

Items for Consideration of Council

Schedule of Outstanding Resolutions	7
Mayoral Minute	13
Reports from Director Development Services	19
1. ORIGIN: Strategic Town Planning Unit	21
Section 94 Contribution Plan No 16 – Emergency Facilities and Cabarita Surf Lifesaving Club	21
2. ORIGIN: Development Assessment Unit	27
Development Application DA02/0988 for the Erection of an Agricultural Storage Shed and Greenhouse Structures at Lot 11 DP 835413 Boulder Close, Byangum	27
3. ORIGIN: Development Assessment Unit	43
Development Application DA02/0626 for a 26 Lot Residential Subdivision at Lot 113 DP 1031933 Tweed Coast Road, Kingscliff	43
4. ORIGIN: Development Assessment Unit	45
Development Application DA02/1265 for Construction of a Skate Park and Associated Drainage Works - Les Burger Fields at Lot 1 DP 1040811 Tweed Coast Road, Bogangar	45
5. ORIGIN: Development Assessment Unit	57
Development Application 0023/2002DA - Two (2) Sixteen Storey Residential/Tourist/Commercial Buildings - The Corner of Wharf and Bay Streets, Tweed Heads - Latitude 28	57
6. ORIGIN: Development Assessment Unit	109
Section 96 Application K99/0294.02 for an Amendment to Development Consent K99/0294 for a 3 Lot Rural/Residential Subdivision at Lot 29 DP 624296 Rowlands Creek Road, Uki	109
7. ORIGIN: Development Assessment Unit	117
Development Application DA02/1421 - Proposed Change of Use of Existing Tweed Heritage Caravan Park to a Manufactured Home Estate and Community Title Subdivision - Lots 102, 103 and 104 DP 755701 Chinderah Bay Drive, Chinderah	117
8. ORIGIN: Development Assessment Unit	145
Draft Development Control Plan No. 16 – Subdivisions Manual	145

Items for Consideration of Council

8a.	ORIGIN: Development Assessment Unit	151
	Development Application DA02/0980 - Multi-Dwelling Housing Comprising 17 x 3 Bedroom and 4 x 4 Bedroom Units in 6 Storeys at Lot 92 DP 237806, Lot 93 DP 237806, Lot 94 DP 237806, No. 5 Ivory Crescent, Tweed Heads	151
Reports from Director Corporate Services		185
9.	ORIGIN: Director	185
	Tweed Economic Development Corporation (TEDC) Funding Agreement 2002/2005	185
10.	ORIGIN: Director	191
	Tweed and Coolangatta Tourism Inc Funding Agreement	191
11.	ORIGIN: Director	197
	Report on the Regional Tourism Action Plan for Northern River Tropical New South Wales	197
Reports from Director Engineering Services		201
12.	ORIGIN: Planning & Infrastructure Unit	201
	Draft Development Design and Construction Specifications	201
13.	ORIGIN: Works Unit	205
	Cudgera Creek Road Upgrade	205
14.	ORIGIN: Works Unit	209
	Highway Handover - Lump Sum Agreement	209
15.	ORIGIN: Design Unit	211
	Application to Close & Purchase Unformed and Unnecessary Road Reserve - Old Lismore Road, Byangum	211
16.	ORIGIN: Design Unit	215
	Acquisition of Crown Reserve 84717 for Reservoir (being Lot 430 in DP 755740) Razorback Road, Tweed Heads	215
17.	ORIGIN: Design Unit	217
	Proposed Closure - Acquisition of Road - Lighthouse Parade, Fingal Head	217
18.	ORIGIN: Director	221
	Farmers Market Proposal	221
19.	ORIGIN: Design Unit	225
	Revision/Naming of Localities	225
20.	ORIGIN: Design Unit	233
	Proposed Closure of Public Road - Inlet Drive, Tweed Heads	233

Items for Consideration of Council

21. ORIGIN: Design Unit	237
Proposed Closure of Part Public Road - Fernvale Road, Fernvale	237
22. ORIGIN: Planning & Infrastructure Unit	241
Tweed Road Contribution Plan, Arterial Network Revision 2002 Amendment	241
Reports from Director Environment & Community Services	245
23. ORIGIN: Environment & Health Services Unit	245
Tyalgum Garbage Depot Operations	245
24. ORIGIN: Environment & Health Services Unit	247
Installation of Unregistrable Moveable Dwelling - Site 129, North Star Holiday Resort	247
25. ORIGIN: Environment & Health Services Unit	253
Membership of Crystal Creek Hall Management Committee	253
26. ORIGIN: Environment & Health Services Unit	255
Annual Agreement for Surf Life Saving Services	255
Reports from Committees/Working Groups	257
1. Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 14 November 2002	257
2. Minutes of the Sports Advisory Committee Meeting held Tuesday 19 November 2002	261
3. Minutes of the Local Traffic Committee Meeting held Thursday 21 November 2002	265
MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION	275
4. Minutes of the Occupational Health and Safety Committee Meeting held 14 November 2002	275
5. Minutes of the Tweed Shire Council Disability Access committee Meeting Held Thursday 21 November 2002	275
Orders of the Day	277
1. Notice of Rescission - Cr Youngblutt, Cr Polglase and Cr Beck	277
Lot 156 DP 628026 Creek Street, Hastings Point	277
2. Notice of Motion - Cr Beck	277
Policy - Monetary Incentives for Conservation of Water	277

Items for Consideration of Council

C O N F I D E N T I A L

Reports from Director Engineering Services in Committee	5
1. ORIGIN: Contracts Unit	5
EQ2002-125 Tweed Heads/Banora Point Effluent Disposal Strategy Stage 2 - Community & Stakeholder Consultation - Appointment of Facilitator	5
<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>	5
2. ORIGIN: Design Unit	9
Industrial Land Development	9
<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>	9
Reports from Director Environment & Community Services in Committee	13
3. ORIGIN: Recreation Services Unit	13
Purchase of Land - Chillingham	13
<i>Confidential Nature of This Item: The Local Government Act 1993 Clause 10A(2)</i>	
<i>(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business</i>	13

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: Part of Council's ongoing Risk Management Policy upgrade.

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. The draft plan is now completed and will be presented to Council for consideration in January.

Schedule of Outstanding Resolutions

19 DECEMBER 2001

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

33. Future Doon Doon Hall

Rural Hall - Doon Doon (Ppty No: 1640.430)

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: Draft report prepared.

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 in the near future.

Schedule of Outstanding Resolutions

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: Report to be prepared.

19 JUNE 2002

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.

21 AUGUST 2002

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

7. **Erection of an Advertising Sign at Lot 1 DP 121377 No. 363 Carol Road, Carol**

DA02/1111 Pt1; 960.730

190

Cr Beck

Cr Youngblutt

RESOLVED that that Development Application DA02/1111 for the erection of a advertising sign on Lot 1 DP 121377 No. 363 Carol Road, Carol be deferred pending determination of

Schedule of Outstanding Resolutions

the application and request the applicant to provide additional information within 28 days to meet the statutory compliance requirements.

Current Status: A submission has been received and report being prepared.

9. Development Application K99/1682 for a Six (6) Lot Subdivision at Lot 2 DP 1014553 Winders Place, Banora Point

188

Cr Boyd

Cr Marshall

RESOLVED that this matter be deferred on the request of the applicant.

Current Status: Awaiting applicant's further submission.

16 OCTOBER 2002

ORDERS OF THE DAY

1. Rezoning - Lot 517 DP 529286, Lot 201 DP 1030080 and Lot 7032 DP 755701 Coast Road, Cabarita

LEP; 1180.9000; 1190.1258; 1190.1237; Notice of Motion

393

Cr Beck

Cr Lawrie

RESOLVED that a report to Council on the zoning options for Lot 517 DP 529286, Lot 201 DP 1030080 and Lot 7032 DP 755701 be prepared.

Current Status: To be finalised.

Schedule of Outstanding Resolutions

6 NOVEMBER 2002

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

11. Section 96 Application D97/0286.01 for an amendment to Development Consent D97/0286 for Brothel/Escort Service at Lot 1 DP 619871, No. 31-33 Morton Street Chinderah

PF3560/110 Pt2; 3560.110

420

Cr Boyd

Cr Beck

RESOLVED that a report be brought forward indicating the number of:

1. Approved brothels and their location.
2. Illegal brothels and their location, if they can be identified.

Current Status: Being investigated.

20 NOVEMBER 2002

URGENCY MOTION

Photographic War Memorials in Tweed Shire

476

Cr Boyd

Cr Carroll

RESOLVED that in view of the apparent loss by Council of the comprehensive photographic record of the war memorials in Tweed Shire, which was produced by Mr A Flanagan and presented to Council, a further thorough search be undertaken and if it is not found, Council replace it at Council's cost.

Current Status: Being attended to.

Schedule of Outstanding Resolutions

ITEMS DEFERRED

13. Development Application 0689/2000DA for a Storage and Launching Facility for Tweed Coast Sea Rescue Squad at Lot 7018 DP 755701 Tweed Coast Road, Hastings Point

DA1180/425 Pt1; 1180.425

479

Cr Boyd

Cr Marshall

RESOLVED that the Mayor and Director Development Services (and/or his nominee) meet with representatives of the Tweed Coast Sea Rescue, and NSW Fisheries to discuss the position with this Development Application.

Current Status: Meeting being arranged.

3. Overpass Construction-Kirkwood Road

R2920 Pt3-Kirkwood Road; Notice of Motion

502

Cr Lawrie

Cr Youngblutt

RESOLVED that Council brings forward a report canvassing all foreseeable issues involved in constructing an overpass over the Tweed Bypass to connect the two portions of Kirkwood Road, Tweed Heads South.

Current Status: Report to be prepared.

4. Road Construction - Winders Place

R5937-Winders Place; Notice of Motion

504

Cr Lawrie

Cr Youngblutt

RESOLVED that Council brings forward a report canvassing all foreseeable issues involved in constructing a road from the roundabout adjacent to Palm Village Resort in Winders Place, Banora Point to Greenway Drive, Tweed Heads South.

Current Status: Report to be prepared.

Mayoral Minute

Councillors,

1. Work Experience

Work Experience

20 – 22 November I had the pleasure of the company of Jamie King from Lindisfarne School who spent the time with me as his work experience project.

2. Aussie Connect

Councillors' Invitations

21 November – attended at Tweed City Shopping Centre for the launch of the opening of Aussie Connect

3. Seabreeze Estate

Co-councillors' Invitations

21 November – attended a Press Conference at Seabreeze Estate

4. Tweed Business Awards

Civic Awards/Industrial Development General

21 November – attended a meeting at SCU Tweed Campus to discuss Tweed Business Awards.

5. Ski for a Cure

Charities

21 November – attended the Start of Brenton McGrath's world record water ski challenge in aid of Ski for a Cure at Tumbulgum.

6. TEDC

Mayoral Minute

TEDC

22 November – attended TEDC Board Meeting at Tweed Heads

7. Tweed Heads Hospital

Aged Services/Councillors' Invitations

22 November – attended opening by the Premier, the Hon. Bob Carr, of the Pediatrics Ward & High Dependency Unit at Tweed Hospital

8. Casuarina Fishing Classic

Sport & Rec. General

22 November attended the launch of the 2003 Casuarina Fishing Classic at Casuarina

9. Tweed Coast Business Corp

Kingscliff District Strategic Issues

22 November – Public Meeting re Tweed Coast District Strategy

10. Ski For a Cure

Charities

23 November judged colouring-in competition for Brenton McGrath's record breaking attempt.

11. Tweed River Festival

Tweed River Festival

23 November opening of Tweed River Festival at Murwillumbah

12. Bilambil Sports Club

Councillors' Invitations

25 November – Bilambil Sports Club AGM at Bilambil

13. Bilambil Sports Club

Mayoral Minute

Councillors' Invitations

27 November – attended meeting at Bilambil Sports Club

14. Mortgage Bureau

Councillors' Invitations

27 November – attended opening by Larry Anthony of Mortgage Bureau Tweed Heads

15. TACTIC

TACTIC

28 November – due to a personal prior commitment, Cr Bob Brisnmead attended on my behalf, the inaugural meeting of a working group formed by TACTIC to develop the 'Tweed Gateway Visitor Information Centre' at Chinderah

16. Councillors/Directors/Managers Christmas Party

Councillors General

30 November – attended a Christmas Dinner with the Councillors, Directors and Managers at Murwillumbah CC.

17. Remote Control Car Club

Councillors' Invitations

1 December – attended Murwillumbah Remote Control Car Club meeting

18. Carols By Candlelight

Councillors' Invitations

1 December – Tweed Valley College – Carols By Candlelight at Murwillumbah

19. PlanningNSW

Planning General

2 December – Meet with GM, Director & Executive Director of PlanningNSW at Tweed Heads

20. Autumn Club

Mayoral Minute

Councillors' Invitations

3 December - Autumn Club's Christmas Lunch at Murwillumbah.

21. People With Disabilities

Disabled Matters

3 December – Ten Pin Bowling in support of International Day of People with Disabilities, at Tweed Heads

22. Northern Development Task Force Inc

Northern Rivers Regional Development Board

2 December – Meet with local employees (apprentices and trainees) and employers on site at Casuarina.

23. Northern Rivers Area Health

Councillors' Invitations

3 December – Northern Rivers Area Health –AGM at Tweed

24. Lindisfarne School

Councillors' Invitations

4 December – Lindisfarne Presentation Day at Seagulls

INVITATIONS ACCEPTED:

- 4 December – Apprentice of the Year Awards M'bah CC
- 5 December – Presentation of certificates – International Volunteers Day
- 5 December – Martin Findlater & Assoc Christmas Celebration – Club Banora
- 5 December – Festivals Event Meeting THCC
- 6 December -Dinner and Opening Ceremony Rotary annual District Conference Tweed Heads
- 9 December – Twin Towns Friends Assoc Christmas Luncheon – Tweed Bowls Club

Mayoral Minute

- 10 December –Meet with GM, Deputy Mayor and GCCC CEO, Mayor & Cr Sue Robbins at GCCC office Nerang
 - 10 December – Kingscliff & Murwillumbah TAFE Campus 2002 Celebrations at Murwillumbah
 - 12 December – TACTIC AGM & Christmas Party at Mooball
 - 14 December – Opening ceremony Greg Norman Jnr Masters at C’gatta Tweed Golf Club
 - 14 December – Tweed Rotary Carols at Salvation Army Hall Banora Point
 - 14 December - Christmas Function Councillors & Directors Twin Towns
 - 16 December – Tweed Rotary Christmas Break Up – South Tweed Heads
 - 17 December – Tweed Heads Public School Presentation Day THCC
 - 17 December – TEDC Christmas Function Murwillumbah
 - 17 December – Murwillumbah High School Presentation Night
 - 18 December – Murwillumbah East Public School Presentation of Awards MCC
 - 18 December – Councillors & Executive Group Photo MCC
-

ABSENCES FROM SHIRE BY GENERAL MANAGER AND DIRECTORS 16 November 2002 to 30 November 2002

Name	Period	Location	Details
DCS	5 December 2002 - 5 December 2002	Gold Coast City Council	SIA Meeting

Mayoral Minute

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

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: Strategic Town Planning Unit

FILE REF: GT1/S94/16 Pt1

REPORT TITLE:

Section 94 Contribution Plan No 16 – Emergency Facilities and Cabarita Surf Lifesaving Club

SUMMARY OF REPORT:

Section 94 Contribution Plan No 16 (Emergency Facilities) has provision for \$500,000 in it for the construction of a new clubhouse for the Cabarita Surf lifesaving Club. When the Plan was amended to include the clubhouse the location of the building had not been determined nor the timeframe for the construction of the building.

Cabarita Surf Lifesaving Club has now submitted a Development Application to Council for the new clubhouse and is hoping to commence construction of the building in early 2003. The location of the proposed club is on Cabarita Surf Club land adjacent to the site of the existing clubhouse which will be demolished shortly to allow for construction of this new club.

As there are not sufficient funds in the Section 94 Plan at this stage to pay for this new clubhouse it is proposed that the Section 94 Plan be amended to increase the length of the Plan to include a loan component for the full \$500,000. As it is difficult to determine the development rate Council may be required to contribute towards the loan repayments until there are sufficient funds in the Contribution Plan, it is proposed that the Contribution Plan be extended for eight years. The total principal and interest repayment over eight years will be \$649,121.

The surf lifesaving clubs have also submitted an additional equipment list for the next five years to cater for the expected growth in the Shire, particularly along the coast. These clubs (Fingal Headland, Cudgen and Cabarita) have previously obtained equipment under CP 16.

RECOMMENDATION:

That Council:

1. Approves the amendment to Section 94 Contribution Plan No 16 to include:
 - the actual location of the proposed clubhouse;
 - the loan component for the \$500,000, with total principal and interest of \$649,121 over eight years; and
 - the revised equipment needs of the surf clubs for the next five years; and
 - the amended contribution rate
2. Endorses the public exhibition for 28 days of the amended CP16 in accordance with Clause 31 of the Environmental Planning and Assessment Regulations, 2000

Reports from Director Development Services

REPORT:

Section 94 Contribution Plan No.16 (Emergency Facilities) has provision for \$500,000 in it for the construction of a new clubhouse for the Cabarita Surf lifesaving Club. When the Plan was amended to include the clubhouse the location of the building had not been determined nor the time-frame for the construction of the building.

Cabarita Surf Lifesaving Club has submitted a Development Application to Council for the new clubhouse and is hoping to commence construction of the building in early 2003. The current building is in disrepair and will be demolished to make way for the new building.

It is proposed that the new building will be situated on Cabarita Surf Lifesaving Club land being Part Lot 6 Section 5 DP 29748 (currently Council land) and Lot 7 Section 5 DP 29748 as set out below. An application for a boundary adjustment between Lot 6 and 7 is to be submitted to Council in the near future.

Reports from Director Development Services



Figure 1

As there are not sufficient funds currently in this Plan to fund the proposed building at this construction date, this Amendment includes the interest component required to borrow the \$500,000 over an eight year period. The \$500,000 was included in Amendment No 1 but no interest repayment was included.

This deficiency should be remedied by including provision for interest repayment in the Plan, otherwise Council will have to meet the shortfall. The term of the loan has been adjusted so that the levy rate for the clubhouse (and interest) is the same as the rate in the current plan (ie, \$42 per person). Based on an 8 year repayment, the total contribution required for the clubhouse is \$649,121, being \$500,000 for the clubhouse and \$149,121 in interest repayments. The total estimated population at 2010 for that time period is 91,160, an increase of 15,160.

Reports from Director Development Services

Community facilities provided under Section 94 are usually located on Council owned land (normally through dedication or acquisition). However the proposed clubhouse will be located on private land (see below) and to safeguard the continuation of this public facility into the future the following has been agreed between the Cabarita Surf Lifesaving Club and Council:

- Cabarita Beach Surf Life Saving Club (the Club) will provide to Council a registered first mortgage over the subject site to secure Council’s advance of \$500,000, with the mortgage containing the standard covenants and provide for:
 - the advance of \$500,000 plus interest until repaid, with the interest to be set at and varied according to the Local Government borrowing rate;
 - provision for repayment of part or the whole at any time;
 - provision for repayment of outstanding monies, plus interest, either upon any sale of the land or should the Club become insolvent or unable to pay its debts, in which event the Council could sell the premises as Mortgagee.

In addition to the above \$500,00 to be funded through Section 94 there will also be total funds of \$300,000, being from the NSW State Government grant and funds raised by the Club

Advice from Cabarita Surf Lifesaving Club is that funding for the building will be used to directly contribute to a community-based facility. In addition to being used by the Club for emergency facilities, the building will also be used outside the core hours by other community-based organisations.

In addition to providing the club with a strip of land 3 metres wide on the north side of the boundary (Part Lot 6 Section 5 DP 29748 and subject to the boundary adjustment), Council is also foregoing some economic opportunity in that it has agreed to provide car parking for the surf club when it develops the remainder of Lot 6 Section 5 DP 29748 at a future date. This is likely to be provided as ground floor car accommodation.

The surf lifesaving clubs have also submitted an additional equipment list for the next five years to cater for the expected growth in the Shire, particularly along the coast. These clubs (Fingal Headland, Cudgen and Cabarita) have previously obtained equipment under CP 16. The revised contribution rates are below.

The amended draft Contribution Plan No 16 is an attachment to this report.

The following new contribution levy rates under this plan apply to:

• Former	NSW	Tourism	Commission	Land
Proposed		SALT		Development
Seaside				City
Kings				Forest
Casuarina Beach				

Per residential lot or detached dwelling: \$220 (\$256 current levy)

Per medium density dwelling: \$177 (\$177)

- The remainder of the shire

Per residential lot or detached dwelling: \$215 (\$201)

Per medium density dwelling: \$141 (\$141).

Reports from Director Development Services

The additional contributions for Kings Forest etc, is to cover the cost of an outstation specifically for Kingscliff South.

The current Plan identifies that contributions will also be levied in respect of other types of new development which provide for residential accommodation or tourist accommodation on a pro-rata basis.

Reports from Director Development Services

THIS
PAGE
PAGE
IS
BLANK
IS
BLANK

Reports from Director Development Services

2. ORIGIN: Development Assessment Unit

FILE REF: DA02/0988 Pt2

REPORT TITLE:

Development Application DA02/0988 for the Erection of an Agricultural Storage Shed and Greenhouse Structures at Lot 11 DP 835413 Boulder Close, Byangum

SUMMARY OF REPORT:

An application has been received seeking approval for the erection of an agricultural storage shed and two (2) greenhouse structures at the abovementioned land. The land has an area of 2.105 hectares and is zoned 1(a) Rural.

The proposal comprises the erection of an agricultural storage shed measuring 11m x 7.5m and 2.4m high. It will be constructed from colour bond metal with a concrete base. It will be used for the purposes of storing agricultural equipment associated with the farm and will also be used to pack produce grown in the greenhouses. The shed will be located adjacent to the southern boundary.

Two (2) greenhouses are also proposed to be erected. These structures will be metal framed and covered with a clear plastic material to allow sunlight in and to keep heat in. It is a type of translucent plastic known as solarweave. A sample of the material to be used will be available at the meeting. The cladding is replaced every 5 – 10 years. The largest of the two (2) greenhouse structures measures 60m x 36m with a total height of 5.6m, whilst the smaller of the two measures 29m x 36m also with a maximum height of 5.6m. The greenhouse structures have a “saw tooth” design, which improves ventilation. Each structure has been designed with a view to ease of dismantling and re-erection. Each of the greenhouse structures will incorporate a bare earth floor. The greenhouse structures will be used to grow various fruit and vegetable produce organically. All produce will be sent to the markets and none will be sold directly from the land.

Four (4) water tanks are also proposed, one (1) with a capacity of 10,000 litres and three (3) others each with a capacity of 20,000 litres and are the source of water for greenhouses and the shed.

Adjoining and adjacent property owners where notified and a total of 142 submissions were received - 20 supporting the application and 122 objections (including one petition with 102 signatures). Following assessment of all issues, it is concluded that the reasons for objection do not warrant refusal of the application in this instance. Consequently it is considered that the proposal is suitable for conditional approval.

RECOMMENDATION:

That Development Application DA02/0988 for the erection of an agricultural storage shed and greenhouse structures at Lot 11 DP 835413 Boulder Close, Byangum be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in general accordance with the plans and the Statement of Environmental Effects included in the application, except where varied by these conditions of consent.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

Reports from Director Development Services

3. The erection of a building in accordance with development consent must not be commenced until:
 - a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
4. No produce is to be sold direct from the site.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

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

6. A detailed plan of landscaping providing for a mixture of mature and semi mature trees is to be submitted and approved by the Director of Development Services prior to the issue of a Construction Certificate. The landscaping is to be planted to the satisfaction of the Director of Development Services before the shade cloth is attached to the structures.

PRIOR TO COMMENCEMENT OF WORK

7. 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.
8. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.

DURING CONSTRUCTION

9. 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).

Reports from Director Development Services

10. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. completion of work
 - d. frame
11. 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.
12. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
 - i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iii. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
13. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.
14. 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.
15. 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.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

16. 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.
17. On completion of work a certificate signed by a practising structural engineer is to be submitted to the PCA to certify the structural adequacy of the structure.

USE

18. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

Reports from Director Development Services

REPORT:

Applicant: Singleton Smith Pty Ltd
Owner: Mr Avraham Mishtler
Location: Lot 11 DP 835413, Boulder Close Byangum
Zoning: 1(a) Rural
Cost: \$20,000.00

BACKGROUND

An application has been received seeking approval to erect an agricultural storage shed and two (2) greenhouse structures at the abovementioned land. The land has an area of 2.105 hectares with a 225m frontage to Kyogle Road and a 15m frontage to Boulder Close. The land is relatively flat and cleared with scatterings of trees over the property, particularly around the dwelling. Existing improvements include a dwelling. Vehicular access is currently provided from Kyogle Road. The site is bound by Kyogle Road to the west, Boulder Close to the north and similar sized allotments to the south and east each of which include a dwelling.

The proposal comprises the erection of an agricultural storage shed measuring 11m x 7.5m and 2.4m high. It will be constructed from colour bond metal with a concrete base. It will be used for the purposes of storing agricultural equipment associated with the farm and will also be used to pack produce grown in the greenhouses. The shed will be located adjacent to the southern boundary.

Two (2) greenhouses are also proposed to be erected. These structures will be metal framed with a clear plastic cladding. It is a type of translucent plastic known as solarweave. The cladding is replaced every 5 – 10 years. The largest of the two (2) greenhouse structures measures 60m x 36m with a total height of 5.6m, whilst the smaller of the two measures 29m x 36m also with a maximum height of 5.6m. The greenhouse structures have a saw tooth design, which improves ventilation. Each structure has been designed with a view to ease of dismantling and re-erection. Each of the greenhouse structures will incorporate a bare earth floor. The greenhouse structures will be used to grow various fruit and vegetable produce organically. All produce will be sent to the markets and none will be sold directly from the land.

Four (4) water tanks are also proposed, one (1) with a capacity of 10,000 litres and three (3) others each with a capacity of 20,000 litres and are the source of water for greenhouses and the shed.

The erection of the proposed structures will require the importation of a minor amount of fill and levelling earthworks in order to provide a relatively level base for construction. It is expected that no more than 100m³ will need to be imported to the site.

Adjoining and adjacent property owners were notified and a total of 142 submissions were received. Of these 20 support the application and 122 object, including one petition with 102 signatures. The details of the submissions of objection will be discussed further in this report.

Following the submission period the applicant has amended the site plan to locate the structures further south behind an extensively vegetated hill so that views from adjoining nearby residences are not lost.

In addition the applicant has provided further information to support their application. This information is as follows: -

Reports from Director Development Services

“The size and scale of the proposed greenhouses is acknowledged, however, our clients have shown a clear willingness to ameliorate the Director’s concerns by way of proposing extensive landscaping adjacent to the Kyogle Road frontage as well as all other property boundaries. Whilst it is acknowledged that the proposed landscaping will take time to mature, our clients are committed to utilising a mixture of fast growing pioneer and mature species. It is also noted that Council commonly accepts the use of landscaping, as the primary form of visual buffering for all forms of development, with a clear knowledge and expectation that landscaping will take time to develop. It is difficult to understand why Council would now choose to disregard the use of landscaping as a visual buffer on the basis that the plants will take time to grow. It is also noted that proposal complies with the setback requirements (partly based on visual buffering principles) contained within Tweed LEP 2000.

It is understood that concerns are held over the reflectivity of the proposed greenhouse material. In this regard, the material utilised, by its very nature, is designed to allow maximum light in (84% to 87% when new) and to minimise reflectivity. Whilst the sample provided to Council may exhibit a degree of reflectivity, it must be noted that this ‘off the shelf’ sample will vary markedly to the established product. Indeed, the attached manufacturers material clearly demonstrates that within a short period, the reflectivity of the product is reduced to approximately 6% to 8%. It is also worth noting that the material used has a lifespan of approximately 5 years only, further demonstrating the weathering characteristics of the cloth.

Having regard to the suitability of the site to accommodate the proposed structures we offer the following comments:-

- i. The proposed agricultural structures can be sited with complete compliance to Council’s setback requirements contained within Tweed LEP 2000. Further, the proposal is setback approximately 110m to the nearest affected residence (i.e. with direct visual access).*
- ii. The proposed structures are compatible with the agricultural zoning of the land, the objectives of the zone and Council’s long held intention to promote innovative agricultural uses of small rural allotments and to minimise agricultural conflicts caused by small lot residential subdivisions.*
- iii. The proposed structures, and indeed the proposed use will not result in the creation of any adverse impacts related to soil erosion, contamination, dust generation, noise generation or excessive water use which if it were not for the proposed structures, Council would have no interest at all. Indeed, our clients would again like to state their intention to collect all generated stormwater and to use zero fertilisers or chemicals in line with the future organic certification of their land. With the arguable exception of visual impact, the proposal provides for no demonstrated adverse impacts.*
- iv. Our clients have discussed the issues raised within Council’s letter dated 8 October 2002 with Officers of NSW Agriculture (Murwillumbah & Wollongbar Offices). It is understood that they have expressed considerable surprise at Council’s reticence to support what is a sustainable, innovative and low impact agricultural pursuit. Indeed, it is our opinion that this is the very sort of development that can be viably carried out on a number of small allotments still located within the 1(a) zone.*

Reports from Director Development Services

- v. *Should Council refuse the application, no agricultural pursuit will be carried out on the subject land, thereby negating and arguably jeopardising the objectives of the I(a) zone. In this regard, no viable and economically supportive pursuit can be carried out on the land without the introduction of innovative techniques such as that proposed.*
- vi. *The proposed structures will be visible from existing residences located at higher elevations than the subject site. These properties will in no way have their primary views to the Tweed River, Mountains or indeed, vistas to Murwillumbah, disrupted. The proposed structures are not in direct line of sight of any residence, with all relevant dwellings possessing and retaining substantial (in some cases 180 degrees) views to all areas. Indeed, are the proposed structures any more disruptive or deleterious to the rural character of the area than the proliferation of rural dwelling houses located within the immediate area?*

It is noted that DCP 6 contains a number of view sharing principles. Perhaps the latter should also be applied within the rural area.

Coupled with the demonstrated lack of long term reflectivity and the extent of the proposed landscaping, it is difficult to determine exactly what adverse visual impact will ultimately occur in relation to neighbouring dwelling houses and passing traffic alike.”

Reports from Director Development Services

SITE DIAGRAM



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 subject land is zoned 1(a) Rural within which agriculture is permissible without Council's consent. In this instance it is the structures that require Council's consent.

The primary objectives of the 1(a) Rural zone are as follows;

- “* to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development.
- * to protect rural character and amenity.”

It is considered that the development is consistent with the objectives of the zone. The land is suitable for the intended use and will not significantly detract on the rural character or amenity of the locality.

Clause 22 – Development near designated roads

The land has frontage and direct access to Kyogle Road, which is a designated road.

The proposal incorporates the carrying out of agriculture within two (2) proposed greenhouse structures and the erection of an agricultural storage shed. The proposed use will not necessitate the carrying out of additional roadworks nor any noticeable increase in traffic. In this regard, the proposed development is likely to result in two (2) additional trips to the markets in Brisbane every week.

Each structure will be visible from Kyogle Road. In this regard, it is proposed to setback the structures the full 30m from Kyogle Road and to plant additional trees between the road and the proposed buildings.

It is considered that the proposed development is in no way sensitive to traffic noise or likely to detract from the continued security, safety and awareness of passing motorists. The capacity, safety and efficiency of Kyogle Road is unlikely to be jeopardised by this development.

Clause 24 – Setbacks to designated roads

This clause requires a minimum 30m setback to Kyogle Road. In this instance the proposal complies with all structures setback a minimum of 30m from Kyogle Road.

Council's Engineering Services Division have reviewed the development in regard to its impact on the traffic along Kyogle Road and raise no objections.

Clause 34 – Flooding

The area of land identified for the proposed structures is likely to be affected by flooding. In this regard, Council's flooding information does not extend to the rural area. However, the actual footprints of the proposed structures is considered to be minor and is unlikely to impede floodwaters or the risk of flooding on adjoining properties. Each of the proposed greenhouse structures are essentially open structures on an earth

Reports from Director Development Services

base. They are easily transportable and floodwaters are likely to easily flow in and around the proposed buildings.

It is considered that the proposal is consistent with the provisions of this clause.

North Coast Regional Environmental Plan 1988

Clause 12 – Impact on agricultural activities

The land is not identified as prime agricultural and the proposal will not cause a loss of prime crop or pasture land. The development will also not impact on any adjoining or adjacent agricultural land.

Clause 15 – Rivers, streams and wetlands

The subject site is near the Tweed River and is separated from it by Kyogle Road and a large Council reserve.

Stormwater will be collected and disposed of in a rural state. Stormwater from the structures will be collected and stored in each of the water storage tanks. These tanks will provide a storage capacity of up to 70,000 litres. Given the nature and operations of the development and the distance to the Tweed River it is considered unlikely that the development would significantly jeopardise the quality or quantity of the water in the Tweed River. It is unlikely that any nutrients from the development would enter the river as they are contained wholly within the structures. In addition it is unlikely that the development would jeopardise any habitat within the river.

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

The proposal is considered unlikely to result in any significant adverse impacts on the existing natural or built environments. The proposed structures are associated with an agricultural use of the land and are considered to be consistent with both the zoning and character of the area.

It is considered that the proposed structures have been sited so as to restrict the amount of associated earthworks and visual impact upon adjoining residences. In fact the application has been amended to relocate the structures further to the south behind existing vegetation and a small hill/knoll to screen the structures and improve views from nearby residences to the west and north.

Whilst the scale of the proposed structures is considered to be large, adverse visual impacts associated with Kyogle Road can be satisfactorily ameliorated by the planting of additional buffer trees between the Kyogle Road frontage and the proposed structures, as shown on the amended site plan.

It is considered that the development is not likely to have any significant adverse environmental impacts on both the natural and built environments of the locality.

(c) Suitability of the site for the development

The character of the locality mainly comprises large acreage parcels of land used for residential and/or agricultural purposes. The locality has a long history of agricultural use with grazing and dairy being the dominant use, subsequently large areas of land where previously cleared to accommodate this.

Reports from Director Development Services

The land has subsequently been subdivided for rural/residential purposes. This has created large acreage sized allotments that has ensured that the rural character of the locality is preserved.

With large rural/residential allotments it also allows owners to undertake various types of agricultural uses, should they be suitable. It has become common practice that these lots are also used for agricultural purposes in the form of hobby farms or intensive agriculture, such as proposed, that does not need a large amount of land, but remain economically viable.

The application has demonstrated that the site is suitable for the proposed development and the site is able to satisfactorily accommodate the proposed use.

It is considered that the proposed development is an appropriate response to the character of the area. The subject locality provides for a typically rural character and is well serviced in terms of access facilities and essential infrastructure.

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

The application was notified to adjoining and adjacent property owners. A total of 142 submissions were received. Of these 20 supported the application and 122 objected, including one petition with 102 signatures. The details of these objections are discussed below.

Objection 1 The proposal will detract on the amenity of the locality.

A number of submissions raised concerns in relation to the impact the development will have on the visual and residential amenity of the locality because of the size and appearance of the structures.

Comment

See section (b) and (c) of this report. It is considered that the proposal complies with the objectives of the 1(a) rural zone and is compatible with the rural/residential character of the locality.

Although the greenhouses will have a maximum height of 5.6m and will cover an area of 3,204m² it is unlikely that these structures will significantly affect views from adjoining or adjacent property owners. To ensure views are not affected the applicant has moved all the structures further south to locate them behind a small hill which is also extensively vegetated. In addition the applicant has also provided additional landscaping around the structures to improve their visual appearance, particularly from Kyogle Road and this is considered to be reasonable. Given the scale of the structures, the landscaping proposed should be a mixture of mature and semi mature trees to ensure the screening of these structures occurs as soon as possible after construction.

Most dwellings in the locality are above the height of the structures and will look directly over it without any views lost.

Reports from Director Development Services

Objection 2 The proposal is not agricultural but rather industrial/commercial and it should be located in an industrial area.

Comment

The intended use of the greenhouses and shed is agricultural and not industrial or commercial. No produce will be sold directly from the site and all produce will be sent to the market.

Agriculture is prohibited within all the commercial and industrial zones in the Tweed Shire under the provisions of the Tweed Local Environmental Plan 2000.

Objection 3 Property values will decrease.

Comment

This is not necessarily a planning consideration and is difficult to justify.

Objection 4 The land is subject to flooding and the development presents a risk to adjoining owners and the quality of the Tweed River and its habitat.

Comment

See section (a)(i) of this report.

Objection 5 Increased nutrients flowing into the Tweed River.

Comment

See section (a)(i) of this report.

Objection 6 This will set a precedent for other similar structures to be erected in the locality.

Comment

This is unlikely to set a precedent for other similar structures to be erected. In any case should Council receive any other applications similar to this it will also be considered on its merits and in accordance with the objectives of the zone.

Objection 7 The proposal will increase traffic along Kyogle Road.

Comment

See section (a)(i) of this report. The proposal will not generate significant amounts of traffic other than a few deliveries each week to the markets.

Objection 8 The structures will distract drivers along Kyogle Road having the potential to create accidents. Concern is also raised with the safety of school children along Kyogle Road.

Comment

See section (a)(i) of this report. The structures have been setback a minimum of 30m from Kyogle Road and in addition landscaping has been provided to soften the appearance. Subsequently, it is considered that the structures will not likely create a traffic problem.

Reports from Director Development Services

In addition Council's Engineering Services Division have reviewed the application in relation to its impact on traffic along Kyogle Road and deemed it to be reasonable and raise no objections.

Objection 9 Increased noise pollution from tractors, trucks and other vehicles/machinery.

Comment

The nature of the operation is generally consistent with rural/agricultural activities where tractors and machinery are used to maintain a property or undertake agricultural activities. It is considered that the noise associated with the proposal will not be out of character in a rural locality.

Objection 10 Reflectivity of plastic covering greenhouse structures.

Comment

The material to be used to cover the greenhouses is a clear translucent plastic commonly associated with greenhouses. It is considered unlikely that this type of material would create a significant amount of reflectivity and is suitable. The purpose of this material is to let in as much sun as possible while retaining the heat inside for optimum growth and productivity.

A sample of the intended material to cover the greenhouses will be available at the Council meeting.

Objection 11 The purpose of the development is not for agriculture but to grow trees and palms for preservation, which the owners also undertake.

Comment

The purpose of the development is for the growing of produce. Should the structures be used for anything else then separate consent from Council will be required depending on the intended use.

Objection 12 The proposal does not satisfy Clause 8 of the Tweed Local Environmental Plan 2000, particularly clause 8(2).

Comment

It has been demonstrated that the proposal is consistent with the objectives of the 1(a) rural zone and is not likely to have an adverse cumulative impact.

In relation to clause 8(2) the proposal is not an item 3 matter within the 1(a) landuse table and subsequently this clause is not applicable.

Objection 13 The proposal does not meet the objectives of the zone.

Comment

See section (a)(i) of this report. Generally it is considered that the development satisfies the objectives of the 1(a) rural zone.

Reports from Director Development Services

Objection 14 The proposal is to close to Kyogle Road and does not satisfy the provisions of Clause 22 – Development near designated roads of the Tweed Local Environmental Plan 2000.

Comment

This has been discussed in Section (a)(i) and it is considered that the development will not adversely affect the safety, capacity and efficiency of Kyogle Road.

Objection 15 The structural integrity of the structures is of concern.

Comment

A Construction Certificate will need to be submitted and approved prior to the erection of the structures and subsequently will comply with the Building Code of Australia. This should ensure that the structural integrity of the structures is adequate.

Objection 16 Fuel pollution from machinery.

Comment

With only one tractor and other farm equipment used on the farm and trucks frequenting the site only twice a week it is considered unlikely that there would be a significant amount of fuel pollution that would have a significant impact on the environment.

Objection 17 The development does not provide enough on site storage of water.

Comment

The proposal includes four tanks with a storage capacity of 70,000 litres. It is likely that the owner has investigated this to ensure that enough water is always available. Should this not be the case and additional water storage is required the applicant is likely to pursue this with the consent from Council where required.

Alternatively, the owner may get this additional water from a ground bore and will subsequently seek the approval from the Department of land and Water Conservation and Council if required.

Objection 18 The proposal does not consider the affect the development may have on any threatened species or their habitat.

Comment

The subject site has been substantially cleared in the past for agricultural practices and is generally devoid of any vegetation other than that which surrounds the existing dwelling. The proposal does not require the removal of any vegetation and physical works will be limited to some minor fill.

It is considered that the development will not result in the loss of any threatened species or their habitats.

Reports from Director Development Services

Objection 19 The development will detract on the beauty of the area and the nearby national parks and nature reserves and this will adversely affect tourism to the area.

Comment

When considering the structures in relation to the beauty or attractiveness of the Tweed it is considered that the proposal will have negligible adverse impact. The Tweed has extensive areas of land zoned for rural purposes and within these areas there are scatterings of large structures of similar or larger size used for agricultural purposes.

It has been demonstrated that the development conforms with the objectives of the zone and the rural character of the locality. It is unlikely that the development would significantly detract on the scenic beauty of the wider locality.

It is also unlikely that a development of this nature will adversely affect the tourism potential of the locality. It is considered that the development satisfies the objectives of the zone while not significantly detracting on any scenic beauty.

(e) Public interest

See Section (d) above.

Under the circumstances it is considered that the reasons for objection as discussed above do not warrant refusal or modification of the development in this instance.

OPTIONS

1. Approve the application subject to appropriate conditions.
2. Refuse the application.
3. Defer the application to allow further investigations into other options to modify the proposal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

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

CONCLUSION

It has been demonstrated in this report that the proposed development satisfies the relevant provisions of the Tweed Local Environmental Plan 2000. The development is considered to be generally consistent with the character of the locality without significantly detracting on the amenity. It also supports agricultural diversification on suitable land that previously had limited economic potential return for grazing or dairying.

One of the intentions of having large rural/residential acreage allotments is to encourage agriculture in an intensive or hobby farm nature in a rural setting with dwellings dispersed throughout. The proposed development supports this while preserving the residential amenity of the locality.

Buffers to nearby dwellings are not necessary in this instance as no sprays are used, as all produce grown will be organic.

Reports from Director Development Services

Although the development has created some public concern in the number of objections received it is considered that the reasons for objection do not warrant modification or refusal of the application in this instance and subsequently is recommended for approval.

Reports from Director Development Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Development Services

3. ORIGIN: Development Assessment Unit

FILE REF: DA02/0626 Pt1

REPORT TITLE:

Development Application DA02/0626 for a 26 Lot Residential Subdivision at Lot 113 DP 1031933 Tweed Coast Road, Kingscliff

SUMMARY OF REPORT:

Council received a development application for a 27 lot subdivision, creating 26 residential lots and one residue, over land which is part of the deferred area at Casuarina Beach, Kings Beach development. The subject development application was referred to National Parks and Wildlife for assessment as the original Land and Environment Court Consent imposed a condition in relation to the deferred areas and the requirement for Banksia regeneration areas to have met an ecological timeframe. This was also reflected in the approval for Stage 6, which imposed conditions affecting the subject land.

