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Schedule of Outstanding Resolutions

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

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 held. Final details being negotiated.

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 2003

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
-

Schedule of Outstanding Resolutions

lifesaving services. This policy should also consider any necessary conditions of consent for future developments.

Current Status: Policy to be prepared.

19 FEBRUARY 2003

ORDERS OF THE DAY

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.

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: Landowners deferred presentation to Community Access meeting on 14 May 2003. Report to be submitted to 2 July 2003 Council meeting.

Schedule of Outstanding Resolutions

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 being prepared by DSNR.

16 APRIL 2003

QUESTION TIME

Parking Officer

Parking Infringement Notices

Cr Beck

How much money has been collected by the parking officer? Has this money been spent? If so, on what?

The General Manager replied that a report will be prepared in response to these questions.

Current Status: Report being prepared by Director Environment & Community Services.

7 MAY 2003

ORDERS OF THE DAY

3. Cudgen Creek

Government Grant-Boat Ramps; Government Grant - Water; Cudgen Creek; Notice of Motion

354

Cr Youngblutt

Cr Beck

RESOLVED that:-

1. Cudgen Creek be rehabilitated forthwith to a navigatable condition for small craft from the mouth up to and beyond the boat ramp.
 2. The spur wall on the southern training wall be removed.
-

Schedule of Outstanding Resolutions

3. The General Manager be asked to contact relevant Government departments regarding this project and our Local Member, Mr Neville Newell, for his assistance in obtaining Government funding.

Current Status: Action underway.

Effluent Discharge - Waterways

Pollution – Water; Area 5 – Tweed River Boating

Cr Marshall

Asked what is the current situation with boat users on the Tweed waterways in regard to effluent discharge and holding tank installation?

The General Manager responded that a report will be brought back advising the Waterways Authority's position in relation to this matter. He also advised that no development applications have been submitted at this time.

Current Status: Being investigated.

21 MAY 2003

REPORTS FROM DIRECTOR ENGINEERING SERVICES

21a. Proposed Relocation of Doon Doon Hall to Crams Farm Recreation Area

PF1640/430; Rural Hall - Doon Doon; LN 8154

429

Cr Beck

Cr Marshall

RESOLVED that:-

1. The General Manager and Mayor consult with the local community to determine a suitable location of the Doon Doon Hall within the current Clarrie Hall Dam precinct.
2. Councillors be invited to attend such consultation.

Current Status: Onsite meeting scheduled for 24 June 2003 at 11.30am.

4 JUNE 2003

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

2. Tweed Economic Development Strategy 2003

Tweed Economic Development Corporate; Economic Development Strategy; TEDC

446

Cr Marshall

Cr Beck

Schedule of Outstanding Resolutions

RESOLVED that this item be deferred pending consultation and liaison with Tweed Economic Development Corporation (TEDC) to devise a mutually acceptable and workable strategy in consideration of the work already carried out by TEDC on an economic strategy as requested by Council.

Current Status: Executive Management Team meeting with TEDC on Wednesday, 18 June 2003.

QUESTION TIME

Subdivision – Riveroak Drive, Murwillumbah

Riveroak Drive; GS4/91/16 Pt3; Subdivision Application Correspondence

Cr Beck

Asked that a report be brought forward on the development currently underway at Bray Park as the people who drive along Uki Road are aghast at what has happened?

The Acting General Manager advised that a report will be prepared on this matter and referred to Council.

Current Status: Report to Council's meeting of 2 July 2003.

Mayoral Minute

Councillors,

1. Tweed Taskforce

Tweed Heads Ministerial Task Force

5 June – attended UDIA Tweed Taskforce Project Lunch with Magdy Youseff at Twin Towns

2. Casuarina Beach

Casuarina Development

6 June – Attended Launch of Casuarina Environmental Management Plan

3. Wintersun

Wintersun

6 June – attended Wintersun Car Cruise at Coolangatta

4. Wintersun

Wintersun

7 June – judging Wintersun Street Parade Coolangatta

5. World Environment Day

Sustaining The Tweed/World Environment Day

8 June - World Environment Day Celebrations at Knox Park Murwillumbah

6. Tweed Valley Community Church

Councillors - Invitation

8 June – attended luncheon with members of the Tweed Valley Community Church at ex Club Water Sports at South Tweed Heads

Mayoral Minute

7. Tweed Chamber of Commerce

Chambers of Commerce; Councillors - Invitation

10 June – attended Tweed Chamber Breakfast Meeting at South Tweed Bowls Club

8. Seabreeze Estate Pottsville

Seabreeze Estate Development

10 June – attended Media Release of latest stage of Seabreeze development at Pottsville

9. Murwillumbah Croquet Club

Councillors - Invitations

11 June – attended 75th Anniversary Celebrations of the Murwillumbah Croquet Club

10. GM's Sub Regional Forums + Mayors

Sub Regional General Managers Group

13 June - Attended GM's Sub Regional Forums + Mayors at Byron Shire Council

11. Tweed River Regional Art Gallery

Art Gallery

14 June –opening of Tweed River Regional Art Gallery Exhibition “Life in the Emperor’s Tomb” by Chinese Ambassador Mr. Wu Tao

12. Local Government Association – President’s Country Tour

Local Government & Shires Association General

16 June – with the Director of Corporate Services attended the Local Government Association “President’s Country Tour” at Byron Shire Council

13. Lions Club Ballina

Services Organisations/Donations

A request for sponsorship has been received from the Lions Club of Ballina which is hosting “*World Festival of Magic*” on Tuesday 7 October in Lismore. This event is to provide a special day out for disabled, special needs and disadvantaged children.

The request from the Lions Club forms an attachment to this Minute.

Mayoral Minute

14. Tweed Valley Community Church

Donations

A request has been received from the Tweed Valley Community Church for a \$2,000 contribution from the Tweed Shire Council to acquire a multi-function Christian facility at the former Water Sports Centre South Tweed Heads.

Correspondence in support of this request forms an attachment to this Minute.

INVITATIONS ACCEPTED:

- 19 June – Mobile Men’s Shed – Handover of Towing Vehicle by Southcoast Automotives
 - 19 June - Northern Rivers Farmland Protection Project – Canvas & Kettle
 - 20 June – Chinderah VIC Project (Gold Coast Airport)
 - 23 June – Cr Boyd to greet Friendship Force visitors from Howick New Zealand
 - 23 June – Murwillumbah War Widows Guild AGM
 - 24 June – Meeting re Doon Doon Hall
 - 24 June – Murwillumbah Lions Changeover
 - 26 June – Lunch with External Auditors Southern Cross University (Tweed Campus)
 - 27 June – Murwillumbah Cup Tweed River Jockey Club
 - 27 June – Business Excellence Awards (Tweed Bowls Club)
 - 30 June – Official Opening Oxley Day Club (Veterans’ Affairs) by Keith Hall State President RSL
 - 2 July – Welcome Delegates to Public Libraries Conference Tweed Heads
-

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

- **22-25 July** Qld Government “Tourism Futures Novotel Twin Waters Resort Sunshine Coast Qld
 - **24-28 August** Hobart International Public Works Conference “Back to Engineering” Wrest Point Convention Centre Hobart
 - **4-7 November** Coastas Conference 2003 “Surging Ahead – Success Stories in Coastal Management”, Port Panthers Settlement City Port Macquarie
-

Mayoral Minute

- **10-14 November** Ecotourism Australia 11th National Conference Adelaide and the Riverland South Australia
- **19-23 April 2004** Australia's National Coastal Conference "Coast to Coast '04" Hobart Tasmania

ABSENCES FROM SHIRE BY EXECUTIVE, MANAGERS AND COUNCILLORS

EXECUTIVE

Name	From	To	Location	Details
DCS	13 June 2003		Mullumbimby	GMs Subregional Forum
DCS	16 June 2003		Mullumbimby	LG Association Presidents Tour
DDS	19 June 2003	20 June 2003	Sydney	PIA meetings
DECS	19 June 2003	19 June 2003	Gold Coast	Airport Noise Abatement Consultative Committee
GM	11 June 2003		Sydney	Rate Pegging Task Force Meeting
GM	13 June 2003		Mullumbimby	GMs Sub-Regional Group plus Mayors
GM	20 June 2003		Sydney	LGMA Divisional Council Meeting
GM	29 June 2003	1 July 2003	Kalgoorlie	National Local Roads Congress

Reports from Director Development Services

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

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

MATTERS FOR CONSIDERATION

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

Reports from Director Development Services

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Reports from Director Development Services

1. ORIGIN: Development Assessment Unit

FILE REF: DA02/1136 Pt2; LN 11044

REPORT TITLE:

Development Application DA02/1136 for a Mixed Commercial/Tourist Accommodation Development Including 8 Units at Lot 2 Sec 4 DP 9453 and Lot 3 Sec 4 DP 9453 No. 34 Marine Parade Kingscliff

SUMMARY OF REPORT:

Council is in receipt of a development application from Pacific Projects Group (Developments) Pty Ltd for the demolition of an existing two-storey commercial/residential development and the erection of a mixed commercial/retail and tourist accommodation development. The application was originally lodged in July of 2002. However, given the number and nature of objections originally received and the advice of non acceptability from the Director Development Services, the applicant lodged amended plans. The amended plans were re-advertised for fourteen days between 2 April 2003 and 16 April 2003. During this time Council received a further ten objections to the proposal and undertook two public meetings to discuss the proposal with concerned residents.

A SEPP 1 Objection to Clause 16 of Tweed Local Environmental Plan 2000 accompanies the application to vary the height control from 3 storeys to four storeys for a length of seven metres within the centre of the property. This results in a staggered four-storey elevation to Marine Parade and a two-storey elevation to Hungerford Lane.

Building heights for the Tweed Coast and the applicable controls for tourist accommodation have been the subject of recent reports and Draft DCP exhibitions. Discussions have resulted in Council preparing a draft Development Control Plan for the Height of Buildings (that have been exhibited but not yet adopted) and the resolution that tourist accommodation be excluded from an assessment against DCP No. 6 – Multi Dwelling Housing. This effectively means that this application has been assessed against the current applicable controls while acknowledging the draft plans. However, given their draft nature it is inappropriate to place a great deal of weight to them.

The proposal highlights the critical and urgent need for Council to finalise decision making on the draft DCP for Building Heights and to develop an Urban Design Plan for this sector of Kingscliff before any further development applications are determined.

RECOMMENDATION:

That :-

- A. Development Application DA02/1136 for a mixed commercial/tourist accommodation development including 8 units at Lot 2 Sec 4 DP 9453 and Lot 3 Sec 4 DP 9453 No. 34 Marine Parade Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing No. SK01 Revision A - SK07 Revision A prepared by Pacific Projects Group and dated March 2003 (27/3/2003), except where varied by these conditions.

Reports from Director Development Services

2. The overall height of the building shall not exceed RL 17.7 metres (excluding any lift over run which shall be no greater than 1.5m above this nominated height). On completion of the building documentation from a surveyor shall be provided to ensure compliance with this condition.
3. 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.
4. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.
5. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
6. The proposed future uses must be the subject of a separate approval.
7. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
8. 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.
9. Works shall comply with the Stormwater Management Plan, Cozens Regan Williams Prove Pty Ltd dated June 2002.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. The payment of a contribution of \$92,000 in lieu of the provision of 8 off street car parking spaces. The contribution to be paid in full prior to the issue of a Construction Certificate.
11. Section 94 Contributions
 - (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and

Reports from Director Development Services

the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

- a. Tweed Road Contribution Plan: \$11,158.00
 S94 Plan No. 4 (Version 4.0)
 (Sector 6 - Kingscliff)

Heavy Haulage Component

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

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

where:

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

and:

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

Dist. average haulage distance of product on Shire roads

(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

- b. Open Space (Casual): \$1,321.00
 S94 Plan No. 5
- c. Community Facilities (Tweed Coast) \$2,952.00
 (North Coast)
 S94 Plan No. 15
- d. Emergency Facilities (Surf Lifesaving) \$905.00
 S94 Plan No. 16
- e. Extensions to Council Administration Offices

Reports from Director Development Services

- & Technical Support Facilities \$1,311.83
S94 Plan No. 18
- f. Cycleways \$1,278.00
S94 Plan No. 22
- g. Regional Open Space (Casual) \$1,752.00
S94 Plan No. 26

12. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water:	1.292 ETs	\$5,168.00
Sewer:	1.292 ETs	\$4,231.00

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

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

13. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services **PRIOR** to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

14. 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.

15. 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

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comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.

- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
 - (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
 - (d) Specific requirements:
 - (i) Roof runoff is to be discharged without stormwater quality treatment.
 - (ii) The proposed Ecosol RSF100 GPT is not accepted as it does not capture oils. An appropriately sized device must be provided in the Construction Certificate Application.
 - (iii) Car park, driveway and car washdown areas (assuming impervious) runoff is to be pre-treated to remove oil and sediment prior to entry to the on site storage tank.
 - (iv) The oil/grit arrestor proposed must also be sized to treat pollutants generated from cars parked in the basement. The installed device must also satisfy the following requirements.
 - a. The retained volume of the oil/grit arrestor must be no less than 0.5m³ per 1000m² of the basement/undercover car park area.
 - b. The minimum retained volume of an oil/grit arrestor is 0.75m³. Reference is made to AS/NZ3500.3.2.1998 National Plumbing and Drainage - Stormwater Drainage - Acceptable Solutions/Section 8/Figure 8.3 for typical oil/grit arrestors.
16. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

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

17. 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.
18. Any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Councils Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.
19. 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

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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.
20. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
21. Provide cross sections of the footpath at Marine Parade through to the proposed ground floor area showing RL levels and grades so as to establish that disabled access in accordance with AS1428 can be provided to all areas of the ground floor and that general pedestrian movement along the pavement will be provided to the satisfaction of the Director of Engineering Services. General pedestrian movement requirements should be discussed with Council's Technical Officer of the Works Unit.
- The RL levels established to satisfy the above requirement should be considered with due regard to the 150 diameter stormwater detention discharge pipes noted in the Stormwater Management Plan.
22. Provide an engineers design statement that the proposed excavation and necessary retaining can be achieved without affecting the integrity of the adjoining properties and structures thereon including the public roadway known as Hungerford Lane. The engineer is to advise in the above statement if it will be necessary to enter onto the adjoining land to carry out or do any work and if so consent from the affected landowners will be required for the specific work.
23. Provide design concepts of the proposed water meter location, sewer inspection shaft and any likely trade waste arrestor locations and the serviceability of same.
24. Provide details to demonstrate that the demolition and construction on the site can be carried out in a manner to minimise nuisance to surrounding properties and that

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traffic control, pedestrian diversion and construction loading and storage areas are available.

PRIOR TO COMMENCEMENT OF WORK

25. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.
26. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
27. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principle Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.
28. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
 - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; 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.
29. 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

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- (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.
30. 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.
31. 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.
32. 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.
33. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.
- Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.
34. 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.
35. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.

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36. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.
37. Prior to the commencement of any demolition works the name and contact details of the responsible contractor/person shall be provided to Council in writing.

DURING CONSTRUCTION

38. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
39. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
40. 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.
41. A garbage storage area shall be provided in accordance with Council's **"Code for Storage and Disposal of Garbage and Other Solid Waste"**.
42. 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.
43. 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.
44. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
45. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.
46. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
 - e. completion of work

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47. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
48.
 - a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
49. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b. building involves the enclosure of a public place,
a hoarding or fence must be erected between the work site and the public place.
If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with , the work falling into the public place.
The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
Any such hoarding, fence or awning is to be removed when the work has been completed.
An application for hoarding together with the prescribed fee is to be submitted to Council for approval prior to work commencing.
50. Ensure adequate turfed area, or other suitable material, is incorporated and maintained into the proposed landscape of the property for use as a car wash-down area.
51. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
52. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
53. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation
54. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

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Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

55. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
56. 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.
57. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
58. 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 or public holidays.
59. 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.
60. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
61. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.
62. The burning of builders waste on site by open fire is prohibited.
63. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.
64. 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.
65. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.

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66. 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.
67. 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.
68. 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.
69. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
70. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
71. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
72. 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.
73. 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.
74. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
 - * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
75. 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

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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.
76. 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.
77. The full width concrete Footpaving on Marine Parade is not to be altered to provide ramps into the shops. The shops are to ensure all ramps or steps are contained internally if the floor slab is higher than the footpath level at the sites boundary with Marine Parade.
78. All stormwater runoff from the site is to be discharged via a new standard manhole, into the existing pipe drainage network in Marine Parade. No discharge is permitted to Hungerford Lane or adjacent land. The connection to Council's 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.
79. The driveway entrance shall be graded to ensure Q100 stormwater runoff from the Hungerford Lane kerb and gutter does not enter the site.
80. Provision shall be made for the installation of grease trap(s) to the satisfaction of the Director of Environment and Community Services.
81. Provision shall be made within the building to duct or convey future exhausted cooking gases above the roof level to the satisfaction of the Director of Environment and Community Services. Cooking gas discharges and ducting shall comply with AS1668.
82. All waste materials shall be collected, stored and disposed of to the satisfaction of the Director of Environment and Community Services.
83. Acid sulfate soils shall not be exposed or disturbed as part of the proposed works.
84. The site shall not be dewatered without the prior written consent of Council. Should dewatering be necessary, Council shall be notified in writing prior to such

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dewatering, and waters shall be monitored and tested as directed by Council, and in accordance with the Water Act, 1912.

85. Security fencing and hoardings shall be erected along the Marine Parade frontage to the satisfaction of the Director of Environment and Community Services and the NSW WorkCover Authority.
86. The third floor tourist accommodation units are not to increase the area of covered roof decks from that indicated on the approved plans. This condition has been imposed to reduce the bulk and scale of the building when viewed from the foreshore.
87. No part of the building other than the pedestrian awning are to protrude beyond the confines of the property boundary

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

88. 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.

USE

89. The use being restricted to the floor area designated on the approved plan.
90. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.
91. No items or goods are to be stored or displayed outside the confines of the premises.
92. 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.
93. 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.
94. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.
95. Footpath dining activities shall not be conducted without the prior written approval of Council.
96. Lighting utilised on the site shall not be permitted to detrimentally impact the amenity of any other premises.

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97. This application has approved 8 tourist accommodation units and 3 retail outlets. Any future change of use shall be subject to separate approval and may attract additional parking requirements and additional Section 94 contributions. Furthermore, the approved units are not to be utilised for permanent residential accommodation.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

98. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No DA02/1136 have been complied with. The restriction as to user to be established to the effect that no unit shall be rented to the same occupiers for in excess of three (3) months in a single tenancy term.
99. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
- i. The approved tourist accommodation units are not to be used for permanent residential accommodation. They are to be used for tourist accommodation only.
 - ii. The approved retail/commercial units are not to be used for restaurant or café use without prior development consent.

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

100. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of the construction certificate.
- B. Council determines to urgently review the status of Draft DCP No 48 – Building Heights; review DCP No. 6 having regard to Tourist Accommodation; and prepare an Urban design Plan for this sector of Kingscliff bounded by Marine Parade, Seaview Street, Sutherland Street and Moss Street.

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REPORT:

Applicant:	Pacific Projects Group (Developments) Pty Ltd
Owner:	Brosnan Hotels Pty Ltd and Brosnan Family Pty Ltd
Location:	Lot 2 Sec 4 DP 9453 and Lot 3 Sec 4 DP 9453 No. 34 Marine Parade Kingscliff
Zoning:	3(b) General Business
Cost:	\$1,900,000.00

BACKGROUND

Council is in receipt of a development application from Pacific Projects Group (Developments) Pty Ltd for the demolition of an existing two-storey commercial/residential development and the erection of a mixed commercial/retail and tourist accommodation development. The development comprises retail/commercial floor area on the ground floor on Marine Parade and 8 tourist accommodation apartments.

The application was originally lodged in July 2002. However, given the number and nature of objections originally received and the advise of non-acceptability by the Director Development Services, the applicant lodged amended plans. The amended plans were received on 28 March 2003 and detailed several changes including:

- A change to the definition of the accommodation section of the building from multi dwelling housing to tourist accommodation;
- The staggering of the building to better represent the slope of the land;
- The reduction in height of the building to Hungerford Lane (from three storeys to two storeys); and
- A four metre setback to Hungerford Lane;

The application was subsequently re-advertised for fourteen days between 2 April 2003 and 16 April 2003. During this time Council received a further ten objections to the proposal and undertook two public meetings to discuss the proposal with concerned residents.

The subject site is located on the southern side of Marine Parade between its intersection with Seaview Street and Moss Street, Kingscliff. It has a 27.2 metre frontage to Marine Parade and an average depth of 40m to create a total site area of 824m². The site also has a frontage to Hungerford Lane of approximately 13.9 metres, which is relied upon to gain vehicular access to the site. The site falls approximately 8m from the south (Hungerford Lane) towards the north (Marine Parade).

The subject site is located within Kingscliff Town Centre and surrounding development includes mixed residential/commercial development to the east and west fronting Marine Parade and a Council car park and foreshore opposite the site. Residential development immediately adjoins the site to the south.

The proposed development is summarised as follows:

- 3 commercial units on the ground floor fronting Marine Parade and an amenities/storage access way;
- First floor to Marine Parade 3 tourist accommodation units (3 bedrooms each);

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- Second floor to Marine Parade (First floor to Hungerford Lane) 3 tourist accommodation units (3 bedrooms each) and 8 car parking spaces (including garbage storage space); and
- Second floor to Hungerford Lane (partly fourth storey to Marine Parade) 2 tourist accommodation units (3 bedrooms each).

The total gross floor area of the building 2640m².

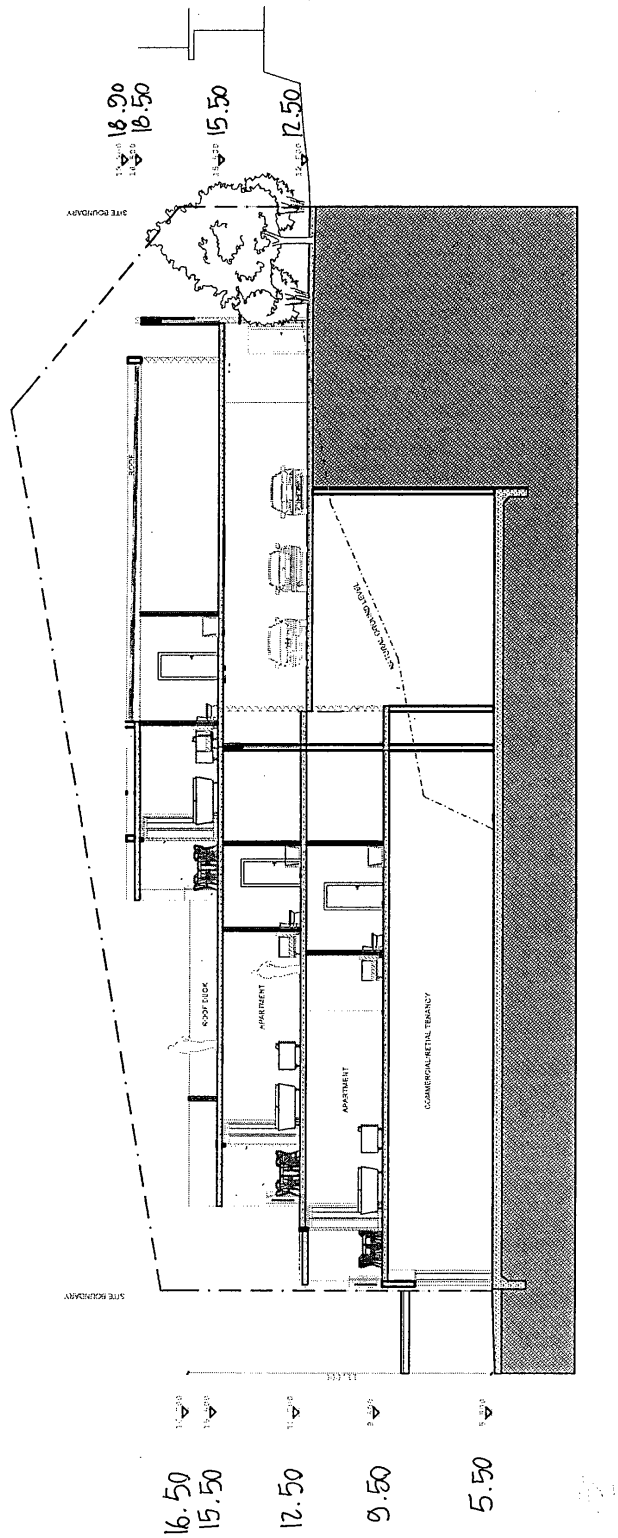
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SITE DIAGRAM



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CROSS SECTION FROM HUNGERFORD LANE TO MARINE PARADE



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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

The subject site is zoned 3(b) General Business under Tweed LEP 2000. Commercial premises, shops and tourist accommodation are all permissible development types under the provisions of this plan provided that the tourist accommodation is not located at street level (other than the entry and the like). The proposed development is considered to satisfy this provisions as it involves the erection of commercial/retail development on the ground floor and 8 tourist accommodation units above.

The primary objectives of the 3(b) General Business zone are;

- *To provide business centres in which the community's shopping, business, welfare and social needs can be met.*
- *To provide business locations within residential areas, and to ensure that the scale and type of development is compatible with the character and amenity of the surrounding residential areas.*

The secondary objectives of the 3(b) general Business zone are;

- *To provide for tourist orientated development;*
- *To encourage upper floor residential or tourist accommodation.*

The revised development presents a two-storey elevation to Hungerford Lane setback 4m from the rear boundary and a three-storey elevation to Marine Parade. However, due to the slope of the land, the second storey (from Hungerford Lane) will appear as a fourth storey when the site is viewed from the foreshore recreational area across the road. It should also be noted that the application does form four storeys for a length of 7 metres in the centre of the land. The applicant has subsequently lodged a SEPP 1 application, which is addressed further below, however for the purposes of ensuring compliance with the objectives of the zone this element of the development (subject to conditions of consent restricting the overall height of the building to be consistent with recently approved developments) is not contrary to the nature or scale of other development in the locality.

The rear elevation has a total height of 6.4m when viewed from Hungerford Lane (RL 18.9). This is higher than the recently approved "Marine" Development to the west at No. 36 Marine Parade which has a maximum RL of 17.6m in height, however, due to the slope of the land the difference in height will seem greater. Despite the revised drawing reducing the proposed development from a three-storey development to a two-storey elevation to Hungerford Lane there is scope to further reduce this height by reducing the internal ceiling height of each of the accommodation levels. The proposed development incorporates a 3m floor to ceiling height for each tourist accommodation level. This is considered excessive given the obvious issue of view loss for neighbouring properties and can be reduced to 2.7 metres for the first and second level

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from marine parade and be reduced to as low as 2.4 metres for the second level to Hungerford Lane. This would reduce the overall height of the building by 1.2 metres and would result in a maximum RL of 17.7m, which is just 100mm higher than the recently approved marine development. This is considered to be more consistent with the surrounding development and a far greater outcome for adjoining residents. A condition of consent reflecting this is recommended.

The revised development is permissible and has had greater regard for the surrounding development thus satisfying the primary objectives of the zone.

Clause 15 of Tweed LEP 2000 requires Council to be satisfied that satisfactory arrangements have been made for water, sewer and drainage services to the land prior to granting consent to the development. Water, sewer and drainage services are available to the proposed development.

Clause 16 of Tweed LEP 2000 restricts the height of buildings to a maximum height of three-storeys. The applicant has provided a cross section showing natural ground level as taken from a Council sewer map dating more than 30 years. As the ground level on the site has been significantly altered from the original natural ground level it is considered reasonable to utilise the subject plan to determine natural ground level at that time. Given the adopted natural ground level and the current definition of a storey the proposed development is four storeys for a length of 7 metres, which is inconsistent with the development standard limiting buildings to three storeys in this locality. Subsequently, the applicant has lodged a SEPP 1 Objection to this standard, which reads as follows:

The proposed building involves a fourth storey (for a length of 7m) which is inconsistent with the development standard limiting buildings to 3 storeys in this locality. It is submitted that the development standard is unreasonable and unnecessary in the circumstances of this case for the following reasons;

- *The length of the building that exceeds 3 storeys is limited to approximately 7m including the covered roof deck area (see section and elevation drawing No. SK005);*
- *The covered roof deck will be set back from the sides of the building to mitigate privacy and amenity impacts;*
- *The proposed building complies with the vertical building envelope requirement of 12m contained in Development Control Plan No. 6;*
- *The bulk and scale of the building is compatible with adjoining development;*
- *The height of the building does not impact on views from adjacent properties to any significant extent;*
- *The “natural” ground line shown on the section and elevation plan No. SK005 is lower than the original ground level as the site has apparently been excavated.*

It is submitted that upholding the objection would be consistent with the aims of the Policy in that strict compliance with the 3-storey height limit will preclude redevelopment for a viable and functional introduced development. In addition,

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upholding the objection would also be consistent with the objects of the Act in that it will promote the social and economic welfare of the community, achieve a better environment and streetscape and promote the orderly and economic use and development of the land for a purpose, which creates sustainable employment opportunities.

Not all of these comments are considered applicable. The proposed development is not comparable with adjoining development, however, it will be comparable if the recommended condition of consent it adopted, which proposes to reduce the overall height of the building by 1.2 metres. Furthermore, the applicant makes mention of compliance with the building height plane as required by DCP No. 6, however, this policy is not applicable to Tourist Accommodation.

Notwithstanding, the above the objective of Clause 16 is as follows:

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

The proposed development, whilst being four storeys in part, has had regard for the surrounding development. The revised plans have reduced the rear elevation by an entire storey and have stepped the development back from Marine Parade to better represent the topography of the land. Whilst being four storeys in part, the fourth storey will be setback 14 metres from the front boundary to Marine Parade and will not be visible for pedestrians standing on Marine Parade, it will however be visible from the foreshore across the road. The amended plans have incorporated a four-metre setback from Hungerford Lane, which has exacerbated the area of non-compliance for the number of storeys in the centre of the land. It is therefore acknowledged that deleting the setback to Hungerford Lane and removing a covered awning could reduce this area of non-compliance, but these amendments would result in a lower standard of development for adjoining properties to the rear or would have negligible effect to the overall bulk and scale of the development.

It is acknowledged that the proposed development will have an impact on the ocean views currently enjoyed by residences located behind the subject site. However, subject to the recommended conditions of consent to reduce the height of the building to RL 17.7m the neighbouring properties will retain a view of the horizon while losing the immediate foreshore view. It should also be noted that even if the building strictly complied with the storey requirement there would be no reduction in view loss given that the area of non-compliance occurs in the centre of the site. For the purposes of the SEPP 1 objection view loss is not considered to be a significant issues, however, view loss in general is further discussed below.

Therefore, having regard to the applicant's argument above, the objective of Clause 16 and the provisions of SEPP 1 the proposed variation to the 3-storey development standard, in this instance, is considered unreasonable and unnecessary.

Clause 17 of Tweed LEP 2000 relates to the social impact of the development. The development will have an impact on the immediate neighbourhood due to the scale of

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the proposed development. However the site currently accommodates a 2 storey mixed commercial/residential building comprising a retail store, solicitor's office, restaurant and real estate agency exists on the site. The building is nearing its economic life and has little to no architectural merit. The proposed building will replace the existing structure with a generally three-storey building, which is of contemporary design and of high architectural merit. This type of development does not trigger the need for a social impact assessment to be prepared.

Clause 35 requires consideration for the level of acid sulphate soil. The subject site is identified as Class 5 land on the Acid Sulphate Soils planning maps. Excavation works are proposed for the building foundations to a depth of approximately 1m. This work is not anticipated to lower the water table below 1m AHD in adjacent Class 1, 2, 3 or 4 land and therefore an acid sulphate soils management plan is not required.

North Coast Regional Environmental Plan 1988

Clause 32B(2) of the NCREP 1988 applies to land within the region to which the NSW Coastal Policy 1997 applies and requires Council to take into account the following documents when determining an application to carry out development;

- The NSW Coastal Policy 1997;
- The Coastline Management Manual; and
- The North Coast Design Guidelines.

The proposed development is consistent with the provisions of the policy documents referred to above.

State Environmental Planning Policies

SEPP 71 Coastal Protection

This application was originally lodged on 9 July 2002, which was prior to the introduction of SEPP 71 (1 November 2002). Despite this, given the nature of the development it is considered necessary to have regard to Clause 8 – Matters For Consideration of the SEPP.

Clause 8 details 16 matters for consideration of which most matters relate to maintaining public access to and along the coastal foreshore, and ensuring the scenic qualities of the coast are protected. Therefore, they are not specifically applicable to this application. Clause 8 (d) is considered to be the most relevantly applicable provisions, which reads as follows:

- d) *the suitability of development given its type, location, and design and its relationship with the surrounding area.*

As mentioned above the amended application, subject to the recommended condition of consent to reduce the overall height of the building, is considered consistent with recently approved development in the locality. It is a contemporary design, which presents well to both Marine Parade and Hungerford Lane. This development is attractive and will provide appropriate facilities for the location.

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The application complies with Clause 8 of SEPP 71.

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

Draft Tweed Local Environmental Plan No. 46 was exhibited between 16 April 2003 and 14 May 2003 and detailed an amendment to the definition of a storey to reflect the finished ground level rather than the natural ground level in addition to incorporating that any space in excess of 4.5 metres should be categorised as two storeys. This amendment does have an affect on the assessment of this application and would increase the area of non-compliance with the number of storeys. The existing void area shown on the ground floor would be categorised as two storeys thus increasing the area of the building deemed to be four storeys. The applicant has provided that this void area is to be utilised for the provision of mechanical services and in particular extract services and air conditioning services for the commercial tenancies. The applicant has further advised that this void area is necessary for services given that the height of the commercial tenancies at ground level have been reduced to four metres. The applicant considered this the best solution, as opposed to increasing the height of the building to Marine Parade.

Whilst the amendment would have the effect of increasing the area of numerical non-compliance in regard to the overall height of the building, on merit this area of non-compliance does not add to the overall bulk or scale of the building. The void area could be in filled with no change to the external appearance of the building. This would have the effect of reducing the storage/services space required for a development of this size and nature.

Having considered the Draft amendment it is considered that the proposed changes to the LEP do not substantiate grounds for refusal or further amendment to this application.

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

Development Control Plan No. 2 – Car Parking

The following table details the requirements of the on site car parking provisions contained in DCP 2, and the proposed provision for onsite parking. It should be noted that the applicant nominated the ground floor tenancies as retail/commercial space. The retail rate has been adopted for the purpose of calculating car parking otherwise the use of these premises would be restricted to office space only. As they are at street level this is not realistic. It is more likely considering existing land uses along Marine Parade that some of these tenancies may want to be used for restaurants. This would not be possible due to increased parking requirements unless a substantial contribution was paid for the shortfall. If the smallest tenancy were to be used for a restaurant an additional 12 spaces would be required.

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<u>Use</u>	<u>GFA</u>	<u>DCP 2 Classification</u>	<u>Staff Requirement</u>	<u>Customer Requirement</u>
Retail	522m ²	Item C19 Retail	0.5 spaces per 100m ² = 2.61	3.5 spaces per 100m ² = 18.27
Tourist Accommodation	120.5m ² – 140.1m ²	Item B6 Accommodation	0.5 spaces per staff = 1 (assume 2 staff)	1 per unit = 8
TOTAL STAFF PARKING REQUIRED = 3.61 spaces				
TOTAL CUSTOMER PARKING REQUIRED = 26.27 spaces				
GRAND TOTAL OF ONSITE PARKING REQUIRED = 29.88				

The applicant has requested that credit be granted for the existing development, which is proposed to be demolished as part of this application. The applicant seeks a credit of 19.83 spaces based on existing development on the site. This was partly based on the reliance that a 1998 development approval for a restaurant levied car-parking rates for the 81% of kitchen area for a restaurant. This was not the case and subsequently the acknowledged credit for car parking is 14.18 spaces.

This reduces the car-parking requirement down to 15.7 spaces. The application provides for 8 parking spaces to ensure compliance with the requirements for tourist accommodation. However, it should be noted that it is a requirement of the DCP to have all residential parking requirements onsite. This means that without increasing onsite parking (which is not physically possible on the site) it is not possible for the Council to approve a change from tourist accommodation to permanent residential accommodation without waiving the requirements for additional parking.

The remaining 7.7 spaces for customer and staff would normally be further reduced by 20% in accordance with Clause 4.11 of the DCP – General Reduction to Support Principals of This Plan. However, the applicant has already received credit for the existing uses on the site and as such this discount is not applicable Clause 4.8 of DCP No. 2 allows for further reduction if it is determined that there is adequate parking onsite and in public car parks to prevent a nuisance to adjacent properties. This is not deemed to be applicable to this development given the shortfall of parking in the Kingscliff area and the amount of objections that this development attracted which concentrated on parking problems. This clause does however go on to specify that where the minimum number of customer parking spaces cannot be provided on site, Council may consider a contribution in lieu of unsupplied spaces. Section 94 Contribution Plan No. 23 specifies that unsupplied car parking spaces in Kingscliff be charged at \$11,500 per space. Consequently a condition of consent has been imposed requiring the payment of \$92,000.

It is considered prudent that this condition be imposed. The proposed development will generate a much higher intensity than the existing development and it is considered that given the shortfall of parking in Kingscliff developers should be held to contributing to the consequent demand increase as a result of their developments.

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Development Control Plan No. 6 – Multi Dwelling Housing

The amended plans submitted in March 2003 incorporated a change to the definition of the accommodation portion of the development from residential units to tourist accommodation units. The applicant supplied that this change is the market requirements for higher rental returns given the prime location in a rapidly rising tourist destination. This change in definition has minimal physical amendment to the plans yet significantly changes the applicable parking controls and general requirements that are detailed in DCP No. 6 – Multi Dwelling Housing.

As a result of this change DCP No. 6 is no longer applicable as it specifically relates to Multi Dwelling Housing only and excludes tourist accommodation. However, it should be noted that had DCP No. 6 applied 3m setbacks would have been required for the side boundaries allowing view corridors for the residents behind.

Development Control Plan No. 43 – Kingscliff

The subject site falls within the Town Centre precinct as defined by DCP No. 43. DCP 43 identifies the opportunity for the refurbishment or redevelopment of buildings along Marine Parade. The objectives of the town centre include to;

- *Reinforce a sense of place by developing those building and streetscape elements characteristics of Kingscliff;*
- *Limit the physical extent of the town centre to encourage consolidation and redevelopment of existing commercial land;*
- *Encourage an appropriate human scale of development within the centre; and*
- *Foster a stimulating town centre environment through the development of mixed commercial and residential developments, tourist accommodation and a range of cafes and restaurants incorporating dining.*

The proposed development is considered to be consistent with the above objectives. The amended plans have significantly improved the human scale of the development, and will certainly foster a stimulating town centre, with an innovative design and increased commercial and tourist accommodation.

The Plan goes on to specify that the site should be developed in accordance with a Type 1 Building, which is defined as a three storey commercial and residential development. The proposed development generally satisfies this requirement (notwithstanding the SEPP 1 objection to the four storey component) and subsequently satisfies the provisions of the Plan.

DCP No. 39 – Energy Smart Homes Policy

DCP 39 is not applicable to tourist accommodation, however, the proposed development generally complies with the requirements of DCP No. 39. A NatHERS certification has been provided with the application indicating that each unit will achieve a 3.5 –5 star rating. The certification does not indicate the type of hot water system to be installed, however, appropriate conditions of consent have been applied.

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Draft DCP No. 48 – Tweed Coast Building Heights

The Draft specifies that a three storey mixed development (commercial on ground floor and two storeys of residential above) shall have a maximum height of 10 metres.

The proposed development has a maximum height (from Marine Parade to Hungerford Lane) of 13.4 metres. Therefore the building is proposed to be 3.4 metres above that recommended by the Draft. However, as discussed above there is scope to reduce the overall height of the building by reducing the internal ceiling heights of the accommodation components of the development. As recommended this would reduce the overall height by 1.2 metres to create a maximum height of 12.2 metres, which is RL 17.7, just 100mm higher than the recently approved Marine Development. It should also be noted that this would reduce the Hungerford Lane elevation to 5.2 metres high, which would allow some view to the horizon and is obviously a significant improvement.

Whilst the proposed development does not strictly comply with the Draft plan, the development (subject to the recommended conditions of consent to reduce the overall height of the building) is considered to be consistent with surrounding development and reasonable given the design and location of the building.

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

The NSW Coastal Policy 1997 applies to the subject land. The proposed development is generally consistent with this policy.

There are no additional 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

Bulk Scale & Design

The original application was quite large and extravagant, and would have resulted in a huge imposition to the streetscape of both Marine Parade and Hungerford Lane. However, the amended plans have reduced the overall bulk and scale of the development and subject to the recommended condition of consent limiting the overall height of the building it is considered that the development provides for a more appropriate human scale. The staggering of the development better represents the topography of the land and ensures that when viewed from the foreshore the development has had regard to the restraints of the site. Furthermore, the setback to Hungerford Lane allows an element of landscaping to ensure that Hungerford Lane is not seen as service lane, but rather a small street. The bulk and scale of the development (if reduced in accordance with the recommended condition of consent restricting the overall height of the building to RL 17.7m) will be consistent with existing development along Marine Parade.

View Loss

Properties behind the subject site will lose some of their current ocean views, however the views currently enjoyed are panoramic. Many of the properties enjoy views looking

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north along Kingscliff Beach and looking south to the creek and beyond to Kings Beach. And whilst the development will block the immediate foreshore in front of them extensive views have been predominantly retained. However it is important that the overall height of the building be limited to RL 17.7m as this will allow residents to still see over the development and retain some view of the horizon, furthermore, this type of condition limits the sense of enclosure and the feeling of being built in.

Whilst some view loss will be experienced this development does allow for some view sharing opportunities.

Privacy

The proposed development will not directly overlook any other adjoining property. The rear windows to Hungerford Lane are bedroom windows (non trafficable areas), which have external louvres, which will provide for an element of privacy between residential properties along Hungerford Lane and the subject site.

The second floor from Hungerford Lane incorporates a wrap around balcony for the southern unit. This balcony will overlook the rear yard of the neighbouring property, which currently accommodates a single dwelling. The balcony has been included following amendment of the original application at the request of a submission, which wanted the building to be setback off the southern property boundary. Subsequently the building was setback and replaced with a balcony. The balcony along the southern boundary is not large enough for entertaining purposes and is not likely to detrimentally affect the privacy of the adjoining neighbour.

The proposed development is considered satisfactory on privacy grounds.

Traffic/Access

The application proposes to service the ground floor tenancies from existing loading bays along Marine Parade for all service deliveries. The applicant has provided that the existing building is serviced this way, as there is no other practical method available. This argument is supported, as it would be inappropriate to provide access from the rear of Hungerford Lane to facilitate the service of the commercial tenancies, as this would generate excessive traffic demands on Hungerford Lane, which is a narrow one-way street. In considering Council policy preventing driveway access for either commercial or for residential use off Marine Parade, it is appropriate to use an existing loading bay adjacent to this site which is in proximity to facilitate all servicing requirements of the commercial tenancies, while only using Hungerford Lane for the tourist accommodation.

Flora & Fauna

The subject site is absent of any significant vegetation.

Social & Economic

As detailed above a Socio-Economic Impact Assessment is not required, as it has been determined that the application will have limited impact, as the site currently accommodates a 2 storey mixed commercial/residential building. The building is nearing its economic life and has little to no architectural merit. The proposed building

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will replace the existing structure with a contemporary design of high architectural merit. This type of development does not trigger the need for a social impact assessment to be prepared.

Precedent

Approving tourist development which requires a variation to the three-storey height limit and adopting a boundary-to-boundary development in such a prominent location has the potential to create an unwarranted and unnecessary precedent. The merits of this application having regard to current Policy obviously warrants the recommendation for approval (subject to conditions), however, there is an urgent need to review Policy. New or amended policy could prevent boundary-to-boundary development in locations such as Marine Parade where land use conflict arises between commercial/tourist development and residential development. Furthermore, adoption of Draft DCP No. 48 could place an overall height limit on developments rather than relying on the definition of a storey. Given this urgent need for Policy review Part B of the Recommendation has been incorporated and reads as follows:

B That Council determine to urgently review the status of Draft DCP No 48 – Building Heights and DCP No. 6 having regard to Tourist Accommodation.

(c) Suitability of the site for the development

The zoning of the land and the existing use of the land for commercial and residential use obviously indicate that the site is capable of accommodating the proposed use. However, Council's resolution that tourist accommodation be excluded from an assessment against DCP No. 6 – Multi Dwelling Housing has dramatically affected the types of development that are technically considered suitable. This particular strip along Marine Parade has the potential to build boundary to boundary for a height of three storeys, which ultimately has the capacity to result in a solid 3-storey wall for the length of Hungerford Lane. This will dramatically affect the views currently enjoyed by residential properties behind and will result in a service lane appearance as opposed to a street frontage with landscaping. With appropriate conditions of consent this development has been able to limit the level of this impact, however, the building is still built boundary-to-boundary reducing any scope of view sharing via view corridors. However, if DCP No. 6 were applicable the development could have been setback 3 metres from each side boundary allowing good view sharing options and a better design outcome.

Notwithstanding, this application has been assessed against the current applicable controls, and has resulted in a recommendation of approval subject to conditions of consent.

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

The proposal was originally advertised and notified for a period of 14 days from 7 August 2002 to 21 August 2002, with 19 individual objections received.

The amended plans were re-advertised for a period of 14 days from 2 April 2003 to 16 April 2003, with 10 individual objections. The grounds for objection are discussed in the below table.

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Table 1 - Issues raised in objection to the proposal

OBJECTION	IMPACT ASSESSMENT	COMMENT
The proposed plans indicate a four storey building in three-storey height limit area.	As discussed above the application has been accompanied by a SEPP 1 – Objection To The Development Standard for the number of storeys allowed. The SEPP 1 Objection is supported.	This objection does not warrant refusal or further amendment to the application.
This application will set a precedent for other four storey buildings to be built.	Each application has to be assessed on the individual merits of case. This application has been assessed having regard to the current applicable controls. It should be noted that given the number of Draft plans applicable to this type of development any future application for similar development might have different applicable controls.	This objection does not warrant refusal or further amendment to the application.
The proposed building will restrict our ocean views, which our land values are based upon.	<p>The Properties behind the subject site will lose some of their current ocean views. However the views currently enjoyed are panoramic. And whilst the development will block the immediate foreshore in front of them extensive views have been predominantly retained.</p> <p>Whilst some view loss will be experienced this development does allow for some view sharing opportunities and is subsequently considered satisfactory.</p> <p>Furthermore, loss of property value is not a consideration under S79C of the Environmental Planning and Assessment Act 1979.</p>	This objection does not warrant refusal, however, as discussed in the bulk of the report it is recommended to limit the overall height of the building to RL 17.7 metres, which will improve the level of view lost.
The proposed development only provides for 8 on site parking spaces and no service facilities which is considered unsatisfactory	As discussed above the application does not meet the parking requirements as contained within DCP No. 2. However DCP No. 2 does allow for developers to pay \$11,500 for each unsupplied parking space in Kingscliff. As such the development has been conditioned accordingly. Furthermore, all servicing is to occur from Marine parade to limit commercial traffic to Hungerford Lane.	Subject to the recommended condition of consent this objection does not necessitate further amendment o to the application.

