

# Items for Consideration of Council

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# Schedule of Outstanding Resolutions

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## 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 April.

---

## 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).

# Schedule of Outstanding Resolutions

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

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## 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; Land Nos. 42329; 45126; 41175; 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.

---

## 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; LN 14978**

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.

---



## Schedule of Outstanding Resolutions

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### 20 NOVEMBER 2002

#### 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; Land No 41178**

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.

---

### 4 DECEMBER 2002

#### ORDERS OF THE DAY

2. **Policy - Incentives for Conservation of Water**

**Notice of Motion; Water Management - General**

560

**Cr Beck**

**Cr Brinsmead**

**RESOLVED** that as soon as possible Tweed Shire Council develops a policy to give incentives to developments that make provision for the conservation of water.

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

---

### 18 DECEMBER 2002

#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

3. **Proposed Residential Development and Environmental Rehabilitation of Lot 16, DP 856265, Terranora Road, Terranora**

**GT1/LEP/2000 Pt1; LEP; Land No 38026**

570

**Cr Luff**

**Cr Marshall**

**RESOLVED** that Council defers the processing of the rezoning for Lot 16 DP 856265, Terranora Road pending finalisation of a Planning Strategy for the Terranora Ridgeline.

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# Schedule of Outstanding Resolutions

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**Current Status:** Matter deferred pending report early 2003.

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## REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

### 28a. Surf Life Saving Services - Casuarina Beach

Surf Life Saving; Casuarina Development

604

Cr Youngblutt

Cr Davidson

**RESOLVED** that

.....

3. The Director Development Services and Director Environment & Community Services in the long term considers and develops a policy in regard to the responsibility and obligations where a private developer proposes to pay for the provision of surf lifesaving services. This policy should also consider any necessary conditions of consent for future developments.

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

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## 5 FEBRUARY 2003

### REPORTS FROM DIRECTOR CORPORATE SERVICES

#### 6. Enforcement Guidelines for Council

Ombudsman; ICAC; DW 688862

74

Cr Boyd

Cr Davidson

**RESOLVED** that the General Manager schedule a Council briefing workshop to explore the practical applications of the guidelines in relation to responding to allegations of unlawful activities, use of discretion, option for action after investigation, strategies for prevention of unlawful activities and the powers available to Council.

**Current Status:** Workshop to be scheduled for May.

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## Schedule of Outstanding Resolutions

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### 19 FEBRUARY 2003

#### ORDERS OF THE DAY

5. **Fire Risk to Property**  
**Bldg Code; Bushfire Protection; Fire Services; Notice of Motion**

102

Cr Luff  
Cr Boyd

**RESOLVED** that:-

1. Council requests information from relevant fire fighting bodies and others regarding design of buildings and property management, that minimises the risk of loss of property from fire.
2. A subsequent report to Council includes that and other relevant information and any recommendations that might allow Council to amend or introduce policies that in nominated areas or circumstances, property owners are required to comply with in order to reduce the risk of loss of property by fire.

**Current Status:** Report being prepared.

---

4. **Production Demonstration - Airboats Industries Australia Pty Limited**  
**SES; Notice of Motion**

115

Cr Boyd  
Cr Luff

**RESOLVED** that Council invites Airboats Industries Australia Pty Limited to demonstrate its product on the Tweed River to our local State Emergency Services representatives and others interested in this revolutionary craft.

**Current Status:** To be finalised.

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#### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

#### ITEM DEFERRED FROM THE ORDINARY AGENDA

7. **Development Application DA02/1815 for a rural workers dwelling at Lot 1 DP 873622, No. 515 Carool Road, Carool**  
**DA02/1815 Pt1; Land No. 39879**

C26

Cr Beck  
Cr Youngblutt

**RESOLVED** that this item be deferred until Mr McLaughlan and the proponents submit a revised Development Application addressing the issues of statutory prohibitions to the present application.

# Schedule of Outstanding Resolutions

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**Current Status:** Awaiting for applicant to lodge amendment.

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## 19 MARCH 2003

### REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

3. Land East of Old Bogangar Road, Cudgen

GT1/LEP/2000 Pt1; GT1/LEP/A113 Pt6; LEP

208

Cr Lawrie

Cr Marshall

**RESOLVED** that this item be deferred for Cudgen landholders to address Council at a Community Access meeting.

**Current Status:** Awaiting contact from landholders.

---

### ORDERS OF THE DAY

1. Rehabilitation of Cudgen Creek

Dredging - Cudgen Creek; Area 5 - Tweed River; Notice of Motion

227

Cr Youngblutt

Cr Lawrie

**RESOLVED** that the Tweed Coastal Committee be requested to provide Council with a report detailing what action has been proposed and taken to rehabilitate Cudgen Creek from the mouth up to and past the boat ramp.

**Current Status:** Report be prepared.

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## Schedule of Outstanding Resolutions

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### 2 APRIL 2003

#### REPORTS FROM DIRECTOR CORPORATE SERVICES

8. Preparation of Licence Over Lots 10 and 11 in DP262383 Duroby Creek, Bilambil  
DA0530/840 Pt1; LN 30553; DW 881314

253

Cr Luff

Cr Lawrie

**RESOLVED** that this item be deferred to the meeting of 16 April 2003.

**Current Status:** Awaiting instructions from proposed licensee.

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# Schedule of Outstanding Resolutions

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# Mayoral Minute

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Councillors,

**1. Citizenship Ceremony**

**Citizenship Ceremony**

4 April – conducted Citizenship Ceremony at Tweed Head Civic Centre and presented certificates to 5 new citizens

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**2. Seagulls Sports Club**

**Councillors' Invitation**

6 April – started the Seagulls Sports Club Duathlon and later assisted in the presentation of trophies.

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**3. Anzac Day Service**

**Ceremonies – Anzac Day**

7 April – attended an Anzac Day Service at the Centaur Primary School

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**4. NRMA**

**Councillors' Invitations**

7 April – met with Mr Ross Turnbull, the President of the Board of Directors of NRMA

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**5. Tourism & Small Business**

**Tourism General**

7 April – met with Joe Hockey Minister for Tourism & Small Business

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**6. Banora Point Residents Association**

**Councillors' Invitations**

7 April – attended a meeting of the Banora Point Residents' Association.

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# Mayoral Minute

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**7. Tweed Chamber of Commerce**

**Councillors' Invitations**

8 April – attended Breakfast Meeting of the Tweed Chamber (Guest Speaker Dennis Chant)

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**8. Casuarina Beach**

**Casuarina Development**

8 April – attended Architecture Day and Opening of Display Unit Mainwaring Complex at Casuarina

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**9. Cabarita SLSC**

**Surf Life Saving Club - Cabarita**

8 April – attended a meeting with representatives of Cabarita Surf Life Saving Club

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**10. Citizenship Ceremony**

**Citizenship Ceremonies**

9 April – conducted private citizenship ceremony at Murwillumbah (Clover Bright)

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**11. Wintersun**

**Festivals - Wintersun**

10 April – Media Briefing on future of Wintersun Festival (Gold Coast Airport)

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**12. Tweed Fire Services**

**Fire Services**

10 April – Presentation of community cheques to Tweed Fire Service

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**13. Salvation Army**

**Councillors' Invitations**

13 April – attended “The On Fire Big Band” presentation at Seagulls organised by the Salvation Army

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# Mayoral Minute

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## 14. Tweed Heads Ministerial Taskforce

### Tweed Heads Ministerial Taskforce

14 April – Ministerial Taskforce Business & Traders’ Workshop at Tweed Civic Centre

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#### INVITATIONS ACCEPTED:

- 17 April - Business Excellence Breakfast (Robyn Henderson Guest Speaker)
  - 18 April – Good Friday Walk Sth Tweed Heads to Chris Cunninghame Park
  - 23 April – NSW Planning Sydney
  - 24 April – Southern Cross University Lismore Graduation Ceremony Division of Arts & School of Law & Justice
  - 25 April – Anzac Day Ceremony Tweed Heads
  - 26 April – THCC Tweed Theatre Presentation “Opportunity Knocks”
  - 27-29 April – To Canberra with NRACC
  - 30 April – Regional Arts Steering Committee Meeting (Far North Coast Region) at Kyogle Council
- 

#### INFORMATION ON CONFERENCES TO BE HELD: (Councillors to advise Mayoral Assistant, Jan Green, if they wish to attend and/or require further details)

- Australian & New Zealand Society of Criminology Conference 2003 Controlling Crime: Risks and Responsibilities (discussion of crime and criminal justice issues) **3 October 2003** in Sydney
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# Mayoral Minute

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## ABSENCES FROM SHIRE BY EXECUTIVE, MANAGERS AND COUNCILLORS

### EXECUTIVE

<b>Name</b>	<b>From</b>	<b>To</b>	<b>Location</b>	<b>Details</b>
DCS	10 April 2003	14 April 2003		Annual Leave
GM	22 April 2003		Ballina	GM's Sub-Regional Group Meeting
GM	23 April 2003		Sydney	TENTATIVE - Meeting with Planning NSW re Kingscliff Beach Holiday Park Redevelopment
GM	24 April 2003		Lismore	Southern Cross University Graduation Ceremony

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# Reports from Director Development Services

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

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

### **MATTERS FOR CONSIDERATION**

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

## Reports from Director Development Services

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## Reports from Director Development Services

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1. **ORIGIN:** Strategic Town Planning Unit  
**FILE REF:** GT1/LEP/2000/43 Pt1; LEP 2000/43

**REPORT TITLE:**

**Dwelling Entitlement for Lot 1, DP 1009372, Piggabeen Road, Tweed Heads West**

**SUMMARY OF REPORT:**

Draft Tweed Local Environmental Plan, Amendment No 43, was publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979. The draft LEP was publicly exhibited from Wednesday, 19<sup>th</sup> February 2003 to Wednesday, 19<sup>th</sup> March 2003.

No submissions were received from the general public. However two were received from State Government Agencies including the NSW National Parks and Wildlife Service and the NSW Rural Fire Service.

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

**RECOMMENDATION:**

That Council forwards the draft Tweed Local Environmental Plan 2000, Amendment No 43, to the Minister for Infrastructure, Planning and Natural Resources and requests the Minister to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.

## Reports from Director Development Services

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### REPORT:

#### INTRODUCTION

At its Ordinary meeting of 20<sup>th</sup> November 2002, and pursuant to Section 54 of the Environmental Planning and Assessment Act, 1979, Council resolved to prepare draft LEP Amendment No 43.

The purpose of the Plan is to permit, with Council consent, the erection of a dwelling house on Lot 1 DP 1009372, Skyline Drive, Tweed Heads West. The subject parcel of land is zoned part 1(a) Rural and part 7(d) Environmental Protection (Scenic/Escarpment) and has a land area of approximately 4.047 hectares. A manager's residence already exists on site, which is an ancillary use to development approval for a nursery on site. The proposed LEP Amendment will formalise the dwelling entitlement for the land by including the site within Schedule 3 of the Tweed Local Environmental Plan 2000. The proposed dwelling is to be situated on that part of the site zoned 7(d) Environmental Protection.

#### STATE AGENCY CONSULTATION

Pursuant to Section 62 of the Environmental Planning and Assessment Act, 1979, Council consulted with relevant State Government Agencies. General comments were received from these in relation to the processing of the draft and as such, have been noted and duly acted upon.

#### PUBLIC EXHIBITION

In accordance with Section 66 of the Environmental Planning and Assessment Act 1979, draft LEP Amendment No 43 was placed on public exhibition from Wednesday, 19<sup>th</sup> February 2003 to Wednesday, 19<sup>th</sup> March 2003.

During this period no submissions were received from members of the general public. However two were received from State Government Agencies including the NSW National Parks and Wildlife Service and the NSW Rural Fire Service. Their comments have been summarised as follows:

*"A brief review of the information provided suggests the interests of the National Parks and Wildlife Service are unlikely to be affected by the proposed amendment. However, it is recommended that when the development application is lodged that the proposed dwelling is located within the existing cleared/disturbed areas of the site."*

and

*"The NSW Rural Fire Service (RFS) raises no objections to a dwelling entitlement on the site and notes the site is capable of locating the dwelling with a suitable Asset Protection Zone (APZ). This will require a maximum APZ of 30 metres surrounding the proposed dwelling.*

*In accepting the amendment the RFS assumes that an APZ will be able to be located within the allotment and that anticipated vegetation management of the site will result in the ongoing disturbance of the land. As such, Council may also wish to give consideration to the removal of the 7(d) zoning of the allotment"*

By adopting the draft Plan Council is not permitting the development of the proposed dwelling but instead enabling an intended Development Application on the subject site to be assessed in accordance with the other provisions of the Tweed LEP 2000 and subsequent development

## Reports from Director Development Services

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standards. Therefore the comments raised by the NSW National Parks and Wildlife Service and the NSW Rural Fire Service, whilst important, are relevant during the later processing of the application and not at this stage.

### CONCLUSION

Draft LEP Amendment No 43 is considered to be generally consistent with the character and amenity of the surrounding area and is not expected to be detrimental to the surrounding environment.

It is recommended that the proposed LEP Amendment be supported and that Council proceed with forwarding the Plan to the Minister for Planning and requests the Minister to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.

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## Reports from Director Development Services

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## Reports from Director Development Services

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

**FILE REF:** GT1/LEP/2000 Pt1; LEP 2000

**REPORT TITLE:**

**Tourism Development in Tweed Shire**

**SUMMARY OF REPORT:**

There has been a substantial increase in interest in the development of tourist accommodation and facilities in Tweed Shire. These applications and enquiries have focussed upon the effectiveness of current Council planning legalities and policies and community concerns for the achievement of the real economic benefits and employment generation sought from such tourism development.

The elements of a staged way forward to complete this review and make changes to refine the legal and policy provisions are:-

- Amendments to existing planning controls in respect of tourist accommodation.
- An interim report to Council that provides a clarified policy platform for the assessment and determination of development applications and enquiries.
- A facilitated workshop involving representatives of the key local stakeholders, interest groups and tourism industry experts to progress debate about the legal and policy provisions.

**RECOMMENDATION:**

That Council prepares and exhibits amendments to relevant Development Control Plans and S94 Contributions Plans to require tourist accommodation to meet the same planning controls and multi dwelling housing, as follows:

- Development Control Plan No 6 – Multi Dwelling Housing:
  - Include in Clause 1.5:

“A7. *To ensure that tourist accommodation which is capable of being used as permanent residential accommodation meets the same standards as multi dwelling housing*”.
  - Include in Clause 1.6 the following paragraph:

“*This DCP applies to tourist accommodation*”.
  - Any necessary textural changes throughout the document to add or include tourist accommodation where multi-dwelling housing controls apply.
- Development Control Plan No 2 – Site Access and Parking Code:
  - Replace Item B6 in Table 4.9B with the following:

# Reports from Director Development Services

Item	Development	Comment	Public Transport, Bus Stop Seating	Bicycle parking	Delivery, Service Vehicle parking (50% must be truck size)	Resident Parking	Staff parking	Customer car parking
B6	Tourist accommodation		1/15 units	2/unit, class 2 AS 2890.1. Residential buildings without access to ground level private open space only.	1/50 units	1.5/dwelling. 25% to be accessible and marked for visitors.		

- All S94 Contribution Plans: include “tourist accommodation” in the same category as multi unit dwellings, or the like, for purposes of calculating contribution rates.

## Reports from Director Development Services

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### REPORT:

#### BACKGROUND

There has been a substantial increase in interest in the development of tourist accommodation and facilities in Tweed Shire – reflected in development applications for SALT; “The Beach”, Cabarita (redevelopment of Cabarita Hotel); Mainwaring Apartments, (Casuarina Beach) (32-34 Marine Parade, Kingscliff) and other enquiries/applications for development.

These applications and enquiries have focussed upon the effectiveness of current Council planning legalities and policies and community concerns for the achievement of the real economic benefits and employment generation sought from such tourism development. There are different development and design criteria between tourist development and multi-unit residential development in Council’s Local Environmental Plan (LEP), Development Control Plans (DCPs) and Section 94 Plans.

A review of the relevant LEP and related planning policies is needed.

#### TWEED LOCAL ENVIRONMENTAL PLAN 2000 (TLEP 2000)

Tweed Shire has had a specific zone to encourage and facilitate tourism developments since 1988 – 2(t) Tourism in TLEP 1998 and 2(f) Tourism in TLEP 2000.

The primary and secondary objectives of the 2(f) Tourism zones are as follows: -

##### *“Primary objectives*

- *to encourage integrated tourist development and uses associated with, ancillary to or supportive of the tourist development, including retailing and service facilities, where such facilities are an integral part of the tourist development and are of a scale appropriate to the needs of that development.*
- *to ensure that prime sites are developed for the best use and fulfil their economic and employment generating potential for the area.*

##### *Secondary objective*

- *to permit high quality residential development as being integral and supportive of the primary intent of this zone (tourist orientated development) in terms of design and management structure and only at a scale which enhances the proposed tourist resort character”.*

The land use tables for that zone prohibit dwelling houses – unless for caretakers.

There has also been a 2(e) Residential Tourist zone since 1988 – 2(e) Residential Tourist and this zone has the following primary and secondary objectives: -

##### *“Primary objective*

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

## Reports from Director Development Services

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### *Secondary objective*

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

The most significant difference with the 2(f) zone is that dwellings and dwelling houses are allowed with Council’s consent although dwelling houses are prohibited if each is on an allotment of less than 450m<sup>2</sup>.

There is a specific provision relating to the primary tourism site within the Shire – the land the subject of the SALT development application . This allows for permanently occupied residential development provided that the units for permanent occupation are exceeded at all times; approval, construction certificate, certification of occupation etc by the number of units that are for tourist accommodation.

The definitions of relevant uses/provisions in TLEP 2000 are as follows: -

*“Tourist accommodation” - a building principally used for the accommodation of tourists but does not include a building elsewhere specifically defined in this Schedule.*

*“Tourist facilities” - an establishment principally used for the recreation or enjoyment of tourists and may include an amusement park, boat shed, boating facility, cruise craft dock, tavern, marina, playground, refreshment room, shop, theme park, water sport facilities or the like or a club used in conjunction with any such activities*

*“Tourist resort” - a largely self-contained holiday destination establishment which provides:*

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

### **KEY ISSUES**

There are different policy provisions for multi-unit residential development and for tourism accommodation in terms of: -

- Tourism development/accommodation not being part of DCP 6 – Multi-Unit Residential Accommodation
- Design flood levels
- Some Section 94 contributions
- Car parking requirements

### **KEY ISSUES/FACTORS**

The following key issues arise that are pertinent for a review of the legal and policy provisions relating to tourism development/accommodation.

1. The need to ensure that the economic and employment generation benefits are derived as intended from actual tourism development.

## Reports from Director Development Services

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2. That tourism development in regional areas is now clearly only viable through the strata titled multiple ownership of units comprising hotels, resorts and the like.
3. Body corporate fees are likely to be substantially more for hotels/tourism developments that are strata titled compared to multi unit housing. The extent of the rental pool/management contract and the potential inclusion of a long term commitment for a certain proportion of the units to be the rental pool and under management contract for short term letting, common servicing and management etc.
4. The physical inclusion at substantial investment of facilities to support a hotel resort such as restaurant, gymnasium, swimming pool, conference centre/function rooms etc.
5. The need for consistency of planning controls between small scale tourist accommodation and multi unit housing, as set out in current DCPs and S94 Plans.

### THE WAY FORWARD

The elements of a staged way forward to complete this review and make changes to refine the legal and policy provisions are:-

- i. Address the inconsistencies identified above by amending DCP 6 (Multi Unit Residential Accommodation), DCP 2 (Car Parking) and S94 Plans to require tourist accommodation to meet the same planning controls and contributions as multi-dwelling housing.
- ii. An interim report to Council that provides a clarified policy platform for the assessment and determination of development applications and enquiries for SALT; Seaside City; "The Beach, Cabarita" and other relevant development proposals.
- iii. The establishment of policy provisions relating to The Beach, Cabarita, i.e. Redevelopment of the Cabarita Beach Hotel – a development application foreshadowed in the future for lodgement with PlanningNSW – in terms of favouring tourism accommodation because of the unique site and economic and employment generation benefits and opportunities that the site presents – a key issue here is that tourism accommodation could possibly be supported to have a higher level of building entitlement and profile relative to the eastern boundary and proximity to the coastal foreshore than a multi-unit residential development proposal. This will be subject of a further report to Council on 16 April 2003.

The conduct of a facilitated workshop involving the key local stakeholders, interest groups, tourism industry experts and community group representatives to progress debate about the legal and policy provisions for subsequent reporting back to Council in approximately 3 months time.

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## Reports from Director Development Services

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## Reports from Director Development Services

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**3. ORIGIN: Development Assessment Unit**

**FILE REF: DA02/1815 Pt1; LN: 39879**

**REPORT TITLE:**

**Development Application DA02/1815 for a Managers Residence at Lot 1, DP 873622, No 515 Carool Road, Carool**

**SUMMARY OF REPORT:**

The proposed application is essentially the same as that originally lodged in October 2002. However, the application has been amended from being defined as a “manager’s residence” (which was determined to be contrary to the planning controls) to being defined as a “managers residence” which would be ancillary to the animal establishment (a new floor plan for the residence is also proposed).

Given that the proposed managers residence requires separate servicing provisions and a separate driveway access to that of the main dwelling and the animal establishment, the lack of physical connection between the proposed and existing buildings questions the validity of the argument for “ancillary development”. Furthermore, the circumstances of the case would create an undesirable and unwarranted precedent for other properties within the shire.

Therefore, the application in its current form should not be supported and is recommended for refusal.

**RECOMMENDATION:**

That Development Application DA02/1815 for a manager’s residence at Lot 1, DP 873622, No 515 Carool Road, Carool be refused for the following reasons:

1. The application does not satisfy a primary objective of the zone, as detailed in Clause 11 of Tweed Local Environmental Plan 2000, which reads as follows:  
*“to protect rural character and amenity”*
2. The application does not satisfy the requirements of Clause 8 (1) (b) Consent Considerations of Tweed Local Environmental Plan 2000;
3. The proposed managers residence is not considered to be ancillary to the existing pet motel;
4. The necessity for a separate driveway access is unsuitable;
5. The proposed location of the manager’s residence is unsuitable;
6. The manager’s residence will appear as an independent building with no connection to the southern portion of the allotment;
7. The application will create an unwarranted and undesirable present for other properties within the Shire; and
8. The application is not in the public interest.

## Reports from Director Development Services

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### REPORT:

**Applicant:** T Bulke and A Bulke  
**Owner:** Mr AP Bulke and Mrs AS Bulke  
**Location:** Lot 1 DP 873622, No. 515 Carool Road Carool  
**Zoning:** 1(a) Rural  
**Cost:** \$95,000.00

### BACKGROUND

Council originally received this application in October 2002. It sought consent to construct a manager's residence at No. 515 Carool Road, Carool. The rural worker would have been employed to work the agricultural side of the farm (excluding the pet motel). The application was accompanied by a SEPP 1 objection to vary the 40ha minimum development standard contained within Clause 18 (3) of Tweed Local Environmental Plan 2000. However, the definition of agriculture specifically excludes animal establishments and therefore, the function of the Coolangatta Pet Motel on the site could not be considered in determining the level of agricultural merit to permit the manager's residence. Therefore the application could not be supported.

