

# Items for Consideration of Council

<b>Schedule of Outstanding Resolutions</b>	<b>9</b>
<b>Mayoral Minute</b>	<b>15</b>
<b>Items Deferred</b>	<b>19</b>
38. ORIGIN: Environment & Health Services Unit	19
<b>Desexing of Cats and Dogs</b>	<b>19</b>
5. ORIGIN: Strategic Town Planning Unit	23
<b>Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space</b>	<b>23</b>
25. ORIGIN: Design Unit	25
<b>Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field</b>	<b>25</b>
5. ORIGIN: Development Assessment Unit	29
<b>Review of Environmental Factors 0054/2001PTV for a Road Widening and Relocation at Fingal Road</b>	<b>29</b>
18. ORIGIN: Environment & Health Services Unit	43
<b>Knox Park Markets - Food Vending Stalls</b>	<b>43</b>
7. ORIGIN: Development Assessment Unit	45
<b>Review of Determination of Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah</b>	<b>45</b>
<b>Reports from Director Development Services</b>	<b>47</b>
1. ORIGIN: Development Assessment Unit	49
<b>Development Application DA02/0584 for a Speed on Tweed - 2 Day Historic Racing Car Event on 21 and 22 September 2002 at Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724, Reserve 65931, No. 37 Queensland Road, Murwillumbah</b>	<b>49</b>
2. ORIGIN: Development Assessment Unit	53
<b>Development Application DA02/0495 for a Housing for the Aged at Lot 22 SP 62608, No. 22/2-4 Terranora Road, South Banora Point</b>	<b>53</b>

## Items for Consideration of Council

3.	ORIGIN: Strategic Town Planning Unit	85
	<b>Draft Tweed Local Environmental Plan 2000, Amendment No 24 - Housekeeping Stage 1 (Black Rocks Anomaly)</b>	<b>85</b>
4.	ORIGIN: Development Assessment Unit	89
	<b>Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah</b>	<b>89</b>
5.	ORIGIN: Strategic Town Planning Unit	95
	<b>Draft Tweed Local Environmental Plan 2000, Amendment No 33 - Lot 4, DP 872479, Philp Parade, Tweed Heads South</b>	<b>95</b>
6.	ORIGIN: Strategic Town Planning Unit	101
	<b>Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space</b>	<b>101</b>
6a.	ORIGIN: Development Assessment Unit	105
	<b>Development Application 0023/2002DA - Two (2) Eighteen Storey Residential / Tourist / Commercial Buildings - The Corner of Wharf and Bay Streets, Tweed Heads – Latitude 28</b>	<b>105</b>
	<b>Reports from Director Corporate Services</b>	<b>161</b>
7.	ORIGIN: General Manager	161
	<b>Report of an Investigation under Section 430 of the Local Government Act 1993 Regarding Tweed Shire Council Second Instalment on Seaside City and Related Matters</b>	<b>161</b>
8.	ORIGIN: Administration Services Unit	171
	<b>Conference - Beyond the Boundaries - "Solutions for Success", 4-5 September 2002</b>	<b>171</b>
9.	ORIGIN: Financial & Information Services Unit	177
	<b>2002/2003 Budget - Voting of Expenditure</b>	<b>177</b>
10.	ORIGIN: Human Resources Operations Unit	181
	<b>Union Picnic Day 2002</b>	<b>181</b>
11.	ORIGIN: Administration Services Unit	183
	<b>Amendment to the Local Government Act 1993</b>	<b>183</b>
12.	ORIGIN: Financial & Information Services Unit	187
	<b>Monthly Investment Report for Period Ending 30 June 2002</b>	<b>187</b>

## Items for Consideration of Council

<b>Reports from Director Engineering Services</b>	<b>193</b>
13. ORIGIN: Design Unit	193
<b>Revision / Naming of Localities</b>	<b>193</b>
14. ORIGIN: Design Unit	197
<b>Acquisition of SRA Land at South Murwillumbah - Formerly being Lot 124 in DP 915277</b>	<b>197</b>
15. ORIGIN: Design Unit	199
<b>Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field</b>	<b>199</b>
16. ORIGIN: Works Unit	205
<b>RTA Road Related Works Program 2002/2003</b>	<b>205</b>
17. ORIGIN: Design Unit	207
<b>Cancellation of Easement for Drainage 5 Wide at Shallow Bay Drive, Tweed Heads South</b>	<b>207</b>
18. ORIGIN: Design Unit	211
<b>Cancellation of Right of Footway</b>	<b>211</b>
19. ORIGIN: Director	215
<b>Power of Consent to Enter - Local Government Act 1993</b>	<b>215</b>
<b>Reports from Director Environment &amp; Community Services</b>	<b>219</b>
20. ORIGIN: Environment & Health Services Unit	219
<b>Desexing of Cats and Dogs</b>	<b>219</b>
21. ORIGIN: Environment & Health Services Unit	223
<b>Grant of \$12,000 - Youth Safety Package</b>	<b>223</b>
22. ORIGIN: Environment & Health Services Unit	225
<b>Markets on Public Land - Sale of Food and Drinks</b>	<b>225</b>
<b>Reports from Committees/Working Groups</b>	<b>231</b>
MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION	231
1. Minutes of the Public Transport Working Group Committee Meeting held Thursday 16 May 2002	231
2. Minutes of the Community Cultural Development Advisory Committee Meeting held Thursday 13 June 2002	231
3. Minutes of the Tweed River Committee Meeting held 19 June 2002	231

## Items for Consideration of Council

---

- |    |  |     |
|----|--|-----|
| 4. | Minutes of the Public Transport Working Group Committee Meeting held Thursday 20 June 2002     | 231 |
| 5. | Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 25 June 2002 | 231 |

## Orders of the Day 233

- |    |                                   |            |
|----|-----------------------------------|------------|
| 1. | Notice of Motion - Cr Youngblutt  | 233        |
|    | <b>Tweed River - Wharves</b>      | <b>233</b> |
| 2. | Notice of Motion - Cr Boyd        | 233        |
|    | <b>Water Supply</b>               | <b>233</b> |
| 3. | Notice of Motion - Cr Boyd        | 233        |
|    | <b>Tweed Heads Civic Centre</b>   | <b>233</b> |
| 4. | Notice of Motion - Cr Beck        | 233        |
|    | <b>Local Government Inquiries</b> | <b>233</b> |

# Items for Consideration of Council

## CONFIDENTIAL

<b>Reports from Director Development Services in Committee</b>	<b>5</b>
1. ORIGIN: Development Assessment Unit	5
<b>Works Illegally Commenced for Deferred Commencement Consent 0635/2001DA - Installation of a Pontoon at Lot 20 SP 63869 Gollan Drive, Tweed Heads West</b>	<b>5</b>
<i>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</i>	<i>5</i>
2. ORIGIN: Development Assessment Unit	9
<b>Class 1 Appeal in the Land and Environment Court of New South Wales in the matter of Council's determination of DA02/0474 for a brothel establishment at Lot 1 DP 610969, No. 57-61 Ourimbah Road Tweed Heads</b>	<b>9</b>
<i>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</i>	<i>9</i>
<b>Reports from Director Corporate Services in Committee</b>	<b>13</b>
2a. ORIGIN: General Manager	13
<b>Seaside City – Planning Processes, and Finalisation of Contract with the McInnes Group</b>	<b>13</b>
<i>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</i>	<i>13</i>
<b>Reports from Director Engineering Services in Committee</b>	<b>15</b>
3. ORIGIN: Works Unit	15
<b>EC2002-49: Supply of Pavement Linemarking Services</b>	<b>15</b>
<i>Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (d) commercial information of a confidential nature that would, if disclosed:</i>	
<i>(i) prejudice the commercial position of the person who supplied it, or</i>	
<i>(ii) confer a commercial advantage on a competitor of the council, or</i>	
<i>(iii) reveal a trade secret</i>	<i>15</i>
4. ORIGIN: Water Unit	21
<b>EQ2002-69 Maintenance Services to Council's Crams Farm and Clarrie Hall Dam Picnic Areas</b>	<b>21</b>
<i>Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2) (d) commercial information of a confidential nature that would, if disclosed:</i>	
<i>(i) prejudice the commercial position of the person who supplied it, or</i>	
<i>(ii) confer a commercial advantage on a competitor of the council, or</i>	
<i>(iii) reveal a trade secret</i>	<i>21</i>

## Items for Consideration of Council

---

<b>Reports from Director Environment &amp; Community Services in Committee</b>	<b>27</b>
5. ORIGIN: Environment & Health Services Unit	27
<b>Tenders for Bulk Earthworks - New Art Gallery</b>	<b>27</b>
<i>Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)</i>	
<i>(d) commercial information of a confidential nature that would, if disclosed:</i>	
<i>(i) prejudice the commercial position of the person who supplied it, or</i>	
<i>(ii) confer a commercial advantage on a competitor of the council, or</i>	
<i>(iii) reveal a trade secret</i>	
6. ORIGIN: Director	29
<b>Expressions of Interest - Tenders for New Tweed River Art Gallery</b>	<b>29</b>
<i>Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)</i>	
<i>(d) commercial information of a confidential nature that would, if disclosed:</i>	
<i>(i) prejudice the commercial position of the person who supplied it, or</i>	
<i>(ii) confer a commercial advantage on a competitor of the council, or</i>	
<i>(iii) reveal a trade secret</i>	

---

# Schedule of Outstanding Resolutions

---

## 20 SEPTEMBER 2000

### REPORTS FOR DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

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

335

Cr Luff

Cr Marshall

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

**Current Status:** Policy currently being developed.

---

## 5 DECEMBER 2001

### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

17. **Proposed Tweed Natural High Campaign**  
**Drug Related Matters**

508

Cr Boyd

Cr Marshall

**RESOLVED** that Council:-

1. Endorses the proposed Tweed Natural High Campaign
2.
  - a. Forms an Advisory Committee to formulate such a campaign.
  - b. Appoints Councillor Polglase to be on the Committee
  - c. Requests the nominated Councillor, relevant staff and a representative of the Queensland Alcohol and Drug Foundation to meet to bring back to Council a recommended Advisory Committee membership.

**Current Status:** The above campaign should coincide with the Tweed Coolangatta Crime Plan launch. This has been delayed due to the need to appoint a new consultant. Now expected in September.

---

## Schedule of Outstanding Resolutions

---

### 19 DECEMBER 2001

#### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

##### 33. Future Doon Doon Hall

Rural Hall - Doon Doon

579

Cr Youngblutt

Cr Davidson

**RESOLVED** that:

1. This item be deferred until the Bilambil Sports Fields purchase is finalised and Council is certain what it is going to cost to bring the whole area into good condition.
2. Council supports, in principle, the preservation of the Doon Doon Hall.

**Current Status:** Estimates are being prepared for the works to be carried out at the Bilambil Sportfields.

---

##### 5. Policy – Low Light Reflective Building Materials

Notice of Motion; Building – Code; Building - General

596

Cr Marshall

Cr Luff

**RESOLVED** that a suitable policy be developed to give effect to the matter of external roof and wall materials to ensure low light reflectivity characteristics and be in such colours as appropriate to compliment the area and amenity of the area and not be prominent against the background of the structure.

**Current Status:** Other priorities at this stage and holding this in abeyance.

---

### 20 MARCH 2002

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

5. Draft Tweed Local Environmental Plan 2000 Amendment - Housekeeping (Stage 2) and Amendment to Development Control Plan No 40 - Exempt and Complying Development

GT1/LEP/2000/26 Pt1; GT1/DCP/40 Pt1; LEP – 26; DCP

793

Cr Beck

Cr Marshall

**RESOLVED** Council regarding Item 14 – Deferred Areas, not proceeds with the rezoning of Lot 1 DP803772 and Lot 1 DP810063, Cudgen Road, Cudgen to 1(a) Rural and requests the Director Development Services to bring forward a report on the possibility of rezoning these two lots to Residential 2(a).

**Current Status:** Report being prepared.

---



## Schedule of Outstanding Resolutions

---

### ORDERS OF THE DAY

#### 3. Staffing

Notice of Motion; Staffing Levels

839

Cr Beck

Cr Lawrie

**RESOLVED** that a report be brought forward regarding the adequacy of the staffing numbers in the Planning and Building Departments as soon as possible.

**Current Status:** Report to be prepared.

---

### 3 APRIL 2002

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

##### 1. Land East of Old Bogangar Road, Cudgen

GT1/LEP/A113 Pt6; LEP

852

Cr Marshall

Cr Boyd

**RESOLVED** that this matter be deferred pending a report from the Director Development Services after the release of the Rural Land Use Study from the Tweed Economic Development Corporation.

**Current Status:** Awaiting release of the Study.

---

#### REPORTS FROM SUB-COMMITTEES

##### 3. Minutes of the Aboriginal Advisory Committee Meeting held Friday 1 March 2002 Aboriginal Matters

##### 1. Aboriginal Heritage Study

Aboriginal Matters

875

Cr James

Cr Luff

**RESOLVED** that a report be prepared on:

1. The need for an Aboriginal Heritage Study and
2. Options for the form and scope of such a study.

**Current Status:** Report being prepared.

---

## Schedule of Outstanding Resolutions

---

### ORDERS OF THE DAY

#### 4a. Tweed Road Contribution Plan

Notice of Motion; Section 94 Plans

886

Cr James

Cr Marshall

**RESOLVED** that a report be prepared on the need to adjust the Tweed Road Contribution Plan in light of the significant reduction in trips assumed for resort tourist development approvals at Casuarina Beach. The report should include an outline of options available to adjust the Plan so that there is no adverse effect on overall contributions collected for the program of works proposed in the plan.

**Current Status:** Report being prepared.

---

## 19 JUNE 2002

### REPORTS FROM DIRECTOR ENGINEERING SERVICES

#### 20. NSW Floodplain Management Authorities Annual Conference

Floodplain Management - Annual Conference

1113

Cr Boyd

Cr Marshall

**RESOLVED** that officers bring forward a report on the estimated costs in relation to raising the Murwillumbah East Levy and the Dorothy Street Levy.

**Current Status:** Report being prepared.

---

### ORDERS OF THE DAY

#### 2. Complying Development Applications

Notice of Motion; Building Code; DW678238

1126

Cr Lawrie

Cr Youngblutt

**RESOLVED** that Council requests staff to:-

1. Investigate rationalisation of its Complying Development Application process from the need for five (5) separate applications involving duplication of information, to one (1) detailed application.
2. Conducts a survey of other applications for the purpose of like rationalisation.

**Current Status:** Being investigated.

---

## Schedule of Outstanding Resolutions

---

### 3. Bruce Chick Park

Notice of Motion; Bruce Chick Park; DW678989

1127

Cr Boyd

Cr Marshall

**RESOLVED** that:-

1. A plan be developed for road access and parking at Chick Park;
2. An estimate of cost be prepared for such work to be carried out.

**Current Status:** Plan and cost involved being prepared.

---

### QUESTION TIME

#### Census Population Data

#### Population Statistics

Cr Boyd

What is the population of Tweed Shire?

The General Manager advised that the Strategic Planning Unit would provide a report to Council on the recently released census population data.

**Current Status:** Report to Council Meeting 7 August 2002.

---

## 3 JULY 2002

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

3. **Development Application 0689/2000DA - Storage and Launching Facility for Tweed Coast Sea Rescue Squad at Lot 7018 DP 755701 Coast Road, Hastings Point DA1180/425 Pt1; 1180.425**

10

Cr James

Cr Davidson

**RESOLVED** that this item be deferred to have the opportunity to obtain further information from Fisheries NSW.

**Current Status:** Awaiting response from NSW Fisheries.

---

# Schedule of Outstanding Resolutions

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

# Mayoral Minute

---

Councillors,

**1. Unveiling of Plaque – Chris Cunningham Park**

**Chris Cunningham Park, Memorials**

4 July – Unveiled a commemorative plaque at Chris Cunningham Park at the invitation of the RSL Sub-Branch, Tweed Heads.

---

**2. Citizenship Ceremony**

**Citizenship**

5 July – Officiated at a Citizenship Ceremony at Tweed Heads Civic Centre where 18 candidates became Australian Citizens.

---

**3. Performance - Jesus Christ Superstar**

**Councillors-Invitations**

5 July – Attended a performance of Jesus Christ Superstar presented by Tweed Heads Theatre Company at the Tweed Heads Bowls Club.

---

**4. Apex Changeover**

**Apex**

6 July – Cr Davidson attended the Apex Changeover on behalf of Council. Thank you Cr Davidson.

---

**5. Tweed Rescue Squad**

**Twd Dist Rescue Squad**

6 July – Attended 30 Anniversary Dinner for Tweed Rescue Squad held at Club Banora.

---

**6. NAIDOC Celebrations**

**Councillors-Invitations**

8 July – Attended a luncheon as part of the Shire's NAIDOC celebrations.

---

## Mayoral Minute

---

### 7. RSL & Services Clubs Conference 2002

#### Councillors-Invitations

8 July – Attended a Cocktail Party welcome for the RSL and Services Clubs Conference 2002 delegates at the Stars Foyer, Level 6 Millennium Tower, Twin Towns.

---

### 8. Remembrance Service – RSL and Services Club Conference

#### Chris Cunningham Park, Councillors-Invitations

9 July – Attended a Remembrance Service at Chris Cunningham Park with delegates from the RSL and Services Clubs Conference.

---

### 9. Tweed Chamber of Commerce Annual General Meeting

#### Chamber of Commerce

9 July – Attended the Tweed Chamber of Commerce Annual General Meeting at South Tweed Bowls Club.

---

### 10. Tweed Heads Red Cross Annual General Meeting

#### Councillors-Invitations

12 July – Attended the Tweed Heads Red Cross Annual General Meeting held at Club Banora.

---

### 11. Industrial Land

#### Industrial Land Investigation Study

12 July – Attended meeting with representatives from planningNSW regarding Industrial Land in Tweed Shire.

---

### 12. Australian Netball – Firebirds –v- Ravens

#### Councillors-Invitations

12 July – Attended a national league netball game between Firebirds and Ravens at the Chandler Centre, Brisbane.

---

## Mayoral Minute

---

### 13. Murwillumbah Croquet Club

#### Councillors-Invitations

14 July – Attended the final of the Bank of Queensland Open being hosted by Murwillumbah Croquet Club.

---

### 14. Sports Advisory Committee

#### Sports Advisory Committee

16 July – Attended a meeting of the Sports Advisory Committee being held in the Buchanan Room, Murwillumbah.

---

### INVITATIONS ACCEPTED

- 17 July – Opening of Sustainable Regions Program Office, Tweed Heads Civic Centre
- 20 July – Public Information Forum (Mental Illness), Rotary Club of Mt Warning AM, Tweed Heads Civic Centre Auditorium.

---

### ABSENCES FROM SHIRE BY GENERAL MANAGER AND DIRECTORS

#### ➤ General Manager (John Griffin)

**16 July 2002**  
**Byron Bay**

Meeting of Dept of Education reps, State & Federal Members of Parliament, Mayors & GMs - Re "The Northern Stars" proposal, identify sponsors and plan the promotion of the event

**22-23 July 2002**  
**Sydney**

NSW State Assembly of Local Government

**29-30 July 2002**  
**Toowoomba**

2002 Local Roads Congress

**31 July - 2 August 2002**  
**Sydney**

Tentative - LGMA (NSW Division) 2002 National Conference

**5 August 2002**  
**Mullumbimby**

Sub-Regional General Managers' Group Meeting

# Mayoral Minute

---

➤ **Director Corporate Services (Ian Carpenter)**

<b>19 July 2002</b> <b>Currumbin</b>	SIA Meeting
<b>25 July 2002</b> <b>TBA</b>	SouthROC Meeting
<b>29 July - 30 July 2002</b> <b>Sydney</b>	Ethical Standards & Practices Course
<b>31 July - 2 August 2002</b> <b>Newcastle</b>	LGMA Annual Conference
<b>5 August 2002</b> <b>Mullumbimby</b>	Sub-Regional General Managers' Group Meeting
<b>6 August 2002</b> <b>Casino</b>	NRITG Meeting

➤ **Director Development Services (David Broyd)**

15 July - 19 July 2002	Annual Leave (Douglas Jardine Acting Director)
------------------------	--

➤ **Director Engineering Services (Mike Rayner)**

<b>4 July 2002</b> <b>Sydney</b>	Water Directorate Executive Committee Meeting & DLWC / LGSA Liaison Committee
<b>5 July 2002 to</b> <b>19 July 2002</b>	Annual Leave (Bob Missingham Acting Director)
<b>25 July - 26 July 2002</b> <b>Brisbane</b>	Coast to Coast Meeting
<b>5 August</b> <b>Grafton</b>	Consultative Committee Coastal Area of the RTA Northern Region

➤ **Director Environment & Community Services (Don Buckley)**

<b>19 July 2002</b> <b>Brisbane</b>	Meeting with Art Gallery Architect
--	------------------------------------

---



# Items Deferred

## ITEM DEFERRED FROM MEETING 20 MARCH 2002

### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

#### 38. *Desexing of Cats and Dogs*

*Companion Animals Committee*

831

*Cr Youngblutt*

*Cr Luff*

*RESOLVED* that this matter be deferred to allow consultation with the "Friends of the Pound".

**This item is the subject of a further report at item no 20 of this agenda**

#### 38. ORIGIN: Environment & Health Services Unit

**FILE REF:** Companion Animals Committee

#### REPORT TITLE:

**Desexing of Cats and Dogs**

#### SUMMARY OF REPORT:

At the Regional Companion Animals Committee meeting of 7 February 2002 officers from the various member Councils were requested *to prepare a report to their Council canvassing the issue and putting forward a policy which requires compulsory desexing of all cats and dogs which are SOLD from the respective pounds*.

A case can be made that many of the problems experienced by the community in relation to cats and dogs can be related to unwanted and unowned animals. Therefore many of these problems could be overcome if the numbers of unwanted litters are reduced.

Council could directly address unwanted litters as a source of stray animals and subsequent community disturbance by adopting a policy which prohibits the sale of dogs and cats to new owners from the Pound, unless those animals are desexed. This does not cover release to the existing owner of the animal.

#### RECOMMENDATION:

That Council adopts the following policy:

1. *A dog or cat which is to be sold to a new owner from the Council Pound facility shall be desexed prior to sale, or the fee for desexing shall have been paid to Council prior to sale.*
2. *This policy shall not be applicable to a cat or dog which is being released or returned to its existing owner.*

## Items Deferred

---

### REPORT:

The Local and Regional Companion Animal Committees have discussed on a number of previous occasions that many of the problems experienced by the community in relation to cats and dogs can be related to unwanted and unowned animals. Therefore many of these problems could be overcome if the numbers of unwanted litters are reduced.

The view is held by some people in the companion animal 'industry' that all cats and dogs except those owned by registered breeders, should be desexed. However it would be difficult to achieve wide community acceptance of such a change.

The case has also been made that owners of existing animals should be convinced, through community education, to have their animals desexed. This would of course be voluntary and it is unlikely that all owners of existing animals could be convinced to have their cats and dogs desexed. It would be worthwhile for this issue to be addressed through Council's community education efforts.

At the Regional Companion Animals Committee meeting of 7 February 2002 the matter was discussed as follows:

*'Councillor Marshall suggested a media campaign be introduced requesting the public to desex their existing animals, and also suggested that a promotional day or 'paws for cause' day be held with the money raised going to charity. It was suggested that member Councils need to adopt a policy requiring compulsory desexing of all cats and dogs which are SOLD from the respective pounds. This does not include animals which are returned to an existing owner.*

*Tweed advised that they have a quote of \$175 - \$195 (variable dependant of animal's gender) for desexing, microchipping and vet check of animals prior to sale. Lismore can obtain a similar service for \$140.*

*Officers are requested to prepare a report to their Council canvassing the issue and putting forward a policy which requires compulsory desexing of all cats and dogs which are SOLD from the respective pounds'.*

Whilst the greater number of cats and dogs which currently exist in the community are not under Council control, Council could directly address unwanted litters as a source of stray animals and subsequent community disturbance by adopting a policy which prohibits the sale of dogs and cats to new owners from the Pound, unless those animals are desexed.

This approach is not viewed as unconventional, and many Councils in NSW already have such a policy in place. Further, the RSPCA and the Queensland Animal Welfare League have adopted policies whereby it is not permissible to purchase either a cat or dog from their facilities which has not been desexed.

In the past 14 months the vast majority of cats and dogs sold from Council's Pound have been sold through the Tweed Heads RSPCA. This is more cost effective for the new owner and the animal is microchipped, desexed, vaccinated and vet checked prior to sale.

There are however some animals currently sold direct to the new owner from the Pound. In this case the animal will not be desexed prior to sale.

As an indication of the cost of adopting the proposed policy to the new owner, officers have received a verbal costing as follows from a local veterinarian:

## Items Deferred

### COST INDICATION – DESEXING AND MICROCHIPPING

	<b>Dogs</b>	<b>Cats</b>
<b>Male</b>	\$120	\$70
<b>Female</b>	\$140	\$90

Council currently charges the new owner \$50 for microchipping of animals when they are sold. When this amount is deducted from the above amounts, the resulting net cost for desexing the animals is viewed as very reasonable.

Substantial efforts have been made by the Friends of the Pound group to re-house animals from the Pound, and avoid euthanasia. Increased purchase costs to new owners can make it more difficult to re-house animals. However, the increased cost is seen as an important element of being a responsible pet owner.

### POLICY ADVERTISEMENT

When Council considers adopting a policy related to approvals or orders it is required to advertise that policy in accordance with section 160 of the Local Government Act, 1993.

In this instance the proposed policy does not relate to either approvals or orders and therefore public advertisement is not mandatory. The policy relates to Council's internal procedures and minimum requirements in relation to the sale of animals in Council's custody. Also, as indicated above, the proposed policy is consistent with existing policies of other Councils and the RSPCA and Animal Welfare League.

Therefore it is not considered necessary to publicly advertise the policy prior to adoption is necessary.

### DRAFT POLICY

Given that there is a valid case that cats and dogs be required to be desexed prior to sale from Council's Pound, officers propose that the following policy be adopted:

1. A dog or cat which is to be sold to a new owner from the Council Pound facility shall be desexed prior to sale, or the fee for desexing shall have been paid to Council prior to sale.
2. This policy shall not be applicable to a cat or dog which is being released or returned to its existing owner.

## Items Deferred

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Items Deferred

### ITEM DEFERRED FROM MEETING 5 JUNE 2002

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

5. *Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space*

*GT1/S94/5 Pt1; GT1/S94/26 Pt1; GT1/S94/5-A Pt1; S94 – Section 94 Plan*

1031

*Cr Lawrie*

*Cr Beck*

*RESOLVED that this item be deferred for the holding of a workshop on this issue.*

**This item is the subject of a further report at item no 6 of this agenda**

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

**FILE REF:** GT1/S94/5 Pt1; GT1/S94/26 Pt1; GT1/S94/5-A Pt1; S94 – Section 94 Plan

**REPORT TITLE:**

**Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space**

**SUMMARY OF REPORT:**

Council resolved at its meeting of 20 March 2002 that amended Contribution Plan No 5 – Local Open Space, draft Contribution Plan No 26 - Shirewide/Regional Open Space and the draft Open Space Infrastructure Policy be placed on public exhibition for 28 days. No submissions were received in response to the exhibition.

**RECOMMENDATION:**

That Council:

1. Adopts the Section 94 Developer Contributions Plan No 5 and the Section 94 Developer Contributions Plan No 26 as placed on public exhibition;
2. Gives public notice of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, in the Tweed Link, specifying that the Contribution Plans come into effect on the date of the notice; and
3. Adopts the Open Space Infrastructure Policy as exhibited.

## Items Deferred

---

### REPORT:

#### PUBLIC SUBMISSION

There were no submissions received relating to the exhibited Plans and draft Open Space Infrastructure Policy.

#### PUBLIC EXHIBITION

A notice in the form required by the Environmental Planning and Assessment Regulation 2000 was placed in the Tweed Link on Tuesday, 9 April 2002 and the exhibition was for 28 days until 8 May 2002.

The Environmental Planning and Assessment Regulation 2000 (31) provides that:

*“...a Council may:*

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

*Council must give public notice of its decision in a local newspaper within 28 days after the decision is made”.*

It is recommended that Council publish a notice of approval of the Plans and the Policy in the Tweed Link in order to bring them into effect.

---

## Items Deferred

### REPORTS FROM DIRECTOR ENGINEERING SERVICES

**25. Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field**

*Les Burger Field; 1190.1240*

1057

*Cr James*

*Cr Beck*

*RESOLVED that Council defers this matter to allow further assessment of the evaluation.*

**This item is the subject of a further report at item no 15 of this agenda**

**25. ORIGIN: Design Unit**

**FILE REF: Les Burger Field; 1190.1240**

**REPORT TITLE:**

**Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field**

**SUMMARY OF REPORT:**

Council sought, and received, the approval of the Department of Land and Water Conservation to the acquisition of Crown Land, within Lot 518 in DP 729387 which forms part of Reserve 40253 and now known as Lot 1 in DP 1040811. The subject area is part of the Les Burger Field at Bogangar and the acquisition formalises the access and use of the area by local sports groups.

A plan creating the area to be acquired has been registered as DP 1040811 and the Crown Land will be acquired through the processes of the Land Acquisition (Just Terms Compensation) Act 1991 under the Local Government Act, 1993 and compensation will be payable to the State of NSW.

**RECOMMENDATION:**

That:-

1. Council approves the acquisition of Crown Land, being Lot 1 in DP 1040811 under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 and the Local Government Act, 1993; and
2. All necessary documentation be endorsed under the Common Seal of Council.

## Items Deferred

---

### REPORT:

Council sought, and received, the approval of the Department of Land and Water Conservation to the acquisition of Crown Land, within Lot 518 in DP 729387 which forms part of Reserve 40253 and now known as Lot 1 in DP 1040811. The subject area is part of the Les Burger Field at Bogangar and the acquisition formalises the access and use of the area by local sports groups.

At a meeting held on 13 June, 2001 a resolution was made by Council seeking Mr Neville Newell to make representation to the Department of Land & Water Conservation on Council's behalf requesting the subject area be placed under Council's management without the requirement for Council to purchase the land.

Mr Newell wrote to the Minister for Land and Water Conservation and received a reply on 28 August, 2001 to the effect that Treasury directions prohibit the allocation of Crown Land to local government authorities for their specific purposes at no cost and that the Department of Land and Water Conservation had advised that Council will need to acquire the subject land.

Accordingly, a plan creating the area to be acquired has been registered as DP 1040811 and the Crown Land (now referred to as Lot 1 in DP 1040811) will be acquired through the processes of the Land Acquisition (Just Terms Compensation) Act 1991 under the Local Government Act, 1993 and compensation will be payable to the State of NSW.

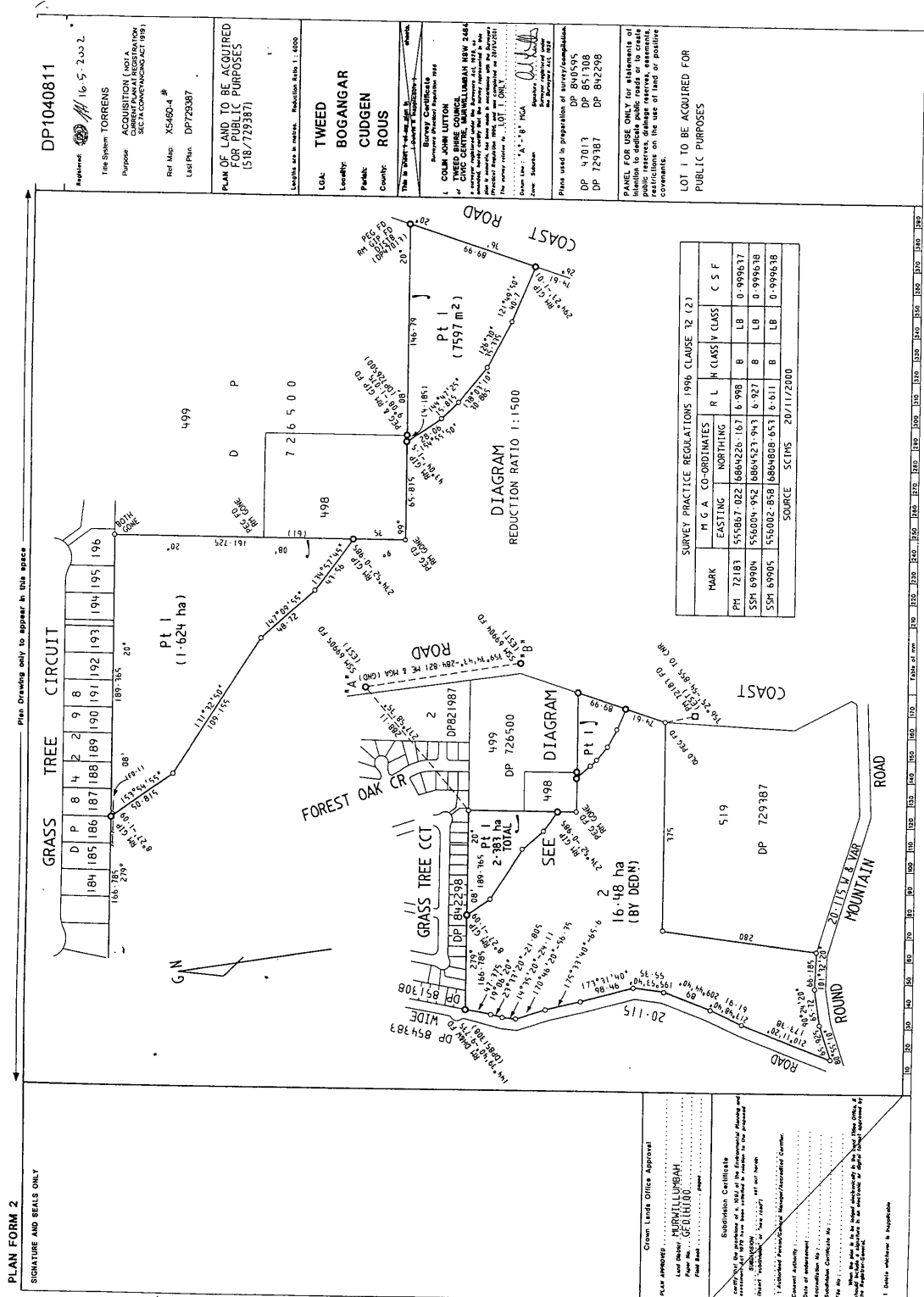
Council holds a valuation from the State Valuation Office dated 24 April, 2001, which estimated a combined value of \$195,000.00 for both parts of Lot 1, which comprise areas of 1.624 hectares and 7597m<sup>2</sup>, a total of 2.383 hectares.

The Manager for Recreation Services has allocated funds for the acquisition from the section 94 Works Program, specifically the Local Structured Open Space Fund.

A copy of DP 1040811 follows:-



# Items Deferred



## Items Deferred

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Items Deferred

### ITEM DEFERRED FROM MEETING 3 JULY 2002

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

5. *Review of Environmental Factors 0054/2001PTV for a Road Widening and Relocation at Fingal Road*

*R2060 Pt3; Fingal Road*

12

*Cr Marshall*

*Cr Brinsmead*

*RESOLVED that this matter be deferred to the next meeting to allow a resident representative to address Community Access on 10 July 2002.*

5. **ORIGIN: Development Assessment Unit**

**FILE REF: R2060 Pt3; Fingal Road**

**REPORT TITLE:**

**Review of Environmental Factors 0054/2001PTV for a Road Widening and Relocation at Fingal Road**

**SUMMARY OF REPORT:**

The following report details the issues raised in considering a Review of Environmental Factors prepared for Stages 2 and 3 of Fingal Road Widening and Relocation. The proposed works have been assessed and considered in relation to the factors requiring consideration under Section 228(2) of the Environmental Planning and Assessment Regulation 2000. This report has been prepared as part of Council's systematic process of environmental review to ensure sound decision-making for proposed works as detailed in the Department of Urban Affairs and Planning Circular No. E1 dated 17 March 1989.

The adjoining properties to Stage 2 were notified of the plans and Review of Environmental Factors in relation to the proposed construction works. Submissions were received and the issues raised have been considered in this report.

In conclusion, it is considered that the proposed relocation of Fingal does not generate a significant effect on the environment and as such the preparation of an environmental impact statement is not required. Conditions for the proposed works are recommended.

**RECOMMENDATION:**

That Development Application 0054/2001PTV for a road widening and relocation at Fingal Road be approved subject to the following conditions: -

1. The development shall be completed in general accordance with the plans and documents submitted with the application for Stage 2 only, except where varied by these conditions.
2. Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Director, Development Services. Erosion and sedimentation control devices shall be installed in accordance with the publication, "Managing Urban Stormwater - Soil and

## Items Deferred

- Construction", prepared by the NSW Department of Housing. All erosion and sedimentation controls shall be maintained throughout the period of construction.
3. 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.
  4. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
  5. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 5.00 pm Monday to Friday and no work on Saturdays or Sundays.
  6. 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.
  7. Prior to commencement of work a permit is to be obtained from NSW Fisheries pursuant to the Fisheries Management Act, 1994.
  8. Measures shall be undertaken to ensure that no river bank disturbance or erosion occurs during works.
  9. In the event that any relics or the like being discovered during the construction stage all work on the affected area (and its immediate surrounds) is to cease, and consultation is to occur with National Parks and Wildlife Service and the Tweed Byron Local Aboriginal Council. Work is not to recommence until authorised by National Parks and Wildlife Services.
  10. At any time deemed necessary by the Director of Environment and Community Services road traffic noise, received by residents adjacent to the subject works, shall be monitored by suitably qualified person and reported to Council for consideration.
  11. A landscaping vegetation management plan shall be prepared for the Fingal Road Reserve. Such shall include a plant species list and plant groupings appropriate to the locality. The revegetation works shall commence for each Stage following the completion of the road works. Waste disposal facilities should be incorporated into the landscape areas.
  12. 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.
  13. 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.

## Items Deferred

---

14. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
15. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
16. 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.

## Items Deferred

---

### REPORT:

**Applicant:** Tweed Shire Council

**Owner:** No Associations OF Owner Are Linked TO This Application

**Location:** ROAD 2060, Fingal Road

**Zoning:** Uncoloured Land

**Cost:** \$400,000

### BACKGROUND

Council is in receipt of an assessment under Part 5 of the Environmental Planning and Assessment Act 1979 for the relocation of Fingal Road. A Review of Environmental Factors was prepared for Stages 2 and 3 of the Fingal Road Widening and Relocation and submitted for consideration.

The application under Part V of the Environmental Planning and Assessment Act 1979 was notified to the adjoining property owners for the Stage 2 section of the proposal. Detailed plans were not included in the submission for the Stage 3 section of road works, as such residents along that section of road were not notified.

A further application for Stage 3 section of road works will be required to enable the residents for that section of the road to be notified of plans identifying their property boundary and access to the new road alignment. The issues assessed in this report are considered to relate to both sections of the proposed road works, while it is only being recommended to issue a consent of conditions to Stage 2 of the proposal.

The following history details previous reports on the subject.

- 4/4/2001 Council considered in the Orders of the Day the rescission and resolved:  
*“The Notice of Rescission was withdrawn”.*
- 21/3/2001 Notice of Rescission was lodged.
- 7/3/2001 Council considered a report which detailed the groups and individuals in support of and those not in support of the 7.5m road alignment from residential property boundaries. Council resolved:
- “1. Adopt the proposal to upgrade Fingal Road with a new road alignment providing at least 7.5m between residential property boundaries and the kerb and gutter.*
  - 2. Proceeds with the preparation of detailed Engineering documentation and development application.”*
- 19/4/2000 Council considered a report regarding the Fingal Road Realignment and resolved:
- “1. Endorses the proposed realignment of Fingal Road to a new road alignment providing at least 7.5m between residential property boundaries and the kerb and gutter, for the purposes of public exhibition.*
  - 2. Places the proposed road realignment plan on public exhibition for a period of 28 days.*

## Items Deferred

---

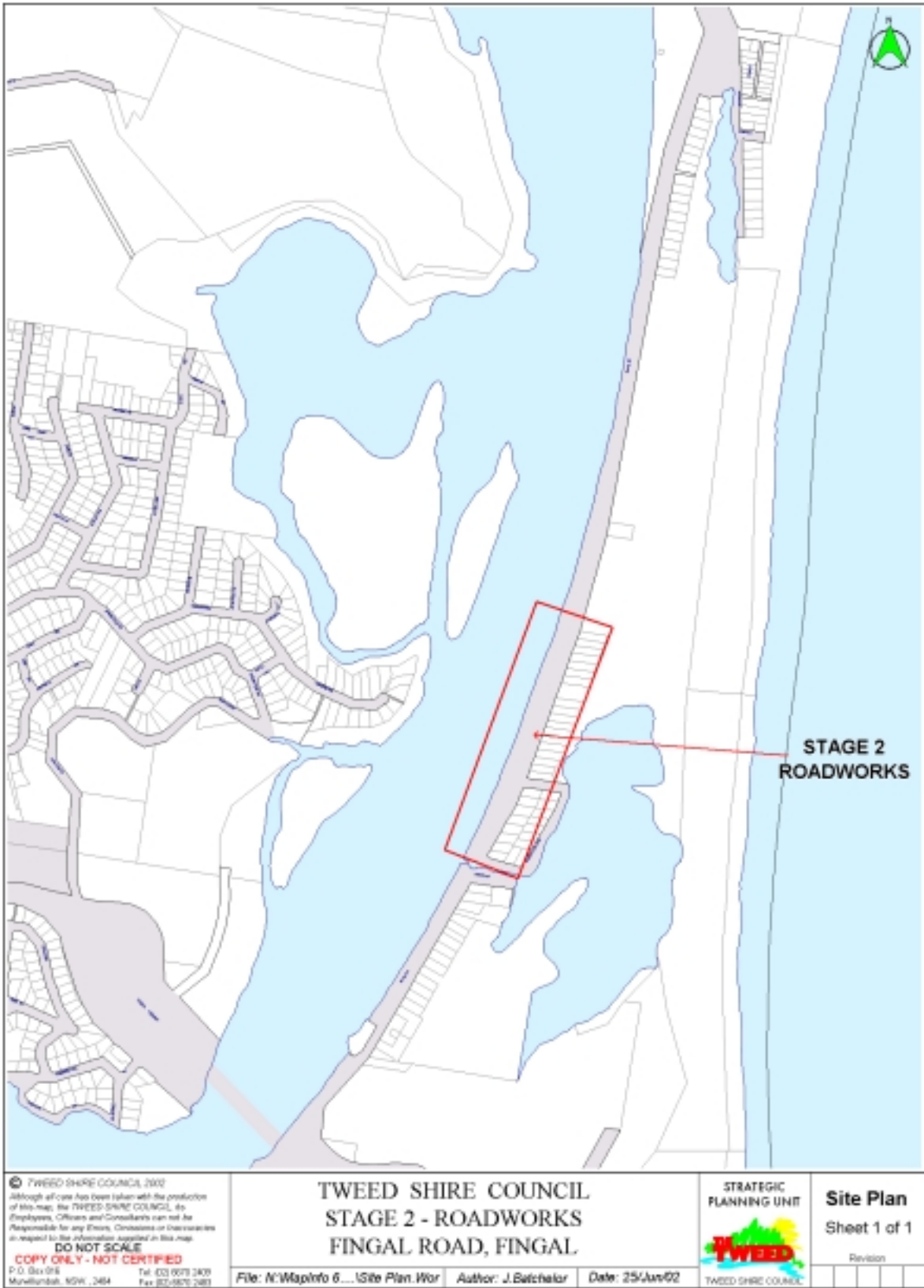
3. *Distributes a copy of the plan to local residents and to resident and ratepayer organisations and actively seek comments."*

7/7/1999 Council considered a report for Stage 1 Road Works for Fingal and resolved that conditional consent be issued.

Council's files indicate that following the resolution of 19/4/2000 a mail merge letter was forwarded dated 6/10/2000 to a number of residents along the route for comment. The purpose of renotifying the adjoining landowners for each stage at this point in time is to ensure current landowners are aware of the proposed construction activity and are given the opportunity to make comment in relation to its impacts from a detailed design perspective on their property.

# Items Deferred

## SITE DIAGRAM





## Items Deferred

### ASSESSMENT UNDER PART 5 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND REGULATION 2000

(a) **Any Impact on a Community**

The proposed road relocation to 7.5m from the property boundaries along Fingal Road specifically as detailed in the design for Stage 2 will result in changes in the community. These changes are considered to be primarily the proximity of the road to residential properties and associated impacts of noise and light from vehicles. These changes are operational once the road is established.

During construction changes in the community will be experienced by way of some tree removal, construction activity and associated traffic control from Monday to Friday.

Additional recreational area will be established from relocating the road, further enhancing the foreshore recreational opportunities for the wider community.

The submissions received raised concern that adverse amenity impacts will be experienced from increased traffic noise through the increased proximity of the road to residential properties.