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OBJECTION	IMPACT ASSESSMENT	COMMENT
The natural ground level indicated is not accurate.	As discussed above the natural ground level was taken from a Council sewer map dating some 30 years. It has been agreed that failing the presence of any other documentary evidence stating otherwise, this was the best source to obtain the natural ground level.	This objection does not warrant refusal or further amendment to the application.
The application should comply with the provisions contained within DCP No. 6 specifically relating to boundary setbacks.	As discussed above the applicants change in the application from residential accommodation to tourist accommodation deletes the requirements for assessment against DCP No. 6.	This objection does not warrant refusal or further amendment to the application.
DWG SK07 shows the screen and balcony protrude beyond the front boundary at the Marine Parade frontage thus blocking solar access to the neighbouring property.	The drawing number quoted is unclear as to whether any encroachments occur, however, it is recommended to condition the application that no part of the building other than the pedestrian awning protrude beyond the confines of the property boundary.	The condition of consent has been incorporated into the recommendation.
The proposed balconies reduce the privacy to our building.	As discussed above the privacy impacts are considered negligible.	This objection does not warrant refusal or further amendment to the application.
During construction, damage may occur to neighbouring buildings.	Council always imposes relevant conditions of consent to ensure neighbouring properties are protected from any potential damage.	This objection does not warrant refusal or further amendment to the application.
Noise during construction should be monitored and work on Saturdays restricted to 8am and 12 midday.	Council has standard conditions of consent regarding noise during construction, however, the normal working hours on Saturday are 7am to 7pm.	This objection does not warrant refusal or further amendment to the application.
Pedestrian access along Marine Parade should not be disrupted during construction.	Council imposes relevant conditions of consent to ensure pedestrian are protected from any potential damage.	This objection does not warrant refusal or further amendment to the application.
Construction debris	Council imposes relevant conditions	This objection does not warrant

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OBJECTION	IMPACT ASSESSMENT	COMMENT
and waste should be disposed of quickly and efficiently.	of consent to ensure construction debris is removed accordingly.	refusal or further amendment to the application.
The Marine restaurant seeks compensation due to disruption of trade during construction.	This issue is a private matter between the developer and the Marine Restaurant.	This issue is not an issue for consideration of Council.
That no works shall be permitted on weekends due to the impact on adjacent businesses and restricted hours should be placed on construction during the week, i.e. no construction during peak periods over Christmas, lunch hours and over Easter	Standard construction hours of 7am to 7pm exist. It would be unreasonable of Council to restrict the hours of construction to less than those normally permitted.	Standard conditions of consent have been imposed to minimise the impact on adjoining businesses as a result of the proposed development.
Shadow diagrams provided with the application are incorrect and do not show the impact of the development on the courtyard or the pool areas of the building to the north.	No building adjoins directly to the north however this is a mixed commercial/residential development to the west. During the morning hours overshadowing of the pool courtyard area of this building will occur	The period of overshadowing is limited and this does not warrant refusal of the application.
The proposed development is an over development of the site.	These comments are not concurred with, subject to conditions of consent the application is consistent with recently approved development of a similar scale and nature.	This objection does not warrant refusal or further amendment to the application.
The storage area on the ground floor will be converted to gross floor area.	Conditions of consent will be imposed restricting the development to be built and used in accordance with the approved plans, any change to the storage area would require a future amendment to the application.	This objection does not warrant refusal or further amendment to the application.
Effectiveness of current planning controls.	Council is obligated under the Environmental Planning and assessment Act 1979 to assess each application against the applicable controls.	This objection does not warrant refusal or further amendment to the application.

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OBJECTION	IMPACT ASSESSMENT	COMMENT
The 88B Instrument should reflect that the building is to be used for tourist accommodation units only.	A condition of consent has been imposed stating that the units are for tourist accommodation only.	This objection does not warrant refusal or further amendment to the application.

(e) Public interest

The application has generated a lot of public interest with ten objections being received for the amended plans. It is evident that these residents do not support the proposal. However, the application is generally consistent with recently approved development and has been amended to have a better human scale, which is considered appropriate. Subject to conditions of consent the application adequately satisfies Council’s relevantly applicable Plans.

OPTIONS

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should Council refuse the application the applicant has a right of appeal to the Land & Environment Court.

CONCLUSION

Having assessed the application against the current applicable controls, the application is considered appropriate for the subject site. The recommended conditions of consent ensure that the development is lowered in height to respond to cumulative consideration of view loss, the fourth storey, tourism development issues and compatibility with existing development and that the applicant is held responsible for contributing towards unsupplied car parking spaces. Given the current controls this is considered an appropriate outcome.

Assessment and public consultation for this proposal highlights the critical and urgent need for Council to finalise decision making on the draft DCP for Heights of Buildings; provisions relating to tourism development; and urban design desired outcomes and policies for the sector of Kingscliff bounded by Marine Parade, Seaview Street, Sutherland Street and Moss Street.

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2. ORIGIN: Development Assessment Unit

FILE REF: DA02/2092 Pt3; LN 40110

REPORT TITLE:

Development Application DA02/2092 for a Boundary Adjustment & Shopping Centre at Lot 11 DP 871753 and Lot 12 DP 871753, Turnock Street, Kingscliff

SUMMARY OF REPORT:

Council has received a development application seeking consent to undertake a boundary adjustment between existing Lots 11 and 12 DP 871753 and the development of a supermarket based shopping centre, containing 4410m² of gross floor area, on proposed Lot 111. The development would involve the construction of a new public road, the filling of the land, the delivery of services infrastructure to the site, the upgrading of Turnock Street and the construction of extensive drainage works. The development also requests an amendment to DCP No. 9 West Kingscliff to reflect the proposed development.

The application was lodged in December 2002, with the applicant lodging a deemed refusal appeal with the Land & Environment Court on 27 February 2003. The delay in reporting this matter previously has been the complexity of the application and the numerous referrals required to other departments and private consultants. The result of this detailed assessment has revealed that this application represents a pre-emptive shopping centre development that lacks any soundly based strategic planning decision about the best location for a town centre to serve Kingscliff and the Tweed Coast.

The subject site has been identified as having three threatened fauna species. These are the;

- Mitchell's rainforest snail, *Thersites mitchellae* (listed as endangered under Schedule 1 of the *Threatened Species Conservation Act 1995*);
- Wallum froglet, *Cinia tinnula* (listed as vulnerable under Schedule 2 of the *Threatened Species Conservation Act 1995*); and
- Wallum sedge-frog, *Litoria olongburensis* (listed as vulnerable under Schedule 2 of the *Threatened Species Conservation Act 1995*).

Subsequently the development site has been identified as being affected by a "controlled action" under the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth Legislation). A controlled action means that an action (in this instance the action to construct a staged mixed residential, commercial and industrial development on a 211 ha site at Kingscliff, northern NSW) is likely to have a significant impact on a matter of national environmental significance. However, the action also restricts all works (including slashing) from occurring on the site without the prior approval from Environment Australia in accordance with the Environment Protection and Biodiversity Conservation Act 1999. It is understood that both National Parks and Wildlife Service and Environment Australia are investigating unauthorised slashing of the site and will undertake any enforcement considered necessary.

The development application has been accompanied with a master plan for most of the adjoining Gales Holding land, however, this master plan does not form part of this application. The master plan contradicts the current controls applicable to Kingscliff and pre-empts the ongoing strategic

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planning process that Council is undertaking. The development also details areas of possible expansion (subject to separate approval). However, this application cannot approve an in principal plan as part of this application. These elements of the submitted application are not assessed as part of this application.

The application has major flaws, which have not been adequately addressed as part of this application. As advised by Council's Solicitors and Planning NSW Council is not in a position to approve this application given the number of outstanding issues (including a Species Impact Statement) and conflicts with Council's current planning controls. Notwithstanding the need for a separate approval from Environment Australia before any works can occur on the site. Given the length of time the application has been with Council and the subsequent deemed refusal appeal that has been lodged with the Land and Environment Court it is now considered necessary to establish Council's position and successfully defend the appeal, which has been set down for a hearing date in September 2003.

RECOMMENDATION:

That : -

- A. Development Application DA02/2092 for a boundary adjustment & shopping centre at Lot 11 DP 871753 and Lot 12 DP 871753, Turnock Street, Kingscliff be refused for the following reasons:
1. The application is not valid as it has not been supported by a Species Impact Statement as required by Clause 112 of the Environmental Planning and Assessment Act 1979.
 2. The development application is contrary to the 2(c) Urban Expansion zone objectives contained within Clause 11 of Tweed local Environmental Plan 2000.
 3. The development application is contrary to Clause 8 of Tweed local Environmental Plan 2000.
 4. The development application is contrary to Development Control Plan No. 9 – West Kingscliff, specifically including (but not limited to) Part B 4(a) which applies to the development of non-residential development in the residential areas.
 5. The development application does not comply with the vision or aims for the Kingscliff area, for example the aim of Development Control Plan No 43 – Kingscliff.
 6. The development application pre-empts any soundly based strategic planning decision about the best location, in the public interest, for a town centre to serve Kingscliff and the Tweed Coast.
 7. The development application has not adequately considered the implications that the proposed centre may have, and indeed is likely to have, on the operation of the existing Kingscliff Town Centre.
 8. The spatial separation between the existing shopping centre and the proposed centre will create commercial sprawl which will hinder safe pedestrian movements within Kingscliff.

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9. The potential noise impacts from service vehicles is considered unreasonable having regard to the sites proximity to existing and future residential properties.
10. The application is likely to have a land use conflict thus affecting the existing and future neighbouring residential properties.
11. The National Parks and Wildlife Service do not support the application in its current form, as set out in their letter dated 7 March 2003.
12. The development application lacks adequate and or acceptable information in relation to the following: -
 - a. The potential impact on threatened species, specifically the Wallum Froglet, Mitchell's Rainforest Snail, the Grass Owl, and the Bush Hen.
 - b. Cumulative impacts of the proposed development as required by Clause 8(p)(i) of SEPP 71.
 - c. Stormwater master plan.
 - d. Confirmation from the waste contractor which states they have viewed the proposed development and is satisfied that adequate provision has been made for site access and collection of wastes.
 - e. A pre-construction, construction and post construction water quality monitoring program.
13. In the absence of a master plan for land forming and infrastructure of the whole Gales Holding West Kingscliff site: -
 - a. The application has failed to demonstrate that the proposed drainage systems will be compatible with ultimate development of the west Kingscliff area.
 - b. The application has failed to demonstrate that the proposed land form is compatible with ultimate development of the west Kingscliff area.
 - c. The application has failed to demonstrate that proposed stormwater quality treatment measures are compatible with ultimate stormwater treatment strategies for the west Kingscliff area.
14. The application has not provided a lawful point of discharge for major and minor stormwater runoff from the proposed development;
15. The application has failed to adequately assess:
 - a) The environmental impacts of filling the site;
 - b) The impacts on amenity of persons along any potential haul route; and
 - c) The method of filling the site.
16. The application does not supply sufficient detail regarding the appropriateness of the ingress/egress and onsite manoeuvrability for semi trailers and buses;

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17. The application does not satisfy the requirements of good urban design as developed in the Coastal Design Guidelines (Coastal Council of NSW Urban Design Advisory Service Tourism NSW, 2001)
 18. The application does not enhance or compliment the existing character of Kingscliff; and
 19. The application is not in the public interest, as indicated by numerous letters of objection from adjoining landowners and other businesses in the locality.
- B. That Council determines to defend the deemed refusal appeal by Gales Holding Pty Ltd in the Land & Environment Court, Matter No. 10213 of 2003.

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REPORT:

Applicant: Gales Holdings Pty Ltd
Owner: Gales Holdings Pty Ltd
Location: Lot 11 DP 871753 and Lot 12 DP 871753, Turnock Street, Kingscliff.
Zoning: 2(c) Urban Expansion
Cost: \$4,785,000.00

BACKGROUND

Council is in receipt of a development application seeking consent for a boundary adjustment between existing Lots 11 and 12 DP 871753 and the development of a supermarket-based shopping centre, containing 4410m² of gross floor area, on proposed Lot 111. The development would involve the construction of a new public road, the filling of the land, the delivery of services infrastructure to the site, the upgrading of Turnock Street and the construction of extensive drainage works. The development also requests an amendment to DCP No. 9 West Kingscliff to reflect the proposed development.

The subject site is located on the northern side of Turnock Street, at the intersection of Turnock Street and Elrond Ave, to the north west of the existing Kingscliff CBD area. The site immediately adjoins undeveloped land also in the ownership of Gales Holding. Single dwellings occupy land adjoining the site to the northwest.

The proposed Lot 111 has a dual frontage to Turnock Street and Elrond Avenue with 123.42 metres and 99.52 metres respectively to create a total site area of 24,030m² (2.403ha). The site is low-lying swamp area, which is generally flat with levels at approximately RL 0.8. The site is generally clear of any substantial vegetation, however, this vegetation does provide habitat for the identified threatened species and is therefore significant.

The application was lodged in December 2002 and detailed the proposed development as follows;

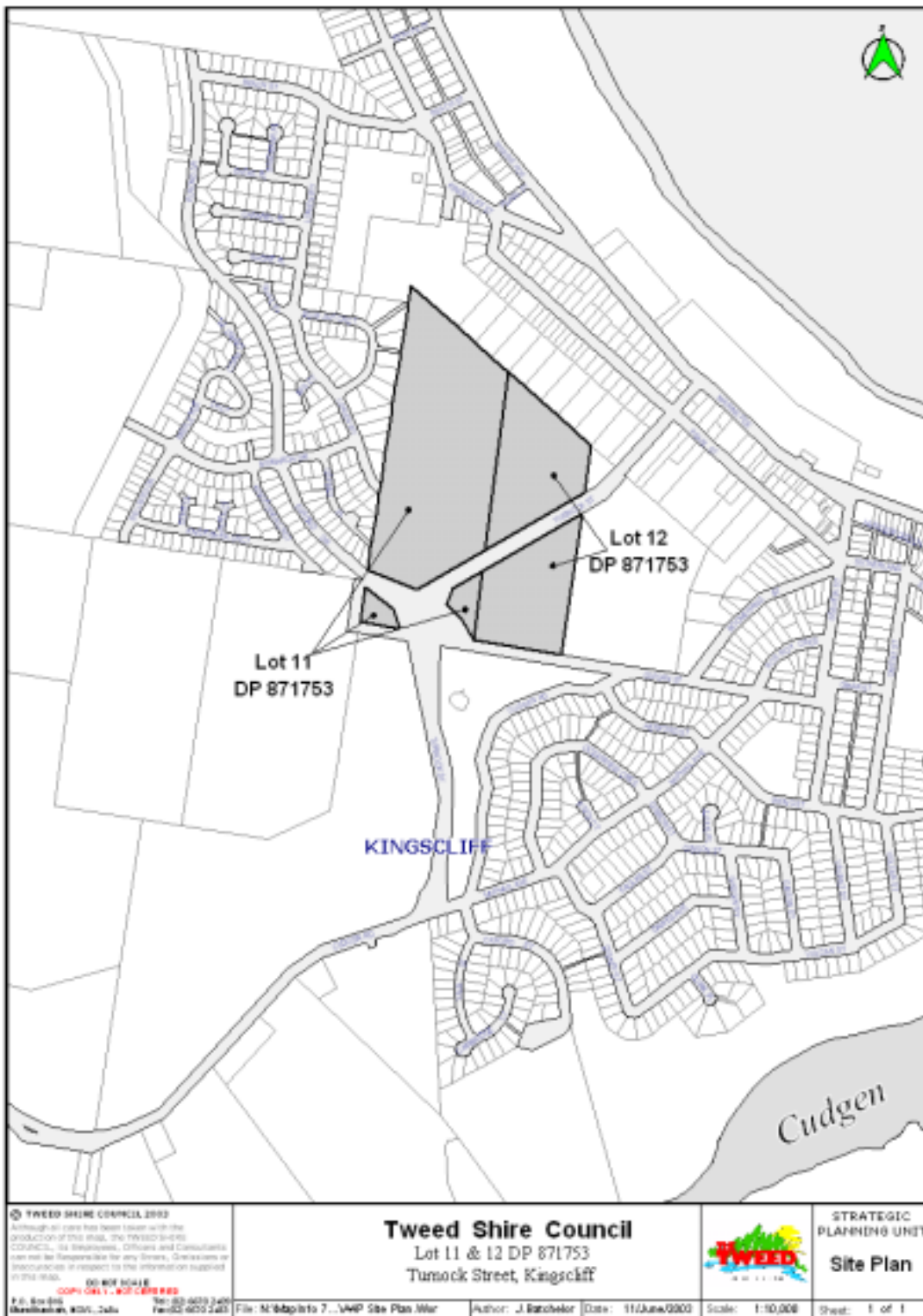
- The construction of a new public road off Turnock Street, to service the shopping centre development;
- The filling of the land to accommodate the development;
- The delivery of services infrastructure to the site;
- The upgrading of Turnock Street adjacent to the site;
- The construction of drainage works to accommodate stormwater discharge from the shopping centre site, the balance of undeveloped land; and upstream drainage from existing urban areas north and east of the site;
- A boundary adjustment between existing lots 11 and 12 in DP 871753 to create proposed lots 111 and 112 together with the dedication of a new service (public) road;
- Construction of a supermarket of approximately 3350m² GFA;
- Specialty retailing floor space of approximately 1060m² GFA;
- Future Retail expansion zone of approximately 500m² (subject to separate application);

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- Future site development zone (subject to separate application);
- Future petrol stop facility (subject to separate application);
- Separate customer and service vehicle entries from the proposed new public road;
- Vehicular entry/exit to Elrond Ave (left in/left out only);
- Landscaped car parking comprising 213 customer parking spaces and 41 staff parking spaces;
- Pedestrian pathways;
- Signage (subject to separate application);

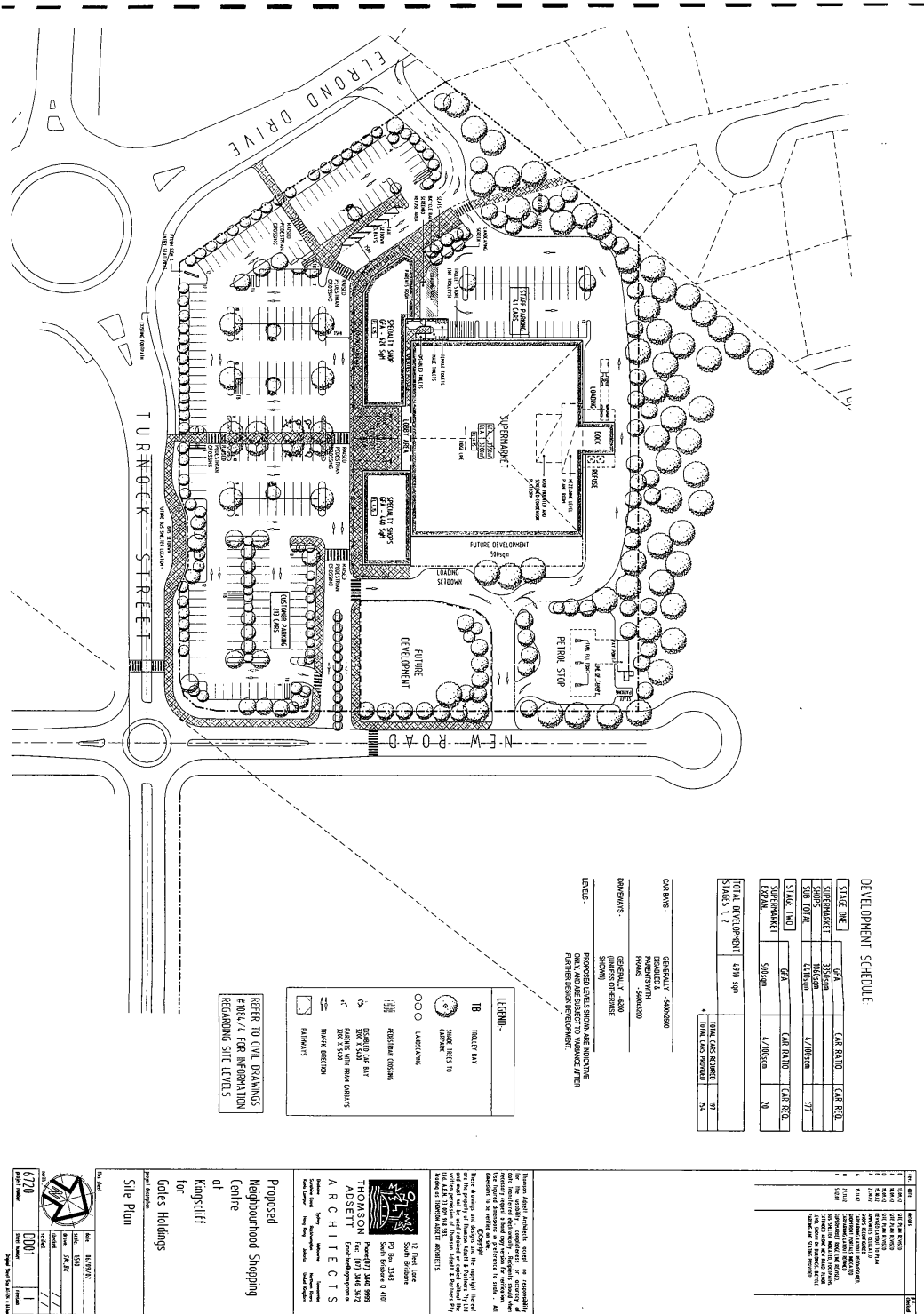
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SITE DIAGRAM



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LAYOUT PLAN



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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

The subject site is located within the 2(c) Urban Expansion zone pursuant to the provisions of TLEP 2000.

Clause 8 of Tweed Local Environmental Plan 2000, specifies that:

The consent authority may grant consent to development only if

- a) *It is satisfied that the development is consistent with the primary objectives of the zone in which it is located;*
- 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 Tweed as a whole.*

The primary objectives of the 2 (c) zone is as follows:

- *To identify land for urban expansion (which will comprise mainly residential development focussed on multi-use neighbourhood centres) and to ensure it optimum utilisation consistent with environmental constraints and the need to minimise residential landtake*

The secondary objectives of the 2(c) zone are;

- *To allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents*
- *To ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of the development*
- *To enable planning flexibility to achieve the other objectives of the zone by providing detailed guidelines through development control plans*

The proposed application is not considered to be consistent with the primary objective of the zone. The proposed site has been identified as being the habitat for three known endangered and vulnerable species. Council would be negligent to proceed with this application without a Species Impact Statement (SIS) and without having regard for the environmental constraints of the land.

Furthermore, the secondary objective requires development to meet the recreational, shopping, commercial, employment and social needs of future residents. This application pre-empts these needs by requesting an amendment to DCP No. 9 – West Kingscliff. This Plan currently identifies the needs of Kingscliff being focussed on low-density residential development. It is noted that Council's Strategic Planning Unit are reviewing this plan in an attempt to better identify the needs of the community, however, these studies are still being undertaken and are not conclusive in any way. An application to amend DCP No. 9 for the benefit of one developer would contravene all

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strategic planning principles and would undermine and devalue the public consultation that has been undertaken to date.

The proposed development is not considered to be compatible with the primary or secondary objectives of the subject zone.

Furthermore, Council is not satisfied that the development would not have an unacceptable cumulative impact on the community. The development application has not adequately considered the implications that the proposed centre may have, and indeed is likely to have, on the operation of the existing Kingscliff Town Centre. The spatial separation between the existing shopping centre and the proposed centre will create commercial sprawl, which will hinder safe pedestrian movements within Kingscliff. And the application is likely to create a land use conflict thus affecting the existing and future neighbouring residential properties.

The proposed development is not considered to be compatible with Clause 8 (c) of the LEP by creating an unacceptable cumulative impact on the community.

Clause 15 Availability of Essential Services of TLEP 2000 requires adequate services to be available for the proposed development. Centralised water, sewer and drainage services would need to be extended to the site. Council's Infrastructure & Planning Engineer has expressed concern that the application cannot be adequately assessed for impacts of drainage, stormwater quality and land forming in the absence of a master plan that addresses all the relevant issues for the entire Gales Holding Site. The application has failed to satisfy the provisions of Clause 15.

Clause 16 Height of Buildings requires compliance with the three-storey statutory height limit that is applicable to the site. The proposed development is generally single storey (a mezzanine floor level is proposed) and would not exceed 9m in height, therefore, satisfying Clause 16 of the Tweed LEP.

Clause 17 Social Impact Assessment requires Council to consider the potential social and economical impact that a development will have. The application triggers the need for a Socio Economic Impact Statement, which has subsequently been provided. The report concludes by stating that the proposal would have positive outcomes in respect of the following:

- *Providing a well located, suitably designed retail facility to meet the needs to the expanding community;*
- *Providing additional public infrastructure (roads, pedestrian pathways, public transport facilities, and stormwater drainage) to cater for the existing and likely future population;*
- *Accessibility;*
- *Direct and indirect employment;*
- *Reduction in escape expenditure;*
- *Consumer benefits as a result of the convenience of the site, additional retail choice in the locality, increased price competition and a quality state of the art supermarket facility, and*

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- *Providing a significant catalyst to the delivery of a “town centre” for the Kingscliff community.*

This application would not provide the means of delivering a “town centre” for the Kingscliff community, as this application is for a supermarket based shopping centre which has not accommodated public consultation or the normal strategic planning process that Council undertakes when preparing Development Control Plans. Additionally, the application may provide an additional service to the community but it would do so by segregating the existing CBD of Kingscliff and making it difficult to link the existing commercial development with the proposed development creating pedestrian and vehicular problems. These outcomes are not considered to be development that is in the public interest or best meets the social and economic needs of the community.

Notwithstanding these comments Council has appointed an independent Economic Planner to provide expert advice regarding the appropriateness of the application. Core Economics reviewed the submitted Socio Economic Impact Assessment and the attached Economic Impact Assessment prepared by JHD Advisors, prepared for Gales Holdings. The review of the report determined that the “...*the methodology adopted for the report is considered appropriate and robust as a process...*” however, certain details contained within the report are questionable. The most relevantly applicable is the reports assumption that the catchment area will have a population growth of 850 people per annum between 2001 and 2006 and 1000 per annum from 2006 to 2011. This is contrary to studies undertaken by Core Economics, which indicate that whilst this population is achievable the rate of household formation in the catchment has not been as rapid since 2001. If the rate of increase is reduced to 500 people per year the catchment wont achieve a population of 20,000 until 2008. This is considered important, as 20,000 people are a rule of thumb measurement for a second supermarket.

This point alone seriously questions the economic feasibility of the proposed development, as the application has not been able to satisfactorily substantiate the assumed accelerating population growth rate for the catchment. Core Economics conclude by stating that the application for a Woolworth’s anchored shopping centre on the subject site be refused as it is considered premature.

Clause 22 Development Near Designated Roads requires the consent authority to have regard to a number of matters. The following points are relevant to the proposal:

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

- a) The development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*
- b) The location, standard and design of access points, and onsite traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded.*

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- e) *The development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*
- g) *Where practicable, access to the land is provided by a road other than the designated road.*

Two designated roads, being Turnock Street and Elrond Drive, border the subject site. In this regard primary access to the supermarket site would be via a proposed new public road located off Turnock Street. However, the development also incorporates a secondary left in left out access on Elrond Drive. The applicant has provided that the design, location and secondary status of the access would not lead to any significant impacts on the safety and efficiency of Elrond Drive or the nearby intersection with Turnock Street.

In accordance with the provisions of SEPP 11 – Traffic Generating Developments the application was referred to the Regional Advisory Committee of the NSW Roads & Traffic Authority (as the total floor area of the centre exceeds 4000m²). The following comments were received:

- *This proposal includes 3350m² of supermarket floor space and 1060m² for specialty shops as stage 1 with a retail expansion of 500m² and petrol station as stage 2.*
- *The committee comments relate to both stages of the proposal.*
- *The committee felt the existing roundabout at the intersection of McPhails Avenue and Cudgen Road was unsuitable in its current condition and design to cater for additional heavy vehicle traffic likely because of the proposal. The committee was further concerned with the adequacy of pedestrian connections to this site from Cudgen Road and the existing shopping area at Kingscliff;*
- *A concrete median and dedicated right turn lane should be provided at Elrond Drive to allow right turn access to the site. This will be necessary to separate through traffic from turning traffic in Elrond Street.*
- *A concrete median should be provided along the centre line of the access Road to the 'new road'. This is to prevent right turns into the Petrol station exit.*
- *The taxi rank would be better situated near the entrance to the shopping centre. This would reduce the need for pedestrians to negotiate road crossings to access taxis.*
- *The proposed parking appeared adequate.*

As discussed above the future expansion detailed in this application does not form part of this application, the above comments regarding this stage should subsequently be disregarded.

The above comments do not raise concern with the application having regard to the designated roads, and advise that appropriate conditions of consent could be imposed. However the underlying concerns with this application are repeated in this referral

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response by expressing concern that the subject site is not suitable for this development in terms of vehicular and pedestrian linkages with the existing CBD of Kingscliff.

The Local Traffic Committee reiterated the above referral response by stating that:

“The committee discussed the application and advised that a median be installed adjacent to the Petrol Station and a right turn land from Elrond Drive into the site are provided necessary. The committee also viewed the Traffic Analysis for the area. The Taxi Rank is considered more suitable adjacent to the entrance as opposed to the current location as pedestrians have to cross roadways and are exposed to the elements”

Having regard to the requirements of Clause 22 the application does not satisfy Council’s concern that the efficiency of the designated road (primarily Turnock Street) will be reduced given the need for people to link the current CBD with the proposed development site. Subsequently the application fails to satisfy Clause 22 of Council LEP.

Clause 34 Flooding requires Council to minimise future potential flood damage. The land is proposed to be filled to levels approximating the 1 in 100 year flood level, while the floor level of the shopping centre (RL 4.15m AHD) would be above the design flood level. Whilst in principal this satisfies the provisions of Clause 34 Council has expressed concern that the applicant has not provided sufficient detail regarding the environmental impacts of filling the site, the impacts on amenity of persons along any potential haul route; and finally the method of filling the site. Failing this level of detail Clause 34 has not been adequately satisfied.

Clause 35 relates to the management of acid sulphate soils. The subject site is identified as possessing Class 2 Acid Sulfate Soils on Council’s ASS Planning Maps. The applicant has prepared an Acid Sulphate Soil Management Plan, which has been assessed by Council’s Environmental Health Officer. Insufficient information was provided on the process and method of fill having specific regard to Acid Sulphate Soils, this is considered a major issue, which has not been satisfactorily addressed, thus not satisfying Clause 35.

North Coast Regional Environmental Plan 1988

Clause 15 of REP 1988 relates to the impact of development on waterways and wetlands. The land is not near any wetland or substantial waterway, however, is part of Kingscliff drainage catchment and stormwater generated from the land would ultimately discharge to the trunk drainage network upstream of the Tweed River.

In the absence of a master plan for land forming and infrastructure of the whole Gales Holding West Kingscliff site;

- a) The application has failed to demonstrate that the proposed drainage systems will be compatible with ultimate development of the west Kingscliff area;
- b) The application has failed to demonstrate that the proposed land form is compatible with ultimate development of the west Kingscliff area;

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- c) The application has failed to demonstrate that proposed stormwater quality treatment measures are compatible with ultimate stormwater treatment strategies for the west Kingscliff area;

Therefore not satisfying Clause 15 of the REP 1988.

Clause 32B of REP 1988 applies to all land covered by the NSW Government Coastal Policy and specifically relates to access to the foreshore and beaches and adjacent waterfront open space areas being overshadowed. The proposed development is well removed from waterfront open space and beaches and would not raise any issues in relation to shadowing these areas.

Clause 47 of REP 1988 relates to plan preparation and development control principals for commercial development. The objectives of this clause is:

“to encourage an adequate supply of zoned land located where there are planned growth areas foreshadowed and where essential services can be provided with minimal environmental damage”

The plan goes on to state that prior to granting consent to a development application the Council should take into consideration, the following applicable principal:

- *Strong multi-functional town centres should be maintained to focus the drawing power of individual businesses and maintain the integrity of the main business area by only zoning land for further commercial or retail development where the development adjoins or is adjacent to the existing town centre.*

Clause 47 places a high importance on plan preparation and subsequently the overall strategic process. The subject site has been zoned 2 (c) Urban Expansion with Development Control Plan No. 9 designating the subject site for low-density housing. The submitted application has had little regard for the plan preparation undertaken to establish this zone and density and requests an amendment to DCP No. 9 to accommodate the proposed development. Any amendment based on this ideology would be reactive to development pressures rather than proactive, and would not be in the interest of the general public.

Council is in the process of amending the DCP for West Kingscliff based on extensive public consultation, however, the proposed amendments are not final and are still under investigation, however, Council's Strategic Planning Department have advised that the DA and DCP amendment:

- *Do not conform to current Policy as contained in DCP 9 and DCP 43;*
- *Is based on the false premise that it is Council's policy to locate a future “town centre” on Turnock Street;*
- *Is premature providing Council's Policy for the location of a town centre for the Tweed Coast;*
- *Results in the destruction of significant habitat;*
- *Does not building on the existing character of the Kingscliff;*

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- *In any event is not an acceptable location for such a centre, which should be strategically located at the eastern end of Turnock Street; and*
- *Does not satisfy the requirements of good urban design as developed in the Coastal Design Guidelines Discussion paper (Coastal Council of NSW) or Mixed Use in Urban Centres (UDAS, 2000).*

The proposal is considered to be inconsistent with the provisions of the North Coast Regional Environmental Plan 1988.

State Environmental Planning Policies

SEPP 11 – Traffic Generating Development

An assessment of the subject application has been undertaken in accordance with the provisions of State Environmental Planning Policy No. 11 (SEPP 11) – Traffic Generating Developments. In accordance with the SEPP the proposed development requires referral to the Regional Advisory Committee of the NSW Roads & Traffic Authority as development listed in Schedule 2 (e) as follows:

“the erection of a building for the purposes of commercial premises and industry where the gross floor area of the building is or exceeds 4 000 square metres or the enlargement or extension of a building used for the purposes of commercial premises and industry where the gross floor area of that enlargement or extension is or exceeds 4 000 square metres”

The gross floor area (GFA) of the complex is approximately 4410m² with 254 on-site parking spaces. As discussed above

The comments provided by the Regional traffic committee did not raise concern with the application in terms of it’s capability of being approved (subject to conditions) but acknowledge that the subject site may not be the most suitable for this type of development in terms of vehicular and pedestrian linkages with the existing CBD of Kingscliff.

SEPP 55 Remediation of Land

The application was accompanied with a land history that was undertaken in consultation with Council’s Environmental Health Officer. No information was discovered that would indicate that the site was contaminated.

SEPP 71 Coastal Protection

This application was lodged in December 2002, however, the proposed development does not require referral to Planning NSW under the provisions of SEPP 71, as it is not within a sensitive coastal location and is not designated as State Significant Development. Notwithstanding this given that the subject site is affected by the NSW Coastal Policy and the nature of the development Council is obligated to consider Clause 8 – Matters For Consideration of the SEPP.

Clause 8 details 16 matters for consideration of which most matters relate to maintaining public access to and along the coastal foreshore, and ensuring the scenic qualities of the coast are protected. Therefore they are not specifically applicable to this

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application. Clause 8 (d) and (p – i) are considered to be the most relevantly applicable provisions, which must be taken into account prior to determining an application. They read as follows:

- d) *the suitability of development given its type, location, and design and its relationship with the surrounding area.*
- p) *Only in cases in which a development application in relation to proposed development is determined*
 - i) *The cumulative impacts of the proposed development on the environment*

As mentioned above the proposed development is not considered to be an appropriate development for the subject site, having regard to the overall unsuitability of the development for the site. Specifically given the lack of gazetted strategic planning controls, the cumulative environmental impact that would result and the level of commercial sprawl that would be created between the existing shopping centre and the proposed centre. Furthermore, the proposed design of the complex is not in accordance with good urban design principals and would create an unsafe pedestrian environment within Kingscliff. The application is considered to be contrary to the objectives of SEPP 71.

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

Draft Tweed Local Environmental Plan No. 46 was exhibited between 16 April 2003 and 14 May 2003 and detailed an amendment to the definition of a storey to reflect the finished ground level rather than the natural ground level in addition to incorporating that any space in excess of 4.5 metres should be categorised as two storeys. This amendment does not significantly affect this application, as the proposed building is generally single storey incorporating a mezzanine level.

Draft Tweed Local Environmental Plan No. 47 – Master Planning was exhibited between 7 May 2003 and 4 June 2003 and detailed Council's ability to request the preparation of a Development Control Plan, Section 94 Plan or a Master Plan prior to granting consent to a development application in accordance with the provisions of Section 92A of the Environmental Planning & Assessment Regulation 2000. The proposed amendment reads as follows:

53A Master Plans

(1) Objective

- *To ensure proper consideration of development that may have significant social, environmental, and/or economic impact.*

(2) Pursuant to this clause, where the consent authority considers that a proposed development is likely to have a significant impact in the locality, a development application must not be determined by Council (unconditionally or subject to conditions) unless:

- (a) a development control plan has been approved for the land, and/or**
- (b) a contributions plan has been approved for the land, and/or**

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(c) *there is a master plan for the land that has been available for inspection by the public since it was made or adopted, as the case may require.*

(3) *Notwithstanding subclause (2) Council may waive the need for the preparation of a development control plan, a contributions plan or a master plan should it determine the development does not warrant such investigations”.*

The provision of this Draft Plan further substantiates the need for this Development Application to have regard to the required strategic planning process. This development will have a significant environmental, economic, and social impact and lacks compliance with a specific development control plan that has been approved for the land.

The pre-emptive nature of this development and lack of any soundly based strategic process is contrary to this Draft Plan.

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

Development Control Plan No. 2 – Car Parking

The following table details the requirements of the on site car parking provisions contained in DCP 2, and the proposed provision for onsite parking. It should be noted that the applicant nominated the entire GFA as retail space. It is more likely that some of these tenancies may want to be used for restaurants/cafes. This would require separate development approval and would necessitate additional parking.

<u>Use</u>	<u>GFA</u>	<u>DCP 2 Classification</u>	<u>Staff Requirement</u>	<u>Customer Requirement</u>
Retail	4410m ²	Item C19 Retail	0.5 spaces per 100m ² = 22	3.5 spaces per 100m ² = 155
TOTAL PARKING REQUIRED = 176 spaces				
TOTAL PARKING PROVIDED = 254 spaces (including 41 dedicated staff parking spaces)				

The applicant has advised that that the provided parking exceeds the requirements of the current proposal, but provides for the future expansion of the retail floor area.

DCP 2 further specifies that one (1) delivery service vehicle parking space is required for each 1500m² of GFA, with a minimum of two spaces where a supermarket is involved. The application provides a major loading dock facility for the supermarket and two loading set down areas within close proximity to the specialty trading.

Bicycle Parking is required at a rate of one space per 200m² of GFA. The applicant has indicated that bicycle storage areas would be conveniently located to the main plaza area of the shopping centre.

The application satisfies the numerical requirements of Development Control Plan No 2, however, fails to assess the merits of the application against the objectives of the Plan. The following objectives are considered to be of particular reference:

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- a) *Consistent with ESD principals, ensure provision of safe, convenient and equitable access to developed land for pedestrians, vehicles and persons using vehicles, bicycles and public transport;*
- g) *Promotion of development of regional, district, and local strip shopping centres by adapting access and parking requirements to meet the specific visions, needs and constraints of these areas;*
- h) *Promote flexibility in provision of parking by allowing proposals that foster ecological sustainability and /or include enhancement/increase of on street parking spaces as an alternative to off street parking; and*
- i) *Encourage car parking area design and landscaping to enhance the visual amenity of the area and minimise impacts from stormwater runoff and pollution.*

Concern is expressed that the proposed shopping centre location will create unsafe pedestrian and vehicular movement with people trying to link the existing CBD area with the new centre. Furthermore, the objectives incorporate a provision to meet specific needs and visions of any given area. This application is contrary to the existing Policy, which outlines the appropriate needs and visions for the locality.

The design of the proposal is simplistic and lacks interesting or attractive articulation, which ultimately reduces the aesthetic appeal of the development. The application as submitted fails to provide the required information (including stormwater details) and does not satisfy the objectives of Development Control Plan No. 2.

Development Control Plan No. 5 – Flood Liable Land

The subject site is identified as flood prone pursuant to the provisions of DCP No.5. In this regard, DCP No.5 identifies the predicted 100 year flood level of RL 3.4m AHD and an adopted Design Flood Level of 3.7m AHD for residential development.

The applicant has provided that the land is proposed to be filled to levels approximating the 1 in 100 year flood level, while the floor level of the shopping centre (RL 4.15m AHD) would be above the design flood level. Whilst in principal this satisfies the provisions of DCP No. 5 Council has expressed concern that the applicant has not provided sufficient detail regarding the environmental impacts of filling the site, the impacts on amenity of persons along any potential haul route; and finally the method of filling the site. Failing this level of detail DCP No. 5 has not been adequately satisfied.

Development Control Plan No. 9 – West Kingscliff

The subject site is within the area of DCP 9 (west Kingscliff), which was adopted by Council on 1 October 1993. The Plan includes a comprehensive master plan for the development of west Kingscliff, including a road network, drainage and water quality management, open space and other associated planning controls. The Plan identifies the site for low-density housing. The Plan provides no provision for shopping facilities, as at the time of preparing the document it was assumed that the existing shopping centre of Pearl Street would service West Kingscliff. However, DCP No. 43 Kingscliff makes provision for small neighbourhood stores to service the area.

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The Plan makes the following comments in relation to non-residential development in the residential zones:

“While the 2(c) Urban expansion zone within the LEP permits a range of non-residential uses, the primary purpose of the residential area is for residential development and the commercial area of Kingscliff will provide for non residential development. As a consequence only in special circumstances, will Council permit non-residential development within the residential areas. Such non-residential development may include general stores, childcare centres or home industries”

The proposed development is contrary to the requirements of DCP 9.

The proponents have correctly stated that:

“... it has become apparent that elements of the DCP may not deliver the urban development outcomes required to meet growth demands and moreover, consistent with contemporary planning objectives”.

The changed circumstances include the identification of significant habitat; land uses and facilities to meet the needs of the future population; attitudes to urban design; and the impact of development on the existing fabric of Kingscliff.

In association with the preparation of the Tweed Coast Strategy, Council is reviewing DCP 9, and other planning policies relevant to Kingscliff.

The proposed DCP amendment concerns the identification of the proposed shopping centre site at the junction of Elrond Drive and Turnock Street and the deletion of the current reference to low density housing on that land. This proposal is predicated on the following assumptions:

1. The need for a further supermarket based shopping centre in Kingscliff;
2. The preferred location for this is at the Turnock Street roundabout.

Council does not have a specific policy framework for either the development of future town centres generally or specifically for Kingscliff. Council has resolved not to include in the draft Tweed Coast Strategy DCP the identification of a preferred location for the District Centre. Consequently there is no centres policy framework with which to assess this development application. Subsequently any proposed amendment to DCP 9 is premature pending the outcome of that work. However, DCP 43 (Kingscliff) does provide some relevant strategic guidance, which further discussed below.

Development Control Plan No. 42 – Public Notification of Development Proposals

The application was advertised in the Tweed Link and notified to adjoining landowners. The application was on exhibition for a period of twenty-eight days from Wednesday 5 February 2003 to Wednesday 5 March 2003, during this time 12 objections were received. These objections are discussed later in this report.

Development Control Plan No. 43 – Kingscliff

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The subject site does not technically fall within the designated DCP area, however, the DCP covers the existing built-up area of Kingscliff and is contiguous with DCP 9 – West Kingscliff.

The Plan states that:

“While a high standard of development is encouraged, it is important that the coastal village atmosphere of Kingscliff be retained and enhanced. To ensure that future development in Kingscliff proceeds in harmony with the intrinsic character of the location, a vision for the future of Kingscliff is required.”

The Plan sets out the following Vision for Kingscliff:

“A highly attractive, low key coastal resort town with a distinctive built character, a high degree of pedestrian amenity and strong physical and visual connections with the surrounding coastal environment”

The emphasis of this Vision is to develop and enhance those existing characteristics of the town, which make Kingscliff such an appealing and memorable place for residents and visitors alike.

The Plan aims:

“to ensure that Kingscliff develops with an identifiable town centre, distinctive residential areas, and a high degree of pedestrian access” and confirms that, *“the Town Centre will be the commercial focus for Kingscliff”*.

Any expansion of retail and commercial facilities in Kingscliff must have regard to the following principles as set out in DCP 43:

“New commercial developments should ensure that emphasis is placed on pedestrian circulation and the enhancement of the pedestrian environment. Pedestrian walkways and access points associated with ground level development should be logically and practically integrated with the existing network of public pathways. Footpaths are to be constructed along all site frontages to public streets at the developers expense and in accordance with Council’s requirements.

Public car parking areas are not to be provided between the footpath and new commercial developments. New buildings are to be built up to the footpath to enhance pedestrian amenity.

It is expected that new developments will incorporate innovative design themes, high quality finishes, discrete car parking areas and well-landscaped parking and service areas. The number of vehicle entry points to a development site are to be kept to a minimum. In the case of development sites, which adjoin vacant land, consideration must be given to the likely future development of the adjoining land, so as to achieve an optimum planning outcome for the locality

Furthermore, it is imperative that any new centre be developed around the existing centre to maintain the integrity of the Kingscliff retail sector. In the absence of specific planning controls to achieve this, and to ensure the qualities that provide Kingscliff

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appeal and lifestyle as a coastal village are not lost, the following strategic requirements are nominated:

- Scale that reflects the form of the existing Kingscliff village
- Compact form unified by a coherent built-up streetscape which reduces the ecological footprint by locating accommodation, leisure and employment close to each other
- A mix of uses to encourage vitality and the opportunity to fulfil most needs and ensuring people are in the area at different times for different purposes.
- design for pedestrians to encourage a reduction in car dependency and reduce pedestrian/vehicular conflict with urban areas within walkable radius.
- a diversity of building form and scale within individual blocks allied with a high visual quality to ensure a diversity in the streetscape
- variation of building types and styles to ensure a diversity in the streetscape
- design to reflect the Tweed coast climate by providing shade and shelter for pedestrians and designing for short distances from transport to activity centre
- a clear hierarchy of roads to ensure efficient customer and service access
- adequate parking within walking distance of all urban centre activities

Notwithstanding the earlier comment that the proposed DCP amendment is premature pending the outcome of Council's review of planning for Kingscliff, Council's Strategic Planning Department have reviewed the proposal and have undertaken an assessment against DCP 43 and the above criteria:

There is no strategic argument with the need for a further supermarket based shopping centre in Kingscliff. However, the proponent's preferred site for the development is questionable.

Gales' consultants have identified the suitability of their preferred location in the following terms:

- *General consensus that Turnock Street is an appropriate location for the development of a "town centre" to serve the local community;*
- *Concerns regarding the capacity of the intersection of Pearl and Turnock Streets to cater to pedestrian and vehicular traffic congestion created by the expanded Kingscliff Shopping Village and the proposed centre (these were detailed in a report by Veitch Lister Consulting Pty Ltd, October 2000, previously submitted to Council);*
- *Concerns regarding the relationship in design terms between the approved Kingscliff Shopping Village and the proposed centre, including:*
 - i. *On site parking;*
 - ii. *On street parking; and*
 - iii. *Pedestrian linkages in Turnock Street.*

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- *Uncertainties regarding ecological values of the land adjoining the existing Kingscliff Shopping Village;*
- *Advice and preference expressed by key retail interested;*
- *The location of the two (2) shopping centre sites (existing and proposed) would provided the “bookends” to the main street retail/commercial strip between the two (2) centres, creating a strong movement desire link along Turnock Street and providing the necessary energy and vitality to support to strip retailing between the supermarket based centres.*

The following responses are made to this argument

- 1. As already stated, Council has resolved to make no determination in respect of the preferred location for the District Centre. Consequently, there is no general consensus that Turnock Street is an appropriate location.*
- 2. The traffic analysis undertaken by Veitch Lister on behalf of Council has indicated that a “town centre” development can be accommodated with no adverse traffic implications. Council also has plans to upgrade the roundabout at Turnock/Pearl Streets. Consequently, in terms of traffic management and impacts on Kingscliff, it makes little difference if the “town centre” is located at the eastern or western end of Turnock Street.*
- 3. The proposed development does not meet the expectations of planning for Kingscliff as expressed in DCP 43; the eastern end of Turnock Street is preferred.*

Development Control Plan No. 45 – Socio Economic Impact Assessment

As discussed under the provisions of Clause 17 of the LEP the proposed development is not considered appropriate having regard to the social and economic climate of the area. The submitted application has failed to satisfactorily justify the appropriateness of the proposed centre at the designated location.

DCP No. 47 – Cut & Fill on Residential Land

The Plan specifies that where filling greater than 500mm is required for a proposed development a detailed landscape plan indicating methods of disposing both surface water and stormwater runoff must be submitted to Council with the development application. The application lacks adequate information in this regard.

Draft DCP No. 48 – Tweed Coast Building Heights

The draft DCP specifies that a three storey commercial development is limited to a maximum height of 11 metres. The proposed development is generally single storey with a maximum height limit of 9m. The development is consistent with this Plan.