Council reviewed this application at the Council Meeting of Wednesday 19 February 2003. Council resolved the following:

*"that this item be deferred until Mr McLaughlan and the proponents submit a revised development application addressing the issues of statutory prohibitions to the present application."*

Subsequently, the applicant instructed Darryl Anderson Consulting Pty Ltd to respond to Council's request. The amended application now seeks consent for a manager's residence (with a new floor plan) for the pet motel on the opposite side of Carool Road to that of the pet motel. The response is as follows:

*"Firstly, it is not clear what is meant by: statutory prohibition to the present application.*

*Clearly the erection of a rural workers dwelling is permissible, with consent, subject to compliance with the 40ha development standard in Clause 18(3) of the LEP. As indicated in the officer's report to Council's meeting of 19 February 2003, the 40 ha requirement is a development standard, not a prohibition. Similarly, the criteria in Clause 18(2) are matters, which must be addressed to Council's satisfaction rather than being non-discretionary prohibitions on the development of a rural workers dwelling.*

*Nevertheless, nothing turns on the above, because pursuant to Clause 55 of the Environmental Planning and Assessment Regulations 2000, Mr and Mrs Bulke hereby amend development application No. 02/1815 such that the application is for a "Managers Residence" rather than a "Rural Workers Dwelling". The manager will be employed to manage the existing Coolangatta Pet Motel on the site. Council is requested to agree to the amendment to the applications required by Clause 55(1) of the regulations.*

*We note that there are no specific provisions in Tweed LEP 2000 relating to a "Managers Residence", however such a use is permissible, with consent, on the basis that it is incidental and ancillary to the dominant use, being the Coolangatta Pet Motel.*



## Reports from Director Development Services

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*It is also proposed, pursuant to the Clause 55 of the regulations, to amend the application plans for the proposed dwelling and four copies of the amended plans are attached. It will be noted that the amended plans are for essentially the same building, being single storey dwelling house of 3 bedrooms”.*

*In support of the amended application we submit the following information;*

*The siting of the manager’s residence will remain the same as in the original development application;*

- 1. The attached letter from Mr and Mrs Bulke contains details of existing activities on the site, including the existing pet motel. In summary, the scale of the business is as follows;*
  - i. The existing facility has the capacity to accommodate 100 dogs and 50 cats;*
  - ii. Extensions to the pet motel to expand the capacity to 200 dogs is in progress in accordance with development consent No. 1339/2001 DA and Construction Certificate No. 1092/2001CC. Completion of the extension is anticipated by the end of April 2003.*
  - iii. To enable the pet motel to operate efficiently, with minimal impact on the amenity of the locality and to provide safe and secure accommodation for pets, 24 hours per day, 7 days per week monitoring and surveillance is required.*
  - iv. Currently 2 staff are employed for up to 20 hours each per week to accept pets, clean pens, feed animals and provide routine care and management. 1 additional person is employed on an as and when required for an average of 20 hours per week to mow and slash around the pet motel and carry out general maintenance duties. However, these staff are only available during daylight hours and Mr and Mrs Bulke are required to provide these services when staff are not present on a 7 days per week, 24 hours per day basis.*
  - v. Other agricultural activities undertaken on the property occupy Mr Bulke for up to 50 hours per week. This is in addition to his work in the pet motel at night and weekends.*
  - vi. To enable Mr and Mrs Bulke to obtain some respite from the day to day management of the Pet motel on a 24 hour per day, 7 days per week basis, it is essential that a full time manager be resident on site. This is particularly necessary to enable a prompt response to barking dogs, sick animals and other emergencies.*
  - vii. The scale and nature of the existing and expanded per motel operations are such that a full time manager be resident on site. Pet owners demand a high level of security, cleanliness, care and supervisions of their pets as a result operational activities are labour intensive. It is therefore essential that a resident manager be available at all times*

*In conclusion, it is submitted that having regard to the scale and nature of the existing pet motel, the need for full time on site management is demonstrable and appropriate in the*

## Reports from Director Development Services

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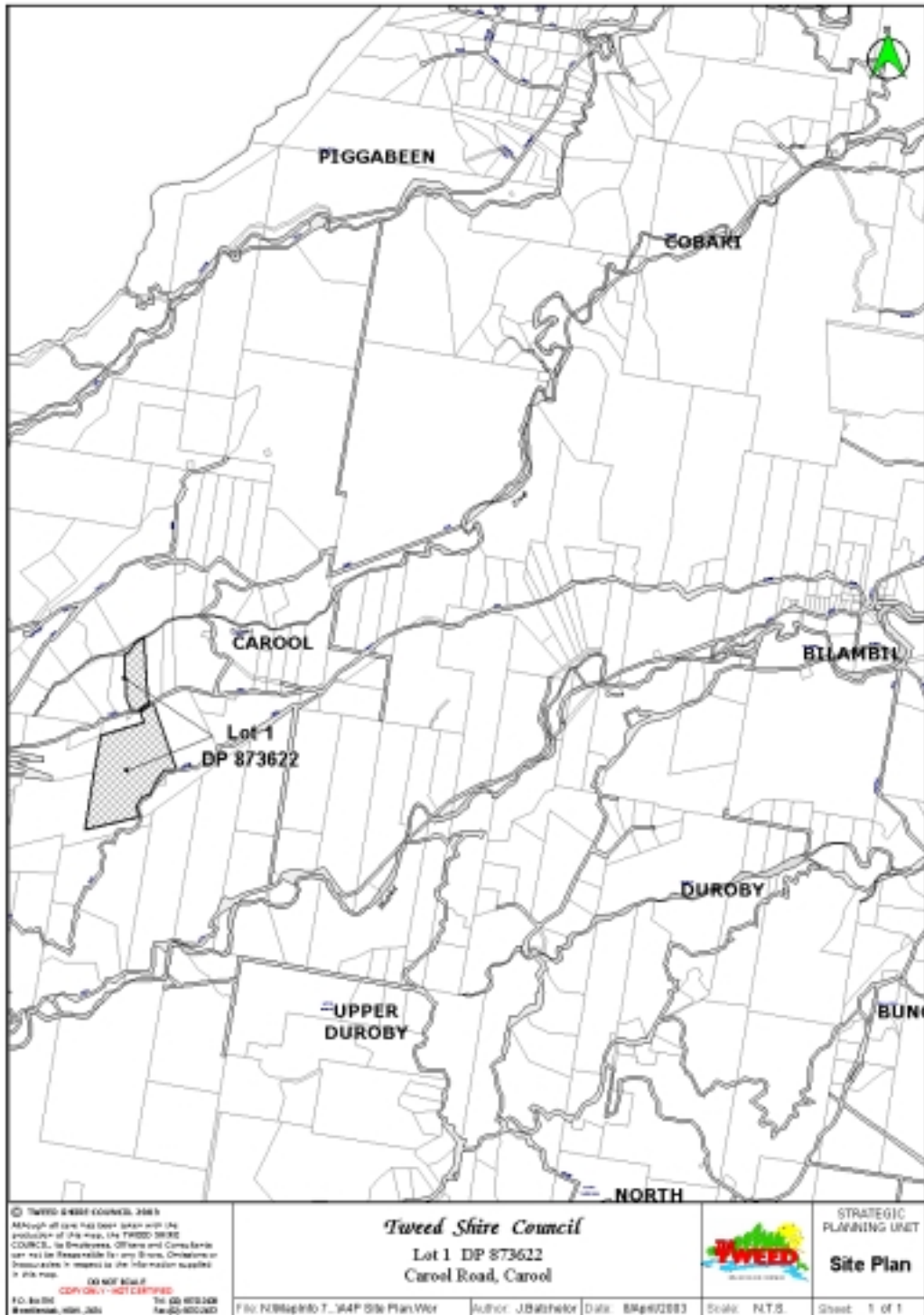
*circumstances on the basis that it is a use ancillary and incidental to the dominant and approved animal establishment.*

*Council is therefore requested to support the amended application and grant conditional development consent.*

These comments are not concurred with, however, the issues are discussed further in the bulk of this report.

# Reports from Director Development Services

## SITE DIAGRAM



## Reports from Director Development Services

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

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

Tweed Local Environmental Plan 2000

**Clause 11 – Zone Objectives**

The subject land is zoned 1(a) Rural under the provisions of the Tweed Local Environmental Plan (TLEP) 2000.

A “managers residence” is not defined in the Tweed LEP nor is it specifically mentioned in the land use table contained within Clause 11. However, Item 2 within Clause 11 specifies that “*any other buildings, works, places or land uses not included in Item 1,3 or 4*” are allowed only with consent. Therefore a manager’s residence ancillary to the existing pet motel would be considered permissible subject to development approval.

The objectives of the 1(a) rural zone are:

**Primary Objectives**

- *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.*

**Secondary Objective**

- *To enable other types of development that rely on the rural or natural values of the land such as agri and eco-tourism.*
- *To provide for development that is not suitable in or near urban areas.*
- *To prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.*
- *To provide non-urban break between settlements to give a physical and community identity to each settlement.*

The proposed manager’s residence is not considered to satisfy the primary objective, that requires the protection of the rural character and amenity.

The introduction of an independent dwelling on the northern parcel of land (separated from the southern section of road by Carol Road itself) would operate independently of the existing dwelling house (on the southern portion of the property), and be separated from the pet motel by approximately 400 metres. There is no line of sight between the two dwellings and no appearance of connection between the two portions of land.

Failing to provide sufficient justification for an ancillary use the proposed layout is considered to be contrary to the density requirements contained within the LEP.

## Reports from Director Development Services

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Furthermore, the development must also satisfy the provisions of Clause 8(1) of TLEP 2000:

### **Clause 8 Consent Considerations**

*The consent authority may not grant consent to development (other than development specified in Item 3 of 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 would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of the Tweed as a whole.*

The proposed manager's residence is not considered to comply with Clause 8(1)(b), given the specific zone objective as discussed above

The proposed manager's residence does not satisfy Clause 8 of TLEP 2000.

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

In accordance with Clause 15, the proposed managers residence must have adequate provision for essential services. Council is satisfied that the dwelling can be appropriately serviced by an approved onsite effluent treatment. The dwelling would gain its water supply from one of the two dams located on the site and would be close to an existing electricity line. These services would be considered satisfactory.

### North Coast Regional Environmental Plan 1988

Clause 12 provides that consideration must be given to the likely impact on the proposed development on the use of the adjoining or adjacent agricultural land and whether the development will cause loss of prime agricultural land and whether the development will cause a loss of prime crop or pasture land.

Dams and cattle grazing area border the proposed building site. The introduction of a house with a gross floor area of 128m<sup>2</sup> would not result in a loss of prime agricultural land.

The surrounding land is used for cattle grazing and any associated agricultural purposes, the introduction of an additional house would not result in any land use conflict given the dwelling would be occupied by a "manager", who should be aware of adjacent farming activities, therefore, the potential for conflict would be further diminished.

### State Environmental Planning Policies

#### State Environmental Planning Policy No. 55 – Remediation of Land

In accordance with the requirements of this Policy, the applicant submitted a signed declaration from Mr Arthur Bonser who has lived at No 484 Carool Road for the past 54 years. This declaration stated that No 515 Carool Road was originally used as dairy farm, until 50 years ago when the land was then used for small crops on and off for 15 years – mainly zucchini and tomato's and mostly on the flat near Carool Road. The land then lay to

## Reports from Director Development Services

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waste for twenty years until the current owners purchased the property cleared the land and rebuilt an old dam. Council's Environmental Health Officer after a thorough investigation confirmed that the subject dwelling site had not been subjected to any chemical spraying or occupied by a building or used as storage for such chemicals, nor has it been a disposed area for oils or other industrial wastes. Therefore, the subject dwelling site is not considered to be contaminated land.

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

There are no Draft Environmental Planning Instruments that affect this proposal.

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

Development Control Plan No. 39 Energy Smart Housing

The proposed dwelling would be capable of compliance with this control by installing an energy efficient hot water system.

Development Control Plan No. 42 Public Notification Policy

In accordance with the Plan, the application was not required to be notified or advertised.

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

There are no matters prescribed by the Regulations that are considered to apply.

**(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**

Access

The proposed managers residence would utilise a separate driveway off Carol Road to that of the main dwelling house. This is due to the divided nature of the property by Carol Road itself. However this arrangement gives the appearance of an independent building which cannot be considered ancillary to any existing uses on the southern side of Carol Road. It should further be noted that if approval were granted to this application conditions of consent would need to be imposed to ensure the proposed new driveway surface complied with Council's policies.

Context & Setting

Carol Road itself separates the proposed building location from the main dwelling house. The applicant's reasons for this is the need to maintain an element of privacy between the houses, to maintain the existing security of the property by way of retaining a boom gate to the southern section of the property, and to keep costs low by keeping the current location of electrical wiring.

A manager's residence can only be permissible if it is considered ancillary to the existing animal establishment. Council, in theory could support a manager's residence, provided the residence was located within close proximity to the existing animal establishment and a clear affiliation between the two buildings was established. The current application does not satisfy this requirement and is therefore recommended for refusal.

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### Flora & Fauna

The erection of a house in the proposed location would not disturb any existing flora or fauna.

### Unwarranted Precedent

The application if approved would create an unwarranted precedent for other properties within the Shire. When considering the distance between the proposed managers residence and the existing animal establishment there is no clear affiliation between the buildings. Therefore the manager's residence would appear as a "second dwelling" which would be prohibited given the overall allotment size. Should approval be granted it would be considered an undesirable outcome that would severely compromise the integrity of Tweed LEP 2000.

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

#### Bushfire Hazard Assessment

The subject site falls within a low-medium bushfire hazard area, and the application was therefore referred to the local NSW Rural Fire Service for comment. The following comments were received from the Service.

*"The application must comply with Planning for Bushfire Protection 2001, if the proposed new residence is within 100m of a medium to high bushfire hazard or 30 m of low hazard Minimum. An Asset Protection Zone of 20 metres would be required surrounding the proposed new residence.*

If approval were granted for this application, a condition of consent would be required reflecting the above comments.

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

Council's Environment & Health Unit undertook a thorough investigation regarding the proposal, specifically, in relation to land contamination. Following this investigation no objections were raised subject to standard conditions of consent.

Council's Building Services Unit reviewed the application and raised no objection to the proposal subject to standard conditions of consent.

### (e) **Public interest**

The application is not considered to be in the public interest. The application does not meet the requirements of Tweed Local Environmental Plan 2000 and does not provide a substantial argument for an ancillary use given the distance of separation between the buildings. Should approval be granted the application would create an unwarranted precedent for other properties, furthermore, it would result in an undesirable outcome that would severely compromise the integrity of TLEP 2000.

### **OPTIONS**

1. Refuse the application for the reasons detailed above.

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2. Request the Director Development Services to bring forward Conditions of Consent to Council meeting on 7 May 2003 in the event that Council determines to approve the application.

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

Should the applicant be dissatisfied with the determination of this application they may seek an appeal with the Land & Environment Court.

### **CONCLUSION**

The application does not present a clear or valid argument for ancillary development. There is no physical connection between the existing and proposed dwellings and no evidence to suggest that the economic viability of the business relies on an onsite manager. It should be further noted that the area provides alternative means of accommodation, which would be suitable for any employees of the business.

The proposed development does not meet the requirements of Tweed Local Environmental Plan 2000 and would create an unwarranted precedent for other properties.

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## Reports from Director Development Services

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**4. ORIGIN: Development Assessment Unit**

**FILE REF: DA02/1137 Pt1; LN: 30933**

**REPORT TITLE:**

**Development Application DA02/1137 for Multi-Dwelling Housing Comprising 2 x 4 Bedroom and 1 x 2 Bedroom Units at Lot 16, Sec 4, DP 31209, No 11 Cypress Crescent, Cabarita Beach**

**SUMMARY OF REPORT:**

The above Development Application was reported to Council on April 2, 2003. The proposal involves the demolition of an existing two storey residential flat building containing three dwellings and replacing it with a larger residential flat building. A building of this density is now prohibited in the 2(a) Low Density Zone, however the applicant argued that the proposal was permissible under the existing use right provisions of the Environmental Planning and Assessment Act and Regulations. The proposal results in a net increase in overshadowing of the Coastal Reserve, is an overdevelopment of the site, an intensification of an existing use which is now prohibited in the zone and is sited on land within the 50 to 100 year erosion zones. Consequently the application is recommended for refusal.

Council however resolved as follows:

*“that Council supports the proposal in principle and requests the Director to bring forward appropriate conditions for consideration by Council”.*

In accordance with that resolution Conditions have been included in this report.

**RECOMMENDATION:**

That Development Application DA02/1137 for multi-dwelling housing comprising 2 x 4 bedroom and 1 x 2 bedroom units at Lot 16, Sec 4, DP 31209, No 11 Cypress Crescent, Cabarita Beach be refused for the following reasons:

1. The proposal is an overdevelopment of the site.
2. The proposal is inconsistent with the objectives of the 2(a) Low Density Residential zone.
3. The proposal does not comply with Clause 51A of Tweed Local Environmental Plan 2000 in that the area of the lot is less than the area required in this Clause for 3 dwellings.
4. The proposal is inconsistent with Clause 36 of Tweed Local Environmental Plan 2000.
5. The proposal does not comply with Clause 32B of the North Coast Regional Environmental Plan 1988 in terms of coastal erosion and overshadowing of a beach or foreshore.
6. The site located within a Coastal Erosion Zone is unsuitable for a development of this magnitude.
7. The proposal is not in the public interest.

## Reports from Director Development Services

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### REPORT:

**Applicant:** Ms B McKeering

**Owner:** Bronlen Pty Ltd

**Location:** Lot 16 Sec 4 DP 31209, No. 11 Cypress Crescent Cabarita Beach

**Zoning:** 2(a) Low Density Residential

**Cost:** \$735,000.00

The following report was submitted to the Council meeting held on 2 April 2003:

*“ORIGIN: Development Assessment Unit*

*FILE REF: DA02/1137; LN: 16407*

#### *REPORT TITLE:*

*Development Application DA02/1137 - Multi-Dwelling Housing comprising 2 x 4 Bedroom and 1 x 2 Bedroom Units at Lot 16 Section 4 DP 31209 No. 11 Cypress Crescent, Cabarita Beach*

#### *SUMMARY OF REPORT:*

*An application has been submitted for a two storey residential flat building at Cypress Crescent, Cabarita Beach/ Bogangar. The land contains an existing older style two storey residential flat building comprising three units in the form of 2 x 2 bedroom unit and 1 x 4 bedroom unit. The existing units were built during the 1960's and are constructed from brick and tile. The land has an area of 614 m<sup>2</sup> and is located on the seaward side of Cypress Crescent, Bogangar, and is adjacent to the Coastal Reserve. The land is zoned 2(a) Low Density Residential, and a development of this magnitude in such a zone is prohibited. This application is seeking consent by utilising the existing use right provisions under the EPA Act 1979 and EPA Regulations 2000. The applicant is also seeking consent for the demolition of the existing building.*

*The application was initially for a three storey building containing 2 x 4 bedroom units and a 3 bedroom unit. The plans have since been amended following concerns raised by Council in relation to the proposal being an overdevelopment of the site. Although the proposal has been reduced to a two storey building it is considered the proposal is still an overdevelopment of the site. The development results in a net increase of overshadowing of the Coastal Reserve, is an intensification of an existing use, which is prohibited in the zone and is sited on land within the 50 to 100 year erosion zones. Consequently the application is recommended for refusal.*

#### *RECOMMENDATION:*

*That Development Application DA02/1137 for multi-dwelling housing comprising 2 x 4 and 1 x 2 bedroom units at Lot 16 Section 4 DP 31209 No. 11 Cypress Crescent, Cabarita Beach be refused for the following reasons: -*

- 1. The proposal is an overdevelopment of the site.*
- 2. The proposal is inconsistent with the objectives of the 2(a) Low Density Residential zone.*

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3. *The proposal does not comply with Clause 51A of Tweed Local Environmental Plan 2000 in that the area of the lot is less than the area required in this Clause for 3 dwellings.*
4. *The proposal is inconsistent with Clause 36 of Tweed Local Environmental Plan 2000.*
5. *The proposal does not comply with Clause 32B of the North Coast Regional Environmental Plan 1988 in terms of coastal erosion and overshadowing of a beach or foreshore.*
6. *The site located within a Coastal Erosion Zone is unsuitable for a development of this magnitude.*
7. *The proposal is not in the public interest.*

## Reports from Director Development Services

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*REPORT:*

*Applicant: Ms B McKeering*

*Owner: Bronlen Pty Ltd*

*Location: Lot 16 Sec 4 DP 31209, No. 11 Cypress Crescent Cabarita Beach*

*Zoning: 2(a) Low Density Residential*

*Cost: \$735,000.00*

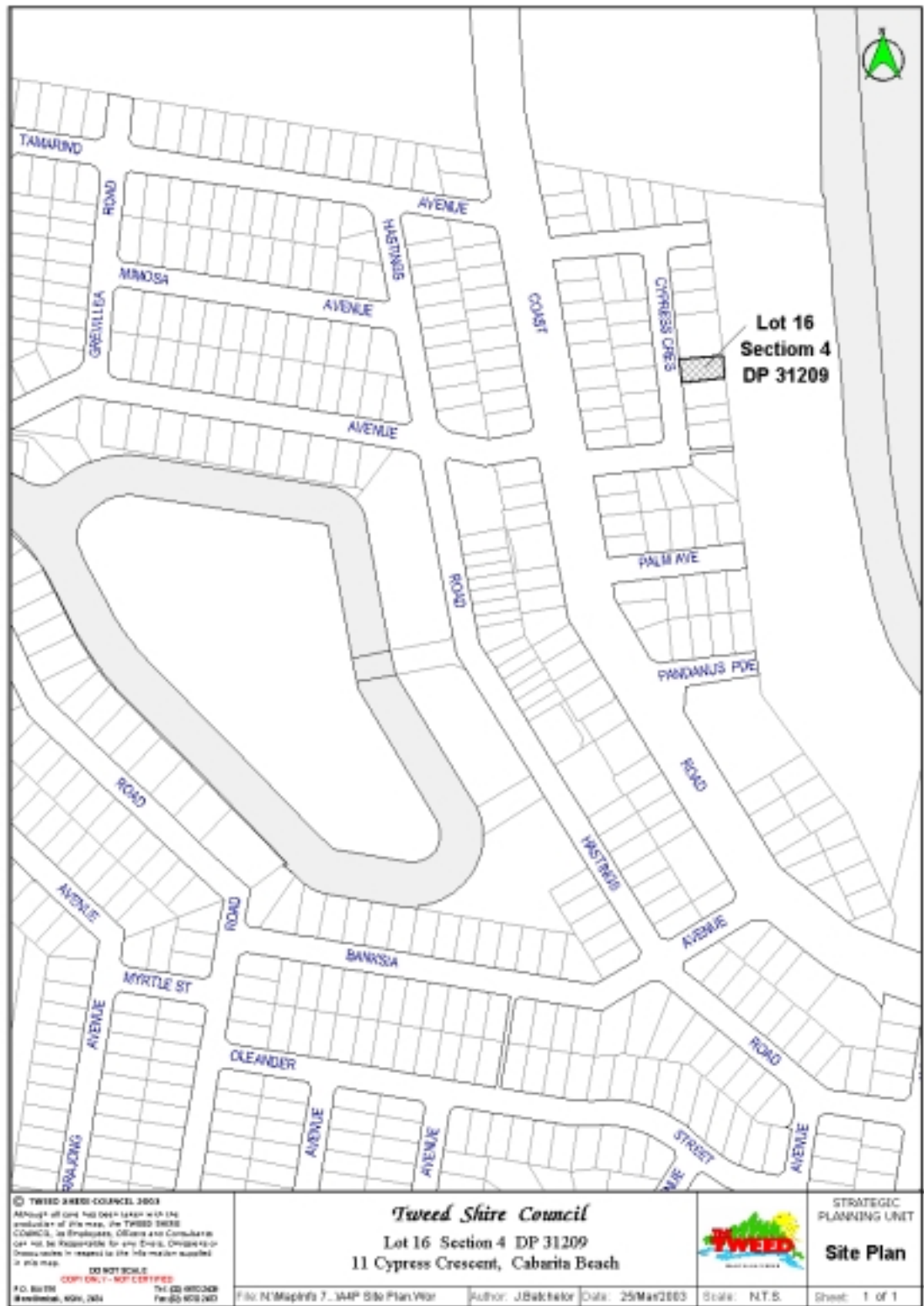
*Background*

*A development application has been submitted for a residential flat building at Cypress Crescent, Cabarita Beach. The application was initially for a three storey building containing two four bedroom units and a three bedroom units. The plans have since been amended following concerns raised by Council in relation to the proposal being an overdevelopment of the site. The proposal has been reduced to a two storey building comprising 2 three bedroom units and 1 four bedroom unit.*

*The land currently contains a two storey residential flat building containing three dwellings. The land has an area of 614 m<sup>2</sup> and is located on the seaward side of Cypress Crescent, Bogangar, and is adjacent to the Coastal Reserve. The land is zoned 2(a) Low Density Residential, and a development of this magnitude in such a zone is normally prohibited. This application is seeking consent by utilising the existing use right provisions under the EPA Act 1979 and EPA Regulations 2000. The applicant is also seeking consent for the demolition of the existing building.*

# Reports from Director Development Services

Site Diagram



## Reports from Director Development Services

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

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

#### ***Tweed LEP 2000***

#### ***Clause 11 – 2(a) Low Density Residential Zone and Clause 51A Multi Dwelling Housing Densities in Zone 2(a)***

*Multi-dwelling Housing is permissible with consent in the 2(a) Low Density Residential Zone subject to compliance with Clause 51A of the LEP. That is 1 dwelling per 250 m<sup>2</sup> as the land is within 300 metres of land zoned 3(b) General Business. The subject site is within this 300 metres, however as the site has an area of 614 m<sup>2</sup> the proposal is seeking consent for a development with a density of 1 dwelling per 205 m<sup>2</sup>. The proposal is therefore prohibited in the zone.*

*However the applicant is seeking approval as the existing residential flat building is a non-conforming use with existing use rights and under Section 108 of the EPA Act 1979 and Clause 41 of the EPA Regulations 2000, consent can be granted for an otherwise prohibited development.*

*In relation to the existing building, Council has confirmed that the existing building has been lawfully erected under separate approval issued during the 1960's. The existing building has a gross floor area of 258 m<sup>2</sup> or a floor space ratio of 0.42:1 and occupies approximately 189 m<sup>2</sup> of the site. The proposed building has a gross floor area of 330 m<sup>2</sup> or a floor space ratio of 0.53:1, and occupies 217 m<sup>2</sup> of the site. In considering this proposal, it is also necessary to weigh up other constraints and issues pertinent to this proposal. These are overshadowing of the coastal foreshore area and coastal erosion issues. From the shadow diagrams submitted the proposal will result in an increase in overshadowing of the foreshore reserve. Under the North Coast Regional Environmental Plan 1988 development shall not overshadow the foreshore reserve at 3 pm midwinter and 7 pm midsummer. The site is also located within the 50 to 100 year erosion lines in the recently completed WBM Hazard Definition Study, and as such, Council needs to consider such a risk in determining application along the coastal foreshore.*

*While medium density development is permissible in the zone, given that the site is within 300 metres of the Business Centre, it is no longer permissible at the scale as existing and as proposed. The proposal will continue and intensify a prohibited use, and having regard to the coastal erosion risk such an increase in residential density is not supported.*

#### ***Clause 15 Essential Services.***

*Existing infrastructure servicing the development is considered adequate.*

#### ***Clause 16 Height of Buildings***

*The land has a three-storey maximum height limit. The proposal containing a basement car park and two levels of residential above is, on merit, acceptable given this standard.*

## Reports from Director Development Services

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### **Clause 35 Acid Sulphate Soils**

*The land is identified under Tweed LEP 2000 as Class 4 ASS. A preliminary ASS Assessment by HMC Environmental Services has been submitted with the application which concluded that no ASS is likely to be disturbed by the development. Concern was raised by the Environment and Health Services Unit in relation to groundwater levels as the site will need to be excavated for a basement car park. Information submitted by the applicant and their environmental consultant indicates that ground water levels, although unknown, should not be intercepted.*

*This conclusion was reached based on the acid sulphate soils assessment whereby ASS will not be disturbed during construction with groundwater, which is found below the upper level of any ASS, also not being disturbed. As such dewatering of the site is not required, and the applicant has not applied for a dewatering license under the Water Act 1912.*

### **Clause 36 Coastal Erosion Outside Zone 7(f)**

*The application was forwarded to DLWC for comment in accordance with the Clause. The Department submitted that as the property is within the projected 50 to 100 year erosion events as identified under the WBM Tweed Coastline Hazard Definition Study, Council should consider the possible impacts of long-term shoreline recession and may wish to await the outcome of the Tweed Coastline Hazard Management Study and Plan prior to determination.*

**Comment:** *The Management Study and Plan is not likely to be finalised until the end of 2003/ early 2004, and Council will need to make a decision on the information to hand.*

*The applicant has submitted preliminary engineering detail demonstrating that the proposed building would be piered down to R.L. 0.0. This measure has been considered by Council as satisfactory in similar locations adjacent to the Coast and subject to Coastal processes. As to whether or not this is an appropriate response in dealing with this hazard is not clear. Should an erosion event happen it is uncertain as to whether the piercing of the development to RL 0.0 will be sufficient to maintain the structural integrity of the building. Further should sand and other foundation material be washed out from under the development, the replacement of this material will need to be extracted from another site and it is unknown where the material would be sourced from. Until this was to happen the development would be visually unattractive to the foreshore. Having regard to the Precautionary Principle and in the absence of an adopted Coastline Management Hazard Study and Plan it is concluded that the development is not consistent with the provisions of Clause 36 of Tweed LEP 2000.*

### **North Coast Regional Environmental Plan 1988 - Clause 32B**

*Under this clause Council must consider whether the development impedes public access to the foreshore area, have consideration to the Coastal Policy, the Coastline Management Manual and the North Coast Design Guidelines, and the clause prevents Council from granting consent to development which overshadow the beach before 3 pm midwinter and 7 pm (daylight saving time) Mid summer. Each of these issues are discussed in turn*

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**Public Access:** *The proposed development will not impede public access to the foreshore area or the beach, with access available from Pandanus Parade and Palm Avenue to the south and Cypress Crescent and the Cudgen Nature Reserve to the north.*

**NSW Coastal Policy:** *Matters raised by the Coastal Policy are discussed below.*

**Coastline Management Manual:** *The development has been designed with an option considered under the Coastline Management Manual for piercing the proposed development down to R.L. 0.0 to protect the proposed building from a Coastal Erosion Event. The manual does however discuss that such an option for protection may not be socially acceptable as the proposed building will be visually unattractive to the public should the building be threatened by an erosion event.*

**North Coast Design Guidelines:** *The development is consistent with the North Coast Design Guidelines*

**Overshadowing:** *The proposed development will cast a shadow onto the beach/foreshore area before the two time periods nominated under the REP for midwinter and midsummer. The applicant has submitted a SEPP No. 1 Objection to vary the development standard for the following reasons:*

*The existing building currently overshadows the beach prior to the relevant times.*

*Existing dunal vegetation on the foreshore area adds to further overshadowing of the beach prior to the relevant times.*

*Immediate foreshore area is not considered to be useable passive open space, as it does not contain any public facilities, which would encourage the public to congregate at. Therefore overshadowing does not alienate physical use of the area.*

*NSW Coastal Policy has guidelines relating to overshadowing of foreshore open space, but provides a comment, which indicates that such standards are difficult to achieve in urban environments. The applicant has submitted that this is the case, and the standard is inappropriate in this instance.*

**Comment** – *Shadow Diagrams have been submitted to show the shadow impact of the existing building, proposed building, and vegetation on the foreshore area. The diagrams however are not for the exact times as prescribed under the REP but it is considered give a fair indication as to the extent of the overshadowing into the foreshore reserve, when compared to the existing building. It is noted the existing building casts a shadow into the foreshore area in midsummer with an area of approximately 270m<sup>2</sup> and in midwinter with an area of 207m<sup>2</sup>. The proposal casts a shadow of approximately 400m<sup>2</sup> in midsummer and 270m<sup>2</sup> in midwinter.*

*The proposal will therefore result in an increase in overshadowing of the foreshore reserve in mid winter of approximately 63 m<sup>2</sup> and 130 m<sup>2</sup> in midsummer. Having regards to the planning controls it is considered the increase in overshadowing is unacceptable and that a variation to the development standard not be granted in this instance.*

*Dot point 3 of the above submission is not supported given that pedestrian access is available adjacent to the eastern boundary of the lots in Cypress Crescent.*



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### **SEPP 71 Coastal Development**

The application was submitted prior to the SEPP being gazetted and does not apply as per the transitional provisions under Clause 25

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

No draft EPI's affect this proposal.