To ascertain the level of noise impact on the community Council commissioned a report from Craig Hill Acoustics dated January 2002. That report concluded:-

*“Predictions indicate that the criteria would be exceeded for first floor residential once vehicle movements approached 3,612 vpd.*

*When noise levels exceed the criteria sound shell attenuation could be installed to provide suitable internal levels. Insulation could be provided as double or secondary glazing and insulation to walls and ceilings when higher levels are experienced.*

*As the realignment results in noise levels increasing by 4-5dB(A) the additional noise would be noticeable to residents and may initially result in numerous complaints.*

*Traffic calming devices can be used to keep vehicle speeds in check, this would help control noise levels, as noise from speeding vehicles can be considerably higher than normal traffic.*

*Noise from traffic should be monitored upon completion and periodically in the future. When levels are found to exceed the criteria, insulation should be provided to enable suitable internal levels to be achieved.*

*The installation of solid fences to the front of properties would reduce noise impact to lower levels by up to 10dB(A) and upper levels at selected properties by up to 5dB(A).*

*Premises with high internal reverberation as a result of extended hard surface finishes inside or partially enclosed balcony areas will notice the increase in noise levels the most. Low reverberation times are desirable for dwellings when dealing with noise impact”.*

## Items Deferred

As submissions received questioned the validity of the findings held and traffic counts used a further submission was prepared by Council's Design Engineer to validate the assumptions held, as follows: -

*“According to the Acoustic Report, at a 10m setback from the kerb, the EPA noise criteria of 60dB(A) is exceeded at the current traffic volumes. At a 15m setback, the criteria is exceeded only at the predicted 10 year traffic volumes and only on the first floor.*

*As the kerb is designed to have a 7.5 setback from the property boundary and allowing a 6m setback for the houses from the property boundary (Council Standard) a total distance of 13.5m from the facades will be achieved.*

*Craig Hill Acoustics has advised that the readings from the 15m setback can be assumed for the 13.5m setback. Therefore, the EPA noise criteria will only be exceeded (by 0.7dB(A) on the first floor) when traffic volumes exceed 3,612vpd under current conditions.*

*It should be noted that the sound level meters for the acoustic monitoring were located in a position where traffic is known to exceed the speed limit considerably (the traffic counts show that 85% of the vehicles travel at 73km in a 60km/hr zone).*

*The proposed design includes traffic calming devices and an improvement to the pavement surface. It is considered that these measures will add to the reduction in traffic speed and therefore traffic noise.*

*As Council's traffic predictions are considered conservative, based on overall growth within the Shire, it is unlikely that traffic volumes will reach those outlined in tables 2 and 3. Therefore, it is unlikely that the EPA criteria will be exceeded within the 10 year timeframe, even at first floor level.*

*It is on the basis that Council proposes to undertake noise monitoring at regular intervals, and if the noise level exceeds 60dB(A), sound shell attenuation for individual properties will be investigated.”*

Council's Environmental Health Surveyor assessed this submission and concluded: -

*“The submission made to you by Ian Munro appears to be reasonable. There is a minor exceedence of 0.7dB(A) above the EPA daytime criteria at the ground floor. This exceedence is considered relatively small.*

*The assumptions regarding traffic volumes are also conservative. Also, the traffic calming measures are likely to reduce average vehicle speeds, meaning that the noise levels on which the modelling is based, may be reduced after the works. The potential for disturbance of residents is considered low.*

*The levels reported do not appear to establish a valid reason for the proposal not to proceed.*

*It is noted that noise levels will be monitored in future. In this case the following additional condition should be included in any consent:*

## Items Deferred

- *At any time deemed necessary by the DECS road traffic noise, received by residents adjacent to the subject works, shall be monitored by a suitably qualified person and reported to Council for consideration.*

*In this case, if ongoing justifiable complaints about traffic noise are received, then Engineering Services can be required to have the relevant monitoring undertaken for consideration”.*

As such, having had regard for the technical reports and their assessment as submitted it is considered that the proposed works are not likely to result in a significant adverse impact on the environment. The Review of Environmental Factors and reports do identify a level of change that will be experienced in the community of immediate residents. The imposition of conditions as recommended will provide safeguards to the community.

Concern was raised that access to properties opposite the proposed traffic calming devices will be impaired and restricted, causing nuisance and road safety concern. Having had discussion on this issue with Council’s Manager of Design it is assured that all driveway accesses will be provided to property and that location of traffic calming devices will not prevent access to these properties from both road directions.

### **(b) Any Transformation of a Locality**

The objectives for undertaking the project as stated in the Review of Environmental Factors relate to:-

- service life of existing pavement requiring reconstruction
- increase recreational foreshore areas
- a road engineered to a design speed environment

The project through these objects will transform the locality to an area where there will be an increase in road safety, foreshore recreation area and improved road network. The transformations are considered to be beneficial and will improve the degraded local road network. The transformation of the locality is not considered to result in a significant environmental impact.

### **(c) Any Environmental Impact on the Ecosystems of the Locality**

The Review of Environmental Factors (REF) assessed the impacts to the local ecosystem to be minimal. The REF identified a plant species list for the road reserve, identified threatened species likely to occur in the area and prepared an eight part test for each species considered to possibly occur in the area.

From site inspection it is evident that the majority of the road reserve is clear of vegetation or supports exotic (introduced) species of vegetation. The exception to this is the vegetation located in the road reserve in front of No.28 Fingal Road.

The vegetation consists of local native species that are well established and support an Aristolochia vine which is the food source for the Richmond Birdwing Butterfly. Without deviating the road around this vegetation it would not appear to be possible to retain the significant component of the stand.

## Items Deferred

---

It is recommended that a landscaping vegetation management plan be prepared for the reserve area created by way of the road realignment and that such management plan make provision for substantial trees that could support the Richmond Birdwing Butterfly vine. While the replacement vegetation would take a period of time to establish it is considered that through the inclusion of a number of the vines the area may come to support more of the caterpillars.

A landscaping vegetation management plan would also be able to ensure an increase in native vegetation to the immediate locality which also provides wind protection and reduces the glare from the Tweed River.

Other submissions in relation to the natural environment that were received raised the issue that for stage 3 of the proposed road works a more detailed flora fauna assessment will be required as there are different species occurring in that section including brown quail and an osprey roost, around No.44 and No.45 Fingal Road.

It is also noted that one of the submissions raised concern that the flora and fauna assessment was predominantly desk top and did not take into account the function of the road reserve as a corridor for other natural features in the area such as Wommin Lake Reserve, and other pockets of rainforest in the Fingal area.

With the realignment of the road into the area that many nocturnal animals utilise concern was raised that there would be an increase in road kills and changes to the habitat of these animals utilising the road reserve. These aspects of the proposal were raised as being of a level which generate a significant impact on the environment, and therefore an environmental impact statement should have been prepared.

In assessing the proposed realignment it is acknowledged that the road reserve may be utilised by fauna moving between adjoining natural areas and that the road reserve may be a link for fauna in the area. However it is also considered that the road reserve will still be available to fauna and that as the existing pavement will be reduced to cycle way and pedestrian use the majority of the road reserve will be available for fauna movement.

The proposed realignment does not include obstructions to such fauna and is at grade providing motorists with adequate opportunity to identify fauna moving in the area. It may be necessary in the future to consider the erection of wildlife signage if it is found to be an area subject to high levels of road kill.

The proposed development may require a permit from NSW Fisheries for the installation of pipes and construction which extend below mean high water mark and the removal of any mangroves. It is recommended that such permit be obtained prior to commencement of work.

In summary it is considered that through imposing conditions for a landscaping vegetation management plan, ensuring stage 3 identifies the osprey roosting area and conditioning for NSW Fisheries permits where required, the proposed road works will not generate a significant impact on the ecosystems of the locality.

## Items Deferred

---

**(d) Any Reduction of Aesthetic, Recreational, Scientific or other Environmental Quality of Value of a Locality**

The Review of Environmental Factors identifies construction impacts to be noise and loss of aesthetic amenity through vegetation removal. The other issue raised is the visual aesthetic between the existing road and residential properties being reduced.

The issues of noise and vegetation removal have been assessed in this report.

The effect of moving the road closer to residential properties will reduce a value held by some of the residents in the locality. The residents have over time maintained and embellished the road reserve extending their perceived property boundaries to the existing road alignment. It is considered that the visual impact of reducing the properties setback to 7.5m from the road is minor to the extent that the majority of the dwellings will be setback 13.5m from the road which is speed limited to 60km/hr.

The visual setback of 7.5m from property boundaries exceeds most residential areas of the Shire, which have a standard typically of 3.5 metres including pedestrian corridors.

From site inspections it is considered the visual impact of realigning the road to residential properties at the proposed distance will still afford visual amenity to residences.

The appearance of the road will vary to a higher engineered standard than the current formation. This change in appearance of the road is not considered to reduce aesthetic values in the locality.

From submissions received no objection has been raised to the increase in recreational land available in the locality.

The recommended conditions of consent are considered to provide safeguards to ensure environmental quality of the locality is maintained.

**(e) Any Effect on a Locality, Place or Building having Aesthetic, Anthropological, Architectural, Cultural, Historical, Scientific or Social Significance or other Special Value for Present or Future Generations,**

The proposed realignment is in an area of highly disturbed land. To ensure the proposed works do not disturb any sites of archaeological significance a condition of consent is proposed to ensure cultural and scientific values are protected.

**(f) Any Impact on the Habitat of Protected Fauna**

The Review of Environmental Factors did not identify any protected fauna in the area. However the species that may occur in the area were identified and an eight-point test submitted. The submissions received raised the issue that the assessment was desktop and cannot be relied upon. However, the information provided does indicate that the species likely to occur in the locality are not likely to experience habitat loss by way of the new road alignment.

## Items Deferred

---

**(g) Any Endangering of Any Species of Animal, Plant or other form of Life, Whether Living on the Land, in Water or in Land**

From the information detailed in the Review of Environmental Factors, submissions received and site inspection undertaken it is not envisaged that any endangering of species is likely to occur.

**(h) Any Long-term Effects on the Environment**

The issue raised in the submissions of noise impacts to residents has been assessed as being minor. Council's Environmental Health Officer has reported that there is no valid reason for the proposal not to proceed and that in the future noise monitoring could be required should it be deemed necessary. There are no other long-term affects considered to be raised by the proposal.

**(i) Any Degradation of the Quality of the Environment**

The proposal will result in some tree removal. It is considered that the tree removal can be supported by implementing a landscape vegetation management plan. While many residents have limited their landscaping to low plants it is envisaged for view reasons, the Fingal Road corridor is in need of re-vegetation for visual, and ecology benefits which will reduce the degradation in this foreshore area. The proposal is not considered to increase degradation; rather it provides an opportunity to improve this foreshore strip.

**(j) Any Risk to the Safety of the Environment**

Safety risks for the construction phase will be managed by traffic safety management plans and other works related controls identified in the Review of Environmental Factors. In an operational sense the proposed roadwork's will result in improved safety for the following reasons identified in the Review of Environmental Factors: -

1. Traffic calming devices to slow traffic down.
2. Cycle path for pedestrian and cyclists located away from the road.
3. Pedestrian refuges incorporated into slow points.

It is considered that the Review of Environmental Factors has adequately addressed this issue and that no significant impact to the safety of the environment will be generated.

**(k) Any Reduction in the Range of Beneficial Uses of the Environment**

The Review of Environmental Factors did not identify any beneficial uses of the environment that would be reduced by the proposal. From site inspections it is considered that this conclusion is supported as the proposal is not likely to reduce use of the environment, but increase use of foreshore area.

**(l) Any Pollution of the Environment**

The Review of Environmental Factors identifies construction phase and operational phase potential pollution issues. It is considered that the construction phase impacts can be managed by conditioning the need for soil and water management plan and controls therefore ensuring pollution is minimised.

Operation impacts to air quality through vehicle emissions has not been raised as an issue for the proposal. Operation noise pollution has been identified by the noise

## Items Deferred

---

consultant as likely to generate noise complaints. Councils Environmental Health Officer has concluded that while the levels are minor and the proposal can be supported, monitoring may be required in the future.

**(m) Any Environmental Problems associated with the Disposal of Waste**

The proposed works will not require disposal of waste. However, concern was raised in submissions that waste dumped along Fingal Road by tourists and recreational users is an issue and through placement of disposal bins it is considered the proposed recreational foreshore area will not generate a waste disposal environmental problem.

**(n) Any Increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply**

There will be an increase in demand for resources to build the road however this demand will not result in resources becoming in short supply.

**(o) Any Cumulative Environmental Effect with other existing or Likely Future Activities**

Cumulative environmental effects from the proposal identified in the Review of Environmental Factors are limited to beneficial. The proposal is not removing habitat areas or reducing open space, rather relocating a road in a public road reserve. The impacts likely to be generated are addressed in their report and such are not considered to significantly increase cumulative effects in the locality.

### OPTIONS

1. Approve the road widening and relocation for Fingal Road in Stage 2 subject to the recommended conditions.
2. Investigate alternative options.

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

When a public authority makes a decision about a development not subject to a development application, it has the role of determining authority. A determining authority must examine and take into account to the fullest extent possible all matter affecting or likely to affect the environment by reason of that activity. If there is no adequate environmental assessment a decision to undertake an activity may be declared invalid under legal challenge.

Financial implications of the proposal are raised in the conclusions of the Noise Report commissioned by Council. These financial implications are generated when noise levels are found to exceed the criteria, as insulation is concluded to be a method to enable suitable internal levels to be achieved.

### CONSULTATION

The history detailed in this report identifies various reports to Council, previous assessment report, for Stage 1 and the consultation being undertaken as resolved by Council. It is clear from Councils records that Fingal Road has been the subject of much correspondence in the past, and it is understood many meetings.

Even though this is the case, the Fingal Road project has evolved over a number of years with the approval for Stage 1 being issued in 1999.

## Items Deferred

---

The importance of keeping community informed of each stage is raised as residents have changed, and, understanding of the process reduces over time.

As such while not all of the residents of Stage 2 raised objections, it is felt that as normally afforded to objectors, a copy of this report should be forwarded to the residents of Stage 2 to assist in understanding any decision or resolution made.

In addition, upon completion of a design for Stage 3 at the same plan detail as for Stage 2, such residents should be notified and given the opportunity to observe the relation of their access to property and the proposed new road alignment, raising concern where necessary.

### CONCLUSION

In conclusion, the main issue raised in this report in relation to the proposed road relocation is noise. The noise issue has been assessed by an acoustic engineer and the findings of that report have been assessed by Council's Environmental Health Surveyor.

It is concluded from an assessment of the Review of Environmental Factors, consideration of Council's Environmental Health Surveyor advice and site inspection that the proposed works are not likely to have a significant effect on the environment.

This conclusion is an assessment conferring the findings of the Review of Environmental Factors that an environmental impact statement is not required under Part V of the Environmental Planning and Assessment Act, 1979 for the proposed works.

---



## Items Deferred

### REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

**18. Knox Park Markets - Food Vending Stalls**

*Markets - Knox Park; Food Vending*

28

*Cr Carroll*

*Cr Luff*

**RESOLVED** that this item be deferred to allow the applicant to address Community Access.

**This item is the subject of a further report at item no 22 of this agenda**

**18. ORIGIN: Environment & Health Services Unit**

**FILE REF: Markets - Knox Park; Food Vending**

**REPORT TITLE:**

**Knox Park Markets - Food Vending Stalls**

**SUMMARY OF REPORT:**

Council has received a request for an additional two (2) food stalls at the Knox Park Markets. The request is in contrary to Council's Policy for the Vending of Food on Public Reserves, Streets and Roads. It is considered that the objectives of the Policy could not be achieved should the request be granted due to potential wider implications.

**RECOMMENDATION:**

That Council maintains the Policy provision for two (2) food stalls only at the Knox Park Markets and the request for additional food stalls be denied.

## Items Deferred

---

### REPORT:

Council has previously reviewed its Policy E10.10, **Vending of Food on Public Reserves, Streets and Roads** and resolved to amend the Policy to provide for “*a maximum of two (2) food and drink vendors*”.

In addition to the two current food stalls a request has been received for a further two (2) food vending stalls, specifically coffee and pancakes, at the Knox Park Markets. The Market Manager has submitted a survey of local food premises to support his request: eight (8) for and two (2) neutral. As the request does not comply with Council Policy this report has been prepared.

The Policy objective states:

*“To control the vending of food on public reserves, streets and roads to maintain the highest levels of public health, safety and convenience of persons using public reserves, streets and roads and to cause minimum financial impact to nearby retail outlets.”*

The current market operators applied to operate the markets knowing that the sale of food and drink is restricted because the markets are on public land. Further, had the markets been offered with approval to sell food and drink then the submissions received from prospective operators may have been quite different.

Market is defined under the Tweed Local Environmental Plan 2000 as:

*“a temporary outlet for the sale of local crafts and goods, a large proportion of which are not available through normal commercial outlets”.*

The variation of the policy to allow for additional food stalls has wider implications for Council’s management of markets by opening the way for other markets operating on public reserves to follow suit.

Council’s restriction on the sale of food at Markets was based upon objection from nearby food retailers who stated that as ratepayers and employers to allow such food outlets on public land was unjust.

Also, the greater number of food outlets that are permitted increase the potential to increase the risk to public health.

It is consequently recommended that the policy remains as is.

---

## Items Deferred

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

7. *Review of Determination of Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah*

*DA3120/100 Pt1; 3120.100*

50

*Cr Luff*

*Cr Marshall*

*RESOLVED that this item be deferred to allow for a further report.*

**This item is the subject of a further report at item no 4 of this agenda**

7. **ORIGIN: Development Assessment Unit**

**FILE REF: DA3120/100 Pt1; 3120.100**

**REPORT TITLE:**

**Review of Determination of Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah**

**SUMMARY OF REPORT:**

Council considered a report on 15 May 2002 which is attached for the subject application to amend the consent and resolved to reaffirm the conditions, thereby refusing the application.

Council is in receipt of a Review of Determination for the subject application to amend a three lot subdivision at Lundberg Drive Murwillumbah.

The applicant addressed Community Access on 12/6/2002 and submitted documentation to support the position held this being that the Section 94 and Section 64 contribution charges and conditions relating to stormwater, sewer and kerb and gutter are unnecessary and unreasonable.

The applicant's submission is assessed in this report. The previous report is referred to as no further technical matters were raised in the submission.

It is recommended that the application to Review the Determination not be supported.

**RECOMMENDATION:**

That the application to Review the Determination of the Development Application 0028/2002S96 for an amendment of Development Consent 0661/2001DA for a three (3) lot industrial subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive Murwillumbah, be refused.

## Items Deferred

---

### REPORT:

**Applicant:** Fruit Ingredients Australia Pty Ltd

**Owner:** Australia P Fruit Ingredients

**Location:** Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive Murwillumbah

**Zoning:** 4(a) Industrial

**Est Cost:** Nil

### BACKGROUND

Council considered a report on 15 May 2002 for an application to amend Development Consent 0661/2001DA being a three (3) lot subdivision of the subject land at Lundberg Drive, Murwillumbah. Council resolved: -

*“Conditions 1, 2, 16, 28, 36, 37 and 38 be reaffirmed”.*

A refusal notice was forwarded to the applicant detailing the reasons for refusal being: -

*“1. The proposed amendment is not in accordance with Council’s policies.”*

### CONSIDERATION OF MATTERS RAISED IN THE REVIEW OF DETERMINATION SUBMISSION

The applicant’s submission has not presented technical detail requiring further assessment or comment. Copies of the submission are attached. The applicant has indicated that he is prepared to extend the existing kerb and gutter for lot however still proposes to create two allotments without kerb and gutter. It is also requested that the fee of \$165.00 for this Review of Determination be refunded.

The report to Council of 15/5/2002 is attached addressing the issues raised in the application.

There are no further matters raised in the submission requiring assessment.

### CONCLUSION

The application to Review the Determination was not accompanied by any technical submission detailing reasons why the applicant’s position could be supported.

It is concluded that the application to Review the Determination and refund the fee be refused and the determination to refuse the application to amend the development consent dated 27/5/2002 be reaffirmed.

---

# 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

---

THIS  
PAGE  
PAGE  
IS  
BLANK  
IS  
BLANK

## Reports from Director Development Services

---

**1. ORIGIN: Development Assessment Unit**

**FILE REF: DA02/0584 Pt1; 4510.10**

**REPORT TITLE:**

**Development Application DA02/0584 for a Speed on Tweed - 2 Day Historic Racing Car Event on 21 and 22 September 2002 at Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724, Reserve 65931, No. 37 Queensland Road, Murwillumbah**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for a two-day historic car-racing (time trail) event to be held on 21 & 22 September 2002. The proposed racecourse/track is to utilise Rous, Mooball, Murwillumbah and Ewing Streets and Queensland Road.

Council has received conflicting advice from local residents as to who is in support of or opposed to the event. To assist in assessing the level of community acceptance and to clarify the conflicting submissions, a number of residents, who stand to be most affected, have been invited to participate by completing a multiple choice questionnaire that has been provided to them by Council.

The Murwillumbah Rotary Club have indicated that should they need a decision on the application by the end of July 2002 otherwise they will have no option but to withdraw their involvement and hence the event cannot proceed.

**RECOMMENDATION:**

That Council holds an Extraordinary meeting on 31 July 2002 to consider Development Application DA02/0584 for a Speed on Tweed - 2 Day Historic Racing Car Event on 21 and 22 September 2002 at Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724, Reserve 65931, No. 37 Queensland Road, Murwillumbah.

## Reports from Director Development Services

---

### REPORT:

**Applicant:** Speed on Tweed Pty Ltd

**Owner:** Trustees Agricultural Society & Tweed Shire Council

**Location:** Lot 167 DP 729468, Lot 2 DP 225827, Lot 46 DP 755724, Lot 164 DP 755724, Reserve 65931, No. 37 Queensland Road Murwillumbah - Public roads being in Queensland Road and Rous, Mooball, Murwillumbah and Ewing Streets, Murwillumbah

### BACKGROUND

18.04.2002 Development Application DA02/0584 lodged.

10.05.2002 Advertisement & notification of proposal arranged from 22 May to 5 June 2002. Fifteen (15) submissions were received during this period.

12.05.2002 Letter sent to Applicant summarising the issues raised, which included:-

- Noise impact from racing cars and spectators
- Increase in pollution (vehicle emissions)
- A residential suburb is an inappropriate setting for car racing
- Local streets are narrow and unsuitable
- The event is not conducive to the Tweed Valley's image – a place of unique and environmentally friendly attractions
- Object to the event continuing until 5pm on Saturday (adjoining catholic precinct)
- Objection to the use of church properties (except playing fields) including parish meeting centre (Cnr of Queensland Rd, Waterloo and Ewing Streets the playground and basketball facilities within the churches playing field
- Objection to the denial of access to the presbytery residence (Cnr. Of Main St and Queensland Rd)
- Objection to the denial of a right to a safe and quiet neighbourhood with freedom of access
- Objection to the lack of alternative routes provided for public comment
- Lack of environmental consideration
- Insufficient amenities
- The proposal identifies a 95dba rating at 30 metres, whilst many properties are within 10 metres (7.3 in this instance)
- The weekend is a time for rest and relaxation which is only likely to be gained by spectators not residents
- Impact on home office workers, students/school children
- Impact on persons whom work late and sleep during the day (shift workers)



## Reports from Director Development Services

---

- The proposal contains personal, inaccurate and unauthorised material
- The organisers of the event misinformed residents of the true extent of the proposal – signatories of the attached consent forms
- Objection to any proposed insurance that does not cover all properties for any damages and indemnifies property owners
- The event will impact/intrude on families/the lives of local residents
- The event is contrary to the promotion of the areas world heritage listed rainforests and eco-tourism
- The event is not required in order to attract people to the area
- The event is an unacceptable activity to be staged in a residential area
- Objection to the road closures and denial of access
- The proposal is likely to have a detrimental economic / access impact on the service station
- The off loading of barriers and setting up and cleaning up of the event is likely to create four days of inconvenience
- The temporary increase in people and camping will increase the level of vandalism
- Denial of access will mean that residents will have to park their cars elsewhere, increasing the likelihood of vandalism/theft.

03.07.2002 A multiple choice questionnaire was formulated and letter dropped to all residential properties adjoining or in close proximity to the proposed race course.

Council is in receipt of a development application for a two-day historic car-racing (time trail) event to be held on 21 & 22 September 2002. The proposed racecourse / track is proposed to utilise Rous, Mooball, Murwillumbah and Ewing Streets and Queensland Road.

The Applicant in their Statement of Environmental Effects provided copies of letters signed by local residents, in particular those adjoining the proposed racecourse, whom appeared to raise no objection to the event. During the public consultation process Council received a number of submissions in objection to the event resulting in conflicting advice provided by some local residents.

The situation that has subsequently arisen is the uncertainty in the development assessment process as to how the local community perceives the proposed event, thus making it difficult to properly assess the public interest.

In light of the above and to enable an assessment of the level of community acceptance and to clarify the conflicting submissions a number of residents, perceived as potentially the most effected, have been invited to participate by completing a multiple choice questionnaire that has been provided to them. A copy of the questionnaire is attached to this agenda.

The Murwillumbah Rotary Club have indicated that should they not receive a decision by the end of July 2002 that they will have no option but to withdraw their involvement and hence the event

## Reports from Director Development Services

---

cannot proceed. It is anticipated that a response to the questionnaire will provide a sufficient level of information on which Council can make an informed determination.

It is anticipated that the proposed event may have a substantial economic impact on Murwillumbah by providing a boost to local tourism business and trade and associated cumulative effects on other businesses. In this regard it is considered essential that Council has the opportunity to properly assess and determine the proposal prior to the Murwillumbah Rotary Club having to withdraw its support, which will quash the proposed event.

Until the results of the survey are known (closing date for return of questionnaire is 12 July 2002) a final assessment of the application cannot be made.

### OPTIONS

1. Report the application to the next available Council meeting after 12 July 2002 ie. 7 August 2002.
2. Call a special Council meeting of Council on 31 July 2002, to consider a full Planning Report on the proposed event.

### CONCLUSION

In summary, the proposed event has the potential to have a significant positive economic effect on Murwillumbah. It is anticipated that should the event proceed other similar events may follow. Given the loss of passing trade due to take effect upon the completion of the Pacific Highway deviation the Town is likely to suffer economically and as such events like that proposed may become an essential tool in attracting new tourism and business to the area.

In light of the above it is considered in the public interest to pursue the assessment and determination of the event prior to the withdrawal of support by the Murwillumbah Rotary Club at the end of July 2002.

---

## Reports from Director Development Services

---

**2. ORIGIN:** Development Assessment Unit

**FILE REF:** DA02/0495 Pt1; 5440.1500.22

**REPORT TITLE:**

**Development Application DA02/0495 for a Housing for the Aged at Lot 22 SP 62608, No. 22/2-4 Terranora Road, South Banora Point**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for the redevelopment of the existing Banora Point Motor Inn for the purposes of aged self-care residential accommodation. The proposal comprises the conversion of the existing motel units into one (1) bedroom units and the addition of a further 45 x 1 bedroom units. The existing restaurant is proposed to remain to serve the residents of the development only.

The development proposal is not a SEPP 5 development. The redevelopment has been designed having regard to the provisions of both SEPP 5 and Council's Multi-Dwelling Housing DCP.

**RECOMMENDATION:**

That Development Application DA02/0495 for a housing for the aged at Lot 22 SP 62608, No. 22/2-4 Terranora Road South, Banora Point, be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in general accordance with the Statement of Environmental Effects and accompanying documentation prepared by B & P Surveys dated March 2002 and Plans Nos 1150 A01, A02 7 A03 prepared by Alex Milanovic & Associates and dated 24 October 2001, except where varied by these conditions. [GEN0010]
2. 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 the relevant provisions of AS1428- Design for Access and Mobility. [GEN0050]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0120]
4. 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

## Reports from Director Development Services

- 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.
- [GEN0150]
5. Written confirmation is to be provided prior to the issue of a Construction Certificate that satisfactory arrangements have been made with the waste collection contractor for the internal collection of all waste generated on-site, to be submitted and approved by Council's Director of Environment and Community Services.
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.
- a) copies of compliance certificates relied upon
- b) four (3) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - the approved Traffic Control Plan

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.

- [GEN0140]
7. No air-conditioning units are to be placed facing any neighbouring residential boundaries unless the noise emitted from any such air-conditioning unit has been assessed by a qualified acoustic engineer and if necessary acoustically treated in accordance with such assessment by the qualified acoustic engineer so as to ensure that the noise emitted from any such air conditioning units does not create or emit offensive noise in relation to any neighbouring residences at any time during operation.
- [GENNS01]
8. The requirements and provisions of the acoustic Engineers Report prepared by Max Winders and Associates Reg. L7902/PAK and dated 27 February 2002 are to be implemented and complied with in relation to all aspects of the development.
- [GENNS02]
9. All hand wash basins in food handling and preparation areas are to be fitted with a water temperature measuring device or other means to ensure that warm running water is supplied to the basin via a single spout without recourse to separate hot and cold water taps.
10. The handling and preparation of food for supply to patrons or occupants is to comply with the Listeria guidelines issued by the NSW Health Department.
11. The premises where food is handled or prepared for patrons or occupants is to be notified to NSW Health in accordance with the Registration and Notification requirements of the Food Standards Code as called into force by the Food Regulation 2001.

## Reports from Director Development Services

12. Food handling and preparation is to comply with all requirements of NSW Health.
13. All external artificial lighting is to be shielded where required to prevent light spillage onto neighbouring properties or any other area causing nuisance. Any such shielding shall be installed to the satisfaction of Council's Director Environment and Community Services.

### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

#### 14. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, 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: \$16,027.00  
S94 Plan No. 4 (Version 4.0)  
(Sector 2\_4 Tweed South)
- b. Open Space (Structured): \$14,531.00  
S94 Plan No. 5
- c. Open Space (Casual): \$1,395.00  
S94 Plan No. 5
- d. Shirewide Library Facilities: \$20,248.00  
S94 Plan No. 11
- e. Eviron Cemetery/Crematorium Facilities: \$3,912.00  
S94 Plan No. 13
- f. Extensions to Council Administration Offices  
& Technical Support Facilities \$11,775.00  
S94 Plan No. 18

[PCC0050/PSC0005]

15. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 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

## Reports from Director Development Services

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:	45 units (0.33ET per unit) @ \$4000	\$59,400.00
Sewer:	45 units (0.33ET per unit) @ \$3275	\$48,634.00

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

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

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

[PCC0310]

17. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

## Reports from Director Development Services

[PCC0350]

18. In accordance with the conclusions of the traffic noise assessment prepared by Max Winders & Associates proposed units 1 to 14 and 32 & 33 shall have a solid 1.0metre high balustrade constructed on the deck to shield traffic noise from the Pacific Highway.

[PCCNS01]

19. Erosion and Sediment Control During the Construction Phase of Development

- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

20. A letter clearly identifying the unconditional surrender of Development Consent 0967/2000DA by the Applicant is to be submitted prior to issue of a Construction Certificate.

[PCCNS02]

21. Prior to the issue of a Construction Certificate NatHERS assessment ratings shall be submitted to the satisfaction of Council's Director Development Services for the additional 45 units.

[PCCNS03]

### **PRIOR TO COMMENCEMENT OF WORK**

22. 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.

[PCW0010]

23. A sign must be erected on the site in a prominent, visible position stating:

- a. that unauthorised entry to the work site is prohibited; and
- b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
- c. Lot number.

[PCW0070]

## Reports from Director Development Services

24. 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.  
[PCW0090]
25. Prior to commencement of any works on the site a plumbing and drainage inspection fee of \$1,139 is to be submitted to Council.  
[PCW0200]
26. 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.  
[PCW0210]
27. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.  
[PCW0220]
28. 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.  
[PCW0190]

### DURING CONSTRUCTION

29. 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).  
[DUR0010]
30. 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.  
[DUR0080]
31. 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.  
[DUR0130]
32. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.  
[DUR0160]
33. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:



## Reports from Director Development Services

- 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
  - g. the fire protection of penetrations through any fire rated elements prior to covering [DUR0170]
34. 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. [DUR0200]
35. 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. [DUR0260]
36. 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. [DUR0270]
37. Tactile ground surface indicators for orientation of people with vision impairment are to be provided in accordance with Australian Standard AS1428.4 [DUR0290]
38. 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. [DUR0300]
39. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.  
Should additional fill be proposed in the area of the sewer manhole Council's Engineering Services Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of Council's Manager Public Utilities. [DUR0840]
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. [DUR0900]
41. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work. [DUR1020]
42. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

## Reports from Director Development Services

- 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. [DUR1030]
43. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
44. 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. [DUR1070]
45. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
46. Back flow prevention devices shall be installed wherever 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. [DUR1110]
47. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]
48. 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. [DUR1180]
49. 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.

## Reports from Director Development Services

- v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000. [DUR1200]
50. 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. [DUR1210]
51. A concrete ribbon footpath 1.2 metres wide and 75 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Terranora Road. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed. [DUR0520]
52. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system. [DUR0240]
53. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.  
Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.  
This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated. [DUR0730]
54. 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. [DUR0850]
55. 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. [DUR0870]
56. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles. [DUR0880]

## Reports from Director Development Services

57. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
58. The burning of builders waste on site by open fire is prohibited. [DUR0940]
59. 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. [DUR1170]
60. 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 [DUR1190]
61. A 2.0 metre wide concrete path is to be constructed from the driveway to the pedestrian crossing at the intersection of Terranora Road and the Pacific Highway and along the Pacific Highway from Terranora Road to the shops and bus stop. All Pram ramps at the intersection of Terranora Road and Pacific Highway intersection are required to be upgraded to the current Tweed Shire Council standard.  
Detailed plans in this regard are to be prepared and submitted to Council's Director Engineering Services prior to commencement of works, which must be completed prior to occupation of any unit. [DURNS01]
62. An automatic fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in Class 2 and 3 buildings and Class 4 part of a building in accordance with the provisions of Specification E2.2a of the Building Code of Australia. Smoke alarms must be installed:
- (i) within each sole occupancy unit, located on or near the ceiling in any storey -
    - (A) containing bedrooms -
      - (aa) between each part of the sole occupancy unit containing bedrooms and the remainder of the sole occupancy unit; and
      - (bb) where bedrooms are served by a hallway, in that hallway; and
    - (B) not containing any bedrooms, in egress paths; and
  - (ii) in a building not protected with a sprinkler system, in public corridors and other internal public spaces, located in accordance with the requirements for smoke detectors in AS 1670 and connected to activate a **building occupant warning system** in accordance with Specification 2.2a(6) of the Building Code of Australia which states:  
A building occupant warning system must comply with Clause 8.7 of AS 1670 to sound through all occupied areas except-
    - a) in a Class 2 and 3 building or Class 4 part provided with a smoke alarm system:
      - (i) the sound pressure level need not be measured within a sole occupancy unit if a level of not less than 85dB(A) is provided at the door providing access to the sole occupancy unit; and

## Reports from Director Development Services

- (ii) the inbuilt sounders of the smoke alarms may be used to wholly or partially meet the requirements.

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

[DUR1340]

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

63. 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.

[POC0020]

64. 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).

[POC0030]

65. 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.

[POC0050]

66. 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.

[POC0070]

### **USE**

67. All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the Food Act and the provisions of the Food Standards Code as called into force by the Food Regulation 2001.

[USENS01]

68. Council's Building Services Unit shall need to be consulted regarding any proposed use of the existing dining areas of the restaurant for purposes other than dining i.e public entertainment, to ensure compliance with the Local Government Act and Building Code of Australia.

[USENS02]

69. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.

[POC0150]

70. 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.

[USE0160]

## Reports from Director Development Services

---

### PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

71. 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.

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.

[PSC0020]

## Reports from Director Development Services

---

### REPORT:

**Applicant:** Kingmere (No 2) Pty Ltd

**Owner:** Kingmere (No 2) Pty Ltd

**Location:** Lot 22 SP 62608, No. 22/2-4 Terranora Road South, Banora Point

**Zoning:** Residential 2(e) Tourist

**Cost:** \$1.6m

### BACKGROUND

- 00.00.1983 Development Application T4/2577 approved for existing Banora Point Motor Inn.
- 06.12.2000 Development Application 0967/2000DA approved for the addition of 12 x 4 bedroom units, public use of existing restaurant and associated parking and landscaping.
- 27.03.2002 Development Application DA02/0495 lodged.
- 26.04.2002 Proposal advertised / notified for a period of 14 days from 8 to 22 May 2002. Five (5) submissions received.

The subject development site is located on the corner of Terranora Road and the Pacific Highway, Banora Point. The site has an area of 7847m<sup>2</sup> and has a secondary frontage to the Pacific Highway (north) of approximately 121 metres and a primary frontage to Terranora Road (west) of approximately 94 metres. Residential development adjoins the site to the south and east.

The land comprises two relatively flat areas linked by a sloping driveway and landscaped batter. The lower portion of the site where the additional 45 units are proposed has a fall of approximately 4 metres over a distance of 60 metres from the southern boundary to the north, north-eastern boundaries. The existing topography of the land has resulted in the proposed design of units being elevated upon poles so as to maintain level walking areas between units. Proposed units adjacent to the southern boundary have been designed and sited to minimise intrusion and overshadowing of the neighbouring residential development.

It is contended by the Applicant that the future viability of the motel is bleak and is set to worsen upon completion of the Pacific Highway deviation (see Attachment A7 – Possible Deviation). As such the owners of the site have investigated alternatives for the redevelopment of the site that can utilise the existing infrastructure and investment. It was felt by the owner that increasing the number of units, opening the restaurant to the public and pursuing other business arrangements would improve the viability and sustainability of the site. On 6 December 2000 Council resolved to approve development application 0967/2000DA for 12 additional units and utilisation of the restaurant for public purposes. However, it has since become apparent that the further approved development will not be sufficient and an alternative option is required. In this regard the proposed aged self-care residential accommodation can utilise the existing infrastructure and provide a form of residential development that is currently in short supply.

The proposed self-care accommodation is essentially rental accommodation for the elderly where a percentage of their pension and government rental assistance is accepted in return for full board, which includes three meals per day to be provided via the existing restaurant.

The more significant components of the proposed redevelopment of the Banora Point Motor Inn to an aged self-care complex are:-

## Reports from Director Development Services

---

- Addition of and additional 45 x 1 bedroom units
- Conversion of the existing 40 units to 1 bedroom self contained units
- Provision of additional lift and access ramps
- Provision of entry security gate
- Provision of outdoor recreational / entertainment area in addition to the existing swimming pool
- Provision of 43 car parking spaces, including 5 disabled spaces
- Exclusive use of the restaurant for residences only
- More harmonious building design
- Surrender of development consent 0967/2000DA



# Reports from Director Development Services

LOCALITY PLAN

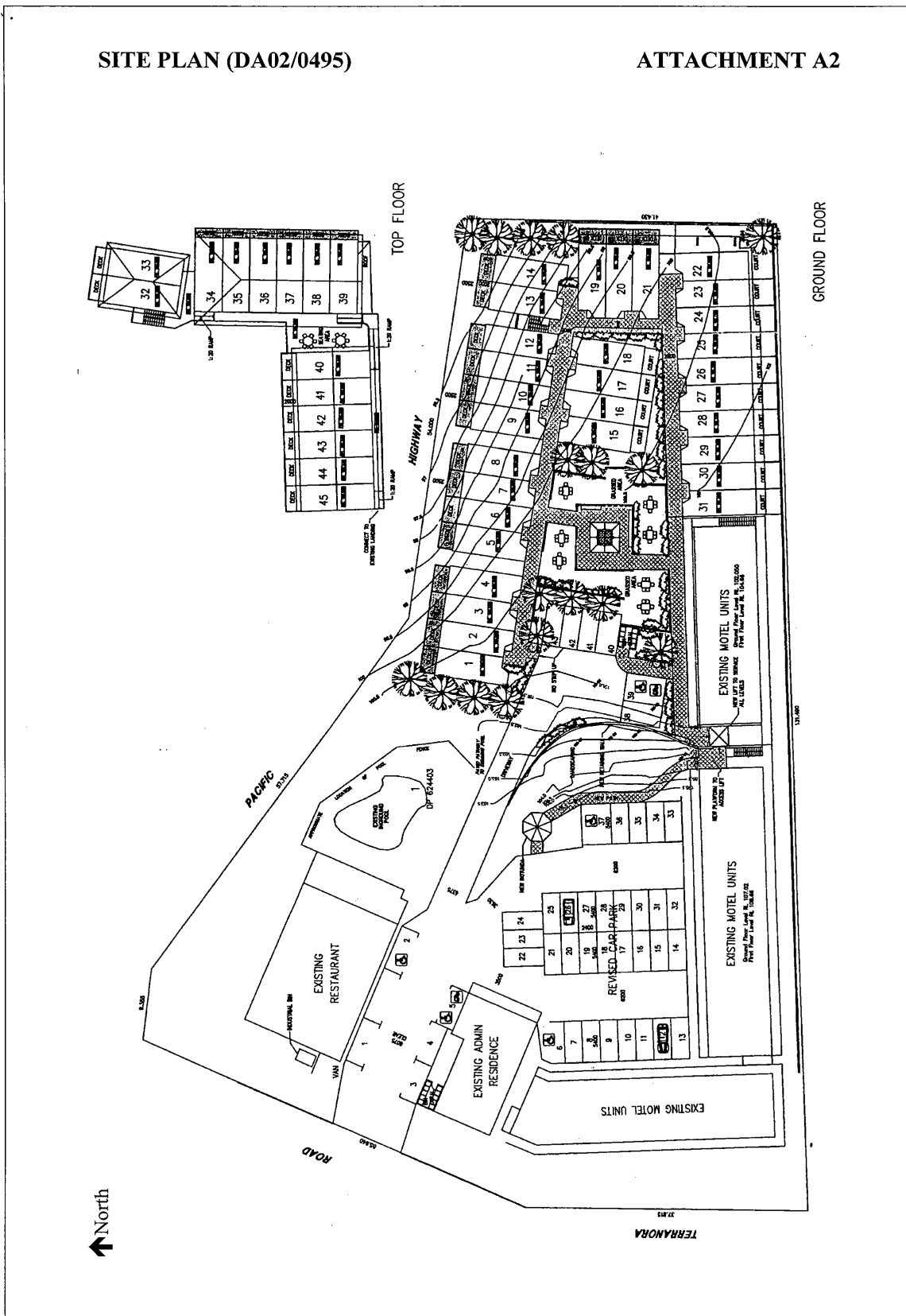
ATTACHMENT A1



# Reports from Director Development Services

SITE PLAN (DA02/0495)

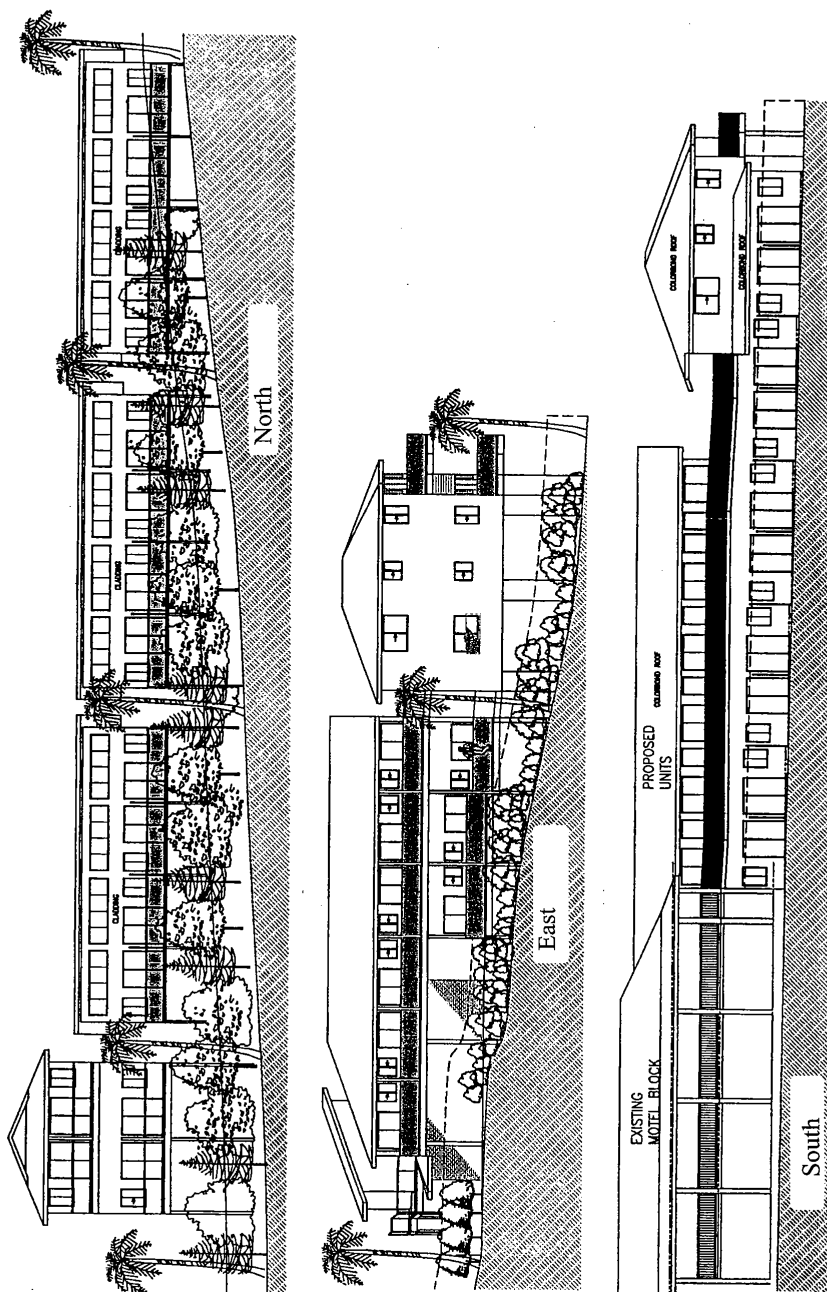
ATTACHMENT A2



# Reports from Director Development Services

ELEVATION PLAN (DA02/0495)