Draft Tweed Coast Strategy 2002 – Discussions Paper

The Tweed Coast is the focus of significant growth pressures in the Shire. In the area between Kingscliff and Cudgen Lake there is the potential to increase the resident population from the current 7,000 to over 25,000 over the next 20 years or so. There are also significant tourist pressures, both day-trippers and those requiring accommodation. To address the planning for the growth of the Coast, Council is

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completing the Tweed Coast Strategy DCP, in consultation with the community. The purpose of the Strategy is to provide the framework for the essential planning for the coast to:

- Accommodate this anticipated development of the coast;
- Meet the requirements of the current communities; and
- Protect the essential values of the coast, in particular Kingscliff as a special place.

The DCP is not a restatement or replacement of existing strategic policy; neither is it meant to be a 'one-stop policy framework for the Tweed Coast. It deals specifically with:

- The establishment of green belts to identify and contain urban areas
- The protection and use of sensitive coastal foreshore areas to provide for public access
- The identification of strategic infrastructure, particularly that required by agencies other than Council.

The Strategy will include the following elements, which are relevant to the development application and proponent's Structure Plan:

- Threatened species and species habitat, wetland and significant vegetation communities;
- The habitat of the Mitchell's Rainforest Snail;
- East-west vegetated corridors at West Kingscliff;
- Green belt policy.

Neither proposal makes adequate provision for the habitat of threatened species.

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

The NSW Coastal Policy 1997 applies to the proposed development site. The proposed development is considered to be inconsistent with the following strategic goals of the Policy.

- 2 *To give the impacts of natural processes and hazards a high priority in the planning and management of coastal areas;*
- 3 *To identify and protect areas of high natural or built aesthetic quality;*
- 5 *To identify and facilitate opportunities for the sustainable development and use of resources;*
- 6 *To ensure the future expansion or redevelopment of urban and residential areas, including the provision of infrastructure, avoids or minimises impacts on environmentally sensitive areas and cultural heritage*

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6.2 *To promote compact and contained planned urban development in order to avoid ribbon development, unrelated cluster development and continuous urban areas on the coast;*

The proposed development is in direct opposition to the above strategic goals. This application encourages adhoc planning with little regard to the natural and environmental constraints of the site.

There are no additional 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

Bulk Scale & Design

The application presents as a “box” surrounded by car parking that does not present well to the street. Any future development in Kingscliff should have regard to the scale that reflects the form of the existing Kingscliff village. It should be compact and unified by a coherent built up streetscape. The proposed development does not accommodate these strategic objectives.

Traffic/Access

The proposed development numerically satisfies Council requirements and Australian Standards and has received concurrence from Council’s Local Traffic Committee and the Regional Traffic Committee. However, concern has been expressed to the adequacy of the given location in terms of the spatial separation between the existing CBD and the proposed centre and the pedestrian and vehicular conflict that may occur as a result. The application in its current form should not be supported.

Flora & Fauna

Section 5A of the Environmental Planning & Assessment Act 1979, requires consideration of the impact of development on threatened species, populations and their habitat, within the meaning of the Threatened Species Conservation Act, 1995. The applicant has subsequently prepared and submitted a Detailed Ecological Assessment of a number of landholdings owned by Gales Holdings. Further to this the applicant provided a review of the Assessment for the subject sites.

The application was subsequently referred to the National Parks and Wildlife Service (NPWS) and Peter Parker (Environmental Consultant) to undertake an independent review of the submitted material.

NPWS undertook a site inspection and a review of the submitted material and determined that the application could not be supported by NPWS in its present form. They provided the following points of relevance:

- *Gales Holdings is known to contain habitat for numerous threatened species, important populations of threatened species and is covered by a modelled regional fauna corridor;*

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- *Council should assess the impact of development within Gales Holding in a cumulatively sense as required by SEPP 71.*
- *Development of the scale proposed for Gales Holdings is likely to have a substantial and irreversible impact on local populations of threatened fauna.*
- *The wallum froglet was the only threatened species recorded on the subject site, although several shells of Mitchell's Rainforest Snail (*Thersites mitchellae*) have been recorded immediately to the north of the subject site. The presence of these shells is sufficient evidence of live individuals. The subject site and immediate surrounds may also provide suitable roosting and foraging habitat for Grass Owl (*Tyto capensis*) whilst Bush Hens (*Arnaurornis olivaceous*) may utilise habitat immediately north east of the subject site.*
- *The presence of calling male frogs provides strong evidence to suggest that the species breeds or at least attempts to breed, on the subject site. An inspection of the subject site by NPWS staff identified substantially more individuals calling than the five recorded during surveys for the Statement of Environmental Effects.*
- *The conclusions regarding the status of the Wallum Froglet population on Gales Holding is contrary to what is known about the biology of the species.*
- *The eight-part test does not consider the potential impact of sand pumping on the wallum froglet. Pumping of sand slurry onto Lot11 could pose a substantial risk of pollution to adjacent lots, particularly areas south of Turnock Street.*
- *To construct the proposed shopping centre it will be necessary to fill 2.4 ha of land to a depth of between 2.5 and 3m with 98,000m³ of sand. This fill will be situated within about 100m of known snail habitat. The proposal also involves modifying the drainage patterns within the subject site.*
- *Planit Consulting identify changes in hydrology as having a detrimental impact on habitat quality. Despite this clear recognition of the importance of the Mitchelles Rainforest Snail population within close proximity to the subject site and recognition that changes in drainage have had a detrimental impact on habitat quality the SEE concludes that negative impacts from filling and further changes in drainage are unlikely.*
- *The Species Impact Statement prepared by PLANIT Consulting does not address sections 110 and 111 of the Threatened Species Conservation Act 1995. The intent of preparing an SIS is noted and it is suggested that Council direct the proponent to follow the appropriate procedure to formalise the SIS.*
- *Mitchell's Rainforest Snail is listed as critically endangered under the Environmental Protection & Biodiversity Conservation Act 1999 (EPBC Act). Given the importance of the subject site for Mitchell's Rainforest Snail it is suggested that the Council direct the proponent to refer the DA to Environment Australia (EA)*

NPWS subsequently wrote to Environment Australia to request reconsideration of the first decision by Environment Australia on the basis that the critically endangered

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Mitchell's Rainforest Snail occurs on the site and was not considered in the original assessment.

Environment Australia subsequently contacted Council on 23 April 2003 and advised that a reconsideration under S78 of the Environmental Protection & Biodiversity Conservation Act 1999 (EPBC Act) had occurred and resulted in the original decision, which was that the proposed development was not a controlled action, be revoked. A new decision was made that the works were determined to be classified as a controlled action with the controlling provision being listed threatened species Mitchell's Rainforest Snail. The decision was made on 11 April 2003.

A controlled action means that an action (in this instance the action to construct a staged mixed residential, commercial and industrial development on a 211 ha site at Kingscliff, northern NSW) is likely to have a significant impact on a matter of national environmental significance. It also means that the applicant is required to obtain consent from Environment Australia, in accordance with the Commonwealth Legislation, prior to any works commencing, despite a state approved consent. This approval is separate, independent and parallel to the state assessment process. Therefore, Council must continue to process this application, as normal, however, if approval were ever to be granted for any works on the affected land any consent would need to have a condition of consent requiring the applicant to gain approval from Environment Australia prior to any works commencing.

It should also be noted that the action also restricts all works (including slashing) from occurring on the site without the prior approval from Environment Australia in accordance with the Environmental Protection and Biodiversity Conservation Act 1999. It is understood that both National Parks and Wildlife Service and Environment Australia are investigating unauthorised slashing that has occurred on the site since April 11 2003. These authorities will be undertaking any enforcement activities considered necessary. Furthermore, the owner of the subject land has been contacted, and advised that under no circumstances are any further works to be undertaken (including slashing).

Peter Parker Environmental Consultant has provided Council with an independent review of the submitted information from the applicant, NPWS referral response and all correspondence from Environment Australia. The following points were provided:

- *I have read the development application and conducted both a day and night survey at the Development Application site. Following a review of the applicants documents and my field survey, I believe that the proposed development is likely to have a significant effect on three threatened fauna species. These are Mitchell's rainforest snail, *Thersites mitchellae* (listed as endangered under Schedule 1 of the Threatened Species Conservation Act 1995), the Wallum froglet, *Cinia tinnula* (listed as vulnerable under Schedule 2 of the Threatened Species Conservation Act 1995); and the Wallum sedge-frog, *Litoria alongburensis* (listed as vulnerable under Schedule 2 of the Threatened Species Conservation Act 1995).*
- *Two of these species were reported at the site in the Applicants flora and fauna report (PLANIT Consulting 2002) and the Wallum sedge frog was recorded during my field survey;*

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- *No threatened plant species were recorded but two regionally significant species occur at the Development Application site. These are the wallum banksia, Banksia robur, and swamp bottlebrush, Callistemon pachyphyllus. The applicant proposes to remove these trees or shrubs;*
- *Plannit recorded live Mitchell's rainforest individuals at the site and concluded on the basis of an eight part test that "a species impact statement is required to be prepared for the Mitchell's rainforest snail;*
- *Planit prepared a document, which was entitled "A Survey from land snail, Thersites mitchellae, in Kingscliff northern New South Wales, species impact statement to the NSW National Parks and Wildlife Service". However this document does not appropriately address the statutory requirements for the preparation of a species impact statement (SIS) as it fails to refer to the statutory requirements for the preparation of an SIS and they should have made the necessary enquiries with the Director General ("DG") NPWS as was required. Thus the SIS which was prepared by Plannit with respect to this development application fails to meet the requirements of the legislation and is invalid.*
- *Planit concluded that the proposed development was unlikely to significantly affect either the Wallum froglet or Wallum sedge-frog. The frogs were recorded at the site by Planit however they believe the local population is confined to the site due to previous earthworks conducted. They further believe that a trapping program will be instigated to capture and release those individual isolated adjacent to existing Turnock Street. Thus Planit relies on either relocation of individuals or for those individuals not captured and relocated, Plannit assumes they will migrate to other parts of the site not subject to development.*
- *Planit have failed to undertake a proper eight part test with respect to Wallum Froglet because relocation is not a mitigation measure which can be used by the applicant to avoid undertaking an EIS. Planit incorrectly assumes that the Wallum Froglet at the site will not be significantly effected despite the construction of a road through its core habitat, the pumping of 98,000m³ of fill onto the site and the construction of drainage works to accommodate drainage form a proposed shopping centre. Furthermore, Planit have failed to answer the question of whether "in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction".*
- *Planit have failed to undertake a proper eight part test with respect to Wallum Sedge Frog because they failed to record this species at the site and wrongly assumed that it did not occur. Planit incorrectly assumes that the Wallum Sedge Frog at the site will not be significantly effected despite the construction of a road through its core habitat, the pumping of 98,000m³ of fill onto the site and the construction of drainage works to accommodate drainage form a proposed shopping centre. Furthermore, Planit have failed to answer the question of whether "in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction". And again relocation is not a mitigation measure which can be used by the applicant to avoid undertaking an EIS.*

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- *Planit has stated that a SIS is required for Mitchell's land snail and has produced an SIS, which does not meet the statutory requirements. It is the view of this consultant that that Plannit has not provided a proper assessment of S5A of the EPA Act 1979. On the basis of the information provided to Council in the development application and supporting reports it is not open to a consent authority to conclude that the proposal is unlikely to have a significant effect on threatened species.*

Based on this advice the applicant has failed to submit a valid SIS for all the necessary species and has failed to adequately address S-5A of the EPA Act 1979. The application in its current form cannot be approved.

Amenity/Noise/Lighting

The proposed development is likely to create a land use conflict with the nearby residential properties. Garbage pickup, early morning deliveries and the additional traffic that will be generated are likely to have a significant impact on the residential amenity currently enjoyed by existing residents. It should be further noted that this land use conflict is only like to increase if adjoining land were to be developed for housing purposes. Without formal strategic plans for the area a true assessment against the potential noise/amenity issues is impossible. Thus reinforces that this development is premature.

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

The zoning of the land and the existing controls contained within DCP No. 9 obviously indicate that the site is not capable of accommodating the proposed use. Given the site constraints, extensive research must be undertaken to ensure adequate ameliorative measures are undertaken. Whilst at this stage the proposed development is not suitable for the site or locality in general, Council's strategic research may reveal otherwise in the future, however, until that work has been undertaken any development application for this type of development should be refused given its pre-emptive nature.

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

Planning NSW initially wrote to Council on 8 May 2003 informing Tweed Shire Council that the subject proposal had been determined to be a controlled action under the Environment Protection & Biodiversity Conservation Act 1999 (EPBC Act) and that the Director General is to be consulted regarding Council's assessment of the proposal. This information is needed from Planning NSW to give notice under the EPBC Act that things other than matters protected by the controlling provisions for the above proposal have been assessed to the greatest degree practicable by Tweed Shire Council. Under S.130 of the EPBC Act, the Minister for Infrastructure and Planning is required to sign a certificate to this effect.

Subsequently, the relevant documents were forwarded to Planning NSW to enable them to review the proposal. The following comments were received from Planning NSW:

"Planning NSW reviewed the information and concurs with the assessment of Council, which indicates that the application for the proposal has not been prepared in accordance with the provisions of Part 4 of the NSW Environmental Planning &

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Assessment Act 1979 (EP&A Act). Of particular concern is the failure of the application to:

- *Properly take into account section 5A of the EP&A Act;*
- *Prepare a Species Impact Statement (SIS) in accordance with section 110 and 111 of the Threatened Species Conservation Act 1995 (TSC Act);*
- *Fully consider all matters not of national environmental significance (landform, drainage, stormwater, amenity, traffic & transport);*
- *Address concerns raised by NPWS; and*
- *Conform to the objectives of the Tweed Local Environmental Plan 2000 and current Council strategic policies;*

Before Planning NSW can advise the Minister for Infrastructure and Planning to sign a s. 130 certificate, it is requested that Tweed Shire Council resolve these issues with the applicant or that they are resolved in the Land & Environment Court”.

These comments are concurred with, and subsequently the application is recommended for refusal.

The application has also been referred to Council’s solicitors to begin defending the appeal in the Land & Environment Court. The most applicable advice received to date is as follows:

“It would certainly not be open to the Council at this time to determine the DA for approval as, quite clearly, essential matters are yet to be investigated as far as environmental matters are concerned and the Commonwealth itself to make a decision as to whether to refuse the application or consent to it with conditions.

This of course does not mean that the Council is unable on the other hand, to refuse the application, because it is quite clear the application itself is deficient in a number of respects, not the least being environmental considerations”

These comments are concurred with, and subsequently the application is recommended for refusal.

The application was advertised for a period of 28 days from 5 February to 5 March 2003, with 12 individual objections being received during that time period. The grounds for objection are discussed in the below table.

Table 1 - Issues raised in objection to the proposal

OBJECTION	IMPACT ASSESSMENT	COMMENT
The roads in Kingscliff cannot sustain the added traffic.	The application was referred to both Local Traffic Committee and Regional Traffic Committee. The referral responses did not indicate that the local road network was not capable of accommodating the additional traffic.	This objection does not form part of the reasons for recommending refusal.
Kingscliff does not	This objection has significant merit,	This objection forms part of the

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OBJECTION	IMPACT ASSESSMENT	COMMENT
need more shopping centres. The existing centre and approved extension will be adequate given it is only 10-30 minutes to major shopping centres at South Tweed.	as discussed in the report it is questionable that current population growth could accommodate a second shopping centre.	reasons for recommending refusal.
The subject land is flood prone and is more like wetland than suitable for development.	The application has not be adequately accompanied by appropriate stormwater details.	This objection forms part of the reasons for recommending refusal.
The site provides habitat for numerous frog/toad and bird species.	As discussed in the report the application does not adequately address Part 5A of the EP&A Act 1979.	This objection forms part of the reasons for recommending refusal.
Too many trees are being chopped down all throughout the area.	This application removes limited vegetation however, it is extremely critical given the habitat it provides for threatened species.	This objection forms part of the reasons for recommending refusal.
The residents of Kingscliff do not want Kingscliff to turn into an extension of the Gold Coast.	This application has been assessed against the relevantly applicable controls and as such is inadequate, however, its similarity to the Gold Coast is irrelevant.	This objection does not form part of the reasons for recommending refusal.
The duplication of retail operations in Kingscliff is ridiculous (6 hairdressers, six real estate agents etc).	The duplication of businesses in an area is the responsibility of individual business owners. However, it is considered premature to allow a second shopping centre when the population can't support it.	This objection partly forms reasons for recommending refusal.
A second supermarket is not viable for operators in the medium tem.	These comments are concurred with.	This objection forms part of the reasons for recommending refusal.
Why should land so close to the beach be commercially developed considering the amount of land to the west and the present scale of commercial usage	Council's strategic investigations are based on information that more commercial land is required in Kingscliff, its proximity to the beach is subject to ongoing strategic planning investigation. However, this application pre-empts this planning and should be refused.	This objection forms part of the reasons for recommending refusal.

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OBJECTION	IMPACT ASSESSMENT	COMMENT
already in the CBD.		
The existing Centre is more than adequate especially considering the approved expansion.	It is considered premature to allow a second shopping centre when the population can't support it.	This objection forms part of the reasons for recommending refusal.
Turnock Street extension Westward to join Chinderah Road would have to be done simultaneously considering the pressure this development would place on the residential road network.	The application was referred to both Local Traffic Committee and Regional Traffic Committee. The referral responses did not indicate that the local road network required upgrading to accommodate additional traffic.	This objection does not form part of the reasons for recommending refusal.
This application would destroy small businesses in Kingscliff.	This application has been assessed against the relevantly applicable controls and as such is inadequate.	This objection does not form part of the reasons for recommending refusal.
Kingscliff is losing its charm as a result of developments like this.	This application has been assessed against the relevantly applicable controls and as such is inadequate.	This objection does not form part of the reasons for recommending refusal.
No mention has been made to recreational facilities or park/playing fields for the growing number of teenagers in the area.	Commercial development is not obligated to accommodate any element of recreational space or playing fields. However, it is further acknowledged that the submitted Master Plan does not incorporate recreational space.	This objection does not form part of the reasons for recommending refusal.
The noise coming from the air conditioning plant, refuse pickup and early delivery trucks at the loading bay will be unacceptable for neighbouring residential properties.	The application will create a land use conflict with neighbouring residential properties.	This objection forms part of the reasons for recommending refusal.

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OBJECTION	IMPACT ASSESSMENT	COMMENT
Intensifying the use of the land will create further traffic and pedestrian conflicts in this area.	The application does raise significant concerns of pedestrian/traffic conflicts given the level of separation between the existing centre and the subject site.	This objection forms part of the reasons for recommending refusal.
The proposed lighting will reduce the residential amenity of neighbouring properties.	The application will create a land use conflict with neighbouring residential properties.	This objection forms part of the reasons for recommending refusal.
The proposed development does not meet the zone objectives.	As discussed in the report above, the application is contrary to the zone objectives.	This objection forms part of the reasons for recommending refusal.
The site has not been strategically identified for commercial/retail purposes.	As discussed above this application is contrary to DCP No. 9 and pre-empts any ongoing strategic work for the Kingscliff area.	This objection forms part of the reasons for recommending refusal.
The application is in clear contrast to DCP No. 9.	As discussed above this application is contrary to DCP No. 9 and pre-empts any ongoing strategic work for the Kingscliff area.	This objection forms part of the reasons for recommending refusal.
If the application were approved it would severely compromise the ability of the surrounding land to be developed for residential purposes.	If the application were approved there would be potential land use conflicts when surrounding land was developed. However, this cannot be assessed at this stage.	This objection does not form part of the reasons for recommending refusal.
The application is inappropriate on planning and economic grounds.	As discussed above the application is considered inappropriate on planning and economic grounds.	This objection forms part of the reasons for recommending refusal.
This development would create a massive over supply of retail space in Kingscliff.	The economic advice that Council has received indicates that this objection has significant merit, the current population growth cannot yet accommodate a second supermarket.	This objection forms part of the reasons for recommending refusal.
Traffic congestion would become horrendous.	The application was referred to both Local Traffic Committee and Regional Traffic Committee. The referral responses did not indicate that the local road network was not capable of accommodating the	This objection does not form part of the reasons for recommending refusal.

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OBJECTION	IMPACT ASSESSMENT	COMMENT
	additional traffic.	
The hydrology of the area would be changed and could possibly cause flooding to residential land.	The applicant has not supplied adequate stormwater details.	This objection forms part of the reasons for recommending refusal
Kingscliff has enough retail floor area considering the existing centre and proposed extension.	Economic analysis indicates that this is accurate for the moment, however, by 2008 another supermarket will be required to cater for additional demand.	This objection forms part of the reasons for recommending refusal
We should be planning first and building later. This application pre-empts and undermines the significant planning process presently being undertaken by Council.	These comments are concurred with and form one of the main reasons for recommending refusal of this application.	This objection forms part of the reasons for recommending refusal
The design of the centre is not consistent with the urban design and built form principals of Council's strategic documents.	The proposed design is considered to be "box like" with little articulation or good urban design merit.	This objection forms part of the reasons for recommending refusal
The proposed development would have adverse social and economic impacts on the local community.	These comments are concurred with and form one of the main reasons for recommending refusal of this application.	This objection forms part of the reasons for recommending refusal
The proposed shopping centre is poorly located and fails to achieve fundamental design principals.	These comments are concurred with and form one of the main reasons for recommending refusal of this application.	This objection forms part of the reasons for recommending refusal
The development will create an unacceptable increase in air pollution levels, through motor vehicle emissions.	This objection has not been proven or substantiated.	This objection does not form part of the reasons for recommending refusal

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OBJECTION	IMPACT ASSESSMENT	COMMENT
The proposed left in left out access from Elrond Drive will create traffic hazards.	The application was referred to both Local Traffic Committee and Regional Traffic Committee. The referral responses did not indicate that the mentioned intersection would be dangerous.	This objection does not form part of the reasons for recommending refusal.
The developer holds other undeveloped land that would be more suitable for such a proposal.	The application as submitted must be assessed on the merits of the application.	This objection does not form part of the reasons for recommending refusal.

(e) Public interest

The application is not in the public interest and does not have the support of Local Community Groups. The public demands that Council be accountable and subsequently have transparent Policy. To approve this application would contrary to the interests of the public.

OPTIONS

1. Refuse the application in accordance with the recommendation and subsequently determine to defend the appeal with the Land and Environment Court.
2. Defer determination of the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

The applicant has already submitted a deemed refusal appeal to the Land & Environment Court, should Council to determine to refuse the application Council will continue to have legal costs for preparing a case for the appeal.

CONCLUSION

The proposed development application and DCP amendment does not conform to current Council policy as contained in DCP 9 and DCP 43. The proposal is “ad hoc” rather than based upon substantiated strategic planning for the location of a future regional “town centre” and is premature to Council’s policy for the location of a “town centre” for the Tweed Coast. Furthermore it results in the destruction of significant habitat, does not build on the existing character of Kingscliff and in any event is not an acceptable location for such a centre, in terms of strategic location relative to the needs of current and future population..

The application has major flaws, which have not been adequately addressed. As advised by Council’s Solicitors and Planning NSW, Council is not in a position to approve this application given the number of outstanding issues (including a Species Impact Statement) and conflicts with Council’s current planning controls.

Notwithstanding the need for a separate approval from Environment Australia before any works can occur on the site. Given the length of time the application has been with Council and the subsequent

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deemed refusal appeal that has been lodged with the Land and Environment Court it is now considered prudent to establish Council's position and successfully defend the appeal, which has been set down for a hearing date in September 2003.

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3. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/LEP/2000 Pt1; Tanglewood Development; LEP 2000

REPORT TITLE:

Application for a Draft Local Environmental Plan Amendment - Tanglewood Development

SUMMARY OF REPORT:

Council has received a request from Jim Glazebrook and Associates, on behalf of Interhealth Investments Pty Ltd (on behalf of the landowners Hillpalm Pty Ltd), to amend Tweed Local Environmental Plan 2000 with respect to the property known as "Tanglewood", Clothiers Creek Road, Bogangar. This project is already listed on to the Strategic Work Program, which Council resolved on 19 February 2003.

Although Jim Glazebrook and Associates have submitted that there is no justification for a Local Environmental Study, this report recommends such a Study be prepared to support and supplement the draft Plan because of the significant planning issues associated with the review of the site within the Tweed Coast. This report provides an outline of the proposal prepared by Jim Glazebrook and Associates and the planning issues that need to be addressed by Council when preparing the draft Plan and Environmental Study before deciding to proceed. This report recommends Council prepare a draft Local Environmental Plan and Environmental Study to review the land use planning provisions for Tanglewood. The report also recommends that the landowner pay the full cost for employment of a Consultant commissioned by Council to independently review the Jim Glazebrook report, other relevant information and undertake further studies (if necessary) and to independently prepare the draft Plan and Environmental Study.

RECOMMENDATION:

That:

1. Council:

- a) Informs the Director-General of the Department of Infrastructure, Planning and Natural Resources that, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, Council intends to prepare a draft Tweed Environmental Plan 2000 for land contained in Figure 1 including Lots 154 and 156 on DP 801121, Lots 152 and 151 on DP 630766 and Lots 529 and 530 Clothiers Creek Road, Tanglewood;
 - b) Advises PlanningNSW that Council considers that that a Local Environmental Study is required for 1. above in accordance with Section 57 of the Environmental Planning and Assessment Act 1979;
2. The cost of preparing the Local Environmental Study and draft Plan by an independent Consultant commissioned by Council must be paid by the proponent in addition to Council's adopted rezoning administration fee prior to commissioning the consultant;
 3. Council informs Director-General of the Department of Infrastructure, Planning and Natural Resources that, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, Council intends to prepare a draft Tweed Local Environmental Plan to zone land occupied by the Tweed Coast Motorway, to uncoloured and to zone

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Lots 532 and 533 DP 1003396 1(a) Rural and that an Environmental Study is not required.

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REPORT:

BACKGROUND

This report was considered by Council on 21 May 2003 when Council resolved “that this item be deferred to a workshop”. The workshop was held on Wednesday, 11 June 2003 and the report is re-presented to Council for determination.

Council has received a request from Jim Glazebrook and Associates, on behalf of Interhealth Investments Pty Ltd (on behalf of the landowners Hillpalm Pty Ltd), requesting Council amend Tweed Local Environmental Plan 2000 (LEP) with respect to the property known as “Tanglewood”, Clothiers Creek Road, Bogangar. The report is entitled “*Tanglewood 2002, Zoning Review and Structure Plan May 2002*”.

The property is currently zoned the following under Tweed Local Environmental Plan 2000 (refer to Figure 3);

- 1(c) Rural Living Zone – Approximately 100 hectares;
- 2(d) Village Zone – Approximately 65 hectares;
- 6(b) Recreation Zone – Approximately 166 hectares;
- 7(a) Environmental Protection (Wetland/Littoral Rainforest) Zone – 10 Hectares.

Following is an extract on the background on Tanglewood from the Jim Glazebrook report.

“The current Tanglewood zonings were introduced with the gazettal of the LEP 1987 and were based on the original Tanglewood masterplan. Those zonings do not reflect contemporary planning policy and practice and, moreover, are not consistent with the current vision for development of the land. Essentially this report seeks to address that situation and has the following aims and objectives,

- 1. To review existing land use zonings applying to the land under the Tweed LEP 2000,*
- 2. To investigate constraints and opportunities for future land use within the framework of statutory, ecological, physical, social, cultural and economic attributes of the property,*
- 3. To develop a structure plan for future management and development of the property based on sustainable land use principles,*
- 4. To identify suitable land use zonings which appropriately expressed the findings and conclusions of this report”.*

LOCATION

Tanglewood is located along Clothiers Creek Rd west of Bogangar/Cabarita Beach and east of the Tweed Coast Motorway interchange. Its location is shown in Figure 1. The parcels of land that are being recommended for a draft LEP Amendment have a total area of 341.1 hectares. These properties are:

- Lots 156 and 154 on DP 801121;
- Lots 152 and 151 on DP 630766;

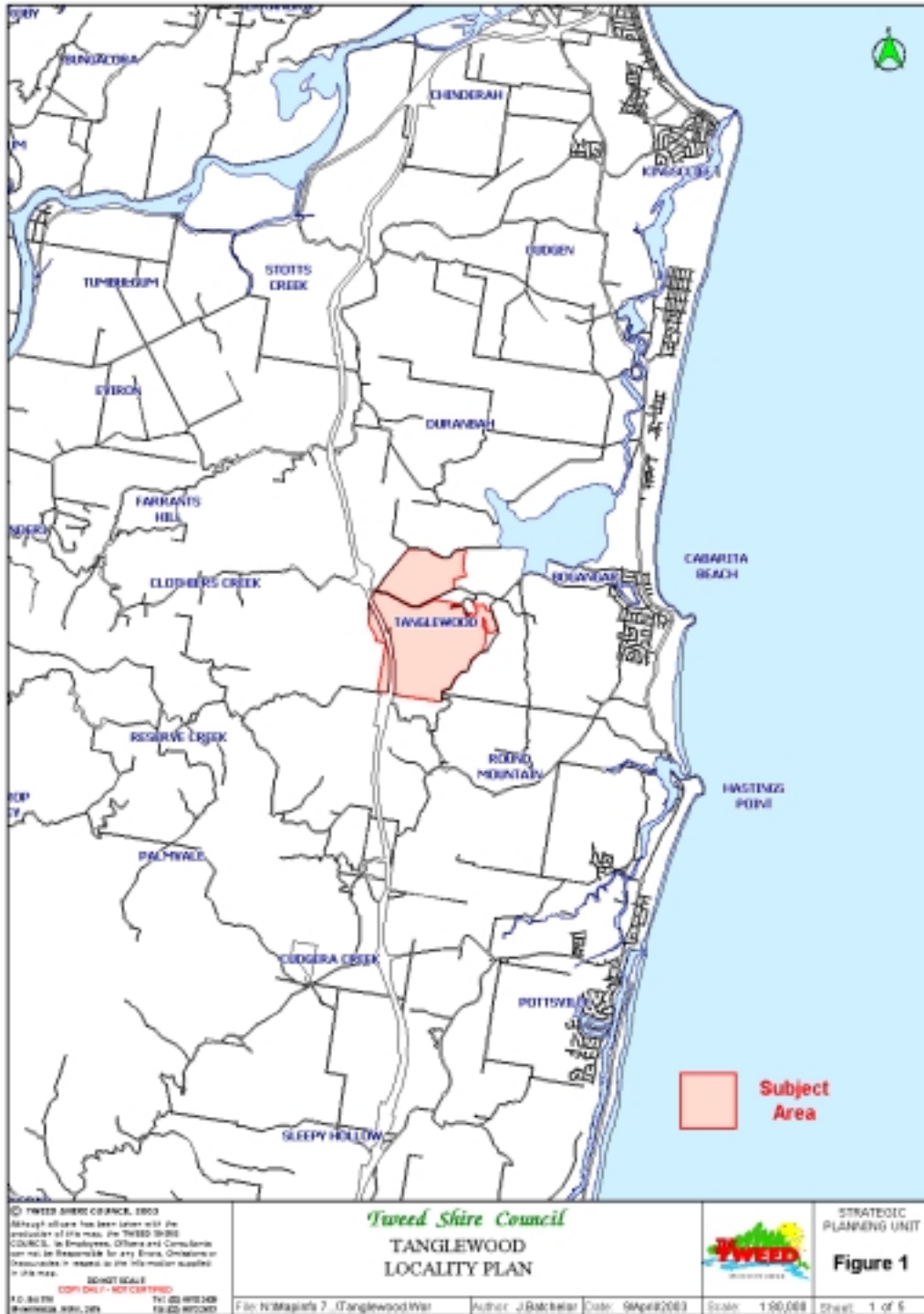
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- Part Lot 529 (part lot 529 is to be deferred from the rezoning- subject to litigation between Hillpalm Pty Ltd and adjoining landowner);
- Lot 530 on DP 1003396.

The report by Jim Glazebrook and Associates does not include Lots 532 and 533 on DP 1003396 and the road reserve of the Tweed Coast Motorway currently zoned 6(b) Recreation (See Figure 3).

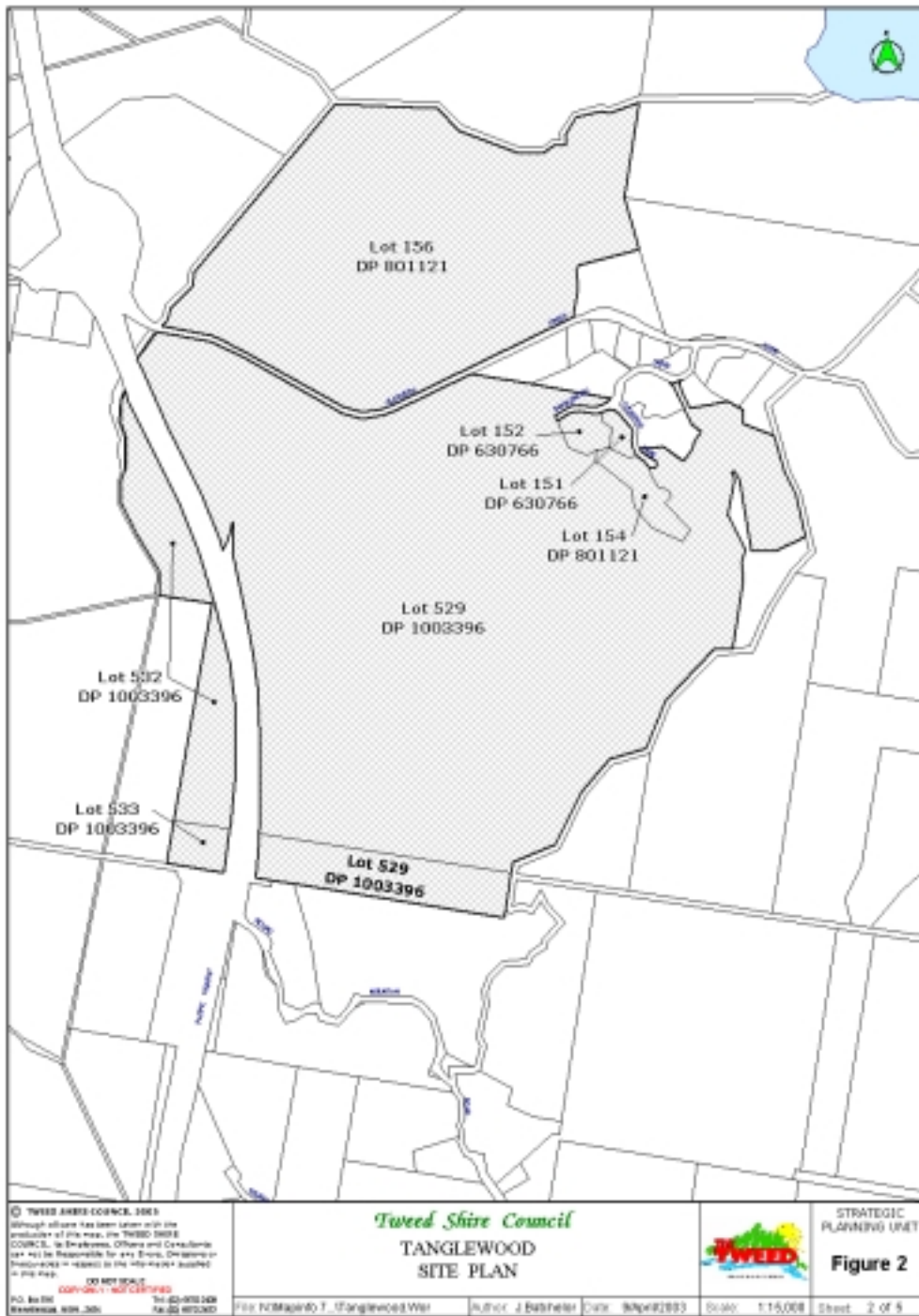
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Figure 1: Locality Plan



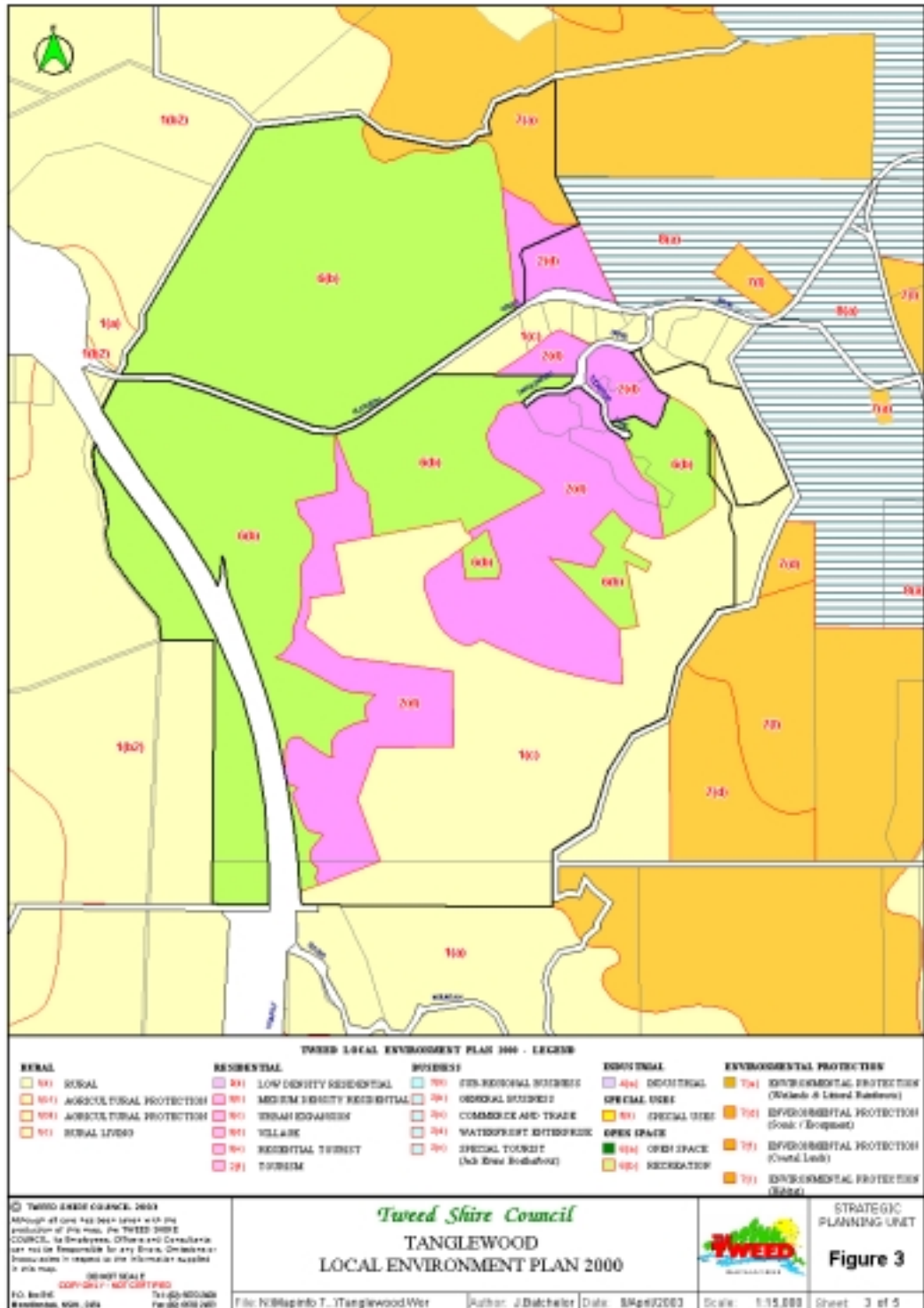
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Figure 2: Site Plan



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Figure 3: Tweed Local Environmental Plan 2000



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Figure 4: Aerial Photo



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This land was originally part of the Tanglewood development area before being acquired by the Roads Traffic Authority as part of the construction on the Tweed Coast Motorway.

PROPOSAL BY JIM GLAZEBROOK AND ASSOCIATES

The Report prepared by Jim Glazebrook and Associates outlines a Structure Plan for the subject area and this is illustrated in Figure 6. The recommended zones for the site are illustrated in Figure 5 and based on the Structure Plan. The Structure Plan and recommended zones are based on investigations and analysis by the proponent's Consultant and take into account the following constraints: SEPP 14 wetlands, vegetation, slope, contaminated land, agricultural land classification, bushfire asset protection zones, drainage, flooding, road traffic noise, cultural heritage and scenic management.

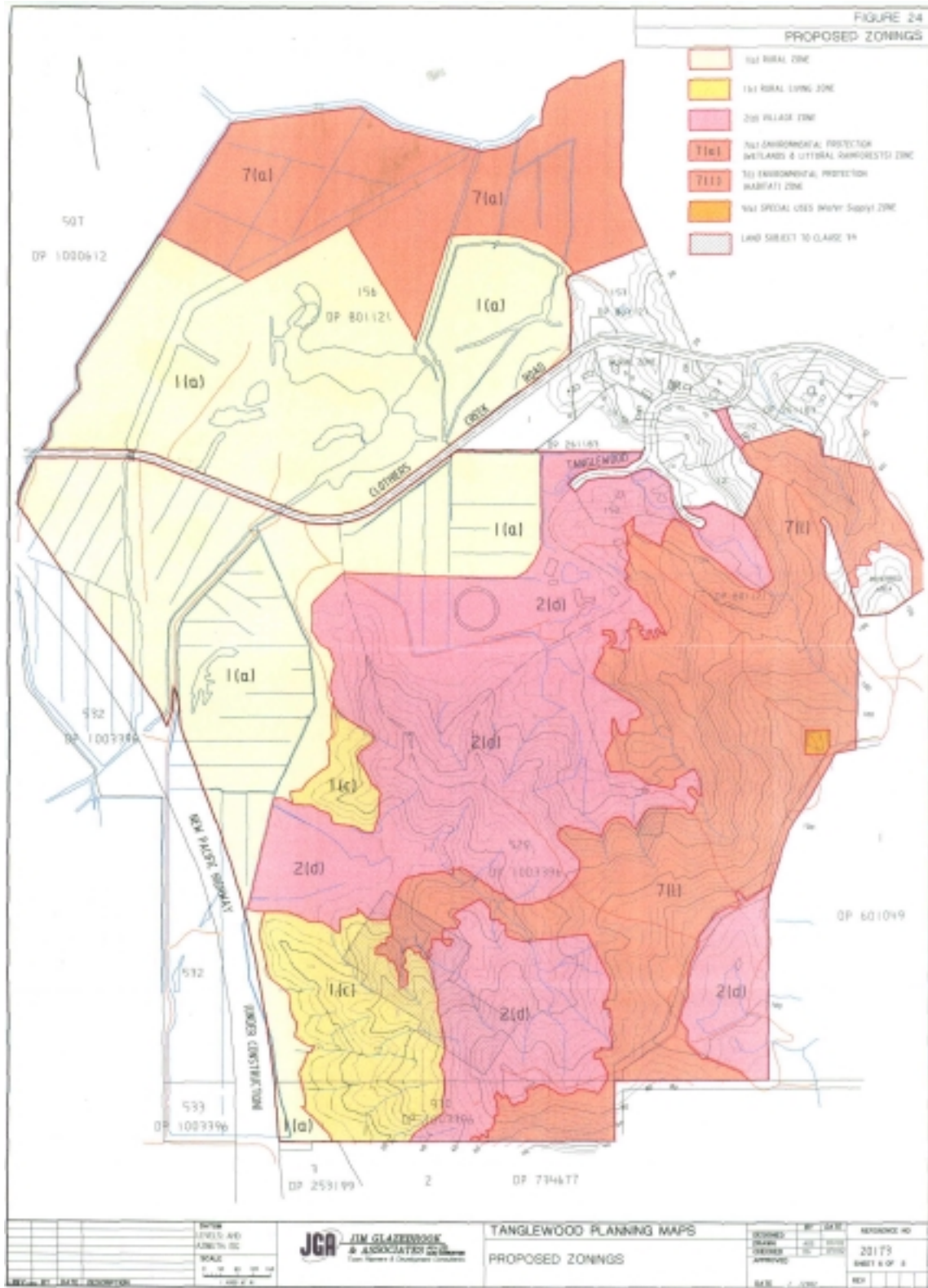
In their report Jim Glazebrook and Associates have indicated that an Environmental Study is not justified because their recommended draft Plan increases the area of land zoned Environmental Protection and because "*extensive survey work and management strategies justify and compliment the areas to be protected*". Section 5.0 of this report outlines the reason why preparation of an Environmental Study is recommended to supplement the preparation of the draft Plan.

TWEED LEP 2000 ZONE MAP AMENDMENT

Figure 5 illustrates the recommended zone amendment by Jim Glazebrook and Associates.

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Figure 5: Proposed Zones



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Table 1 is an extract from the report prepared by Jim Glazebrook and Associates and compares the area of the proposed LEP zone Amendment with the area of the current Tweed LEP 2000 zones.

Table 1: Proposed Zone Area Changes

Zone	Existing Area (Ha)	Proposed Area (Ha)	Variation (Ha)
1(a) Rural	Nil	117.10	+117.10
1(c) Rural Living	97.14	21.60	-75.54
2(d) Village	73.02	95.40	+22.38
5(a) Special Uses	Nil	0.36	+0.36
6(b) Open Space	161.30	Nil	-163.30
7(a) Wetlands	10.00	37.10	+27.10
7(l) Habitat	Nil	69.90	+69.90

STRUCTURE PLAN

Following is a summary of the components of the Tanglewood Structure Plan illustrated in Figure 5.

1. Town Centre (Proposed 2(d) Village, 11.6 ha)

A town centre precinct of approximately 11.6 ha. Consisting of “convenience style” retailing (1,000 – 1,500 GFA) and based around the existing facilities on Tanglewood Dve.

2. H1 Village Housing (Proposed 2(d) Village, 29.1 ha)

Medium density housing within close proximity to the town centre and an average lot sizes between 900 – 1,200 m².

3. H2 Village Housing (Proposed 2(d) Village, 15.5 ha)

Varying lot sizes between 900 – 1,200m² with lower densities on more elevated land.

4. H3 and H4 Rural Acreage Lots (Proposed 1(c) Rural Living, 21.6 ha)

Elevated land with lot sizes ranging from 2,000 to 5,000m². To achieve a minimum lot size of 2,000m² within a 3(c) Rural Living zone there is a proposed relaxation allowed specifically for the Tanglewood development. The current minimum lot size within a 3(c) Rural Living zone is 4,000m² provided that it is connected to a reticulated sewerage system.

5. T1 Tourism Precinct (Proposed 2(d) Village, 18.3 ha)

Proposed for convention/conference facility with associated cabin / villa style accommodation.

6. T2 Tourism Precinct (Proposed 2(d) Village, 7.5 ha)

Proposed self-contained eco-style resort comprising accommodation and resort style facilities.

7. T3 Tourism Precinct (Proposed 2(d) Village, 2.0 ha)

Proposed cabin/villa style accommodation.