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

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

The applicant has proposed to provide 5 spaces within the basement car park, and a carwash bay in the open. Proposed car parking complies.

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

The proposed site is level, clear of vegetation, and contains an existing residential flat building two storeys in height and a swimming pool. The property is adjacent to two residential flat buildings either side containing 6 units each. Both of these building are double storey, and the proposal in terms of bulk, scale and density maintains the Status Quo. The proposal complies with most of the requirements of DCP No. 6 as the following table demonstrates.

<b>Standard</b>	<b>Requirement</b>	<b>Variation/complies</b>
<i>Floor Space Ratio</i>	<i>0.5:1.0</i>	<i>The total floor area of the three dwellings is approximately 330m<sup>2</sup>. The site area is 614m<sup>2</sup> which equates to a floor space ratio is 0.53:1.0. The development does not comply with the FSR.</i>
<i>Landscaped Area</i>	<i>80m<sup>2</sup> per unit = 240<sup>m2</sup></i>	<i>The proposed development provides a total of 300 m2 of landscaping to the site and complies with landscaping area requirements. The existing swimming pool is to be retained. A conceptual landscape plan has been submitted with the plans, which appears satisfactory.</i>
<i>Setbacks from street boundary</i>	<i>6.0m to Cypress Cr</i>	<i>The proposed building is setback approximately 10 meters from the street and complies.</i>

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<i>Standard</i>	<i>Requirement</i>	<i>Variation/complies</i>
<i>Front fences and walls</i>	<i>1.2m max if solid</i>	<i>No new fencing is proposed between the front building line and the front boundary. Existing fencing to be retained around swimming pool and adjacent to 13 Cypress Crescent to be retained.</i>
<i>Building Envelope</i>	<i>45° from 3.5m high at the boundary</i>	<i>The development all but complies with the BHP other than some minor encroachments from the eaves on the side boundaries. Such encroachments are considered acceptable.</i>
<i>Side and rear setbacks</i>	<i>BCA Requirements (3 metres)</i>	<i>The proposed building complies with the rear setback to the Coastal Reserve. Elements of the building encroach on the side setbacks. The Kitchens of Units 1 and 2 on the ground floor encroach by 750 mm and bedroom 1 of Unit 1 also encroaches by a similar amount. Being on the ground floor such an encroachment will have a negligible impact on neighbour's amenity.</i>
<i>Private Open Space</i>	<i>20% of site area and balconies with minimum dimensions of 2 metres and area of 10 m<sup>2</sup>.</i>	<i>With over 300m<sup>2</sup> of the site area being dedicated to landscaping, approximately 49% of the site is landscaped. The ground floor units have balconies accessible from the living areas with an area of 13.5 m<sup>2</sup> and dimensions of 4.5m x 3m. The unit above has a balcony double this area with dimensions of 9 m x 3 m. Proposal complies with Private Open Space.</i>

### ***Development Control Plan No. 39 – Energy Smart Homes Policy***

*Applicant has submitted a NatHERS Certificate demonstrating that the three dwellings comply with the Policy in relation to Energy Efficiency.*

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### ***DCP 42 Notification Policy***

*The original proposal was notified in accordance with the policy and three submissions were received, one in support and two objecting to the proposal. The issues raised in the objections are discussed below.*

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

##### ***Demolition Code***

*Applicant has submitted a Demolition Plan, which has been assessed as satisfactory by Council's Building Services Unit.*

##### ***Coastal Policy***

*Three issues from the Coastal Policy are pertinent to this proposal. They are Coastal Erosion, Public Access and Overshadowing of the foreshore reserve. Each are discussed below in turn.*

***Coastal Erosion:*** *The land is located between the 50 and 100 year erosion lines and the applicant has submitted that the development will be designed to withstand a coastal erosion event with the building pierced down to R.L. 0.0. As discussed above it is unknown as to whether this is an appropriate response in dealing with this hazard.*

***Public Access:*** *Public access to foreshore areas will not be affected or restricted from the redevelopment of this site.*

##### ***Overshadowing***

*In relation to overshadowing of the foreshore reserve, the Coastal policy recommends beaches and waterfront open space should not be overshadowed before 4 pm midwinter and 7 pm midsummer, however notes that this may be difficult to achieve in highly urbanised environments. The proposal is to be sited within an built environment replacing an existing residential flat building with a slight increase in bulk and scale resulting in an increase in overshadowing of the foreshore reserve. As discussed it is considered the increase in overshadowing is unacceptable in midsummer and mid winter.*

#### ***(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 land contains an existing residential flat building and is already substantially developed. No clearing of vegetation is required, and the new building is sited almost upon the existing footprint. Consequently the proposed development is unlikely to have an adverse impact upon the natural environment.*

*The proposal is considered to reflect current coastal design trends in materials and rooflines and replaces an existing building, which has become aged and dated. In terms of visual impact on the locality it is considered the proposal does not adversely impact on the streetscape or general coastal environment.*

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

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*The land is located within the 50 to 100 year erosion lines as defined by the Tweed Shire Coastline Hazard Definition Study. Although the applicants have proposed a design solution to ensure the building is structurally sound during an erosion event in the absence of an adopted Coastline Hazard Management Study and Plan, it is uncertain as to whether this is an appropriate response to this hazard. Therefore having regard to the hazard risk the site is considered unsuitable for redevelopment on this scale.*

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

*The application in its original format (ie three storeys) was notified in accordance with the notification policy. Three submissions were received one in support and two objecting to the proposal on the following grounds.*

***Inadequate Car Parking***

*Car parking complies with the DCP 2*

***Road network and existing infrastructure inadequate to cater for this development***

*The proposal has been assessed by Councils Engineering Services who have no objection to the development in this regard.*

***Proposed development is not low density and not detached housing, and the development does not achieve good urban design objectives as the density scale and height is not compatible with the primary objectives of the zone, and the Proposal does not comply with the LEP requirements of 1 dwelling per 250 m<sup>2</sup> of site area.***

*The land has existing use rights for a residential flat building comprising three units. It is considered the two storey proposal, as amended, is not an unattractive building design and is at a scale and height compatible with surrounding development. The development however results in an overall increase in the gross floor area of around 10 % and an increase in site area of approximately 5%, and while medium density development is permissible in the zone, it is no longer permissible at the scale as existing and as proposed. The proposal will continue and intensify a use, which is now prohibited in the zone, and having regard to the coastal erosion risk such a residential density is no longer supported.*

***Amenity***

*The proposal is similar in bulk, scale, height and density to the existing development and will not adversely impact upon the residential amenity of the neighbourhood.*

***DLWC Submission***

*In addition to the coastal erosion issues as discussed above, the Department also raised issues in relation to the management of the adjoining Crown Reserve and the requirements of adjoining landowners to observe the various restrictions under the Crown Lands Act in regards to clearing, waste dumping, unauthorised access and encroachment. It is noted other landowners adjacent to the reserve have utilised this space for their own purposes and this issue should be further examined by the Reserves Trust to ensure the reserve is maintained for public use.*

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**(e) Public interest**

*Having regard to the increase in overshadowing of the foreshore reserve, the risk of the property being adversely affected by a coastal erosion event and the development being a prohibited development within 2(a) Low Density Residential Zone, the development has the potential to compromise the public interest.*

**Building Services Unit**

*No objection raised and should the application be approved conditions of consent have been recommended.*

**Environment and Health Services Unit**

*No objection raised and should the application be approved specific conditions have been recommended in relation to Acid Sulphate Soils and Dewatering of the site and other conditions in relation to the management of environmental issues.*

**Engineering Services**

*No objection raised and should the application be approved conditions of consent have been recommended.*

**Options**

1. *Refuse the application as recommended; or*
2. *Approve the application with appropriate conditions.*

**Legal/Resource/Financial Implications**

*The applicant has recourse through Land and Environment Court to appeal any decision made by Council. This will have a financial implication upon Council's budget in defending any such appeal.*

**Conclusion**

*The proposed multi-dwelling house development is contemporary in design and would replace an existing residential flat building, which has become aged and dated. However medium density development is no longer permissible at the scale as existing and as proposed within the 2(a) Low Density Residential Zone. The proposal will continue and intensify the residential density and use, which is now prohibited in the zone, and having regard to the coastal erosion risk and the impact of overshadowing upon the coastal foreshore such a residential density is not supported. The development application is therefore recommended for refusal."*

**BACKGROUND**

A development application has been submitted for a residential flat building at Cypress Crescent, Cabarita Beach. The application was initially for a three storey building containing two four bedroom units and a three bedroom units. The plans have since been amended following concerns raised by Council in relation to the proposal being an overdevelopment of the site. The proposal has been reduced to a two storey building comprising 2 three bedroom units and 1 four bedroom unit.

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The land currently contains a two storey residential flat building containing three dwellings. The land has an area of 614 m<sup>2</sup> and is located on the seaward side of Cypress Crescent, Bogangar, and is adjacent to the Coastal Reserve. The land is zoned 2(a) Low Density Residential, and a development of this magnitude in such a zone is normally prohibited. This application is seeking consent by utilising the existing use right provisions under the EPA Act 1979 and EPA Regulations 2000. The applicant is also seeking consent for the demolition of the existing building.

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

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

##### Tweed LEP 2000

##### *Clause 11 – 2(a) Low Density Residential Zone and Clause 51A Multi Dwelling Housing Densities in Zone 2(a)*

Multi-dwelling Housing is permissible with consent in the 2(a) Low Density Residential Zone subject to compliance with Clause 51A of the LEP. That is 1 dwelling per 250 m<sup>2</sup> as the land is within 300 metres of land zoned 3(b) General Business. The subject site is within this 300 metres, however as the site has an area of 614 m<sup>2</sup> the proposal is seeking consent for a development with a density of 1 dwelling per 205 m<sup>2</sup>. The proposal is therefore prohibited in the zone.

However the applicant is seeking approval as the existing residential flat building is a non-conforming use with existing use rights and under Section 108 of the EPA Act 1979 and Clause 41 of the EPA Regulations 2000, consent can be granted for an otherwise prohibited development.

In relation to the existing building, Council has confirmed that the existing building has been lawfully erected under separate approval issued during the 1960's. The existing building has a gross floor area of 258 m<sup>2</sup> or a floor space ratio of 0.42:1 and occupies approximately 189 m<sup>2</sup> of the site. The proposed building has a gross floor area of 330 m<sup>2</sup> or a floor space ratio of 0.53:1, and occupies 217 m<sup>2</sup> of the site. In considering this proposal, it is also necessary to weigh up other constraints and issues pertinent to this proposal. These are overshadowing of the coastal foreshore area and coastal erosion issues. From the shadow diagrams submitted the proposal will result in an increase in overshadowing of the foreshore reserve. Under the North Coast Regional Environmental Plan 1988 development shall not overshadow the foreshore reserve at 3 pm midwinter and 7 pm midsummer. The site is also located within the 50 to 100 year erosion lines in the recently completed WBM Hazard Definition Study, and as such, Council needs to consider such a risk in determining application along the coastal foreshore.

While medium density development is permissible in the zone, given that the site is within 300 metres of the Business Centre, it is no longer permissible at the scale as existing and as proposed. The proposal will continue and intensify a prohibited use, and having regard to the coastal erosion risk such an increase in residential density is not supported.

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### **Clause 15 Essential Services.**

Existing infrastructure servicing the development is considered adequate.

### **Clause 16 Height of Buildings**

The land has a three-storey maximum height limit. The proposal containing a basement car park and two levels of residential above is, on merit, acceptable given this standard.

### **Clause 35 Acid Sulphate Soils**

The land is identified under Tweed LEP 2000 as Class 4 ASS. A preliminary ASS Assessment by HMC Environmental Services has been submitted with the application which concluded that no ASS is likely to be disturbed by the development. Concern was raised by the Environment and Health Services Unit in relation to groundwater levels as the site will need to be excavated for a basement car park. Information submitted by the applicant and their environmental consultant indicates that ground water levels, although unknown, should not be intercepted.

This conclusion was reached based on the acid sulphate soils assessment whereby ASS will not be disturbed during construction with groundwater, which is found below the upper level of any ASS, also not being disturbed. As such dewatering of the site is not required, and the applicant has not applied for a dewatering license under the Water Act 1912.

### **Clause 36 Coastal Erosion Outside Zone 7(f)**

The application was forwarded to DLWC for comment in accordance with the Clause. The Department submitted that as the property is within the projected 50 to 100 year erosion events as identified under the WBM Tweed Coastline Hazard Definition Study, Council should consider the possible impacts of long-term shoreline recession and may wish to await the outcome of the Tweed Coastline Hazard Management Study and Plan prior to determination.

**Comment:** The Management Study and Plan is not likely to be finalised until the end of 2003/ early 2004, and Council will need to make a decision on the information to hand.

The applicant has submitted preliminary engineering detail demonstrating that the proposed building would be piered down to R.L. 0.0. This measure has been considered by Council as satisfactory in similar locations adjacent to the Coast and subject to Coastal processes. As to whether or not this is an appropriate response in dealing with this hazard is not clear. Should an erosion event happen it is uncertain as to whether the piercing of the development to RL 0.0 will be sufficient to maintain the structural integrity of the building. Further should sand and other foundation material be washed out from under the development, the replacement of this material will need to be extracted from another site and it is unknown where the material would be sourced from. Until this was to happen the development would be visually unattractive to the foreshore. Having regard to the Precautionary Principle and in the absence of an adopted Coastline Management Hazard Study and Plan it is concluded that the development is not consistent with the provisions of Clause 36 of Tweed LEP 2000.

### **North Coast Regional Environmental Plan 1988 - Clause 32B**

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Under this clause Council must consider whether the development impedes public access to the foreshore area, have consideration to the Coastal Policy, the Coastline Management Manual and the North Coast Design Guidelines, and the clause prevents Council from granting consent to development which overshadow the beach before 3 pm midwinter and 7 pm (daylight saving time) Mid summer. Each of these issues are discussed in turn

**Public Access:** The proposed development will not impede public access to the foreshore area or the beach, with access available from Pandanus Parade and Palm Avenue to the south and Cypress Crescent and the Cudgen Nature Reserve to the north.

**NSW Coastal Policy:** Matters raised by the Coastal Policy are discussed below.

**Coastline Management Manual:** The development has been designed with an option considered under the Coastline Management Manual for piercing the proposed development down to R.L. 0.0 to protect the proposed building from a Coastal Erosion Event. The manual does however discuss that such an option for protection may not be socially acceptable as the proposed building will be visually unattractive to the public should the building be threatened by an erosion event.

**North Coast Design Guidelines:** The development is consistent with the North Coast Design Guidelines

**Overshadowing:** The proposed development will cast a shadow onto the beach/foreshore area before the two time periods nominated under the REP for midwinter and midsummer. The applicant has submitted a SEPP No. 1 Objection to vary the development standard for the following reasons:

- The existing building currently overshadows the beach prior to the relevant times.
- Existing dunal vegetation on the foreshore area adds to further overshadowing of the beach prior to the relevant times.
- Immediate foreshore area is not considered to be useable passive open space, as it does not contain any public facilities, which would encourage the public to congregate at. Therefore overshadowing does not alienate physical use of the area.
- NSW Coastal Policy has guidelines relating to overshadowing of foreshore open space, but provides a comment, which indicates that such standards are difficult to achieve in urban environments. The applicant has submitted that this is the case, and the standard is inappropriate in this instance.

**Comment** – Shadow Diagrams have been submitted to show the shadow impact of the existing building, proposed building, and vegetation on the foreshore area. The diagrams however are not for the exact times as prescribed under the REP but it is considered give a fair indication as to the extent of the overshadowing into the foreshore reserve, when compared to the existing building. It is noted the existing building casts a shadow into the foreshore area in midsummer with an area of approximately 270m<sup>2</sup> and in midwinter with an area of 207m<sup>2</sup>. The proposal casts a shadow of approximately 400m<sup>2</sup> in midsummer and 270m<sup>2</sup> in midwinter.



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The proposal will therefore result in an increase in overshadowing of the foreshore reserve in mid winter of approximately 63 m<sup>2</sup> and 130 m<sup>2</sup> in midsummer. Having regards to the planning controls it is considered the increase in overshadowing is unacceptable and that a variation to the development standard not be granted in this instance.

Dot point 3 of the above submission is not supported given that pedestrian access is available adjacent to the eastern boundary of the lots in Cypress Crescent.

### SEPP 71 Coastal Development

The application was submitted prior to the SEPP being gazetted and does not apply as per the transitional provisions under Clause 25

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

No draft EPIs affect this proposal.

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

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

The applicant has proposed to provide 5 spaces within the basement car park, and a carwash bay in the open. Proposed car parking complies.

### Development Control Plan No. 6 – Multi Dwelling Housing

The proposed site is level, clear of vegetation, and contains an existing residential flat building two storeys in height and a swimming pool. The property is adjacent to two residential flat buildings either side containing 6 units each. Both of these building are double storey, and the proposal in terms of bulk, scale and density maintains the Status Quo. The proposal complies with most of the requirements of DCP No. 6 as the following table demonstrates.

Standard	Requirement	Variation/complies
Floor Space Ratio	0.5:1.0	The total floor area of the three dwellings is approximately 330m <sup>2</sup> . The site area is 614m <sup>2</sup> which equates to a floor space ratio is 0.53:1.0. The development does not comply with the FSR.
Landscaped Area	80m <sup>2</sup> per unit = 240m <sup>2</sup>	The proposed development provides a total of 300 m2 of landscaping to the site and complies with landscaping area requirements. The existing swimming pool is to be retained. A conceptual landscape plan has been submitted with the plans, which appears satisfactory.
Setbacks from street	6.0m to Cypress Cr	The proposed building is

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Standard	Requirement	Variation/complies
boundary		setback approximately 10 meters from the street and complies.
Front fences and walls	1.2m max if solid	No new fencing is proposed between the front building line and the front boundary. Existing fencing to be retained around swimming pool and adjacent to 13 Cypress Crescent to be retained.
Building Envelope	45° from 3.5m high at the boundary	The development all but complies with the BHP other than some minor encroachments from the eaves on the side boundaries. Such encroachments are considered acceptable.
Side and rear setbacks	BCA Requirements (3 metres)	The proposed building complies with the rear setback to the Coastal Reserve. Elements of the building encroach on the side setbacks. The Kitchens of Units 1 and 2 on the ground floor encroach by 750 mm and bedroom 1 of Unit 1 also encroaches by a similar amount. Being on the ground floor such an encroachment will have a negligible impact on neighbour's amenity.
Private Open Space	20% of site area and balconies with minimum dimensions of 2 metres and area of 10 m <sup>2</sup> .	With over 300m <sup>2</sup> of the site area being dedicated to landscaping, approximately 49% of the site is landscaped. The ground floor units have balconies accessible from the living areas with an area of 13.5 m <sup>2</sup> and dimensions of 4.5m x 3m. The unit above has a balcony double this area with dimensions of 9 m x 3 m. Proposal complies with Private Open Space.

### Development Control Plan No. 39 – Energy Smart Homes Policy

Applicant has submitted a NatHERS Certificate demonstrating that the three dwellings comply with the Policy in relation to Energy Efficiency.

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### **DCP 42 Notification Policy**

The original proposal was notified in accordance with the policy and three submissions were received, one in support and two objecting to the proposal. The issues raised in the objections are discussed below.

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

#### **Demolition Code**

Applicant has submitted a Demolition Plan, which has been assessed as satisfactory by Council's Building Services Unit.

#### **Coastal Policy**

Three issues from the Coastal Policy are pertinent to this proposal. They are Coastal Erosion, Public Access and Overshadowing of the foreshore reserve. Each is discussed below in turn.

**Coastal Erosion:** The land is located between the 50 and 100 year erosion lines and the applicant has submitted that the development will be designed to withstand a coastal erosion event with the building pierced down to R.L. 0.0. As discussed above it is unknown as to whether this is an appropriate response in dealing with this hazard.

**Public Access:** Public access to foreshore areas will not be affected or restricted from the redevelopment of this site.

#### **Overshadowing**

In relation to overshadowing of the foreshore reserve, the Coastal policy recommends beaches and waterfront open space should not be overshadowed before 4 pm midwinter and 7 pm midsummer, however notes that this may be difficult to achieve in highly urbanised environments. The proposal is to be sited within an built environment replacing an existing residential flat building with a slight increase in bulk and scale resulting in an increase in overshadowing of the foreshore reserve. As discussed it is considered the increase in overshadowing is unacceptable in midsummer and mid winter.

**(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 land contains an existing residential flat building and is already substantially developed. No clearing of vegetation is required, and the new building is sited almost upon the existing footprint. Consequently the proposed development is unlikely to have an adverse impact upon the natural environment.

The proposal is considered to reflect current coastal design trends in materials and rooflines and replaces an existing building, which has become aged and dated. In terms of visual impact on the locality it is considered the proposal does not adversely impact on the streetscape or general coastal environment.

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

The land is located within the 50 to 100 year erosion lines as defined by the Tweed Shire Coastline Hazard Definition Study. Although the applicants have proposed a design solution to ensure the building is structurally sound during an erosion event in the absence of an adopted Coastline Hazard Management Study and Plan, it is uncertain as to whether this is an appropriate response to this hazard. Therefore having regard to the hazard risk the site is considered unsuitable for redevelopment on this scale.

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

The application in its original format (ie three storeys) was notified in accordance with the notification policy. Three submissions were received one in support and two objecting to the proposal on the following grounds.

▪ **Inadequate Car Parking**

Car parking complies with the DCP 2

▪ **Road network and existing infrastructure inadequate to cater for this development**

The proposal has been assessed by Councils Engineering Services who have no objection to the development in this regard.

▪ **Proposed development is not low density and not detached housing, and the development does not achieve good urban design objectives as the density scale and height is not compatible with the primary objectives of the zone, and the Proposal does not comply with the LEP requirements of 1 dwelling per 250 m<sup>2</sup> of site area.**

The land has existing use rights for a residential flat building comprising three units. It is considered the two storey proposal, as amended, is not an unattractive building design and is at a scale and height compatible with surrounding development. The development however results in an overall increase in the gross floor area of around 10 % and an increase in site area of approximately 5%, and while medium density development is permissible in the zone, it is no longer permissible at the scale as existing and as proposed. The proposal will continue and intensify a use, which is now prohibited in the zone, and having regard to the coastal erosion risk such a residential density is no longer supported.

▪ **Amenity**

The proposal is similar in bulk, scale, height and density to the existing development and will not adversely impact upon the residential amenity of the neighbourhood.

▪ **DLWC Submission**

In addition to the coastal erosion issues as discussed above, the Department also raised issues in relation to the management of the adjoining Crown Reserve and the requirements of adjoining landowners to observe the various restrictions under the Crown Lands Act in regards to clearing, waste dumping, unauthorised access and encroachment. It is noted other landowners adjacent to the reserve have utilised this

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space for their own purposes and this issue should be further examined by the Reserves Trust to ensure the reserve is maintained for public use.

(e) **Public interest**

Having regard to the increase in overshadowing of the foreshore reserve, the risk of the property being adversely affected by a coastal erosion event and the development being a prohibited development within 2(a) Low Density Residential Zone, the development has the potential to compromise the public interest.

### **Building Services Unit**

No objection raised and should the application be approved conditions of consent have been recommended.

### **Environment and Health Services Unit**

No objection raised and should the application be approved specific conditions have been recommended in relation to Acid Sulphate Soils and Dewatering of the site and other conditions in relation to the management of environmental issues.

### **Engineering Services**

No objection raised and should the application be approved conditions of consent have been recommended.

### **OPTIONS**

1. Refuse the application as recommended; or
2. Approve the application with appropriate conditions as is foreshadowed in the Council resolution dated 2 April 2003.

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

The applicant has recourse through Land and Environment Court to appeal any decision made by Council. This will have a financial implication upon Council's budget in defending any such appeal.

### **DRAFT CONDITIONS IN THE EVENT THAT COUNCIL DETERMINES APPROVAL**

Should Council determine to approve the application, Conditions of Consent have been brought forward for consideration.

Following consideration of the report on 2 April 2003 it was resolved as follows:

*"that Council supports the proposal in principle and requests the Director to bring forward appropriate conditions for consideration by Council".*

In accordance with that resolution, if Council determines to approve the development the following conditions are recommended to apply:-

#### **"Deferred Commencement"**

**This consent shall not operate** until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

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Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

### **SCHEDULE "A"**

#### **Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.**

- A. The applicant shall submit to Council for approval within 12 months of the date of this notice the following
- i) Detailed plans (in triplicate) and the proposed method of construction relative to the subject sites location within a coastal erosion zone. Such plans are to adequately demonstrate that the design of the proposed building will ensure structural design and construction to withstand a coastal erosion event and foreshore recession. Such plans and detail to be prepared and certified by a suitably qualified and practising structural engineer experienced in coastal erosion.

### **SCHEDULE B**

**NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.**

#### **GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos SK61, 62, 63, 64, 65, 66 prepared by Husband Leith Architects and dated 14/ 11/02, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
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.

