Evapotranspiration is a major current cause of oxidation with drains serving to convey the acid water more quickly. This highlights the need to “manage” the drainage systems.

The research shows the need to manage the existing tonnes of acid in the landscape through containment or treatment as well as stopping the creation of more acid.

The next stage of the research is to look at the linkages between the Nitrogen and Sulphur Cycles as Nitrogen may act as an oxidisation agent. New research will focus on the impacts of Nitrogen fertilisers.

2. Terranora Broadwater Walkway

Terranora Broadwater

A preliminary costing for an extension of the Terranora Broadwater Foreshore Walkway from below Peninsula Drive around to, and including, Broadwater Esplanade is estimated in the order of \$220,000. This included sections of boardwalk along sections where there is not enough space for placement of a conventional footpath-type walkway.

RESOLVED that:

1. More detailed costing be pursued,
 2. The Terranora Broadwater Management Plan be reviewed to look at any higher priority projects for implementation,
 3. The status of walkways along Philp Parade and approvals for Flame Tree Park with regard to walkways are checked.
-

3. Correspondence Inwards – Sewage Pollution from Vessels

Pollution – Water, Boating

A summary of “Sewage Pollution from Vessels - Findings from Public Consultation May 2000 to June 2000” from the Waterways Authority was distributed with the agenda. Carl Cormack noted that there was a high level of interest and support shown in the Tweed during the consultation period.

Reports from Committees/Working Groups

Moved: Cr W Marshall

Seconded: Cr M Boyd

RESOLVED that the Committee supports the declaration of a “No Discharge Zone” for treated and untreated sewage from all vessels for the tidal waters of the Tweed River and its tributaries as per Action 2 in the Waterways Authority document “Sewage Pollution from Vessels”.

RECOMMENDATION:

That Council requests the NSW Government declare the tidal waters of the Tweed River and its tributaries a “No Discharge Zone” as per Action 2 outlined in the document “Sewage pollution from Vessels” produced by the Waterways Authority.

4. Correspondence Inwards - Fish Kill Protocols

Fisheries

Copies of the new “Protocol for investigating and reporting fish kills” were distributed.

5. Tweed River Entrance Sand Bypass Project - Operations Sub-plan B.16

Estuary Management, Sand Bypass

Copies of Plan B.16 to be redistributed with minutes and discussion deferred to next meeting.

6. Coast to Coast 2002 (inspections / program)

Coastal Management, Conferences

Noted that the biennial National Coast to Coast Conference, combined with the Annual NSW Coastal Conference, is to be held in the Coolangatta / Tweed area in November 2002. Suggestions for issues to be included in field trips and workshops are to be submitted to Jane Lofthouse.

Cudgen Lake and catchment and management of the Hastings Point littoral rainforest were two issues raised.

Noted that the International Acid Sulphate Soil Conference will be held in the region from 25 to 30 August, 2002.

7. Coast and Clean Seas - funding opportunities

Government Grant – Natural Heritage Trust

Noted that the next, and possibly last, round of Coast and Clean Seas grant applications are due 16 May 2001. Any potential project ideas to be forwarded to Jane Lofthouse.

Reports from Committees/Working Groups

8. Program Status

Estuary Management

Formal review of Estuary Management Program incomplete, to be discussed at next meeting.

9. Acid Sulphate Soil Research – Request for funding

Pollution – Acid Sulphate Soils, Estuary Management

Discussion on the funding request from Mike Melville for Acid Sulphate Soil research in 2002 - 2004. Cr James expressed his disagreement with TRMPAC's continued financial assistance of Acid Sulphate Soil research.

Moved: Cr M Boyd

Seconded: R Quirk

RESOLVED that the Committee makes provision in this and subsequent years budget (subject to funding allocation) for \$40,000 contribution in the first year and \$10,000 in the subsequent two years to contribute toward Acid Sulphate Soil research.

GENERAL BUSINESS:

10. Weeds in Waterways and Riparian Vegetation

Noxious – weeds and plants

Cr Boyd raised the issue of severe weed infestations in the Tweed catchment, with extensive areas of the riparian zone affected by Privet, Madeira Vine etc. Requested that consideration be given to using estuary management funds to address weeds in the upper catchment. Noted that a strong nexus between this and water quality and other issues in the estuary would be required to justify expenditure.

Discussion on the need to study the impact of weeds on water quality and identify high priority sites for works as problems in the catchment will move downstream to impact on the estuary.

Noted that rehabilitation management plans are underway for high priority riparian sites identified in the estuary.

NEXT MEETING:

The next meeting of the Committee is to be held on Wednesday 6 June 2001 at the Canvas & Kettle Restaurant commencing at 9.30 am.

The meeting closed at 12.15pm.

Director's Comments:

Nil

Reports from Committees/Working Groups

DIRECTOR'S RECOMMENDATIONS:

9. Program Status

Estuary Management

Committee Recommendation:

That Council refers the matter of boat trailer parking on the street adjacent to the Kennedy Drive boat ramp to the Traffic Committee for consideration of banning parking of trailers along Kennedy Drive in the vicinity of the boat ramp in an effort to reduce conflict between recreational users of Ray Pascoe Park.

Director's Recommendation:

As per Committee recommendation.

6. Commercial Boat Operations on the Tweed Estuary

Boating, Development Applications

Committee Recommendation:

That Council authorises and erects signs at public wharves consistent with the Waterways Authority regulation to the effect that "vessels are not to be left unattended" and "vessels may tie-up for up to one hour only".

Director's Recommendation:

As per Committee recommendation.

3. Correspondence Inwards – Sewage Pollution from Vessels

Pollution – Water, Boating

Committee Recommendation:

That Council requests the NSW Government declare the tidal waters of the Tweed River and its tributaries a "No Discharge Zone" as per Action 2 outlined in the document "Sewage pollution from Vessels" produced by the Waterways Authority.

Director's Recommendation:

As per Committee recommendation.

Reports from Committees/Working Groups

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Reports from Committees/Working Groups

2. Minutes of the Tweed Coastal Committee Meeting held Wednesday 4 April 2001

File No: Coastal Committee

VENUE:

Canvas and Kettle Restaurant, Murwillumbah.

TIME:

1.30pm

PRESENT:

Cr Wendy Marshall (Chair), Cr Max Boyd, Cr Henry James, Ted Griffiths (Kingsliff Coastguard), Terry Kane (Cabarita Beach-Bogangar Residents Association), Gary Thorpe (Hastings Point DuneCare), Craig Venner (Pottsville Beach DuneCare), John Harbison (Pottsville Progress Association), Richard Hagley (Department of Land and Water Conservation), John Henley, Jane Lofthouse (Tweed Shire Council).

INFORMAL: Allan Goodwin (NSW National Parks and Wildlife Service).

APOLOGIES:

Cr R Brinsmead, N Newell (State Member for Tweed); Lance Tarvey (NSW National Parks and Wildlife Service); Rhonda James (Caldera Environment Centre); Tim Rabbidge (Department of Land and Water Conservation), Stewart Brawley (Tweed Shire Council).

MINUTES OF PREVIOUS MEETING:

Moved: Cr H James

Seconded: J Henley

RESOLVED that the minutes of the meeting held 7 February 2001 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

4. Water Quality Results, Tweed Coastal Creeks

Monitoring

The water quality monitoring results supplied last meeting did not have units or ANZECC guidelines attached. The table below provides this information including the ANZECC guidelines for protection of aquatic eco-systems.