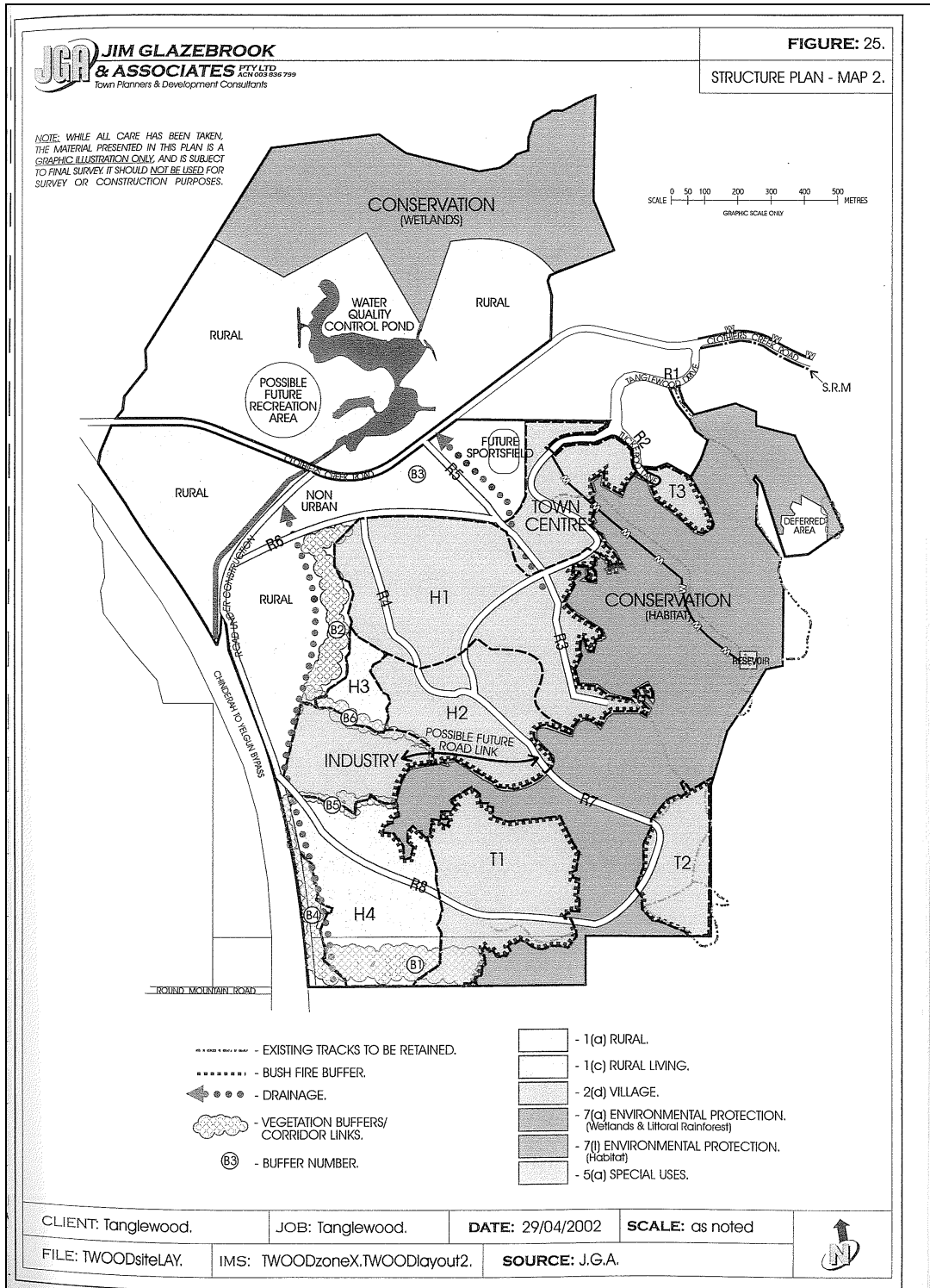
The tourism precincts have been proposed for a 2(d) Village zone so that in the event that tourism is not pursued then residential development may be pursued.

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8. Industrial Land (Proposed 2(d) Village, 9.1 ha)

9. Conservation areas (Proposed 7(a) and 7(l) Environmental Protection zones – 107 hectares)

Figure 6: Proposed Structure Plan – Tanglewood



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PLANNING CONSIDERATION - STATUTORY MATTERS

There are a number of statutory procedures and issues that Council must address when preparing a draft LEP and Environmental Study. Following is a discussion of some of the key issues that need to be addressed.

Preparing a draft LEP and Environmental Study

The report by Jim Glazebrook and Associates (2002) has been provided to Council to assist in the preparation of a draft LEP. However it must be emphasised that under the Environmental Planning and Assessment Act 1979 the preparation of a draft LEP or an Environmental Study is one for Council, not the proponent. A draft Plan or Environmental Study prepared by Council or a Consultant commissioned by Council must be independent from the proponent. Council must therefore independently review the capability and suitability of the Tanglewood site when preparing a draft Plan. Council has in the past used consultants to independently review information provided by proponents/land owners (eg, Kings Forest, Black Rocks and Cobaki). The review is undertaken to determine if the information is adequate for the preparation of a draft Plan and Environmental Study. The independent review may include undertaking additional site survey work by Council or Council's Consultant to verify data or to fill in information gaps. Once preparation of a draft Plan for a site has been 'triggered' by a Council resolution the Council must investigate the capability and suitability of a site for various land uses irrespective of the current zones that are in place. Correct statutory processing of the rezoning process, including its independence, must be put in place and maintained to ensure that the validity and integrity of the rezoning is not challenged.

Recommendation

Preparation of an Environmental Study for the site by a Consultant commissioned by Council, that includes a review and utilisation of the Jim Glazebrook report (2002), is recommended to ensure documentation supporting the proposed draft LEP represents a Study that is independent from the proponent/landowner.

State Environmental Planning Policies (SEPP)

- SEPP 14 Coastal Wetlands

A small proportion of the site (9 hectares) is affected by SEPP 14 wetland mapping by the State Planning Department and is generally mirrored by the current 7(a) wetland zone in the north-eastern area of the site. Vegetation mapping for Jim Glazebrook and Associates (2002) by Peter Parker indicates that the area of wetlands on the site is greater than indicated by SEPP 14 mapping and Tweed LEP 2000. In the past the State Planning Department have requested information on wetlands that meet SEPP 14 mapping criteria (eg, Koala Beach Estate, Kings Forest).

Recommendation

Wetland identification and mapping by the proponent's Consultant should be verified by an independently by Council.

- SEPP 44 Koala Habitat Protection

The Tanglewood site has historically been known to contain koala populations. An earlier rezoning submission to Council prepared by Burchill and Partners Pty Ltd in 1983 acknowledges the presence of Koalas on the Tanglewood site. More recently a report prepared for Council by the

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Australian Koala Foundation (1996) entitled 'Tweed Coast Koala Atlas' indicates that the majority of forested areas of Tanglewood are secondary koala habitat (Class A). SEPP 44 states that the Director of the State Planning Department will consider giving a direction that Sections 57 and 61 of that Act are to apply (Environmental Study required) to a draft Local Environmental Plan if, under the draft Plan, it is proposed to rezone land that is a potential koala habitat or a core koala habitat to a zone that is not an environment protection. The policy also requires Councils to make or amend a Local Environmental Plan:

- “(i) to include land identified as a core koala habitat within an environmental protection zone, or*
- (ii) to identify land that is a core koala habitat and apply special provisions to control the development of that land”*

The report by Jim Glazebrook and Associates does not address the issue of SEPP 44 and does not include a fauna survey of the site. The report indicates that at this stage a flora survey is considered sufficient with a fauna survey carried out at a later time to assist in determining development options. It is highly likely that on this issue alone an Environmental Study, including a fauna survey, will be required by the Department of Sustainable Natural Resources as part of the preparation of the draft Plan by Council rather than be left to lodging of a Development Application by the proponent. Recent experience with urban release sites such as Kings Forest, Cobaki, Koala Beach and Black Rocks indicate that an Environmental Study, including a fauna survey, is required to provide greater certainty to the rezoning process and to meet the statutory obligations under the Environmental Planning and Assessment Act.

Recommendation

Preparation of an Environmental Study is recommended to independently review flora and fauna issues for Tanglewood to ensure the draft Plan is consistent with Clause 29 of the North Coast REP.

- SEPP 55 Remediation of Land

Under SEPP 55 Council, in preparing an environmental planning instrument, is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:

- “(a) the planning authority has considered whether the land is contaminated, and*
- (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
- (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose”.*

The report from Jim Glazebrook and Associates (2002) states that the area was used for agricultural practices prior to the 1980. These uses include grazing, sugar cane and banana growing. As part of the report a preliminary Soil Contamination Report was prepared by Martin Findlater and Associates. This report carried out testing of targeted areas that were identified as previously being used for banana cropping. Banana cropping practices have historically used chemicals that

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contained arsenic, lead, organ chlorides and organophosphates. From the preliminary Contamination Report two areas have been identified for further investigation.

Council's Environment and Community Services Division have carried out an assessment of the preliminary Contamination Report and have indicated that the objectives of the Report are limited to contamination caused by banana cropping. Several other potential sources of contamination will need to be included in an Environmental Study associated with the preparation of a draft LEP Amendment. These other potential sources include:

- Effluent irrigation has been known to take place on several parts of the property. This type of irrigation has the potential to contaminate soils through the concentration of heavy metals.
- The on-site sewerage treatment plant and the associate effluent holding ponds will also need to be acknowledged as potentially contaminated lands.
- Sugar cane cropping has historically used chemicals with a potential of contamination.

Recommendation

Recommended that Council prepare an Environmental Study to addresses the issues raised by Council's Environment and Community Services Division and State Environmental Planning Policy 55 – Remediation of Land as part of the preparation of the draft Plan.

North Coast Regional Environmental Plan

- Clause 7 Prime Crop and Pasture Land

A large portion of the lower flood plain areas is classified as Class 4 under the Agriculture NSW's Agricultural Land Classification Mapping. The remainder of the site is identified as Class 5. As identified in the Planning Report the site has previously been used for banana cropping, sugar cane and grazing. Part of the land is now currently used a forestry research project and horse agistment and training associated with the Australian Racing Institute located on the site.

Consultation with Agriculture NSW will need to be carried out to identify what specific issues the lands may have in relation to agricultural uses within the site.

There are agricultural activities within the immediate vicinity of the site. Council's Strategic Plan identifies that as a policy (No 24) a buffer of 150 metres should be provided from agricultural activities. The Planning Report provides a preliminary buffer line to comply with this policy. This will need to be reviewed in relation to consultation with Agriculture NSW.

Given these points it is recommended that Council advise Planning NSW that an Environmental Study be undertaken as part of this draft LEP Amendment.

- Clause 14 Wetlands and Fisheries

Under this Clause a draft Local Environmental Plan should include wetlands, fishery habitats and sufficient land to separate adjoining land uses from the wetlands and fishery habitats in an environmental protection zone. The report by Jim Glazebrook and Associates (2002) appears to recommend an Environmental Protection zone for land identified as sedgeland and swamp forest. A review of the vegetation mapping is required by an independent Consultant as part of preparing an Environmental Study to determine the exact location of environmental zones in the proposed draft LEP.

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Recommendation

Preparation of an Environmental Study is recommended to independently review wetlands and fisheries issues for Tanglewood to ensure the draft Plan is consistent with clause 14 of the North Coast REP.

- Clause 29 Natural Areas and Water Catchment

This clause requires Councils, when preparing a draft LEP, to include significant areas of natural vegetation, including rainforest, riparian vegetation, wetlands, wildlife habitat, scenic areas and potential wildlife corridors, in an Environmental Protection zone.

Tanglewood contains a substantial area of native bushland. The site contains more than 200 hectares of forest/woodland and approximately 40 hectares of sedgeland wetland. A substantial area of native bushland is currently zoned 1(c) Rural Living Zone and 2(d) Village Zone under Tweed LEP 2000. The current zones therefore appear to be inconsistent with Clause 29 of the North Coast REP. The report by Jim Glazebrook and Associates (2002) recommends a substantial increase in land zoned Environmental Protection (10 hectares increased to 107 hectares). Peter Parker has based the zones on vegetation surveys.

The report by Jim Glazebrook and Associates (2002) does not address the issue of threatened fauna and does not include a fauna survey of the site. The report indicates that at this stage a flora survey is considered sufficient with a fauna survey carried out at a later time to assist in determining development options. It is highly likely that an Environmental Study, including a fauna survey, will be required by the Department of Sustainable Natural Resources as part of the preparation of the draft Plan by Council to identify and address fauna issues under Clause 29. A draft Plan for the site must, as far as possible, provide certainty on the suitability of land for urban and industrial land use. Recent experience with rezonings for urban release sites such as Kings Forest, Cobaki, Koala Beach and Black Rocks indicate that an Environmental Study, including a fauna survey, is required to provide greater certainty to the rezoning process and to meet the statutory obligations under the Environmental Planning and Assessment Act.

Recommendation

Preparation of an Environmental Study is recommended to independently review flora and fauna issues for Tanglewood to ensure the draft Plan is consistent with Clause 29 of the North Coast REP.

- Clause 20 and 38 Rural and Urban Land Release Strategy

Council adopted the Residential Development Strategy in 1991. This Strategy was prepared to satisfy Clause 20 and 38 of the North Coast Regional Environmental Plan relating to an adopted urban and rural release strategy by Council and the Department of Urban and Transport Planning. Rezoning for urban or rural residential development are required to be consistent with these release strategies under Clause 20 and 38.

Subsequently, any land to be identified for a significant urban release area should be consistent with the adopted Residential Release Strategy.

Tanglewood was previously zoned for a resort and rural residential development in 1983 (Tweed LEP No. 27). The residential component of Tanglewood was allocated under in the Tweed Local Environmental Plan 1987. Tweed LEP 1987 zoned Tanglewood as a mix of 2(d) Rural Village,

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1(c) Rural Residential Zone and 6(c) Open Space zone. The zoning of this area predates the 1991 Residential Development Strategy. The 1991 Strategy, however, forecasted a population of 2,000 people for the Tanglewood development.

Based on an existing population of 200 (TSC 1991) and an additional population of 2,323 (Jim Glazebrook and Assoc. 2002), the total potential population of the Tanglewood development is approximately 2,500. Although this represents a variation of 500 people from what was forecast in the 1991 Residential Release Strategy the proponent's Structure Plan for the site (figure 2) indicates that approximately 500 persons will potentially be tourists within the T1 –T3 Tourist precincts.

The proponent's Consultant report claims that the rezoning proposal does not require any modification to the 1991 Residential Release Strategy because the rezoning it does not "constitute significant urban growth" under clause 38 of the North Coast REP.

These estimates are based on the proponent's Planning Report and recommended zones and structure plan for the estate. It will be a requirement of the Environmental Study to determine the developable areas of the site and determine the likely population potential for the site. At this stage the proposal is unlikely to be inconsistent with Clause 20 or 38 of the North Coast REP.

- Clause. 45 hazards and clause 45A flood liable land

A large portion of the site is low lying and subject to flooding. The original 1983 Master Plan for Tanglewood Estate identified that development would be constrained below RL 2.68 metres. This was a governing factor in establishing the large portions of 6(b) Recreation zone within the site.

An assessment of the flooding potential of the area was conducted as part of the Chinderah to Yelgun Motorway Flooding Study. The Planning Study identifies that the design flood level (ARI 100 Yr) of R.L. 3.72 metres AHD is confirmed from the Motorway Flooding Study.

- Clause 58 servicing urban areas and Clause 71 provision of services to tourism development

Currently a package sewerage treatment plant services the existing residential area of Tanglewood. The plant is operating near capacity and requires considerable upgrade works. Consideration has been given in the Planning Report for the provision of reticulated sewerage to the Hastings Point Treatment Plant. This involves the construction of a rising main and 5.5km of a 225mm – 300mm diameter pipe that would follow existing road reserves to the Treatment Plant.

Preliminary consultation with the Council's Engineering Services Division identifies this as a suitable method of sewerage reticulation to the area and meets their future plans for the Hastings Point Sewerage Treatment Plant.

Reticulated water supply is currently supplied from the Duranbah Reservoir via Clothiers Creek Road. The proponents anticipate that provision of water supply above 50 meters AHD will require the provision of a storage reservoir. Council's Engineering Services Division generally concurs with preliminary details provided with water reticulation. However, clarification will need to be sought on the upgrade of water main up to Hastings Road.

- Clause 83 (b) –Miscellaneous – zones requested by public authorities

Under this clause Councils, when preparing a draft LEP, should include open space, special uses or other zonings and reservations which are requested by public authorities and relevant to those

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authorities functions. Council has not yet consulted with relevant state agencies and bodies under Section 62 and 34A of the EPA Act 1979. Consultation with these authorities is usually currently undertaken prior to the preparation of a Consultant Brief where Council intends to commission an independent Consultant to prepare an Environmental Study and draft LEP.

Section 117 Ministerial Directions

- S28 - Commercial and Retail Development Adjoining the Pacific Highway

Specifically, the S28 - Section 117 Direction relates to Commercial and Retail Development adjoining the Pacific Highway and will require further examination in the Environmental Plan. Consultation with the Roads and Traffic Authority will need to be carried out to further investigate this matter.

- C1 – Acid Sulphate Soils

This direction requires that an LEP Amendment for land identified as having a probability of acid sulphate soils will require Council to consider an acid sulphate soils study and that the draft LEP Amendment must contain provisions consistent with the Acid Sulphate Soils Model LEP.

In the planning report prepared by Jim Glazebrook potential and actual acid sulphate soils are known to exist on the Tanglewood site. This area comprises all land below RL 5.0 metres.

Recommendation

That as part of the Environmental Study, an independent review be conducted on the existing acid sulphate soils investigations as well as the planning report prepared by Jim Glazebrook. This review should also identify any existing gaps in the information and undertake investigations necessary to rectify those gaps. This work will form an acid sulphate soils study for consideration as part of the draft LEP Amendment.

- G20 – Planning for Bushfire Protection

In July 2002 the Minister of Planning issued a direction under 117 Section G20 under the EPA Act that requires Councils to consult with the Commissioner of the Service when preparing a draft LEP on land that is mapped as a 'bush fire prone area'. One of the objectives of the Direction is to ensure life and property is protected from bush fire hazard by discouraging incompatible development in bush fire prone areas.

The NSW Rural Fire Service has adopted a Bushfire Hazards Map as part of the Tweed Bushfire Risk Management Plan. The Tanglewood property has substantial areas of sclerophyll forest and woodland that are mapped by the NSW Rural Fire Service as high and medium bushfire hazard. Substantial areas of bush fire prone areas are currently zoned 1(c) Rural Living zone and 2(d) Village zone. There is also a large area identified as low bushfire hazard zoned 6(b) Recreation.

Bushfire management is discussed in the report by Jim Glazebrook and Associates (2002) and the report refers to the Service's document entitled 'Planning For Bushfire Protection' that forms part of the G20 – Section 117 Direction. Substantial forested areas are also recommended to be zoned Environmental Protection in the Jim Glazebrook report.

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Recommendation

Preparation of an Environmental Study is recommended to independently review the bushfire hazard and management issues for Tanglewood. The review and analysis contained in the Study must include the results of consultation with the NSW Rural Fire Service in accordance with the Ministers 117 Direction G20.

PLANNING CONSIDERATIONS – OTHER MATTERS

Below is a list of the relevant planning and environmental considerations that will require review as part of the preparation of an Environmental Study and draft LEP Amendment for Tanglewood.

- Road Network
- Visual Amenity
- Topography
- Noise
- Cultural Heritage
- Socio - Economic Considerations

PROPOSED INDUSTRIAL ZONE

The proposed zoning of the industrial area identified in the Structure Plan is proposed as a 2(d) Village zone. The objectives of this zone do not allow for the scale and amenity of industrial developments. 9.1ha of proposed industrial land within a 2(d) Village zone is considered completely inappropriate.

It has been proposed in the Planning Report that this area will be used by a particular company who will develop research laboratories, training, manufacturing and processing facilities. The anticipated development is expected to occupy 3,000m² GFA with an ultimate area of 5,000 – 7,000m² GFA by 2010, with an estimated employment of between 100 and 120 people. However, if no more than 70% of the site coverage (from the 7,000m²) is used then this will account for no more than 1ha out of a potential 9ha identified in the structure plan.

The adjoining areas in the Structure Plan are 1(c) Rural Living and 2(d) Village. Both of these areas will need some form of buffering from any industrial land use. The proposed land use is potentially low impact. Unless some form of policy measure is put in place to restrict industrial land to low impact development any permissible industrial use could be developed.

The proposed industrial area is within a natural valley with surrounding hills of approximately 40 metres AHD. This provides a natural buffer from the two scenic management zones within the property identified in the Tweed Shire Scenic Landscape Evaluation Study. The area will be visible from the new Chinderah – Yelgun Motorway. This will most likely not provide an offensive level of visual pollution if the size and scale of any industrial development is limited to small scale *clean* industries.

Internally the industrial area is adjoining both a 2(d) Village zone and a 1(c) Rural zone. The proposed structure plan in the planning study has identified two vegetation buffer lines of about 20 – 30m (approx). This buffering would not give adequate screening from any industrial activities

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from residential dwellings built on the ridgelines forming the valley. It is important to note that these ridgelines will also have a clear visual outlook onto the Chinderah – Yelgun Motorway.

These proposed densities could lead to a considerable number of dwellings being constructed on the ridge lines which would overlooking the proposed industrial area. This ultimately could impinge on potential use rights of any industrial area, even if the area is restricted to *clean* industries.

Considering the potential for cumulative impacts associated with the proposed residential areas associated with the Tanglewood proposal it is considered important that any draft LEP Amendment for the industrial component be considered as part of the entire Tanglewood Master Plan and draft LEP Amendment.

CONCLUSIONS AND RECOMMENDATIONS

The rezoning proposal outlined in the report by Jim Glazebrook and Associates (2002) has merit and therefore it is recommended that Council resolve to prepare a draft LEP for the site under Section 54 of the EPA Act 1979. This LEP Amendment was included in the Strategic Planning Work Program by Council resolution of 19 February 2003. Sections 4.0 and 5.0 (Planning Considerations) indicate that there are a substantial number of planning issues, including statutory planning issues that must be independently reviewed and addressed as part of the preparation of the draft LEP. It is therefore recommended that based on the recommendations in section 4.0 and 5.0 (Planning Consideration) that Council also prepare an Environmental Study to supplement the preparation of the draft LEP. The proponent should also be advised that Council will be using an independent consult to prepare the Environmental Study and draft Plan and that the Consultant's costs must be paid by the proponent prior to commissioning the chosen Consultant.

The report by Jim Glazebrook and Associates (2002) does not include land zoned 6(b) Recreation that has been acquired by the RTA as part of the construction of the Tweed Motorway. Tweed LEP 2000 was prepared prior to construction of the motorway. It is appropriate that Council included a separate recommendation to prepare a draft LEP to rezone the constructed Tweed Motorway to 5(a) Special Uses (RTA Road) and Lots 533 and 532 on DP 1003396 to 1(a) Rural Zone. These zones reflect the current land uses of these areas and therefore it is recommended that the State Planning Department be advised that an Environmental Study is not required.

Reports from Director Development Services

- 4. ORIGIN:** Strategic Town Planning Unit
FILE REF: Total Catchment Management

REPORT TITLE:

Northern Rivers Catchment Blueprints

SUMMARY OF REPORT:

The Northern Rivers Catchment Blueprint has been adopted by the NSW State Government. The Blueprint includes the Tweed Local Government area. The Blueprint, prepared by the Northern Rivers Catchment Board, has been established to provide clear direction for action and investment by all stakeholders, including Councils, in the catchment's natural resources.

RECOMMENDATION:

That Council receives and notes the Northern Rivers Catchment Blueprint particularly the strategic planning implications explained in the report.

Reports from Director Development Services

REPORT:

BACKGROUND

The Minister for Land and Water Conservation announced on 8 December 1999 that the community-government partnership in managing natural resources would be strengthened by establishing 18 catchment management boards to replace 43 catchment management committees (CMCs) and 5 regional catchment committees (RCCs).

In the North Coast region there are three catchment management boards that commenced operation in May 2000. The boards are a “whole of government” initiative and are supported administratively by the Department of Sustainable Natural Resources (previously Land and Water Conservation).

The Northern Rivers catchment management area includes the catchments of the Tweed, Brunswick and Richmond Rivers and extends three nautical miles out to sea. The Northern Rivers region embraces six Local Government areas, including Tweed Shire.

The Northern Rivers Catchment Board (NRCMB) was established by the Minister for Agriculture and the Minister for Land & Water Conservation in June 2000.

The Catchment Blueprint has been prepared by the NRCMB to provide clear direction and investment by all stakeholders, including Council, in the catchment’s natural resources. The Northern Rivers Catchment Blueprint was endorsed by the NSW Government in late 2002. A major implication of the Blueprint is State and Federal funding available to stakeholders for environmental projects. Funding (eg, NHT) must now be consistent with the Blueprint.

THE BLUEPRINT

The first three key functions of the Board included the formulation of five (5) First Order Objectives with their associated Catchment Targets, Management Targets and Management Actions with emphasis on identification of hazard/risk areas of concern.

- **FIRST ORDER OBJECTIVES:** are the community’s value statements about the desired state and functioning of the area’s natural resources in the long term. They reflect what we want to see and what we are prepared to live with.
- **CATCHMENT TARGETS:** express the community’s values and objectives in measurable and time specific natural resource and environment management targets. They fundamentally shape the plan. Catchment targets integrate the environmental, social and economic outcomes that communities want, expressed in biophysical terms. Targets are a clear indication to government and the community of priorities for action, which is where funding and other support needs to be focussed.
- **MANAGEMENT TARGETS:** are the answers to the question “what has to be done to realise this catchment target”? To develop management targets the Board has identified risk or hazard areas of concern – areas that are having a major impact, and where the implementation of realistic targets and **MANAGEMENT ACTIONS** can result in a quantifiable change within given timeframes.

The first order objectives of the Blueprint are as follows:

- Naturally occurring plant and animal species populations and their communities, maintained, enhanced and where targeted, restored.

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Recognises that conserving and enhancing what remains of our rich, natural biodiversity is of critical importance to us all.

- Health and productive natural water systems which sustain the environment and the community.

Reflects the importance of protecting and improving our river, estuary, coastal and groundwater ecosystems to enhance the environment, provide safe drinking water and suitable supply and quality for water users into the future.

- Human settlement and landuse activities managed now and in the future, to achieve sustainability in our communities, our ecosystems and in natural resource use.

Acknowledges that the pressures of growth, poor landuse practices and conflicts in landuse are significant issues for this region. It is essential that we manage these issues effectively to benefit both the community and the environment.

- The economic, social and spiritual wellbeing of the Northern Rivers community recognised and promoted, specifically the cultural heritage values of the Bundjalung Nation, with maximisation of Aboriginal involvement in natural resource management.

Identifies the importance of community wellbeing, the contribution we all make to a diverse culture, and a community's need to maintain cultural and heritage values and a place in the human landscape.

- Land resources able to support sustainable economic activity and natural ecosystems.

Encompasses the need to manage our land to reduce erosion and land degradation, to improve farming practice and to maintain the resources that support the natural environment.

The Plan's emphasis is on identification of Natural Resource Environmental Management (NREM) issues which are having a significant impact. Unlike many other NREM strategies, the Plan focuses on establishing achievable, realistic measurable targets and actions which will result in quantifiable change in the short to medium term. The Plans also spell out who will be responsible for implementing actions.

In order to formulate a Catchment Management Plan that is strategic and targeted in its approach, the NRCMB identified the following critical NREM issue areas for the Northern Rivers region.

1. Biodiversity

- Loss and degradation of native vegetation in urban and rural area with associated loss and degradation of wildlife habitat and reduction in species diversity.
- Loss or degradation of riparian vegetation.
- Loss or degradation of wetlands.
- Poor conservation of aquatic and marine species, their ecosystems and increased pollution.

2. Water

- Insufficient environmental river flow and poor ecological health of rivers.

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- Streambank erosion.
- Pollution of the waterways from urban and rural landuse activities.
- Poor water management in reference to water supply allocation and reuse.

3. Landuse

- Population pressure on the land resource.
- Landuse related conflict.

4. Acid Sulfate Soils

- Fish kills, reduced water quality and loss of aquatic biodiversity associated with Acid Sulfate Soil.

5. Aboriginal Cultural Heritage

- Aboriginal cultural heritage issues relating in particular to protection and access to culturally significant sites.
- Lack of consultation/communication with the aboriginal community.

A copy of the Northern Rivers Catchment Blueprint has been circulated to all Councillors for their information.

Although the NRCMB's Blueprint is of an advisory nature, State Government Planning Departments must take into account the intent of the Plan in the formulation of regulatory documents.

The Board will also initiate and endorse proposals for projects (managed by other organisations or community groups) to achieve their planned targets. The objectives, targets and hazard areas identified in the Plan will be the basis for commissioning and/or assessing projects submitted for funding under many Commonwealth and State natural resource investment and grant programs (eg, Natural Heritage Trust Funding).

IMPLICATIONS FOR LOCAL GOVERNMENT

Local Government Authorities are a major stakeholder in the implementation of the Blueprint. The Blueprint identifies Local Government as the 'Lead Organisation' or 'Primary Driver' for nine (9) priority actions, and as a 'Primary Partner' for an additional thirty one (31) priority actions.

Table 1 identifies the nine (9) priority actions in which Local Government is the 'Lead Organisation/Primary Driver'.

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Table 1 – Priority Management Actions for Local Government – Lead Organisation

Priority	Action No	Description	Timing		Lead Organisation	Co-Op Organisation	Status	Indicative Cost
			Start	Finish	Primary Driver	Primary Partner		
12	2.2.3	Prepare and/or complete Coastline Management Plans (including Dune Management Plans) for Tweed, Byron, Ballina and Richmond Valley Council's, ensuring Blueprint targets are considered.	2002	2007	DLWC & Local Govt	Other State agencies, community	Ex	\$600,000
13	2.2.4	Implement priority recommendations of Coastline Management Plans that contribute to achieving Blueprint targets.	2003	2012	DLWC & Local Govt	Landcare, Dunecare, community	En	\$30,000,000
15	4.1.2	Implement planning and development controls for ASS Hotspots.	2002	2003	Local govt	PlanningNSW, DLWC	En	\$60,000
35	3.3.3	Develop Integrated Water Cycle Plans to optimise the use of water, stormwater and sewage effluent.	2003	2009	Local govt & DLWC	Relevant State agencies, stakeholders & community	New	\$600,000
36	3.6.2	Identify sustainable treated effluent end uses and develop innovative reuse programs.	2002	2012	Local govt & EPA	DLWC, Health Dept	Ex	Nil
40	3.6.1	All local governments to implement integrated water cycle plans that recognise and incorporate Blueprint targets.	2003	2012	Local Govt	DLWC, EPA, Health Dept	Ex	Nil
52	2.3.3	Approach owners of targeted lots, and producer-neighbours who are economically disadvantaged by the identified conflict, with positive suggestions for customised "win-win", least cost, resolution of conflict.	2006	2010	Local govt	NSW Ag, rural producer groups	New	\$1,265,000
56	1.5.4	Complete estuary management plans within Tweed, Byron, Ballina, Richmond Valley and Lismore Shire Councils.	2002	2007	DLWC, Local govt	Other State agencies, community	Ex	\$300,000
57	1.5.5	Implement priority recommendations of estuary management plans that contribute to Blueprint targets	2002	2012	Local govt	DLWC, Landcare, community	En	\$3,000,000

Tweed Shire Council has already begun to implement some of the priority actions. For example, priority action 2.2.3 and 2.2.4 require Local Government to prepare and complete a Coastline Management Plan for the Tweed and implement priority recommendations from the Plan. This process has been initiated by Council with the completion of the Coastline Hazard Study and

Reports from Director Development Services

commitment to preparation of a Coastline Management Strategy and Plan. Council has also implemented planning and development controls for acid sulphate soils (Action 4.1.2) in the preparation and gazettal of Tweed LEP 2000.

IMPLICATIONS FOR STRATEGIC PLANNING

The Blueprint has significant implications for strategic planning in Tweed Shire including Stage 2 review of Council's LEP (rural areas of the Shire), Council's Rural Settlement Strategy, and Council's review of the Tweed Strategic Plan. The implications are discussed in relation to the five (5) Catchment and Management Targets.

a) Biodiversity Catchment Target

An additional 5000 hectares of priority high conservation value (HCV) ecosystems outside reserves or State Forests brought under active management by 2012. Priority to be given to sites at highest risk.

The emphasis of the Biodiversity Catchment Target is 'high conservation value' (HCV) ecosystems. These HCVs are defined by a variety of process, including local government vegetation plans. Council has initiated this process with the completion of the Tweed Vegetation Management Strategy 1999. The current review of this Strategy (NHT Funding) is nearing completion (Tweed Vegetation Management Strategy 2003), and includes preparation of an LEP Amendment (Amendment No 21) and amendment to DCP 40 (Clearing Exemptions etc). The Vegetation Management Plan Steering Committee is assisting the Strategic Planning Unit to finalise these documents. Although the term 'active management' in the Blueprint does not include Council LEPs the Tweed Vegetation Management Strategy 2003 and the subsequent review of the Tweed LEP and DCPs will have substantial implications for landuse planning in Tweed Shire.

b) Landuse Planning Catchment Target

Natural resources (land, water and vegetation) in the rural environment managed sustainably and integrated within an appropriate land use planning framework to overcome three principle sources of conflict by 2012.

The three sources of conflict defined as:

- (a) Agricultural land;
- (b) Human settlement;
- (c) Small rural lots.

'*conflict*' means both:

- (d) differences in community opinions about general long term use of the landscape; and
- (e) neighbour conflicts over incompatible neighbouring land uses.

'*human settlement*' means urban areas, rural residential areas, and residential use of rural land but does not include residential use clearly ancillary to agricultural use of rural land eg, genuine farmhouse.

'*manage sustainably*' means managed so that the resource is available in the long term eg, agricultural land for growing food and fibre, quarry sites for efficient extractive industries, forest for

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timber production, water supply catchments for harvest of clean water, cultural sites for reflection and learning, habitat for other species, for learning and for tourism.

A 'priority management action' (Action 2.1.1) has already been initiated by the State Government to partly address this Catchment Target. PlanningNSW, though the Lismore Living Centres, has exhibited for public comment the 'draft Northern Rivers Farmland Protection Project'. The project aims to support agricultural lands in the Northern Rivers by protecting the land from the encroachment of urban development. This project was the subject of a separate report to Council at its meeting of 4 June 2003.

This project has implications for rural landuse planning by Council and State agencies including Council's LEP review, the Rural Settlement Strategy and review of the Tweed Strategic Plan.

(c) Water Catchment Target

Stress classification lowered by at least one management category in 80% of priority sub catchments by 2012.

Definition

'*Stress classifications*' are identified in the sub-catchment report cards found in the Stressed Rivers Assessment Report – Tweed, Brunswick and Richmond Catchments (DLWC, 1999). An explanation of the classifications can be found in this report. Management actions are aimed at reducing the stress in priority sub catchments to a lower management category and maintaining those sub catchments which are currently categorised as low stress at that level.

'*priority sub-catchments*' have been identified by the Northern Rivers Water Management Committee as priorities for water sharing plans or have been identified on the basis of their natural condition or high recovery potential as identified in the River Styles reports for the Richmond (Goldrick 1999) and the Tweed and Brunswick (Lampert, Ferguson and Brierley, 1999).

In the Tweed the 'water sharing plan priority sub catchments' by 2007 are:

- Upper Tweed River;
- Brays Creek;
- Pumpenbil Creek;
- Upper Oxley River;
- Mid Tweed River;
- Sheen Creek;
- Cobaki Creek;
- Piggabeen;
- Bilambil Creek.

Targeted streambanks in Tweed for rehabilitation and protection by 2012 are:

- Upper Tweed River;
- Mid Tweed River;

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- Upper Oxley River;
- Byrrill Creek;
- Brays Creek.

Other Water Management Targets include:

- A coordinated and integrated approach to water quality data collection, storage and reporting established and implemented by 2005.
- A minimum 10% reduction in 2000/2001 per capita reticulated water usage achieved by 2012.
- Best Management Practices (BMPs) to address water quality issues to be developed and promoted for key industries and local government by 2007, and adopted by local government and a minimum of 30% of those involved in key industries by 2009.
- All treated effluent discharged from municipal Sewerage Treatment Plants (STPs) is to be of reuse standard by 2012. Where suitable opportunities exist, at least 50% of dry weather discharges are to be reused.

All Water Management Targets have implications for Tweed Shire Council. A number of projects initiated by Council's Engineering Services Division, Tweed River Committee and Environment and Community Services Division relate to the Water Catchment Target.

(d) Acid Sulfate Soils Catchment Target

50% reduction in acid outflow from targeted Hotspots and specific problem sites by 2011.

Council's Environment and Community Services Division, in conjunction with the Tweed River Committee, have undertaken a substantial amount of work with various other stakeholders to address targeted ASS hotspots in the Tweed.

The Tweed LEP 2000 also introduced new planning controls, including ASS planning maps, to trigger assessments and management plans for works that may create impacts resulting from the disturbance of ASS. Tweed is recognised as a world leader in acid sulfate soil management through the efforts of Council and the Tweed River Committee, and other stakeholders.

(e) Aboriginal Cultural Heritage Catchment Target

The relationship the Aboriginal communities within the Bundjalung Nation have with cultural sites, natural resources and the environment is to be recognised and acknowledged through establishing effective involvement in decision making processes by 2012.

Council has established the Aboriginal Liaison Committee to improve consultation between the Tweed Aboriginal community on various issues. Tweed Shire Council is also one of more than 20 Councils in the State to participate in the Aboriginal Mentoring Program. The Chairman of the Tweed Byron Local Aboriginal Land Council, Russell Logan, has been chosen to take part in the mentoring program that could eventually lead him to stand for election as a Councillor. The program was started to enable Aboriginal community members to gain a greater insight into Local Government.

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It is also likely that the Tweed Vegetation Management Strategy 2003 will provide recommendations to Council on consultation protocols with the Aboriginal community on future development proposals and landuse strategies to provide the Aboriginal community with an opportunity to identify development that may have a significant impact on Aboriginal sites.

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Reports from Director Development Services

5. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/LEP/2000 Pt1; Local Environmental Plan; LEP 2000

REPORT TITLE:

Deferred Land - Lot 1, DP 803772 and Lot 1, DP 810063, Cudgen Road, Cudgen

SUMMARY OF REPORT:

The purpose of this report is to determine the appropriate zoning of two parcels of land, Lot 1 DP 803772 and Lot 1 DP 810063, Cudgen Road, Cudgen, currently depicted as unzoned land within Tweed LEP 2000.

The site is situated adjacent to the Kingscliff TAFE Campus. Discussions with the TAFE representatives have revealed that they have no plans to acquire both parcels of land as part of the overall Kingscliff TAFE Campus in the future.

Other land in the immediate area is zoned 1(b1) Agricultural Protection and is characterised by rural farming pursuits. It is considered the zoning attributed to the subject unzoned parcels of land should reflect its surrounding land uses. Zoning both parcels 1(a) Rural would be consistent with the surrounding farmland and would also accommodate any expansion of the Kingscliff TAFE should their circumstances change in the future.

RECOMMENDATION:

That: -

1. In accordance with Section 54 of the Environmental Planning and Assessment Act, 1979 Council prepares a draft Local Environmental Plan to zone Lot 1 DP 803772 and Lot 1 DP 810063 Cudgen Road, Cudgen to 1(a) Rural.
2. The Director-General of Infrastructure, Planning and Natural Resources be requested to waive the requirement for a local environmental study given the minor nature of the proposed amendments.

Reports from Director Development Services

REPORT:

This report is provided to determine the appropriate zoning for Lot 1 DP 803772 and Lot 1 DP 810063, Cudgen Road, Cudgen.

BACKGROUND

This matter was last considered by Council at its Ordinary Meeting of Wednesday, 20 March 2002. The matter was incorporated as an item within Housekeeping (Stage 2) LEP Amendment No 26. At the time Council resolved the following:

“Council regarding Item 14 – Deferred Areas, not proceeds with the rezoning of Lot 1 DP 803772 and Lot 1 DP 810063, 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)”.

THE SITE

Figure 1 below illustrates two parcels of land (Lot 1 DP 803772 and Lot 1 DP 810063) that are designated as “deferred areas” within the Tweed LEP 2000 Maps. Tweed LEP 1987 originally zoned the subject parcels of land as 1(d) (Development Investigation Zone). Tweed LEP 1987 (Amendment No 51) resulted in the surrounding parcel of land zoned as 5(a) Special Uses (Technical College). The subject land remained zoned 1(d) (Development Investigation Zone) and was designated as a deferred area under Tweed LEP 2000.

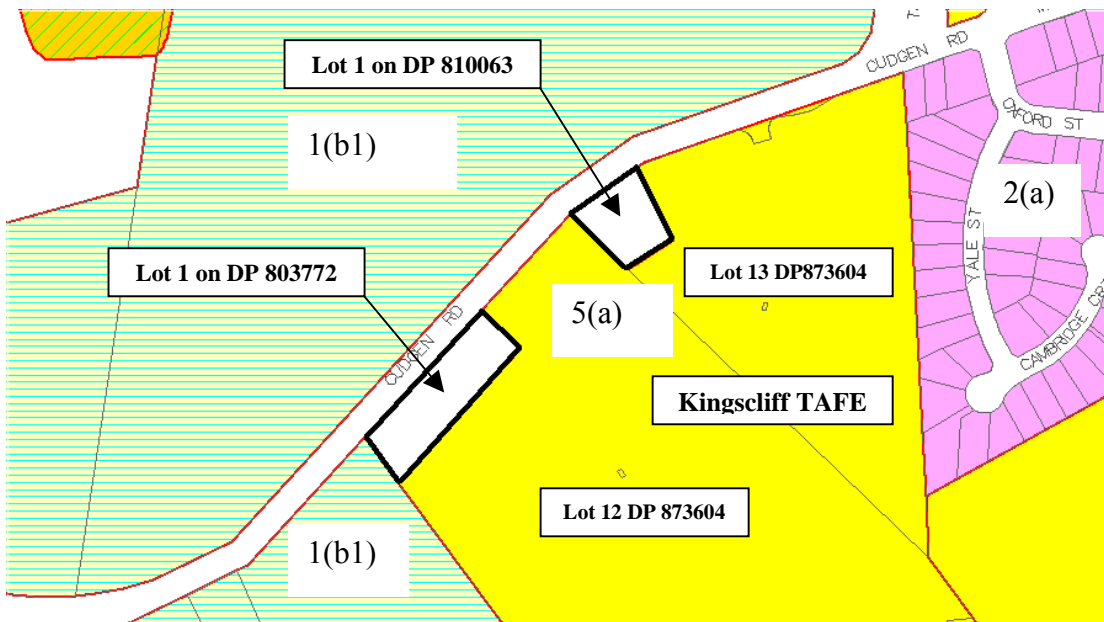


Figure 1 - Deferred Land - Cudgen Road, Cudgen

EXISTING LAND USE

Both the subject parcels of land are privately owned freehold and have dwelling houses erected upon them. Part of Lot 1 on DP 803772, is being used for agriculture. The sites are located approximately 2km from the existing Kingscliff shopping district. The Kingscliff residential

Reports from Director Development Services

township is situated approximately 500m to the east along Cudgen Road. Both parcels neighbour the existing Kingscliff TAFE Campus. Land to the north and west is characterised by agricultural land uses, comprised of Class 1 and Class 2 agricultural land.

Figure 2 provides an aerial photograph of the area illustrating the subject site and the existing surrounding land uses.

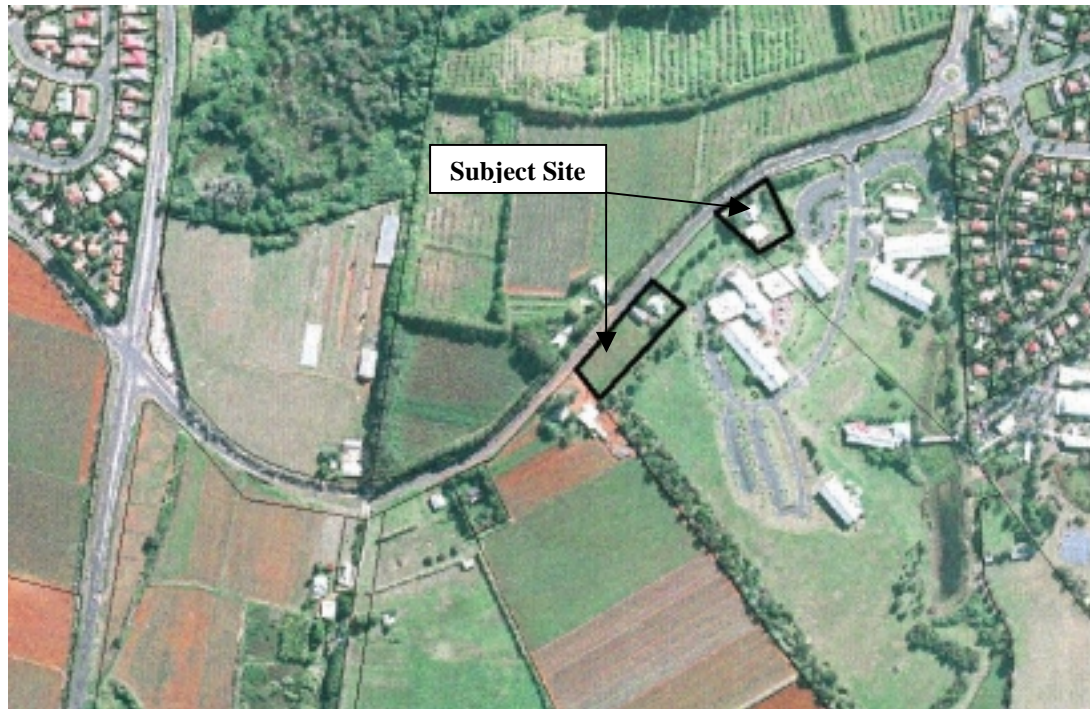


Figure 2 - Aerial Photograph

ANALYSIS OF ZONING LAND 2(A) LOW DENSITY RESIDENTIAL

Lot 1 DP 803772 is approximately 5,150m² in area. Zone 2(a) allows for the erection of dwelling houses on allotments having an area of 450m². This invariably may allow for a maximum of approximately 11 dwelling houses to be erected on the subject land. This capacity may be reduced if internal roads and other physical infrastructure requirements were required.

Lot 1 on DP 810063 is approximately 2,953m² in area. Similarly, if the same logic as above is utilised, the subject land could be subdivided and developed for the erection of 6 dwelling houses if the land were to be zoned 2(a).

If both parcels of land were to be zoned 2(a) it could possibly result in the development of approximately 17 dwelling houses in total. The development of these lots would create an urban residential ribbon style of development along Cudgen Road. The development of 17 urban lots of this nature along Cudgen Road within the subject area is not considered to be consistent with the existing character and amenity of the area and hence, inappropriate for the locality.

The Kingscliff TAFE adjoins both lots. The TAFE has been developed in a manner whereby the buildings have been substantially set back from Cudgen Road and the complex has been designed to retain substantial open space land to enable it to blend in with the amenity and landscape of the area. The TAFE buildings are currently set back approximately 45-50m from Cudgen Road. It

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would be ideal to retain a similar setback/buffer between urban buildings and Cudgen Road to retain the existing visual landscape appeal as traffic enters the township of Kingscliff. The depth of each of the subject Lots are between 40-55m in length. This makes it difficult to develop the land for urban purposes whilst still ensuring a substantial buffer is provided along Cudgen Road. Development of the subject lands for urban residential purposes will not be consistent with the existing character and appeal of the area. It will impose an urban residential land use within an area this is presently generally characterised by the TAFE College and rural farming pursuits. It is not considered appropriate to zone both parcels of land for 2(a) Low Density Residential purposes.

KINGSCLIFF TAFE

Correspondence received from the Kingscliff TAFE advises that the TAFE has no plans to purchase the subject lands for future incorporation into TAFE operations. Zoning the subject lands to 5(a) Special Uses – Technical College would facilitate the Kingscliff TAFE expansion and future endeavours and operations, however due to the advice received from Kingscliff TAFE this zoning is considered inappropriate as Section 27 of the Act requires a public authority to acquire the subject land reserved for a public purpose.

NORTHERN RIVERS FARMLAND PROTECTION PROJECT

PlanningNSW, through the Lismore Living Centres, has exhibited for public comment the draft Northern Rivers Farmland Protection Project. The draft maps associated with this project identify land to the north and west of the subject parcels of unzoned land as a State Significant Farmland Protection Area. This appears consistent with Council's existing 1(b1) Agricultural Protection zoning of this area.

STATE LEGISLATION

The subject land is situated within the NSW Coastal Zone. Pursuant to the Environmental Planning and Assessment Act, 1979 this necessitates the preparation of a local environmental study. However, the Director-General can waive the need for an environmental study where the rezoning is considered to be of a minor nature. It is considered that this draft LEP amendment is of a minor nature and the Council should request the Director-General to waive the need for a LES in this instance.

The proposed draft LEP amendment is considered to be consistent with the provisions of the relevant SEPPs, S117 Ministerial Directions, NCREP and Council planning legislation.

CONCLUSION

Lot 1 DP 803772 and Lot 1 DP 810063, Cudgen Road, Cudgen is surrounding by the Kingscliff TAFE and Agricultural Farming Land. The zoning attributed to the land currently unzoned should reflect the existing surrounding land uses and ensure the character and amenity of the area is retained and not impact upon detrimentally. It is recommended that the subject lands be zoned 1(a) Rural.