## Reports from Director Development Services

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5. The development is to be completed in accordance with the NatHers Certificate signed by Mark Thomas dated 4/2/03.
6. Energy efficient hot water systems which achieve a minimum 3.5 star rating to be installed in each dwelling.
7. Coastal reserve R1001008 shall not be disturb or modified in any way and the following activities on the reserve are prohibited:
  - i) The clearing, lopping, trimming or damaging of any coastal vegetation;
  - ii) The dumping of rubbish including lawn clippings and other garden refuse;
  - iii) The construction of accessways through the reserve to the beach;
  - iv) Encroachment including the construction of barbeques and outdoor recreation areas and the erection of clothe lines.

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

8. 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.
9. 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 the required attachments and prescribed fee.
10. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.
11. 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 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

## Reports from Director Development Services

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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*.

12. The development application sought approval for stormwater drainage works under s68 of the Local Government Act 1993. The s68 application appended to the development application did not contain sufficient detailed information for Council to fully assess the proposal.

Prior to approval being given to a construction certificate application that includes any of the following specific stormwater drainage works

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

Approval is required from Council under s68 of the Local Government Act 1993 for these specific works.

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.

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

14. 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



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"*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*.
15. 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.
16. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

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

17. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

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- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
- (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
  - (A) the method of protection; and
  - (B) the date of installation of the system; and
  - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
  - (D) the need to maintain and inspect the system on a regular basis.

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

- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.

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22. 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.
23. 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.

### **DURING CONSTRUCTION**

24. 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).
25. 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.
26. 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.
27. 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.
28. 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.
29. 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. the fire protection of penetrations through any fire rated elements prior to covering
30. 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.
31.
  - 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.
32. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

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33. 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.
34. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
35. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
  - A. Short Term Period - 4 weeks.

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

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
36. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
37. The burning of builders waste on site by open fire is prohibited.
38. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
39. 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.
40. 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.
41.
  - 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.
42. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
43. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single*

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- household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
44. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
  45. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
  46. 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.
  47. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
    - \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
    - \* 50<sup>0</sup>C in all other classes of buildings.A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
  48. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
    - i. All required erosion and sedimentation control devices have been installed and are operational.
    - ii. Required toilet facilities have been provided on the site.
    - iii. A sign has been erected on the site identifying:
      - Lot number
      - Builder
      - Phone number of builder or person responsible for site.
    - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
    - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
  49. 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.
  50. Acid Sulphate Soils shall not be exposed, excavated or disturbed as part of the development during construction.
  51. Dewatering of the site is prohibited during construction or excavation for the development.

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52. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.
53. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Cypress Crescent. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.

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

54. 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.
55. 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).
56. 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.

### **USE**

57. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.
58. 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.
59. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
60. Plant or air conditioning units shall not adversely impact upon the amenity of any other premises.

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61. All wastes shall be collected, stored and disposed of to the satisfaction of the Director of Environment and Community Services.
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## Reports from Director Development Services

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- 5. ORIGIN:** Strategic Town Planning Unit  
**FILE REF:** GT1/LEP/2000/42 Pt1; LEP-2000/42

**REPORT TITLE:**

**Rural Settlement Strategy**

**SUMMARY OF REPORT:**

Council has received a response from PlanningNSW relating to the proposed Rural Settlement Strategy and consequent draft LEP Amendment. PlanningNSW does not support the proposed Strategy and proposes that Council identifies a more appropriate mechanism to regulate rural land use.

**RECOMMENDATION:**

That Council:-

1. Receives and notes this report and the letter of 25 March 2003 from PlanningNSW.
2. Notes that the Director Development Services will submit a report to the Council meeting of 7 May 2003 on options for Council to proceed with planning for rural land use in the Shire.

## Reports from Director Development Services

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### REPORT:

#### BACKGROUND

At The ordinary meeting of 20 November 2002, Council resolved that:

- “1. Council submits to the Director-General of PlanningNSW the Rural Settlement Strategy and draft Local Environmental Plan Amendment as recommended to Council by the LEP Advisory Committee on 12 November 2002;
2. Council informs the Regional Director of Planning NSW that, pursuant to Section 54 of the Environmental Planning and Assessment Act, it intends to prepare a draft Local Environmental Plan for the provision of rural housing in the Shire, and that in the opinion of Council, an Environmental Study is not required in view of the fact that the draft Amendment is supported by a Rural Settlement Strategy”.

The draft LEP and supporting Rural Settlement Strategy was forwarded to the Department in accordance with the above resolution.

Council has now received a formal reply from PlanningNSW with respect to this matter. A copy of this letter is provided as Annexure 1. In summary, PlanningNSW does not support the Rural Settlement Strategy and draft LEP as prepared by the LEP Advisory Committee, and proposes that Council finds a more appropriate mechanism to strategically plan for rural land use.

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## Reports from Director Development Services

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**6. ORIGIN: Development Assessment Unit**

**FILE REF: DA02/1307 Pt1; LN: 19755**

**REPORT TITLE:**

**Development Application DA02/1307 for a 4 Lot Residential Subdivision at Lot 34 DP 31369, Lot 35 DP 31369, No 4 Kent Street, Tweed Heads**

**SUMMARY OF REPORT:**

Council considered a Review of Determination report on the subject subdivision on 5<sup>th</sup> March 2003. Council resolved:

*“... that this item be deferred on the request of the applicant.”*

Subsequently the applicant made submission in relation to the reasons for refusal. This report details the assessment of this submission provided and concludes recommending the reasons for refusal be reaffirmed.

**RECOMMENDATION:**

That Council reaffirms the determination of refusal of Development Application DA02/1307 for a 4 lot residential subdivision at Lot 34 DP 31369, Lot 35 DP 31369, No. 4 Kent Street Tweed Heads.

## Reports from Director Development Services

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### REPORT:

**Applicant:** McLauchlan Surveying Pty Ltd

**Owner:** Mr S Lubberink and Mr WG Hayes

**Location:** Lot 34 DP 31369, Lot 35 DP 31369, No. 4 Kent Street Tweed Heads

**Zoning:** 2(a) Low Density Residential

**Cost:** Not provided

### BACKGROUND

The report addresses the submissions made by the applicant following Council's resolution of 5 March 2003.

*"... that this item be deferred on the request of the applicant."*

Subsequently, the applicant made submission in relation to the reasons for refusal. This report details the assessment of this submission provided and concludes recommending the reasons for refusal be reaffirmed.

### SITE DIAGRAM

Insert site plan

### CONSIDERATION OF THE APPLICANTS SUBMISSION ON THE REASONS FOR REFUSAL

#### Reason For Refusal No.1

The proposed subdivision is not able to achieve the primary objectives, in relation to providing a residential environment with suitable amenity, of the zone under the Tweed Local Environmental Plan 2000.

The applicant has submitted that the subdivision meets the minimum area requirement and as there is a distance between the kerb and property boundary of 9 metres that has an array of trees and shrubs, the allotments fronting Kent Street would have amenity.

The reason for refusal is in relation to the residential amenity of the proposed subdivision. This is considered to be impacted upon by the proposed allotments being encumbered by stormwater overland flow paths, uncontrolled fill and steep access. The constraints of the site are not considered to afford a low density residential environment with detached housing amenity.

#### Reason For Refusal No.2

The proposed subdivision has not demonstrated an ability to meet the essential servicing requirements of the Tweed Local Environmental Plan 2000.

The applicant has advised that the essential services are available to each allotment. The sewer passes through the proposed allotments, and water can be connected from Kent Street. There is no technical or practical difficulty associated with the provision of services.

This reason for refusal was imposed as the applicant had not demonstrated the ability for each allotment to be connected.

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### Reason For Refusal No.3

The proposed development is not accompanied by adequate engineering information to enable an assessment of the proposal.

The applicant provided some engineering information that Council's Developments Engineer has assessed. The assessment of the information provided has not satisfied the Development Engineers concerns.

### Reason For Refusal No.4

The proposed subdivision results in allotments that will not provide adequate access to property in accordance with Council's Access to Property Policy.

The applicant has submitted in relation to this refusal reason that they have illustrated that a driveway can be constructed. The applicant contends that the driveway detail can be provided with the future house details.

Council's Developments Engineer has provided the following comment.

*The topography from Kent Street is such that vehicular access will not comply with Council's policy. To achieve a satisfactory footway profile and a driveway longsection grade of 25% earthworks must be carried out. The applicants acknowledge this and propose that the construction of this driveway should be the responsibility of the future owner. In response to the applicants argument, a new property owner would most likely expect not to incur such an expense on a recently approved subdivision.*

*Discussions with Mr Trevor Harris in relation to section 138 approvals(driveways) revealed that he has dealt with at least 20 different properties in the last two years where access grades did not satisfy Council's requirements, these allotments being created more than ten years ago. In almost all situations the property owners argued that Council had caused the problem by approving the subdivision and therefore Council should relax its standards to prevent burdening the property owner with additional expense.*

*The property owners considered that it was unfair that they should be required to incur additional expenses to either carry out bulk earthworks for a driveway or construct their garages in a location/height level to facilitate satisfactory vehicular access. The problems were invariably resolved by Council accepting a driveway that did not meet the minimum standards, and in some cases raised safety concerns.*

Given the above comment it is considered that the reason for refusal is valid.

### Reason For Refusal No.5

The proposed subdivision will not afford reasonable residential amenity to the future occupants due to the stormwater overland flow path within private open space.

The applicant submitted engineering detail from Martin Findlater and Associates.

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## Reports from Director Development Services

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The following is an extract from Council's Development Engineers original assessment report of the proposal.

*Proposed lots 1 and 2 are traversed by a 525mm dia. stormwater pipe. The applicants have provided hydraulic calculations to show that this pipe can satisfactorily discharge the stormwater from the upstream catchment. The 525mm pipe has a pipe capacity of 1.2m<sup>3</sup>/s on the basis of a gradient of 7.8% for a 1 in 5 year storm event. The upstream catchment generates a total discharge of 0.916m<sup>3</sup>/s for a 1 in 5 year event and therefore it is considered that the stormwater pipe has sufficient capacity.*

*The applicant intends to provide an overland flow path along the eastern property boundary of the new lots to cater for Q<sub>100</sub> less the Q<sub>5</sub> flows. On the basis of the calculations provided this channel will cater for this flow.*

*However, the applicant appears to have given no consideration to the impacts on the immediate downstream property (lot 331) that may result from the concentrated flows. For example, will the concentration of the overland flow in the channel outlet near the existing stormwater grate with a surface level of 3.22m cause erosion or flooding problems within lot 331. Furthermore, there appears to be no legal point of discharge into the downstream property.*

*Based on the hydraulic calculations provided and the constructions of the overland flow channel it is considered that the stormwater could be conveyed through the site in a satisfactory manner.*

*However, the construction of an overland flow path in the rear of small allotments is not considered "best practice" or a desirable solution. Concern also exists regarding no legal point of discharge from the downstream property owner.*

Council's Developments Engineer considers that the above opinion is still supported. Council's Developments Engineer has advised:

*The applicants have shown that a Q<sub>100</sub> flow can be conveyed through the site.*

*If this matter were the only issue, the question of impacts to private open space could possibly be overlooked (the backyard having a 525mm pipe and overland flow path in it). However, given the cumulative issues of access and uncontrolled fill it is considered that this matter could not be dealt with in isolation.*

Given the above assessment from Council's Developments Engineer it is considered that the reason for refusal is valid.

### **Reason For Refusal No.6**

The subject land is not suitable for residential subdivision due to the stormwater and uncontrolled fill constraints.

## Reports from Director Development Services

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The applicant contends that Council suggested that piered footings would overcome this issue. Council's Developments Engineer has advised the following.

*Border-Tech have identified that long term settlement of the uncontrolled fill of up to 60mm could occur and consequently piered foundations should be incorporated into the dwelling design.*

*The applicant proposes that a restriction to user should be imposed on the title limiting the foundation type to 'piered foundations'. It is unclear if such a restriction can be lawfully imposed. Furthermore, it is questionable if it is reasonable to impose a direct cost onto a future property owner.*

*The applicant would argue that the sale price of the allotment would reflect any constraints associated with the land.*

Given the above comments from Council's Developments Engineer and the comments provided in relation to the stormwater issues of refusal reason No.5, this refusal reason is considered to be justified.

### **Reason For Refusal No.7**

The proposed subdivision is not in the public interest.

The applicant has submitted that the public is not affected in any way by this inconspicuous proposal. If any impact was likely, it would be on the two dwellings owned by the proponents.

The proposal is not considered to be in the public interest as the community would expect a subdivision approved by Council to be a satisfactory design, rather than place financial burdens on future property owners.

### **OPTIONS**

1. Reaffirm the determination for refusal of the application.
2. Request the Director Development Services to bring forward draft Conditions of Consent to the meeting of 7 May 2003 in the event that Council determines to give consent to the application.

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

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

### **CONCLUSION**

In conclusion it is considered that the refusal of the proposed development should be upheld as the site is heavily constrained and would not provide a suitable residential amenity for future occupants.

## Reports from Director Development Services

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# Reports from Director Corporate Services

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**7. ORIGIN:** Administration Services Unit  
**FILE REF:** Subj: Leases-Ccl Pty; LN: 7236

**REPORT TITLE:**

**Lease of Council Premises - 1 Nullum Street, Murwillumbah**

**SUMMARY OF REPORT:**

Council currently has a lease with Tweed Training and Enterprise Company Limited over No 1 Nullum Street, Murwillumbah.

A request has now been received that the lease be renewed on the same terms and conditions for a further period of three (3) years

**RECOMMENDATION:**

That Council enters into a lease with Tweed Training and Enterprise Company Limited over No 1 Nullum Street, Murwillumbah for a period of two (2) years on the same terms and conditions.

# Reports from Director Corporate Services

## REPORT:

The following letter has been received from Volunteering Tweed (a division of Tweed Training and Enterprise Company Ltd) for a renewal of their lease over Council property at No 1 Nullum Street, Murwillumbah.



## Volunteering Tweed

A division of Tweed Training & Enterprise Company Ltd

The General Manager,  
Tweed Shire Council,  
PO Box 816,  
Murwillumbah,  
NSW, 2484

Dear Dr John Griffin,

LEASES - COUNCIL PROPERTY  
LN: 7236  
FEB 2003  
DONAGHY, B

**RE: LEASE – 1 NULLUM STREET MURWILLUMBAH – VOLUNTEERING  
TWEED, TWEED PALLIATIVE SUPPORT, MURWILLUMBAH  
COMMUNITY SUPPORT CENTRE**

We wish to request renewal of the current lease at the abovementioned premises for the next three years commencing February 28, 2003 and ending on February 27, 2006. The 3 current tenants wish to continue their tenancy in their existing allocated office spaces with a continuation of the shared areas. The areas which are currently shared by the tenants include a meeting room (which is also used by other community organisations), 2 toilets, a reception / waiting area, a kitchen area and the rear car parking facility.

Currently the 3 tenants meet to discuss housekeeping matters on a regular basis while housekeeping costs are shared by the tenants. The grounds are presently maintained by Tweed Training and Enterprise Company (Volunteering Tweed's parent Company) and the tenants work in an extremely convivial and co-operative manner.

The three Nullum Street tenants provide outstanding service to the Tweed Shire and all three organisations have expanded their operations substantially over the last 12 months. This has been greatly assisted due to the accessible location at 1 Nullum Street, Murwillumbah.

We would urgently request that Council review and renew our leases in order to ensure stability of these excellent services and to allow each organisation to continue with their business planning for the next three years.

Representatives from all three organisations would be happy to meet with the Tweed Shire Council, Council staff or any committee members in order to answer any questions in relation to this matter. We look forward to working with you, your staff and the citizens of the Tweed over the next three years.

## Reports from Director Corporate Services



### Volunteering Tweed

A division of Tweed Training & Enterprise Company Ltd

Yours sincerely,

Richard Patterson                      Volunteering Tweed Co-ordinator

Helen Lewis                              President, Tweed Palliative Support

Carmel O'Dea                              Chairperson, Murwillumbah Community Support  
Centre Inc

The previous lease was entered into in 2000, with all outgoings being met by the Lessee any the tenants except for the payment of rates. The rental under the previous lease was nil.

Council at its meeting of 2 August 2000 considered a report concerning the future use of No 1 Nullum Street, Murwillumbah. At that time it was resolved to Lease No 1 Nullum Street to the Tweed Training & Enterprise Company Ltd and for further investigation to be undertaken to ascertain how and where a purpose-built community centre may be finalised.

This matter was further dealt with by Council at its meeting held on 4 October 2000 where it was resolved that Council commences a planning process for the provision of a community site in Knox Park by either adjoining or adding to the existing community centre, such to occur over the next couple of years and to be funded by the sale of both Mayal and Nullum street properties at an appropriate time.

Due to work commitments and other priorities this planning process has not occurred. It is therefore recommended that a lease be granted to Tweed Training & Enterprise Company Ltd over No 1 Nullum Street for a period of two (2) years on the same terms and condition as the previous lease for the planning process to occur and the proposed sale of the properties to take place.

## Reports from Director Corporate Services

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## Reports from Director Corporate Services

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**8. ORIGIN: Administration Services Unit**

**FILE REF: Agreements; Licence - Crown Lands Act;**

**REPORT TITLE:**

**Renewal of Licence - Land Adjacent to the Boyds Bay Bridge, Tweed Heads - Tweed River Boat Hire**

**SUMMARY OF REPORT:**

Council current has a licence agreement with W R & L E McConnell trading as the "Tweed River Boat Hire" for an area of land adjacent to the Boyds Bay Bridge, Tweed Heads. A request has now been received for a renewal of this licence.

**RECOMMENDATION:**

That Council renews the licence currently held by Mr William Rex McConnell and Mrs Louise Elizabeth McConnell for a period of five (5) years commencing on 5 December 2003, at a rental of nine thousand dollars (\$9,000.00) per annum excluding GST which all other terms and conditions to remain as previously.

# Reports from Director Corporate Services

## REPORT:

The following letter has been received from Mr & Mrs McConnell requesting an extension of five (5) years on their current licence for the purchase of conducting the Tweed River Boat Hire business.

# TWEED RIVER BOAT HIRE

P.O BOX 6071 SOUTH TWEED HEADS N.S.W. 2486

PH; (07) 5524 3507 FAX; (07) 5524 8226

A.H 5536 3920

EMAIL; [info@tweedriverboathire.com.au](mailto:info@tweedriverboathire.com.au)

Friday 21<sup>st</sup> March 2003

Mr Brian Donaghy  
Tweed Shire Council  
P O BOX 816  
Murwillumbah  
NSW 2484

**AGREEMENTS**

TWEED SHIRE COUNCIL

FILE No LICENCE - CROWN LANDS ACT

DOCUMENT

RECD 28 MAR 2003

BOX No

ASSIGNED DONAGHY, B

HARD COPY

RE; LICENCE AGREEMENT WITH TWEED SHIRE COUNCIL

Dear Mr Donaghy,

I am writing in response to your letter dated 19th March 2003, which addresses our request for an extension to our existing lease for our business, Tweed River Boat Hire

We operate from land adjacent to Boyd's Bay Bridge in Tweed Heads

The Boat Hire has operated successfully from this site since 1954

Bill and I have met all operational requirements as noted in our lease agreement. Also, we have continued to maintain the boat-shed and surrounding gardens with a high standard. For example, at our request, council placed an additional rubbish bin under Boyd's Bay Bridge, as the resulting waste from use of this popular fishing spot was causing a potential hazard to the public, wildlife and the environment.

Bill has dutifully ensured that this bin is unchained from its position near the bridge and placed with our bins for collection each week

During our initial application to Council for this lease eight years ago, we promised that we would offer enthusiasm, skill, and our experience within the important tourism industry, to well represent the Tweed. We certainly do our best to share the historical value of this site with our visitors as well as promote the recreational aspects.

I believe we continue to provide a unique and memorable experience for all who pass through our door. However, to better suit our development, and the potential of this business, we would like to formally apply for an extension to the existing five year lease, which is due to expire on December 5, 2003.

If further details are required, please contact us at any time.

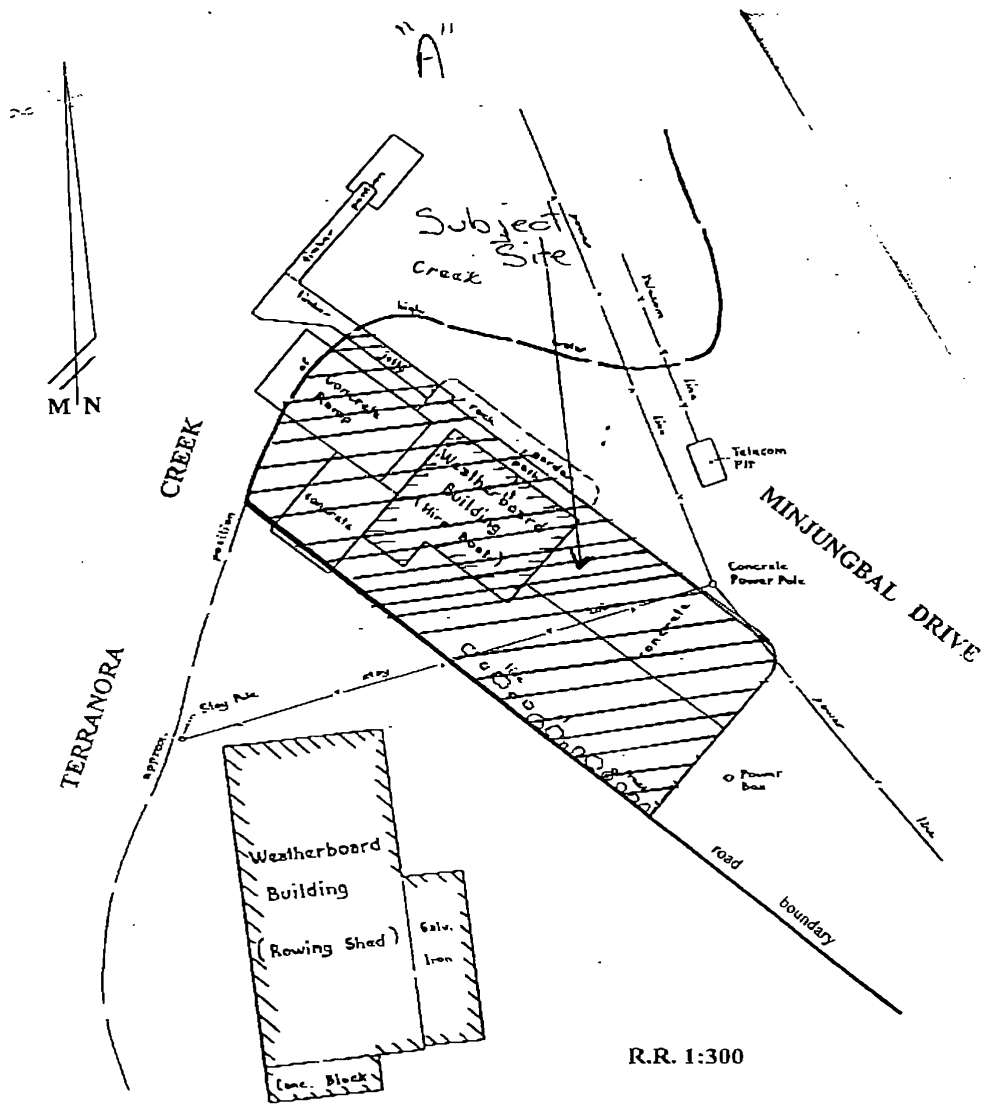
Sincerely,

Bill & Louise McConnell  
Owner/operators TWEED RIVER BOAT HIRE

# Reports from Director Corporate Services

Mr & Mrs McConnell have been excellent tenants, no complaints have been received as to the operations of their business, and they have kept the area licensed in a clean and tidy state.

The area, the subject of the licence, is shown as the hatched area on the attached map.



SKETCH SHOWING IMPROVING IMPROVEMENTS  
WITHIN PUBLIC ROAD RESERVE  
MINJUNGBAL DRIVE, TWEED HEADS SOUTH

## Reports from Director Corporate Services

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The original rental was seven thousand dollars (\$7,000.00) per annum this has increased with CPI to currently eight thousand nine hundred and thirty two dollars and fifty cents (\$8,932.50).

The term of the current lease being five (5) years with an expiry date of 4 December 2003.

It is being recommended that this lease be renewed as from 5 December 2003 for a further five (5) year period.

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## Reports from Director Corporate Services

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**9. ORIGIN: Director**  
**FILE REF: DW893745; NOROC**

**REPORT TITLE:**

**Membership of NOROC**

**SUMMARY OF REPORT:**

Subsequent to the presentation by Northern Rivers Regional Organisation of Councils Inc (NOROC) to Council on 26 March 2003, the organisation has written to Council with a proposition for provisional membership until June 2003.

**RECOMMENDATION:**

That Council considers the inclusion of an amount of \$18,200 in the Draft 2003/04 Budget for membership of the Northern Rivers Regional Organisation of Councils Inc (NOROC).

# Reports from Director Corporate Services

## REPORT:

Subsequent to the meeting with Council by representatives of the Northern Rivers Regional Organisation of Councils Inc (NOROC), the attached letter has been received from the Executive Officer:

April 1, 2003

Dr John Griffin  
General Manager  
Tweed Shire Council  
PO Box 816  
Murwillumbah 2484

Dear John,

**Re: Membership of NOROC**

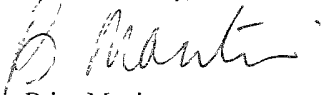
Thank you for the opportunity for representatives of NOROC to meet and discuss with your Council on 26<sup>th</sup> March 2003, your future membership of NOROC.

We hope your Council was impressed by our members keen desire, conveyed at the meeting, for your Council to renew its partnership with Noroc as an influential and significant partner in regional affairs for the Northern Rivers.

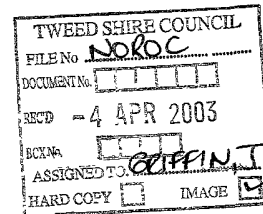
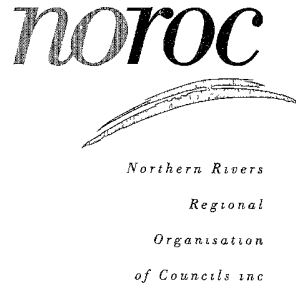
While our membership fees have not been determined for 2003/2004, we could provide provisional membership until June 2003. Based on our current fee structure, fees for 2002/2003 would have been \$18,200.

We hope your Council will favourably consider our request to renew its membership.

Yours faithfully,



Brian Martin  
Executive Officer



It is recommended that Council consider for inclusion in the Draft 2003/04 Budget the allocation of an amount of \$18,200.

## Reports from Director Corporate Services

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**10. ORIGIN: Financial & Information Services Unit**

**FILE REF: Loans - Annual Program**

**REPORT TITLE:**

**2002/03 Loan Borrowing Program**

**SUMMARY OF REPORT:**

The Department of Local Government has approved Council's 2002/2003 loan allocation of \$3,676,000 and renewal loans of \$2,393,000. The program of works funded by these borrowings was approved by Council in the 2002/2003 adopted budget

**RECOMMENDATION:**

That :-

1. The General Manager and Manager Financial & Information Services be authorised to negotiate acceptance of the loan quotations; and
2. The loan applications, mortgage deeds and other documentation be completed under the Common Seal of Council.

