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Schedule of Outstanding Resolutions

5 DECEMBER 2001

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

17. Proposed Tweed Natural High Campaign

Drug Related Matters

508

Cr Boyd

Cr Marshall

RESOLVED that Council:-

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

Current Status: The above campaign should coincide with the Tweed Coolangatta Crime Plan launch. The draft plan is now completed and will be presented to Council for consideration in May 2003.

20 MARCH 2002

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

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

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

793

Cr Beck

Cr Marshall

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

Schedule of Outstanding Resolutions

Current Status: Report to be finalised.

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.

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. Awaiting advice.

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.

2 APRIL 2003

REPORTS FROM DIRECTOR CORPORATE SERVICES

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

253

Cr Luff

Cr Lawrie

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

Current Status: Awaiting instructions from proposed licensee.

ORDERS OF THE DAY

- 4. Doon Doon Hall**
PF1640/430 Pt1; LN:8154; Rural Hall - Doon Doon; Notice of Rescission

Current Status: A further report is being prepared for June meeting.

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.

Schedule of Outstanding Resolutions

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.
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.

Wardrop Valley

DA02/1685 Pt1; LN14144, LN39840

Cr Beck

Asked:

1. Have any other parties expressed interest in the purchase of this land for any purpose in the last 2 years?
 - 1a. *If so, why has there not been a tender process implemented to maximise return for the benefit of Council?*
 2. Has the Council entered into an understanding with the proponents that the sale of the land is contingent upon the passing of the Development Application?
 - 2a. *If so, does this not represent a clear case of conflict of interest that would require the matter to be referred to the State Government.?*
 3. Has Council had the land recently valued?
 - 3a. *If not, why not, and if so, is the agreed price commensurate with that valuation?*
 4. Did the Council or its representatives make the initial approach to the Proponents in regard to this development?
 - 4a. *If so, is that appropriate?*
-

Schedule of Outstanding Resolutions

5. Is it true that this Development Application involves only a small part of a larger planned industrial park?
 - 5a. *If so, do any members of any group or body associated, financially or otherwise, with Council, have interest in land adjoining the present or future stages of such a development?*
6. Is any land adjoining, or affected by, this proposal being considered for rezoning?
 - 6a. *If so, who owns any such property, and what are their connections to this proposal?*

Could these questions be answered?

The General Manager responded that a report will be brought back to Council addressing the questions raised at a recent Community Access meeting.

Current Status: Report being prepared for Council meeting on 4 June 2003.

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.

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Mayoral Minute

Councillors,

1. General Manager's Review Committee

Executive Staff

At Council Meeting 5 July 2000, the General Manager provided a report to Council detailing, among other things, the options for change to the organisation structure. The report detailed a change from a four (4) divisional model to a two (2) divisional model incorporating also an office of the General Manager as the organisational support.

Council required the General Manager to work towards such a structure. The structure further proposes eight (8) managers and one Executive Manager. This is a reduction from (15) managers. Currently there are twelve (12) managers with indications of achieving the proposed manager levels in the same time period as the move to the two divisional structure, of August 2004.

The General Manager has initiated, and continues to work, the Tweed Shire Council Management Development Program which incorporates the changing organisation structure. A copy of the advice provided to the Councillors by the General Manager on 7 August 2002 is attached, the General Manager stating, "The occasion (24 July 2002) was the official launch of Council's Management Development Program. This program aims to develop existing professional staff and managers in the management skills necessary to take our organisation forward to meet the challenges of the next 10 years. Also distributed was a further version of the proposed organisational structure. This builds on the outline document which was distributed this year."

As Mayor I have had the opportunity to observe the operation of management development plan as part of developing towards a new organisation structure. The General Manager's Review Committee has had the advantage of advice from the General Manager concerning the continually increasing performance levels being achieved by Tweed Shire Council as reported by the Department of Local Government and others. The General Manager has also advised of the action he proposes to continue regarding the organisation change; that in accordance with the Contracts of Employment with the four (4) Directors that written advice be provided that the current contracts of employment will not be renewed past the expiry date of August 2004.

Given that the Local Government Act 1993 requires Council to give consideration to the organisation structure within the first twelve (12) months of the Council term and that the Council elections will take place on the second Saturday in March 2004, the GM Review Committee recommends to Council that the General Manager's contract of employment be extended by a further two (2) years to August 2006 so that the General

Mayoral Minute

Manager may work with the Council (of 2004 to 2008) to establish the organisation structure and then execute his responsibility under, and in accordance with, the Local Government Act 1993 to appoint persons to the positions.

The GM Review Committee confirms that the General Manager has achieved all performance requirements under the contract for the period under review (August 2001 to August 2002) at the highest level.

RECOMMENDATION

That the Mayor make the necessary arrangements to extend the Contract of Employment of the General Manager, Dr. John Griffin, until 21 August 2006.

Documents relating to this item form an attachment to this Minute

2. NRACC

Northern Rivers Area Consultative Committee

8 May – attended NRACC Meeting in Ballina

3. Ratepayer requested inspection

Rate enquiries

9 May – on site inspection Jenners Corner Chinderah

4. Cabarita Surf Life Saving Club

Cabarita Surf Life Saving Club

10 May – attended Cabarita SLSC Presentation Evening at Pottsville Bowls Club

5. Tweed Chamber of Commerce

Chamber of Commerce

13 May – attended Breakfast meeting at South Tweed Bowls Club – Guest Speaker - Sue Gard Centre Manager Tweed City Shopping Centre

Mayoral Minute

6. Visit by Premier of NSW and Cabinet

Cabinet Visits

13 May – Civic Reception held for Premier of NSW and his Cabinet.

7. Granada Television Production

Filming in the Shire

14 May – with General Manager attended site of TV Reality Production by Granada Television at Dungay.

8. Murwillumbah Hospital

Councillors' Invitations

14 May – attended Murwillumbah Hospital Centenary Celebrations at Greenhills

9. Citizenship Ceremony THCC

Citizenship Ceremony

16 May – conducted Public Citizenship Ceremony at Tweed Heads Civic Centre

10. Volunteering Tweed

Volunteers

16 May – took part in Volunteering Tweed Celebration Thank You Day at Cabarita Beach Sports Centre

11. Centenary Medals

Councillors' Invitations

16 May – attended presentation Centenary Medals at Tweed Bowls Club

INVITATIONS ACCEPTED

- TEDC Breakfast (Murwillumbah RSL) & Lunch (Sth Tweed Bowls Club) Presentation by Bernard Salt
- Campervan & Motorhome Club (CMCA) Information Session with GM – Casino RSM Club
- 25-31 May – LGMA National Congress & Expo Adelaide

Mayoral Minute

- 1 June – Pottsville Village Strategy Workshop – Pottsville
- 2 June LGMA Forum – Sydney
- 3-5 June Shires Association Conference – Sydney

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

- QCSS (Queensland Council of Social Service “Delivering Flexible Transport Showcasing the Way Forward Conference & Exhibition **26- 27 June** Brisbane
- SEGRA Seventh National Conference **15-17 September** Gold Coast
 - Sth Tweed Bowls Club
- 3rd International Wildland Fire Conference & Exhibition 2003 (incorporating 10th Annual Australasian Fire Authorities Council Conference) – **3-6 October** Sydney

ABSENCES FROM SHIRE BY EXECUTIVE, MANAGERS AND COUNCILLORS

EXECUTIVE

Name	From	To	Location	Details
DCS	8 May 2003		Sydney	IPAA Course - Giving & receiving feedback effectively
DCS	20 May 2003		Redlands	SROC Economic Development Group Meeting
DDS	15 May 2003	16 May 2003	Sydney	PIA meetings
DECS	9 May 2003	9 May 2003	Brisbane	ICLEI Presentation
DECS	12 May 2003	12 May 2003	Mullumbimby	Interview Panel for RFS
DES	8 May 2003	9 May 2003	Sydney	Water Directorate & Water Management Committee Meetings

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:** Strategic Town Planning Unit
FILE REF: GT1/LEP/2000/34 Pt1 - LEP - Terranora Road - Lot q2 DP 1005206 & Lot A DP 327759

REPORT TITLE:

Draft Tweed Local Environmental Plan 2000, Amendment No 34 - Lot 12, DP 1005206, Terranora Road, Terranora and Lot A, DP 32759, Terranora Road, Terranora

SUMMARY OF REPORT:

Draft LEP Amendment No 34 was publicly exhibited from 15 January 2003 to 14 February 2003 in accordance with the Environmental Planning and Assessment Act 1979. It was then re-advertised between 22 January 2003 and 21 February 2003 as a document provided with the accompanying exhibited 56 lot subdivision was outdated. In accordance with Section 72K of the EP&A Act, Development Application DA02/1159 for the 56 lot subdivision was also advertised at the same time as the LEP Amendment. That Development Application is the subject to a separate report.

No submissions were received from members of the general public, however submissions were received from NSW National Parks and Wildlife Service (NPWS), the Environment Protection Authority (EPA), Roads and Transport Authority (RTA), NSW Agriculture, and the NSW Department of Mineral Resources. None of these agencies had objections to the proposed Amendment, although the EPA provided detailed comments which are addressed in this report. Comments were received from the RTA, the NSW Department of Mineral Resources, NSW Agriculture and NSW National Parks and Wildlife Service (NPWS), as part of the Section 62 consultation process. Except for the RTA, none of these submissions raised any issues or expressed any objections in relation to the Amendment. Comments from the RTA are addressed in this report.

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

RECOMMENDATION:

That Council forwards the draft Tweed Local Environmental Plan 2000, Amendment No 34, to PlanningNSW and requests the Minister for Planning to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.

Reports from Director Development Services

REPORT:

At its ordinary meeting of 11 September 2002 Council, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, resolved to prepare LEP Amendment No 34.

Council had received an application pursuant to Section 72J of the Environmental Planning and Assessment Act, 1979 seeking to relocate the zone boundary between the 1(c) Rural Living zone and the 7(d) Environmental Protection (Scenic Escarpment) zone to facilitate a 56 lot rural residential subdivision at Lot 12, DP 1005206 and Lot A, DP 327759, Terranora Road, Terranora. A previous application for a 49 lot subdivision could not be approved by Council due to the location of the zone line under Tweed Local Environmental Plan 2000. In accordance with Section 72K of the EP&A Act, Development Application DA02/1159 for a 60 lot subdivision (which includes a residual lot and open space lots) was also advertised at the same time as the LEP Amendment. That Development Application is the subject to a separate report.

At the meeting of 11 September 2002, Council resolved that:

“In accordance with Section 54 of the Environmental Planning and Assessment Act 1979 Council prepares a draft Local Environmental Plan to:

- a. amend the location of the zone boundary between the 1(c) Rural Living zone and 7(d) Environmental Protection (Scenic Escarpment) zone in accordance with “NEW ZONE LINE” on Figure 6 – REV.D in Cardno MBK Plan No 7030/1 dated Sept 02 subject to confirmation by survey; and*
 - b. restrict minimum Lot size to 4000m²; and*
 - c. Restrict building heights to a maximum of two storeys.*
Provided that arrangements, satisfactory to Council, are made for the ongoing management of that part of the property that remains zoned 7(d), especially the methods used for control of camphor laurel
- 2. The applicant be requested to formally submit an amended subdivision layout to be consistent with the above provisions of the draft Local Environment Plan generally in accordance with figure 6 – REV.D in Cardno MBK Plan No 7030/1 dated Sept 02, prior to exhibition of the Plan”.*

The revised amended zone line is at Figure 1.

STATE AGENCY CONSULTATION

Pursuant to Section 62 of the Environmental Planning and Assessment Act 1979, Council consulted with relevant state government agencies. Comments were received from the Roads and Traffic Authority, the NSW Department of Mineral Resources, NSW Agriculture, and NSW National Parks and Wildlife Service (NPWS) as part of the Section 62 consultation process. Except for the RTA, none of these submissions raised any issues or expressed any objections in relation to the Amendment. Comments from the RTA are addressed below.

Comments from the RTA are as follows:

“The Roads and Traffic Authority have no objection in principle to the proposal, however we advise that Council should consider the cumulative impact of ribbon development on the existing junctions along Terranora Road and in particular the junction of Terranora Road and the Pacific Highway. This type of development will ultimately lead to high peak

Reports from Director Development Services

demands on these junctions and will affect traffic flow and network efficiency in the longer term.

Provision should be made in Council's Section 94 Contribution Plan for future improvements to these junctions in order to cater for the impact of the development".

Comment

The traffic report for the proposed subdivision from Council's Traffic Engineer indicates that there is adequate capacity traffic capacity along Terranora Road, and the junction of Terranora Road and the old Pacific Highway is a matter for the RTA to determine. Council cannot collect funds through Section 94 for works that are the State's responsibility.

SECTION 69 REQUIREMENTS

The Amendment is within the Coastal Policy area and a Local Environmental Study (LES) is therefore required. PlanningNSW has advised that an LES is not required in this case, however the plan is not consistent with Section 117 Direction - S26 as this LES is not to be undertaken as required under this section. Therefore Council's delegation to report to the Minister under section 69 of the Act cannot be used, and under these circumstances Council is required to provide to PlanningNSW a report pursuant to Section 68 of the EP&A Act setting out the consultation process. PlanningNSW will then forward the information provided to it to the Minister to make the Plan.

PUBLIC EXHIBITION

Draft LEP Amendment No 34 was publicly exhibited from 15 January 2003 to 14 February 2003 in accordance with the Environmental Planning and Assessment Act 1979.

No submissions were received from members of the general public, however submissions were received from NSW National Parks and Wildlife Service (NPWS) the Environmental Protection Authority (EPA), Roads and Transport Authority (RTA), NSW Agriculture, and the NSW Department of Mineral Resources. None of these agencies had objections to the proposed Amendment, although the EPA provided detailed comments which are addressed below.

In summary, comments from EPA are as follows:

- "1. Water Cycle Management – Council has a responsibility to ensure that its planning decisions contribute to achieving the NSW Government's Water Quality and River Flow Objectives or the Tweed River Catchment. A number of options have been demonstrated to be practical and cost effective means of reducing the flow and quality impacts of stormwater discharges and extraction to meet the water supply needs of residential development.*

All planning for residential and rural residential development should adopt an integrated approach to managing the whole water cycle. This proposal should contain a suite of measure to deliver an integrated water cycle management approach using water sensitive design principles and contribute to achieving water quality and river flow objectives for the Tweed River catchment.

An integrated approach should be adopted to determine the best mix of available options to ensure that the potential impacts on the water cycle are minimised. Options such as sourcing water supplies on site through the use of rainwater tanks and/or runoff collection dams, wastewater reuse strategies and landscaping with

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native plants that have an inherent lower water requirement are likely to be positive ways of reducing the impact of the development.

2. *Riparian Buffers – We note that the site incorporates some land which is zoned as 7(a) Environmental Protection (Wetlands).*

Wetlands are generally classified as ‘environmentally sensitive’ and therefore a minimum riparian buffer of 50m should be maintained between zone 7(a) or SEPP 14 wetland boundaries and any development works. We encourage Council to require the establishment of appropriate riparian buffers as a condition of consent”.

Comment

Stormwater Quality

The applicant proposes to utilise the existing dams to capture the majority of stormwater on the site as per Figure 13 (attached). Furthermore, appropriate conditions imposed upon the development consent will provide the mechanism to control and manage concerns regarding additional pressure on the water cycle through increases in stormwater runoff and nutrient loads in accordance with “Tweed Urban Stormwater Quality Management Plan” April 2000 and in particular the appended “Development Design Specification – D7 Stormwater Quality”.

Water Supply

It is envisaged that rainwater tanks would be installed to supplement the reticulated supply as the reservoir in Rayles Lane does not possess adequate head to provide sufficient fire fighting flows and service pressure to the development. The following options are available to achieve minimum flows and pressure.

1. Upgrade Rayles Lane Reservoir;
2. Construct new reservoir. And pressurise development;
3. Install individual storage tanks and pressure pumps.

As it is not clear as to which option will be implemented, a condition will be imposed upon the development consent to require the submission of a Water Strategy Management Plan (WSMP) to evaluate the available options.

Riparian Buffer

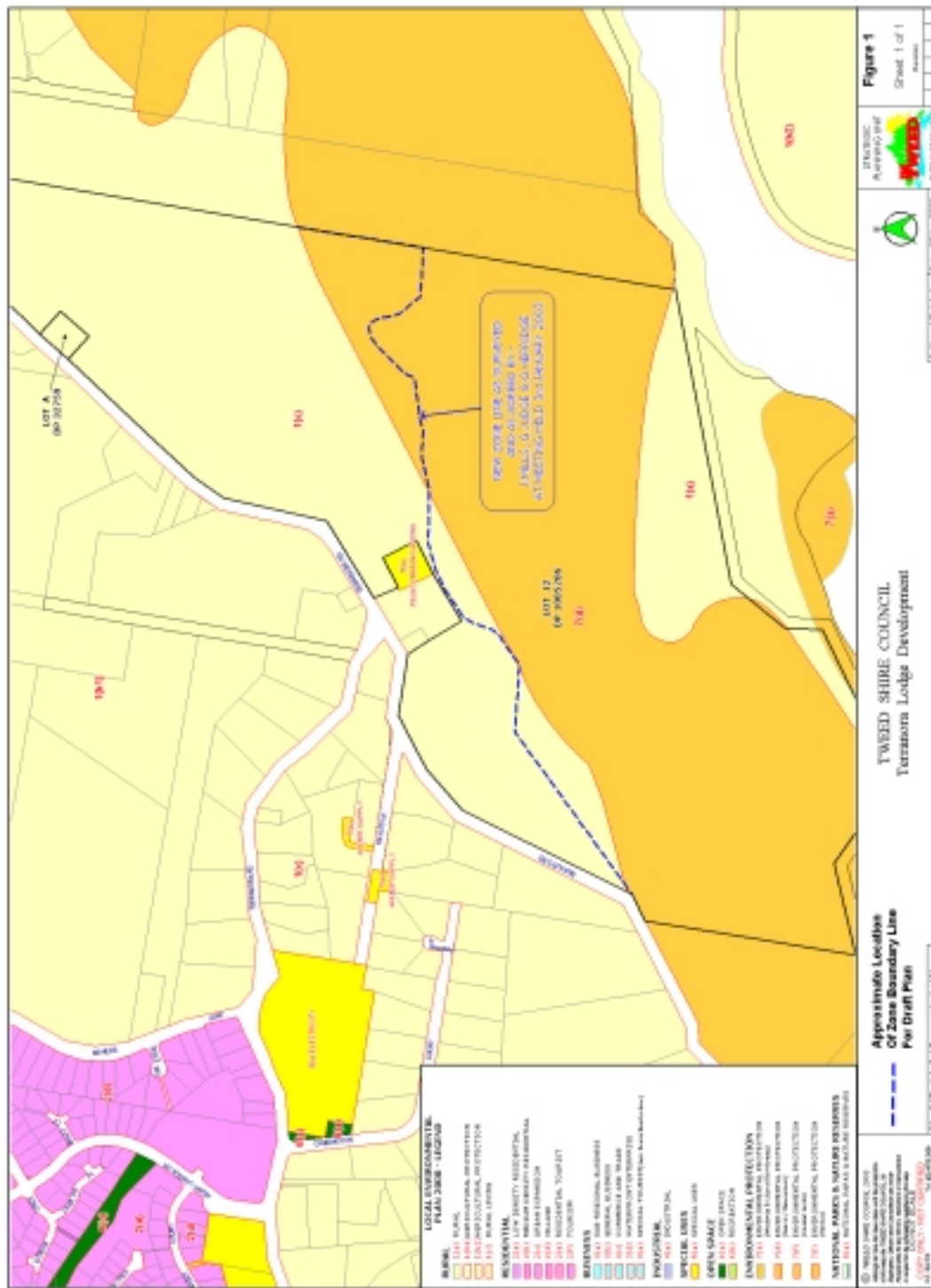
Development from the proposed subdivision will not occur within 50 metres of the 7(a) Environmental Protection (Wetlands) area. Zone 7 (d) Environmental Protection (Scenic Escarpment) will act as a buffer between the 7(a) and 1(c) Rural Living Zone.