Reports from Director Development Services

6. ORIGIN: Strategic Town Planning Unit

FILE REF: Public Transport Committee

REPORT TITLE:

Ministerial Inquiry into NSW Public Transport

SUMMARY OF REPORT:

The Minister for Transport Services wishes to review funding requirements and options for the State's public passenger transport services, as part of the restructure of the transport portfolios. Regional NSW has issues over funding, service fragmentation, service coverage, infrastructure maintenance and equal treatment with metropolitan areas on fares and concessions.

RECOMMENDATION:

That Council: -

1. Delegates to the General Manager the preparation of a submission based on this report.
2. Provides a copy of the submission to the Local Government Association of NSW and the Shires Association of NSW, and to the Rural and Regional Branch of the former Transport NSW.

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REPORT:

CALL FOR SUBMISSIONS:

The Minister for Transport Services, the Honourable Michael Costa, has requested Dr Tom Parry, Chairman of the Independent Pricing and Regulatory Tribunal, to conduct a Ministerial Inquiry into Public Transport in NSW.

Submissions should be received by 30 June, for an interim report in August, and final report in December 2003. The focus of the Inquiry is to consider:

- The likely future needs of City Rail and STA Bus and Ferry operations, with regard to efficient operating and capital costs;
- Funding options to meet these revenue needs, as well as funding options for any future expansion of the public passenger transport system;
- Options for enhancing the optimum use of public passenger transport relative to other transport modes;
- Possible arrangements for incentive mechanisms which better link fares and service standards, including safety; and
- Options for better targeting the funding and delivery of transport services to meet the needs of different groups in the metropolitan and non-metropolitan communities, including rural community and health transport needs.

While only the last issue specifically refers to non-metropolitan areas, several issues apply state wide.

The Local Government Association of NSW and Shires Association of NSW are taking an interest and will be making a submission in response. It is likely that NOROC will make a submission, and the Northern Rivers Public Transport Development Project is coordinating a submission.

The Rural and Regional Branch of the former Transport NSW is also interested to receive copies of submissions from Local Government and regional stakeholders.

LOCAL AND REGIONAL ISSUES:

Issues which Council may wish to raise in the Inquiry could include:

1. Absence of mechanisms to develop public transport systems:

Under the Act passed in 1990, commercial contracts are issued for scheduled services that meet stipulated service levels. Only basic service levels are stipulated, and there is no incentive to provide higher service levels, especially in regional areas where there are no transport authorities to coordinate and oversee the transport system. There is a need for a requirement for progressive improvement, and particularly for Local Government to be able to plan and coordinate the development of local transport, rather than a fragmented, uncoordinated, privately operated system being nobody's responsibility. A few Councils have produced sustainable local transport plans, but without any regulatory powers.

2. Fragmentation of the local transport system:

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In a shire such as Tweed there are a number of quite uncoordinated providers of different local transport services. The State funds student transport through diverse private operators as a single-purpose system. Community Transport organisations are also State funded to provide social and health transport for people assessed as less mobile. The Health Dept funds emergency health transport. Dept of Ageing, Disability and Home Care provides services for the HACC population, largely related to health needs. The Dept of Veterans Affairs provides subsidised taxi schemes and other services for its own clients. Many local service organisations and facilities are funded to purchase vehicles to provide transport for their clients, which can also be hired out. General public transport is provided by licensed commercial contractors on a route-specific and unplanned basis at local, regional and interstate levels. The complex but fragmented system operating in the Richmond Valley has been well documented in a recent project by the Richmond Valley Committee of the NR Regional Strategy. There is a need for a lead authority to coordinate and assess the overall effects of the multiple systems.

3. Local transport services are too sparse for people to rely on them in regional areas:

While school and health services are generously funded, general transport for work, shopping, social, educational and recreational purposes, and for groups such as families, pensioners, young people, employment seekers, tertiary students, tourists and backpackers are provided only if commercially viable. Where not commercially viable, there are no services. There is no provision for meeting broad social transport needs which are essential for rural communities to exist, resulting in poorly-supported community organisation and considerable physical and social isolation (as well as unnecessarily raised demands for road system improvement). There is a need for funds or incentives to plan and provide a reasonable minimum transport coverage of all populated areas.

4. Non-metropolitan areas do not enjoy similar concessions as metropolitan areas:

A campaign by NCOSS recently highlighted the discrepancies existing between fare concessions provided for particular groups in metropolitan and non-metropolitan areas. The NR Public Transport Development Project recently made representations to Transport NSW on these issues.

There is much less support for disadvantaged community groups outside the metropolitan areas. Partly this is a result of there being fewer services, but in some cases parity could be achieved.

5. Maintenance of transport infrastructure and services in regional areas:

Many regional areas have transport infrastructure built in earlier times and different circumstances which should be maintained and re-used when needs arise. The prime example in this region is the Casino-Murwillumbah Branch Railway, on which maintenance has been minimised, necessitating speed restrictions and upgrading works to achieve a reasonable level of service. When growth is negative this is justified, but in high growth regional areas with road systems under pressure the old infrastructure needs to be re-activated to perform its original purpose of linking regional towns by a safe means of integrated general transport.

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6. Sustainable transport incentives:

Local Government is willing to participate in State policies towards more sustainable transport systems, but the resources being channelled for this purpose need to be clearly directed so that they have maximum effect. Funds for infrastructure such as bus shelters can have a visible supportive effect, but at present there are no funds for actual transport service improvements. These would not necessarily be in conflict with the policy of commercial service provision, but would be supplementary, such as for the provision of services that are not commercially viable, but are socially valuable.

CONCLUSION

The above issues are critical to the equitable and efficient provision of public transport in the regional areas of NSW. They need to be addressed to enable development of an adequate, fair and economically viable system.

There is an urgent need to make a submission to the State Government about them.

Reports from Director Development Services

7. ORIGIN: Development Assessment Unit

FILE REF: DA02/1387 Pt1; LN 34775

REPORT TITLE:

Development Application DA02/1387 for the Erection of a Dwelling House at Lot 12 DP 838447, No. 1497-1501 Kyogle Road Uki

SUMMARY OF REPORT:

Council resolved at its meeting of 2 October 2002 to prepare a draft local environment plan and to advise the Director-General of PlanningNSW of its intentions to do so. The Director-General was also advised that in Council's opinion a Local Environmental Study is not required, in this instance.

Draft Tweed Local Environmental Plan 2000 (Amendment No.36) was publicly exhibited from 2 April to 5 May 2003. The amendment seeks to amend Schedule 3 of the LEP by the inclusion of the subject land, relating to the area of the land zoned Rural 1(a), for the purposes of a dwelling house. No submissions have been received. It is recommend that the draft LEP be adopted and procedures implemented to expedite the Plans gazettal by the Minister administering the *Environmental Planing and Assessment Act, 1979* ('the Act')

RECOMMENDATION:

That Council forwards the draft Tweed Local Environmental Plan 2000 (Amendment No. 36), as exhibited, to the Minister administering the Environmental Planning and Assessment Act, 1979 requesting that the Plan be made in accordance with Section 70 of the said Act.

Reports from Director Development Services

REPORT:

Applicant: Mr NV Bugden

Owner: Mr NV Bugden

Location: Lot 12 DP 838447, No. 1497-1501 Kyogle Road Uki

Zoning: Part 2(d) Village and 1(a) Rural

Cost: \$120,000.00

BACKGROUND

The subject land is located on the Kyogle Road south of the Mount Warning Hotel and is described as Lot 12 DP838447 Nos.1497-1501 Kyogle Road, Uki and has an area of 7.18ha.

The land has a dual zoning of part 2(d) Village of approximately 1500m², representing 2.1% site area, and part 1(a) Rural of approximately 7.03ha. The land ranges from about RL 20m AHD on the northern boundary adjacent to Kyogle Road to about RL 70m AHD at the southern site boundary. Rowlands Creek forms the north eastern boundary of the site for a length of approximately 150m.

The applicant proposes to erect a single-storey dwelling on the south-eastern part of the site, see Figure 2 below, which is zoned 1(a) Rural however, the erection of a dwelling is only currently permissible over the allotment within the area zoned 2(d) Village. The remainder of the allotment does not comply with the 40 hectare minimum allotment size provided by the current Tweed LEP 2000 for the erection of a dwelling on 1(a) Rural zoned land and in order to facilitate the dwelling a building entitlement must first be obtained.

The applicant contends that the reason for siting a dwelling on the 1(a) Rural area is that the 2(d) Village zoned area is unsuitable for the following reasons:-

- It is located adjacent to the hotel car park and would therefore experience diminished amenity arising from vehicles entering and leaving the car park
- The site is exposed to traffic noise from Kyogle Road;
- The site may be flood prone
- The dwelling would need to be sited within close proximity to the bank of Rowlands Creek, which would limit the potential for regeneration of the riparian zone.

It is apparent from the subdivision plans submitted with the subdivision development application GS4/92/142, see Figure 1 below, approved by the Development Assessment Panel on 5 February 1993, that the desired and identified building area falls within the 1(a) Rural zoned area. On approval of the development application for subdivision, application was made to the Department of Planning on 26 February 1993 for concurrence to vary the 40 hectare minimum development standard contained in clause 25(3) of the then Tweed LEP 1987. However, application to secure a building entitlement was not sought by the Applicant, possibly as an oversight, and was subsequently not sought by Council in seeking concurrence from the Department of Planning.

Reports from Director Development Services

In order to enable the erection of a dwelling in the 1(a) Rural zoned area, in line with the applicant's original subdivision plans, an LEP amendment has been submitted to Council with an accompanying Development Application in accordance with Section 72J of 'the Act'.

NSW DEPARTMENT OF PLANNING

Further to Council's resolutions of 2 October 2002 and the communication of such to the NSW Department of Planning (PlanningNSW), the Director-General advised on 14 November 2002 of the dispensation of the requirement to prepare a Local Environmental Study and thence Sections 57 and 61 of 'the Act'.

SECTION 62 CONSULTATION PROCESS

Prior to the certification or exhibition of the Draft Tweed Local Environmental Plan (Amendment No.36) Council, pursuant to Section 65 of 'the Act', consulted with all relevant external authorities, which comprised:-

- NSW Rural Fires Service
- NSW National Parks and Wildlife Service
- NSW Department of Planning
- NSW Agriculture
- NSW Department of Sustainable Natural Resources
- NSW Roads Traffic Authority.

Response from all agencies have been received. The Department of Sustainable Natural Resources provided general terms and conditions in relation to the requirement for a Part 3A Permit pursuant to the *Rivers and Foreshore Improvement Act, 1948*.

The Department of Agriculture raised an issue relating to the proposed siting of the dwelling within 20metres of the adjoining land, which could be used for agricultural land and which could have an impact on the residential amenity. Discussion with the Department concluded with the advice that the Department would not be undertaking a site inspection and would leave the determination of the proposal to the discretion of Council. A site inspection of the subject land identified that the subject land and the adjacent property are not suitable for agriculture in the vicinity of the proposed house site by virtue of the lands topography. Past activities on the land comprises grazing utilisation only. On this basis it is concluded that the proposed house location will not impact on future pursuits over the adjoining land nor vice-versa.

No other issues of concern have been raised to the proposal.

PUBLIC EXHIBITION OF DRAFT LEP

The Draft Local Environmental Plan (Amendment No.36) was publicly exhibited in accordance with Section 66 of 'the Act' from 2 April to 5 May 2003, utilising the delegated authority provisions granted to the Manager – Strategic Planning. No submissions have been received on the proposal.

CONCLUSION

Reports from Director Development Services

Having regard to the matters raised in this report and further to the resolutions of 2 October 2002 it is concluded that the proposed Local Environmental Plan amendment (No. 36) is satisfactory for adoption and gazettal.

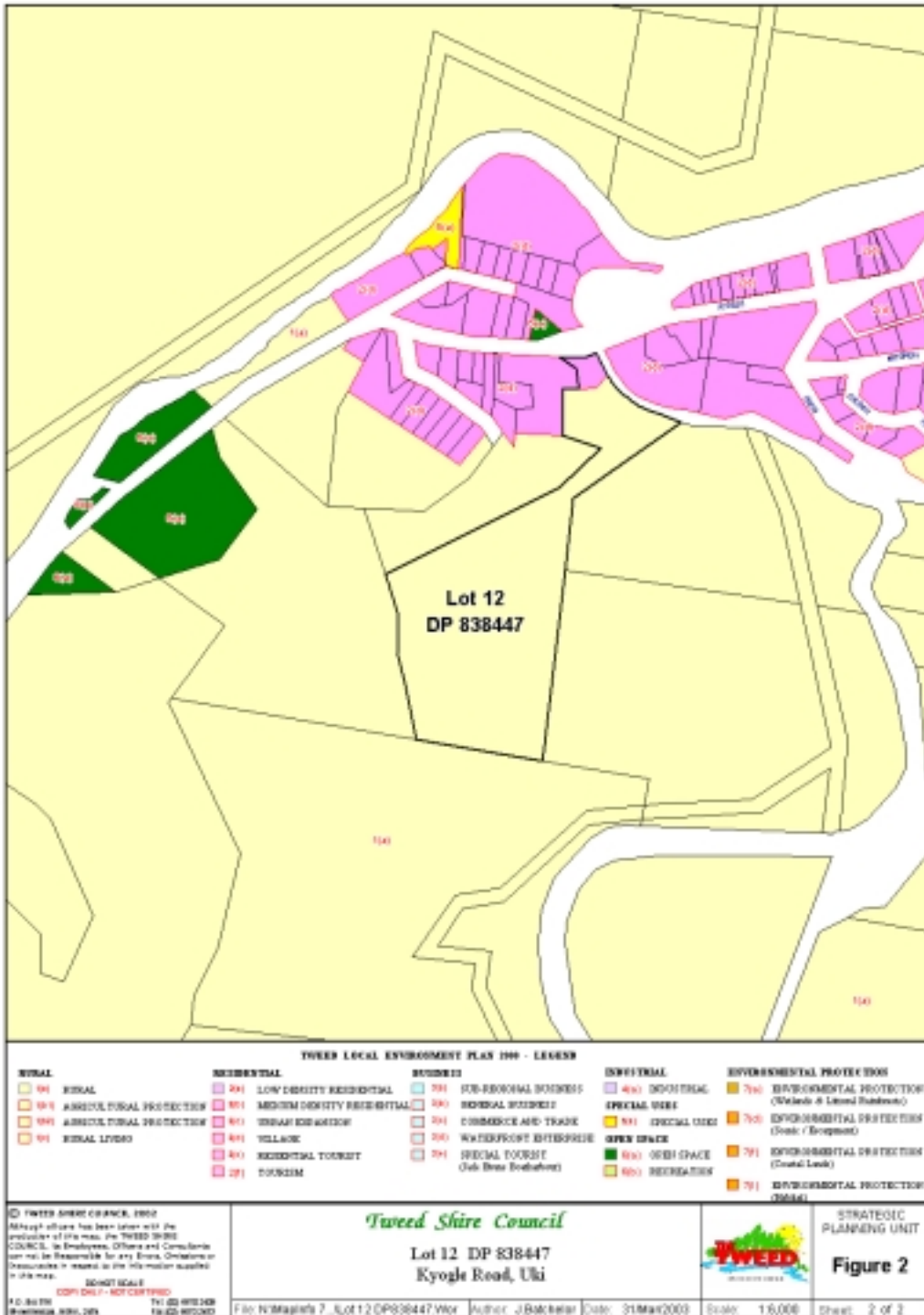
Reports from Director Development Services

FIGURE 1 – SITE LOCALITY



Reports from Director Development Services

FIGURE 2 – ZONING PLAN



Reports from Director Development Services

8. ORIGIN: Development Assessment Unit

FILE REF: DA03/0667 Pt1; LN 19637

REPORT TITLE:

Development Application DA03/0667 for a Self Storage Facility at Lot 6 DP 10297 No. 111 Kennedy Drive Tweed Heads

SUMMARY OF REPORT:

Council is receipt of a development application for a self storage facility on a Residential 2(a) parcel of land. The development is identified as prohibited. In accordance with Section 72J of the Environmental Planning and Assessment Act, 1979 the Applicant is seeking an amendment to *Tweed Local Environmental Plan 2000* to facilitate the development by inclusion of the nominated land-use into Schedule 3.

It is considered that the development has the potential to adversely impact upon neighbouring residences and will adversely contribute to the locality through the provision of a generally uncharacteristic and visually obtrusive development. It is considered that the proposed self-storage facility should be no greater than single-storey in height. The LEP amendment being sought is not supported.

RECOMMENDATION:

That :-

1. Council not support the proposed Tweed Local Environmental Plan 2000 amendment seeking inclusion of the subject land into Schedule 3 of the Tweed Local Environmental Plan 2000 for the purposes of a three-storey self storage facility, and
2. The Applicant be advised that a single-storey self storage facility may only be considered over the subject land, and
3. Amended plans reflecting the required amendments be submitted in support of the Development Application and the Tweed Local Environmental Plan 2000 amendment.

Reports from Director Development Services

REPORT:

Applicant: Whale Auto Wash Pty Ltd

Owner: Dabav Pty Ltd

Location: Lot 6 DP 10297, No. 111 Kennedy Drive Tweed Heads

Zoning: 2(a) Low Density Residential

Cost: 1200000.00

BACKGROUND

Council is receipt of a development application made in accordance with Division 4B of the *Environmental Planning and Assessment Act, 1979* comprising a proposed and presently prohibited development and a facilitating *Tweed Local Environmental Plan 2000* amendment.

The subject land is known as Lot 6 DP 10297 Kennedy Drive, Tweed Heads West. The site has an area of approximately 4255m² and has a frontage to Kennedy Drive of approximately 38m. The front (southern) portion of the site contains an approved 24-hour carwash facility. The rear portion, which is proposed to support the new development, is presently vacant.

The land adjoins a public reserve on the western and northern (rear) boundaries, which serves a passive public recreation function. A service station (fronting Kennedy Drive and Ducat Street) adjoins the south-south eastern (front) portion whilst the predominant portion of the eastern boundary adjoins residential dwellings, including dual occupancy, which front Ducat Street. The site is located between the Tweed Bypass off-ramp and Ducat Street. The Tweed Heads CBD is approximately three (3) kilometres to the northeast by road.

The proposed development comprises the erection of a three-storey self-storage facility, consisting of the following principle elements:-

1. Filling of the land to Tweed Council's adopted design flood level of RL 2.65m AHD from the current ranging natural site level of 1-2m AHD;
2. The construction of a three (3) storey storage building containing;
 - 100 storage units and an office / reception area on the ground floor;
 - 234 storage units and a manager's residence on the first floor;
 - 164 storage units on the second floor;
3. The provision of five (5) designated car parking spaces;
4. A building constructed of pre-cast concrete tilt up wall panels on the boundary elevations with colourbond walls and roller doors forming the remainder. The roof is proposed as colourbond roof sheeting;

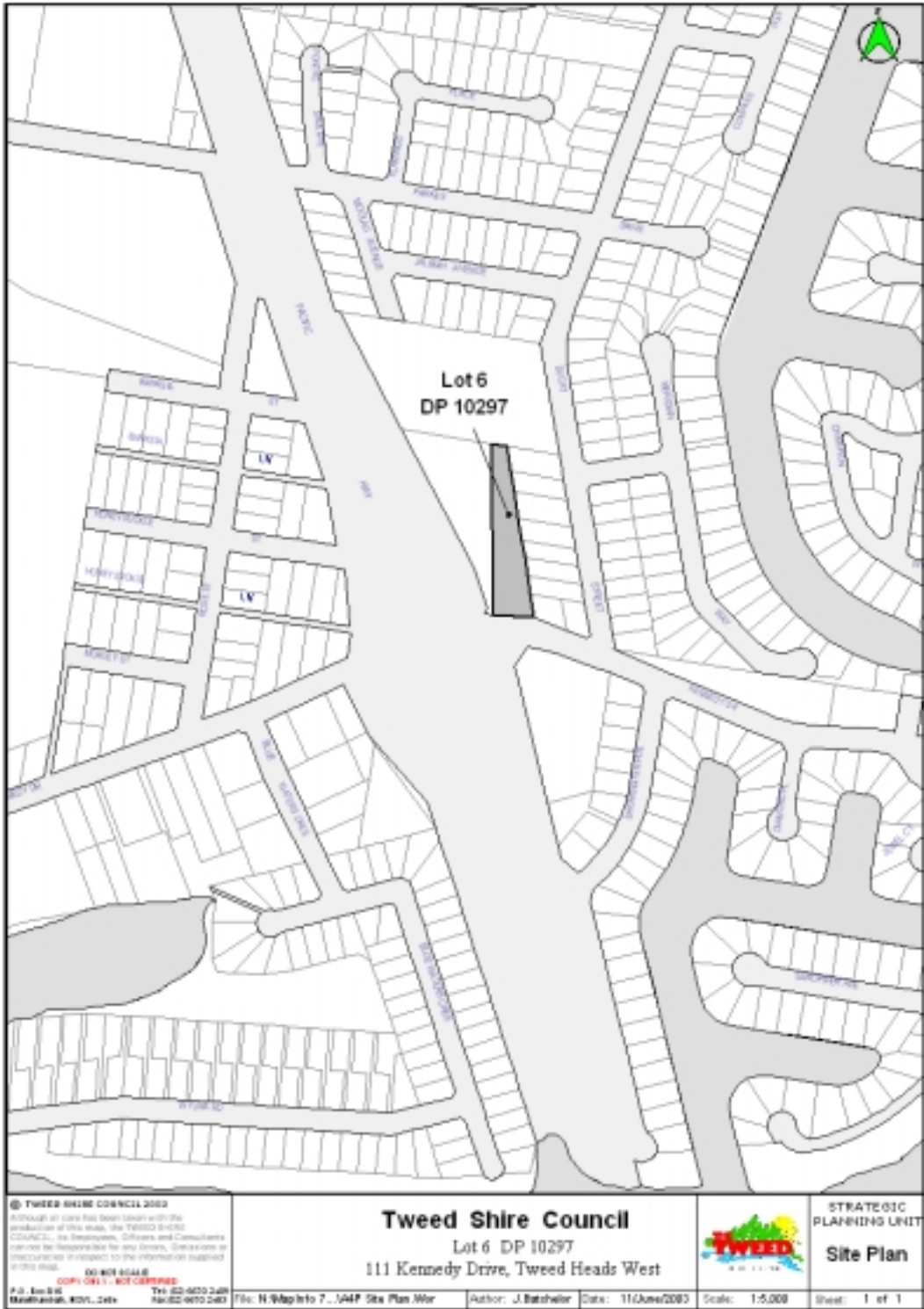
Reports from Director Development Services

5. Erection of the development in two-stages, and
6. Modification of the existing traffic island on the Kennedy Drive entrance to accommodate large rigid vehicles. Access to the complex would be via the existing carwash, which benefits from a shared right of carriageway over the neighbouring service station off Kennedy Drive.

The total floor area of the proposed three-storey storage facility (excluding undercover driveway and unloading areas) is 4469m².

Reports from Director Development Services

SITE DIAGRAM



Reports from Director Development Services

PLANNING CONTROLS

The land is zoned 2(a) Low Density Residential under the Tweed LEP 2000. Storage units are a prohibited land-use in the zone. The Applicant in their Statement of Environmental is of the view that appropriate planning justification for an amendment to the Tweed LEP exists, to enable the proposed development to be carried out on the land. Accordingly the Applicant has made provision in the development application, pursuant to Section 72J of Division 4B of the *Environmental Planning and Assessment Act, 1979* for the re-zoning (Schedule 3 amendment) and paid the \$2,200 processing fee in addition to the general application fees.

LEP AMENDMENT

To enable the erection of a self-storage facility over the subject land Council can amend the Tweed LEP by either:

1. Amend the land-use zoning from Residential 2(a) to another zoning, i.e. Industrial 4(a), or
2. Include the subject land in Schedule 3 (Development of Specific Sites) of the Tweed LEP, facilitating an exemption from the Residential 2(a) zoning table for the specifically nominated land-use.

Option 1 is not a preferred option because it would permit a far broader application of the land and could provide for undesirable land-use intensification. Option 2, which is sought by the Applicant, would limit development beyond the zoning provisions to that specifically nominated, and which is the preferred option.

The Applicant provides the following justification for the proposed rezoning:

- *The subject site already contains a commercial development (ie. car wash facility) and its development for residential purposes is limited by access and amenity constraints (ie. traffic and aircraft noise). The development of the land for a commercial enterprise (which does not rely on a town centre, industrial or road frontage site) represents an economic use of available land.*
- *Development issues have been assessed in Section 5.0 of this Statement. An analysis of these issues indicate that the site is suitable for the proposed use.*
- *The zoning of the land would remain 2(a) Low Density Residential which would prohibit other, perhaps less compatible, commercial developments on the site.*
- *The proposed amendment would be consistent with existing policies, the North Coast REP 1988 and the Tweed Shire 2000+ Strategic Plan.*”

The site is unique by its circumstance in that by virtue of its proximity to the Pacific Highway it is not, despite its Residential 2(a) land-use zoning, suitable for residential development. In addition, the lands suitability for development generally, is constrained by potential impacts upon adjoining

Reports from Director Development Services

residences and its ingress / egress off a busy intersection. In this regard, the proposed land-use per-se appears to be a reasonable design response to the further development of the land.

However, it is considered that the proposal is an over-development of the land in its proposed three-storey form. Critical to the development of the land is the impacts upon the locality in terms of visual amenity and traffic impact, and more specifically the impact upon neighbouring residential development. In this regard, it is considered that a three-storey building will be visually prominent from the local road network and is not characteristic of nor will positively contribute to the amenity of the area. In particular, a three-storey development would provide an unreasonable and unnecessary burden on the adjoining residential area through loss of amenity.

In light of the above and having regard to the Residential 2(a) zoning of the land, the proposed three-storey development is considered unjustified. Any future or amended proposal should not be permitted to exceed one-storey in height.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

The proposal is consistent with both the plan preparation and development control provisions of the NCREP 1988. The relevant clauses are discussed below:

Clause 15 - Development control - wetlands or fishery habitats

The site is not adjacent to a waterway. However, consideration needs to be given to the quality of water leaving the site and its impact on waterways. Management measures during both the construction and operational phase of the development are proposed to ensure that the proposal complies with the provisions of the Tweed Urban Stormwater Quality Management Plan. This is to be assessed by Council's Infrastructure Engineer.

Clause 32A - Plan preparation - coastal lands

This clause applies to land to which the NSW Coastal Policy applies. It requires that a draft LEP shall include provisions which are consistent with the Coastal Policy and it also contains requirements in respect of development in coastal protection zones and on dunes, beaches and headlands.

The proposal and any future Tweed LEP amendment will be consistent with the provisions of this clause.

Clause 32B - Development control - coastal lands

This clause applies to land covered by the NSW Coastal Policy 1997 and the North Coast Design Guidelines.

The North Coast Design Guidelines contains general principles concerning the location of development, particularly in relation to development on headlands and ridges, foreshores, wetlands, rainforests, inland waterways and hilly country. The proposal is consistent with the locational

Reports from Director Development Services

criteria in this document. The remainder of the document primarily concerns itself with residential and tourist development, which is not applicable to this proposal.

Clause 39 - Plan preparation - retail, commercial or business activities

This clause requires that a draft LEP for the establishment of significant retail, commercial or business development is to meet certain locational criteria. The proposal does not constitute "significant" commercial development, and therefore this clause does not apply.

Clause 45A - Plan preparation - flood liable land

The proposal does not seek to 'rezone' the land in a colloquial sense but rather amend the prohibited development schedule through a specific land-use inclusion in Schedule 3 of the Tweed LEP. Under the current zoning and Council policies the land would have to be filled to 2.65m AHD to enable residential development. The proposal seeks to comply with the requirement notwithstanding that it is not a necessary requirement when carrying out commercial development. Therefore, in terms of flooding considerations, the proposal does not result in the intensification of development per se, i.e. the amount of proposed land filling is the same as that which would ordinarily have to occur.

The proposal is consistent with the provision of this clause.

Clause 47 - Plan preparation and development control - principles for commercial and industrial development

The clause requires that before preparing a draft LEP relating to commercial or industrial development, the Council should take into account a number of principles. These principles relate to the maintenance of strong multi-functional town centres, incorporation of flexible provisions in the LEP to enable the development of light service industry near the CBD, and the adequate supply of industrial zoned land.

The proposed rezoning is a facilitating amendment only that seeks to permit the orderly and economic development of a heavily constrained residential allotment. The nature of the proposed development is not considered likely to have a detrimental impact upon existing industrial/commercial or town centre areas nor will act as a catalyst for further development. In this regard, the proposal is consistent with these principles. However, it is noted that the proposed development is not satisfactory with respect to maintaining or enhancing existing local amenity in its present three-storey form.

NSW COASTAL POLICY 1997

The subject land is affected by the NSW Coastal Policy. The Policy is essentially a strategic management document that sets out *directions to be taken by local and state government in the planning and management of the coast .. (it) is underpinned by a number of principles which are designed to guide decision making and to clarify the basic philosophy of the goals.*

Reports from Director Development Services

The Policy is required to be given effect, where necessary, through specific planning instruments. This application does not raise any inconsistencies in respect of those provisions.

STATE ENVIRONMENTAL PLANNING POLICY NO.71 – COASTAL PROTECTION

The site is within the coastal zone and therefore the provisions of the Policy apply. When preparing a draft local environmental plan and determining a development application, the Council as consent authority must take into consideration the matters outlined in Part 2 of the Policy. With respect to those matters of relevance the Applicant provides:

- “• *the site is well removed from natural waterways,*
- *the proposal does not generate the need to provide any new public access to, or along, the foreshore,*
- *the development would not be visible from the foreshore,*
- *the site is not affected by coastal processes,*
- *the development would not adversely impact on flora and fauna, and*
- *there are no known heritage items on, or within close proximity of, the site.”*

With respect to the matters in Part 4 of the Policy, it is commented that:

- *The proposal would not affect the right of access of the public to or along the foreshore.*
- *Effluent would be disposed of by a reticulated system.*
- *The development would not discharge untreated stormwater to the sea or creek.*

It is contended that the proposal is consistent with the aims of the Policy, this view is concurred with.

LAND CONTAMINATION

The Applicant has advised, based upon investigation of a series of historical aerial and topographical maps, that the site is not contaminated. Whilst a preliminary investigation of Council's files supports this view, Council's Environment and Health Services Unit is yet to carryout full investigation and interpretation of submitted documentation.

ACID SULFATE SOILS

The land is identified as Class 3 on Council's Acid Sulfate Soil Planning Map. There are no works proposed beyond 1 metre below the natural ground surface. Therefore, in accordance with the provisions of this clause, further investigation for the presence of acid sulfate soils is not required. However, the engineering investigation of the site indicates that field investigation for the occurrence of acid sulfate soils is warranted. Accordingly, the Applicant has provided an Acid Sulfate Soil Management Plan for assessment.

Reports from Director Development Services

DESIGNATED ROADS

Kennedy Drive is a designated road and the proposed development seeks to utilise the existing car wash access to this road. Clause 22 of the Tweed LEP provides that Council may grant development consent if it is satisfied of certain matters relating to traffic safety and efficiency, traffic noise and scenic quality. (Council's Traffic Engineer has assessed the existing traffic capacity as satisfactory. Ingress and egress appears on preliminary assessment to be satisfactory, however some additional supporting information is required.)

DEVELOPMENT IMPACTS – NOISE: AMENITY: OVERSHADOWING

The self-storage facility is proposed to operate seven days a week, 24hrs a day. The application is accompanied by an acoustic report. The impact of the proposal upon the neighbouring residences is to be determined by Council's Environment and Health Service Unit. Preliminary assessment of the proposal indicates that noise impacts are likely. Overshadowing of neighbouring properties and Council's open space land will occur and will contribute to any loss of amenity. In this regard, the proposed three-storey development is not satisfactory.

OPTIONS

Having regard to the issues raised in this report it is considered that the most appropriate response to the proposal is contained in the options provided.

1. (i.) Council not support the proposed Tweed Local Environmental Plan 2000 amendment seeking inclusion of the subject land into Schedule 3 of the Tweed LEP 2000 for the purposes of a three-storey self storage facility, and
 - (ii.) The Applicant be advised that a single-storey self storage facility may only be considered over the subject land, and
 - (iii.) Amended plans reflecting the required amendments be submitted in support of the Development Application and the Tweed LEP 2000 amendment, or
2. (i.) Support the proposed development in its present form and resolve to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 6 DP 10297, Kennedy Drive, Tweed Heads into Schedule 3 to enable development for the purposes of a self-storage facility, and
 - (ii) Pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979 inform PlanningNSW of Council's intention to prepare a draft Local Environmental Plan, and
 - (iii) Advise the Director General of PlanningNSW that in Council's opinion a Local Environmental Study is not considered required, in this instance.

Reports from Director Development Services

CONCLUSION

Having regard to the issues raised in this preliminary report it is clear that the suitability of the proposed self-storage facility, in its present form, is not considered appropriate. In order to pursue maximisation of Council's resources and to minimise any processing delays and financial impacts upon the Applicant, it is considered that the Tweed LEP amendment fees be held in abeyance until such time the Applicant has addressed the issues raised in respect of the storage facility, which would then permit support for the proposed Tweed LEP amendment.

Reports from Director Development Services

9. ORIGIN: Development Assessment Unit

FILE REF: GT1/DCP/16 Pt2; Subdivision Policy; Development Control Plan - DCP

REPORT TITLE:

Draft Development Control Plan No 16 - Subdivision Manual

SUMMARY OF REPORT:

A new subdivision manual has been prepared to replace the current (1993) version that is now inconsistent with current NSW legislation, government bushfire and coastal policies and subdivision best practice. The draft manual has been publicly exhibited for almost three months, has been the subject of two public workshops and a series of consultation meetings which have resulted in a number of amendments that improve the exhibited draft. It is now recommended for approval.

RECOMMENDATION:

That:-

1. In accordance with the Environmental Planning and Assessment Regulation 2000, Council approves the draft "Development Control Plan No.16, Subdivision Manual - Version 1.2" with the alterations as detailed in the amended draft included with this report.
2. Applications that have already been submitted or are part way through the subdivision process be assessed in accordance with criteria (unless contrary to current NSW legislation) in existing DCP16.
3. Six (6) months after the adoption of this DCP, Council, in consultation with the subdivision industry (developers, consultants) carries out a review of the operation of the DCP.

Reports from Director Development Services

REPORT:

1. Background

The current version of *DCP 16 – Subdivision Manual* was drafted in 1993 and reflects the legislation, practice and standards of that time.

Major changes in subdivision legislation since time have caused the current DCP to be inconsistent with current legislative requirements and is no longer a reliable guide for subdividers. There have also been many changes to subdivision policy and practice exhibited in documents such as Council's Strategic Plan, the NSW Coastal Policy, Planning NSW Urban Design Guidelines, AMCORD (the national residential development standard), Bushfire Guidelines etc that are not reflected in the current DCP. The new manual has been drafted to provide an up to date guide for subdividers that is consistent with current legislation and best practice.

The draft manual and associated design and construction specifications was adopted by Council for exhibition purposes 4 December 2002 and exhibited from 17 December 2002 until 28 February 2003.

2. Structure of the Manual

The draft Manual provides the following:-

- How the manual fits in with Council's Strategic Plan and current government policies
- Guidelines on procedural matters (applications, masterplans, assessment processes, implementing a consent, certification of subdivision works, obtaining the final subdivision certificate)
- Urban and rural design guidelines and development standards

Unlike the old manual, this draft does not contain engineering specifications for design and construction of subdivision works (roads, drainage, water, sewerage, parks etc). These are contained in a separate suite of Development Design Specifications and Development Construction Specifications that are called up by the manual.

The draft manual was reviewed during 2002 by the Urban Design Service (UDS), a business unit of Planning NSW. UDS have generally endorsed the draft and where appropriate their recommended revisions were incorporated into the text.

3. Design and Construction Specifications for Subdivision Works

Engineering specifications were incorporated into the body of the old DCP16. Some years ago it was decided to adopt the national "Aus-Spec" set of engineering specifications as the basis of engineering standards for the new DCP16. The Aus-Spec standards have been produced following a joint initiative by The Institute of Public Works Engineering Australia (IPWEA) and State Wide Roads for use by local government in all states of Australia. The Aus-Spec documents were extensively amended in house to make them consistent with Tweed Shire conditions.

4. Public Exhibition and Meetings

The draft manual and associated design and construction specifications were exhibited from 17 December 2002 until 28 February 2003:-

Reports from Director Development Services

Two public information workshops were held with key sectors of the development industry on:-

- Tuesday 4 February - Councillors, developers, consulting planners
- Thursday 6 February - Consulting engineers and surveyors

Following the workshops, a further series of meetings were held (21 February, 28 March and 10 April) between representatives of consulting engineers and Council staff to address issues of concern. The issues raised at the meetings are dealt with in the submissions section of this report.

The subdivision manual, being a statutory draft development control plan (DCP), has been exhibited in accordance with the EP&A Regulations. The accompanying design and construction specifications are not statutory documents and do not legally require the same exhibition process. However given the impact of these specifications on subdivisions, they have been concurrently exhibited with the draft manual and are being subjected to the same consultation process.

Due to the interrelated nature of the manual and specifications, many of the issues raised in the submissions and consultations have impacted on both sets of documents.

This report deals with matters raised that impact on the draft manual. A separate report to this meeting addresses the issues raised with the specifications. Some issues are common and are dealt with in both reports.

5. Submissions and Consultations

5.1 Overview

The submissions and consultation meetings that followed uncovered a number of issues that needed further attention to make the manual a more workable and user friendly document. Submissions came from a range of persons and firms in the subdivision industry, private individuals, a community group, government departments and Council units.

The final document includes a significant number of amendments (from the exhibited version) that reflects a consensus on significant issues obtained in the consultation process and is a superior document than the one exhibited. In this regard the assistance and contribution of those who made submissions and attended consultation meetings is gratefully acknowledged.

The majority of issues raised in the submissions and consultation process have been resolved by clarification of the issue or by amendments to the text. There are still some issues where agreement has not been reached through this process and these are addressed later in this report.

Initially the most contentious issue was the certification process for subdivision works and the role of the subdivision works accredited certifier (SWAC). This issue was resolved at the consultation meetings by going back to a process that more closely follows current practice, but, incorporates elements that reflect the certification and accreditation procedures incorporated into the 1998 amendments to the EP&A Act. Appendix C has been extensively amended and Appendix D has been added to incorporate these changes.

The most contentious remaining issue is the landforming criteria in specification D6. This issue is addressed in the separate report to this meeting on design and construction specifications.

The associated Development Construction Specifications (sourced from Aus-Spec) was the subject of considerable criticism because of technical issues and the large number of required hold points.

Reports from Director Development Services

The detail of these issues is in the separate report. In acknowledgement of the unresolved issues, it was considered, that for an interim period, consultants should be given the option of using their own standard construction specifications, subject to individual specifications being approved by the Director of Engineering Services. This option is included in amended Appendix B of the manual.

The exhibited draft did not include buffer distances between subdivisions and non compatible land uses (agriculture, sewerage works etc) and this omission was raised in the public workshops. In response Appendix E – Recommended Buffers has been added to the draft. As the buffer distances were not publicly exhibited it is considered they should not be mandatory but advisory only.

The NSW government departments DLWC (now Department Infrastructure Planning & Natural Resources) and EPA presented submissions on a range of environmental issues that are detailed in the next part of this report. Of most significance has been the response to their submissions of substituting a table of riparian buffer widths based on catchment area instead of an arbitrary 10m width on minor streams in the exhibited draft.

Concern has been raised regarding the processing of subdivisions that are submitted or part way through the approval process when the new DCP 16 is adopted. It is proposed that such applications be assessed in accordance with criteria in the old DCP16 (except where this criteria is contrary to or inconsistent with current NSW legislation).

There has also been concern that once adopted problems may emerge that are not obvious at present and that a trial period would be desirable. This issue is acknowledged and Council in consultation with industry should review the operation of the manual 6 months after adoption and following this review exhibit a revised manual. Further to this concern *section 1.8 Compliance with this plan* has been included in Chapter 1 of the manual/DCPI to give more flexibility.

“ 1.8 Compliance with this plan

Development applications for subdivisions will be assessed in accordance with the guidelines and requirements contained in this DCP. Council may refuse consent to an application which does not comply with this DCP, or may modify the development by way of conditions so that it does comply. Where development does not comply strictly with the provisions of the DCP, Council may still consider approving the development where the applicant demonstrates that the proposal is consistent with the objectives of the DCP and the intention of the particular guideline, and the proposed development will result in an environmentally more satisfactory development”.

5.2 Consideration of Submissions

The submissions are summarised in Table 5 which also contains comments and proposed responses to the issues.

6. Response to Submissions and Revision of Draft Subdivision Manual

The EP&A Regulations provides that after public exhibition and consideration of submissions, Council may either adopt a DCP in the form publicly exhibited, approve it with such alterations as Council thinks fit, or decide not to proceed with the plan.

The proposed response to issues in the submissions is detailed in the last column in Table 5. Amendments arising from the submissions and corrections of minor errors and omissions have been incorporated into a revised draft manual which is included with this report and recommended for adoption.

Reports from Director Development Services

The revised draft is in “revision” format which shows text deleted as ~~crossed-out~~ and added text as underlined.

Reports from Director Development Services

Table 5. Consideration of Submissions:

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
1. Martin Findlater & Assoc – 20/1/03	Time and length of exhibition period inadequate	The mandatory exhibition period is 28 days. The original exhibition period of two months was lengthened by several weeks and submissions were still being accepted and addressed 3 months after close.	Lengthened exhibition period and additional period of receiving submissions is considered adequate.
	Need for workshops	One full day workshop and one half day workshop has already been conducted	No further workshops recommended
	Difficulty in obtaining referenced documents	Many of the reference documents are available on the web. SAA standards can be purchased from the SAA and are held in the libraries of most consultants. The Water Services Code of Australia documents (the main reference for the water and sewerage design specifications) are not so readily available.	Seek copyright to reprint parts of Water Services Code of Australia documents. Provide assistance for applicants in locating reference documents
2. Chris Core, Coordinator Mount St Patrick College, Murwillumbah	Multiple occupancy not addressed	Not an issue for this DCP. Matter for LEP.	No action in this report
3. Diane Core	Multiple occupancy not addressed	As above	As above
4. Peter Smith	Multiple occupancy not addressed	As above	As above
5. Richard Harry Engineering Services	Supports making DCP16 relevant to current legislation and use of Aus-Spec standards The civil engineering contracting industry is not required to meet the accreditation and warranty provisions required by their counterparts in the building industry, Consulting Engineers who certify subdivision civil works trust the contractor to "do the right thing" and sign their collective lives away. Professional indemnity insurance offers protection, but, some consultants may not be covered, insurance companies may get out of their obligations. Some consultants just place all their assets in some one else's name.	Noted Professional indemnity and litigation issues a matter for State and Federal Governments. The EP&A Act supports a compliance certification approach with certificates issued by consultants.	No change

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
6. Century 21 AJ Maher Real Estate	The state government should be lobbied for legislative change to put more onus on civil contractors, "on maintenance" periods should be longer and bonds larger than 5%. This is a better solution than relying on a more onerous inspection and certification system as proposed in draft DCP16 Level blocks are well received by the market and sell well. They provide for cost savings for house construction, landscaping, pool construction, fencing, child safety, maintenance. Sloping blocks are slow to sell.	Agreed The draft DCP promotes low impact development that is responsive to natural topography. This may result in the retention of sloping lots in hilly areas. The landforming standards are in development design specification D6, see separate report Matter for LEP.	Request government to amend legislation No change in DCP. See separate report on development specifications (D6)
7. Greg Burgis, Friends of Terranora	Object to minimum lot size of 450m ² in 2(d) Village zone (with sewer), should be 800m ² . Subdivisions should have certain number of large growing signature trees, with 400 m ² dedicated for such for every 20 lots. Support minimal alteration to natural ground surface when subdividing, steep slopes add character and opportunities for varied house styles. Cut and fill should be rare and maximum 1.5m high with 20 year maintenance bond	The DCP promotes preservation of significant vegetation, these provisions are considered sufficient. The DCP promotes minimisation of earthworks. However in response to industry and market forces cut/fill/retaining wall heights of up to 2.5m on common lot boundaries (1.8m on street frontage) are permitted in accompanying specification D6. See Note 1 at end of table.	No action for this DCP No change No change
8. Vinnicombe & Associates	Documents presented will cause delays in all phases of development procedures Prior to final report to Council an estimate of additional costs and time to comply with these procedures should be circulated to industry and Council Objects to requirement for master planning where this involves adjoining land. (Council should do this work). Objects to master planning requirement for subdivisions of 25 or more lots.	As above This is necessary in fragmented ownership situations to ensure that early development is compatible with development of future lots in the locality. This is consistent with the requirements of SEPP71	Appendix C amended As above No change No change

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number) Mandatory requirements should be clearly separated from guidelines so it is clear where flexibility/discretion can be applied to the process	Comments	Proposed Response
	Objects to arbitrary maximum cut/fill retaining wall heights, these should be judged on their merits.	Noted.	Draft has been edited to where possible comply with this request
	Draft has a slant towards private certification. This should be reviewed to accept that in most circumstances Council will be the certifier.	Some form of height restraint is needed to prevent excessive retaining wall heights.	See separate report on development specifications (D6)
	Design and construction documentation (based on national Aus-Spec specifications) requires refinement to make them relevant to Tweed.	This responds to the 1998 amendments to the EP&A Act which promote private certification. See also Note 1 at end of table.	Appendix C amended
	Proposal to require appointment of SWAC to perform full time "clerk of works" duties is flawed and will greatly increase development costs.	Aus-Spec documents have been extensively amended in house to make them relevant to Tweed. See Note1 at end of table.	See separate report on development specifications
	Specification hold points need review and rationalisation	Agreed.	Appendix C amended
	Defects liability section incorrect in proposing that contractor/developer be responsible for maintenance on estates.	The DCP requires repair/remediation of "defects or omissions" only in the "defects liability period" which is consistent with the act and current practice. The subdivider is not required to carry out "maintenance" for normal wear and tear.	See separate report on development specifications
9. Martin Findlater & Assoc and on behalf of Greenview Dev PL & Codlea PL	<p>Cost benefit analysis needed for</p> <ul style="list-style-type: none"> • Home builders – limiting earthworks will increase housing costs compared to flat sites • Contractors – the many (<300) hold points will delay construction and result in increased costs • Developers – increased time in obtaining development approval (master plan requirements), construction and obtaining linen plan resulting in major cost implications • Consultants – increased consultant workload and costs. 	See Note 1 at end of table.	Appendix B & C amended

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
	Documents are too technical and complex and have errors, inconsistencies and ambiguities. Should be independently reviewed.	Specifications reviewed and amended in consultation process to address these issues. See Note 1 at end of table.	See separate report on development specifications
	Position and duties of the SWAC not properly thought through.	Specifications reviewed and amended in consultation process.	Appendix C amended
	Development design and construction specifications contain many requirements that are not practical, reasonable, cost effective or possible. For example D6 with limitations on retaining wall heights, earthworks and batter slopes; requirements to fence minor streams		
	Requirements of D13- Engineering Drawings Subdivisions are overly prescriptive in regard to scales and consequently drawing sheet sizes. Additional costs of preparing design and Work As Executed drawings is considerable.	WAX drawings need to be of sufficient detail to verify that works have been constructed in accordance with the design plans and allowable tolerances. It is agreed that some flexibility on scales and drawing sheet sizes is desirable.	See separate report on development specifications.
	DCP16 should be extensively reviewed and resubmitted for public comment.	There have been 2 public workshops followed by 3 meetings with a representative consultants group to sort out issues. Most issues have been addressed as detailed in this report. Further exhibition is not considered warranted.	Not recommended, but, Council's decision
10. Cardno MBK – 28 Feb 03	This is not a comprehensive list of our objections Part of document reflects a vast improvement on the current DCP Objections raised regarding the Subdivision Works Accredited Certifier (SWAC), increased drainage standards, other matters that will unnecessarily increase approval and development times/costs	Noted	Appendix C amended
11. B & P Surveys	Draft DCP well set out, very structured and in line with current day practises and ideas. Aimed more at new areas of development rather than infill development. The DCP should make it clear that infill may not be able to comply and exceptions may be granted. Requirement for >50% perimeter road frontage for local parks to restrictive should be reduced to 33%.	Dealt with in later submission by Cardno MBK. See also note 1. Noted Agreed.	Wording amended to acknowledge difficulties for infill development No change

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number) Questions on requirement to dedicate land for community centre/hall, is compensation payable, how is it proportioned between developments of 200-300 lots? Does it apply to infill development? Are battle axe handles counted in minimum lot areas?	Comments	Proposed Response
		Needs s94 plans to be consistent to cover apportionment, credits etc. Not clear in draft.	Prepare complimentary amendments to s94 contribution plans. Wording clarified to exclude area of axe handles.
	Detailed on site evaluation of sewerage management on rural >40ha lots should not be required until building application stage.	Evaluation is required to extent that there is certainty that sewerage can be disposed of on each lot to be created	Wording amended so that DAs for lots 40ha+ they must identify suitable areas for effluent disposal, but, full evaluation not required
	It is understood issues with SWAC are being addressed. Object to prohibition on regrading slopes > 18 degrees.	See Note 1. Agreed.	Amended Specification D6 amended.
	Documents seem well prepared and concise and in the overall scheme, points may seem minor, but nevertheless are important and need to be addressed. We believe the DCP should be introduced under a trial period with liaison with the industry on a 3 monthly basis or similar.		
		The Act requires the DCP to be either approved (with or without amendments as Council thinks fit) or that Council not proceed with the plan. There is no provision for a trial period. It is agreed that the DCP should be reviewed within say 6 months of its adoption to deal with teething problems and issues that may surface when the DCP is actually applied to development proposals.	Recommend Council review DCP after 6 months operation and adopt appropriate amendments having regard to experience in its application to development proposals and after liaison with the industry. Section 1.8 of Chapter 1 Compliance with This Plan also added to give more flexibility.