# Reports from Director Corporate Services

## REPORT:

### 2002/2003 APPROVED BORROWING – MINISTER’S DETERMINATION

The Department of Local Government has approved, under Section 624 of the Local Government Act, 1993, Council’s borrowings for 2002/2003.

### STATUTORY REQUIREMENTS FOR LOCAL GOVERNMENT LOANS

Council’s borrowing is controlled by the Federal Government’s “Global Borrowing Program”. The NSW State Government Treasury, through the Department of Local Government, each year determines the borrowing limit of Council, and activities controlled by Council. Borrowing approval given to local government is broken into two sections viz. “General Purpose” borrowing which can be used for any purpose by Council and “Special Purpose” that has conditions imposed by State Government.

### BASIS FOR THE USE OF LOAN FUNDS FOR CAPITAL WORKS

The extent to which capital expenditure can be financed out of revenue is limited and, in order to distribute the cost of long term facilities over the period during which benefits will be derived from such facilities, it is usual for Council to finance part of these works from borrowings, and to repay the loan over an extended period. This ensures that the ratepayers currently paying for the facility are those who are currently benefiting from it.

### DETAILS OF COUNCIL’S 2002/2003 LOAN BORROWING APPROVED

#### General Fund

##### New Monies

• Building	\$1,350,000	
• Infrastructure works	\$2,226,000	
• Other	\$1,000,000	\$3,676,000
Renewal Loans		\$2,393,000

<b>Total New and Old Borrowing</b>		<b>\$6,069,000</b>
------------------------------------	--	--------------------

### CONDITIONS OF GOVERNMENT APPROVAL

Council is required, under Section 30 of the Local Government (Financial Regulations) 1993, to notify the Director-General of the Department of Local Government within seven (7) days of any borrowings. Details to be provided must indicate name of lender, purpose for which borrowing is being made, the term of the borrowing and rate of interest to be made. Council, in addition, must immediately notify the NSW Government in writing of any amount not being taken up so that it may be reallocated to another Council. Failure to comply may result in Council not being granted a borrowing limit in subsequent years or having its requested borrowing reduced substantially. The Lender’s loan mortgage documents must also be completed under the Common Seal of Council.

## Reports from Director Corporate Services

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### 2002/2003 LOAN PROGRAM – ADOPTED BY COUNCIL IN CURRENT YEAR’S BUDGET

<b>New Monies</b>	<b>\$</b>
Bridges	1,000,000
Drainage	600,000
Flooding	86,000
Road Construction	500,000
Public Toilets	100,000
Open Space	100,000
Boat Ramps	40,000
Pandanus Parade/SLSC	250,000
Art Gallery	1,000,000
<b>TOTAL</b>	<b>3,676,000</b>

### SUMMARY

It is proposed to call for quotations for the supply of these loan funds from various financial institutions. A report will be submitted to Council at a later date on the quotations received and accepted by the General Manager and Manager Financial & Information Services.

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## Reports from Director Corporate Services

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# Reports from Director Corporate Services

**11. ORIGIN: Financial & Information Services Unit**

**FILE REF: Budget**

**REPORT TITLE:**

**Quarterly Budget Review 31 March 2003**

**SUMMARY OF REPORT:**

This report is the third quarter statutory budget review for this financial year and summarises the major expenditure and income changes to the 2002/03 Budget based on current projects to 30 June 2003. This statutory report is prepared in accordance with Local Government Financial Regulations Section 6 and 7. Council will have a balanced budget in the General Fund whilst Water and Sewer Funds are in accordance with budget expectations.

**RECOMMENDATION:**

That :-

1. The Quarterly Budget Review Statement as at 31 March 2003 be adopted.
2. The expenditure and income as detailed below be voted and adjusted in accordance with the revised total expenditure and income for the year.

GENERAL FUND		NEGATIVE (Contribute to Deficit \$	POSITIVE (Contribute to Surplus) \$
1.	Information Technology and Support – Savings		145,000
2.	Donations Policy – additional cost	6,500	
3.	Financial Assistance Grant – Local Government Grants Commission		86,208
4.	Section 603 Income		9,000
5.	Postage	5,000	
6.	Community Survey – Carried Forward to 2003/2004	35,000	
7.	Section 94 – Administration Plan Income		35,000
8.	Development Services – Legal Costs	40,000	
9.	Waste Management		
	• Income/Fees		180,000
	• “Be Tidy” garbage collection	180,000	
10.	Library Subsidy/Grant	3,400	
11.	Bush Fire Prone area maps	12,000	
12.	Multicap – Donation to establish Respite House	30,000	
13.	Dump fees for transport		30,000
14.	Public Toilet – Stokers Siding	20,000	
15.	Kerb and Gutter Income	30,000	
16.	Road Maintenance – Railway Street, Murwillumbah	8,000	
17.	Section 68 Fees	60,000	
18.	Section 94 Rural Roads Income	30,000	

## Reports from Director Corporate Services

GENERAL FUND		NEGATIVE (Contribute to Deficit \$	POSITIVE (Contribute to Surplus) \$
19.	Building Services Income Reserve for 2003/2004 Budget	250,000	250,000
20.	Land Development Reserve	25,308	
	<b>TOTAL</b>	<b>735,208</b>	<b>735,208</b>



# Reports from Director Corporate Services

## REPORT:

### BUDGET REVIEW 31 MARCH 2003 (QUARTERLY BUDGET REVIEW)

The following Financial Statement is submitted in accordance with the Local Government Act 1993 – Financial Management Regulations Sections 6 and 7 and shows details of Council's financial position for the period ending 31 March 2003 and estimated end of year financial position as at 30 June 2003.

This statutory Budget Review is prepared at the close of each quarter and shows the financial result between budgeted income and expenditure adopted by Council and the revised total expenditure and estimated total income on present trends for the year.

### PROPOSED BUDGET CHANGES AND COMMENTS ON ADJUSTMENTS

GENERAL FUND		NEGATIVE (Contribute to Deficit) \$	POSITIVE (Contribute to Surplus) \$
1.	Information Technology and Support – Savings Microsoft licence and software maintenance costs		145,000
2.	Donations Policy – additional cost Budget \$29,000: Est – Actual \$35,500	6,500	
3.	Financial Assistance Grant – Local Government Grants Commission CPI Adjustment 2003/04 for General Purpose component		86,208
4.	Rate Certificates - Section 603 – Additional Income received		9,000
5.	Postage – increased cost due to postage increasing from 45c to 50c.	5,000	
6.	Community Survey Service Level Assessment – Carried Forward to 2003/2004	35,000	
7.	Section 94 – Administration Plan Additional Income received		35,000
8.	Development Services – Legal Costs	40,000	
9.	Waste Management <ul style="list-style-type: none"> <li>• Income/Fees</li> <li>• “Be Tidy” garbage collection</li> </ul>	180,000	180,000
10.	Library Subsidy/Grant Budget \$150,400 Actual \$147,000	3,400	
11.	Bush Fire Prone area maps Request from Bush Fire Regulation Committee	12,000	
12.	Multicap – Donation to Respite House – Minute No 26 of 22 January 2003	30,000	
13.	Dump fees for transport – no charge in 2002/03		30,000
14.	Public Toilet – Stokers Siding	20,000	

# Reports from Director Corporate Services

GENERAL FUND		NEGATIVE (Contribute to Deficit) \$	POSITIVE (Contribute to Surplus) \$
15.	Kerb and Gutter Income Discontinue charge for owner contribution to kerb and gutter works – Minute No 213 of 21 August 2002	30,000	
16.	Road Maintenance – Railway Street, Murwillumbah	8,000	
17.	Section 68 Fees Budget \$130,000 Actual \$70,000	60,000	
18.	Section 94 Rural Roads Reduced Income Budget \$60,000 Actual \$30,000	30,000	
19.	Building Services Income Reserve for 2003/2004 Budget	250,000	250,000
20.	Land Development Program	25,308	
	<b>TOTAL</b>	<b>735,208</b>	<b>735,208</b>

## GENERAL FUND

Based on current projection the General Fund is expected to remain as a “balanced budget” for the last 3 months of the financial year.

## WATER FUND

The Water Fund remains in a sound financial position with sufficient reserves to meet any unexpected costs.

## SEWER FUND

This fund also remains in a sound financial position with sufficient reserves to meet any unexpected costs.

**Statutory Statement – Local Government Financial Regulations  
(Sections 6 & 7) by “Responsible Accounting Officer”**

*The responsible accounting officer of a council must: -*

*(b) If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

**9.** *(1) Not Later than 2 months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure (including the sub-estimates) set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.*

*(2) (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure; and  
(b) if that position is unsatisfactory, recommendations for remedial action.*

## Reports from Director Corporate Services

### Statutory Statement

I consider that the financial position of Council is satisfactory “having regard to the original estimate of income and expenditure”.



R. R Norvill FCPA  
“Responsible Accounting Officer”  
Manager Financial and Information Services  
Tweed Shire Council

# Reports from Director Corporate Services

Financial Indicators To Date for 2002/03

## **REVENUE SOURCES – GENERAL FUND %**

	<b>%</b>	<b><u>1997/98</u></b>	<b><u>1998/99</u></b>	<b><u>1999/00</u></b>	<b><u>2000/01</u></b>	<b><u>2001/02</u></b>	<b><u>Est.</u></b> <b><u>2002/03</u></b>
Rates and Charges							
General Purpose		44.49	45.75	45.16	45.56	44.66	45.00
DWM		8.04	9.49	9.86	10.46	10.39	10.00
User Charges and Fees		20.06	18.03	17.92	17.07	17.44	17.00
Interest		3.38	3.07	3.79	4.34	3.24	3.50
Grants (Operating)							
General Purpose		15.1	14.57	14.53	14.87	14.9	15.00
Specific Purpose		5.62	4.55	5.03	4.54	4.81	5.00
Contributions		3.08	3.63	3.17	3.11	3.63	4.00
Other		0.23	0.91	0.54	0.05	0.93	0.50
<b>Total</b>		<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

## **REVENUE SOURCES – WATER FUND %**

Rates and Charges	38.92	40.68	40.11	37.29	31.86	17.00
User Charges and Fees	17.24	15.4	14.46	16.56	15.99	31.00
Interest	12.61	13.44	15.37	15.59	11.39	12.00
Grants	2.73	4.79	2.75	2.49	2.09	2.00
Contributions	25.32	22.64	24.39	24.95	35.33	35.00
Other	3.18	3.05	2.92	3.12	3.34	3.00
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

## **REVENUE SOURCES – SEWERAGE FUND %**

Rates and Charges	59.25	60.39	49.96	52.69	45.88	46.00
User Charges and Fees	5.51	5.89	6.05	6.02	4.87	5.00
Interest	5.89	7.4	8.03	9.59	8.29	8.00
Grants	3.95	8.6	11.71	3.47	3.18	3.00
Contributions	24.51	16.55	23.14	27.32	37.62	37.85
Other	0.89	1.17	1.11	0.91	0.16	0.15
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

# Reports from Director Corporate Services

## UNRESTRICTED CURRENT RATIO

### Definition:

$$\frac{\text{Current Assets less Externally Restricted Current Assets}}{\text{Current Liabilities less Specific Purpose Current Liabilities}}$$

	<u>1997/98</u>	<u>1998/99</u>	<u>1999/00</u>	<u>2000/01</u>	<u>2001/02</u>	<u>Est.</u> <u>2002/03</u>
General Fund	1.31	1.38	1.43	1.57	2.07	2.07
Water Fund	33.61	25.63	29.53	23.59	29.16	29.16
Sewerage Fund	12.87	15.02	17.54	7.03	7.49	7.49
Measures:	1:1 = Red		1:1 to 2:1 = Amber		Over 2:1 = Green	

## DEBT SERVICE RATIO %

	<u>1997/98</u>	<u>1998/99</u>	<u>1999/00</u>	<u>2000/01</u>	<u>2001/02</u>	<u>Est.</u> <u>2002/03</u>
General Fund	12.93	13.87	13.14	12.58	14.62	11.00
Water Fund	16.92	13.86	13.82	11.08	4.55	4.00
Sewerage Fund	18.87	16.06	15.75	13.63	11.93	10.00
Developing Councils -	<15% = Green		15-20% = Amber		>20% = Red	

## OUTSTANDING RATES CHARGES AND FEES

	<u>1997/98</u>	<u>1998/99</u>	<u>1999/00</u>	<u>2000/01</u>	<u>2001/02</u>	<u>Est.</u> <u>2002/03</u>
<u>Rates Outstanding:</u>						
General Fund	7.47	5.38	6.34	8.45	7.11	6.90
Water Fund	8.87	6.31	7.97	6.1	5.06	5.00
Sewerage Fund	7.47	5.85	7.51	5.21	4.84	5.00
Measure: Rural Councils	<6% = Green		6-9% = Amber		>9% = Red	

## RE-VOTES OF EXPENDITURE – GENERAL FUND AS%

### WORKS CARRIED OVER FROM PREVIOUS YEAR

	<u>1997/98</u>	<u>1998/99</u>	<u>1999/00</u>	<u>2000/01</u>	<u>2001/02</u>	<u>Est.</u> <u>2002/03</u>
The Gauge:	2.38	3.79	2.57	2.78	5.99	4.00
	<2% = Green		2% to 5% = Amber		>5% = Red	

# Reports from Director Corporate Services

**LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 1993  
SCHEDULE 1 – FORMS  
FORM 1**

**Summary of Estimates of Income and Expenditure for the Year ended 30 June 2003  
Revised as at 31 March 2003**

Function	Original		Revised		Net Cost	
	Expenditure	Income	Expenditure	Income	Original	Revised
Administration	12,176	1,107	12,020	1,141	11,069	10,879
Public Order & Safety	1,291	824	1,398	824	467	574
Health	573	82	573	82	491	491
Community Services & Education	616	211	651	211	405	440
Housing & Community Amenities	11,372	12,911	11,727	13,556	(1,539)	(1,829)
Water Supplies	7,707	4,473	7,707	4,473	3,234	3234
Sewerage Services	9,782	19,114	9,821	19,199	(9,332)	(9,378)
Recreation & Culture	6,594	3,957	6,742	3,966	2,637	2776
Mining, Manufacturing & Construction	1,319	1,599	1,319	2,059	(280)	(740)
Transport & Communication	14,527	11,337	14,560	11,217	3,190	3343
Economic Affairs	3,947	3,956	4,006	4,042	(9)	(36)
General Purpose Revenues		27,487	0	27,672	(27,487)	(27,672)
	69,904	87,058	70,524	88,442	(17,154)	(17,918)

*Add Expenses not involving flow of funds*

Depreciation

Increase in employees leave entitlements

**Sub-total**

	Original	Revised	Original	Revised
	(18,183)	(18,183)		
<b>Sub-total</b>	(18,183)	(18,183)	(35,337)	(36,101)

*Add non-operating funds employed*

Carrying amount of assets sold

Cost of real estate assets sold

Loan funds used

Other debt finance

Repayments by deferred debtors

**Sub-total**

	(1,174)	(1,174)		
	(4,706)	(4,706)		
<b>Sub-total</b>	(5,880)	(5,880)	(41,217)	(41,981)

*Subtract funds deployed for non-operating purposes*

Acquisition of assets

Development of real estate

Advances to deferred debtors

Repayment of loans

Repayment of other debts

**Estimated Budget Result – Surplus**

	63,115	63,500		
		0		
		0		
	3,965	3,965		
<b>Estimated Budget Result – Surplus</b>	67,080	67,465	25,863	25,484

**Reconciliation with Program Budget:**

Add Transfers to Reserves

Add Transfers from Reserves

Subtract Interest on restricted funds not used in budget

Add/(Deduct) net increase/(decrease) in externally restricted assets (contributions)

Program Budget Deficit/(Surplus)

	8,583	9,205
	(37,591)	(37,792)
	3,145	3,145
	-	42

**Comprising:**

General Fund

Water Fund

Sewerage Fund

	-	42
	-	-
	-	-
	-	42

## Reports from Director Corporate Services

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**12. ORIGIN: Financial & Information Services Unit**

**FILE REF: Banking**

**REPORT TITLE:**

**Overdraft Requirements**

**SUMMARY OF REPORT:**

This report presents an annual review of overdraft requirements.

**RECOMMENDATION:**

That :-

1. The application be made for an overdraft limit of \$2,050,000 and contingent liability limit of \$340,000 with the Commonwealth Bank, and
2. All documentation to be executed under the Common Seal of Council.

## Reports from Director Corporate Services

---

### REPORT:

Council's banker, the Commonwealth Bank has forwarded an application form for an annual review of overdraft limits which may be required by Council.

The Author's Certificate, under the Local Government (Financial Management) Regulations 1993, which was issued for 2001/2002 Financial Statements certifies that Council may borrow by way of limited overdraft up to \$34,604,000. This sum represents 50% of Council's total Operating Revenue.

The overdraft limit actually required by Council is significantly smaller than that which it is certified to borrow. Council uses the overdraft facility on a very occasional basis as its investment strategy has immediate access to a "call" account at the Commonwealth Bank.

The existing and proposed limits for the application are as follows:-

	<b>Existing Limit</b>	<b>Proposed Limit</b>
<u>Direct Liabilities</u>		
Overdraft Limit	\$2,000,000	\$2,000,000
Business Card	\$40,000	\$50,000
<u>Contingent Liabilities</u>		
Autopay (EFT)	\$340,000	\$340,000
<b>TOTAL</b>	<b>\$2,380,000</b>	<b>\$2,390,000</b>

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## Reports from Director Corporate Services

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**13. ORIGIN:** Administration Services Unit

**FILE REF:** Council Meetings

**REPORT TITLE:**

**Council Meeting Procedure**

**SUMMARY OF REPORT:**

Further to a report to Council at the meeting of 5 March 2003 a response has now been received from the Director-General, Department of Local Government for Council's information.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

---

### REPORT:

It was reported to Council at its meeting held on 5 March 2003 that a letter had been received from the Independent Commission Against Corruption (ICAC) Commissioner, Irene Moss AO, such letter dealt with meeting procedures specifically Censure Motions, where the motion relates to a Chairperson who does not vacate the Chair when the matter is being dealt with.

In that report it was pointed out that there is no provision in the Local Government Act 1993 or the meeting regulations for the Mayor or Deputy Mayor to vacate the chairmanship of a Council meeting unless they do so of their own accord. This matter was also referred to the Department of Local Government for their comments. Their reply has now been received and is reproduced for Council's information.

Dear Dr Griffin

I refer to your letter dated 26 February 2003 with respect to the letter from ICAC concerning council meeting procedures dated 4 February 2003.

Section 369 (1) of the Local Government Act 1993 provides that the mayor or, in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council. Subsection (2) provides that if the mayor or deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

Leaving aside Chapter 14 of the Local Government Act, there is nothing in that Act that specifically directs the Chair of a council meeting to step down from the Chair where a censure motion or any other motion affecting them is put to the meeting.

What is suggested by the ICAC, and this position is supported by the Department of Local Government, is that where a censure motion against the Chair of a meeting is put forward, the councillor the subject of the censure motion should vacate the Chair for the purposes of that motion.

Such a convention may be adopted within a Council's Code of Meeting Practice and would not be inconsistent with section 369 of the Act. Such a convention is consistent with the principles of good governance and would assist in avoiding a public perception of bias. This would clearly be in accord with a council's charter as set out in section 8 of the Act.

I trust this is of assistance.

Yours sincerely



**Garry Payne**  
**Director General**

## Reports from Director Corporate Services

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It is the view of the General Manager that Council should not unilaterally move to, encompassing within Council's Code of Meeting Practice, a requirement that the Chairman of the meeting vacate the Chair if there was a Censure Motion against the Chair. (The Act refers only to "dissent"). If there is a necessity for such it is the General Manager's view that the Local Government Act, 1993 should be reviewed to accommodate such.

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## Reports from Director Corporate Services

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## Reports from Director Corporate Services

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**14. ORIGIN:** Administration Services Unit

**FILE REF:** DW891782; Shires Association - General

**REPORT TITLE:**

**Election of Officers to the Executive Council of the Shires Association of NSW**

**SUMMARY OF REPORT:**

Advice has been received from the State Electoral Office concerning election of officers to the Executive Council of the Shires Association of NSW.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Corporate Services

---

### REPORT:

The State Electoral Office has forwarded to Council nomination forms for the positions of President, Executive Councillors Vice President, and Treasurer for the Shires Association of NSW. Such forms are currently held by the Manager Administration Services/Public Officer.

Nominations for the various positions must be received by the Returning Officer no later than the dates as shown:

President	noon, Tuesday, 20 May 2003
Executive Councillor	12.30pm, Tuesday, 3 June 2003
Vice President	9.30am, Wednesday, 4 June 2003
Treasurer	10.00am, Wednesday, 4 June 2003

Submitted for Councillors information.

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## Reports from Director Corporate Services

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**15. ORIGIN: Financial & Information Services Unit**

**FILE REF: Financial Reporting**

**REPORT TITLE:**

**Financial Report for Period Ending 28 February 2003**

**SUMMARY OF REPORT:**

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

**RECOMMENDATION:**

That this report be received and noted.

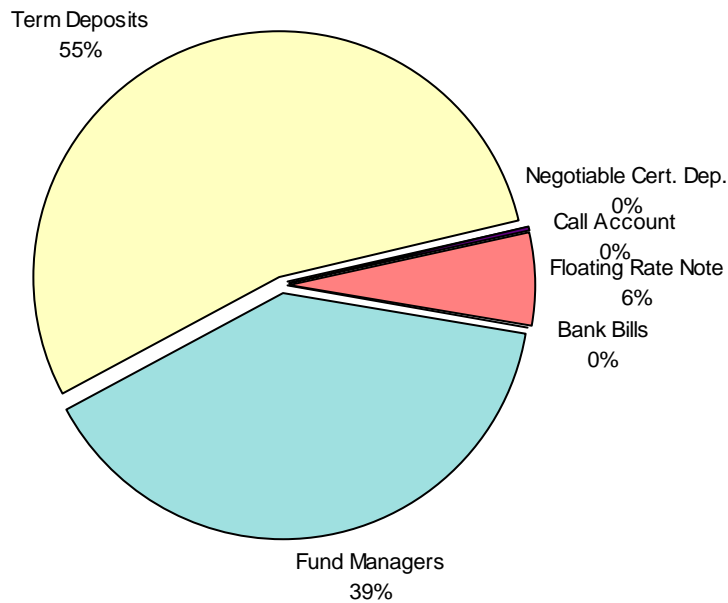
# Reports from Director Corporate Services

## REPORT:

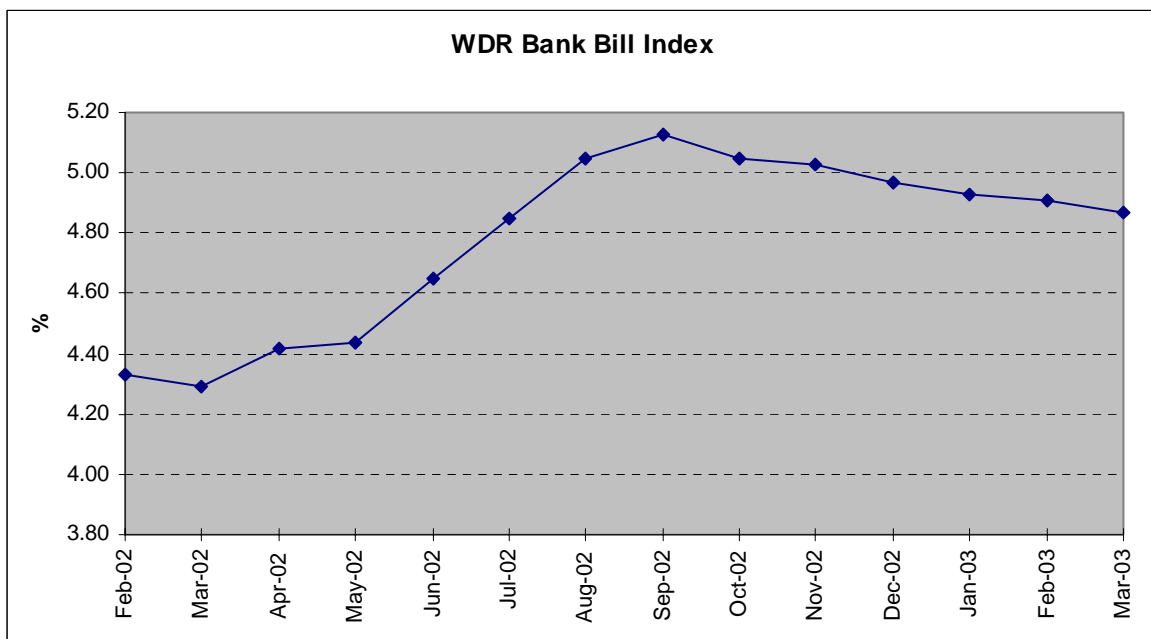
This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

### 1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

**% of Funds Invested by Category**



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



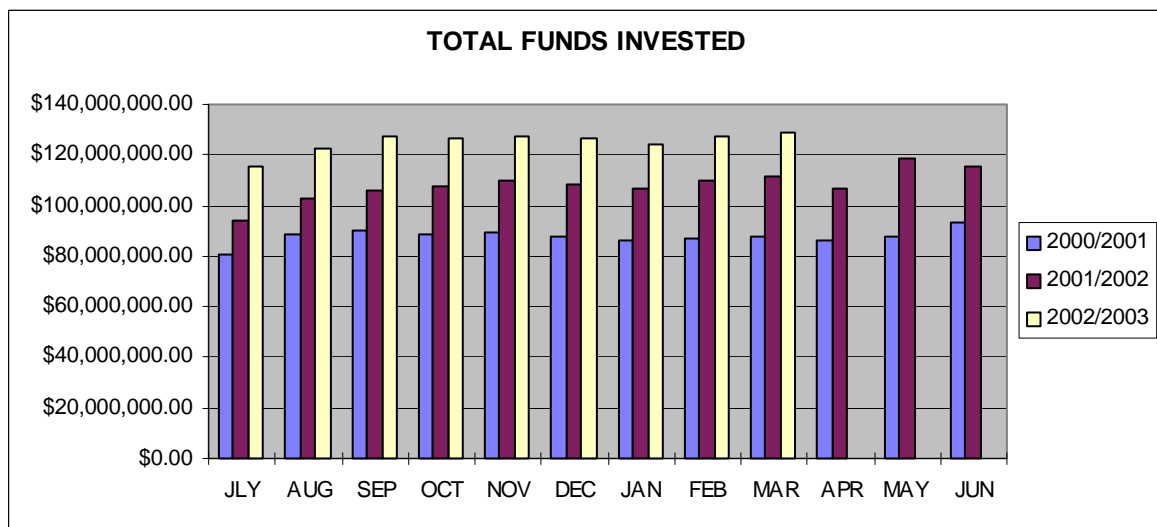


# Reports from Director Corporate Services

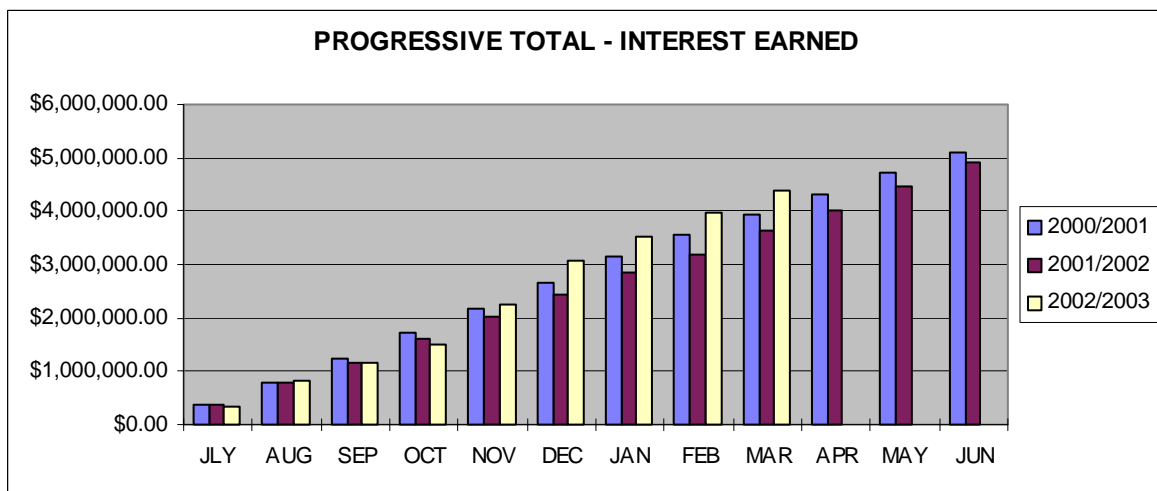
### 3. ANNUALISED RATE OF RETURN FOR FUND MANAGERS

Fund	30 Days %	90 Days %	1 Year %
ANZ	5.56	5.23	4.96
Alliance	4.90	5.08	4.91
Deutsche	5.09	5.38	4.83
Macquarie Diversified	5.04	5.12	5.02

### 4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



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



## Reports from Director Corporate Services

### 6. MARKET COMMENTARY

Global uncertainty has meant that the Australian Reserve Bank (RBA) has opted to keep rates locked at 4.75%, waiting for signs that the United States and global economy are recovering before taking action.