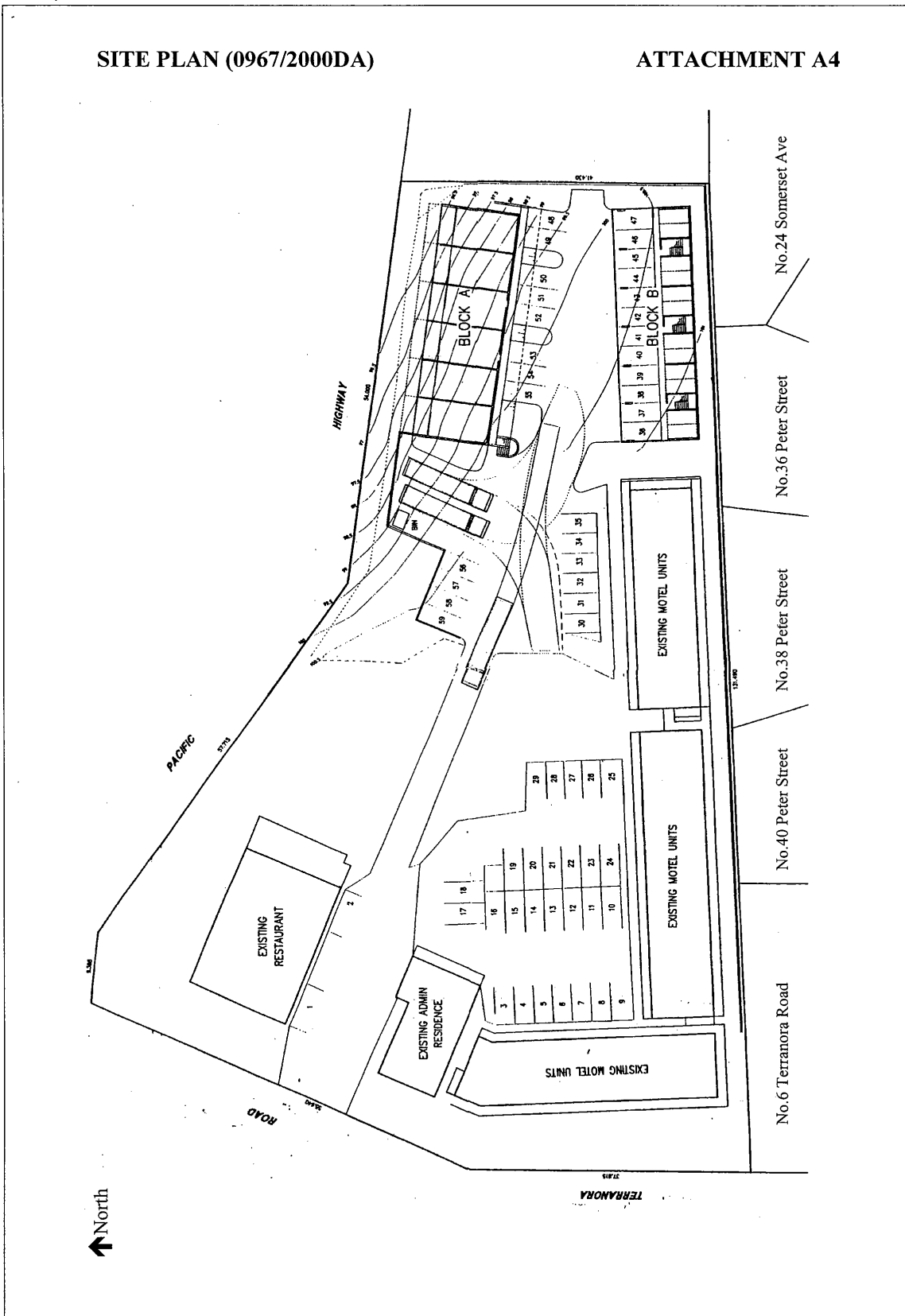
ATTACHMENT A3



# Reports from Director Development Services

SITE PLAN (0967/2000DA)

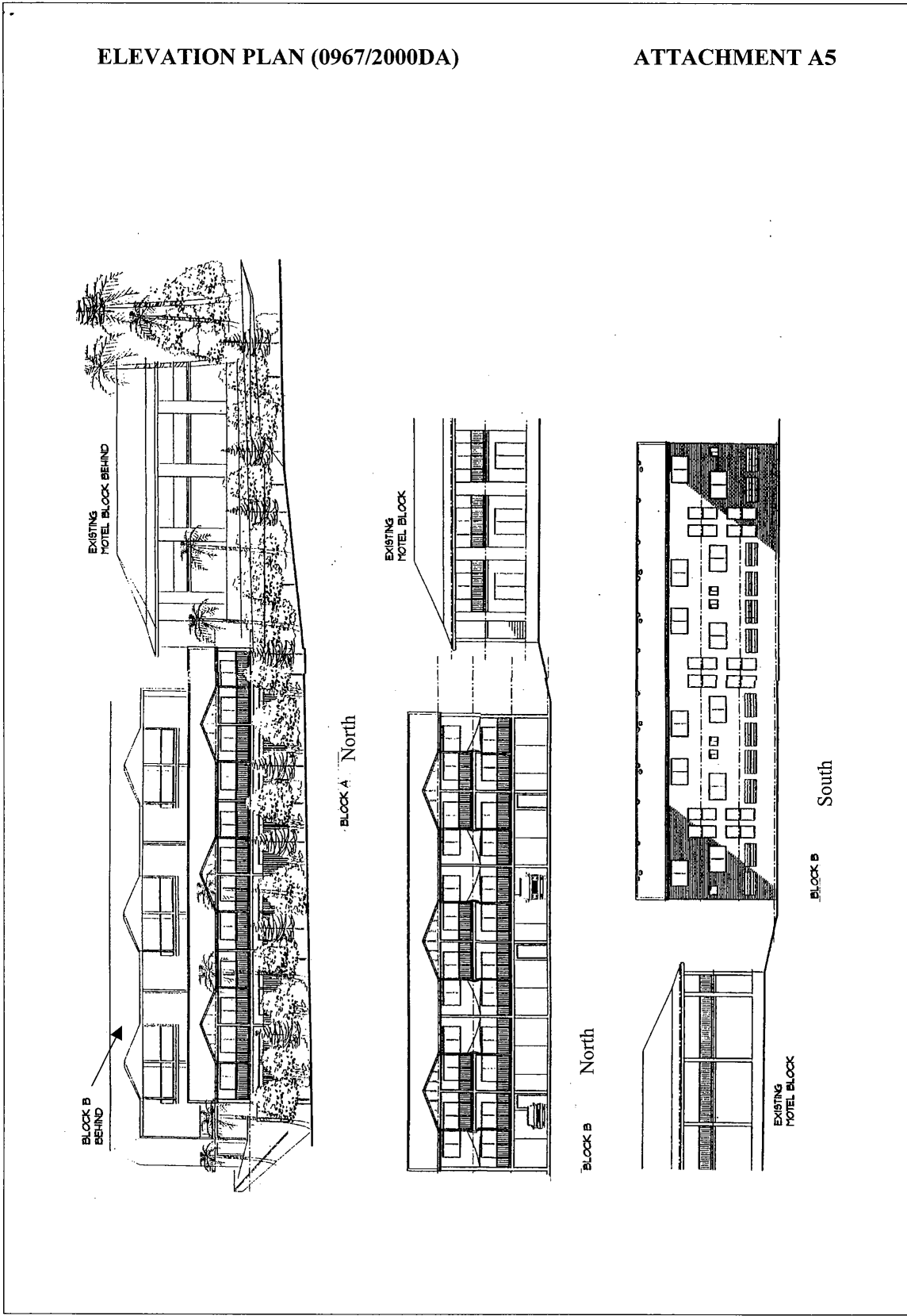
ATTACHMENT A4



# Reports from Director Development Services

ELEVATION PLAN (0967/2000DA)

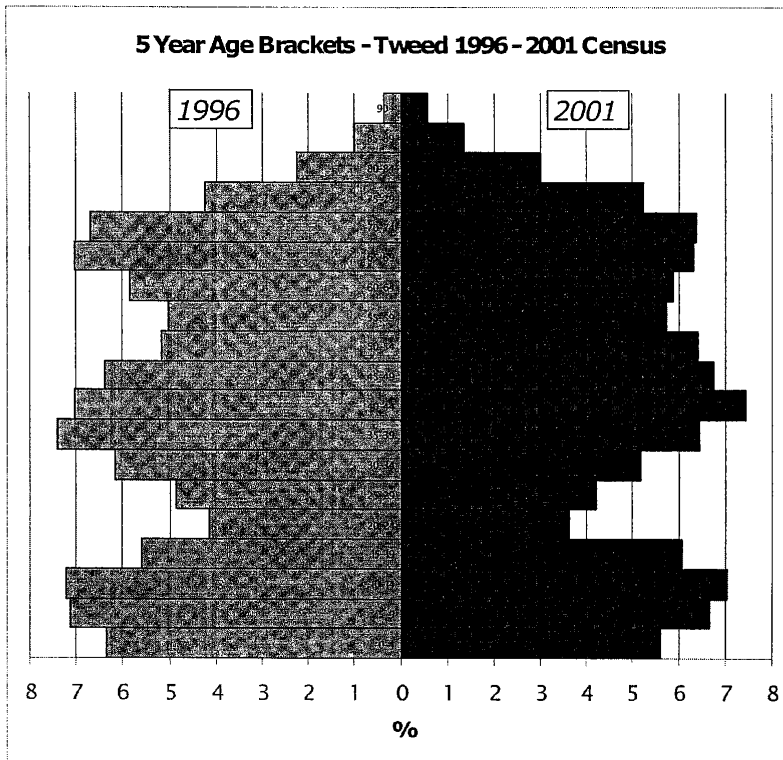
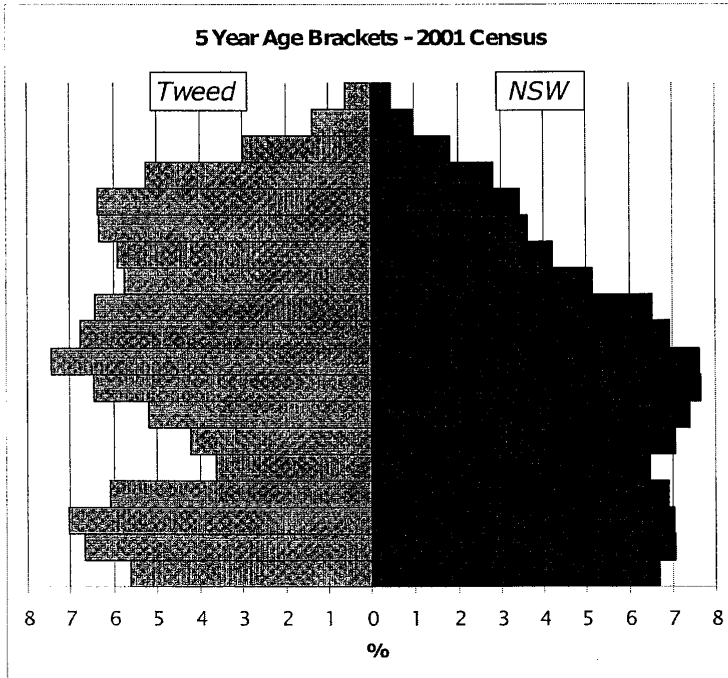
ATTACHMENT A5



# Reports from Director Development Services

CENSUS DATA 1996 – 2001

ATTACHMENT A6





## 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 Local Environmental Plan 2000**

The proposed development is defined under the TLEP as 'housing for older people or people with disabilities', which states:-

*“residential accommodation which is used permanently as housing for the accommodation of older people or people with a disability which may consist of a residential care facility, a hostel or a grouping of 2 or more self-contained dwellings, or a combination of these, but does not include a hospital.”*

The proposed development is a permissible use in the Residential 2(e) zone pursuant to the TLEP, Clause 11(2) of the Residential 2(e) zoning table.

The primary and secondary objectives of the Residential 2(e) zoning are:-

***“Primary objective***

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

***“Secondary objective***

*to permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.”*

The proposed development is for conversion and addition to the existing motel to provide 85 x 1 bedroom self care residential aged care units. The development whilst not technically defined as multi dwelling housing may be considered as a low-density form of this type of development. The proposal is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use and as such is not considered inconsistent with the stated zone objectives.

**North Coast Regional Environmental Plan 1988**

Clause 43 of the NCREP 1988 is the only provision of relevance to the subject land. It states:-

***“43 Development control-residential development***

- (1) *The council shall not grant consent to development for residential purposes unless:*



## Reports from Director Development Services

---

- (a) *it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,*
- (b) *it is satisfied that the proposed road widths are not excessive for the function of the road,*
- (c) *it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,*
- (d) *it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and*
- (e) *it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.”*

The proposed development whilst increasing the overall number of units seeks to reduce the total number of bedrooms from 174 (including the additional units approved in 967/2000DA) to 85 and hence the sites existing density ratio, i.e. persons per hectare. The proposed design of the units optimises the use of the land without adversely affecting the environmental features of the land or unnecessarily providing a building footprint that compromises the sites balance between impervious and natural / landscaped areas.

The site provides adequate access to the local bus route (Route 606), which provides a service to Tweed City shopping centre and the local road network is considered satisfactory.

The proposed development is not considered contrary to the provisions of the NCREP 1988.

### **State Environmental Planning Policy No.5 – Housing for Older People or People with a Disability**

The proposal is not a SEPP 5 development application. However, because there exists no specific local planning document for development for housing for older people or people with disabilities the applicant was advised to have regard to the provisions of both SEPP 5 and Development Control Plan No.6 – Multi Dwelling Housing. In so doing the Applicant, in their Statement of Environmental Effects, states:

*“Whilst this application is not dependant upon this State Environmental Planning Policy for approval, the principles and objectives of the policy have been maintained as follows:-*

- *The location of the proposed development is directly adjacent to a bus route to Tweed City. An on-site courtesy bus is also proposed for the residents use. General store, butcher, post box and doctor are all located within 150 metres of subject site. Access to them is via controlled traffic lights with pedestrian crossing.*

## Reports from Director Development Services

---

- *Each unit is to be a self-contained with separate bath room/toilet, bedroom and living areas and kitchenette and laundry facilities.*
- *10% of the units will be wheelchair compliant.*
- *Pedestrian links throughout the complex will all be wheelchair compliant with a lift proposed to link the upper and lower levels of the complex.*
- *Common and private courtyards are proposed. The common areas are wheelchair assessable.*
- *0.5 car spaces per unit have been provided.*
- *An attractive residential environment is proposed with north-easterly aspect and views to the Pacific Ocean.*
- *A community environment is proposed for the development with common meal area and organised group activities.”*

Having reviewed the provisions of SEPP 5 the Applicant’s findings are generally concurred with in respect of the proposed development.

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

There are no draft environmental planning instruments known to be in existence that would have any bearing on the assessment nor determination of the subject proposal

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

**Development Control Plan (DCP) No.2 – Parking Code**

The DCP, Section 4.9(A) requires that the car parking ratio for housing for older people and people with disabilities shall be that adopted in State Environmental Planning Policy No.5, which provides for 0.5spaces per bedroom. Based on the 0.5:1 ratio 43 car parking spaces are required. The proposed development incorporates 43 spaces including the provision of 5 disabled spaces.

Council’s Engineers have reviewed the internal vehicle circulation and vehicle swept-paths and advise that vehicles can easily manoeuvre within the site and the proposed car parking spaces.

Although the proposal achieves the 0.5:1 parking ratio for residents the application fails to address staff parking and numbers, which utilises the same parking ratio. Based on the size and nature of the proposed development it is considered likely that upward of six full time staff may be employed, equating to 3 parking spaces. However, it is considered probable that many of the persons taking up residency will not have access

## Reports from Director Development Services

---

to a motor vehicle and as such 43 spaces should be more than adequate to service the development. In the event there is a shortfall, sufficient area exists on-site to accommodate further parking provision and in this regard the minor variation to the DCP requirement is considered negligible.

The proposed number of car parking spaces at 43 is significantly lower than the 59 car parking spaces and 2 bus bays associated with the existing and approved motel units. A reduction in spaces will assist in minimising impervious surfaces and provide for a more aesthetically integrating development (See Attachments A2 & A4 – Site Plans).

### **Development Control Plan (DCP) No.6 – Multi Dwelling Housing**

The proposed development is not defined as multi dwelling housing and as such the DCP does not apply to the proposal. However, given that the proposal is a form of low-density multi dwelling housing and in the absence of a more specific DCP the proposal has been assessed having regard to the design criteria and requirements of DCP No.6, in particular the proposal's:-

- Orientation
- Height
- Relationship with adjoining properties
- Characteristics
- Site coverage
- Functionality
- Security

Having regard to the factors listed above the proposed development is considered satisfactory.

### **Development Control Plan (DCP) No.45 – Socio-Economic Impact Assessment**

The proposed development is defined in TLEP 2000 by a definition that is not subject to the prescriptive requirements of the DCP. On reflection this may have been an oversight, with the intention of housing for older people or people with disabilities to be incorporated to fall within the scope of the Multi-dwelling Housing definition.

Notwithstanding the abovementioned technicality Clause 17 of the TLEP 2000 provides that:

*“17 Social Impact Assessment*

- (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.”*

## Reports from Director Development Services

---

Having considered the nature and scale of the existing development by comparison to that proposed the necessity for a social impact assessment was not considered warranted however, could be explored depending on the outcome of issues raised during the public consultation process.

Five (5) submissions have been received and the matters raised have been duly considered. However, it is concluded that the issues raised in the submissions, and after consultation with Council's Social Planner, do not necessitate the requirement for a social impact statement.

It should be noted that the Applicant provided a completed copy of the generic checklist accompanying DCP No.45 and that no impact is considered likely.

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

Satisfactory.

**(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**

Council at its meeting of 6 December 2000 resolved to approve development application 0967/2000DA for the addition of 12 x 4 bedroom units. In respect of Section 79C(1)(b) the Planning Report states:-

*“The largest impact expected will be on the three adjoining properties to the south immediately adjacent to proposed building Block B. This building being three storey will overshadow these properties to some extent while visually will present as a plain wall obstructing neighbours sea views to the northeast. It is noted that due to the topography of the land the bottom storey is generally lower than the adjoining properties such that any overshadowing would be a result of the top two floors. As a guide, although DCP 6 does not apply, the proposed development would comply with Council's Building Height Plane for medium density development. However to further reduce the impact from overshadowing and to increase the amount of space available for landscaping adjacent to the southern boundary, It is recommended that the side setback be increased to 4 metres.”*

The report identified that overshadowing and loss of visual amenity would occur to varying degrees as a result of the proposed three-story development. The development as approved has a height marginally higher than that of the existing motel has a building façade that is not aesthetically characteristic with the existing structures (see Attachment A5 – Elevation Plan for 0967/2000DA) and will provide an ordinary appearance.

However, the proposed development is more sympathetic (see Attachment A3 – Elevation Plan for DA02/0495) to the character of the existing surrounding structures

## Reports from Director Development Services

---

and is of only two-storeys with an overall height not exceeding that of that of the existing motel buildings. The proposed buildings are undoubtedly a better design response to the further development of the site and will reduce the visual design intrusion and loss of amenity on neighbouring properties. Furthermore, it is noted that the Applicant has had regard to the recommendations of the Planning Report of 6 December 2000 in maintaining in the proposal a 4 metre setback on the corner units (No.22 & 39) located on the southern and eastern boundaries.

No adverse environmental impacts on both the natural and built environments and social and economic impacts in the locality are envisaged. Disturbance to local wildlife often occurs to varying degrees during the construction phase however, it is anticipated that only a minor short-term impact will occur with local wildlife expected to return upon establishment of new landscape plantings.

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

The site currently supports a motel and associated restaurant. Business is reported to be very slow at times and the viability of the development is in question. This is reportedly set to worsen upon completion of the re-routing of the Pacific Highway (see Attachment A7 – Pacific Hwy Possible Deviation). Ordinarily, the site may not be considered to be in the most beneficial location for aged self-care units however, with the re-routing of the Highway combined with a falling demand for the current site services the proposal is possibly the more appropriate alternative for the redevelopment of the site. This is particular so in considering the investment already made in the existing infrastructure.

There are no foreseen impediments to the proposed redevelopment of the subject site for aged self-care accommodation and as such the site is not considered unsuitable for the proposed development.

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

The development proposal was notified to adjoining and potentially affected properties and an advert placed in the Tweed Link in accordance with Development Control Plan No.42 – Public Notification of Development Proposals from 8 May to 22 May 2002. Council received five (5) submissions.

Issues raised in respect of the proposed development are summarised in the following table:

# Reports from Director Development Services

OBJECTION	IMPACT ASSESSMENT	COMMENT
<p>Permanent residents take more interest in their surrounds than casual residents and as such the proposed development constitutes a threat to life style and privacy.</p>	<p>The proposed new buildings are approximately 4metres from the southern boundary and 3metres from the eastern boundary with the open space area extending within 1metre. There exists sufficient building setback/separation to allow for adequate landscape screening similar to that adjacent to the existing motel buildings, which will minimise visual interference and loss of amenity.</p>	<p>Does not warrant amendment or refusal of application.</p> <p>A condition of consent is proposed that requires the submission and approval of a full landscape plan prior to the release of the Construction Certificate.</p>
<p>The change in residency will increase noise levels.</p>	<p>The proposed development is for aged care residences. It is not considered likely that aged residents or their associated services will increase noise levels significantly above that which currently exists, particularly so during evenings when ambient noise level tapers off.</p>	<p>Does not warrant amendment or refusal of application.</p>
<p>Entering and exiting the site is dangerous.</p>	<p>Council's Traffic and Transport Engineer advises that sight distances from the sight exceed the minimum standard and that Terranora Road has adequate capacity to cater for the anticipated traffic increase.</p>	<p>Does not warrant amendment or refusal of application</p>
<p>There are no footpaths to the bus stop making it dangerous for the aged.</p>	<p>Council's Traffic and Transport Engineer has advised that a concrete footpath will be required and has provided conditions accordingly.</p>	<p>Does not warrant amendment or refusal of application</p> <p>A condition of consent is proposed that require the formation of a 2metre wide concrete path from the existing driveway to the pedestrian crossing at the intersection of Terranora Rd and Pacific Hwy. Further more the existing pram ramps will be required to be upgraded to current TSC standards.</p>
<p>The 18 wheelie bins will be unsightly and their disposal noisy.</p>	<p>The wheelie bins are stored in two separate locations within the development site in enclosed structures. The site is currently serviced by a single bulk bin. Solo waste provides an on-site collection service to the Motel. It is envisaged that all waste generated on-site will continue to be collected internally.</p>	<p>Does not warrant amendment or refusal of application.</p> <p>Condition imposed, that requires further clarification from the waste refuse contractor that satisfactory arrangements have been made for the internal collection of all waste generated on-site.</p>

## Reports from Director Development Services

OBJECTION	IMPACT ASSESSMENT	COMMENT
The RTA have not had sufficient input into the existing entry/exit of the complex.	There is no proposed relocation or significant modification to the existing driveway and as such there exists no requirement or need to consult with the RTA for the proposed development. Council's Traffic and Transport Engineer has assessed the proposal and responded accordingly.	Does not warrant amendment or refusal of application
The proposed development will increase traffic above the two to three cars currently entering the site per day and the entrance is inadequate.	See above. The existing maximum density of the site is 174 persons. The Applicant advises that whilst the motel does not regularly operate at full capacity there exists a higher traffic movement than that alleged.	Does not warrant amendment or refusal of application
The proposed development will decrease property values.	There exists no evidence to support the claim of loss of property value.	Does not warrant amendment or refusal of application
The sites apparent unsuitability for aged housing.	The proposed development has been designed and incorporates measures to enable habitation by aged residents.	Does not warrant amendment or refusal of application
Once approval is in place for higher density living the future usage may be altered, increasing the impact of the development.	This issue has considerable merit. It is a fact that many aged care housing developments in NSW have been constructed utilising the provisions of SEPP 5 only to later have the approval amended to multi dwelling housing. However, should this be so it will be at Council's discretion at that future time to consider, not presently with the proposed aged care facility.	Does not warrant amendment or refusal of application
The development will be disruptive to local wildlife.	All development has some impact on existing wildlife, ecosystems/biota and microclimate. It is the level of significance that is considered and which in this instance is considered minor. It is anticipated that existing wildlife will resettle within the site upon establishment of landscaping. There exists no known threatened flora or fauna species either on or utilising the site.	Does not warrant amendment or refusal of application

## Reports from Director Development Services

OBJECTION	IMPACT ASSESSMENT	COMMENT
Loss of views	In it is accepted that the proposed development will to varying degrees alter the existing views currently enjoyed by neighbouring residents. However, the site is zoned for residential and or tourist development. The proposed structures are not inconsistent with the height requirements and nor is the proposal inconsistent with the zone objectives.	Does not warrant amendment or refusal of application

**(e) Public interest**

A total of 5 submissions were received by Council. In general the submissions raised a number of legitimate concerns. However for the reasons referred to earlier in this report, they are not considered to be of such magnitude or provide overwhelming evidence to warrant the refusal or amendment of the development application in this instance.

The proposed redevelopment of the site for aged self-care accommodation will provide an essential component to the diversity of housing choices within the Shire and will contribute to the shortage of this form of development. In this regard it is noted that Tweed Shire has a very high population of older persons (see Attachment A6 – Census Data 1996 – 2001) that exhibit demand for appropriate accommodation types, which are generally in short supply. The demographic profile of the Shire is summarised in Tweed Shire Council’s Strategic Plan – Tweed Shire 2000+, which states:-

*“The Tweed population is different from the general NSW population in two age group categories. The 55+ age group is 31% of the Tweed population compared to 20% for this age group in the overall NSW population. Conversely, the 15-29 age group is only 16% of the Tweed population whereas this age group comprises 23% of the general NSW population.*

*Planning for the Tweed’s future has to accommodate a higher proportion of aged persons and a lower proportion of younger people than most other areas.”*

No adverse or significant impacts are considered likely to arise as a result of the proposal and therefore, having regard to the matters raised in this report the proposal is not considered contrary to the public interest.

**OPTIONS**

1. Approve the application with appropriate conditions of consent, or
2. Refuse the application and provide grounds for refusal.



## Reports from Director Development Services

---

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should Council resolve to approve the development application there would be no direct financial impact upon Council's adopted budget or forward estimates.

### CONCLUSION

Having regard to matter raised in this report the proposed development is considered a practical response to the redevelopment of the site and will provide an essential form of housing accommodation that is currently in short supply. It is also considered that the proposed design of building is less visually intrusive than that which could be constructed under development application 0967/2000DA.

In light of the above the proposed development is considered suitable for conditional approval.

---

## Reports from Director Development Services

---

THIS  
PAGE  
PAGE  
IS  
BLANK  
IS  
BLANK

## Reports from Director Development Services

---

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

**FILE REF:** GT1/LEP/2000/24 Pt1; LEP - Housekeeping Stage 1

**REPORT TITLE:**

**Draft Tweed Local Environmental Plan 2000, Amendment No 24 - Housekeeping Stage 1 (Black Rocks Anomaly)**

**SUMMARY OF REPORT:**

Draft LEP Amendment No 24 Housekeeping Stage 1 - (Black Rocks Anomaly) and accompanying Local Environmental Study were publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979. The draft LEP was publicly exhibited between Wednesday, 29 May 2002 and Friday, 28 June 2002.

No submissions were received from members of the general public, but submissions were received from State Agencies; namely NSW Coastal Council, EPA and NSW Fisheries. Their submissions have been addressed within this report and the LES accompanying the LEP Amendment.

It is considered that the proposed LEP Amendment be forwarded to the Minister for Planning to make the Plan in the form that it was exhibited.

**RECOMMENDATION:**

That Council endorses draft Tweed Local Environmental Plan 2000, Amendment No 24 and requests the Minister for Planning to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.

## Reports from Director Development Services

---

### REPORT:

#### INTRODUCTION

Council last considered this item at its ordinary meeting on 7 November 2001 where they resolved to proceed with draft LEP Amendment No 24 – Housekeeping Stage 1. As advised to Council previously, Housekeeping LEP – Stage 1, has been separated into 3 parts. They are:

- Draft LEP Amendment No 24 – Housekeeping Stage 1 (Black Rocks Anomaly);
- Draft LEP Amendment No 31 – Housekeeping Stage 1 (Administrative Anomalies);
- Draft LEP Amendment No 32 – Housekeeping Stage 1 (Zoning Map Anomalies).

This report relates solely to draft LEP Amendment No 24 – Housekeeping Stage 1 (Black Rocks Anomaly). The purpose of this LEP Amendment is to rectify a mapping anomaly that occurred whilst drafting of the Tweed LEP 2000 Zoning maps. The LEP Amendment rezones part Lot 65 in DP 855462, Kellehers Road, Pottsville, from 7(l) Environment Protection (Habitat) to 2(c) Urban Expansion to reflect the zoning of the land as it was in Tweed LEP 1987 (Amendment No 11), and to reflect the capabilities of the site. Attached is a copy of the draft LEP as it was exhibited (written document and zoning map).

#### STATE AGENCY CONSULTATION

Pursuant to Section 62 of the Environmental Planning and Assessment Act 1979, Council undertook consultation with relevant State Government agencies. As a result of this consultation four (4) responses were received from the following agencies:

- **RTA** – the RTA raised no objection to the proposed Amendment;
- **NPWS** – NPWS raised no objection to the proposed Amendment;
- **NSW Coastal Council** – requested that a Local Environmental Study be undertaken for the proposed Amendment as the site was situated within the Coastal Zone and the Amendment would provide lesser environmental protection to the site.
- **EPA** – despite acknowledging the mapping anomaly the EPA requested Council consider retaining the current zoning arrangements on the basis that Mooball Creek will be better protected.

A brief Local Environmental Study (summarising previous studies undertaken over the site and reviewing the existing situation) was undertaken over the site. The Local Environmental Study included the buffering issue raised by the EPA.

#### PUBLIC EXHIBITION

In accordance with Section 66 of the Environmental Planning and Assessment Act 1979, draft LEP Amendment No 24 was placed on public exhibition between 29 May 2002 and 28 June 2002. In addition to this correspondence (including a copy of the draft LEP and LES) was forwarded to relevant State Agencies for their consideration and comment.

#### SUBMISSIONS

During the period of public exhibition no submissions were received from individual members of the general public, however, two submissions were received from State Government Agencies, namely the EPA and NSW Fisheries. Below is a summary of their relevant submission.

## Reports from Director Development Services

- **EPA** – The EPA reiterated their earlier submission, during the Section 62 Consultation Stage, requesting Council consider the opportunity to maintain the potential for enhanced management arrangements afforded by the current zoning provisions.
- **NSW Fisheries** – NSW Fisheries advised Council to examine the adequacy of the proposed 50m buffer distance to Mooball Creek and the stand of mangroves adjoining the property.

The issue of buffering has been addressed within the LES prepared to accompany draft LEP Amendment No 24. The comments received from the EPA and NSW Fisheries are acknowledged and it is concurred that if the subject land were to remain in its existing 7(1) zoning, it would afford a greater buffer and provide for enhanced management techniques.

However, as alluded to within the LES, the provision of the proposed minimum 50 metre buffer distance is consistent with current advice from State resource management agencies and is consistent with the “Estuary Management Plan – Cudgen, Cudgera and Mooball Creek”.

Previous stages of the Black Rocks residential estate have implemented the proposed minimum 50 metre buffer distance from Mooball Creek effectively. Developments of past stages have been managed effectively and have not been detrimental to the amenity of the adjoining environment. Given that previous stages of the Black Rocks Estate have implemented the 50 metre buffer effectively it stands to reason that the site subject of this LEP Amendment can still be managed appropriately.

As the proposed LEP Amendment is consistent with current State Government advice on the issues of buffer (minimum 50m), complies with the provisions of Council’s Estuary Management Plan, and past development of the Black Rocks Estate has demonstrated that a minimum 50m buffer is adequate and provides for effective management arrangements, it is considered that the proposed LEP Amendment No 24 will not be detrimental to the amenity of the area.

### CONCLUSION

The subject LEP Amendment proposes to rectify a drafting anomaly that occurred when drafting Tweed LEP 2000. The LEP Amendment will rezone part Lot 65 DP 855462, Kellehers Road, Pottsville (approximately 3152m<sup>2</sup>) from 7(1) Environmental Protection (Habitat) to 2(c) Urban Expansion. The resulting LEP Amendment will revert the land back to the original zone of Tweed LEP 1987 (Amendment No 11). The proposed LEP Amendment will still provide for a minimum 50 metre buffer to be provided to Mooball Creek. Although the EPA and NSW Fisheries have requested Council to consider retaining the land in its existing zoning and hence providing a greater buffer distance it is considered that the minimum 50 metre buffer distance will be adequate and provides for suitable management arrangements to be implemented effectively.

It is recommended that the Plan be finalised by requesting the minister to make the Plan in the form in which it was exhibited.

## Reports from Director Development Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Reports from Director Development Services

---

4. ORIGIN: Development Assessment Unit

FILE REF: DA3120/100 Pt1; 3120.100

**REPORT TITLE:**

**Development Application 0028/2002S96 for an Amendment to Development Consent 0661/2001DA for a Three (3) Lot Industrial Subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive, Murwillumbah**

**SUMMARY OF REPORT:**

Council considered a report on 3<sup>rd</sup> July 2002 in relation to an application for a Review of Determination for the subject application to amend a three lot subdivision at Lundberg Drive Murwillumbah.

Council resolved *that the item be deferred to allow for a further report*. The previous report (15<sup>th</sup> May 2002 which is attached) was referred to as no further technical matters were raised in the submission. However it is noted that the applicant has made submission in relation to the kerb and gutter and car parking that varies from the original application to amend the consent. These two aspects of the application are further addressed in relation to the application to Review the determination. If the applicant wishes to pursue these further changes then a fresh Section 96 application will need to be lodged.

It is recommended that the application to Review the Determination not be supported.

**RECOMMENDATION:**

That the application to review the determination of the Development Application 0028/2002S96 for an amendment to Development Consent 0661/2001DA for a three (3) lot industrial subdivision at Lot 3 DP 717401, Lot 12 DP 1000868, No. 12 Lundberg Drive, Murwillumbah be refused.

## Reports from Director Development Services

---

### REPORT:

**Applicant:** Fruit Ingredients Australia Pty Ltd

**Owner:** Australia P Fruit Ingredients

**Location:** Lot 3 DP 717401, Lot 12 DP 1000868, No. 22 Lundberg Drive Murwillumbah

**Zoning:** 4(a) Industrial

**Cost:** Nil

### BACKGROUND

Council considered a report on 15<sup>th</sup> May 2002 for an application to amend Development Consent 0661/2001DA being a three (3) lot subdivision of the subject land at Lundberg Drive, Murwillumbah. Council resolved:-

*“Conditions 1, 2, 16, 28, 36, 37 and 38 be reaffirmed.”*

A refusal notice was forwarded to the applicant detailing the reasons for refusal being:-

*“1. The proposed amendment is not in accordance with Council’s policies.”*

Council received an application to Review the Determination for which a report was considered on 3<sup>rd</sup> July 2002 where Council resolved:-

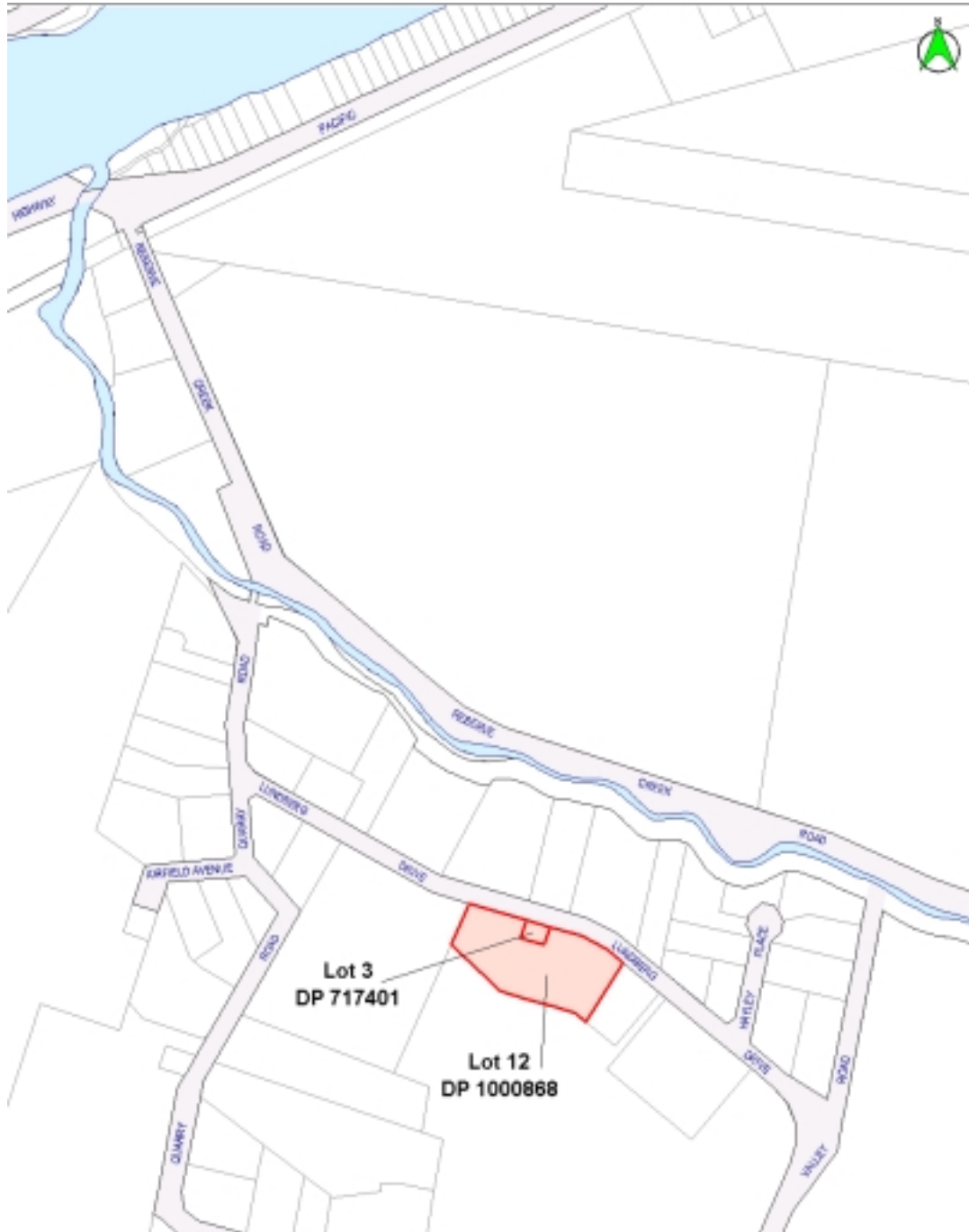
*“That this item be deferred to allow for a further report.”*

The following report has been prepared which refers to the original report of the 15<sup>th</sup> May 2002 and where relevant provides further detail given the applicant Review of Determination submission.



# Reports from Director Development Services

## SITE DIAGRAM



© TWEED SHIRE COUNCIL 2001  
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be responsible for any errors, omissions or inaccuracies in respect to the information contained on this map.  
**COPY ONLY - NOT CERTIFIED**  
 P.O. Box 978 Murwillumbah, NSW 2484 Tel: (02) 8870 2400 Fax: (02) 8870 2401

**TWEED SHIRE COUNCIL**  
 Lot 3 DP 717401 & Lot 12 DP 1000868  
 22 Lundberg Drive, Murwillumbah  
 File: N:\Info\Info d... Site Plan Wor Author: J. Batchelor Date: 31/May/02

STRATEGIC PLANNING UNIT  
  
 TWEED SHIRE COUNCIL

**Site Plan**  
 Sheet 1 of 1  
 Revision: \_\_\_\_\_

## Reports from Director Development Services

---

### CONSIDERATIONS OF MATTERS RAISED IN THE REVIEW OF DETERMINATION SUBMISSION

The applicant has submitted that conditions 1, 2, 16, 36, 37 and 38 be modified as previously requested. The applicant requested the deletion of the following conditions as the applicant considered them to be unnecessary and onerous. In brief the conditions relate to:

- Condition No.1 and 2 being the S.94 and S.64 contributions applicable to subdivision.
- Condition No.16 being the car parking construction requirement.
- Condition No.28 being the provision of kerb and gutter.
- Condition No.36 and 37 that relate to stormwater.
- Condition No.38 relating to the sewer requirement of the subdivision.

The report of the 15<sup>th</sup> May 2002 provided a detailed assessment of the conditions and was compiled with regard to Council's Policies as well as technical assessment of the Water and Sewer Design Engineer, Drainage Engineer and Developments Engineer.

The additional matters raised in the Review of Determination submission not provided in the original application are as follows.

#### **Car Parking**

The applicant has submitted:

*Condition No.16 be amended to require 16 instead of 26 off road car parking spaces for lot 13.*

#### **Comment**

The applicant has not provided any technical assessment to support this request. The statement advises that employment has dropped and that 16 off road parking spaces is more than adequate.

It is noted that the applicant has modified the request from the original application to modify consent, by requesting a reduction in parking for proposed lot 13, not the deletion of the entire condition. As such the applicant has changed the request no longer objecting to the requirement that the spaces be constructed in accordance with the Development Control Plan No.2 – Parking Controls, landscaping screening be provided and formed parking to proposed lot 14 and Lot 15.

The submission provided does not provide a justification for the reduced number of spaces for proposed lot 13 that is considered to be able to be supported.

#### **Kerb and Gutter**

The applicant has submitted:

*Condition No.28 be amended to provide kerb and gutter for the remaining length of frontage for proposed lot 13 and delete the requirement for proposed lot 14 and lot 15.*

#### **Comment**

The applicant has stated that proposed lot 14 and lot 15 will be sold. No further justification has been submitted in relation to not providing kerb and gutter to the proposed lot 14 and lot 15.

It is noted that the applicant has modified the request from the original application to modify consent, by conceding to the provision of kerb and gutter for the frontage of lot 13 only, not the deletion of the entire condition.

## Reports from Director Development Services

---

The submission provided does not provide a justification for the lack of kerb and gutter for proposed lot 14 and lot 15 that can be considered reasonable to support.

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

As stated in the report of the 15<sup>th</sup> May 2002 the following financial/resource implications are raised by the application:

1. Reduction in Section 64 and 94 collection by \$9,836.71.
2. Continued damage to Council's footpath due to the lack of kerb and gutter for proposed lot 14 and lot 15.
3. Continued use of the public roads for casual car parking.
4. Creation of an allotment without the benefit of public sewer connection.
5. Inadequate stormwater quality controls being provided.

### **CONCLUSION**

It is concluded that the application to review the Determination and refund the fee be refused and the determination to refuse the application to amend the development consent dated 27/5/2002 be reaffirmed.

The modifications now proposed by the applicant to Condition 16 (car parking) and Condition 28 (kerb and gutter) is different to the original Section 96 application and cannot be processed as part of this review of determination of that application.

If the applicant wishes to pursue these changes then a new Section 96 application will need to be lodged together with supporting documentation.

---

## Reports from Director Development Services

---

THIS  
PAGE  
PAGE  
IS  
BLANK  
IS  
BLANK

## Reports from Director Development Services

---

- 5. ORIGIN:** Strategic Town Planning Unit  
**FILE REF:** GT1/LEP/2000/33 Pt1; LEP - Philp Pde - 33

**REPORT TITLE:**

**Draft Tweed Local Environmental Plan 2000, Amendment No 33 - Lot 4, DP 872479, Philp Parade, Tweed Heads South**

**SUMMARY OF REPORT:**

Lot 4 DP872479, Philp Parade, Tweed Heads South, is currently zoned 6(a) Open Space. The primary objectives of the 6(a) Open Space Zone generally relate to publicly owned land or land Council envisages to purchase for public open space purposes. The subject parcel of land is privately owned, freehold, by Raythel Holdings Pty Ltd and is currently being used for the purpose of a caravan park. Given the existing use of the land and the land tenure it is considered that the current zoning is a mapping anomaly.

The land should be zoned to better reflect the tenure and land use of the site. It is therefore proposed to amend Tweed LEP to zone the subject site 6(b) Recreation.

**RECOMMENDATION:**

That:

1. In accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepares a draft Local Environmental Plan to rezone Lot 4, DP872470, Philp Parade, Tweed Heads, from 6(a) Open Space to 6(b) Recreation.
2. The Director General of PlanningNSW be requested to waive the requirement for a Local Environmental Study given the minor nature of the proposed LEP Amendment.

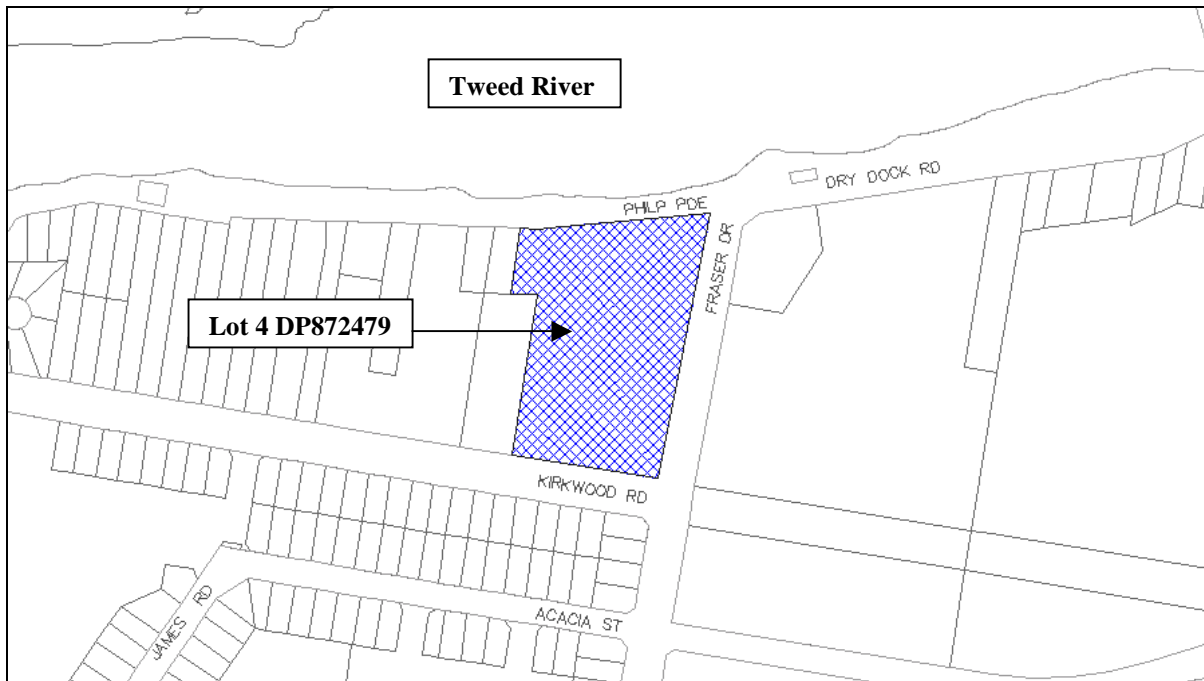
# Reports from Director Development Services

## REPORT:

### PROPERTY DESCRIPTION

The property description for the subject site is Lot 4, DP872479, Philp Parade, Tweed Heads South. The location of property is illustrated below in Figure 1. As can be seen below, the property is situated at the intersection of Fraser Drive and Philp Parade and across the road from the Tweed River. Raythel Holdings Pty Ltd privately owns the property.

**FIGURE 1**



### CURRENT LAND USE

The subject parcel of land currently accommodates the “Colonial Tweed Caravan Park”. Figure 2 provides an aerial illustration of the make up of the caravan park.