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
12. Ken Zealey	<p>Appointment of SWAC will be extremely expensive and unnecessary. It appears to be relieving other professions of their responsibility to ensure compliance.</p> <p>This can be done by using contractors with approved Quality Assurance or Civil Contractors Federation's Integrated Management Systems. At present contractors with these qualifications appear precluded from winning tenders (with developers) due to perceived higher costs.</p> <p>Prequalification schemes have been accepted by Midcoast Water, Liverpool City Council, Rail Infrastructure Corp, NSW RTA, Sydney Water, Penrith City Council and is being considered by other authorities.</p> <p>The draft specification for compaction of pipe trench backfill may cause damage to pipes. Compacting 150mm layers in bottom of trench is not practical. Compaction machinery should not be used until backfill is 200-300mm above the pipe.</p> <p>Contractors have not been given adequate opportunity to input into revised DCP16. If present system of awarding tenders (by developers) to the lowest price continues with contractors not being fully informed of changes there will be increased nonconforming works or increased turnover of contractors. Fully remediating faulty construction works is extremely difficult.</p>	<p>Quality Assurance systems are not favoured at this time as most local contractors are not set up for this process. It could be an option at some later time. Pre-qualification of contractors is not favoured on a Tweed Shire only basis.</p> <p>See also Note 1.</p> <p>Agreed.</p> <p>See Note 1.</p>	<p>Appendix C amended</p> <p>See separate report on development specifications</p> <p>Appendix C amended</p>
13. NSW EPA	<p>Dealing with issues of buffers (riparian, SEPP14 wetlands, SEPP 26 littoral rainforest and noise), water sensitive urban design, stormwater management within the draft is positive, will clarify development planning and should deliver improved environmental outcomes.</p> <p>Buffer of 10m on minor streams is regarded as insufficient and should be replaced with width developed by state government inter-agency working group guideline.</p> <p>Request change to section 4.2.3 by adding "Subdivision drainage systems should mimic natural(pre-development) flows by utilising such techniques as reuse, detention, retention and infiltration".</p> <p>The DCP should incorporate rainwater tanks as an example of an effective stormwater source control and re-use strategy and provide design guidance for their installation in the urban context.</p>	<p>Noted</p> <p>Agree that 10m is arbitrary and a width based on catchment area is more appropriate, however widths in the table proposed by EPA are considered excessive.</p> <p>Agreed.</p> <p>Rainwater tanks are encouraged in associated development design specification D7</p>	<p>Amend to base riparian buffer widths on catchment area, but scale down widths proposed by EPA.</p> <p>Words added</p> <p>No change</p>

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number) The DCP should incorporate a requirement for large subdivisions to prepare a Sustainable Water Cycle Management Strategy (SWCMS). (see Hunter & Central Coast model). The SWCMS should:	Comments	Proposed Response
	<ul style="list-style-type: none"> • Define water cycle outcomes including quality and flow objectives; water conservation and efficiency targets referenced to ambient quality. • Articulate strategies to obtain objectives. • Address water supply, sewerage and stormwater impacts on ground and surface waters. • Include outputs – water demand, total loads, water flows, pollutants • Options for reducing pollutants • Assess and define the capacities of infrastructure (sewerage and water supply) • Recommendations on development form for minimising impacts of development • Outline responsibilities for implementation of water cycle management measures 	<p>Councils water sensitive urban design requirements as set out in this Draft DCP, development design specification D7 and the "Tweed Urban Stormwater Management Plan" are considered to be more appropriate than the EPA's suggestion.</p>	<p>No change</p>
<p>14. Cardno MBK, representing Consolidated Properties, Leda Developments Ray Group /South Kingscliff and Metricon Qld</p>	<p>Document generally well formatted, but, some table references need correction. Dot points should be minimised and replaced with numbers.</p> <p>Draft enters regional and neighbourhood planning, whether this is relevant to finite urban land resources in Tweed is debatable</p>	<p>There is a view that the draft already contains too much numbering and that dot points provide clearer presentation.</p> <p>Urban design is an essential element of subdivision planning. On large subdivisions where there is no existing site specific DCP, neighbourhood and regional planning may also be necessary as part of this process. The draft DCP provides an urban design framework for this to take place. In the absence of this framework development of such subdivisions may have to wait until site specific DCPs are prepared.</p>	<p>Minor numbering amendments.</p> <p>No change</p>

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
	<p>The draft is heavily academic and lacks flexibility and provides insufficient scope for "on merit" assessment. Future planners may interpret it too literally. Suggest an additional clause 1.3(f) that allows "on merit" assessment and approval where warranted by circumstances and this is based on evidence which would justify the departure from written guidelines.</p>	<p>A DCP by nature has flexibility as it is only a semi statutory document & Council has the power to vary standards within it based on merit. (This does not apply to those standards in the DCP that mirror the LEP or state legislation)</p>	<p>Add specific clause to Chapter 1 to provide flexibility in application of DCP numerical standards provided there is compliance with relevant objectives and performance criteria</p>
	<p>2.2 last dot point "urban development ... to integrate with natural features, not dominate or remove them", minor amendment required to add words "attractive or significant" before "natural features".</p>	<p>This section reproduces relevant sections of the Council adopted strategic plan. This dot point is a quote from that document.</p>	<p>No change</p>
	<p>2.4 Typing error.</p>		<p>Wording amended</p>
	<p>3.1.1 DAs to be "consistent" with "master plans", would prefer the words "generally consistent".</p>	<p>Agreed</p>	<p>Wording amended</p>
	<p>4.2.1 For proposals of more than 50 lots or with earthworks more than 15,000m³ points out difficulties in objectively demonstrating "proposals do not detract from .significant landscaping characteristics" referencing Brouwer report. Should be considered at rezoning stage. Entire section on "Landscape visual character" should be deleted and reliance put on landscaping controls in 4.2.2.</p>	<p>Consider landscape assessment should be retained</p>	<p>No change</p>
	<p>4.2.2 request "that preliminary plans of final landform are to be submitted with the master plan" be substituted with "where surface profiling is likely to result in cut or fill sections of greater than 5 metres in depth, the masterplan documentation shall include preliminary details of the landform concept".</p>	<p>It is considered that "preliminary" plans of final landform should be provided at master plan stage to have an overall idea of topographical changes proposed. These can be quite significant even when less than 5m eg. SALT</p>	<p>No change</p>
	<p>4.2.3 "filling" should be added to Part 3A Rivers and Foreshores Improvement Act permit requirements.</p>	<p>Word "filling" not included in wording in RFI Act</p>	<p>Amend condensed wording in DCP to closer follow RFI Act wording</p>
	<p>4.3 7th dot point reword typing error.</p>		<p>Typo corrected</p>
	<p>4.3 8th dot point substitute "significant changes to the natural landform.." with "unjustifiable changes"</p>	<p>Agree</p>	<p>Wording amended</p>
	<p>4.3.1 Reword reference to "15 dwellings per ha" within 5minute walk or 450m of neighbourhood centre to "15 dwellings net te exclusive of roads, open space, etc".</p>	<p>This is a "preference" standard only, but, point is take. Roads are usually left out of gross density.</p>	<p>Change to exclude parklands from density calculation</p>

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
	4.3.3 General comments that the draft tables could result in requiring more than the standard 1.13ha/1000 persons of casual open space if requirements for local, neighbourhood and district parks are added together.	This misinterprets the DCP. The requirement of 1.13ha/1000 for casual open space that has been around for many years is unchanged.	Amend wording in summary table to clarify standard
	The DCP should address credits for developers who provide in excess of minimum open space land requirements.	Addressed in s94 CP 5 & 26, but, no cash credits are given. Excess open space is usually provided for the developers marketing purposes or involves land that is unsuitable for development.	No change to DCP
	Should be provision for acquisition by Council of land for public purposes by negotiation and sale where appropriate.	Addressed in s94 CPs	No change to DCP
	Requirement for frontage roads between urban areas and foreshore land is too dogmatic and should be reworded to provide flexibility.	Exhibited draft followed interim Coastal design guidelines. The final guidelines issued March 2003 are less prescriptive.	Change to reflect issued version of coastal guidelines
	Table page 31 "Public Open Space Categories" needs a reference number and reference errors corrected. Section on "excess requirements" should delete "subdividers choice" and substitute "by negotiation"	Agreed	Reference number added
	Table 4.33a, conflict in column		
	Table 4.33d, credits column, replace "may" with "will"		
	4.3.4 p 38 and repeated p45, noise buffering, delete section "acoustic barriers must not be used to create de-facto gated communities"	Requires amendment to reflect March 03 changes in Coastal Design Guidelines.	Amended to reflect Coastal Design Guidelines.
	Tables on pages 38 to 43, typo on section references.	Agreed	Amended
	4.3.4 Residential solar access provisions are clear but not sufficiently flexible where topography is a controlling factor. Amend by using words "wherever possible". Amend (e) by adding "generally" before "rectangular" and adding "preferably" before "not splayed".	Requirement is considered valid. Repeated part should be deleted.	Delete repeated section.
	4.3.4 Frontage to parks and natural areas. Reword to remove ambiguity. Lot orientation criteria overly prescriptive.	Agreed	Typos corrected Amended
	6.3.3 Design and compliance reports, similar comments as per chapter 4.	Agreed This is consistent with DCP39 and this DCP still allows 30% of lots to be non compliant.	Amended No change
			Amended to clarify requirements

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
NSW Dept of Land & Water Conservation	63.3 – 3(e) Socio/economic impact assessment. Unclear whether required at master plan phase or for each 50 lot sub-stage.	This part of the draft relates to DAs only and mirrors DCP 45, but, socio economic assessment would be desirable and logical at master plan stage.	Amend to recommend preliminary socio economic assessment at master plan stage
NSW Dept of Land & Water Conservation	3.4.3 Amend references to Acts where Act name has changed or in error. Include in table other areas of DLWC responsibility with respect to ground and surface water and impounding water. Include Crown Lands Act in table for issues of dredging from tidal waterways, use/occupation/development on or adjacent to crown land	Agreed	Amended. Also amend DLWC references to newly named Department of Infrastructure Planning and Natural Resources (DIPNR)
	3.4.5 Include DLWC in list of state government agencies recommended for early consultation	Agreed	Amended
	4.2.1 Environmental Constraints. Add additional category for coastal lands and need to demonstrate consistency with Coastal policy - maintenance and enhancement of coastal zone; siting development to avoid risk to environment, property, people and coastal processes; prohibition of development (except essential public purposes) on beaches and frontal dunes; rehabilitation of disturbed foreshore areas; rationalisation of beach accessways; consistency with Coastal Design Guidelines; all dune management works to be in accordance with DLWC manual; large scale development adjacent to dunes/beaches to be accompanied by a dune management plan consistent with DLWC manual.	Agreed in general. Interim Coastal Design Guidelines have already been included in appropriate specific parts of the DCP. Changes are required to reflect changes in the March 03 Coastal Design Guidelines	Amended
	4.2.1 50m buffers around wetlands and littoral rainforests supported, but, DCP should also require dedication to Council and a plan of management.	Agree management should be in accordance with plan of management. Do not agree that dedication to Council should be mandatory.	Amend to require management plan
	4.2.3 Realignment/conversion of natural watercourses to artificial drains generally not supported by DLWC and such works would require departmental approval.	Understood.	Amend to reflect need for DIPNR approval
	Provision of 50m riparian buffer along major streams supported, but, consider such lands should be dedicated to Council with adopted plan of management.	Agree with dedication of riparian zone for major streams only. Do not agree with requirement for mandatory dedication of minor stream riparian zone.	Amend for major streams only
	10m riparian buffer along minor streams considered too small and should be at least 20m.	See comments on EPA submission	Amended

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
	Rather than separating streams to major and minor they should be defined by their order number (Strahler, 1964)	As above	Amended to use table based on upstream catchment area
	Requirement to revegetate riparian buffers is supported. Complimentary aim should be to increase length and connectivity of such areas.	This should be included as an aim, but, not as a mandatory development standard	Amended
	Reference p21 to Part 3A permit should be expanded to include "...excavation, removal of material or works..." and reference to "Soil Conservation Act" should be changed to "Native Vegetation Conservation Act, 1997".	Agreed	Amended
	4.3.3 All land to be dedicated to public should be under active management plan. Exact requirements in terms of tenure and ongoing management should be clarified in a table.	Much land dedicated to the public is managed as part of the Council's parks and playing fields and is managed as such in accordance with the management plans of the Recreation Services Unit. Table not considered necessary	No change
	5.3 Rural subdivision structure. Need to nominate buffers to agricultural land.	Agreed	Recommended buffers now in Appendix E
	5.3.1 General layout criteria for rural subdivisions could be strengthened by replacing "should" with "must".	Some flexibility is desirable	No change
	Number of rural lots created should not increase number of land parcels which enjoy basic landholder rights under WMA in sensitive or stressed water sources.	Matter for LEP and rural settlement strategy	Refer to rural settlement strategy
	5.3.3 Rural water supply. All new rural development must not be reliant on groundwater, creek or river supply to satisfy domestic and non-domestic needs	Agreed	Amended
Allan Reeve & Assoc.	Comments on timing of workshops at end of consultation period and large size of documents	Exhibition period extended after workshops to enable more time to prepare submissions	
	Critical of inspection procedures and role of SWAC	See Note:1	
Additional DCP16 issues raised by participants at Public Workshops 4 & 6 February 2003	Site specific DCPs should be prepared prior to release of land to control/manage development	Desirable but beyond the scope of this DCP	No change

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
	Provisions relating to commonwealth protection should be included	Agreed	Amended
	Provisions regarding buffers should be included in the DCP	Agreed	Amended
	15% restriction on cul-de-sacs may be excessive, particularly in infill subdivisions or where there is difficult topography. Variations should be permitted.	Provision is consistent with urban design principles and should be retained for greenfields subdivisions. Could be less restrictive for infill subdivisions layouts are constrained by existing development.	Amended to be less restrictive on infill subdivisions.
	DCP 39 Solar Access should be incorporated into this DCP.	This DCP incorporates principles of DCP 39 and provides subdivision specific requirements	No change
	Multiple battle axe handle accesses may have excessive width under the DCP.	DCP refers to specification D1 – Road Design	Wording in D1 clarified regarding widths of multiple battle axe legs
	Subdivision works accredited certifier (SWAC), issues regarding operation, costs, level of inspections, responsibilities, compliance certification.	See Note 1.	Appendix C amended
	Issue and certification of work as executed drawings	See separate report on development specifications	
	Method proposed to amend specifications	As above	
	Transition issues, DAs already approved or started, how will they be assessed.	Needs clarifying in DCP	Transition arrangements addressed in recommendation to Council
Council Divisions			
Development Control Unit	Construction specifications are causing concern with developers and consultants, applicants should be able to use alternate construction specifications for an interim period	Agreed.	Amend Appendix B to permit use of other construction specifications such as consulting engineering firms standard specifications for an interim period of one year.
	Compliance certificate needed on plans accompanying construction certificate, certifying that plans comply with conditions of development consent	Agreed	Add requirement to section 7.2.3

Reports from Director Development Services

Author	Issues Raised in Submissions (Sections in draft DCP 16 are referenced by their section or page number)	Comments	Proposed Response
Engineering Services Division	Standard road cross section table referred to in 4.3.2 omitted in draft	Refers to table in Development Design Specification D1 – Road Design Agreed	Repeat simplified version of table in DCP16
	An additional urban street classification is required for lower trafficked connector roads Default cross section criteria is required for arterial roads not detailed in the TRCP	Agreed	Additional classification included in above table. Included in cross section table
	Table 4.21 a "riparian vegetation" classification should be added to the categories of significant vegetation	Riparian vegetation can be added to the definition of "ecologically significant vegetation"	"riparian vegetation" added to definition
	4.2.3 "waterways traversing the subdivision" regarding retention of natural watercourses, delete "should" and replace with "must/shall".	Point is understood, however as final arbiter is Dept IP&NR, wording should be amended to reflect this.	Wording amended to advise final approval necessary from Dept IP&NR
	"Waterways; waterbodies; riparian areas and riparian vegetation", disagrees with 10m width of riparian buffer on "minor streams"	Point also picked up by DLWC (now DSNR) and EPA.	Table 4.23 of riparian buffer widths based on catchment area substituted for arbitrary 10m width.

Note 1. Amendments to Appendix C (Compliance certification of subdivision works) arising from consultation with industry following the exhibition period and workshops.

Following the industry workshops 4 & 6 February 2003, a series of meetings were held with representatives of the consulting engineering industry and Council's engineering and planning staff to address concerns with the proposed subdivision works compliance system, in particular the powers, duties and responsibilities of the subdivision works accredited certifier (SWAC). These meetings reached consensus on a compliance system that more closely resembled the current system (than the system proposed in the exhibited draft), but, incorporated many elements that are consistent with the 1998 amendments to the EP&A Act.

In the revised system the SWAC's duties are similar to the current role of the developer's supervising engineer. The main changes (from current practice) are that the compliance certificate to be issued is to be in accordance with Part 4 of the EP&A Act and the certifier is required (after the expiration of a transition period) to be accredited (and insured) in accordance with the Act.

Appendix C as exhibited has been extensively amended and Appendix D has been added to the draft to enact the agreed changes

Reports from Director Corporate Services

10. ORIGIN: Financial & Information Services Unit

FILE REF: Budget; Management Plans

REPORT TITLE:

Management Plan 2003/2006 and Budget 2003/2004

SUMMARY OF REPORT:

Council Management Plan for 2003/2006 has been on public exhibition for twenty-eight days. The Plan includes the Revenue Policy Fees and Charges and Budget of 2003/2004. The Minister for Local Government has set a limit of 3.6% for increase in General Purpose income for rating year commencing 1 July 2003.

RECOMMENDATION:

That :-

1. Council's 2003/2006 Management Plan and 2003/2004 Budget be adopted;
2. Comments received on the Management Plan be considered.

Reports from Director Corporate Services

REPORT:

MANAGEMENT PLAN 2003/2006 AND BUDGET 2003/2004

BACKGROUND

Meeting community needs is a major challenge facing Council. This year's Management Plan focuses on delivering essential services whilst maintaining assets at an improved standard. In relative terms, the Tweed Shire has continued to grow at a steady rate. This growth brings with it many challenges, placing increased demands on the resources of Council.

The Management Plan is the core corporate and strategic document that Council applies in determining its resourcing priorities and therefore is an important document in the systematic evaluation of service levels, objectives and performance achievement.

VARIATION TO GENERAL INCOME FOR 2003/04

The Minister for Local Government has announced a 3.6% increase General Income in terms of Section 506 of the Local Government Act 1993 for the rating year commencing 1 July 2002.

MANAGEMENT PLAN

The Management Plan provides a 3 year program aimed at effectively meeting the expected needs of the community. The Plan clearly states Council's vision and mission, the core values and prioritised principal activities providing a clear indication of Council's intention for the coming 12 months and the following 2 years.

The Management Plan is structured to describe what Council will be undertaking this year, its performance targets and how it would measure its level of performance. Statutory performance indicators requirements are supported by an additional range of management performance measures. These will form the basis of the General Manager's quarterly reports and the annual report to the community. The 3 year Plan is a complete document and therefore needs to be read in its totality to appreciate the strategic direction and priorities.

PUBLIC CONSULTATION

In accordance with Section 405 of the Local Government Act 1993, Council must give public notice of its Draft Management Plan after it has been prepared.

The Draft Management Plan went on public display on Monday 19 May 2003 and the Management Plan consultation process involves seeking comments from the ratepayer/community of the Tweed as to their expectation of the Plan. To facilitate this approach, Council has placed copies of the Draft Management Plan and supplementary documents on public display

BUDGET REVENUE POLICY

Council has the option at this meeting to amend the Management Plans and Budget as well as vary the fees and charges.

COUNCIL'S FINANCIAL POSITION (2003/2004) – BUDGET

The Budget as presented is balanced. If any surplus funds become available from operations during the year, these should be applied to increase the level of accumulated funds so that Council has a sound financial platform on which it can build.

Reports from Director Corporate Services

Program Budgeting used in the Plan provides both a financial and management analysis of the individual programs and services offered by Council and in conjunction with the various program objectives and performance measures allows an ongoing review of services related back to the individual program objective. Extensive use of activity based costing is used to support this process.

The objectives of the 2003/2004 Budget are:-

- To recognise, and as far as possible meet, the stated policies and priorities of Council;
- To restrain expenditure, wherever possible;
- To maximise income from all sources subject to the stated policies of Council;
- To achieve economy of operation;
- To achieve “self funding” where appropriate.

Changes to draft budget since consideration by Council on 14 May 2003.

1.	Kingscliff Amenities Hall – Asset Management	\$30,000.00
	Asset Management Reserve – Community Facilities	CR \$30,000.00
2.	On Site Sewerage Management	\$130,000.00
	Income – Fees	CR \$130,000.00
3.	LEP Review	
	Rural Planning	\$20,000.00
	Reserve – Workers Compensation	CR \$20,000.00
4.	Water – Capital Works Program	Approved Meeting – 5/3/03

DRAFT BUDGET FOR 2003/2004

General Fund	\$72.6 million
Water Fund	\$27.1 million
Sewerage Fund	<u>\$26.7 million</u>
Total	\$126.4 million

Department of Local Government Comparative Information (released May 2003)

	TSC	NSW
Average Residential Rates	\$547	\$571
Average Farmland Rate	\$1,000	\$1,374
Average Business Rate	\$1,834	\$3,284

PUBLIC COMMENT RECEIVED

Submissions received from the public on the Management Plan/Budget are attached.

Reports from Director Corporate Services

CONCLUSION:

Council's 2003/2006 Management Plan provides Tweed with a unifying focus for management of all the Authorities' activities and operations.

Reports from Director Corporate Services

11. ORIGIN: Financial & Information Services Unit

FILE REF: Monthly Investment Report

REPORT TITLE:

Monthly Investment Report for the Period Ending 31 May 2003

SUMMARY OF REPORT:

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

RECOMMENDATION:

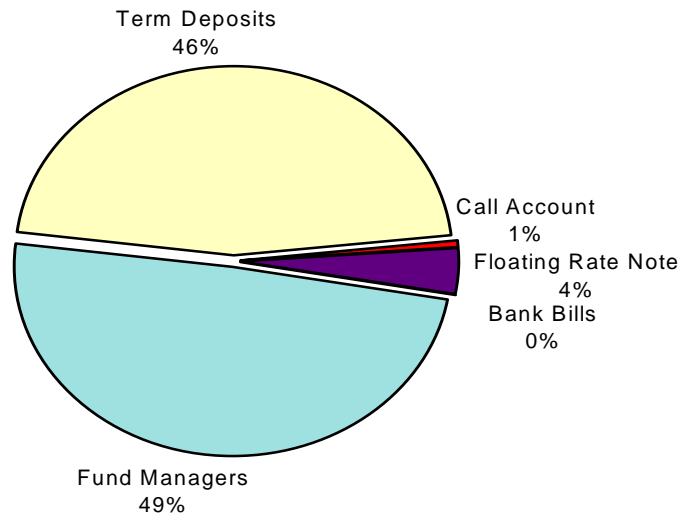
That this report be received and noted.

Reports from Director Corporate Services

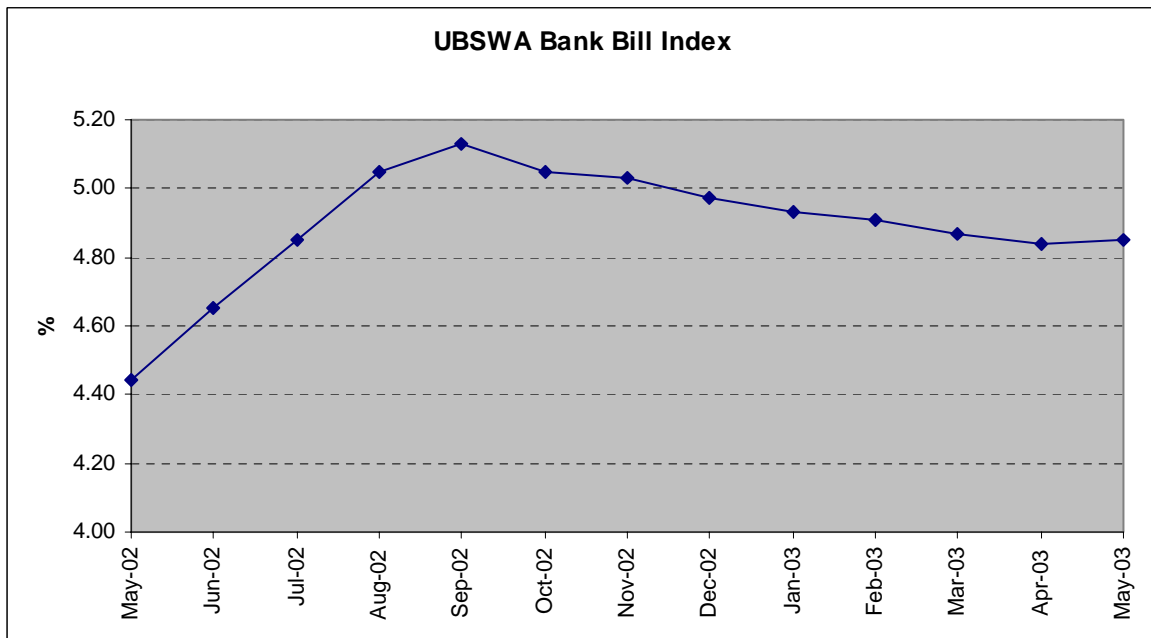
REPORT:

1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

% of Funds Invested by Category



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

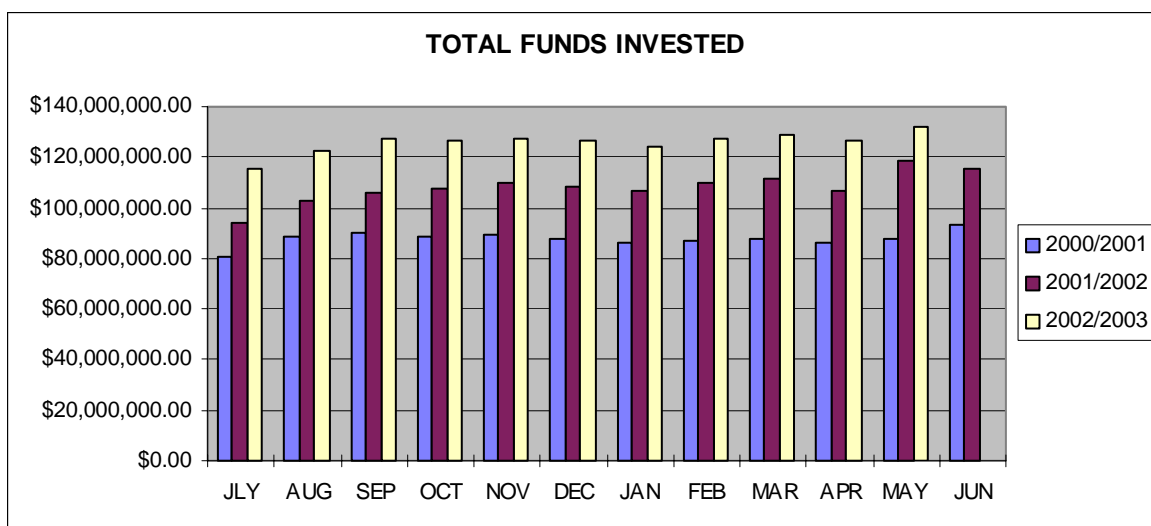


Reports from Director Corporate Services

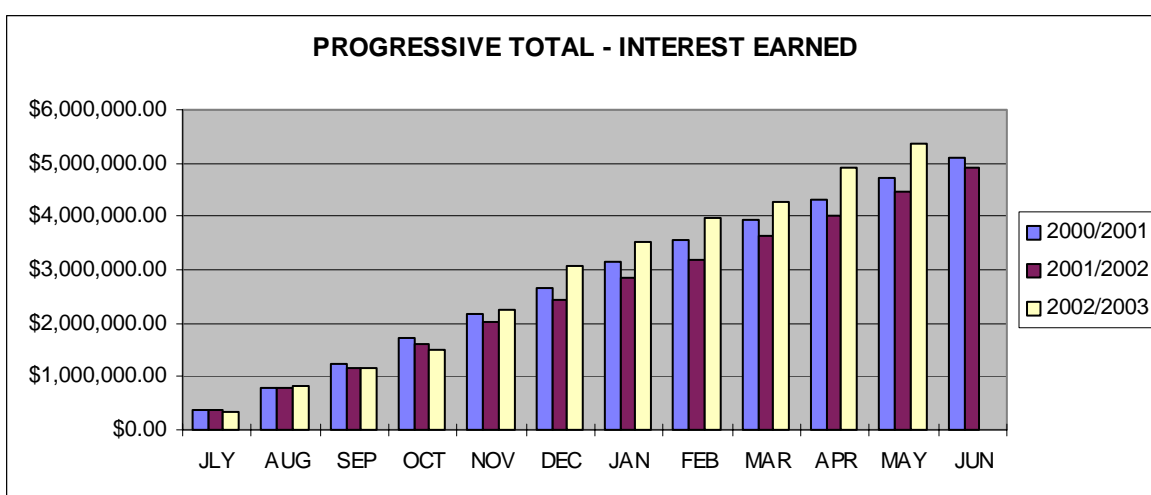
3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS – NET OF FEES

Fund	30 Days %	90 Days %	1 Year %
ANZ	5.35	5.27	5.15
Alliance	3.82	4.66	4.97
Deutsche	5.79	5.67	5.04
Macquarie Diversified	5.54	5.37	5.13

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

The Reserve Bank of Australia met on 3 June 2003 and decided to leave official interest rates unchanged at 4.75%. This means there has been no change to official rates for 12 months.

The Federal Budget was announced during the month and economic growth was estimated at 3.25% for 2003/04, a downward revision from initial estimates of 4%. Inflation levels are expected to average 2.75%.

The RBA states that the current moderately expansionary setting is the most prudent course of action given the difficult global environment. The market meanwhile continues to factor in the possibility of a 50 basis point cut in the second half of the year.

7. INVESTMENT SUMMARY AS AT 31 MAY 2003

GENERAL FUND

BANKS	28,406,750.00	
FUND MANAGERS	14,546,773.86	
LOCAL GOVT. FIN. SERVICES	3,000,000.00	
CALL	1,026,140.73	46,979,664.59

WATER FUND

BANKS	9,500,000.00	
FUND MANAGERS	30,325,460.90	
LOCAL GOVT. FIN. SERVICES	3,000,000.00	42,825,460.90

SEWERAGE FUND

BANKS	15,500,000.00	
FUND MANAGERS	20,015,549.56	
LOCAL GOVT. FIN. SERVICES	7,000,000.00	42,515,549.56

TOTAL INVESTMENTS

132,320,675.05

It should be noted that the General Fund investments of \$46.9 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

Reports from Director Corporate Services

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

Reports from Director Corporate Services

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Reports from Director Engineering Services

12. ORIGIN: Planning & Infrastructure Unit

FILE REF: GT1/DCP/16 Pt2; Development Control Plan - DCP; Subdivision Policy

REPORT TITLE:

Draft Development Design and Construction Specifications

SUMMARY OF REPORT:

A series of engineering specifications have been drafted to apply to subdivision works in Tweed Shire. These specifications are called up by the new draft "Development Control Plan No.16 – Subdivision Manual". The specifications have been publicly exhibited for almost three months and have been the subject of two public workshops and a series of consultation meetings which have resulted in a number of amendments that improve the exhibited drafts. It is now recommended for approval.

RECOMMENDATION:

That:-

1. Council approves the use of the following Tweed Shire Council Development Construction Specifications as tabled and referenced by DCP16 – Subdivision Manual.

<u>No.</u>	<u>Title</u>	<u>No.</u>	<u>Title</u>
C101	General	C245	Asphaltic Concrete
C201	Control of Traffic	C247	Mass Concrete Subbase
C211	Control of Erosion and sedimentation	C248	Plain or Reinforced Concrete Base
C212	Clearing and Grubbing	C254	Segmented Paving (deleted)
C213	Earthworks	C255	Bituminous Microsurfacing
C220	Drainage	C261	Pavement Markings
C221	Pipe Drainage	C262	Signposting
C222	Precast Box Culverts	C263	Guideposts
C223	Drainage Structures	C264	Non Rigid Road Safety Barrier System
C224	Open Drains Including Kerb and Gutter	C265	Boundary Fence
C230	Subsurface Drainage General	C271	Minor Concrete Works
C231	Subsoil and Foundation	C273	Landscaping

Reports from Director Engineering Services

Drains	C401 Water Reticulation
C232 Pavement Drains	C402 Sewerage System
C233 Drainage Mats	C501 Bushfire Protection
C241 Stabilisation	CQC Quality Control Requirements
C242 Flexible Pavements	
C244 Sprayed Bituminous Surfacing	

2. Council approves the use of the following Tweed Shire Council Development Design Specifications as tabled and referenced by DCP16 – Subdivision Manual.

<u>No.</u>	<u>Title</u>
D1	Road Design
D2	Pavement Design
D3	Structures Bridge Design
D4	Subsurface Drainage Design
D5	Stormwater drainage Design
D7	Stormwater Quality
D9	Cycleway and Pathway Design
D10	Bushfire Protection
D11	Water Supply
D12	Sewerage System
D13	Engineering Plans (Subdivisions)
D14	Landscaping Public Space

3. Council approves the use of the Tweed Shire Council Development Design Specification D6 – Site Regrading, as tabled and referenced by DCP16 – Subdivision Manual.
4. (a) Subject to (c) and (d) below, the Director of Engineering Services may at any time, amend the Development Design and Construction Specifications, by certifying a new version that amends and replaces the previous version.
- (b) When amendments are made, the latest version shall be posted on Council’s internet web site on the date it comes into force. The internet web site shall also contain a log of amendments and versions for all the specifications, to enable easy checking of the currency of versions. The internet web site will contain information bulletins advising of proposed changes to design specifications, current issues, draft amendments for comment etc.
- (c) Routine amendments that arise from alterations to: Australian (SAA) standards; Austroads; state authority standards or specifications; changes to proprietary products; or changes to the national Aus-Spec specifications; inclusion of standard

Reports from Director Engineering Services

drawings; or corrections to minor errors or omissions, may be made as the need arises.

- (d) Other non routine amendments shall not be made unless the Director of Engineering Services has first forwarded copies of the draft amendments to subdivision industry representatives, considered any submissions from them, met with industry representatives to discuss/review the submissions and made appropriate changes to the exhibited amendments arising from this process.
5. Six months after the adoption of the development specifications, the Director of Engineering Services, in consultation with subdivision industry (developers and consultants) shall carry out a review of the operation of the specifications.

Reports from Director Engineering Services

REPORT:

1. Background

Another report to this meeting recommends the adoption of the new Draft DCP16 – Subdivision Manual.

Unlike old DCP16, the new version does not contain engineering specifications for design and construction of subdivision works (roads, drainage, water, sewerage, parks etc). These are contained in a separate suite of Development Design Specifications and Development Construction Specifications that are called up by DCP16. These specifications are based on the national “Aus-Spec” set of engineering specifications which have been produced under the direction of the Institution of Public Works Engineering Australia (IPWEA) for use by local government in all states of Australia. Prior to exhibition the Aus-Spec documents were extensively amended in house to make them consistent with Tweed Shire conditions.

The design and construction specifications were adopted by Council for exhibition purposes 4 December 2002 and exhibited from 17 December 2002 until 28 February 2003.

2. Standard Drawings

The preparation of standard drawings (typical road cross sections, sewerage pump station layout, stormwater pits etc) is still in progress and is hoped to be completed in 2003. Whilst the development specifications alone are generally sufficient to specify engineering standards, the inclusion of the standard drawings will significantly assist in the presentation and understanding of the standards. The development specifications will be progressively amended to call up these drawings as they become available.

3. Amendment of Development Specifications

The development specifications will require frequent amendment as changes occur in referenced standards (SAA standards, Austroads standards, RTA standards etc), material specifications (pipes, valves, bitumen etc) and standard drawings as well as changes in design and construction requirements. There are also annual reissues of amended versions from Aus-Spec to incorporate the latest state and Australian design and construction standards and practices. In the previous report to Council it was proposed that the Director Engineering Services be authorised to make amendments as required.

Industry representatives at consultation meetings have expressed concern that significant changes should not be made to the specifications unless the industry has had a chance to review the draft amendments and been consulted by the Director prior to the amendments being adopted.

The following procedure is therefore proposed for making specification amendments:

- “(a) Subject to (c) and (d) below, the Director of Engineering Services may at any time, amend the Development Design and Construction Specifications, by certifying a new version that amends and replaces the previous version.*
- (b) When amendments are made, the latest version shall be posted on Council’s internet web site on the date it comes into force. The internet web site shall also contain a log of amendments and versions for all the specifications, to enable easy checking of the currency of versions. The internet web site will contain information bulletins advising of*

Reports from Director Engineering Services

proposed changes to design specifications, current issues, draft amendments for comment etc.

- (c) *Routine amendments that arise from alterations to: Australian (SAA) standards; Austroads; state authority standards or specifications; changes to proprietary products; inclusion of standard drawings; or corrections to minor errors or omissions; or changes to the national Aus-Spec specifications, may be made as the need arises.*
- (d) *Other non routine amendments shall not be made unless the Director of Engineering Services has first forwarded copies of the draft amendments to subdivision industry representatives, considered any submissions from them, met with industry representatives to discuss/review the submissions and made appropriate changes to the exhibited amendments arising from this process."*

4. Public Exhibition and Meetings

The draft design and construction specifications were exhibited from 17 December 2002 until 28 February 2003:

Two public information workshops were held with key sectors of the development industry on

- Tuesday 4 February - Councillors, developers, consulting planners
- Thursday 6 February - Consulting engineers and surveyors

Following the workshops, a further series of meetings was held (21 February, 28 March and 10 April) between representatives of consulting engineers and Council staff to address issues of concern. The issues raised at the meetings are dealt with in the submissions section of this report.

The subdivision manual, being a statutory draft development control plan (DCP), has been exhibited in accordance with the EP&A Regulations. The accompanying design and construction specifications are not statutory documents and do not legally require the same exhibition process. However given the impact of these specifications on subdivisions, they have been concurrently exhibited with the draft subdivision manual and are being subjected to the same consultation process.

Due to the interrelated nature of the manual and specifications, many of the issues raised in the submissions and consultations have impacted on both sets of documents.

This report deals with matters raised that impact on the design and construction specifications. A separate report to this meeting addresses the issues raised with draft DCP16 – Subdivision Manual. Some issues are common and are dealt with in both reports.

5. Submissions and Consultations

5.1 Overview Design and Construction Specifications

The submissions and consultation meetings that followed uncovered a number of detailed issues that needed further attention to make the specifications appropriate for Tweed Shire Conditions.

The final documents presented to this meeting include a significant number of amendments (from the exhibited specifications) that reflect a consensus on a number of significant issues obtained in the consultation process. In this regard the assistance and contribution of the consultants who made submissions and attended consultation meetings is gratefully acknowledged.

Reports from Director Engineering Services

The Development Construction Specifications (sourced from Aus-Spec) were criticised because of technical issues and the large number of required hold points. Many of these issues have been resolved, but, in acknowledgement of the unresolved issues, it is considered, that for an interim period, consultants should be given the option of using their own standard construction specifications, subject to individual specifications being approved by the Director of Engineering Services. This option is included in amended Appendix B of the DCP16 – Subdivision Manual.

Concern has been raised regarding the processing of subdivisions that are submitted or part way through the approval process when the new specifications are adopted. It is proposed that such applications be assessed in accordance with criteria in the old DCP16 (except where this criteria is contrary or inconsistent with current NSW legislation/codes or SAA standards).

Whilst many of the issues raised in the submissions and consultation process have been resolved by clarification of the issue or by amendments to the text, there are still some issues that remain unresolved and these are addressed later in this report.

5.2 Overview, Development Design Specification D6 – Site Regrading

This specification was adopted by Council 5 June 2002 as an interim policy for subdivision site earthworks, retaining walls and geotechnical risk assessment. Being adopted six months before the exhibition of the other specifications, D6 has been already been applied to some subdivisions and has been the subject of correspondence and meetings between developers, consulting engineers and Council staff. The issues raised in these meetings and correspondence is also included in Table 5.2 (consideration of submissions, Design Specifications). D6 only applies to subdivisions. Earthworks and retaining walls for residential land, post subdivision are regulated by DCP47.

The project home industry heavily concentrates on slab on the ground cottage construction that requires a flat building site. Much of the subdivision development in Tweed Shire has produced flat, filled lots that suit this type of construction. Due to the general increase in residential land values, steeper sites that are zoned residential, but, previously considered uneconomical to develop, are now being developed. On some of these sites, large scale earthworks and high retaining walls on lot boundaries are proposed to create “terraced” subdivisions with flat building sites (suitable for slab on ground construction).

In some cases there are walls are up to 8m high and last year a recently constructed wall collapsed.

D6 was introduced to ensure that walls are safely designed and constructed and to limit the height of walls on boundaries to a scale that (for residential subdivisions) consistent with residential buildings.

Perhaps the most contentious issue arising from D6 is the restriction on maximum heights of retaining walls on allotment boundaries. These are set out in Table D6.1.

Reports from Director Engineering Services

“Table D6.1 Maximum Combined Height of Batters and Retaining Walls on Allotment Boundaries (m)

Type of Subdivision	Side and Rear Boundaries	Street Boundary	
		Above Street Level	Below Street Level
Residential	2.5	1.8	3.6
Industrial	5	2.5	5
Business	5	1.2	2.4
Rural Living	1.2	1.2	2.4

“

It is considered that some form of maximum height limit is desirable to limit adverse impacts on neighbouring land and residents.

The residential subdivision 1.8m limit above street level is consistent with allowable maximum fence heights (which have regard to appearance and streetscape). The 2.5m wall height limit on side and rear boundaries is similar in scale to dwelling floor to ceiling dimensions. Higher walls will have an overbearing impact on dwellings on lower land and increase the risk of injury/damage in the case of wall collapse. Higher height limits are considered acceptable for some business/industrial subdivisions as this is in scale with the larger/higher buildings common in these areas.

Similar provisions are contained in the Gold Coast City Council draft Constraint Code shown below:

“CUT AND FILL WORK

PC5

All cut and fill work must not create a detrimental impact on the slope stability, erosion potential or visual amenity.

AS5.1

The height of cut and/or fill, whether retained or not, does not exceed:

- (a) 900mm adjoining a public area;
- (b) 1200mm adjoining a residential site;
- (c) 2500mm adjoining a non residential site.

OR

AS5.2

Cuts, in excess of those stated in AS5.1.1, are separated by terraces, with a minimum width of 1.2 metres that incorporate drainage provisions in accordance with Council's Best Practice Guidelines for Stormwater Pollution from Building Sites.

AS5.2

Reports from Director Engineering Services

No crest, of any cut or toe of any fill, or any part of any retaining wall or structure, is located closer than 600mm to any boundary of the property, unless the prior approval of both landowners and the Council, or its delegate, has been obtained.”

5.3 Consideration of Submissions

The submissions are summarised in Table 5.1 (Construction Specifications) and 5.2 (Design Specifications) which also contain comments and proposed responses to the issues.

6. Response to Submissions and Revision of Draft Specifications

The proposed response to issues in the submissions is detailed in the last column in tables 5.1 and 5.2. Amendments arising from the submissions and corrections of minor errors and omissions have been incorporated into a revised set of draft specifications which are tabled at this meeting and recommended for adoption.

The revised drafts are tabled at the meeting and are in “revision” format which shows text deleted as ~~erossed-out~~ and added text as underlined.

Reports from Director Engineering Services

Table 5.1 Consideration of Submissions – Construction Specifications:

Author	Issues Raised in Submissions	Comments	Proposed Action
C101 – General			
1. Cardno MBK (#)	Traffic Control Plan provisions – C101.02.2 Should be prior to commencement of works, not prior to CC	Agreed, this is consistent with current standard consent condition.	Clause has been amended accordingly & moved to section C101.04.
2. Engineering Services Division	Cash bond or bank guarantee – C101.02.3 Should be prior to commencement of works, not prior to CC	Agreed	Clause has amended accordingly & moved to section C101.04. Amended accordingly
3. Arising from public workshops and consultation meetings	Matters relating to powers, duties, accreditation and appointment of the subdivision works accredited certifier to be amended following consensus being reached at meetings between consultants and Council staff	Agreed, amendments to C101 should also mirror similar amendments to DCP16 Appendix C	Amended accordingly
C201 – Control of Traffic			
1. Cardno MBK (#)	Commented that the Traffic Guidance Scheme is required prior to works proceeding.	Agreed. Traffic Guidance Scheme is the same as a Traffic Control Plan. Is required prior to works commencing and not prior to C.C.	Spec has been amended accordingly
2. Engineering Services Division	Made comment that the drafted specification differs from the current consent condition for Control of Traffic, which references the RTA document "Traffic Control at Work Sites" Version 2. Suggest that traffic control must also shall comply with AS 1742.3.	Agreed	Spec has been amended such that Spec mirrors the current consent condition Appropriate wording added.
	Need to provide an order of precedence in the event of any discrepancy between the provisions of the RTA document and AS 1742.3.	Agreed. The provisions of AS 1742.3 will take precedence.	Appropriate wording added.
C211 – Control of Erosion and Sedimentation			
1. Engineering Services Division	Current Clause C211.08.1 is inconsistent with Development Design Specification D7 – Stormwater Quality, in regards to when the Subdivider must clean out any Permanent Sedimentation Control Structures. Current Spec says whenever the accumulated sediment has reduced the capacity of the structure by 50 per cent or more.	Agreed should be consistent with D7.	Amendment made in C211.08.1.