CONCLUSION

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

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Figure 1



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2. ORIGIN: Development Assessment Unit

FILE REF: DA02/1159 Pt1; 5440.681; LN: 33915; LN:42659

REPORT TITLE:

Application to Rezone Lot 12 DP 1005206 and Lot A DP 327759 Terranora Road, Terranora to allow a 60 Lot Subdivision (54 Lot Rural Residential Lots, 5 Public Reserve Lots and the Residue) – Application made Pursuant to Section 72J of the Environmental Planning and Assessment Act 1979

SUMMARY OF REPORT:

Council has received an application pursuant to Section 72J of the Environmental Planning and Assessment Act, 1979 seeking to relocate the zone boundary between the 1(c) Rural Living zone and the 7(d) Environmental Protection (Scenic Escarpment) zone to facilitate a 54 lot rural residential subdivision at Lot 12 DP 1005206 and Lot A DP 327759 Terranora Road, Terranora. The rezoning is being considered as a separate item at this council meeting.

The application seeks approval for a 60 Lot Subdivision (54 Lot Rural Residential Lots, 5 public reserve lots and the residue. The main issues have been identified as follows:

- Visual impact of proposal.
- Effluent proposal.
- Traffic.
- Water supply.
- Buffers to environmentally sensitive areas, Terranora Road and the Telstra Tower.
- Water quality management.
- Location of public reserves.
- Preservation of vegetation including a row of Norfolk island pines.

A previous application for a 49 lot subdivision (44 rural living lots, residue and four public reserves) could not be approved by Council due to the location of the zone line under Tweed Local Environmental Plan 2000. It was agreed that the location of the zone line should be reviewed as it was apparent that it had changed from that of Local Environmental Plan 1987. The amended subdivision layout contains an additional 2 lots to the plan agreed to by Council at the meeting on 1 September 2002. These are within the Visual Catchment areas and are not acceptable.

RECOMMENDATION:

That: -

1. Because of the unacceptable visual impacts associated with the proposed 54 rural residential lots and the inconsistency of this plan with Figure 6 Rev D in Cardno MBK Plan No. 7030/1 dated September 2002, as referred to in the Council resolution of 11 September 2002, Council defers further consideration of Development Application 02/1159 for the subdivision of Lot 12 DP 1005206 and Lot A DP 327759 Terranora Road, Terranora and invite the applicant to lodge an amended plan detailing two less

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- lots (i.e. only 52 rural living lots). The lots to be deleted shall be taken from one of the 3 visually prominent areas to reduce the visual impact.
2. The subdivision plans be amended to include an allotment (minimum size of 3600m²) for the purposes of local open space that satisfies the specified performance criteria for parkland provision and embellishment with Tweed Shire as contained in Section 94 Plan No. 5 – Local Open Space.
 3. Proposed lot 26 be dedicated as a drainage reserve as the applicant has not demonstrated that a dwelling envelope can be satisfactorily located on site. The dual use of the allotment for a dwelling and on site stormwater detention is likely to lead to conflict between maintenance of the dam and the residential use of the allotment.

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REPORT:

Applicant: Cardno MBK (QLD) Pty Ltd
Owner: Chiltern Hunt (Australia) Pty Ltd
Location: Lot 12 DP 1005206 and Lot A DP 327759 Terranora Road, Terranora
Zoning: Part 1(c) Rural Living and Part 7(d) Environmental Protection (Scenic/Escarpment)
Est. Cost: Nil

BACKGROUND

A development application for subdivision was submitted by Cardno MBK (QLD) Pty Ltd on behalf of the owners Chiltern Hunt (Australia) Pty Ltd on 7 September 1999. This application involved the proposed creation of 42 residential lots of an average size of 7085.71m² plus a residue lot of 51ha, roads and a 2000m² open space lot.

This proposal was assessed by Council's Subdivision Unit, Environmental Health Unit and Engineering Services Division. A preliminary development application report was prepared in December 1999. This report identified a number of issues which needed to be resolved or otherwise the application would be recommended for refusal.

The applicant was contacted on 20 December 1999 and was advised of 14 key issues which needed to be addressed with a view to negotiating improved outcomes. A meeting was held between the applicant, landowners and Council officers on 1 February 2000 and subsequently a further Council letter on 10 February 2000 nominated the actions required in relation to the 14 issues identified in Council's previous letter.

Tweed Local Environmental Plan 2000 (Tweed LEP 2000) was subsequently gazetted on 6 April 2000 resulting in a number of lots in the proposed subdivision being below the 1ha standard required in that Plan.

On 21 June 2000, the applicant lodged a comprehensive submission purporting to address the outstanding issues, including a written objection under State Environmental Planning Policy No. 1 (SEPP1) to the minimum lot size standard of 1ha. The concurrence of the Director of Department of Urban Affairs and Planning (DUAP) was sought to the SEPP1 objection, and in a letter dated 2 August 2000, DUAP advised that concurrence had not been granted to vary the subdivision development standard for Zone 1(c) in Tweed LEP 2000.

The submission of the additional information addressed satisfactorily the majority of the 14 issues, which were originally identified as outstanding with the exception of the issues in relation to visual impact and effluent disposal. A number of subsequent meetings were conducted with the applicant both on site and in Council offices to discuss these issues. At a meeting on 30 July 2001 the outstanding issues were further discussed and the option of sewerage the subject property was put to the applicant. On 19 September 2001 the applicant tabled an amended proposal, which included 2 additional lots and the subdivision was proposed to be sewerage by a reticulated system with the exception of lots 1-3. The amended proposal was formally lodged on 26 September 2001 and allowed lots which were sewerage to be a minimum of 4000m².

This proposal was reported to Council on 19 December 2001. At this time it was discovered that the proposed subdivision extended outside land zoned 1(c) under Tweed LEP 2000 encroaching

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significantly into land zoned 7(d) Environmental Protection (Scenic). This triggered an investigation of the exact location of the zone line running through the property and it was evident that this line had shifted to the north as a result of Tweed LEP 2000 being gazetted. It was also evident that the exact location of where the zone line should be could not be established with any certainty as in the case of the 1987 Ministerial maps the subject land fell onto a number of sheets with varying scales. Various interpretations of where the location of the zone line have been made over the past few years with no certainty.

The landowner made a submission in regards to draft LEP 1998 in respect of a discrepancy between the LEP 1987 zone line and the proposed line in this draft LEP. This submission in 1999 also requested that additional land to the south be included as 1(c) zoned land. Council on 1 September 1999 resolved that no amendments be made to draft Tweed LEP 1998 as exhibited as a result of this submission unless there is a discrepancy between the Ministers Tweed LEP 1987 maps and the exhibited draft Tweed LEP 1998.

The Manager, Subdivisions at the time also made an interpretation in relation to the development application for subdivision on where he considered the subject line to be. The Manager, Subdivision interpreted the line to correlate with the proposed subdivision layout.

Council received a development and rezoning application on the 10th July 2002 seeking to relocate the zone line to the south to accommodate a 54 lot rural residential subdivision (plus 5 public reserve lots and the residue). At councils meeting of Wednesday 11 September 2002 Council resolved that:

- “1. *In accordance with Section 54 of the Environmental Planning and Assessment Act 1979 Council prepares a draft Local Environmental Plan to:*
 - a. *amend the location of the zone boundary between the 1(c) Rural Living zone and 7(d) Environmental Protection (Scenic Escarpment) zone in accordance with “NEW ZONE LINE” on Figure 6 – REV.D in Cardno MBK Plan No 7030/1 dated Sept 02 subject to confirmation by survey; and*
 - b. *restrict minimum Lot size to 4000m².*
 - c. *Restrict building heights to a maximum of two storeys.*

Provided that arrangements, satisfactory to Council, are made for the ongoing management of that part of the property that remains zoned 7(d), especially the methods used for control of camphor laurel
2. *The applicant be requested to formally submit an amended subdivision layout to be consistent with the above provisions of the draft Local Environment Plan generally in accordance with figure 6 – REV.D in Cardno MBK Plan No 7030/1 dated Sept 02, prior to exhibition of the Plan.”*

The plan agreed to by council in part 2 of the above resolution (figure 6 – REV.D in Cardno MBK Plan No 7030/1 dated Sept 02) provided for 52 rural residential lots and can be seen in figure 1. The applicant has subsequently lodged a revised subdivision plan (refer figure 2 ‘current plan’) showing two extra lots which are located in a visually prominent area which is contrary to point two of the above resolution. It is this plan that is the subject of this report and it is considered that the extra two lots will have a significant adverse impact upon the amenity and scenic value of the Terranora area. The rezoning is being considered under a separate report.

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SUBJECT LAND

The subject land is located at the intersection of Terranora Road and McAuleys Road. The subject land comprises 2 existing lots being Lot 12 DP 1005206 and Lot A DP 327759. The land has a total area of 96.2ha. Under the provisions of Tweed LEP 2000 the land is zoned Part 1(c) Rural Living, Part 7(a) Environmental Protection (Wetlands), Part 7(d) Environmental Protection (Scenic/Escarpment) and Part 1(a) Rural.

The subject land has frontage to Terranora Road (1030m) and McAuleys Road (650m). Terranora Road is a designated road.

The current proposal comprises:

- (i) The creation of 54 sewered allotments numbered 1 to 54 inclusive each having an area between 4010m² to 1.29 hectares.
- (ii) The creation of 5 public reserves (lots 55 to 59), with the area range being from 648m² to 4800m².
- (iii) A residue allotment (lot 60) with an area of approximately 60 hectares.

The subject land is roughly dissected by the Telstra installation and two other lots. The Telstra lot contains a prominent telecommunications tower and the two abutting lots each contain an occupied dwelling house. The area to the west of the telecommunications tower is approximately 8ha comprising generally cleared grazing land, having surface slopes ranging from level to about 17% between McAuleys Road and the transmission easement, and slopes up to 25% thereafter. This area provides extensive views along the Tweed River to the ocean and is visible from the Pacific Highway south of Chinderah in the Melaleuca Station area. The land east of the Telstra land comprises some 29ha and the applicant has stated that this is arguable the most attractive land of its type in the Terranora region, if not in the whole of the Tweed Shire. This land comprises cleared grass land which runs along an elevated section of the Terranora ridgeline and commands panoramic views in all directions, but particularly to the north and east. Southerly views to the south and south east are also available. The Norfolk Island pines are visible from Oaks Avenue.

The land the applicant seeks to subdivide contains slopes ranging from level to isolated small areas up to 17% with the general ground slope in the range of 3-10%. The highest point contains the remains of the original homestead, Terranora Lodge, which was destroyed by fire some years ago. An old cottage exists on the north east quadrant of the land. The original gravel driveway, now in despair by erosion, is flanked on either side by a row of mature Norfolk Island Pines, which form a significant landmark feature. The site contains a distinct escarpment edge where the slope of the land and vegetation separates the open grassland.

The Tweed Vegetation Management Plan 1999, states that the ridgeline is occupied by two different vegetation types:

- (a) Camphor Laurel dominant, close to open forest; and
- (b) Rainforest and riparian, sub-tropical/warm tempered rainforest on bedrock sub-straight.

The flora and fauna report by Peter Parker accompanying the development application states that the land which is to be developed contains three vegetation types which are as follows:

- (a) Regrowth dominated by Camphor Laurel and Rainforest Pioneers.

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(b) Norfolk Island Pines.

(c) Grassland.

The area of the proposed lots is as follows:

1. 1.042 hectares	18. 4031sqm	35. 4394sqm	52. 4499sqm
2. 1.035 hectares	19. 4028 hectares	36. 4240sqm	53. 5870sqm
3. 1.29 hectares	20. 4054sqm	37. 4069sqm	54. 6672sqm
4. 1.059 hectares	21. 4052sqm	38. 4413sqm	55. (public reserve) 1697sqm
5. 6949sqm	22. 4171sqm	39. 4246sqm	56. (public reserve) 2390sqm
6. 5407sqm	23. 4409sqm	40. 4159sqm	57. (public reserve) 2367sqm
7. 5335sqm	24. 5000sqm	41. 4091sqm	58. (public reserve) 4800sqm
8. 4404sqm	25. 4006sqm	42. 4068sqm	59. (public reserve) 1648sqm
9. 4297sqm	26. 9759sqm	43. 4044sqm	60. (residue lot) approx 60 hectares
10. 4295sqm	27. 4125sqm	44. 4202sqm	
11. 4368sqm	28. 4021sqm	45. 4117sqm	
12. 4148sqm	29. 4025sqm	46. 4116sqm	
13. 4256sqm	30. 4084sqm	47. 4138sqm	
14. 4196sqm	31. 4077sqm	48. 4056sqm	
15. 4108sqm	32. 6203sqm	49. 4033sqm	
16. 4049sqm	33. 4397sqm	50. 4047sqm	
17. 4116 hectares	34. 6061sqm	51. 4419sqm	

CONSULTATION

The application for a 60 lot rural residential subdivision and rezoning at Lot 12 DP 1005206 and Lot A DP 32759 Terranora Road, Terranora was exhibited for 30 days from 26th February 2003 to Friday 28 March 2003. Comments were received from two Terranora Residents and 'Friends of Terranora' the Roads and Traffic Authority, the NSW Department of Mineral Resources, NSW Agriculture, NSW National Parks and Wildlife Service (NPWS) as part of the Section 62 consultation process. These issues raised by the state agencies have been addressed in the rezoning report, and the other submissions are summarised as follows:

(i) Residents

"The lots on the ridge line should definitely be larger"

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Comment

It is considered that the two lots contained within the visual catchment area should be deleted and the land amalgamated into surrounding lots. However, the lots should be less than 8000m² to avoid subdivision at a later date.

“The houses constructed on those lots should be of such materials that will minimise the visual pollution.”

Comment

It is recommended that a condition be imposed requiring that non reflective materials and darker colours be used to reduce any visual impacts.

“The landscape planting on Lot 30 shall be of a type and low enough to preserve the views of residents to the north.”

Comment

Buffer planting is proposed around the existing tower. The landscaping plan does not indicate any plantings on Lot 30. A condition should be imposed requiring that views from adjoining residents be maintained.

“Provision be made for the two lots containing existing dwellings to the north of lot 30 to be connected to the sewerage system which I understand is the reason for the easement being provided on Lot 4.”

Comment

It is recommended that a condition be imposed requiring that an easement be created burdening and benefiting the relevant allotments in relation to sewer.

(ii) Friends of Terranora

The ‘Friends of Terranora’ third correspondence dated 20th February 2003 is as follows:

“The friends of Terranora generally support the proposed amendments specifically:

- *Relocation of the 7(d) Scenic Scenic Escarpment Zone boundary. Degraded vegetation is more likely to be restored if in private ownership.*
- *Reducing lot size around lots 45 to 50 to under 8000m to prevent further subdivision by purchasers.*
- *Not allowing a road connection to the adjoining property to the east. A second access/exit point would reduce security.*
- *Adding all the row of Norfolk Island pines into a public memorial park. Note that the full dripline of the trees should be within the reserve.*
- *Sewering all lots.*
- *All other points mentioned in our previous submissions which are similar to what is now proposed.*

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- *What appears to be a high standard of low maintenance landscaping. Note that the requirement for a slasher to operate between trees may not be appropriate for the health of rainforest varieties of trees. The exposed ridgetop location suits copses of closer planted trees and no grass under them. The use of a majority of Australian native trees and shrubs should focus on rainforest species and avoid dry sclerophyll species which are not natural in Terranora. We encourage planting of some large growing signature trees which will develop character with age (eg Fig). The deciduous trees will assist in maintaining the views. The proposed feature park as an entry commended.*

We request further consideration of the following issues:

- *Loop footpath connection of the northern end of the walking path within the row of pines, west along Terranora Road to the Feature Park at entry. It is essential that the memorial avenue not be a dead end but part of a walking track.*
- *Footpath connection across lot 55 (park) and west along Terranora Road to McAuleys Rd (which would accommodate a future bus stop). Details of connecting the Terranora lodge to Terranora Lodge to Terranora Village by walking track are part of our previous submission.*
- *Narrowing road no. 1 near the intersection of Road No. 3 where it passes through the row of pines. It is important that the road not appear to divide the row. This is easily achieved by having a divided road separated by at least 4 pines on a centre island. Minimise removal of pines for road. This would be a safety feature to slow traffic near the intersection.*
- *Tall Landscaping close to the ugly communications tower.*
- *Restrict height of houses, lots 7 to 13, to single storey, low set.*
- *Can lots 30 and 31 be redesigned to keep lot 31 building envelope away from the Telstra tower?*
- *Maintain natural terrain (no bulldozing of lots except to collect rocks for stone walls).*
- *Remove camphor laurel from 1(c) zone.”*

Comment

The draft LEP has recommended that a two storey maximum will apply to the site. Cut and fill for future dwellings will need to comply with councils polices under DCP No. 47 – Cut and Fill on Residential land. Suitable conditions can be imposed to address some of the above issues.

The previous amended application and the original application was not required to be advertised or notified under the Planning Instruments at the time, however adjoining land owners were notified and the proposed development was advertised for public comment for a period of 14 days from 27 September 1999 to 12 October 1999. Two written submissions were received. The authors of these two submissions were re-notified at the time the amended proposal was lodged. Comments were also sought from National Parks and Wildlife Service (NPWS), Department of Land and Water Conservation (DLWC) and Northern Rivers Institute of Health and Research. Comments have been received from the National Parks and Wildlife Service (NPWS) and the Northern Rivers Institute of Health and Research (NRIHR). The submissions are summarised as follows:

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1. Original submission from adjacent owner

“We have noted that the planned outlet is Terranora Road which seems to be situated directly opposite the driveway entrance to our home at 466 Terranora Road.

This is of concern to us because;

Our property is situated in Area E. Developers have already approached us with intent to purchase an area of our property. Our property could be first considered for development in Area E and without an entrance to Terranora Road would be land locked. Roads adjoining Fraser Drive and Mahers Lane through Area E have already been addressed in Terranora Land Owners group application for approval to rezone Area E but these outlets are not available at this stage. We would hope that an entrance to our property for such subdivision could be aligned with an entrance to the proposed 43 lot subdivision on Terranora Road.”

Comments:

The amended proposal has relocated the entrance to the proposed subdivision as suggested by this submission. This land owner was re-notified of the amended proposal and raised no further objections and was satisfied with the road entry.

2. Original Submission – “Friends Terranora”

In response to the original application, Friends of Terranora made the following submission:

“Our organisation supports the above subdivision application:

- *Firstly, we agree with the Statement of Environmental Effects that this property is arguably the best development site in the Tweed. Ideally it would make a superb resort development site but, with the risk of “Area E” to the north becoming an urban subdivision, a resort style use would be strongly threatened. Therefore if any other use is appropriate on the ridge top, large rural lots are the least intrusive especially once trees become established.*
- *Secondly, the owners dream since the early 1980’s has been to create a subdivision of large rural lots. The 1 hectare minimum lot size without sewer is arbitrary and inappropriate on undulating, red kraznozem soil. The consultants report indicates all lots can accommodate on site effluent disposal. This report is supported. Town sewer should not be required. It is uneconomic. It would jeopardise the open feeling/environment envisaged by larger lots, by creating pressure for smaller lots.*
- *Thirdly, lots under 6000sqm are considered inappropriate for this land. Drilling tests support local opinion that the land has many large floating boulders. This size minimum lot is necessary to give home owners plenty of room to locate all houses on even foundations.*
- *Fourthly, these larger lots and the proposed subdivision will help meet the pent up demand for prestige home sites in Terranora. This is the first real subdivision in seven years in rural Terranora. The subdivision will reinforce the integrity of Terranora as a different lifestyle choice close to Tweed’s main population centre.*
- *Fifthly, it is noted that part of the land along Terranora Road is an area in “Area E”. Rural residential lots only, on this land are strongly supported because:*

Reports from Director Development Services

- *Traffic noise level on Terranora Road require large lots. A twenty metre noise setback from Terranora Road is requested.*
- *Terranora Road is a tourist road. Urban lots would degrade the drive/streetscape.*
- *Urban size lots adjoining prestige rural residential lots will compromise the achievable standard of development and reduce the return to the owner on the adjoining rural residential lots.*

Our organisation recommends further consideration of:

- *Firstly, lot 44 public reserve. Such an estate requires an attractive entry statement the park should be relocated to adjoining "Road No 1" possibly on the lot 10 side. This location also offers excellent views and would be ideal as a destination for a walking track.*
- *Secondly, Council have plans (about 1994) for a walking track off Terranora Road and along the ridge. If the common boundary between lots 31 and 12 was the coaxial cable easement, this laneway could be a walking track access into the subdivision and lead to the park at lot 10/Road No 1.*
- *Thirdly, is there some way of preserving the lovely avenue of trees (Norfolk Island Pine)? Could they become a memorial avenue for a bikeway/walkway track with some redesign of boundaries of lot 6, 7, 15 to 18? The owners obviously have considerable pride in proposing such an attractive subdivision. Such an avenue would be an ideal permanent reminder of celebrating Federation.*
- *Some compromise to the owners elsewhere on the property would be worthwhile compensation (eg. More lots off McCauleys Road).*
- *Fourthly, street trees should be large growing local rainforest trees, the park should be planted with specimen rainforest trees. All Fig Trees and Native Trees should be protected from any harm."*

Comment:

The amended proposal addresses a number of the issues raised in the Friends of Terranora original submission. The Friends of Terranora were subsequently re-notified at the time the amended proposal was lodged. The following comments were received in response to the amended proposal:

"Terranora Lodge is one of the finest properties in the Shire and requires considerable care in development. The owners have pride in their property. They are to be congratulated on creating generous sized lots, providing sewer where possible, proposing a major tree planting initiative in three important public parks. We request the park beside the access road be named "Chilton-Hunt Park".