The cautious approach of the RBS is understandable given the mixed data results reported in March, 2003. The Gross Domestic Product for December, 2002 quarter increased 0.4% from the previous quarter. Some positives for the economy include a falling unemployment rate and an indication from the Treasurer that the Government would still be able to bring down a small surplus in the Budget despite the increase in defence spending

### 7. INVESTMENT SUMMARY AS AT 31 MARCH 2003

#### GENERAL FUND

BANKS	31,448,125.00	
FUND MANAGERS	5,506,460.40	
LOCAL GOVT. FIN. SERVICES	7,200,000.00	
CALL	25,945.45	<b>44,180,530.85</b>

#### WATER FUND

BANKS	10,500,000.00	
FUND MANAGERS	28,074,144.12	
LOCAL GOVT. FIN. SERVICES	4,000,000.00	<b>42,574,144.12</b>

#### SEWERAGE FUND

BANKS	18,000,000.00	
FUND MANAGERS	16,844,156.82	
LOCAL GOVT. FIN. SERVICES	7,000,000.00	<b>41,844,156.82</b>

#### TOTAL INVESTMENTS

<b>128,598,831.79</b>
-----------------------

It should be noted that the General Fund investments of \$44.1 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

## Reports from Director Corporate Services

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### Statutory Statement - Local Govt Financial Management Regulations (Sec.19)

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



**R R Norvill FCPA**  
Responsible Accounting Officer  
Manager Financial & Information Services

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## Reports from Director Corporate Services

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# Reports from Director Engineering Services

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**16. ORIGIN:** Design Unit

**FILE REF:** GP1/16 Pt2; Land-Acquisitions; LN: 45125

**REPORT TITLE:**

**Classification of Land As Operational - Lot 200 in DP 1030080 - Land for Transpiration Beds at Hastings Point**

**SUMMARY OF REPORT:**

On 17 October, 2001 Council resolved to approve the acquisition of Lot 200 in DP 1030080 at Hastings Point for Transpiration Beds. This acquisition is now complete.

Lot 200 should be classified as Operational under the provisions of Section 31 of the Local Government Act, 1993.

**RECOMMENDATION:**

That the land transferred to Council for the purposes of transpiration beds at Hastings Point, described as Lot 200 in DP 1030080, be classified as Operational under Section 31 of the Local Government Act, 1993.

## Reports from Director Engineering Services

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**REPORT:**

As per Summary of Report.

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## Reports from Director Engineering Services

---

**17. ORIGIN: Design Unit**

**FILE REF: PF3780/1140; Rural Hall-Chillingham; Land-Transfer**

**REPORT TITLE:**

**Creation of Easement for Water Supply - Chillingham Community Hall**

**SUMMARY OF REPORT:**

The transfer of the Chillingham Community Hall to Council has been completed. During the course of the transfer, Mrs Maree Edwards, the President of The Hall Committee, advised Council that following transfer of the hall to Council, an Easement for Water Supply would need to be created to formalise the rights granted to the owner of adjacent Lot 10 in DP 616569 for the pipe located within the hall property. The landowner has supplied water to the hall for many years without charge, ensuring that water was always available for the users of the hall.

The hall committee considers that the rights held by the landowner to pump water through the pipe within the hall property should be retained in light of the service provided to the hall, and its users, for many years.

The pipe providing water to both the hall and to Lot 10 is located within Lot 2 DP 129078, it is necessary to create an Easement for Water Supply 1 metre wide in favour of Lot 10 DP 616569.

**RECOMMENDATION:**

That:-

1. Council approves the creation of Easement for Water Supply 1 metre wide within Lot 2 in DP 129078 in favour of Lot 10 DP 616569;
2. All necessary documentation be endorsed under the Common Seal of Council.

## Reports from Director Engineering Services

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### REPORT:

The transfer of the Chillingham Community Hall to Council has been completed. During the course of the transfer, Mrs Maree Edwards, the President of The Hall Committee, advised Council that following transfer of the hall to Council, an Easement for Water Supply would need to be created to formalise the rights granted to the owner of adjacent Lot 10 in DP 616569 for the pipe located within the hall property. The landowner has supplied water to the hall for many years without charge, ensuring that water was always available for the users of the hall.

The hall committee considers that the rights held by the landowner to pump water through the pipe within the hall property should be retained in light of the service provided to the hall, and its users, for many years..

The pipe providing water to both the hall and to Lot 10 is located within Lot 2 DP 129078, it is necessary to create an Easement for Water Supply 1 metre wide in favour of Lot 10 DP 616569.

A copy of the plan showing the location of the Easement follows:-





## Reports from Director Engineering Services

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## Reports from Director Engineering Services

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**18. ORIGIN:** Water Unit

**FILE REF:** Boat Ramps; Lakes Drive; Chinderah Bay Drive; Dry Dock Road

**REPORT TITLE:**

**Waterways Asset Development and Management Program (WADAMP) - Grants for Boat Ramp Upgrades**

**SUMMARY OF REPORT:**

Council was notified on the 13<sup>th</sup> of February 2003 that three applications to the Waterways Authority to upgrade boat ramps and associated facilities have been successful. Works are proposed to be undertaken at Chinderah, Dry Dock Road and Lakes Drive.

**RECOMMENDATION:**

That Council accepts the WADAMP grants and complete upgrade works on Chinderah Lakes Drive and Dry Dock Road boat ramps.

## Reports from Director Engineering Services

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### REPORT:

Council was notified on the 13<sup>th</sup> of February 2003 that three applications to the Waterways Authority to upgrade boat ramps and associated facilities have been successful.

The details of these grants are as follows:

Chinderah boat ramp:	\$21, 000
Lakes Drive boat ramp:	\$19, 000
Dry Dock Road boat ramp:	\$22, 000

Funding is offered on a 1:1 basis to complete the works.

The boat ramps budget balance currently stands at \$69, 564 thus providing a total of approximately \$131, 000 with which to undertake the proposed upgrade works.

Preliminary designs have been completed for each of the projects detailed above. Following formal acceptance of the grant, the necessary permits will be sought and Development Applications submitted.

Each of the proposed upgrade projects has been designed following consultation with local ramp users, and in most cases address safety concerns associated with each facility. It is intended that works will result in the provision of structures which require less ongoing Council maintenance.

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## Reports from Director Engineering Services

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**19. ORIGIN:** Design Unit

**FILE REF:** PF1680/555; Land-Acquisitions; Easements; Agreements; LN: 41716

**REPORT TITLE:**

**Possessory Title Application - Dry Dock Road, Tweed Heads South being Lot 6 in DP 9042**

**SUMMARY OF REPORT:**

At a meeting held on 15 August, 2001 it was resolved by Council to endorse a Deed of Agreement between Council and YBOS Pty Ltd. The Deed of Agreement was subsequently endorsed by Council under its common seal and dated 5 September, 2001.

The Deed provides a mechanism whereby an Easement for Services 6.095 metres over Lot 6 in DP 9042 will be granted in Council's favour and YBOS Pty Ltd will be granted Possessory Title to Lot 6.

Clause 2.2 of the Deed provides that Council is to withdraw its Caveat, lodged over Lot 6, within 30 days from the date of the Deed. It appears that the Caveat has not yet been withdrawn.

A withdrawal of Caveat has been received from Council's solicitors and it is now necessary to execute it pursuant to Council's obligations under the Deed.

**RECOMMENDATION:**

That Council endorses all necessary documentation pursuant to its obligations under the Deed of Agreement with YBOS Pty Ltd dated 5 September, 2001.

## Reports from Director Engineering Services

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### REPORT:

At a meeting held on 15 August, 2001 it was resolved by Council to endorse a Deed of Agreement between Council and YBOS Pty Ltd.

Council endorsed the Deed of Agreement under its common seal and dated 5 September, 2001.

The Deed was drawn to resolve a dispute regarding the ownership of a property which adjoins the Billabong Caravan Park. In 1999 Council lodged a Possessory Title Application in pursuit of its claim of ownership.

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

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

The Deed provided a mechanism whereby an Easement for Services 6.095 metres over Lot 6 in DP 9042 would be granted in Council's favour and YBOS Pty Ltd would be granted Possessory Title to Lot 6.

Clause 2.2 of the Deed provides that Council is to withdraw its Caveat, lodged over Lot 6, within 30 days from the date of the Deed. It appears that the Caveat has not yet been withdrawn.

The solicitors for YBOS have lodged the Application for Possessory Title and have received a requisition from Land & Property Information to the effect that the Council's Caveat over Lot 6 needs to be withdrawn together with written confirmation that Council consents to the Possessory Title Application.

Pursuant to the clause 2.4 of the Deed Council is to "take reasonable endeavours to co-operate with YBOS to assist YBOS achieve the granting by the Registrar General of the YBOS Possessory Application". In that regard it is recommended that Council endorse the Withdrawal of Caveat and provide written consent to the YBOS' Application.

YBOS is obliged, under clause 3.1 to grant an Easement for Services 6.095 wide in favour of Council following the granting of the Possessory Application.

The Deed provides that YBOS will attend to the registration of the plan creating the Easement immediately following the granting of the Possessory Application.

Copies of the Withdrawal of Caveat and consent to the Possessory Application follow:-

# Reports from Director Engineering Services

Form: 08WX  
Release: 1.1  
www.lpi.nsw.gov.au

## WITHDRAWAL OF CAVEAT

Leave this space clear. Affix additional pages to the top left-hand corner.

New South Wales  
Real Property Act 1900

PRIVACY NOTE: this information is legally required and will become part of the public record

(A) LAND	Torrens Title FOLIO IDENTIFIER 6/9042		
(B) REGISTERED DEALING	Number	Torrens Title	
(C) LODGED BY	Delivery Box	Name, Address or DX and Telephone  Reference (optional):	CODE  <b>WX</b>
(D) CAVEATOR	TWEED SHIRE COUNCIL		
(E) CAVEAT WITHDRAWN	7424610		

(F) The caveator withdraws the caveat referred to above so far as it affects the above land

DATE

I certify that the person(s) signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness:

Signature of authorised officer:

Name of witness:  
Address of witness:

Authorised officer's name:  
Authority of officer:  
Signing on behalf of:

All handwriting must be in block capitals.

Page 1 of \_\_\_\_

LAND AND PROPERTY INFORMATION NSW

## Reports from Director Engineering Services

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Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

DATE: )

*D. J. G.*  
The Secretary  
Land & Property Information  
DX 17  
SYDNEY

Dear Sir/Madam

**RE: YBOS PTY LTD – POSSESSORY TITLE APPLICATION**  
**PPTY: LOT 6 DP 9042 HOLDEN STREET, TWEED HEADS SOUTH, 2485**

---

We advise that Tweed Shire Council consents to the Possessory Title Application by YBOS Pty Ltd in respect of Lot 6 DP 9042, a copy of which is annexed hereto and marked "A".

Yours faithfully  
**TWEED SHIRE COUNCIL**

Per:



# Reports from Director Engineering Services

"A"

Form: 04 YA  
 Release: 1  
 www.lpi.nsw.gov.au

## APPLICATION FOR A POSSESSORY TITLE

Leave this space clear. Affix additional pages to the top left-hand corner.

New South Wales  
 Section 45D Real Property Act 1900

PRIVACY NOTE: this information is legally required and will become part of the public record

STAMP DUTY	Office of State Revenue use only		
(A) TORRENS TITLE	FOLIO IDENTIFIER 6/9042		
(B) LODGED BY	Delivery Box	Name, Address or DX and Telephone  Reference (optional):	CODE  <b>YA</b>
(C) PRESENT REGISTERED PROPRIETOR	JOSEPH KIRKWOOD		
(D) APPLICANT	YBOS PTY LTD		
(E)	TENANCY:		

(F) The applicant applies to be registered as proprietor of an estate in fee simple in the land specified above free from the following

(G) ENCUMBRANCES

(H) In support of this application the following documents are lodged herewith

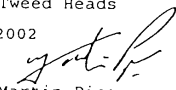
1. Statutory declaration by the applicant;
2. ~~Statutory declarations by Peter Edmund Ciolic declared 4 October 2000 (copy)~~
3. Letter from an authorised officer of the council regarding payment of rates;
4. Certificate by a registered surveyor.


(I) STATUTORY DECLARATION

I GEOFFREY ALBERT TRIBE, 35 Hibiscus Pde, Banora Pt, Director solemnly and sincerely declare that---

1. There are no documents evidencing title to the above land in the possession or control of the applicant other than those included in Schedule 1;
2. Except as shown on the relevant folio of the Register the applicant is not aware that any person other than himself has any estate or interest in the land other than as set out in Schedule 2;
3. There is no person in possession or occupation of the land adversely to this claim and the land is occupied by the applicant
4. The applicant has never been bankrupt nor assigned his estate for the benefit of creditors.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900 and I certify this application correct for the purposes of the Real Property Act 1900.

Made and subscribed at Tweed Heads  
 on 19 September 2002  
 Signature of witness:   
 Name of witness: Martin Piper  
 Address of witness: 16 Beryl Street, Tweed Heads  
 Qualification of witness: Solicitor

in the State of New South Wales  
 in the presence of—  
 Signature of applicant: 

All handwriting must be in block capitals

Page 1 of 2

LAND AND PROPERTY INFORMATION NSW

# Reports from Director Engineering Services

SCHEDULE 1 (documents referred to in clause 1 of declaration)

No.	Nature of Document	Date of Document	Parties
	Copy Transfer A384987	18 May 1918 Registered 24 October 1918	Joseph Kirkwood and Janet Ravenhill Hulbert
	LPI Title Search Copy Deposited Plan 9042	July 2002 4 December 1907 (copy made by Registrar General 02/09/1987	Joseph Kirkwood - Registered Proprietor Charles Edwin Webb (Surveyor)
	Copy Extract from Registrar of Births Deaths and Marriages re Joseph Kirkwood deceased 30/03/1930 Copy Probate No 168933 of Supreme Court of NSW Copy of Death Certificate Extract in respect of Norman Milburn MacPherson dec'd 5/09/1950	20 August 1930  Extract dated 27 April 1999	Re: Joseph Kirkwood deceased, Norman Milburn MacPherson, Executor  Registrar General

SCHEDULE 2 (documents referred to in clauses 2 and 3 of declaration)

Full Name and Address of Occupier, Lessee, Mortgagee, etc	Nature of Entitlement	Particulars of instrument (if any) by which entitlement was created

## Reports from Director Engineering Services

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**20. ORIGIN:** Water Unit  
**FILE REF:** Beaches - Use of

**REPORT TITLE:**

**Shark Proof Swimming Enclosure**

**SUMMARY OF REPORT:**

Council, at its meeting of 19 Feb 2003 resolved to bring forward a report on the shark proofing of Jack Evans Boat Harbour. Investigation of the possibilities related to this matter led to the assessment of shark proof swimming enclosures, as have been installed on the Gold Coast. These structures are leased from James Cook University in Townsville, who undertake 6 monthly major maintenance on them as part of the lease contract. GCCC also undertake routine minor maintenance on a weekly basis. The structures are very popular and attract a high level of use.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Engineering Services

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### REPORT:

In response to Council's resolution at its meeting on 19<sup>th</sup> February 2003, Shark Proofing – Jack Evans Boat Harbour, contact has been made with Officers from Gold Coast City Council who are responsible for their three shark proof/stinger proof swimming enclosures.

These structures are located at Southport, Paradise Point and Tallebudgera, and attract a high level of public use.

The swimming enclosures are comprised of a floating pontoon supporting a net which is weighted to the seabed. This structure forms a three sided defence, open at one end to the beach.

The apparatus used is leased from James Cook University in Townsville. This organization undertakes six monthly maintenance on the nets. This involves taking the net component out of the water and drying it to facilitate the removal of algal growth. A replacement net is installed at this time. Gold Coast City Council also undertake routine maintenance to remove debris and litter which is caught in the net and within the swimming enclosure.

The cost of leasing the equipment is \$48,000 per annum for the largest net (100m x 50m) and \$32, 000 per annum for the smallest (50m x 50m). The cost of Council maintenance varies between structures and is related to weather (the amount of floating debris in the Broadwater) and levels of use (litter). It is estimated that at a minimum the cost of this annual maintenance would be in the order of \$8,000. At a minimum therefore it is estimated that the annual cost of providing a facility (50m x 50m) would be \$40,000.

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## Reports from Director Engineering Services

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**21. ORIGIN:** Water Unit

**FILE REF:** Estuary Management; Govt Grant-Water; Tweed River Management Plan

**REPORT TITLE:**

**Funding for The Coastal Estuaries Management Program**

**SUMMARY OF REPORT:**

Council was advised on the 25th of February 2003 by the Minister for Land and Water Conservation that a grant of \$40,000 had been approved for the continued implementation of the Tweed Coast Estuaries Management Plan.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Engineering Services

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### REPORT:

Council was advised on the 25 February 2003 by the Minister for Land and Water Conservation that a grant of \$40,000 had been approved for the continued implementation of the Tweed Coast Estuaries Management Plan. This offer is based on the understanding that Council will provide a further \$40,000 for implementation of these initiatives.

A letter of response has been sent to the Department of Land and Water Conservation's North Coast Regional Director accepting the grant offer.

The Tweed Coastal Committee will be considering issues relating to a review of the Tweed Coast Estuary Management Plan at its April meeting. It is envisaged that a review of the existing management plan will provide an objective assessment on how efficiently it has been implemented since its adoption in 1997, and will allow a thorough analysis of contemporary issues affecting these coastal creek systems, in light of the many changes which have occurred in the area since 1997.

Council should note that the topical issues of dredging the coastal creeks will be given careful consideration in a review of the Tweed Coast Estuaries Management Plan, and that it is important that this be undertaken in the context of recent regional guidance and contemporary policy.

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## Reports from Director Engineering Services

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**22. ORIGIN:** Director

**FILE REF:** Water Management - General; Water Restrictions; Notice of Motion

**REPORT TITLE:**

**Water Management**

**SUMMARY OF REPORT:**

In relation to a Notice of Motion (2a) at the meeting held on 6 November, 2002, Council resolved as follows:-

*“That Council ascertain what incentives exist for farmers to construct off-stream storage dams on their properties and if necessary Council make representations to State and/or Federal governments to introduce a grant scheme to encourage this to happen.”*

A response has been received from the Minister for Agriculture, Fisheries and Forestry which is included in this report.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Engineering Services

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### REPORT:

In relation to a Notice of Motion (2a) at the meeting held on 6 November, 2002, the following response has been received from the Minister for Agriculture, Fisheries and Forestry:-



# Reports from Director Engineering Services



## OFFICE OF THE HON WARREN TRUSS MP

Minister for Agriculture, Fisheries and Forestry

10 MAR 2003

Mr Mike Rayner  
Director - Engineering Services  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

TWEED SHIRE COUNCIL	
FILE No	WATER RESTRICTIONS
DOCUMENT No	
RECD	10 MAR 2003
BOX No	
ASSIGNED TO	O'NEILL, D
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

Dear Mr Rayner

Thank you for your letter of 17 December 2002 to the Hon Warren Truss MP, Minister for Agriculture, Fisheries and Forestry regarding incentives for farmers to construct off stream storage dams. The Minister has asked me to reply on his behalf.

The current drought is indeed serious and additional water supplies would no doubt be welcome in many parts of Australia at the moment. As has always been the case, this drought will place considerable hardship on some rural communities. The Minister sympathises deeply with the plight of farmers and rural communities under these conditions.

Under the Constitution, States and Territories have primary responsibility for natural resource management and use, including water. The Commonwealth provides assistance for farmers to improve their ability to manage and deal with drought in a number of ways, including through the construction of off-stream farm dams. Generally, this is effected through tax incentives that provide for accelerated depreciation of water supply and conveyancing infrastructure, including dams and bores. The Australian Taxation Office can provide further information on this incentive.

In addition, the New South Wales Rural Assistance Authority (RAA), on behalf of the Commonwealth and State Governments, administers assistance measures to rural producers and small businesses. The RAA's Special Conservation Scheme is an incentive-based initiative aimed at promoting improved land management practices within New South Wales. Through the RAA, landholders can apply for special low-interest loans for undertaking land management activities such as constructing off-stream storage dams.

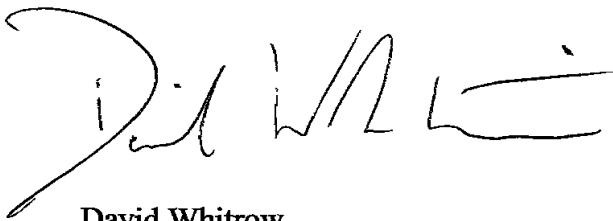
## Reports from Director Engineering Services

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Once again, the Minister sympathises with farmers trying to manage the impacts of variations in seasonal conditions and wish to assure you that the Commonwealth Government is also committed to providing assistance to farmers affected by extreme drought and other rare or prolonged events that are outside the bounds of normal risk management strategies. In these situations the Government provides family income support and business support through the Exceptional Circumstances (EC) policy.

Thank you for your inquiry about assistance for the construction of farm dams.

Yours sincerely



David Whitrow  
Senior Adviser

## Reports from Director Engineering Services

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**23. ORIGIN: Director**

**FILE REF: Water Headworks - Weirs - Bray Park**

**REPORT TITLE:**

**Bray Park Weir - Salt Intrusion**

**SUMMARY OF REPORT:**

Patterson Britton & Partners Pty Ltd were engaged to investigate the potential threat to the Bray Park Weir Pool from the existence of a salt lense located between the weir and the 90° bend in the river.

Arrangements for a monitoring program as outlined are in place.

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Engineering Services

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### REPORT:

Patterson Britton & Partners Pty Ltd were engaged to investigate the potential threat to the Bray Park Weir Pool from the existence of a salt lense located between the weir and the 90° bend in the river.

The report follows this report and is self explanatory.

*“The salinity measurements confirm that salt has accumulated on the bed of the weir pool between the sill and the weir. A salt layer has developed with a relatively consistent interface at a depth of 6 metres below the surface. Given that the deepest part of the bend is approximately 12 metres deep, the salt layer is up to 6m thick. It is clear that the sill has prevented the salt layer progressing upstream and contaminating the water supply pump intakes.*

*The salt has probably only got into the weir as a product of the unusually protracted dry weather, the ensuing upstream propagation of oceanic salt in the estuary and the reversal of flow at the fish ladders due to the cessation of weir discharge over long periods. Hence the flushing of salt by a flood should be a permanent fix provided the fish ladder discharge and ambient salt levels in the estuary are regularly monitored in the future.*

### RECOMMENDATION

*It is recommended that Council set up a monitoring programme and wait for the salt to be flushed out by a sufficiently large flood. Once flushed, the operation of the fish ladders should be carefully monitored to avoid repeat salt ingress to the weir during protracted dry periods.*

*It is recommended that the monitoring include:*

- (1) regular water quality profiling over the full water depth, between the pump intakes and the weir. Particular emphasis should be placed on carrying out measurements during extended dry weather;*
- (2) regular measurement of the salinity of the estuary immediately downstream of the weir;*
- (3) the placement of stop boards on the fish ladders during conditions of no weir discharge to prevent reverse tidal flow into the weir. This may require negotiation with Fisheries.”*

Council officers concur with the report recommendations. Arrangements for a monitoring program as outlined are in place.

# Reports from Director Engineering Services

**Patterson Britton  
& Partners Pty Ltd**

## Bray Park Weir Water Quality Study

### INTRODUCTION

Sediment sampling of the bed of the Bray Park Weir Pool identified organically rich black ooze on the bed of the weir pool between depths of 7.5 m and 11.0 m between the weir and the 90° bend in the river at Bray Park. This material is an indicator of anaerobic conditions which would be consistent with the existence of a salt lense.

Anaerobic conditions cause the desorption of nutrients (*phosphorus in particular*) from fine bed sediments which then become bio-available for algal uptake. It has been observed that recent algal blooms have commenced at the weir and propagated upstream. This behaviour would be consistent with the possible existence of an anaerobic bottom layer near the weir.

Hence a water quality and bottom sediment chemical analysis was carried out to provide further insight into the water quality of the bottom layers of the weir pool.

### SALINITY MEASUREMENTS

Water quality measurements were carried out on 21 November 2002 between the weir and Byangum Bridge. The following parameters were measured throughout the water column, to a maximum depth of ten metres:

- depth (m);
- temperature (°C)
- salinity (ppt)
- conductivity (µs/cm)
- dissolved oxygen (mg/l)
- dissolved oxygen (% saturation)
- pH
- oxidation/reduction potential (mV)
- turbidity (ntu)

The results are shown in **Appendix A**.