(#) - representing MericonQld Pty Ltd, Leda Developments Pty Ltd, Consolidated Properties and Ray Group Pty Ltd/South Kingscliff Pty Ltd

Reports from Director Engineering Services

C212 – Clearing and Grubbing				
1. Cardho MBK (#)	Queried the requirement for pegs to be placed at 25m intervals for limits of clearing.	Agreed. Add "at Subdividers discretion" to allow more flexibility.	Appropriate amendment made to C212.02.2.	
C213 – Earthworks				
1. Cardho MBK (#)	Made a general comment that the Drafted Spec requires the Subdivider to submit details of the existing surface terrain model to the SWAC for approval, prior to commencement of clearing and grubbing or earthworks.	Intention is that the SWAC needs to be aware of Subdividers survey control, but not necessarily require a copy of the existing DTM.	Clause as been amended to request "survey system" not "software system"	
	Questioned the requirement of the Drafted Spec for pegs at 25m batter profiles to be provided at all times.	Added "at Subdividers discretion" to allow more flexibility.	Appropriate amendment made to C213.05.1.	
	Unsuitable Material not defined - Recommended adopting the definition of Unsuitable Material from AS 3798-1996.	Agreed	Definition adopted – C213.21.1	
	Suggested that the Spec better defines when Level 1 or Level 2 for supervision is required.	Agreed	Amended wording. Now all works are Level 1 unless proven otherwise.	
	Question the requirement that prior to ripping or loosening the cutting floor, the Subdivider shall determine the CBR of the material in the floor by AS 1289.6.1.1.	Requirement as drafted considered reasonable	No change	
	Questioned when Level 1 or Level 2 earthworks supervision is required. Makes comment that all CMBK work is Level 1 supervision.	Wording amended to specify Level 1 at all times unless proven otherwise.	Appropriate amendments made.	
	Makes comment that the current Spec does not define "Deflection Monitoring"	Agreed. Deflection monitoring should consist of proof rolling with truck dual wheels with minimum axel weight of 8 tonnes which does not reveal any visible deflection.	Appropriate amendment made to C213.38.1.	
C220 – Drainage				
1. Cardho MBK (#)	Queried the requirements of clause C220.06 – Siting of Culverts. Set-out and inspection.	Mandatory inspections are detailed in DCP16. Other inspections by the SWAC are at their professional discretion. Wording of clause considered satisfactory.	No Change	

Reports from Director Engineering Services

C221 – Pipe Drainage					
1. Engineering Services Division	When is inspection by SWAC required?		Clarify by adding - "The Subdivider shall present the laid and jointed pipes for inspection by the SWAC prior to commencement of trench backfilling."	Clause added – C221.16.b.4 and C221.21.3.	
2. Ken Zealey	The draft specification for compaction of pipe trench backfill may cause damage to pipes. Compacting 150mm layers in bottom of trench is not practical. Compaction machinery should not be used until backfill is 200-300mm above the pipe.		Agreed.	Wording amended	
C222 – Precast Box Culverts					
1. Engineering Services Division	When is inspection by SWAC required?		Clarify by adding - "The Subdivider shall present the laid and jointed precast units for inspection by the SWAC prior to commencement of trench backfilling."	Clause added – C222.12.8.	
C223 – Drainage Structures					
1. Engineering Services Division	Need to ensure that any drainage structure placed within the maintenance path of a device requiring servicing by heavy vehicles, (i.e. Pollution Control Devices), must be installed with Heavy Duty grates or manhole covers.		Agreed.	Appropriate wording added – C223.03.3.	
C230 – Subsurface Drainage General					
1. Cardno MBK (#)	Queried the requirement of the SWAC to inspect the set up of subsoil drainage – C230.06		Mandatory inspections are detained in DCP16. Other inspections by the SWAC are at their professional discretion. Wording of drafted clause considered reasonable.	No Change.	
	C230.15 - Queried the need to record (as-con) of all subsurface drainage.		It is considered that documentation showing the location of all subsurface drainage is necessary for future maintenance purposes.	No Change.	

Reports from Director Engineering Services

2. Engineering Services Division	Subsurface outlets should be marked	Agreed.	Add clause – "All outlet locations are to be identified by a standard yellow marker post, positioned beside the outlet headwall."
	Annexure C230A is missing	Annexure contains procedure for fitting seamless tubular filter fabric to slotted pipe added. It was mistakenly left out of version put on exhibition.	Added to document.
C232 – Pavement Drains			
1. Cardno MBK (#)	Suggested that requirements for intra-pavement drains require clarification.	Requirements as drafted considered to be sufficiently clear.	No Change.
2. Engineering Services Division	Need to replace the reference to MS75 with Crushed Rock Macadam - C232.06 a.1.	Agreed	Appropriate amendments made.
C241 – Stabilisation			
1. Cardno MBK (#)	Comment was made that the requirements of this Specification will increase construction costs. Testing requirements are a lot more onerous.	The Spec only requires a level of testing that is needed to ensure stabilised pavements have a reasonable life expectancy and do not prematurely fail. These tests are not required for natural (non stabilised gravels)	No Change.
2. Engineering Services Division	Annexure C241A – Who fills this document out? Not clear.	A clause is added (C241.03.1) to clarify that it is the Designer that completes Annexure C241A	Appropriate amendment added.
C242 – Flexible Pavements			
1. Cardno MBK (#)	Questioned C242.04 which states that pavement material types and layer thicknesses shall be as shown on the design plans.	It is acknowledged that these parameters may change in the field once work commences. Spec should say "Preliminary" pavement material types and layer thicknesses.	Appropriate amendment was made.
	Questioned the amount of input required by a NATA Consultant in the current Spec.	Requirement as drafted considered reasonable.	No Change.

Reports from Director Engineering Services

	Made comment that new grading and properties will need to be reviewed to see if feasible.	Agreed. The spec offers the option of using RTA or QLD Main Roads specs for pavement material if the subdivider does not wish to follow the standard grading and properties.	No Change.
	Made comment that there are strict requirements on removal and replacement of rejected courses.	This issue can cause confusion in the field, it is considered necessary to have this clearly spelt out in the spec.	No Change.
C244 – Sprayed Bituminous Surfacing			
1. Cardno MBK (#)	C244.10 – Queried the requirements associated with the Design of Bituminous Surfacing. Made comment that: - presumably the Superintendent would do this? - needs some consideration in contract documents.	Preliminary design of bitumen surfacing can be done by the subdivider's consultant prior to preparation of contract documents. The contract superintendent/SWAC can make adjustments on site depending on the characteristics of the aggregate delivered to site and the temperature of the pavement to be sprayed. This is normal practice.	No Change.
	Questioned whether certification of the materials will be done by the Superintendent?	Yes – should be done the superintendent who is also likely to have the role of SWAC.	No Change.
	Made comment about the extent of additional details required to be submitted with the proposed bituminous surfacing design.	Requirement as drafted considered reasonable.	No Change.
	Made comment regarding the requirement to submit details and methods to be used for sprayed bituminous surfacing must be submitted to the SWAC for approval prior to use.	Requirement as drafted considered reasonable.	No Change.
	Queried the requirement for the Subdivider to provide the SWAC at least 5 days notice of the Subdivider's intention to commence sprayed bituminous surfacing. C244.15 - Review of Nominated Application Rates.	Requirement as drafted considered reasonable. The superintendent/SWAC can authorise alternate arrangements if required.	No Change.

Reports from Director Engineering Services

	Queried the 28-day lapse time between the placement of the primer/binder and the binder for the seal.	Original RTA specification had 12 months between prime and final seal, but this is not a practical requirement for subdivisions. 14 days is considered an absolute minimum (to avoid seal failure). Yes – approval through Council will be required for Public Roads	Appropriate amendments have been made.
	C244.20 – Questioned whether approval will be needed to change speed limits when applying and incorporating aggregate.	Yes – approval through Council will be required for Public Roads	Amended Spec to reference Spec C201 - Control of Traffic which covers this issue.
	Made comment that to achieve the values stated in the Removal of Loose Particles table, heavy sweeping would be required and that this would remove most stone from new bitumen	Council's Maintenance Engineer does not agree. In Council works these rates are easily achieved without heavy sweeping.	No Change.
	Asked who determines Annexure A.	The Subdivider	Spec amended accordingly to clarify.
	Suggested that the full RTA – Spec 106 be reproduced within the Tweed Shire Spec and amended accordingly, instead of referring there-to and amending certain clauses.	For ease of monitoring future amendments (to the Aus-Spec specification), the current specification set-out methodology of referencing the RTA Spec and listing departures, is preferred.	No Change.
2. Engineering Services Division	C244.04 – Control of Traffic – need to update accordingly.	Reference to the RTA QA Specification R106 has been replaced with reference to the TSC Specification C201 - TRAFFIC OF CONTROL.	Appropriate rewording made.
	Question the requirement of the Subdivider to submit details of the sprayed bituminous surfacing work to the SWAC 15 days before commencement of work.	Agreed	Changed from "At least 15 days before commencing of work" to 7 days.
C245 – Asphaltic Concrete			
1. Cardno MBK (#)	General comment made about the "Subdivider being required to design and submit an asphalt design for approval."	Mix design for each subdivision would be time consuming. If the manufactures apply to Council for approval of their standard mixes this could save time.	Amended to allow for "standard" mix designs from manufactures to be approved by Council.
	Couldn't find reference to Minimum Test Frequency requirements	Details on Minimum Test Frequencies are referenced in Spec CQC.	Wording has been amended to more clearly indicate this.

Reports from Director Engineering Services

	Queried the format of Annexure C245A – Asphalt Work Record	The Work Sheet provided is Typical Only. Up to Subdivider to record appropriate information	Wording has been amended to more clearly indicate this.
	Questioned the need to submit Truck Delivery Dockets.	Not required to be provided to Council. Up to Subdivider to be satisfied with deliveries.	Clause C245.07.2 has been removed from the Spec.
	Questioned the current Specifications requirement on Level Control. Questioned the reliance on the "Supplier" to cooperate.	C245.10 has been amended to reference the provisions of the appropriate Queensland Department of Main Roads Standard Specifications MS11.30, MS11.33, MS11.34, MS11.36.	Appropriate amendments were undertaken.
	Questioned the need for the Hold Point after removal of rejected Base and Subbase. Made comment that the pavement should be approved prior to sealing.	Hold point necessary to deal with rejected material.	No Change.
	Annexure C245B – Questioned comment on bottom of form saying "To be issued by SWAC for each separate part"	This does not mean that the SWAC designs the asphalt type and mix. The Annexure simply nominates what mix is to be used on nominated sections of road (based on table D2.2).	No Change.
	Queried the need for Annexure C245C	Not required.	Removed from Spec
C247 – Mass Concrete Subbase			
1. Cardno MBK (#)	Questioned the requirement of the Contractor to construct Trial Sections, for approval by the SWAC, prior to commencement of works.	Was seen as an overkill from original Aus-Spec document.	All references to construct Trial Sections have been removed from the Spec
	Questioned the need for the Subdivider to submit at least 4 weeks before use, details of the equipment and methods proposed for placing and finishing concrete subbase.	Has been reduced to 1 week	Amended as required.
	Queried the requirement that the nominated mix needs to be submitted at least 21 days before use.	Has been reduced to 7 days	Amended as required.
	Queried the need to submit for approval before use, details of the aggregate proposed.	Normal industry requirement.	No Change.
	Queried the need to submit compressive strength curves at durations 3, 7, 10 and 28 days.	Requirement as drafted considered reasonable.	No Change.
	Questioned the need for the Subdivider to submit at least 4 weeks before use, details of the proposed methods of handling, storing, batching, etc.	Has been reduced to 1 week	Amended as required.
	Queried the need to submit a certificate of compliance for the curing compound proposed.	Can be done on a product basis. Does not need to be repeated for each subdivision.	No Change.

Reports from Director Engineering Services

2. Engineering Services Division	Standard mix designs –include comment that “Concrete manufactures may apply to Council for approval of their standard mix designs and must satisfy the requirements of this specification, prior to use in subdivision works. Such standard mix designs, of appropriate strength, may be used on subdivision works without separate testing being required for each subdivision.”	Approval of standard mix designs will speed up approvals for individual subdivisions.	Appropriate wording added in Scope C247.01.3.
C248 – Plain or Reinforced Concrete Base			
1. Cardno MBK (#)	Questioned the need to submit details of the nominated mix at least 21 days before use.	Has been reduced to 7 days	Amended as required.
	Queried the requirement that a NATA laboratory certificate is required to confirm that a mix meets the specification.	To speed up approvals on individual subdivisions, concrete manufactures should be able to Council for approval of their standard mix designs.	Appropriate wording added in Scope C248.01.4.
	Questioned the need for the Subdivider to submit least 4 weeks before use; details of the proposed equipment and methods for placing and finishing the concrete base.	Has been reduced to 1 week	Amended as required.
	Questioned the need for a Trial Panel to be constructed to demonstrate the capability of the contractor, prior to commencement of works.	Was seen as an overkill from original Aus-Spec document.	All references to construct Trail Panels has been removed from the Spec
	Questioned the need for the Subdivider to submit 4 weeks before proposed use, a Certificate of Compliance from a NATA registered laboratory showing that the proposed sealant meets all the requirements of ASTM 2628.	Has been reduced to 1 week	Amended as required.
	Made comment that the Specification should include mix designs therefore no approvals should be required.	Refer above comment regarding the addition of clause to deal with standard mix designs from Concrete Manufacturers.	Appropriate wording added in Scope C248.01.4.
2. Engineering Services Division	Add RTA Specifications – 3204 - Preformed Joint Fillers for Concrete Road Pavements and Structures	Clarifies this design issue	Added to Specification Reference Document list C248.03.
	The need for the Subdivider to submit details of the proposed methods of handling, storing, batching, etc should be reduced from at least 4 weeks before use, to at least 1 week.	Reduces unnecessarily long waiting time for approval	Amended as required.
	Should reduced the need for the Subdivider to submit to the SWAC a Certificate of Compliance, from a NATA registered laboratory, showing that the sealant meets all the requirements of Table C248.6 before installation of the sealant from at least four (4) weeks to at least one (1) week.	As above	Amended as required.

Reports from Director Engineering Services

C254 – Segmented Paving			
1. Engineering Services Division	Concern was raised by Council's Design Unit Manager on the use of segmented pavers for Pavement design. The majority of installations of such pavements within the Shire have failed.	It is agreed that the specification is inadequate and should be deleted. Requests for segmented paving should be treated on their merits, but, must demonstrate that the system proposed will have a similar life span to conventional pavements.	Spec C254 – Segmented Paving was removed off Council's Spec list and reference to use such pavers in Design Spec D2 – Pavement Design was amended to state that approval to use such pavers must be obtained in writing from the Director of Engineering Services.
2. Cardno MBK (#)	Detail required seems excessive, seems to be driven by landscaping requirements.	Agreed. See above.	Spec has been removed from TSC Spec list
C255 – Bituminous Microsurfacing			
1. Cardno MBK (#)	Made general comment that Spec states that bituminous Microsurfacing shall be preceded by the application of a sprayed bituminous seal a minimum of 2 weeks prior to the application of the bituminous Microsurfacing wearing course.	Requirement as drafted considered reasonable.	No Change.
	Made comment that the spec currently requires the Subdivider to provide the SWAC with information to verify that the binder supplied is the same as that nominated in the mix design.	Requirement as drafted considered reasonable.	No Change.
	Made comment that the spec currently requires the Subdivider to provide the SWAC with test results for each lot / stockpile of aggregate a minimum of 7 days prior to incorporation in the works.	Requirement as drafted considered reasonable.	No Change.
	Made comment that the spec currently requires the Subdivider to provide the SWAC with details of the nominated bituminous microsurfacing mix design at least 7 days before commencing bituminous Microsurfacing work	Requirement as drafted considered reasonable.	No Change.
	General comment was made that the spec currently limits the deviation from a 3m straight edge to 10mm.	Requirement as drafted considered reasonable.	No Change.
	Made summary comment that none of the above issues should effect CMBK.	Agreed. The use of this surfacing and specification in any subdivision in Tweed Shire would be a rare event.	
C261 – Pavement Markings			
1. Cardno MBK (#)	Questioned why it is necessary for TSC to have their own Spec on Pavement Markings, when it is covered by relevant RTA Specs and Australian Standards.	The Council specifications follow the national Aus-Spec model.	No Change.

Reports from Director Engineering Services

	Questioned the requirement to submit to the SWAC, NATA lab test reports for materials proposed for use.	SWAC needs to see sufficient evidence that the RTA has certified materials as acceptable.	Appropriate amendments made. C261.05.1
	Questioned the need for field-testing the volume of glass beads.	Requirement as drafted considered reasonable.	No Change.
	Asked whether Annexure C261A is for measuring the volume of glass beads used.	It is for determining in the field, the application rate of glass beads used (as stated).	No Change.
C262 – Signposting			
1. Cardno MBK (#)	Questioned why it is necessary for TSC to have their own Spec on Signposting, when it is generally covered by Australian Standards.	The Council specifications follow the national Aus-Spec model	No Change.
	Questioned the need for suppliers to be submitted for approval. Suggested TSC prepares a list of "Approved Suppliers".	Because suppliers continually change, providing a list of suppliers in not considered an appropriate option	No Change.
	Made comment presuming that a letter from the supplier would suffice in providing supportive evidence of the quality of the signpost components.	Yes. Letter with sufficient supportive documentation would suffice.	No Change.
	Questioned the need for Retro-reflective material to be approved by SWAC.	This should be part of the SWAC's quality assurance	No Change.
	Made comment that the summary of Limits and Tolerances is just a rehash of Australian Standards.	Agreed. The Council specifications follow the national Aus-Spec model, which appears to be based on the Australian Standard	No Change.
2. Engineering Services Division	Should Retro-reflective material be Class 1 or Class 2, unless shown otherwise on the design plans.	The Spec currently states that Retro-reflective material shall be Class 2, unless shown otherwise on the design plans, but, it should say Class 1, unless shown otherwise.	Appropriate amendment made to C262.07.1
C263 – Guideposts			
1. Cardno MBK (#)	Questioned where information on guidepost location and spacing is obtained.	Guideposts are to be provided to roads, intersections, pathways, cycleways and carparks in accordance with AS1742 as noted in Design Spec D1 – Road Design.	No Change.

Reports from Director Engineering Services

	Questioned why it is necessary for TSC to have their own Spec on Guideposts, when RTA 3411 covers the majority of the Spec.	The Council specifications follow the national Aus-Spec model	No Change.
C264 – Non Rigid Road Safety Barrier Systems			
1. Engineering Services Division	Need to change specification reference from AS/NZS 3815 to Section 6 of the RTA Road Design Guide.	Agreed for - Construction on of non-rigid road safety barrier – C264.05.2 - Erection of Steel posts – C264.06.3	Appropriate amendments made to Spec
C271 – Minor Concrete Works			
1. Cardno MBK (#)	Questioned the requirement for outside formwork for structures such as gully pits, manholes, etc in earth-excavated pours.	Agree, only exposed concrete works require formwork on the earth/concrete interface.	Amended Spec to indicate as such.
	Made comment that CMBK generally agree with the strength of concrete specified in the Spec for specific structures, however the stated strengths varies to that stated to TSC's standard drawings.	Amended Table to correlate with TSC standard drawings.	Amended Spec accordingly
	Questioned whether the Reinforcement Spec listed provided in the Spec are the latest.	Checked against Australian Standard Website. They are.	No Change.
	Queried how the specification takes into consideration QA certified Concrete suppliers.	Comment has been added to state that Concrete manufactures may apply to Council for approval of their standard mix designs.	Appropriate wording added in Scope C271.01.4.
	Questioned the requirement for test panel for sprayed concrete.	Was seen as an overkill.	All references to construct Test Panels have been removed from the Spec

(#) - representing MericonQld Pty Ltd, Leda Developments Pty Ltd, Consolidated Properties and Ray Group Pty Ltd/South Kingscliff Pty Ltd

Reports from Director Engineering Services

Table 5.2 Consideration of Submissions – Design Specifications:

Author	Issues Raised in Submissions	Comments	Proposed Action
D1 – Road Design			
1. Cardno MBK (#)	D1.04 (3). Is a traffic study warranted for subdivisions with greater than 15 lots.	15 lots is considered a reasonable threshold for investigating the impact of the additional trips on local roads and intersections. However the level of detail should be in accordance with the scale of the development.	Amended to clarify requirements.
	D1.16 (10) Need to fill in s138 application for works on public roads. Results in more work.	This is a legislative requirement under s138 of the Roads Act 1993. The entry in DCP 16 is not an additional requirement, it only mirrors the Act.	No change
2. Engineering Services Division	Need to update Table D1.7 to include additional classification of low volume connector road, provision for bus routes on access roads and standards for arterial roads that are not defined in the TRCP.	Agreed.	Appropriate amendments made to table.
D2 – Pavement Design			
1. Cardno MBK (#)	D2.21 Pavement design more detailed than before.	Old DCP 16 referred to other external reference standards for pavement thickness design. D2 provides an easy to use thickness design table. The pavement material requirements in C242 allow the additional option of being able to conforming with either Qld MR, NSW RTA requirements.	No change
2. Engineering Services Division	Concern was raised by Council's Design Unit Manager on the use of Concrete and Clay segmented pavers for Pavement design.	The construction spec for segmented pavers is to be deleted (see report on spec C254. Requests for segmented paving should be treated on their merits, but, must demonstrate that the system proposed will have a similar life span to conventional pavements.	Appropriate amendments were made to the Spec.
	Bedding for Segmented pavers	As above.	As above
	Type, Shape, Class and Laying Pattern of Segmented Pavers	As above	As above

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	Change asphalt mix design for light trafficked residential, rural or commercial streets to be consistent with current practice	Agreed. Change from either a 'high-bitumen content' mix or the ARRB Gap-graded mix to "a fine gapped graded mix". Agreed.	Appropriate amendments made – D2.19.1
	Change requirement for primer seal for all roads with AC surfacing from "desirable" to "mandatory", but, reduce application rate of "tack coat" prior to laying of asphalt.	Agreed.	Appropriate amendments made – D2.19.4
	Update D2.10 – Pavement Structure – General to be consistent with latest Aus-Spec and RTA documents.	Agreed.	Appropriate amendments made – D2.10
	Need to add note to Table D2.2 that "Each grade of asphalt proposed requires approval of the mix design by Council. Applications for approval must be accompanied by a certificate issued by Queensland Department of Main Roads (or approved equivalent)".	Agreed that certificate is desirable certify compliance of asphalt mix design.	Appropriate wording added. Note D2.2.
D5 – Stormwater Drainage Design			
1. Cardno MBK (#)	Questioned if Q5 ARI is for the Minor Storm event.	Yes, for Urban Areas	Clarification made to Spec. C5.02.2a & C5.04.4
	Questioned where the current spec requires a surcharge overland flow path of capacity not less than Q2 ARI to convey stormwater from major storm events across private property.	To convey the "major" storm event across private property, the underground system (both pipes and inlets) is required to capture and convey flows up to an ARI 5 year storm event and a surcharge, overland flow path of capacity not less than ARI of 100 years (Q100) to be defined. The profile of the overland flow path must provide a freeboard of 300mm under a Q100 storm event.	Appropriate wording added to C5.04.5
	Questioned Clause D5.06.3 in calculating "Coefficients of Run-off".	The spec provides Frequency Factors that have been derived for the Tweed area in lieu of QUDM Factors.	Appropriate wording added to C5.06.3
	Clause D5.06.5 determines time of concentrations for "Overland flow > 50m", but, what is to be used for rural catchments?	For rural catchments and developed catchments with overland flow lengths greater than 50m, QUDM Table 5.05.2 and Figure 5.05.2 are to be adopted.	Appropriate wording added to C5.06.5

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	Questioned spec limiting the maximum time of concentration in urban areas to 20 minutes.	This is consistent with QUDM. The limit has been set for urban and residential catchments (including playing fields and park areas) based on QUDM (5.05.4) recommendations. Unless sufficient evidence is provided to justify a greater time.	Appropriate wording added to C5.06.7
	Questioned the various scenarios in defining what HGL level should be adopted; ie. If the HGL is above the obvert of the pipe, if flood level is not known, etc.	Agree that clarification is needed	Appropriate wording added to C5.08 to clarify scenarios, including tidal influences.
	Questioned the use of Plastic Banded Pipes – D5.09.2.	Agreed, hydraulic pressure, both internally and externally should be considered.	Appropriate wording made.
	Queried where the Spec states that the maximum theoretical capacity of Council's standard gully pits in a sag is not to exceed 170 litres/second.	This limit is consistent with current Council design practice and considered appropriate.	No Change
	Queried where the Spec states that the maximum allowable depth of water is 0.2 metres and the maximum permitted velocity x depth product is 0.4m ² /s.	This limit is consistent with current Council design practice. It is derived with guidance from QUDM and considered appropriate.	No Change
	Queried where the Spec asks for low flow provisions up to ARI 1 year event to be contained via a pipe system (preferred) or concrete lined channel section in open channels. Suggested this provision should be less (Q6 month or Q3 month)	Containing low flows in an underground pipe requires less maintenance and it is generally preferred by adjacent residents. The requirement as drafted considered appropriate.	No Change
	Queries C5.13.9 – regarding open channel concrete inverts that extend above the HGL for the ARI 2 year storm event. Why not ARI 1 year.	Extending concrete inverts to ARI 2 years level is to prevent scouring of banks during these flows and considered appropriate.	No Change
	Queried where the Spec states that all bridges shall be designed for 1% probability flood intensity without afflux in urban areas.	This is covered in D1 – Road Design. A reference in D5 should be included to reference the provisions of Table D1.14 in Design Specification D1 - Road Design.	Appropriate amendment made to D5

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	Questioned the appropriateness of referencing AR&R 1987 Volume II, when determining the peak flood level and discharge for retarding basin.	Agreed.	Will amend to reference the Gold Coast City Council – Land Development Guidelines – 1999.
	Questioned whether the "minor" storm event is the most appropriate storm event for the low flow for a Retarding Basin.	Agreed	Has been replaced with the design "low flow" (minimum 2 year ARI storm event)
	Questioned why a maximum water depth level of 1.2m in a 20 year ARI event was adopted for Retarding Basins.	Agreed	This requirement has been removed from the Spec.
2. Engineering Services Division	Suggest amending D5.12.3 to provide a minimum freeboard of 0.5m for entrances to underground car parks	Agreed	Appropriate amendment made to D5.12.3a & 3c.
	Should increase the minimum clearance of between the 100-year ARI flood level and the underside of any "major" structure superstructure from 0.3m to 0.5m.	Agreed, to be consistent with D3	Appropriate amendment made to D5.14.2
	Should amend D5.16.5 such that combined sedimentation and detention ponds must be designed in accordance with Design Specification D7 – "Stormwater Quality" so that remobilisation of the sediment is minimised.	Agreed to be consistent with D7	Appropriate amendment made
	Should replace "approval of the linen plan of subdivision" with "issue of the Subdivision Certificate" in D5.23.1 for creation of easements.	Agreed, needs to be consistent with current legislation	Appropriate amendment made
	Add reference to alignment of interallotment drainage (IAD) pipelines with respect to retaining walls or batters.	Agreed, needs to be consistent with D6	Reference added to D6.06.7.
	D5.18 - Remove reference to standard drawings, until drawings are finalised.	Agreed	Done.
	Interallotment drainage easement should be a minimum of 3.0m wide to cater for maintenance machinery.	Agreed	Appropriate amendment made to D5.17
	Installation of IAD lines needs to consider if Subdivider owns the downstream property, or just the upstream property and/or if the property in question is supported by batter or retaining structures.	Agreed	Appropriate amendment made to D5.17
	Needs to state that IAD lines must be protected under a Section 88B Restriction.	Agreed	Appropriate amendment made to D5.17
	Needs to state that IAD lines must discharge to a legal point of discharge, which may require easements through private property to achieve.	Agreed	Appropriate amendment made to D5.17
	Need to limit the velocity of inflow into "on-line" Pollution Control Device such that they operate efficiently (in accordance with manufacturers advice)	Agreed, limit the incoming pipe to a grade no greater than 5%.	Appropriate addition made.

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
<p>D6 – Site Regrading 1. Century 21 AJ Maher Real Estate</p>	<p>Level blocks are well received by the market and sell well. They provide for cost savings for house construction, landscaping, pool construction, fencing, child safety, maintenance. Sloping blocks are slow to sell.</p>	<p>D6 permits substantial reforming of natural landforms, but, sets some limits on the height of retaining walls on allotment boundaries. Under the provisions of D6, level blocks can readily be created in flat and moderately sloping areas, but, in subdivision of hilly areas, some lots will have steeper slopes and not be suitable for slab on the ground house construction.</p>	<p>No change</p>
<p>2. Greg Burgis, Friends of Terranora</p>	<p>Supports minimal alteration to natural ground surface when subdividing, steep slopes add character and opportunities for varied house styles. Cut and fill should be rare and maximum 1.5m high with 20 year maintenance bond</p>	<p>In response to industry and market needs the specification permits cut/fill/retaining wall heights of up to 2.5m on common lot boundaries (1.8m on street frontage).</p>	<p>No change.</p>
<p>3. Vinnicombe & Associates</p>	<p>Objects to arbitrary maximum cut/fill retaining wall heights, these should be judged on their merits.</p>	<p>Some form of restraint on height of retaining walls is considered desirable to limit adverse impacts on neighbouring land and residents. See section 5.2 of this report.</p>	<p>No change proposed</p>
<p>4. B & P Surveys</p>	<p>Object to prohibition on regrading slopes > 18 degrees.</p>	<p>Agreed.</p>	<p>Specification amended to delete requirement.</p>
<p>5. Martin Findlater & Assoc</p>	<p>Any of the D6.02 Principles of Site Regrading (below) could prevent subdivision when applied literally. Every application would be required to address the issues identified for departing from these principles. "D6.02 Principles of Site Regrading." a) Site regrading must not adversely impact other land, persons or public infrastructure. b) Pre development levels should be preserved at external boundaries, preferably without the use of boundary retaining walls exceeding 1.2m in height. The application of this principal may be varied in infill subdivisions in flood liable areas where there is general filling to provide flood immunity. Natural watercourses, riparian vegetation and significant environmental features should be preserve c) The visual character of the landform as viewed from both within and outside the land should be preserved</p>	<p>It is considered that every application should preferably comply with these principles and in most cases this should not present significant difficulties. If an applicant wishes to depart from these principles the specification provides a mechanism for this to be approved, provided the departure can be justified.</p>	<p>No change</p>

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	<p>d) Cross boundary drainage conditions shall be preserved. (i) Runoff from the subject land to other land shall not be increased (ii) Runoff from upstream or upslope of the subject land shall be conveyed unimpeded across the land (ii) Public infrastructure in land to be regraded shall be preserved and if necessary for its continued viability be reconstructed to suit the new landform. Public infrastructure continuity shall be preserved at external boundaries e) There must be no adverse geotechnical impact or risk caused to other land. f) Earthworks are to be minimised g) Cut, fill, batters, retaining walls and associated drainage are to comply with this specification"</p>		
	<p>The arbitrary restriction in D5.05(4) on maximum departure from natural surface does not appear to serve any specific purpose. "D6.05 (3) The proportion of a subdivision or development site (plan area) that contains cut or fill areas with finished surface levels that depart from natural surface levels by more than 8m shall not exceed 20%."</p>	<p>The original D6 (Adopted by Council in June 2002) required no more than 10% of site to have cut and fill over 5m. The exhibited version relaxes that requirement. The objective of the condition is to ensure a limited retention of the natural landform, whilst allowing significant level change to accommodate the needs of the proposed land use.</p>	<p>No change to exhibited version</p>
	<p>D6.05 (4) restriction on reshaping land that exceeds 33% slope is unreasonable</p>	<p>Agreed</p>	<p>Requirement deleted</p>
	<p>D6.05 (5) Heights of walls and batters. There is no definition of batter. A 1:2 or flatter landscaped batter should not be considered in height calculations as this is compatible with natural slopes</p>	<p>The wording can be amended to define "batter" as excluding natural slopes and only including artificial banks and cuttings. It is considered that artificial cuts and embankments should be included in the "height" definition as they can have a similar impact on neighbouring land as walls.</p>	<p>Amend wording.</p>

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	D6.05 (6) Top of wall offset from boundary of 1.5m appears excessive	Offset is to minimise instability to adjacent (undercut land) and enable future maintenance work on boundary fences from the undercut side. 1.5m may be excessive and could be reduced.	Amend to require 0.5m offset.
	Table 6.2 and 6.3, Maximum Cut and Fill Slopes. These appear to be too flat for most common soil types in the Tweed. In most cases consider a 1:2 batter to be suitable	The tables are extracts from an RTA specification. They are an approximation only and batter slopes should be determined by individual site assessment investigation.	Amend to make tables advisory only and rely on geotechnical advice for batter slopes where there is evidence of instability or heights exceed 5m.
	D6.06A Retaining Wall Design: disagree that walls over 2.5m should be classified as Type 1 (high risk) under SA4678-2000, Type 2 is satisfactory.	Type 1 walls are designated as those "where failure would result in significant damage or risk to life" and AS 4678 requires a higher factor of safety for walls designated as Type 1. D6 considers all walls over 2.5m high in residential subdivisions should be designed as Type 1 as if they fail there is a risk of persons being in close proximity and therefore at risk to injury.	No change recommended
	Considers structural/geotechnical details required with construction certificate are unnecessary and should be supplied once earthworks and clearing are completed and geotechnical engineer can better appreciate conditions.	Initial design details must be on the construction certificate as this is the only official authorisation of the design. This does not preclude amendment of the design if ground conditions encountered during construction differ from those identified by pre-construction borelog investigations.	No change

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	D6.06 (9) Requirement for services and drainage to be transverse to walls should be altered to be at top and parallel to walls.	The transverse requirement for services and drainage was in response to concerns that parallel pipes and trenches may weaken the foundation of retaining walls by providing for ground water penetration. Agree that transverse requirement could be deleted provided there was adequate subsoil drainage to remove groundwater.	Amend to delete requirement for transverse service/drainage pipes near retaining walls and substitute requirement to provide sufficient subsoil drainage to ensure groundwater is speedily removed.
	Management of maintenance/repair of common boundary walls after construction. Do not believe a management plan with covenants is necessary. Walls should be wholly contained within an individual allotment.	Agree that management plan with covenants is not necessary. Also agree that the long term maintenance and repair of common boundary walls would be better provided by locating them in one allotment and providing the adjacent allotment with repair rights via an easement for support.	Amend by deleting requirement for management plan with positive covenants and substituting with an easement system.
	Further earthworks in zone near retaining walls. Consider wording of restriction in D6 unreasonable and should be up to the designer.	Restriction on further earthworks near retaining walls was to ensure the stability of retaining walls was not reduced by undercutting or overloading (by fill). Agree however that the details of restriction can be left up to the designer.	Amend to allow restriction on use for additional cut and fill near retaining walls to be determined by the wall designer.
6. Cardno MBK (#)	D6.05 (3) Requirement that not more than 10% of a site to have cut/fill over 5m high is too restrictive.	Agreed.	Amend requirement to not more than 20% of site area to have cut/fill over 8m height. Anything over must be justified.
	D6.05 (4) Object to prohibition on regrading slopes >18 degrees.	Agreed.	Specification amended to delete requirement.

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	D6.06 (9) Interallotment drainage to be transverse to retaining walls difficult	Agreed	Amend to delete requirement for transverse service/drainage pipes near retaining walls and substitute requirement to provide sufficient subsoil drainage to ensure groundwater is speedily removed.
	D6.06A Retaining wall management after construction. Similar concerns to Martin Findlater.	Agreed	Amend by deleting requirement for management plan and positive covenants and substituting with an easement system
	D6.16 Geotechnical design certification should not be required for batters higher than 1m where batter slope complies with Table D6.2 and D6.3.	After discussion with submission author and other consultants, it is considered that tables D6.2 and 6.3 should be advisory only, but, that certification should still be required.	Amend notes on tables
D7 – Stormwater Quality			
1. Cardno MBK (#)	D.07.2biii. This section could go further and also request estimated volumes of material (trapped pollutants) to be removed and evidenced of contract arrangements for cleaning.	This section mirrors s68 Local Government Act stormwater drainage requirements. Amendments would be required to that application form and are outside the scope of this report.	No change. Consider issue when s68 process is next reviewed.
	Requirement to ensure ponds/wetlands are above Q100 flood level is unreasonable.	Add wording to only require that ponds be designed to ensure trapped pollutants are not remobilised in Q100 flood event.	Wording amended
2. Engineering Services Division	Need to amend Oil/Grit arrester sizing provisions to treat pollutants generated from under cover basement car parks	Agreed	Appropriate wording added to 7.12.2

Reports from Director Engineering Services

Author	Issues Raised in Submissions	Comments	Proposed Action
	<p>Issues Raised in Submissions Provisions for the "Shakedown" devices need strengthening as current provisions are still resulting in soil/mud for construction sites being tracked onto local roads.</p>	<p>Agreed. Retain exhibited wording for construction sites less than 1 hectare (except replace 50mm diameter crushed rock with 75mm). For construction sites greater than 1 hectare, the Shakedown area should be a combination of a shaker grid (cattle grid) and a shakedown area constructed with 75mm diameter crushed rock.</p>	<p>Appropriate wording added to D7.A4.</p>
D12- Sewerage System			
1. Engineering Services Division	<p>Need to provide guidelines on the location of sewer lines on street frontages of allotments.</p>	Agreed	Appropriate amendment made to D12.07
	<p>DI Epoxy Lined internally are to be used for gravity sewers. To avoid odour complaints, need to consider proximity of residential areas when locating sewerage pump stations and receiving manholes.</p>	Agreed - is already noted in the drafted Spec.	Added in Clause D12.10.2 Minor addition added to Spec to enforce this consideration.
D13- Engineering Plans (Subdivisions)			
1. Martin Findlater and assoc	<p>Requirements of D13- Engineering Drawings Subdivisions are overly prescriptive in regard to scales and consequently drawing sheet sizes. Additional costs of preparing design and Work As Executed drawings is considerable.</p>	<p>WAX drawings need to be of sufficient detail to verify that works have been constructed in accordance with the design plans and allowable tolerances. It is agreed that some flexibility on scales and drawing sheet sizes is desirable.</p>	Amend to allow flexibility in drawing scales
D14- Landscaping			
1. Engineering Services Division	<p>In order to prevent installed steel bollards from rusting, should require that bollards are Hot Dipped Galvanised prior to powder coating.</p>	Agreed	Appropriate amendment made.
	<p>To prevent (or at least minimise) fence panels from being stolen, panels should be installed with anti-theft securing devices (i.e. one-way crews)</p>	Agreed	Appropriate amendment made.

Reports from Director Engineering Services

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Reports from Director Engineering Services

13. ORIGIN: Design Unit

FILE REF: DA1190/2130 Pt1; Land - Acquisitions; Easements; LN 26637

REPORT TITLE:

Acquisition of Easement for Services & Land for Road within Lot 501 DP 728234 and Lot 507 DP 728257 at Pottsville

SUMMARY OF REPORT:

At a meeting held on 18 October 2000 Council resolved to approve the acquisition of an easement for sewerage purposes within the Pottsville Environmental Centre located in Crown Reserves 140037 (Lot 501) and 74096 (Lot 507). The easement was sought to protect Council's sewerage assets servicing the Seabreeze Estate to the south-west, where the developer had agreed to bear all legal and survey costs involved including the compensation as negotiated between Council and the developer.

Council has subsequently sought and received concurrence from the Department of Sustainable Resources (formerly Department of Land And Water Conservation) to the acquisition of land for road purposes together with an Easement for Services.

The road and Easement for Services will replace the Easement for Sewer Rising Main as they are directly located over the Sewer Rising Main Easement.

To register the plan creating the road, it is necessary to relinquish the Easement for Sewer Rising Main created in DP 1044500. Council, as the beneficiary of the Easement for Sewer Rising Main, must provide its consent to the relinquishment by endorsement of the plan and section 88B instrument relinquishing the Easement, creating the road and the Easement for Services.

RECOMMENDATION:

That Council:-

1. Approves the relinquishment of Easement for Sewer Rising Main 3 wide created in DP 144500;
2. Approves the acquisition of Easement for Services 10 wide for the purposes of the Local Government Act, 1993;
3. Approves the acquisition of land for road purposes under the Roads Act 1993, both acquisitions to occur under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991; and
4. Endorses all necessary documentation under the Common Seal of Council.

Reports from Director Engineering Services

REPORT:

At a meeting held on 18 October 2000 Council resolved to approve the acquisition of an easement for sewerage purposes within the Pottsville Environmental Centre located in Crown Reserves 140037 (Lot 501) and 74096 (Lot 507). The easement was sought to protect Council's sewerage assets servicing the Seabreeze Estate to the south-west, where the developer had agreed to bear all legal and survey costs involved including the compensation as negotiated between Council and the developer.

An Easement for Sewer Rising Main 3 metres wide was created in DP 1044500, and the acquisition of the easement is nearly complete. A copy of DP 1044500, marked (1) follows showing the easement marked "SS".

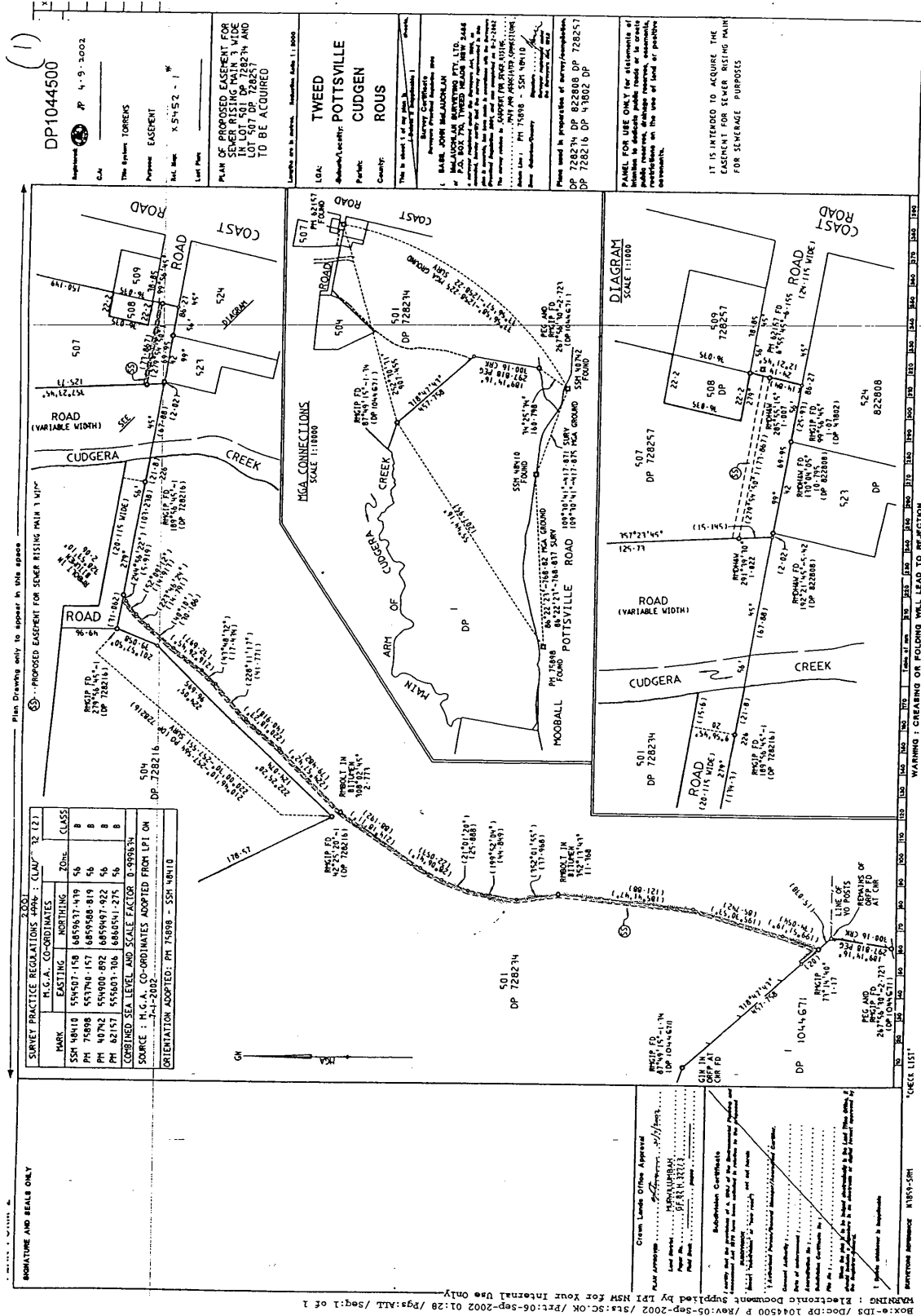
Council has subsequently sought and received concurrence from the Department of Sustainable Resources (formerly Department of Land And Water Conservation) to the acquisition of land for road purposes together with an Easement for Services.

The acquisition for road purposes is to formalise the road formation providing access to the Environmental Centre; the Easement for Services extends from the road formation in a south-westerly direction towards the Seabreeze Estate, a copy of the proposed plan, marked (2), follows showing the proposed road as Lot 2 with the Easement marked "E".

It should be noted that the road formation is located directly over the Easement for Sewer Rising Main created in DP 1044500. The acquisition subject to this report will result in Council owning the land where the sewerage assets are located rather than holding only the rights granted by the Easement.

To register the plan creating the road, it is necessary to relinquish the Easement for Sewer Rising Main created in DP 1044500. Council, as the beneficiary of the Easement for Sewer Rising Main, must provide its consent to the relinquishment by endorsement of the plan and section 88B instrument creating the road and Easement for Services.

Reports from Director Engineering Services



Reports from Director Engineering Services

14. ORIGIN: Works Unit

FILE REF: Budget; Management Plans; Government Grants - Roads; Works Program 2003/2004

REPORT TITLE:

Infrastructure Improvement Program 2003/2004

SUMMARY OF REPORT:

Submitted for Council's consideration is the Infrastructure Improvement Program for the 2003/2004 budget. This program includes improvements to the following asset areas:-

- Roads
- Bridges
- Drainage
- Water Supply
- Sewerage

The value of work submitted for approval is \$23.8M.

The road, bridge and drainage works generally follow the five year program submitted to Council last year.

The road program is concentrated mainly on preserving the existing sealed pavement asset. There is however in the Roads Recovery Program an allocation of \$800,000 towards the sealing of gravel roads.

RECOMMENDATION:

That Council approves the Infrastructure Improvement Program 2003/2004 as submitted in this report.

Reports from Director Engineering Services

REPORT:

Submitted for Council's consideration is the Infrastructure Improvement Program for the 2003/2004 budget. This program includes improvements to the following asset areas:-

- Roads
- Bridges
- Drainage
- Water Supply
- Sewerage

The value of work submitted for approval is \$23.8M.

The road, bridge and drainage works generally follow the five year program submitted to Council last year.

The road program is concentrated mainly on preserving the existing sealed pavement asset. There is however in the Roads Recovery Program an allocation of \$800,000 towards the sealing of gravel roads.

The work shown in the water and sewer areas is only that to be carried out by Council's day labour workforce. There are significant major works to be completed by contract. A separate 5 year water supply and sewerage program will be submitted to Council within the next two months.