As National Parks and Wildlife advised that the regeneration area had not reached the ecological timeframe, and that the original consent condition could not be satisfied the Development Assessment Panel determined to refuse the proposed subdivision on 6th September 2002, for the following reasons:

1. The proposed subdivision is premature as an appropriate ecological timeframe has not been met in terms of the Banksia regeneration area as required by Condition 89 of Development Consent No. 0681/2000DA.
2. The proposed subdivision is not in the public interest.
3. The proposed subdivision is not in accordance with the strategic actions as contained in the Coastal Policy 1997 and adopted in Annexure 2 of Development Control Plan No.11 – Kings Beach.

The applicant has filed an appeal in the Land and Environment Court in relation to the refusal determination. The following report details the issues as outlined above.

RECOMMENDATION:

That Council's Solicitors be instructed to defend the appeal lodge in the Land and Environment Court in relation to Development Application DA02/0626 for a 26 lot residential subdivision at Lot 113 DP 1031933, Tweed Coast Road Kingscliff.

Reports from Director Development Services

REPORT:

Applicant: Cardno MBK Pty Ltd

Owner: Kings Beach (No 2) Pty Ltd

Location: Lot 113 DP 1031933, Tweed Coast Road Kingscliff

Zoning: 2(e) Residential Tourist

Cost: \$216000.00

As per summary.

Reports from Director Development Services

4. ORIGIN: Development Assessment Unit

FILE REF: DA02/1265 Pt1

REPORT TITLE:

Development Application DA02/1265 for Construction of a Skate Park and Associated Drainage Works - Les Burger Fields at Lot 1 DP 1040811 Tweed Coast Road, Bogangar

SUMMARY OF REPORT:

Council is in receipt of a development application from Council's Design Unit for Stage 1 of a proposed skate park at the Les Burger Fields. The proposed skate park is to be located at the Coast Road frontage of the Les Burger Fields. The skate park can be accessed from the entry road into the Les Burger Fields and the cycleway along the Coast Road. The skate park is designed to be constructed in four stages should the future opportunity to extend the skate park becomes available. The proposal is also for associated drainage works.

The proposed development for the skate park on the subject land is in accordance with Council's resolution of 6th December 2000 where the Les Burger Fields were identified as being the preferred location.

The proposed development was advertised during which two submissions were received, and referred to the NSW Police for comment. The issues raised in the submissions relate to noise generated by the skate park, bushland removal and safety surveillance of the site. The following report details these issues.

RECOMMENDATION:

That Development Application DA02/1265 for the construction of a skate park and associated drainage works - Les Burger Fields at Lot 1 DP 1040811, Tweed Coast Road, Bogangar be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in general accordance with the Statement of Environmental Effects and Plans Nos A1-1710/09, A1-1710/02 & A1-1707/03 prepared by Tweed Shire Council Design Unit and dated June 2002, except where varied by these conditions.
2. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
3. The erection of a skate park facility in accordance with a development consent must not be commenced until:
 - a. detailed plans and specifications of the skate park 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 skate park.
3. The existing vegetation between the Coast Road and the proposed skate park shall have all of the understorey removed and thinned where necessary to provide direct line of sight to the skate park facility.
4. Upon completion of the construction of the skate park facility security lighting of the area shall be provided in accordance with the requirements of the NSW Police.
5. The skate park facility shall not be provided with lighting that would enable the use of the facility after dark.
6. The skate park facility shall be equipped with suitable bollards to control vehicle movement onto the facility.

PRIOR TO COMMENCEMENT OF WORK

7. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.
8. 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.

9. Prior to work commencing, a "Notice of Commencement of Building Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

DURING CONSTRUCTION

10. The certifying authority is to be given 24 hours notice for inspection of the completed works.
11. 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.
12. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
13. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
 - A. Short Term Period - 4 weeks.

Reports from Director Development Services

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.

15. In the event that Council is not utilised as the inspection/certifying authority, prior to use of the skate park 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.

USE

16. 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.
17. The use of the skate park facility shall be limited to daylight hours and at no time be provided with lighting to enable usage after dark.
18. The skate park facility shall be equipped with water facilities and shade devices. These shall be provided within the immediate vicinity of the facility.
19. The use of the skate park facility shall be monitored and managed by the care taker located at the Les Burger Fields.

Reports from Director Development Services

REPORT:

Applicant: Tweed Shire Council

Owner: Tweed Shire Council

Location: Lot 1 DP 1040811, Tweed Coast Road Bogangar

Zoning: 6(b) Recreation

Cost: Not Stated

BACKGROUND

Council's Recreation Services Unit reported to Council on 6th December 2000 in relation to the identified need for a skate park facility in the Tweed Coast area and representation made by the Cabarita / Bogangar Ratepayers Association. The report detailed consultation, which has been undertaken and identified two locations as options these being the Les Burger Fields and Norries Headland.

The report identified the weaknesses and strengths of each site and concluded that the Les Burger Fields were the preferred option providing the caretaker is provided to the site and services and facilities are available.

Council resolved:

- “1. Confirms the proposed site at Les Burger Field as the site for the skate park. Construction not to commence until arrangements are in place to provide water and shade.
2. Facilitates a steering committee to oversee the planning and construction phase of the skate park. This committee is also to consider future management of the facility and make subsequent recommendations to Council on such. The committee to be comprised of
 - Representatives from youth groups/facility users
 - A councillor
 - Council staff
 - Community representatives
3. Pursues an agreement to facilitate an on-site arrangement at Les Burger Field whereby accommodation, water, sewage, power etc are provided in exchange for an on-site presence and some opening/closing of toilets.
4. The timing of the access to toilets be pursued as a separate matter.
5. The provision of telephone be pursued in conjunction with arrangements for a caretaker.”

In relation to Council's resolution of 6/12/2000 Council has received funding from Sport and Recreation for the provision of shade structures around the skate park. The water facilities will be provided to the skate park as part of the development application.

Reports from Director Development Services

A steering committee has been involved in the process of the skate park project. Les Burger Fields has had a caretaker in place for approximately two months. The caretaker will therefore be able to provide access to the toilet facilities. Also the telephone facilities have been provided to the caretaker.

As such Council's resolution of 6/12/2000 has been satisfied in relation to this proposal.

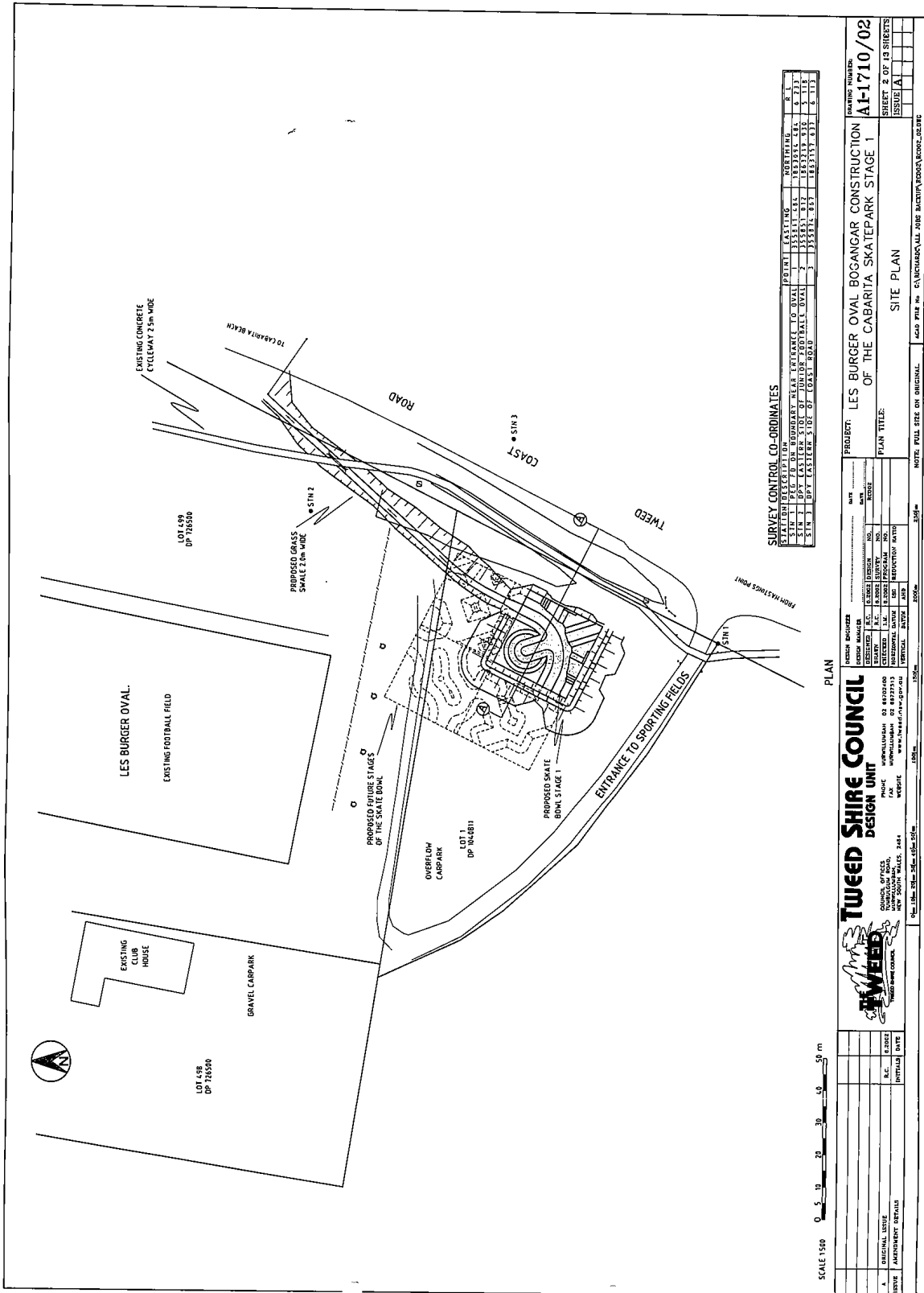
Reports from Director Development Services

SITE DIAGRAM



Reports from Director Development Services

SITE PLAN



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 subject land is zoned 6(b) Recreation under the provisions of the Tweed Local Environmental Plan 2000. The proposed development is for a recreation area being permissible with consent and defined as:

- a) *A children's playground, or*
- b) *An area used for sporting activities or sporting facilities, or*
- c) *An area used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or*
- d) *An area used by a body or persons associated together for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes.*

It does not include a racecourse or a showground.

Clause 17 of the TLEP requires a social impact assessment where Council is of the view that the proposed development is likely to result in a significant social or economic impact. Development Control Plan No.45 – Social Impact Assessment provides a list of proposals that require a statement to be prepared. Recreation areas that have the capacity of > 100 patrons are listed as a land use that requires a statement to be prepared.

While the proposal may be frequented by large numbers of youth it is considered that the proposal is not likely to generate more than 100 patrons at any one time. As such it is considered that a social impact statement is not required for the proposed development.

Clause 22 of the LEP is applicable to the extent that the subject land has frontage to a designated road. An assessment of the proposed skate park has been undertaken in relation to the designated road clause requirements. The proposed development is not likely to generate a traffic hazard based on the number of traffic generated. The subject land is connected through the cycleway network and the user group identified is likely to access the site through the cycleway and footpaths in the locality.

The scenic values of the locality in relation to road users will be affected through the requirement for the vegetation to be thinned and the understorey removed to provide surveillance of the skate park from passing traffic. The local scenic values are not likely to be transformed in the locality by way of the proposed development. The subject land is provided with an access to Les Burger Fields, which will be the access to the proposed development. No new access points are proposed.

It is considered that the proposed development does not require further assessment in relation to this issue.

Reports from Director Development Services

The subject land is identified as being in Class 3 Acid Sulfate Soils and as the proposed development will not disturb soils to greater than one metre, no further assessment is required under Clause 35 of the Tweed Local Environmental Plan.

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

The draft planning instruments on exhibition do not contain specific provisions, which require assessment in relation to the proposed development.

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

Development Control Plan No.2 – Access and Car Parking does not contain any specific provisions in relation to skate park requirements. It is considered that the car parking available on the site for the Les Burger Fields will be adequate for the proposed development.

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

The NSW Coastal Policy 1997 applies to the proposed development. The proposed development is considered to be generally consistent with the strategic actions and principles of this policy document.

(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

Natural Environment

The proposed development involves the removal of vegetation between the cycleway and the field to facilitate access and site drainage. In addition through consultation with the NSW Police it is considered that the vegetation between the Coast Road and the proposed Skate Park should have the understorey removed to provide surveillance of the skate park by passing motorists.

The applicant has provided an eight-part test in relation to the proposed vegetation removal which concludes that there is not likely to be a significant effect on the environment.

It is necessary for the proposed development to remove the understorey and some vegetation to undertake the drainage works and to provide surveillance of the skate park.

To satisfy the requirement for shade from Council's resolution of 6/12/2000 shade devices as funded by Sport and Recreation will be installed. Shade plantings are not appropriate for skate parks as trees raise other safety issues with skate parks from vegetation debris and shadow over the skate area impacting on users.

Social Impacts

The proposed skate park will provide social benefits to the youth of the locality being a venue for skate board activity that is safer than the local road network.

Reports from Director Development Services

(c) Suitability of the site for the development

Safety and Surveillance

The subject land has the benefit of being located adjacent to the Coast Road and cycleway, which will enable casual surveillance of the site. The Les Burger Fields have a number of users, which will ensure levels of activity in the area of the Skate Park.

The Les Burger Fields have the benefit of the care taker and also have Council’s Precinct Team for the local area based from the Les Burger Fields. This team consists of two outdoor staff and a truck that would be regularly coming in and out of the site during the working day. In addition the fields are used for evening training during the week and week end games.

The issues of surveillance raised by the NSW Police have been considered and adopted into the design to ensure vegetation does not provide areas of entrapment.

Lighting to the skate park was raised as an issue in relation to safety as there is a proven correlation between poor lighting, fear of crime, the avoidance of public places and crime opportunity. The proposed development does not involve lighting of the skate park at night as it is intended to limit the use of the park to hours where daylight is adequate.

Council’s Recreation Services Unit has advised that following the completion of the construction of the facility, to address the Police concerns security lighting may be installed to the Police requirements.

The skate park is to be bounded by bollard fencing to assist in policing the territorial boundary marking of the facility. The Police raised the issue of ‘graffiti tags’ and the need to white out graffiti. Council’s Recreation Services Unit have advised that the integrity of the skate surface in any facility is paramount to the performance of the facility. The use of chemicals to remove these ‘tags’ results in the surface being compromised which increases accident risk with skating.

Access control is the final issue raised by the Police and it is recommended that the gate to the fields be locked at 10pm and re-opened to vehicles at 6am.

The above issues of safety and surveillance are reflected in the conditions of consent.

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

The proposed development was advertised for a fortnight during which two submissions by way of objection were received. The following table details the issues raised in the submissions received.

Issue	Comment	Assessment
Natural Vegetation removal	Concern was raised that natural bushland should not be removed to provide a skate park.	The proposed development is to be located in a cleared area of land on the entry into Les Burger Fields. The clearing of the understorey and thinning of vegetation required to provide surveillance of the site is not considered to adversely

Reports from Director Development Services

		<p>impact on the bushland in the locality.</p> <p>It is not considered that this issue warrants refusal of the application.</p>
Noise Generated	<p>Concern was raised that noise from the use of the skate park will travel across the fields to the adjoining residences and be a nuisance.</p>	<p>The proposed development is likely to result in noise transmission of skate boards using the skate park. The nearest housing to the development is approximately 200 metres from the skate park. Between this residential area is an earth mound with the clubhouse and vegetation buffers. These features are considered to reduce the potential impacts of noise. Additionally as the skate park is not to be provided with lighting the noise from the skate park will not extend into the night.</p> <p>It is not considered that this issue warrants refusal of the application.</p>

(e) Public interest

The proposed development is not considered to be in conflict with the general public interest in the locality however it is acknowledged that the management of the site by the caretaker is essential to ensure the skate park is limited in its hours of use and where nuisance is being caused, management can be instigated.

OPTIONS

1. Approve the proposed development in accordance with the recommended conditions of consent.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

The applicant has a right of appeal to the Land and Environment Court should they be dissatisfied with the determination.

CONCLUSION

The proposed skate park and associated drainage works received minimal submissions during the advertising period. It is considered that this is due to the consultation undertaken as part of the selection process for a site. The issues raised by the public are not considered to warrant the refusal of the proposed development.

Reports from Director Development Services

The comments provided by the NSW Police raise issues that are important in ensuring the safety and crime risk of the site are managed. As such a number of the conditions of consent imposed are intended to ensure the site achieves the desired outcome.

Reports from Director Development Services

5. ORIGIN: Development Assessment Unit

FILE REF: DA4040/100 Pt8

REPORT TITLE:

Development Application 0023/2002DA - Two (2) Sixteen 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 191 units, 7 townhouses, 1215m² of retail area and 1650m² 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 Director-General of PlanningNSW has advised Council (letter – Attachment 1) that she has declined to grant concurrence to the proposal as required under State Environmental Planning Policy No. 1 (SEPP1) and the North Coast Regional Environmental Plan (NCREP).

Given the refusal of concurrence by the Director-General, Council cannot approve the application.

RECOMMENDATION:

That Development Application 0023/2002DA for Two (2) Sixteen 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 and State Environmental Planning Policy No. 1, concurrence of the Director-General of PlanningNSW has been declined to the proposal to vary the development standard prescribed by Clause 32B of the North Coast Regional Environmental Plan.
2. 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-General of PlanningNSW has been declined to the proposal for the building to exceed 14m in height.

Reports from Director Development Services

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 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).
4. 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 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 184 units in 2 towers, 7 townhouses, 1215m² of retail area and 1650m² of commercial area. Restaurant floor space of 400m² 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**
- 14 levels of mixed residential and tourist accommodation
- **West Tower**
- 14 levels of mixed residential and tourist accommodation

The height of each proposed tower would be 16 storeys, with roof parapet levels of RL 50.0m AHD. No lift motor rooms will extend beyond the top of the parapet.

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 28,473m² with a floor space ratio of 3.6:1. The total site area is 7,922m². 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 this revised proposal were 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 38,964m² to 31,122m².
- 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.

Council considered this revised proposal at the meeting of 17 July 2002 however were unable to determine the application as the Director-General of PlanningNSW had not granted concurrence pursuant to State Environmental Planning Policy No. 1 and the North Coast Regional Environmental Plan. At that meeting Council resolved as follows: -

Reports from Director Development Services

- “1. That the Director-General of PlanningNSW be advised that Council supports approval of Development Application 0023/2002DA for two (2) eighteen storey residential/tourist/commercial buildings on the corner of Wharf and Bay Streets, Tweed Heads in its submitted form and is satisfied that the State Environmental Planning Policy No 1 objections to the 50m AHD height restriction in Clause 16 of Tweed Local Environmental Plan 2000 and Clause 32B of the North Coast Regional Environmental Plan in relation to overshadowing of foreshore reserves are justified.
2. Council fully supports the Mayor and General Manager in strongly representing the above position at the meeting with PlanningNSW on Wednesday, 24 July 2002.”

Following this resolution a number of meetings were conducted between the relevant authorities and the applicant.

A further set of revised plans were received by Council on 29 October 2002. The primary changes between the proposal considered by Council on 17 July 2002 and the revised plans currently before Council are: -

- Reduction in the overall height of the building from 61.4m AHD to 50.0m AHD.
- Reduction in the number of storeys in each tower from 18 to 16.
- Reduction in the total number of units from 205 to 184.

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 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 public consultation – including a broadly represented reference group. This Strategy essentially reaffirmed the maximum height limits in Tweed LEP 1987 on the basis 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.

Reports from Director Development Services

- 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 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.

Reports from Director Development Services

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 implications for the development potential and equity of development entitlement for the “Whitehall Lodge” and “Dolphin Hotel” properties and related streetscaping impacts.
5. Limited design issues for the public walkway and internal garbage collection.

1. Justification for Tourist Accommodation and Consequences

The applicants previous proposal 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 led to an overall floor space in the development of 31,122m² and a height proposed of 57.9m. The revised proposal seeks a 60% tourist accommodation component and under the bonus provisions achieve a floor space ratio of 3.61 at 50.0m AHD. 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.

2. Employment and Economic Costs and Benefits

The applicant’s statement of social and economic impacts states that approximately 6700m² 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 1650m² 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. The media has however reported that the site has recently been sold to another party.

Reports from Director Development Services

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

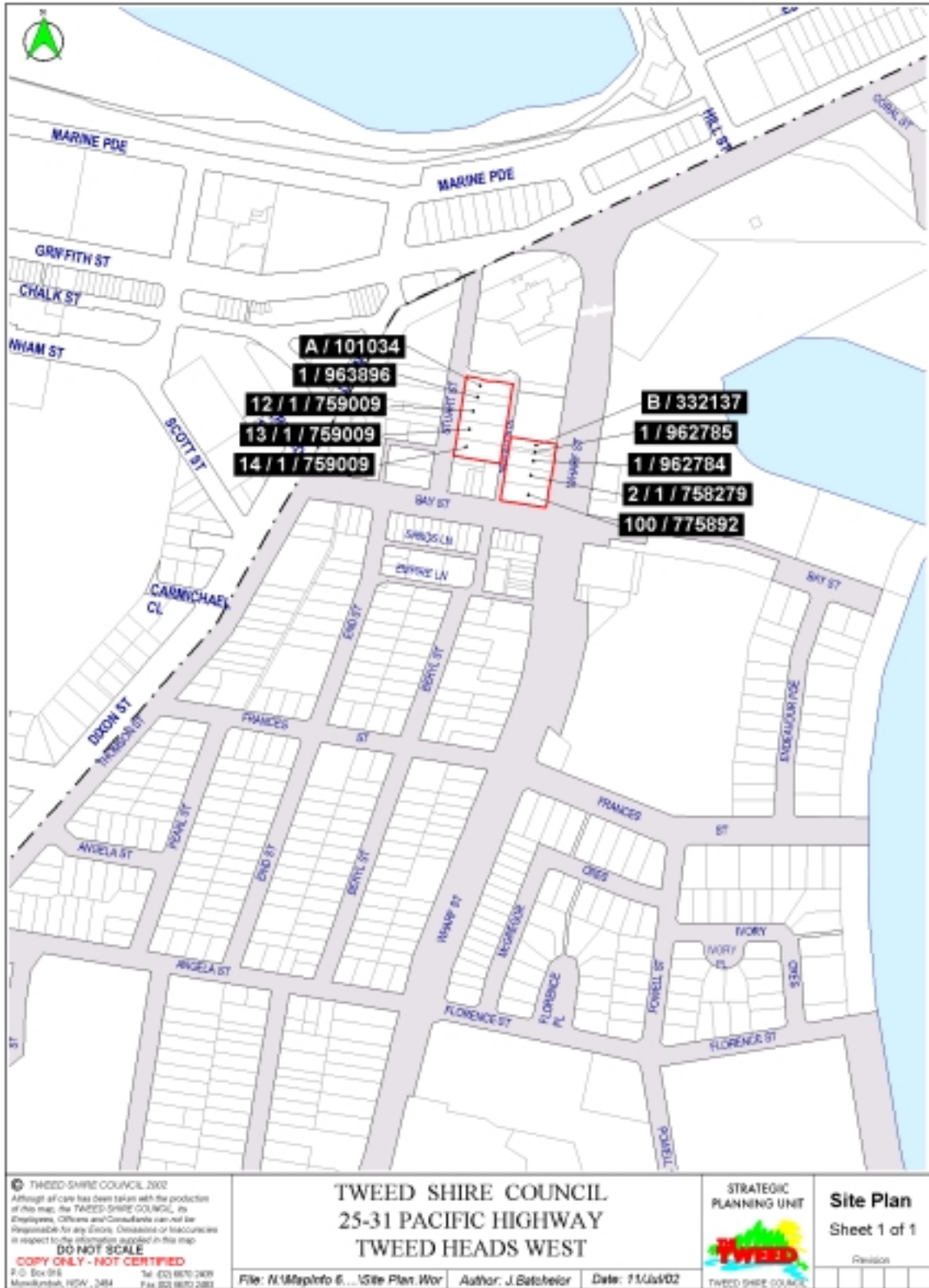
This is a very positive initiative for Tweed Heads and the issue is raised whether Latitude 28 approval would compromise the success of the master plan preparation. Clearly it would set a major precedent for this sector of Tweed Heads, but it is understood that it is not the intent of the State Government 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

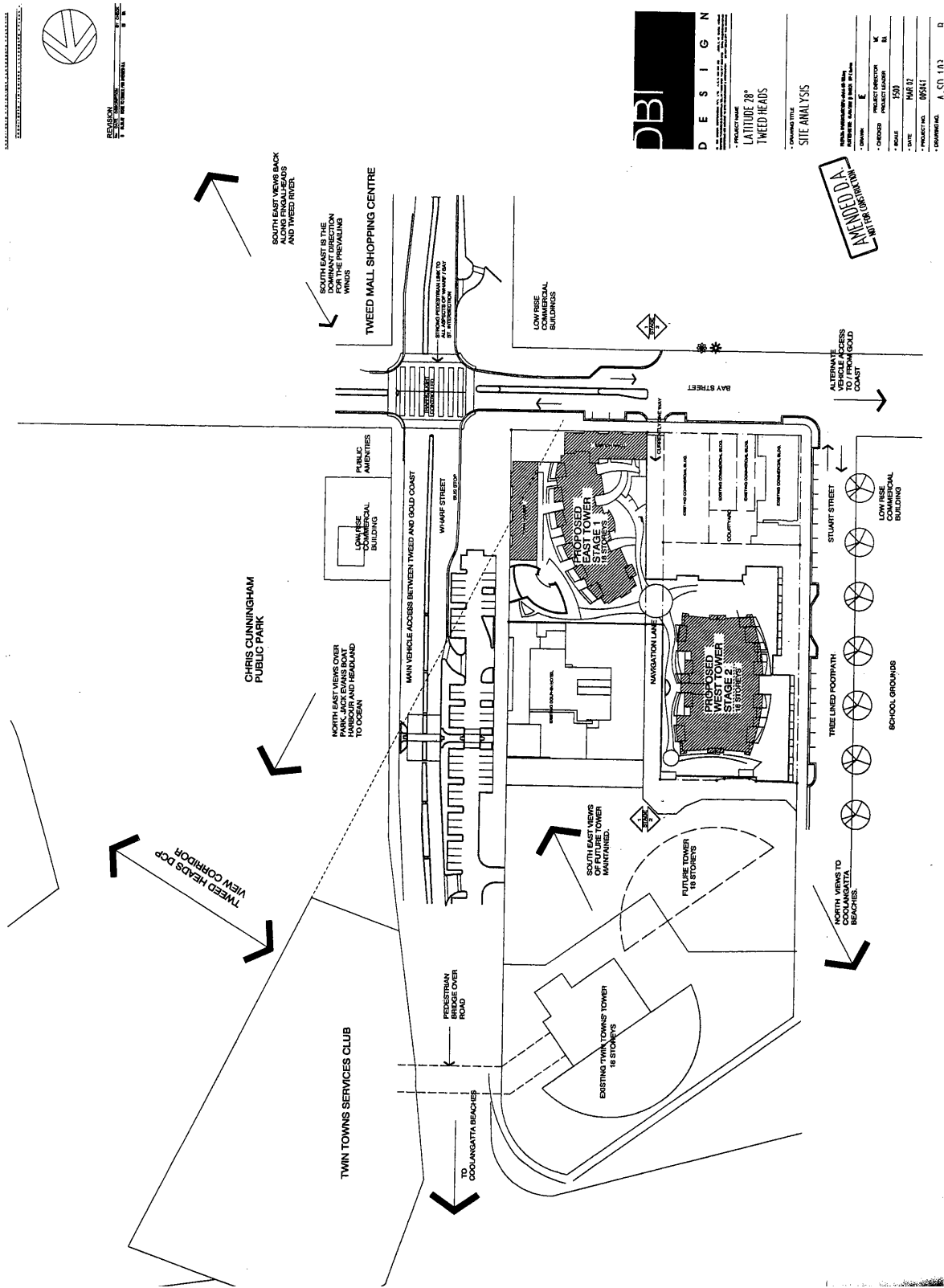
These are issues of more limited significance and the applicant has agreed to accept deletion of commercial tenancy 11 by way of condition of approval and to amend designs so that internal garbage collection is facilitated.

Reports from Director Development Services

SITE DIAGRAM



Reports from Director Development Services



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 191 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. A lease agreement with Council for the use of the airspace over Navigation Lane would be required.

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 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 comply with the maximum height limit.

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.

No revised Socio-Economic Impact Statement has been submitted for the latest amended proposal however the reduced number of units are relatively small in the context of the overall development and therefore the existing statement is considered relevant for the purpose of accessing the current proposal.

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

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 815m²</i>	18
<i>Restaurants 400m²</i>	6
<i>Commercial 1,650m²</i>	30
<i>Existing Retail Floor Space 6,700m² (20% utilised 1340m²)</i>	- 150 (Fully Utilised) - 30 (20% Capacity)

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 6,700m² 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 m² of retail floor space. A loss of 5,485 m² 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 – 400m² 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 previous 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 the proposal. As the buildings height have been reduced it is considered that Gold Coast Airport Limited would have no objections to the current 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 2nd 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.

Reports from Director Development Services

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

- a. 3m² for 1m² of public through block identified pedestrian network providing the walkway is at least 3.5m wide.
- b. 2m² for 1m² 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. 1m² for 1m² of hotel, place of assembly, refreshment room, shop or tenement floor space.
- d. 0.5m² for 1m² of tourist accommodation floor space.
- e. 550m² 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 ²	x 3m ²	4080m ²
Restaurants/Shops	1215m ²	x 1m ²	1215m ²
Tourist accommodation (73.5% of both towers)	14714m ²	x 0.5m ²	7357m ²
Total			12652m²

Without utilising bonuses the maximum floor space ratio is 2:1 which would permit a maximum floor area of the total development of 15844m² based on a site area of 7922m². 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 28,496m² achieving a maximum FSR ratio of 3.6:1.

The development proposal has an FSR of 3.6:1

Reports from Director Development Services

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.

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: -

Complex	Survey	Applicant's submission
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 More 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.

Data has been obtained from Gold Coast City Council on the ratio of tourist to permanent apartments at Coolangatta. The data was extracted from the registered rental database. This database does not include units, which are owner occupied. Therefore the percentage of tourist accommodation could be expected to be less if owner occupier units were included.

The results obtained were as follows: -

Total strata units rented – 694

Total strata units tourist – 1253

From this data it can be concluded 64% of rented units in the Coolangatta area are available for tourist accommodation.

Survey of Rainbow Bay Precinct and Seascape Apartments

A survey of seven (7) apartments in the Rainbow Bay area adjacent to the beach and Seascape apartments was carried out on 16 July 2002 to establish the mix of units available for tourist rental versus permanent occupation. The following results were obtained: -

Reports from Director Development Services

Complex	Total Units	No. in Tourist Rental Pool	% Tourist
Bahamas	16	13	86%
Eden Tower	17	15	88%
Rainbow Palace	45	44	97%
Columbia	52	37	71%
Carool	35	20	57%
Rainbow Commodore	45	32	71%
Bay	36	34	94%
Seascape	Approx. 90	Approx. 30	33%
Total	336	225	66.9%

Comment

The percent of units in a complex in the tourist rental pool varies significantly. Complexes with direct access to the beach tend to have a higher tourist occupancy rate than those further from the beach.

Latitude 28 does not have direct access to the beach and is more comparable in terms of location to the Seascape building, which is located adjacent Jack Evans Boatharbour and the Tweed River. This building has only approximately 33% of rooms available for tourist accommodation.

One operator indicated that larger units (as is the case with Latitude 28) are more attractive to owner occupiers.

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

Reports from Director Development Services

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.

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 28942m² would be achievable with bonuses at a floor space ratio of 3.65:1. Therefore the latest revised development at 3.6:1 complies.

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 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.

Reports from Director Development Services

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 assumed concurrence to determine this submission however in relation to this application the Director-General has advised Council that she wishes to exercise her concurrence. The Director-General has advised Council that in this case she does not concur and therefore Council cannot approve the application.

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.”*

The proposed height of the building to the roof parapet is 50.0m AHD. Therefore under Clause 51 concurrence of the Director-General is required.

The Director-General has advised Council she wishes to exercise her concurrence in this case and advised Council that in this case she does not concur and therefore Council cannot approve the application.

Reports from Director Development Services

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 a objection under SEPP1 and is made in respect to overshadowing limitations contained in Clause 32B(4)(a) of the NCREP. The merits of the submission are dealt with below.

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: -

“State Environmental Planning Policy No. 1 – Development Standards (SEPP No. 1) is the State Policy mechanism available to applicants who wish to seek variation of a development standard.

Clause 3 of the Policy details its Aims and Objectives and states:

“3. This policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.”

Reports from Director Development Services

The specified objects of the *Environmental Planning and Assessment Act, 1979* "the Act" are:

"5(a)...to encourage:

- (i) the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land".

Clause 6 of SEPP No. 1 provides the mechanism for the making of a development application which does not comply with a planning standard and states:

"6. Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefore) the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection".

Section 79C(1)(a)(ii) of the Act prescribes that a consent authority must take into account any draft environmental planning instrument that has been placed on exhibition of which it has been notified. In this regard, **draft Amendment No. 4 to SEPP No. 1** was disseminated by the Department in June 2001.

Draft Amendment No. 1 prescribes, in proposed **Clause 6**, that a **SEPP No. 1 Objection** must include:

- (a) a written objection that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and which specifies the grounds of the objection, and
- (b) evidence which demonstrates that the development will be consistent with any express aims or objectives of any environmental planning instrument (including this policy) applying to the development.

This **SEPP No. 1 Objection** is thus made in accordance with the provisions of **Clause 6** of the current SEPP No. 1. However, it contains relevant information as prescribed in the proposed amended **Clause 6**. The objection is in respect of the planning standard for overshadowing of beaches or adjacent open space at **Clause 32B(4(a))** of the **North Coast Regional Environmental Plan (NCREP)**.

Clause 7 of SEPP 1 provides the discretion and power to a consent authority to support a SEPP No. 1 Objection and grant a development consent and states:

"7. Where the consent authority is satisfied that the objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of this Policy as set out

Reports from Director Development Services

in Clause 34, it may, with the concurrence of the Director, grant consent to that development application notwithstanding the development standard the subject of the objection referred to in Clause 6.”

Accordingly, the applicant seeks the support of the Shire Council in respect of the **SEPP No. 1 Objection** set out herein and requests that the **Development Application** be approved, notwithstanding non-compliance with the planning standard, overshadowing of beaches or adjacent open space, set out at **Clause 32B(4)(a)** of the **North Coast Regional Environmental Plan**.

2. Objectives of the Standard

The matters relating to the **Objectives of a Planning Standard** are important to the consideration of a **SEPP No. 1 Objection**, as set out by Talbot J in 10286 of 1996 (*Lavender View Regency Pty Ltd – v – North Sydney Council*, unreported) in which he stated:

“When considering an objection made pursuant to SEPP 1, it has been well established that it is necessary to have regard to a number of matters. Firstly, the aim and objective of the development standard must be understood. Once that has been appreciated, the effect of the non-compliance upon the purpose of the development standard needs to be assessed. The assessment takes account of whether the aim and objective will be achieved notwithstanding that the standard will not be complied with. In other words, it is not the standard itself that is important, but rather it is the purpose which it is designed to achieve. The circumstance of the case that renders the imposition of a development standard unreasonable or unnecessary is that the development will nevertheless meet the identified planning purposes of the standard”.

Further, Talbot J commented that:

“the purpose of the standard may be determined from the planning instrument or from an examination of the planning considerations which led to its formulation”.

Clause 32B(4)(a) of the **North Coast Regional Environmental Plan** does not stipulate any objective of the standard relating to overshadowing. Underlying objectives for the imposition of such a standard therefore must be assumed, in the light of His Honour’s comment.

Firstly, in the context of the REP itself, **Clause 32B(4)(a)** sites within **Division 2 Coastal Development. Clause 31; Objectives**, identifies a number of objectives of the plan in relation to coastal protection. The only objectives that are potentially relevant, directly or remotely, to a control on overshadowing are:

- (b) to provide for the appropriate recreational use of beaches,
- (c) to protect water quality of the coastal environment,
- (f) to encourage retention of natural areas and regeneration of those natural areas which are already degraded.

Reports from Director Development Services

Subsection (4) sites within the context of Clause 32B itself, while silent in terms of objective, outlines a number of documents which a Council must take into account in its determination of a development application. These documents are:

- (a) the NSW Coastal Policy 1997;*
- (b) the Coastline Management Manual; and*
- (c) the North Coast Design Guidelines.*

These documents can reasonably be assumed to be relevant in the context of:

*“the planning considerations that lead to the formulation of the control”
as referred to by Justice Talbot (above).*

The most direct reference in these documents to overshadowing of beaches and adjacent open space is contained in the NSW Coastal Policy which states 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 assumption as to why a greater level of shadowing is acceptable in larger towns and cities, is because of the potential for higher structures to be built (in accordance with other planning controls) in those towns and cities. The Policy goes on to 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 conditions and which has the overriding objective of minimising overshadowing may be required in these situations”.

*It is noted that in this regard that the LEP and DCP relevantly “tailored to local conditions” in Tweed Heads are the **Tweed LEP 2000** and **DCP No. 18 – Tweed Heads**. The LEP and DCP embody the principles of **Tweed Heads 2000+ Strategy** which, among other things:*

- identified that high rise development in Tweed Shire should be concentrated to limited locations, and that the subject of locality of Tweed Heads adjacent to Coolangatta was the most appropriate such location. This was acceptable to the community as evidenced in consultations in the preparation of the Strategy; and*
- identified Tweed Heads as a vibrant and vital sub-regional centre; “a resident and tourist mecca”.*

Within this context, the LEP addressed the issue of the scale of buildings, appropriate to this location, surrounding development and the environmental

Reports from Director Development Services

characteristics of the land, in **Clause 16**. **Clause 16** specifies a height limit of 50 metres AHD in relation to the subject site.

It is relevant to the above mentioned statements in the NSW Coastal Policy, that a building of 50 metres AHD on the subject site does not achieve the overshadowing standard specified in the REP. This will be addressed in more detail later in this Objection.

DCP No. 18 explicitly addresses overshadowing in **Clause 9.1.3 – Building Envelope Objectives** and **Clause 11.3.2 – Overshadowing**. A building envelope is prescribed in the former clause with the objectives to:

“facilitate adequate sunlight access to and minimise shadow impact on adjoining properties and public streets and places”.

Clause 11.3.2 states that:

“Buildings should be designed to minimise overshadowing of all public reserves, with particular consideration to be given to **mid-winter** shadow effects” (Our emphasis).

In summary, from analysis of the context within which the standard sites, both in relation to the REP and to its supporting and complimentary documentation, the objectives of the standard may be assumed to be to:

- (a) ensure beaches and their adjacent open spaces retain an extensive amount of direct sunlight throughout the year taking into account the identified planning objectives and standards for their adjoining urban environment;
- (b) provide for appropriate recreational use of beaches and their adjacent open spaces;
- (c) protect water quality of the coastal environment; and to
- (d) encourage retention and regeneration of natural areas.

The Objection in terms of SEPP No. 1 is thus made on the basis of the above understanding of the objectives of the standard.

3. Justification for variation of the standard and matters for consideration

3.1 Ensure beaches and their adjacent open spaces retain an extensive amount of direct sunlight throughout the year taking into account the identified planning objectives and standards for their adjoining urban environment

The shadow diagram series accompanying this application (**Appendix 1**) establishes the following:

- There is **no** overshadowing of Jack Evans Boatharbour nor Chris Cunningham Park (relevantly the beach and adjacent open space) before 3.00pm midwinter as a result of the proposed development.
- The development thus complies with this part of the planning standard.

Reports from Director Development Services

- *Midsummer shadows at 6.30pm (ESDST) affect only 14% of the relevant area.*
- *There is no overshadowing before 5.00pm, midsummer.*
- *The proportion of the park currently overshadowing (by existing trees, buildings and the like, at 6.30pm (ESDST) midsummer is significant in the area where shadows from the proposed building will fall. The **additional** overshadowing generated by this proposal is therefore, in practical terms, far less than the 14% of absolute area covered at 6.30pm (ESDST) midsummer.*

Chris Cunningham Park is an urban park adjacent to a sub-regional centre already containing and earmarked for, further high rise development (via the local planning strategy and statutory environmental planning instruments). Some overshadowing of the park is contemplated by the most recent planning instrument gazetted by the Minister as a result of this planning strategy and as contemplated in the NSW Government Coastal Policy.

*This instrument, the **Tweed LEP 2000** specifies a height limit of 50 metres AHD for the site, a standard, with which this proposal complies. Overshadowing of the area in question, to the degree outlined about, is thus likely from any development on the site as a product of other planning standards and controls in place.*

To obtain strict compliance with the NCREP standard, building on the subject site would necessarily be restricted to approximately 11.87m AHD, or below. Such a building height would be inconsistent with the other planning objectives and strategies identified for this area of Tweed Heads and which the LEP 2000 and associated policies and guidelines seek to implement.

*It is also important to note in this context that the proposal complies with the relevant provisions of **DCP No. 18 – Tweed Heads**, explicitly as this policy relates to overshadowing. The proposal complies with the building envelope guidelines in the DCP, in relation to its tower components and it also complies with **Clause 11.3.2 Overshadowing**, which places emphasis on mid-winter shadowing of public reserves.*

*The NSW Coastal Policy, as outlined at **Section 2 of the SEPP No. 1 Objection**, recognises the need for flexibility in the application of the overshadowing standard in urban areas.*

The standard is stated as one to be “generally” applied, and there is the specific note that:

“The suggested (sic) 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 objectives of minimising overshadowing may be required in these situations”.

*This requirement has been met in the case of Tweed Heads by the adoption of **DCP No. 18**. This is very specifically tailored to local conditions.*

*At **Clause 11.3.2**, the Plan establish the criteria that, within the DCP area:*

Reports from Director Development Services

“Buildings should be designed to minimise overshadowing of all public reserves, with particular consideration to be given to mid-winter shadow effects”.

At midwinter, as demonstrated by the shadow diagrams, there are no shadow effects on the reserve, thus the particular DCP, tailored to local conditions adopted under the auspices of the NCREP, is satisfied.

*The NCREP contains a clear path by which any shadow impacts may be assessed in a local context, both physically and in terms of broader strategic aims and objectives, through its direction to **DCP No. 18**.*

The development proposal complies with that part of the standard dealing with mid-winter and has only a minor non-compliance, in terms of both area and time, with that part dealing with midsummer.

As a result, the beach and its adjacent open spaces benefit from extensive sunlight throughout the year, particularly during periods when public recreation is most likely to occur.

It is thus reasonable to state, in these circumstances, that this objective of the standard is met in relation to the proposal, namely the height of the proposed development and the design have minimised the degree of overshadowing. During the critical midwinter period there is no overshadowing of the subject park. During a relatively brief period in midsummer, part of the area is overshadowed. On balance, in addressing the other objectives, such marginal overshadowing nonetheless minimises the degree of overshadowing.