Soundings of the weir pool taken in 1978 and 1997 indicate that the bed of the weir pool contains a sill at approx 2 to 3 m below AHD between the water supply pump intakes and the downstream bend in the river. This sill is located approximately 200-280 m upstream of the bend.

The salinity measurements confirm that salt has accumulated on the bed of the weir pool between the sill and the weir. A salt layer has developed with a relatively consistent interface at a depth of 6 metres below the surface. Given that the deepest part of the bend is approximately 12 metres deep, the salt layer is up to 6 m thick. It is clear that the sill has prevented the salt layer progressing upstream and contaminating the water supply pump intakes.

## Reports from Director Engineering Services

**Patterson Britton  
& Partners Pty Ltd**

The salinity and conductivity within the salt layer vary from 0.2 ppt and 500  $\mu\text{s}/\text{cm}$  at the top of the layer to 1.8 ppt and 3,800  $\mu\text{s}/\text{cm}$  at a depth of 10 metres (*limit of instrument*). At the deepest part of the bend the maximum bottom salinity and conductivity would exceed these 10 metre readings.

Based on the 1997 soundings, the total volume of the saline layer was calculated to be 24 MI.

### OTHER WATER QUALITY MEASUREMENTS

The top of the saline layer corresponds with a thermocline with water temperature (*November*) varying from 22°C to 27°C above the saline layer and 18.4°C to 15.7°C within the layer.

There is very little exchange across the interface and the bottom waters are distinctly depleted of dissolved oxygen. This is borne out by the measurements of oxidation/reduction potential which indicate anoxic conditions throughout the saline layer ie.  $\text{ORP} < 40 \text{ mV}$ .

pH is elevated in the surface water, probably due to the presence of algae, and within normal range throughout the saline layer.

### SEDIMENT SAMPLING

Three samples of the black ooze on the bed were collected at the following locations:

- A - apex of bend opposite tall oaks,  $\frac{1}{3}$  of width from right bank;
- B - downstream of bend, approx 20 metres downstream of oaks;
- C - centre of channel, 20 metres upstream of oaks in middle of deep hole.

Duplicates of each sample were collected and all samples were stored in ice.

### TESTING OF BED SEDIMENTS

Bed samples were tested by Council's Tweed Laboratory Centre.

The results of nutrient and cation testing are provided in **Appendix B**. The results of the testing of organic content and COD (*sample A only*) are provided in **Appendix C**.

The levels of Fe and Al in the bottom sediment appear very high but apparently they are not extraordinary because they are endemic to the area (*Jan Majury pers. comm.*). The Al, which is potentially lethal to fish, is only likely to become bio-available if the pH drops below 5.0. Hence disposal to the estuary, where pH is  $\sim 7.5$ , is not likely to be a problem with respect to Al. The high Fe levels in the bottom sediment are considered to be more of a potential aesthetic issue rather than a health issue.

The high phosphorus (*total P and ortho P*) and high TKN confirm that the bottom sediment is anaerobic. It is considered that the bottom sediment would be a significant source of

# Reports from Director Engineering Services

**Patterson Britton  
& Partners Pty Ltd**

phosphorus release to the water column and this would be contributing to, if not the major cause, of periodic eutrophic conditions in the weir pool.

The COD of the bottom sediment was measured to be 22,700 mg/l. This is very high and means that care would need to be taken with disposal of this material because it has the potential to rapidly deplete the dissolved oxygen of any receiving water.

## ADDITIONAL WATER COLUMN TESTS

As the test results of the bottom sediments indicated potential problems, additional testing of the nutrient and cation content within the water column were carried out.

Councils water treatment staff collected water depth samples (*to a depth of 10 m*) from the centre of the deep hole at the apex of the river bend at Bray Park on 15/1/03. The results of laboratory testing are provided at **Appendix D**.

The pH and conductivity sampling showed similar results to the November measurements with a tendency for pH to lower to 7.0 at depth. The total phosphorus and total nitrogen in the water column were substantially in excess of ANZECC guidelines for estuaries (*ie. 0.03 mg/l TP and 0.3 mg/l TN*) throughout saline layer. This supports the view that the anaerobic conditions in the saline layer are promoting the exchange of nutrients from the bottom sediment with the overlying water column. There appears to be a vertical nutrient concentration gradient towards the interface which suggests that the bottom layer is quiescent *ie. no significant mixing is taking place within the layer.*

Although there are no ANZECC guidelines for cations in estuarine waters, the elevated Fe and Mn concentrations in the bottom waters confirm that there is active cation exchange between the bed sediments and the water column.

## DISCUSSION

The COD of the bottom sediment and associated bottom water, is so high that discharge of the bottom water into the estuary could cause DO depletion and a fish kill through asphyxiation. The problem is that DO depletion can occur very quickly with such a high COD and therefore it may not be avoidable by outlet monitoring etc.

It seems that the prudent course of action is to maintain a "watching brief" and wait for a sufficiently large flood to flush out the bottom water and sludge naturally. As the town water has not experienced elevated salt at the intakes, there is opportunity to manage the system this way. It would be good practice though to regularly measure the vertical and longitudinal salt/DO profiles between the pump intakes and the weir (*vertical profiles should go to the bed*).

If Council is concerned about taking no action from a water supply security viewpoint, the thickness of the salt lense could be reduced by extracting salty water from the upper layers of the lense (*ie. a metre or so below the stratification interface*) where the water quality would be less of a problem. This could be risky though if the extraction included, inadvertently, bottom water in the process.

## Reports from Director Engineering Services

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**Patterson Britton  
& Partners Pty Ltd**

The salt has probably only got into the weir as a product of the unusually protracted dry weather, the ensuing upstream propagation of oceanic salt in the estuary and the reversal of flow at the fish ladders due to the cessation of weir discharge over long periods. Hence the flushing of salt by a flood should be a permanent fix provided the fish ladder discharge and ambient salt levels in the estuary are regularly monitored in the future.

### RECOMMENDATION

It is recommended that Council set up a monitoring programme and wait for the salt to be flushed out by a sufficiently large flood. Once flushed, the operation of the fish ladders should be carefully monitored to avoid repeat salt ingress to the weir during protracted dry periods.

It is recommended that the monitoring include:

- (1) regular water quality profiling over the full water depth, between the pump intakes and the weir. Particular emphasis should be placed on carrying out measurements during extended dry weather;
- (2) regular measurement of the salinity of the estuary immediately downstream of the weir;
- (3) the placement of stop boards on the fish ladders during conditions of no weir discharge to prevent reverse tidal flow into the weir. This may require negotiation with Fisheries.



# Reports from Director Engineering Services

'A'

## BRAY PARK WEIR WATER QUALITY MEASUREMENTS 21 November 2002

Location	Depth (m)	Temp (T°C)	Salinity ppt	Conductivity µs/cm	DO (mg/l)	DO (% sat)	pH	ORP mV	Turb (ntu)
5m upstream weir wall	surface	25.5	0.06	200	6.1	74.9	8.3	290	-
	2.0	24.8	0.8	223	5.9	71.9	8.0	293	-
50m upstream weir	surface	25.5	0.08	200	6.1	74.6	8.2	285	-
	2.0	24.8	0.08	220	6.0	71.6	-	-	10.2
	4.0	24.0	0.15	388	2.8	32.2	7.2	307	9.0
	4.6 (bott)	23.7	0.15	408	1.8	22.8	7.2	295	9.8
75m upstream weir	surface	26.9	0.07	253	6.8	85.3	8.9	209	9.7
	2.0	25.0	0.08	210	6.6	80.5	8.9	219	8.1
	4.0	24.2	0.13	354	3.6	43.2	7.6	252	7.0
	6.0	22.0	0.20	512	0	0	7.3	243	7.5
	7.0	18.4	0.63	1438	0	0	7.9	17	disturbed
	7.5	17.7	0.91	2054	0	0	7.9	13	disturbed
	8.0	17.1	1.40	3015	0	0	8.1(dist)	26	disturbed
	8.5 (bott)	16.9	1.41	3022	0	0	7.9	-7	disturbed
100m upstream weir	surface	25.5	0.06	192	6.1	74.2	8.3	273	8.2
	2.0	24.8	0.08	212	5.8	70.1	8.0	282	8.8
	4.0	24.2	0.11	330	3.8	45.1	7.4	296	7.5
	6.0	21.4	0.20	559	0	0	7.5	46	6.1
	7.0	18.4	0.67	1523	0	0	7.8	17	5.2
	8.0	16.5	1.59	3378	0	0	7.9	5	3.6
	9.0	16.0	1.79	3755	0	0	8.0	-5	4.2
	10.0	15.7	1.83	3833	0	0	8.0	-10	3.5
150m upstream at apex of bend	surface	25.8	0.06	195	5.7	70.3	8.3	140	7.5
	2.0	24.9	0.06	203	5.6	67.4	8.1	163	8.7
	4.0	24.0	0.12	343	3.4	40.9	7.4	195	6.7
	6.0	21.1	0.22	548	0	0	7.4	52	6.1
	6.5	19.6	0.31	746	0	0	7.5	22	6.0
	7.0	18.3	0.61	1403	0	0	7.6	14	4.5
	8.0	16.8	1.49	3198	0	0	7.9	7	3.7
	9.0	16.0	1.79	3754	0	0	7.8	-9	3.1
50m upstream bend - ¼ from left bank	surface	25.2	0.06	194	5.9	72.0	8.5	122	9.0
	2.0	24.8	0.06	195	5.2	63.8	7.9	161	9.6
	3.0	24.5	0.06	208	5.2	61.9	7.8	152	7.8
	4.0	23.9	0.08	236	2.9	35.4	7.3	155	17.7
	5.0	23.1	0.12	341	0	0	7.1	130	8.1
	6.0 (bott)	21.6	0.20	505	0	0	7.4	41	8.2
Midway bend & pump intakes	surface	25.6	0.06	191	5.9	72.9	8.3	153	9.5
	1.0	25.1	0.06	190	6.0	73.2	8.3	162	9.9
	2.8 (bott)	24.7	0.06	200	5.0	60.7	7.7	190	disturbed

# Reports from Director Engineering Services

'A'

Location	Depth (m)	Temp (T°C)	Salinity ppt	Conductivity µs/cm	DO (mg/l)	DO (% sat)	pH	ORP mV	Turb (ntu)
Pump intakes	surface	26.1	0.06	190	5.9	73.5	8.3	174	8.6
	2.0	25.0	0.06	190	5.6	68.2	8.0	190	10.0
	4.0	24.6	0.06	188	4.8	57.3	7.6	205	10.0
	5.2 (bott)	24.2	0.06	206	2.4	28.5	7.2	213	18.0
Crossthaite drain 150m downstream island	surface	26.0	0.06	182	6.0	74.4	8.4	181	10.5
	1.0	25.8	0.06	181	6.0	72.0	8.1	194	10.3
	1.5 (bott)	24.8	0.06	175	5.2	62.2	-	212	12.2
Middle island	surface	26.2	0.06	178	6.2	77.4	8.5	188	11.7
	1.0	26.0	0.06	175	6.2	77.0	8.5	194	10.9
	2.0	25.6	0.06	172	6.4	78.7	8.5	197	9.2
	3.0 (bott)	24.3	0.06	173	5.6	66.5	7.8	218	11.2
Midway island & bridge	surface	25.6	0.06	172	6.6	80.6	8.7	188	9.5
	1.0	24.9	0.06	174	6.3	76.6	8.3	202	9.4
	2.0	24.5	0.06	172	6.1	74.2	8.3	208	7.5
	3.0 (bott)	23.9	0.06	174	4.1	50.3	7.5	228	-

# Reports from Director Engineering Services

## LABORATORY REPORT

Page 1 of 1

**Client:** Water Unit  
**Address:** Tweed Shire Council  
 Civic Centre  
 MURWILLUMBAH  
 NSW 2484  
**Attention:** David Oxenham (email and hard copy)  
**Email copy to:** Bruce Drury (Britton & Partners, PO Box 515, North Sydney NSW 2059)  
[bruced@patbrit.com.au](mailto:bruced@patbrit.com.au)

<b>Sample Description:</b> Tweed River – Bottom Sludge at Weir and Upstream.
--

**Taken By:** Bruce Drury  
**Date Taken:** 21/11/2002  
**Date Received:** 21/11/2002

Test	Method	Results		
		A	B	C
*TKN mg/kg	C6	728	588	840
*Nitrogen – oxidised mg/kg	C4	<0.05	<0.05	<0.05
*Total – N (by calculation) mg/kg	C7	728	588	840
**Total Phosphorus – P mg/kg	M8	845	825	930
*Ortho Phosphorus – P mg/kg	C16	0.03	0.02	0.32
*Ammonia – N mg/kg	C3	2.47	1.87	3.56
**Lead mg/kg	M7	4.64	4.83	4.40
**Calcium mg/kg	M8	3,000	3,175	3,090
**Magnesium mg/kg	M8	4,065	4,665	4,955
**Iron mg/kg	M8	19,800	20,450	24,350
**Manganese mg/kg	M8	174	304	226
**Aluminium mg/kg	M8	9,700	10,700	12,200
**Copper mg/kg	M8	11	11	14
**Cromium mg/kg	M8	36	41	53
**Nickel mg/kg	M8	19	21	24
**Zinc mg/k	M8	41	45	49

Results refer to samples as received at the Laboratory. All pages of this Report have been checked and approved.

**Remarks:** \*mg/kg as wet sample. \*\*mg/kg as dry sample.



Edward Dickson  
(Senior Technical Officer)

Date of Report: 23 December 2002

# Reports from Director Engineering Services

## TWEED LABORATORY CENTRE

ABN 90 178 732 496

46 Enterprise Avenue, Tweed Heads South, NSW 2486

Ph: 07)5569 3100 Fax: 07) 5524 2676

## LABORATORY REPORT

Page 1 of 1

**Client:** Water Unit  
**Address:** Tweed Shire Council  
Civic Centre  
MURWILLUMBAH  
NSW 2484

**Attention:** David Oxenham (email and hard copy)  
**Email copy to:** Bruce Drury (Britton & Partners, PO Box 515, North Sydney NSW 2059)  
[bruced@patbrit.com.au](mailto:bruced@patbrit.com.au)

**Sample Description:** Bray Park Weir – Bottom Sediments.

**Taken By:** Bruce Drury  
**Date Taken:** 21/11/2002  
**Date Received:** 21/11/2002

Test	Method	Results		
		A	B	C
Organic Matter % (dry basis)	--	3.2	6.7	8.4
Moisure %	--	50	70	74
COD Total mg/L	C18	22,700	--	--

Results refer to samples as received at the Laboratory.  
All pages of this Report have been checked and approved.



Jan Majury  
(Principal Scientific Officer)

Date of Report: 13 February 2003

# Reports from Director Engineering Services

## LABORATORY REPORT

Page 1 of 1

**Client:** Water Unit  
**Address:** Tweed Shire Council  
 Civic Centre  
 MURWILLUMBAH  
 NSW 2484

**Attention:** Operations Engineer – W&S (email)  
**Email Copy to:** Headworks Engineer – W&S, Wayne Watson and Peter Holmes  
**Email Copy to:** David Oxenham

Sample No	Sample Description: Raw Water – Depth Profiles.
1	Bray Park Weir – No 1 – Surface – 50m down from intake (CAT 11c).
2	Bray Park Weir – No 1 – Depth – 50m down from intake – 2m (CAT 11d).
3	Bray Park Weir – No 1 – Depth – 50m down from intake – 3m (CAT 11d).
4	Bray Park Weir – No 2 – Surface – Halfway between weir and intake at river bend (CAT 11e).
5	Bray Park Weir – No 2 – Depth – Halfway between weir and intake at river bend-deepest hole – 2m (CAT 11f).
6	Bray Park Weir – No 2 – Depth – Halfway between weir and intake at river bend-deepest hole – 4m (CAT 11f).
7	Bray Park Weir – No 2 – Depth – Halfway between weir and intake at river bend-deepest hole – 6m (CAT 11f).
8	Bray Park Weir – No 2 – Depth – Halfway between weir and intake at river bend-deepest hole – 8m (CAT 11f).
9	Bray Park Weir – No 2 – Depth – Halfway between weir and intake at river bend-deepest hole – 10m (CAT 11f).

**Taken by:** Water Operator  
**Date Taken:** 15/01/2003

**Date Received:** 15/01/2003

Test	Units	Method	Results								
			1	2	3	4	5	6	7	8	9
pH	pH units	P1	7.6	7.5	7.4	7.5	7.4	7.5	7.3	7.2	7.1
Conductivity @ 25°C	µS <sub>cm</sub> <sup>-1</sup>	P2	160	160	153	168	176	165	245	714	2,350
Colour, apparent	Colour units	P9	42	64	270	45	46	45	76	85	396
Colour, true	Colour units	P10	11	12	14	12	11	10	14	14	13
Turbidity	ntu	P8	1.7	4.5	39.2	1.7	2.2	1.8	3.3	4.5	37.5
Iron	mg/L	M8	0.15	0.36	3.30	0.12	0.12	0.11	0.21	1.24	6.88
Manganese	mg/L	M8	0.05	0.07	0.20	0.05	0.06	0.05	0.34	1.03	1.95
Total Phosphorus – P	mg/L	C17	0.05	0.07	0.18	<0.05	<0.05	<0.05	0.05	0.21	0.97
Total – N	mg/L	C55	0.53	0.55	0.97	0.52	0.57	0.54	0.53	0.82	2.66

Results refer to samples as received at the Laboratory.  
 All pages of this Report have been checked and approved.



Jan Majury  
 (Principal Scientific Officer) Date of Report: 10 February 2003

## Reports from Director Engineering Services

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# Reports from Director Environment & Community Services

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**24. ORIGIN: Director**

**FILE REF: Bldg Code; Bushfire Protection; Fire Services**

**REPORT TITLE:**

**Fire Risk to Properties**

**SUMMARY OF REPORT:**

This report emanates from the following resolution of Council at its meeting on 19 February 2003.

*“RESOLVED that:-*

- 1. Council requests information from relevant fire fighting bodies and others regarding design of buildings and property management, that minimises the risk of loss of property from fire.*
- 2. A subsequent report to Council includes that and other relevant information and any recommendations that might allow Council to amend or introduce policies that in nominated areas or circumstances, property owners are required to comply with in order to reduce the risk of loss of property by fire.”*

**RECOMMENDATION:**

That this report be received and noted.

## Reports from Director Environment & Community Services

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### REPORT:

The following resolution was adopted by council at its meeting on 19 February 2003

*“RESOLVED that:-*

- 1. Council requests information from relevant fire fighting bodies and others regarding design of buildings and property management, that minimises the risk of loss of property from fire.*
- 2. A subsequent report to Council includes that and other relevant information and any recommendations that might allow Council to amend or introduce policies that in nominated areas or circumstances, property owners are required to comply with in order to reduce the risk of loss of property by fire.”*

The matter of building design, siting and protection in bushfire prone areas has been of concern to governments for some time. It was, however, further emphasised in the 2001/2002 Christmas and summer bushfires.

As a consequence the NSW Government made legislative amendments to both the Environmental Planning & Assessment Act and the Rural Fires Act, which it is considered are adequate for implementation at both subdivision and construction stages of a development.

All new buildings now have to comply with the amendments to the Rural Fires Act, the design criteria in “Planning for Bush Fire Protection 2001” published by the Rural Fire Services in conjunction with Australian Standard AS3959 – Building in Bush Fire Prone Areas.

Through these amendments to the Rural Fires Act August 2002, any development that is within 30 metres of an identified low bush fire hazard must comply to the regulations imposed by “Planning for Bush Fire Protection 2001” and also most comply to Australian Building Standards AS3959 . For medium to high bush fire hazard areas the development must comply if it is within 100 metres of the hazard. Previously the document known, as “Planning for Bushfire Protection” was a recommended standard only, it is now a regulation.

As regards to the protection of existing properties the Rural Fire Service’s Fire Control Officer, Mr David Cook, has advised as follows:

*“Amendments to the Rural fires Act and subsequent changes to Service Level Agreements will lead to the transfer of delegation of Section 66, Bush Fire Hazard Notice to the Rural Fire Service. The Amendments have led to a streamlining in this process. Failure to comply with a Section 66 notice will lead to the Hazard Reduction Works being carried out and costs recovered. State Government has allowed the appointment of an additional Fire Mitigation officer to be shared between Byron, Ballina and Tweed local government areas to assist in the management of these issues.*

*Declaration of bush fire danger periods regulations have also been amended to allow specific localities to impose or vary the requirements on fire restrictions to suit the particular conditions in the locality, rather than “blanket” across the State where conditions may vary significantly.*

*In regards to hazard reduction the new legislation streamlines environmental assessment and approval processes for the implementation of bush fire hazard reduction. The Rural Fire Service will provide approval for hazard reduction, except managed land and*



## Reports from Director Environment & Community Services

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*unoccupied Crown Land. This process will not apply to areas of environmental significance including SEPP14, SEPP26 and Critical Habitat declared under the Threatened Species Conservation Act, 1993. Existing Part 5 provisions will continue for such.”*

Bearing in mind the above, it is not considered any further action is required by Council other than to implement the existing controls.

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# Reports from Director Environment & Community Services

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## Reports from Director Environment & Community Services

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**25. ORIGIN:** Environment & Health Services Unit  
**FILE REF:** GC12/5-200238 Pt1; Cabarita/Bogangar Comm Centre-Les Burger Field

**REPORT TITLE:**

**Cabarita Beach Sports Centre - Project Budget**

**SUMMARY OF REPORT:**

Upgrading and refurbishment work has been completed to facilities at Les Burger Field, with the facilities renamed the Cabarita Beach Sports Centre. A contract caretaker has been appointed and the facility is now operational.

Council allocated a budget amount of \$240,000 and the initial refurbishment project was completed for \$245,905.

A number of additional costs were necessary for final fit out and commissioning of the Centre. The total final cost of the project was \$292,848, with Contribution Plan No.15 being identified as the source of the additional funding.

The purpose of this report is to provide an update to Council on the actual project costs and to allow Council to confirm the expenditure of an amount of \$52,848 from the Section 94 Contribution Plan No. 15 – Tweed Shire Community Facilities, which includes in its works program an amount of \$125,000 for the ‘Stingrays’ facilities. There is currently an amount of \$92,000 available in the Plan.

**RECOMMENDATION:**

That Council confirms the allocation of an amount of \$52,848 from the Section 94 Contribution Plan No. 15 – Tweed Shire Community Facilities for final fit out and commissioning costs for the Cabarita Beach Sports Centre.

## Reports from Director Environment & Community Services

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### REPORT:

Upgrading and refurbishment work has been completed to facilities at Les Burger Field, with the facilities renamed the Cabarita Beach Sports Centre. A contract caretaker has been appointed and the facility is now operational.

Council originally allocated a budget amount of \$240,000 and authorised the Director Environment and Community Services to approve any modifications or variations to the project as may become necessary. The \$240,000 comprised \$200,000 from Section 94 contributions and \$40,000 from Sports Field Capital Works funds.

The initial refurbishment project was completed for \$245,905.

A number of additional costs were necessary for final fit out and commissioning of the Centre.

The total final cost of the project was \$292,848.

The major additional cost was replacement of a roof section (\$15969). Other items include purchase of tables and chairs (\$10,473 - catering for 150 persons) for the public meeting area, upgrade of the canteen (\$10,000) office furniture for two offices along with other items such as air conditioning, window tinting, curtains, security screens, turfing and necessary equipment such as a fridge, cutlery and rubbish bins etc.

The purpose of this report is to provide an update to Council on the actual project costs and to allow Council to confirm the expenditure of an amount of \$52,848 from the Section 94 Contribution Plan No. 15 – Tweed Shire Community Facilities, which includes in its works program an amount of \$125,000 for the ‘Stingrays’ facilities. This nominated amount of \$125,00 has not been used on the project.

There is currently an amount of \$92,000 available in Section 94 Contribution Plan No 15. With \$52,848.00 allocated to the works undertaken at “Stingrays” the balance in the Plan fund will be \$49,152.00.

## Reports from Director Environment & Community Services

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**26. ORIGIN: Recreation Services Unit**

**FILE REF: Bilambil Sports Complex; Tennis Courts; Leases-Ccl Ppty**

**REPORT TITLE:**

**Request for Lease of Council Land Within the Bilambil Sports Complex by Tennis Terranora Inc**

**SUMMARY OF REPORT:**

Council was approached in 2002 by Tennis Terranora Inc to allocate a section of the Bilambil Sports Complex for the construction of a tennis complex. After consultation with the current ground users, an on-site meeting with Councillors Polglase and Davidson and the Manager Recreation Services and consideration by the Sports Advisory Committee, a suitable area of land was agreed upon.

Tennis Terranora Inc has subsequently made considerable progress in planning for the proposed facility and now request to enter into a lease with Council for the agreed area to allow them to further their planning and construction.

**RECOMMENDATION:**

That Council enters into a lease with Terranora Tennis Inc over a portion of Lot 1 DP 772273 being the shaded area of Figure 1 of this report, with:

1. The term of the lease to be five (5) years with a five (5) year option
2. The rental to be \$1.00 per annum
3. A draft lease to be prepared by Council Solicitors.
4. The necessary documentation being executed under the Common Seal of Council
5. All reasonable expenses involved with the lease being borne by the lessee (Solicitors, stamp duty)

## Reports from Director Environment & Community Services

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### REPORT:

Council was approached in 2002 by Tennis Terranora Inc to allocate a section of the Bilambil Sports Complex for the construction of a tennis complex. After consultation with the current ground users, an on-site meeting with the Councillors Polglase and Davidson and the Manager Recreation Services and consideration by the Sports Advisory Committee, a suitable area of land was agreed upon.

Tennis Terranora Inc has subsequently made considerable progress in planning for the proposed facility and now request to enter into a lease with Council for the agreed area to allow them to further their planning.

Tennis Terranora Inc' application and plans are reproduced below:

# Reports from Director Environment & Community Services

**TENNIS  
TERRANORA**

ABN 89 803 583 270

AN INCORPORATED ASSOCIATION

PO Box 366  
Coolangatta Qld 4225

Tel 0755909226 or 0405 191286 2<sup>nd</sup> April 2003

To  
Stewart Brawley  
Manager Recreation Services  
Tweed Shire Council  
PO Box 816  
Murwillumbah NSW  
2484

TWEED SHIRE COUNCIL	
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Dear Sirs,  
Tennis Facilities at Bilambil Sports Complex

Thankyou for your letter of 25<sup>th</sup> October 2002.

Having received your letter we have made considerable progress towards the establishment of the Tennis Facilities at the Bilambil Sports Complex.