Parameter	pH	Temp	DO	Salinity	NO3N	TKN	TPO4	Total N	Chlor-a	SS	Faecal	Turbidity	Al	Iron	Chloride	Sulphate
Unit	PH units	°C	(mg/L)	(ppk)	(mg/L)	(mg/L)	(mg/L)	(mg/L)	(µL)	(mg/L)	(cfc/100 mL)	ntu	(mg/L)	(mg/L)	(mg/L)	(mg/L)
ANZECC Guideline	<0.2 unit change	<2°C increase	>6.0	N/A	<0.01-0.01	N/A	<0.015-0.005	NA	<10	<10% change **	150*	<10% change **	N/A	N/A	N/A	N/A

*Primary Contact

**<10% change in seasonal mean concentration. <10mg/L recommended for maintenance of healthy seagrass (UQ).

Reports from Committees/Working Groups

10. Pottsville Dune Care

DuneCare

The Council report on the development assessment for construction of Black Rocks Bridge is to go to the Council meeting of 6 June 2001.

11. Northern Rivers Catchment Management Board

Total Catchment Management

Minutes and correspondence from the NRCMB are attached for those people on the Tweed Coastal Committee that are not on TRMPAC.

AGENDA ITEMS:

1. Correspondence Inwards - Fish Kill Protocols

Fisheries

Copies of the new "Protocol for investigating and reporting fish kills" were distributed.

Moved: Cr M Boyd

Seconded: Cr W Marshall

RESOLVED that NSW Fisheries be invited to nominate a representative to the Tweed Coastal Committee.

RECOMMENDATION:

That Council invites NSW Fisheries to nominate a representative to the Tweed Coastal Committee.

2. Correspondence Inwards - Boat ramp, Mooball Creek

Boating

A letter has been received from a Pottsville resident requesting relocation of the boat ramp at Mooball Creek. The current position provides inadequate space for parking and manoeuvring trailers onto the ramp. The letter suggested that the ramp be relocated downstream of the bridge on the eastern side of Mooball Creek where adequate space exists for parking, launching and retrieval of boats.

It was noted that the boat ramp in its current position is dangerous. John Henley commented that the boat ramp was built as an employment project in the 1970's and is not acknowledged by Council as a dedicated boat ramp.

Establishment of a new boat ramp for Mooball Creek would require the ramp to comply with Department of Land and Water Conservation requirements. Funding opportunities from this Department on a dollar for dollar basis would require compliance with these requirements,

Reports from Committees/Working Groups

including the construction of sufficient car parking spaces (a minimum of 30 spaces) and sufficient room for manoeuvring and ancillary boat ramp facilities.

The Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks, 1997 states:

“Section 9.2 Overall Strategy for Recreation

During consultation with the community members, issues relating to speedboats affecting safety for swimming in the creeks were raised. It is considered that a 4-knot speed limit should be observed in all areas except for the mouth of the creeks to enable passive recreational activities to be enjoyed. In general, the shallow nature of the creeks is not ideal for speed boat activities and considering the close proximity of the Tweed River (within 5 km), which has areas designated for water skiing and other boating activities, it is not considered necessary for Cudgen, Cudgera or Mooball Creeks to offer these facilities.”

Clearly the intention is to not encourage further use of powerboats within Mooball Creek. The Waterways Authority have placed 8 knot speed signs upstream of the boat ramp and 4 knot speed signs between the existing boat ramp and the mouth of Mooball Creek.

Discussion on removal of boat ramp or other methods to reduce conflict between use of boat ramp and traffic safety.

Moved: Cr H James

Seconded: C Venner

RESOLVED that the issue be referred to the Traffic Committee for consideration of taking action to prohibit cars backing across Overall Drive in the vicinity of the Mooball Creek boat ramp.

RECOMMENDATION:

That the Traffic Committee be requested to consider taking action to prohibit cars backing across Overall Drive in the vicinity of the Mooball Creek boat ramp.

3. Correspondence Inwards - Removal of Mangroves, Hastings Point

Cudgera Creek

NSW Fisheries advised by letter that they would not renew the permit to destroy marine vegetation at the Cudgera Creek old bridge abutment removal site.

G Thorpe advised that recent discussions with NSW Fisheries will result in the permit renewal being granted. The Committee is to await written confirmation of this from NSW Fisheries and will then proceed with the Cudgera Creek bridge obstruction removal project.

4. Correspondence Inwards - Draft Framework for the Cook Island Aquatic Reserve Management Plan

Fisheries

Copies of the draft Plan of Management are available from Jane Lofthouse.

Reports from Committees/Working Groups

5. Cudgera Creek Bridge Obstruction Removal - tender submission

Cudgera Creek

G Thorpe pointed out that the project was originally titled "Removal of Tidal Obstructions in Cudgera Creek". Noted that further discussions with NSW Fisheries were imminent regarding mangrove removal permit.

Only one tender was received for the tidal obstructions removal project. This tender was deemed to comply with the requirements of the project.

Moved: Cr H James

Seconded: G Thorpe

RESOLVED that the tender be accepted and funds of \$34,750 be allocated from the Tweed Coastal Committee budget for continuation of project, pending NSW Fisheries approval.

Should NSW Fisheries not grant approval for mangrove removal on the old abutments, the Committee is to discuss changes in cost of tender resulting from limiting the project to the under bridge component only, and is to renegotiate tender accordingly.

RECOMMENDATION:

That Council accepts the tender of \$34,750 submitted by G & S Richards Excavator Hire for removal of tidal obstructions in Cudgera Creek, to be funded through the Tweed Coastal Committee.

6. Tweed Coastline Hazard Definition Study

Coastline Hazard Definition Study

An executive summary of the Draft Stage 1 Report is to be sent to the Committee and a full copy of the report will be used for the peer review. Comments from the peer review to be assessed and endorsed by the Committee prior to submission to WBM Oceanics Australia.

Draft Stage 2 Report is expected within one month from provision of comments from the Committee and peer review.

A meeting date will be set for review of the document following receipt of comments from Department of Land Water Conservation.

7. Cudgen Lake Reed Removal – Report by Allan Goodwin, NPWS

Cudgen Lake

Allan Goodwin, NSW National Parks and Wildlife Service, reported on the recent trial of reed removal in Cudgen Lake within the Cudgen Nature Reserve.

Reports from Committees/Working Groups

The Cudgen Nature Reserve was gazetted in 1995. In 1998 WBM Oceanics Australia undertook the Cudgen Lake Management Study looking at hydrology/flooding issues. Two of the recommendations from this Study were a) to trial reed harvesting to maintain diversity of habitat and recreation and b) the removal mangroves from Creek entrance to increase tidal flow.

Noted that the Lake is 160 ha with 100ha covered with reeds as of May 2000.

The trial reed removal of approximately 6 hectares was undertaken in March 2001. The reeds were cut as low as possible and the site will be monitored using aerial photography to assess the effectiveness of the trial, in particular:

1. How effective is harvester at cutting this reed?
2. What area of reeds could be cut in the time allocated?
3. Cost?
4. How long for reeds to grow back?

NSW NPWS have allocated funds in the next financial year to repeat the reed harvesting process. They need to identify habitat areas and areas of dense reeds where the harvester can't go.

Noted that this species of reed is tolerant of brackish and acidic conditions, and would appear to be thriving due to nutrient and sediment inputs from the catchment. The construction of the training walls at the mouth of Cudgen Creek have enabled a regime of higher salinity water entering the Lake.