## Reports from Director Development Services

FIGURE 2



### LAND USE ZONING

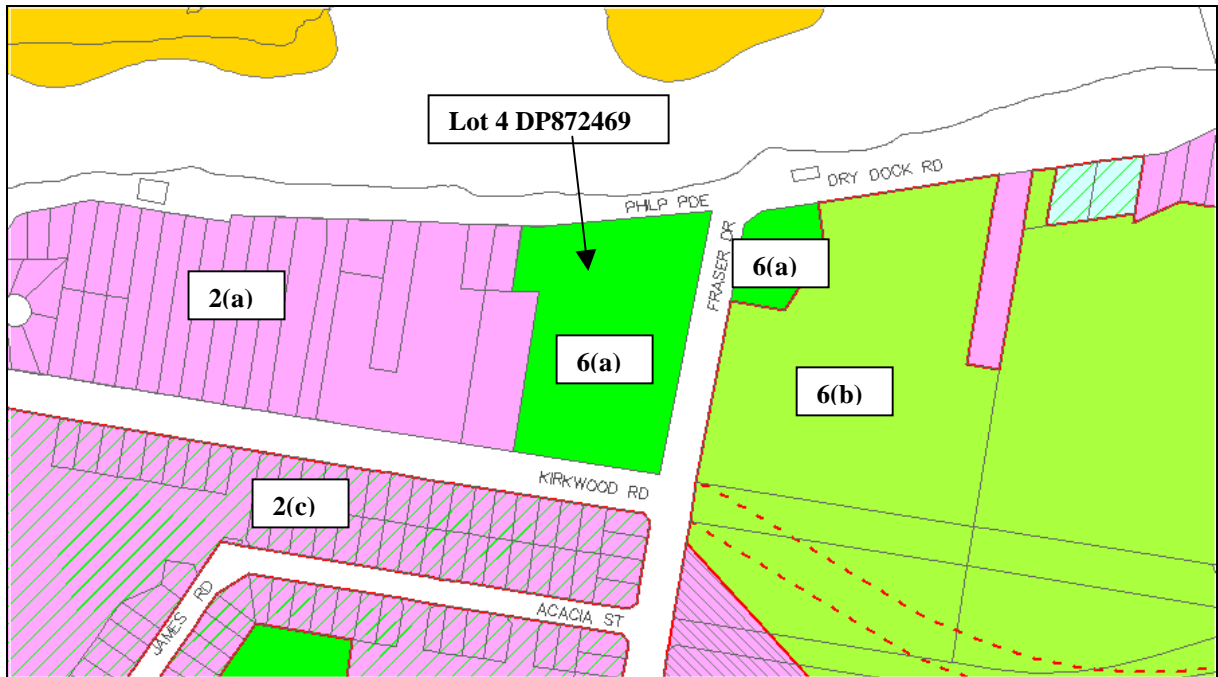
As illustrated in Figure 3 below, the subject site is currently zoned 6(a) Open Space. The primary objective of the 6(a) zone is *“to identify existing public land that is proposed to be acquire for public ownership, to satisfy the open space and recreational needs of local residents and visitors to the area of Tweed and to enable its development to encourage or assist their recreational use and enjoyment of the land”*. The emphasis of the zone relates to “public land”. The subject property is privately owned, freehold. The site is being used for the purposes of a caravan park. The ownership and land use of the site is not consistent with the zoning designation attributed to it.

Given this, it is proposed to rezone the subject land to 6(b) Recreation. This zoning would reflect the land tenure of the site and the existing use of the land.



# Reports from Director Development Services

**FIGURE 3**



**ANOMALY**

This mapping anomaly has only been identified recently by Council officers, hence the reason as to why it was not included as part of previous housekeeping LEP Amendments. However, given the potential implications of the current zoning anomaly, it is recommended that Council promptly proceed with an LEP Amendment that will rectify the current mapping inconsistency.

As the subject parcel of land is zoned 6(a) Open Space, Clause 49 of Tweed LEP 2000 applies. Clause 49 relates to “Acquisition and development of certain land in Zones 5(a) and 6(a)”. Most notably, Sub-clauses 3 and 4 stipulate:

- “(3) *The owner of any land to which this clause applies may, by notice in writing, require the Council to acquire the land.*
- (4) *On the receipt of a notice referred to in subclause (3), the Council must acquire the land unless the land may be required to be provided as a condition of consent to the carrying out of development”.*

It is not envisaged that Council will ever require the land for public open space purposes, and thus would not wish to acquire the land. However, if the owner of the land were to enforce Clause 49(3) and (4) Council may be forced to acquire the land.

Given the potential situation described above it is recommended that Council correct the mapping anomaly immediately and zone the site to a more appropriate zoning.

**STATUTORY MATTERS**

Given the administrative nature of the proposed LEP Amendment it is considered that the proposed draft LEP Amendment is consistent with the provisions and objectives of relevant statutory planning documents including Tweed LEP 2000, Tweed Shire 2000+ Strategic Plan, DCPs, North Coast Regional Environmental Plan, S117 Directions, NSW Coastal Policy and SEPPs.



---

## Reports from Director Development Services

---

The subject parcel of land is located with the NSW Coastal Policy Zone. However, given the administrative nature of the proposed rezoning and the circumstances of the existing use of the land, it considered Council request the requirements for a Local Environmental Study be waived in this instance.

### CONCLUSION

It is recommended that Lot 4, DP872469, Philp Parade, Tweed Heads South, be rezoned from 6(a) Open Space to 6(b) Recreation.

---

## Reports from Director Development Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Reports from Director Development Services

---

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

**FILE REF:** GT1/S94/5 Pt1; GT1/S94/26 Pt1; GT1/S94/5-A Pt1; S94

**REPORT TITLE:**

**Draft Open Space Infrastructure Policy, Amendment of Section 94 Contribution Plan No 5 - Local Open Space and Draft Section 94 Plan No 26 - Shire Wide/Regional Open Space**

**SUMMARY OF REPORT:**

Council resolved at its meeting of 20 March 2002 that amended Contribution Plan No.5 – Local Open Space, draft Contribution Plan No 26 – Shirewide/Regional Open Space and the draft Infrastructure Policy be placed on public exhibition for 28 days. No submissions were received in response to the exhibition.

In reporting back to Council recommending adoption of the Policy and Plans, it was resolved that this item be deferred and Workshop be held. A workshop was subsequently held on 26 June to discuss the Open Space Infrastructure Policy, amendment to Contribution Plan No.5 and the draft Contribution Plan No 26.

At the Workshop Council was advised that the population of the Shire has reached a level where the demand for regional open space facilities can now be established. Consequently there is a need to plan and provide for such facilities over the next twenty years. Draft Contribution Plan No 26 provides for these facilities.

There was no final outcome from the Workshop and therefore the Plans and the Policy are referred back to Council for adoption.

**RECOMMENDATION:**

That Council:

1. Adopts the Section 94 Developer Contributions Plan No 5 and the Section 94 Developer Contributions Plan No 26 as placed on public exhibition;
2. Gives public notice of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, in the Tweed Link, specifying that the Contribution Plans come into effect on the date of the notice; and
3. Adopts the Open Space Infrastructure Policy as exhibited.

## Reports from Director Development Services

---

### REPORT:

Council resolved at its meeting of 20 March 2002 that amended Contribution Plan No 5 – Local Open Space, draft Contribution Plan No 26 – Shirewide/Regional Open Space and the draft Infrastructure Policy be placed on public exhibition for 28 days. No submissions were received in response to the exhibition.

In reporting back to Council recommending adoption of the Policy and Plans, it was resolved that this item be deferred and Workshop be held. A workshop was subsequently held on 26 June to discuss the Open Space Infrastructure Policy, amendment to Contribution Plan No 5 and the draft Contribution Plan No 26.

At the Workshop Council was advised that the population of the Shire has reached a level where the demand for regional open space facilities can now be established. Consequently there is a need to plan and provide for such facilities over the next twenty years. These proposed regional facilities are:

- **Structured Open Space**
  - Athletics (\$2.0m)
  - Grandstand (\$2.0m)
  - Indoor facility (\$1.5m)
  - Murwillumbah pool upgrade (\$1.5m)
  - Murwillumbah Hockey complex (\$0.155m)
  - 46.8ha playing fields (\$14m)
- **Casual Open Space**
  - Kingscliff foreshore (\$1.8m)
  - Botanic Gardens (\$2.0m)
  - Cabarita foreshore (\$0.24m)

In proposing these new facilities and reviewing the basic standard and performance criteria by which open space provision can be determined there was concern at the Workshop at the additional costs that will be borne by development. In particular as a result of the amendments to Contribution Plan No 5 and the introduction of the proposed Contribution Plan No 26, the following is an example of the new per lot contribution for open space in Banora Point (under Plan No 5 and Plan No 1 – DCP3 area only) and Kingscliff:

### Banora Point

- Current Plan No 5: \$467 (structured and casual)
- DCP 3 open space area: \$2,262 (structured only, casual is by dedication)

### Kingscliff

- Current Plan No 5: \$759 (structured and casual)

## Reports from Director Development Services

---

### Proposed levy for open space

#### Banora Point (outside DCP 3 area) and Kingscliff

- Amended Plan No 5: \$ 941
- Contribution Plan No 26: \$1,398
- \$2,339

#### Banora Point DCP 3 area

- DCP3 open space area: \$2,262
- Contribution Plan No 26: \$1,398
- \$3,660

Despite these increases and the ensuing discussion, there was no final outcome from the Workshop and therefore the Plans and the Policy are referred back to Council for adoption.

---

## Reports from Director Development Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Reports from Director Development Services

### 6a. ORIGIN: Development Assessment Unit

**FILE REF: DA4040/100 Pt7**

#### REPORT TITLE:

**Development Application 0023/2002DA - Two (2) Eighteen Storey Residential / Tourist / Commercial Buildings - The Corner of Wharf and Bay Streets, Tweed Heads – Latitude 28**

#### SUMMARY OF REPORT:

This is an application of the highest significance for Tweed Heads. The development application is for high-rise residential/tourist/commercial development in two (2) stages comprising 205 units, 7 townhouses, 1215m<sup>2</sup> of retail area and 1650m<sup>2</sup> of commercial area.

The application raises planning issues of the highest importance: -

- The quality of development in the core of Tweed Heads as the Shire's sub-regional centre.
- The crucial importance of this site's development contributing to the economic rejuvenation of Tweed Heads and fulfilling the strategic vision for central Tweed Heads as a sub-regional centre expressed in the Tweed Heads 2000+ Strategy and Development Control Plan No. 18.
- The extent of overshadowing of Chris Cunningham Park and Jack Evans Boatharbour and the related implications for the NSW Coastal Policy and North Coast Regional Environmental Plan.
- The maximum height limit controls in the area of 50m AHD being exceeded by 11.4m.
- Bulk and scale of the proposal and the maximum floor space ratio permitted on the site being subject of an application for floor space bonuses based upon at least 73.5% of the units being used for tourist accommodation.

The detailed plans for the application will be on display in the Council Chamber from 8am on Wednesday 17 July and available at the Development Services Counter from 8am Monday 15 July 2002. Co-ordinator Development Assessment, Stephen Enders will be available for briefings to Councillors from 8am Monday.

Following a full assessment of the application, it is recommended for refusal for the reasons given below.

#### RECOMMENDATION:

That :-

- A. In relation to Development Application 0023/2002DA for Two (2) Eighteen Storey Residential/Tourist/Commercial Buildings at Lot B DP 332137, Lot 2 DP 758279, Lot 1 DP 962785, Lot 1 DP 962784, Lot 100 DP 775892, Lot A DP 101034, Lot 1 DP 963896, Lot 12 Section 1 DP 759009, Lot 13 Section 1 DP 759009, Lot 14 Section 1 DP 759009, the Corner of Wharf and Bay Streets, Tweed Heads, Council does not exercise its assumed concurrence of the Director of PlanningNSW to support the following: -

## Reports from Director Development Services

---

1. The State Environmental Planning Policy No. 1 submission seeking variation to the height limit of the development by 11.4m as prescribed by Clause 16 of Tweed Local Environmental Plan 2000.
  2. The State Environmental Planning Policy No. 1 submission seeking variation of Clause 32B(4) of North Coast Regional Environmental Plan to permit overshadowing of Chris Cunningham Park and Jack Evans Boatharbour at the prescribed times.
  3. Exceedence of the height of the development above 14m as prescribed in clause 51 of the North Coast Regional Environmental Plan.
- B. Development Application 0023/2002DA for Two (2) Eighteen Storey Residential/Tourist/Commercial Buildings at Lot B DP 332137, Lot 2 DP 758279, Lot 1 DP 962785, Lot 1 DP 962784, Lot 100 DP 775892, Lot A DP 101034, Lot 1 DP 963896, Lot 12 Section 1 DP 759009, Lot 13 Section 1 DP 759009, Lot 14 Section 1 DP 759009, the Corner of Wharf and Bay Streets, Tweed Heads, be refused for the following reasons:-
1. Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act, 1979, the application does not comply with Clause 16 of Tweed Local Environmental Plan 2000 as the development exceeds 50m AHD permitted under this clause.
  2. Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act, 1979, the application does not comply with Clause 50 of Tweed Local Environmental Plan 2000 as the development exceeds the permissible floor space ratio based upon bonuses. With bonuses it is considered the maximum floor space ratio for the development proposal is 3.65:1 based on a 60% tourist accommodation component.
  3. Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act, 1979, the application does not comply with Clause 32B of the North Coast Regional Environmental Plan 2000 given the development would result in the water body, beaches and adjacent public open space in the coastal foreshore reserve of Jack Evans Boatharbour being overshadowed before 6.30pm mid summer (DST) and that 18% of this Reserve would be overshadowed at 6.30pm mid summer (DST).
  4. Pursuant to Section 79C(a)(i) of the Environmental Planning and Assessment Act, 1979, and Clause 51 of the North Coast Regional Environmental Plan, concurrence of the Director of PlanningNSW has not been obtained to the proposal for the building to exceed 14m in height.
  5. Pursuant to Section 79C(a)(iii) of the Environmental Planning and Assessment Act, 1979, the proposed development exceeds the maximum floor space ratio prescribed by Development Control Plan No. 18 including bonuses that can potentially be taken into account. With bonuses provided for in Development Control Plan No. 18, it is considered the maximum floor space ratio for the development is 3.65:1 based on a 60% tourist component.
  6. Pursuant to Section 79C(e) of the Environmental Planning and Assessment Act, 1979, it is considered the development is not in the public interest, as it does not



## Reports from Director Development Services

---

satisfy the underlying visions for Tweed Heads Central Business District contained in Tweed Heads 2000+ Strategy and Tweed Shire 2000+ Strategic Plan.

## Reports from Director Development Services

---

### REPORT:

**Applicant:** Crownland Developments Pty Ltd  
**Owner:** Cladland Pty Ltd  
**Location:** Lot B DP 332137, Lot 1 DP 962785, Lot 1 DP 962784, Lot 1 DP 758279, Lot 100 DP 775892, Lot A DP 101034, Lot 1 DP 963896, Lot 12 DP 759009, Lot 13 DP 759009, Lot 14 DP 759009, Wharf Street, Tweed Heads  
**Zoning:** 3(a) Sub-Regional Business  
**Est. Cost:** \$63,500,000

### BACKGROUND/PROPOSAL

A development application (0023/2002DA) has been received from Crownland Developments Pty Ltd, which proposes the erection of a high-rise residential/tourist/commercial development in two (2) stages. The proposed development comprises 205 units in 2 towers, 7 townhouses, 1215m<sup>2</sup> of retail area and 1650m<sup>2</sup> of commercial area. Restaurant floor space of 400m<sup>2</sup> is included in the retail area.

The applicant submits that approximately 75% or more of the units will be used for tourist accommodation purposes.

Stage 1 involves the construction of the "east site" and Stage 2 the construction of the "west site". The proposed development is summarised as containing the following: -

- Basement car parking for 237 vehicles
- Ground floor (level 1)
  - Retail space & restaurant/cafes fronting Wharf & Bay Street
  - Entry to towers
  - First level of 2 storey commercial tenancies fronting Stuart Street
  - Public link through the site from the Wharf Street and Bay Street corner to Stuart Street which includes a covered plaza
  - Car parking spaces for 58 vehicles
  - Upgrade of Navigation Lane
- Level 2
  - 1st level of 2 storey townhouses to Wharf and Bay Streets
  - Car parking spaces for 114 vehicles located at the rear of the townhouses and commercial tenancies
  - Access from the car park into townhouses and commercial tenancies
- Podium level (level 3)
  - Visitor and main access to townhouses
  - 1st level of units for 2 towers
  - Pool, landscaping and outdoor activity areas

## Reports from Director Development Services

---

- Gymnasium
- East Tower – fronting Wharf and Bay Streets
  - 16 levels of mixed residential and tourist accommodation
- West Tower
  - 16 levels of mixed residential and tourist accommodation

The height of each proposed tower would be 18 storeys, with roof parapet levels of RL 57.9m AHD. The lift motor rooms would have a maximum height of 61.4m AHD.

The application also seeks approval for the demolition of existing buildings on the site.

The development also proposes to utilise air space over Navigation Lane allowing pedestrian connection of the 2 tower complexes. The applicant has requested that this be the subject of a lease agreement with Council.

The application also proposes streetscape works to the value of \$580,000 in Wharf, Bay and Stuart Streets. In addition to this the applicant has offered to contribute \$250,000, to be paid to Council, for embellishment works within Chris Cunningham Park as seen fit by Council (see attached letter from Crownland Developments).

The gross floor area of the proposal is 31,122m<sup>2</sup> with a floor space ratio of 3.9:1. The total site area is 7,922m<sup>2</sup>. This development application was lodged originally in December 2001. A revised proposal was subsequently submitted on 10 April 2002, following public consultation.

The changes between the original proposal and amended proposal are summarised as follows: -

- Deletion of Lot A DP 332137 (Dolphins Hotel site) from the development parcel and the deletion of the podium and part of the eastern tower, which encroached over the boundary of this lot.
- A reduction of 63 units in total from 275 to 212. The eastern tower was reduced from 100 units to 78, and the western tower was reduced from 166 units to 127. The total number of townhouses was reduced from 9 to 7.
- Reduction in overall gross floor area of 38,964m<sup>2</sup> to 31,122m<sup>2</sup>.
- Associated changes in the overall design including the car parking, numbers and layout, landscaping, public walkway design etc.
- Alterations to the shape and length of the east tower to be more curvilinear and less bulky in appearance.
- A reduction in the size, shape and siting of the western tower.
- Provision of visual separation between the eastern and western towers when viewed from the Wharf and Stuart Street elevations.

### STRATEGIC CONTEXT

- Proposals for high-rise development and related community reactions in the Tweed Heads area led to a Commission of Inquiry in 1982. The Inquiry findings and recommendations were primarily based on view – plane analysis and the recommendations led to the establishment of maximum building height controls in

## Reports from Director Development Services

---

Tweed Heads in Tweed Local Environmental Plan 1987. This included the 50m AHD height limitations in the sector of Tweed Heads – as shown on the map of maximum building heights that is Annexure 1.

- In December 1994 the NSW State Government amended the NSW Coastal Policy in terms of overshadowing impacts on land to which the Coastal Policy applies. This included a legal provision that Council must not consent to the carrying out of development on urban land at Tweed Heads if the development would result in beaches or adjacent open space being overshadowed before 3pm mid winter or 6.30pm mid summer (DST) – embodied in Clause 32B of the North Coast Regional Environmental Plan. Until recently this was considered prohibitive of such developments. However, more recently legal advice has led to the conclusion that exceptions can be sought to be justified based on SEPP1.
- Council adopted the Tweed Heads 2000+ Strategy in August 1995 following two (2) years of planning and extensive and public consultation – including a broadly represented reference group. This Strategy essentially reaffirmed the maximum height limits in Tweed LEP 1987 on the bases that: -
  - high rise development in Tweed Shire should be concentrated in limited locations and this sector of Tweed Heads adjacent to Coolangatta was the most appropriate – particularly given the Commission of Inquiry and consequent historical expectations of landowners and the community.
  - the community acceptance of such high rise development that was manifest in the consultations in preparing the Tweed Heads 2000+ Strategy.
  - the reinforcement of the Strategy of Tweed Heads as a sub-regional centre.
  - the vision for Tweed Heads that was adopted as a community based statement - being *“to project Tweed Heads as a resident and tourist mecca providing a variety of cultural, recreational and retail experience, people friendly streetscapes, attractive buildings and a choice of accommodation in a naturally beautiful environment”*.

The future directions established for Tweed Heads included: -

- a. development guidelines – to provide clear development guidelines including floor space ratios, height limits and setbacks with bonuses to encourage preferred development;
  - b. urban design – to identify urban design guidelines that will encourage sensitively designed attractive buildings to improve the streetscape in the central Tweed Heads area.
- The Tweed Shire 2000+ Strategic Plan (December 1996) and the North Coast Urban Planning Strategy (1995) also had formal policy endorsements of Tweed Heads as a sub-regional centre.
  - The Tweed Heads 2000+ Strategy was progressively implemented with established legalities and policies in Tweed LEP 2000 and Development Control Plan for Tweed Heads (DCP18) adopted by Council in July 2001. These included legal and policy provisions based upon a floor space ratio entitlement of 2:1 with bonuses for public benefits and preferred developments. The preferred developments included tourist accommodation and the underlying intent of this

## Reports from Director Development Services

---

inclusion was to encourage resort, hotel developments that had strong elements of common servicing and management and integrated provision of facilities such as swimming pools, conference facilities, restaurants etc. The Strategy is directed at development that retains and potentially enhances the scale or retail and commercial development in the core of Tweed Heads towards the achievement of its role as a sub-regional centre.

- In 2001, the Tweed Economic Development Corporation (TEDC) commissioned an urban design study of Tweed Heads that led to Council resolutions of in principle support and the Council resolution (December 2001) to seek the State Government to initiate a redevelopment authority for Tweed Heads. The TEDC Concept included an 8 storey height limit as well as advocacy for an overall master planning approach for Tweed Heads.
- On 12 June 2002 the Deputy Premier, Minister for Planning, Dr Andrew Refshauge announced the initiation of a Ministerial Taskforce for the preparation of a master plan for the core sector of Tweed Heads. This includes provision of approximately \$220,000 for engagement of the project manager and consultants.

### KEY ISSUES

The key issues for Council decision-making on this very significant development application are: -

1. The justification for the bonus for tourist accommodation and the related proposals for increased floor space and building heights with consequent impacts on overshadowing, building bulk and scale and for the NSW Coastal Policy.
2. The employment and economic costs and benefits of the development proposal.
3. The relationships with State Government Coastal Policy and master plan initiatives.
4. The economic viability of the development proceeding or not if the development is not approved at the applied height of 57.9m.
5. The implications for the development potential and equity of development entitlement for the "Whitehall Lodge" and "Dolphin Hotel" properties and related streetscaping impacts.
6. Limited design issues for the public walkway and internal garbage collection.

### 1. Justification for Tourist Accommodation and Consequences

The applicant has sought to justify a 73.5% tourist accommodation for the development and under the bonus provisions of DCP18 thereby achieve a floor space ratio of 3.9:1 that leads to an overall floor space in the development of 31,122m<sup>2</sup> and a height proposed of 57.9m. Consultations by the Director of Development Services have led to questions of the variation of that tourist accommodation component over time; and that it is not a guaranteed tourist accommodation component at any point in time. Whilst reception is planned to be operated 7am to 7pm daily and a managers residence be incorporated into the development under the management of a resort company that proportion of tourist accommodation will clearly "not be guaranteed" in the way in which the hotel component of the Twin Towns Resort justified its 60% tourist accommodation submission.

The uncertain substantiation of the 73.5% tourist accommodation proportion and its consequent floor space and height proposals lead to an 18% overshadowing impact on Jack Evans Boatharbour

## Reports from Director Development Services

---

at 6.30pm mid summer. This compares to a 14% impact if the building was 50m AHD. The building therefore has a substantial impact at 50m AHD - including some overshadowing at 6.30pm of the water body with limited duration of overshadowing – at 5pm it is 0.1% overshadowing of Jack Evans Boatharbour. However, given the strength of State Government policy on overshadowing of public open spaces on the coastal foreshore, the questionable justification of the excess floor space and height above 50m AHD leads to the conclusion that such excess floor space and height is not justified. There is also a significant statewide issue of precedence.

### **2. Employment and Economic Costs and Benefits**

The applicant's statement of social and economic impacts states that approximately 6700m<sup>2</sup> of retail/commercial floor space will be substantially reduced, but that this floor space is not in demand at Tweed Heads. The retail/commercial floor space provision in this development application could on a pro rata basis reduce retail and commercial employment potential from approximately 150 to 54. The applicant submits, and some public submissions have supported, that the residential and tourist population of the development would have significant economic and therefore employment benefits to the local retailing, commercial and tourist and club businesses. The application is supported by an estimate of the creation of 150 jobs. The floor space reduction for retail and commercial indicatively would represent a decline of employment as explained above and therefore the estimate portrays the employment generation for the tourist component being approximately 100 jobs. This is questionable. Also, the 1650m<sup>2</sup> of commercial development contained in the current development application is subject of an application for a draft local environmental plan amendment on Stuart Street for this commercial floor space to be converted to townhouse, i.e. residential development. The actual scale of positive impact is somewhat intangible but this is a very valid submission. There is also significant construction employment to be achieved – but this would be achieved whatever development occurred on the site. The applicant's consistent statement of commitment to proceed this year is also relevant here.

For the above reasons the proposal is inconsistent with the vision contained in the Tweed Heads 2000+ Strategy.

### **3. Economic Viability of the Development of the Site**

This site has a history of enquiries and development proposals but this is the first project to be so strongly asserted by the applicant as being committed and for imminent commencement subject to approval.

### **4. Implications for the Development Potential of Adjacent Properties**

The scale of development of these two buildings is anticipated to lead to judgements that the development potential of the "Whitehall Lodge" and "Dolphin's Hotel" sites cannot be fulfilled in ways that could fulfil potential under the bonuses in DCP18. More limited scales of development would thereby become more favoured for these sites in terms of the overall streetscape impact/character of development in Tweed Heads. There are clearly uncertainties as to landowner/development intents for these properties and whether such potential would seek to be fulfilled, but these are valid considerations in Council's decision-making for this development application.

### **5. Relationship with State Government Master Plan Initiative**

This is a very positive initiative for Tweed Heads and the issue is raised whether Latitude 28 approval would compromise the success of the master plan preparation. Clearly it would set a

---

## Reports from Director Development Services

---

major precedent for this sector of Tweed Heads, but it is understood that it is not the intent of the State Government for the master plan initiative to in any way prevent approval to any accepted and locally supported development proposal that meets State and Council Legislative policy requirements.

### **6. Design Issues – Public Walkway and Internal Garbage Collection**

These are issues of more limited significance and the applicant has agreed to accept deletion of commercial tenancy 11 by way of condition of approval and to amend designs so that internal garbage collection is facilitated.

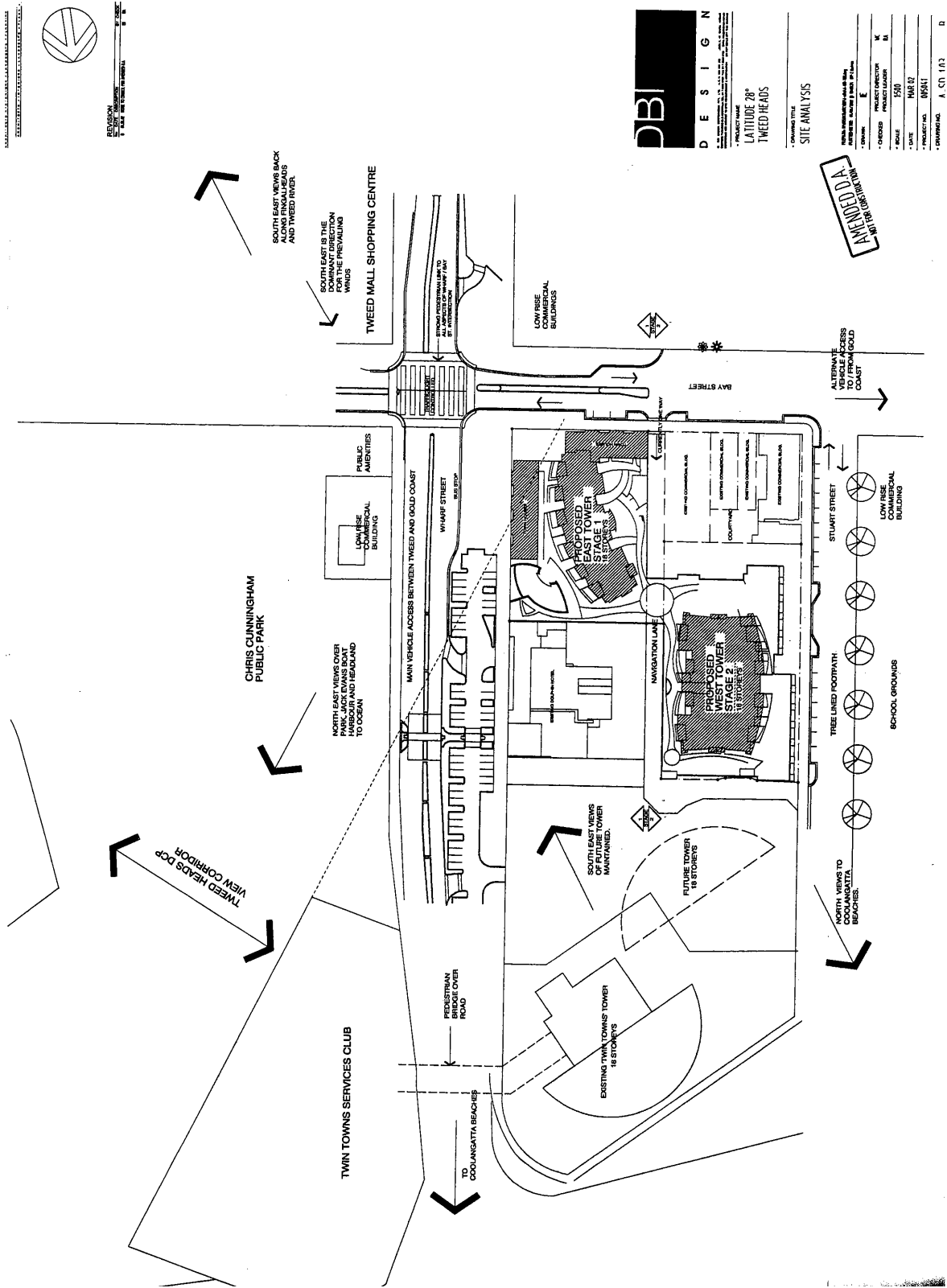
# Reports from Director Development Services

## SITE DIAGRAM





# Reports from Director Development Services



**DBI DESIGN**

PROJECT NAME: LAITITUDE 28° TWEED HEADS

PROJECT TITLE: SITE ANALYSIS

DATE: 15/07/02

PROJECT DIRECTOR: M

PROJECT ENGINEER: B

PROJECT ARCHITECT: B

PROJECT LANDSCAPE ARCHITECT: B

PROJECT CIVIL ENGINEER: B

PROJECT STRUCTURAL ENGINEER: B

PROJECT ELECTRICAL ENGINEER: B

PROJECT MECHANICAL ENGINEER: B

PROJECT ENVIRONMENTAL ENGINEER: B

PROJECT OTHER: B

PROJECT TOTAL: A, CN 1/13 D

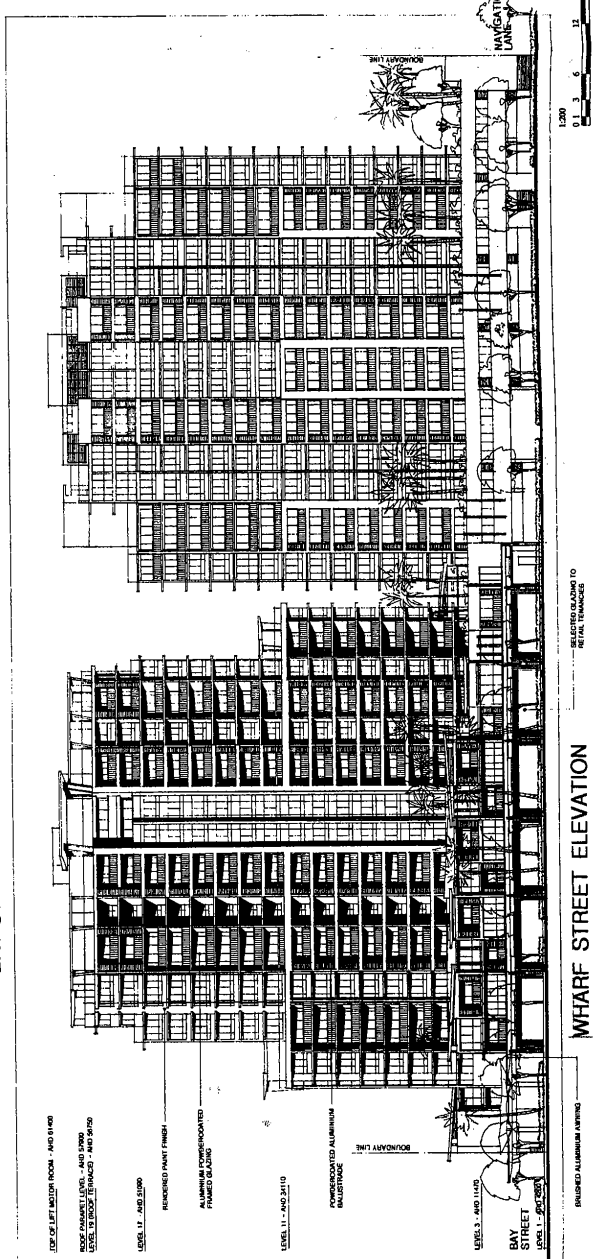
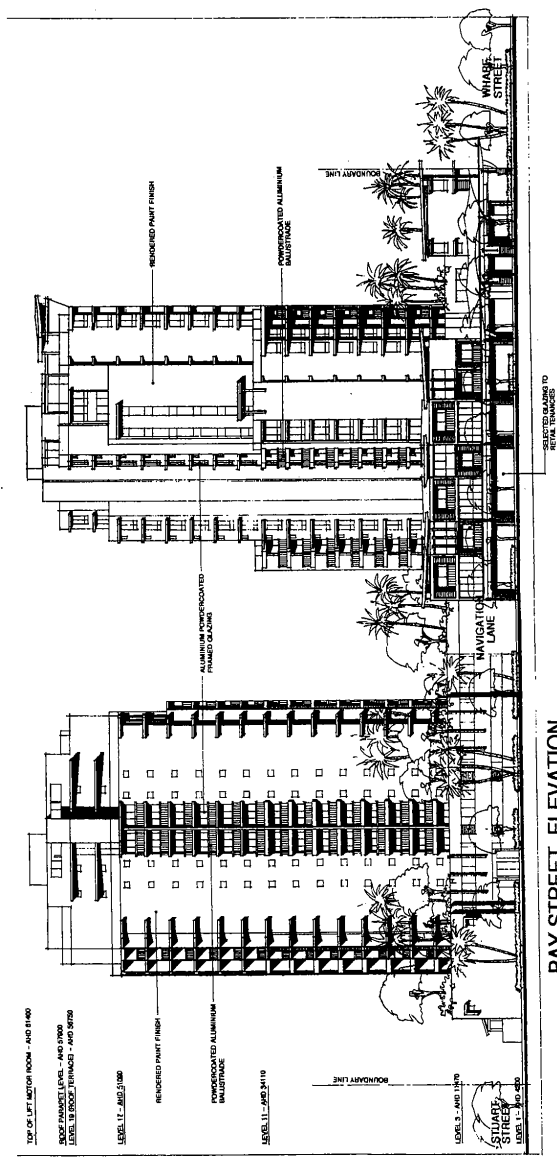
# Reports from Director Development Services

REVISION  
 1. 10/01/02  
 2. 10/01/02  
 3. 10/01/02

**DBI DESIGN**

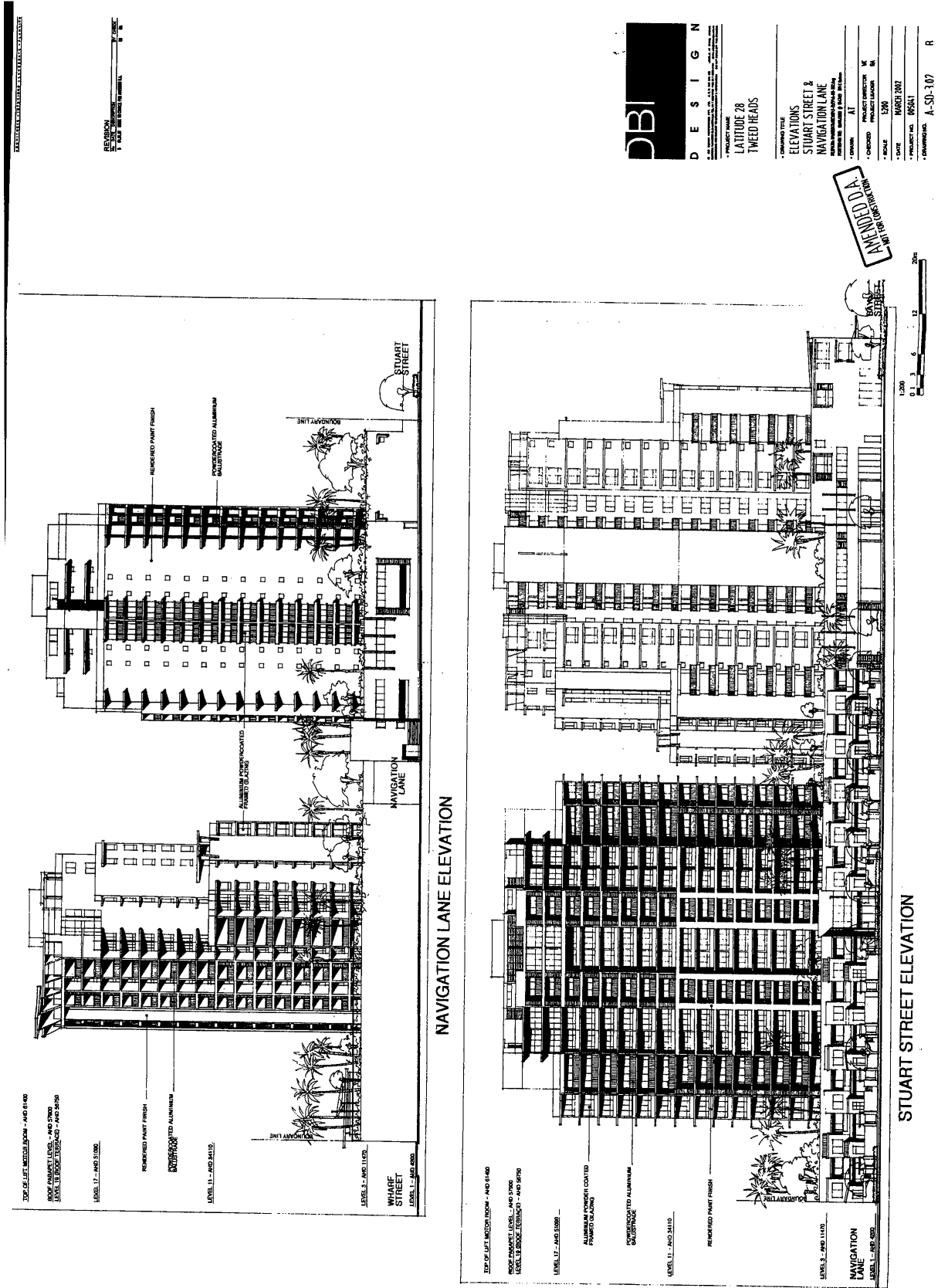
LATITUDE 28  
 TWEED HEADS

PROJECT TITLE  
 ELEVATIONS  
 WHARF & BAY STREETS  
 11  
 1200  
 1300  
 1400  
 1500  
 1600  
 1700  
 1800  
 1900  
 2000  
 2100  
 2200  
 2300  
 2400  
 2500  
 2600  
 2700  
 2800  
 2900  
 3000  
 3100  
 3200  
 3300  
 3400  
 3500  
 3600  
 3700  
 3800  
 3900  
 4000  
 4100  
 4200  
 4300  
 4400  
 4500  
 4600  
 4700  
 4800  
 4900  
 5000  
 5100  
 5200  
 5300  
 5400  
 5500  
 5600  
 5700  
 5800  
 5900  
 6000  
 6100  
 6200  
 6300  
 6400  
 6500  
 6600  
 6700  
 6800  
 6900  
 7000  
 7100  
 7200  
 7300  
 7400  
 7500  
 7600  
 7700  
 7800  
 7900  
 8000  
 8100  
 8200  
 8300  
 8400  
 8500  
 8600  
 8700  
 8800  
 8900  
 9000  
 9100  
 9200  
 9300  
 9400  
 9500  
 9600  
 9700  
 9800  
 9900  
 10000



MEMORANDUM  
 10/01/02

# Reports from Director Development Services



# Reports from Director Development Services

REVISED TO  
 DATE: 17 JULY 2002  
 BY: [Signature]

REVISION  
 NO. 1  
 DATE: 17 JULY 2002  
 BY: [Signature]

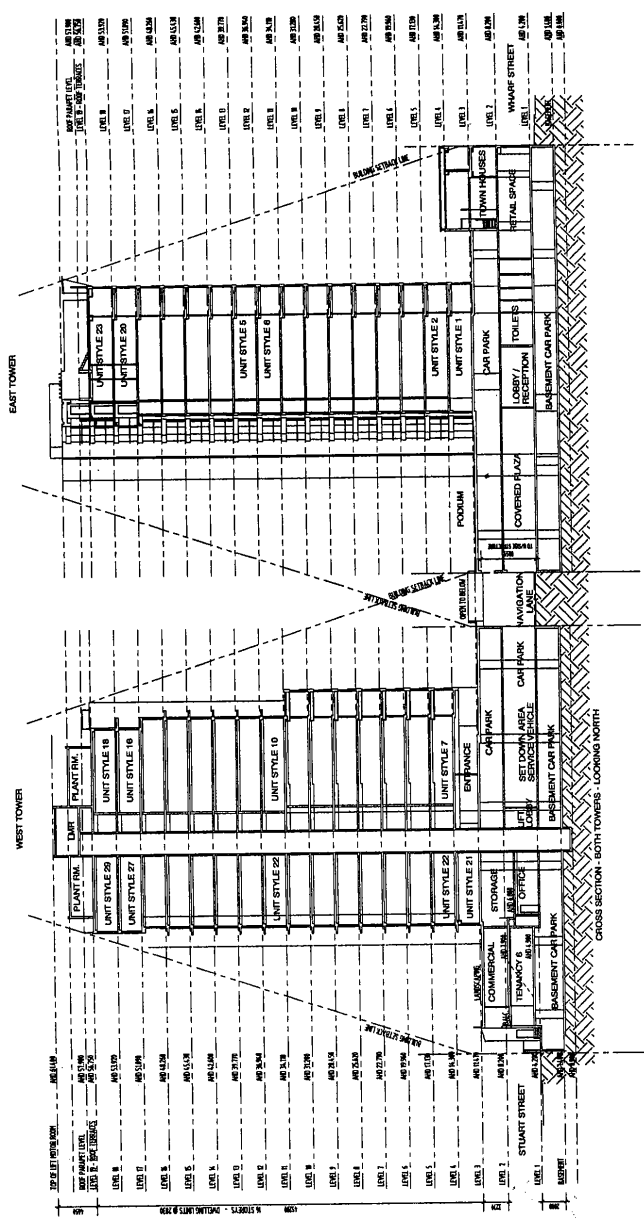


**D E S I G N**

PROJECT NAME  
 LATITUDE 28°  
 TWEED HEADS

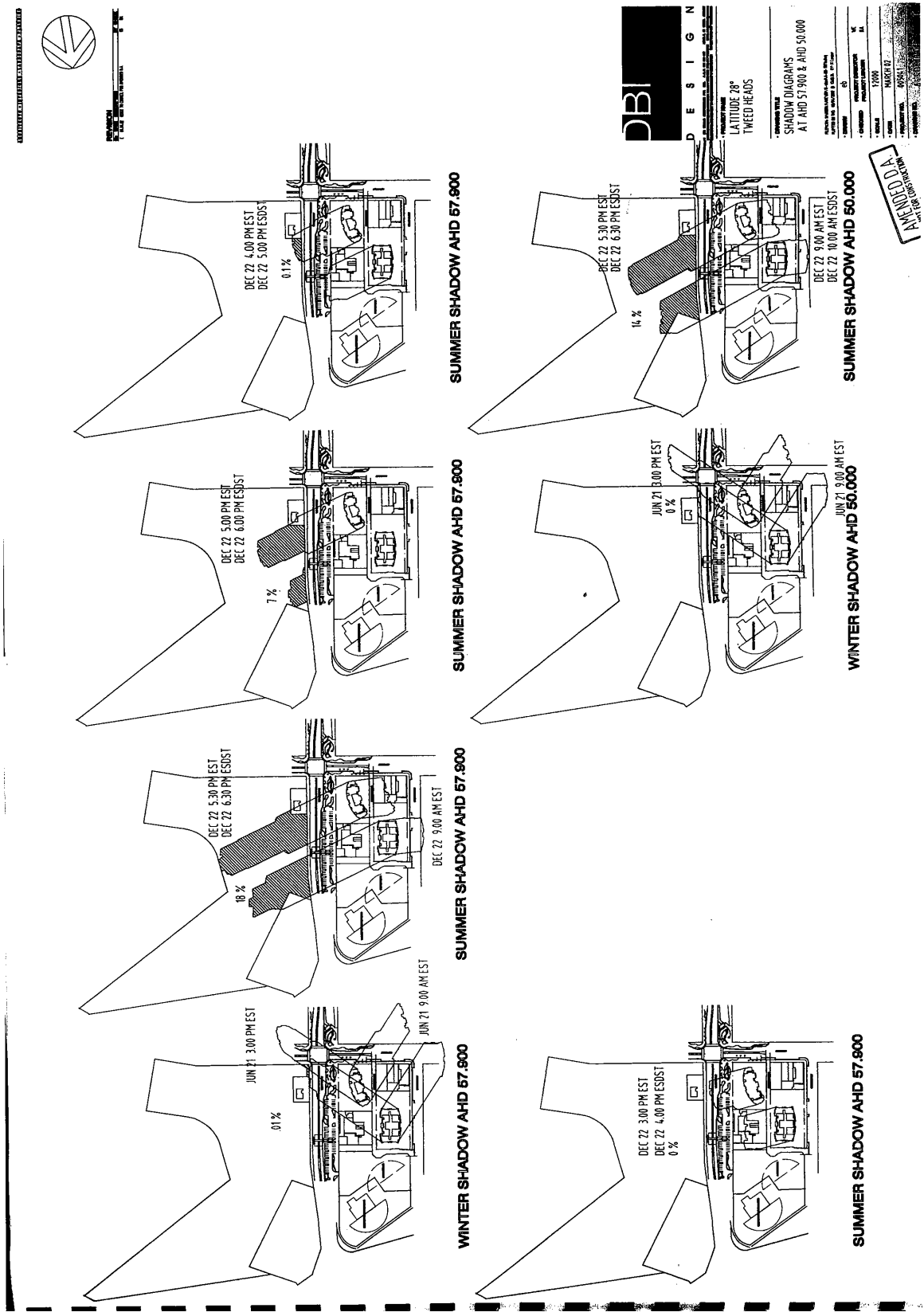
OWNER: [Name]  
 ARCHITECT: [Name]  
 PROJECT NO.: [Number]  
 DRAWING NO.: [Number]  
 DATE: [Date]  
 SCALE: [Scale]  
 PROJECT NO.: [Number]  
 DRAWING NO.: [Number]

APPROVED  
 DATE: [Date]  
 BY: [Signature]



SECTION A  
 SECTION

# Reports from Director Development Services



## Reports from Director Development Services

---

### ASSESSMENT

An assessment of the application against the matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 has been undertaken and appears below.