3.2 Provide for appropriate recreational use of beaches and their adjacent open spaces

*A statement has been obtained relating to the usage of the Park over the past nine months. This is attached as **Appendix 2**.*

Based on this, the recreational opportunities that will be affected by the additional overshadowing by the development will be minimal and the role that Chris Cunningham Park and the Boatharbour play as a recreational resource in the locality will not be significantly diminished.

Recreational use of the beach and adjacent open space will thus not be adversely affected by the proposed development and this objective of the standard will be met.

3.3 Protect water quality of the coastal environment

For water quality to be adversely affected to any identifiable extent (so as to effect growth patterns of aquatic plants or the breeding, feeding or other habits of aquatic fauna), a dramatic and extensive degree of sunlight blockage would be necessary.

Clearly, the extent of shadowing of water from this proposal is minimal and will not occur until the shadows cast merge with twilight over the Boatharbour. This could not have any identifiable impact on water quality.

Reports from Director Development Services

As such the proposal is not inconsistent with this objective.

3.4 Encourage retention and regeneration of natural areas

Similarly to water quality effects, an extensive degree of overshadowing, particularly during the winter season and spring (growth) season would be necessary to have any impact on plant growth.

Given the minimal extent of additional overshadowing there would be a negligible impact on plant growth associated with the proposal.

As such the proposal is not inconsistent with this objective.

4. Conclusion

*In accordance with the above, it is considered that compliance with the proposed development with **Clause 32B(4)(a)** of the **North Coast REP** is unreasonable and unnecessary. To do so would afford only marginal benefits and would be unreasonable, in that without such flexibility the objectives of government and Council policies as regards the planning strategies relating to Tweed Heads would not be met in this case, on a site to which they are well suited and which has been identified in all relevant planning strategies as central to their achievement.*

In the case of implementation of the development in question, it is considered that there will be no significant adverse environmental nor recreational impacts as a result of the relatively minor shadowing occurring only late on a midsummer's afternoon, while significant benefits will accrue. The degree of overshadowing is minimised and on balance, the non-compliance with the standard achieves both a reasonable level of solar access as well as other relevant objectives in NCREP.

Paragraph 3 of Circular No. B1 from the former Department of Planning states:

"As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small, in others it may be numerically large, but nevertheless be consistent with the purpose of the standard."

*It is thus considered that a variation to the overshadowing standard as prescribed by **Clause 32B(4)**, in this particular case, would be:*

- consistent with the aims of SEPP1;*
- consistent with the assumed objectives of the standard; and*
- would bring about an improvement in conditions on and off the site.*

To require compliance with the standard would be unreasonable and unnecessary in the circumstances of the case.

To apply variation in the standard would have no adverse implication for the applicability of overshadowing controls within the REP as a whole. The integrity of the planning instrument would be maintained. Indeed, the integrity of other objectives of the REP may be significantly affected if strict compliance with the

Reports from Director Development Services

overshadowing standard was required. The proposal also complies with all elements of the applicable LEP and DCP relating to overshadowing.

*It is therefore requested that the **SEPP No. 1 Objection** made herein for a vibration to the overshadowing standard on the site in question be supported and the Council progress the development application to approval.”*

As previously stated the concurrence of the Director-General of PlanningNSW is required for this application pursuant to the provisions of State Environmental Planning Policy No. 1 prior to Council being able to support the application. The Director-General has advised that she is not prepared to grant concurrence and therefore Council cannot approve the application.

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.

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.

(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;

Reports from Director Development Services

- 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.

Land use	Unit	Rate	No.	Spaces	Spaces with concession
Permanent residents	Dwelling	1.5/unit	76	114.6	114.6
Tourist residents	Dwelling	1/unit	115	115	115
Tourist residents (employees)	Employee	0.5/employee	10	5	5
Commercial	M ² GFA	1/40m ² ground	825	21	6
		1/785m ² 1 st	825	11	3
Retail including staff	M ² GFA	3.5/100	815	29	9
		0.5/100 (staff)	815	4	3
Restaurant	M ² dining	1/7m ²	400	57	17
Total				357	273

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. 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
Bicycle parking					
➤ Permanent residents	Unit	2	76	152	
➤ Tourist residents	Unit	1	115	115	
➤ Commercial	M ² GFA	1/100	1,650	17	
➤ Retail	M ² GFA	2+1/200	815	6	
➤ Restaurant	Car park	1/5	17	4	
Subtotal Bicycle				294	24
Service vehicles					
➤ Permanent residential	Unit	1/50	76	1.5	
➤ Retail	M ² GFA	1/1,500	815	1	
	Restaurant	1	1	1	

Reports from Director Development Services

➤ Restaurant	M ² GFA	1/200	1650	8	12	Approx 4
➤ Commercial						
Subtotal Service Vehicles						
Car Wash Bay						
➤ Permanent residents	Unit	1/10	76	8	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.

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 6 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.

Reports from Director Development Services

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 - 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 1650m² 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.

Building Envelopes

Setbacks from property boundaries are controlled by building envelope criteria contained in the DCP 18. 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

Reports from Director Development Services

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. The encroachment is justified as the townhouses provide a positive design contribution to the street frontages. 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.

Reports from Director Development Services

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.

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

Reports from Director Development Services

in the report areas of concentrated wind speed would be reduced. Any approval would need to be conditioned to comply with this report.

- 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

The latest revised proposal provides very little interest in roof designs being predominantly flat. This creates a boxy appearance to the towers.

- 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 previously 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.

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 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.

Reports from Director Development Services

- 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 4240m². The townhouses have a balcony area of 20m² and 33m² and access to common recreation area.

Units above the podium level have balconies and roof terraces ranging in size from 15m² to 150m² (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.

(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

Reports from Director Development Services

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.

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. All demolition works would need 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 50 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.

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 latest revised proposal does not change traffic arrangements. 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*

Reports from Director Development Services

- *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.

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.

Reports from Director Development Services

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 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

Reports from Director Development Services

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.

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

Reports from Director Development Services

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.

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.

Reports from Director Development Services

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: -

- 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.

Reports from Director Development Services

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.

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 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

Reports from Director Development Services

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 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)

Reports from Director Development Services

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 24,000m³ of solid cut. This is intended to be disposed of at an approved location.

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
- 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.

Reports from Director Development Services

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 current proposal has not been placed on public exhibition as Council cannot support the proposal due to the Director-General not granting concurrence. The previous proposals have 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.
- 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 were considered valid, particularly in regards to the appearance, bulk, scale and design of the development. The amended proposal considered by Council on 17 July 2002 responded to many of these design issues.

Reports from Director Development Services

Issues in relation to height and overshadowing of adjacent open space have been addressed previously in this report.

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.

In response to community concern the applicant submitted an amended proposal. 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.

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 could not 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.*

Reports from Director Development Services

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.*
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.

(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.

Reports from Director Development Services

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 total floor area of new restaurant/shop area constitutes approximately 4% of the total floor area provided by the development. Having consideration of the 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. Council can now only determine this application by refusal given the Director-General of PlanningNSW has refused to grant concurrence.

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

The latest proposal requires the concurrence of the Director-General of PlanningNSW pursuant to the provisions of State Environmental Planning Policy No. 1 and Clause 51 of the North Coast Regional Environmental Plan. The Director-General has notified Council that she has refused to grant concurrence and therefore Council cannot approve the application.

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

6. ORIGIN: Development Assessment Unit

FILE REF: DA4800/170 Pt1

REPORT TITLE:

Section 96 Application K99/0294.02 for an Amendment to Development Consent K99/0294 for a 3 Lot Rural/Residential Subdivision at Lot 29 DP 624296 Rowlands Creek Road, Uki

SUMMARY OF REPORT:

The Section 96 Application was reported to Council on 6 November 2002 that sought the deletion of conditions requiring the provision of kerb and gutter for a 3 lot Rural Residential Subdivision at Rowlands Creek Road, Uki. Council resolved that a further report be brought forward to Council indicating the estimated cost of the kerb and gutter and the approximate value of land being contributed to Council. This report includes those costings for Council's consideration.

RECOMMENDATION:

That Development Application K99/0294.02 for an amendment to Development Consent K99/0294 for a 3 lot rural/residential subdivision at Lot 29 DP 624296, Rowlands Creek Road Uki be refused for the following reasons: -

1. Pursuant to Section 79C(1)(a)(iii) the removal of the requirements for kerb and gutter is not in accordance with Development Control Plan No. 16 Subdivision Manual.
2. Pursuant to Section 79C(1)(e) the removal of the requirements for kerb and gutter are not in the public interest.

Reports from Director Development Services

REPORT:

The following report was submitted to the Council meeting of 6 November 2002.

“SUMMARY OF REPORT:

Council issued Development Consent K99/294 on 21 May 1999 for a three lot subdivision on land at Rowlands Creek Road, Uki. As a condition of consent the provision of roll top kerb and gutter to the frontage of the property to Rowlands Creek Road is required. Council has received a Section 96 Application to amend the consent to delete condition Nos. 21 and 26 in relation to the provision of kerb and gutter.

The requirements for kerb and gutter have been placed on the consent in accordance with Development Control Plan No. 16 – Subdivision Manual. It has been a requirement of Council under the Policy since 1993 and numerous other rural residential subdivisions have complied with the requirement. To grant an exemption in this instance is likely to create a dangerous precedent and the removal of the conditions is not warranted. It is recommended that Section 96 Application K99/0294.02 be refused.

RECOMMENDATION:

That Development Application K99/0294.02 for an amendment to Development Consent K99/0294 for a 3 lot rural/residential subdivision at Lot 29 DP 624296, Rowlands Creek Road Uki be refused for the following reasons: -

- 1. Pursuant to Section 79C(1)(a)(iii) the removal of the requirements for kerb and gutter is not in accordance with Development Control Plan No. 16 Subdivision Manual.*
- 2. Pursuant to Section 79C(1)(e) the removal of the requirements for kerb and gutter are not in the public interest.*

REPORT:

Applicant: Carol Franke

Owner: Carol Franke

Location: Lot 29 DP 624296, Rowlands Creek Road Uki

Zoning: 1(c) Rural Living

Cost: 0.00

Background

Council issued development consent K99/294, on 21 May, 1999 for a three lot subdivision on land at Rowlands Creek road Uki. As a condition of consent the provision of roll top kerb and gutter to the frontage of the property to Rowlands Creek Road is required. Council has received a S.96 Application to amend the consent to delete Conditions No. 21 and 26 in relation to the provision of kerb and gutter.

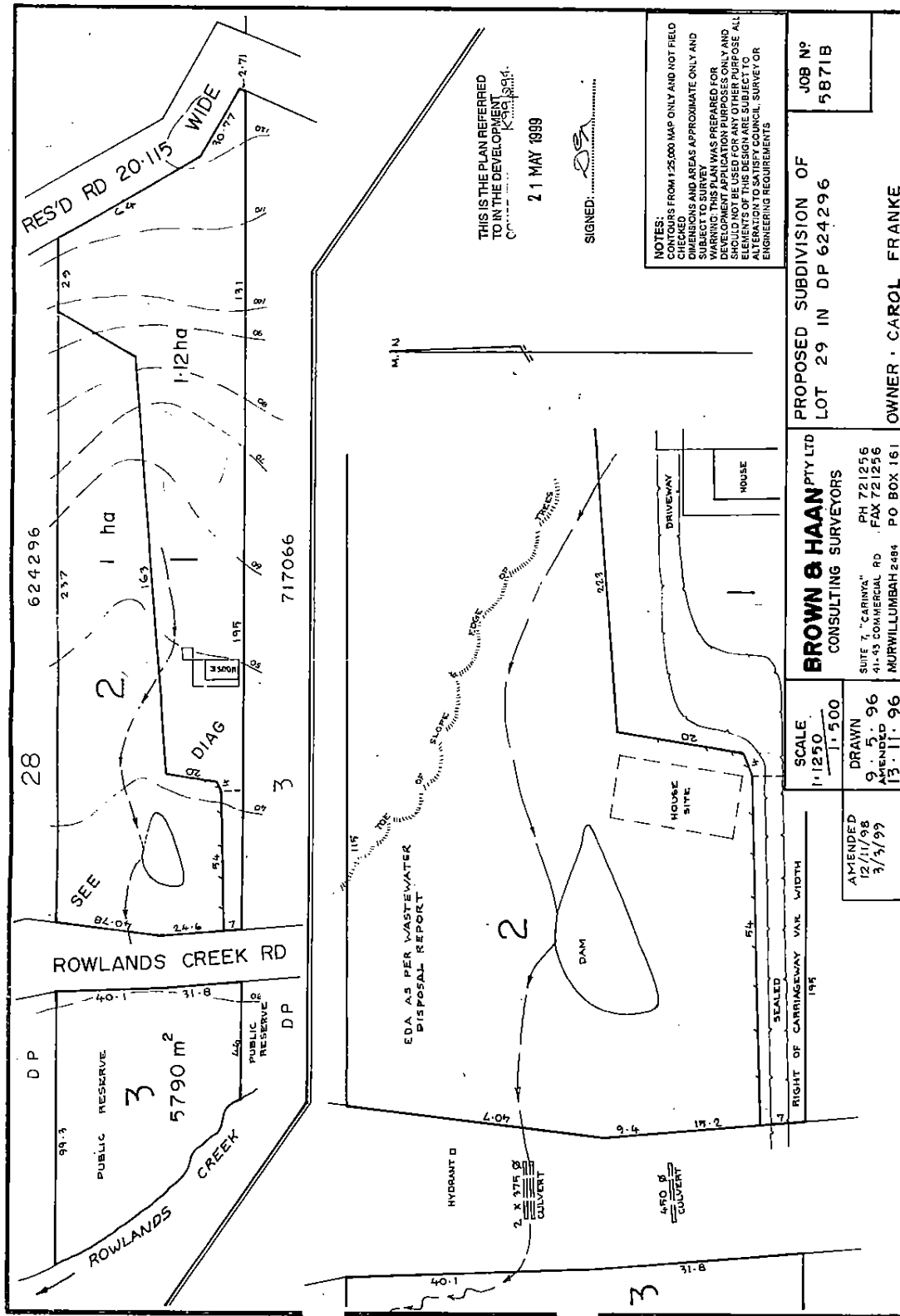
Reports from Director Development Services

Site Diagram



Reports from Director Development Services

PLAN OF PROPOSED SUBDIVISION



Reports from Director Development Services

Assessment

The proposed development is considered to be substantially the same development and can be determined under the provisions of Section 96 of the EPA Act 1979. The two conditions pertaining to Kerb and Gutter required the following

26. *Construct kerb and gutter, should widening and sealing of Rowlands Creek Road along the entire frontage of Lots 1 and 2, in accordance with engineering plans to accompany the Construction Certificate application **OR** pay a contribution in lieu for this work based on an estimate prepared by a professional civil engineer and approved by the Director of Development Services.*
21. *Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.*
 - a. *That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.*
 - b. *That the pavement materials used comply with the specifications in RTA Form 744 (July 1985).*
 - c. *That the pavement layers have been compacted to RTA specifications.*
 - d. *That site fill areas have been compacted to the specified standard.*
 - e. *That supervision of Bulk Earthworks has been to Level 1 and/or Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.*
 - f. *That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.*

Applicants Submission

The applicant has submitted in support of the deletion of the requirement for Kerb and Gutter the following

1. *The cost of Kerb and Gutter will make the proposed subdivision unviable.*

Comment: *This is a financial decision for the applicant to make in deciding whether or not to undertake the development and is not a matter directly relevant to the need to provide relevant infrastructure for development.*

2. *The condition was placed on the consent after delays in assessing the application during which time Council's policy had changed requiring kerb and gutter.*

Comment: *Kerb and gutter as part of rural residential subdivisions has been a requirement under DCP 16 Subdivision Manual since its adoption by Council in 1993. Council received development Application K99/294 on 5 March 1999 with consent issued on 21 May 1999.*

3. *There is no published intention in any five year plan or beyond for the provision of Kerb and Gutter in Rowlands Creek Road and it will probably be decades before such work is undertaken.*

Reports from Director Development Services

Comment: There is no plan for the provision of kerb and gutter along Rowlands Creek Road. However, as properties between the subject site & Uki have subdivision potential under the 1(c) Rural Living zone, should further subdivision approvals be granted then a similar requirement would be sought for kerb and guttering. This has been recognised in Condition 26 that provides for a contribution in lieu of actual construction of the kerb and gutter.

4. No credit has been granted to the fact that proposed Lot 3 is to be dedicated to Council as a riparian corridor adjacent to Rowlands Creek.

Comment: Proposed Lot 3 is to be dedicated to Council in accordance with Section 11.5 DCP 16 - Subdivision Manual and as indicated on the plan approved for subdivision.

5. The Kerb and Gutter requirement is unjust in this instance.

Comment: The condition was placed on the consent in accordance with DCP 16 Subdivision Manual.

DCP 16 Subdivision Manual

Under Section 6 of the Subdivision Manual, roll over kerb and channel is required for subdivisions within the 1(c) Rural Living Zone. Three properties on the Uki side of this property, which are Zoned 1(c) have subdivision potential and should they be subdivided, a similar requirement would be placed upon such approvals connecting the kerb and gutter to the Uki Village. The application has been assessed by Council's Development Engineer who recommended that Conditions 21 and 26 not be deleted.

Public interest

Should Council support this Section 96 Application to delete these conditions it will create a precedent that could result in applicants for similar development also seeking an exemption for the deletion of Kerb and Guttering

Options

1. Refuse the Application
2. Approve the application

Legal/Resource/Financial Implications

The applicant has recourse through the Land and Environment Court to appeal any determination Council makes.

Conclusion

The requirements for kerb and gutter have been placed on the consent in accordance with Development Control Plan No. 16 Subdivision Manual. It has been a requirement of Council under the Policy for the past nine (9) years and numerous other rural residential subdivisions have complied with the requirement. To grant an exemption in this instance is likely to create a dangerous precedent and the removal of the conditions is not warranted. It is recommended that Section 96 Application K99/0294.02 be refused."

Following consideration of the report it was resolved as follows: -

"that a further report be brought forward indicating the estimated cost of the kerb and guttering involved and the approximate value of land being contributed."

Reports from Director Development Services

In accordance with the resolution Council is advised as follows: -

LAND VALUATION

As part of the subdivision proposed Lot 3, which fronts Rowlands Creek is to be dedicated to Council. The proposed lot has an area of 5790m². Based on the Valuer Generals figures in Council's rate records the unimproved value of the total property (Lot 29 DP 624296) is estimated at \$73,500 or \$2.70 per m².

Utilising these figures proposed Lot 3 would have a value of \$15,633 (5790 m² @ \$2.70).

ESTIMATED COST OF KERB AND GUTTER

The property has a 70 metre frontage to Rowlands Creek road. As a condition of consent Kerb and Gutter is required to be provided to the one side of Rowlands Creek road in accordance with DCP No. 16 Subdivision Manual. Council's Engineering Services have provided the following costings:

- Kerb and Gutter including earthworks
\$4,741.00
- 80 meters of 450 mm diameter pipeline including 1 pit and 1 headwall \$14,165.00
- Sedimentation and Erosion Control Measures
\$420.00
- Traffic control Measures
\$1,750.00
- **TOTAL**
\$21,076.00

ALTERNATIVE TO KERB AND GUTTER

In rural subdivisions (40 hectare lots) kerb and gutter is not required however table drains and shoulder widening may be required if the road cross section along the frontage to the site is not to Council's standard.

If this standard was seen to be acceptable for this particular subdivision then the existing road cross section is satisfactory and no additional works would be required.

Support for this option would inevitably lead to other similar requests for the lowering of infrastructure standards for rural/residential subdivisions and should not be dealt with on an adhoc basis but be subject to formal Policy review.

CONCLUSION

The matter is referred back to Council for determination.

Reports from Director Development Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Development Services

7. ORIGIN: Development Assessment Unit

FILE REF: DA4030/2170 Pt2

REPORT TITLE:

Development Application DA02/1421 - Proposed Change of Use of Existing Tweed Heritage Caravan Park to a Manufactured Home Estate and Community Title Subdivision - Lots 102, 103 and 104 DP 755701 Chinderah Bay Drive, Chinderah

SUMMARY OF REPORT:

A development application has been received seeking consent for the change of use of the existing 105 long term resident sites occupied by existing "caravan park" and 42 short term resident sites (total 147) plus two dwellings, to 110 manufactured home sites and a tourist accommodation site. The change of use is to be effected using the existing use provisions contained in Section 106 of the Environmental Planning and Assessment Act.

The application also seeks development consent to effect a community title subdivision of the proposed 110 manufactured home sites, tourist site and two dwellings, creating 111 neighbourhood lots and 1 common neighbourhood lot. The subdivision component is applied for pursuant to the provisions of Section 8 of State Environmental Planning Policy No. 36 – Manufactured Home Estates and also pursuant to the provisions of the Community Land Development Act.

The key issues arising from an assessment of the application include:

- The proposed Manufactured Home Estate and tourist accommodation site is prohibited within the zone under the provisions of Tweed Local Environmental Plan 2000 and accordingly the change of use relies on the existing use provisions of the Environmental Planning and Assessment Act, 1979 for permissibility;
- The likely adverse social effect and economic effect of the development;
- Non compliance with the Manufactured Homes Estate and Manufactured Homes Regulation, 1995;
- Inconsistency with Development Control Plan No. 5- Development of Flood Liable Land and the NSW Government Flood Plain Development Manual;
- Inconsistency with State Environmental Planning Policy No. 36- Manufactured Home Estates;
- Inconsistency with Development Control Plan No. 16 – Subdivision Manual – particularly in relation to the standard and state of repair of existing infrastructure serving each proposed lot.

In summary, it is submitted that it is not appropriate to grant consent to the proposed change of use under the existing use provisions of the Act and in addition the application is unsatisfactory in relation to a number of merit considerations and accordingly refusal of the application is recommended.

A very similar application was considered by Council on 5 July 2000 and was refused.

The application was lodged on 30 August 2002 and in view of the public interest issues arising, the application is reported to Council for consideration.

Reports from Director Development Services

RECOMMENDATION:

That Development Application DA02/1421 for a proposed change of use of the existing Tweed Heritage Caravan Park to a manufactured home estate and a community title subdivision of the proposed 140 manufactured home sites and two dwellings on Lots 102, 103 and 104 DP 755701 Chinderah Bay Drive, Chinderah be refused for the following reasons:-

1. The proposed development is prohibited under the provisions of Tweed Local Environmental Plan 2000.
2. Approval of the application under the existing use provisions of the Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulations would be inconsistent with the public interest.
3. The development is likely to have an unacceptable adverse social and economic effect on existing residents.
4. The proposed development does not comply with the Manufactured Housing Estates and Manufactured Homes Regulations, 1995.
5. The development is inconsistent with the provisions of Development Control Plan No. 5 – Development of Flood Liable Land.
6. The development is inconsistent with the provisions of Development Control Plan No. 16- Subdivisions Manual.
7. The development is inconsistent with the provisions of State Environmental Planning Policy No. 36 – Manufactured Homes Estates in relation to the proposed subdivision component.
8. The development is inconsistent with the provisions of Development Control Plan No. 39 – Energy Smart Homes Policy.
9. Approval of the application would be contrary to the public interest and may create an undesirable precedent for other caravan parks within Tweed Shire.

Reports from Director Development Services

REPORT:

Applicant: Chris Lonergan and Associates - Planning Consultants

Owner: Tweed Heritage Park Pty Ltd

Location: Lots 102, 103 and 104 DP 755701 No. 92 Chinderah Bay Drive, Chinderah

Zoning: 3(d) Waterfront Enterprise (Tweed LEP 2000)

BACKGROUND

The existing Tweed Heritage Caravan Park comprises 105 long-term residents sites and 42 short term residents sites.

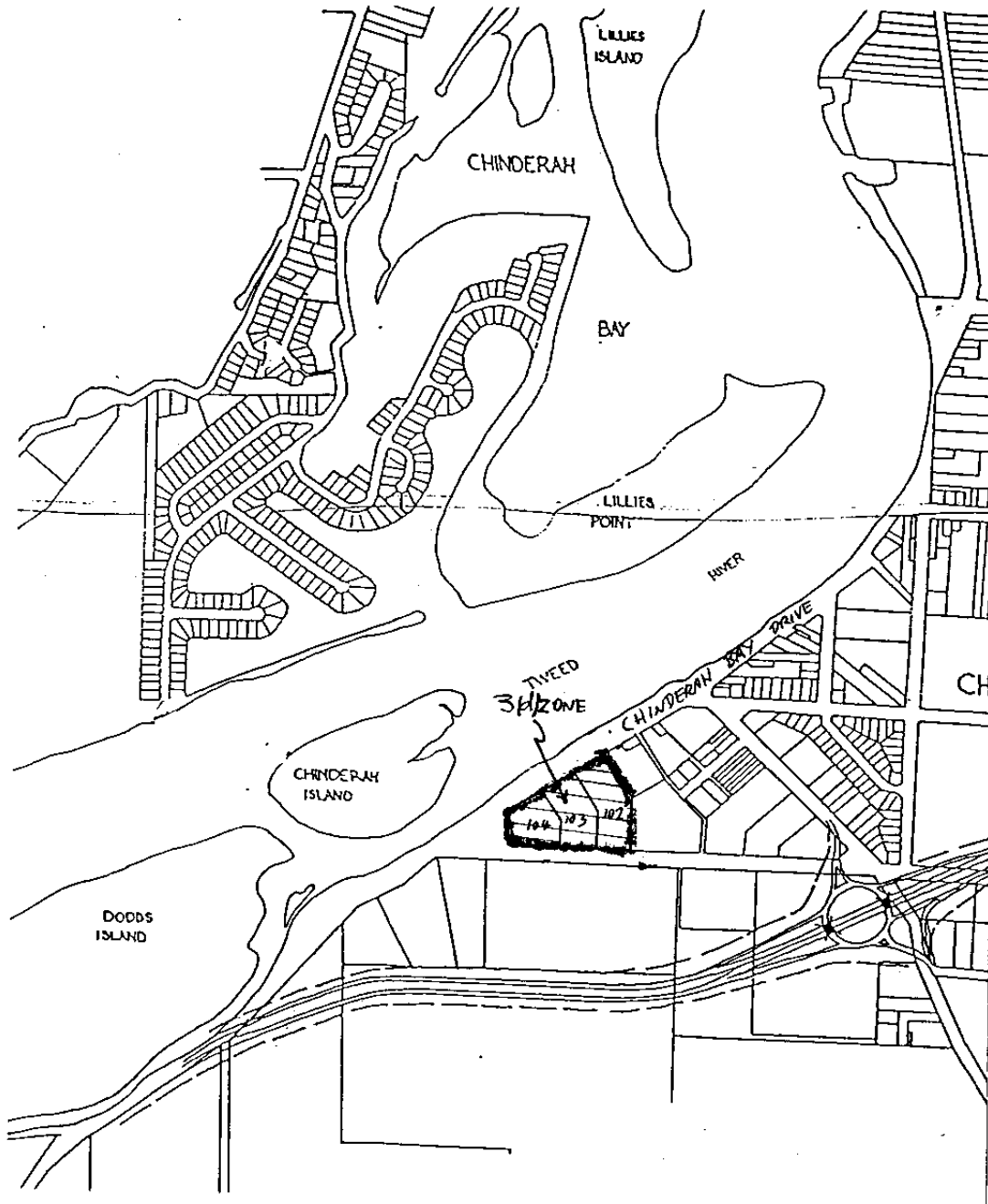
The following is a summary of development applications and determinations over the subject land in relation to the Tweed Heritage Caravan Park.

- 23 August 1979 – approval granted under Permit No. 7905 for the establishment of a caravan park (Tweed Heritage Caravan Park)
- 9 December 1980 – approval for the construction of a swimming pool under Permit No. T4/122
- 14 July 1982 – refusal of extensions to the existing caravan park under Determination No. T4/1885
- 18 September 1985 – refusal of Permit No. T4/4041 for extensions to Tweed Heritage Caravan Park
- 24 July 1986 – approval for extensions to Tweed Heritage Caravan Park comprising an additional 51 tourist only caravan sites and amenities block under Development Consent No. 86/285
- 10 July 2000 – refusal of development application K00/393 for a change of use of the existing Tweed Heritage Caravan Park to a Manufactured Housing Estate and Community Title Subdivision.

Reports from Director Development Services

The locality plan and layout plans are attached.

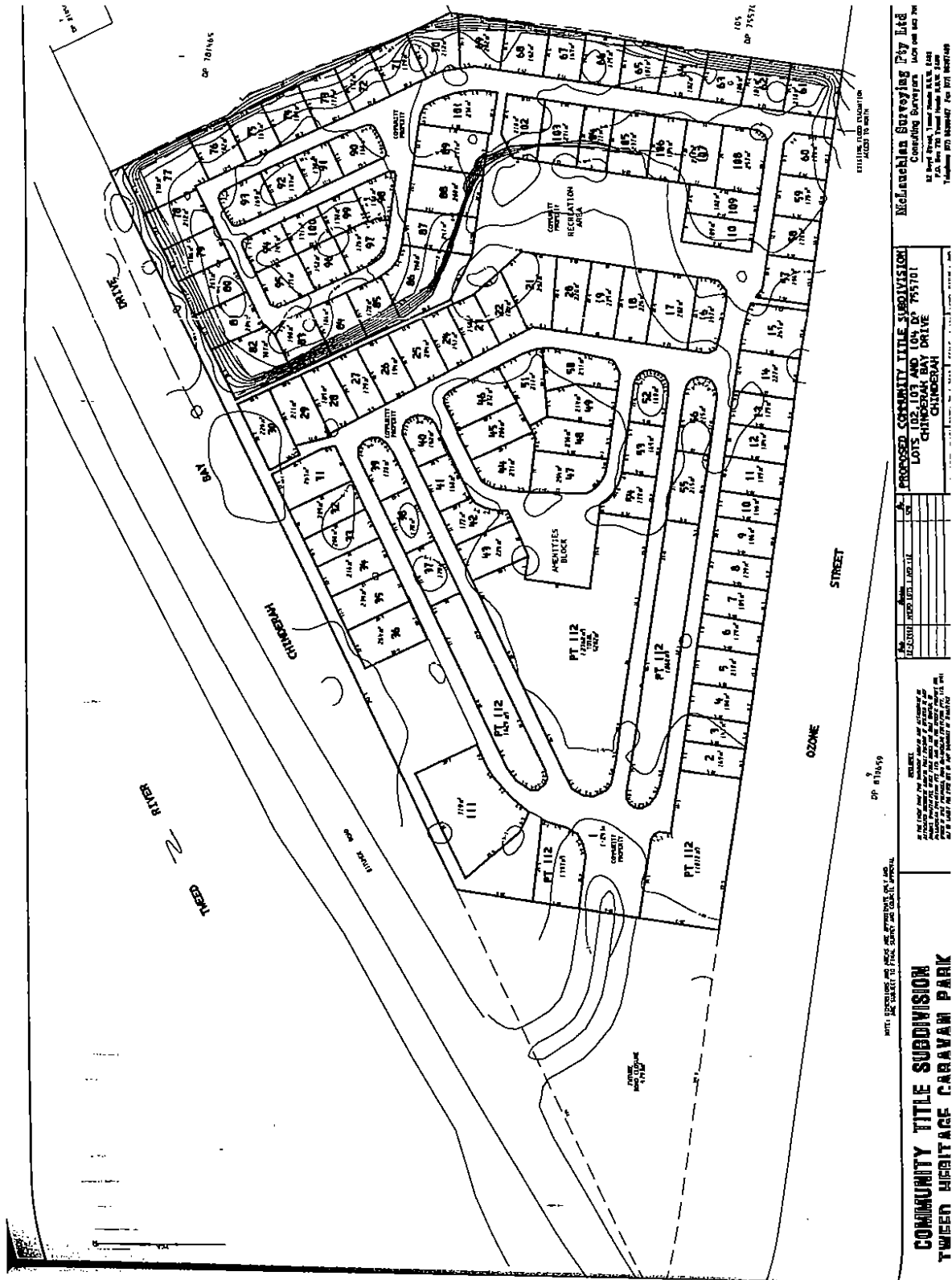
LOCALITY & ZONING PLAN



PROPOSED MANUFACTURED HOME ESTATE & COMMUNITY TITLE SUBDIVISION - Tweed Heritage Caravan Park
Lots 102 to 104 D.P. 755701 No. 92 Chinderah Bay Drive.

Reports from Director Development Services

SITE PLAN



Reports from Director Development Services

DESCRIPTION OF PROPOSAL

Council has received a development application to change the use of an existing caravan park containing 105 long-term sites, 42 short-term sites and two residences to a manufactured housing estate containing 110 long-term sites and a tourist accommodation site. The application also seeks approval for a community title subdivision of the site pursuant to Clause 8 of State Environmental Planning Policy No. 36 – Manufactured Home Estates.

The applicant seeks approval on the basis of “Existing Use Rights” under the provisions of the Environmental Planning and Assessment Act, 1979 as both caravan parks and manufactured home estates are prohibited under the current zoning of the land.

The key issues raised in the submissions will be dealt with in relevant heads of consideration in this report.

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

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

The subject land is zoned 3(d) Waterfront Enterprises under the provisions of TLEP 2000 and development for the purposes of “caravan parks”, “manufactured homes estates” and “tourist accommodation” is prohibited in this zone. The existing Tweed Heritage Caravan Park is therefore a non-conforming use, which enjoys existing use rights and accordingly, Council may consent to a development application to change the existing use pursuant to the provisions contained within Sections 107 and 108 of the Act and Clause 41 of the Regulations.

However, the current application seeks approval for the creation of 110 lots for the purpose of a manufactured housing estate and a lot for the provision of tourist accommodation. It would therefore appear that the application seeks approval to change an “existing use” to two uses, which are prohibited.

Section 41 of the Environmental Planning and Assessment Regulations states as follows: -

“41(1) *An existing use may, subject to this Division:*

(a)

(b)

(c) ...

(d) *be changed to another use that would otherwise be prohibited under the Act”.*

Having regard to the above it is considered that the existing use provisions do not extend to permit Council to approve two (2) prohibited uses and therefore Council cannot consent to the application as submitted.

Notwithstanding the above as a general planning principle, any use to which an existing use is changed should not be more offensive, less compatible, have greater environmental impacts, or result in greater diminution in the amenity of the neighbourhood than the existing use.

The objectives of the 3(d) zone are as follows:-

Reports from Director Development Services

Primary Objective

- * *To encourage development related to waterfront and marine activities, recreation or tourism*

Secondary Objective

- * *To allow for residential development in association with waterfront, tourist or recreational uses;*
- * *To allow for other development that is compatible with the primary function of the zone.*

It is not considered that the proposed change of use and subdivision amount to “conceptual alterations” as portrayed in the application. The proposed development is in effect a de-facto residential estate notwithstanding that the land is zoned 3(d) Waterfront Business. The land is flood prone (in part) (high hazard flood storage) and the Caravan Park does not reflect contemporary planning practice in terms of layout, road widths and hierarchy, and community facilities, and is not provided with infrastructure consistent with current standards.

In addition, the application does not propose to upgrade the park to comply with the current criteria applicable to a Manufactured Home Estate. The applicant appears to contend that because the development relies on the existing use provisions of the Act for the change of use, compliance with the definition of a “Manufactured Home” and “Manufactured Home Estate” and the criteria contained within the Manufactured Homes Estate and Manufactured Homes Regulation, 1995 under the Local Government Act, 1993 is not mandatory. The applicant has provided a legal opinion in support of this (attached). This interpretation is not conceded, however, in any event it is not considered to be appropriate planning practice and good public policy to enable a change in use in name only without complying with the mandatory standards, which apply to the new land use, which in this case is argued to be a Manufactured Home Estate. That is to say, it is not appropriate to grant consent to a development which gives rise to significant benefits without also complying with the pre-requisites for the change in land use, which impose obligations on the landowner.

Insofar as the proposed community title subdivision of the existing estate is concerned, it should be noted that Clause 8 of SEPP36 – Manufactured Homes Estates provides as follows-

- “8. (i) *Land on which development for the purposes of a manufactured home estate may be lawfully carried out (whether or not because of development consent granted pursuant to this policy) may be subdivided;*
 - a. *under section 109K of the Local Government Act, 1919 for lease purposes; or*
 - b. *under the Community Land Development Act, 1989, only with the development consent of the Council.*
- (ii) *A Council must not grant development consent for such subdivision if any of the lots intended to be created by the proposed subdivision*

Reports from Director Development Services

would contravene the requirement of the Local Government (Manufactured Homes Estate) Transitional Regulation, 1993.

Note. The Transitional Regulation has been replaced by the 1995 Regulation which is essentially the same.

The development application does not address in detail specific compliance with the provisions of the Local Government (Manufactured Homes Estate) Regulations, 1995. However, based on the information available, it would appear that the subdivision does not in fact comply at least in relation to road widths, car parking and other community areas within the estate. Car parking is proposed to be provided within the existing road reserve. In addition, many of the existing structures on the lots do not comply with the statutory definition and some structures appear to encroach on adjoining land or other allotments or alternatively do not comply with required side boundary setbacks and street setbacks. The application plans do not provide dimensions of allotments or road widths and sufficient details to make specific comments on this issue however, based on the information submitted it is considered that the proposed development does not comply with the Regulations in many respects. It therefore follows that Council could not grant consent pursuant to Clause 8 to the proposed community title subdivision.

In addition as a large percentage of caravans exist on site and are not proposed to be removed there is a question on whether the proposed development falls within the definition of a "Manufactured Home Estate" as defined by SEPP36.

Manufactured Home is defined as follows: -

"a self-contained dwelling (that is, a dwelling that contains at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

- (a) that comprises one or more major sections that are each constructed, and assembled, away from the manufactured home estate on which it is situated and transported to the estate for installation on the estate; and*
- (b) that is not capable of being registered under the Road Transport (Vehicle Registration) Act 1997,*

and includes any associated structures that form part of the dwelling".

Manufactured Home Estate is defined as follows: -

"land on which manufactured homes are, or are to be, erected."

Having regard to the above it is concluded the development as proposed does not satisfy the definition of "Manufactured Home Estate" as defined by SEPP36 and therefore the provisions of Clause 8 would not be applicable.

For planning purposes, different land uses are separately defined to enable specific criteria and standards to be developed and applied to those land uses. In this regard, the following extracts from statutory definitions relating to caravan parks are provided to assist Council in appreciating the distinctions between "caravan parks" and "Manufactured Home Estates".

Reports from Director Development Services

“Caravan Park” – means land (including a camping ground) on which caravans (or caravans and other movable dwellings) are, or are to be, installed or placed.

“Movable Dwellings” – means:

- a. *any tent, or any caravan or other van or other portable advice (whether on wheels or not), used for human habitation; or*
- b. *a manufactured home; or*
- c. *any conveyance, structure or thing of a class or description prescribed by the Regulations for the purposes of this definition.*

Having regard to the above definition and the proposal that there will be no change or very little change to the existing caravan park, it is considered that the resultant development will remain a “caravan park”. The community title subdivision of a caravan park is not permitted.

Therefore it would appear the application is seeking subdivision approval of an existing caravan park, which is not permissible, under the provisions of Clause 8 of SEPP36 under the premise that the resultant development is a “Manufactured Housing Estate” where in fact and as confirmed by the application there will be minimal physical change to the existing caravan park.

Tweed LEP2000 includes a number of specific clauses, which Council is required to take into account when assessing this development application as follows:

Clause 15 – Availability of Essential Services

This clause provides that consent must not be granted for the carrying out of development on any land unless,

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

Comments

The existing caravan park is provided with a reticulated water supply and sewerage collection system and the land is drained. However, no information accompanies the development application in relation to the standards of those facilities and whether or not they are in a reasonable state of repair such that any future owners of any community title lots will not be burdened with unreasonable costs of upgrading. Further comments on this issue are provided under the heads of consideration relating to Development Control Plan No. 16 – Subdivision Manual.

Clause 17 – Social Impact Assessment

This clause provides that where council considers that a proposed development is likely to have a significant social or economic impact in the locality or in the area of the 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

The social impact statement must:

- a. identify the likely future impacts of the development and the affected community; and
- b. analyse the impacts in terms of magnitude, significance, duration, effect on current and future conditions and community services and the like; and
- c. determine and assess possible measures for the management or mitigation of likely impacts.

Comment

In pursuance of clause 17 of the LEP the applicant has submitted a Social Impact Assessment and the summary of impacts and mitigation measures contained in the statement is reproduced as follows:-

“Section 6. Summary of Impacts and Mitigation Measures

Introduction

This Section summarises the social impacts of the proposal to convert the existing mostly long-term residential sites, already occupied by Manufactured Homes, to a Manufactured Home Estate, with each site comprising an allotment within a Community Title Subdivision.

Initially there is a brief discussion of the “No Go” option. That is, what are the social impacts of not proceeding with the proposal?

This is an important baseline assessment against which the social impacts of the proposal may be assessed if the proposal were to proceed.

The key social impacts will then be highlighted from those identified in Section Five of this Study. A clear assessment is also provided of the form and extent of each social impact, together with a range of mitigation measures.

Social Impacts which are considered to be neither a minor cost or a minor benefit will not be discussed. Some impacts may be both a cost, in relation to the impact on one area of infrastructure or section of the population, and a benefit.

Suggestions (mitigation measures) are indicated which seek to ensure that each social impact is a benefit not a cost, or at least if a cost, that it is reduced to a minor cost.

The form and extent of some social impacts may be either unknown at this stage or may depend on the final design parameters of the proposal.

Finally, it needs to be noted that costs and benefits are considered here in relation to the community not the proponent.

It is presumed that the proposal is an overall benefit to the proponent otherwise it would not have proceeded to this stage of development.

“No Go” Option

There are usually few social impacts on a community of not proceeding with a proposed change.

Reports from Director Development Services

This is not necessarily the case in this instance however, as the site has recently been rezoned by Tweed Shire Council to a 3(d) Waterfront Enterprise Zone.

This 3(d) Zone permits a much broader range of permissible developments within the site than existed under the old Open Space Zone. These options include a broad range of Commercial, Tourist and Marine oriented landuses.

As such, the new owners of this site, who have purchased it as an investment, may seek an alternative return on their investment if the application to convert the existing mostly long term residential sites, already occupied by Manufactured Homes, to a Manufactured Home Estate and Community Title Subdivisions, is refused.

If this were not to occur, then the existing park residents, under a No Go Option, would continue to pay rent to the owner of the park, and remain protected by the provisions of the Residential Parks Act.

There are also a range of impacts which can be identified specifically with not proceeding. Loss of the potentially positive benefit of obtaining security of tenure over individual home sites by home owners. Loss of control over the future of the park by the residents, and loss of a guarantee that the park will always remain as a place where people who choose to live in Manufactured Homes can live.

The extent of this impact as a cost is equally as difficult as measuring it as a benefit. It may be possible to estimate the number of house sites lost by this proposal not proceeding and the park being lost, but it is difficult in estimating the net cost to the community of house relocation etc.

In summary, there appear to be few significant social impacts for the Chinderah community or the Site Residents, resulting from a decision not to proceed with the proposal, other than the question mark as to the response of the new owners who have invested in the site.

It is however possible to say that there would be no quantifiable major impacts in the community, if the conversion of the existing mostly long term residential sites occupied by Manufactured Homes, to a Manufactured Home Estate and Community Title Subdivision, were it not to proceed, provided the current owners chose to continue to operate the site as a Caravan Park under its current consents.