We seek to improve the plan as follows:

1. A Memorial Avenue

Public ownership of the avenue of Norfolk Island Pine trees on lots 5 and 28 is of paramount importance not only as a landscape feature but also as a memorial. Each tree would bear the name of service men and women listed on the Role of Honour in

Reports from Director Development Services

Terranora Hall. Our community has sought a memorial avenue since a 1994 submission to Council and we have funds to place a name plaque on each tree. The Avenue would form part of a walking/cycle loop requiring provision for a footpath west along Terranora Road to the "destination park" beside the estate access road. The Memorial Avenue boundary should extend beyond the mature dripline of the trees with rural post/boundary fences. It is considered lots 5, 6 and 28 could be reconfigured and maintained above minimum lot size. As an incentive/trade off, the owners could be permitted an extra lot (e.g. lots 39 to 43 could be each reduced by 10% to create it).

2. *Prevent Further Subdivision*

Purchasers should not have any expectation of further subdivision. Large ridge top lots 17, 25, 39 to 43 should have the strongest possible planning protection (even an LEP clause) to prevent further subdivision. The northern section should also be deleted from Area E urban proposals.

3. *Terranora Road Tourist Drive Streetscape*

Screen planting on Terranora Road is not desirable for either motorists nor land owners, the pleasant feelings on arrival at Terranora Village is achieved by the open landscape. This open visual appeal must be retained. Also, purchasers of lots fronting Terranora Road will pay substantially for the present choice views. "Win win" type landscaping is necessary otherwise none will survive. Recommendations for lots 4 to 12 and 27 are:

- a). Limited clump tree planting along Terranora Road at lot boundaries only. Rainforest species only. No large crown trees. Tall small crown trees recommended.*
- b). No side boundary fences. Encourage open lawns with low garden beds and no visible out buildings. Retain existing rural fencing on Terranora Road.*
- c). Covenant requiring houses fronting Terranora Road to be low set single storey with unobtrusive character, natural colours and varied set backs. Screening of houses achieved by keeping landscaping close to houses (thus securing views and reducing visual impact of the built environment).*
- d). Encourage diversity including underground houses (there is one in McCauleys Road).*

4. *Internal Landscaping*

a). Telstra Tower:

Height is supposed to be doubled, impacting substantially on the outlook from Terranora Road and from proposed home sites. We request a green screen to 15 metres height on lots 25, 26 and 27 on the east and north sides of the tower by title restriction under Section 88B of the Conveyancing Act.

b). Use Only Rainforest Trees:

All tree planting should be of rainforest species with significant variety including cabinet timbers and where suitable, the giant figs which once dominated this ridge.

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- c). *Keep Lot Boundaries Practical:*
For example, the rear boundary of lots 18 and 21 should extend into the 7(d) zone to the tree line for better maintenance (weed control) of existing cleared land.
- d). *Remove Camphor Laurel:*
All living and standing dead Camphor Laurel trees in the 1(c) zone and along Terranora Road outside the property should be removed and mulched – mulch used on site.
- e). *Surface Rocks/Topsoil:*
All material removed in road making should be retained on the property for landscaping.
- f). *Promote Streetscaping:*
Example, thoughtful and varied street trees. These should be low growing on the north road for view retention and large growing on the ridge top and south to create a majestic streetscape.
- *Use Dry Rock Wall for any Road Embankments:*
 - *Request an Island Fig Tree in the road centre at small cul-de-sac (lots 25 and 26).*
 - *Attractive landscaped entry.*
- g). *Mountains Views from South Parks:*
Like the north park, the one adjoining lot 16 should be a destination park with seating for walkers/cyclists, there are good views over valley and coast, which should be preserved with limited planting of clumps of tall trees, rather than dense planting. Terranora Ridge has some of the Shires most diverse and best views yet there is no one lookout or park from which visitors can see the lovely views. Please don't take away this rare chance for the community to gain two parks with views.
- h). *Retain Dam:*
The dam in the north park, adjoining lot 6, must be retained. There is a precedent in Market Place, Terranora.
- i). *Plan for future Walkways/Cycleway Network:*
Residents are keen walkers, yet have no interesting destinations. In 1994 we proposed a series of walking tracks using quiet roads. None have eventuated. Lot design should allow for a proposed walking track/cycleway taking in the best views. A proposed route is east up Carrington Court to McCauleys Road then along Terranora Road entering the subdivision at the park adjoining lot 27; then following the internal roads leading to the memorial avenue of pines and destination parks. Ultimately this should come back along Terranora Road west to Mahers Lane.
- j). *Residue Lot, 59 Hectares:*

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This choice parcel of land must retain suitable usable area to attract a viable use. For example, an eco-tourist development. The use should minimise weed maintenance.”

This second submission from Friends of Terranora was referred to the applicant for comment. Provided below are comments in relation to each of the issues raised using the same numbers as the submission:

1. *Memorial Avenue - Already included in revised layout. Don't agree – lots already well above minimum.*
2. *Prevent Further Subdivision – Don't agree, in strongest terms – most lots already protected by zone restrictions.*
3. *Terranora Road Tourist Drive Streetscape - Suggest landscape consultant liaise with P.O.T. prior to Construction Certificate Plans.*
 - 3a. *Refer to point 3.*
 - 3b. *Don't agree – rural 'ranch' fencing could be attractive. Owners must have right to secure property.*
 - 3c. *Don't agree – Roofing material only.*
4. *4a. Internal Landscaping – N/A to subdivision – if tower extended, Telstra to carry out mitigating landscaping.*
 - 4b. *Use Only Rainforest Trees – Suggest landscape consultant liaise with P.O.T. prior to Construction Certificate Plans.*
 - 4c. *Keep Lot Boundaries Practical - Prevented by zoning.*
 - 4d. *Remove Camphor Laurel - N/A to subdivision. Trees in Terranora Road are TSC responsibility.*
 - 4e. *Surface Rocks/Topsoil - agreed.*
 - 4f. *Promote Streetscaping - Suggest landscape consultant liaise with P.O.T. prior to Construction Certificate Plans.*
 - 4g. *Mountains Views from South Parks - Suggest landscape consultant liaise with P.O.T. prior to Construction Certificate Plans.*
 - 4h. *Retain Dam – Already proposed.*
 - 4i. *Plan for Future Walkways/Cycleway Network – Agreed, but walkway along Terranora Road is Council responsibility.*
 - 4j. *Residue Lot, 59 Hectares – Future use determined by owner and Council.*

Comment

It is agreed that it is not reasonable to restrict dwellings to single storey along Terranora Road, however, a number of the other requests are considered reasonable and can be incorporated as conditions of consent.

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3. Northern River Institute of Health and Research

The Northern Rivers Institute of Health & Research raised significant concerns regarding the original proposal for onsite effluent disposal. These concerns have been overcome with the proposal to provide reticulated sewerage to the subdivision.

4. National Parks and Wildlife Service (NPWS) Submission

National Parks and Wildlife Service made a submission in response to the original proposal. This submission is summarised as follows:

“Flora and Fauna

The recommendation contained in the Flora and Fauna survey by Peter Parker Environmental Consultant Propriety Limited (May 1999) to retain several isolated figs for proligerous species of birds and bats is supported.

Cultural Heritage

Annexure B provides a letter from the Tweed Byron Local Aboriginal Land Council. In this letter it is recommended that representatives of the Tweed Byron Local Aboriginal Land Council be present on site when works are undertaken in relation to the proposed subdivision. This is supported.

It is advised that, in the event that material suspected of being an Aboriginal Relic is discovered during the activity, work on site must cease immediately and National Parks and Wildlife Service is to be contacted to arrange an inspection. Subject to discussions on the management of the relics, any approval to proceed with the works will then require a licence issued under the National Parks and Wildlife Act 1974.

Buffers

The proposed subdivision borders vegetated areas containment in a 7(d) zone and is within 700 metres of a significant waterway (Development Statement section 2.9). It is considered that buffering of all drainage lines, waterways and sensitive areas including heavily vegetated areas provide the most suitable way of reducing the potential for pollution of down streams catchment and reduce the potential of bush fires. A buffer of 50 metres is recommended to areas classified as being environmentally sensitive. These include native vegetation, landscapes, fauna habitats and/or refuges which are significant in a local, regional or state context and which are most susceptible to unacceptable levels of modification from direct or indirect impacts by neighbouring land uses.”

Comments:

Suitable conditions of consent should be imposed on any approval granted by Council in relation to Cultural Heritage and Aboriginal Relics. Issues in relations to stormwater management and buffers from environmentally sensitive areas have been accommodated in the latest proposal and will be further discussed as part of this report.

Evaluation

The following is an evaluation of the application under Section 79(c) (1) of the Environmental Planning and Assessment Act 1979.

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

The subject land is zoned 1(c) Rural Residential part 7(a) Environmental Protection (Wetlands), Part 7(d) Environmental Protection (Scenic Escarpment) and part 1(a) Rural pursuant to the provisions of Tweed Local Environmental Plan 2000. The proposed subdivision is permissible with Council consent. All lots within the 1(c) zone which are seweraged are above the 4,000^m², with the exception of 4 of the public reserve lots which are 1,648m², 2390m², 1697m² and 2,367m². The 4 lots nominated as public reserve which are undersized are permissible in accordance with Clause 19(4) of the LEP which allows for public reserves and public utility undertakings to be approved which are under the size required within the zone.

The minimum subdivision area within the 7(d), 1(a) and 7(a) zones under the LEP is 40 hectares. The residue lot encompasses these zonings over the subject property and has an approximate area of 60 hectares which is well above the minimum area permitted.

Clause 15 - Availability of Essential Services

Clause 15(2) of Tweed LEP 2000 states as follows:

“Consent must not be granted for the carrying out of development on any land unless:

- a) A water supply and facilities for the removal or disposal of sewerage and drainage are available for that land, or*
- b) Arrangements satisfactory with the consent authority have been made for the provision of that supply and those facilities’.*

Sewer

The applicant proposed to install individual pump stations connected to a common rising main for each lot. The Director Engineering Services has stated that the individual pump stations, connections and common rising main will be owned and maintained by Council.

Water

The reservoir in Rayles Lane does not possess adequate head to provide sufficient fire fighting flows and service pressure to the development. The following options are available to achieve minimum flows and pressure.

1. Upgrade Rayles Lane Reservoir
2. Construct new reservoir and pressurise development
3. Install individual storage tanks and pressure pumps.

As it is not clear as to which option will be implemented, a Water Strategy Management Plan (WSMP) should be submitted to evaluate the available options.

Therefore it is concluded, for the purposes of Clause 15(2) that Council can be satisfied that a satisfactory water supply and facilities for the removal and disposal of sewerage and drainage can be made available for the subject land.

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Clause 17 - Social Impact Assessment

Clause 17(2) of Tweed LEP states as follows:

‘Where the consent authority considers that a proposed development is likely to have a significant social or economic impact on the locality or in the area of Tweed, the consent authority may only grant consent to the proposed development if it has considered a social impact statement in respect of the proposed development’

Comment

The subject zoning of the land permits the lot yield achieved by this development. The land has been zoned 1(c) for a number of years and it can be reasonably expected that it was going to be developed for this purpose. The immediate area of Banora Point and Terranora contains a number of schools, shopping centres and other community services. The most significant social impact resulting from this proposal relates to the visual impact of the development along the ridge line. The applicant has designed the subdivision to minimise the impact by locating larger lots along the ridge line and proposing landscape plantings. Having regard to these factors it is reasonable to conclude that the subject proposal will not have a significant social impact and therefore does not warrant a social impact statement to be prepared. DCP 45 does not identify this development as requiring a Social Impact Statement.

Clause 22 - Development Near Designated Roads

The subject site has frontage to Terranora Road which is identified as a designated road under Clause 22 of the Tweed Local Environmental Plan 2000. Clause 22(4) states as follows:

“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 a number of similar reasons) 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, and*
- c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*
- d) where the land is in Zone 1(a), 7(a), 7(d), 7(f) or 7(l) the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*
- e) the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to mitigate any potential noise impact, and*

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- f) *the development would not detract from the scenic values of the locality, strictly from the point of view of road users, and*
- g) *where practical, access to the land is provided by a road other than the designated road, and*
- h) *in respect of any application for commercial or retail development near the Pacific Highway is Zoned 1(a), 7(a), 7(d), 7(f) or 7(l) the development:*
 - (i) *would not compromise the highways function as a North Coast primary Inter-land, Inter-Regional traffic route, and*
 - (ii) *would not contribute to the need to expend public money on the highway and to overcome the effects of revenue and development, and*
 - (iii) *would not compromise highway safety and efficiency, and*
 - (iv) *would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway oriented site.”*

Comment:

In response to traffic issues the applicant submitted as part of the development application a traffic impact report. The proposed access point has been relocated to the east in response to submissions to the original proposal. Councils Traffic Engineer has considered the proposal and is satisfied with the proposed intersection location in terms of sight distance and capacity. Having regard to all the relevant points listed in 22(4) relating to this proposal it is considered that the proposal is acceptable and can be approved by Council. A noise assessment in relation to traffic noise and the impact on future development was also submitted to satisfy the above requirements. This report concluded that as a result of the setback requirements from Terranora Road that no mitigation measures were required.

Clause 24 Setbacks to Designated Roads

Under this Clause of the LEP 2000 all structures erected on lots fronting Terranora Road are required to be setback a minimum of 30 metres. The applicant proposes a 30 metre exclusion zone for the erection of buildings via a Section 88(b) Restriction to User being placed on these lots.

Clause 25 – Development in Zone 7(a) Environmental Protection (Wetlands & Literal Rainforest) and on adjacent land.

Clause 25(3) of the Tweed Environmental Plan 2000 states as follows:

“consent must not be granted to the carrying out of development on land zone 7(a) or on land adjacent to the land within zone 7(a) unless the consent authority has taken into consideration:

- a) *the likely effects of the development on flora and fauna found in the wetland or literal rainforest, and*

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- b) *the potential for disturbance of native flora and fauna as a result of intrusion by humans and domestic and feral animals, increase fire risk, rubbish dumping, weed invasion and vegetation clearing, and*
- c) *a plan of management showing how any adverse effects arising from the development can be mitigated, and the likely effects of the development on the water table, and*
- d) *the effect on the wetland or literal rainforest of any proposed clearing, draining, excavating or filling”.*

Comment:

The proposed rural residential subdivision at its closest point is located approximately 350 metres uphill away from the wetland and 550 metres away from the Tweed River. This area will not be disturbed at all as a result of development. Therefore it is anticipated that there will be no adverse effects arising from the development on this area and due to the significant changes in topography between the wetland and the area being subdivided it is not anticipated that there will be any impact on the water table provided adequate erosion and sediment measures are put in place. There is no clearing of the wetland proposed.

It is concluded that the proposed development is acceptable in terms of Clause 25.

State Environmental Planning Policy 44 – Koala Habitat Protection

A fauna and flora report prepared by Peter Parker was submitted in support of the proposed application. The applicant states that no koala food trees listed under Schedule 2 of State Environment Planning Policy No 44 occur at the site and accordingly it is considered that a Koala Management Plan is not required.

North Coast Regional Environmental Plan

The relevant clauses of the NCREP are as follows;

Clause 12 – Development Control Impact on Agricultural Lands

“The Council should not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.”

Comment:

Councils agricultural land classification maps indicate that the majority of the existing cleared land to be subdivided is Class 4, while the steeper land with trees (residue lot) is Class 5 Agricultural land. Surrounding land is Class 5 Agricultural Land. Given the subject land is Zoned for Rural Residential purposes and that the subject site is Class 4 Agricultural Land and that surrounding land is not classified Prime Agricultural Land, it is considered the proposed subdivision will not cause a loss of prime crop or agricultural land.

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Clause 15 – Development Control – Rivers, Streams and Wetlands

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

- a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat;*
- b) the need to conserve the existing amateur and commercial fisheries;*
- c) any loss of habitat which will or is likely to be caused by the carrying out of the development’*
- d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve;*
- e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution;*
- f) the proximity of aquatic reserves dedicated under Fisheries and Oyster Farm Act 1935 and the effect the development will have on these reserves;*
- g) whether the watercourse is an area of protected land as defined in Section 21(a) of the Soil Conservation Act 1938 and any measures to prevent soil erosion*
- h) the need to ensure that native vegetation surrounding the wetland or fishery habitat is conserved; and*
- i) the recommendation of any environmental guidelines or water quality study prepared by the Environmental Protection Authority”.*

Comment:

The area of land Zoned 7(a) Environmental Protection (Wetlands) is located approximately 350 metres from the common boundary between the 1(c) Rural Residential Zoning boundary and the 7(d) Environmental Protection (Scenic/Escarpment) Zoning boundary. The Tweed River is located approximately 550 metres away from the Rural Residential 1(c) Zone. This zoning line is the limit of the Rural Residential Subdivision. The applicant has submitted a stormwater management plan which indicates that stormwater from the site can be adequately managed. It is considered that the heavy vegetated land between the River and the Wetlands will provide filtered protection and will provide a satisfactory buffer distance between the subdivision and the sensitive areas. A 40m buffer is proposed to internal drainage areas and sensitive areas.

Clause 29 – Plan preparation – natural areas and water catchments

“A draft local environmental plan should:

- (a) retain existing provisions allowing the making of tree preservation orders;*
- (b) not alter or remove existing environmental protection, scenic protection of escarpment preservation zonings or controls within them, without*

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undertaking a detailed analysis to determine whether there will be adverse environmental effects resulting from such action; and

- (c) *include significant areas of natural vegetation including rainforest and littoral rainforest, riparian vegetation, wetlands, wildlife habitat, scenic areas and potential wildlife corridors in environmental protection zones; and*
- (d) *contain provisions which require that development in domestic water catchment areas or on land overlying important groundwater resources does not adversely affect water quality; and*
- (e) *require consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones”.*

Comment

The above clause is of significant relevance in considering the appropriate location of the zone line separating the 1(c) and 7(d) land. The proposed zone line as recommended to Council has been based on the existing vegetation and scenic escarpment running along the Terranora Ridge. Recommendations for larger lots on the top of the ridge and in areas of visual prominence is consistent with protecting scenic areas as specified in (c) above.

It is considered that the application as submitted by the applicant with increased lot densities in these areas and the location of the zone boundary in vegetated areas over the escarpment is not consistent with the objectives of clause 29 and should therefore not be supported. The assessment of the draft LEP relied upon the lot densities as resolved by council on the 11 September 2002 (Figure 6 – Rev D in Cardno MBK Plan 7030/1 dated Sept 02).

(a) (ii) Any draft environmental planning instrument

Draft Amendment No. 34 relates to this site and is the subject of a separate report in this Business Paper.

(a) (iii) Development Control Plan 16 – Subdivision Manual

The proposed subdivision generally complies with this DCP.

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

NSW Coastal Policy 1997

The relevant sections of this policy in relation to the subdivision are as follows:

Objective 3

“To improve water quality in coastal and estuarine waters and coastal rivers where it is currently unsatisfactory and to maintain water quality where it is satisfactory.”.

Comments:

The subject site is within the coastal zone. Having regard that the proposed subdivision will be serviced by reticulated sewer and the preliminary stormwater management plan

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has been submitted as part of the application it is concluded the proposal is unlikely to have any adverse impacts on water quality.