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

The subject land is zoned 3(a) Sub Regional Business under Tweed LEP 2000. The proposed development falls within a number of definitions, including multi-dwelling housing, tourist accommodation, shops, refreshment room, and commercial premises. These uses are all permissible with consent in this zone.

Clause 8 of Tweed LEP 2000 states: -

*“(1) The consent authority may grant consent to development (other than development specified in item 3 in the table to clause 11) only if: -*

- a. it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- b. it has considered those other aims and objectives of this plan that are relevant to the development, and*
- c. it is satisfied that the development will not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by it being carried out or on the area of Tweed as a whole”.*

The objectives of the 3(a) zone are: -

*“Primary objective*

- \* to encourage the development and rejuvenation of the Tweed Heads core business area as a sub-regional centre primarily for tourist, cultural, retail and commercially orientated development, including a choice of accommodation.*

*Secondary objective*

- \* to encourage upper floor residential and tourist accommodation.”*

The development site is currently characterised by a mix of single and 2 storey commercial development. Buildings on the site are old and in need of repair with a high level of vacancies experienced. The proposed development will result in the removal of these old buildings and construction of new retail premises along the Bay, Stuart and Wharf Street frontages and construction of 213 residential occupancies. It is however considered the net loss of retail space on this site and the lack of any hotel conference facility in the development does not fulfil the objective of creating a sub-regional centre.

The upper floors of the development are a mix of permanent residential and tourist accommodation. This is consistent with the secondary objective of the zone. Questions are however raised to the bona fide of the percentage of units, which will be used for tourist accommodation.

## Reports from Director Development Services

---

### **Clause 13**

Clause 13 applies to uncoloured land on the zone map.

The development contains a podium and pedestrian pathway over Navigation Lane, which is uncoloured land on the zone map.

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

- a. whether proposed development is compatible with development permissible in the adjoining zone and the character and use of existing development in the vicinity....

The pedestrian walkway links both the east and west components of the development. The use of this uncoloured land for the proposed purpose is therefore consistent with development in the adjoining zones and the character and use of the existing development in the vicinity. In the event of development approval, the applicant will need to enter into a lease agreement with Council for the use of the airspace over Navigation Lane.

### **Clause 15 - Availability of Essential Services**

Council must not grant consent to carry out development on any land unless: -

- a. a water supply and facilities for the removal and disposal of 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.

As part of the development application the applicant submitted an infrastructure impact assessment. This report concluded: -

- Water service is available
- The development will require a pump to serve upper floor levels
- Storage may be required to meet instantaneous demands. Two service connections are recommended – one for each tower
- Wastewater service is available and should be adequate for the proposed flows. Connection should be made to the existing line in Navigation Lane.
- Existing utility services can service the development.

Council's Engineering Services Division has reviewed this report and considers it satisfactory. The provisions of clause 15 are considered to be satisfied.

### **Clause 16**

Clause 16 of the LEP provides controls regulating to heights of buildings. The objective of this clause is: -

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

## Reports from Director Development Services

---

Clause 16 also states: -

*“Consent must not be granted to the erection of a building which exceeds the maximum height or number of storeys indicated on the Height of Buildings map in respect of the land to which the application relates”.*

The Heights of Building map accompanying the TLEP 2000 specifies that a maximum height limit of 50m AHD applies to the subject land.

Both towers exceed this maximum height limit by approximately 11.4m. The applicant seeks a variation to this development standard pursuant to the provisions of State Environmental Planning Policy No. 1 (SEPP1). The merits of this submission are considered later in this report under the heading State Environmental Planning Policy No. 1.

### **Clause 17 – Social Impact Assessment**

This clause requires 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, that the consent authority may only grant consent to the development if it has considered a social impact statement in respect of the proposed development. 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, affect 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 applicant has submitted a socio economic impact statement consistent with this clause. This statement identifies the socio economic needs of the area. These needs include: -

- Additional housing
- Additional employment opportunity
- Facilities for social interaction
- Development does not have adverse amenity impacts

The statement concludes, based upon an analysis of the socio economic impacts, that there would be benefits to the community as a result of the proposal and there is strong justification for the development on social and economic grounds.

Council’s Economic Planner reviewed this economic impact statement and provided the following comments: -

#### ***“Economic Assessment***

*This review conducted by Economic Planner, Strategic Planning Unit specifically examines the economic impacts described in the Socio-Economic*



## Reports from Director Development Services

*Impact Assessment for the development application for Latitude 28° at Tweed Heads.*

### **Proposed Project Outcomes**

*The application claims that the proposal would bring with it significant social and economic benefits with little risk of adverse impacts. The proposed project outcomes claimed in the Statement of Environmental Effects (SEE) forming part of the Development Application are as follows.*

<i>Total Project Value</i>	<i>\$115 million</i>
<i>Construction Cost</i>	<i>\$63.5 million</i>
<i>Construction Jobs (Direct)</i>	<i>350</i>
<i>Permanent Full Time Jobs (Direct)</i>	<i>150 / annum</i>
<i>Visitor Expenditure (Direct)</i>	<i>\$10.4 million</i>
<i>Additional Rates to Council</i>	<i>\$232,100</i>
<i>Permanent Residents</i>	<i>95</i>
<i>Average Tourists / Night</i>	<i>285</i>

### **Capital Investment**

*The project value is identified as \$115 Million in the main SEE however in the Economic Assessment it is stated as \$63.5 Million. It is unclear if the difference has been an incorrect attempt to try to implement a multiplier. The Economic Assessment identifies specific capital investments such as furniture sales and fit outs which may have been used to increase the final estimate.*

*The representation of the projects value should not try to identify specific incidentals as a flow on effect without the use of proper economic modelling. Subsequently the project cost should be identified as a direct cost of 63.5 million.*

### **Retail/Commercial Employment**

*The estimate of the number of permanent full time jobs is not a reasonable estimate. The Economic Assessment identifies that there is currently 6,700m<sup>2</sup> of retail space, which is said to be almost entirely vacant. However estimates should determine the existing workforce to establish the number of jobs, which would be lost to the development.*

*The capacity for retail employment will be reduced from 6,700m<sup>2</sup>. The question arises is their any realistic possibility of 6,700m<sup>2</sup> of retail floor space ever being occupied considering its location in Tweed Heads opposite Tweed Mall shopping centre and Griffith St. The reduction of 6,700m<sup>2</sup> of retail space to 1,215m<sup>2</sup> (including restaurants) represents a potential reduction in retail employees from 150 to 24. These estimates are in accordance with Table 1. If the existing retail floor space is at 20% capacity, as identified in the economic assessment of the development application, then it can be assumed that 1,340m<sup>2</sup> would currently be utilised. From this it can be assumed that approximately 30 employees would be associated with this retail trade.*

*The development application proposes that there will also be an increase in employment in both the commercial and tourism sectors on the site from the*

## Reports from Director Development Services

development. Currently there is no employment within the commercial and tourism areas on the site.

From the present situation there will be a net increase in employment from the proposed development. I have prepared estimate employment figures based on the floor spaces provided with the development application. (Note: restaurant employment is expressed as equivalent full time employees)

**Table 1: Review of Employment Estimates Associates with Retail / Commercial Components of Proposed Latitude 28 Development**

<i>Employment Type</i>	<i>Employment Estimates</i>
<i>Retail 815m<sup>2</sup></i>	<i>18</i>
<i>Restaurants 400m<sup>2</sup></i>	<i>6</i>
<i>Commercial 1,650m<sup>2</sup></i>	<i>30</i>
<i>Existing Retail Floor Space 6,700m<sup>2</sup> (20% utilised 1340m<sup>2</sup>)</i>	<i>- 150 (Fully Utilised) - 30 (20% Capacity)</i>

Note: All figures are expressed in equivalent full time employees. Estimates are based on employment ratio's used by Patrick Partners and Sinclair Knight Merz.

### **Tourism Employment**

The development application proposes that 150 permanent employees will be engaged within the development. If gauged by the retail / commercial estimates presented in Table 1, 54 equivalent full time employees (EFT) would be employed within the retail / commercial operations. This leaves 96 EFT associated with tourism development. It is understood that there would be a certain core of employees associated with reception, cleaning and catering but it is difficult to justify this level of employment. This represents a ratio of 1 employee to 3 tourists based on the 285 tourists per night, which is put forward in the development application.

### **Sub-Regional Retail Centre**

The Property Council of Australia has prepared a Retail Classification standard for identifying the size of retail centres. For this assessment it is assumed that with the existence of the Myers Department store as well as the strip retailing along Griffith St and Wharf St Coolangatta / Tweed Heads would have originally been categorised as a Regional Centre.

Realistically 6,700m<sup>2</sup> of retail space may never fully be utilised and is essentially a catalyst for the area being identified as a Sub-Regional Centre. Tweed Heads Mall and Strip accommodates approximately 18-20,000 m<sup>2</sup> of retail floor space. A loss of 5,485 m<sup>2</sup> represents a loss of about 20 – 25% floor space. It is anticipated that the majority of this loss will have originally been associated with the Myers department store. The decline of the Coolangatta / Tweed shopping centre from a Regional Centre to a Sub-Regional Centre has seen a considerable oversupply of retail floor space. Regional Centres such as Robina and Pacific Fair have taken up a lot of this floor space. The loss of a

## Reports from Director Development Services

*major department store along with the extremely low occupancy rates at Tweed Heads identify the decline of the Coolangatta / Tweed area as a regional retail centre to a sub-regional centre. This has led to a large vacancy rate along the Tweed strip.*

*It is anticipated that this loss of retail floor space will not cause a reduction in amenity provided by the entire sub-regional centre of Coolangatta / Tweed.*

### **On Site Retail Demand**

*Essentially the on site demands will not require a lot of retail area to accommodate the extra population it will carry. However tourism retailing, restaurants and other specialised retail may be accommodated but may be in direct competition with retailers on Griffith St offering similar types of outlets. It has been calculated the development will generate approximately 250 – 400m<sup>2</sup> for both tourist and permanent residents.*

### **Conclusions**

1. *The loss of existing retail space is acceptable considering Coolangatta / Tweed's decline from a regional centre to a sub-regional centre and continued vacant floor retail space along the Tweed strip.*
2. *The proposed retail development will accommodate enough retail floor space to accommodate the anticipated population of the development.*
3. *The rejuvenation of the retail façade of Wharf St and increased tourist and permanent population would offer assist in increasing vitality of retail amenity along Wharf and Bay St.*
4. *Given the estimates presented in the development application the net economic benefit of the retail and commercial elements of the project represents a negligible increase in employment and associated economic benefit.”*

Based on the above analysis it is considered that the social and economic impacts of the development may not be of the magnitude purported by the applicant. Potential employment will reduce in retailing although the multiplier effects of the tourist accommodation will be positive and significant.

### **Clause 22 – Development near Designated Roads**

This clause applies to land, which has frontage to a designated road being Wharf Street in this case. Under the provisions of this clause the consent authority may grant consent to the development 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

## Reports from Director Development Services

---

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

The applicant submitted a detailed traffic impact analysis in relation to the development. This report concludes that the proposed development would have no adverse impact on the traffic capacity of Tweed Heads CBD when compared to historic traffic flows. Council's Traffic Engineer has also reviewed the proposal and finds it generally acceptable subject to some minor amendments. Access to the development is via Navigation Lane and is not direct from Wharf Street. Access to the development will not prejudice any future improvements to or realignment of Wharf Street.

Residential units within the development are well setback from the Wharf Street carriageway and elevated from the street. It is not expected that residents occupying these units would experience unacceptable noise levels from traffic. The development will significantly change the visual character of the area. This change is considered acceptable in context of road users as the tower complexes are set back towards the centre of the site with 2/3 storey development directly fronting the street. Points (d) and (h) of Clause 22 are not relevant to this proposal as the subject land is zoned 3(a).

Having regard to the above it is considered the development is acceptable in terms of clause 22 of the LEP.

### **Clause 33**

This clause relates to development in the vicinity of Coolangatta and Murwillumbah airports. It requires that the consent authority considers any current obstacle limitation surface plan, or procedures for aircraft navigation services – aircraft operations plans, prepared by the airport operator, which has been notified to Council.

## Reports from Director Development Services

---

The application was referred to Gold Coast Airport Limited. In response to this referral Gold Coast Airport Limited advised that this application will have no operational restrictions on Gold Coast Airport. Therefore Gold Coast Airport Limited raised no objections to this proposal.

The provisions of this clause have been satisfied.

### **Clause 35**

This clause provides for management of acid sulfate soils.

The subject land is identified as Part Class 2 and Class 5 on Council's Acid Sulfate Soils planning map.

As the development would involve works below the ground surface in the Class 2 land, an assessment of the presence, and the extent, of acid sulfate soil is required, as well as a management plan to mitigate the impacts. In accordance with this clause a Acid Sulfate Soils Management Plan has been submitted with the application.

The proposal involves excavation to a depth of approximately 3m. The site investigation indicated that the sub-surface comprises 2 layers. The top layer is natural fill sand to a depth of 1.5m and the 2<sup>nd</sup> layer is indurated sand.

Acid sulfate soil management measures include: -

- Treating the indurated sand with agricultural lime at the rate of 8kg per metre squared based on 100% neutralising capacity (in practice, the quantity of lime would be increased to account for the variable neutralising capacity of different products).
- Monitoring of leachate/groundwater and treatment in accordance with the acid sulfate soil management plan, prior to discharge into Council's stormwater system.

It is considered the provisions of Clause 35 have been satisfied. Council's Environment and Health Unit is satisfied with the plan.

### **Clause 47**

This clause relates to advertising signs.

Advertising signs are not proposed in this application, although the design of the building enables an integrated approach to signage at a later date. A condition of any approval should be the requirement for the submission of a separate development application for all advertising structures.

### **Clause 50**

This clause specifies maximum floor space ratios (FSR) for buildings in the 3(a) zone at Tweed Heads. In respect of this proposal, the maximum FSR is 2:1 (without bonuses) or 4:1 (with bonuses).

This proposal seeks to utilise bonuses.

Development Control Plan No. 18 – Tweed Heads provides a basis for obtaining bonuses as follows: -

## Reports from Director Development Services

- a. 3m<sup>2</sup> for 1m<sup>2</sup> of public through block identified pedestrian network providing the walkway is at least 3.5m wide.
- b. 2m<sup>2</sup> for 1m<sup>2</sup> of publicly available community space, such as internal landscaped court, cinemas, art gallery, performance arts, library, community meeting room, tourist information centre, parents room, child care facility, public toilets.
- c. 1m<sup>2</sup> for 1m<sup>2</sup> of hotel, place of assembly, refreshment room, shop or tenement floor space.
- d. 0.5m<sup>2</sup> for 1m<sup>2</sup> of tourist accommodation floor space.
- e. 550m<sup>2</sup> of floor space for each up/down pair of escalators, wherein Council's opinion, the facility is of a major benefit as part of an identified pedestrian network.
- f. Council may be prepared to negotiate additional bonuses for the provision or funding of town centre improvement over and above those required for the particular development. Such improvements may include the retention of existing mature trees (other than Cocos palms). Such additional bonuses involving a departure from the floor space ratio standard will be subject to submission of a written objection to the standard in accordance with the provisions of SEPP1 – Development Standards to accompany the development application. Such objection must demonstrate to Council's satisfaction that the objection is well founded and that the departure from the standard is consistent with the aims of SEPP1.

The applicant seeks to utilise bonuses in accordance with (a), (c) & (d) above as follows: -

Use	Area Within Development	Bonus Applicable	Additional Floor Space
Public walkway	1360m <sup>2</sup>	x 3m <sup>2</sup>	4080m <sup>2</sup>
Restaurants/Shops	1215m <sup>2</sup>	x 1m <sup>2</sup>	1215m <sup>2</sup>
Tourist accommodation (73.5% of both towers)	19965m <sup>2</sup>	x 0.5m <sup>2</sup>	9982m <sup>2</sup>
<b>Total</b>			<b>15277m<sup>2</sup></b>

Without utilising bonuses the maximum floor space ratio is 2:1 which would permit a maximum floor area of the total development of 15844m<sup>2</sup> based on a site area of 7922m<sup>2</sup>. To determine the maximum FSR with bonuses permitted the total in the table above is added to the available floor area at a FSR of 2:1. This equates to a maximum area of 31122m<sup>2</sup> achieving a maximum FSR ratio of 3.9:1.

The development proposal has an FSR of 3.9:1

The critical issue in the acceptance of bonuses is the percentage component of tourist accommodation versus permanent tenancies. The applicant submits that in excess of 73.5% of all units will be utilised for tourist accommodation. This means that 2/3 of bonus floor space sought relies on acceptance of this percentage.

## Reports from Director Development Services

In support of this claim the applicant has provided a report from Matusik Property Insights, which provides a survey of 12 apartment complexes on the Gold Coast. This survey indicates that on average 87% of the apartments are used by tourists and held in the holiday/rental pool within each complex. Attached is a copy of the survey/report.

This data was tested by phone survey finding the following results: -

<b>Complex</b>	<b>Survey</b>	<b>Applicant's submission</b>
Bel Air	86% Tourist	Report Indicated 100%
Phoenician resort	91% Tourist	Report Indicated 100%
Marrakesh Apartments	86% Tourist	Report Indicated 85%
Diamond Beach Resort	57% Tourist	Report Indicated 94%
Bell Beachside	60% Tourist	Report Indicated 67%
Aegean Apartments	97% Tourist	Report Indicated 100%
Outrigger Suncity	71% Tourist	Report Indicated 89%
Burleigh Beach	68% Tourist	Report Indicated 78%

In addition, Gold Coast City Council was contacted and advice was obtained that approximately 1/3 of all strata units on the Gold Coast are used for short-term tourist accommodation while 2/3 are used for permanent accommodation. Additional data is being sought for the Coolangatta area only and if made available will be provided to Councillors before the Council meeting.

A review of the application for Twin Towns Resort Stage 1 was also carried out. The percentage of tourist accommodation approved for the development was 58% tourist accommodation and 42% residential use. More recent analysis shows the tourist accommodation component to be higher. However, it should be noted that the Twin Towns Resort is based upon hotel management and servicing, integrated facilities such as conference rooms, restaurants, and the like. It also integrates strongly with the Services Club. It would therefore be expected to have a higher tourist accommodation component than a development like Latitude 28.

The figures provided by Matusik varied from that when surveyed (in some cases significantly) with the percentage of tourist accommodation in a number of cases being less than that provided in the report. The Matusik report also does not provide any basis for how the survey was conducted or how the apartment complexes were selected. For example, were they randomly selected or were they selected based on similarities to Latitude 28 or were they just selected on the basis of those with the highest percentage of tourist accommodation.

In addition the mix of tourist and permanent accommodation within a complex could be expected to change over time. This was confirmed by one operator during the survey where he indicated that in his experience the percentage of units in the Holiday rental pool decreased over time as people become owner occupiers or took them out of the Holiday rental pool to use them for intermittent private use.

## Reports from Director Development Services

The figures provided by the applicant in this report are not readily and fully accepted as the norm. The original application submitted by the applicant purported to 60% tourist accommodation to 40% permanent/rental occupancies. This figure is considered more realistic. Using 60% tourist accommodation a maximum floor area of 28942m<sup>2</sup> would be achievable with bonuses at a floor space ratio of 3.65:1. Therefore the development at 3.9:1 is in excess of what is considered a reasonable floor space ratio of 3.65:1. If Council accepts that the percentage of tourist accommodation is unrealistic and adopts the figure of 60% tourist accommodation, 40% permanent/residential, then Council cannot approve the development as currently proposed as the FSR is in excess of that permitted by the LEP.

It is considered that a maximum FSR for the site should be 3.65:1 or less. This will also – very significantly - result in a reduction in height of the development.

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

#### **Development Control – Coastal Lands**

Clause 32B provides as follows: -

- “32B (1) *This clause applies to land within the region to which the New South Wales Coast Government Policy applies.*
- (2) *In determining an application for consent to carry out development on such land, the council shall take into account –*
- (a) *The New South Wales Coast Government Policy;*
  - (b) *The Coastline Management Manual; and*
  - (c) *The North Coast: Design Guidelines.*
- (3) *The council shall not consent to the carrying out of development which would impede public access to the public foreshore area.*
- (4) *The council shall not consent to the carrying out of development –*
- (a) *on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches and adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time); or*
  - (b) *elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 4pm midwinter (standard time) or 7pm midsummer (daylight saving time).”*

The proposed development is generally consistent with the design guidelines contained in the documents listed in subclause (2), many of which have been incorporated into the Tweed Heads 2000+ Strategy and DCP18. The development has been designed generally having regard to these requirements.

The NSW Coastal Policy applies to the subject development. Strategic Action 3.2.4 with respect to overshadowing of waterfront open space is of most significance to this



## Reports from Director Development Services

development. Jack Evans Boatharbour and Chris Cunningham Park are located east of the subject site. The development will result in overshadowing of this reserve extending beyond mean high water mark at 6.30pm midsummer.

The policy does acknowledge that: -

*“The suggested standard in this principle may be difficult to apply in highly urbanised environments. An LEP or DCP which is tailored to local conditions and which has the overriding objective of minimising overshadowing may be required in these situations.”*

This principle is reflected by Clause 32(b)(4)(a) as stated above of the NCREP which is a statutory document. Advice from Council’s Barrister has indicated that this requirement is a development standard for the purposes of SEPP1. In response to this advice the applicant has submitted an objection to this standard pursuant to SEPP1 seeking a variation from the standard. The merits of this submission is considered under the heading SEPP1 later in this report. Council has assumed concurrence to determine this submission.

### **Development Control – Director’s concurrence for tall buildings**

Clause 51 provides as follows: -

51. (1) *In this clause, a reference to a building does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation or ventilator or any other building, or a building of a class or description of buildings, exempted by the Minister from the provisions of this plan by notice published in the Gazette.*
- (2) *The council shall not, without the concurrence of the Director, grant consent to a development application for the erection of a building over 14 metres in height.*
- (3) *In deciding whether to grant concurrence to a development application in respect of development referred to in subclause (2), the Director shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect which it will or is likely to have on the amenity of the area.*
- (4) *The provisions of sections 84, 85, 86, 87(1) and 90 of the Act apply to and in respect of development for the purpose of a building over 14 metres in height in the same way as those provisions apply to and in respect of designated development.”*

In accordance with Department of Urban Affairs and Planning Circular D8, Council may assume the concurrence of the Director. The proposed height of the building to the roof parapet is 57.9m AHD and to the top of the motor room 61.4m AHD. These proposed heights are therefore approximately 16% and 23% above the maximum height control of 50m AHD. Therefore under Clause 51 concurrence of the Director is required.

In Council considering whether to exercise its assumed concurrence it should have regard to compliance with all other planning legalities and policies. As previously

## Reports from Director Development Services

stated the building will exceed the designated height limit of 50m AHD under TLEP 2000 and is considered to exceed a realistic floor space ratio of 3.65:1 based on the acceptable utilisation of bonuses contained in the LEP. In addition the building will result in substantial overshadowing of the Jack Evans Boat Harbour public reserve/foreshore area. Having regard to these matters it is concluded insufficient justification has been provided to support an increase above the 50m AHD. It is recommended that assumed concurrence from the Director in this case not be assumed.

### **Clause 75**

This clause relates to tourism development and requires that Council must be satisfied of certain matters before granting consent. The following considerations are relevant: -

- The site is within central Tweed Heads which is accessible by road is in close proximity to Coolangatta airport. Transport services are available and adequate for the proposed development.
- The site is within close proximity to social and community services which could be regionally required by permanent residents. These services are outlined in the socio-economic impact statement provided by the applicant.
- The development will have a visual impact particularly when viewed from Jack Evans Boatharbour. It should however be noted that planning controls for the area provide for tall buildings and similar buildings exist in the immediate area to the north. It is concluded that the development if limited to 50m in its context would be acceptable having regard to the scenery and other significant features of the natural environment.
- Water and sewerage services are available and will be adequate for the proposed development.

The application is generally consistent with all other provisions of the REP.

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

#### **SEPP1 – Development Standards**

This application is accompanied by two (2) objections under SEPP1 and are made in respect of the 50m AHD height limit contained in Clause 16 of the TLEP 2000 and the overshadowing limitations contained in Clause 32B(4)(a) of the NCREP. The merits of each of these submissions is dealt with below.

#### **Height Variation**

Council can assume concurrence to support the following submission under SEPP1.

The applicant submits the following in support of a variation to the 50m AHD height limit contained in Clause 16(2) of TLEP 2000.

- “1. *This objection is in respect of the development standard contained in Clause 16(2) of TLEP 2000. It should be read in conjunction with the accompanying Statement of Environmental Effects (SEE).*
2. *Clause 16(2) of TLEP 2000 requires that: -*

## Reports from Director Development Services

*“Consent must not be granted to the erection of a building which exceeds the maximum height of number of storeys indicated on the heights of building map in respect of land to which the application relates”.*

*The height of the land to which the application relates is 50m AHD.*

3. *The proposed development has a height of 57.9m AHD to the roof level and 61.4m AHD to the top of the motor room. As this height exceeds that prescribed by the development standard, it is necessary to make this objection.*
4. *The objective of the standard is: -*
  - “To ensure that the height and scale of the development is appropriate to location , surrounding development and the environmental characteristics of the land”.*
5. *The following matters are relevant to assessing the merits of the departure from the development standard: -*
  - (i) *the additional building height will not significantly alter the visual impacts of the proposed development as: -*
    - *The towers will be outside key view corridor identified in DCP18 (refer SEE, Section 5.1);*
    - *The back drop to the site from the south, south east and south west contains taller building in Coolangatta. Coolangatta has a maximum building height of 25 storeys;*
    - *The Twin Towns Resort, immediately north of the site is a benchmark development for the Tweed Heads central precinct. It provides a context for height, bulk and scale;*
    - *The horizon would not be intercepted by the proposed buildings;*
    - *Building bulk is less than could be potentially developed on the site (refer SEE, Section 5.1); and*
    - *Design elements have been included to reduce the apparent bulk of the buildings, including: -*
      - *Articulation of facades (variation in building setbacks and use of balcony)*
      - *Contrasting colours and materials*
      - *The use of inclined roofs to cap off the towers, and*
      - *Incorporation of pergola type structure at change of levels.*
  - (ii) *The additional height creates only a minimum shadow effect on Chris Cunningham Park during the critical winter period (0.01%).*

## Reports from Director Development Services

---

- (iii) *The additional height only creates a 4% increase in shadowing on Chris Cunningham Park at 6.30pm (DST) during summer, which is insignificant.*
- (iv) *The additional height would not exacerbate amenity impacts (views, privacy, overshadowing) on adjacent properties.*
- (vi) *It is concluded that the height and scale of the proposed development is appropriate to its locational context and its relationship to surrounding development and public spaces. No good planning purpose would be achieved, in this case, by strict adherence to the 50m AHD height limit.*
- (vii) *The foregoing analysis indicates that compliance with the development standard is both unreasonable and unnecessary in the circumstances. Furthermore, as the proposed development meets the objectives of the development standard, it would not compromise the integrity of that standard.”*

Concern is raised that the resultant additional height above 50m AHD is achieved by maximising of floor space ratio provisions above a standard which could be reasonably expected based on bonus provisions contained in DCP18.

Shadow diagrams provided by the applicant do indicate significant overshadowing of Chris Cunningham Park extending beyond mean high water mark of the Jack Evans Boatharbour. In mid summer at 6.30pm, 18% of this reserve is overshadowed by the proposed building. If the building was to be reduced to 50m AHD to comply with the standard, 14% of the reserve would be overshadowed at the same time.

The increased height subsequently results in increased overshadowing of Chris Cunningham Park above what would be expected if the building complied with the 50m AHD limit. The extent of additional overshadowing would increase as it got later in the afternoon.

The applicant submits the proposed height remains well below the height of other taller buildings in the Coolangatta locality and is of a similar height to the constructed Twin Towns Tower and yet to be constructed second Twin Town Towers located directly to the north. This justification is not fully accepted as the subject site is located further to the south than the Twin Town buildings and may be described as forming part of Tweed Heads Central Precinct.

The Twin Towns building is located adjacent the Queensland/NSW border and falls more within the Coolangatta high rise precinct. The extent of overshadowing resulting from the Twin Towns building is less as a result of the siting, design and orientation of this building.

For these reasons it is recommended that Council not support the SEPP1 submission to vary the height limits by exercising Council's assumed concurrence.

## Reports from Director Development Services

### Clause 32B – North Coast Regional Environmental Plan – Overshadowing of Foreshore Reserve

Clause 32B(4)(a) of the NCREP provides that council shall not consent to development on land at Tweed Heads if it results in overshadowing of beaches or adjacent open space before 3pm mid winter (standard time) or 6.30pm midsummer (DST).

Council's Solicitor and Barrister have confirmed that Chris Cunningham Reserve, which adjoins Jack Evans Boatharbour is "adjacent open space" for the purposes of this clause and also a development standard. Therefore the provision of SEPP1 can be utilised to seek a variation to the standard. The applicant has made the following submission: -

- "1. This objection is in respect of the development standard contained in Clause 32B(4)(a) of the NCREP 1988. It should be read in conjunction with the accompanying SEE.*
- 2. Clause 32B(4)(a) of the NCREP 1988 provides that development on land at Tweed Heads, must not result in overshadowing of beaches or adjacent open space before 3pm mid winter (standard time) or 6.30pm mid summer (DST).*
- 3. Shadow diagrams prepared in respect of the proposal indicate that the development would lead to overshadowing of Chris Cunningham Park, adjacent to Jack Evans Boatharbour, within the hours specified by the standard.*
- 4. The objective of the standard is essentially to ensure that shadow impacts do not adversely affect the amenity/enjoyment of publicly accessible beaches and nearby (adjacent) open space areas.*
- 5. The following considerations are relevant to assessing the merits of a departure from the standard in this instance: -*
  - i. Winter shadow (EST) only affect 0.01% of the park at 3pm. This shadow is cast over the south west corner of the site in a location which is already covered by trees and a public toilet block.*
  - ii. Summer shadows at 6.30pm (DST) affect only 18% of the park. This percentage is significantly less in the early afternoon being,*
    - 7% at 6pm (DST), which is a drop of 11% from the 6.30pm overshadowing.*
    - At 5pm (DST), the development only impacts 0.01% of the park. This overshadowing primarily occurs along the edge of the park adjacent to Wharf Street.*
    - At 4pm (DST), there would be no overshadowing of the park by the proposed development.*
  - iii. The anticipated shadow impacts are largely insignificant and well within normally accepted limits, particularly in circumstances where development of the type and scale proposed, are actively promoted*

## Reports from Director Development Services

*and encouraged as part of statutory and policy planning provisions for the locality.*

iv. *Chris Cunningham Park is an urban park adjacent to a town centre earmarked for high rise development. Long term statutory and strategic planning policies have encouraged high rise development in Tweed Heads. Overshadowing of the park during the time period specified by this clause is unavoidable if the area is to be developed in accordance with these policies. In fact, a low rise building over 11.87m AHD in height would cast a shadow over Chris Cunningham Park at 6.30pm (DST) mid summer.*

v. *Table 3 of the NSW Government Coastal Policy, a document which is referred to in Clause 32B of the NCREP contains the principle that: -*

*“Beaches and waterfront open space will be protected from overshadowing. The standard to be applied will vary according to local circumstances, however, generally the standard to be applied is: -*

- In cities or large towns, no overshadowing before 3pm mid winter and 6.30pm summer (DST);*
- Elsewhere, no overshadowing before 4pm mid winter and 7pm summer (DST).”*

*The notes to this standard state: -*

*“The suggested standard in this principle may be difficult to apply in highly urbanised environments. An LEP or DCP which is tailored to local condition and which has the overriding objective of minimising overshadowing may be required in these situations”.*

*The Policy essentially acknowledges that the goal of nil overshadowing of water front open space in highly urbanised environments is difficult to achieve and that local controls tailored to local circumstances, are an appropriate response.*

vi. *It is concluded that the shadow impact associated with the proposed development is unlikely to significantly affect the amenity of Chris Cunningham Park, to the detriment of its enjoyment by the general public.*

*Strict compliance with the design standard would result in central Tweed Heads being unable to achieve long standing strategic goals. This would be a core planning outcome for the Tweed Community.*

vii. *Having regard to the foregoing, compliance with this development standard it is both unreasonable and unnecessary in the circumstances.”*

## Reports from Director Development Services

The submission provided by the applicant is not accepted, in that 18% of the reserve would be overshadowed at 6.30pm mid summer. This is considered to be a significant amount of overshadowing, particularly having regard to the relative high usage of this public reserve during this period.

In considering this SEPP1 submission regard must be given to the historic planning controls in this area. The following is of relevance: -

- In 1982 a Commission of Inquiry was held into building heights in the Tweed area. As a result the 50m AHD height limit was adopted by Tweed LEP 1987 following significant public consultation.
- In the mid 1990's, Gary Shiels and Associates were engaged by Council to review planning controls and develop a strategy for the development of the central Tweed Heads area. Subsequently Tweed Heads 2000+ Strategy was adopted which included a 50m height limit in the central Tweed Heads area.
- In the late 1990's and early 2000, Tweed Heads LEP 2000 was drafted and placed on public exhibition for comment. This document adopted the historic height limits in the central Tweed Heads area of 50m AHD. This plan was gazetted on 14 April 2000.
- In 2001 Strategies contained in Tweed Heads 2000+ were reinforced through the preparation and Council adoption of DCP 18 – Tweed Heads. This plan once again reinforced the 50m AHD height limit in the central Tweed Heads area.

Therefore it may be concluded that there has been potential for tall buildings on the subject site since 1982, which inevitably will result in some overshadowing of Chris Cunningham Park. This is acknowledged in the NSW Coastal Policy as stated by the applicant but the question in this case is whether the net increase in overshadowing as a result of the additional height is acceptable.

In considering this it should be noted that the planning controls only provide for a floor space ratio of 2:1 without bonuses. A 4:1 FSR can only be achieved with the utilisation of bonuses. Bonuses were adopted to try and achieve the strategic vision for this central Tweed area. As previously indicated it is not accepted that the development will achieve 75% tourist accommodation and therefore the FSR the development is achieving cannot be justified based on bonuses

Therefore, it is considered that the resultant height above 50m AHD cannot be supported nor can the additional increase in overshadowing of Chris Cunningham Park which results.

Therefore it is recommended Council not support the SEPP1 to allow overshadowing of the foreshore area to occur by exercising of Council's assumed concurrence.

### SEPP11 – Traffic Generating Developments

The proposed development is listed in Schedule 1 of SEPP 11 – Traffic Generating Developments. Accordingly, the application was referred to the Regional Advisory Committee. This matter is addressed in further detail later in this report under traffic.

## Reports from Director Development Services

### SEPP55 – Remediation of Land

This SEPP requires an assessment of the likelihood of contamination of land as a result of previous land uses and the suitability of the proposed development.

A site history review provided by the applicant indicated the land can be considered to be uncontaminated. Council's Environment and Health Unit has raised no concerns in regards to this issue.

#### **(a) (ii) Any Draft Environmental Planning Instruments Applying to the Land**

Council has resolved to prepare a draft LEP to permit the erection of dwellings and dwelling houses in the commercial zones on the ground level. This draft LEP would be applicable to the subject site as it is zoned 3(a) Sub Regional Business. No dwellings or dwelling houses are however proposed as part of this application on the ground floor.

No draft SEPP's have been placed on public exhibition, which are relevant to the subject development however, PlanningNSW have advised that a new SEPP relating to Coastal Development is imminent. This plan is expected to have strict controls in relation to overshadowing of public open space. As this plan has not been publicly exhibited and is not currently in effect, it is not a matter for consideration in the determination of this application.

#### **(a) (iii) Any Development Controls Plans (DCPs) Applying to the Land**

### DCP2 – Site Access and Car Parking

DCP2 sets out the number of car parking spaces required for the various categories of development. It also includes requirements for bicycle parking, public transport and service vehicles.

This plan contains concessions in relation to customer and staff parking. In the case of this development Section 4.11 permits a 20% reduction for staff and customer car parking for the commercial/retail component of the development. Section 4.8 of this plan provides for a 70% reduction for customer car parking for the commercial/retail component of the development. In the case of the 70% reduction this concession can only be applied if: -

- There is adequate parking on the site and in public car parks to prevent a nuisance to adjacent property;
- There is adequate parking on the site and in public car parks or arrangements have been made with neighbours to ensure customers do not use off street parking provided by neighbouring properties.

Section 4.8 also contains a provision which states: -

*“The maximum number of customer car parking spaces that may be provided is that shown in Table 4.9(c) and 4.9(d). Council may consider an application to provide more than maximum number of car parking spaces. Such an application will incur a penalty equivalent to the number of excess spaces provided multiplied by 50% of the amount shown in Contribution Plan No. 23 for cost of provision of car parking spaces in Tweed Heads”.*

The table below provides a summary of car parking requirements for this development.



## Reports from Director Development Services

Land use	Unit	Rate	No.	Spaces	Spaces with concession
Permanent residents	Dwelling	1.5/unit	56	84	84
Tourist residents	Dwelling	1/unit	156	156	156
Tourist residents (employees)	Employee	0.5/employee	10	5	5
Commercial	M <sup>2</sup> GFA	1/40m <sup>2</sup> ground	825	21	6
		1/785m <sup>2</sup> 1 <sup>st</sup>	825	11	3
Retail including staff	M <sup>2</sup> GFA	3.5/100	815	29	9
		0.5/100 (staff)	815	4	3
Restaurant	M <sup>2</sup> dining	1/7m <sup>2</sup>	400	57	17
<b>Total</b>				<b>367</b>	<b>283</b>

The development provides for a total of 409 car parking spaces of which 47 are tandem of stacked spaces. This leaves 362 spaces, which are easily accessible. This satisfies the requirements of DCP2 with concessions which are considered acceptable having regard to the large number of on street and public car parking in the immediate area. The total number of spaces is above that required by the development if no concessions are applied and tandem spaces included. Therefore a penalty or contribution is required for excessive car parking spaces if Council supports the application. Note the provision of additional car parking limits the amount of retail/commercial space at ground level.

DCP2 also requires the provision of bicycle, service vehicle and wash bays within the development. The following table provides a summary of these requirements.

	Unit	Rate	No.	Spaces	Proposed
<b>Bicycle parking</b>					
➤ Permanent residents	Unit	2	56	112	
➤ Tourist residents	Unit	1	156	156	
➤ Commercial	M <sup>2</sup> GFA	1/100	1,650	17	
➤ Retail	M <sup>2</sup> GFA	2+1/200	815	6	
➤ Restaurant	Car park	1/5	17	4	
<b>Subtotal Bicycle</b>				<b>295</b>	<b>24</b>
<b>Service vehicles</b>					
➤ Permanent residential	Unit	1/50	56	1	
➤ Retail	M <sup>2</sup> GFA	1/1,500	815	1	
➤ Restaurant	Restaurant	1	1	1	
➤ Commercial	M <sup>2</sup> GFA	1/200	1650	8	
<b>Subtotal Service Vehicles</b>				<b>11</b>	<b>Approx 4</b>
<b>Car Wash Bay</b>					
➤ Permanent residents	Unit	1/10	56	6	2

In respect of the provision of the above the applicant seeks variations. In the case of bicycle parking it is submitted that DCP2 requirements are excessive and considering the high proportion of tourists staying at the premises it is submitted that they are more likely to hire bicycles on an as needs basis. This argument is accepted and it has been acknowledged in the past that the requirements, under DCP2 for bicycle parking is excessive. The provision of 24 spaces appears reasonable considering each unit will also have available storage areas, which could be used for bicycle parking.

## Reports from Director Development Services

The provision of service vehicle loading areas is also argued to be excessive under the provisions of DCP2. The applicant quotes RTA requirements for commercial developments where the standard is much less and the proposal would comply. This argument is accepted.

In relation to car wash bays a shortfall of 4 exists. The applicant once again puts forward a submission arguing that there are appropriate car wash stations at both the airport and along Minjungbal Drive, which is in close proximity to the development. This argument is considered reasonable and the proposed variation acceptable.

In summary, it is concluded that the development satisfies the requirements of DCP2.

### DCP18 – Tweed Heads

DCP18 identifies a number of precincts. The subject development falls within the central precinct. The objectives of the central precinct are to: -

- develop the core business area as a sub regional business centre;
- provide development incentives that result in high standard of mixed use, commercial and residential development;
- strengthen the town centre by creating an environment for a niche tourism and retail market;
- encourage tourism and residential uses to reinforce the local economy and provide life and vitality to the town centre;
- cater for the retail, business, welfare and social needs of the community;
- provide a safe and attractive pedestrian environment by creating active building frontages at street level, awnings for sun and rain protection, the appropriate provision of street furniture and improved linkages to Jack Evans Boatharbour;
- encourage a local building aesthetic that responds favourably to sub-tropical climate, retain important view corridors and reflects the maritime location and history of the locality.

The DCP states: -

*“In the 3(a) Sub Regional Business zone, mixed land use development should incorporate basement car parking levels with ground floor retail/coffee shop, first floor offices and restaurants, and high density tourist and residential accommodation located in towers above the first two commercial levels.*

*Dining facilities at first floor levels should be encouraged to take advantage of the views to the Boatharbour and Tweed River. Entertainment uses will also be encouraged in the 3(a) zone. Developments such as these will encourage vitality in the core business area and maximise the opportunities created by the streetscape improvements.”*

The proposed development generally contains the development mix encouraged by this plan except that commercial and restaurant uses are not provided on the first floor, but -

## Reports from Director Development Services

---

townhouse development is proposed. The issue of commercial and restaurant uses on the first floor was discussed – including with Council’s Consultant Architect: Peter Richards. These discussions concluded that 2 storey townhouse development above ground level fronting Wharf and Bay Streets reinforced the street grid. This was seen as having greater merit than providing offices and restaurants at first floor level as these were acknowledged to have little chance of commercial viability.

Concern is however raised to the limited amount of ground floor retail/commercial floor space provided by the development in context with the objective of the area being a sub-regional business centre. It should also be noted that the applicant has lodged a rezoning application to allow the 1650m<sup>2</sup> of commercial floor space fronting Stuart Street to be used as residential accommodation which if successful would further reduce the commercial floor space within the development.

### View Corridors

Critical view corridors are identified in the DCP. A small area of the site at the corner of Wharf and Bay Street falls within a key view corridor between Razorback Hill and the ocean and horizon beyond Flagstaff Hill. At this point, the development is 3 storeys in height and does not significantly encroach into this corridor. The majority of the site is outside the identified view corridor. The towers are the structures that have the potential to most significantly affect views, and those would be located outside the identified view corridor.

### Floor Space Ratios

DCP18 sets a floor space ratio of 2:1 for the subject site and a maximum of 4:1 with the use of bonuses as prescribed in the DCP. These provisions are the same as contained within TLEP 2000 and have previously been discussed in this report. As explained above, it is considered that the floor space ratio of 3.9:1 as proposed by the development has not been fully justified in terms of bonuses particularly in relation to tourist accommodation.

### Building Envelopes

DCP18 requires that all buildings comply with the height limits set up under TLEP 2000. The proposed development exceeds these height limits and has been discussed previously in this report.

Setbacks from property boundaries are controlled by building envelope criteria contained in the DCP. The envelope is established by projecting an 8m vertical line up from the property boundary. This establishes the maximum heights, which a building podium can be built up to the street edge, the line is then projected over the property from the top of the 8m vertical line at an angle of 72 degrees. This ensures that a building is setback 1m for every 3m of building height. Any part of the building higher than 8m must be setback a minimum of 4m from the property boundary, regardless of the building envelope provisions.

The building setbacks, established by the building envelope criteria, are generally complied with by the proposed development, with the exception of a small encroachment for the townhouses along Wharf Street and Bay Street. This encroachment is by virtue of exceedence of the 8m podium limit prescribed by the DCP.

## Reports from Director Development Services

---

The encroachment is justified as the townhouses provide a positive design contribution to the street frontages and increasing their setback will not alter the design outcome. This is illustrated on the building section plans.

### Commercial Facades

DCP18 generally requires all buildings in the business zone to be built up to the street edge. This reinforces the streetscape image and provides a sense of continuity in the streetscape.

The retail components of the proposed development would be built to the street edge in accordance with the DCP. However, a setback varying from 1.5m to 10m is proposed for the commercial units in Stuart Street. The applicant submits that the setback is consistent with the character of Stuart Street. Stuart Street is not a typical commercial street, being distinguished by its tree line edge and the school on the western side of the street. This is considered acceptable.

The proposed development occupies a large percentage of the existing commercial area north of Bay Street. It would essentially create a new streetscape with the demolition of a significant number of existing old commercial buildings along Wharf Street and extending into Bay Street.

### Design Elements

DCP18 requires buildings at street level to comprise an active and open shop frontage, comprising of display windows and entrances. Expansive blank walls are not permitted as these do not encourage an active streetscape. A continuous awning for the full extent of a building street frontage should be provided for pedestrian shelter and to protect shop displays.