Benefits of this Proposal to the Tweed Heritage Caravan Park Community and to Chinderah Generally

There are a number of potentially positive impacts of this proposal for the community within the site, as well as for Chinderah generally. These include the following:

Reports from Director Development Services

<i>Key Social Impact</i>	<i>Extent</i>	<i>Comments</i>
<i>Improved Security of Tenure</i>	<i>Moderate to Major benefit</i>	<i>The approval of the site as a Manufactured Home Estate, with each site comprising an allotment within a Community Title Subdivision, not only provides occupants of existing Mobile Homes on site with an opportunity to own the land upon which they live. (Estimated loan repayments are likely to equate with current rent payments). It importantly locks in the landuse of this site as a Manufactured Home Estate into the long term, as the owners of the park will be the tenants, and as such they will be looking after their long term housing needs, rather than be concerned with required returns for investors.</i>
<i>Changes in property values</i>	<i>Minor to moderate benefit</i>	<i>The existing residents of the park who choose to purchase the land upon which their home sits, are likely to experience ongoing capital appreciation, particularly as the Chinderah waterfront areas have recently been rezoned to a Waterfront Enterprise Zone, and this combined with the proposals for shops, restaurants, tourist accommodation and a marina to the north of the site, can only increase demand for land in the area, and as such can only result in property values rising, both within Chinderah generally and within the site specifically.</i>
<i>Formation of attitudes towards the project</i>	<i>Minor Benefit</i>	<i>There appears to be a mix of positive support for the proposal, and concern for the welfare of existing park residents, within the local media. Local residents, in particular through the Chinderah Progress Association, have support the proposal, which they see as adding to the revitalisation of their area, however they too do not wish to see existing park residents disadvantaged.</i>

Reports from Director Development Services

Costs of this Proposal to the Tweed Heritage Park Community and the Chinderah Community

The negative impacts or “Costs” to the community are presented in the following table, together with the scope and extent of those negative impacts and wherever possible, mitigation measures have been included.

Key Social Impact	Extent	Comments and/or Mitigation Measure
<i>Potential for eviction from home site following approval of the application</i>	<i>Minor</i>	<i>The protected provisions of the “Residential Parks Act” still apply, as each site occupant will be covered by the protection of a “Residential Site Agreement”, as the park will still be classified as a Manufactured Home Estate.</i>
<i>Costs associated with site ownership or rental increasing beyond existing levels</i>	<i>Minor</i>	<i>Advise from the proponents indicate that loan repayments from site purchases and “body corporate fees” are likely to equate with existing rent levels. Rent rises in relation to sites purchased by persons other than the Home Owner, are governed by the “Residential Parks Act”, and as such will not be uncontrolled. The only people to be economically disadvantaged would be those people who choose to purchase, but at present receive a rental subsidy, as this subsidy would be lost if they were repaying a loan rather than paying rent.</i>

Unquantified Social Impacts

A few impacts have not been quantified at this stage. They will be addressed through the public display period of the Application.

The economic and yet unquantified factors, which may have a social impact, are based around:- Actual purchase costs of sites, Finance arrangements and costs, Long term management of the park under a neighbourhood scheme, and the operational levies which may be imposed”.

Council’s Affordable Housing Officer and Social Planner reviewed the current proposal and made the following comments: -

Community title is a form of housing that makes home ownership affordable. This type of development should be supported particularly in the development of manufactured home estates. However this current proposal is of concern particularly the effect it will have on the current residents of the Tweed Heritage Caravan Park.

Reports from Director Development Services

The Statement of Environmental Effects and the accompanying Social Impact Assessment prepared on behalf of the proponents states that the tenure of residents of the park are secure under the Residential Parks Act , I suggest that you seek independent legal advice on the security of tenure of the existing residents of the park. I would pay attention to the level of rent payable on each site and the level of increases allowable under the Residential Parks Act.

In discussion with Council's Social Planner Mr Robin Spragg, regarding the proposed development, he indicated that he felt that this development proposal is very similar to one that was put forward and refused in the past.

I have attached a copy of a report prepared by Mr Spragg in relation to the last development proposal. Mr Spragg's report recommended that the past proposal be declined. Mr Spragg and myself are of the same opinion that the current proposed development should also be declined, as it will have a major impact upon the existing residents.

Attached is a copy of Council's Social Planners report regarding the previous application. These comments are relevant to this application as it is primarily the same application.

Clause 34 – Flooding

Clause 34 of the LEP provides that where, in the consent authorities opinion, land is likely to be subject to flooding, then it must not grant consent to development on that land unless it has considered:

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

Comment

The site is subject of flooding and is considered to be within a high hazard flood storage category. The implications of the flood prone nature of the land will be dealt with under the separate considerations relating to Development Control Plan No. 5.

Clause 35 - Acid Sulfate Soils

This clause provides that Council must not consent to work specified unless it has considered a number of matters including a preliminary soil assessment, and in certain circumstances an acid sulfate soils management plan. Acid sulfate soils are present on this site however, as the application does not propose any physical disturbance it could be argued that acid sulfate soils are not a relevant issue. However, in the event that consent were to be granted incorporating conditions requiring works to be carried out

Reports from Director Development Services

which are likely to expose acid sulfate soils, then the pre-requisites contained within this clause would need to be complied with.

State Environmental Planning Policies (SEPPs)

SEPP36 – Manufactured Home Estate

SEPP36 applies to the subdivision component of the current development application however, following gazettal of TLEP 2000 on 7 April, 2000, that part of the application involving the change of use from the caravan park to a manufactured home estate no longer relied on the provisions of SEPP36 for permissibility. However, the policy provisions may still be applied as a guide and in this regard it is considered that the change of use is inconsistent with the policy in that parts of the site are below flood level and the application does not propose to fill those sites to the required flood level and to that extent is therefore inconsistent with DCP5 and point 2 of Schedule 2 of the Policy.

The relevance of the Policy to the proposed subdivision are discussed under other heads of consideration.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

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

- a. the need to maintain or improve the quantity or quality of flows of water to the wetland or habitat;
- b. the need to conserve the existing amateur and commercial fisheries; and other matters relating to water quality and riparian land management.

In this particular case the development application does not propose any physical work and arguably does not generate any additional runoff or pollutants. However, the existing drainage network and water quality mechanisms do not reflect contemporary practice and do not include any measures to improve water quality and therefore it is submitted that if the application were to be approved suitable measures would need to be implemented to address this issue. The Statement of Environmental Effects accompanying the development application does not address the need for any drainage or water quality improvements nor does it propose any physical works of this nature.

Clause 43

This clause provides that Council shall not grant consent to development for residential purposes unless, among other things, 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. As noted under other heads of consideration, it is considered that the site is not suitable for a manufactured home estate and community title subdivision because of its flood prone nature and because of the fact that the proposal is essentially a de-facto residential estate

Reports from Director Development Services

which is not provided with infrastructure consistent with current standards and has limited access to community facilities.

Clause 66

This clause provides that before granting consent to a development application for the subdivision of land intended for residential or rural residential purposes, the council shall consider the adequacy of community and welfare services available to the land and taking into account the results of that consideration.

It could be argued that the proposed change of use does not increase the demand in that there will be no additional residences created. However, it should be recognised that the change of use from a caravan park which involves a significant component of short term or tourist type accommodation to a manufactured home estate will be likely to generate additional demand for community facilities and services for the permanent residents. Limited facilities are available within Chinderah and the immediate locality and Section 94 contributions could be sought towards additional facilities in the event that consent were to be granted.

Development Control Plans (DCPs)

DCP5 – Development of Flood Liable Land

Part of the land is subject to flooding and is within a high hazard flood storage category according to Council's flood inundation maps. The applicant has addressed this issue in the Statement of Environmental Effects as follows:-

“Chinderah and Fingal Road – Flooding in these localities has been identified as relatively low velocity flood storage, with small areas of flood way”.

As such, in addition to this site not being in a high hazard flood area, it is not within one of the identified flood ways. DCP No. 5 indicates that the highest recorded flood is 3.09m AHD and the predicted high flood level is 3.3m AHD.

As well as this, the recently completed “Pacific Motorway” to the south, now acts as a flood barrier, and directs waters from the cane lands and wetlands to the south of the site, away from the site to the east.

The conclusion is that this is not a high hazard flood area. As such, the conceptual changes proposed to the existing Council approved Long Term Residential Sites are not irresponsible, and do not represent the High Hazard Flood areas which the Flood Plain Manual seeks to preclude residential from. In fact the site contains 109 existing Council approved manufactured Homes, and this application seeks merely to cluster these sites as far as possible in the northern section of the site, which is elevated, generally flood free, and locates them adjacent to the N E flood evacuation corridor.

This is a reasonable action to take as it increases security for the occupants, and the low flood risk and proposed Flood Evacuation Plan, combine to ensure that the approval of this application does not prejudice the proper future planning of the area.

Reports from Director Development Services

Advise received from Oceanics site specifically identifies the peak velocity of flood waters over the site at 0.24 m/s in the peak 3.35m AHD 1% flood and 0.17 m/s in the 2.44m AHD 1 in 20 year flood.

*These flow rates are in the very low, and fall well within the **Low Hazard Category**.*

*In terms of flood waters over the property, the depth of this slow moving non hazard flow water varies from NO water to 0.85 metres in the northern filled section of the site where 54 of the proposed Manufactured Home Sites are located. This is also a **Low Hazard Category** area. In relation to the southern section of the existing park, where ground levels under home sites vary between 1.5 to 1.7 metres AHD the slow moving flood waters can achieve a height of between 1.85 and 1.65 metres AHD during the 1% flood.*

In this regard it is proposed to require all new Manufactured Homes to be elevated to a height above the minimum required level.

*This level flood proofs these dwellings, and this coupled with the low velocity of water, and the long warning time and accurate flood height prediction systems throughout the Tweed Valley, ensure that this area too falls within the **LOW HAZARD** flood category as expressed within the NSW Flood Plain Development Manual.*

It is important to note that areas which experience low flood rates, and adequate flood warning times, like this site, are regarded as low hazard areas, with minimal risk to life.

In relation to this application, a site specific Flood Evacuation Plan has also been put in place, and it has the added advantage of on site park management to co-ordinate evacuation and inform all residents as a flood situation progresses.

Due to the fact that this is a low hazard food area, that most of the Manufactured Homes exist as Council approved Manufactured Homes, and that all new dwellings will be required to be set above flood level, it is not proposed to fill the site.

This particular section of the Tweed Valley is a wide coastal flood plain. Historically this area has been subject to inundation following major storm events, particularly at times when King Tides are experienced, which makes it difficult for flood waters to easily drain from the valley, through the Tweed Bar, to the Pacific Ocean.

Of the 55 Manufactured Homes within the southern area, it will be required that all new dwellings, and any redevelopment of existing approved Long Term dwellings, be raised up above the 1% Flood Level, thus meeting Councils' requirement that they are flood proofed.

This will require the placement of new Homes at a floor level of 3.6 metres AHD thus placing them well clear of the 1% flood event and placing them at the minimum habitable floor level recommended by the Shire for this area under DCP No. 5 , ie. 3.6 metres AHD. It is important to note that areas which

Reports from Director Development Services

experience low flood flow rates, and adequate flood warning times, like this site, are regarded as low hazard areas, with minimal risk to life.

In relation to this application, a site specific Flood Evacuation Plan has also been put in place, and it has the added advantage of on site park management to co-ordinate evacuation and inform all residents as a flood situation progresses.

As such there is no realistic impediment to the conversion of this existing park, where the majority of residents who own their own Council Approved dwelling, on Council Approved permanent sites, to a Manufactured Homes Estate.”

Comments

In pursuance of the Flood Plain Management Manual published by the NSW Government, Council has adopted DCP5- Development of Flood Liable Land. That DCP provides, at section 4.3, as follows in relation to movable dwelling parks:-

“New movable dwelling parks will not be approved unless it can be demonstrated that the land can be filled to a level of not less than the adopted design flood level for the locality without adversely affecting the current flood levels and patterns in the area.”

Further, Table 4.2 of DCP5 provides that movable dwelling parks are inappropriate development in the high hazard flood storage areas.

It should be noted that the applicant does not propose to fill the site to the required flood level and information addressing the impacts of any filling is proposed has not been submitted and therefore Council is unable to determine the likely impacts of such work if a condition were to be imposed requiring such filling.

In addition, Section 733 of the Local Government Act, 1993 provides that a Council does not incur any liability in respect of any advice furnished in good faith by the Council relating to the likelihood of any land being flooded or the nature and extent of any such flooding or anything done or omitted to be done in good faith by the Council insofar as it relates to the likelihood of the land being flooded or the nature and extent of any such flooding providing the Council acts in good faith. Council is, unless the contrary is proven, taken to have acted in good faith for the purposes of this section if the advice is furnished or the thing was done or omitted to be done substantially in accordance with the principles contained within the NSW Government Flood Plain Development Manual.

Given that the proposed development application is inconsistent with DCP5 (which derives from this NSW Government Manual) and as this application will fragment the land into 111 separately owned residential allotments incorporating some structures which are not at the required flood level, it is considered the Council may not attract the indemnity from liability contained within Section 733 if it were to approve the application as submitted.

In addition the site is a High Hazard Storage area as flood levels would be in excess of 1 metre contrary to the applicants submission.

Reports from Director Development Services

The applicant also proposes lifting of existing houses and new homes to 3.6 metres to achieve the required flood level. This would mean buildings would be lifted as high as 2 metres off the ground. This is considered unacceptable from a visual perspective.

DCP16 – Subdivision Manual

Clause 3.7 of DCP16 provides that a merit based approach to the provision of engineering services will be adopted based on this Manual, in relation to Community Title Subdivisions however, applicants must address the transition from private to public ownership.

The Statement of Environmental Effects accompanying the development application does not specifically address the standard and state of repair of existing infrastructure within the site and the application does not propose any upgrading of any infrastructure.

The Statement of Environmental Effects includes the following in relation to services.

“Existing services are adequate, and the demands made by the development proposed will not exceed the capacity of the existing infrastructure.”

Concerns have been raised by objectors in relation to the standard of the existing roads, drainage, water and sewerage infrastructure and in the absence of any detailed information in this application it is not possible to provide advice in relation to the standard of the existing infrastructure. However, in accordance with Council’s policy as reflected in DCP16 it is normal practice that prior to the release of linen plans of subdivision each lot is provided with suitable infrastructure to current standards to ensure that future lot owners are not burdened with the high cost of maintaining or upgrading essential services to individual sites. In the absence of any detailed information and on the basis of the information submitted it is considered that existing infrastructure may not be of a satisfactory standard to facilitate approval of a 112 lot subdivision.

DCP39 – Energy Smart Homes Policy

This policy applies to the subdivision component of the development application. The key objectives of the policy insofar as it relates to subdivisions is to maximise solar access through the appropriate design and orientation of roads and lots; encourage walking, cycling and use of public transport and minimise energy required for street lighting. These objectives can be achieved by designing the layout to achieve appropriate street and lot orientation and suitable design of lot sizes and shapes. Given that the layout is over an existing street network and the lot shapes have largely been designed to accommodate existing structures it is apparent that the subdivision layout does not fully achieve the requirements of the DCP in terms of orientation of both streets and lots.

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

The key issues arising under this head of consideration include the serviceability and standards of the existing infrastructure serving the caravan park, the flood prone nature of the land, the social and economic impacts of the development and the site design and internal design of the development. These issues have been addressed in detail under other relevant heads of consideration.

Reports from Director Development Services

(c) Suitability of the Site for the Development

Given that the site is in a high hazard flood storage area and as the proposed development does not comply with the provisions of DCP5 it is considered that the site is not suitable for what is in effect a residential estate. It is apparent that there are also drainage difficulties with the site particularly those areas which have not been filled to the design flood level and in addition the serviceability and level of maintenance of existing infrastructure on the site has not been addressed in the Statement of Environmental Effects and nor is it proposed to upgrade any existing infrastructure to comply with current standards applicable to Subdivisions of this nature as required by DCP16.

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

The development application was advertised in the Tweed Link and existing residents were notified by way of a letter box drop and invited to make submissions, following which a total of 84 written objections were received and a petition containing 24 signatures. The grounds of the objections are summarised below.

Issue	Assessment	Comment
Many residents of the Park have no money to purchase land when subdivided.	This would appear to be a valid concern for residents and the claim by the applicant that the subdivision will provide security of tenure and allow residents to acquire an asset would not be possible for the majority of residents.	This is a valid concern resulting in a negative social impact.
Due to the age of the majority of residents they cannot obtain a bank loan to acquire the land.	Same as comment above.	Will result in negative social impact.
Should an investor buy the land residents may have to pay a great deal more in site fees.	There would appear to be the potential for individual landlords to increase rents and additional costs such as upgrading infrastructure, individual rates for each site and neighbourhood management costs may increase the costs of residents living in the park.	This would result in a negative social and economic impact to residents living in the park and warrants refusal of the application.
Should homes need to be replaced over time then they will need to be replaced with a	If the applicant seeks to convert the caravan park to a manufactured home estate then they should be	This would result in displacement of existing residents as a result of additional costs incurred by

Reports from Director Development Services

manufactured home at significant additional cost.	required to comply with the relevant regulations.	the residents or owners of the site. This could have a significant social and economic impact on existing residents in the park, which is considered unacceptable. Warrants refusal of the application.
Concern that should residents be required to move it would be at significant expense.	Under the provisions of the Residential Parks Act the owner of the site is required to find an alternative site and compensate residents the cost of removal.	The potential exists that new owners would require some residents to relocate. As many are elderly this would be quite traumatic and result in a negative social impact.
Residents will receive no additional security but rather less as a result of the complexity of the arrangements.	The number of owners would change from one to potentially 111. This would create complexity for tenants within the park.	It is agreed that the proposal would provide no additional security to most residents in the park.
The few residents who could afford to buy their homes would lose their rights to resolve disputes through the Residential Tribunal.	Individual owners would lose their rights and would need to user other avenues to resolve disputes. This may lead to additional legal costs.	Additional costs to existing residents would be a negative social and economic impact.
The proposed development will not have a positive impact on the building, retail or tourism sectors as there will be no significant change in the number of people at the park.	The park will not significantly change as stated by the applicant and therefore it is difficult to see how there would be any significant benefits in these areas.	It is agreed that there will be no significant benefit.
The approval of this application would create a precedent for other parks in the area.	It would be open to other park owners to lodge similar applications.	Each application would need to be assessed on its merit however similar issues would be of relevance.
There will still be a significant number of homes affected by flooding.	This site is significantly flood affected and the creation of a number of owners is not desirable for the purpose of evacuating	The proposal does not comply with DCP No. 5. This warrants refusal of the application.

Reports from Director Development Services

	the park.	
Concerned that 90% of the caravans will need to be removed as would not comply with Manufactured Home requirements. How can Council permit a 50/50 situation regarding compliance with caravan park requirement and Manufactured Home Estate requirements	Council's Environmental Health Officer has indicated the park should be either a complying caravan park or a complying Manufactured Housing Estate not half and half. The cost to upgrade would be significant.	The applicant seeks the benefits of a Manufactured Home Estate while not being willing to expend the funds to upgrade it. This is considered unacceptable. The cost to new owners would be significant and this could be expected to be passed onto tenants. The economic and social impacts of this are considered unacceptable.
The application proposes to provide for tourist accommodation. This will place additional pressure on substandard infrastructure, impact on the amenity of long-term residents and is unacceptable from a traffic perspective.	Lot 112 is proposed to be set aside for tourist accommodation. No specific details of the number of sites set aside have been provided so it is difficult to make a proper assessment of this component. However, the submission is generally agreed with.	Tourist accommodation is prohibited in the 3(d) zone except under certain circumstances. It is considered it is prohibited in this situation and therefore warrants refusal of the application.

In addition to the summary of concerns two (2) submissions received are directly quoted below. The first is from the Northern Rivers Tenants Advice and Advocacy Service: -

“Our service is a fulltime tenant advice and advocacy service and we work exclusively with legislation pertaining to tenants and caravan park residents.

The proponents state throughout their report, provided by Chris Lonergan and Associates, that their proposal will provide real security of tenure to existing park residents. However, their report makes it clear that in actuality this is not so. The Residential Parks Act 1998 already provides security of tenure for those residents in relocatable homes or vans with rigid annexes, in that they cannot be evicted unless they have committed serious and persistent breaches of their tenancy agreements.

Additionally, the only residents who will obtain any ‘security of tenure’ as defined in the proposal will be those few residents who are able to purchase the lot on which their home is located.

The Residential Parks Act makes it very clear that it only applies to landlord – tenant relationships. If residents buy the land on which their relocatable home is

Reports from Director Development Services

placed they do not have such a relationship and therefore cannot be covered by the act. The act would only continue to apply to those residents who do not purchase the land on which their home is located.

Any residents who purchase their land will lose all the protection and rights that flow from this act including the right to compensation for removal costs if the Estate is ever closed.

Even those residents that remain covered by the Residential Parks Act may no longer be able to avail themselves of the dispute resolution mechanisms of the Act as disputes may be between multiple owners of the community title scheme for which the Act was not designed.

There has also been a number of claims by the proponents that there will be very little displacement of current residents if the proposal goes ahead and that the residential site agreement would be able to be passed on or sold to heirs or assignees. This is also a serious misrepresentation of the likely outcome.

A large proportion of homes in Tweed Heritage Park are not manufactured homes and therefore not legally allowed to be part of a manufactured home estate. Therefore, even if they are allowed to remain for the present, it is likely that the Council will require them to be upgraded at some point, either on change of the park or at the next time the premises or site are assigned and/or sold. This will either be very expensive for those affected or require them to move out of the park.

Economic and Social Impacts on Residents

The vast majority of park residents are on an extremely limited incomes and are therefore unlikely to be able to purchase the land (or get a loan to purchase the land) on which their home is located. This is particularly the case if the value of each allotment is between \$35,000 and \$50,000.

This in itself will lead to significant stress of residents given their mean age. Residents unable to purchase the land will have concerns associated with a change of landlord and of management structure. This will not have a vote on the neighbourhood associations and may feel excluded when some other residents participate in management decisions. Because they will not have access to some of the dispute resolution mechanisms of the Residential Park Act, they will also be powerless to challenge or contribute to neighbourhood associations decisions, which could significantly affect them.

As mentioned above, residents who do not have a manufactured home may be required to relocate out of the park and/or may lose the opportunity to pass on or sell their asset. This will cause elderly people significant distress. Further, park residents are acknowledged as one of the poorest groups in our society and the costs associated with moving may not be able to be met by them and potentially homelessness may result.

There is also the well recognised other social ramifications of relocation including loss of community and access to services and support mechanisms. These losses are only further increased by the mean age of the residents as older people are more affected by change on this nature.

Reports from Director Development Services

In our experience, many of the Tweed caravan park residents have chosen this lifestyle in the hope that they will not have to move again in their lifetime and are considerably distressed when this is not the case.

As manufactured homes can cost significant amounts on top of the land value it may be that the land is overvalued by comparison to house and land prices in the local area and in fact may fall over time as a result.

The proponents have argued that the residents will have greater or similar security of tenure under this scheme as they currently have. This is not necessarily the case.

If for some reason the park is closed, the residents who own their land will not be entitled to compensation and those that don't will have no greater security than they currently do. The purchase of the land per se does not create security of tenure in itself as it relies on decisions made by a management body to continue to exist.

The proposal refers in several places to an intention to relocate homes, eg. p9 ... "takes into account the physical ability to relocate many of the permanent Manufactured Home sites". This intention is reiterated on page 49. There is no indication within the proposal of how many of the homes will in fact be relocated, and no indication that the inconvenience and risk of this has been discussed at all with residents. It is our experience that relocation of many relocatable homes can result in damage to the home and result in lengthy and complicated legal proceedings, with resultant stress to the residents.

The above comments are made drawing from our significant experience in the field and daily contact with park residents.

If Council requires further detail before making a decision on this matter please do not hesitate to ask. We believe that the impacts of this proposal on park residents will be largely negative and unpopular and to approve this proposal will not be to the benefit of the residents of the park at all.

Thank you for your consideration."

This submission provides evidence that many of the concerns relating to the negative social and economic impacts of the proposal are valid and real.

The second submission is from the Chinderah District Residents Association. This submission wishes to correct misrepresentations made in the development application. This submission states as follows: -

"It been brought to the attention of this Association that contained in the subject D.A are statements that "the Chinderah Progress Association" gave general support to this application "based on the premise that no existing tenant will be disadvantaged". Another statement on page23 of the same DA says that "Local residents, in particular through the Chinderah Progress Association have support (sic) the proposal, which they see as adding to the revitalisation of their area," neither of these statements are correct.

Reports from Director Development Services

Firstly we believe that the Chinderah District Residents Association Inc is the association referred to in the DA as the Chinderah Progress Association. To our knowledge there is no Chinderah Progress Association existing. It was taken over by this Association upon incorporation.

More importantly no financial member has ever moved and had seconded any motion to give support to this particular DA. We have in fact encouraged the consultant to speak to us on it as a number of our members are Tweed Heritage Caravan park residents. This way we can keep abreast of developments in our area.

Far from stating that this DA, if approved, would be seen as revitalising the area, our president actually informed the consultant that under the new zoning of Riverfront Enterprise the Manufactured Home Estate was a prohibited development. She also said that the current park is still functioning because of existing rights of the previous zoning which allowed Caravan Parks.

We would appreciate it therefore if these inaccurate statements be removed as quickly as possible from this DA.”

(e) The Public Interest

The applicant submits that whilst the existing development does not comply with the requirements for a Manufactured Housing Estate, it is nevertheless open to Council to approve the development application under the existing use provisions of the Act without requiring upgrading of the site. Given that the effect of the subdivision will be to fragment the land into 111 separate lots, which will be capable of separate ownership it is considered that it would be contrary to the public interest to approve the subdivision unless the development fully complied with the requirements of a Manufactured Housing Estate. Prospective purchasers of each of the proposed lots have a reasonable expectation that if Council were to approve the subdivision and endorse the final linen plan then each lot would comply with contemporary planning and servicing standards and accordingly it is submitted that approval of the application would be contrary to the public interest and inconsistent with the aims and objectives of SEPP36 – Manufactured Homes Estates.

ENVIRONMENT AND COMMUNITY SERVICES DIVISION COMMENTS

“A similar application has been made to Council previously and refused.

There are currently approved, under the LG Sec. 68 park approval, 105 long term sites and 42 short term sites in the caravan park. There are also 2 residential homes on the property. Under the proposal these would be converted to 111 ‘neighbourhood lots’ and a common lot. It is not proposed to fill the site above flood heights, resulting in a number of the proposed permanently occupied sites and structures (UMDs) being potentially exposed to flood conditions.

The Section 82 appeal regarding road width should be referred to Council’s Traffic Engineer for consideration and comment. It is noted that the relevant drawing from Richard Harry Engineering Services appear not to have been provided. The applicant should be requested to provide a specific plan of the areas and length of roads which do

Reports from Director Development Services

not strictly comply with the Regulations? It would be difficult to determine the Sec. 82 appeal without this specific information.

It is noted from the Landscape Plan that a proportion of the public parking spaces (16) are proposed to be constructed on the road reserve at the front of the Park. I believe that this land is currently under the control of Recreation Services, although it is mowed and maintained by the Park. The proposal to construct public carparking on this land should be referred to Recreational Services for comment. If the area were approved for car parking, a plan is required, including proposed sealing of the area.

In the questions below, a UMD is an unregistrable moveable dwelling and an RMD is a registrable moveable dwelling as defined under the Local Government Act.

- 1. The current approval to operate the Park (20 May 2002) provides for 105 long term sites and 42 short term sites. The submission states that there will not be an increase in the number of approved long term sites, and suggests that the number of approved long term sites is 109 (pg 7). This is considered to be incorrect – the number of approved long term sites is 105.*
- 3. As the number of current approved long term sites is 105, the submission proposes to increase the permanent population density within the flood plain. This does not comply with the provisions of DCP 5, and significantly alters the basis of the DA submission?*
- 4. The Park is currently occupied by a number of caravans and annexes (with variable floor heights) which are not manufactured homes. The definition of a 'manufactured home estate' under the Local Government Act is land on which manufactured homes are erected. Note that the definition of a manufactured home under the Local Government Act specifically excludes a dwelling which is capable of being registered under the Traffic Act, such as a caravan? Therefore a significant number of the existing structures are not permissible within a manufactured home estate.*

The above view about leaving existing caravans and annexes is not supported on the basis of current information. - the development should be either a complying caravan park or a complying manufactured home estate.

The submission (pg 9) notes the possibility of relocating 'many of the permanent Manufactured Home sites to within the existing cleared and partly filled land'. Page 15 of the submission suggests that 54 sites are flood free. The submission further notes (pg 15) that 55 'Manufactured Homes' are within the southern unfilled area. Many of the existing structures on the unfilled land are not manufactured homes but RMDs with attached associated structures).

- 5. The application (pg 6 & 8) states that the new structure will provide for the management of 'short term sites within the large southern Lot 112' – 'Tourist Accommodation Short term area'. Does this suggest that the development will have short term occupancy within the proposed lot 112, similar to a caravan park? If so how many short term sites are proposed? What type of structures are proposed to be installed on a short term basis, caravans and registrable moveable dwellings (The Manufactured Home Estate Regulations do not provide for the installation of RMDs, as outlined under point 3 above)? Under which Regulations is it proposed to manage these 'short term sites'?*

Reports from Director Development Services

6. *The application (pg 6) states that 'the nature and existing development character of the site will not change to any appreciable extent'. However the minimum reported existing ground level is 1.5m. The submission suggests that the minimum floor height should be 3.65m AHD and DCP 5 requires 3.6m AHD. Therefore floor levels will be as much as 2.15m above ground level, which could have substantial aesthetic impacts. Council Policy only permits UMDs on short term sites where they have a minimum floor level of 3.6m AHD, and the floor levels are not more than 1200m above ground level. The proposed development will change the 'development character' by placing UMDs at substantial heights above ground level, which is not currently permitted by Council Policy.*
7. *Council's current Policy does not permit the installation of UMDs on long term sites, where the site is not filled above the flood level. The development proposes to permit the placement of UMDs on sites where the placement of UMDs is not currently permitted by Council Policy.*
11. *Clause 22 of the Regulation requires that an 'estate contain' the relevant number of visitor parking spaces. Officers interpret this to infer that the spaces should be within the park boundaries. It is noted that a proportion of the public car parking spaces are proposed to be constructed on the road reserve.*
14. *Existing structures within the park were approved for installation on the basis of compliance with Council's relevant Policy and the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995. Any structures installed within a manufactured home estate are required to comply with the Local Government (Manufactured Home Estates and Manufactured Homes) Regulations 1995. In a number of instances the existing structures do not appear to comply with the provisions of clauses 42 - 47 of those Regulations. These clauses provide important requirements relating to placement and setback of structures which impact fire safety issues."*

Development Engineers comments

"Conclusion Recommendation:

Recommendation that the proposed 111 lot community title subdivision be refused. The proposed development is poorly designed, and has a number of engineering implications, which warrant refusal for the development.

The main issues associated with the development are as follows:

- *Flooding implications are a major issue with the development. The application has failed to adequately address the flooding stipulations required by DCP5.*
- *Poor internal road design, associated intersections and lot layout. No pedestrian connectivity is provided throughout the site.*
- *No stormwater information supplied, therefore difficult to assess stormwater issues associated with the development."*

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

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

Reports from Director Development Services

Objectors have no statutory right of appeal in relation to Council's determination of the application, however any person may bring proceedings pursuant to Section 123 of the Environmental Planning and Assessment Act, 1979 to remedy or restrain a breach of the Act.

It should be noted that individual sites in existing caravan parks are not separately valued by the Valuer General's office and therefore cannot be separately rated by Council.

However, it should be noted that in section 1 of the Statement of Environmental Effects accompanying this application the following statement is made:

"A component of this application will be the negotiation of an appropriate level for Council for each of the proposed new neighbourhood lots. This is particularly so considering the development will still provide a single common garbage pick up point and private internal and water sewer reticulation".

The Revenue Accountant has provided the following comments in relation to the rateability of the proposed new lots.

"A neighbourhood plan of subdivision would result in each lot being separately rated for general, water and sewerage rates subject to a valuation supplied by the Valuer General's Department.

Negotiations on the amount of Ordinary rates paid can only be achieved by way of introduction of a sub-category of the Ordinary rates which can be either higher or lower than the Ordinary rates determined by a centre of population.

Further research and legal advice would need to be obtained if this option is taken and would be subject to a separate report."

OPTIONS

The following options are available to Council:

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

CONCLUSION

As reflected in the foregoing report the application does not comply with a number of statutory requirements contained in the Manufactured Housing Estates and Manufactured Homes Regulation, 1995 and is considered to be unsatisfactory in respect of a number of merit issues. In particular, the development is prohibited in the zone and whilst Council may have the power under the existing use provisions to approve the development notwithstanding the prohibition, it is considered that in the circumstances of this case, it would be contrary to the public interest to approve what is in effect a residential subdivision of a caravan park where the proposed development does not comply with statutory requirements and contemporary planning policies and practices.

In addition the development is likely to result in significant adverse social and economic impacts on many of the existing residents in the estate and it is considered that the social impact assessment accompanying the application does not adequately provide for suitable mitigation measures in relation to these impacts. Having regard to all relevant matters for consideration it is therefore recommended that the development application be refused.

Reports from Director Development Services

8. ORIGIN: Development Assessment Unit

FILE REF: GT1/DCP/16 Pt1

REPORT TITLE:

Draft Development Control Plan No. 16 – Subdivisions Manual

SUMMARY OF REPORT:

In the past 10 years there have been major amendments to the state legislation, planning policies and design standards for land subdivision. Council's current DCP 16 has not been revised during this period and now requires major upgrading.

A new DCP 16 has been drafted to incorporate these changes and provide guidelines to achieve high quality subdivision planning, design and construction in Tweed Shire.

RECOMMENDATION:

That Council: -

1. Endorses draft "Development Control Plan No.16 - Subdivision Manual - Version 1.2" as a basis for public exhibition and community discussion/consultation for a period of 8 weeks in accordance with the Environmental Planning and Assessment Regulation.
2. Notes that during the exhibition period a series of workshops be conducted for developers, consulting town planners and consulting engineers to explain the provisions of Draft Development Control Plan No. 16 and seek their input.

Reports from Director Development Services

REPORT:

1. BACKGROUND

The current version of Development Control Plan No. 16 (DCP 16) was drafted in the 1980s and reflected the legislation, practice and standards of that time.

Since then there have been major changes in subdivision legislation, policy and practice which include:

- Amendments to the Environmental Planning and Assessment Act in 1998:
 - Development certification system overhauled:
 - LGA Part XII approval replaced with construction certificates
 - Compliance certification introduced with option for private certification in some circumstances
 - Subdivision Certificates introduced
- Introduction of new state government policies for:
 - Coastal development
 - Bushfire protection
 - Land contamination
 - Threatened species
 - Waterways and riparian areas
- New Council policies
 - Strategic Plan
 - Energy smart homes
 - Socio economic impacts of development
 - Parking
 - Stormwater quality
 - Open space
 - Arterial roads
- Subdivision design practice
 - Promotion of subdivisions with connectivity, permeability and legible street networks
 - Promotion of energy efficiency, walking, cycling and reduced vehicle dependence
 - Subdivisions to embrace and complement natural features rather than obliterate them
- Engineering standards
 - Adoption of the “Aus-Spec” standards for subdivision engineering works

Reports from Director Development Services

Adoption of the Water Services Association of Australia (WSA) water supply and sewerage standards

“Draft Development Control Plan No.16 – Subdivision Manual Version 1.1” has been rewritten to incorporate the above changes, whilst incorporating those elements of the old DCP16 that are still relevant. The draft is enclosed with this report.

2. AIMS OF DCP 16 - SUBDIVISION MANUAL

The manual aims to be a comprehensive document that:

- Implements the objectives of Council’s Strategic Plan
- Provides design guidelines and development standards for the development of subdivisions that implement “best practice” in this area
- Is consistent with current state government legislation and policy
- Advises and assists developers in
 - Preliminary master planning and design of subdivisions
 - Procedures and documentation for seeking subdivision approvals
 - How to prepare development applications, construction certificate applications and subdivision certificate applications
 - How to implement subdivision works in accordance with approvals

3. STRUCTURE OF THE MANUAL

Chapter 1	Introduction and aims
Chapter 2	Explains the strategic and policy context for subdivision development
Chapter 3	Provides guidelines for overall planning and designing a subdivision
Chapter 4	Provides design guidelines and development standards for urban subdivision
Chapter 5	Provides design guidelines and development standards for rural subdivision
Chapter 6	Explains the assessment and decision-making process for subdivision development
Chapter 7	Provides explanation on implementing a subdivision consent
Appendix A	Calls up the “Development Design Specifications” which provide engineering design standards for subdivision works
Appendix B	Calls up the “Development Construction Specifications” which provide engineering construction standards for subdivision works
Appendix C	Prescribes the compliance certification system for subdivision works

4. URBAN DESIGN

The manual incorporates current urban design practice and has is consistent with the principles of “AMCORD – A National Resource Document for Residential Development”. It also draws from “The NSW Coastal Council – Design Guidelines” and “Liveable Neighbourhoods - WA ”. In this regard it promotes subdivisions that:

Reports from Director Development Services

- Are environmentally sustainable, promote walking and cycling and reduce car dependence
- Respond to the natural topography, drainage systems and environmental constraints
- Provide safe, convenient neighbourhoods that offer a wide choice of housing, leisure, local employment and associated community and commercial facilities
- Provide neighbourhoods that are compact, understandable and walkable from most homes to a neighbourhood centre that can meet many daily needs
- Provide town centres offering a mix of uses (commercial and residential) linked by public transport to other centres
- Provide a legible, permeable and interconnected street network with alignment that promotes solar access (generally north/south and east/west)
- Provide a walking and cycling network that provides convenient access within neighbourhoods and interconnects with other centres
- Provide a network of well distributed parks and recreation areas that integrates with the movement network and natural areas.

The draft has been reviewed by the Urban Design Advisory Service (UDAS), a business unit of Planning NSW. UDS have generally endorsed the draft and where appropriate their revisions have been incorporated into the text.

5. ENGINEERING STANDARDS

Engineering standards for design and construction of subdivision works were incorporated into the old DCP16. Some years ago it was decided to adopt the national "Aus-Spec" set of engineering specifications as the basis of engineering standards for the new DCP16. The Aus-Spec standards have been produced under the direction of the Institution of Public Works Engineering Australia (IPWEA) for use by local government in all states of Australia.

The Aus-Spec documents have been extensively amended in house to make them consistent with Tweed Shire conditions.

This draft DCP 16 does not contain engineering standards for subdivision works, it instead requires that these works be designed and constructed in accordance with a separate series of Documents the "Development Design Specifications" and "Development Construction Specifications" which are the Tweed Shire Council versions of the Aus-Spec documents.

These documents are the subject of a separate report to this meeting.

6. SUBDIVISION WORKS COMPLIANCE CERTIFICATION

The Environmental Planning and Assessment Act 1979 amendments in 1998 introduced private certification to development in NSW.

For subdivisions, only the consent authority may issue the final "Subdivision Certificate" that authorises the Land Titles Office to issue new title deeds, however private certifiers may issue "construction certificates" and "compliance certificates".

For subdivision works Draft DCP 16 provides for a comprehensive system of supervision and compliance certification, that may be undertaken by Council (as consent authority) or a suitably

Reports from Director Development Services

qualified and authorised private certifier. There are conflict of interest provisions that exclude private certifiers that have a personal or business relationship with the subdivision developer.

7. PUBLIC EXHIBITION

Given the significance of this DCP and the proximity of the holiday period, it is proposed to exhibit for an extended period of 8 weeks to enable the widest input, comment and submissions from the general public, government agencies, developers, consultants and other Council Divisions.

8. INDUSTRY CONSULTATION

It is proposed that during the exhibition period a series of information workshops be held with key sectors of the development industry. These will include:

- Developers
- Consulting Town Planners
- Consulting Engineers

The aim of these workshops will be to

- Present an overview of the draft DCP16
- Outline those sections and issues that will have a significant impact on their industry sector
- Seek comments and input from the participants regarding
 problems and issues to be resolved in the draft
 possible amendments

Reports from Director Development Services

THIS
PAGE
THIS
PAGE
IS
BLANK
IS
BLANK

Reports from Director Development Services

8a. ORIGIN: Development Assessment Unit

FILE REF: DA02/0980 Pt2

REPORT TITLE:

Development Application DA02/0980 - Multi-Dwelling Housing Comprising 17 x 3 Bedroom and 4 x 4 Bedroom Units in 6 Storeys at Lot 92 DP 237806, Lot 93 DP 237806, Lot 94 DP 237806, No. 5 Ivory Crescent, Tweed Heads

SUMMARY OF REPORT:

Council is in receipt of a development application for a six storey multi dwelling housing development consisting of 21 units of which 17 units are 3 bedroom and 4 units are 4 bedroom. The proposed building is a combination of rendered block work, with high glass balustrades and selected horizontal battens used as a feature. The roof is proposed to be of colour bond roof sheeting.

The proposed development is accessed from Ivory Crescent and has a basement with eight (8) visitor spaces. There are a further thirty (30) on site car parking spaces provided in the basement.

The design of the building is sympathetic to the streetscape with setbacks to all boundaries complying with requirements. Through the use of varying floor areas on each level the building appears to step in and consequently reduces in bulk, shadow impacts and impact to the streetscape.

The proposed development was advertised for 30 days in accordance with requirements of the Environmental Planning and Assessment Act, 1979, as the proposal requires a dewatering license, and as integrated development, requires General Terms of Approval from the Department of Land and Water Conservation. These have been issued. During exhibition two (2) submissions were received one being a petition containing seven (7) signatures. The issues raised in the submissions are addressed in this report.

RECOMMENDATION:

That in relation to Development Application DA02/0980 for multi-dwelling housing comprising 17 x 3 bedroom and 4 x 4 bedroom units in 6 storeys at Lot 92 DP 237806, Lot 93 DP 237806, Lot 94 DP 237806, No. 5 Ivory Crescent, Tweed Heads: -

- A. The Director-General of PlanningNSW concurrence be assumed for the variation to Clause 51(2) of the North Coast Regional Environmental Plan; and
- B. The application be approved subject to the following conditions:-

GENERAL

1. The development shall be completed in general accordance with the Statement of Environmental Effects and Plans Nos 5701/S/03 to 5701/S/08 inclusive and 5701/S/09A and 5701/S/10A prepared by Pat Twohill Designs Pty Ltd and dated June 2002, except where varied by these conditions.
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.
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

Reports from Director Development Services

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
 - 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.
5. The proposed development requires a licence under Part 5 of the Water Act 1912 for the purpose of temporary dewatering for construction purposes for a period of four months. The General Terms of Approval for a licence under the Water Act for the proposed development are attached to this consent.
6. The volume allocated for the temporary licence will be 10 mega litres for the period of the licence.
7. This approval does not permit any sheet piling to Council owned land.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 3.15m AHD. A detailed design of the basement stormwater pump out system is to be provided designed for a storm event with a 10 year average return interval (ARI 10) and the consequences of pump failure and the 100 year ARI storm event must be addressed and included with the above details prior to the issue of a Construction Certificate.
9. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services PRIOR to the issue of a construction certificate.
10. The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.
11. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.
12. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by

Reports from Director Development Services

the required attachments and prescribed fee prior to issue of a construction certificate for the development.

13. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

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

14. 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.
15. Sanitary plumbing and drainage details designed by a hydraulic consultant are to be submitted to and approved of by Council prior to the issue of a construction certificate.
16. Any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Councils Manager Water and concurrence received from the Department of Land

Reports from Director Development Services

and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

17. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development" . New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific requirements:
 - (i) Roof runoff is to be discharged without stormwater quality treatment.
 - (ii) Basement and driveway area runoff is to be pre-treated to remove oil and sediment prior to entry to the 'soakwell'
 - (iii) The car wash down areas are to be pervious areas

18. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This may be achieved by on site detention (OSD), on site retention or a combination of both. Detention storage may be incorporated into surface depressions in landscaping or aboveground car parking areas. The maximum water depth under design conditions in aboveground vehicle parking areas shall be 200mm. OSD devices including discharge control pits (DCP) are to comply with standards in The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999") except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire. All these works and the connection to Councils drainage system shall be constructed in accordance with design

Reports from Director Development Services

calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director of Engineering Services.

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*.
20. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.
21. All stormwater runoff from the site is to be discharged to Ivory Crescent. No discharge is permitted to adjacent land.
22. Runoff from the driveway and basement parking areas is to be pumped for final discharge to Ivory Crescent in accordance with Section 9 of AS/NZS 3500.3.2.1998 (Natural Pumping and Drainage - Part 3.2: Stormwater Discharge - Acceptable Solutions).
23. The driveway entrance shall be graded to ensure Q100 stormwater run off from the Ivory Crescent kerb and gutter does not enter the site.
24. 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

Reports from Director Development Services

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: \$12,389.00
 S94 Plan No. 4 (Version 4.0)
 (Sector 1)

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

- b. Open Space (Structured): \$8,304.00
 S94 Plan No. 5
- c. Open Space (Casual): \$1,788.00
 S94 Plan No. 5
- d. Shirewide Library Facilities: \$7,386.00
 S94 Plan No. 11
- e. Bus Shelters: \$309.00
 S94 Plan No. 12
- f. Eviron Cemetery/Crematorium Facilities: \$1,449.00
 S94 Plan No. 13
- g. Emergency Facilities (Surf Lifesaving) \$2,358.00
 S94 Plan No. 16
- h. Extensions to Council Administration Offices
 & Technical Support Facilities \$4,458.39

Reports from Director Development Services

- S94 Plan No. 18
 - i. Cycleways \$1,725.00
 - S94 Plan No. 22
 - j. Regional Open Space (Structured) \$12,617.00
 - S94 Plan No. 26
 - k. Regional Open Space (Casual) \$2,361.00
 - S94 Plan No. 26
25. 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 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: \$51,000.00

Sewer: \$41,756.00

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.

PRIOR TO COMMENCEMENT OF WORK

25. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
26. 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.

Reports from Director Development Services

27. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
 - i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.
 - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.
28. 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.
29. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.
30. Sewer main within site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.
31. 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.
32. Prior to commencement of any works on the site a plumbing and drainage inspection fee of \$988.00 is to be submitted to Council.
33. 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.
34. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
35. An Acid Sulfate Soils sampling and analysis shall be carried out on the proposed site and develop an appropriate acid sulfate soil management plan if necessary based on the sampling results. Such a sampling and analysis program is to be carried out in accordance with the ASSMAC Guidelines and is to include appropriate management procedures in accordance with the ASSMAC Guidelines for both soil and water if necessary. The results of the sampling and analysis

Reports from Director Development Services

program together with any necessary management plan are to be submitted to Council for consideration and approval prior to commencement of works. The plan should also indicate the proposed on site location of any ASS stockpiles.

36. Prior to commencement of works details shall be provided to Council with respect to Stormwater Management Plan 02052 SK2 Issue A on how the impervious pavement area associated with the car wash down bays will be connected to the soakwell. Untreated runoff from the car wash bays will not be permitted to enter the stormwater system.

DURING CONSTRUCTION

37. 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).
38. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.
39. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
40. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
 - a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - b. The chute shall be located in a position approved by the Principal Certifying Authority.
 - c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
41. 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.
42. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
43. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.
44. 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.
45. 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.

Reports from Director Development Services

46. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
 - e. completion of work
 - f. swimming pool safety fencing prior to filling the pool with water
 - g. the fire protection of penetrations through any fire rated elements prior to covering
 - h. steel reinforcing prior to pouring of concrete
 - i. frame
 - j. stormwater drainage connection to inter allotment drainage system prior to back filling.
47. 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.
48. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
49. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed.
50. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in

Reports from Director Development Services

rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

51. The building is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.
52. 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.
53. 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.
54. 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.
55. 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.
56. 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.
57. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
58. The burning of builders waste on site by open fire is prohibited.
59. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.

Reports from Director Development Services

60. 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.
61. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
62. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
63. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
64. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
65. Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
66. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
 - * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
67. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
 - i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.

Reports from Director Development Services

- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
68. 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.
69. 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.
70. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.
71. Any Acid Sulfate Soil or landscaping and site works soil stockpiles that will be located on the site for a period in excess of three weeks should be seeded to minimise the generation of dust.
72. Should any items or materials believed to be of Aboriginal or cultural heritage significance be exposed during the excavation works, then all work in the vicinity of the materials or items is to stop immediately and the Regional Director of the National Parks and Wildlife Service is to be contacted. No work in the vicinity of the items or materials are to recommence without the permission of the Regional Director.
73. The hot water system for the development shall comply with Development Control Plan No. 39 - Energy Efficient Housing.
74. The development shall provide eight (8) marked visitor car parking spaces in the basement in accordance with the approved basement plan. The basement security door system shall provide information to enable visitor access to the basement.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

75. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.

Reports from Director Development Services

76. 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).
77. 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.
78. A survey certificate signed by a registered surveyor is to be submitted to the PCA to certify that the habitable floor level of the building to be at a level of not less than RL 2.95m AHD.

USE

79. 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.
80. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
81. Swimming Pool water quality shall be maintained in accordance with the requirements of NSW Health Guidelines for the disinfection of Swimming Pools and Spa Pools.
82. All external artificial lighting is to be shielded where required to the satisfaction of Council's Director of Environment and Community Services so as to prevent the spill of light onto adjoining neighbouring properties causing a nuisance.

DEPARTMENT OF LAND & WATER CONSERVATION GENERAL TERMS OF APPROVAL FOR A LICENSE UNDER THE WATER ACT 1912

General Conditions

83. Before commencing any works or using any existing works for the purposes of Temporary Dewatering for Construction Purposes, an approval under **Part 5** of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
84. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
85. When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
86. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
87. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
88. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.

Reports from Director Development Services

89. All vegetation clearing must be authorized under the Native Vegetation Conservation Act 1997, if applicable.
90. The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
91. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
92. Any license so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.

Conditions relating to water entitlements

93. An approval will only be issued in relation to a water entitlement that is already held by the owner of the land subject to this consent or is purchased from another entitlement holder.
94. A transfer of an entitlement shall be subject to the provisions of the Water Act 1912 the regulations made thereunder and the transfer rules applying at the time of application as determined by the Department.
95. The authorized annual entitlement will not exceed 10 mega litres.
96. Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary by the Department from time to time to ensure an adequate flow remains for other water users and the environment (unregulated streams).

Conditions for water use

97. If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
98. All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
99. The use of water shall be conditional on no tailwater drainage being discharged into or onto –
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands

Conditions for bores and wells

100. Works for construction of bores must be completed within such period as specified by the Department.
101. The Department must be notified if a supply of usable water is obtained and the bores shall be suitably lined and capped to the standard required by the Department.

Reports from Director Development Services

102. Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
103. Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
104. Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
105. The use of water shall be conditional on no tailwater drainage being discharged into or onto –
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
106. The volume of groundwater extracted as authorised must not exceed 10 mega litres.
107. The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
108. The licence shall lapse within 4 months of the date of issue of the licence.
109. The work shall be managed within the constraints of an acid sulfate soil and water management plan.

Reports from Director Development Services

REPORT:

Applicant: Sotalco Pty Ltd A CN 098 279 086

Owner: Sotalco Pty Ltd A CN 098 279 086

Location: Lot 92 DP 237806, Lot 93 DP 237806, Lot 94 DP 237806, No. 5 Ivory Crescent Tweed Heads

Zoning: 2(b) Medium Density Residential

Est Cost: \$6,000,000.00

BACKGROUND

Council is in receipt of a development application for a six storey multi dwelling housing development consisting of 21 units of which 17 units are 3 bedroom and 4 units are 4 bedroom. The proposed building is a combination of rendered block work, with high glass balustrades and selected horizontal battens used as a feature. The roof is proposed to be of colour bond roof sheeting.

The proposed development is accessed from Ivory Crescent and has a basement with eight (8) visitor spaces. There are a further thirty (30) on site car parking spaces provided in the basement. Unit numbers 13 to 21 have the benefit of two car parking spaces while units 1 to 12 will have the benefit of one car parking space. The visitor car parking spaces are uninhibited and accessed in the basement through the use of a security intercom system. Access to the site by maintenance personnel and temporary visitors will also be available through the card system which will provide access to through the main entrance doors and to the permitted floor level. There are two pervious car wash bays proposed on the ground level adjacent to the ramp into the basement.

The development includes the provision of a lap pool which is on ground floor and located at the entry which opens the development up to the streetscape. Landscaping of the site will include paving with planter boxes around the perimeter with selective natives for screening. Clothes drying facilities are proposed at the rear of the development on the ground level.

The design of the building is sympathetic to the streetscape with setbacks to all boundaries complying with requirements. Through the use of varying floor space on each level the building appears to step in and consequently reduces in bulk, shadow impacts and impact to the streetscape.

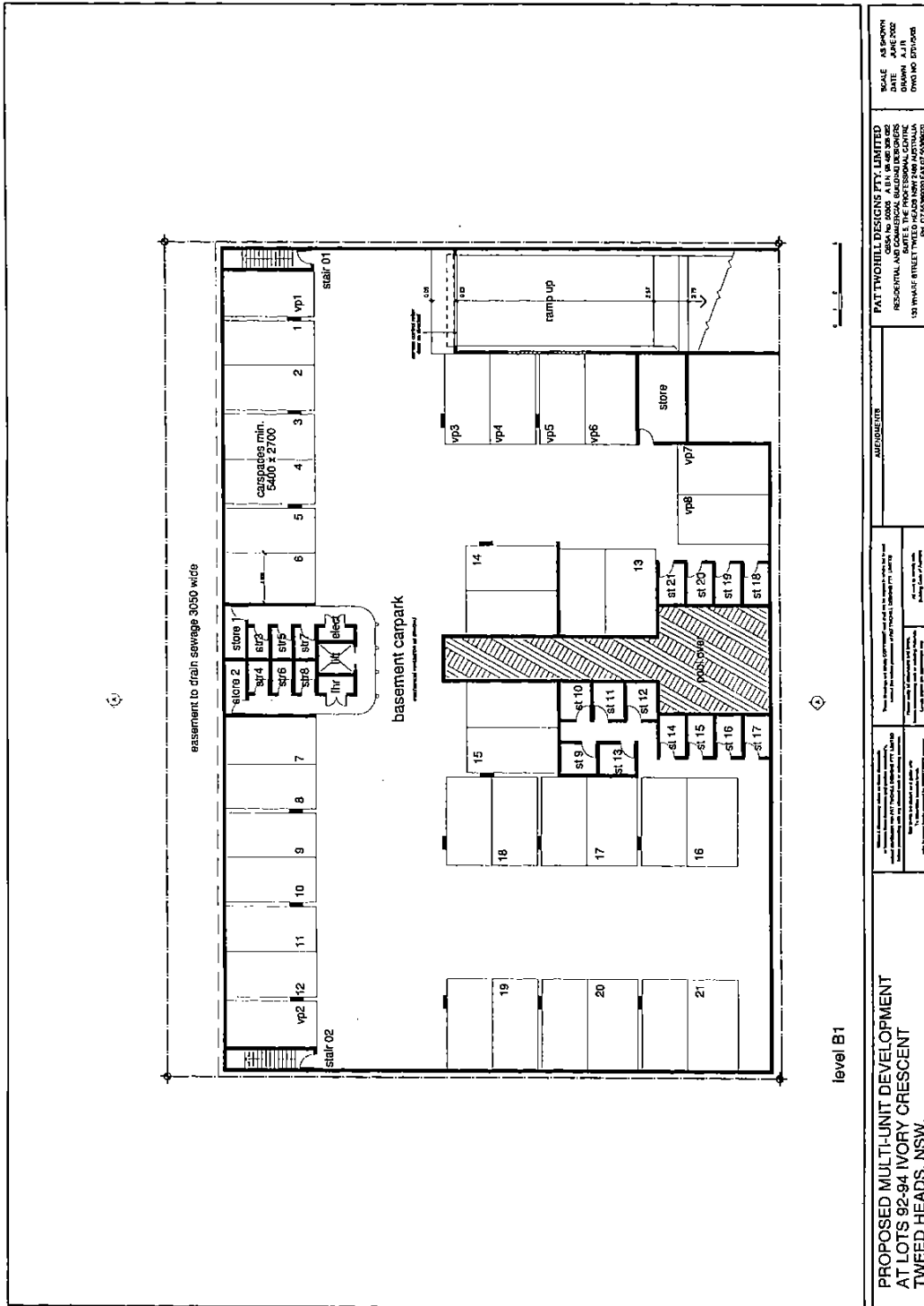
Reports from Director Development Services

SITE DIAGRAM



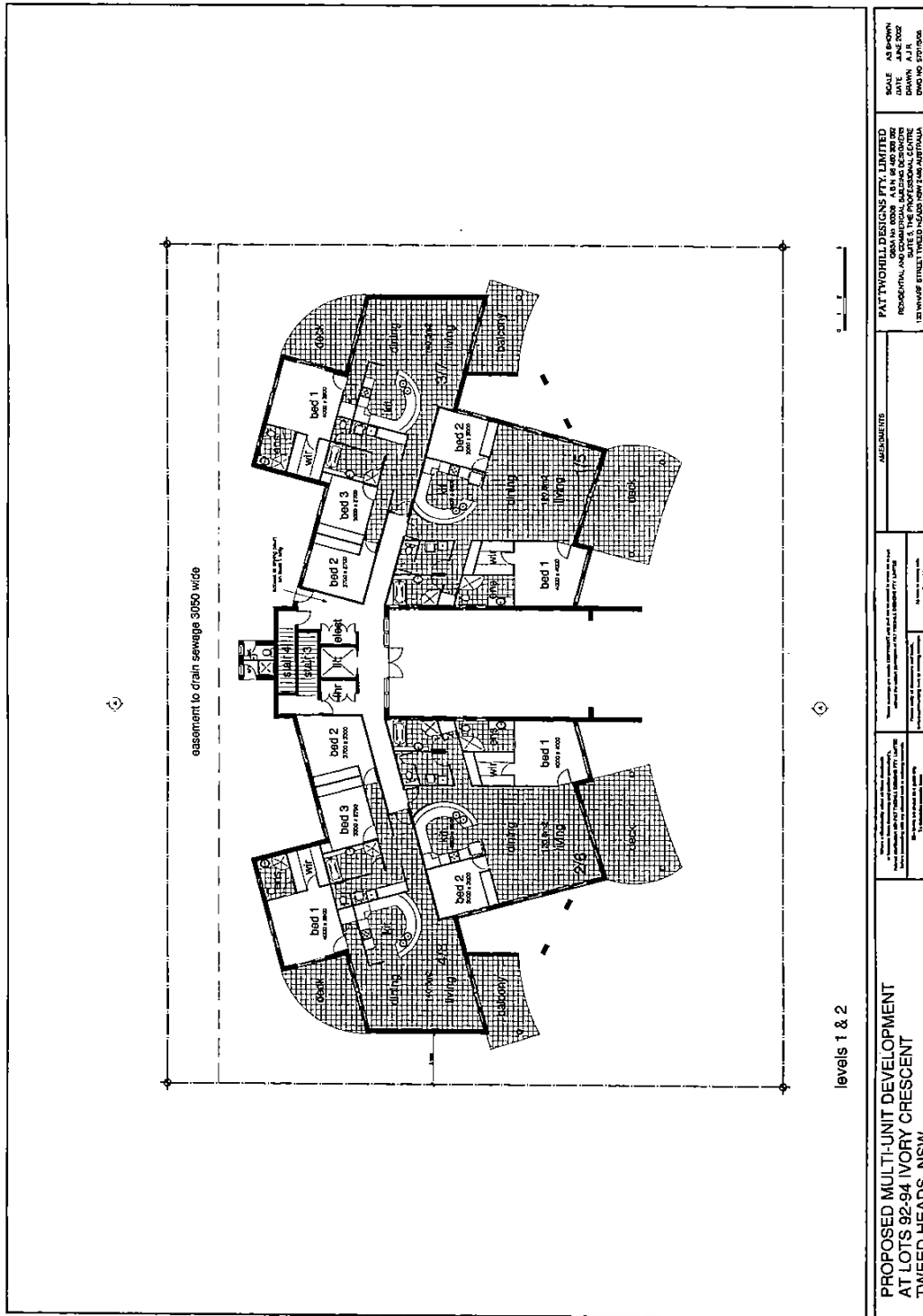
Reports from Director Development Services

LAYOUT PLANS

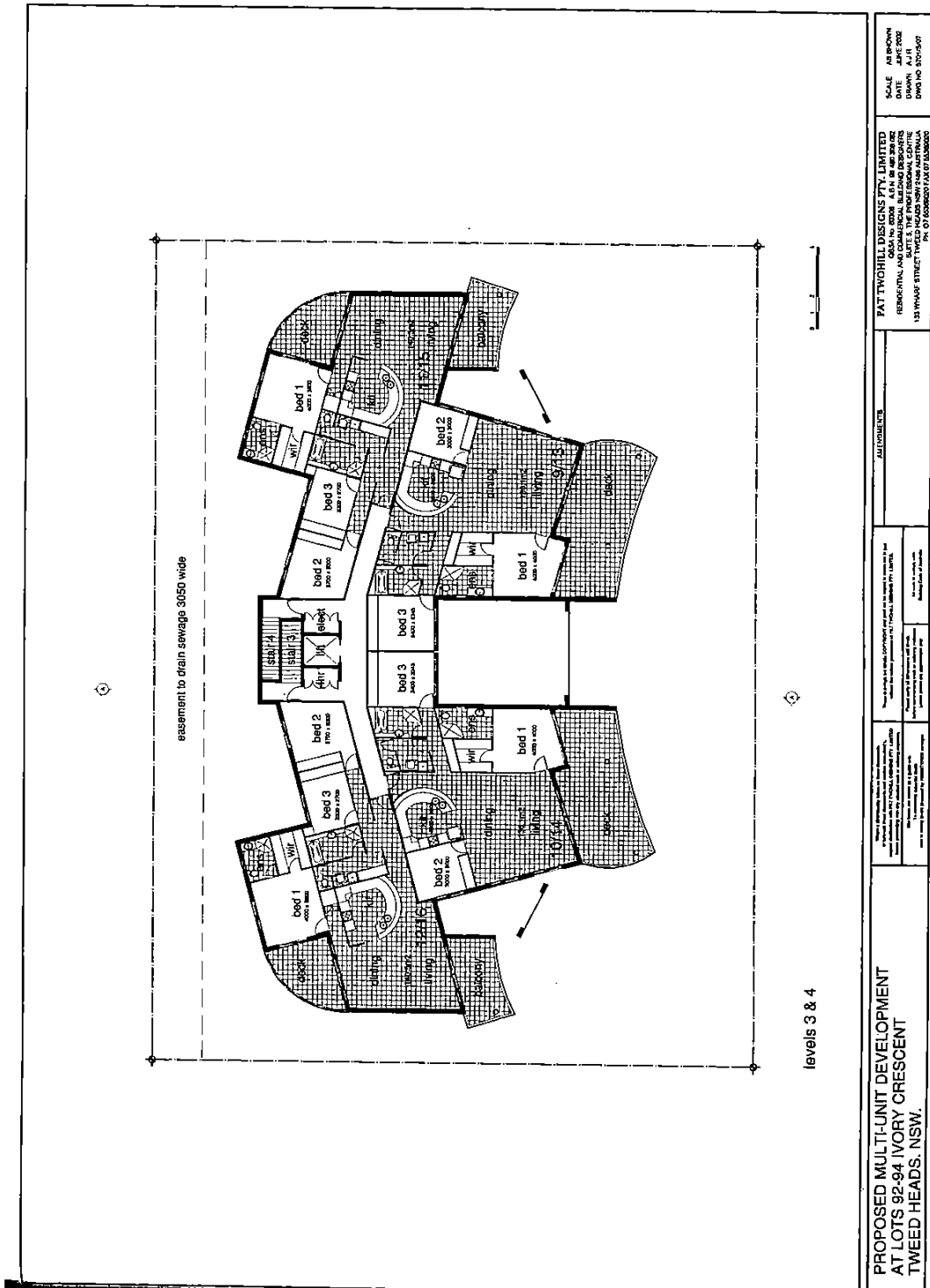


<p>PAT TWOHILL DESIGNS PTY. LIMITED RESIDENTIAL ARCHITECTS 151 WYVILL STREET TWEED HEADS NSW 2486 PHONE 08 9585 2222 FAX 08 9585 2223 WWW.PATDESIGN.COM.AU</p>		<p>SCALE AS SHOWN DATE JUNE 2002 DRAWN A.J.F. DWG NO. DP1008</p>
<p>PROPOSED MULTI-UNIT DEVELOPMENT AT LOTS 92-94 IVORY CRESCENT TWEED HEADS, NSW.</p>		<p>APPROVALS</p>

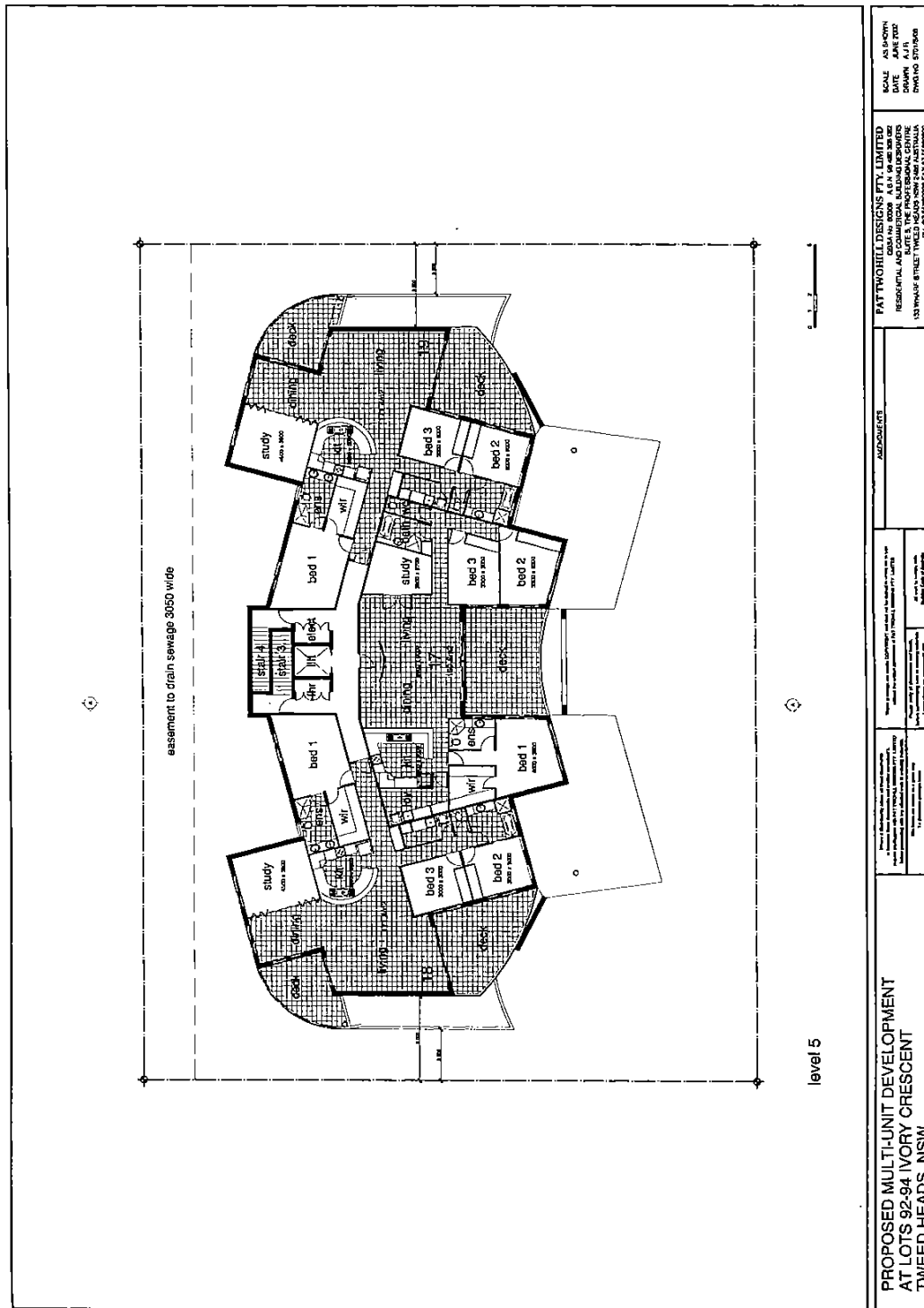
Reports from Director Development Services



Reports from Director Development Services



Reports from Director Development Services



<p>PROPOSED MULTI-UNIT DEVELOPMENT AT LOTS 92-94 IVORY CRESCENT TWEED HEADS, NSW.</p>	<p>PATWORTH DESIGNS PTY. LIMITED RESIDENTIAL AND COMMERCIAL BUILDING DESIGNERS SUITE 3, THE PROFESSIONAL CENTRE 133 WYALING STREET, TWEED HEADS, NSW 2486 PH: 07 5536020 FAX: 07 5536020</p>	<p>SCALE: AS SHOWN DATE: JUNE 2002 DRAWN: J. WILSON CHECKED: J. WILSON</p>
<p><small>These drawings are the property of Patworth Designs Pty. Limited and are to be used only for the project and site specified herein. No part of these drawings may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Patworth Designs Pty. Limited.</small></p>	<p><small>These drawings are the property of Patworth Designs Pty. Limited and are to be used only for the project and site specified herein. No part of these drawings may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Patworth Designs Pty. Limited.</small></p>	<p><small>These drawings are the property of Patworth Designs Pty. Limited and are to be used only for the project and site specified herein. No part of these drawings may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Patworth Designs Pty. Limited.</small></p>

Reports from Director Development Services

ELEVATION PLANS

west elevation

east elevation

<p>PROPOSED MULTI-UNIT DEVELOPMENT AT LOTS 92-94 IVORY CRESCENT TWEED HEADS, NSW.</p>	<p>PAT TWOBILL DESIGNS PTY. LIMITED DESIGNER RESIDENTIAL ARCHITECTS SUITE 6, THE PROFESSIONAL CENTRE 13 WINDUP STREET TWEED HEADS NSW 2486 PH: 07 4262000 FAX: 07 4262000</p> <p>SCALE: AS SHOWN DATE: JUNE 2002 DRAWN: A.J.R. DRAWING NO: 20/001</p>
--	--

Reports from Director Development Services

north elevation

south elevation

<p>PROPOSED MULTI-UNIT DEVELOPMENT AT LOTS 92-94, IVORY CRESCENT TWEED HEADS, NSW.</p>	<p>ARCHITECTS</p> <p>PAT WOODRILL DESIGN & ARCHITECTURE PTY. LIMITED 105 WYVERN STREET TWEED HEADS NSW 2486 PHONE: (07) 9420 2000 FAX: (07) 9420 2001 WWW.PATWOODRILLDESIGN.COM.AU</p>	<p>DATE 14/08/2002 DATE 14/08/2002 DRAWN A.J.H. DIVISION REPORT</p>
---	---	--

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 subject land is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The primary objective of the zone is to:

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

The proposed development is considered to be consistent with the zone objectives.

Clause 15 of the LEP requires essential services to be available to the site prior to consent being granted for development. The subject land has the benefit of essential services.

Clause 16 of the LEP ensures development is undertaken in accordance with the building height plan. The subject land is identified as being limited to a six storey height limit. The proposed development complies with the height limitation for the site. The development is for a basement and six stories with a lift over run, which can not be accessed from the roof.

Clause 17 of the LEP requires social impacts assessments for development where it is considered that the development may result in a social impact. The proposed development does not fall into a category under Development Control Plan No.45 – Socio-Economic Impact Assessment. As such the proposed development does not necessitate further assessment in relation to social economic impacts.

Clause 35 of the LEP requires acid sulfate soils management in relation to development where such is likely to be impacted on. The applicant has provided an acid sulfate soils management plan in relation to the proposed development. Council’s Environmental Health Surveyor has advised that upon demolition of the existing dwellings site testing and submission of the results could occur, and this should be conditions prior to commencement of works.

North Coast Regional Environmental Plan 1988

Clause 32B of the REP states that Council shall not consent to the carrying out of development at Tweed Heads where that development will result in overshadowing of beaches and adjacent open space before 3pm midwinter or 6.30pm midsummer. The proposed development is distanced from coastal open space and beaches and from the shadow diagrams submitted will not result in overshadow.

Clause 51(2) of the REP requires the concurrence of the Director to grant development consent for buildings over 14 metres in height. Council has assumed concurrence in relation to this provision. The proposed development is 19.47 metres in height and will require the use of assumed concurrence in issuing an approval.

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

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

Reports from Director Development Services

The draft planning instruments that have been advertised do not contain provisions, which affect the proposed development. No further assessment is required.

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

Development Control Plan No. 18 – Tweed Heads

The subject land is within the Tweed River Precinct, which is identified as a High Density Residential Precinct. The objectives for this precinct are:

- Develop the precincts primarily high density residential areas which respect existing residential amenity;
- Provide additional choice in housing accommodation to cater for an increasing variety of household types;
- Facilitate an increased residential population in proximity to the sub regional centre of Tweed Heads to maximise economic and social benefits;
- Promote the efficient use of residential land;
- Develop a streetscape that reflects the climate, topography and lifestyle of the locality.

The proposed development is considered to be generally consistent with the objectives of the precinct. The proposed development has been assessed under the following matters relevant in DCP No.18.

Building Envelope

The building envelope for the subject land is a 72 degrees projection from the property boundary. This is to ensure the building is setback 1 metre from the boundary for every 3 metres of the building height.

The proposed development complies with the building envelope to the Ivory Crescent frontage. The building encroaches into the building envelope at the rear, with two architectural features that are extensions from the top floor balcony. These encroachments are two and three metres and do not form the bulk of the building.

The side boundaries are encroached on with the balcony over hang from the fourth storey and approximately one metre of the side wall corner on the fourth storey.

These encroachments are not considered to be significant and the resultant impacts to adjoining properties by way of over shadowing is not considered to be such to warrant re design. The encroachments are features that provide architectural design that is incorporated over the development.

Building Mass

The development control plan requires development to have indentations and there must be a clear break in the building line.

The proposed development achieves various areas of indentation over the building elevations through the use of varying depths and balconies. The elevations also use batons to further enhance the depth through the centre of the building.

Reports from Director Development Services

It is considered that the proposed design is generally considered to be consistent with the intentions of the provisions of DCP 18 in relation to building mass.

Energy Efficiency

Ventilation is provided to each of the apartments through the use of unimpeded air movement from the court yard pool ventilation area which extends in part to Level four. All of the apartments have the benefit of balconies which are located to provide cross ventilation.

The proposed design will enable daylight access as the depth of the living area rooms and distance from large glazed opening is adequate to result in natural lighting of the apartments.

Wind Mitigation and Overshadowing

To prevent impacts of down draft the proposed building is on a podium and setback a minimum of 4.2 metres from the northern elevation being the rear of the allotment and being 8 metres at the closest point from the southern elevation being the Ivory crescent frontage, with the majority of the building being setback 10 metres. These setbacks will prevent any potential down draft problems associated with tall buildings.

The proposed building does not result in the over shadowing of any public reserves. The applicant has submitted shadow diagrams which detail that the winter shadow is predominantly to the public street and has minimal impacts to private property and living areas of adjoining residences. The summer shadow cast at 6.30pm does extend past the property and impact on properties to the east. It is noted however that the shadow of the proposal at 3.00pm in summer only impacts on the property immediately to the east of the development.

The shadow impacts of the proposal are not considered to be impacting of adjoining properties in the winter and the summer impacts are limited to the 3.00pm to 6.30pm shadow.

Roof Lines

DCP 18 encourages imaginative roof lines which result in the development being visually interesting. The proposed development is unique in design and would be a feature in the local streetscape.

Privacy

Visual privacy between developments is encouraged in DCP 18 with the requirements of direct over looking of internal living areas of adjoining development to be avoided. The proposed development has orientated balconies and living areas to the public street and on the northern elevation limited the living areas of the proposed development so as not to impact on the privacy of the existing three storey unit developments to the north. The majority of the northern elevation is provided with smaller windows from bedrooms and wet areas, with any larger opening being stepped back to distance from the adjoining developments.

It is considered that the design has achieved a relatively high level of privacy to adjoining developments.

Reports from Director Development Services

Security

The proposed development achieves security through the design being orientated to the public street and within the development visibility is achieved to the entrance and foyer of the development. The proposed basement will be provided with a security entry system that will also be installed to the foyer. Access from the basement to the various levels within the building is also controlled through the access system. This will not prevent the use of the basement by visitors rather control the use of the basement through the intercom system.

The development provides surveillance to the street and entrance and limits areas for entrapment. Through discussions with the applicant it is clear that the proposal will be able to comply with the illumination, access and communications requirements of DCP 18.

Materials and Colours

The colour elevations provided by the applicant detail a modern façade with green and red treatment to the rendered exterior, the use of batons to enhance the natural appearance of the apartments. While the proposal includes glass balustrades, it is considered that these will not result in the development being too reflective to the adjoining properties and streetscape.

The colours adopted are not pastel as suggested in DCP 18 rather are bolder and reflect the natural colours of the landscape.

Access and Parking

The proposed development generally complies with the provisions of DCP 2.

Car Wash Areas

The required number of car wash bays are provided.

Open Space and Balconies

Each of the units is provided with approximately 24m² of balcony area. DCP 18 requires units over 85m² in floor area to have 25m² balconies. It is considered that the proposed development generally meets this requirement.

Conclusion

The proposed development is of a relatively high design and has complied with the requirements of DCP 18.

Development Control Plan No.2 – Access and Car Parking

Development Control Plan No.2 is applicable to the proposed development. The following table details the requirements for the proposed development.

Standard	Requirement	Complies/variation
On site Car Parking	1.5 per dwelling, 25% to be marked for visitors.	32 spaces required with 8 marked for visitors. Proposal has 38 spaces with 8 marked for visitors, complies.

Reports from Director Development Services

Bicycle Parking	2/unit	42 bicycle racks required, 21 storage spaces provided being one for each unit with adequate space for two bicycles, complies.
-----------------	--------	---

DCP No.2 also includes bus stop requirements where there are more than 15 units. While the proposed development does exceed the number it is not considered appropriate for a bus stop to be installed in Ivory Crescent. The bus route in the locality is down Powell Street from Frances to Florence Street. As such it is not considered that the provision of a bus stop is necessary.

Development Control Plan No.5 – Flood Liable Land

The proposed development will be provided with habitable floor levels of the required minimum of 2.95m AHD. The basement achieves the required 3.15m AHD requirement through the installation of a flood immunity device. This is the same as that installed in development opposite the subject land, being one where the rising water level elevates a floatation flood gate.

As such the proposed development will comply with DCP 5 requirements.

Development Control Plan No.39 – Energy Efficient Housing

The proposed development complies with the requirements of DCP 39. The units have a star rating between 4 and 5 and the proposed gas hot water system will comply with required star rating.

To ensure this is carried through to the development a condition will be imposed to ensure the hot water system complies with the requirements of DCP 39.

Development Control Plan No.6 – Multi Dwelling Housing

The provisions of DCP 18 provide a rigorous assessment of the proposed development. DCP 6 requirements have been generally adopted through the development. The proposal provides 1200m² of landscaped area. The landscaped area requirement of DCP 6 would be approximately 1600m². This deviation is not considered to reduce the residential amenity of the development as each unit is provided with an additional 24m² of private open space.

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

The subject land is within the coastal policy area. The proposed development is consistent with the objectives strategies and actions of the policy.

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

The impacts of the proposed development on the natural environment are relatively minor. The site is in an existing urban area and contains no natural stands of vegetation or natural landscape features.

The impacts of the proposed development to the built environment have been assessed as part of the DCP 18 assessment. The proposal will be replacing existing single storey

Reports from Director Development Services

dwellings, however the area has been identified for six storey development in Council's Tweed Local Environmental Plan 2000. These changes in the built environment will come at a cost to residents who wish to maintain the existing dwelling character of the area.

However it is noted from site inspection that there are a number of apartment buildings in the immediate vicinity of the subject land and the character of the neighbourhood is changing.

Department of Land and water Conservation have issued their General Terms of Approval in relation to the de watering licence required for the proposed development.

(c) Suitability of the site for the development

The subject land has been assessed to be suitable for the proposed development.

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

The proposed development was advertised for 30 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. Two submissions by way of objection were received, one of which was a petition containing seven signatures. The following table addressed the issues raised in the submissions.

Reports from Director Development Services

Issue	Comment	Assessment
Loss of Amenity	Concern was raised that the proposal will result in a loss of air, sunlight and sky to adjoining properties to the north.	<p>The proposed development does not shade or reduce sunlight to developments on the northern side of the subject land. The distance between the proposed development and buildings to the north will be adequate to enable air movement.</p> <p>The proposal does not warrant refusal on this issue.</p>
Loss of Privacy	Concern was raised that the proposal will reduce the privacy of the adjoining developments and the existing residential amenity.	<p>The proposed development minimises the openings from living areas to the north. The proposed living areas do not directly view into other living areas.</p> <p>The proposal does not warrant refusal on this issue.</p>
Loss of View	Concern was raised that there would be a change in view from adjoining properties.	<p>The proposed development will change the view from adjoining development, however the area has been identified for this type of development and it is envisaged that there will be changes in the precinct over time.</p> <p>The proposal does not warrant refusal on this issue.</p>
Landscaping	Concern was raised that the landscaping of the development should not be too high as such would prevent light and air movement to adjoining developments.	<p>The proposed development is going to be provided with landscaping in planters to the property boundaries at the podium level. There is a 3.5 metre wide sewer easement to the northern boundary, which is not proposed to be compromised by unsuitable landscaping.</p> <p>The proposal does not warrant refusal on this issue.</p>

Reports from Director Development Services

During Construction	Concern was raised that the proposal would result in a high level dust nuisance during construction which would impact on adjoining development clothes line area.	The proposed development would be required to minimise impacts during construction. This would need to be regulated by the Certifying Authority for the development. A condition of consent will be imposed in relation to this issue. The proposal does not warrant refusal on this issue.
Damage to Property	Concern was raised that in constructing the development adjoining units would be damaged through excavation for the basement resulting in cracking through building and structural damage.	The proposed development has been assessed by Department of Land and Water Conservation in relation to the cone of depression influences and de watering of the site. General terms of approval have been issued. Any impacts to adjoining properties are dealt with by the applicant and delipidation reports they obtain. The proposal does not warrant refusal on this issue.

(e) Public interest

The proposed development is not considered to be in conflict with the general public interest. It is envisaged that the construction phase of the proposed development will generate a number of enquiries as has occurred with other tall buildings in the vicinity of the development.

The duration of construction is relatively lengthy for a building of this type and it is considered that there will be perceived inconveniences by the occupants of immediately adjoining developments.

Many of the issues that may arise during construction can be managed through conditions of consent and regulation of the Certifying Authority for the development.

OPTIONS

1. Approve the proposed development in accordance with the recommended conditions.
2. Refuse the development application.

Reports from Director Development Services

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

The applicant has the right of appeal to the Land and Environment Court should they be dissatisfied with the determination.

CONCLUSION

The proposed development is of a high standard of design and has achieved the intentions of Council's development control plans for the area. Having had regard for all of the matters relevant to the proposal it is considered that the proposal warrants conditional consent.

A number of the conditions are imposed to ensure the development does not adversely impact on the locality during construction.

Reports from Director Development Services

THIS
PAGE
THIS
PAGE
IS
BLANK
IS
BLANK

Reports from Director Corporate Services

9. ORIGIN: Director

FILE REF: TEDC

REPORT TITLE:

Tweed Economic Development Corporation (TEDC) Funding Agreement 2002/2005

SUMMARY OF REPORT:

The Draft Funding Agreement, as adopted by Council, has been responded to by the Board of Directors of the Tweed Economic Development Corporation, who has suggested a number of amendments for Council's consideration.

RECOMMENDATION:

That:-

1. The draft Funding Agreement 2002/05 between Tweed Shire Council and the Tweed Economic Development Corporation be amended by the following rewording:
 - a. Clause 4.4 by deleting:

“Develop and implement a business plan”

and replace with the wording

“Conducts at least on an annual basis, a review of the TEDC Business/Strategic Plan”;

and
 - b. Clause 5.1.2(b) by deleting:

“The number of jobs created in the region as a result of TEDC’s activities as referred to in Clause 5.1.3(a) of this Agreement”

and replacing with the wording,

“The number of jobs created in the region as a result of TEDC’s activities as referred to in clause 5.1.3(a) of this Agreement as measured by the agreed Input/Output Economic Model”.
2. The balance of the Funding Agreement 2002/05 not be further amended.

Reports from Director Corporate Services

REPORT:

The Board of TEDC has considered the funding agreement for the period 2002/2005 between Council and TEDC. The Board has suggested a number of amendments and their letter outlines their areas of concern and is attached.

Reference to resolutions of Council are included as support information to indicate Council's instructions to the General Manager for reflection in the revised agreement.

CLAUSE 4.2

Current Clause

The Board of Directors of TEDC shall maintain a liaison with the Board of Directors of Tweed and Coolangatta Tourism Incorporated and Tweed Shire Main Street Committee (or such other body or bodies as may in the future assume responsibility for the functions of that Board and/or that Committee) regarding integrated activities for the most effective use of Council provided funds for the enhancements of tourism, economic development and events co-ordination.

Amendment by TEDC

The board of Directors of TEDC shall maintain a liaison with the Board of Directors of Tweed and Coolangatta Tourism Incorporated regarding integrated activities for the most effective use of Council provided funds for the enhancement of tourism, economic development and events co-ordination.

COMMENT:

The proposed amendment does not reflect the intention and requirements of Council as expressed in the resolution of 16 February 2000 and places responsibility and accountability for the Tweed Shire Main Street Committee activities outside of the funding agreement.

The Council resolution 16 February 2000 in part notes "the TEDC/TACTIC/Tweed Shire Town Centre Committee workshop (1/2/2000) – structures, role of program manager, roles and responsibilities of the three (3) organisations – statement of outcomes" (Part C) as the basis for the refinement negotiation to create one economic development organisation for the Shire embracing TEDC, TACTIC and the TSTCC.