1. Urban Road Construction	\$1,856,400
Concrete Footpaths	75,000
Floral Avenue	234,000
Elanora / Boronia Avenue	170,000
Cominan Avenue	80,000
Gray Street, Tumbulgum	132,000
Myrtle Street, Murwillumbah	150,000
Coral Street	186,500
William Street, Murwillumbah	186,000
Rutile Street, Chinderah	102,000
Coolman Street, Tyalgum	116,900
Peninsula Drive	215,000
Old Ferry Road, Murwillumbah	47,000
Church Street, Murwillumbah	162,000
	\$1,856,400

Reports from Director Engineering Services

2004/2005

Walsh Street, Chinderah

Myrtle Street

Coral Street

Coolman Street

Terranora Road (Blue Haze)

Bawden Street

Altair Street

Reynolds Street

Mitchell Street, Uki

McAllisters Road Intersection

Kennedy Drive

Concrete Footpaths

Broadwater Esplanade

2005/2006

Marshall Street

Elanora Avenue

Peninsula Drive

Wollumbin Street, Tyalgum

Broadwater Esplanade

Seaview road, Banora Point

Oyster Point Road

Quarry Road

Lundberg Drive

Fern Street

Lalina Avenue

Parry Street

Peninsula Drive

Proudfoots Lane

2006/2007

Rayward Avenue

Pearce Street

Broadwater Esplanade

Nullum Lane

Wentworth Lane

Overall Drive

Buckingham Drive

Edward Avenue

Nullum Street

2007/2008

Riverside Drive

Nullum Street

Machinery Drive

Towners Avenue

Hillcrest Avenue

Kennedy Drive

Reports from Director Engineering Services

2. Rural Road Construction	\$1,255,400
Gravel Resheeting	150,400
Cane Road	174,000
Dulguigan Road (slip)	75,000
Leddays Creek Road	153,000
Carool Road	104,000
Stokers Road (village)	200,000
McAuleys Road (slip)	70,000
North Arm Road	200,000
Round Mountain Road	129,000
	\$1,255,400

2004/2005

Nobbys Creek Road	Cudgen Road
Richards Deviation	Cobaki road
Dulguigan road	Eviron Road
Pottsville Road	Burringbar Road
Duranbah Road	Leddays Creek Road

2005/2006

Upper Crystal Creek Road	Eviron road
Yugari Road	Cobaki Road
Racecourse Road	Piggabeen road

2006/2007

Eviron Road	Piggabeen Road
Cudgen Road	Stokers Road

Reports from Director Engineering Services

3.	Roads to Recovery	\$986,000
	Survey & Design	35,000
	Minnows Road	180,000
	Byrrill Creek Road	200,000
	Urliup Road	150,000
	Smarts Road	150,000
	Round Mountain Road	120,000
	Machinery Drive	66,000
	Overall Drive	85,000
		\$986,000
4.	Federal Assistance Program	\$1,500,000
	Advanced Survey & Land Acquisition	150,000
	Fingal Road	300,000
	Byangum Approaches	200,000
	Piggabeen Road	300,000
	Kyogle Road (50%)	80,000
	Numinbah Road (50%)	60,000
	Clothiers Creek Road (Range)	200,000
	Tyalgum Road	210,000
		\$1,500,000
5.	Repair Program	\$250,000
	Kyogle Road (Tyalgum Road flat)	130,000
	Numinbah Road (Brooks Road)	120,000
		\$250,000
6.	Bridge Replacement	\$1,000,000
	Byangum Bridge (BN 2442)	1,000,000
	2004/2005	2005/2006
	Byangum Bridge (BN 2442)	Quinns Bridge, Reserve Ck Rd (BN 19)
		Giddys Bridge, Urliup Road (BN 162)

Reports from Director Engineering Services

2006/2007

Charltons Br, Cudgera Ck Rd (BN 40)

Richard Br, Stokers Rd (BN 48)

2007/2008

McCabes Br, Doon Doon Rd (BN 73)

Ottes Br, Byrrill Ck Rd (BN 54)

7.	Tweed Valley Way Improvements	\$1,500,000
	Rehabilitation, guardrail, bridge maintenance	350,000
	Crabbes Creek Bridges	400,000
	McLeods Creek Culvert	150,000
	Asphalt Overlays	240,000
	Reseals	360,000
		\$1,500,000
8.	Drainage – Major Works	\$1,000,000
	Minjungbal Drive	600,000
	Proudfoots Lane – start	200,000
	Frances Street, Tweed Heads	200,000
		\$1,000,000

2004/2005

Proudfoots Lane

Broadwater / Banora Terrace

2005/2006

Broadwater / Banora Terrace

Fingal Village

9.	Drainage Augmentation	\$600,000
	Wyuna Road	35,000
	Hogans Road	20,000
	Tamarind Avenue	60,000
	Rosemount Court	50,000
	Botany Crescent	60,000
	Murwillumbah Street	90,000
	Bent Street	30,000
	Elanora / Boronia Avenue	150,000
	Ducat Street / Meridian Way	40,000
	Bione Avenue	65,000
		\$600,000

Reports from Director Engineering Services

- 10. Concrete Footpath Construction** **\$155,000**
- Kennedy Drive (Caltex Service Stn to Bus Stop)
 - Cromer Court to Leisure Drive
 - Boomerang Street
 - Coronation Avenue
 - Solander Street
 - Oyster Point Road (Bridge to Anderson)
 - Cominan Avenue (View to Toolona)
 - View Street (Pioneer to Cominan)
 - Pioneer Parade (Bridge to View)
 - Darlington Drive
 - Nullum Street (TAFE to Govt offices)
 - Byangum Road (Joshua to West)
 - Byangum Road (Bagoo)
 - Byangum Road (Bagoo to Hall)
 - Rosewood Avenue (Coast to Hastings)
 - Lakes Drive (Gollan to Jacaranda)
 - McPhail Avenue (Corner at Turnock)
 - Kingscliff Street (Beach to Pacific)
- 11. Cycleway Construction** **\$110,000**
- (TSC \$75,000 – RTA \$35,000)**
- Leisure Drive (at Sportsclub)
 - Leisure Drive (Centaur School)
 - Coast Road (Cypress to Shops)
 - Riveroak Drive (to Park Avenue)
 - Nullum Street (High School to Condong Street)
 - Chinderah Bay Drive (Wommin Bay to Waugh Street)
 - Greenway Drive (Doyle Drive to Corporation Circuit)
- 12. Asphalt Resurfacing** **\$249,900**
- Frangella Drive, Murwillumbah
 - North Arm Road, Murwillumbah
 - Thomson Street, Tweed Heads
 - Leeward Terrace, Tweed Heads
 - The Anchorage, Tweed Heads
 - The Jib, Tweed Heads

Reports from Director Engineering Services

Kennedy Drive (Access Road)
 Marine Parade, Kingscliff
 Anthony Avenue, Banora Point
 Hillcrest Avenue, Banora Point
 Seaview Street, Banora Point
 Ocean Avenue, Banora Point
 Fraser Drive, Banora Point
 Dobbys Crescent, Terranora

13. Water Supply	\$10,950,000
Hospital Hill Reservoir (earthworks)	400,000
West Pottsville Reservoirs	1,500,000
Walmsleys Reservoir (start)	500,000
Fraser Drive Water Pump Stn No. 22	400,000
Cudgen Water Pump Stn No. 4	150,000
Cudgera Creek Services Crossing	453,000
Coast Road water main to Seabreeze	500,000
Water main (Seabreeze to Pottsville Reservoir)	897,000
Water main (Pottsville Reservoir to Abi site)	460,000
Leisure Drive water main	140,000
Overall Drive water main	220,000
Hospital Hill to Tumbulgum Road	700,000
Tweed Valley Way 1085 water main Stn No. 3	1,500,000
Tweed Valley Way 1085 water main Stn No. 4	1,500,000
Chinderah Bay Drive 600 water main	760,000
Razorback to Lloyd Street 450 water main	600,000
Boatharbour Bridge alterations	35,000
North Arm Road	200,000
Carramar Drive	35,000
	\$10,950,000

Reports from Director Engineering Services

14. Sewerage Upgrades	\$2,380,000
Towner Avenue Pump Station	25,000
River Street Pump Station	150,000
Bosun Boulevarde Rising Main	200,000
Overall Drive Rising Main	200,000
Hastings Point Effluent Line	300,000
Dry Dock Road Rising Main relocation	30,000
Carramar Drive 150 Sewer Line	40,000
Hartigan Street Rising Main	55,000
Goronszys Rising Main	30,000
River Street Rising Main	60,000
Avoca Street duplication	100,000
Koala Beach to Creek Street Rising Main	450,000
Cudgen Avenue to Creek Street Rising Main	450,000
Darlington Drive Rising Main	65,000
Darlington Drive Gravity Sewer	135,000
Amaroo Drive Gravity Sewer	65,000
Jacaranda Avenue Gravity Sewer	25,000
	\$2,380,000

Reports from Director Engineering Services

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Reports from Director Engineering Services

15. ORIGIN: Design Unit
FILE REF: DA4840/255 Pt1; LN 43265

REPORT TITLE:

Boundary Adjustment at Round Mountain where the Responsibility to Maintain Access Road to Council Reservoir is to be Created

SUMMARY OF REPORT:

A boundary adjustment of land at Round Mountain, where Council's water reservoir is located has raised the issue of maintenance of the access road to the reservoir. Two proposed Lots of the boundary adjustment will have the benefit of the Right of Carriageway to be created in the plan and the section 88B instrument accompanying the plan is formalising the rights and obligations pertaining to the access to the Reservoir.

It has been agreed with the landholders that Council will maintain the road and drainage system which forms part of the easement whilst Council utilises the Round Mountain Reservoir as a component of the Tweed District Water Supply.

As the section 88B instrument accompanying the plan formalises these maintenance obligations upon Council, it is necessary for Council to provide its consent to these obligations by executing the instrument creating them.

RECOMMENDATION:

That Council:-

1. Approves the formalisation of maintenance obligations over a Right of Carriageway leading to the Round Mountain Reservoir. These obligations to continue whilst the Round Mountain Reservoir forms part of the Tweed District Water Supply; and
2. Endorses all necessary documentation under the Common Seal of Council.

Reports from Director Engineering Services

REPORT:

A boundary adjustment of land at Round Mountain, where Council's water reservoir is located has raised the issue of maintenance of the access road to the reservoir. Two proposed Lots of the boundary adjustment will have the benefit of the Right of Carriageway (as will Council) to be created in the plan and the section 88B instrument accompanying the plan is formalising the rights and obligations pertaining to the access to the Reservoir.

It has been agreed with the landholders that Council will maintain the road and drainage system which forms part of the easement whilst Council utilises the Round Mountain Reservoir as a component of the Tweed District Water Supply.

As the section 88B instrument accompanying the plan formalises these maintenance obligations upon Council, it is necessary for Council to provide its consent to these obligations by executing the instrument creating them.

A copy of the proposed section 88B instrument follows this report:-

Reports from Director Engineering Services

**INSTRUMENT SETTING OUT TERMS OF EASEMENT AND RESTRICTION
AS TO USER INTENDED TO BE CREATED PURSUANT TO
SECTION 88B OF THE CONVEYANCING ACT 1919**

PLAN: **OF SUBDIVISION COVERED BY
COUNCIL CLERK'S CERTIFICATE
NO. _____ OF 2002**

Lengths are in metres

(Sheet of sheets)

PART 1

**FULL NAME AND ADDRESS
OF PROPRIETOR OF THE LAND**

HANSEN DEVELOPMENT PTY LTD
TAMARIND AVENUE
CABARITA BEACH 2488

MICHAEL JAMES DE GOOD
26 KURRAJONG AVENUE
CABARITA BEACH 2488

1. **IDENTITY OF EASEMENT
OR RESTRICTIONS FIRSTLY
REFERRED TO IN THE
ABOVEMENTIONED PLAN:** Restriction on Use of Land

SCHEDULE OF LOTS AFFECTED

Lots burdened

Lots benefited

Lots 21, 22 and 23

Council of the Shire of Tweed

2. **IDENTITY OF EASEMENT
OR RESTRICTIONS SECONDLY
REFERRED TO IN THE
ABOVEMENTIONED PLAN:** Right of carriageway 10 wide

SCHEDULE OF LOTS AFFECTED

Lots burdened

Lots benefited

Lot 21

Lots 23 and 24
Council of the Shire of Tweed

3. **IDENTITY OF EASEMENT
OR RESTRICTIONS THIRDLY**

Reports from Director Engineering Services

**REFERRED TO IN THE
ABOVENTIONED PLAN:**

Right of carriageway variable width

SCHEDULE OF LOTS AFFECTED

Lots burdened

Lot 24

Lots benefited

Lots 21 and 23
Council of the Shire of Tweed

PART 1A

1. **IDENTITY OF EASEMENT TO
BE RELEASED**

Right of access 6 wide created in DP868026

PART 2

1. **TERMS OF RESTRICTION ON USE OF LAND FIRSTLY REFERRED TO IN
THE ABOVENTIONED PLAN:**

No fencing shall be erected on any land within this plan which is zoned as a coastal wetland area pursuant to the Environmental Planning and Assessment Act by State Environmental Planning Policy No. 14 - Coastal Wetlands.

2. **TERMS OF EASEMENT SECONDLY REFERRED TO IN THE
ABOVENTIONED PLAN:**

(a) Full and free right for every person who is at any time entitled to an estate or interest in possession herein indicated as the dominant tenement or any part thereof with which the right shall be capable of enjoyment and every person authorised by him to go, pass and re-pass at all times and for all purposes with or without animals or vehicles or both to and from the said dominant tenement or any such part thereof.

(b) The Council of the Shire of Tweed shall at its cost, maintain the road way and drainage system which forms part of this easement to a standard sufficient to allow physical access to the water reservoir situated on this land whilst ever Tweed Council utilises Round Mountain Reserve as a component of the Tweed District Water supply.

3. **TERMS OF EASEMENT THIRDLY REFERRED TO IN THE
ABOVENTIONED PLAN:**

Reports from Director Engineering Services

- (a) Full and free right for every person who is at any time entitled to an estate or interest in possession herein indicated as the dominant tenement or any part thereof with which the right shall be capable of enjoyment and every person authorised by him to go, pass and re-pass at all times and for all purposes with or without animals or vehicles or both to and from the said dominant tenement or any such part thereof.
- (b) The Council of the Shire of Tweed shall at its cost, maintain the road way and drainage system which forms part of this easement to a standard sufficient to allow physical access to the water reservoir situated on this land whilst ever Tweed Council utilises Round Mountain Reserve as a component of the Tweed District Water supply.

4. **NAME OF PERSON EMPOWERED TO RELEASE, VARY, MODIFY THE RESTRICTION ON USE FIRSTLY REFERRED TO:**

Council of the Shire of Tweed.

5. **NAME OF THE PERSON EMPOWERED TO RELEASE, VARY OR MODIFY THE EASEMENT SECONDLY REFERRED TO:**

The Registered Proprietors of the dominant tenement and the Council of the Shire of Tweed.

6. **NAME OF PERSON OR AUTHORITY EMPOWERED TO RELEASE VARY OR MODIFY THE EASEMENT THIRDLY REFERRED TO:**

The Registered Proprietors of the dominant tenement.

GIVEN UNDER THE COMMON SEAL of)
HANSEN DEVELOPMENTS PTY LTD)

pursuant to a resolution of the Board of)
Directors in the presence of:)

.....
Director

.....
Secretary

SIGNED SEALED AND DELIVERED by the)
said **MICHAEL DE GOOD** at)
on the day of 2002 in)
the presence of:)

.....
MICHAEL DE GOOD

Reports from Director Engineering Services

SIGNED at _____ on the _____ day _____)
of _____ 2002,)
for and on behalf of **THE COUNCIL OF**)
THE SHIRE OF TWEED)

.....

WP Ref: pm18111.88

Reports from Director Engineering Services

16. ORIGIN: Design Unit

**FILE REF: Dobbys Crescent; Accounts - Sewerage; Sewerage - Capital Works
Program - General**

REPORT TITLE:

Residents Acceptance of Dobbys Crescent Sewer Extension

SUMMARY OF REPORT:

Council at its meeting of 7 May 2003 supported the extension of the reticulated sewerage system to Dobbys Crescent, Terranora. A letter was sent to Dobbys Crescent property owners detailing the proposed financial arrangements and seeking the acceptance of the proposal. Council policy requires 70% of property owners to accept the proposal before the scheme can proceed. The acceptance forms were required to be returned to Council by 2 June 2003. The 26 property owners out of a total of 35 property owners accepted the proposal. This represents 74% of acceptance.

RECOMMENDATION:

That Council proceeds with the implementation of the Dobbys Crescent sewerage system extension.

Reports from Director Engineering Services

REPORT:

Council at its meeting of 7 May 2003 supported the extension of the reticulated sewerage system to Dobbys Crescent, Terranora. The 35 property owners were offered connection to the sewerage system extension providing they agree to pay the fixed special charge of \$450 per year per property for a 10 year period as the landowner's contribution. The acceptance forms were required to be returned to Council by 2 June 2003. 26 property owners accepted the proposal, being 74%.

Council policy requires 70% of property owners to accept the proposal before the sewer extension can proceed. The acceptance rate for the proposal is 74%. Therefore it is recommended that the Dobbys Crescent sewer extension be implemented and that a special charge of \$450.00 should commence in the 2003 – 2004 financial year.

Reports from Director Engineering Services

17. ORIGIN: Works Unit

FILE REF: Traffic - Safety

REPORT TITLE:

Buckle Up Every time Road Safety Campaign

SUMMARY OF REPORT:

Road Safety Officers in the Northern Region of NSW are conducting a campaign to promote the wearing of seatbelts by motor vehicle occupants.

Elements of the campaign are tailored to the Local Government Area by utilising local identities in the campaign where appropriate.

The campaign relies on data and research from multiple sources including the carrying out of observation surveys in the local area.

Observational surveys carried out in Murwillumbah and Uki in May found that 16% of children were not wearing seatbelts and that compliance in the Village of Uki was particularly low with 30% of vehicle occupants not restrained.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Engineering Services

REPORT:

In the Northern Region of NSW there are Road Safety Officers at Tweed Shire Council, Ballina Council, Lismore Council, Hastings Council, Coffs Harbour City Council, Tamworth Council, Armidale/Dumaresq, Inverell Council and Moree Plains/Yallaroi Shire Councils.

It was identified that a regional road safety campaign focussing on seat belt usage be implemented that could be tailored to the Local Government Area while maximising the use of resources.

Unrestrained vehicle occupants are involved in around 25% of fatal crashes in the Northern Region yet surveys carried out by the Roads and Traffic Authority for NSW indicate that around 96% of vehicle occupants are wearing restraints.

The RTA carry out regular studies for NSW (including major Metropolitan Centres) and the most recent indicates that wearing levels are at world leading rates.

Occupant	Percent Wearing Seatbelts
ADULTS	
Drivers	97.4
Front passengers	96.1
Rear passengers	81.7
CHILDREN	
Front passengers	92.9
Rear passengers	87
Total	96

Increases have been achieved in occupant restraint wearing rates from approximately 20% in 1970 to 76% in 1971 and after the introduction of legislation to 94% in 1994.

Non-wearing of seatbelts is one the four major behavioural factors that contribute to fatalities on our roads. It is estimated that for NSW in 1998, 27% of occupant fatalities were not wearing seatbelts, 25% in 1999 and 21% in 2000.

Crash data for the Northern Region of NSW for 2001 indicates that 25% of vehicle occupants killed were not wearing a restraint. The non-wearing of seatbelts is quite often linked with and involves other high-risk behaviours such as speeding and drink driving. Of the 37 vehicle occupants killed in the Tweed Shire from 1997-2001 there were 5 that were not wearing a seatbelt.

It has been proven that seat belts save lives. Research indicates that vehicle occupants have a 40% better chance of surviving a crash if they are wearing a seatbelt. Obviously this statistic is dependent on the severity of the crash. Some crashes are so severe that survival is impossible, while in many crashes seat belts play a major role in reducing the severity of road crash injuries.

In a crash, seat belts link a person to the vehicle to slow them at the same rate as the vehicle. Because of the crush-zone at the front of the vehicle, the vehicle is designed to slow relatively gradually. That is, stopping is relatively gradual compared to the stopping of an unrestrained person who will fly at the vehicle's impact speed until something solid gets in the way, either inside or outside the vehicle. The vehicle is designed to protect the occupants. The seatbelt is also designed to stretch a little, further softening the crash.

Reports from Director Engineering Services

There is no exactly definable group who are the ones who travel unrestrained. Although exact targeting is not possible there are correlations as indicated in crash data where 64% are 17-39 year olds and 77% are male.

Seventy-five percent of unrestrained fatalities occur on country non-urban roads with speed limits above 80km/h. Of country non-urban unrestrained occupant fatalities, 80% were single vehicle crashes. This is important because of the belief by many country non-wearers that they are safe as long as no other vehicle is around.

The majority of unrestrained fatalities occur at night. 62% occur between 6pm and 6am. And the majority occur during holidays and weekends.

A difficulty that restraint-wearing campaigns have to face is that nearly everyone is a regular user. There is no clear way to target non-users specifically. Qualitative research indicates that seatbelt usage is a conscious decision and is a function of the perceived degree of risk that is involved in a given situation. Non-wearing is an occasional event and is triggered by the following perceptions:-

- If I don't wear a seat belt I am only hurting myself,
- Short trips are safe and I am very unlikely to have an accident,
- Being in the backseat is safer than the front,
- I'm a good driver,
- Country roads are quiet,
- I know the roads well,
- I am unlikely to get caught, and
- Police don't enforce seat belt wearing to any great extent.

The role of advertising is to challenge these beliefs and promote the message that no driving situation is safe regardless of speed, traffic, distance and familiarity of the road. The other basic message is that you are putting yourself and others at risk of serious injury when you don't wear a seatbelt.

The Tweed Shire's "Buckle Up Every Time" campaign can be summarised by the following actions and elements:-

- Observational surveys carried out to determine levels of non-seatbelt usage. Data is compared to counts performed last year.
- Press releases issued and articles printed in Tweed Link identifying problems areas.
- Television advertisements broadcast on Channel 10.
- Electronic 'Variable Message' signboards at selected locations.
- Police enforcement undertaken.
- Bus shelters display "Buckle Up Every Time" message.
- Radio testimonials broadcast on Sea FM featuring Reverend John Bedford and Sergeant Bill Darnell.

Reports from Director Engineering Services

- “Buckle Me Up Every Time” tattoos distributed to childcare centres.
- Additional police enforcement undertaken.
- Carry out second survey to determine if seatbelt usage increasing.
- Issue press release/articles to advise of campaign’s results.

The campaign to increase seatbelt usage although a regional one is tailored to each LGA. A series of testimonial types advertisements were recorded featuring local identities. In the Tweed, Sergeant Bill Darnell from the Tweed Byron Local Area Command and Reverend John Bedford are spokespersons. The police have also committed to enforcement activities for non-compliance of seatbelt usage.

Other elements of the campaign include utilising bus shelters with the Buckle Up Every Time message, free standing signs at the exit to major car parks and the use of Variable Message Signs on the Tweed Valley Way and on the Kyogle Road at Bray Park.

A survey has been undertaken at 8 sites in Murwillumbah and at Uki in May this year. Data collected included sex of occupant estimated age, and type of vehicle. A summary of the results is as follows;

Item	Seatbelt usage
Car only- passengers- children	84%
Car only – passengers	87%
Uki only – all vehicles-all occupants	70%
All areas – all vehicles-all occupants	88%
Trucks – all occupants *	55%
Murwillumbah only – cars only – all drivers	95%
Murwillumbah only – cars only – all passengers	90%
Car only – all drivers	93%
Car only – Male drivers	91%
Car only – Female drivers	95%

* Many trucks are fitted with lap belts only which may affect survey results.

Additional surveys will be carried out in July to assess whether behaviours have changed.

The “Buckle Up Every Time” campaign is fully funded by the NSW Roads and Traffic Authority through grants provided to Council in support of the Local Government Road Safety Project Program.

Reports from Director Engineering Services

“Buckle Up Signage”:



Reports from Director Engineering Services

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Reports from Director Environment & Community Services

18. ORIGIN: Environment & Health Services Unit

FILE REF: GL7/4/20003S Pt1; Licences - Beach Vehicle - Special Permits

REPORT TITLE:

Queensland State Surf Fishing Titles

SUMMARY OF REPORT:

A request has been received for the issue of a 24 hour special event Beach Vehicle Permit for the Queensland State Surf Fishing Titles to be held on 21-22 June 2003.

RECOMMENDATION:

That the Tweed Coast Amateur Fishing Clubs Association Inc be granted approval to issue a 24 hour Beach Vehicle Permit on Council's behalf for the purpose of the Queensland State Surf Fishing Titles, subject to:

- a) The permit being valid from 3.00 pm on Saturday 21 June to 7am on Sunday 22 June 2003.
- b) Current Tweed Council Beach Vehicle Permit Holders are exempt from paying the Special Event Fee.
- c) The permit is issued for the purpose of fishing only – joy riding and picnicking are not permitted.
- d) The vehicle is not to be driven above the high tide mark, except when travelling to and from the beach at the designated access points.
- e) Under no circumstances is the vehicle to be driven on or over frontal dunes or foreshore areas not designated as access points.
- f) All vehicles must be registered with the relevant State Authority.
- g) The permit holder must be the holder of either a current provisional or full drivers licence, issued by the relevant State Authority.
- h) Vehicles must not be driven by persons under the influence of intoxicating liquor or drugs.
- i) Vehicles are to be driven only on the section of beach between Pottsville and Wooyung as specified by the attached plan.
- j) The maximum speed limit at any time is to be 30kph.
- k) The Permit fee to individual holders be \$10.00 with the total proceeds being donated to a charitable organisation.

Reports from Director Environment & Community Services

- l) Only the vehicle nominated on the permit is to be driven on the beach.
- m) The permit is to be produced on demand to authorised Council Officers.
- n) The National Parks & Wildlife Service (NPWS) has management responsibilities for beaches within the Wooyung Nature Reserve. The boundary of this reserve is at the mean low water mark. Permit holders are required to comply with any direction given by an authorised NPWS Officer whilst within these areas. The taking of domestic animals into and the lighting of fires in these reserves are offences under the NP&W Act.
- o) The procedure for the issue of permits to be determined by the Director of Environment and Community Services.
- p) Camping is strictly prohibited and is to be confined to approved caravan parks.
- q) Competition vehicles are to be clearly identified with the identification issued with the permit and attached as required by that permit. The identification procedure is to be approved by the Director of Environment and Community Services.
- r) Council's Ranger patrol the beach exclusively for the competition between 4.00 pm and 9.00 pm on Saturday, 21 June and 5.00 am to 7.00 am Sunday, 22 June.
- s) Organisers of the competition supply a competent suitable person to accompany the Ranger for the exclusive period.
- t) The local Police Service is to be formally notified of the event and a request for patrols of the competition area be performed.

Reports from Director Environment & Community Services

REPORT:

The Tweed Coast Amateur Fishing Clubs Association Inc (TCAFCA) will be hosting the Queensland State Surf Fishing Titles on 21-22 June 2003. The TCAFCA is affiliated with both Queensland and New South Wales Fishing Associations and request that Council make available a 24 hour special event beach vehicle permit to facilitate the competition.

The requested permit is required between the hours of 3.00pm Saturday, 21 June and 7.00am Sunday, 22 June, with the section of beach organisers wishing to access being from the Pottsville break wall south to Wooyung. The permit is requested as competitors will have the security of keeping in eye contact with both their vehicle and fishing gear, competitors will have some form of shelter if the weather turns bad and some of the older competitors and physically handicapped competitors will also be able to compete within a safe distance of their vehicle.

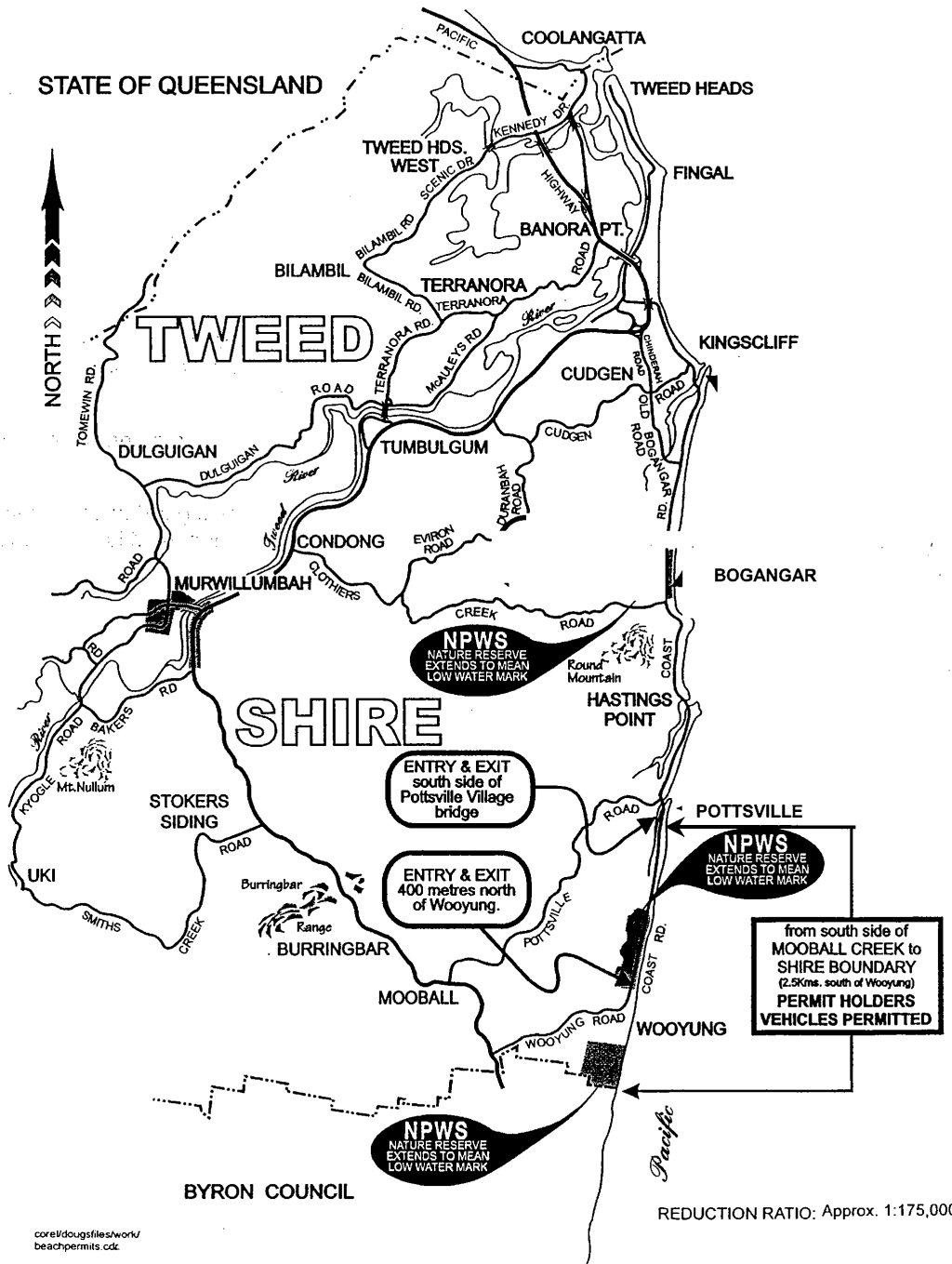
In previous years Council has issued a 24 hour permit to organisers of the Greenback Fishing Competition with the fee for an individual permit being \$10.00 and the total proceeds of the permit fees being donated to a local charitable organisation.

The organisers of the event would be required to hand out maps showing exclusion zones in addition to issuing permits at the nominated sign on time. The individual holders of the special event beach vehicle permit would also be issued with the conditions pertaining to the permit.

The National Parks and Wildlife Service have also been informed of the event and have no reservations in relation to the proposed 24 hour special event beach vehicle permit being issued.

Reports from Director Environment & Community Services

Your Special Event Beach Vehicle Permit allows you to drive upon the stretch of beach between the southern side of Mooball Creek Pottsville and the shire boundary. (approx 2.5kms south of Wooyung).
 The permit is valid from 3pm on Saturday 21 June to 7am on Sunday 22 June 2003.



Reports from Director Environment & Community Services

TWEED SHIRE CONDITIONS OF BEACH VEHICLE ACCESS:-

1. The vehicle must be a conventional 4WD vehicle. Motor cycles and beach buggies are **PROHIBITED**.
2. The vehicle must not proceed above the high tide mark, except when travelling to and from the beach.
3. The permit is to be produced on demand to authorised Council Officers.
4. **UNDER NO CIRCUMSTANCES** is the vehicle to be driven on or over frontal dunes or foreshore areas other than those designated as access points. Remember, there are only two access points on the beach. Any other points where tracks go onto the beach are not access points. If you are found using other than approved access points your permit will be cancelled and if you use your vehicle on beach areas other than those specified by these conditions your permit will be cancelled. Failing to comply with these requirements may also result in Council issuing an infringement notice.
5. The National Parks & Wildlife Service (NPWS) has management responsibility for beaches within the Wooyung Nature Reserve within Tweed Shire. The boundaries of these reserves are at the Mean Low Water Mark. Tweed Shire Council Special Event Beach Permit holders are permitted to access these areas by authorised access points only and are required to operate within the inter-tidal zone. All other private vehicles are prohibited from operating on these beaches. Authorised vehicle operators are required to comply with the provisions of the National Parks & Wildlife Act (1974) and Regulations at all times.

Permit holders are required to comply with any direction given by an authorised NPWS officer whilst within these areas. The taking of domestic animals into and the lighting of fires in these reserves are offences under the NP&W Act.

6. The permit is issued for the purpose of fishing only – joy riding and picnicking are not permitted.
7. Camping is strictly prohibited and is to be confined to approved caravan parks.

REGULATIONS:-

The use of motor vehicles below the high tide mark is now controlled by Local Councils in New South Wales. This section of beach is defined as a Public Reserve and is therefore considered to be open to and used by the public.

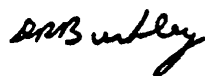
That section of beach open to and used by motor vehicles is now considered by Law as being a Public Street, under the meaning of Section 2 Motor Traffic Act 1909. As such you will be required to obey all regulations under both the Local Government Act 1993 and the New South Wales Motor Traffic Act 1909.

Any offences committed will result in prosecution by the Council and prosecution by the New South Wales Police.

The above will apply especially to the following:-

1. Driving an unregistered motor vehicle upon a public beach.
2. Driving a motor vehicle whilst unlicensed or disqualified.
3. Driving a motor vehicle whilst under the influence of intoxicating liquor.
4. Exceeding the 30kph speed limit at any time.

All vehicles must be registered with the appropriate Road Traffic Authority.
All drivers must be the holder of either a provisional or full driver's licence issued by the appropriate Road Traffic Authority.



D R Buckley
Director Environment & Community Services

Reports from Director Environment & Community Services

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Reports from Committees/Working Groups

1. Minutes of the Public Transport Working Group Committee Meeting held Friday 23 May 2003

GT1/41 Pt3

VENUE:

Board Room, Tweed Heads Civic Centre

TIME:

10.00am

PRESENT:

Committee Members: Cr Wendy Marshall, Bill McKenniarey

Informal: Shauna McIntyre (PTDP), Paul Morgan (TSC), Graham Scott (Transit Express Interchanges), Robin Spragg (TSC).

APOLOGIES:

David Bishara, Barbara Rahmate.

MINUTES OF PREVIOUS MEETING:

Moved: Cr Marshall

Seconded: Bill McKenniarey

RESOLVED that the Public Transport Working Group Committee meeting held Thursday 24 April 2003 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. Policy Document Review

1(a) Sustainable Local Transport Plan

The Plan has not yet been considered by Council. Cr Marshall will remind the Director of the Committee's March recommendation.

1(b) Responsibility for Bus Stop Locations

Following Council's Resolution adopted 22 January 2003:

Reports from Committees/Working Groups

“that Council identifies a process whereby bus stop locations are identified in built-up areas, and clarifies the role of operators”

it was decided to refer the matter to the Local Traffic Committee for comment and advice.

The LTC discussed the matter on 15 May 2003 and responded to questions raised as follows:

1. What policy does Council need to adopt to ensure it is not exposing itself or the operator to risk of prosecution?

Council provides a network of infrastructure that complies with accepted standards and risk management policies. It was noted that it was up to the operator to make sure he is not exposed to liability issues as this is not Council's responsibility to ensure the operator complies with standards and regulation. Copies of relevant risk management systems adopted by Council can be supplied to bus operators on request regarding such matters.

2. Are there regulations in relation to bus stops that must be applied by Council?

The Chairman advised that bus operators should not be installing any infrastructure on the footpath without specific approval and they can arrange for inspections by contacting the Engineering Services Division. Bus operators must apply to Council for approval under Section 138 of the Roads Act to install any infrastructure within the road reserve. A formal application is available and fees are attached.

3. When are bus zones required?

Bus zones are only installed in commercial areas or schools where there is a likely conflict between parked vehicles. Bus stops are used at other locations at the operations discretion.

The bus industry representative was unavoidably absent, and the Committee agreed to seek his response to the LTC comments.

1(c) Health Transport – State Funding Program

Progress has resulted in the Area Health Service asking Community Transport to develop proposals for a health transport service in the Tweed area. This will be a non-emergency, pre-booked service for clients who can use a bus, but cannot afford other transport to health facilities. Publicity will be provided through Community Health and other providers, and there will need to be negotiation about timing of appointments in relation to the transport services, and fitness to travel.

Bill referred to the current problem of outpatients having to spend long periods waiting at health facilities.

1(d) Gold Coast Mobility Management Project

This is a project to help non-profit community based agencies to assist their clients to address mobility and access issues, by establishing a 'Mobility Office' on the Gold Coast.

It was received and noted as a possible model for health transport.

Reports from Committees/Working Groups

1(e) Translink/Public Transport Network Plan for SEQ

No further information following the SouthROC presentation.

2. Major Development Review

2(a) Tweed Heads Ministerial Taskforce

Notes of the Special Meeting with the Committee held on 1 May 2003 had been circulated. It had been agreed the Committee would liaise with the Taskforce as necessary during its preparation of the Strategy for Tweed Heads Town Centre.

2(b) Road Links

Last month the link between Koala Beach and Seabreeze Estate, Pottsville, was discussed. Paul reported that it was to be provided from developer contributions, but there were resident objections to koala hazards from through traffic, and it was necessary to reinforce the case for it. The Committee agreed to prepare a letter of support, explaining the necessity for the link, and suggested Surfside also prepare a letter.

3. Studies and Submissions

3(a) RTA Transit Funding-Potential Tweed Transit Lane Project

An outline of a Transit Lane project from Tweed Heads to South Tweed using the existing shoulder/parking lane along Wharf St/Minjungbal Drive was presented, which may attract RTA funding specific to this purpose. A major problem was the lack of funding for a feasibility study of the project before it could be put to the RTA. Further investigation will be carried out to seek funds to develop a feasibility study. One option may be the 'Sustainable Regions Programme' which has just announced a further round of funding.

3(b) A Shocking Impact-Ageing and Car Relinquishment

This article suggests a major problem is arising as large numbers of older drivers come to terms with loss of independence.

There was discussion of possible introduction of testing, the role of education about public transport in reducing fear, awareness of and incentives for alternatives. Tweed could hold a Public Transport Awareness Week, or have a promotion at the next Seniors Expo.

3(c) Proposed Railway Strategy for Northern Rivers

Following Council's Resolution of 18 December 2002 to support NOROC action towards a Strategy, on 21 May 2003 the Director, Corporate Services, responded to a request from NOROC to identify major economic infrastructure projects for the Northern Rivers by

Reports from Committees/Working Groups

nominating 'Upgrade and maintenance of the Casino to Murwillumbah rail line' as one such project.

Meanwhile the Survey is continuing to raise public awareness; it was suggested Progress Associations and Business Corporations be circulated for support of a rail service.

3(d) Northern Rivers Regional Strategy/Richmond Valley Committee – Passenger Transport Project: Review of Current Status & Analysis of Needs

This paper has been prepared by the NRRS Secretariat to inform the Project. It provides a thorough analysis of transport provision and disadvantaged groups in the five shires, with discussion of issues and conclusions for improving passenger transport.

The NRRS has now been wound up, but work on this Project may continue with the support of the Councils and the PTDP. Four Councils are providing \$1,500 each to re-employ an officer to develop 3 projects addressing the needs. Tweed's transport is closely intermeshed with the Richmond Valley, and has many similarities.

GENERAL BUSINESS:

4. Graham Scott (Transit Express Interchanges)

Graham presented his concepts for the development of Coolangatta Airport as an integrated transport interchange, with rail and LRT routes continuing through the interchange to Tweed destinations.

He showed a model of an integrated terminal on 4 levels, with segregation of facilities by level. The concept included a maglev system, for which Coolangatta would be a major stop on the East Coast route from Sydney (after the initial high cost, operational costs of maglev are low). It may be preferable to build the interchange on the west side of the Coolangatta runway, which would be in Tweed Shire.

Other proposals have been designed for Burleigh West (which could be adapted to, for instance, Kingscliff) and for a Stadium with a rail station under the stands.

He has talked to GC Airport, but has found Queensland Government not receptive. Cr Marshall suggested he talk with Tom Senti of TEDCO, and with Larry Anthony as the Federal Member for this area.

Graham requested that his concept for integrated development of Coolangatta Airport be reported to the Council, and a letter of support be provided to him.

RECOMMENDATION:

That Council provide a letter of support to the concept of developing Coolangatta Airport as an integrated transport interchange.

Reports from Committees/Working Groups

5. Bus & Taxi Shelter Requests

- Mountain View Retirement Village: Request to relocate a shelter is outstanding, for further report.
 - Casuarina: It was reported that S94 funds have been levied for bus shelters, but it was considered best to wait until there was more housing and internal roads were connected.
 - Sunnyside Taxi Rank: It was reported that the rank was to be re-located near the lift in Brisbane St, with a canopy and paving works; it was decided not to locate it under the building because of height restrictions for accessible taxis; also, the prospects for a Murwillumbah Accessible Taxi looked promising.
-

6. Shoalhaven Public Transport Guide

Shoalhaven Council has developed an online Guide that effectively promotes local transport services.

7. Transport Access Guide

Following the April RTA regional forum, and a meeting of interested Council officers, work is proceeding to design a leaflet on sustainable transport to major Tweed destinations, to be produced in-house.

8. NSW Transport Infrastructure Conference, 17-18 June, Sydney

Details of this Conference on major NSW transport issues were provided.

9. Delivering Flexible Transport, QCOSS Conference, 26-27 June, Brisbane

It was suggested that a representative attend, if funding could be found.

NEXT MEETING:

The next meeting of Public Transport Working Group Committee will be held at 10.00am on Friday, 20 June 2003 at the Tweed Heads Civic Centre.

Reports from Committees/Working Groups

The meeting closed at 11.30am.

Director's Comments:

Nil

[document3]

DIRECTOR'S RECOMMENDATIONS:

4. Graham Scott (Transit Express Interchanges)

GT1/41 Pt3

Committee Recommendation:

That Council provide a letter of support to the concept of developing Coolangatta Airport as an integrated transport interchange.

Director's Recommendation:

As per Committee's recommendation

Reports from Committees/Working Groups

2. Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 8 May 2003

Dunecare

VENUE:

Pottsville Environment Centre

TIME:

4.00pm

PRESENT:

Committee Members: Cr Max Boyd, Cr Henry James, Janette Davison (Cabarita), Arthur Rawlinson (Pottsville Dune Care), Kay Bolton (Fingal), Mr Stewart Brawley, Mr Rodney Keevers

Informal: Rhonda James, Andy Erskine (EnVITE), Rose Wright

APOLOGIES:

Frank McLeod, and Kate McKenzie

MINUTES OF PREVIOUS MEETING:

Moved: Kay Bolton

Seconded: Arthur Rawlinson

RESOLVED that the Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 13 March 2003 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. Work Cover Certificates

R Keevers advised that he has been trying to arrange training times with each groups. Difficult to organise enough people together to make a session available. Groups instructed to arrange times and to advise R Keevers.

2. Natural Heritage Trust – Bitou Bush Control Strategy

Natural Heritage Trust; Bitou Control Strategy

R James tabled the final version of the Tweed Coast Bitou Strategy. The strategy has been workshopped with stakeholders and forwarded to management agencies for comment. The committee endorsed the strategy and recommends to Council also endorse the strategy.

Moved: H James

Second: A Rawlinson

RECOMMENDATION:

That Council endorses the Bitou Control Strategy.

Reports from Committees/Working Groups

3. Aerial spraying 2003

R James advised aerial spraying would again be carried out this year with the inclusion of Fingal areas. General discussion. It is important to keep going if objective of eradication of bitou is to be achieved. Darren Rolles is liaising with the Aboriginal Advisory Committee to arrange spraying of Letitia spit.

4. Environment Training & Employment - EnVITE

Report from Andy Erskine on the draft vegetation plans of management. There have been some minor changes after input from individual Dune Care groups. Cr Boyd enquired if Fire Plans of Management were incorporated in these management plans. General discussion.

5. Casuarina Dune Care Group

Casuarina Dune Care Group

R Wright reported that the new nominated representative for Casuarina is Dougal Walker.

Moved: K Bolton

Second: Arthur Rawlinson

RECOMMENDATION:

That Council appoints Dougal Walker as the Casuarina Beach Dune Care representative on the Tweed Dune Care Advisory Committee.

6. Pottsville Dune Care - Elfran Ave Beach Access

R Keevers advised that 2 new water taps would be installed at the Elfran Avenue beach access in the new financial year.

7. Salt Development

General discussion on dune heights at Salt. Report from Max Boyd.

8. Rural Bush Fire Service

Fire officer unable to attend due to other commitments. Invitation to next meeting.

Reports from Committees/Working Groups

9. Removal of Euphorbia - Fingal Head

R Keevers working on safe work procedure for removal of Euphorbia tree. It has been suggested that the tree is poisoned first to reduce the amount of sap in the tree.

10. Letitia Spit - Fingal Head

The recommendation from previous meeting was adopted by Council.

11. Fingal Head access path

R Keevers reported that he had met on site with Council's legal adviser Harry Whiteside. There are some concerns on safety issues. S Brawley advised some adjustments to the alignment of path would be made.

GENERAL BUSINESS:

12. Disability accesses to beaches

A Rawlinson enquired about the limited beach accesses for older people. S Brawley advised that the general topography of the area makes it difficult to build suitable accesses in most areas. There are various areas along the coast for example at Kingscliff where there is a disabled access viewing platform and a new disabled viewing platform will be installed near the Cudgen Creek coast guard tower.

13. Tree vandalism - Casuarina

S Brawley advised that Tim Rabbidge has vandalism signs 2m x 1.5m available if Council wishes to install them. General discussion. R Wright addressed the committee on the destruction of vegetation and advised that she will address Casuarina Beach Town Hall Committee with a proposal to solve the problems without signs being erected. Casuarina Beach Dune Care representative to report the outcome at the next Dune Care Advisory Committee meeting for further consideration.

Reports from Committees/Working Groups

NEXT MEETING:

The next meeting of the Tweed Dune Care Advisory Committee will be held 10 July 2003 at the Cabarita Beach Sports Centre.'

The meeting closed at 6.15pm

Director's Comments:

Recommend that Dougal Walker be appointed as the Casuarina Beach Dune Care representative on the Tweed Dun Care Advisory Committee.

[document2]

DIRECTOR'S RECOMMENDATIONS:

2. **Natural Heritage Trust – Bitou Bush Control Strategy**
Natural Heritage Trust; Bitou Control Strategy

Committee Recommendation:

That Council endorses the Bitou Bush Control Strategy.

Director's Recommendation:

As per recommendation.

5. **Casuarina Dune Care Group**

Casuarina Dune Care Group

Committee Recommendation:

That Council appoints Dougal Walker as the Casuarina Beach Dune Care representative on the Tweed Dune Care Advisory Committee.

Director's Recommendation:

Recommend that Dougal Walker be appointed as the Casuarina Beach Dune Care representative on the Tweed Dun Care Advisory Committee

Reports from Committees/Working Groups

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

4. Minutes of the Communication Committee Meeting held Thursday 5 June 2003

Reports from Committees/Working Groups

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Orders of the Day

1. Notice of Motion - Cr Carroll

Organisational Structure

Council Restructure – Tweed Shire; Notice of Motion

That the General Manager be requested to bring forward a report regarding the intended restructuring of Council to a two divisional structure and a new division of the Office of the General manager which includes specific reference to:

1. The intended processes and time frames for consultation with the new Council in 2004.
 2. Once the new Council has approved or otherwise of the new structure, the processes and time frames in recruiting and selection for positions at a Director and management level include, details about:
 - i) which positions will be externally advertised
 - ii) which positions will be internally advertised
 - iii) which positions will be ongoing
 - iv) what the rationale is for either an internal or external selection process in regards to each position.
 3. What contingency plans are in place to protect the ongoing operational stability of Council if recruitment and selection of the two Directors and the Executive Management, the Office of the General Manager, has not been successfully completed by August 2004, given that the General Manager has announced his intentions to not renew or extend the current Directors' contract of employment?
 4. If it is proposed that recruitment and selection for the three abovementioned positions can be completed by August 2004, what plans will be in place for an adequate handover of information to these new positions from the current positions and in what timeframes will this occur, given that it is anticipated that Directors in current positions will be leaving the organisation by August 2004 if they do not successfully compete for the new position?
-

Orders of the Day

2. Notice of Motion - Cr Boyd

Budgets 2004/2005 and 2005/2006

Budget; Murwillumbah Centenary; Notice of Motion

That an appropriate amount of funds be provided in the 2004/2005 and 2005/2006 budgets to ensure the centenary of the inauguration of the Tweed Shire Council on 28 December 1906 is suitably recognised and celebrated.

3. Notice of Motion - Cr Boyd

Northern Rivers Symphony Orchestra

Tweed Heads Civic Centre Hire; Northern Rivers Chamber Orchestra; Notice of Motion

That in response to the requests by the Northern Rivers Symphony Orchestra for extra use of the Tweed Heads Civic auditorium, Council agrees to:-

- a) Double the time allowed for rehearsals; and
 - b) Concert days being increased from five (5) to six (6).
-