The building design satisfies these commercial design elements by providing: -

- active shop fronts, comprising display windows and entrances
- a continuous awning is to be provided adjacent to the retail uses along Wharf Street and Bay Street
- balconies are proposed on the upper levels of the street
- entrances to first floor level commercial uses address the street and are easily identifiable

The DCP also identifies the need to have open and angled shopfronts to promote streetscape diversity and character. The shops proposed in the development have open frontages and other design treatment to create individuality. The commercial premises would also have design treatments to identify individual tenancies.

### Residential Design

- Building Mass

The design satisfies the building mass provision of the DCP, by ensuring that any wall or face of the building does not have a continuous, unbroken length of more than 15m.

## Reports from Director Development Services

---

The eastern and southern facades of the east building and the eastern and western facades of the west building are the most critical in terms of impact on the public realm.

The facades are articulated by variations in building setback and the use of balconies. These create interest and reduce the apparent bulk of the building.

Both towers feature contrasting materials and colours, which has the effect of giving the lower level of the development a stronger relationship to street level while further reducing the overall visual bulk.

The amended design also provides separation between the 2 towers allowing daylight to be seen between the buildings when viewed from the east and west. This assists in reducing massing on the overall site and is considered acceptable.

- Energy Efficiency

The development achieves acceptable energy efficiency standards. The applicant has submitted NatHERS Certification for each unit demonstrating a minimum 3.5 star rating under the National Housing Energy Rating Scheme.

- Wind Mitigation

A wind environmental study has been prepared for the proposal. Environmental wind effects can be caused by one or all of the following:-

- High exposure location
- Downdrafts caused by higher winds at higher elevation being directed down to the base of the building
- Channelling of the wind through relatively small openings in large areas

In relation to this development the report identifies the podium level would be subject to wind conditions, which are likely to exceed an acceptable level for comfortable walking adjacent to the building. These areas are private terraces and are not for general public use. Also, the use of tall trees with substantial foliage around the tower perimeter reduces wind gust speeds. At entrances to the towers, covered walkways would provide the required protection.

A canopy would restrict the downdraft flowing into the retail area on level 1. No other public area, footpaths or retail areas are likely to be greatly affected by downdraft from the towers. The report identifies further assessment of the concentration of wind in the covered plaza on level 1 of the east tower may be required, as design details are developed.

The report concludes the proposed development is likely to produce acceptable wind for both the public and tenants. With the use of standard screening techniques as suggested in the report areas of concentrated wind speed would be reduced. Any approval would need to be conditioned to comply with this report.

## Reports from Director Development Services

---

- Overshadowing

The DCP requires buildings to be designed to minimise overshadowing of all public reserves, with particular consideration to be given to mid winter shadow effects.

The applicant has provided shadow diagrams and a shadow analysis assessing the impact of overshadowing on Chris Cunningham Park located to the east adjacent to Jack Evans Boatharbour. This analysis demonstrates that minimum overshadowing of the reserve will occur in mid winter (0.1% of the reserve will be affected). In terms of DCP18 the development is considered to satisfy this clause.

- Roof Lines

A number of different levels are incorporated into the roof design. The design features include inclined roofs to cap off the towers. Lift over-runs and service plant rooms are integrated within the roof design.

- Privacy

DCP18 requires the design of buildings to have regard to privacy. Direct overlooking of main internal living areas above the dwelling is to be minimised by building layout, location and design of windows and balconies, screen devices and landscaping. The proposal has been designed having regard to this issue with the design and orientation of balconies to maximise privacy. Walls are to be provided on the sides of the balconies to intercept views into main internal living areas of other units.

With respect to aural privacy, concrete floor construction would limit sound transmission between units.

- Security and Surveillance

Shops, restaurants and commercial premises are oriented within the development to provide casual surveillance of the street and also to a limited extent the public walkway through the site.

Pedestrian access to the site will need to be clearly delineated and lead directly from the street to the lobby. The access paths, lobby and lift area would need to be well lit to compliment existing street lighting.

Minimal recesses have been provided in the pedestrian thoroughfare, to eliminate opportunities for concealment. Landscaping of these areas are proposed to be restricted to low growing plants. Further, seating in this area is to be provided to discourage loitering. The applicant has agreed to the deletion of tenancy 11 (commercial tenancy) fronting Stuart Street which will open up the entrance to the pedestrian thoroughfare and provide better pedestrian surveillance. Should Council wish to approve this development a condition of consent should be for the deletion of this tenancy.

The applicant has indicated security measures will be implemented to ensure that only residents, holiday guests and visitors are able to access lifts. A security gate

## Reports from Director Development Services

---

will be provided to the entry of the basement car parking level. Car parking areas would also be provided with security lighting. Security cameras are also proposed to be installed throughout both of the buildings and public areas to monitor activity. Security and surveillance provisions are considered satisfactory.

- Material and Colours

Materials are to be a combination of rendered cement, aluminium, steel, timber and glass. They will be utilised to highlight key elements and create interest in the façade. Low reflectivity glazing is to be used.

Both towers feature changes in colours and materials at level 10. This aims at creating a stronger relationship at street level and reduces the visual bulk of the development.

- Access and Parking

See comments under the heading DCP2.

- Open Space and Balconies

The proposed podium level landscaping and common recreation areas comprise approximately 4240m<sup>2</sup>. The townhouses have a balcony area of 20m<sup>2</sup> and 33m<sup>2</sup> and access to common recreation area.

Units above the podium level have balconies and roof terraces ranging in size from 15m<sup>2</sup> to 150m<sup>2</sup> (including roof terraces). All unit balconies significantly exceed the minimum area dimension requirements specified in DCP18. All balconies are directly accessible from internal living areas as required by the DCP.

### DCP39 – Energy Smart Homes Policy

DCP39 requires all residential units within the development to achieve a 3.5 star energy rating under the NatHERS accreditation scheme. The applicant has submitted a NatHERS assessment certifying that each unit will achieve this 3.5 star rating.

In addition, DCP39 requires hot water systems to achieve a 3.5 star rating as well. The applicant has indicated that it is intended a gas hot water system will be utilised which achieves this 3.5 star rating.

The proposal is considered to satisfy the requirements of DCP39.

### DCP45 – Socio-Economic Impact Assessment

This DCP sets out the type and scale of the proposal, which requires the preparation of a socio-economic impact statement and the information, which would be included in the statement.

The socio-economic impact statement is required to accompany the development application of this size. A statement has been provided with the application by the applicant and has been considered and assessed as part of this report under the heading TLEP 2000 Clause 17 considerations.

## Reports from Director Development Services

---

(a) (iv) **Any Matter Prescribed by the Regulation**

**NSW Coastal Policy 1997**

The subject land is within the area covered by the NSW Coastal Policy. The Policy contains a number of strategic actions in relation to development control. These are set out in table 2 and 3 of the Policy.

The principle of most significance to this proposal relates to Strategic Action 3.2.4 with respect to overshadowing of water front open space. The principles contained in this policy are primarily the same as those contained in the NCREP which have previously been discussed under the heading of Clause 32B(4)(a) of that Policy.

This assessment concluded that the extent of overshadowing is significant and the net increase as a result of the additional height above 50m AHD is unacceptable. The application is considered to be generally consistent in respect of all other matters contained in this Policy.

**Demolition**

Clause 92B of the Environmental Planning and Assessment Regulation requires consideration be given to demolition works associated with development. The subject proposal involves the demolition of a number of existing older style shops, which are located on the site. Should Council approve this application a condition of consent shall be that all demolition works are to comply with Australian Standard AS2601-1991. This involves the submission of a demolition management plan.

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

**Context and Setting**

The subject site is located in the central area of Tweed Heads just south of the Queensland/NSW Border. Twin Towns Resort is constructed in the same sector of Tweed Heads and is located to the north. This building has a height of approximately 57.9m AHD. A similar tower is also approved just south of the Twin Towns building between the proposed development, and will be of a similar height when constructed.

The site is flat and is bordered by Wharf Street, Bay Street and Stuart Street and currently contains older style single and two-storey commercial/retail development. The development will result in a large percentage of existing buildings in this area being demolished with the exception of "Dolphins Hotel", "Whitehall Lodge" and some commercial premises fronting Bay Street.

Jack Evans Boatharbour and Chris Cunningham Park are located on the opposite side of Wharf Street to the east. This park is highly utilised by tourists and locals and provides a range of recreational opportunities.

The proposed development will significantly change the landscape in the immediate area with the erection of two 60+ metre towers and the resultant overshadowing of the park area in mid summer. The development will result in the extension of the existing tall building precinct along the Queensland/NSW Border further to the south.



## Reports from Director Development Services

---

The increase in height above 50m AHD is not considered acceptable having regard to the existing planning controls, historic height limits and increase in overshadowing of the reserve. The existing planning controls and height limits in the area and the historic basis for the establishment of these limits has previously been discussed in this report.

### Access, Transport and Traffic

As part of the application the applicant provided a traffic report. This report along with the application was referred to Council's Traffic Engineer and the RTA for comment. The Regional Advisory Committee of the RTA met on 5 May 2002 and provided the following comments in relation to the application: -

*"This proposal was resubmitted for consideration by the Committee.*

*Following the reviewed development proposal the following is noted: -*

- There is a reduction in scale of the proposed development by 63 units*
- The main access to the site is to be provided through Stuart Street with one way traffic flow through Navigation Lane from Stuart Street to Bay Street*
- The Navigation Lane at Bay Street intersection is to be left out only. The Bay Street median should be extended across Navigation Lane to reinforce this proposal*
- Intersection analysis indicates a minimal delay for right turning traffic from Bay Street to Stuart Street. However, to promote Stuart Street as the main access to the site and maintain a suitable level of service into the future, a roundabout should be considered at this junction*
- The set down area should be extended to provide bus and taxi pick up and set down considering the tourist component of the residential accommodation*
- The bend in Navigation Lane will not accommodate articulated vehicles*
- Tenancy 11 obstructs continued natural surveillance from Stuart Street of the pedestrian pathway through the site. This may restrict night time use by pedestrians"*

Council's Traffic Engineer provided the following comments in relation to the proposal:-

*"The traffic report provided with the development application provides adequate information and demonstrates that all the affected intersections are capable of absorbing the traffic generated by the development.*

*The change to the traffic flow direction in Navigation Lane is supported as it is a more direct route for vehicles accessing from the north, has little impact on vehicles accessing from the south.*

*Following is a list of issues that need plan amendments and/or appropriate conditions to be drafted.*

## Reports from Director Development Services

---

### 1. Site Distance

*Site distance must be provided at the car park entrances/exits that comply with DCP2 and AS2890 (Figure 3.3) requiring a "site triangle" of 2m wide by 3m long. Revised plans required as parking layout will be affected.*

### 2. Splaying

#### *a. Navigation Lane/Bay Street*

*A 3m x 3m splay is required on the corner to provide visibility of pedestrians. This will impact on the retail shop area but the unit/townhouse on the first floor can overhang the ground floor splay.*

#### *b. Kerb Blisters*

*All proposed kerb blisters in Bay Street and Stuart Street at the parallel parking bay should be splayed at 45 degrees to allow easier access and egress from the end spaces.*

### 3. Stack Parking

*Planners need to determine if the extent of 'stacked' parking complies with DCP2.*

### 4. Construction

*A condition needs to be applied advising that any consent issued does not include approvals for "hoardings, footpath, occupation or any other construction related activity with the adjoining public road reserves". The applicant/owner is to make separate application for such requirements and a construction/phasing plan needs to be submitted and approved by the Director of Engineering Services prior to work commencing. The plan is to include details of proposed hoardings (and DA applications); traffic control plans and pedestrian control plans.*

*No part of the Wharf Street road reserve (footpath) will be permitted to be occupied for construction purposes other than approved hoardings.*

### 5. Street Lighting

*Navigation Lane and the proposed public paths/walkway through the site are to be provided with street lighting complying with AS/NZS1158.3.1 category P2 and the lighting design plan is to be submitted to Council for approval prior to installation.*

### 6. Plans

*Detailed engineering design plans for all works shown within public roads are to be submitted and approved by the Director of Engineering Services prior to construction. Such plans are to include details of materials and finishes proposed for all civil works, signage and line marking (complying with RTA NSW standards).*

### 7. Service and Garbage Vehicles

*The proposed development shows that garbage (assumed by industrial bins) will take place on public roads being Navigation Lane. The lane is narrow, carries all*

## Reports from Director Development Services

---

*traffic to and from the car parks and has no footpath areas. Clearly there are potential safety issues as industrial bins are pushed onto the road and obstructing it and then whilst the trucks park and lift bins to empty them.*

*DCP2 car parking facilities clearly requires these activities to occur on site (see DCP2 – 2.2(b); 3.71; 3.76). It should be noted the Twin Towns Tower appears to accommodate garbage pickup on site in a purpose built service area. Obviously to accommodate this design changes would need to be made.*

*I am aware that the waste contractor and Council's Management Co-ordinator have advised the proposed system is satisfactory. It is not surprising that the contractor supports on road loading as it is simpler and faster than having to enter the private property where the vehicle would have to manoeuvre.*

*While the comments of the above are noted, they are not of the relevant officers to make such decisions and are obviously unaware of Council policy in DCP2 and RTA guide to traffic generating development and Australian Standard AS2890.2 – Commercial Vehicles Facilities.*

*I do not believe there are any arguments presented that are sufficient to approve a design that is non compliant with Council policy and Australian Standard and to do so in this instance creates obvious potential for conflict between the garbage trucks, cars and pedestrians.*

*A redesign is required to accommodate garbage services on site.*

### 8. On Street Parking

*The traffic report in Appendix J implies that the car bays on Stuart Street and Navigation Lane can be used as loading zones. This may be so in Navigation Lane as the indented bay is on private property and is creating a new facility.*

*In Stuart Street the so-called indented bay consumes existing on street parking and given the DCP 2 requirements for on site services, the Stuart Street frontage will not be approved as a loading zone but is either a non parking zone which enables cars and buses to set down and pick up or a 5 or 10 minute parking zone.*

*The Regional Traffic Committee's suggestion to increase the Stuart Street intended bay is not supported, as a bus zone exists around the corner in Bay Street.*

*The applicant should be advised that a loading zone will not be approved on the Stuart Street frontage.*

### 9. Bus Parking

*As the development will have a high percentage of holiday units, it is likely that bus tours will be utilising the accommodation. However, the proposal does not consider bus parking facilities.*

*The potential need can be addressed by designing an indented bay on Navigation Lane to accommodate a bus.*

## Reports from Director Development Services

---

*This also means Navigation Lane will need to be able to cater for buses and the 90 degree bend needs to be splayed to allow buses to negate the bend. In this regard a revised plan should be submitted demonstrating bus compatibility.*

### 10. TRCP

*The figures presented in Appendix J show that the sum of the previous (existing uses) potentially generate more vehicle trips per day than the new development. All calculations have been based on the TRCP generation rates and are valid.*

*Therefore, no TRCP is payable for the development.*

### 11. Regional Traffic Committee

*The request for a median in Bay Street is not justified nor is a roundabout at Bay and Stuart Streets based on the traffic analysis provided.”*

### **Comment**

In general the traffic arrangements proposed by the development are satisfactory subject to some minor detailed design changes as reflected in both the RTA comments and Council's Traffic Engineers comments. The two issues of most significance is the provision of a roundabout at the corner of Bay and Stuart Street as suggested by the RTA and the second being the need to provide on site facilities for servicing of garbage as raised by Council's Traffic Engineer. Having regard to Council's Traffic Engineers comments in relation to threshold traffic numbers, it is indicated that there is no direct demand generated by this development for the provision of a roundabout at the corner of Bay and Stuart Street. On this basis it is concluded that this requirement would be unreasonable and could not be justified. The applicant has provided amended plans demonstrating that garbage service vehicles can enter and service garbage facilities on site.

In terms of car parking the proposal satisfies or provides in excess the number of spaces required by DCP2 after applying the applicable concessions under this plan. Stacked parking provided as part of this development is in excess of that required by DCP2. (79 in excess are provided not including stacked parking). The suggested amendments by Council's Traffic Engineer are considered to be able to be accommodated without the loss of significant numbers of car parking spaces which would result in non compliance with DCP2. Therefore, it is considered reasonable to condition these design changes if Council felt it appropriate to approve the proposal.

### Public Domain

The proposed development will substantially change the existing public domain in the area, both in the positive and negative.

The site or precinct currently lacks vitality and activity largely as a result of commercial premises relocating to Tweed Mall at the time it was constructed. Many of the shops/commercial premises on the site are currently vacant and dilapidated. This development will rejuvenate the area in terms of providing new buildings and a new streetscape bringing people back into this precinct.

## Reports from Director Development Services

---

The design of the development attempts to minimise the impact of the two tower complexes on the immediate streetscape by setting back the towers towards the centre of the site and providing active shop fronts and a podium with town houses addressing the street. The main tower fronting Wharf Street has a curvilinear façade moving away from the street and is intended to contain finishes and colours to minimise the visual presence of the building at street level.

A pedestrian pathway is proposed between the corner of Stuart Street and Bay Street moving through to Stuart Street allowing a more direct link for pedestrians moving between Tweed Mall and Coolangatta.

In the immediate area of the development it is considered the public domain will be significantly improved as a result of the development.

As you move away from the development, particularly into the Jack Evans Boatharbour precinct, it is considered the public domain of this area will be changed as a result of the presence of the two tower complexes. The towers will obscure views to the west from Jack Evans Boatharbour and will have a dominating presence when viewed from this precinct. In addition, during mid summer overshadowing of this reserve will occur in the later hours of the day in summer. The presence of the two towers and resultant overshadowing will impact on the open ambience of this precinct.

### Utilities

The proposed development will be serviced by existing utilities within the area. The applicant has provided a infrastructure assessment which demonstrates that adequate services are available to service the development.

### Visual Impact

The visual impact of the development is primarily a function of its locational context, bulk, scale and aesthetics.

The proposed buildings would be visible from foreground, middle ground and background viewing ranges. The view from north Jack Evans Boatharbour and a perspective of Wharf and Bay Street has been provided by the applicant.

The proposed development is located in the central commercial area of Tweed Heads where tall buildings are potentially allowed by the relevant planning instruments - TLEP 2000 and DCP18. Visual impacts are inherent in these areas, where taller buildings are permitted and encouraged. The building design is critical in managing impacts.

The development will not adversely affect any key view or vistas as identified by the Commission of Inquiry which was held in 1982 when viewed from Razorback Hill. Development within Coolangatta forms a backdrop to the site, when viewed from the south and south-east. The maximum building height in Coolangatta is 25 storeys and contextually, the proposed development would be compatible with the bulk and scale of existing and likely future development within that area.

The key issues in assessment of the visual impact of the proposed development are: -

## Reports from Director Development Services

---

- The towers would be outside the key view corridors identified in DCP18 and the Commission of Inquiry.
- Design elements have been included to reduce the apparent bulk of the buildings, including: -
  - articulation of facades (variations in building setbacks and use of balconies)
  - curvature of the buildings
  - change in colour and materials
  - the use of inclined roofs to cap the towers
  - incorporation of pergola type structures and changes in levels
- The site is in the core of the Tweed Heads CBD where more prominent buildings would be expected
- Taller buildings in Coolangatta form a back drop to the site

The visual impacts of the proposed development are considered on merit to be acceptable.

### Views

The site is located outside key view corridors identified in DCP18, however, there would still be some impact on views from residential areas to the south, south west and south east. These impacts are largely unavoidable, given the planning controls, which apply to the area. Due to site topography, and the topography of surrounding areas, the difference in view impacts from 57.9m high building compared to a 50m high building would be negligible.

The proposed development is designed to ensure that views over Chris Cunningham Park and Jack Evans Boatharbour from the Twin Towns Resort are largely retained.

### Construction Considerations

A development of this scale has the potential to significantly impact on existing buildings and the public realm during the construction period. A detailed construction management plan would need to be submitted prior to commencement of work and approved by Council should Council wish to approve this development. This plan would need to address pedestrian movement and safety around the development, traffic disruptions as a result of the development and the possible loss of car parking in the immediate area during this period. Should Council wish to approve this application, a specific condition should be placed on any approval requiring construction workers to either park on site or in the public car park located at the top of Bay Street rather than utilise the on street parking immediately adjacent the development site so as to minimise the impact on other small businesses in the area.

### Crime Prevention

Consideration has been given to surveillance and security in the complex as detailed earlier in this report. Lighting will be of utmost importance in the more secluded areas adjacent the basement car parking levels and within the pedestrian pathway through the

## Reports from Director Development Services

site adjacent the commercial tenancies on the western side of the site. Shops have been designed so as to be able to address the internal pathway on the eastern side of the site. It is considered measures which have been indicated by the applicant and the design of the building is satisfactory in terms of minimising the risk of crime as a result of the development.

### Social and Economic Impacts

The social and economic impacts of the proposal have previously been assessed under the heading TLEP 2000, Clause 17.

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

#### Impact of the development on surrounding development

Properties which directly adjoin the existing development site will be those most impacted from the proposed development. Of specific interest is the impact on Whitehall Lodge located on the corner of Stuart and Bay Street and also the Dolphin's Hotel site which fronts Wharf Street and is located to the north of the development site. Whitehall Lodge and the adjoining businesses along Bay Street will be the most significantly affected by the proposal as a result of overshadowing and loss of development potential as a result of the proposal. The applicant submits that the impact on the existing Whitehall Lodge building from overshadowing is minimal in terms of net increased impact due to an existing courtyard wall which largely results in overshadowing of the courtyard area of this premises during daylight hours currently. This would appear to be the case from a site inspection.

Future development opportunities of the Whitehall Lodge building will be compromised by the current proposal in that opportunities to gain views and provide a north east aspect to any future development on this site will be largely lost. It should however be noted that the owner of this premises has not objected to the proposal. Opportunity would still be available for the development of commercial/retail development on this site and some residential accommodation, which would need to be orientated towards the west, south or south east. Therefore, it is concluded that the development potential of the Whitehall Lodge site is not totally compromised.

Opportunity will still exist to develop or redevelop the Dolphin's Hotel site with views to the north, east and south east being available. Any future development of this site would need to be contained within the building envelope and have regard to the Latitude 28 development if constructed. It is considered likely that any future development of this site after the construction and occupation of the Latitude 28 development will generate significant public opposition due to loss of views and issues relating to amenity of residents in the western tower. These issues would need to be addressed on merit at the time Council was determining any development application.

From a planning and urban design perspective it would be preferable the block as a whole was developed as one however the commercial realities makes this difficult to achieve.

In relation to impacts on development further afield, the location, orientation etc of balconies contained in Latitude 28 have been designed so as to minimise the extent of

## Reports from Director Development Services

---

overlooking and loss of privacy to these surrounding developments. Overall the proposal is considered satisfactory in this regard.

### Hazards

A preliminary geotechnical investigation has been completed and forms part of the application. The report provides recommendations in respect of boundary support, basement retaining walls, earthquake effect, building foundation and basement construction. A number of options are provided in respect of foundation types. Geotechnical issues do not appear to be an absolute constraint to the development. Should Council wish to approve the application any consent should be conditioned to comply with the geotechnical report and prohibit the use of sheet anchors on public land.

A contamination report has also been prepared for the site to identify whether the site contains contaminated soil. This report listed the historic uses of the site since 1940 as:-

- Stuart Street – residential and retail (supermarket and furniture for the site frontage)
- Bay Street – post office and retail
- Wharf Street – retail (department store)

The report indicated that there have been no known uses of the development site, which might give rise to an expectation of contamination. The potential risk therefore does not appear to warrant any further site investigations.

An acid sulfate soil management plan has been prepared for the site. This issue has been addressed earlier in this report.

The demolition of the existing buildings on site will result in the generation of domestic waste. The applicant has indicated that this waste will be taken to one or two common storage locations.

The development will also involve the excavation of a basement and removal of approximately 24,000m<sup>3</sup> of solid cut. This is intended to be disposed of at an approved location. Should Council support the application this should be conditioned as part of any consent along with a heavy haulage contribution.

The construction and operation of the development has the potential to generate pollutants both during construction and upon operation of the proposed development. A plan has been prepared for sediment and erosion control during construction and stormwater quality management during the operational phase of the proposed development.

The erosion and sediment control plan contains the following measures: -

- Provision of silt fences and wind erosion fences (construction site fencing) around the boundary of the site
- Provision of a truck shake down area(s)
- The installation of a stormwater sediment and oil removal device in the basement



## Reports from Director Development Services

- Treatment of water from the dewatering process prior to release into the stormwater drainage system

Permanent measures for the detention and treatment of stormwater are to be implemented. These measures include: -

- Potential sediment loaded flows from the building roofs, garden and walkways and possible oil polluted flows from car parks and driveways, would be directed into a stormwater quality treatment system
- The stormwater quality treatment system would be designed and sized in accordance with Managing Urban Stormwater – Treatment Techniques (EPA 1997). Alternatively, proper treatment devices may be used if their performance is equal to EPA requirements
- Treatment of car wash bay waste prior to discharge to sewer

A separate approval under Section 68 of the Local Government Act would be required for the above devices.

Council's Stormwater Engineer has raised no objections to the proposed treatment and management of stormwater from the site.

Drainage from the site is intended to be piped following treatment to the existing stormwater drainage network, which discharges into the Tweed River. Council's Stormwater Engineer has raised no objections to this concept.

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

#### Public Submissions Comment

The subject application has been advertised and placed on public exhibition a total of 3 times since the lodgement of the original application. The original application was twice placed on public exhibition, the first time being for a period of 28 days and the second being for a period of 30 days as an Integrated Development Application.

At the conclusion of these two exhibition periods, a total of 12 submissions were received (10 from the original exhibition and 2 from the second) in response to the original proposal. Seven of the submissions opposed the original proposal and four supported the original proposal and one raised a number of issues for and against the proposal.

The issues raised against the original proposal may be summarised as follows: -

- The buildings are rectangular, bulky and box like in appearance.
- The development exceeds the 50m height limit under TLEP 2000.
- Object to a high rise development in this area. This area should be developed for low rise to maintain views of hills in the background.
- Views to the Boatharbour from the west will be totally lost.
- The development should be limited to a height of 3-4 storeys. The current proposal is excessive.

## Reports from Director Development Services

---

- The development will result in increased noise levels in the area.
- Building heights are excessive. Do not want another Surfers Paradise.
- The development will result in increased traffic.
- The development will overshadow the adjacent foreshore area and does not comply with Clause 32B of the NCREP.
- Commercial space should be provided on the second floor and will result in a net loss of commercial space in this area.
- Poor design and appearance.
- Does not comply with a number of requirements of DCP18.

### **Comment**

Many of the issues against the original proposal are considered valid, particularly in regards to the appearance, bulk, scale and design of the development. The amended proposal currently being considered by Council has responded to many of these design issues.

Issues in relation to height and overshadowing of adjacent open space have been addressed previously in this report. These issues have not significantly changed from the original proposal to the current amended proposal being considered by Council.

Reasons for support of the proposal may be summarised as follows: -

- The development will result in the revitalisation of the Tweed CBD area.
- The development will meet the need for residential accommodation close to the Boatharbour, Clubs and town centre.
- The submission to increase the height limit above the 50m AHD should be supported on the basis of precedence in relation to Twin Towns Tower.

### **Comment**

The redevelopment of this area is supported in terms of the revitalisation of the central Tweed CBD area and the provision of a mix of residential and tourist accommodation in this area. Issues in relation to increased height above the 50m AHD have been discussed previously in this report.

In response to community concern the applicant submitted an amended proposal, which is currently before Council for consideration. This amended proposal was re-advertised for a period of 30 days. At the conclusion of this exhibition period, three submissions were received. Two in support of the proposal one of which contained a petition from both the Proprietors of Tweed Mall and the Tweed Heads Chamber of Commerce and one objecting to the proposal.

Neither of the submissions in support of the proposal gave reasons why they supported the proposal. The petition contained 99 signatures.

## Reports from Director Development Services

---

The submission objecting to the proposal was concerned regarding the excessive height of the building and stated that they believed the building should be limited to 3-4 storeys.

The submission objecting to the proposal and the reasons given cannot be supported on the basis that the height controls for the area has resulted from extensive consultation over a 20 year period.

### Public Authority Submissions

The application was identified as integrated development requiring a licence from the Department of Land and Water Conservation (DLWC) pursuant to Part V of the Water Act, 1912 for the purposes of temporary dewatering for construction purposes. DLWC responded by letter dated 4 July 2002 and provided the following comments in relation to the proposal: -

#### "Ground water

1. *DLWC requests no further information in respect to ground water impacts at the site.*
2. *As interpretations were undertaken with respect to a 3 month time period and no construction period has been proposed. DLWC is willing to issue a licence under Part V of the Water Act, 1912, for the purpose of a temporary dewatering for construction purpose, for a period of 3 months with conditions as detailed in the attached conditions statement.*
3. *As no total volume for extraction has been proposed the volume allocated for the temporary licence will be 566 mega litres for the period of the licence. This has been determined using the average extraction rate of 7.25 litres per second over the 3 months.*
4. *Council must note that water quality testing of the site has shown relatively low levels of pH and high levels of aluminium. Council is advised of its responsibilities for ensuring (through the proponents) that any discharged water from the site is compatible to receiving water under Section 120 of the POEO Act.*

#### Acid Sulfate Soils/Potential Acid Water Discharge

*The amended ASS Management Plan (May 2002) have substantially addressed the issues raised by the Department and is now generally satisfactory. However, the following are required: -*

1. *The practical issue of the incorporation of lime into the indurated sands has not been addressed in the ASS Management Plan. All indurated sands require crushing to fine particles prior to neutralising with lime.*
2. *The practical issue of treating the discharge as a result of dewatering has not been addressed. The ground water will require treatment before discharge (eg. Water of pH less than 5.0 will require raising to between pH 6.5-8.5), as stated in the Management Plan. Neutralising 30 mega litres of ground water at pH 5.0 will require approximately 11kg of hydrated lime.*

## Reports from Director Development Services

3. *As a result, it is essential that 200kg of agricultural lime is available on site for contingencies, and that a quantity of hydrated lime (or equivalent) is available for ongoing neutralising of the water discharge from the site. The actual quantity of hydrated lime required should be calculated based on the expected volume of discharge over the construction period."*

In their response DLWC provided their general terms of approval as indicated above. Issues raised in regards to acid sulfate soils could be conditioned on any approval Council wished to grant.

(e) **Public Interest**

In considering the public interest Tweed Heads 2000+ Strategy and in particular the objectives of the strategy should be given consideration.

The Tweed Heads 2000+ Strategy was adopted by Council in August 1995 following extensive research and community consultation.

The adopted vision statement in the Strategy is: -

*"To project Tweed Heads as a residential and tourist Mecca providing a variety of cultural, recreational and retail experiences, people friendly streetscapes, attractive building and a choice of accommodation in a naturally beautiful environment".*

The vision, objectives and provisions of Tweed Heads 2000+ Strategy were translated into elements of the TLEP 2000 and the Tweed Heads DCP18 – Tweed Heads. The streetscape improvements that were carried out by Council (approximately \$3M cost) originated in the Tweed Heads 2000+ Strategy.

The thrust of providing the bonuses in relation to the provision of tourist accommodation in the Tweed Heads 2000+ Strategy and as translated in DCP18 is for tourist accommodation that has clearly related common servicing, integrated management and provision of services such as lobby/reception, concierge, games rooms, etc. "Dining facilities" are explicitly encouraged on the first floor or level and with anticipation of servicing the tourist accommodation within the development.

The extent of floor space in the development application relies substantially on the bonuses associated with the provision of tourist accommodation. The justification incorporated into the development application is considered to be not well substantiated and the development application design itself does not provide for the associated management and facilities which would support greater than 75% tourist accommodation. This has been an issue raised strongly during the processing of the development application with the applicant.

This issue is considered critical because of the substantial net additional floor space sought on the basis of these bonuses has consequent effects on the height, bulk, and site coverage of the building on this site. It is considered that the proportion of owner occupied units in this development is likely to be much higher than that purported by the applicant with the percentage of tourist accommodation being much lower.

In addition, the total floor area of new restaurant/shop area constitutes approximately 4% of the total floor area provided by the development. Having consideration of the

## Reports from Director Development Services

---

above in context with the objectives of the central precinct, it is difficult to conclude that the proposal satisfies these objectives. It is concluded that for these reasons the proposal is not in the public interest, as it does not satisfy the underlying vision of the Tweed Heads Central Business District precinct.

### OPTIONS

1. Refuse the application for the reasons recommended.
2. Defer determination of the application and invite the applicant to amend the proposal to comply with the relevant planning controls applying to the site and negotiate an alternative outcome.
3. If Council wishes to support the proposal in its current form, resolve that the Director of Development Services bring forward to the next Council meeting suitable conditions for approval.

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should the applicant be dissatisfied with Council's determination of the application, then an appeal may be lodged in the Land and Environment Court.

### CONCLUSION

Having regard to the above assessment it is concluded that the increase in height above the permitted 50m AHD under TLEP 2000 cannot be justified on the basis of bonuses for tourist accommodation. The additional height will result in additional overshadowing of Jack Evans Boatharbour and Chris Cunningham park above is reasonably expected under the 50m height limit under current and historic planning instruments for this area.

In addition, there will be a significant loss of existing retail space on the site and the mix of employment generating uses and units is not considered to be consistent with Tweed Heads 2000+ Strategic Plan. In conclusion, the application is recommended for refusal.

---

## Reports from Director Development Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
BLANK  
IS  
BLANK

# Reports from Director Corporate Services

**7. ORIGIN:** General Manager

**FILE REF:** GT1/LEP/2000/20 Pt4; GT1/LEP/2000/3 Pt6; LEP - Kings Forest; LEP - Seaside City

**REPORT TITLE:**

**Report of an Investigation under Section 430 of the Local Government Act 1993 Regarding Tweed Shire Council Second Instalment on Seaside City and Related Matters**

**SUMMARY OF REPORT:**

On 23 May 2001 the Director General of the Department of Local Government approved an investigation under Section 430 of the Local Government Act 1993 in respect of Tweed Shire Council.

Part 1 of the Report of Investigation by Mr Robert Bulford, Senior Investigations Officer of the Department of Local Government, as Department Representative was tabled in the New South Wales Parliament and the Tweed Shire Council Ordinary Meeting on Wednesday 20 March 2002; Part 2 of the Report of Investigation was similarly tabled in the New South Wales Parliament and the Tweed Shire Council Ordinary Meeting on Wednesday 19 June 2002.

The recommendation restates the resolution of Council at its Meeting 29 May 2002 relating to Part 1 of the Report of Investigation, and the resolution 1025 of its Meeting of 5 June 2002.

**RECOMMENDATION:**

That Council notes the following as resolved upon at Meeting 29 May 2002 in regard of the Report of Investigation – Part 1:-

1. Resolved that Council responds to the recommendation by Mr Bulford, in view of the documents presented to the Council by Cr Beck, Cr Beck has had no conflict of interest in the matter raised by Mr Bulford and therefore has no case to answer.
2. Resolved that Council advises the Minister for Local Government and the Director General, Department of Local Government that the proposed courses of action outlined in the recommendations, with the exception of recommendation 1, be implemented by Council.
  - a. That Council implements a policy that limits Councillors to attend meetings with developers, their representatives and or consultants, with Council staff in attendance, to discuss the “big picture” matters and perhaps Council’s initial attitude to the prospective project.

## Reports from Director Corporate Services

---

Records/Minutes to record attendances, scope of discussions and outcomes, to be provided to Council.

Such meetings are to be arranged with the knowledge of all Councillors and should be arranged at times to maximise the number of Councillors attending. The most suitable arrangements will be to utilise Council's current Workshop arrangements.

Consideration of the issues being dealt with as part of major developments may require the arrangement, by the General Manager, of a Workshop with Councillors.

Council at its meeting of 5 June 2002 rescinded the motion – Council Meeting Policy re: attendance of Councillors at meetings with developers.

- b. Council will continue with the relevant planning procedures towards the draft LEP for Kings Forest as already taken to the stage of public exhibition of the LES for Kings Forest and the draft LEP.

In accordance with the recommendation the matter will be taken from that point and will not abandon the public exhibition process and the documents thus exhibited.

The exhibited LES and draft LEP will retain that status and be matters for consideration under section 79C of the Environmental Planning & Assessment Act for the purposes of determining any development application.

- c. That Council modifies Resolution 1204 of the Minutes of Council Meeting held 20 June 2001 being

*“Resolved that Council will not accept financial responsibility for any planning consultant's fee unless prior approval has been obtained and recorded and that a written brief must have been issued”*

to read:

*“That Council requires that planning consultants be engaged in accordance with Council's Procurement Policy adopted by Council at meeting held 6 February 2002, and that each engagement must be based upon a written brief.”*

- d. The draft Management Plan and Budget 2002/2005 has provision for two (2) additional planning staff.

The General Manager requires the appropriate Director to develop documentation for Council's consideration to clarify the strategic planning approach to the coastal areas to identify lands not capable of being developed or utilised for urban development.

That this action be specified within the sustainability goals section of the draft Management Plan.

- e. The General Manager to ensure that the Directors liaise to incorporate within the Management Plan an appropriate planning strategy incorporating environmental, social and economic strategy planning aimed at achieving ecologically sustainable development. Reporting to Council to be on a quarterly basis in accordance with section 407 of the Local Government Act.



## Reports from Director Corporate Services

3. That Council resolves the following in regard of the Report of Investigation – Part 2:-
- a. To note that recommendation 1, including 1a and 1b has been resolved upon by Council as reported to the Minister for Local Government and the Director General, Department of Local Government as a result of consideration of Part 1 of the Report of Investigation.
  - b. Require the General Manager to ensure, that in liaison with DUAP (PlanningNSW) that procedures be developed regarding the selection of consultants to act on its behalf in respect of the carrying out of environmental studies and the preparation of any LES or draft LEP for the purposes of Section 54 and 57 of the EPA Act that the following is to form a basis for the procedure:-

Ensuring that any consultation, with the developer, proponent, or owner of lands the subject of a rezoning that needs such a study, LES or LEP, as to which consultant is to be appointed by Council for the purpose, is conducted in such a way that secures the public interest in an open and transparent process and in an appropriate process in terms of examining and assuring relevant planning and environmental issues are duly met.

Any disclosure to such persons of information as to the bids or quotes or tenders that might have been submitted to Council by prospective consultants, and any such consultation, should be made or undertaken in such a way as to ensure that Council's required independence, prerogative and role in choosing and appointing such any such consultant is not compromised.

While it is accepted that any such person who is to contribute to the cost of engaging that consultant for the purpose has a legitimate interest in ensuring that the cost he or she is being asked to pay is an appropriate and reasonable cost, this does not mean that the person in question should have a potential or actual veto or final say as to the choice of consultant (as opposed to a de facto say affecting the outcome). If the person or organization/company asked to contribute to the cost declines to do so, or to provide a contribution to the extent Council considers appropriate, then Council has the option of either discontinuing the process or giving it a low priority, or of proceeding with and paying for the process itself out of its own funds, and the developer or whoever must accept the consequences of this.

Consideration is to be given, where there is properly and reasonably to be consultation as to the prospective consultants to be asked to bid or tender or quote or express an interest, to the person being informed and consulted only as to the identity of the prospective candidates in that regard and to the person, organization/company being asked to agree to that list of candidates.

PlanningNSW is to be involved in the process, whether pursuant to its powers under section 57 of the EPA Act or otherwise, however their role or involvement in respect of the choice of prospective consultant be limited in the same way, that is to say, planningNSW may be consulted and its agreement secured as to the list of appropriate candidates, but should not otherwise be involved in deciding who it is that is to be awarded the contract and appointed as consultant to Council.

Where there is reasonable and properly to consult as to the choice of consultant to be awarded the contract and appointed as consultant to Council, all that is

## Reports from Director Corporate Services

---

disclosed to the person asked to contribute to or pay the cost of engaging that consultant is the identity of Council's preferred candidate and the range of other quotes or tenders, without disclosing the intervening or particular amounts quoted or tendered by other individual prospective consultants and without disclosing the names of those consultants.

Once any such disclosure has been made no further amendment to the specification or brief against which prospective consultants have been asked to quote of tender should be entertained or allowed under any circumstances.

All briefs or specifications issued to consultants to be engaged by Council should include a clause that requires the consultants to provide an undertaking or representation in writing to Council that no actual or potential conflict of interest exists or is likely to arise, or in either such case be seen or be reasonably likely to be seen to do so, in the performance of the proposed work to be undertaken by the consultants, and that forthwith upon any such conflict arising during the course of undertaking such work the consultants shall disclose the same in writing to Council, and seek Council's advice before undertaking any further work.

- c. To note that Council have previously resolved on recommendation 10 (Part 2) as relating to Part 1 as detailed in 2b above.
- d. To seek legal opinion relating to recommendations 11, 12 and 13 and to separately report to the Minister for Local Government and the Director General, Department of Local Government once the legal advice has been received and considered by Council.
- e. To consider the recommendations 14, 15, 16 and 17 consequent upon the outcome of 3d above.
- f. To note that recommendation 18, in reference to the Local Government Act 1993 Section 435, Part (1)(b) provides for the Departmental Representative to give consideration to surcharging given that at Part (3) it is the appropriate authority.
- g. That Council require Cr. Beck to furnish to Council within 21 days advice as to her possible conflict of interest as detailed in the Report of Investigation, having regard to Council's Code of Conduct, Recommendation 19 refers.  
Council is to advise the Minister for Local Government and the Director General, Department of Local Government once an opinion has been formed.
- h. That Council require Cr. Brinsmead to furnish to Council within 21 days, advice as to his participation in and voting of his censure motion of 4 April 2001, having regard to Council's Code of Conduct.  
Council is to advise the Minister for Local Government and the Director General, Department of Local Government once an opinion has been formed.
- i. That Council require the General Manager to carry out an initial investigation and report back to Council at Meeting 21 August relating to any apparent breach of Council's Confidentiality and Section 664 of the Local Government Act 1993. Recommendation 21 refers.

Council is to advise the Minister for Local Government and the Director General, Department of Local Government once an opinion has been formed.

## Reports from Director Corporate Services

- j. Note that Council, in response to Part 1 have modified resolution (Minute 1204, Meeting 20 June 2001) as detailed in 2c above. Recommendation 22 refers.
  - k. Note the recommendation to the Director General, Department of Local Government. Recommendation 23 refers.
  - l. Note the Council resolution to recommendation 24 has been provided as response to Part 1, see 2d above.
  - m. Note the Council resolution to recommendation 25 has been provided as response to Part 1, see 2e above.
4. Note that at Ordinary Meeting 5 June 2002 Council resolved:
- “that Council resolution at Minute No 345 in relation to Item 3 Orders of the Day of the Meeting held Wednesday 17 October 2001 being:-
- “.....that pursuant of the Section 232 of the Local Government Act defining that the role of a Councillor “as a member of the governing body of the Council” is “to direct and control the affairs of Council,” “to play a key role in the creation and review of the Council’s policies,” “to review the performance of the Council and delivery of services,” “to provide leadership and guidance to the community,; and “to facilitate communication between the community and the Council” pursuant also with the General Manager’s initiatives already undertaken to promote a better flow of information and communication between Councillors and staff: and pursuant of Council’s policy to foster a transparent and open process in the planning and development process:*
- Council clarifies its policy and its attitude in respect to meetings or talks with business persons and developers doing business and proposing to do business with Council, as follows:*
1. *It is appropriate that the Mayor and/or any other Councillor attend any meeting of the Development Assessment Panel.*
  2. *It is appropriate that the Mayor and/or any other Councillor should, upon the request of a development applicant (or any other party doing or proposing to do business with Council), meet with such an applicant in talks with relevant Council officers.*
  3. *It is appropriate that the Mayor and/or any other Councillor should, if the need arises, initiate and be present at talks between a development applicant (or any other party doing or proposing to do business with Council) and relevant Council officers.*
  4. *It is appropriate that the Mayor and/or any other Councillor attend talks with any applicant (or any person doing business with Council) and Council officers at the request of Council officers.*
  5. *The Mayor should liaise with the General Manager in all matters involving the Council staff.”*
- was rescinded.”

## Reports from Director Corporate Services

---

### REPORT:

On 23 May 2001 the Director General of the Department of Local Government approved an investigation under Section 430 of the Local Government Act 1993 in respect of Tweed Shire Council.

Part 1 of the Report of Investigation by Mr Robert Bulford, Senior Investigations Officer of the Department of Local Government, as Department Representative was tabled in the New South Wales Parliament and the Tweed Shire Council Ordinary Meeting on Wednesday 20 March 2002; Part 2 of the Report of Investigation was similarly tabled in the New South Wales Parliament and the Tweed Shire Council Ordinary Meeting on Wednesday 19 June 2002.

The recommendation restates the resolution of Council at its Meeting 29 May 2002 relating to Part 1 of the Report of Investigation.

### PART 8

#### 8. RECOMMENDATIONS

I have at various places in or stages of this report made a number of recommendations in respect of concerns or issues as and when I examined or dealt with then. For ease of reference, those recommendations are now collected here and repeated in this section of this report. Other new recommendations are also set out in this section.