CLAUSE 4.3

Current Clause

Develop an implement a marketing strategy which shall incorporate the production and promotion of a prospectus for investing in the region.

Amendment by TEDC

Develop and implement a marketing strategy for investing in the Region subject to the availability of funding.

COMMENT:

The clause is an outcome of a workshop on 25 November 1998 and confirmed by Council's resolution of 16 December 1998. Marketing of the Tweed, based on a strategy was, and continues to be, a key obligation and measurable milestone of the Agreement.

Reports from Director Corporate Services

CLAUSE 4.4

Current Clause

Develop and implement a business plan.

Amendment by TEDC

Conduct regular reviews of the TEDC Business/Strategic Plan

COMMENT:

The requirement as expressed in clause 4.4, was a specified outcome of the Council workshop on 25 November 1998 and resolution of Council on 16 December 1998. The proposed amendment appears reasonable, however, there is no performance targets or accountability measures proposed.

CLAUSE 4.5

Current Clause

By 28th February 2003, provide Council with a costed strategic plan for TEDC in respect of the period 1st July 2003 to June 30th 2005.

Comment by TEDC

What is meant by this clause and exactly what is required? TEDC receives only enough funds to employ staff and equipment and run an office. It is one thing to develop a costed strategic plan (whatever that means) and then have the funds for implementation. It is a waste of very limited resources to develop a full costed strategic plan, which will constantly change as it is reviewed. Could you please advise?

COMMENT:

The clause was added to the new funding agreement as an obligation of TEDC following the resolution of Council at its meeting on 20 March 2002 which stated:

“3. TEDC provides Council with a costed strategic plan for the period July 2002 to June 2005 by February 28 2003 for Council’s consideration in regard to further funding.”

CLAUSE 5.1.2

Current Clause

The referral to Council for advice or assistance.

Amendment by TEDC

Delete and replace with Clause 5.1.3, which reads:

Introduction of New Businesses and Ventures;

- (a) The introduction of new businesses and ventures to the region and assistance to the expansion of existing businesses by TEDC; and*
- (b) The number of jobs created in the region as a result of TEDC’s activities as referred to in clause 5.1.3(a) of this Agreement*

Reports from Director Corporate Services

COMMENT:

The clause is one of a number of Performance Criteria established by Council resolution at its meeting on 25 November 1998. The clause is linked directly to one of the fundamental elements of the funding agreement – “to give focus and direction to the Tweed by working in partnership with all groups to form a conduit between community, businesses and governments.”

CLAUSE 5.1.2(A)

Current Clause

5.1.2(a) The introduction of new businesses and ventures to the region and assistance to the expansion of existing businesses by TEDC.

Amendment by TEDC

To be deleted and is now replaced by amended 5.1.2

COMMENT:

Council’s resolution of 16 December 1998 – comments as per Clause 5.1.2.

CLAUSE 5.1.2(B)

Current Clause

5.1.2(b) The number of jobs created in the region as a result of TEDC’s activities as referred to in clause 5.1.3(a) of this Agreement

Amendment by TEDC

The number of jobs created in the region as a result of TEDC’s activities as referred to in clause 5.1.2(a) of this Agreement as measured by the Input/Output Economic Model being developed by TEDC.

COMMENT:

This clause is one of the performance measures that was included in the Agreement to provide a quantitative measure. The current form of measurements is indicative only and a tool that provides a higher level of performance measurement is desirable.

The proposed input/output model should be explored for incorporation in an amended set of performance measures.

CLAUSE 5.1.4

Current Clause

The number and category of financial members of TEDC.

Amendment by TEDC

The provision by TEDC to Council of quarterly updates on current programs conducted by TEDC including examples of TEDC’s assistance to and the promotion of new and existing industries.

Reports from Director Corporate Services

COMMENT:

The basis of the establishment of the TEDC was that it would become self-sufficient through a membership base. This was a key element of the formulation of the Board and, therefore, was seen as a measure that Council would require regular feedback on as one of its milestone targets.

CLAUSE 6.2

Current Clause

During March 2003 and March 2004 Council shall meet with representatives of the Board of Directors of TEDC with a view to determining the funding amount for the periods 1 July 2003 to 30 June 2004, and 1 July 2004 to 30 June 2005, respectively. In the course of such meeting, Council shall review the performance of TEDC in satisfying its obligations under this Agreement, particularly its obligations under clause 4.5 and clause 5.1.9. If by 31 March 2003 or 31 March 2004 Council does not determine the funding amount for the 12 month period to commence on 1 July 2003 or 1 July 2004 (respectively) Council shall be entitled to terminate this Agreement effective from 30 June next occurring by serving upon the TEDC a notice in writing stating its intention to do so.

Amendment by TEDC

During March 2003 and March 2004 Council shall meet with representatives of the Board of Directors of TEDC with a view to determining the funding amount for the periods 1 July 2003 to 30 June 2004 and 1 July 2004 to 30 June 2005, respectively. In the course of such meeting, Council shall review the performance of TEDC in satisfying its obligations under this Agreement, particularly its obligations under clause 4.5 and clause 5.1.8.

COMMENT:

This is a critical accountability mechanism that provides Council with assurance that the expectation of Council, as reflected in the funding agreement, are provided in a manner that generates a positive return for Council's investment in a organisation with a charter of facilitating economic growth for the Tweed. Council needs to be in a position, based on regular feedback, to vary the agreement if its expectations are not being fully realised.

CONCLUSION

It is suggested that the Funding Agreement 2002/05 not be varied other than by the rewording of Clause 4.4 by deleting:

“Develop and implement a business plan”

and replace with the wording

“Conducts at least on an annual basis, a review of the TEDC Business/Strategic Plan”;

Reports from Director Corporate Services

and Clause 5.1.2(b) by deleting:

“The number of jobs created in the region as a result of TEDC’s activities as referred to in Clause 5.1.3(a) of this Agreement”

and replacing with the wording,

“The number of jobs created in the region as a result of TEDC’s activities as referred to in clause 5.1.3(a) of this Agreement as measured by the agreed Input/Output Economic Model”.

Reports from Director Corporate Services

10. ORIGIN: Director

FILE REF: TACTIC

REPORT TITLE:

Tweed and Coolangatta Tourism Inc Funding Agreement

SUMMARY OF REPORT:

The preparation of a new performance/funding agreement between Council and Tweed & Coolangatta Tourism Inc (TACTIC) has been subject to a number of variations following Council meetings, the most recent of these being 7 August and 21 August 2002. The funding agreement as adopted by Council was referred to TACTIC for their signature on 10 September 2002.

TACTIC has written seeking further amendments to the funding agreement.

RECOMMENDATION:

That Council, having considered the proposed amendments to the funding agreement, confirms that the Agreement as adopted by Council reflects the intention and required outcomes of Tweed and Coolangatta Tourism Inc in accordance with the funding agreement.

Reports from Director Corporate Services

REPORT:

The funding agreement between Council and TACTIC expired on 30 June 2002. Prior to its expiration Council held a number of meetings between TACTIC Board representatives in accordance with the agreement requirements and instructed officers to formulate a revised agreement reflecting the resolutions of Council.

Subsequently, Council adopted the draft agreement at its meeting of 7 August 2002 and authorised that they be executed under the Common Seal of Council.

Further to that resolution, and following a presentation by the General Manager of TACTIC, Council at its meeting of 21 August 2002 further amended the funding agreement resolving.

“1. *Strategic Plan 2002/2005:*

- a) *be received and noted*
- b) *be accepted as satisfying one of the requirements for the 2002/05 funding agreement.*

2. *Funding Agreement:*

- a) *funding for the year 2002/03 be set at \$259,000 plus CPI.*
- b) *changes be incorporate into the quarterly budget review to reflect the CPI amount of \$5,852.00.*
- c) *as amended be signed and sealed under the Common Seal of Council.”*

Council’s solicitors modified the agreement to incorporate the variations expressed in the resolution of 21 August 2002 and the revised funding agreement was referred to TACTIC for signature. TACTIC have responded by providing the General Manager with a letter during the workshop presentation on Wednesday 13 November 2002 expressing the desire that a number of clauses be further amended. Their letter makes the following suggested amendments in relation to the clause 4.2, 4.5, 4.7, 6.1c and 6.3.

The following comments are provided in relation to each of the clause amendments requested.

Clause 4.2 from Agreement

“The Board of Directors of TACTIC shall meet regularly with the Board of Directors of Tweed Economic Development Corporation (hereinafter referred to as “TEDC”) within 3 months of the date of signing of this Agreement to formulate recommendations to Council regarding possible integrated activities for the most effective use of Council provided funds and/or other means of income generation and to ensure a corporate structure recognising tourism activities as an integral part of economic development.”

Proposed Clause 4.2 Amendment from TACTIC

The Board of Directors of TACTIC shall meet with the Board of Tweed Economic Development Corporation within 3 months of the date of signing of this agreement and quarterly thereafter. Such meetings should contain discussion on possible integrated activities for the most effective use of Council funds. TACTIC and TEDC shall actively work together on issues related to development tourism infrastructure.

Reports from Director Corporate Services

COMMENT

The proposed amendment does not reflect the intention and requirements of Council as expressed in the resolution of 16 February 2000. The report to Council outlined a structure developed in consultation with the chairpersons of TEDC, TACTIC and Tweed Shire Town Centre Committee and endorsed by Council. The Chairperson of TACTIC provided council with a letter of support for the TACTIC Board expressing positive views of the amalgamation.

The Council resolution 16 February 2000 in part notes “the TEDC/TACTIC/Tweed Shire Town Centre Committee workshop (1/2/2000) – structures, role of program manager, roles and responsibilities of the three (3) organisations – statement of outcomes” (Part C) as the basis for the refinement negotiation to create one economic development organisation for the Shire embracing TEDC, TACTIC and the TSTCC. The clauses expresses the expectation of Council.

Clause 4.5 from Agreement

“Continue to occupy, and operate in accordance with the directions of and to the satisfaction of Council, the Murwillumbah Visitors Information Centre situate at Cnr. Alma Street and Tweed Valley Way (formerly Pacific Highway, Murwillumbah.”

Proposed Clause 4.5 Amendment from TACTIC

It is TACTIC’s view that the breadth of this Clause provides neither TACTIC nor Tweed Shire Council with clear guidelines or objectives for the Centre and should be removed.

COMMENT

The instructions of Council’s Resolution 811 (20 March 2002) required at point 2:

“2. During the 2002-2003 period TACTIC continues to run the Murwillumbah Visitors Information Centre.”

Clause 4.7 from Agreement

“To actively and co-operatively participate in discussions with Council and the National Parks and Wildlife Service of New South Wales with a view to identifying options for the future management of the Murwillumbah Visitor Information Centre and the Interpretative Centre at the World Heritage Rainforest Centre and recommend to Council by 1 December 2002 the adoption of one of these options.”

Proposed Clause 4.7 Amendment from TACTIC

The section relates to a previous motion by Council arising from the review of options for TACTIC and the World Heritage Rainforest Centre (WHRC). As this process occurred prior to the decision to renew our agreement for three years, it is no longer relevant and should be deleted. National Parks and Wildlife Serve (NPWS) have consistently stated their total lack of interest in being involved in the management of the WHRC.

COMMENT

This Clause represents Council’s requirements as specified in Resolution 811 (20 March 2002) point 3:

“3. Within the next 3 months that Council commences to facilitate discussions between TACTIC, NPWS and Council to identify options for the ongoing management of the Tourist

Reports from Director Corporate Services

Information Centre and interpretative centre at the WHRC. A final recommended option to come before Council by December 2002.”

The World Heritage Rainforest Centre (WHRC) complex is leased to TACTIC at the annual rate of \$1.00 on the basis of a 5 year lease with an option to extend for a further 5 years. The current lease expires on 30 June 2003. A portion of the complex is sublet by TACTIC to the National Parks and Wildlife Service (NPWS).

Council at its meeting of 5 June 2002 resolved:

“That the General Manager be authorised to sign the Memorandum of Understanding (MOU) between the National Parks & Wildlife Service (NPWS), Tweed and Coolangatta Tourism Inc. (TACTIC) and Tweed Shire Council relating to the operation of the Murwillumbah World Heritage Rainforest Centre.”

The Memorandum of Understanding is yet to be signed by all parties.

The Tourism NSW gateway project has identified the WHRC as part of the distributed model for interactive access to tourism information. It is considered important that the Centre continue to operate as a Visitor Information Centre.

Clause 6.1(c) from Agreement

“complies with the performance criteria as contained in clause 5 of this Agreement to the reasonable satisfaction of Council. Council shall pay the sum of \$264,852.00 (hereinafter referred to as ‘the funding amount’ to TACTIC during the first year of the term of this Agreement in the manner set out in clause 7 of this Agreement.”

Proposed Clause 6.1(c) Amendment from TACTIC

6.1(c) complies with the performance criteria as contained in clause 5 of this agreement to the reasonable satisfaction of Council. Council shall pay the sum of \$264.852 (hereinafter called ‘the funding amount’) to TACTIC annually for the financial years 2002/2003, 2003/2004 and 2004/2005 in the manner set out in clause 7 of this agreement.

COMMENT

The resolution of Council on 21 August 2002 extended the 7 August 2002 1 year funding agreement to 3 years and determined the level of funding for the first year:

“3. *Funding Agreement:*

- a) *funding for the year 2002/03 be set at \$259,000 plus CPI*
- b) *changes be incorporated into the quarterly budget review to reflect the CPI amount of \$5,852.00.”*

Clause 6.3 from Agreement

“During March 2003 and March 2004 Council shall met with representatives of the Board of Directors of TACTIC with a view to determining the funding amount for the periods 1 July 2003 to 30 June 2004, and 1 July 2004 to 30 June 2005, respectively. In the course of such meetings, Council shall review the performance of TACTIC in satisfying its obligations under this Agreement, particularly its obligations under clauses 4.6, 4.7, 5.1.8, 5.1.9 and 6.1. If by 31 March 2003 or 31 March 2004 Council does not determine the funding amount for the

Reports from Director Corporate Services

12 month period to commence on 1 July 2003 or 1 July 2004 (respectively) Council shall be entitled to terminate this Agreement effective from 30 June next occurring by serving upon TACTIC a notice in writing stating its intention to do so."

Proposed Clause 6.3 Amendment from TACTIC

The proposed changes identified for Clause 6.1(c) would render this Clause irrelevant.

It is TACTIC's view that the proposed changes would clarify the agreement and more accurately reflect Council's intentions in renewing their agreement with TACTIC.

COMMENT

This Clause provides the scope for Council, subject to TACTIC performance, in accordance with a set of criteria, to review the level of funding support on an annual basis.

It is recommended that Council, having considered the proposed amendments to the funding agreement, confirms that the Agreement as adopted by Council reflects the intention and outcomes of Tweed and Coolangatta Tourism Inc in accordance with the funding agreement.

Reports from Director Corporate Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Corporate Services

11. ORIGIN: Director

FILE REF: Tourist Gateway; Tourism General

REPORT TITLE:

Report on the Regional Tourism Action Plan for Northern River Tropical New South Wales

SUMMARY OF REPORT:

Due to the large number of strategic studies previously completed for the Northern Rivers Tropical New South Wales region, the Action Plan is designed to start from this point, building on the existing strategic work and taking into account the human and financial resources available, the findings derived from fieldwork and the consultation process. It is a plan for tourism across the region and brings together actions and opportunities that involve a wide range of partners. Tourism is one of the main economic drivers for the region. The region has now reached the stage where a period of consolidation is essential, and this is the underlying thrust of the Tourism Action Plan. The preparation and implementation of the plan is based on the fundamental principal that the primary focus of the region is to drive demand for products, services, and experiences of the Northern Rivers Tropical New South Wales and that the primary focus at the local level should be on the delivery of quality visitor experiences. With adequate human and financial resources to implement this action plan the expected outcomes over time would be:

- Higher levels of domestic and international visitation
- Extended range of specialised accommodation
- High level visitor satisfaction
- Increased co-operation, networking and product co-ordination with the industry, with a whole of region approach
- Increased economic, employment and other benefits for the wider community.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

BACKGROUND

Due to the large number of strategic studies previously completed for the Northern Rivers Tropical New South Wales region, the Action Plan is designed to start from this point, building on the existing strategic work and taking into account the human and financial resources available, the findings derived from fieldwork and the consultation process. It is a plan for tourism across the region and brings together actions and opportunities that involve a wide range of partners. Tourism is one of the main economic drivers for the region:

- Currently tourism contributes \$762 million to the economy in the Northern Rivers and generates 5,863 jobs.
- The northern rivers region receives more tourists than the Northern Territory or Tasmania.
- The region also has the second highest visitation from international tourists in NSW.
- Average length of stay is 4 nights
- This region also has a large interstate day trip market with 32% of the visitors from Queensland.
- Most visitors are domestic (85%), however, international visitors typically stay 7 nights in the region, which is well above the state average of 3 nights
- The main mode of travel is private vehicle (86%) with travel by air accounting for 8% (excluding Gold Coast Airport)

Notwithstanding the mix of products and experiences offered, the Northern Rivers region has yet to achieve its potential as a widely recognised destination. Nevertheless, with the initiatives already being implemented, and the opportunities identified in this action plan, the region is moving forward to achieve destination prominence.

THE VISION

By 2005 the Northern Rivers Tropical NSW region will be firmly established as the premier destination, providing a mix of high quality products and experiences for mainstream domestic and international visitors and special interest markets.

The focus will be on a whole-of-region approach to industry development and the achievement of strong growth in market share in co-operation with local tourism organisations and Tourism New South Wales. In fostering tourism growth, emphasis will be placed on conserving the regions natural environmental and heritage assets for future generations and preserving character of the villages and the lifestyle quality for residence.

The attainment of this vision will be underpinned by the commitment of all stakeholders to achieving the common goal.

Reports from Director Corporate Services

KEY ISSUES

To further develop the regions tourism industry and gain the social, environmental and economic benefits, several issues need to be addressed:

- An integrated whole of region approach must be adopted and followed through with action
- Industry sectors must work together for a common purpose. There also be a substantial improvement in networking, communication and product co-ordination.
- Appropriate management policies need to be set in place to ensure sustainable tourism growth in the long term
- Emphasis needs to be placed on the dispersal of visitors throughout the region.

THE BENEFITS OF SUSTAINABLE TOURISM

- Multiplier effect on visitor spending
- Employment opportunities
- Diversification of the regional economy
- Improved facilities for residents
- Opportunities for new business and expansion of existing business
- Improved transport services
- Potential to create export markets for local products
- Catalyst for residential development
- Increased educational opportunities
- Preservation of natural assets
- Conservation of heritage, and
- A broader social outlook

ACTION PLAN

The region has now reached the stage where a period of consolidation is essential, and this is the underlying thrust of the Tourism Action Plan.

The preparation and implementation of the plan is based on the fundamental principal that the primary focus of the region is to drive demand for products, services, and experiences of the Northern Rivers Tropical New South Wales and that the primary focus at the local level should be on the delivery of quality visitor experiences.

Key Industry Leadership and Co-Ordination Actions

- Develop a greater understanding of the different roles of the regional body and tourism groups
- Continue through Northern Rivers Tropical to build strong and harmonious alliances and partnerships with national, state and regional stakeholder organisations, local government, operators and the media.

Reports from Director Corporate Services

Key Marketing Actions

- Continue the current marketing initiatives, for example; those centred on the short breaks campaign in South East Queensland, the Pacific Coast Touring Route and participation in selected trade and consumer shows.
- Upgrading the regions local area website and establishing a visitor information website under the control of Northern Rivers Tropical in accordance with Australian Domestic Data Warehouse standards
- Encouraging a co-operative approach by the regions tourism operates and establishing strategic alliances with adjoining regions, the Gold Coast Airport.

Key Product Development Actions

- Identify future nature-based and ecotourism opportunities and encouraging high quality interpretation of these natural assets
- Building existing special events and co-ordination of annual event committees
- Further developing the regional cuisine and food trail experience and developing other special interest / hobby tourism product.

EXPECTED OUTCOMES

With adequate human and financial resources to implement this action plan the expected outcomes over time would be:

- Higher levels of domestic and international visitation
 - Extended range of specialised accommodation
 - High level visitor satisfaction
 - Increased co-operation, networking and product co-ordination with the industry, with a whole of region approach
 - Increased economic, employment and other benefits for the wider community.
-

Reports from Director Engineering Services

12. ORIGIN: Planning & Infrastructure Unit

FILE REF: GT1/DCP/16 - DCP

REPORT TITLE:

Draft Development Design and Construction Specifications

SUMMARY OF REPORT:

A series of engineering specifications have been drafted to apply to subdivision works in Tweed Shire. These specifications are called up by the new draft "Development Control Plan No.16 – Subdivision Manual". The Tweed Shire Council "Development Design Specifications" and "Development Construction Specifications" are based on the national "Aus-Spec" series of documents.

RECOMMENDATION:

That:-

1. Council adopts the draft Tweed Shire Council "Development Design Specifications" and "Development Construction Specifications" as a basis for exhibition and community discussion/consultation.
2. The exhibition period be concurrent with the exhibition period of Draft Development Control Plan No.16 – Subdivision Manual.
3. During the exhibition period a workshop be conducted for Consulting Engineers to explain the provisions of the draft Tweed Shire Council "Development Design Specifications" and "Development Construction Specifications" and seek their input.

Reports from Director Engineering Services

REPORT:

1. Background

Another report to this meeting provides details of the new draft DCP 16 – Subdivision Manual.

Engineering standards for design and construction of subdivision works were incorporated into the text of the old DCP16. Some years ago it was decided to adopt the national “Aus-Spec” set of engineering specifications as the basis of engineering standards for the new DCP16. The Aus-Spec standards have been produced under the direction of the Institution of Public Works Engineering Australia (IPWEA) for use by local government in all states of Australia.

Draft DCP 16 does not contain engineering standards for subdivision works, it instead requires that these works be designed and constructed in accordance with a separate series of Documents the “Development Design Specifications” and “Development Construction Specifications” which are amended Tweed Shire Council versions of the national Aus-Spec documents.

A set of the draft “Development Design Specifications” and “Development Construction Specifications” will be tabled at the meeting.

2. Development Design Specifications

The following specifications are included in the Design series:

No.	Title
D1	Road Design
D2	Pavement Design
D3	Structures Bridge Design
D4	Subsurface Drainage Design
D5	Stormwater drainage Design
D6	Stormwater drainage Design
D7	Stormwater Quality
D9	Cycleway and Pathway Design
D10	Bushfire Protection
D11	Water Supply
D12	Sewerage System
D13	Engineering Plans (Subdivisions)
D14	Landscaping Public Space

Reports from Director Engineering Services

3. Development Construction Specifications

The following specifications are included in the Construction Series:

<u>No.</u> <u>Title</u>	<u>No.</u> <u>Title</u>
C101 General	C245 Asphaltic Concrete
C201 Control of Traffic	C247 Mass Concrete Subbase
C211 Control of Erosion and sedimentation	C248 Plain or Reinforced Concrete Base
C212 Clearing and Grubbing	C254 Segmented Paving
C213 Earthworks	C255 Bituminous Microsurfacing
C220 Drainage	C261 Pavement Markings
C221 Pipe Drainage	C262 Signposting
C222 Precast Box Culverts	C263 Guideposts
C223 Drainage Structures	C264 Guardfence
C224 Open Drains Including Kerb and Gutter	C265 Boundary Fence
C230 Subsurface Drainage General	C271 Minor Concrete Works
C231 Subsoil and Foundation Drains	C273 Landscaping
C232 Pavement Drains	C401 Water Reticulation
C233 Drainage Mats	C402 Sewerage System
C241 Stabilisation	C501 Bushfire Protection
C242 Flexible Pavements	CQC Quality Control Requirements
C244 Sprayed Bituminous Surfacing	

4. Standard Drawings

The preparation of standard drawings (typical road cross sections, sewerage pump station layout, stormwater pits etc) is still in progress and is hoped to be completed in 2003. Whilst the development specifications alone are generally sufficient to specify engineering standards, the inclusion of the standard drawings will significantly assist in the presentation and understanding of the standards. The development specifications will be progressively amended to call up these drawings as they become available.

5. Amendment of Development Specifications

The development specifications will require frequent amendment as changes occur in referenced standards (SAA standards, Austroads standards, RTA standards etc), material specifications (pipes, valves, bitumen etc) and standard drawings as well as changes in design and construction requirements. There are also annual reissues of amended versions from Aus-Spec to incorporate the latest state and Australian design and construction standards and practices.

Reports from Director Engineering Services

The following procedure is proposed for making amendments.

The Director of Engineering Services may at any time, amend the Development Design and Construction Specifications, by certifying a new version that amends and replaces the previous version.

When amendments are made, the latest version shall be posted on Council's internet web site on the date it comes into force. The internet web site shall also contain a log of amendments and versions for all the specifications, to enable easy checking of the currency of versions.

The internet web site will contain information bulletins advising of proposed changes to design specifications, current issues, draft amendments for comment etc.

6. Public Exhibition

The Development Specifications are not part of the statutory development control plan and therefore do not require the same statutory exhibition process as draft DCP 16 – Subdivision Manual. However due to the importance of the specifications to the subdivision industry it is proposed to exhibit them for comment concurrently with DCP16.

Having regard to the comments from the exhibition period and industry workshops, the draft specifications will be comprehensively reviewed, edited and amended, before submission to Council for adoption.

7. Industry Consultation

It is proposed that during the exhibition period of DCP16 a series of information workshops be held with key sectors of the development industry. These will include:

- Developers
- Consulting Town Planners
- Consulting Engineers

The aim of these workshops will be to:-

- Present an overview of the draft DCP16
- Outline those sections and issues that will have a significant impact on their industry sector
- Seek comments and input from the participants regarding problems and issues to be resolved in the draft and possible amendments.

It is proposed to also incorporate the Development Design and Construction Specifications into the DCP16 workshop for Consulting Engineers.

Reports from Director Engineering Services

13. ORIGIN: Works Unit

FILE REF: R1470 Pt2; Cudgera Creek Road

REPORT TITLE:

Cudgera Creek Road Upgrade

SUMMARY OF REPORT:

Since the opening of the Yelgun to Chinderah Motorway, Council has experienced a huge increase in maintenance costs for Cudgera Creek Road. The Roads & Traffic Authority (RTA) which is obligated to upgrade the road does not propose to commence work until later in 2004.

RECOMMENDATION:

That the Roads and Traffic Authority be advised, that for the section of Cudgera Creek Road from the Motorway to Mooball-Pottsville Road, it either:-

- a) Accepts full responsibility for maintenance; or
- b) Compensates Council for increased maintenance costs.

Reports from Director Engineering Services

REPORT:

The conditions of approval for the Yelgun to Chinderah Motorway required the RTA to commence upgrading of Cudgera Creek Road from the motorway to the Mooball-Pottsville Road intersection within five years of the project opening.

With traffic volumes on Cudgera Creek Road increasing from 400vpd to 2000vpd since the opening of the motorway the pavement is deteriorating rapidly. Council staff have been required to bitumen patch the road on twelve occasions since the opening in August. This is a huge increase in the normal attention given to a sealed road.

The RTA has written (copy attached) to Council advising that it will not commence upgrading works until late 2004. If Council is required to continue maintenance at the current level it will strain the already limited road maintenance funding.

The RTA should be advised that it either accepts maintenance responsibility until the road is upgraded or compensate Council for the increased costs in the interim.

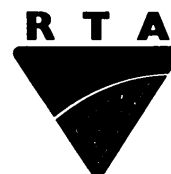
Reports from Director Engineering Services

97M5907 BH
Mr Bob Higgins 02 6640 1305
Pacific Highway Office
Bob_Higgins@rta.nsw.gov.au

Roads and Traffic
Authority
Pacific Highway
Development Office

CUDGERA CREEK RD

TWEED SHIRE COUNCIL	
FILE No.	R1470 Pt 2
DOCUMENT No.	699155
RECD	3 OCT 2002
BOX No.	
ASSIGNED TO	THOMPSON G
HARD COPY	<input checked="" type="checkbox"/>
PAGE	<input type="checkbox"/>



Better Roads. Safer Roads.
Saving Lives.

Mr G Thompson
Acting Manager, WORKS
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

21 Prince Street
Grafton NSW 2460
Telephone (02) 6640 1000
Facsimile (02) 6640 1001
PO Box 546
Grafton NSW 2460

Dear Mr Thompson

RE: CUDGERA CREEK ROAD UPGRADE

Thank you for your recent letter (Ref: DW689646 R1470) regarding the proposed upgrade for Cudgera Creek Road as part of the upgrading of the Pacific Highway between Yelgun and Chinderah.

As you would be aware, the conditions of approval for the Yelgun to Chinderah project requires the Roads and Traffic Authority (RTA) to commence the upgrading of Cudgera Creek Road between the newly opened freeway and its intersection with Pottsville-Mooball Road within five years of the project's opening.

The RTA has already completed the route selection stage and is now in the process of carrying out a Review of Environmental Factors (REF) on the preferred route. Community consultation will be conducted as part of the preparation of the REF.

Allowing for the land acquisition and detailed design phase, construction is expected to commence in late 2004 and will be completed in late 2005/early 2006.

In the meantime, I have asked that the RTA Road Safety and Traffic Management section, Northern Region, review the signage and speed limit on this section of the road. I have also asked that they liaise with the Tweed Shire Council concerning any proposed improvements.

Yours sincerely

Robert (Bob) Higgins
Manager, Pacific Highway Client Services
PACIFIC HIGHWAY OFFICE

02 October 2002

cc Jim Campbell
Northern Region

noted for 13/10/02

Reports from Director Engineering Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Engineering Services

14. ORIGIN: Works Unit

FILE REF: R4031 Pt14; Pacific Highway/Tweed Valley Way; Roads - Maintenance Program

REPORT TITLE:

Highway Handover - Lump Sum Agreement

SUMMARY OF REPORT:

Final Agreement has been reached with the Roads & Traffic Authority (RTA) on the lump sum for future maintenance works on the Tweed Valley Way as part of the handover agreement. The sum of \$2.059M is for resealing, AC resurfacing, bridge improvements, major rehabilitation and other minor works.

RECOMMENDATION:

That Council:-

- a) notes the proposed works and timing;
- b) notes the expenditure.

Reports from Director Engineering Services

REPORT:

As previously reported to Council the RTA as part of the Highway handover agreed to a lump sum payment for works needed to be completed in the next few years.

This figure has now been finally agreed upon and approval to expend has been granted by the RTA for \$2.059M.

The bulk items to make up this amount are:-

Reseals	\$726,000
AC Resurfacing	\$240,000
Rehabilitation (includes McLeods Creek Culvert)	\$383,000
Bridge Repairs (includes Crabbes Creek replacement)	\$505,000

The balance funding is for other minor works such as guardrail repairs, culvert cleaning & slope stability correction.

The RTA will be making payments prior to the major works being commenced and it is proposed that these will be completed in the following time frame:-

Reseals:	February/March	2003
AC Surfacing:	October/November	2003
McLeods Creek:	September	2003
Crabbes Creek Bridge:	July/September	2003

Reports from Director Engineering Services

15. ORIGIN: Design Unit

FILE REF: R3870 Pt1; Old Lismore Road

REPORT TITLE:

Application to Close & Purchase Unformed and Unnecessary Road Reserve - Old Lismore Road, Byangum

SUMMARY OF REPORT:

An application has been received to close and purchase part of the road reserve of Old Lismore Road. The applicants are seeking to include part of the unnecessary road reserve in their property. In an application for development consent for the construction of a carport and patio, it was considered necessary to survey the land. The survey revealed that a recently constructed retaining wall and concrete pad were constructed within the road reserve of Old Lismore Road. The applicants are seeking to close that part of the road reserve, and consolidate it with their land to enable them to continue with their application for development of a carport and patio.

The road reserve is approximately 30 metres wide where the applicants are seeking to close the road and the closure will not impact on the usable width of the road.

RECOMMENDATION:

That:-

1. Council approves the closing of the unformed road reserve ;
2. The applicant bears all the survey and legal costs;
3. The title of the closed road be consolidated with the adjacent land;
4. Easements be created over public authority reticulation services, if any; and
5. All necessary documentation be executed under Common Seal of Council.

Reports from Director Engineering Services

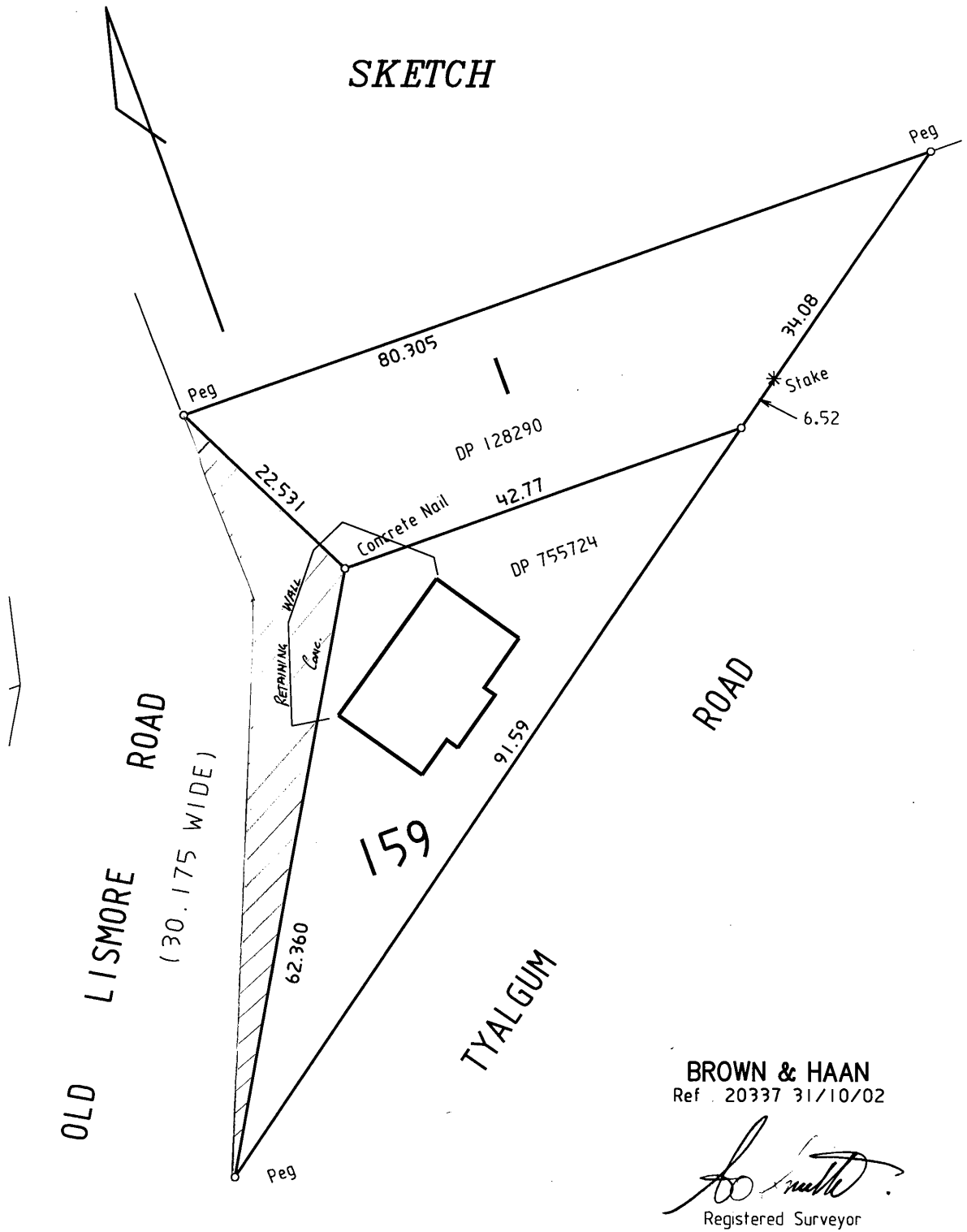
REPORT:

An application has been received to close and purchase part of the road reserve of Old Lismore Road. The applicants are seeking to include part of the unnecessary road reserve in their property. In an application for development consent for the construction of a carport and patio, it was considered necessary to survey the land. The survey revealed that a retaining wall and concrete pad were constructed within the road reserve of Old Lismore Road. The applicants are seeking to close that part of the road reserve, and consolidate it with their land to enable them to continue with their application for development of a carport and patio.

The road reserve is approximately 30 metres wide where the applicants are seeking to close the road and the closure will not impact on the usable width of the road.

A plan showing the approximate area to be closed follows:

Reports from Director Engineering Services



Reports from Director Engineering Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Engineering Services

16. ORIGIN: Design Unit

FILE REF: Land Acquisition; Crown Land; 4610.50

REPORT TITLE:

Acquisition of Crown Reserve 84717 for Reservoir (being Lot 430 in DP 755740) Razorback Road, Tweed Heads

SUMMARY OF REPORT:

At a meeting held on 5 November, 1997 a resolution was made by Council to approve the acquisition of the Reserve for Reservoir at Tweed Heads for the sum of \$65,000.00.

The acquisition is now completed, and as per section 55 of the Land Acquisition (Just Terms Compensation), when determining the amount of compensation payable, regard must be made to the market value of the land on the date of its acquisition.

The date of publication of the Acquisition Notice in the Government Gazette (30 August, 2002) is the date deemed to be the date of acquisition. A determination of compensation was sought from the Valuer-General as at that date and the amount determined as market value by the Valuer-General was \$125,000.00

RECOMMENDATION:

That Council:-

1. Approves the acquisition of Lot 430 in DP 755740 for reservoir, for the sum of \$125,000.00.
2. Votes the expenditure from the Water Fund (Reservoir Acquisitions B1700.8112).

Reports from Director Engineering Services

REPORT:

At a meeting held on 5 November, 1997 a resolution was made by Council to approve the acquisition of the Reserve for Reservoir at Tweed Heads for the sum of \$65,000.00.

The acquisition is now completed, and as per section 55 of the Land Acquisition (Just Terms Compensation), when determining the amount of compensation payable, regard must be made to the market value of the land on the date of its acquisition.

The date of publication of the Acquisition Notice in the Government Gazette (30 August, 2002) is the date deemed to be the date of acquisition. A determination of compensation was sought from the Valuer-General as at that date and the amount determined as market value by the Valuer-General was \$125,000.00.

Reports from Director Engineering Services

17. ORIGIN: Design Unit

FILE REF: R3050 Pt1; Land Acquisitions; 1080.90

REPORT TITLE:

Proposed Closure - Acquisition of Road - Lighthouse Parade, Fingal Head

SUMMARY OF REPORT:

Council has negotiated an exchange of land with the landowners of Lot 233 DP 755740 at Lighthouse Parade, Fingal Head to allow for future footpath construction.

RECOMMENDATION:

That:-

1. Council approves the closure of part of Lighthouse Parade, shown as proposed Lot 2 and hatched in the proposed plan of road closure;
2. The purchase price of the road be waived in lieu of the road opening within proposed Lot 1;
3. The title of the closed road be consolidated with the adjacent land (proposed Lot 3);
4. Easements be created over public authority reticulation services, if any; and
5. All necessary documentation be executed under the Common Seal of Council.

Reports from Director Engineering Services

REPORT:

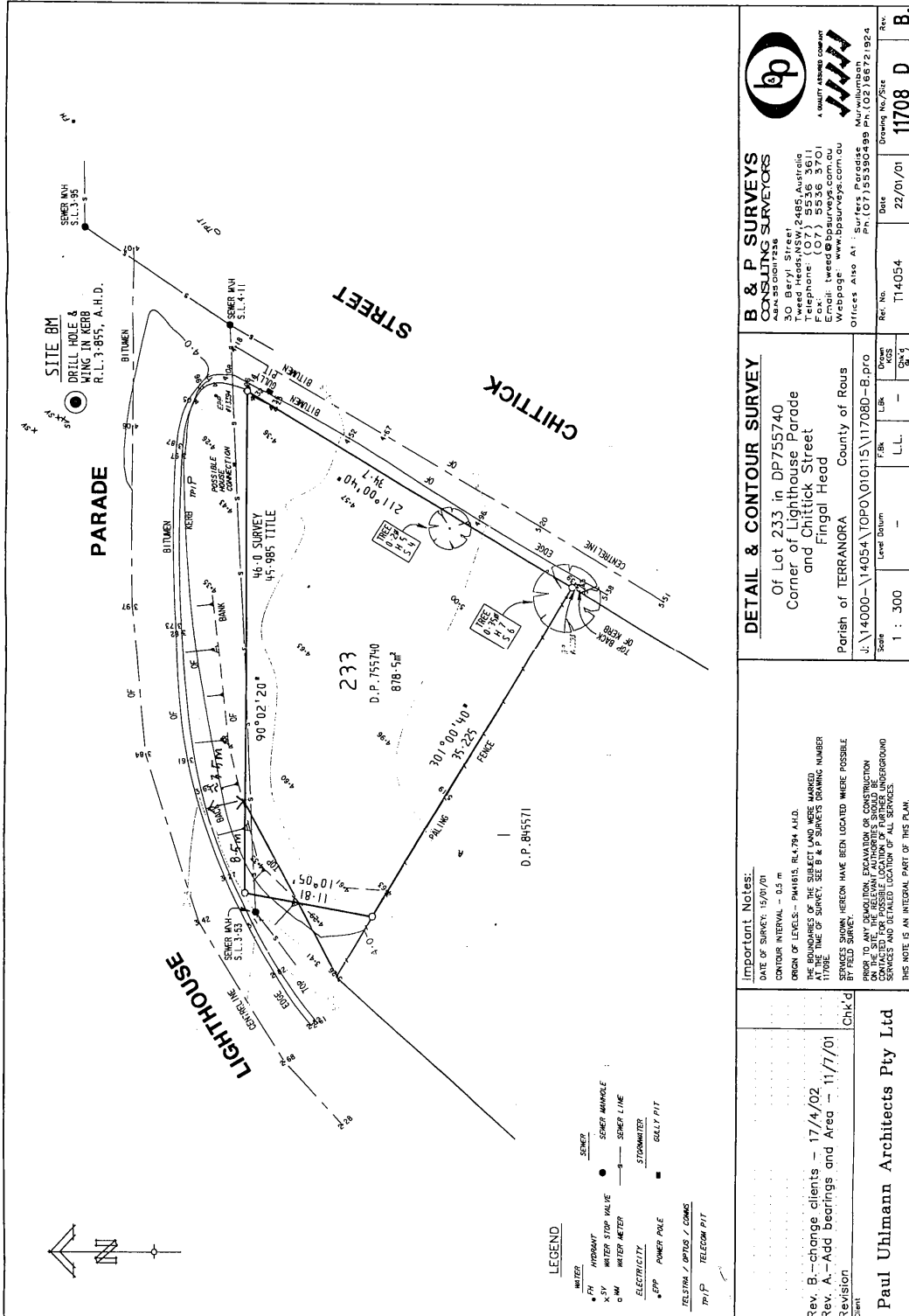
Council has negotiated an exchange of land with the landowners of Lot 233 DP 755740 at Lighthouse Parade, Fingal Head to allow for future footpath construction.