Objective 3.1

“To identify and protect areas of high natural or built aesthetic quality.”

Due to the proximity of the proposed subdivision along a significant ridge line within the Terranora area significant concern has been raised regarding this issue. The applicant has provided a comprehensive landscape and scenic assessment by Landscape Architects Greg O’Brien & Associates Pty Ltd. This landscape report addresses the recommendation of Tweed Shire Scenic Landscape Evaluation Report by Catherine Brower (1996). The report includes an assessment of the impact of the proposal on threshold views of the site, as developed, from key vantage points, such as Kingscliff, the Pacific Highway, and Cudgen Road. The report also addresses the consistency of the proposal with scenic management objectives in the Brower Report. Photomontages were prepared, and the report indicates the development site will form only a small part of the panorama, and considers that the visual impact of the development will be slight on the dominant wooded hillside, the landmark avenue of Norfolk Island Pines and other vegetation will remain.

The report concludes as follows;

- Both Tweed LEP 1997 and Tweed LEP 2000 foreshadowed rural residential development on that part of the site proposed for rural residential development.
- Tweed LEP 2000 did not rule out 4,000 square metres lots for any reason including visual amenity other than sewerage disposal.
- Express community interest supports proposed rural residential subdivision and lots sizes less than 1 hectare.
- Photomontages and study show visual impact will be minimum, especially in the long term.
- Proposed lots where houses will be visible from a number of locations are the four (4) western most lots which exceed 1 hectare in area and smaller lots are less visible from most of the vantage points and will be more screened from view by revegetation.
- The assessment indicates that the proposed development complies with the relevant assessment principals relating to scenic structure, district and units frameworks, scenic routes, viewpoint framework, and features and identity framework in the Brower Study.
- Conclusion that the approval of the proposal should not be prevented on visual or scenic grounds.

It is agreed that appropriate provision of additional landscaping, retention of most of the Norfolk Island Pines, and appropriate restrictions and vegetation easements and the use of non-reflecting earth tone colours in buildings should satisfactorily mitigate scenic impacts. It should however be acknowledged cumulative impacts of all potential ridge

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line development needs to be considered, and also the ongoing management and compliance issues related to maintenance of the restrictions. For instance, future residents may well seek to remove trees within easements to maximise views, use inappropriate bright colours for buildings, and generally compromise the visual integrity of the ridge making it difficult for Council to enforce restrictions.

On balance, having regard to the existing zoning of the land, Council's decision of 11 September 2002 the current development proposal appears acceptable, subject to appropriate conditions requiring revegetation, provision of Section 88(b) restrictions in relation to the proposed revegetation corridor and the amendment of the plan to include two less lots along the ridgeline to reduce the visual impact.

The line of Norfolk Pines should preferably be located within a public reserve rather than within an easement. The amended proposal incorporates part of the Norfolk Island Pines within a reserve however it is recommended that the majority extending up to Road 1 be included as public reserve. The extensive vegetation regrowth area along the southern side of the development site should also be located within a revegetation and tree protection restriction on the title of these lots, following weed removal and habitat enhancement prior to release of the linen plans (consent condition). Additional planting within easements should be required as a consent condition in respect to proposed lots 1 to 4 to assist in insuring the minimising of scenic impact of these more exposed lots. The larger lots numbered 1, 2, 3 and 4 should have a restriction placed on them prohibiting further subdivision.

(b) The likely impacts of the development, include the impacts on natural and built environment, and social and economic impacts in the locality.

Context and setting

Currently the subject land is used for grazing and contains two dwellings. The proposed subdivision will significantly change the existing landscape particularly having regard to the ridge line location and visual prominence of the site. This issue has previously been discussed in detail.

Having regard to the existing subdivision pattern on the southern side of Terranora Road being primarily rural residential in nature it is considered the subject development is consistent with this subdivision pattern and will be in keeping with the existing context and setting of the area.

Access, Transport and Traffic

Lots 1 to 3 share a common right of carriageway gaining access to McCauleys Road. The remaining allotments gain access to an internal road system which has a single access to Terranora Road. The applicant proposes that vehicle access to Terranora Road across any other boundary is to be denied by a restriction on title. The Terranora Road frontage is also heavily vegetated in part and will remain undisturbed. The applicant states that the entry point for Road 1 has been selected having regard to the horizontal stopping/site distance required for a design speed of 80 kilometres per hour along Terranora Road and a Type B intersection is proposed. The original application was

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forwarded to Councils Local Traffic Committee. The following comments were provided in relation to the proposal;

“The Committee raised concerns with the following:

- 1) The provision of a bus stop and people crossing Terranora Road.*
- 2) The detailed design of the intersection should incorporate a left turn lane from Terranora Road into the site.*
- 3) A modified type C right turn fitting within the design of a Type B and the provision of Bus pullover areas on both sides of Terranora Road in the vicinity of the intersection.*
- 4) Pedestrian refuge island to be provided in the modified Type C central island.*
- 5) Street lighting of the intersection.*
- 6) The internal road should comply with DCP 16 for bus routes.*
- 7) The Committee requests that Council writes to the Department of Transport requesting that when a school bus route is applied for to service this subdivision, the service enters the subdivision.”*

Comments:

At the time of the original proposal it was noted that nearly all lots were within 400 metres from the proposed bus stop on Terranora Road. It was concluded that an increase in road widths would have a major implication to the lot layout and accordingly it was concluded that a bus route and stop on Terranora Road would suffice without the need to increase the internal road width. The applicant was therefore not requested to amend the proposal to accommodate this request.

Other issues raised by the Local Traffic Committee can be addressed by the imposition of certain conditions in the event of an approval.

The amended proposal was reviewed by Councils Traffic Engineer and a number of conditions recommended.

Public Domain

The applicant has nominated five (5) lots as public reserves within the subdivision. One of these acts as part of the stormwater management strategy for the site and should not be accepted as public reserve. Three of the lots contain the row of Norfolk Island Pines which exist on the site. It is recommended that this reserve should be extended to the south to join Road 1 so as to assist in the preservation of the Norfolk Island Pines and also provide a walking path for residents living in the area. This would be consistent with the request by Friends of Terranora.

Lot 59 has an area of 1648 square metres and is not considered suitable for a public reserve for use as parkland as it does not meet the performance criteria for parkland provision and embellishment.

Proposed lot 58 has an area of 4800m² and will be used as an operational drainage reserve as it contains an existing dam which will be used for on site stormwater

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detention and it does not comply with the specified performance criteria for parkland provision and embellishment for Tweed Shire. The applicant has proposed a drainage easement over a large existing dam on proposed Lot 26 which has an area of 9579m². It is considered that this allotment should be dedicated as a drainage reserve as the dam will limit the area in which a dwelling can be constructed and avoid conflict with residents when it is maintained by council.

Section 94 Plan No. 5 – Local Open Space applies to all new residential development. The proposed 54 new allotments will need access to passive and structured open space in the local area. Section 94 Plan No. 5 requires the provision of 2386.8m² of local structured open space for 54 lots and 1586.52m² of local casual open space for 54 allotments. As such a total of 3973.32m² is required to make an adequate parkland. The open space will provide a communal meeting space for the residents of the area as well as a provide an eagle eye view of the local scenery for tourists. One large allotment (minimum 3600m²) is necessary so as to provide the appropriate buffers and comply with the relevant performance criteria.

The effect on threatened species, population or ecological communities or their habitats etc:

A Section 5(A) Assessment Report submitted with the original application assumed incorrectly that there would be no clearing of trees required. However, the original application would have necessitated some tree removal in the southern part of the development site for bushfire protection. However, in the amended plan, the depth of allotments and the location of the southern part of the loop road have been amended, such that the proposed house sites will be located a minimum of 40 metres (minimum of fuel protection zone) from the existing tree line. This fuel protection zone complies with the requirements of Councils Bush Fire Officer, in relation to southern and south west sites, therefore, the amended plan requires minimum removal of the potentially significant vegetation. The Section 5(A) Assessment concluded that the proposed subdivision will not have a significant impact on threatened species, population or ecological communities or their habitats.

Onsite Stormwater Management

The applicant has provided a stormwater management plan which includes estimates of the developed areas (unrestricted and restricted) for the three catchments and erosion control, to be implemented in accordance with the Department of Housing manual. "Managing Urban Stormwater – Soils and Construction". The proposal involves the provision of water quality control and detention pond utilizing existing farm dams within the proposed public reserves. Subject to appropriate conditions, including a condition that the proposed public reserves for water quality and sediment control be dedicated as drainage reserves and not as public recreation reserves, Councils Subdivision Engineering Assistant indicates the proposed system is capable of satisfactory implementation and operation in accordance with Councils Urban Stormwater Quality Management Plan (April 2000).

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Traffic Noise

The applicant has submitted an acoustic impact report relating to traffic and the electricity substation. Traffic noise estimates are based on anticipated traffic growth at only 1% per annum, and development of Area E may significantly increase traffic noise on Terranora Road. Council Senior Environmental Health Officer has advised that he is generally satisfied in regard to the acoustic report, which concludes that noise barriers along Terranora Road will not be required for the proposal. This includes a reworking of the noise criteria discussed between the applicant and Council Officers and assumes the houses are setback a minimum of 30 metres from Terranora Road frontage. The substation is within the Telstra facility land, and a 30 metre setback is proposed. The Noise report indicates that no bedrooms or living areas should have open windows or doors facing the Telstra facility, and a condition should be required in this regard.

Buffer to Telecommunications Tower

Councils Senior Environmental Health Officer has assessed this issue in a note on the file dated 3 March 2000, and has conferred with Shane Peacock of Telstra concerning the issue. Correspondence from Telstra dated 16 February 2000 indicates the general public exposure limits specified in AS-NZS2772.1 (IMT 1998). This shows that anyone outside the perimeter fence of the Telstra site is well and truly in the far field in relation to the standard which is acceptable. Council Environmental Health Officer recommends that the information provided be considered sufficient to enable an assessment of radio frequency electro/magnetic exposure in accordance with the Interim Australian Standard provided that Council excepts that Telstra is considered to be an authority for the purposes of the Interim Standard. It is noted that dwelling houses are to be set back a minimum of 30 metres from the Telstra site with an appropriate Section 88(b) restriction in this regard.

Natural Hazards

The Geotechnical report states that there are no geotechnical conditions at the site which would indicate that the proposed development cannot be satisfactorily realised. This report however does recommend that further investigations be undertaken prior to excavation works occurring on site and that also a geotechnical engineer be present during any such excavations. These can be placed on any consent as conditions of consent.

Contamination

Council Environmental Health Officer provided the following comments in relation to contamination;

“with respect to contamination generally the applicant advises that since the time of purchase by the present owners in 1964 the land has been solely used for cattle grazing. Also they advise that there is no evidence of any horticultural use. A letter has been provided by the Director of the public company who purchased the property in 1964 and that the land at the date of purchase has been subject to no previous form of agriculture use.”

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From the above no objections have been raised in relation to contamination.

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

The proposed 54 rural residential lots are located within the portion of the site zoned 1(c) Rural Residential. The proposed subdivision will have an impact on the visual character of the ridgeline, however, the subdivision layout and proposed landscaping will assist in reducing this impact. The proposed subdivision is considered an appropriate response to the environmental constraints of the land. The proposed subdivision is generally consistent with the relevant provisions of applicable Environment Planning Instruments and Development Control Plans.

(d) **Any submissions from Public Authorities or the General Public**

Submissions received in regards to the proposed development have previously been discussed under the heading consultation at the beginning of this report.

(e) **Public Interest**

Tweed Shire 2000+ Strategic Plan

One of the desired outcomes of the Tweed 2000+ Strategic Plan is that ridgelines be preserved without the visual intrusion of unsightly growings and excessive benching. The applicant has submitted a visual impact assessment evaluation which has previously been discussed in this report addressing this issue.

Clause 24 of Tweed Shire 2000+ Strategic Plan states as follows:

“24. Rural Activities

These will not be unreasonably restricted by future rural settlement. Appropriate guidelines will be prepared for buffers including the following:

- a) *On any land subject of a rural subdivision proposal, a 150 metre buffer zone from the boundary of agricultural land and a dwelling site.”*

Comment:

The proposed subdivision is generally consistent with this requirement given that the majority of surrounding land use is Zoned for Rural Residential.

“Tweed Shire 2000+ Strategic Plan – Desired Outcomes”

Council’s Strategic Plan 2000+ states

“Ridgelines are preserved without the visual intrusion of unsightly dwellings and excessive benching.”

Council’s Strategic Plan 2000+ also states:

“Council will include identified significant areas of natural vegetation, scenic areas, fauna habitat and corridors, and fishery habitats and protect them by environmental protection zones. Planning controls within such zones will be structured to provide certainty for the retention of the environmental qualities of these areas.

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The scenic areas of the Tweed as identified in the Scenic Evaluation Study will be protected from incompatible development.”

Tweed Shire Strategic Plan 2000+ also states:

“Open space greenbelts will be addressed by limiting development of Area E at Terranora to the north facing slope of the Terranora Ridge, so the southern face remains as a forested backdrop to the Tweed River and agricultural land”.

As previously mentioned this report does not provide a detailed assessment of the draft LEP, however there are issues of relevance in considering a draft LEP amendment in context with visual impact of the revised draft amended proposal.

The revised subdivision layout submitted by the applicant includes an additional 2 allotments to that originally endorsed at councils meeting of Wednesday 11 September 2002. The 1(c) zoned land contains 3 prominent visual catchments, which are visible when viewed from the south ie. Kingscliff, the Pacific Highway and new Motorway. Significant negotiations occurred with the applicant in regards to protecting these visual catchment areas and as a result the previous application proposed larger lots in excess of 1ha within these visual catchment areas. The applicant has now reduced the size of allotments in these areas down resulting in a higher density of development in these critical locations.

To achieve the objectives of the Strategic Plan 2000+ it is considered that lot sizes should be a minimum of 1ha within these areas and any draft LEP prepared should incorporate such provisions. In addition building forms should be controlled in these areas. The draft LEP recommends the following aims and objectives:

1. Amend the location of the zone boundary between the 1(c) Rural living zone and 7(d) Environmental Protection (Scenic Escarpment) zone in relation to Lot 12 DP 1005206, Terranora Road, Terranora.
2. Restrict building height to a maximum of two storeys in relation to Lot 12 DP 1005206 and Lot A DP 32759, Terranora Road, Terranora.
3. Ensure that the development will preserve or enhance the scenic quality of the land and surrounding land.

As part of the previous subdivision proposal Friends of Terranora made a submission in regards to the lot sizes and in particular they stated:

“Large ridgetop lots 17, 25, 39 to 43 should have the strongest possible planning protection (even an LEP clause) to prevent further subdivision.”

The applicant in their submission claims that Friends of Terranora by submission in June 2000 supported 6000m² lots. This may be true as an overall statement for lot sizes within the subdivision however, it is clear from their latest submission that the community valued the protection of the scenically visible areas on the site.

The applicant in support of smaller lots within the elevated areas of the property has submitted a revised visual impact assessment by Greg O'Brien and Associates. The revised assessment is based on an earlier assessment and comparative analysis between this proposal and that proposal. The original assessment was not accepted and

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subsequent negotiations with the applicant resulted in larger lots being proposed in the visually prominent catchment areas. The applicant is now seeking smaller lots once again in these areas and has attempted to justify this by a visual assessment, which was previously not accepted in full.

The basis for seeking additional lots is the cost of servicing lots 1, 2, 3 and 4 with reticulated sewer. No economic justification has been provided in support of this claim. It is considered that the requirement for larger lots on the ridgeline will help to preserve the ridgeline from over development to the cane fields and the vegetated hill side which act as the 'gateway' to the Tweed Heads area.

Public Interest in General

The public interest should be viewed in the context of issues discussed in this report. Overall the submissions received are in support of the proposal and many of the requests can be accommodated by conditions of consent. It is concluded that the proposed development is generally consistent with the public interest.

LEGAL/FINANCIAL/RESOURCE IMPLICATIONS

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

OPTIONS

It is considered that Council has the following options:

- 1) Approve the application subject to conditions.
- 2) Refuse the application due to the visual impacts of the proposal.

CONCLUSION

The subject land is located along the Terranora Ridgeline which can be viewed from a number of vantage points. It is considered that the subdivision layout showing 54 rural living allotments will have a significant adverse impact on the visual character of the area, even with the proposed landscaping. However, it is considered that should the subdivision layout be amended to include two (2) less lots along the visually prominent ridgeline area this will reduce the visual impact to an acceptable level having regard to the zoning of the land and protecting the scenic value of the area. The subdivision will be serviced by reticulated sewer and town water.

This proposal maximises the potential for subdivision and has little regard to the physical characteristics of the land and protecting the scenic quality of the area. An additional 2 lots have been included in the visual catchment areas identified. This is unacceptable. The location of the zone line was determined based on the physical characteristics of the land and the understanding that larger allotments were to be created in the visually prominent ridgeline areas

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Figure 1 – Plan previously agreed to by Council showing 52 rural living allotments

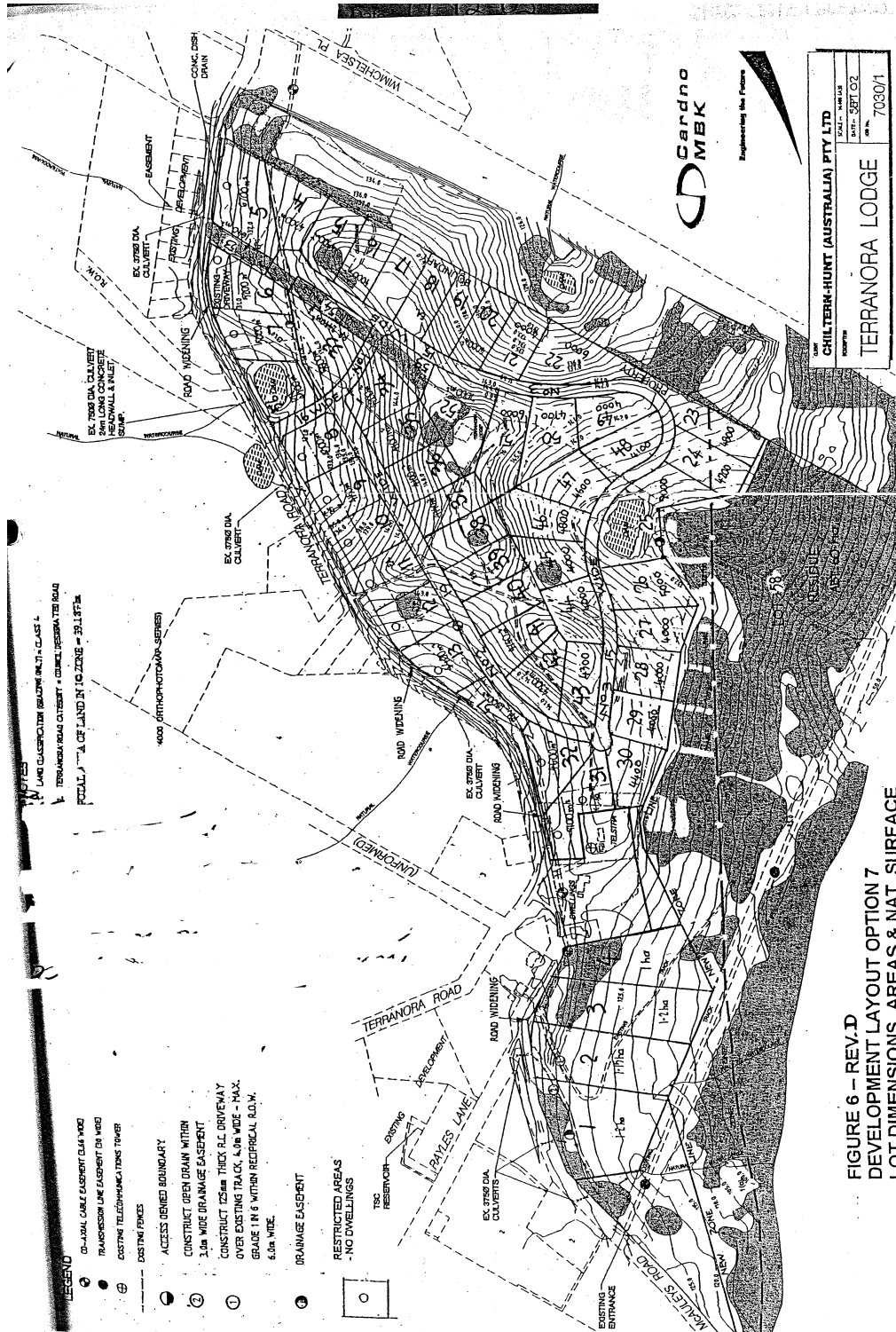


FIGURE 6 – REV.D
 DEVELOPMENT LAYOUT OPTION 7
 LOT DIMENSIONS, AREAS & NAT. SURFACE
 SURF. IFCCT TO SURVEY

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Figure 2 – Current proposed 54 rural living lots