For your assistance we enclose a copy of our mission statement inspired by the allocation of land by Tweed Shire Council. We have , in compliance with that statement:

- 1) Formed a committee for the purpose of developing the tennis and community complex
- 2) Agreed on the site as shown on the enclosed plans (two sheets marked "A" and "B" attached)
- 3) Agreed on the number , surface and layout of the courts, the clubhouse and other facilities
- 4) Compiled rough costings for the development of what we see as the best tennis and community centre in the Tweed
- 5) Held a face to face meeting in Sydney with Tennis NSW
- 6) Held a face to face meeting in Lennox Heads with Department of Sport and Recreation
- 7) Acquainted ourselves with the conditions of State and Federal Government grants essential to the establishment of the proposed Complex
- 8) Met with and received the enthusiastic support of the participating clubs comprising the Bilambil Sports Complex
- 9) Held four properly convened and minuted and well attended meetings of our committee

**Tennis... You're gonna love it!** 

## Reports from Director Environment & Community Services

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### **TENNIS TERRANORA**

ABN 89 803 583 270

10) Liaised with eleven (11) nearby schools, all of whom have indicated their intent to support and patronize the new complex

11) Undertaken serious fundraising activities

12) Amended our constitution to give better emphasis to our wider community involvement, especially of children, and agreed to the adoption of the renaming of the complex to display our wider community appeal.

In doing the above a great deal of time effort and energy has been involved by many people....all gladly and enthusiastically. However we now are about to spend some serious money on soil testers, planners ,and architects and, having ascertained that a long term lease is essential if we are to obtain State Government grants, we ask that you now indicate to us in writing that such a lease at a pepper corn rental will be provided if the complex proceeds.

Yours Truly,



Richard Attwood  
President Tennis Terranora, Bilambil Tennis Complex Committee  
26<sup>th</sup> March 2003.



## Reports from Director Environment & Community Services

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**Tennis Terranora Inc. ( A member of Bilambil Sports Association Inc. )**

### **Mission Statement**

**Tennis Terranora Inc. has operated actively in the Lower Tweed region for over 30 years. It is committed to the future of the community in this region, particularly the Tennis activities and aspirations of the young and the young at heart, the disabled and the disadvantaged members of the Community.**

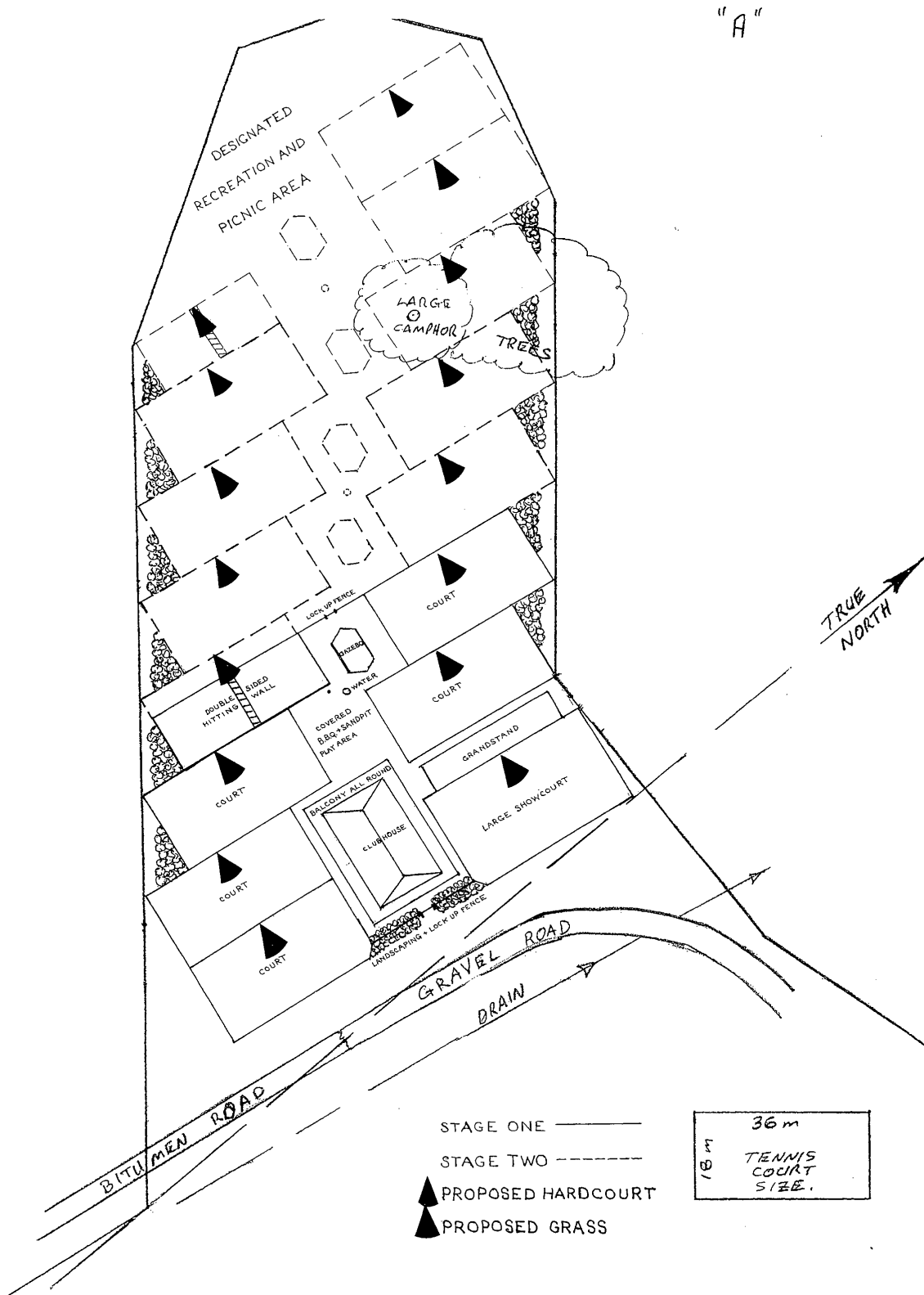
**Presently Tennis Terranora Inc. has a membership of over 200 (89 adults and 113 juniors ) in addition to the participation of 32 very young and school age children at its 5 courts at Terranora and on other courts in the Tweed District principally under the guidance of experienced coach Joan Nicoll.**

**As a part of the Bilambil Sports Association Inc., Tennis Terranora Inc., with the generous support of Tweed Shire Council, The NSW and Commonwealth Government and the members of the community, is currently establishing a new tennis complex, comprising facilities which aim to be the best in the Tweed District. Initially with six courts all wheel chair accessible, all flood lit and a mix of hard and sand filled artificial grass surfaces, a spacious functional safe and user friendly club house, a show court, grand stand and child safe surrounds, the complex in the picturesque Bilambil Valley will have 12 courts, all set for night tennis, landscaped and secure as part of the Tweed Shire Council's vision for the future generations of the Tweed.**

**The focus of the committee members managing the new complex is to establish a durable tennis facility, to cater for all interested members of the community, particularly pre-school and school age members , the disadvantaged and the disabled. We aim to welcome all to our tennis community and to provide respite and a haven from the stress which too often consumes us in our busy lives.**

**Tennis Terranora Inc.  
30 th January 2003.**

# Reports from Director Environment & Community Services



## Reports from Director Environment & Community Services



The subject site is classified as operational and therefore a lease over this area is permissible under the provisions of the Local Government Act 1993. As Tennis facilities require exclusive use of an area, a lease is regarded as the appropriate form of tenure.

Tennis Terranora Inc is requesting the lease be based on a peppercorn rental. As the facility will service a community need, provide a community benefit and be readily available to the community, it is recommended a peppercorn rental be agreed to.

Consequently, it is recommended that Council:

1. Enter into a lease over a portion of Lot 1 DP 772273 being the shaded area of figure 1 of this report.
2. The term of the lease to be 5 years
3. The rental to be \$1.00 per annum
4. A draft lease to be prepared by Council Solicitors.
5. Executes the necessary documentation under the Common Seal of Council
6. All reasonable expenses involved with the lease are to be borne by the lessee (Solicitors, stamp duty)

## Reports from Director Environment & Community Services

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## Reports from Director Environment & Community Services

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**27. ORIGIN:** Recreation Services Unit

**FILE REF:** Sport & Rec-General; Sports Advisory Cttee

**REPORT TITLE:**

**North Coast Academy of Sports Committee Representative**

**SUMMARY OF REPORT:**

Council has been invited by the North Coast Academy of Sport to nominate a representative to be part of the Tweed-Byron Academy Sub-Regional Committee.

**RECOMMENDATION:**

That Council determines the request from the North Coast Academy of Sport to nominate a representative to be part of the Tweed-Byron Academy Sub-Regional Committee.

# Reports from Director Environment & Community Services

## REPORT:

Council has been invited by the North Coast Academy of Sport to nominate a representative to be part of the Tweed-Byron Academy Sub-Regional Committee.

The invitation is reproduced in full:



*SPORT & REC - GENERAL*  
TWEED SHIRE COUNCIL  
*SPORTS MANAGER OFFICE*  
MURWILLUMBAH NSW 2484  
10 APR 2003  
TO: [REDACTED]  
FROM: [REDACTED]  
SUBJECT: [REDACTED]  
*BEANLEY, S*

North Coast Academy of Sport Inc  
PO Box 157  
Lismore NSW 2480  
Ph: (02) 6620 3073  
Fax: (02) 6620 3707  
E-mail: info@ncas.org.au  
Web: www.ncas.org.au  
ABN: 19 536 201 275

Thursday, 27 March 2003

John Griffin  
General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

***Tweed Shire Council Representation On Academy Committee***

Dear John,

In an effort to improve the Academy's service to the North Coast region, I write to invite Tweed Shire Council to nominate a representative to be part of your shire's respective Academy Sub-Regional Committee (SRC).

The Academy services the entire North Coast region of over 450,000 people across 15 local government authorities. With the Academy's office based in Lismore and with only two paid staff, the Academy has, since 1998, developed SRCs to help promote Academy services and provide a conduit for local sub-regional issues to be heard. Each SRC has around five members who live locally and volunteer their time to assist the Academy achieve its goals. The move to a SRC structure forms a significant part in the expanding awareness of the Academy throughout the North Coast.

- The five sub-regions of the Academy and their respective local government authorities are:
- Tweed-Byron – servicing the councils of Tweed and Byron.
  - Northern Rivers – servicing the councils of Lismore, Ballina, Kyogle, Richmond Valley.
  - Clarence – servicing the councils of Grafton, Pristine Waters, Copmanhurst, and Maclean.
  - Coffs Coast – servicing the councils of Coffs Harbour, Bellingen and Nambucca.
  - Hastings-Macleay – servicing the councils of Hastings and Kempsey

Membership to the SRC is both free and voluntary. Regardless of how much, if any, donation Tweed Shire Council provides to the Academy each year, we still wish to see your council represented on the local Academy SRC.

Based on past experience, SRC commitment involves one hour per month to either attend meetings or Academy functions.

Naturally, we hope your representative will have an interest on youth, sport, talent enhancement and regional development.

Please feel free to contact me if you require any further assistance on this matter. Otherwise, I look forward to your reply and nomination.

Yours sincerely  
  
Tony Clarke  
EXECUTIVE DIRECTOR

It is recommended that Council consider this request.

# Reports from Committees/Working Groups

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## 1. Minutes of the Sports Advisory Committee Meeting held Tuesday 18 March 2003

### Sports Advisory Committee

**VENUE:**

Cabarita Beach Sports Centre

**TIME:**

5.00pm

**PRESENT:**

**Committee Members:** Crs Max Boyd, Phil Youngblutt; Mr Stewart Brawley, Mr Merve Edwards, Ms Glennys Kenny, Ms Linda Threlfo, Mr Ray Jarrett, Mr Hubert Ehemann

**Informal:** Mrs Blyth Short (Recorder)

**APOLOGIES:**

Crs Warren Polglase and George Davidson, Mr Peter Moschogianis

**CONFIRMATION OF MINUTES:**

**Moved:** R Jarrett

**Seconded:** M Edwards

**RESOLVED** that the Minutes of Sports Advisory Meeting held Tuesday 18 February 2003 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

### 1. South Tweed Sports Facilities upgrade

**Dave Burns and Ron Wilkinson Fields**

S Brawley advised Council was unsuccessful in its application to the Department of Sport & Recreation Regional Grants. However, funding to commence the project is available including \$50,000 from the Assets Reserve Trust Fund.

## Reports from Committees/Working Groups

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### 2. Casuarina Sports Fields

#### Sports Fields-Casuarina

S Brawley advised that Casuarina Town Hall are sponsoring the Rugby Union Football and have subsequently delivered 20 tonnes of worm castings to fertilise and top dress the sports field. Council staff supplied the labour and equipment to spread the topdressing.

---

### 3. Piggabeen Sports Complex

#### Piggabeen Sports Complex

Further meetings have been planned to discuss future planning for the facility.

---

### 4. South Tweed Sports Facilities - Tree clearing

#### Dave Burns Field; Ron Wilkinson Field

Tree clearing works will proceed upon the availability of the Tree Unit during winter.

---

#### CORRESPONDENCE:

Nil

#### GENERAL BUSINESS:

### 5. Section 94 Contribution Plan 5 Open Space

#### Section 94 Plan

S Brawley tabled the proposed 2003/2004 Section 94 sports fields work program. G Kenny asked if consultation will be undertaken with sporting clubs for these projects as they may wish to contribute and apply for funding through NSW Sport & Recreation. He advised that consultation with sporting clubs has been underway and clubs are continually applying for funding through NSW Sport & Recreation.

M Edwards enquired if a toilet block could be installed at the Cudgen Leagues Club grounds (Ned Burns Field) adjoining Walter Peate Oval. S Brawley advised that Mr Grahame Burton, Council's Open Space Officer is liaising collectively and individually with the Kingscliff Sporting Club being the users to plan for short and long term arrangements for the fields.

---

### 6. Sea Breeze Estate Sports Fields

#### Sports Fields-Seabreeze

S Brawley advised Council is liaising with the Pottsville sporting groups regarding usage of the Sea Breeze fields. Proposed facilities include toilets, canteen, change room, lights and a turf wicket. R Jarrett advised that Pottsville Cricket Club and Tweed District Cricket Club have been in need of an additional turf wicket in the Pottsville area for many years. The

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## Reports from Committees/Working Groups

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installation of an additional wicket will allow the Tweed Shire to host major cricket events such as the NSW Blues carnivals. S Brawley advised that there is an item in the draft budget of \$13,600 for the maintenance of the proposed new turf wicket at Sea Breeze Estate. General discussion.

**Moved: G Kenny**

**Second: M Edwards**

**RECOMMENDATION:**

That Council supports the installation of a turf wicket at Sea Breeze estate and recommend allocation of a budget item in the 2003/2004 budget for maintenance of the wicket.

---

### 7. Tweed Heads Soccer Club

#### Arkininstall Park

G Kenny reported that there has been a huge growth in junior and senior soccer this year. Additionally, Gold Coast Soccer have moved their commencement dates back a few weeks this year to assist with the transition between summer and winter season sports.

S Brawley advised that the Gold Coast Soccer Association have implements wet weather procedures with Council. In summary the Association will contact Council no later than 2pm Friday afternoon for recommendations on the fields for closures.

---

### 8. Piggabeen Sports Complex - Cars on fields

#### Piggabeen Sports Complex

L Threlfo reported that cars are getting onto the Piggabeen Sports Field and requested bollards be installed. S Brawley will discuss these issues further at the meeting planned for Thursday 27 March 2003.

---

### 9. Apologies April meeting

M Edwards apologises for not being able to attend the April meeting.

---

**NEXT MEETING:**

The next meeting of the Sports Advisory Committee will be held 15 April at the Tweed Heads Civic Centre.

The meeting closed at 5.45pm

## Reports from Committees/Working Groups

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### DIRECTOR'S RECOMMENDATIONS:

#### 6. Sea Breeze Estate Sports Fields

Sports Fields-Sea Breeze

#### Committee Recommendation:

That Council supports the installation of a turf wicket at Sea Breeze estate and recommend allocation of a budget item in the 2003/2004 budget for maintenance of the wicket.

#### *Director's Comments:*

*Item 6: That the matter of the turf wicket at Sea Breeze Estate Sports Fields be considered by Council as part of its budget deliberations.*

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## Reports from Committees/Working Groups

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### 2. Minutes of the Tweed Shire Council Disability Access Committee Meeting Held Thursday 20 March 2003

**Access Matters; Disability Access Committee**

**VENUE:**

HACC Centre, Heffron St. Tweed Heads South

**TIME:**

1:10pm

**PRESENT:**

Cr Max Boyd, Ray Clark, Maggie Groff, Ross Cameron, Stefan Zak, Cr Barbara Carroll, Graham Williams, Bill McKennariey, Ron Douglas, Cr Wendy Marshall, Una Cowdroy, Pam Veness (Minutes)

**APOLOGIES:**

Anna Fisher, Gail Martin, Steve Pollit.

**MINUTES OF PREVIOUS MEETING:**

**Moved: Ron Douglas**  
**Seconded: Ross Cameron**

**RESOLVED** that the meeting held Thursday 21 November 2002 be accepted as a true and accurate record of the proceedings of that meeting.

Bill asked that Standing Agenda be deferred in order for the meeting to be addressed by Cr Barbara Carroll, speaking for Mr Jeff Needham. All agreed.

Cr Carroll spoke regarding a request from Mr Needham of the need for a disability taxi to be based in Murwillumbah. The Committee is aware that the issue has been raised before but the cost to the small Murwillumbah Co-operative is prohibitive - \$80,000 is required. An interest-free loan is not acceptable to the co-op, which now takes the form of an individual drivers group. Ms Carroll suggested that the lack of taxi services for the disabled is discriminatory and approaches to the Federal member could be made.

Bill advised that the issue dates back to 1996, and proposed a working party to research the standards and legislation surrounding this. Ray Clark advised that two disability taxis are available in the shire. However, Bill and Una advised the current arrangement is that the Kingscliff or Tweed Heads disability taxis must be booked 24 hours in advance. Bill further advised that the Human Rights Commission takes a dim view of the disabled having to book 24 hours in advance.

Cr Carroll offered that the model of Ayr, a town of similar size to Murwillumbah is worth researching, and has offered to do so.

## Reports from Committees/Working Groups

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**Moved: Cr Boyd**

**Seconded: Una Cowdroy**

**RESOLVED** that a working party be formed to research the issue, comprising Cr Carroll, Jeff Needham, Bill McKennarney, Una Cowdroy and Maggie Groff.

---

### **BUSINESS ARISING:**

**1. Outdoor Dining Policy (Public Liability Insurance)**

**Outdoor Dining; Disability Access Committee**

Maggie informed the Committee that the Policy is still being reviewed by Strategic Town Planning.

---

**2. Beach Wheelchair Pottsville Creek - Storage**

**Disability Access Committee**

Graham Williams advised that the slab has been laid and the lawn locker installed. Graham to arrange padlock & key.

**ACTION:** Maggie to purchase wheelchair and instigate Risk Management assessment

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**3. Access Budget**

**Disability Access Committee**

Balance is \$10,000.

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**4. Cerebral Palsy House Banora Point**

**Disability Access Committee**

A route has been worked out for Mr Speedy, however the entrance to Club Banora remains a problem. Ray advised that when the area is upgraded, with traffic lights, the fence will be relocated and a footpath constructed. The timeframe cannot be estimated at this stage.

**ACTION:** Maggie to consult with Bob Missingham re timeframe, and write to Mr Speedy to advise progress.

---

**5. Crabbes Creek Community Hall**

**Disability Access Committee; Rural Hall-Crabbes Creek Committee**

Ross is to complete a sketch plan for access to the hall and toilets.

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## Reports from Committees/Working Groups

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**6. Pedestrian Access and Mobility Plan**

**Disability Access Committee; PAMP**

Cromer Court is missing a section of footpath. Ron spoke about the lack of footpaths around the Florence and Enid Street sections of the hospital extensions, making access for disabled and people with prams difficult.

**ACTION** Ron is to provide a list to Ray of areas of concern in the vicinity of the hospital.

---

**7. Regional Access Meetings**

**Disability Access Committee**

Regional Access Meeting in Lismore on Monday 28<sup>th</sup> April will be attended by Maggie, Bill, Una and Ron. Agenda items are invited. A five minute talk on improvements in Tweed Shire over the last decade is to be written.

**ACTION** Bill will draft a report, incorporating information from Cr Boyd and Ross.

---

**8. Access to Stage - Murwillumbah Auditorium**

**Mbah-Civic Ctr; Disability Access Committee**

Maggie advised that the stage lift is available to be used in Murwillumbah if required, but is housed in South Tweed Heads Community Hall.

---

**CORRESPONDENCE:**

**9. Committee Vacancy**

**Disability Access Committee**

An expression of interest to join the Committee was received from Jeff Baldwin. Mr Baldwin brings experience as a member of other Access Committees – we will recommend that Council accepts this nomination as there are vacancies to fill.

**Moved: Max Boyd**

**Seconded: Stefan Zak**

**RECOMMENDATION:**

That Council approves the nomination of Mr Jeff Baldwin to join the Disability Access Committee.

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## Reports from Committees/Working Groups

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### 10. Tweed River Agricultural Society

#### Museums; Disability Access Committee

Letter received from Tweed River Agricultural Society requesting financial assistance in providing a lift for the disabled in the Museum Building. Cr Boyd advised that the Museum is on crown land and it is inappropriate for Council funds to be allocated for the purpose.. Cr Marshall suggested a reply which indicates that Federal funding for disability projects can be sought through the Honourable Larry Anthony. Cr Boyd also suggested CDSE funding.

**ACTION** Maggie to reply to TRAS with a suggestion to redirect funding request.

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### 11. 27 Ewing Street, Murwillumbah

#### Disability Access Committee; LN: 5980

An email has been received from Steve Paff regarding 27 Ewing Street, Murwillumbah. The elderly resident with decreased mobility does not have safe access to the street from property boundary. Maggie and Pam have visited the site and suggest that an angled footpath with steps and handrail, incorporating 29 Ewing Street, would satisfy. Mr Paff had advised that the pathway should be positioned towards the access road of Uki Street. Cr Boyd suggested that the Committees funds were provided for just such issues. A recommendation should be sent to Council for the project to be initiated. Ray will inspect the site and organise a quote and job number from Engineering.

**Moved: Cr Boyd**

**Seconded: Cr Marshall**

#### RECOMMENDATION:

That Council approves the installation of footpaths or steps and handrails for safe access to Nos 27 and 29 Ewing Street, Murwillumbah, with funding from the 2002/2003 Access Budget.

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### 12. Access - Kingscliff

#### Disability Access Committee

Various issues regarding access at Kingscliff have been raised. These all appear to have emerged from one resident, and will be dealt with collectively:

- a) The purpose of a bollard at the northern entrance to Kingscliff Beach Holiday Park has been queried. Richard Adams is to be consulted.
- b) Ramp on footpath at southern end of Kingscliff Bowling Club has camber variation. Bob Missingham has the matter in hand and the item has been listed with the contractor.

## Reports from Committees/Working Groups

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- c) Garbage service for disabled – Ian Percy reports no other requests for increased number of bins for disabled residents. Maggie has telephoned Mr White, and will arranged a home visit by Anna Fisher. Progress on this will be checked next meeting.
- d) The beach wheelchair is too wide to access the boardwalk at Sunrise Cove. Maggie will amend the form for borrowing the wheelchair to advise this. Ray advised that a ramp on Sutherland Street is planned.
- e) MLAK lock on the toilet beneath the Cudgen Headland Surf Club is under consideration. The toilet seat has been replaced. Ross is to investigate the provision of a shelf in the toilet.

Bill advised that DAISI posts MLAK sites on their website. Maggie will ring Donna Graham.
- f) Letter of resignation has been received from Gail Martin. Maggie will write to Ms Martin expressing thanks for her input. Bill and Stefan asked that their names be added to the letter.
- g) Community Worker/Aged Interagency Report – Maggie advised that as this was Seniors Week, a report had not been prepared.

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### GENERAL BUSINESS:

#### 13. International Day of People with a Disability

##### Disability Access Committee

The tenpin bowling on 3 December was a great success. Bill reported that several people enjoyed the day so much they are bowling regularly. Cr Marshall recognised the hard work put in by Maggie and Bill to make it such a success.

Maggie reported that the 5<sup>th</sup> City of the Arts two-year program of events includes a project for people with a disability. To celebrate International Day of People with a Disability 2003, a two day forum is proposed for 3<sup>rd</sup> and 4<sup>th</sup> December, for disabled people involved in the arts world to plan functions and events for the two-year program. A Working Party was proposed to prepare for the forum – Una, Stefan, Bill and Ron volunteered. Maggie will contact the Working Party.

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#### 14. Multicap - Mt Warning Respite House

##### Donations; Disability Access Committee

Cr Boyd reported that the civil works are commencing on site. Council has donated a further \$30,000 to the project. The finish date is projected for September. The Committee agreed that this would provide a wonderful and much needed service for carers in need of a break.

## Reports from Committees/Working Groups

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### 15. Tweed Mall Pedestrian Access

#### Disability Access Committee

Stefan raised the issue of the roundabout in Francis Street, Tweed Heads. He feels the ramp is in the wrong location and has requested a pedestrian crossing. Ray advised that the pedestrian traffic would not meet the warrants necessary, and because of legal issues it would not be possible on the current statistics to do this. Ray advised another survey could be completed to satisfy the committee.

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### 16. Murwillumbah Railway Station

#### Pedestrian Crossings; Disability Access Committee

Ron spoke about the lack of pedestrian crossing on Tweed Valley Way from the row of shops (and bus stop). Ray suggested there was space for an island refuge but there had not been a pedestrian crossing there for some years. Cr Boyd requested that the Traffic Committee review the situation.

**ACTION** Ray to place this item on the agenda of the Traffic Committee.

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#### NEXT MEETING:

The next meeting will be held 15 May 2003 at 1pm at the HACC Centre, Tweed Heads South.

The meeting closed at 3.10pm.

#### DIRECTOR'S RECOMMENDATIONS:

### 9. Committee Vacancy

#### Disability Access Committee

#### Committee Recommendation:

That Council approves the nomination of Mr Jeff Baldwin to join the Disability Access Committee.

#### *Director's Recommendation:*

*As per the Committee's recommendation.*

### 11. 27 Ewing Street, Murwillumbah

#### Disability Access Committee; LN: 5980

#### Committee Recommendation:

That Council approves the installation of footpaths or steps and handrails for safe access to Nos 27 and 29 Ewing Street, Murwillumbah, with funding from the 2002/2003 Access Budget.



## Reports from Committees/Working Groups

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***Director's Recommendation:***

*As per the Committee's recommendation.*

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## Reports from Committees/Working Groups

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

3. **Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 25 March 2003**
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# Orders of the Day

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## 1. Notice of Motion - Cr Boyd

### Murwillumbah Railway

#### Transport – Railways – General; Notice of Motion

That Council:

1. Enlists the support of Mr Newell in requesting the new Minister for Transport, Mr Costa, to visit the Tweed with a view to clarifying the Government's long term plan for the rail line between Casino and Murwillumbah.
  2. Explores with the Minister the possibility of establishing a rail commuter service on this line.
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## 2. Notice of Motion - Cr James

### Cabarita Surf Lifesaving Club

#### Surf Lifesaving – Cabarita Beach; LN:13027; Notice of Motion

That Council authorises the General Manager or his delegate to negotiate with the Cabarita Surf Club arrangements under which Council may agree to the construction of their new clubhouse on the lot on which the current clubhouse is located.

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# Orders of the Day

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