Pursuant to my powers under section 433 (2) of the LG Act, I make the following recommendations:

1. That Council should forthwith review and alter its practices and procedures in respect of meetings between applicants, owners, developers or proponents of or in respect of major development projects on the one hand, and members of Council staff and Councillors on the other, in such a way that an open and transparent process is assured or likely to be assured, and in such a way that undue or inappropriate pressure or influence on the Council staff in the carrying out of their professional duties and responsibilities is not brought to bear on those staff, or likely to be brought, or to be seen or capable of being seen to do so. To that end:
  - 1a. The participation of Councillors should be limited to meetings at which such matters as entail the developer or proponent outlining in general terms the prospective project to Council, general discussions as to Council's initial attitude to the prospective project, overview or "big picture" matters, and so on, are discussed or dealt with.
  - 1b. Where matters of legislative requirements and detail are to be discussed, in particular where detailed issues as to the application or likely application of Council's planning policies and instruments or the planning and other related laws to the prospective project are to be considered, Councillors should generally not be involved in the process.
2. That Council should, in consultation with DUAP, as appropriate, forthwith review and revise its practices and procedures regarding the selection of consultants to act on its behalf in respect of the carrying out of environmental studies and the preparation of any LES or draft LEP for the purposes of sections 54 and 57 of the EPA Act, with a view to ensuring that any consultation, with the developer, proponent, or owner of lands the subject of a rezoning that needs such a study, LES or LEP, as to which consultant is to be appointed by Council for the purpose, is conducted in such a way that secures the public interest in an open and transparent

## Reports from Director Corporate Services

---

process and in an appropriate process in terms of examining and assuring relevant planning and environmental issues are duly met. To that end:

3. In particular, any disclosure to such persons of information as to the bids or quotes or tenders that might have been submitted to Council by prospective consultants, and any such consultation, should be made or undertaken in such a way as to ensure that Council's required independence, prerogative and role in choosing and appointing such any such consultant is not compromised.
4. While it is accepted that any such person who is to contribute to the cost of engaging that consultant for the purpose has a legitimate interest in ensuring that the cost he or she is being asked to pay in an appropriate and reasonable cost, this does not mean that the person in question should have a potential or actual veto or final say as to the choice of consultant (as opposed to a de facto say affecting the outcome). Of course, if the person asked to contribute to the cost declines to do so, or to provide a contribution to the extent Council considers appropriate, then Council has the option of either discontinuing the process or giving it a low priority, or of proceeding with and paying for the process itself out of its own funds, and the developer or whoever must accept the consequences of this.
5. It is recommended in that regard that consideration be given, where there is properly and reasonably to be consultation as to the prospective consultants to be asked to bid or tender or quote or express an interest, to the person being informed and consulted only as to the identity of the prospective candidates in that regard and to the person being asked to agree to that list of candidates.
6. It is further recommended that, where in the public interest, and in order to ensure orderly planning and development in the State, it is reasonable or necessary that DUAP be involved in the process, whether pursuant to its powers under section 57 of the EPA Act or otherwise, DUAP's role or involvement in respect of the choice of prospective consultant be limited in the same way, that is to say, DUAP may be consulted and its agreement secured as to the list of appropriate candidates, but should not otherwise be involved in deciding who it is that is to be awarded the contract and appointed as consultant to Council.
7. It is further recommended that, where there is reasonably and properly to be consultation as to the choice of consultant to be awarded the contract and appointed as consultant to Council, all that is disclosed to the person asked to contribute to or pay the cost of engaging that consultant is the identity of Council's preferred candidate, the amount quoted or tendered by that candidate and the range of other quotes or tenders, without disclosing the intervening or particular amounts quoted or tendered by other individual prospective consultants and without disclosing the names of those consultants.
8. It is lastly recommended that once any disclosure has been made no further amendment to the specification or brief against which prospective consultants have been asked to quote or tender should be entertained or allowed under any circumstances.
9. That all briefs or specifications issued to consultants to be engaged by Council should include a clause that requires the consultants to be engaged by Council should include a clause that requires the consultants to provide an undertaking or representation in writing to Council that no actual or potential conflict of interest exists or is likely to arise, or in either such case be seen or be reasonably likely to be seen to do so, in the performance of the proposed work to be undertaken by the consultants, and that forthwith upon any such conflict arising during the

## Reports from Director Corporate Services

---

course of undertaking such work the consultants shall disclose the same in writing to Council, and seek Council's advice before undertaking any further work.

10. That, rather than proceed as Council has to date flagged in its resolution of 16 May 2001, Council should duly proceed forward with the relevant planning procedures towards its proposed draft LEP for the Kings Forest Estate, as already taken to the stage of public exhibition of the LES for the Kings Forest Estate lands and draft LEP in April and May 2001, and take the matter from there, and not abandon that public exhibition process and the documents then exhibited and not start again or go back to documents presented to the stakeholder workshop of 23 November 2000. The exhibited LES and draft LEP should therefore retain that status and be matters for consideration under section 79C of the EPA Act for the purposes of determining any development application.
11. That Council should suspend the process commenced in respect of the undertaking of an environmental study and the preparation of a LES and draft LEP for the Seaside City project for the purposes of sections 54 and 57 of the EPA Act, currently being undertaken through and on Council's behalf by McInnes Group International as consultant to Council.
12. That Council should immediately take action to terminate or otherwise bring to an end the appointment of the McInnes Group International as consultant to Council on the environmental study, LES and proposed draft LEP aspects of the Seaside City project, and that it should do so, after seeking and obtaining appropriate legal and other advice, in such a way as minimises the cost to Council and consequently its ratepayers and the community of doing so.
13. That Council, having terminated or otherwise brought the appointment of the McInnes Group to a close, and if Council wishes to proceed with the process of undertaking an environmental study of the Seaside City lands with a view to a possible rezoning of all or part of those lands, and to do so with the assistance of external consultants, should proceed immediately to revise, in part, the specification for the work (so that what is now required in a rigorous review and re-appraisal of work completed to date, as well as the completion of all other outstanding work contemplated by the revised specification issued on 23 March 2001), secure the agreement of PlanningNSW and Richtech to that revised specification, and then undertake a further limited expressions of interest process before appointing a new consultant to do the job.
14. To this end, that (assuming they are still willing and able to do the work) this entail only going back to two of the four consultants who were on the short list (i.e. the four who were asked on 23 March 2001 to respond to the further revised brief agreed at Grafton), therefore excluding the McInnes Group and Feros, and inviting them to submit new quotes to do the work set out in the revised agreed specification. An appropriate deadline for responses to be received should be set in such a way that it is both fair and reasonable to the consultants in question, and ensures that the process of getting the environmental study back on track is undertaken as expeditiously as possible.
15. When those bids are in, they will need to be duly assessed and a determination made as to which is the preferred bidder. This assessment and determination can either be made by Council's Director Development Services, Mr David Broyd, and his staff, in accordance with Council's existing delegations and adopted policies and procedures, or by the elected body,

## Reports from Director Corporate Services

---

- but in my view it would be more appropriate for the appointment to be made by Mr Broyd, acting under his delegated powers, and not by the elected Councillors.
16. That on the other hand, if the appointment is made by Mr Broyd, there is no reason why Mr Broyd should not first provide a strictly confidential briefing, for the information of Councillors only, on the process and as to his recommended appointee, if that is considered warranted or required by the Councillors.
  17. That there is no need for Richtech to participate in any hands on way in the assessment and selection process. This is so particularly as, on balance, I do not consider it would be appropriate for Richtech to be asked to contribute any further funds to help pay for the environmental study process. Furthermore, both Richtech and DUAP, as it then was, have participated in and signed off on the process of deciding which consultants should be on the short list. As I believe should have been the case before, so now I recommend that the actual choice of which consultant on the short list should be awarded the contract is Council's, and Council's alone.
  18. That to the extent that any costs, expenses, damages or other amounts are payable to the McInnes Group International, or otherwise incurred by Council (and whether payable to the McInnes Group or any other person, firm or company), as a consequence of or in connection with the termination or ending of its engagement as consultant to Council, consideration be given to the surcharging of each of the 7 relevant majority group or faction of Councillors at the Council, equally between them, as to an amount that in total reimburses to Council the full amount of any such costs, expenses, damages or other amounts as are incurred or payable in respect of the period after the date (4 July 2001) that Council determined, notwithstanding the receipt by it of DUAP's letter of 22 June 2001, to proceed with the process. Without limiting the generality of the foregoing, but by way of clarification, it is recommended that amounts, if any, properly and reasonably payable to the McInnes Group by Council pursuant to the terms of its contract for work done to the date its contract is terminated or engagement ended, or pursuant to the principles of quantum meruit, are excluded in this regard. But amounts that can be identified and that are payable to any new consultant engaged by Council to review and complete the work commenced by the McInnes Group on account or in respect of the process of reviewing such work are intended to be so included. Similarly, any legal costs and expenses payable by Council, whether to its own lawyers or those of others, are also intended to be so included.
  19. That Council should as soon as practicable duly and properly consider the matter of the possible conflict of interest on the part of Clr Beck, in relation to Council's consideration of the appointment of a consultant to undertake an environmental study and prepare a LES and draft LEP on Council's behalf in relation to the Seaside City project, pursuant to its Code of Conduct, and any related document or procedure adopted by the Council in that regard, and determine what action, if any, needs to be taken as a result of any finding that the Councillor has breached that Code of Conduct.
  20. That the matter of Clr Brinsmead's participation in and voting on his censure motion of 4 April 2001 be promptly considered by Council pursuant to its Code of Conduct, and any related policy or procedure adopted by Council, with a view to determining what action, if any, should be taken in respect of any breach of that Code by the Councillor, as appropriate.

## Reports from Director Corporate Services

---

21. That Council takes prompt action to investigate how it is that confidential information in the report of the Director of Development Services to Council's meeting of 18 April 2001 came to be known by representatives of Richtech, and takes action accordingly, as appropriate, in respect of any apparent breach of Council's confidentiality and section 664 of the Local Government Act 1993, against any person or persons involved in that improper disclosure.
  22. That Council review and if necessary revoke its resolution of 20 June 2001 (item 1204 in the minutes of that meeting), having regard to the findings and comments in the report of this investigation.
  23. That the Director General of the Department of Local Government refer the matter of the apparent discrepancies in and questions arising in respect of election funding returns, and the apparent non-lodgement of a return by or in respect of a group apparently known as the Tweed Balance Team, to the Election Funding Authority for its attention and investigation, as appropriate.
  24. That Council consider the allocation of additional resources in the short to medium term to allow comprehensive strategic planning to be done within the existing urban zones adjacent to the coast. Clarification of the strategic planning approach to these areas, including the identification of lands not capable of being developed or utilised for urban development, will give greater certainty in the long term for the community, Council, State Government Agencies and prospective developers. This would facilitate a smoother development application and assessment process.
  25. That Council give due consideration to its strategic land use planning program being clearly specified in its Management Plan, so that it is linked to broader environmental, social and economic strategy planning and therefore the achievement of ecologically sustainable development. It would also be aligned with infrastructure strategies. As part of the Management Plan the strategic land use planning program achievements would be automatically reported to Council on a quarterly basis in accordance with section 407 of the LG Act.
-



## Reports from Director Corporate Services

---

**8. ORIGIN:** Administration Services Unit

**FILE REF:** Councillors - Conferences

**REPORT TITLE:**

**Conference - Beyond the Boundaries - "Solutions for Success", 4-5 September 2002**

**SUMMARY OF REPORT:**

Advice has been received from Mandurah City Council for the Conference Beyond the Boundaries "Solutions for Success" to be held at the Mandurah Performing Arts Centre, Mandurah from 4 to 5 September 2002.

A copy of the program is attached.

**RECOMMENDATION:**

That:

1. Council authorises the attendance of any Councillor/s to the Beyond the Boundaries "Solutions for Success" Conference to be held in Mandurah, Western Australia from Wednesday, 4 September to Thursday, 5 September 2002.
2. The Mayor's Secretary arranges the registration of interested Councillors.

## Reports from Director Corporate Services

### REPORT:

Advice has been received from Mandurah City Council for the Conference Beyond the Boundaries "Solutions for Success" to be held at the Mandurah Performing Arts Centre, Mandurah from 4 to 5 September 2002.

A copy of the program appears below:

#### DAY ONE WEDNESDAY 4 SEPTEMBER

8.00am Registration/Coffee

8.50am **OPENING PERFORMANCE**

9.05am **INTRODUCTION**

**DAVID WADDELL** - Chairperson  
Principal, David J Waddell & Associates

9.15am **WELCOME**

**MAYOR KEITH HOLMES** - City of Mandurah  
**GEORGE WALLEY** - Traditional welcome in Noongar language

9.30am **KEYNOTE ADDRESS**

**DR KEITH SUTER**

*"Sustainable Local Government in a World Without Borders"*

*"Think globally, act locally - and live sustainably."*

This will be the motto for our new century. It will have to be implemented in the context of eroding national borders and increasing concern over environmental decline. Local government has an important role in setting the pace of progress.

10.30am Morning Coffee

11.00am **MICHAEL MALOUF**, CEO Melbourne City Council

*"Triple Bottom Line as a Vehicle for a Sustainable Future"*

The City of Melbourne's experience in integrating triple bottom line approaches into planning and decision making.

11.30am **STEPHEN GOODE**, CEO City of Mandurah

*"Don't Talk About It - Do It"*

Mandurah has experienced a decade of enormous growth. It has not been - "Will we change?" but "How do we change?" so there is a more sustainable city, now and for future generations.

12.00pm Lunch

12.45pm **ANN MACBETH**, Futurist & Principal, Annimac Consultants

*"Making a Difference: Some Good News Global Shifts"*

In our rapidly changing often chaotic times, we rarely hear about the good news, about the shifts helping us move towards that healthy sustainable world we are creating in this dynamic 21st Century.

1.15pm **CHRISTINE GROGAN**, Corporate Planning and Development Officer, City of Albany

*"The City of Albany's Practical Integration of Sustainability"*

How the City of Albany is challenging traditional paradigms and changing its culture through an integrated, practical and balanced approach to sustainability.

1.45pm **SOAPBOX PRESENTATIONS**

1.45pm Menzies Court Holdings

2.00pm Alcoa World Alumina Australia

2.15pm Kott Gunning

2.30pm Shire of Moora

2.45pm Afternoon Coffee

# Reports from Director Corporate Services

- 3.15pm **STREAM 1** Environmental
- IAN DAVIS**  
Environmental Programs Manager,  
City of Melville  
*"Piney Lakes Environmental Education  
Centre"*  
A case study in environmentally  
sustainable building design.
- STREAM 2** Economic
- MICHAEL GLENDINNING & MARK NEWMAN**  
Marketing Manager Director, Strategic &  
Cedar Woods Financial Services,  
City of Mandurah  
*"Turning Environmentally Damaged Land into a  
Sustainable Pot of Gold"*  
Discover how strong strategic planning with a  
corporate partner successfully developed interface  
solutions for a contentious land pocket. The outcome -  
an award winning development that now measures  
up to the quadruple bottom line.
- 3.45pm **PETER TEGART**  
Director, Environment, Planning &  
Administration,  
Eurabadalla Shire Council, NSW.  
*"Integrating Ecologically Sustainable  
Development into Decision Making and  
Reporting for local government"*  
Integrating "sustainability" policy, indicators  
and accounting tools into Council's  
planning and performance regime.
- FRANK PEARCE**  
General Manager, Glenorchy City Council, TAS.  
*"Local and State Government Partnership  
Agreements"*  
The presentation will address the development of  
partnership agreements between the State  
Government and local governments in Tasmania and,  
in particular, the experiences of Glenorchy City  
Council, which was one of the first to enter into a  
partnership agreement.
- 4.15pm Joint Question time
- 4.30pm **THE DAY'S REVIEW** - David Waddell
- 4.45pm **CLOSE**

Network, socialise and watch the sunset from the magnificent foyer of your conference venue. (Delegate cost)

Dinner at Leisure. We offer you ambience and a range of quality cuisine as you dine in Mandurah's favourite places. (Delegate cost)

Optional Tour: Mandurah Ghost Train. An after dark journey to the spooks and spirits of yesteryear. (Delegate cost)

~~DAY TWO THURSDAY 5 SEPTEMBER~~

8.00am

## INTERACTIVE LEARNING SESSIONS

This morning you will have in smaller group sessions the opportunity to discover first hand how successful outcomes were achieved for a range of projects that can be measured against the triple bottom line.

Learning through successful projects not only stimulates your own thought processes, but can offer solid base options on which to build sustainable practices - be challenged by these fresh ideas - concepts which may activate a change in how you address pressing social, environmental and economic issues in your community.

# Reports from Director Corporate Services

**STREAM 1**

Economic  
Facilitator-David Waddell

**STREAM 2**

Environmental  
Facilitator-Joanna Barker

**STREAM 3**

Social  
Facilitator-Ian Hill

9.00am **Learning Session and Interactive Discussion Number One**

**RAY GLICKMAN**

Chief Executive Officer,  
City of Fremantle  
*"Telecommuting-Wake up  
the Future is with us"*  
In this amazing modern world,  
customers are increasingly  
demanding 7 x 24 access, while  
staff need more flexibility in the  
workplace to cope with family  
pressures and lifestyle demands.

**KIRRILY WHITE**

Environmental Officer,  
Shire of Busselton  
*"Busselton Biodiversity Incentive  
Strategy"*  
A framework for using conservation  
lot subdivisions and rate rebates as  
voluntary incentives to conserve  
bushland and wetlands on  
private property in the Busselton  
Shire.

**SEAN DORAN**

Director,  
Perth International Arts  
Festival  
*"Mandurah International  
Opera Festival"*  
The impact of festivals  
and tourism events in  
developing cultural  
identity and economic  
returns.

9.45am **Learning Session and Interactive Discussion Number Two**

**IAN MARTINUS**

Manager, Economic Development  
& eBusiness  
City of Wanneroo  
*"Telecommunications Infrastructure"*  
A hurdle to small business up-take  
on Government driven portals.

**DICK PASFIELD**

Coordinator, Ord Land & Water  
*"Ord Land and Water Management  
Plan"*  
How the community of Kununurra  
built and implemented its own  
natural resource management plan.

**CLAIRE ALLEN**

Manager, Community  
Development  
Shire of Mundaring  
*"MELT. Midvale  
Empowerment  
Leadership Trust"*  
Development of  
community leaders in the  
face of regeneration; the  
design and  
implementation of  
innovative projects for the  
community of Midvale -  
best practice model.

10:30am **Morning Coffee**

11.00am **Learning Session and Interactive Discussion Number Three**

**KEVIN MANGINI**

Facilitator, Southern Avon  
Community Builders  
*"Branding the Avon Valley  
Products & Services"*  
Promoting the sales and  
distribution of locally produced  
goods and services.

**JANE O'MALLEY**

Environmental Planning  
Officer  
City of Mandurah  
*"Relocating People and Plants"*  
How the City of Mandurah and  
land developers work together  
to allow people to move in and  
native plants to be either retained,  
relocated, reproduced or recycled.

**JANE LORRIMAR**

Manager, Peel Education  
and TAFE Campus  
Education Unit  
*"Pathways for Learning"*  
How the innovative  
integration of  
educational facilities is  
working to maximise  
learning and social  
outcomes.

## Reports from Director Corporate Services

11.45am Learning Session and Interactive Discussion Number Four

**SHELLEY PIKE**

Chief Executive Officer,  
Bunbury Wellington Alliance  
*"Home Alone"*  
Findings of a study based on  
home businesses in the Bunbury  
Wellington Region, using  
Triple Bottom Line principles  
based on a business study of six  
Shires in the region.

**BURT KELLY**

State Manager,  
Cleanaway  
*"Waste - Measuring Up"*  
An innovative waste alliance  
partnership that has increased  
service flexibility and reduced financial  
risk.

**STORMIE**

Artist,  
*"Preparing Greece for the  
Olympics - a cultural  
perspective"*  
The only Australian artist  
invited to participate in  
the preparations, Stormie  
will share the story of his  
contribution on an  
international canvas.

12.25 Session reviews - presented by Stream Facilitators

12.45pm CONFERENCE CONCLUDES

Lunch - Individual lunches will be provided for those going on tours, and at a restaurant for delegates not involved in tours.

### FINANCIAL IMPLICATIONS

Registration fee after 16/8/02	\$440.00
Full early member before 16/8/02	\$396.00
Accommodation	\$82.50-\$93.50 per night
Airfares	\$701.00 (approximately)
Budget allocation for 2002/2003	\$31,000.00

## Reports from Director Corporate Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Reports from Director Corporate Services

---

**9. ORIGIN: Financial & Information Services Unit**

**FILE REF: Budget**

**REPORT TITLE:**

**2002/2003 Budget - Voting of Expenditure**

**SUMMARY OF REPORT:**

Council is required to vote the 2002/03 expenditure shown in Council's adopted 2002/05 Management Plan and Budget.

**RECOMMENDATION:**

That Council approves and votes \$114,090,478.00 expenditure for the 2002/03 Budget.

# Reports from Director Corporate Services

**REPORT:**

**AUTHORISATION OF EXPENDITURE:**

No expenditure may be incurred by Council unless it has been approved by Council and a sum of money has been voted. The adoption of the Budget in itself does not constitute the voting of money.

At the Council Meeting held 29 May 2002, the 2002/03 Management Plan/Budget was adopted. The Local Government Financial Regulations (Sect 15(2)) requires Council each year to:

*“Hold a meeting for the purpose of approving expenditure and voting money”.*

**SUMMARY OF 2002/03 BUDGET**

<b>General Fund</b>	\$60,760,142.00
<b>Water Fund</b>	\$24,235,770.00
<b>Sewerage Fund</b>	\$29,094,566.00
	<b>\$114,090,478.00</b>

**TWEED SHIRE COUNCIL**

**BUDGET 2002/2003**

**1. STATEMENT OF FINANCIAL PERFORMANCE FORMAT**

**EXPENSES FROM ORDINARY ACTIVITIES**

	<b>\$'000</b>
Employee Costs	20103
Borrowing Costs	2804
Materials & Contracts	22620
Depreciation	18183
Other Expenses from Ordinary Activities	6200
<b>TOTAL EXPENSES FROM ORDINARY ACTIVITIES</b>	<b>69910</b>

**REVENUES FROM ORDINARY ACTIVITIES**

Rates & Annual Charges	39256
User Charges & Fees	15530
Interest	4764
Other Revenues from Ordinary Activities	650
Grants & Contributions provided for non-capital purposes	9642
<b>TOTAL REVENUES FROM ORDINARY ACTIVITIES BEFORE CAPITAL AMOUNTS</b>	<b>69842</b>



## Reports from Director Corporate Services

<b>SURPLUS/(DEFICIT) FROM ORDINARY ACTIVITIES BEFORE CAPITAL AMOUNTS</b>	<b>(68)</b>
Grants & Contributions provided for capital purposes	17223
<b>SURPLUS/(DEFICIT) FROM ORDINARY ACTIVITIES AFTER CAPITAL AMOUNTS</b>	<b>17,155</b>
<b>SURPLUS/(DEFICIT) FROM ALL ACTIVITIES</b>	<b>17,155</b>

### 2. STATEMENT OF ACTIVITY/FUNCTION FORMAT

<b>EXPENSES FROM ORDINARY ACTIVITIES</b>	<b>EXPENSES</b>	<b>REVENUES</b>	<b>OPERATING RESULTS</b>
Governance	2000		(2,000)
Administration	10041	971	(9,070)
Public Order & Safety	1291	824	(467)
Health	572	82	(490)
Community Services	616	210	(406)
Housing and Community Amenities	11372	12911	1,539
Water Supply	7706	4473	(3,233)
Sewerage Services	9782	19114	9,332
Recreation & Culture	6593	3956	(2,637)
Mining, Manufacturing & Const.	1319	1599	280
Transport & Communication	14527	11337	(3,190)
Economic Affairs	3946	3956	10
<b>Total Functions &amp; Activities</b>	<b>69765</b>	<b>59433</b>	<b>(10,332)</b>
General Purpose Revenues		27487	27,487
		<b>86920</b>	<b>17,155</b>

## Reports from Director Corporate Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
BLANK  
IS  
BLANK

## Reports from Director Corporate Services

---

**10. ORIGIN:** Human Resources Operations Unit

**FILE REF:** Union Matters

**REPORT TITLE:**

**Union Picnic Day 2002**

**SUMMARY OF REPORT:**

A request has been received from the Municipal Employees' Union that Friday, 8 November 2002 be determined as 2002 Union Picnic Day.

**RECOMMENDATION:**

That:-

1. Council agrees to hold 2002 Union Picnic Day on Friday, 8 November 2002;
2. Council offices will remain open with minimal staff on that day.

## Reports from Director Corporate Services

---

**REPORT:**

As per Summary of report.

---

## Reports from Director Corporate Services

---

**11. ORIGIN:** Administration Services Unit

**FILE REF:** DW682614; Local Government Department - Circulars

**REPORT TITLE:**

**Amendment to the Local Government Act 1993**

**SUMMARY OF REPORT:**

Recent amendments to the Local Government Act 1993 have passed through Parliament on 13 June 2002 and are now brought to the attention of Councillors and staff.

**RECOMMENDATION:**

That this report be received and noted.


# Reports from Director Corporate Services

## REPORT:


As a result of recent investigations by the Independent Commission Against Corruption the Government has made amendments to the Local Government Act 1993 which were passed through Parliament on Tuesday, 13 June 2002.

The amendments are effective as from Monday, 17 June 2002 and effect both Councillors and staff.

A copy of the Circular from the Department of Local Government outlining the amendment is as follows:-



Department of Local Government  
Circular to Councils



TWEED SHIRE COUNCIL

FILE No. LOCAL GOV DEPT -

DOCUMENT NO. [ ] [ ] [ ] [ ] CIRCULARS

REC'D 3 JUL 2002

Circular [ ] [ ] [ ] [ ] 0298

ASSIGNED TO G. SMITH

HARD COPY  1998/2002

File No AF02/0047

Contact Joanne Smith  
(02) 9793 0875  
smith.j@dlg.nsw.gov.au

### LOCAL GOVERNMENT AMENDMENT (ANTI-CORRUPTION) ACT 2002

The Local Government Act 1993 has been amended to enable prompt action to be taken against councils, councillors and council staff involved in serious corrupt conduct.

**The attention of councillors and council staff should be drawn to this Circular and to the amendments.** A letter from the Minister for Local Government has been sent to each councillor, via the general manager, and the general manager is also requested to ensure that staff are aware of the new provisions concerning their conduct

The Local Government Amendment (Anti-Corruption) Act 2002 passed through Parliament on 13 June 2002. The amendments to the Local Government Act 1993 are part of the Government's response to the recent investigations by the Independent Commission Against Corruption (the ICAC) of a metropolitan Council.

**The amendments commenced on 17 June 2002.**

It is recognised that the vast majority of councillors act properly and for the benefit of their local communities. The amendments are necessary in order to protect the public standing of individual councils and the local government sector as a whole, and to ensure the proper exercise of council functions without corruption.

There are several measures contained in the amendments to the Local Government Act 1993 which now apply to councils, councillors and council staff. These are:

**Dismissal of all Councillors of a Council**

Section 255 of the Local Government Act has been amended to authorise the removal of all the members of a council, without holding a public inquiry, if the ICAC has recommended in an interim or final report of an ICAC investigation that consideration be given to their removal because of systemic corruption within the council.

## Reports from Director Corporate Services

---

2

### Suspension of a Councillor

New section 440C enables the Minister to suspend a councillor from civic office, without notice or inquiry, if

- (a) the ICAC has made a recommendation that consideration be given to the suspension of the councillor from civic office with a view to his or her dismissal for 'serious corrupt conduct'; or
- (b) criminal proceedings are instituted against the councillor for 'serious corrupt conduct', or
- (c) the councillor makes an admission of 'serious corrupt conduct'

'Serious corrupt conduct' is defined in new section 440A as 'corrupt conduct' under the ICAC Act, in connection with official duties, that may constitute a serious indictable offence (an offence that carries a maximum penalty of imprisonment for 5 years or more).

A suspension may be removed by the Minister at any time and is removed if the person is not dismissed from civic office, or criminal proceedings in connection with the corrupt conduct are not instituted within 6 months of the suspension, or if criminal proceedings are withdrawn or dismissed

### Dismissal of a Councillor

New section 440B enables a councillor to be dismissed from civic office for a period up to 5 years if the ICAC has recommended in a report that consideration be given to the suspension of the person from civic office with a view to his or her dismissal for 'serious corrupt conduct'.

The dismissal power is contingent on a councillor being suspended from office under new section 440C, the councillor being given an opportunity to show cause why he or she should not be dismissed, and the Minister for Local Government advising the Governor that the dismissal is necessary in order to protect the public standing of the council concerned and the proper exercise of its functions.

### Suspension of Staff

New section 440D allows the general manager of a council to suspend a member of staff from duty, without pay, on similar grounds to those on which a councillor may be suspended under section 440C

The Minister is authorised to exercise the power in the case of the general manager's conduct or if the general manager fails to act without reasonable cause

A general manager who does not act to suspend a member of council staff from duty within a reasonable period is hereby requested to provide his or her reasons for not taking suspension action to the Minister and the ICAC

## Reports from Director Corporate Services

---

3

A suspension may be removed by the general manager at any time and is removed if disciplinary or criminal proceedings in connection with the corrupt conduct are not instituted within 6 months of the suspension, or if the proceedings are withdrawn or dismissed



**Garry Payne**  
Director General



## Reports from Director Corporate Services

---

**12. ORIGIN: Financial & Information Services Unit**

**FILE REF: Monthly Investment Report**

**REPORT TITLE:**

**Monthly Investment Report for Period Ending 30 June 2002**

**SUMMARY OF REPORT:**

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

**RECOMMENDATION:**

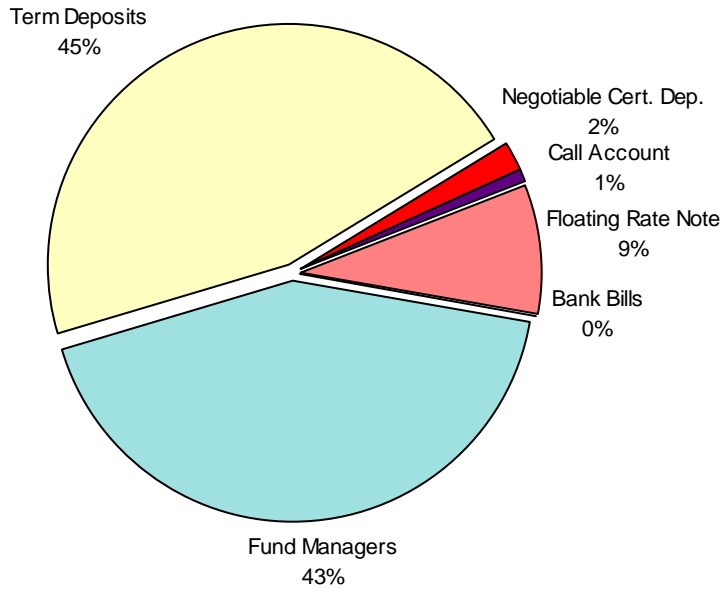
That this report be received and noted.

# Reports from Director Corporate Services

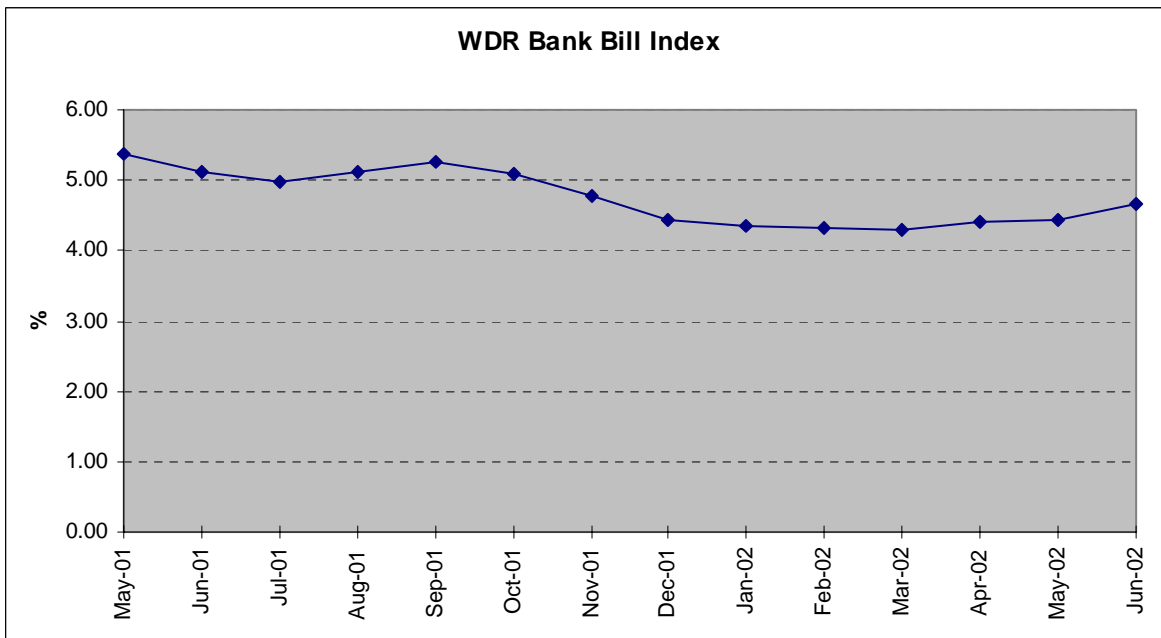
## REPORT:

### CURRENT INVESTMENT PORTFOLIO BY CATEGORY:

**% of Funds Invested by Category**



## 2. INVESTMENT RATES – 90 DAY BILL BANK RATE

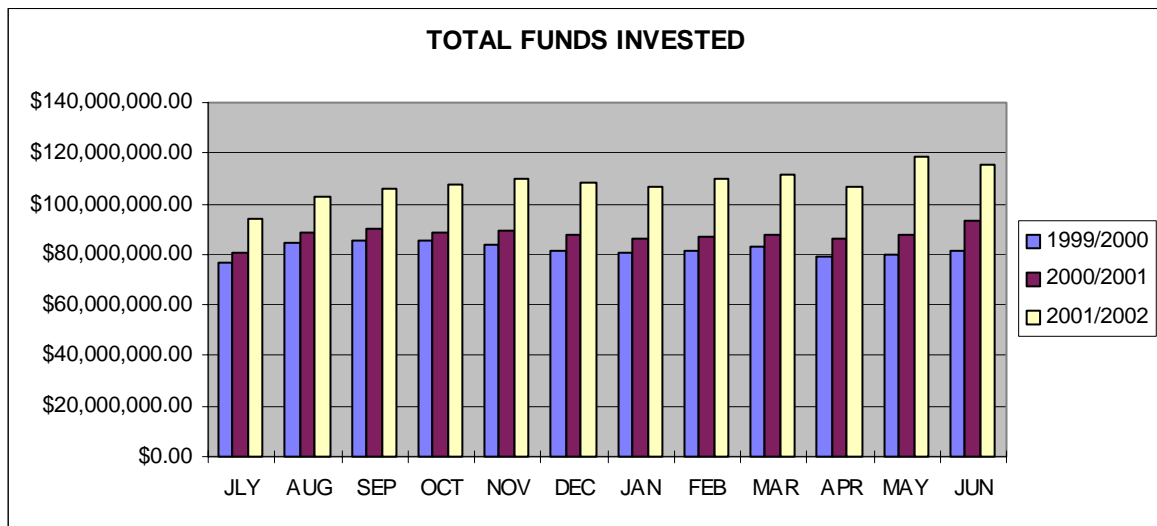


# Reports from Director Corporate Services

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

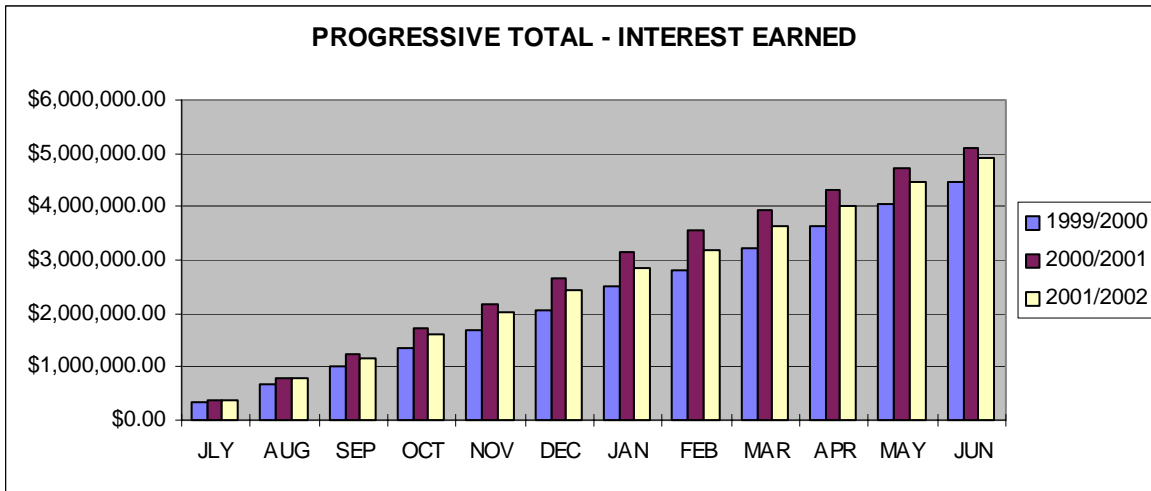
Fund	30 Days %	90 Days %	1 Year %
ANZ	5.17	4.79	4.64
Alliance	3.79	3.77	4.43
Deutsche	5.11	4.90	4.91
Macquarie Diversified	5.19	5.06	4.97

## 4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



# Reports from Director Corporate Services

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



## Reports from Director Corporate Services

### 6. MARKET COMMENTARY

On 3 July 2002 the Reserve Bank of Australia left official interest rates unchanged at 4.75%. Economists had been evenly divided as to whether the RBA would change the rate but markets were focused on the turmoil in the global equity markets and "no central bank would move in such times".

Depending on Australian economic data and how robust the US economic recovery will be, it is still likely that the cash rate will reach 5.5% by year end.

### 7. INVESTMENT SUMMARY AS AT 30 JUNE 2002

#### GENERAL FUND

BANKS	27,489,500.00	
FUND MANAGERS	5,481,528.57	
LOCAL GOVT. FIN. SERVICES	6,000,000.00	
CALL	1,025,465.92	<b>39,996,494.49</b>

#### WATER FUND

BANKS	9,500,000.00	
FUND MANAGERS	27,380,631.52	
LOCAL GOVT. FIN. SERVICES	4,000,000.00	<b>40,880,631.52</b>

#### SEWERAGE FUND

BANKS	10,500,000.00	
FUND MANAGERS	16,344,882.89	
LOCAL GOVT. INV. SERVICE	8,000,000.00	<b>34,844,882.89</b>

#### TOTAL INVESTMENTS

<b>115,722,008.90</b>
-----------------------

It should be noted that the General Fund investments of \$39.9 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

#### STATUTORY STATEMENT - LOCAL GOVT FINANCIAL MANAGEMENT REGULATIONS (SEC.19)

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



## Reports from Director Corporate Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
BLANK  
IS  
BLANK

# Reports from Director Engineering Services

**13. ORIGIN:** Design Unit  
**FILE REF:** Geographical Names Board

**REPORT TITLE:**

**Revision / Naming of Localities**

**SUMMARY OF REPORT:**

At a meeting held on 7 November, 2001 it was resolved to favour the new locality of "Casuarina" extending from the HWM on the eastern side of Cudgen Creek south to the northern boundary of the Cudgen Nature Reserve. This motion was rescinded on 21 November, 2001. This motion of rescission related to the name of "Casuarina" itself.

A letter dated 2 May, 2002 was received from Darryl Anderson on behalf of South Kingscliff Projects Pty Ltd submitting an objection in relation to the name "Casuarina" applying to the whole of what is locally known and referred to as "South Kingscliff".

Although the objection was received after the submission period had expired, it highlighted the necessity of resolving the issue of the naming of the proposed locality

**RECOMMENDATION:**

That

1. Council approves the name of the proposed locality as "South Kingscliff"; and
2. Application be made to the Geographical Names Board of NSW for its approval to name that locality "South Kingscliff", and to display the name of the locality for public comment and ultimate gazettal.

## Reports from Director Engineering Services

---

### REPORT:

At a meeting held on 7 November, 2001 it was resolved to favour the new locality of "Casuarina" extending from the HWM on the western side of Cudgen Creek south to the northern boundary of the Cudgen Nature Reserve. This motion was rescinded on 21 November, 2001 and no further resolutions have been sought. This motion of rescission related to the name of "Casuarina" itself, and it is necessary that the issue of the name of the locality be resolved.

A letter dated 2 May, 2002 was received from Darryl Anderson on behalf of South Kingscliff Projects Pty Ltd submitting an objection in relation to the name "Casuarina" applying to the whole of what is locally known and referred to as the "South Kingscliff Precinct". A copy of the letter follows.

Although the objection was received after the submission period had expired, it highlighted the necessity of resolving the issue of the naming of the proposed locality

The name "Casuarina" rather than "Casuarina Beach" had been accepted by all groups who forwarded submissions, together with the Geographical Names Board, so the proposed locality will be referred to as "Casuarina" in this report.

To resolve the issue of the name for the new locality, it appears that there are 2 options available to Council, these are:

1. Leaving the name of the proposed locality as "Casuarina" as displayed in plan GNB3810/A, with the locality extending from the Pacific Ocean thence westwards along the HWM on the western side of Cudgen Creek to the southernmost point of the Kingscliff locality southwards to the boundary of the locality of Cabarita Beach;
2. Naming the proposed locality "South Kingscliff".

Option 1 provides a straightforward and expedient solution to the name of the new locality. However, this option was presented to the 7 November, 2001 meeting and was subsequently rescinded on 21 November, 2001.

Option 2 provides a compromise whereby it acknowledges that the locality of "South Kingscliff" will incorporate the "Casuarina Beach" development which does not preclude the development from being advertised as "Casuarina Beach". Other prominent developments within the shire are advertised with a distinguishing name, for example, "Flame Tree Park" within the locality of Banora Point.

If the locality is named "South Kingscliff" further development, particularly in Lots 194, 301 and 312 north of the Casuarina Beach development will not be subordinated by the "Casuarina Beach" development.

In view of the rescission motion, it appears that the objections of the local groups refer mainly to the locality of "Casuarina" extending beyond the development known as Casuarina Beach.



# Reports from Director Engineering Services



## Darryl Anderson Consulting Pty Ltd

TOWN PLANNING & DEVELOPMENT CONSULTANTS

2 May 2002

Our Ref: SKING 01/02 Pt 1

General Manager  
Tweed Shire Council  
P.O. Box 816  
MURWILLUMBAH 2484

Attention: Nela Turnbull

Dear Sir

### Geographical Names Board, Kings Forest – Casuarina Beach Locality Names

We note that at it's meeting on the 7 November 2001, Council resolved (at Minute No. 381) that;

*"Following exhibition Council advises the Geographical Names Board that it favours the new locality name "Casuarina" extending from the high water mark on the eastern side of Cudgen Creek south to the northern boundary of Cudgen Nature Reserve."*

We further note that Council at its meeting on the 21 November 2001 rescinded Minute No. 381.

We understand from discussions with Nela Turnbull that Council has not further considered this matter however, a report is to be placed before Council in the near future with a view to having Council resolve the issue.

On behalf of South Kingscliff Projects Pty Ltd, the developers of Portions 194, 301 and 312 South Kingscliff, we object to the proposed name "Casuarina" applying to the whole South Kingscliff Precinct. There are three distinct estates at South Kingscliff comprising Casuarina Beach, Seaside City and the South Kingscliff Development site. Those sites are in separate ownership and have distinct development themes which, in respect of Portions 194, 301 and 312, requires a separate precinct name to Casuarina. We submit that these portions form an integral part of the town of Kingscliff in that they are only separated by Cudgen Creek and Lot 490 and should therefore be formally included in the locality of Kingscliff for the purposes of mailing addresses, postcodes and as a geographical area.

Council is therefore requested to advise the Geographical Names Board that Portions 194, 301 and 312 are to be included in the Kingscliff locality rather than Casuarina.

Please do not hesitate to contact Darryl Anderson should you require any further information in relation to this matter.

Yours faithfully  
Darryl Anderson Consulting Pty Ltd

  
Darryl Anderson  
Director

Suite 7  
Corporate House  
1 Corporation Circuit  
Tweed Heads South NSW 2486

A.B.N. 22 093 157 165

Telephone: 07 6523 3611  
Facsimile: 07 5523 3612  
Mobile: 0438 233 611  
Email: dac@norex.com.au

## Reports from Director Engineering Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Reports from Director Engineering Services

---

**14. ORIGIN:** Design Unit

**FILE REF:** DA02/0643 Pt1; 4040.5165

**REPORT TITLE:**

**Acquisition of SRA Land at South Murwillumbah - Formerly being Lot 124 in DP 915277**

**SUMMARY OF REPORT:**

At a meeting held on 19 January, 2002 it was resolved by Council to negotiate with State Rail for the purchase of former Lot 124 in DP 915277, Pacific Highway, South Murwillumbah.

This land is adjacent to the site of the new Art Gallery and the plan of subdivision creating the Lot to be purchased by Council has now been prepared, in readiness for lodgement.

State Rail has written to Council seeking the sum of \$1,600.00 plus GST as the purchase price, with Council to pay for SRA's administration costs of \$1,650.00 (inclusive of GST) and legal costs incurred by State Rail.

**RECOMMENDATION:**

That:-

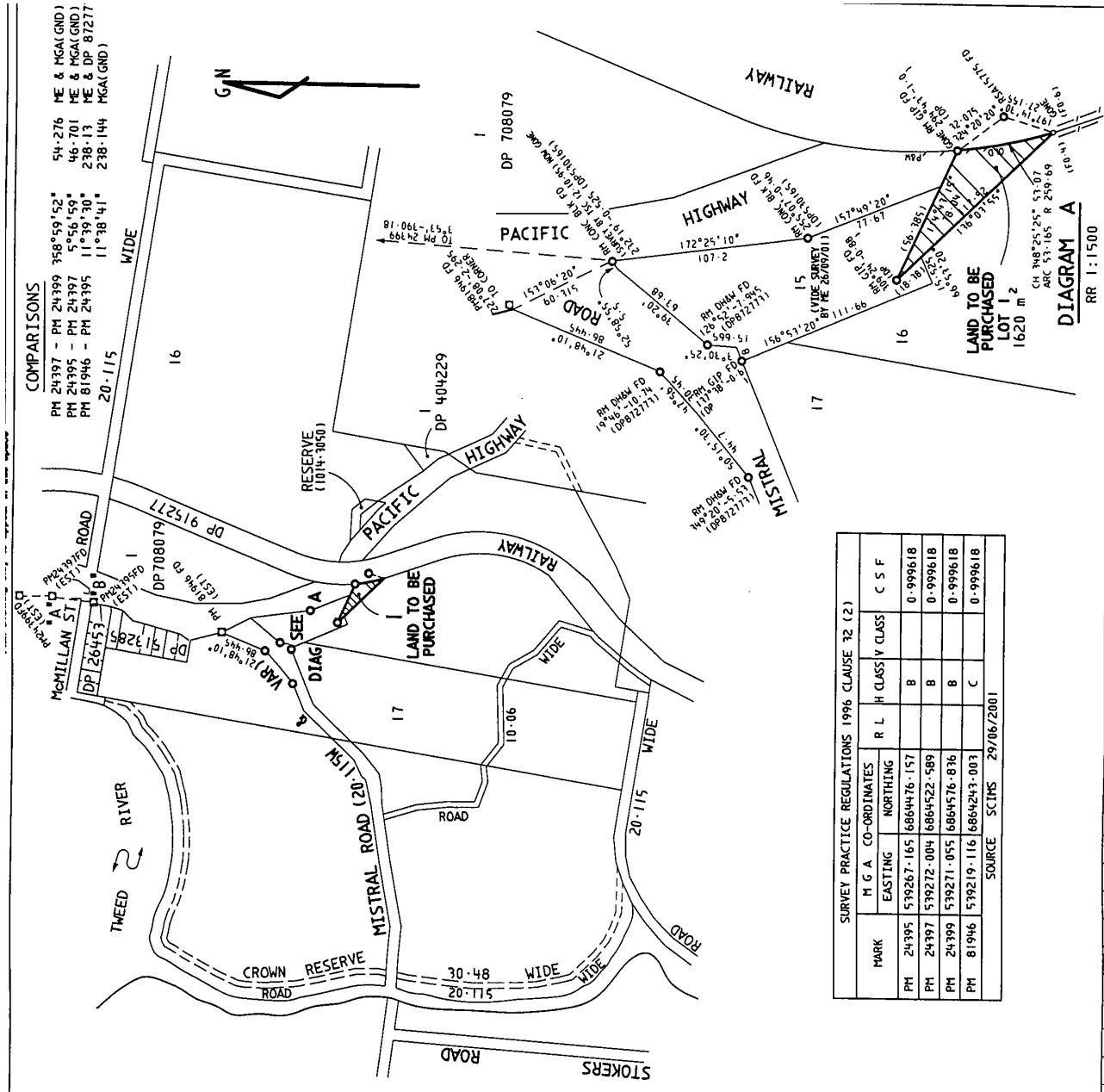
1. Council approves the purchase of the proposed Lot from State Rail for the sum of \$1,600.00 plus pay administrative and legal costs incurred by State Rail in this transaction; and
2. All necessary documentation be endorsed under the Common Seal of Council.