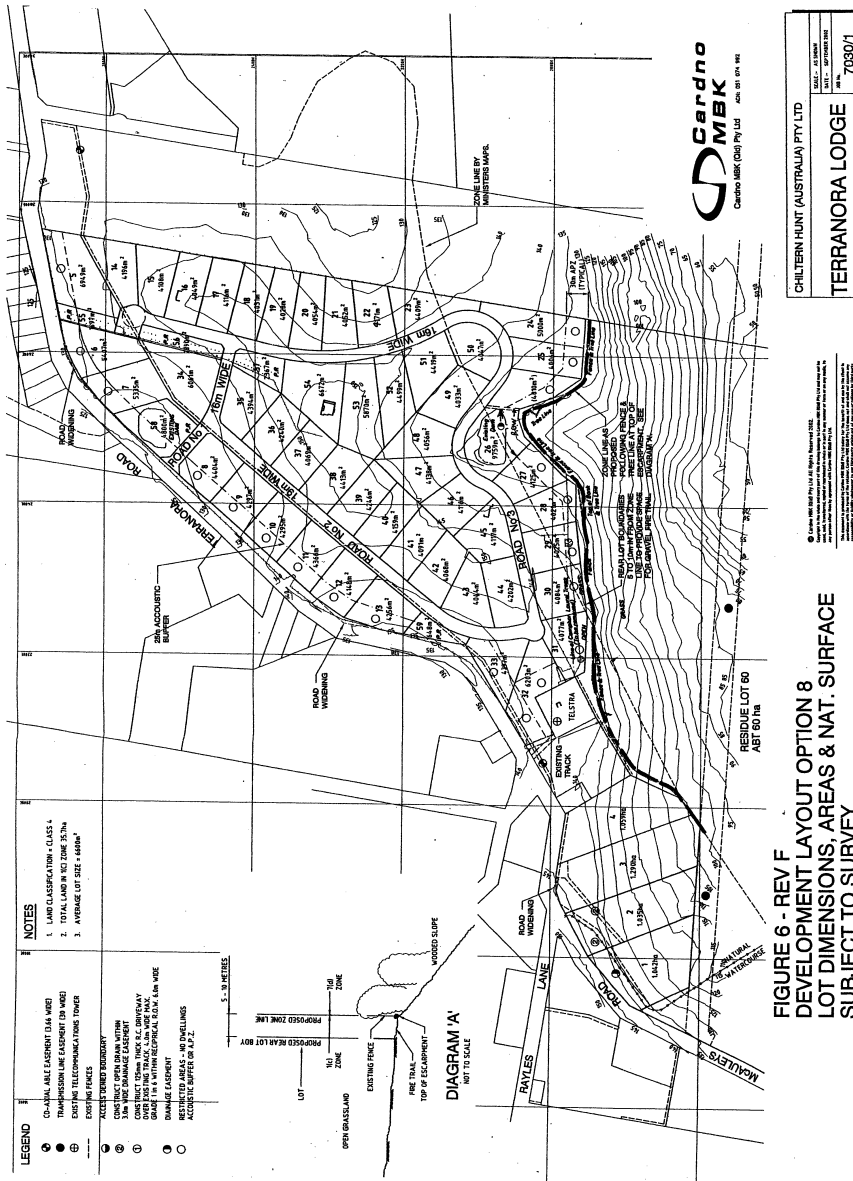
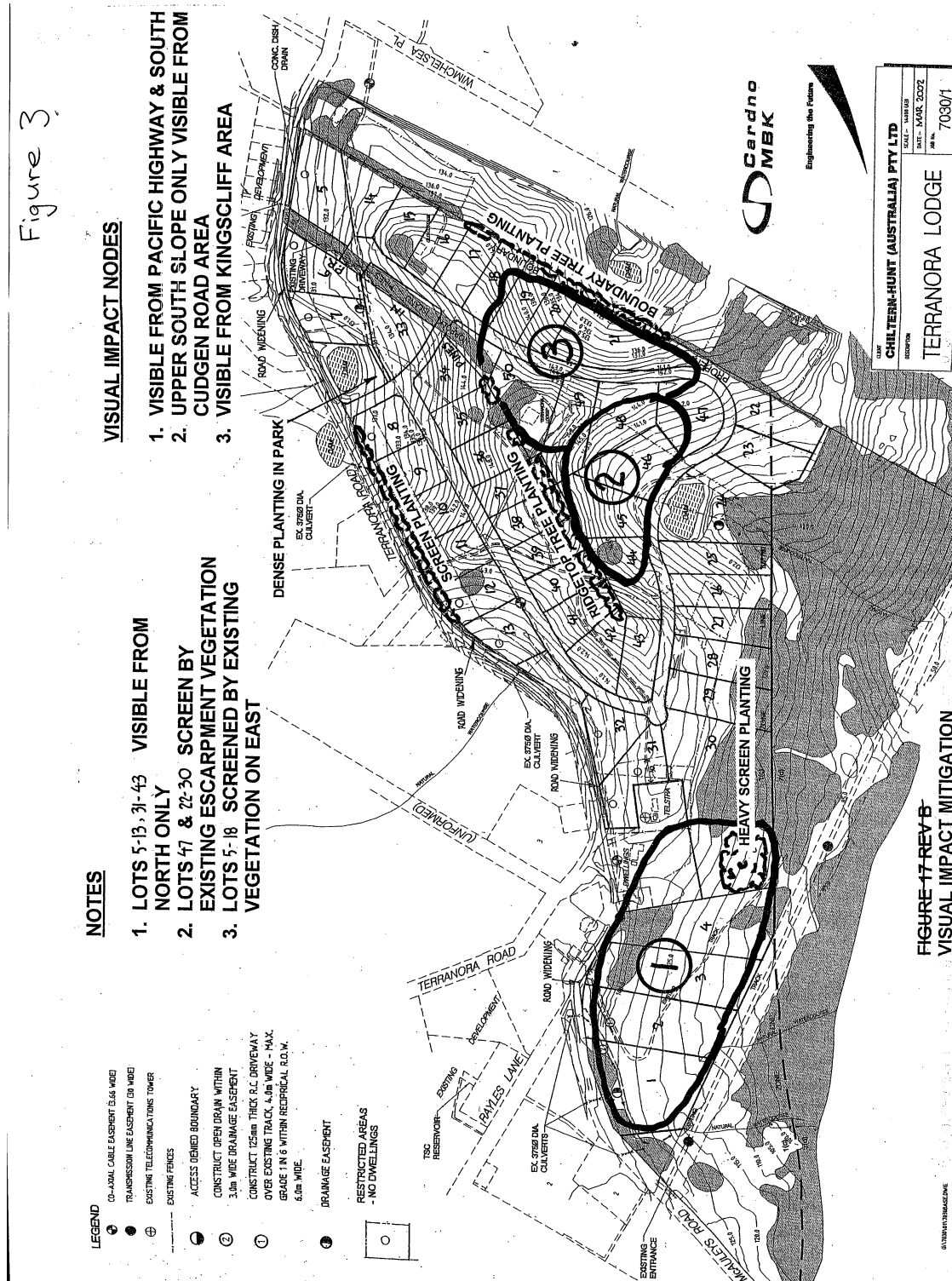


FIGURE 6 - REV F
DEVELOPMENT LAYOUT OPTION 8
LOT DIMENSIONS, AREAS & NAT. SURFACE
SUBJECT TO SURVEY

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Figure 3



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Figure 4



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- 3. ORIGIN:** Strategic Town Planning Unit
FILE REF: GT1/DCP/48 Pt1; Development Control Plan

REPORT TITLE:

Draft Development Control Plan No 48 - Tweed Coast Building Heights - Public Exhibition: Summary of Submissions

SUMMARY OF REPORT:

Council resolved on Wednesday 6th November 2002 pending the outcome of an investigation of urban design principles and an overall review of DCP 43 (Kingscliff), a Developmental Control Plan be prepared and exhibited for the Tweed Coast between Kingscliff and Pottsville on building heights.

The purpose of DCP 48 (Tweed Coast Building Heights) is to respond to the increasingly significant issue of the current planning controls on building heights for Kingscliff and the Tweed Coast including the definition of “storey”.

The draft was exhibited for a period of 28 days from the 27th November 2002 and several submissions relating to the DCP were received. Most supported the Plan in principle, but stated that the document would need to be amended in regard to the definition of ‘building height’ and ‘finished ground level’ before Council should adopt the draft Plan.

A summary of each submission and the issues raised is provided in Table 1.

An amended DCP is attached as Appendix 1.

RECOMMENDATION:

That Council:

1. Delegates the Director of Development Services to make typographical and/or formatting changes as necessary to the draft Plan subject to the following:
 - a. Areas affected by the draft Plan are clearly identified by a map inserted in Section 1.2.
 - b. The purpose of the Plan in Section 1.3 is clarified by including a less ambiguous aim and set of objectives as follows:

“The aim of this DCP is to protect the established and future character of the Tweed Coast by:

 - i. Providing guidelines on building height; and*
 - ii. Providing guidelines for the design and use of rooftops.*

The objectives of this DCP are to:

 - Protect the region’s public amenity by enhancing its diverse and unique built environment through qualitative urban design; and*
 - Provide the community with a pre-determined maximum height in relation to a building.”*
 - c. The documents relationship to other plans is made clear by including a note that the DCP must be read in reference to the Tweed Local Environmental Plan 2000

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Height of Buildings Map and that the terms used in DCP 48 are as defined in the Tweed LEP 2000.

- d. The intended building height provisions in Section 2.1 are amended as follows:
“The height in relation to a building to the underside of the eaves will be measured as follows:
- iii. 3 storey commercial development - 11 metres;*
 - iv. 3 storey residential development - 9 metres;*
 - v. 3 storey mixed development (commercial on ground floor and 2 storeys of residential above) - 10 metres;*
 - vi. 2 storey commercial development - 8 metres;*
 - vii. 2 storey residential development - 6 metres.*

Whilst the maximum height of buildings measured to the highest point on the ridge of the roof shall be a further 1.5 metres above these nominated heights - including all ancillary structures such as, but not limited by, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls.”

- e. The intended provisions for roof design are amended to include guidelines for the treatment and use of ancillary roof structures such as, but limited by solar heating panels, satellite dishes, and kitchen exhaust shafts.
- f. Additional provisions are included so that the desired character and amenity of development for special localities such as Hungerford Lane, Kingscliff and Hastings Road, Cabarita Beach as follows:

“2.3 Hungerford Lane, Kingscliff

Due to the topography of the locality, Hungerford Lane has developed much like a typical street, with developments fronting the lane, rather than backing onto it. Adjoining landuses have traditionally been of a residential nature and no greater than two storeys in height. These unique characteristics should be respected. New developments should address the lane with building fronts, low fences (1.2m maximum) and some landscaping, rather than continuous rows of garage doors, blank walls or high fences. The height and setbacks of new developments should respect the existing low key and unimposing character in the laneway and have particular regard for vehicle access/egress and parking.

2.4 Hastings Road, Cabarita Beach

The Cabarita Beach Central Business District (CBD) has largely developed on allotments adjoining the Coast Road and has typically established with a diverse range of landuses. Due to the areas topography the height of buildings fronting the western side of the roadway has traditionally been no greater than two storeys, however, the configuration of allotments has resulted in most dwellings being poorly designed when viewed from the urban areas west of the CBD. Development along the western side of Coast Road must provide a complimentary design to residential development along Hastings Road. In particular, buildings should be designed with articulated facades and be of a height that respects the

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existing character. The construction of blank walls, highly visible and exposed car parking areas or high fences are to be avoided.”

- g. The dictionary should be deleted from the document since the Tweed Local Environmental Plan 2000 will define the terms used in the DCP.
2. Pursuant to Clause 21 of the Environmental Planning and Assessment Regulation 2000 adopts Development Control Plan No 48 - Tweed Coast Building Heights; and
3. Provides public notice of its decision.

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REPORT:

INTRODUCTION

Council resolved on Wednesday 6th November 2002 that:

“Pending the outcome of an investigation of urban design principles and an overall review of DCP 43, as an interim measure, a Development Control Plan be prepared and exhibited for the Tweed Coast between Kingscliff and Pottsville.

(a) to establish a maximum height limit for 2 and 3 storey commercial and residential developments - as follows:

- o for 3 storey commercial development-12 metres;*
- o for 3 storey residential development-10 metres*
- o for 3 storey mixed development (commercial on ground floor and 2 storeys of residential above)-11 metres;*
- o for 2 storey commercial development-9 metres; and*
- o for 2 storey residential development-7 metres.*

(b) to provide guidelines for the design and use of rooftops.

BACKGROUND

The purpose of DCP 48 (Tweed Coast Building Heights) is to respond to the increasingly significant issue of the current planning controls for Kingscliff and the Tweed Coast on building heights including the definition of “storey”. The Tweed Coast is becoming an increasing focus of development interest and with rising property values, some recent development applications have led to strong community objections and significant policy issues regarding height and the potential for view deprivation. This issue is anticipated to become more significant for future development applications - particularly in the southern sector of Kingscliff.

DRAFT LOCAL ENVIRONMENTAL PLAN (AMENDMENT NO 46)

At its ordinary meeting of 20th March 2002 Council, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, resolved to prepare a draft Local Environmental Plan amendment - Housekeeping Stage 2. At the time of Council’s resolution, the draft amendment included approximately 14 separate housekeeping matters. One of which having issues relating to building heights including the definition of “storey”.

The aim of the resultant draft LEP Amendment No 46 is to amend the provisions regulating building height to refer to ‘finished ground level’ by:

1. Amending the definition for ‘building height’;
2. Introducing a definition for ‘finished ground level’; and
3. Amending the definition for ‘storey’.

These amendments are to affect the whole of Tweed Shire.

The purpose of Development Control Plans is to provide more detailed provisions than those in the Tweed LEP 2000. The provisions of a DCP cannot override the regulations of the Tweed LEP

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2000. The draft whilst being consistent with Council's resolution dated 20th March 2002, it was not consistent with the current provisions of the LEP by referring to "finished ground level". Therefore for the ease of implementation, DCP 48 must firstly be consistent with the current Tweed LEP 2000 and secondly with the proposed amendments by not referring to either "finished or natural ground level" but instead stating that the terms used in the DCP are as defined by the LEP.

SUBMISSIONS

The draft DCP was exhibited for a period of 28 days beginning on the 27th November 2002. Several submissions relating to the DCP were received during and after the exhibition period from members of the general public.

Most submissions supported the Plan in principle, but stated that the document would need to be amended in regard to the definition of building height before Council should adopt the draft Plan. The following points outline the main comments from the submissions. A summary of each submission and the issues raised is provided in Table 1:

- o The Plan does not effectively control the height of buildings as it does not attempt to regulate the height of the roof structure;
- o The suggested heights are excessive in light of the given definitions;
- o The definitions of building height and finished ground level are inadequate as they encourage developers to artificially raise the level of sites and thus increase the overall building height in comparison to neighbouring sites; and
- o Despite earthworks being recognised as needed in some locations to enable developments to establish above foreseeable flood levels, the DCP does not delineate the height of acceptable earthworks and thus the overall height of buildings.

KEY ISSUES AND RECOMMENDATION

The key issues that result from the submissions with regard to whether the DCP will achieve its purpose highlight that it will fall short of its desired target without further amendment. These include:

Issue 1: The uncertainty of which areas of the Tweed Coast are affected by the Plan

The Tweed Coast has a diversity of landscapes and landuse. Its landscape is shaped by a number of different land uses and environmental features such as low-lying wetlands and littoral rainforests, farmland and urban communities. The areas affected by the draft Plan are currently unclear. A map should therefore be attached to the Plan clarifying which areas of the Tweed Coast are governed by the proposed building height provisions.

Issue 2: The ambiguity of the document's aim and objectives

The draft whilst trying to limit the height of buildings was also meant to promote qualitative urban design by permitting a degree of flexibility and individualism within future development proposals. This was made unclear in the draft by it not defining the scope and intention of what the Plan was able to achieve.

Section 1.3 of the draft states that the aim of the Plan is to protect the established character and amenity of the Tweed Coast by defining the maximum height limit for commercial and residential development and providing guidelines for the design and use of rooftops. However,

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omitted from the Plan, although assumed by Council, is mention that the intended provisions will aim to achieve qualitative urban design. It is recommended that Section 1.3 of the Plan be amended to read:

‘The Aim of this DCP is to protect the established and future character of the Tweed Coast by:

- *Providing guidelines on building height; and*
- *Providing guidelines for the design and use of rooftops.*

The objectives of this DCP are to:

- *Protect the region’s public amenity by enhancing its diverse and unique built environment through qualitative urban design; and*
- *Provide the community with a pre-determined maximum height in relation to a building’.*

Issue 3: The community’s expectation that a maximum allowable height in relation to a building is established for all development

To allow a degree of flexibility and individualism and promote the development of qualitative urban design the draft proposed that building height be measured to the underside of the eaves. However, in doing so, the draft lost sight of other aims and objectives, in particular providing the community with a maximum allowable height of development.

Submissions highlighted that the maximum height of buildings should be comparative with that proposed, but that a height for roof structures be established also. This would enable development the degree of flexibility and individualism it requires and the community with an assurance that development will maintain the character and amenity of the region. Therefore it is recommended that the height in relation to a building to the underside of the eaves be reduced by 1 metre and that the height of roof structures measured to the highest point on the ridge of the roof, and including all ancillary structures be restricted to a maximum of 1.5 metres. In summary it is recommended that the height in relation to a building to the underside of the eaves be as follows:

- *“3 storey commercial development – 11 metres*
- *3 storey residential development – 9 metres*
- *3 storey mixed development (commercial on ground floor and 2 storeys of residential above) – 10 metres*
- *2 storey commercial development – 8 metres*
- *2 storey residential development – 6 metres*

Whilst the maximum height of buildings measured to the highest point on the ridge of the roof, and including all ancillary structures such as, but not limited by, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls is a further 1.5 metres above these nominated heights”.

The clarity of how height in relation to a building is measured is paramount. Diagrams are often best used for this purpose, thus a number of drawings will be inserted into Section 2.1 (see Appendix 1) that establish how building height will be interpreted and subsequently measured.

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SPECIAL LOCALITIES

Council has identified individual localities along the Tweed Coast that require specific planning controls with regard to building height and the potential of future developments to impinge on the surrounding landscape in addition to the generic provisions already proposed by the draft.

Hungerford Lane in the south-eastern hill area of Kingscliff is one of these where recent development applications have raised objection from neighbouring residents who feel that if approved they will unjustly block views of the oceans horizon. DCP No 43 (Kingscliff) describes the laneway as a typical street with developments fronting the lane, rather than backing onto it. It states:

“New developments should address the lane with building fronts, low fences (1.2m) and some landscaping, rather than continuous rows of garage doors, blank walls or high fences. The height and setbacks of new developments should respect the existing low key and unimposing character of development in the laneway”.

Analysis of building height controls for the area included a series of transects that run through various slopes and block arrangements. Each assumed that all landowners will want to utilise the maximum allowable building envelope and were chosen based upon the change in topography along Hungerford Lane.

These confirmed that solutions to the control of development, notwithstanding building height, will enable allotments west of Hungerford Lane and south of Sutherland Lane at some point on each to view the oceans horizon, similar to what is experienced now but generally improving as one moved further west. Alternatively allotments north of Sutherland Lane whilst being able to presently view the oceans horizon will not be able to do so in the future if development to the east were permitted to be three storeys. The suggestion that the views from these allotments should also be protected is noted but by adjusting height controls on these or neighbouring allotments would unreasonably affect one or the other.

The analysis revealed that not all allotments east of Hungerford Lane would be able to develop to the maximum allowable height. For instance one transect showed that to get an appropriate floor area per storey that only two levels above Hungerford Lane could be built whilst another, because of the sudden rise in land at the rear of the block, could only develop approximately 8 metres of the building above Hungerford Lane, being a little over two storeys, as opposed to a possible 12 metres.