It is acknowledged that the evolution of the Lake into a swamp habitat will reduce diversity, therefore, NPWS wish to manage the Lake to maintain biodiversity.

8. Coast and Clean Seas

Government Grant – Natural Heritage Trust

Noted that the next, and possibly last, round of Coast and Clean Seas grant applications are due 16 May 2001. Any potential project ideas to be forwarded to Jane Lofthouse.

GENERAL BUSINESS:

9. Mooball Creek Training Walls

Coastal Management

Commented that the training walls at the mouth of Mooball Creek, Pottsville, require maintenance. This issue to be referred to Department of Land and Water Conservation.

Reports from Committees/Working Groups

10. Cudgen Creek channel

Cudgen Creek

Ted Griffiths noted that the recent heavy rain had scoured out the channel in Cudgen Creek.

11. Thalweg Survey, Cudgera Creek

Cudgera Creek

The thalweg survey of Cudgera Creek is to be completed before any works on the tidal obstructions. This project to be undertaken by Waterways Authority with assistance from a Council surveyor.

NEXT MEETING:

The next meeting of the Committee is to be held on 6 June 2001 at the Canvas & Kettle Restaurant commencing at 1.00 pm.

The meeting closed at 2.30 pm

Director's Comments:

Nil

DIRECTOR'S RECOMMENDATIONS:

1. Correspondence Inwards - Fish Kill Protocols

Fisheries

Committee Recommendation:

That Council invites NSW Fisheries to nominate a representative to the Tweed Coastal Committee.

Director's Recommendation:

As per Committee recommendation.

2. Correspondence Inwards - Boat ramp, Mooball Creek

Boating

Committee Recommendation:

That the Traffic Committee be requested to consider taking action to prohibit cars backing across Overall Drive in the vicinity of the Mooball Creek boat ramp.

Director's Recommendation:

As per Committee recommendation.

Reports from Committees/Working Groups

5. Cudgera Creek Bridge Obstruction Removal - tender submission

Cudgera Creek

Committee Recommendation:

That Council accepts the tender of \$34,750 submitted by G & S Richards Excavator Hire for removal of tidal obstructions in Cudgera Creek, to be funded through the Tweed Coastal Committee.

<i>Director's Recommendation:</i>
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<i>As per Committee recommendation.</i>

Reports from Committees/Working Groups

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Reports from Committees/Working Groups

3. Minutes of the Occupational Health and Safety Committee Meeting held Wednesday 9 May 2001

File No: Occupational Health & Safety

VENUE:

Buchanan Room

TIME:

7:30pm

PRESENT:

Ivan Dusi (Chair), Geoff Hussey, Norm Hunt, Bob Missingham, Brian Alexander, Stewart Brawley, Bob Jones, Rod Harper, Ian Carpenter, Cr Wendy Marshall.

APOLOGIES:

Reg Norvill.

MINUTES OF PREVIOUS MEETING:

Moved: Bob Missingham

Seconded: Cr Wendy Marshall

RESOLVED that the Minutes of the Occupational Health & Safety meeting held Wednesday 11 April 2001 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. 4WD Training

Thirteen (13) 4WD utility vehicles (excluding Rangers, who have been trained) are operated by Council and up to forty (40) different drivers can use these vehicles. The vehicle operated by Ross Cameron has twelve (12) identified drivers who possible have not been trained in 4WD operation.

RECOMMENDATION:

That 4WD training be provided to staff who are required to operate 4WD vehicles.

2. Building Security

EMT are awaiting a report from the Director Environment & Community Services about electronic doors for Civic Centre entrances.

Reports from Committees/Working Groups

3. OHS Performance Indicators

Geoff Hussey tabled fifty-seven (57) possible performance indicators from the Integrity Software that could be used by the committee to monitor OHS performance. To be discussed at next meeting.

GENERAL BUSINESS:

1. Reports on Injuries

40/01 – Dean Elkenhans – hit on shoulder by a piece of steel thrown out by ride on mower and hit a tree ricocheting back onto operator.

44/01 – Peter Climpson – Ross River Fever due to a mosquito bite in the Tumbulgum area.

2. Outstanding Safety Committee Recommendations

- a. Rangers SWP Training (14/3/01) – Meeting has been organised with Geoff Edwards on 10/5/01 to discuss Environment & Health Services WSMS training.
 - b. VDU/Massage (14/3/01) – Ian Carpenter will raise the recommendation with EMT today.
 - c. Work Activities SWP Training (11/4/01) – EMT endorsed HRU carrying out normal generic induction and responsible Manager/Supervisor will carry out instruction on WSMS procedures.
 - d. Building Security Update – EMT awaiting report. Discussion focussed on whether building security should extend to car parking area with the provision of a security camera.
 - e. Rangers SWP Training (14/3/01) – Meeting has been organised with Geoff Edwards on 10/5/01 to discuss Environment & Health Services WSMS training.
 - f. VDU/Massage (14/3/01) – Ian Carpenter will raise the recommendation with EMT today.
 - g. Work Activities SWP Training (11/4/01) – EMT endorsed HRU carrying out normal generic induction and responsible Manager/Supervisor will carry out instruction on WSMS procedures.
 - h. Building Security Update – EMT awaiting report. Discussion focussed on whether building security should extend to car parking area with the provision of a security camera.
-

Reports from Committees/Working Groups

3. Reports from Safety Representatives

Ian Carpenter requested that the Safety Committee reintroduce Manager reporting back to the committee about WSMS progress.

Ian Carpenter advised that the WorkCover Prosecution was heard by the Chief Industrial Magistrate in the Tweed Heads Court on Friday 20/4/01. Council pleaded guilty to the offence but we were able to provide a comprehensive report on what has been put in place through the development of the WSMS.

Ivan Dusi indicated that Council's SWP (Manual Handling) stated that a single person lift should not exceed 25kg, however, the pre-employment assessment required staff to lift 30kg. Geoff Hussey to follow up.

Ivan Dusi enquired if Council trailers with diesel should be labelled with warning signs. Geoff Hussey indicated that diesel was not classified as a dangerous good.

Bob Jones enquired if "bomber style" jackets were going to be issued in winter. Bob Missingham indicated the matter was being investigated.

4. Safety Committee Inspection

Toro Ride on Mower – Inspected in workshop where modifications had been made to the seating (seat angle and additional spring support) as well as insulation provided to shield the operator from heat transmitted under the seat by the hydraulic pumps.

Barnby Street – The committee was shown a typical steep slope that staff are required to maintain/brushcut which creates a slip/fall hazard of category 1 or 2 Hazpak. Discussion focussed on possible planting up with groundcover or trials with geo-tech materials and shrubs etc.

NEXT MEETING:

The next meeting of Occupational Health & Safety will be held 14 June 2001.

Reports from Committees/Working Groups

The meeting closed at 9:30am.

Director's Comments:

General Business – Item 3

Mayor and Councillors advised of outcome of Workcover action via memo dated 30 May 2001.

DIRECTOR'S RECOMMENDATIONS:

1. 4WD Training

File No: Occupational Health & Safety

Committee Recommendation:

That 4WD training be provided to staff who are required to operate 4WD vehicles.

Director's Recommendation:

As per Committee recommendation.