The road closure and acquisition will align the front boundary of the current Lot 233 to the road formation and allow a more amenable location for future footpath construction.

A copy of a detail and contour survey follows which shows that the north-western boundary of the current Lot 233 projects onto the road reserve. The land exchange will create a consistent road verge for the subject land.

A copy of the proposed plan of survey showing the area to be acquired for road (Lot 1) and the public road to be closed (Lot 2).

Reports from Director Engineering Services

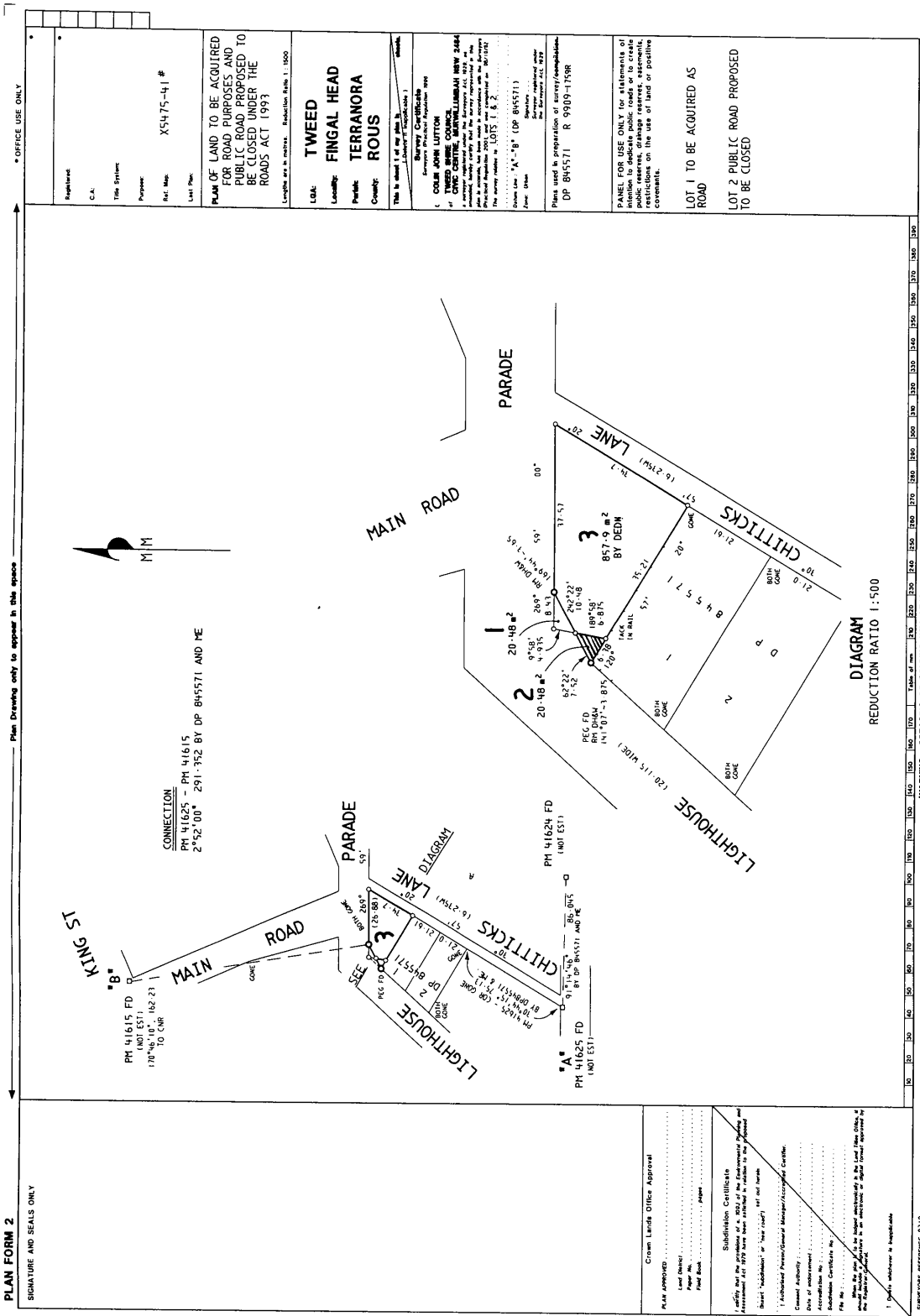


LEGEND

- WATER
- HYDRANT
- X-SY WATER STOP VALVE
- M WATER METER
- S-SERWER LINE
- S-STORMWATER
- S-EPP POWER POLE
- S-GULLY PIT
- TELSTRA / OPTUS / COMS
- TRIP TELECOM PIT

<p>Important Notes:</p> <p>DATE OF SURVEY: 12/02/01</p> <p>CONTOUR INTERVAL - 0.5 m</p> <p>ORDER OF LEVELS - F41615, RL.794 A.H.D.</p> <p>THE BOUNDARIES OF THE SUBJECT LAND WERE MARKED BY THE LINE OF SURVEY, SEE B & P SURVEYS DRAWING NUMBER 11708-B.</p> <p>SERVICES SHOWN HEREON HAVE BEEN LOCATED WHERE POSSIBLE BY FIELD SURVEY.</p> <p>PRIOR TO ANY EXCAVATION, EXCAVATION OR CONSTRUCTION CONTACTED FOR POSSIBLE LOCATION OF PARTIAL UNDERGROUND SERVICES AND DETAILED LOCATION OF ALL SERVICES.</p> <p>THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.</p>	<p>DETAIL & CONTOUR SURVEY</p> <p>Of Lot 233 in DP755740 Corner of Lighthouse Parade and Chittick Street Fingal Head Parish of TERRANORA County of Rous</p>		<p>B & P SURVEYS</p> <p>30 Beryl Street Tweed Heads, NSW, 2485, Australia Telephone: (07) 5536 3511 Email: tweed@bpsurveys.com.au Webpage: www.bpsurveys.com.au</p>	
	<p>Scale 1 : 300</p>	<p>Level Datum</p>	<p>Drawn</p>	<p>Rev.</p>
<p>Client Paul Uhlmann Architects Pty Ltd</p>	<p>Project No. T14054</p>	<p>Date 22/01/01</p>	<p>Drawing No./Size 11708 D B.</p>	

Reports from Director Engineering Services



City of Tweed Council Approval

PLAN APPROVED: _____
 Date: _____
 Title: _____

Subdivision Certificate

I certify that the provisions of s. 95G of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed (insert "subdivision" or "use") of lot and parcel.

1 Architectural Planner/General Manager/Authorised Officer

City of Tweed Council

Date of endorsement: _____

Subdivision Certificate No. _____

File No. _____

When the plan is to be lodged with the Land Titles Office, it should be accompanied by an electronic or digital format approved by the Registrar-General.

1 Date submitted to Registrar-General

REGISTRATION REFERENCE Q110

Reports from Director Engineering Services

18. ORIGIN: Director

FILE REF: Markets - Farmers Market

REPORT TITLE:

Farmers Market Proposal

SUMMARY OF REPORT:

Subsequent to Council's Resolution an assessment of the likely costs associated with the establishment of a minimal facility off the Tweed Valley Way at Government Road was undertaken.

Under Council policy an establishment generating more than 10 traffic movements per hour would require the construction of a 'type B' intersection. The new intersection would require an additional storage lane for south bound traffic turning right into Government Road and extension of the shoulder pavement on Tweed Valley Way to provide sufficient taper width for north bound traffic entering Government Road. A small culvert and clearing of existing vegetation to enable suitable site exposure would also be required.

A temporary site at the intersection of Riverside Drive and Tweed Valley Way, Tumbulgum has also been investigated.

RECOMMENDATION:

That Council:--

1. Proceeds with the small scale farmers market proposal at Riverside Drive, Tumbulgum as outlined in this report.
2. Proceeds with the preparation and lodgement of a Development Application.
3. Votes Expenditure of \$10,000. Funding to be provided in the next Quarterly Budget Review.

Reports from Director Engineering Services

REPORT:

At its meeting of 6 November, 2002 Council resolved:-

- “1. *Facilitates the establishment of a Farmer’s Market at Tumbulgum at the end of Government Road, on Council property, commencing as a smaller operation with limited infrastructure. The success of the market would then allow for its expansion and establishment of permanent infrastructure.*
2. *Officers bring forward a report on the costs of the minimum infrastructure required.”*

Subsequent to Council’s Resolution an assessment of the likely costs associated with the establishment of a minimal facility off the Tweed Valley Way at Government Road was undertaken.

Under Council policy an establishment generating more than 10 traffic movements per hour would require the construction of a ‘type B’ intersection. The new intersection would require an additional storage lane for south bound traffic turning right into Government Road and extension of the shoulder pavement on Tweed Valley Way to provide sufficient taper width for north bound traffic entering Government Road. A small culvert and clearing of existing vegetation to enable exposure would also be required.

The estimated costs of these intersection works is \$20,000. While this site is still potentially the best long term location for a larger scale facility it is considered that a better site for a smaller operation exists at the corner of the Tweed Valley Way and Riverside Drive (northern village entrance).

Until recently this land was part of the Pacific Highway under the control of the Roads and Traffic Authority. The area has historically been used by the RTA to store aggregate for resealing works. It was already intended to clean up the site and embellish the area with turf and tree planting as part of the general clean up as a component of the Pacific Highway handover.

In accordance with Council’s resolution to report on the minimal infrastructure requirements the proposed works are:-

1. Sealing of 900m² at the western end of the existing hard stand area - \$3,500
2. Construction of an access off Riverside Drive - \$1,000
3. Topsoiling, turf, tree planting and landscaping of the balanced area - \$2,500
4. Signage and linemarking - \$1,000
5. Provision of a temporary toilet for stall operators - \$2,000 capital and \$300/month on-going.

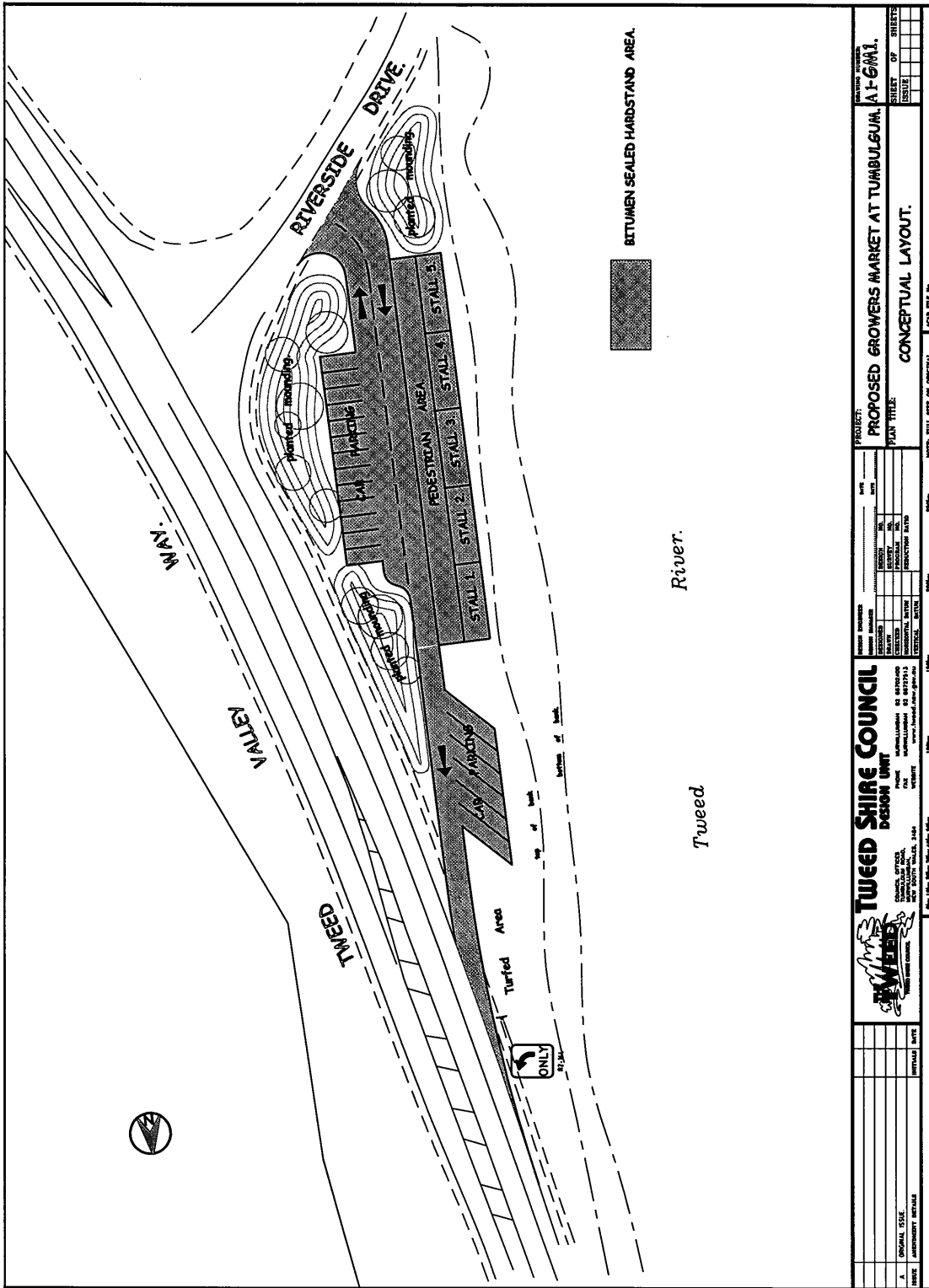
The above estimates are over and above those works already proposed to be undertaken as a general site clean up.

The attached sketch plan depicts the proposed works, and are subject to development approval.

A further report will be brought forward to determine the issue of permit fees and operational matters.

It is proposed that permit fees be waived until Council has considered this matter further.

Reports from Director Engineering Services



Reports from Director Engineering Services

THIS
PAGE
PAGE
IS
BLANK
IS
BLANK

Reports from Director Engineering Services

19. ORIGIN: Design Unit

FILE REF: GG2/1 Pt5

REPORT TITLE:

Revision/Naming of Localities

SUMMARY OF REPORT:

At a meeting held on 4 September, 2002 it was resolved by Council to determine that the proposed locality of "Casuarina" would extend from the northern boundary of the Cudgen Nature Reserve, northwards to the southern boundary of the "Seaside City" subdivision, encompassing the development known as "Casuarina Beach" only.

The Geographical Names Board map GNB3810/A2, which illustrated the extent of "Casuarina" as noted above, was displayed at Murwillumbah and Kingscliff Libraries, and Murwillumbah and Tweed Heads Civic Centres.

Two submissions were received by the Board during the public submission period:

1. A submission from the Ray Group Pty Ltd who are seeking the name of "South Kingscliff" for the precinct north of "Seaside City"; and
2. A submission from Kingscliff Ratepayers & Progress Association Inc seeking that the southern boundary of the Kingscliff locality to be the northern boundary of the SALT development.

The proposed boundary between Kingscliff and "Casuarina", as illustrated in plan GNB3810/A2, is the favoured option, primarily because it satisfies the Geographical Names Board policy of not favouring a locality name which includes cardinal points and the proposed boundary demarcates the types of development allowable in the precinct under Tweed LEP 2000.

RECOMMENDATION:

That:-

1. Council approves:
 - a. The proposed locality of "Casuarina" extending from the northern boundary of the Cudgen Nature Reserve, northwards to the southern boundary of the "Seaside City" subdivision, encompassing the development known as "Casuarina Beach" only;
 - b. The locality of Kingscliff extending southwards to the northern boundary of the "Casuarina Beach" development, including the "Seaside City" subdivision in the locality of Kingscliff; and
2. Makes application to the Geographical Names Board for its approval to the proposed boundary between "Casuarina" and Kingscliff as displayed in plan GNB3810/A2, and following approval, to publish a notice in the NSW Government Gazette to create the locality of "Casuarina", "Kings Forest" and the amended locality boundaries of Pottsville, Hastings Point, Bogangar, Cabarita Beach, Cudgen, Duranbah & Round Mountain.

Reports from Director Engineering Services

REPORT:

At a meeting held on 4 September, 2002 it was resolved by Council to determine that the proposed locality of "Casuarina" would extend from the northern boundary of the Cudgen Nature Reserve, northwards to the southern boundary of the "Seaside City" subdivision, encompassing the development known as "Casuarina Beach" only.

The Geographical Names Board map GNB3810/A2, which illustrated the extent of "Casuarina" as proposed above, was displayed at Murwillumbah and Kingscliff Libraries, and Murwillumbah and Tweed Heads Civic Centres.

Two submissions were received by the Board during the public submission period, copies of these submissions follow:

1. A submission from the Ray Group Pty Ltd who are seeking the name of "South Kingscliff" for the precinct north of "Seaside City"; and
2. A submission from Kingscliff Ratepayers & Progress Association Inc seeking that the southern boundary of the Kingscliff locality to be the northern boundary of the SALT development.

The submission by the Ray Group Pty Ltd to create a further locality, "South Kingscliff" will not be approved by the Geographical Names Board due to its policy of not favouring a locality name that includes a cardinal point.

The submission from the Kingscliff Ratepayers & Progress Association Inc proposes that the locality boundary lie between Lot 490 DP 47021 (Department of Land & Conservation) and Lot 312 DP 755701 (South Kingscliff Developments Pty Ltd). This proposal complements the Ray Group proposal, primarily because if it was to be implemented, there would be an area between the boundary proposed by them and the proposed boundary of "Casuarina" which would necessitate either the extension of "Casuarina" to the southern boundary of the SALT development, or the creation of a further locality between the development and "Casuarina". At the public forum held by the Geographical Names Board in August, a representative of the Association submitted that the Association had reservations with regard to the locality of "Casuarina" extending beyond the "Casuarina Beach" development.

Neither submissions utilise any existing geographical features or any zoning demarcations.

Council's recommendation of the proposed boundary between Kingscliff and "Casuarina" made at the meeting of 4 September, 2002, was derived mainly from the lack of geographical features and a reliance on the types of development allowable under Tweed LEP 2000 to provide the necessary demarcation between the localities of Kingscliff and "Casuarina".

The proposed boundary between Kingscliff and "Casuarina", as illustrated in plan GNB3810/A2, is the favoured option, primarily because it satisfies the Geographical Names Board policy of not favouring a locality name which includes cardinal points and the proposed boundary demarcates the types of development allowable in the precinct under Tweed LEP 2000.

Reports from Director Engineering Services



Reports from Director Engineering Services

20/11/2002

11:16

GEOGRAPHICAL NAMES BOARD → 00266727513

NO.889

P03



RAY GROUP PTY LTD
ACN 057 883 511
as Development Manager for
SOUTH KINGSCLIFF DEVELOPMENTS PTY LTD

34-36 Glenferrie Drive, Robina 4226
PO Box 81, Robina 4226
Telephone 0755 931 311 Fax 0755 931 233

5 September, 2002

ANSWERED 30 SEP 2002

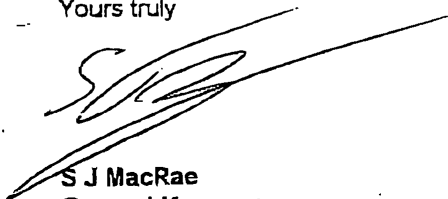
Ms Julie Murray
Honorary Secretary
Kingscliff Ratepayers' Association
PO Box 1164
KINGSCLIFF 2487

Dear Ms Murray

SALT DEVELOPMENT AT KINGSCLIFF

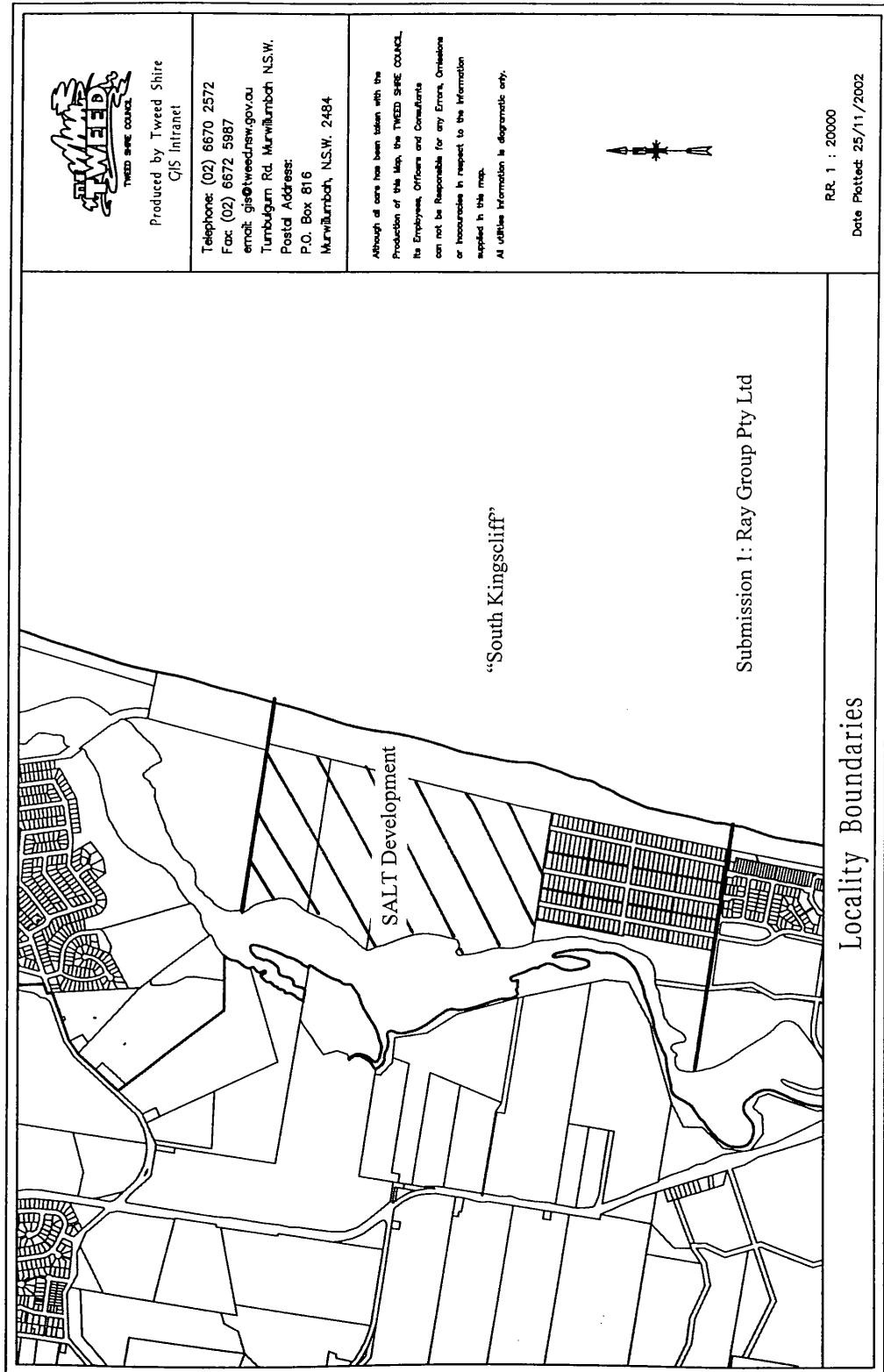
Would you please accept this letter, written on behalf of the owners of the Salt project at Kingscliff, South Kingscliff Developments Pty Ltd, that it is their preference that the location of the site precinct be known as South Kingscliff.

Yours truly



S J MacRae
General Manager

Reports from Director Engineering Services



Reports from Director Engineering Services

09/2002

10:45

GEOGRAPHICAL NAMES BOARD → 00266727513

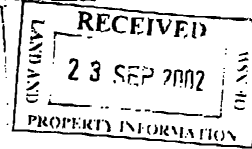
NO. 867

002

KINGSCLIFF RATEPAYERS & PROGRESS Assoc. Inc.
P.O. Box 1164, Kingscliff NSW 2487

Greg Windsor
Geographical Names Board
PO Box 143
Bathurst
NSW 2795

23



Date: 12 September 2002

Re: Kingscliff

Dear Mr Windsor,

At our September meeting our Association moved the following motion:

“that KRPA writes to the Geographical Names Board and re-affirm that the southern border of Kingscliff is to be at the northern border of the SALT development (i.e. at the southern boundary of the tourist commission public land).
Copy to Tweed Shire Council.”

Rationale: KRPA requests that Kingscliff remain a contained village.

Three days after our meeting the executive met with Brian Ray of the Salt Development to view his proposed development.
I have attached a copy of a letter sent by that developer to us following this meeting for your interest. This letter does not change KRPA's motion.

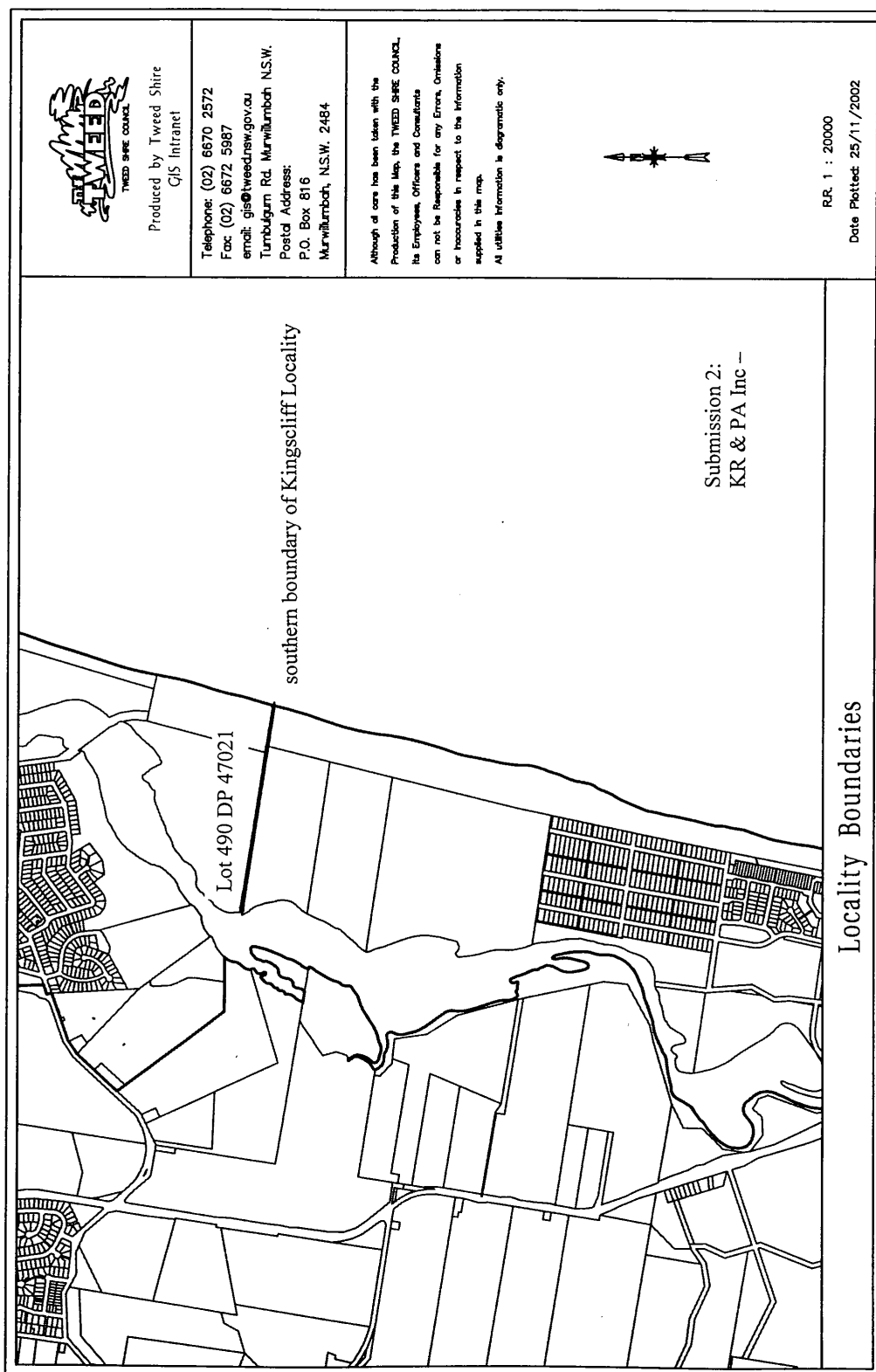
The KRPA appreciates the opportunity to meet with you and to discuss this issue.

Yours sincerely,

Julie Murray
Hon. Secretary

ph. 02 66 74 2087

Reports from Director Engineering Services



Reports from Director Engineering Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Engineering Services

20. ORIGIN: Design Unit

FILE REF: R2628 Pt1; Inlet Drive - Roads General; 2628.770

REPORT TITLE:

Proposed Closure of Public Road - Inlet Drive, Tweed Heads

SUMMARY OF REPORT:

An application has been received from the landowner of Lot 4 in DP 700873 to close part of the road reserve of Inlet Drive, Tweed Heads.

It is the applicant's intention to close that part of the road reserve, shown hatched on the attached plan, to consolidate it with Lot 4 and to transfer part of Lot 4 to Council to form part of Lot 3 in DP 700873, a public reserve under Council's ownership.

The road proposed to be closed comprises an area of 22.8m² and the area to be transferred to Council comprises an area of 16.7m². The applicant has agreed to pay Council for the difference in area on a pro-rata basis.

The road proposed to be closed forms part of a large road reserve which is not required for the amenity of Inlet Drive. The application complies with Council's "Policy on Road Closures & Private Purchase".

RECOMMENDATION:

That:-

1. Council raises no objection to the closure of unnecessary public road reserve adjacent to Lot 4 in DP 700873;
2. Council accepts the transfer of part of Lot 4 in DP 700873, to be consolidated with Public Reserve comprised in Lot 3 in DP 700873, in exchange plus a pro-rata payment for the difference in area;
3. The applicant bears all survey and legal costs;
4. Easements are created where necessary over any existing public authority services; and
5. All necessary documentation be endorsed under the Common Seal of Council.

Reports from Director Engineering Services

REPORT:

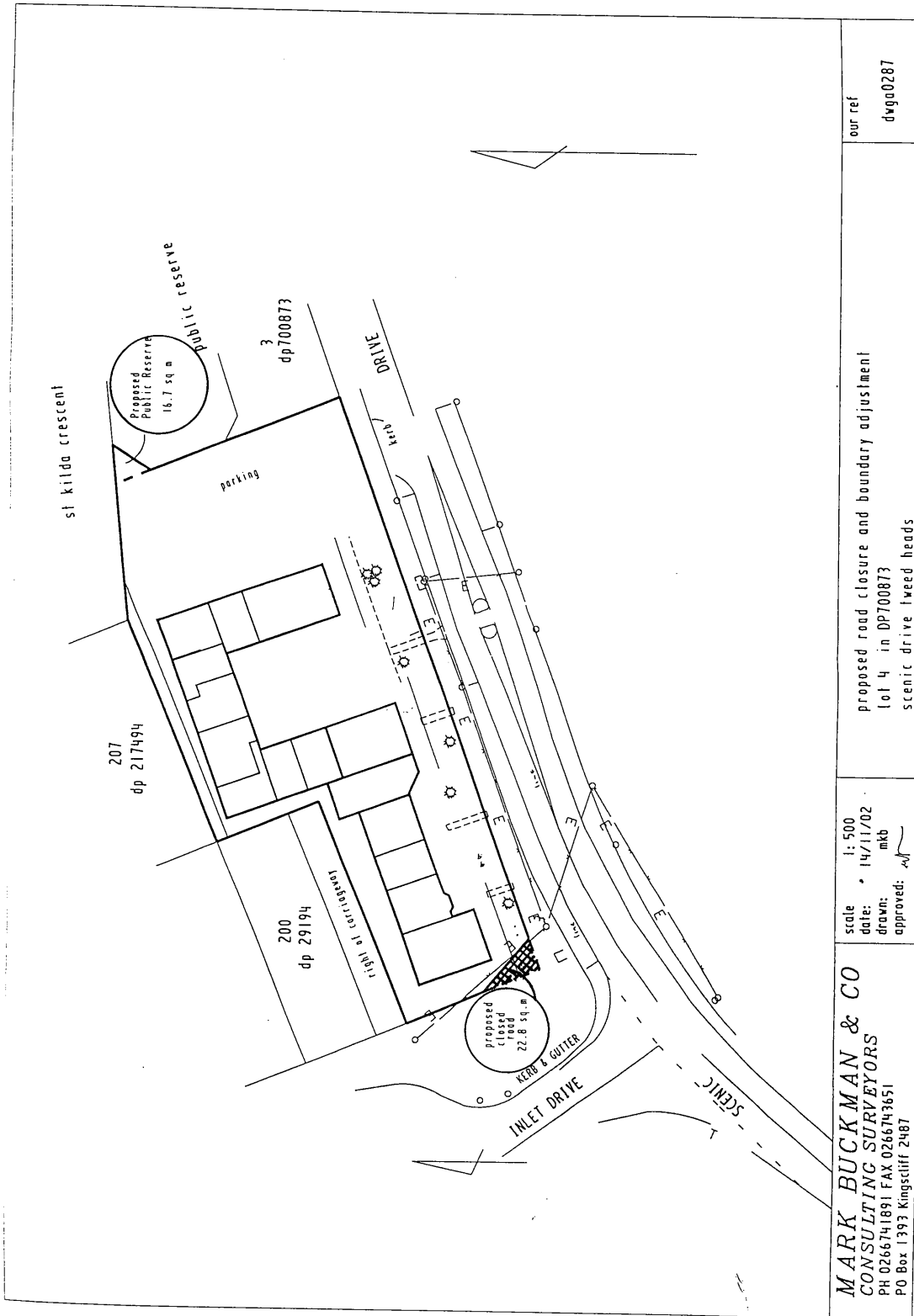
An application has been received from the landowner of Lot 4 in DP 700873 to close part of the road reserve of Inlet Drive, Tweed Heads.

It is the applicant's intention to close that part of the road reserve, shown hatched on the attached plan, to consolidate it with Lot 4 and to transfer part of Lot 4 to Council to form part of Lot 3 in DP 700873, a public reserve under Council's ownership.

The road proposed to be closed comprises an area of 22.8m² and the area to be transferred to Council comprises an area of 16.7m². The applicant has agreed to pay Council for the difference in area on a pro-rata basis.

The road proposed to be closed forms part of a large road reserve which is not required for the amenity of Inlet Drive. The application complies with Council's "Policy on Road Closures & Private Purchase".

Reports from Director Engineering Services



<p>MARK BUCKMAN & CO CONSULTING SURVEYORS PH 0266741891 FAX 0266743651 PO Box 1393 Kingscliff 2487</p>	<p>scale: 1:500 date: 14/11/02 drawn: mkb approved: <i>[Signature]</i></p>	<p>proposed road closure and boundary adjustment lot 4 in DP700873 scenic drive Tweed heads</p>	<p>our ref: dwg0287</p>
---	---	---	--------------------------------------

Reports from Director Engineering Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Engineering Services

21. ORIGIN: Design Unit

FILE REF: R2040 Pt1 - Fernvale Road; Road Closures - Condong Parish

REPORT TITLE:

Proposed Closure of Part Public Road - Fernvale Road, Fernvale

SUMMARY OF REPORT:

An application has been received from Brown & Haan Surveyors on behalf of Mr M Gathercole who has entered into a Contract for Sale subject to Council's approval of the closure and purchase of part of Fernvale Road.

Mr Gathercole has entered into a Contract for Sale for the purchase of Lot 4 in DP1009061, it is his intention to consolidate the closed road with Lot 4 to enable him to provide the required setback for the recommended house site on the subject land which is located on the northerly boundary fronting Fernvale Road road reserve.

Fernvale Road has a very broad road reserve adjacent to the subject land, approximately 95 metres wide at the proposed closure site. Field observation confirms that the property boundary passes through the nominated house site, which is located on the top of a knoll. Land to the north of the house site is timbered and is very steep and is unsuitable for road construction or the storage of road making materials. However, there is a potential use of the road reserve by Council as a future site for a water reservoir, or for potential quarrying activities.

Council's "Policy on Road Closures & Private Purchases" provides that "Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value" are not eligible for closure.

The attached plan shows the location of the house site abutting the northerly boundary of Lot 4, together with the approximate area sought to be closed and purchased.

RECOMMENDATION:

That Council does not approve the proposal to close and purchase part of Fernvale Road adjacent to Lot 4 in DP 1009061 as per application made by Brown & Haan on behalf of M Gathercole.

Reports from Director Engineering Services

REPORT:

An application has been received from Brown & Haan Surveyors on behalf of Mr M Gathercole who has entered into a Contract for Sale subject to Council's approval of the closure and purchase of part of Fernvale Road.

Mr Gathercole has entered into a Contract for Sale for the purchase of Lot 4 in DP1009061, it is his intention to consolidate the closed road with Lot 4 to enable him to provide the required setback for the recommended house site on the subject land which is located on the northerly boundary fronting Fernvale Road road reserve.

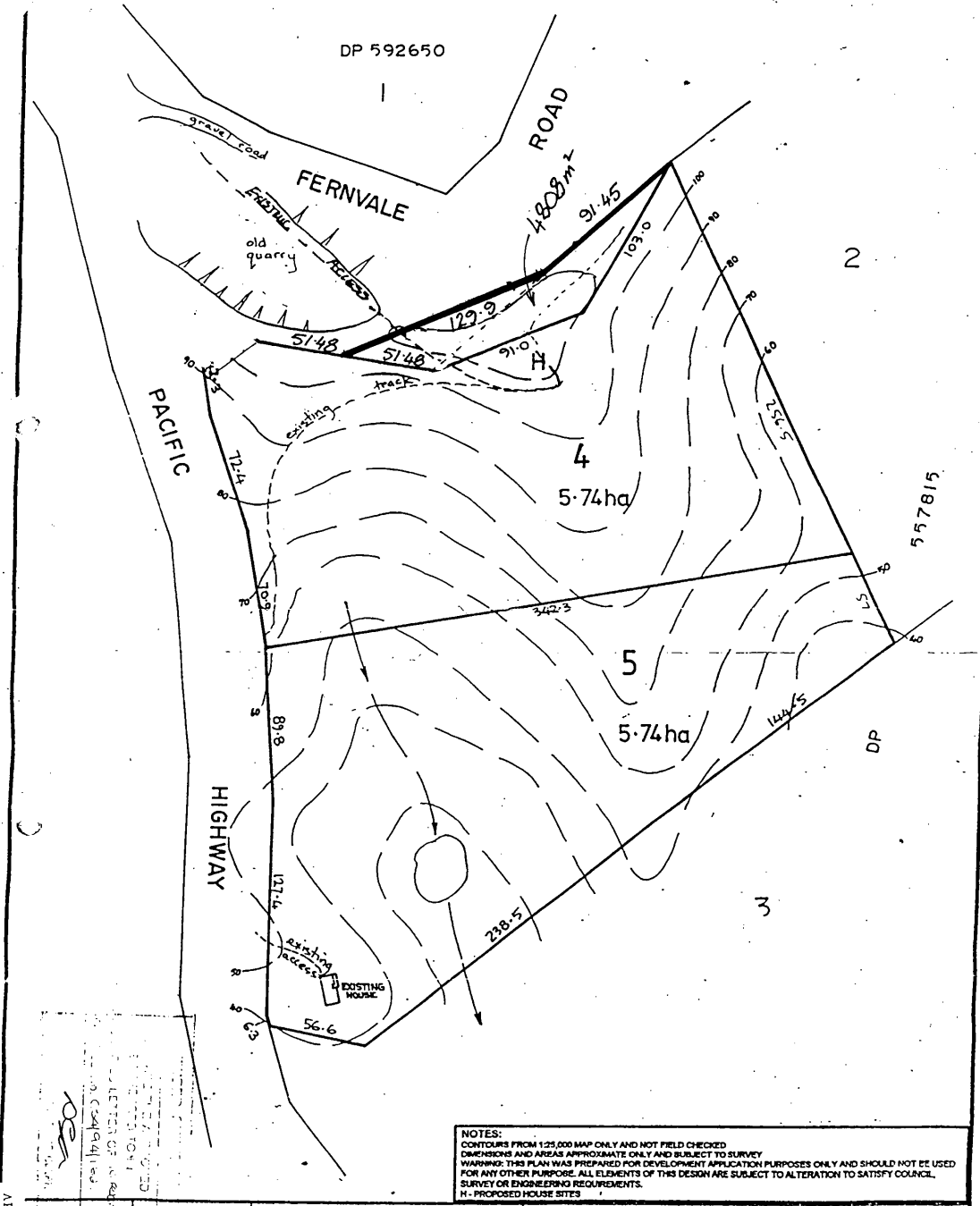
Fernvale Road has a very broad road reserve adjacent to the subject land, approximately 95 metres wide at the proposed closure site. Field observation confirms that the property boundary passes through the nominated house site, which is located on the top of a knoll. Land to the north of the house site is timbered and is very steep and is unsuitable for road construction or the storage of road making materials. However, there is a potential use of the road reserve by Council as a future site for a water reservoir, or for potential quarrying activities.

Council's "Policy on Road Closures & Private Purchases" provides that "Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value" are not eligible for closure.

The attached plan shows the location of the house site abutting the northerly boundary of Lot 4, together with the approximate area sought to be closed and purchased.

Reports from Director Engineering Services

8/11/02



APPENDIX B	SCALE 1:2000	BROWN & HAAN PTY. LTD. CONSULTING SURVEYORS SUITE 7, "CARINYA" 41-43 COMMERCIAL RD. MURWILLUMBAH 2484	PH. 721256 P.O. BOX 161	PROPOSED SUBDIVISION OF LOT 1 IN DP 557815	JOB N° 5649 H
	DRAWN 31-3-94			OWNED BY: L J & A M BURNETT	

Reports from Director Engineering Services

THIS
PAGE
PAGE
IS
BLANK
IS
BLANK

Reports from Director Engineering Services

22. ORIGIN: Planning & Infrastructure Unit

**FILE REF: Roads Construction Program - Machinery Drive - R3250 Pt2;
Minjungbal Drive - R3454 Pt2; Leisure Drive - R3035 Pt2**

REPORT TITLE:

Tweed Road Contribution Plan, Arterial Network Revision 2002 Amendment

SUMMARY OF REPORT:

Draft version 4.6 of the Tweed Road Contribution Plan No 4 contains amendments to add improvements to the intersection at Minjungbal Dr/Machinery Dr and Leisure Dr upgrades to the works programme. No changes are proposed to contributions. It is proposed to publicly exhibit the amended plan in accordance with statutory requirements.

RECOMMENDATION:

That:-

1. Council adopts draft version 4.6 of the Tweed Road Contribution Plan (Contributions Plan No. 4) as a basis for exhibition and community discussion.
2. The draft plan Version 4.6 of the Tweed Roads Contribution Plan be exhibited as required by the Environmental Planning and Assessment Regulations to repeal and replace Version 4.5.

Reports from Director Engineering Services

REPORT:

1. Background

The current version of Tweed Road Contribution Plan No 4 - *Version 4.5* (TRCP) was adopted by Council to include trip generation rates for Tourist Resort Development. It was adopted by Council on 18-10-02 taking effect on 13-11-02.

There are now a number of additional works that are required to optimise the Tweed Shire arterial road network. Draft version 4.6 has been prepared to incorporate these additional roadworks items into the works schedule.