Alternative development control provisions may subsequently control the height of buildings fronting Hungerford Lane albeit indirectly. Although allotments adjoining Marine Parade and Hungerford Lane are zoned 3(b) General Business it is not desirable for commercial premises to be facing Hungerford Lane due to resulting conflict with existing land uses, the laneway's low key and unimposing character and the limited opportunities for high levels of pedestrian or vehicular access. Therefore future development facing Hungerford Lane must be of a residential nature. Subsequently the assessment of future development applications in relation to building height should be against the requirements of mixed and/or residential development as outlined in DCP 48.

In addition allotments once developed for whatever purpose must provide on-site car parking. Current provisions of DCP No 43 do not allow for car parking areas to be accessed across Marine Parade. Instead preferring that developments provide parking at the rear of allotments (i.e. off Hungerford Lane). Accordingly allotments would in most instances, particularly if developed with

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residential or tourist components, be able to only develop car parking facilities such as a garage or parking platform at the rear of each property.

Hastings Road at Cabarita Beach is another location that has been identified by Council as requiring more specific/individual planning controls in addition to those already proposed by the draft. As yet the Cabarita Beach-Bogangar area does not have a Development Control Plan similar to that implemented for Kingscliff, which describes the desired future character and amenity of the region. As such current planning controls are therefore those provided by the Tweed Local Environmental Plan 2000.

The Central Business District (CBD) of Cabarita Beach is centred on the Coast Road. Running north-south through the village it is the main traffic route that connects the area to the other communities of the Tweed Coast. The bulk of the commercially zoned land in the CBD are allotments which slope away towards Hastings Road.

Current controls permit with Council consent the erection of dwellings that are three storeys. However due to the varied topography that slopes downwards to Hastings Road most development fronting the Coast Road appears two storeys but is really three when viewed through from Hastings Road.

Recent pressure on the surrounding community's amenity has become evident from development applications, which are seeking Council approval for the development of three storeys facing the Coast Road. If permitted, the resultant view of residents in neighbouring areas to the west would be adversely impacted upon in a sense that their view would be dominated by a continuous row of the rear of commercial development, which due to the nature of the allotment configurations result, as is evident now, in being an expanse of blank wall as the majority of access points and useable spaces front the Coast Road.

To ensure that the qualities of special locations like Hungerford Lane and Hastings Road are protected it is recommended that DCP 48 (Tweed Coast Building Heights) be amended to reflect that the existing character and amenity of these areas should be enhanced. Therefore Section 2.3 Hungerford Lane, Kingscliff and Section 2.4 Hastings Road, Cabarita Beach should be inserted into the Plan as follows:

“2.3 Hungerford Lane, Kingscliff

Due to the topography of the locality, Hungerford Lane has developed much like a typical street, with developments fronting the lane, rather than backing onto it. Adjoining landuses have traditionally been of a residential nature and no greater than two storeys in height. These unique characteristics should be respected. New developments should address the lane with building fronts, low fences (1.2m maximum) and some landscaping, rather than continuous rows of garage doors, blank walls or high fences. The height and setbacks of new developments should respect the existing low-key and unimposing character of development in the laneway and have particular regard for vehicle access/egress and parking.

2.4 Hastings Road, Cabarita Beach

The Cabarita Beach Central Business District (CBD) has largely developed on allotments adjoining the Coast Road and has typically established with a diverse range of landuses. Due to the areas topography the height of buildings fronting the western side of the

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roadway has traditionally been no greater than two storeys, however, the configuration of allotments has resulted in most dwellings being poorly designed when viewed from the urban areas west of the CBD. Development along the western side of Coast Road must provide a complimentary design to residential development along Hastings Road. In particular, buildings should be designed with articulated facades and be of a height that respects the existing character of the region. The construction of blank walls, highly visible and exposed car parking areas or high fences are to be avoided”.

CONCLUSION

The draft, as outlined, should be amended to clarify the provisions relating to building heights and the design and use of rooftops, and to protect the established and future character of the Tweed Coast in particular special localities like Hungerford Lane.

The Plan should then be adopted and implemented by Council upon notice being given to the public in accordance with clause 21 of the Environmental Planning and Assessment Regulation 2000. In doing so the amended DCP will meet the desired goals of the community by limiting the height of buildings but still cater towards the achievement of qualitative urban design by allowing a degree of flexibility and individualism.

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TABLE 1: SUMMARY OF INDIVIDUAL SUBMISSIONS

Submission No.	Issue (s)	Comment/Response
1	<p>Effects of building height limits with regard to eco-friendly building design.</p> <p>DCP encourages flat rooftops as opposed to pitched or sloping designs thus limiting the potential for photo-voltaic cells (solar power panels).</p> <p>Requirement of adequate ceiling height for the inclusion of temperature and sound insulation as well as water reticulation tanks for the capture and re-use of stormwater.</p>	<p>As per the draft the definition of building height does not limit the style of rooftop constructed ie. height would be measured to the eave line.</p> <p>The amended Plan whilst limiting the height of roofs in addition to the height of walls, does not encourage or discourage the building of one roof form as opposed to another.</p>
2	<p>Heights as defined by the draft are excessive.</p> <p>Building height should relate to either finished ground level or natural ground level, whichever is the lower of the two.</p>	<p>The Plan must distinguish between natural and/or finished ground level for ease of implementation and the just application of the proposed regulations.</p>
3	<p>Policies and principles outlined in the DCP are agreed to in general.</p>	
4	<p>Plan not helpful in controlling building height. It does not attempt to regulate the height of roof structures and would otherwise be inappropriate to do so.</p> <p>Assessment of building height should be merit based. Most development would comply with the intended provisions of the DCP without being regulated.</p>	<p>Despite the probability that most development would comply with the intended provisions of the DCP, there has been DA's lodged for Kingscliff that suggest otherwise. Without control incremental changes to development would lead to major shifts in the character of the Tweed Coast.</p>
5	<p>Definition of building height in particular the use of finished ground level is unacceptable.</p> <p>Lack of regulation in regard to roof structures.</p> <p>The encouragement for major development to artificially raise ground levels.</p>	<p>Earthworks involved in raising ground level would need to be deemed appropriate by Council.</p> <p>The specific control of roof height, and thus the overall height of buildings is acknowledged to be lacking from the draft. The amended Plan will however specify that the height of roof</p>

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Submission No.	Issue (s)	Comment/Response
		structures be limited to 1.5 metres.
6	<p>Definition of building height in particular the use of finished ground level encourages developers to raise the level of sites to achieve greater views and building heights.</p> <p>Lack of regulation in regard to roof structures.</p> <p>Proposed regulations are appropriate if used to determine the maximum height of buildings, if not they should be lowered.</p> <p>The impact of roof design on development located in front of height restricted areas with regard to view sharing and/or view deprivation.</p>	<p>Earthworks involved in raising ground level would need to be deemed appropriate by Council.</p> <p>The specific control of roof height, and thus the overall height of buildings is acknowledged to be lacking from the draft. The amended Plan will however specify that the height of roof structures be limited to 1.5 metres.</p> <p>Amendments to the DCP are intended to implement height controls that allow for the most equitable sharing of views. Further guidelines may result as part of an overall urban design review of DCP 43.</p>
7	<p>Definition of building height in particular the use of finished ground level is unacceptable.</p> <p>The measured height of a building must include the roof structure.</p> <p>Acknowledges that earthworks are needed to prevent the development of buildings, which are flood prone, but objects to the DCP encouraging developers to artificially raise the level of sites to achieve greater views and building heights.</p>	<p>Earthworks involved in raising ground level would need to be deemed appropriate by Council.</p> <p>The specific control of roof height, and thus the overall height of buildings is acknowledged to be lacking from the draft. The amended Plan will however specify that the height of roof structures be limited to 1.5 metres.</p>

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4. ORIGIN: Development Assessment Unit

FILE REF: DA02/1815 Pt1; LN: 39879

REPORT TITLE:

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

SUMMARY OF REPORT:

Council reviewed this application at the Council meeting held on Wednesday 7 May 2003. Council resolved that Council resolution at minute No. 285 in relation to Item 3 of the meeting held 16 April 2003 be rescinded and that Council generally supports the application and asks the Director Development Services to bring back draft conditions of approval for the consideration of Council. In accordance with the latest resolution draft conditions have been included in this report.

RECOMMENDATION:

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

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

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REPORT:

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

The following report was submitted to the Council meeting held on 16 April 2003: -

“ORIGIN: Development Assessment Unit

FILE REF: DA02/1815 Pt1

REPORT TITLE:

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

SUMMARY OF REPORT:

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

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

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

RECOMMENDATION:

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

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

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7. *The application will create an unwarranted and undesirable present for other properties within the Shire; and*
8. *The application is not in the public interest.*

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REPORT:

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

Background

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

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

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

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

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

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

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

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

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

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

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

The attached letter from Mr and Mrs Bulke contains details of existing activities on the site, including the existing pet motel. In summary, the scale of the business is as follows;

The existing facility has the capacity to accommodate 100 dogs and 50 cats;

Extensions to the pet motel to expand the capacity to 200 dogs is in progress in accordance with development consent No. 1339/2001 DA and Construction Certificate No. 1092/2001CC. Completion of the extension is anticipated by the end of April 2003.

To enable the pet motel to operate efficiently, with minimal impact on the amenity of the locality and to provide safe and secure accommodation for pets, 24 hours per day, 7 days per week monitoring and surveillance is required.

Currently 2 staff are employed for up to 20 hours each per week to accept pets, clean pens, feed animals and provide routine care and management. 1 additional person is employed on an as and when required for an average of 20 hours per week to mow and slash around the pet motel and carry out general maintenance duties. However, these staff are only available during daylight hours and Mr and Mrs Bulke are required to provide these services when staff are not present on a 7 days per week, 24 hours per day basis.

Other agricultural activities undertaken on the property occupy Mr Bulke for up to 50 hours per week. This is in addition to his work in the pet motel at night and weekends.

To enable Mr and Mrs Bulke to obtain some respite from the day to day management of the Pet motel on a 24 hour per day, 7 days per week basis, it is essential that a full time manager be resident on site. This is particularly necessary to enable a prompt response to barking dogs, sick animals and other emergencies.

The scale and nature of the existing and expanded per motel operations are such that a full time manager be resident on site. Pet owners demand a high level of security, cleanliness, care and supervisions of their pets as a result operational activities are labour intensive. It is therefore essential that a resident manager be available at all times

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

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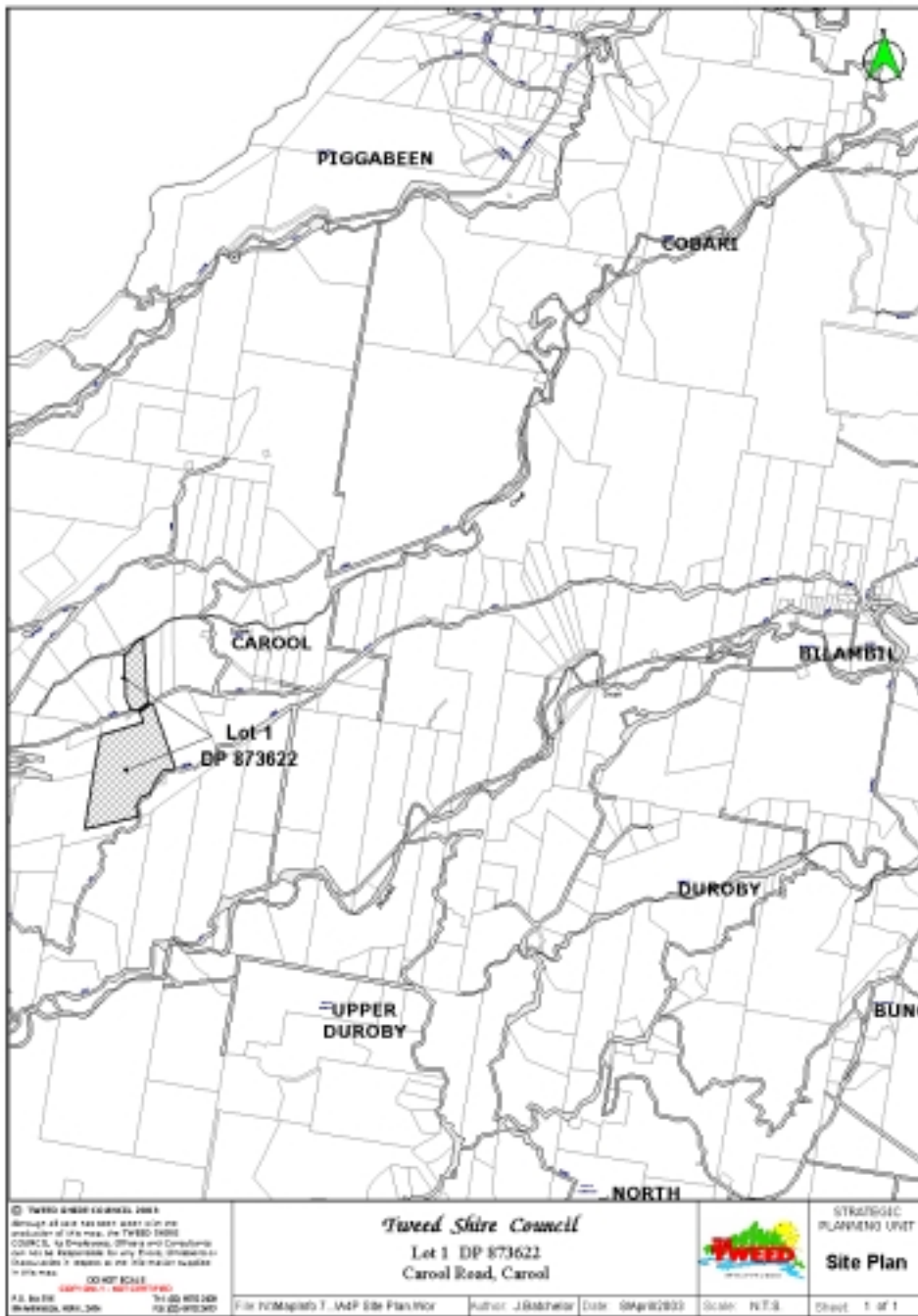
appropriate in the circumstances on the basis that it is a use ancillary and incidental to the dominant and approved animal establishment.

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

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

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Site Diagram



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

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

Tweed Local Environmental Plan 2000

Clause 11 – Zone Objectives

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

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

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

Primary Objectives

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

Secondary Objective

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

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

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

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

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

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Clause 8 Consent Considerations

The consent authority may not grant consent to development (other than development specified in Item 3 of the table to Clause 11) only if:

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

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

The proposed managers residence does not satisfy Clause 8 of TLEP 2000.

Clause 15 – Availability of Essential Services

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

North Coast Regional Environmental Plan 1988

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

Dams and cattle grazing area border the proposed building site. The introduction of a house with a gross floor area of 128m² would not result in a loss of prime agricultural land.

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

State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

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

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

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

Development Control Plan No. 39 Energy Smart Housing

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

Development Control Plan No. 42 Public Notification Policy

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

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

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

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

Access

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

Context & Setting

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

A manager's residence can only be permissible if it is considered ancillary to the existing animal establishment. Council, in theory could support a manager's residence, provided the residence was located within close proximity to the existing animal establishment and a clear affiliation between

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the two buildings was established. The current application does not satisfy this requirement and is therefore recommended for refusal.

Flora & Fauna

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

Unwarranted Precedent

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

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

Bushfire Hazard Assessment

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

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

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

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

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

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

(e) **Public interest**

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

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Options

1. *Refuse the application for the reasons detailed above.*
2. *Request the Director of Development Services to bring forward conditions of consent to the Council meeting of 7 May 2003 in the event that Council determine to approve the application.*

Legal/Resource/Financial Implications

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

Conclusion

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

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

DRAFT CONDITIONS IN THE EVENT THAT COUNCIL DETERMINES APPROVAL

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

Following consideration of the report on 7 May 2003 it was resolved as follows: -

"that Council generally supports the application and asks the Director Development Services to bring back draft conditions of approval for the consideration of Council."

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos 1, 2 & 3, labeled Floor Plan, Section and Footing and Slab Detail, and undated except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
4. The erection of a building in accordance with a development consent must not be commenced until:
 - a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or

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- (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
5. An asset protection zone of 20 metres surrounding the new managers residence is to be provided to ensure compliance with the Planning for Bushfire Protection 2001 guidelines.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

- a. Tweed Road Contribution Plan: \$7096
S94 Plan No. 4 (Version 4.0)

(Rural Inner Zone)

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:-

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

b.	Open Space (Structured): S94 Plan No. 5	\$774
c.	Open Space (Casual): S94 Plan No. 5	\$167
d.	Shirewide Library Facilities: S94 Plan No. 11	\$688
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$126
f.	Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$215
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$344.81
h.	Regional Open Space (Structured) S94 Plan No. 26	\$1177
i.	Regional Open Space (Casual) S94 Plan No. 26	\$221

7. 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

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attachments and prescribed fee.

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

PRIOR TO COMMENCEMENT OF WORK

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.

DURING CONSTRUCTION

- 14. 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).
- 15. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
- 16. 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.
- 17. 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.

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18. 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
19. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work
 - i. Bitumen sealing of accesses from the road carriageway to the property boundary of each proposed lot.
 - ii. Provision of 375mm minimum diameter pipe culvert crossings, including precast headwalls, to each lot to the satisfaction of the Director Development Services.
20. Details of the intended method of water storage are to be submitted to the Principal Certifying Authority for approval. Please note that the minimum storage capacity required shall be 20,000 litres.
21. 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.
22. 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.
23. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.
24. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.
25. 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.

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26. 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.
27. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
28. The finished floor level of the building should finish not less than 225mm above finished ground level.
29. 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.

30. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

31. 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

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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.

32. It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the Council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

USE

33. The managers residence is to remain ancillary to the existing animal establishment. If the animal establishment ceases to operate the residence is to be rendered uninhabitable by the removal of the kitchen sink and associated cupboards including all cooking facilities.
34. It is a condition of this consent to operate a system of sewage management that this clause is complied with.
- (i) The sewage management facilities used in the operation of the system must be maintained in a sanitary condition and must be operated in accordance with the relevant requirements of this Regulation.
 - (ii) A sewage management facility used in the operation of the system must not discharge into any watercourse or onto any land other than its related effluent application area.
 - (iii) The conditions (if any) of any certificate of accreditation issued by the Director-General of the Department of Health under this Division in respect of the plans or designs for any components of the sewage management facilities must be complied with.
 - (iv) The person operating the system of sewage management must provide details of the way in which it is operated, and evidence of compliance with the relevant requirements of this Regulation and of the conditions of the approval, whenever the Council reasonably requires the person to do so.
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- 5. ORIGIN:** Strategic Town Planning Unit
FILE REF: GT1/LEP/2000 Pt1; LEP - 2000

REPORT TITLE:

Draft Tweed Local Environmental Plan 2000 - Black Rocks (Variation of Lot Sizes)

SUMMARY OF REPORT:

Council has received an application from Darryl Anderson Consulting on behalf of Black Rocks Estate Pty Ltd to amend Tweed LEP 2000 to enable the development of dual occupancy lots within areas of the Black Rocks Estate, that are subject to the provisions of Clause 52 of Tweed LEP 2000.

It is proposed to amend the provisions of Clause 52 of Tweed LEP 2000 relating to the size of allotments over parts of the Black Rocks Estate by reducing the current 1200m² minimum allotment size to enable the creation of smaller allotments to facilitate dual occupancy development. The proposed Amendment is restricted to land at the base of Mooball Hill where land is not considered visually prominent or significant. Provisions requiring larger allotments (1,200m²) will remain and apply to land on or adjacent to the ridgeline.

Although the subject land is situated within the NSW Coastal Zone it is considered that an Environmental Study is not warranted given the minor nature of the proposed amendment and because Black Rocks Estate has been the subject of previous environmental studies and other detailed environmental investigations.

It is considered that the subject area can support allotments of a smaller area without detrimentally impacting on the amenity and aesthetic qualities of the area.

RECOMMENDATION:

That:

1. In accordance with Section 54 of the Environmental Planning and Assessment Act 1979 Council prepares a draft Local Environmental Plan to amend Clause 52 of Tweed Local Environmental Plan 2000 relating to Black Rocks by reviewing the minimum allotment sizes.
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 amendment and because the site has been the subject of previous Local Environmental Studies.