Reports from Committees/Working Groups

4. Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 10 May 2001

Dunecare

VENUE:

Pottsville Environment Centre

TIME:

4.00pm

PRESENT:

Committee Members: Cr Max Boyd, Cr Henry James, Kate McKenzie (Land Care Co-ord), Janette Davison (Cabarita), Len Greer (Pottsville Dune Care), Kay Bolton (Fingal), Mick Stewart (Twin Towns Coastal Care), Gary Thorpe (Hastings Point), Ian Anderson (Kingscliff North), Frank McLeod (Department of Land & Water Conservation), Stewart Brawley, & Rodney Keever

Informal: Ian Gibson (TSC Senior Fire Control Officer), Andy Erskine (Environmental Training & Employment Enterprise), Dave Conder (Green Corps), Rhonda James & Blyth Short (Recorder)

APOLOGIES:

Russell Glover

MINUTES OF PREVIOUS MEETING:

Moved: H James

Seconded: L Greer

RESOLVED that the Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 8 March 2001 be accepted as a true and accurate record of the proceedings of that meeting.

GUEST SPEAKER:

Mr Ian Gibson – TSC Senior Fire Control Officer

Bush Fire Risk Management Plan (BFRMP) presented to the Committee (on public display for 72 days.)

Scope of the Plan covers the local government area of Tweed Shire, and includes both public and private lands.

The purpose of the plan is to identify the level of bush fire risk across the Tweed Shire, identify strategies which will be implemented to manage the bush fire risks identified and identify the land managers responsible for implementation of BFRMP.

Once the BFRMP is approved it will have a life of five years and will be refined over that period as necessary and in accordance with the provisions of section 52 of the Rural Fires Act 1997.

Reports from Committees/Working Groups

Ian outlined the aims, objectives and responsibilities associated with the BFRMP.

Discussion followed relating to the fire at Hastings Point.

GUEST SPEAKER:

Mr Andy Erskine – Environment Employment Training Enterprise (ENVITE)

Environmental Training & Employment (Northern Rivers) Inc is a community based organisation which aims to provide training in environmental restoration and to carry out quality environmental restoration and management projects on the New South Wales North Coast.

ENVITE works in conjunction with Green Corps, Work for the Dole, Coast Care, NHT and provides administration support for application funding.

ENVITE has two nurseries located at Byron Bay and Goonellabah which all Dune Care Groups are welcome to utilise. They also undertake contract growing for National Parks and provide stock for specific projects.

ENVITE can submit applications through NHT to produce Management Plans for Dune Care groups. This committee discussed this idea and expressed concerns with management plans overlapping.

Dave Conder advised that Green Corps would value working with ENVITE and would greatly benefit from these management plans.

Dune Care Groups and Council can forward letters of support to ENVITE if they wish to pursue this option.

BUSINESS ARISING:

2. Sand Bypass Advisory Committee

Sand Bypass – Advisory Committee

R Keevers reported that Durambah Beach is still experiencing high erosion problems on the northern side of break wall and mature trees are being threatened. The Sand Bypass commissioning is experiencing problems such as pipes breaking. Several meetings for the Sand Bypass Advisory Committee have been deferred.

Moved: H James

Seconded: M Stewart

RECOMMENDATION:

That Council planners investigate what erosion mark at Durambah Beach was stated within the consent conditions of the Sand Bypass Commissioning Development Application and if present recession lines are consistent with the approval.

Reports from Committees/Working Groups

4. Fingal Dune Care Representative

Dune Care

Written correspondence received by John Gillieat advising that due to ill health he is resigning as Fingal Head Dune Care & Reafforestation Group representative. Kay Bolton has been nominated as the representative.

Moved: H James

Seconded: K McKenzie

RECOMMENDATION:

That Kay Bolton replaces John Gillieat as the representative for Fingal Head Dune Care & Reafforestation Group on the Tweed Dune Care Advisory Committee.

CORRESPONDENCE:

1. Tweed Coast Bitou Bush Control Strategy Application

A Tweed Coast Bitou Bush Control Strategy Application has been completed by R James and H James. This application involves the support of Dune Care, Far North Coast County Council, National Parks & Wild Life Services, Green Corps, and Tweed Shire Council.

GENERAL BUSINESS:

2. Bush Fire Management Plan

Dune Care

Aerial photographs of the Tweed Coast for the Fire Management Plan have been provided by Cr James. Council staff are currently working on preparing these maps further.

The invitation from Ian Gibson for a Dune Care representative to attend the Bush Fire Committees' biannual meetings was discussed. The representative would not have any voting rights but may be able to contribute towards the meeting. Len Greer offered to attend these meetings.

Moved: H James

Seconded: M Stewart

RESOLVED that Len Greer attend the Bush Fire Committee meetings as a representative for Dune Care.

Gary Thorpe put forward the motion of corresponding with the Rural Bush Fire Brigade in regards to a suggestion of creating an Environmental Officers position within the Rural Bush Fire Brigade. A copy to be sent to Ian Gibson.

Reports from Committees/Working Groups

Moved: G Thorpe

Seconded: K McKenzie

RESOLVED that the Committee correspond with the Rural Bush Fire Brigade in regard to a suggestion of creating an Environmental Officers position within the Rural Bush Fire Brigade.

3. Green Corps

Dave Conder advised that he would like all dune care groups to be more proactive and vocal about what they require from the Green Corp group. Another application has to be submitted if the Green Corps team is to continue for another round.

Decision: That Kate McKenzie and Gary Thorpe prepare submissions for another Green Corps project with the assistance of Dave Conder.

NEXT MEETING:

The next meeting of the Tweed Dune Care Advisory Committee will be held 12 July 2001.

The meeting closed at 8.05pm

Director's Comments:

Item 4 - Fingal Dune Care Representative

Recommend that Kay Bolton be appointed to represent the Fingal Head Dune Care and Reafforestation Group on the Tweed Dune Care Advisory Committee.

[tdcaminx]

DIRECTOR'S RECOMMENDATIONS:

2. Sand Bypass Advisory Committee

Sand Bypass – Advisory Committee

Committee Recommendation:

That Council planners investigate what erosion mark at Duranbah Beach was stated within the consent conditions of the Sand Bypass Commissioning Development Application and if present recession lines are consistent with the approval.

Director's Recommendation:

As per Committee recommendation.

Reports from Committees/Working Groups

4. Fingal Dune Care Representative

Dune Care

Committee Recommendation:

That Kay Bolton replaces John Gillieat as the representative for Fingal Head Dune Care & Reafforestation Group on the Tweed Dune Care Advisory Committee.

Director's Recommendation:

Recommend that Kay Bolton be appointed to represent the Fingal Head Dune Care and Reafforestation Group on the Tweed Dune Care Advisory Committee.

Reports from Committees/Working Groups

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Reports from Committees/Working Groups

5. Minutes of the Sports Advisory Committee Meeting held Tuesday 15 May 2001

Sports Advisory Committee

VENUE:

Buchanan Training Room, Murwillumbah

TIME:

5.00 pm

PRESENT:

Committee Members: Crs Max Boyd, George Davidson, Warren Polglase, Mr Stewart Brawley, Mr Merve Edwards, Mr Kevin Brennan, Mr Ken Baldwin, Mr Ron Brisby, Ms Glennys Kenny, Mr Andrew Walker.

Informal: Mrs Blyth Short (Recorder)

APOLOGIES:

P Moschogianis, Phil Youngblutt

CONFIRMATION OF MINUTES:

Moved: G Davidson

Seconded: K Baldwin

RESOLVED that the Minutes of Sports Advisory Meeting held Tuesday 20 March 2001 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

2. Bilambil Sports Complex

Bilambil Sports Complex

Council has included \$900, 000 in the draft budget for Bilambil Sports Grounds.

CORRESPONDENCE:

1. North Coast Academy of Sport (NCAS)

North Coast Academy of Sport request financial support for 2001-2002. Council allocated \$1,500 in the 2000/2001 budget for NCAS and has \$1,500 in the draft budget. NCAS are requesting \$6,402 based on a 10-cent per capita contribution. Should the committee support this amount, it may consider recommending Council consider an adjustment at the first quarterly review.

G Kenny expressed concerns with supporting a program which may not benefit all Tweed Shire athletes due to cross border affiliation with QLD associations.

Reports from Committees/Working Groups

Moved: G Kenny

Seconded: G Davidson

RESOLVED that S Brawley investigates and clarifys with the North Coast Academy of Sport what athletes would be eligible for assistance.

2. Tweed District Netball Association

Assets Reserves Fund

Tweed District Netball Association requests reimbursement on a dollar for dollar basis from the Assets Reserves Fund to paint 48 goal posts. Total cost: \$240.00 amount requested \$120.00.

Moved: K Baldwin

Seconded: M Edwards

RECOMMENDATION:

That Council reimburses the Tweed District Netball Club for the costs associated with painting 48 netball posts from the Sportsfield Assets Reserve Funds to the amount of \$120.00.

3. Colts Cricket Club

Dave Burns Field

Colts Cricket Club has submitted plans for the next 12 months. They are pursuing the idea of installing practise turf wickets and establishing the grounds as a regional cricket facility.

S Brawley is investigating the removal of trees on the South Tweed Fields to enable more area to be utilised.

4. Pottsville Soccer and Cricket Club

Pottsville Memorial Oval

Pottsville Soccer and Cricket Club are obtaining quotes and investigating options for upgrading the lights at the Pottsville Memorial Oval.

GENERAL BUSINESS:

5. Junior World Cup Indian Hockey Team

K Baldwin advised that the Junior World Cup Indian Hockey Team will be training in the Tweed Shire on 20 June till 2 July. Approximately 20 players and 8 officials will be touring and utilising local facilities.

Reports from Committees/Working Groups

The committee recommends that Council hold a civic reception for the touring Indian team. S Brawley to pursue with M Smith, Council's Civic Liaison Officer.

6. Sports News Items – Tweed Link

K Baldwin advised that Nathan Eglinton has been selected for the Junior World Cup Hockey Squad. In October 2000 Nathan played 3 test matches against New Zealand U21's and from that series he was awarded a scholarship for the Australian Institute of Sport (Hockey Unit) in Perth. This year he has played for the QLD Blades National Hockey League and he has just come back from Hobart where they won the National Championships.

G Kenny advised Lindsey Swaddle – Tweed Heads Soccer Club and Shontel Walsh – Murwillumbah Soccer Club have recently been selected for the QLD Junior Girls Training Squad which will attend the National Championships to be held in Coffs Harbour.

NEXT MEETING:

The next meeting of the Sports Advisory Committee will be held 19 June 2001

The meeting closed at 6.45 pm

Director's Comments:

Item 5 – Junior World Cup Indian Hockey Team

The matter of a civic reception for the Junior World Cup Indian Hockey Team has been referred to the Civic Liaison Officer to discuss with the Mayor.

[document4]

DIRECTOR'S RECOMMENDATIONS:

2. Tweed District Netball Association

Assets Reserves Fund

Committee Recommendation:

That Council reimburses the Tweed District Netball Club for the costs associated with painting 48 netball posts from the Sportsfield Assets Reserve Funds to the amount of \$120.00.

Director's Recommendation:

Council will reimburse the \$120.00 to the Tweed District Netball Association.

Reports from Committees/Working Groups

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Reports from Committees/Working Groups

6. Minutes of the Local Traffic Committee Meeting held Friday 18 May 2001

Traffic Committee

VENUE:

Peter Border Meeting Room

TIME:

Commencing at 9.00am.

PRESENT:

Committee Members: Tweed Shire Council; Mike Baldwin, Roads and Traffic Authority; Const. Lewis Molnar, NSW Police; Mr Neville Newell, MP, Member for Tweed.

Informal: Chairman: Mr Paul Morgan, Mr Ray Clark and Maree Morgan Tweed Shire Council.

APOLOGIES:

Mr Don Page MP, Member for Ballina, Cr George Davidson.

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 12 April 2001 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

BUSINESS ARISING:

GT2/1 Pt3 451

3. Pacific Highway, Sexton Hill

R4041 Pt12

The following item is reproduced below from the meeting of the 12 April 2001 (item 3):-

“Residents have been complaining that:-

- 1. They cannot see the central islands on the curves and request that they be painted with white edge lines.*
- 2. Street lighting is needed between Darlington Drive and Barney’s Point Bridge.*

The RTA Representative advised that this has been addressed before and the linemarking should have been handled. The RTA Representative undertook to request that painting be completed.

The issue of street lighting was discussed and the Chairman advised that Council is waiting on quotes from NorthPower for improved lighting that the RTA had previously concurred to. It was decided that the quotes would be followed up and forwarded to the RTA as a matter of urgency.

Reports from Committees/Working Groups

It was noted that the RTA had previously concurred with the request for lighting (see LTC minutes 20 October 2000 Item 7) as follows:-

“Discussed at Local Traffic Committee Meeting held 22 September, 2000:-

- “1. Application for Black Spot funding for Sextons Hill and associated criteria.*
- 2. Speed Zonings on Sextons Hill.*

RECOMMENDATION:

That both items be deferred to the next meeting as the RTA Representative needed to leave the meeting early.”

“RTA representative addressed the issue of the poor lighting over the crest of the Sextons Hill and suggested that it should be consistent between Darlington Drive and Barney's Point Bridge. This upgraded lighting would assist the pedestrian issues in this location. It was suggested that an application be made through Black Spot Funding or other schemes to secure funds for the works required through the RTA. He also suggested that Council approach the Authority with the view to installing a speed camera at this location.

It was advised that Council officers should obtain a quote from NorthPower for the provision of street lighting to be incorporated in a Funding submission to the RTA.

The closure of the “right turn” lane into Short Street, Banora Point was discussed. The RTA representative was supportive. It was noted that the right turn movement from Short Street onto the Highway is already banned for safety reasons. If and when endorsed by Council this will require local advertising for a three-week period prior to the works being carried out. Left turns into and out of Short Street will remain open. The RSO will also produce an article for the Tweed Link discussing the issue to coincide with the advertising period.

RECOMMENDATION:

That an application be made to the Roads & Traffic Authority for:

- 1. The installation of additional street lighting between Darlington Drive interchange and Barney's Point Bridge; and*
- 2. A speed camera for the Sextons Hill section of the motorway.*
- 3. Council advertises its intention to support the banning of right turn movements from the Pacific Highway into Short Street and the closure of the central median and seeking public comment.”*

“RECOMMENDATION:

That the RTA be contacted in writing to ascertain when the pavement markers and linemarking over Sexton Hill will be upgraded and on receipt of the reply a copy be forwarded to the Banora Point Residents Association.”

Comments have been received from the Tweed Valley Branch of the Blind Citizen's Association of Australia that they are concerned about pedestrian safety on Sexton Hill.

Reports from Committees/Working Groups

Pedestrians cannot cross the road from the bus stop to the motel. It has also been requested that the path of travel be assessed through to Banora Point.

Investigations and discussions are still being carried out on the above issues and when advice is received from the RTA it will be further discussed in Committee

For Council's information.

7. Kennedy Drive, Tweed Heads (Boat Ramp Access)

R2830 Pt4

The following item is reproduced below the from meeting of 12 April 2001 (item 7):-

"The Coastal Committee has requested that the extensive dangerous parking and associated turning manoeuvres caused by cars with trailers parking on Kennedy Drive especially on weekends be investigated. It is suggested that parking be restricted to vehicles under 6m in length.

Cr Marshall advised that this has been discussed numerous times at the Tweed River Management meetings.

Limiting parking on Kennedy Drive and restrictions on the length of parked vehicles is also requested together with signage in the car park. Noted that vehicles are also parking on the residential roads.

RECOMMENDATION:

That:-

- 1. One hour parking be installed on the southern side of Kennedy Drive from the boat ramp along the frontage of Ray Pascoe Park back to the "No Stopping" zone.*
- 2. A "No Right Turn" sign be installed on the exit from the local traffic road at McDonald Street."*

Concern has been raised with trailers that are being parked off the bitumen strip between the BBQ area and the toilet block. Disabled people are having problems negotiating through to the toilets in between hooked and unhooked trailers.

Committee determined that the matter needs to be considered by Council's Recreation Services Unit for action as required.

For Council's information.

11. Technical Instruction for Pedestrian Crossings

Technical Instructions – RTA

The following item is reproduced below the from meeting of 12 April 2001 (item 11):-

Reports from Committees/Working Groups

“The RTA Representative informed the Committee about the draft guidelines for approach and departure at pedestrian crossings. Comments have been requested on the draft document and it was handed it to the Chairman. The document is entitled “Technical Instructions Stopping and Parking Restrictions at Intersections and Crossings - Draft”.

The Chairman undertook to give comments to the RTA on behalf of Council.

For Council’s information.”

Permission is sought by a representative of the Access Committee to comment on this draft document. The RTA is requested to liaise with Tweed Shire Council’s Access Committee on this issue.

The RTA representative advised that the RTA has established a discussion group to review the document.

For Council’s Information

9. Terranora Primary School, Terranora Road, Terranora

R5431 Pt3

Brought forward from the LTC meeting of 12 April 2001 (item 9) as follows:-

“Request received for a footpath and barriers between vehicles and pedestrians in the vicinity of the Terranora Primary School.

The RTA Representative advised the Committee that the installation of barriers needed to comply with the guidelines for installation. The Committee decided that further investigation was needed and that the request for a footpath be forwarded to the Engineering Services Division.

Cr Marshall suggested a meeting with the two Principals of the School to explain the situation in more detail. Decided that Cr Marshall, the Road Safety Officer and the Chairman would be available for the meeting. The RTA Representative also advised he may be able to attend the meeting with notice.

To be brought forward to the next meeting if appropriate.

For Council’s information.”

Cr Lawrie and James Hackett, Principal Terranora Public School addressed the Committee at 9.00am with respect to the concerns raised above.

Mr Hackett advised that the school community is concerned about the speed of vehicles in the school zone before and after school and the safety of the children on the playground during the day. It was suggested that briffen guardrails be installed in the vicinity of the playground and the installation of a childrens’ crossing over Terranora Road and in Henry Lawson Drive , as well as the necessary warning signage, be investigated.

Reports from Committees/Working Groups

The Committee conducted a site inspection and it was agreed that the school zone signage should be upgraded by providing larger signs on the Terranora Road approaches. The Committee also considered that the school crossing could be provided midway between the two driveways to the parking lot, which would provide adequate site distance in both directions, however, the number of students crossing will need to be clarified to ensure RTA warrants are met. The school would also need to provide stairs and/or a pathway from the school property up the embankment to the school crossing location before the crossing could be installed, otherwise children would need to walk along the shoulder of Terranora Road.

The Committee did not consider that a guardrail is required along the school frontage as the curves are not excessively sharp and the school is on the inside of the curve, however, if the school requires guardrails along the section of the road adjoining the school playground then Council would not object to the Department of Education providing such guardrail given that the school has selected the site of the playing fields.

The installation of a school crossing on Henry Lawson Drive was not recommended due to its close proximity to the intersection and the bus bay. The school should be requested to trim the rubber trees to increase the sight distances for motorists and pedestrians.

RECOMMENDATION:

That:-

1. School zone signage on Terranora Road be upgraded to provide larger signs.
2. Subject to the Terranora Public School constructing stairs and/or a pathway between the two car park driveways the school crossing be installed subject to normal RTA guidelines.

GENERAL BUSINESS:

Part A

1. Wollumbin Street and Byangum Road

R5940 Pt2, R0880 Pt2, DW600161

Request received for a 'Give Way' sign at the intersection of Wollumbin Street and Byangum Road. It is reported that when school buses turn right from Wollumbin Street into Byangum Road cars approaching from the right that cannot be seen when the bus starts to make the turn approach very quickly. A "Give Way" sign is requested in Byangum Road. It is not considered acceptable to place a "Give Way" sign as requested as it would create traffic congestion in Byangum Road. An alternative is to ban right turns from Wollumbin Street into Byangum Road.

Committee suggested that the bus operators concerned consider changing their routes to travel along Prince Street to Byangum Road missing the Wollumbin Street/Byangum Road intersection.

Reports from Committees/Working Groups

RECOMMENDATION:

That:-

1. The current configuration at the intersection of Wollumbin Street and Byangum Road remain in place.
2. Local bus operators be approached to change their bus routes to include Prince Street and avoid the Wollumbin Street and Byangum Road intersection.

2. North Arm Road, Murwillumbah

R3740 Pt2 DW600161

Request received for assistance with the car park in the school grounds at Wollumbin High School where there is a pick up and set down area provided for buses utilising a 'normal' direction of travel. Improved signage is requested for the car park with the suggestion of a "No Entry" sign and some arrows on the road.

It was noted that the proposed works are located inside the school property boundaries and the school may proceed with their proposed signage within their carparking area.

For Council's information.

3. Riverside Drive, Tumbulgum

R4740 DW600039

Request received for improvements to car and trailer parking on Riverside Drive particularly outside the Tumbulgum Historic Hotel. Cars with trailers are parking in front of the Hotel for extended periods of time eliminating direct street access to the Hotel for any other vehicles.

The following has been requested to allow patrons to directly access the Hotel from the street in particular with regard to usage of a new ramp access for prams, wheelchairs and people with walking frames.

Suggestions have been received as follows:-

1. Erection of regulatory parking signage near the ramp access to the Tumbulgum Historic Hotel.
2. Installation of angle parking along the riverside of Riverside Drive.

The Committee noted the Hotel has off-street parking for its patrons and did not consider such parking restrictions warranted at this time, as they would need to cover a wider area than just the Hotel public road frontage.

The second request is a matter for the Recreation Services Unit to consider in upgrading plans for the foreshore.

For Council's information.

Reports from Committees/Working Groups

4. Cudgen Road and Plantation Road

R1460 Pt3 DW601193 R4350

Requests received for the provision of warning signage, formal bus stop signage and reduced speed limits in the areas where children catch and alight from school buses along Cudgen Road and Plantation Road.

It was noted by the Committee that every school bus currently displays warning lights and the speed limit for passing vehicles is 40 kph when the bus is picking up or dropping off students. School bus stops are not usually signposted, particularly in rural areas.

The Committee supported the need for such warning signage along rural school bus routes.

RECOMMENDATION:

That warning signage for the school bus route along Cudgen Road and Plantation Road be installed.

5. SP31410 3 Sutherland Street, Kingscliff

DA5345/20 Pt1 DW599143

Local Traffic Committee comments are sought regarding traffic conflicts and safety issues with vehicles having to reverse out of the laneway (Orient Lane) due to the lack of turning facilities.

The Committee agrees that it is dangerous practice for traffic to be reversing over a distance of 200m and it is especially concerned that garbage trucks have to reverse along the lane particularly in consideration of the proximity of the school, and it is supportive of Council acquiring a turning bay at the northern end of Orient Lane.

For Council's information.

6. Beryl Street, Tweed Heads

R0520

Request received for 2 hour parking on one side of Beryl Street, Tweed Heads. It was noted that this is now a "commercial" area and businesses should have long term on site parking available and that roadside parking should be limited to ensure turnover.

The Committee supports the implementation of 2hr parking restrictions on the eastern side of Beryl Street between 8.30am and 6.00 pm between Frances and Florence Streets.

RECOMMENDATION:

That Council undertakes the installation of signage for two hour parking restrictions on the eastern side of Beryl Street, Tweed Heads between Frances and Florence Streets.

Reports from Committees/Working Groups

7. Pearl Street and Marine Parade Kingscliff

R3340 Pt4 R3340 DW602737

Request received for the provision of “Stop”, “Give Way” signage or a roundabout at the intersection of Pearl Street and Marine Parade Kingscliff.

The Committee could not determine the exact location of the request and it is to be listed for the next Local Traffic Committee meeting to be held in June and that Mr Newell provide contact details so that details can be obtained.

For Council’s information.

8. Ducat Street and Kennedy Drive

R1690 Pt2 & R2830 Pt4 DW602737

Request received for improvements regarding the traffic flow at the corner of Ducat Street and Kennedy Drive.

It is reported that traffic in the left hand lane at the traffic lights travelling straight ahead instead of turning have to move into the right hand lane after the traffic lights causing congestion.

The intersection layout is standard practice. To prevent the use of the kerb lane by turning traffic would cause extensive queuing and delays that would regularly extend through the motorway roundabouts. No action is warranted.

For Council’s information.

9. Vintage Lakes Drive and Champagne Drive, Tweed Heads South

R5747 R1020 DW602617

Request received for the provision of a “Stop” sign at the corner of Vintage Lakes Drive and Champagne Drive at the end part of Champagne Drive.

This is a well defined “T” intersection and Champagne Drive is the through road and as it is not appropriate to place “Give Way” or “Stop” signs on it and such action is not supported by the Committee.

For Council’s information.

Reports from Committees/Working Groups

10. Hillcrest Avenue, Tweed Heads South

R2500 DW602617

Request received for the removal of a double speed hump at the top of the hill entering Hillcrest Avenue. It is reported that combined with the tight bend a speed hump does not achieve more in the way of slowing traffic but adds to passenger discomfort and vehicle wear.

The combined slow point was constructed as part of the subdivision to discourage traffic generated in Vintage Lakes Estate from using Hillcrest Avenue to access Fraser Drive. Motorists not willing to negotiate the slow points have a suitable higher standard route along Vintage Lakes Drive, which is the preferred route. This Committee does not support the request.

For Council's information.

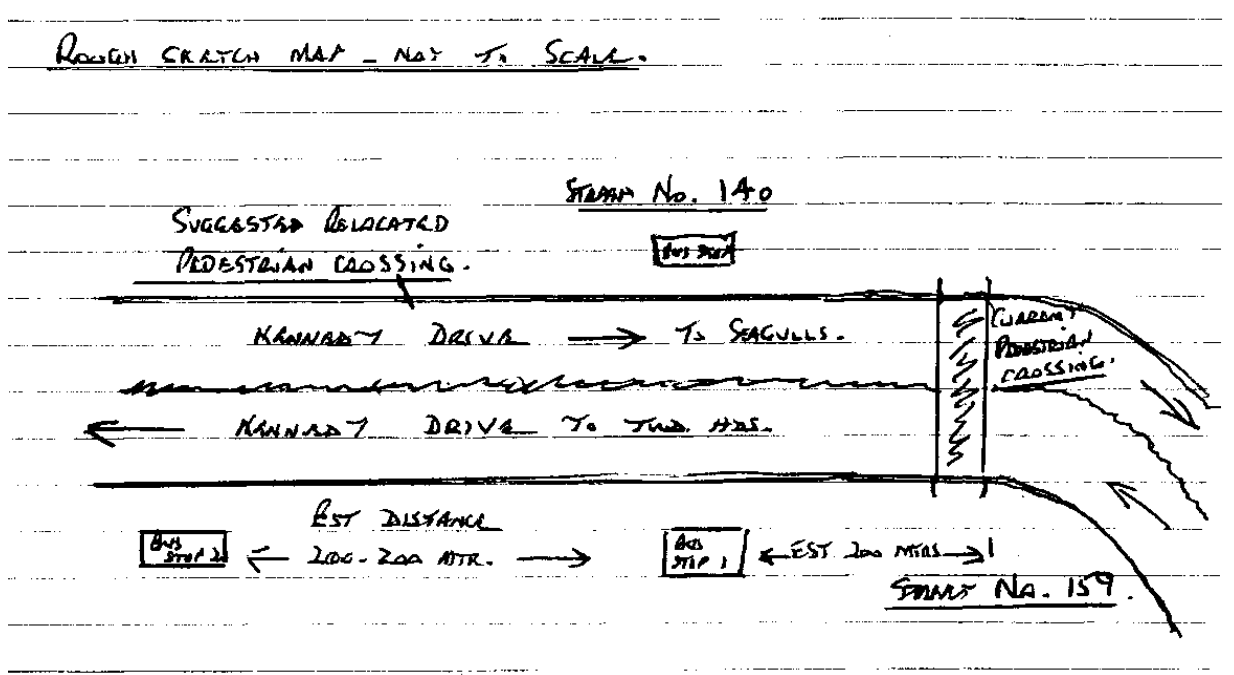
11. Kennedy Drive, Tweed Heads

R2830 Pt4 DW 602745

Request received with Kennedy Drive traffic flow as follows:-

1. Travelling towards Tweed Heads Kennedy Drive is divided into two lanes. It is suggested that this was done to ease traffic congestion after football matches at Seagulls Stadium. As there are no longer football matches at the stadium a request has been received to make this section of Kennedy Drive a single lane. This matter has been discussed by the local Neighbourhood Watch meeting.
2. See drawing supplied and reproduced below. A request has been received for relocation of the pedestrian crossing on Kennedy Drive which is near a bend and almost outside no. 159. It has been suggested that the pedestrian crossing be relocated east of the current location to give greater visibility to pedestrians.

Reports from Committees/Working Groups



The Committee noted that the two lanes provide for more efficient traffic flow during peak hours and over time two lanes westbound will also be provided to cater for traffic growth on Kennedy Drive..

The pedestrian crossing near Gray Street has good pedestrian sight distance. It is noted that the crossing would be removed and incorporated into the proposed installation of traffic signals at Gray Street when funding becomes available.

Discussion regarding relocation further east deemed that potential conflict would arise with bus movements and sight distances for the crossing would actually be reduced.

For Council's information

12. Lakes Drive, West Tweed Heads

R5460 DW603376

Request received for the speed limit to be reduced to 50kph on the eastern section of Lakes Drive.

This area was previously maintained at 60 kph as it was classed as a "distributor" road. However, the RTA guidelines have been revised and allow 50 kph zones on distributor roads if considered appropriate. Given that Lakes Drive is relative short the Committee supports the 50 kph request.

RECOMMENDATION:

That 50 kph zone signage be installed on the eastern section of Lakes Drive.

Reports from Committees/Working Groups

13. Coast Road, Pottsville

R1181 Pt11 DW603374

Request received for the provision of a "No Parking" zone on the Coast Road on the southern approach to the Wooyung Bridge.

The Committee does not support the use of left turn slip lane on the road shoulder adjacent to Wooyung Bridge in consideration of pedestrian movements in the vicinity and does not support the request for that reason.

For Council's information.

14. Farrants Hill Road, Farrants Hill

R2000

Request received for a reduction of the speed limit on Farrants Hill Road to 50kph and a slower speed limit on the dirt section of road.

The Committee considered that the sealed section of Farrants Hill Road should be 80 kph to be consistent with Clothiers Creek Road. The unsealed section should be signed with a derestriction sign as advised by the RTA representative, to be consistent with RTA zoning policy.

RECOMMENDATION:

That the sealed section of Farrants Hill Road be signposted as a 80kph speed zone.

15. Eucalyptus Drive, Banora Point (Centaur Primary School)

R3035 Pt2 DW603957

Request received for:-

1. A 40kph 'School Zone' on Eucalyptus Drive, Banora Point for the Centaur Primary School.
2. Lowering of the speed limit on Leisure Drive from 60kph to 50kph.

The Committee supported the installation of additional 40kph school zone signage, however, it was considered that Leisure Drive remain at its 60kph speed limit due to its status as a "distributor" road through this area. It was noted that the 40 kph school zone applies on Leisure Drive in the hours signposted in the vicinity of the school

RECOMMENDATION:

That two additional 40kph school zone signs at each end of Eucalyptus Drive adjacent to Centaur Primary School be installed.

Reports from Committees/Working Groups

Part B

1. 36 Marine Parade, Kingscliff

DA3340/220 Pt1

Appointment with Mr Luke Rytenskild and Mr Alan Heathcote of TTM Consulting and Ian Pickles from Gary Shiels Pty Ltd regarding the proposed redevelopment of ANZ Bank, Kingscliff on Marine Parade.

The applicant discussed with the Committee the appropriateness of reducing the “No Stopping” zones specified in the Australian Road Rules to enable an outdoor dining facility to be provided.

Proponents advised that their proposal is potentially safer from a pedestrian viewpoint. Plans were also tabled on the proposed al fresco dining area and their proposal for additional car parking spaces in the adjacent car park.

The RTA representative advised of a draft Technical Direction dealing with this matter that will need to be addressed in any application submitted to Council specifically in relation to sight distances and raised platform crossings standards.

The Committee supported the proposal in principal, subject to the above and any other Council issues relating to the application being resolved.

For Council’s information.

2. Cnr Coast Road and Pandanus Parade, Cabarita Beach

DA4100/10 Pt1

Traffic Committee comments are sought pursuant to the provisions of State Environmental Planning Policy No. 11 – Traffic Generating Developments.

A detailed intersection analysis for Pandanus Parade and Coast Road intersection will be required for this development as the Committee is concerned at the closeness of the access road to the intersection which appears to be below Austroad standards.

Additional information is required in regard to the service dock access and its conflict with bottle shop drive-thru traffic and the use of public road for the manoeuvring of service vehicles and potential queuing from the bottle shop onto public land.

Entry and exit areas fronting Coast Road appear to be encroaching on the road reserve. The roundabout at the entry area is located on Council property and appears to conflict with Council’s soon to be constructed public parking area.

The Committee suggested that the developers may need to locate an alternative access point to the site further in Pandanus Parade so as not to impede traffic flow on the Coast Road.

For Council’s information.

Reports from Committees/Working Groups

NEXT MEETING:

The next meeting is scheduled for 15 June 2001. The meeting closed at 12.00 noon.

Director's Comments:

Nil.

DIRECTOR'S RECOMMENDATIONS:

9. Terranora Primary School, Terranora Road, Terranora

R5431 Pt4

Committee Recommendation:

That:-

1. School zone signage on Terranora Road be upgraded to provide larger signs.
2. Subject to the Terranora Public School constructing stairs and/or a pathway between the two car park driveways the school crossing be installed subject to normal RTA guidelines.

Director's Recommendation:

As per Committee recommendation.

1. Wollumbin Street and Byangum Road

R5940 Pt 2 R0880 Pt2 DW600161

Committee Recommendation:

That:-

1. The current configuration at the intersection of Wollumbin Street and Byangum Road remain in place.
2. Local bus operators be approached to change their bus routes to include Prince Street and avoid the Wollumbin Street and Byangum Road intersection.

Director's Recommendation:

As per Committee recommendation.

4. Cudgen Road and Plantation Road

R1460 Pt3 DW601193 R4350

Committee Recommendation:

That warning signage for the school bus route along Cudgen Road and Plantation Road be installed.

Director's Recommendation:

Reports from Committees/Working Groups

As per Committee recommendation.

6. Beryl Street, Tweed Heads

R0520

Committee Recommendation:

That Council undertakes the installation of signage for two hour parking restrictions on the eastern side of Beryl Street, Tweed Heads between Frances and Florence Streets.

Director's Recommendation:

As per Committee recommendation.

12. Lakes Drive, West Tweed Heads

R5460 DW603376

Committee Recommendation:

That 50 kph zone signage be installed on the eastern section of Lakes Drive.

Director's Recommendation:

As per Committee recommendation.

14. Farrants Hill Road, Farrants Hill

R2000 Pt1

Committee Recommendation:

That the sealed section of Farrants Hill Road be signposted as a 80kph speed zone.

Director's Recommendation:

As per Committee recommendation.

15. Eucalyptus Drive, Banora Point (Centaur Primary School)

R3035 Pt2 DW603957

Committee Recommendation:

That two additional 40kph school zone signs at each end of Eucalyptus Drive adjacent to Centaur Primary School be installed.

Director's Recommendation:

As per Committee recommendation.

Reports from Committees/Working Groups

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

- 7. Minutes of the Occupational Health & Safety Committee Meeting held Wednesday 11 April 2001**
 - 8. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 19 April 2001**
 - 9. Minutes of the Public Transport Working Group Committee Meeting held Thursday 26 April 2001**
 - 10. Minutes of the Communication Committee Meeting held Wednesday 2 May 2001**
 - 11. Minutes of the Centenary of Federation Advisory Committee Meeting held Thursday 10 May 2001**
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Reports from Committees/Working Groups

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Orders of the Day

1. Notice of Motion - Cr Boyd

Civic Centre - Tweed Heads

Notice of Motion; Civic Centre - Tweed Heads - Hire

That Council makes the Tweed Heads Civic Centre available, free of charge, to the Tweed Heads Branch of the United Hospitals Auxiliary.

Orders of the Day

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Workshops

Councillors,

Following are details of upcoming Workshops of Council:-

1. Bush Fire Risk Management Workshop

Date: 13 June 2001
Time & Duration: 7.30 – 8.30pm
Organiser: Don Buckley
Resolved by Council: Resolved 4/4/2001

2. Cities for Climate Protection

Date: 20 June 2001
Time & Duration: 2.00 – 3.00pm
Organiser: Don Buckley
Resolved by Council: No

3. TACTIC Workshop – Funding Agreement

TACTIC

Date: 27 June 2001
Time & Duration: 4.30 – 5.30pm
Organiser: Ian Carpenter
Resolved by Council: No

Workshops

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