# Reports from Director Engineering Services

## REPORT:

As per Summary of Report.

A copy of the proposed plan follows:-



## Reports from Director Engineering Services

---

**15. ORIGIN:** Design Unit

**FILE REF:** Les Burger Field - 1190.1240; Valuations

**REPORT TITLE:**

**Acquisition of Crown Land being Lot 1 in DP 1040811 at Bogangar - Les Burger Field**

**SUMMARY OF REPORT:**

At a meeting held on 5 June, 2002 it was resolved that Council defer this matter to allow further assessment of the valuation received from the State Valuation Office. A copy of the report follows at the end of this report.

Council sought a clarification of the valuation criteria used for the valuation of the proposed acquisition of the Les Burger Field at Bogangar.

A copy of the SVO's response follows. It appears that the valuation amount is reasonable and the criteria utilised is valid.

It should be noted that the original valuation was dated 24 April, 2001. Due to the increase of land prices in the Tweed area and the passage of time since the valuation, the SVO advise that should a current valuation be sought, it would arrive at a much higher valuation of around \$100,000 per hectare, rather than the \$80,000 per hectare provided in the valuation.

**RECOMMENDATION:**

That:-

1. Council accepts the valuation criteria used by the SVO in their valuation dated 24 April, 2001;
2. Council seeks assistance from the State member for Tweed, Mr Neville Newell and the Upper House Member the Honourable Dr Pezzutti to make representation on Council's behalf to the Minister for Land and Water Conservation requesting a reduction in the purchase price determined by the SVO in their valuation dated 24 April, 2001;
3. Council approves the acquisition of Crown Land, being Lot 1 in DP 1040811 under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 and the Local Government Act, 1993; and
4. All necessary documentation be endorsed under the Common Seal of Council.
5. The land when acquired be classified as operational land.

## Reports from Director Engineering Services

---

### REPORT:

At a meeting held on 5 June, 2002 it was resolved that Council defer this matter to allow further assessment of the valuation received from the State Valuation Office.

Council sought a clarification of the valuation criteria used by the SVO for the valuation of the proposed acquisition of the Les Burger Field at Bogangar.

A copy of the SVO's response follows at the end of this report.

It appears that the valuation amount is reasonable and the criteria utilised is valid. However, it should be noted that the land is being purchased only to provide access to the clubhouse and grounds and not for commercial purposes. The land will be zoned open space. Council should not be expected to pay such a high premium for land being used for public recreation only.

Should the amount determined by the SVO still be considered to be expensive, an application may be made to the Department of Land and Water for a reduction in the price, taking into account that Council finances the maintenance of the fields and created the road access to the playing fields and Council's past and current expenditure on maintenance.

Consequently, Council may consider requesting the State member for Parliament, Mr Neville Newell, and the Upper House Member, the Honourable Dr Pezzutti make representation to the Minister for Land and Water Conservation on Council's behalf requesting a reduction in the price determined by the SVO in their valuation dated 24 April, 2001.

# Reports from Director Engineering Services



Value Our Experience

State Valuation Office  
120 Dalley Street  
P O Box 140,  
Lismore NSW 2480



NSW DEPARTMENT  
OF PUBLIC WORKS  
AND SERVICES

Telephone (02) 6626 5698  
Facsimile (02) 6626 5699

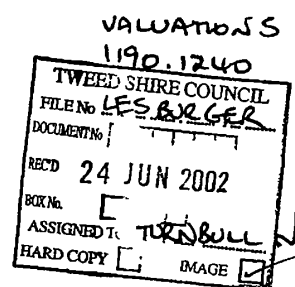
Our Reference: AA25496  
Your Reference: Mike Rayner, Les Burger Field – 1190.1240

20<sup>th</sup> June 2002

Mrs Nela Turnbull  
Tweed Shire Council  
P O Box 816  
MURWILLUMBAH  
NSW 2484

Attention: Mrs Nela Turnbull

Dear Sir/ Madam,



**Re: Valuation of Les Burger Field, Bogangar and dated 24<sup>th</sup> April 2001**

Thank you for your enquiry seeking clarification of the basis of valuation of 6(b) Recreation Zone land for extension of the Les Burger Field at Bogangar.

I have reviewed the sales evidence and consider the valuation represents the market value as at the date of valuation, April 2001. At that date there was no directly comparable market evidence. Therefore it was necessary to consider sales of land with broader potential uses. This is the reason for comparison with the Metricon sale.

The use of this sale needs to be seen in it's restricted application as an upper parameter value indicator just as a sale such as the Bilambil Sports Fields sale at \$27,000/ha (for 21.32 ha land content) is a lower parameter value indicator.

The Metricon sale is a starting point. It is co-incident that the broadacre rate paid is similar to the adopted rate on the subject land. Broadacre urban zoned land at Bogangar, at the date of valuation, would have significantly greater value than the \$80,000 adopted on a restricted use basis.

As stated in my report, comparison was made to the general market framework of evidence, including sales of recreation, rural and urban development land. This is an appropriate basis accepted by the Land and Valuation Court.

Other considerations of value are:

- The ideal location adjoining both the existing sports field and urban area, enabling the vendor to expect the best price.
- Scarcity of suitably zoned land.

## Reports from Director Engineering Services

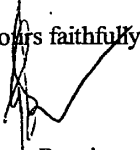
---

~2~

The valuation of \$195,000 is now over a year old. If a review to current market value is necessary, new evidence suggest an increase to around \$100,000 /ha.

If there are any further questions please contact me on (02) 6672 5716 or 0411 696017

Yours faithfully,

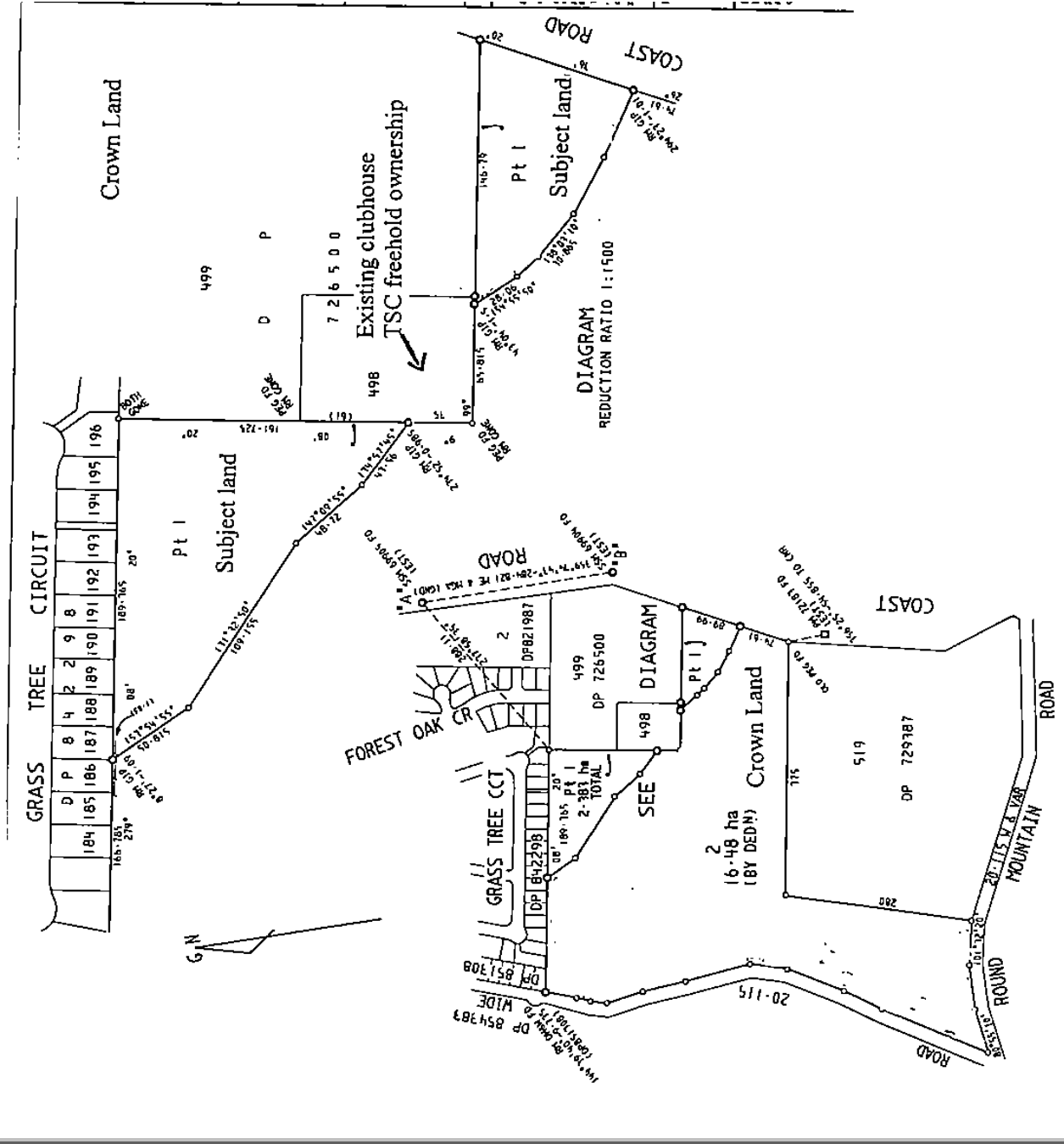


Greg Burgis  
Senior Valuer



# Reports from Director Engineering Services

DP 1040811



## Reports from Director Engineering Services

---

THIS  
PAGE  
PAGE  
IS  
BLANK  
IS  
BLANK

## Reports from Director Engineering Services

---

**16. ORIGIN:** Works Unit

**FILE REF:** Govt Grants - Roads; Works Program - 2002/2003

**REPORT TITLE:**

**RTA Road Related Works Program 2002/2003**

**SUMMARY OF REPORT:**

The RTA has confirmed funding allocations for road grants to Tweed Shire for 2002/2003. These grants are made available for council to assist in the overall management of its road network. The grants are consistent with previous years.

**RECOMMENDATION:**

That:-

1. The grants be accepted under the usual terms and conditions.
2. Council votes the expenditure.

## Reports from Director Engineering Services

### REPORT:

The RTA has advised Council of the grants for road works for 2002/2003.

The list is submitted below:-

<b>Council 2002/2003 Road Related Works Program</b>	
Description	Allocation
RR Block Grant	1,121,000
REPAIR MR 142 Kyogle Rd	200,000
EX 3X3	152,000
Traffic Facilities Block	136,000
Council Road Safety Officer	60,000
Bus Stop remedial Works	6,000
Cycleway	45,000
PAMP Works resulting from study	40,000

The program is consistent with previous years. The PAMP (Pedestrian Access Mobility Plan) will allow pram ramps etc to be constructed once the Plan is finalised.

## Reports from Director Engineering Services

---

**17. ORIGIN:** Design Unit  
**FILE REF:** GS4/98/33 Pt6; Easements

**REPORT TITLE:**

**Cancellation of Easement for Drainage 5 Wide at Shallow Bay Drive, Tweed Heads South**

**SUMMARY OF REPORT:**

An application has been received to cancel Easement for Drainage created in DP 1008592.

The Easement was created in DP 1008592 in Council's favour.

The existing Easement is located within an area that is to become public road, so it is considered unnecessary to retain the rights attributed by the Easement. The road will be created upon registration of the subdivision plan which cancels the Easement.

**RECOMMENDATION:**

That:-

1. Council approves the cancellation of the Easement for Drainage 5 wide created in DP 1008592; and
2. All necessary documentation be endorsed and executed under the Common Seal of Council.

## Reports from Director Engineering Services

---

### REPORT:

An application has been received to cancel Easement for Drainage created in DP 1008592.

The Easement was created in DP 1008592 in Council's favour.

The existing Easement is located within an area that is to become public road, so it is considered unnecessary to retain the rights attributed by the Easement. The road will be created upon registration of the subdivision plan which cancels the Easement.

A copy of DP 1008592 follows. The subject Easement is marked "T" and lies along the northern boundary of Lot 2, running east to west.

# Reports from Director Engineering Services

**DP1008592**

REGISTERED PLAN NO. 1008592

**C.A. SEE CERTIFICATE**

TRIM SYSTEM: TORRENS

PURPOSE: SUBDIVISION

R/L No: X4975-64

Lot Plan: DP 2024241 DP 2242432

PLAN OF SUBDIVISION OF LOT 1 IN DP 2024241, LOT 2 IN DP 2024241 & LOT 3 IN DP 2242432

Length in m. meters. Reduction Ratio 1:2000

**L.O.A. TWEED**

Location: TWEED HEADS SOUTH

Parish: TERRANORA

County: ROUS

Surveyors (Practical) Regulation 1996

BRIAN DARRYL RAKER  
BRIAN DARRYL RAKER  
BRIAN DARRYL RAKER

These plans were prepared in accordance with the Surveyors Act 1996 and the Surveyors Regulation 1996. The plans were prepared in accordance with the Surveyors Act 1996 and the Surveyors Regulation 1996. The plans were prepared in accordance with the Surveyors Act 1996 and the Surveyors Regulation 1996.

Plans used in preparation of survey/development:

D.P. 873276, D.P. 812281, D.P. 833408  
D.P. 590808, D.P. 559285, D.P. 539348  
D.P. 285117, D.P. 228232, D.P. 217709  
D.P. 209461, REZ 16-101, REZ 16-159

PANEL FOR USE ONLY for statements of intention to dedicate public roads or to create public reserves, easements or other restrictions on the site of land or public easements.

IT IS INTENDED TO DEDICATE SHALLOW BAY DRIVE AS PUBLIC ROAD.



PURSUANT TO SECTION 88B OF THE SURVEYORS ACT 1996, IT IS INTENDED TO CREATE:

1. RIGHT OF FOOTPATH 3 WIDE.
2. EASEMENT FOR DRAINAGE 5 WIDE.
3. EASEMENT TO DRAIN SEWAGE 3 WIDE.
4. EASEMENT FOR RISING MAIN AND TO DRAIN SEWAGE 5 WIDE, 3 WIDE & VARIABLE WIDTH.
5. EASEMENT FOR BATTER SUPPORT AND BUFFER 3 WIDE.
6. EASEMENT FOR ACCESS 5 WIDE, 3 WIDE & VARIABLE WIDTH.

**PLAN FORM 2**

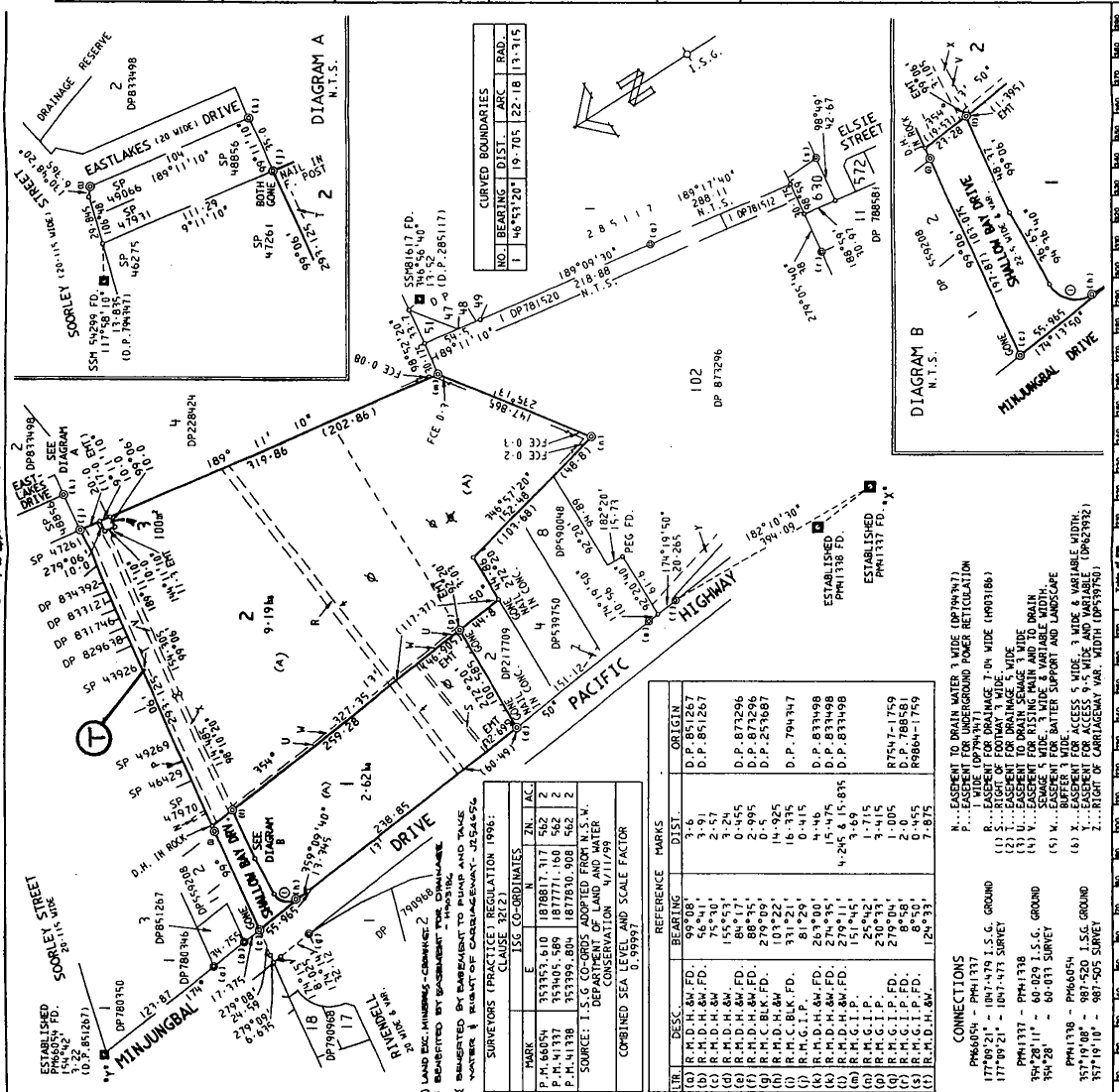
SIGNATURES AND SEALS ONLY

SIGNED for and on behalf of the Registrar General of Land, NSW

PHILLIP FOX

Director



Plan Drawing only to appear in this space

DIAGRAM A N.T.S.

DIAGRAM B N.T.S.

MINJUNGAL DRIVE

PACIFIC HIGHWAY

SOURLEY STREET

EASTLAKES DRIVE

MINJUNGAL DRIVE

PLAN OF SUBDIVISION OF LOT 1 IN DP 2024241, LOT 2 IN DP 2024241 & LOT 3 IN DP 2242432

MARK	E	N	ZN	AC
P.M. 68054	353953.610	1878817.117	562	2
P.M. 41137	353405.489	1877711.160	562	2
P.M. 11378	353395.804	1878183.508	562	2

CONNECTIONS

PHM64954 - PHM1337

177'09'21" - 1041-479 I.S.G. GROUND

177'09'21" - 1041-473 SURVEY

PHM1337 - PHM1338

354'28'11" - 60-029 I.S.G. GROUND

354'28'11" - 60-073 SURVEY

PHM1338 - PHM64954

357'19'10" - 881-520 I.S.G. GROUND

357'19'10" - 881-505 SURVEY

CONNECTIONS

N. ... EASEMENT TO DRAIN WATER 3 WIDE (DP79471)

P. ... EASEMENT FOR UNDERGROUND POWER RETICULATION

R. ... EASEMENT FOR DRAINAGE 7-04 WIDE (M03106)

(1) S. ... RIGHT OF FOOTPATH 3 WIDE

(2) U. ... EASEMENT TO DRAIN SEWAGE 3 WIDE

(3) U. ... EASEMENT TO DRAIN SEWAGE 5 WIDE

(4) V. ... EASEMENT FOR RISING MAIN AND TO DRAIN

(5) W. ... EASEMENT FOR BATTER SUPPORT AND LANDSCAPE

(6) X. ... EASEMENT FOR ACCESS 5 WIDE

(7) Y. ... EASEMENT FOR ACCESS 3 WIDE

(8) Z. ... RIGHT OF CARRIAGEWAY VAR. WIDTH (DP51975)

## Reports from Director Engineering Services

---

THIS  
PAGE  
PAGE  
IS  
BLANK  
IS  
BLANK



## Reports from Director Engineering Services

---

**18. ORIGIN:** Design Unit

**FILE REF:** Easements - Shallow Bay Drive, Tweed Heads South; Easements;  
Shallow Bay Dr

**REPORT TITLE:**

**Cancellation of Right of Footway**

**SUMMARY OF REPORT:**

An application has been received seeking Council's consent to the cancellation of a Right of Footway created in DP 1008592. Council is the benefiting authority of the Right of Footway, and Council also has the right to vary, modify or release the said Footway.

A plan has been drawn creating an alternative Right of Footway, which will correctly align the Footway with the footpath formation. The Right of Footway will be created with Council as the benefiting authority.

**RECOMMENDATION:**

That Council:-

1. Approves the cancellation of the Right of Footway created in DP 1008592;
2. Approves the creation of Right of Footway within Lot 1 in DP 1008592 in a plan creating the Right of Footway; and
3. Executes and endorses all necessary documentation under the Common Seal of Council.

## Reports from Director Engineering Services

---

### REPORT:

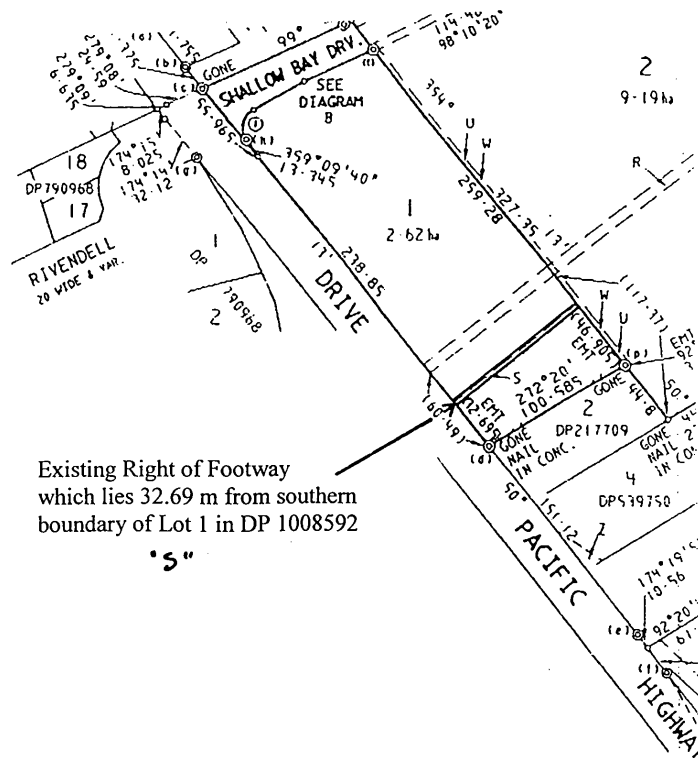
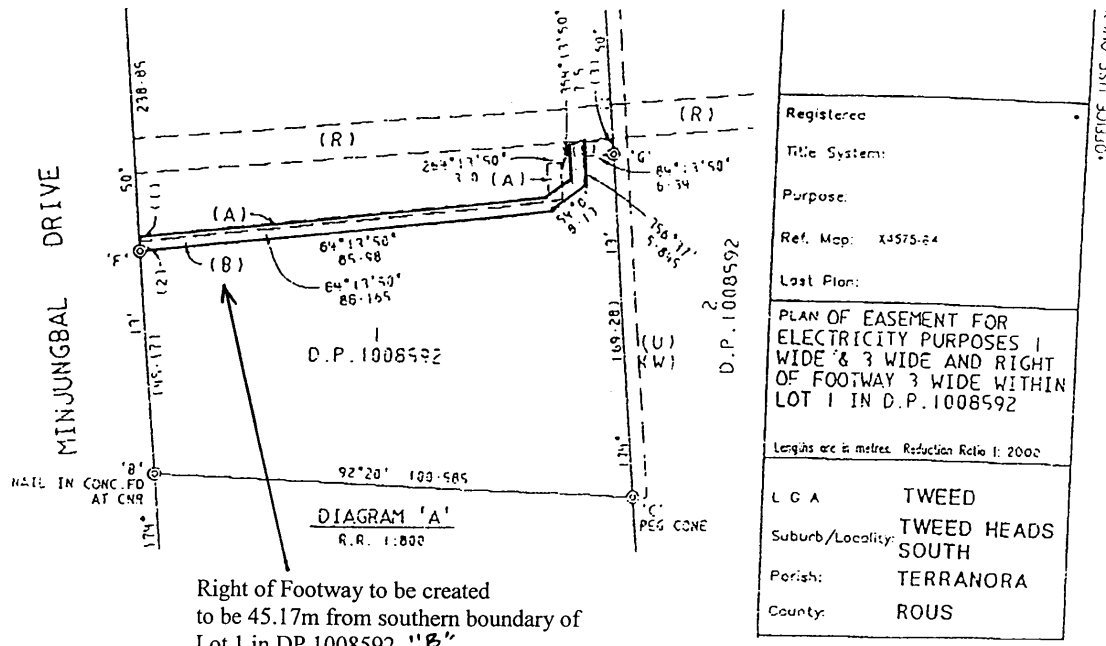
An application has been received from the surveyor (B & P Surveys) seeking Council's consent to the cancellation of a Right of Footway created in DP 1008592.

Council is the benefiting authority of the Right of Footway, and Council also has the right to vary, modify or release the said Footway. A plan has been drawn creating an alternative Right of Footway, which will correctly align the Footway with the footpath formation.

Council will remain the benefiting authority of the proposed Right of Footway.

Following are parts of the relevant plans showing the Right of Footway to be cancelled shown marked "S" and the Right of footway to be created shown marked "B".

# Reports from Director Engineering Services



## Reports from Director Engineering Services

---

THIS  
PAGE  
PAGE  
IS  
BLANK  
IS  
BLANK

## Reports from Director Engineering Services

---

**19. ORIGIN:** Director

**FILE REF:** Water Directorate; Consent to Enter

**REPORT TITLE:**

**Power of Consent to Enter - Local Government Act 1993**

**SUMMARY OF REPORT:**

The anomalies created by the Local Government Act 1993 regarding Council's power of entry to maintain water, sewer and stormwater have now been addressed by the Local Government Amendment (Miscellaneous) Bill 2002 – Power of Entry. A copy of this advice by the Water Directorate, which was instrumental in the change, follows in this report.

**RECOMMENDATION:**

That this report be received and noted.

# Reports from Director Engineering Services

## REPORT:

As per Summary of Report.



27 June 2002

Dr John Griffin  
General Manager  
Tweed Shire Council  
P.O. Box 816  
MURWILLUMBAH NSW 2484



# WATER DIRECTORATE

NSW Local Government Water Industry Directorate  
Level 12, 447 Kent Street Sydney NSW 2000  
Tel (02) 8267 3010 • Fax (02) 9283 5255  
Email garym@bigpond.com  
ACN: 093 562 602

CONSENT TO ENTER

TWEED SHIRE COUNCIL	
FILE No.	WATER DIRECTORATE
DOCUMENT No.	
RECD	1 JUL 2002
BOX No.	
ASSIGNED TO	GRIFFIN, M.
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

Dear Dr Griffin

**Re: *Local Government Amendment (Miscellaneous) Bill, 2002: Power of Entry***

The NSW Local Government Water Industry Directorate (Water Directorate) is pleased to report that the power to enter private property to repair, replace and maintain damaged water, sewer and stormwater pipes and infrastructure has been restored to local government in NSW. NSW councils will now have the same power of entry as all other water authorities in Australia. This amendment is the result of a full investigation and report by the Water Directorate.

The *Local Government Amendment (Miscellaneous) Bill, 2002* was assented to on 25 June 2002 and amends various sections including Section 191 of the *Local Government Act, 1993*. Amended Section 191A provides for council employees—or other persons authorised by council—to enter any premises, other than national parks and wildlife reserves, to carry out such water supply work, sewerage work or stormwater drainage work that the council is otherwise authorised to carry out. The Bill also clarifies that ownership of such works rests with the local council that installed them. Commencement of the *Local Government Amendment (Miscellaneous) Bill, 2002* is a formality and will be at a date to be proclaimed. The commencement date is expected to be a Friday gazettal date in early July 2002.

Many of you will be aware that the Water Directorate has been working very hard, with the assistance of the Local Government and Shires Associations, to have the power of entry restored to the *Local Government Act, 1993*. Over the past two and half years we have undertaken a number of actions to have this issue resolved successfully.

In February 2000 we conducted a survey of our member councils to establish the scope of the problem. Importantly, the survey results indicated that a large proportion of properties was not adequately covered by easements and it was estimated that the cost of easements would be \$1.275 billion. The Water Directorate felt strongly that this substantial cost was an unnecessary financial burden placed upon regional local government and sought to have the situation rectified through the legislative process.

## Reports from Director Engineering Services

---

In September 2000 we commissioned a report by Ken Halstead of the University of Technology, Sydney. The *Access Provisions for Local Government Water Services (Power of Entry)* report was submitted to DLG in March 2001 for a formal review. A copy of this report was mailed to all member councils in June 2001. The report highlighted that NSW local government, in this respect, was different from all other government agencies in NSW and across Australia. The report strongly recommended that the power to enter private property to maintain water, sewerage and drainage infrastructure be restored to local government in NSW.

A lot of time and money has been spent by the Water Directorate to resolve this issue. I would like to thank all the councils that have assisted us in the process by responding to our initial survey and providing important, "at the coal face", information that we could use in our report to DLG.

On behalf of the Water Directorate Executive Committee I am very pleased that we have been able to provide this positive result to our member councils. I recommend that you report this important outcome to Council and staff. If your council has any further queries regarding this amendment process please contact Gary Mitchell on (02) 8267 3010.

Yours sincerely



Daryl McGregor  
Chairman

## Reports from Director Engineering Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK



---

# Reports from Director Environment & Community Services

---

**20. ORIGIN:** Environment & Health Services Unit

**FILE REF:** Companion Animals Committee

**REPORT TITLE:**

**Desexing of Cats and Dogs**

**SUMMARY OF REPORT:**

At the Regional Companion Animals Committee meeting of 7 February 2002 officers from the various member Councils were requested *'to prepare a report to their Council canvassing the issue and putting forward a policy which requires compulsory desexing of all cats and dogs which are SOLD from the respective pounds'*. Such a policy, if adopted, may reduce the incidence of community disturbances from unwanted or unowned animals.

A report on the matter was put to the Council meeting of 20 March 2002 and Council resolved that *'this matter be deferred to allow consultation with the 'Friends of the Pound''*.

Friends of the Pound representatives have subsequently been consulted and raised the concern that such a Policy would possibly reduce numbers of dogs sold especially into Queensland and thus require a greater number to be euthenased.

**RECOMMENDATION:**

That Council adopts a policy which requires all dogs or cats which are sold from the Council Pound facility to have arrangements made for their desexing. This may be satisfied by the purchase of a desexing voucher.

# Reports from Director Environment & Community Services

## REPORT:

The Local and Regional Companion Animal Committees have discussed on a number of previous occasions that many of the problems experienced by the community in relation to cats and dogs can be related to unwanted and unowned animals. Therefore many of these problems could be overcome if the numbers of unwanted litters are reduced.

At the Regional Companion Animals Committee meeting of 7 February 2002 the matter was discussed as follows:

*'Councillor Marshall suggested a media campaign be introduced requesting the public to desex their existing animals, and also suggested that a promotional day or 'paws for cause' day be held with the money raised going to charity. It was suggested that member Councils need to adopt a policy requiring compulsory desexing of all cats and dogs which are SOLD from the respective pounds. This does not include animals which are returned to an existing owner.*

*Tweed advised that they have a quote of \$175 - \$195 (variable dependant of animal's gender) for desexing, microchipping and vet check of animals prior to sale. Lismore can obtain a similar service for \$140.*

*Officers are requested to prepare a report to their Council canvassing the issue and putting forward a policy which requires compulsory desexing of all cats and dogs which are SOLD from the respective pounds'.*

Whilst the greater number of cats and dogs which currently exist in the community are not under Council control, Council could directly address unwanted litters as a source of stray animals and subsequent community disturbance by adopting a policy which prohibits the sale of dogs and cats to new owners from the Pound, unless those animals are desexed.

This approach is not viewed as unconventional, and many Councils in NSW already have such a policy in place. Further, the RSPCA and the Queensland Animal Welfare League have adopted policies whereby it is not permissible to purchase either a cat or dog from their facilities which has not been desexed. See letters attached to Business Paper.

A good deal of the animals are sold from the Council Pound to NSW residents from the Council Pound are sold through the Tweed Heads RSPCA, and are microchipped, desexed, vaccinated and vet checked prior to sale. There are however some animals currently sold direct to the new owner from the Pound. In this case the animal will not be desexed prior to sale. A significant number of animals sold from the pound are sold into the Gold Coast region.

As an indication of the cost of adopting the proposed policy to the new owner, officers have received a verbal costing as follows from a local veterinarian:

### COST INDICATION – DESEXING AND MICROCHIPPING

	<b>Dogs</b>	<b>Cats</b>
<b>Male</b>	\$120	\$70
<b>Female</b>	\$140	\$90

Council currently charges the new owner \$50 for microchipping of animals when they are sold. When this amount is deducted from the above amounts, the resulting net cost for desexing the animals is viewed as very reasonable.

## Reports from Director Environment & Community Services

---

Following chipping the dog requires registration. The cost of registration after having the animal desexed reduces by \$65. Thus the net cost in New South Wales of the desexing is in the vicinity of \$5 for a male and \$25 for a female dog based on the above estimated costs.

### IMPLICATIONS FOR THE FRIENDS OF THE POUND

Substantial efforts have been made by the Friends of the Pound group to assist at the Pound and to re-house animals from the Pound. Their program has been extremely effective in reducing the number of cats and dogs which are euthanased at the Pound. However, increased purchase costs to new owners can make it more difficult to re-house animals, through sale.

A meeting was held with Friends of the Pound representatives. They advised that the Friends of the Pound would support and encourage desexing of all animals being sold from the pound to New South Wales residents.

They raised concern, however, with the sale of dogs to Queensland residents that such a requirement could reduce the sale numbers and accordingly, increase the numbers of animals that would require euthanasia.

To help alleviate this problem the Friends have been in contact with the Queensland Animal Welfare League and have arranged to provide to dog purchasers who are Queensland residents, a pre-paid desexing voucher redeemable from the Welfare League, a dollar figure for this has not been established. While this will not ensure all animals purchased from the pound by Queensland residents are desexed, it should ensure a greater number are.

From the above it is considered that Council should adopt a policy whereby all animals purchased from the pound by NSW residents have as part of the purchase price, a requirement for purchase of a desexing voucher.

In relation to the sale of dogs to Queensland residents, Council needs to consider the wider ramification of the supply of "cheap" undesexed animals into SE Queensland. This seems to be inappropriate as it is in conflict with what is being endeavoured to be achieved by authorities on the Gold Coast. (It should be noted the Gold Coast City Council pound run by the Queensland Animal Welfare League does not permit such sales). This is to be compared with the concerns of the Friends of the Pound that such a compulsory desexing policy would reduce the number of sales to Queensland and therefore increase the number required to be euthenased.

While the Friends of the Pound concerns are very valid it is considered that the desexing policy of the Gold Coast City Council Animal Welfare-run pound should prevail and therefore the compulsory desexing policy should apply to all animals.

Naturally an exemption will apply to animals who are past breeding age or animals, because of a specific requirement by a potential buyer, such as the air force, or the like, require an animal not desexed.

## Reports from Director Environment & Community Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

## Reports from Director Environment & Community Services

---

**21. ORIGIN:** Environment & Health Services Unit

**FILE REF:** Youth Matters

**REPORT TITLE:**

**Grant of \$12,000 - Youth Safety Package**

**SUMMARY OF REPORT:**

Council is informed that the State Member for Tweed, Mr Neville Newell, has advised that the Premier has approved a one off grant of \$12,000 for a Youth Safety Package. Such is to be used for safety initiations associated with youth concerts held at the Tweed Civic Centre, such as buses, security, breath devices etc.

It is recommended that Council accepts the grant and votes the expenditure accordingly and completes all necessary documentation.

**RECOMMENDATION:**

That Council:

1. Accepts the \$12,000 grant for the Youth Safety Package.
2. Votes the expenditure accordingly.
3. Completes all necessary document under the Common Seal of Council.

## Reports from Director Environment & Community Services

---

### REPORT:

Council is reminded that as part of its budget it provides approximately \$12,000.00 for youth support. This funding has mainly been used to support the youth concerts conducted at the Tweed Heads Civic Centre, initially called Counterpoint, although it has had various name changes recently. This support has been in the form of the provision of buses, security, breath testing machines, venue hire, etc.

Following approaches to the State Government, Council is informed that the State Member for Tweed, Mr Neville Newell, has advised that the Premier has approved a one off grant of \$12,000 for a Youth Safety Package. Such is to be used for safety initiations associated with youth concerts held at the Tweed Civic Centre, such as buses, security, breath devices etc.

It is recommended that Council accepts the grant and votes the expenditure accordingly and completes all necessary documentation.

---

## Reports from Director Environment & Community Services

---

**22. ORIGIN:** Environment & Health Services Unit

**FILE REF:** Markets - Kingscliff

**REPORT TITLE:**

**Markets on Public Land - Sale of Food and Drinks**

**SUMMARY OF REPORT:**

Council has received a request for approval for an additional food stall at the markets at Kingscliff. The request is contrary to Council's existing Policy for the Vending of Food on Public Reserves, Streets and Roads.

It is considered that the objectives of the Policy would not be achieved should the request be granted.

**RECOMMENDATION:**

That Council maintains the Policy provision which permits two (2) food stalls only at the markets at Kingscliff, and the request for an additional food stall be denied.

## Reports from Director Environment & Community Services

---

### REPORT:

Council policy has historically not permitted the sale of food and drink, such as 'commercial' or conventional fast foods, at markets held on public lands as these goods could be purchased from local established shops.

On 1 November 2000 however, Council resolved to vary the previous Policy permitting the following:

*'Where Council approval has been granted for the conducting of a market or similar, on a regular basis on a reserve, then approval is given for the operation of a maximum of two (2) food and drink vendors which comply with the requirements of the "Code for the Vending of Food at Markets and One Day Events".'*

This variation permitted market patrons to purchase food and drink items, without unreasonably taking business away from established local retailers or food outlets and the like.

Council has now received a request for approval for an additional food stall, namely a 'crepe van', at the markets at Kingscliff, thus permitting three food stalls. The market manager states the following:



# Reports from Director Environment & Community Services

KINGSCLIFF MARKET MANAGEMENT  
8 ANTHONY AVENUE  
BANORA POINT. N.S.W. 2486  
PHONE: (07) 5524 2102  
MOBILE: 0419 0739969 MARKET DAYS ONLY

TWEED SHIRE COUNCIL	
FILE NO	MARKETS - KINGSCLIFF
DOCUMENT NO	[ ] [ ] [ ] [ ] [ ] [ ]
RECD	2 JUL 2002
BIRTH	[ ] [ ] [ ] [ ] [ ] [ ]
ASSIGNED TO	AINSWORTH P
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

General Manager,  
Dr. John Griffin and Councillors,  
Tweed Shire Council,  
P.O. Box 816,  
Murwillumbah. N.S.W. 2482

26th June 2002

Attention: Peter Ainsworth:

**RE: PROPOSAL FOR THIRD FOOD VAN AT KINGSCLIFF MARKETS AT ALL TIMES:**

Dear Peter,

I am submitting this proposal to Council to be allowed to have three (3) food vans at Kingscliff Market at all times.

The two food vans that are now allowed only fulfil part of the needs of this market.

The ice cream and drink van is always in demand both winter and summer.

The hot food van has no variety of food and leaves a lot to be desired in both coffee and hot food.

The market has improved considerably over the last 2 years with the introduction of the "Farmers Market" lines, at this point I might add Kingscliff is the only market that has improved.

The average attendance of stall holders over the last six months is 200 per month, which is excellent for a Saturday market, particularly with such a high standard of stall.

The area is growing as is the market in size and popularity.

The food van that I would be encouraging to attend would be the "Crepe" van run by Louis ~~Farnaby~~ <sup>Jarnaby</sup>.

Louis actually attended my market on Saturday 22nd June, along with Grant Peats van but no ice cream van. It proved to be very popular and I can personally recommend this stall.

## Reports from Director Environment & Community Services

---

**I need always to have new and interesting stalls particularly food to keep the public interested and attending the market.**

**With the opening of the new motor way looming at us, Kingscliff will once more be "by passed" so we have to work harder and be on the ball if we are to survive.**

**Please give this proposal your most sincere consideration, as I am trying to move with the times and keep up the good reputation of the "Kingscliff Farmers and Friends Market".**

**Yours Faithfully**



**Margaret Kiss  
Market Manager**

The current policy objective states:

*'To control the vending of food on public reserves, streets and roads to maintain the highest levels of public health, safety and convenience of persons using public reserves, streets and roads and to cause minimum financial impact to nearby retail outlets.'*

Importantly, a request is also currently before Council for an additional two (2) food vans (four in total) to be permitted at the markets at Knox Park, Murwillumbah.

Part of the case previously put to Council seeking permission for food stalls was that market patrons could not even purchase a small cold drink during very hot conditions. Now however, Council has permitted two stalls per market to cater for food and beverage needs. If a patron wishes to purchase a more substantial meal or the like then they can approach one of the many established cafes or food premises available, in this case at Kingscliff.

The following comment was made in the previous report to Council on this matter, and remains valid – 'should Council choose to vary the Policy and permit the sale of food and drinks, then it is the position of officers that only two food vans per market be permitted. This would provide food and drink products to any persons seeking them, whilst also making the monitoring and inspection of such vans a much simpler process. The choice of food vans should be left for the market manager to determine'.

The request for an additional food stall should be considered in light of the interest of permanent local retailers who have established businesses, employ people and are likely to work long hours, seven days per week (particularly in the take away food trade).

Officers consider that the objectives of the Policy would not be achieved should the request be granted, namely to cause minimal financial impact at nearby retail outlets.

## Reports from Director Environment & Community Services

---

The monitoring and control of sale of food at markets will be a far simpler process should only two food stalls be permitted per market. If Council were to approve variations to the policy, it is likely that additional requests will be received from other market operators, such as the current request from the Murwillumbah market operator.

---



**Dr J Griffin**  
General Manager

## Reports from Director Environment & Community Services

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

# Reports from Committees/Working Groups

---

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

- 1. Minutes of the Public Transport Working Group Committee Meeting held Thursday 16 May 2002**
- 2. Minutes of the Community Cultural Development Advisory Committee Meeting held Thursday 13 June 2002**
- 3. Minutes of the Tweed River Committee Meeting held 19 June 2002**
- 4. Minutes of the Public Transport Working Group Committee Meeting held Thursday 20 June 2002**
- 5. Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 25 June 2002**

## Reports from Committees/Working Groups

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

# Orders of the Day

---

**1. Notice of Motion - Cr Youngblutt**

**Tweed River - Wharves**

**Notice of Motion; Area 5 - Twd River; Wharfs – Wharves; DW683856**

That Council investigates the feasibility of wharfs at Tumbulgum, Chinderah and Tweed Heads similar to the Heritage Wharf in Murwillumbah.

---

**2. Notice of Motion - Cr Boyd**

**Water Supply**

**Notice of Motion; Water Supply – General; DW683854**

That Council:-

1. Debates the issue of the possible sale of water from the Tweed Valley to the Gold Coast City Council;
  2. Seeks a response from the relevant New South Wales Minister as to whether any such sale would be sanctioned by the New South Wales Government.
- 

**3. Notice of Motion - Cr Boyd**

**Tweed Heads Civic Centre**

**Notice of Motion; Southern Cross Uni; Civic Centre - Tweed Heads; DW683855**

That Council clarifies its position concerning the statement attributed to Cr Lawrie in the recent edition of the Tweed Sun wherein he alleges Council is considering the sale of the Tweed Heads Civic Centre to the Southern Cross University.

---

**4. Notice of Motion - Cr Beck**

**Local Government Inquiries**

**Notice of Motion; Legal - Matters; Corruption**

That:-

1. *This Council writes to the Local Government Shires Association to request that they make representations to the Minister for Local Government so that in any future*

## Orders of the Day

---

*Local Government Inquiry, evidence must be sworn and that evidence be taped or a stenographer takes notes.*

2. *The person being questioned be asked if they require a legal representative or witness not from Local Government to be present.*
  3. *The transcript of evidence be given to the person the following day after being interviewed.*
-