2. Arterial Road Network, Proposed Additional Roadworks

2.1 Machinery Drive/Minjungbal Drive Intersection

This intersection has become one of the major bottle-necks in the South Tweed area and Council has resolved to upgrade the intersection.

This intersection is a key element of the arterial road network and would be an appropriate inclusion into the TRCP works schedule.

Estimated Cost: \$323,000

2.2 Leisure Drive

Council has resolved to proceed with limited upgrading of Leisure/Darlington Drive. The proposed inclusions into the TRCP are:

- (a) Upgrade Darlington Drive from Tweed Heads Bypass to Leisure Drive

Estimated Cost: \$495,000

- (b) Upgrade Leisure Drive from Darlington Drive to about 200m past Winders Place

Estimated Cost \$510,000

- (c) Upgrade Leisure Drive from Fraser Drive to Eucalyptus Drive

Estimated Cost \$600,000

3. Impact of Additional Works on TRCP Finances

The Minjungbal Dr/Machinery Dr intersection, and Leisure Dr upgrades will add \$1,928,000 to the works programme. These works will be funded from the general (sectors 1 –13) pool of funds. It is not proposed at this stage to raise contribution rates to meet this additional expenditure, as the deletion of the Lakes Drive Bridge and uncertainty regarding the Kirkwood Road interchange make it difficult to estimate the net impact on TRCP finances.

It is considered that this issue should be kept under constant review and when there is more certainty regarding the final configuration of the arterial road network, the TRCP model should be rerun to establish revised sector contributions, and the TRCP be amended accordingly.

4. Draft Version 4.6 Amendments to Section 94 Contribution Plan No. 4 - Tweed Road Contribution Plan

The following amendments are proposed for draft version 4.6 of the above plan.

- (a) Amend Section 5.1 "Works" by inserting the following paragraph at the end of existing text.

Reports from Director Engineering Services

“Version 4.6 of this plan amends Table 5.1(b) “Works Schedule” and Schedule 6 “TRDS Project Costings” by adding additional items 139 and 140:-

139 *Minjungbal Dr / Machinery Dr Intersection,* *Total Cost \$323,000*

140 *Leisure Drive Upgrades*

(a) *Upgrade Darlington Drive from Tweed Heads Bypass to Leisure Drive*

Total Cost: \$495,000

(b) *Upgrade Leisure Drive from Darlington Drive to about 200m past Winders Place*

Total Cost \$510,000

(c) *Upgrade Leisure Drive from Fraser Drive to Eucalyptus Drive*

Total Cost \$600,000

(b) Amend “CONTRIBUTION PLAN No 4 VERSIONS/EDITIONS” by adding

“Draft Version 4.6 amends the works programme by the addition of roadworks intersection works at Minjungbal Dr/Machinery Dr and Leisure Dr upgrades.”

Reports from Director Engineering Services

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Reports from Director Environment & Community Services

23. ORIGIN: Environment & Health Services Unit

FILE REF: Garbage Depot - Tyalgum

REPORT TITLE:

Tyalgum Garbage Depot Operations

SUMMARY OF REPORT:

Council at its meeting on 7 November 2001 resolved:

“That operations at Tyalgum Waste Depot remain the same and be monitored for the next twelve months.”

The depot continues to operate under less than ideal conditions and Council has received a number of phone complaints from local residents and the NSW Environmental Protection Authority concerning fires. Other health concerns such as odours and insect control remain.

It is recommended that the existing operations be changed to a supervised transfer station to provide better environmental controls. Operational expenses will be similar to the existing operations and the cost of construction of the transfer station can be met from waste reserves.

Approval of this proposal would provide Tyalgum residents with a vastly improved waste disposal facility at no extra cost to them.

RECOMMENDATION:

That Council:

1. Changes the existing operations at Tyalgum Garbage Depot to a supervised transfer station operating the same hours as the existing depot.
2. Calls for submissions for the design and construction of the transfer station.

Reports from Director Environment & Community Services

REPORT:

Council at its meeting on 7 November 2001 resolved:

“That operations at Tyalgum Waste Depot remain the same and be monitored for the next twelve months.”

The depot continues to operate under less than ideal conditions and Council has received a number of phone complaints from both local residents and the NSW Environmental Protection Authority concerning fires at the site. There are also other health concerns such as odours and insect control which are caused by the less than ideal operating conditions.

This report does not suggest that the Tyalgum Waste Facility be closed. Instead this report recommends that the existing operations be changed to a supervised transfer station to provide better environmental management of the facility and assist in the prevention of fires.

Operational expenses for the transfer station will be similar to the existing operations and the cost of the construction of the transfer station of approximately \$85,000 can be met from existing waste reserves.

Approval of this proposal would provide Tyalgum residents with a vastly improved waste disposal facility at no extra cost to them.

Reports from Director Environment & Community Services

24. ORIGIN: Environment & Health Services Unit

FILE REF: PF1190/1265 Pt2

REPORT TITLE:

Installation of Unregistrable Moveable Dwelling - Site 129, North Star Holiday Resort

SUMMARY OF REPORT:

Council received a report on 16 October 2002 regarding a cabin structure on site 129 North Star Holiday Resort which did not achieve the minimum setback requirement of 2.5m to structures on the adjoining site 134. Council resolved to issue a notice of intention to issue an order requiring that the structure be brought into compliance with the minimum setback distance under the Regulation.

The Resort owner, Mr Ian Beadel has responded stating that the structure on site 134 will be removed no later than 30 June 2003, resolving the setback issue. The cabin structure also contains a smoke detector and fire extinguisher, and there is a fire hose reel within 15m of the structures. Mr Beadel is also willing to provide a smoke detector and fire extinguisher to the structure on site 134.

Whilst the setback variation is very minor and the issue will be resolved in the near future unfortunately Council does not have discretion to vary the setback. However, as there is an extinguisher and fire hose reel present, and the setback will be corrected in the near future, it is recommended that Council take no further action at this time.

Alternatively Council may wish to issue an Order under the Local Government Act requiring that the structure be brought into compliance with the required setback of 2.5m.

RECOMMENDATION:

That Council takes no further action at this time on the basis that there is an extinguisher and fire hose reel present, and the setback will be corrected in the near future.

Reports from Director Environment & Community Services

REPORT:

Council received a report on 16 October 2002 regarding a cabin structure on site 129 North Star Holiday Resort which did not achieve the minimum setback requirement of 2.5m to structures on the adjoining site 134 (That report is included in full at the end of this report). Council resolved to issue a notice of intention to issue an order requiring that the structure be brought into compliance with the minimum setback distance under the Regulation.

The Resort owner, Mr Ian Beadel has responded stating that the structure on site 134 will be removed no later than 30 June 2002, resolving the setback issue. The letter states the following:

"I refer to your letter of October 30th together with Geoff Edwards letter of 11th September and my letter of response also of that date particularly part (b).

The thrust of the correspondence concerns the separation between a cabin installed early this year on site 129 and a privately owned Holiday van on site 134. The rear of the units are at present slightly short of the required 2.5 metre minimum separation distance with the annexe being 2.4 and the Caravan being 2.1 metres.

There is very dense non-inflammable foliage in the form of palms growing between them also neither unit has access at the rear.

Although the separation now is slightly short of the required distance we believe very soon the Caravan, which is for sale, will be removed from the resort and at the latest before June 30th which will rectify the concern. All correspondence is enclosed.

Unfortunately it is impossible to accept your offer to address Council on November 13th as I have a long standing prior commitment in Tasmania on that date however if at some time after them, providing the Caravan still has not been removed I would be happy to explain the position at an access meeting.

I trust that with the above explanation it will not be necessary to issue the orders immediately and that very soon the situation will resolve itself by the removal of the Caravan."

SETBACK VARIATION

Site 129 is a short term site, and the structure installed could best be described as a holiday cabin. The structure does not comply with the minimum setback requirement of 2.5m to structures on the adjoining site 134.

Site 134 houses a caravan and associated rigid annexe. Site 134 is a short term site also. The cabin on site 129 is setback 2.1m from the caravan and 2.4m from the rigid annexe on site 134. The setback variation is minor, being 400mm. The minimum setbacks are established for amenity and fire safety reasons.

CONCLUSION

The resort owner has signalled the intent that the structures on site 134 will be removed by 30 June 2003, resolving the matter. Further, the cabin structure contains a smoke detector and fire extinguisher. There is also a fire hose reel within 15m of the structures. Mr Beadel is also willing to provide a smoke detector and fire extinguisher to the structure on site 134.

Reports from Director Environment & Community Services

Council does not have discretion in reducing setbacks between structures. Council may wish to issue an order number 5 under the Local Government Act, 1993 requiring that the structure be brought into compliance with the minimum setback distance stipulated under Clause 25(1)(b) of the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995.

It is recommended that Council resolve to take no action in this instance on the understanding that the variation to required setbacks are minimal, the structures on site 134 will be removed in the near future, and there is a fire hose reel and fire extinguisher available in close proximity to the structures.

PREVIOUS REPORT

SUMMARY OF REPORT:

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

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

On 22 May 2002 Council received a notice of completion for an unregistrable moveable dwelling (UMD - cabin) on site 129, North Star Holiday Resort. The structure was inspected and found not to comply with the minimum setback requirement of 2.5 metres to structures on the adjoining site 134.

During subsequent correspondence the Resort owner has indicated that it is intended that the structures on site 134 will be removed in future, resolving the matter.

Council does not have discretion in reducing setbacks between structures.

It is recommended that Order number 5 under the Local Government Act, 1993 be issued requiring that the structure be brought into compliance with the minimum setback distance under the Regulation.

RECOMMENDATION:

That Council issues a notice of intention to serve and Order number 5 under the Local Government Act, 1993 to the North Star Holiday Resort, requiring that the structure be brought into compliance with the minimum of 2.5 metres setback distance stipulated under Clause 25 (1) (b) of the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations, 1995. Any appeals against the notice may be made in writing within 28 days of the date of the notice or at Council's Community Access Meeting of 13 November.

Reports from Director Environment & Community Services

REPORT:

On 22 May 2002 Council received a notice of completion for an unregistrable moveable dwelling (UMD – cabin) on site 129, North Star Holiday Resort. Site 129 is a short term site, and the structure installed could best be described as a holiday cabin. The structure was inspected and found not to comply with the minimum setback requirement of 2.5 metres to structures on the adjoining site 134.

Site 134 houses a caravan and associated rigid annexe. Site 134 is a short term site also. The cabin on site 129 is setback 2.1 metres from the caravan and 2.4 metres from the rigid annexe on site 134. The setback variations could be considered relatively minor, however, they are set by the legislation with the intent of ensuring suitable fire separation between structures.

The following pictures depict the size of the cabin on site 129 and the separation to site 134.



Reports from Director Environment & Community Services

A letter was forward to the Resort on 28 May 2002, which stated the following:

For the purpose of clarity it is noted that the structure installed on site 129 extends over both sites 128 and 129.

Further, the cabin on site 129 is setback 2.1 metres from the caravan and 2.4 metres from the rigid annexe on site 134. This fails to comply with the required setback of 2.5 metres under Clause 25 (1) (b) of the Regulations. You are requested to have this setback distance rectified, and approval is not provided for occupation of the new cabin structure.

As a suitable response had not been received and the setback had not been complied with by September 2002 a letter was forwarded dated 11 September 2002 which requested that the Resort show cause why Council should not consider commencing legal action and/or commence action requiring demolition or modification of the structures.

A letter was received from the Resort on 17 September 2002, which stated the following:

Our strategic plan for the resort involves the removal of some 50 'Static Holiday Vans' from the property between 1998 and 2004 and converting those sites to either Caravan or Cabin use.

Unfortunately, despite our best efforts, on rare occasions there could be an overlap in the transition period whereby the separation distance similar to that with the caravan on site 134 falls short of the 2.5 metres required. It will take a little time to resolve and your understanding of our predicament would be appreciated.

This letter signals the intent that the structures on site 134 will be removed in future, resolving the matter. However, Council does not have discretion in reducing setbacks between structures.

It is recommended that Order number 5 under the Local Government Act, 1993 be issued requiring that the structure be brought into compliance with the minimum setback distance stipulated under Clause 25 (1) (b) of the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation, 1995.

Alternatively, Council may resolve to take no action in this instance on the understanding that the variation to minimum setbacks are very minimal and the structures on site 134 will be removed in the foreseeable future. The Resort has indicated that any structures that are subsequently installed on site 134 will observe the minimum 2.5 metres separation. In the interim however, both the structures and occupants could be exposed to risk of spread of fire between structures.

Reports from Director Environment & Community Services

THIS
PAGE
THIS
PAGE
IS
BLANK
IS
BLANK

Reports from Director Environment & Community Services

25. ORIGIN: Environment & Health Services Unit

FILE REF: Rural Halls - Crystal Creek: 3780.3240

REPORT TITLE:

Membership of Crystal Creek Hall Management Committee

SUMMARY OF REPORT:

Council at its meeting on 4 September resolved to appoint a number of persons to the Crystal Creek Hall Management Committee. Unfortunately a name was left off the submitted list and accordingly it is recommended that the person whose name had been mistakably omitted, namely Jenny Glasby, be included as a member of that committee.

RECOMMENDATION:

That Jenny Glasby be appointed to the Crystal Creek Hall Management Committee.

Reports from Director Environment & Community Services

REPORT:

As per Summary.

Reports from Director Environment & Community Services

26. ORIGIN: Environment & Health Services Unit

FILE REF: Agreements; Surf Life Saving

REPORT TITLE:

Annual Agreement for Surf Life Saving Services

SUMMARY OF REPORT:

A proposed Agreement for the provision of life saving services on Tweed beaches over the 2002/2003 Christmas period has been received from Surf Life Saving Services Pty Limited.

RECOMMENDATION:

That:-

1. The Agreement with Surf Life Saving Services Pty Limited for the provision of beach life saving services over Christmas 2002/2003 period be approved at the contract price of \$52,619 (GST exclusive) for the following beaches:
 - Cudgen Beach
 - Cabarita Beach
 - Fingal Beach
 - Duranbah Beach
 - Hastings Beach
 - Pottsville Beach
2. That all necessary documentation be executed under the common seal of Council.

Reports from Director Environment & Community Services

REPORT:

It is proposed that surf life saving services be provided on Tweed beaches over the Christmas period between Saturday 21 December 2002 and Tuesday 28 January 2003. The service has in previous years been provided at the following beaches:

- Cudgen Beach
- Cabarita Beach
- Fingal Beach
- Durabah Beach
- Hastings Beach
- Pottsville Beach

A proposed Agreement for the provision of beach life saving services over the 2002/2003 Christmas period has been received from Surf Life Saving Services Pty Ltd. The conditions of Agreement are similar to that entered into during previous years and requires execution under the common seal of Council. The total cost of the proposed contract is \$52,619 (GST exclusive figure), which exceeds the allocated amount in Council's budget estimate being, \$51,220.

The proposed contract fee of \$52,619 represented a 5% increase from the 2001/2002 Agreement.

Officers recommend that all six beaches be patrolled as has occurred in previous years.

Should Council resolve to accept the proposal this Christmas season at the proposed cost of A\$52,619, then the over expenditure of \$1,399 will require consideration at the time of budget review.

Reports from Committees/Working Groups

1. Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 14 November 2002

Dunecare

VENUE:

Pottsville Environment Centre

TIME:

4.00pm

PRESENT:

Committee Members: Kate McKenzie (Land Care Co-ordinator), Jeanette Davison (Cabarita), Kay Bolton (Fingal), Gary Thorpe (Hastings Point), Ian Anderson (Kingscliff North), Frank McLeod (Department of Land & Water Conservation) and Peter Langley (Kingscliff High), Stewart Brawley, Rodney Keevers

Informal: Arthur Rawlinson, Rhonda James, Vik Cusack

APOLOGIES:

Cr Boyd, Cr James, Andy Erskine, Mick Stewart

MINUTES OF PREVIOUS MEETING:

Moved: Peter Langley

Seconded: Rodney Keevers

RESOLVED that the Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 12 September 2002 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. Workcover Certificates

Council still attaining lists of members of Dune Care Representatives and training required (pesticides etc). Russ Glover (Coastcare facilitator) attempting to standardise training etc across the coast.

Reports from Committees/Working Groups

CORRESPONDENCE:

2. Pottsville Dune Care (PDC)

Pottsville Dune Care

Resignation of Len Greer received from PDC. PDC nominate Arthur Rawlinson as their representative.

Moved: Peter Langley

Second: Kate McKenzie

RECOMMENDATION:

That Council appoints Arthur Rawlinson as the new representative of the Pottsville Dune Care Group on the Tweed Dune Care Advisory Committee.

GENERAL BUSINESS:

3. Elfran Avenue Beach Access

Vik Cusack requested Council install water taps along the entrance to Elfran Avenue for watering of trees and for fire suppression. Rodney Keevers advised costs of \$6,000 to get water to the site. Rodney to investigate the issue further. Discussion of management of area between Elfran Avenue Pottsville and Hastings Point.

4. Fox Baiting

Suggestion of fox control program for the coast as all areas are reporting problems. Issue to be further explored with Rural Lands Board.

5. Proposed Caravan Park Cabarita Beach

Jeannette Davison expressed concerns that the funding received from the proposed new caravan park would not go into the foreshore reserve. S Brawley indicated that funding from the caravan park would be utilised in the Single Coastal Reserve. S Brawley to confirm.

6. Salt Developments

Vik Cusack expressed concerns that the proposed Salt development did not leave a wide enough dunal area. Vic feels that 150m from Dune escarpment to property boundary should be minimum.

Reports from Committees/Working Groups

Rhonda James explained that the width of Lot 500 to 7f zone averages 80m at Salt. Appears likely at this point the Development may be withdrawn. However, opportunity may arise to comment if the development application proceeds.

Moved: Kay Bolton
Second: Peter Langley
RECOMMENDATION:

That Council endeavours to maximise the area of public land from the eastern tree line to the property boundary at Salt, preferably minimum of 150m.

NEXT MEETING:

The next meeting of the Tweed Dune Care Advisory Committee will be held 9 January 2002, at the Cabarita Beach Sports Centre.

The meeting closed at 6.00pm

Director's Comments: That

1. Council appoints Arthur Rawlinson to the Tweed Dune Care Advisory Committee.
2. Council notes the recommendation under Item 6 and refers the matter to the director Development Services for consideration while dealing with the SALT Development Application.

[document2]

DIRECTOR'S RECOMMENDATIONS:

2. Pottsville Dune Care (PDC)

Dunecare

Committee Recommendation:

That Council appoints Arthur Rawlinson as the new representative of the Pottsville Dune Care Group on the Tweed Dune Care Advisory Committee.

Director's Recommendation: That Council appoints Arthur Rawlinson to the Tweed Dune Care Advisory Committee.

Reports from Committees/Working Groups

6. Salt Developments

Dunecare

Committee Recommendation:

That Council endeavours to maximise the area of public land from the eastern tree line to the property boundary at Salt, preferably minimum of 150m.

Director's Recommendation: *Council notes the recommendation under Item 6 and refers the matter to the Director Development Services for consideration while dealing with the SALT Development Application.*

Reports from Committees/Working Groups

2. Minutes of the Sports Advisory Committee Meeting held Tuesday 19 November 2002

Sports Advisory Committee

VENUE:

Murwillumbah Buchanan Depot

TIME:

5.00pm

PRESENT:

Committee Members: Crs Max Boyd, Phil Youngblutt; Mr Merve Edwards, Ms Leanne Sharp, Mr Peter Moschogianis, Ms Glennys Kenny, Ms Linda Threlfo, Mr Hubert Ehemann, Mr Stewart Brawley

Informal: Mrs Blyth Short (Recorder)

APOLOGIES:

Crs Warren Polglase, George Davidson

CONFIRMATION OF MINUTES:

Moved: Merve Edwards

Seconded: Cr Youngblutt

RESOLVED that the Minutes of Sports Advisory Meeting held Tuesday 15 October 2002 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. Les Burger Sports Fields Cabarita Beach

Bollards and gate installed at the entrance to Les Burger Sports Field.

2. Barry Smith Hockey Fields

Disabled car parking space request for the Barry Smith Hockey Fields will be considered at the next Council Access Committee.

Reports from Committees/Working Groups

CORRESPONDENCE:

3. Tumbulgum Rangers Sports Club (TRSC)

Brian Breckenridge Field, Assets Reserve Trust Fund

TRSC have submitted an Assets Reserve Trust application for financial assistance of \$1,500 for the erection of a safety/spectator fence between the clubhouse and the field. The total cost of the project is \$3,000.

Moved: Peter Moschogianis

Second: Leanne Sharp

RECOMMENDATION:

That Council contributes \$1,500 to Tumbulgum Rangers Sports Club from the Assets Reserve Trust Fund to erect a safety fence at the Brian Breckenridge Fields.

4. Fighting Ferrets Wrestling Club (FFWC)

FFWC wish to advise Council of their existence. Currently they operate out of Tweed River High School. The club is looking to store their 20 x 20 foot safety matting at another venue which can be accessed after school hours. General discussion. Council does not have any appropriate venue, however, private venues suggested by the committee will be forwarded to the club for consideration.

5. Pottsville Beach Neighbourhood Centre (PBNC)

PBNC have expressed concern for the lack of recreational facilities for young people in Pottsville. They have formed a working party to research the needs of the community. S Brawley is liaising with the community.

GENERAL BUSINESS:

6. Water Restrictions on Sporting Fields

Stage 2 water restrictions prohibit watering of sports fields. The turf wickets are currently on minimum watering. If restrictions proceed further then turf wickets may have to be closed due to safety requirements.

7. NSW Department Sport & Recreation

The NSW Department of Sport & Recreation have produced a resource document "It's Your Business" to assist sporting organisations operate efficiently. The package is \$160, which

Reports from Committees/Working Groups

includes a hard copy document and computer software program. Topics covered include: risk management, financial management, legal issues, corporate governance and social responsibilities. The resources can be ordered from their web site www.dsr.nsw.gov.au or by phoning 13 13 02. An information seminar was offered at Lismore recently, however, only 1 sporting organisation from the Tweed Shire attended. General discussion.

Moved: G Kenny

Seconded: L Threlfo

RESOLVED that sporting clubs are contacted and requested to advise Council if they would be interested in attending an information seminar on the "It's Your Business" resource package, or any other information seminars by the Department of Sport & Recreation.

NSW Sport & Recreation also offer online training "Play by the Rules" for sport and recreation clubs and associations. The resource provides information on how to prevent and deal with inappropriate behaviour including discrimination, harassment, favouritism, bias and various forms of abuse.

8. NSW Department Sport & Recreation Regional Grants

S Brawley advised that two regional grant applications were submitted from the Tweed Shire. One for the South Tweed Heads Sporting Complex and the other for the Knox Park Netball Facilities. Should both applications be successful \$60,000 from the Assets Reserve Trust Fund was committed in the applications. The committee agreed that if the applications are successful the expenditure of \$60,000 from the Asset Reserve Fund would be supported.

9. North Coast Academy of Sport

S Brawley advised that the North Coast Academy of Sport would be announcing the 2002 Athlete Subsidy Scheme on 4 December 2002, 2.00pm in the Murwillumbah Auditorium.

10. Trans Tasman Masters Games

Trans Tasman Masters Games will be held in Newcastle and the Hunter 22-29 March 2003 (45 sports will be catered for).

Reports from Committees/Working Groups

11. Ausport Awards

Nominations from the National Ausport Awards are open. The inaugural 2003 National Ausport Awards (formerly the Active Australia Awards) will acknowledge and reward individuals, clubs, community organisations, school, local government authorities, national and state sporting organisations for demonstrating their commitment to good practice in sport, greater grass roots participation, innovative and inclusive programs, quality sports business management and excellence in sport performance.

For more information and nomination for the Ausport Awards visit the website www.activeaustralia.org/events/awards.htm

12. Tweed Shire Sports Grounds Asset information

Cr Boyd requested that a sporting grounds assets report be compiled. S Brawley advised that the new Open Space officer would be undertaking this work when updating the Sport Grounds Plan of Management.

NEXT MEETING:

The next meeting of the Sports Advisory Committee will be held 21 January 2002, Tweed Heads Civic Centre.

The meeting closed at 6.10pm

Director's Comments: Nil

[document2]

DIRECTOR'S RECOMMENDATIONS:

3. Tumbulgum Rangers Sports Club (TRSC)

Brian Breckenridge Field, Assets Reserve Trust Fund

Committee Recommendation:

That Council contributes \$1,500 to Tumbulgum Rangers Sports Club from the Assets Reserve Trust Fund to erect a safety fence at the Brian Breckenridge Fields.

Director's Recommendation: That the committee's recommendation be endorsed.

Reports from Committees/Working Groups

3. Minutes of the Local Traffic Committee Meeting held Thursday 21 November 2002

Traffic Committee

VENUE:

Peter Border Room

TIME:

Commencing at 9.00am.

PRESENT:

Committee Members: Mike Baldwin, Roads and Traffic Authority; Senior Const Steve Henderson, NSW Police;

Informal: Chairman: Mr Paul Morgan, Mr Ray Clark and Sandra Zietlow Tweed Shire Council.

APOLOGIES:

Cr George Davidson; Tweed Shire Council, Mr Don Page MP, Member for Ballina, Mr Neville Newell MP, Member for Tweed.

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 17 October 2002 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

BUSINESS ARISING:

GT2/1 Pt3 451

1. Kittiwake Street off Terranora Road

R2930 Pt1, R5441 Pt1 – DW696296

This report was previously discussed at meeting of 17 October, 2002 (Item 3 - Part-A) and is reproduced as follows:-

“That the Committee address the issues raised in Mr Gunton’s letter to Council regarding right hand turns into Kittiwake Street off Terranora Road. It is reported of the closure of the median strip on Sextons Hill to prevent southbound traffic turning into Short Street has presented problems.”

The Police Representative suggested that a right hand turning lane needs to be installed on Terranora Road for the safety of vehicles turning right into Kittiwake Street off Terranora Road. Council tabled a plan of a right turn lane and the RTA representative advised that the RTA support the change and have previously offered to cover the costs.

RECOMMENDATION:

That a right turn lane be created on Terranora Road for vehicles entering Kittiwake Street by adjustments to linemarking and the splitter island.”

Reports from Committees/Working Groups

Further comments have been received from residents in Terranora Road.

“Residents at the extent of the merge lane are concerned that the merge lane marking works have made their driveways dangerous.”

The Committee further discussed concerns raised from the residents in Kittiwake Street and suggested that the merging taper be removed on Terranora Road but it was considered that this may lead to conflict where drivers are uncertain about which lane has right of way. It was then decided that the merge ‘lines’ be cut back to finish before the residential driveways.

RECOMMENDATION:

That the Committee voted to modify the merging lane to its previous alignment so vehicles are merging before the driveways in Terranora Road.

GENERAL BUSINESS:

1. Tweed Valley Way – ‘Keep Left Sign’

R4031 Pt16

The Police have requested a “Keep left unless overtaking” sign to be erected on Tweed Valley Way south of Melaleuca Station adjacent to the south bound lane as vehicles entering from Pacific Highway are remaining in the right lane.

The Committee discussed the placing of a “Keep left unless overtaking” sign and suggest it be placed in the centre median past the Melaleuca Station entrance.

RECOMMENDATION:

That the “Keep left unless overtaking” sign be installed in the centre median south of Melaleuca Station.

2. Nullum Street - Barry Smith Hockey Fields

R3770 Pt2

A request has been received for an additional disabled parking space next to the Club House in the car park at the Barry Smith Hockey Fields.

The Chairman advised that a Disabled Parking space should be installed as requested, however the best location is currently used for storing “hockey goals.” which need to be moved from the car spaces closest to the clubhouse.

RECOMMENDATION:

That a Disabled Parking space be installed next to the Club House at the Barry Smith Hockey Fields.

Reports from Committees/Working Groups

3. Minjungbal Drive Tweed Heads South - No Parking Signs

R3454 Pt 1 – DW700966

A request has been received for the erection of a “No Parking Sign” to be erected outside a private property on Minjungbal Drive. Mr Goostrey is the owner of this property and is having problems accessing his property.

The Committee viewed photographs of the driveway concerned on Minjungbal Drive and members had inspected on site. It was noted that Development Assessment Unit has been in contact with the complainant and the caryard and have elicited a commitment from the caryard not to impact on adjoining properties driveways. The Committee did not support the installation of the “parking prohibited” signage for private driveways and considerable Australian Road rules adequately cover the problem.

For Council’s information.

4. Florence & Wharf Streets, Tweed Heads

R5901 Pt13 - R2100 Pt99- DW 701977

A request has been received for the installation of right turn “red and green” arrows to be placed on the traffic signals at the intersection of Florence and Wharf Streets Tweed Heads. This is for the traffic turning right out of Florence Street (west) into Wharf Street (south) to make it safer for pedestrians crossing at this intersection.

The RTA Representative advised if the following criteria are met a pedestrian protection installation is unnecessary:-

- Crossing is clearly visible
- Turning traffic is light
- Turns from one lane
- Speed of turning traffic is low

The RTA representative advised that the above criteria are met and therefore the ‘arrows’ weren’t required, however he will investigate further in terms of turning traffic volumes.

For Council’s Information.

5. Terranora Primary School – Parking Signage Terranora Road

R5441 Pt1

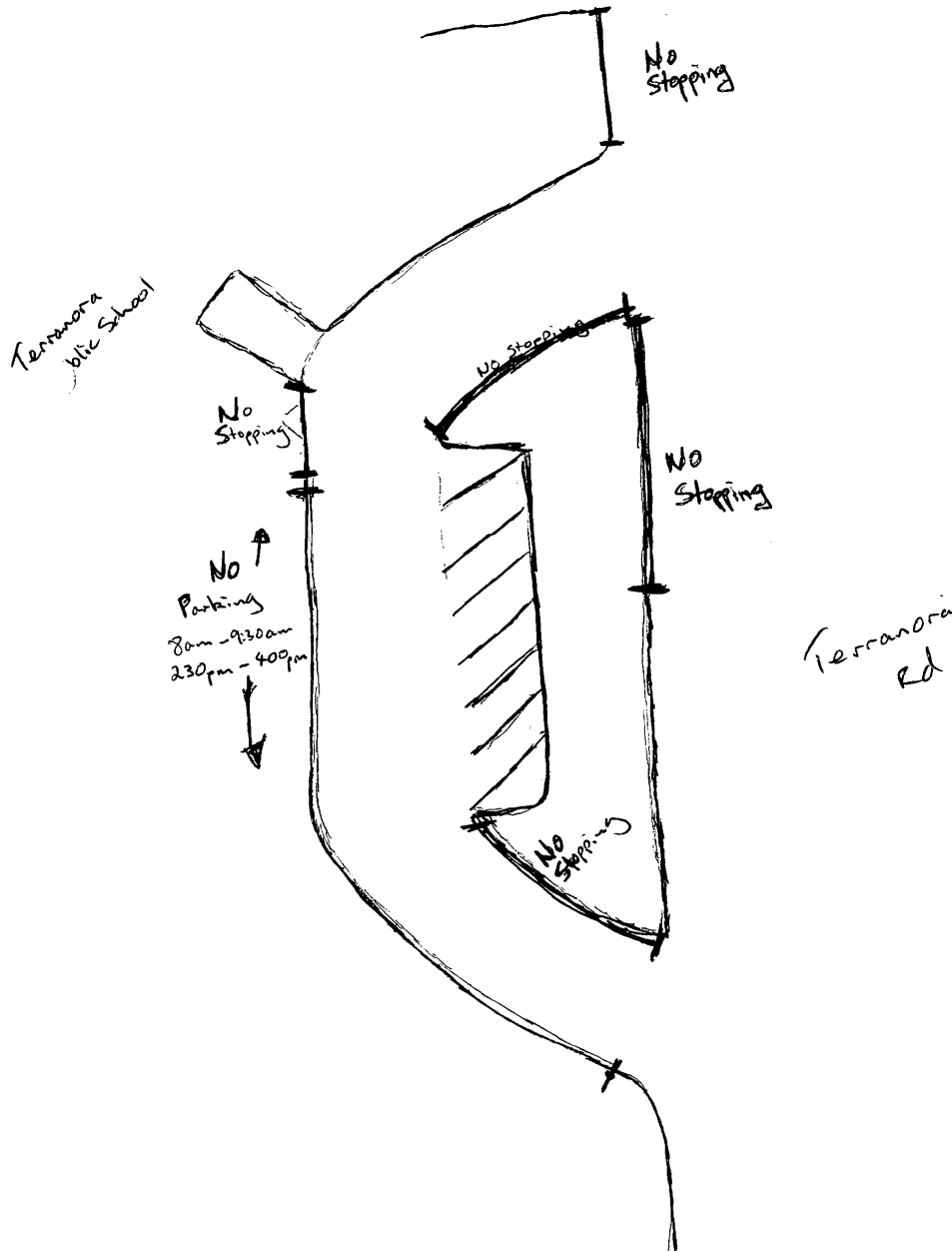
A request has been received for extra parking signage to be erected in the pickup and set down areas of the of Terranora Public School car park on Terranora Road.

The Committee discussed the signage and supported the installation of signs as per the submitted diagram attached. The signage within the school property is to be funded by the Department of Education and signage on Terranora Road will be provided by Council.

Reports from Committees/Working Groups

TERRANORA SCHOOL

(5)



RECOMMENDATION:

That "No Stopping" and "No Parking" between 8am-9.30am and 2.30pm-4pm signage as per the submitted diagram within the school car park and on Terranora Road be installed.

Reports from Committees/Working Groups

6. Parking Issues

DW701430 R4340 Pt2

A request has been received for "No Parking" signs to be erected between the Pedestrian crossing and the vehicular entry to Banora Point Primary school on Pioneer Parade but allow cars to stop to set down and pick up children between the hours of 8am to 9am and 2.30pm to 3.30pm.

The Chairman advised that it is not possible to provide the extra three spaces due to the proximity of the double centre line, however the kerb could be relocated closer to the property boundary which would enable approximately four extra spaces to be provided. This work would need to be funded by the Department of Education. The Committee noted that it is the school's responsibility for providing sufficient parking on their property and it should continue its negotiation with the Department to fund this additional parking as has been recommended several times previously. It was also noted that parents could utilise Durrigan Street to drop off and pick up children. The comments claiming parents are forced to illegally park in the bus zone is incorrect. Parents choose to illegally park and put at risk school children. Council's Road Safety Officer has agreed to arrange an on site meeting to explain the required physical works.

For Council's Information.

7. Chinderah & Cudgen Roads, Cudgen

R1070 Pt 2 – DW694326 - 703553

A request has been received for assistance with reducing the speed of vehicles on Chinderah and Cudgen Roads, Cudgen. It is claimed that tailgating/road rage is occurring mostly to vehicles travelling at the speed limit of 60km/h. Vehicles are ignoring the 60km/h speed zone signage at the intersection of Cudgen Road and Chinderah Road.

The Committee previously requested that a speed camera be installed, however it does not meet the RTA's criteria. The Police Representative mentioned that Police were aware of the problems and that some fines have been issued, however limited crash history dictates an allocation of more intensive enforcement resources is not possible.

For Council's Information.

8. Sand Street, Kingscliff

R4880 – DW703653

A request has been received for a site inspection to be conducted at the corner of Sand and Surf Street, Kingscliff to assess the restricted sight vision.

The Committee suggested that a site inspection be arranged to further pursue this matter and report back to the next Committee meeting. Police Representative advised that at least 5 trees need to be removed.

Reports from Committees/Working Groups

For Council's Information.

9. Gollan Drive, Tweed Heads

R2270 Pt 1 – DW700787

A request has been received for assistance with vehicle speeds on Gollan Drive. Speed Count data was submitted at the Local Traffic Committee Meeting.

The data was discussed and the results were given to the Police Representative for further consideration. However there does not appear to be a significant problem as the 85th percentile speeds west bound is 64kph and east bound 69kph.

For Council's Information.

10. Nullum & Wollumbin Streets, Murwillumbah

R3770 Pt 2 – R5940 Pt – 2 - DW701971

A request has been received for the creation of a pedestrian crossing close to the corner of Nullum and Wollumbin Streets Murwillumbah.

The Chairman advised that the site does not meet the RTA warrants for a pedestrian crossing. It was also noted that the development application for the building stated that sufficient parking on site was provided for the use of the building. Given that the letter of the complaint by the operator of the building states that insufficient parking is provided. It is suggested that staff be advised to park in the surrounding long term parking areas leaving the onsite parking for clients. It is further requested that a suitable sign advising the public that parking is available on site needs to be provided at the Wollumbin Street entrance to the on site carpark. Council will investigate the possibility of a pedestrian refuge on Wollumbin Street near Nullum Street.

For Council's Information.

11. Shallow Bay Drive

R5006 Pt 1 – DW 705974

Request received for a 50km/h speed limit for the Shallow Bay Subdivision.

The Committee discussed the request and advised that a 50km/h area zone signage be installed east of the entrance of the shopping centre on Shallow Bay Drive.

RECOMMENDATION:

That a 50km/h area zone be installed in Shallow Bay Drive east of the entrance of the shopping centre.

Reports from Committees/Working Groups

12. Tweed Valley Way – Mooball

R4031 Pt16 – DW706223

A request was received for speed limit control through Mooball as part of Master Plan for Streetscaping prepared Tweed Shire Council for the residents.

The Committee does not support the request. The traffic volumes have decreased by 50% and a greater reduction in heavy vehicles achieved. The standard of the road is high and it is designated as a distributor road and should maintain the 60kph speed limit. Roadside development does not justify the further reduction. The Committee also noted any further development of roadside areas should comply with all appropriate design standards especially in terms of parking and pedestrian access.

For Council's Information.

13. Boyd Street, Tweed Heads

R0470 Pt 2 – DW 705763

Request received for the current two carparks outside the Tweed Heads Skin Cancer Clinic in Boyd Street be re-zoned to a "loading zone" or restricted to a 1 hour parking zone.

The Safety Officer advised the development should have provided sufficient onsite parking in accordance with the Development Consent. It was noted that there were no restrictions for the onsite parking and it is suggested that these spaces be reserved for customers, staff should park in other locations. It should be noted that a review of the on street car parking in Boyd Street will be undertaken in the near future which may recommend time restricted parking. The comments regarding the adjacent caryard parking vehicles on the road has been referred to the Manager Development Control for appropriate action.

For Council's Information.

14. Chinderah Bay Drive

R1071 Pt2.

Request received from a local resident requesting traffic calming devices to be installed on Chinderah Bay Drive to slow down vehicles speeding.

The Committee noted that there is a low volume of traffic using the road and Council has not allocated any funding for traffic calming devices. The Police have attended previously in relation to burn out matters and will continue to do so as resources permit.

For Council's Information.

Reports from Committees/Working Groups

Part B

1. Meridian Way Tweed Heads (Shopping Centre Redevelopment)

DA02/1695

Request received for the Local Traffic Committee's assessment and comment on the proposed Shopping Centre redevelopment at Lot 4 DP 616202 & Lot 1 DP 793260 Meridian Way Tweed Heads.

The Committee discussed the Shopping Centre redevelopment and advised because of the traffic signals it will need to be referred to RTA with detailed analysis of impact traffic signals will have on the surrounding network for the RTA to review in detail before issuing any approval for the signals.

2. Corporation Circuit, Banora Point – (Sports & Leisure Centre)

DA02/1370

Request received for the Local Traffic Committee assessment and comment on the proposed Sports & Leisure Centre at Lot 218 DP 1001447 & Lot 219 DP 1001447 Corporation Circuit Banora Point.

The Committee discussed the application and advised the need to delete one of the accesses to Corporation Circuit but had no other traffic issues given the area has been planned and developed as light industrial area.

3. Hogans Road, North Tumbulgum

DA02/0388

Request received for the Local Traffic Committee's assessment and comment on the application.

The Committee discussed the application and advised that safe access should be provided to the road network for any subdivision and current standards should apply regarding sight distance and for safety of the through road. Lesser standards should not be accepted for new subdivisions. The proposal for a convex mirror at the driveway whilst beneficial to users of the driveway does not assist through traffic.

NEXT MEETING: 12 DECEMBER 2002

The meeting closed at 11.52

Director's Comments: NIL

[document12]

Reports from Committees/Working Groups

DIRECTOR'S RECOMMENDATIONS:

1. Kitiwake Street off Terranora Road

R2930 Pt1, R5441 Pt1 – DW696296

Committee Recommendation:

That the Committee voted to modify the merging lane to its previous alignment so vehicles are merging before the driveways in Terranora Road.

Director's Recommendation: *That the Committee's recommendation be endorsed.*

1. Tweed Valley Way – 'Keep Left Sign'

R4031 Pt16

Committee Recommendation:

That the "Keep left unless overtaking" sign be installed in the centre median south of Melaleuca Station.

Director's Recommendation: *That the Committee's recommendation be endorsed.*

2. Nullum Street - Barry Smith Hockey Fields

R3770 Pt2

Committee Recommendation:

That a Disabled Parking space be installed next to the Club House at the Barry Smith Hockey Fields.

Director's Recommendation: *That the Committee's recommendation be endorsed.*

5. Terranora Primary School – Parking Signage Terranora Road

R5441 Pt1

Committee Recommendation:

That "No Stopping" and "No Parking" between 8am-930am and 2.30pm-4pm signage as per the submitted diagram within the school car park and on Terranora Road be installed.

Director's Recommendation: *That the Committee's recommendation be endorsed.*

Reports from Committees/Working Groups

11. Shallow Bay Drive

R5006 Pt 1 – DW 705974

Committee Recommendation:

That a 50km/h area zone be installed in Shallow Bay Drive east of the entrance of the shopping centre.

Director's Recommendation: <i>That the Committee's recommendation be endorsed.</i>

Reports from Committees/Working Groups

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

4. **Minutes of the Occupational Health and Safety Committee Meeting held 14 November 2002**
 5. **Minutes of the Tweed Shire Council Disability Access committee Meeting Held Thursday 21 November 2002**
-

Reports from Committees/Working Groups

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

Orders of the Day

1. Notice of Rescission - Cr Youngblutt, Cr Polglase and Cr Beck

Lot 156 DP 628026 Creek Street, Hastings Point

PF1431/190 Pt4; Notice of Rescission

That Council resolution at Minute No 481 in relation to Item 2 of the Meeting held 20 November 2002 being:-

".....that:-

1. *Council informs the Director-General of PlanningNSW, pursuant to Section 54 of the Environmental Planning and Assessment Act that it intends to prepare a draft Local Environmental Plan, to rezone parts of Lot 156 DP 628026, Creek Street, Hastings Point identified in Aerial photograph MapInfo 7 by J Batchelor marked "no. 1" and dated 12 November 2002 from 2(e) Residential Tourist Zone to 7(a) Environmental Protection (Wetland).*
2. *The Director-General of PlanningNSW be advised that in Council's opinion an Environmental Study pursuant to Section 57 of the Environmental Planning and Assessment Act 1979 will be required.*

be rescinded."

2. Notice of Motion - Cr Beck

Policy - Monetary Incentives for Conservation of Water

Notice of Motion; Water

That as soon as possible Tweed Shire Council develops a policy to give monetary incentives to developments that make provision for the conservation of water.

Orders of the Day

THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK