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REPORT:

A request has been received from Darryl Anderson Consulting on behalf of Black Rocks Estate Pty Ltd to amend Tweed LEP 2000 (TLEP) to change the minimum lot size in respect of the hatched area (Clause 52 of TLEP) affecting Stages 9 and 10 of Black Rocks Estate from 1200m² to 700m² to enable the development of dual occupancy allotments.

The subject area of land is illustrated below in Figure 1 – Black Rocks Estate.

BACKGROUND

The site is subject to Clause 52 of Tweed LEP 2000. This Clause provides for development of lots with a minimum area of 1200m². This criteria was a result of a Local Environmental Study prepared for the Black Rocks Estate in June 1992 by ERM Mitchell McCotter. The intention of the larger lot sizes was:

1. To minimise impacts on the landscape and scenic amenity of the area; and
2. Koala Habitat and facilitate Koala movement.

SITE

The property affected by this proposed LEP Amendment is Lot 65 DP855462, Pottsville. The subject area forms part of proposed Stages 9 and 10 of the Black Rocks Residential Estate. The site is located adjacent to Kellehers Road.

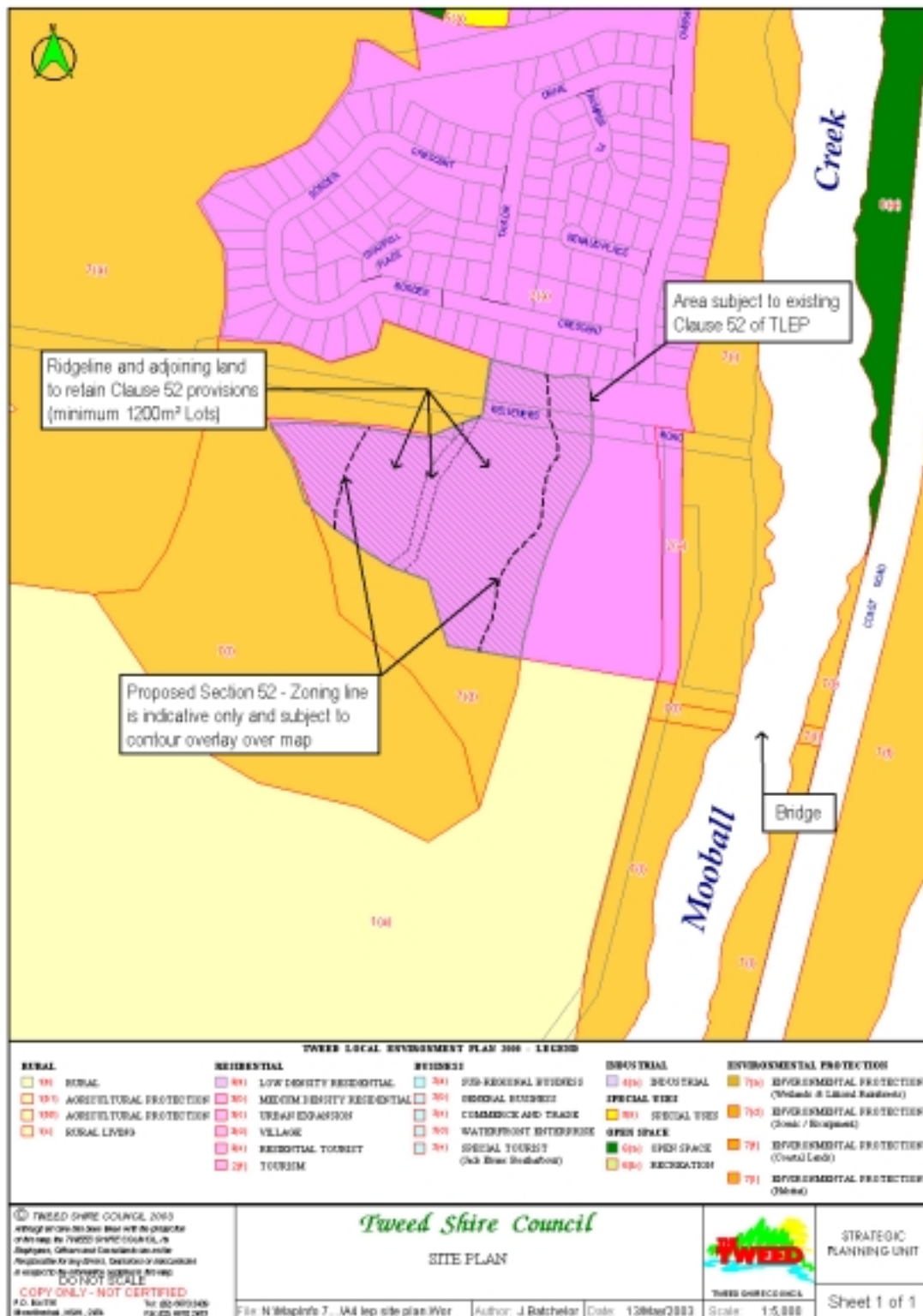
The area subject to this proposed LEP Amendment is surrounded by a mix of land uses including Urban Residential zoned land to the north, south and east of the site and Environmental Protection 7(l) –Habitat, 7(d) – Scenic Escarpment zoned land to the west and south. Notably, a proposed Fire Trail and koala fences will separate proposed stages 9 and 10 from the existing Environmental Protection zoned land.

The most prominent feature of the site is Mooball Hill. Vegetation along the base and lower parts of Mooball Hill is a mix of cleared land, grassland, and low lying dispersed vegetation. Clearing at the base of Mooball Hill has been a result of Council approved earthworks for previous stages of residential development, associated road works and bush fire hazard management. Earthworks on site have involved a combination of clearing, excavating and filling of land. Filling has been undertaken to ensure residential allotments are developed above the flood design level for the area in accordance with DCP No 5- Development of Flood Liable Land. As a result of this filling the lower portions of Mooball Hill are no longer considered visually prominent as they once were in the LES prepared in 1992.

The more elevated areas of Mooball Hill, its ridgeline, land adjacent the ridgeline and land to the west of the ridgeline are characterised by a mix of low growth and denser treed vegetation. The proposed LEP Amendment will not affect existing Clause 52 provision relating to these localities. The subject Amendment will be restricted to land at the base of Mooball Hill that has been affected by Council approved earthworks and the lower part of Mooball Hill. The integrity of the more elevated areas and the ridgeline of Mooball Hill will be retained.

Reports from Director Development Services

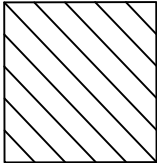
Figure 1 - Black Rocks Estate - Hatched Area (Clause 52 of TLEP)



Reports from Director Development Services

PROPOSAL

Black Rocks Estate Pty Ltd proposes to develop dual occupancy lots as part of Stage 9 and 10. Proposed Stages 9 and 10 are affected by Clause 52 of Tweed LEP 2000. Clause 52 relating to the Black Rocks development is provided below.

Column 1 Shown on the zone map by:	Column 2 Applicable provisions
	<p>(1) Consent must not be granted to development for residential purposes unless the area of each allotment, or the site area per dwelling, is not less than 1,200m².</p> <p>(2) A person must not remove a tree or erect a building without development consent.</p> <p>(3) Consent must not be granted to the erection of a building, the removal of trees or excavation unless the consent authority has made an assessment as to whether it should impose conditions relating to:</p> <ul style="list-style-type: none"> (a) the height and location of buildings, and (b) the colour of materials, and (c) the removal and planting of trees, <p>so as to ensure that the development will preserve or enhance the scenic quality of the land and surrounding land.</p>

The above provisions require a minimum area per dwelling of 1200m². This provision requires the developer to provide an allotment of not less than 2400m² if it is intended to develop a duplex.

The applicant proposes 2 options enabling development of smaller lots within Stages 9 and 10.

1. Amend the relevant clauses in the table to Clause 52 as follows;

“Consent must not be granted to develop for residential purposes unless the area of each allotment is not less than 700m² or the site area per dwelling is not less than 450m².” Or
2. Amend the cross-hatching on the zoning map such that the nominated dual occupancy lots are outside of the hatched area.

The applicant prefers the implementation of Option 1 above because it avoids the need to amend the TLEP rezoning map and believes the number and distribution of dual occupancy lots can be effectively managed through:

1. Nomination of those lots on which dual-occupancy buildings may be erected pursuant to the provisions of Development Control Plan No 44; and
2. Prohibiting of the erection of dual-occupancy buildings on all other lots by way of a Section 88B restriction.

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However, it is considered Option 2 should be the preferred option. Option 2 would retain the existing Clause 52 provisions over land that is on or adjacent the Mooball Hill ridgeline. The larger size lots (1200m²) would help retain existing vegetation and provide for the reinstatement of vegetation over the more visually prominent parts of the site retaining the vegetated scenic amenity of the Mooball Hill ridgeline.

The Clause 52 provisions relating to land located at the base of Mooball Hill, where land is not considered visually prominent, should be reviewed. The minimum lot size provision should be reviewed and implemented by amending Clause 52 and TLEP maps accordingly.

Therefore, the recommended approach would be to:

1. Review minimum lot sizes within the Black Rocks area affected by Clause 52 and amend Tweed LEP 2000 Maps (Clause 52 provision) accordingly; and

ISSUES

The two major issues affecting the subject area are visual amenity and koala habitat.

Visual Amenity – The LES prepared by ERM Mitchell McCotter in 1992 recommended implementing a minimum 1200m² lot size provision over Mooball Hill to help retain the scenic amenity quality of the hill. Mooball Hill was considered to be visually prominent from significant vantage points such as the Tweed Coast Road. A field inspection was undertaken of the area to ascertain the location of vantage points along the Coast Road to assess the visual amenity and significance of the hill from the Coast Road. The only significant location along the Coast Road where Mooball Hill was visible was from the bridge location that links Black Rocks Estate to the Tweed Coast Road. This vantage point was made more significant from the clearing and earthworks currently being undertaken to construct the bridge. The visual prominence may be reduced once the bridge is constructed and vegetation is reinstated and matures consistent with what currently exists between Mooball Creek and the Coast Road.

No other significant vantage points were evident along the Coast Road. This is due to the dense vegetation that exists between Mooball Creek and the Coast Road. The vegetation is dense and at a height that Mooball Hill cannot be seen from traffic travelling along the coast road.

The visual prominence of Mooball Hill appears to be restricted to residences and traffic within the Black Rocks Estate. Given the clearing and earthworks undertaken on site, in particular the filling of land for previous stages of development, the visual significance of land at the base of Mooball Hill has been reduced. Areas that were considered elevated and sloping in 1992 when the original LES was prepared are now flat or are not as elevated as a result of the filling and excavation works undertaken on site for Stages 8 and associated roadworks. The visual significance of Mooball Hill appears to be primarily focused to the ridgeline and the more elevated areas adjacent to the ridgeline. The proposed LEP Amendment will not affect the current provision applying to these more visually scenic areas.

Koala Habitat – The land adjoining the subject site to the west is zoned 7(l) Habitat to ensure the protection of Koala Habitat. The LES prepared in 1992 recommended the larger minimum 1200m² lots to provide an opportunity for reinstating vegetation that could possibly allow for koala movement in the area.

Reports from Director Development Services

The Black Rocks Estate development has progressed significantly since 1992 when the LES was conducted. Development of the estate has seen land dedicated to Council for environmental protection purposes for the purpose of retaining koala habitat and retaining habitat corridors.

Proposed stages 9 and 10 is envisaged to be separated from existing 7(l) zoned areas by bush fire breaks in accordance with an approved Bushfire Management Plan for the area. Further, it is understood that koala fences are to be erected separating the koala habitat areas from the urban residential areas. Therefore, it is considered the need for large lot sizes for this purpose of facilitating koala movement is no longer essential.

STATUTORY MATTERS

Council Documents – Tweed LEP, DCPs and Tweed Shire 2000+ Strategic Plan

The proposed amendment is considered to be generally consistent with the relevant provisions of Tweed LEP, DCPs and Tweed Shire 2000+ Strategic Plan.

The changes being proposed are not considered significant and are of a minor nature.

North Coast Regional Environmental Plan

The proposed minor LEP Amendment is considered to be consistent with the relevant provisions of the NCREP.

State Legislation

NSW Coastal Policy

A Section 117 Direction under the Environmental Planning and Assessment Act, 1979, requires Council to Consider the Coastal Policy in the preparation of Local Environmental Plans. The Direction requires draft LEPs to give effect to, and be consistent with, the Policy and requires Local Environmental Studies to accompany rezoning applications for land within the coastal zone. The land subject to this proposed Amendment lies within the Coastal Zone and as such would require 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 or where adequate environmental information already exists as a result of previous studies.

The subject LEP Amendment is considered to be of a minor nature and the Black Rocks Estate has been the subject of a previous LES (1992) and other environmental investigations throughout the course of developing previous residential stages.

It is recommended Council request the Director General to waive the need for a LES in this instance.

OTHER SEPPS/SECTION 117 DIRECTIONS

The proposed minor LEP amendment is considered to be consistent with the relevant SEPPs and Section 117 Ministerial Directions.

STRATEGIC PLANNING WORK PROGRAM

This proposed LEP Amendment is not included in the current Strategic Planning Work Program. Given the minor nature of the proposed Plan the project can be accommodated within the Program if an Environmental Study is not required. If it is determined an Environmental Study is required,

Reports from Director Development Services

then the proponent will be required to fund the cost of engaging an independent consultant to prepare the necessary Environmental Study.

CONCLUSION

The applicants request to amend Clause 52 of Tweed LEP 2000 and accompanying zoning map to reduce the minimum lots size provisions to enable dual occupancy lots over land that is not on or adjacent to the ridgeline of Mooball Hill has merit. The proposed amendment is generally consistent with relevant local, regional and state legislation and policy. The proposed Amendment is considered consistent with surrounding residential development and is not envisaged to be detrimental to the amenity and aesthetic qualities of the locality.

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6. ORIGIN: Development Assessment Unit
FILE REF: DA5937/740 Pt4; Kims-Old Property

REPORT TITLE:

Development Application K99/1682 for a Five (5) Lot Subdivision at Lot 2 DP 1014553, Winders Place Banora Point

SUMMARY OF REPORT:

The subject development application has been with Council for a number of years and has been modified from a subdivision and integrated housing application as lodged in 1999 to a five lot subdivision for consideration today.

The proposal is to create three residential allotments ranging in area from 450m² to 618m², the creation of a Public Open Space (Lake Kimberley perimeter) allotment being 1.210 hectares and a residue allotment for future development being 2.09 hectares.

The subdivision proposal before Council is consistent with that tabled at Council's meeting 2/4/2003. The proposal has been modified to resolve a number of issues that were of concern and is able to be considered for conditional consent.

RECOMMENDATION:

That Development Application K99/1682 for a five (5) lot subdivision at Lot 2 DP 1014553, Winders Place Banora Point be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in general accordance with the Statement of Environmental Effects and Plans Nos 12470 D Rev A dated 24/03/2003 prepared by B & P Surveys, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.
4. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.
 - a) copies of compliance certificates relied upon
 - b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works

Reports from Director Development Services

- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)
- the approved Traffic Control Plan
- the relevant maintenance manuals (eg. G.P.T's, water pump station)

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

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate.
6. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
7. All proposed development lots are to be filled to a minimum of RL 2.65 AHD and graded to a minimum of 1% towards the street frontage or other approved drainage system in accordance with detailed earthworks drawings to accompany the construction certificate application. The detailed earthworks drawings shall provide for the following:
 - a) Details of the interface between proposed and existing lots.
 - b) Location of retaining structures.
 - c) Details of the proposed method to retain the fill on the allotments abutting the proposed open space.
8. Earthworks, landforming and site regrading shall be in accordance with "Development Design Specification D - Site Regrading" or to the satisfaction of the Director of Engineering Services.
9. Retaining walls are to be designed, constructed and certified by an appropriately qualified geotechnical / structural engineer in accordance with the provisions of AS4378-2002 - Earth Retaining Structures.
10. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
 - i. Construction of a stormwater drainage system that will convey the waters through the site to a legal point of discharge. The subsurface and overland drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting calculations shall accompany the application.

Reports from Director Development Services

- ii. Construction of all essential services such as water supply and sewer reticulation infrastructure.
 - iii. Construction of utility services such as power and telephone services.
 - iv. Extension of the concrete footpath / cycleway for the full frontage of the site to Winders Place.
11. 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*.

PRIOR TO COMMENCEMENT OF WORK

12. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued 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 subdivision work.
13. 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.
14. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

Reports from Director Development Services

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director, Development Services.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

15. 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.

DURING CONSTRUCTION

16. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.
17. No soil, sand, gravel, clay or other material shall be disposed of off the site.
18. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-
- (i) Compliance Certificate - Water Reticulation
 - (iii) Compliance Certificate - Sewerage Reticulation
 - (iii) Compliance Certificate - Sewerage Pump Station
 - (iv) Compliance Certificate - Drainage

Note: 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits

Reports from Director Development Services

- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

Sewer Pump Station

- a. Excavation
- b. Formwork/reinforcement
- c. Hydraulics
- d. Mechanical/electrical
- e. Commissioning - on maintenance
- f. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".
19. All lots must be graded and trimmed to prevent the ponding of surface water. Additionally, all lots must be adequately vegetated and action must be taken to prevent erosion from wind and/or water to the satisfaction of the Director, Development Services.
20. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.
- Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.
- This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.
21. 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.
22. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
23. 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.
24. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
25. 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.
-

Reports from Director Development Services

26. 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.
27. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
28. 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.
29. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

30. 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 Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision 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: 4 lots @ \$4000 \$16,000.00

Sewer: 4 lots @ \$3275 \$13,100.00

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.

Reports from Director Development Services

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.

31. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

- a. Tweed Road Contribution Plan: \$6,736.00
 S94 Plan No. 4 (Version 4.0)
 (Tweed Heads South - Sector 2)

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. Street Trees: \$171.60
 S94 Plan No. 6
- c. Shirewide Library Facilities: \$2,752.00

Reports from Director Development Services

- | | | |
|----|--|------------|
| | S94 Plan No. 11 | |
| d. | Eviron Cemetery/Crematorium Facilities: | \$504.00 |
| | S94 Plan No. 13 | |
| e. | Emergency Facilities (Surf Lifesaving) | \$860.00 |
| | S94 Plan No. 16 | |
| f. | Extensions to Council Administration Offices
& Technical Support Facilities | \$1,379.24 |
| | S94 Plan No. 18 | |
| g. | Cycleways | \$640.00 |
| | S94 Plan No. 22 | |
| h. | Regional Open Space (Structured) | \$4,708.00 |
| | S94 Plan No. 26 | |
| i. | Regional Open Space (Casual) | \$884.00 |
| | S94 Plan No. 26 | |
32. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No K99/1682 have been complied with.
33. The creation of easements for services, and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including easements for sewer, water supply and drainage over **ALL** services on private property.
Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway to drain water shall make provision for maintenance of the easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.
34. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.
35. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate.
36. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director, Development Services **PRIOR** to the issue of a Subdivision Certificate. 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.
37. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.
- (i) The following information must accompany an application:
- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$118 per lot.

Reports from Director Development Services

- relevant development consent
- detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
- evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
- a certificate of compliance from the relevant water supply authority (where applicable)
- for subdivision involving subdivision works evidence that:
 - the work has been completed, or
 - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - security given to the consent authority with respect to the completion of the work
- Work as Executed Plans for **ALL** works

(ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.

(iii) Written evidence from Council that the proposed road/street names have been approved.

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

38. Prior to the issue of a **Subdivision Certificate**, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

The plans are to be endorsed by a Registered Surveyor **AND** a Consulting Engineer Certifying that:

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

39. Prior to the issue of a **Subdivision Certificate** a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

40. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with

Reports from Director Development Services

engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

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

41. Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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.

42. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.
43. The production of written evidence from Country Energy certifying that reticulation of underground electricity has been completed and the reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.
44. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: '**DUMP NO RUBBISH, FLOWS INTO CREEK**' or similar wording to the satisfaction of the Director of Development Services.

Reports from Director Development Services

REPORT:

Applicant: M W Allen & Associates

Owner: Bradshaw Developments Pty Ltd

Location: Lot 2 DP 1014553, Winders Place Banora Point

Zoning: Part 2(c) Urban Expansion, 6(b) Recreation and uncoloured land.

Cost: \$606,000.00

BACKGROUND

The subject development application was lodged in 1999. As the application has taken a number of years the following brief history to date is provided.

25/11/1999 Council received a development application for an eight lot subdivision comprising 6 lot integrated housing development, 1 lot as a residue for future integrated housing and 1 lot for open space to be dedicated to Council. This application was made due to its timing, under the Tweed LEP 1987. At the time of submission the subject land was partly zoned 2(c) Urban Expansion and partly 2(c) Recreation (Special Purposes) under the TLEP 1987. At the time of lodgement the application relied on the use of Clause 10 of the TLEP 1987 this being the variable zone boundary clause. Also it is noted that there was no uncoloured land under the TLEP 1987 on this land.

15/12/1999 Council considered a report on the proposal which raised a number of issues regarding the development of the subject land. These issues included the proposed integrated housing development not being consistent with the criteria contained in Clause 10 and that the development is not desirable. In addition the report recommended however that the open space proposed by the application being the creation of an allotment surrounding Lake Kimberley be investigated. As such, Council resolved that:

- “1. *The item be deferred.*
2. *Council appoints a panel to be party to negotiations with the Bradshaw Group.*
3. *The Panel to consist of 2 Councillors and council officers.*
4. *A report be prepared for Council consideration.”*

19/4/2000 Council considered a report assessing the proposed 8 lot subdivision. The report detailed some of the issues with the proposed development, changes to the zoning by way of Tweed LEP 2000 gazettal and environmental constraints. The report concluded that the development application did not warrant approval, the LEP and DCP amendments should be negotiated prior to any approval. The report also raised the issue of the public interest in light of the expectation of open space land abutting Lake Kimberley in this locality and the fact that the proposal had not been publicly notified or exhibited.

Council also at the meeting of the 19/4/2000 considered in confidential a report addressing the open space investigations as resolved to be undertaken at the

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meeting of the 15/12/1999. In regard to both of these items Council resolved the items be deferred to allow further discussions to take place.

17/5/2000 Council considered a report recommending actions on the proposed development subsequent to the discussions resolved by Council on 19/4/2000. Again the planners report recommended that Clause 10 of TLEP 1987, being the variable zone boundary clause, not be used, and further that DCP 3 should not be amended to facilitate the proposal. Council resolved to:

- “1. *Exhibit the DA as lodged.*
2. *Exhibit alternate open space options for the public input.*
3. *Convenes a further panel meeting with DDS prior to the finalisation of the report to Council in June 2000.*”

Also at this meeting Cr Beck presented a petition to the Acting General Manager from residents regarding the subdivision.

14/2/2001 The proposed development was placed on public exhibition. The period of exhibition closed on 28/2/2001. The reason for the delay from the resolution of the 17/5/2000 to exhibition period was at the applicant’s request due to wishing to prepare documentation in relation to open space credits to be publicly exhibited at the same time.

19/12/2001 Council considered a report addressing the protracted negotiations between Council and Mr Bradshaw in terms of Open Space options. Council did not resolve in accordance with the planners report recommendation, rather, resolved:

- “1. *That Council endorses the proposal to Bradshaw Developments in terms of \$551 085 to acquire parcels 1, 2 and 5 in option 2 plus 1566m² adjacent to Winders Place (annexure 5) as public open space with a consequent draft amendment to DCP 3 - Banora Point South Tweed, amendment as sought to LEP of amendment DAK 99/1682.*
2. *Compensates Bradshaw Development \$22,500 being half the cost of the bridge.*
3. *Acknowledges Bradshaw Development forthcoming application and intent to construct a sewerage pump station and/or stormwater.*”

Amendments to this motion were lost and the motion was carried.

28/3/2002 Council received changes to the existing development application for the 8 lot subdivision. The changes to the application included:

1. Correct property description due to registration of a new DP over the land.
2. The change from integrated housing to a 6 lot subdivision including the creation of 4 Torrens title allotments, 1 residue for future integrated housing and 1 lot for open space to be dedicated to Council.

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3. The proposal is also staged with proposed lots 1 to 3 and 6 being Stage 1 and lots 4 and 5 being Stage 2. The applicants reasoning for this staging is to ensure 'orderly provision of sewerage' to proposed lot 4 and 5.
4. The changes to the plans are to ensure the proposal is in accordance with open space negotiations and option 2 as resolved by Council on 19/12/2001.

The amended proposal as submitted on this date is the one being considered by Council in this report.

15/5/2002 Orders of the Day at Council's meeting included a notice of rescission which resolved:

"... that Council:-

2. *Compensates Bradshaw Developments \$22,500, being half the coast of the bridge."*

be rescinded.

7/8/2002 In response to a notice of motion by Cr Davidson it was resolved: -

"that the Director Development Services brings forward a report to the Council Meeting of 21 August 2002, in relation to the Development Application K99/1682 (proposed subdivision at Lot 117 DP 879797 Winders Place, Banora Point), for consideration by Council. The report to include appropriate conditions, in the event that Council decided to determine approval of the development application."

21/8/2002 Council considered a report in relation to the proposed subdivision which recommended that the application be deferred and be placed on public exhibition with the proposed amendment to Tweed Local Environmental Plan 2000 and the amendment to Development Control Plan No.3 – Banora Point West/Tweed Heads South. Council resolved:-

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

4/12/2002 Public Exhibition commenced on Draft Tweed Local Environmental Plan No.39 and Draft Amendment No.12 Development Control Plan No.3 – Banora Point West/Tweed Heads South. The exhibition period closed on 10/1/2003. This amendment related to the zoning of land adjacent to Lake Kimberley the subject of this application.

19/3/2003 Council considered a report from the Strategic Planning Unit on the proposed Amendment to the Tweed Local Environmental Plan 2000 (No.39) and Draft Development Control Plan No.3 – Banora Point West/Tweed Heads South (No.12) and resolved:-

1. *Amends draft Local Environmental Plan Amendment No 39 and draft Development Control Plan No. 3 (Amendment No 12) in accordance with Option 2 (Annexure 2).*

2. *Forwards the corresponding draft Local Environmental Plan 2000, Amendment No. 3, to the Minister for Planning and requests the*

Reports from Director Development Services

Minister to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.

3. *Implements the corresponding amendment to Development Control Plan No 3 – Banora Point West / Tweed Heads South in accordance with Option 2 (Annexure 2).*
4. *Requests the Director of Development Services to negotiate acquisition of land from Bradshaw Developments that is appropriate to implement these draft Local Environmental Plans and draft Development Control Plan amendments.”*

2/4/2003 Orders of Day included a recession motion of the resolution from 19/3/2003 and Council resolved:-

- “1. *Amends draft local Environmental Plan Amendment No 39 and draft Development Control Plan No 3 (Amendment No 12) to facilitate the proposed subdivision shown in B & P Surveys Plan 12470D, Revision A.*
2. *Forwards the corresponding draft Local Environmental Plan 2000, Amendment No 39, to the Minister for Planning and requests the Minister to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.”*

Following Council’s resolution of 2/4/2003 the proposed Draft Plan was forwarded to PlanningNSW for gazettal.

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SITE DIAGRAM



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

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

Tweed Local Environmental Plan 2000

The subject land is partly zoned 2(c) Urban Expansion, 6(b) Recreation and uncoloured land under the provisions of the Tweed Local Environmental Plan 2000. The proposed development is permissible with consent as proposed residential lots 1 to 3 are in the 2(c) Urban Expansion and 6(b) Recreation zones. The area of uncoloured land is located in proposed residue lot 4 and proposed public reserve.

The proposed allotments comply with the minimum lot size requirements of Clause 11 of the Tweed Local Environmental Plan 2000. The proposed residential allotments range in size from 450m² to 618m².

Clause 14 of the TLEP 2000, which reads:

- (2) *This clause applies to land, which is:*
 - a. *within 20 metres of a boundary between any two of Zones 1(c), 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 3(a), 3(b), 3(c), 3(d), 3(e), 4(a), 5(a), 6(a) and 6(b), or*
 - b. *within 50 metres of a boundary between zones 1(a) and 1(b), or*
 - c. *within 50 metres of a boundary between any zone referred to in paragraph (a) and zone referred to in paragraph (b).*
- (3) *Development that would otherwise be prohibited may, with consent, be carried out on land to which this clause applies if the development may be carried out (with or without consent) in the adjoining zone.*
- (4) *Consent may be granted to development referred to in subclause (3) only if the consent authority is satisfied that the proposed development is more appropriate, due to planning, design, ownership, servicing or similar criteria, than the development that would otherwise be allowed.*

Proposed lots 1 to 3 require the use of Clause 14 to vary the boundary between the 2(c) and 6(b) land. These three allotments do not have any uncoloured land between the zone boundaries. As such the following assessment is made in relation to the use of Clause 14.

The objective for using Clause 14 is to provide flexibility where detailed investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site.

It is considered that the use of Clause 14 to create three residential allotments in Winders Place, that are adjacent to other residential development is suitable. Proposed lots 1 to 3 will result in residential development consistent in scale and type to existing development. The proposed lots are similar in dimensions and size to adjoining Winders Place residential development. The use of Clause 14 for the proposed subdivision is supported.

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Clause 15 of the TLEP 2000 states that consent must not be granted to the carrying out of development on any land unless essential services are available or arrangements satisfactory to the consent authority have been made.

The application before Council is for a 5 lot subdivision creating three residential allotments, a future development allotment and open space. The issues related to provision of essential services raised by the previous subdivision design are deferred to the future development of proposed lot 4. The future development of proposed lot 4 will need to address the method of sewer connection.

Clause 17 of the TLEP 2000 requires a social economic impact assessment where Council considers that a proposal is likely to have a significant social or economic impact in the locality or area. Council in its decision making role determined much of the social impact issues raised by the proposal in its resolution of 2/4/2003.

The suitability of the proposed subdivision has been examined and the proposed allotments maintain the existing setback line from Kimberley Lake and provide an area of 1.2 hectares as public open space. The issue of alienating part of the open space zoned land for residential development was considered by Council in a report on 19/3/2003 when Council endorsed the proposed subdivision plan to facilitate the development.

Clause 22 of the TLEP 2000 applies to the proposed development to the extent that proposed lot 4 gains access from Darlington Drive, a Council designated road. The provisions of this clause are considered to be able to be satisfied with the future development of proposed lot 4. Council's Engineering Services Division have provided comment in relation to the future development of this proposed allotment that was detailed in the report to Council on 5/2/2003. It is considered that there are no matters under this clause that could not be adequately addressed at the time of assessing a future integrated development over the site.

Clause 31 of the TLEP 2000 applies to the proposed development as the subject land adjoins a bank of a water body. Council needs to consider the provisions of the clause.

“(3) Consent must not be granted to development on land to which this clause applies, within such distance as is determined by the consent authority of the mean high water mark or, where there is no mean high water mark, the top of the bank or shore of a stream, creek, river, lagoon or lake unless it is satisfied that:

- (a) the development will not have a significant adverse effect on scenic quality, water quality, marine ecosystems, or the bio-diversity of the riverine or estuarine area or its function as a wildlife corridor or habitat, and*
- (b) adequate arrangements for public access to and use of foreshore areas have been made in those cases where the consent authority considers that public access to and use of foreshore areas are appropriate and desirable requirements, and*

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- (c) *the development is compatible with any coastal. Estuary or river plan of management adopted by the Council under the Local Government Act 1993 that applies to the land or to land that may be affected by the development, and*
- (d) *it has considered the impact of increased demand from domestic water supply on stream flow.*
- (4) *The consent authority may require as a condition of consent to any development that the following be carried out:*
 - (a) *the rehabilitation of land adjoining the waterbed to create a vegetated riparian zone or wetland,*
 - (b) *works to stabilise the bank or shoreline of a waterbed.*
- (5) *In determining a distance for the purposes of this clause, the consent authority shall have regard to:*
 - (a) *the preservation of the scenic quality of foreshores, and*
 - (b) *minimising the risk of pollution of waterways, and*
 - (c) *the protection of foreshore ecosystems, and*
 - (d) *the intended or planned use for the foreshore.”*

It is considered that the proposed subdivision generally complies with the provisions of Clause 31 and with the dedication of the lake perimeter to Council, further rehabilitation of the land may be possible in line with the provisions of the clause.

Clause 32 of the TLEP 2000 relates to land affected by Airport Noise. The proposed subdivision was reported to Council as being impacted upon by the Airport Noise Exposure Forecast. Closer examination reveals that the proposed residential allotments will not be impacted upon by aircraft noise. The provisions of this clause are not applicable to the proposed development.

Clause 34 of the LEP is applicable to flood liable land and requires an assessment of the suitability of the development in relation to flood hazard and risk. Proposed lots 1 to 3 will require fill to meet the design flood level requirements. Proposed lot 4 has already been filled under an earlier approval and future development of the allotment will assess this issue in detail. It is noted that the proposed open space allotment will not have flood immunity which is not a desired practice in relation to casual open space. The provisions of clause 34 can be considered to be generally satisfied.

Clause 35 of the LEP is applicable where acid sulfate soils are likely to be disturbed. Council's Environmental Health Officer has advised that the subject land is partially filled and with the addition of fill to reach the required levels the site is not likely to result in the disturbance of any material. Therefore no management plan for acid sulfate soils material is required.

Clause 39 of the LEP is applicable in relation to remediation of contaminated land. Council's Environmental Health Surveyor has advised that that area was swamp type land and that records do not indicate the presence of plantations, crops or vineyards on the site. Previous applications have not identified any contaminated land and through

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the construction of Lakeside Estate substantial earthworks have occurred. Council's Environmental Health Officer has not requested any further investigation in this regard.

North Coast Regional Environmental Plan 1988

Clause 81 of the REP is applicable in that Council shall not grant consent to a development application for development on land within 100m of the ocean or any substantial waterway unless it is satisfied that:

- “(a) There is sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development;*
- (b) Buildings to be erected as part of the development will not detract from the amenity of the waterway; and*
- (c) The development is consistent with the principles of any foreshore management plan applying to the areas.”*

It is considered through the negotiations for suitable open space options in the vicinity of Lake Kimberley that sufficient open space, which is accessible to the public will be available, and consequently foreshore access to public open space can occur.

The future development of the allotments created will need to be designed to not detract from the environs. As such it is considered that the proposed development is not in conflict with the provisions of the REP.

State Environmental Planning Policies

State Environmental Planning Policy No.71 – Coastal Protection

SEPP 71 is applicable to the proposed development as the subject land is in the area affected by the Coastal Policy. The subject land does not contain any sensitive coastal location. The proposed development would not have required any referral to PlanningNSW as the proposal is not for more than 5 allotments and is not in a sensitive coastal location.

In assessing the proposed development the provisions of Clause 8 of the SEPP have been considered, and the proposed development is not considered to be in conflict with the SEPP.

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

Draft Local Environmental Plan No.39 was publicly exhibited between 4/12/2002 to 10/1/2003. The draft plan is one of a number of house keeping amendments which is to bring the zoning of the land adjacent to Lake Kimberley in accordance with Council's resolution of 19/12/2001.

Following Council's resolution of 2/4/2003 the Draft Plan was referred to PlanningNSW for gazettal.

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

Development Control Plan No.3 - South Tweed Heads Banora Point West

The subject land is designated Public Open Space and Residential 'B' (Medium Density) under DCP 3. The proposed development involves the creation of three

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residential allotments and one open space allotment in the area designated as Public Open Space. Proposed lot 4 is a future development lot will be located in the Residential "B" area, with a small area of the lot extending into the Open Space designation.

Council considered a report on 19/3/2003 in relation to the issues raised by proposed amendments to DCP3. Council's resolution of the 2/4/2003 facilitates the proposed subdivision with necessary amendments to DCP 3.

Council does not have to amend the DCP prior to approve the proposed subdivision.

Development Control Plan No.16 - Subdivision Manual

The proposed development generally complies with the provisions of DCP 16.

Development Control Plan No.5 - Flood Liable Land

The subject site is flood prone however, the applicant has advised that the land will be filled to the design level and as such the allotments will comply with the minimum required level.

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

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

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

During Construction Impacts

Noise generated by the works will be apparent to the existing adjoining residences. Council's Environmental Health Surveyor has advised that it will not be possible to mitigate the noise to the nearest residences and therefore the construction works should be undertaken as quickly as possible. Noise conditions would be imposed on a conditional consent.

Water quality is to be ensured through the use of sedimentation devices installed around the fill. Standard conditions would be imposed on a conditional consent.

Air pollution by way of dust from the filling operation will be a nuisance to adjoining residences. Due to the amount of fill involved in the proposal the need to control the site from air borne dust nuisance will be high. Standard conditions would be imposed on a conditional consent.

Long term Impacts

Upon the completion of the subdivision and the erection of future dwellings and the development of proposed lot 4 being the future development lot the area will experience an increase in residents. The long-term benefit of the proposed subdivision will be the dedication of open space land to Council and the completion of protracted negotiations in relation to such land. While this is considered to be a benefit there are residents with

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concern in relation to the reduction in open space area at Winders Place abutting Lake Kimberley.

(c) Suitability of the site for the development

The site has been assessed by Council's Environmental Health Surveyor and is found to be suitable for residential development providing flood design levels are achieved.

Subdivision Design

The proposed plan of subdivision involves the creation of three Torrens title residential allotments with areas between 450m² and 618m², one future development lot with an area of 2.09 hectares and an allotment to be dedicated as open space with an area of 1.210 hectares.

Each of the residential allotments is considered to be able to support a building envelope of 10m x 15m as required. The allotment shapes are relatively regular with public road frontage. All three residential allotments gain access directly from Winders Place with the future development lot gaining access from Darlington Drive.

It is noted that proposed lot 4 is burdened by an easement to drain water 3 wide (DP 1014553). Part of proposed lot 4 is burdened by an easement to drain water 9.5 wide (DP 1014553). Any future development application would have to address this in relation to design.

Access to Darlington Drive

The proposed plan of subdivision involves the creation of an allotment for future development with access directly from Darlington Drive. The future development of this allotment can be achieved provided the requirements of the Engineering Services Division as previously detailed in a report to Council dated 5/2/2003 are satisfied. This would be assessed with a future development application.

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

The proposed subdivision has not been publicly advertised. Council considered a report on 21/8/2002 that recommended the application be deferred and placed on public exhibition with the Draft Local Environmental Plan and Amendment to development Control Plan No.3. Council in its decision-making role deferred this matter and did not recommend public exhibition of the proposal.

The Draft Plan and Amendments to Development Control Plan No.3 were public exhibited and issues raised were addressed in a report to Council on 19/3/2003.

(e) Public interest

The proposed subdivision is in accordance with Council's resolution of 2/4/2003. This resolution was following protracted negotiations in relation to the area of open space to be provided to the community around Kimberley Lake and most desired subdivision layout.

It is considered that the proposed subdivision addresses the issues previously reported to Council in relation to the public interest in the locality.

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Infrastructure Charges

The proposed subdivision will incur infrastructure and section 94 charges for the allotments created other than the open space allotment. The subject land does not have the benefit of 1 equivalent tenement. Through the open space negotiations the proposed subdivision will not incur Section 94 contributions for open space.

OPTIONS

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

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

The proposed plan of subdivision will involve the dedication of open space land to Council. This will result in an ongoing maintenance responsibility to Council.

CONCLUSION

The proposed development application has been modified over time to reflect various agreements and negotiations in relation to area of public open space around Lake Kimberley and desired future development for the locality.

Council has commenced an Amendment to Tweed Local Environmental Plan 2000 and an amendment to Development Control Plan No.3 to facilitate future development and rectify anomalies in the plans. These processes have raised issues that have resulted in the application being reported to Council a number of times as detailed in the history on this application.

A position has been reached where Council can resolve to favourably determine the proposed subdivision. Future applications for proposed lot 4 will require servicing matters and access issues to be satisfactorily resolved.

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7. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/S94/25 Pt1; Kings Beach Development; Section 94 Plan - S94

REPORT TITLE:

Amendment of Section 94 Contribution Plan No 25 - Kings Beach North

SUMMARY OF REPORT:

This Amendment involves the inclusion of structured open space into Contributions Plan No 25 – Kings Beach North (now known as SALT) to confirm the outcome of the SALT development application negotiations. The current Plan foregoes any structured open space contribution and accepts all land dedication and contributions as passive open space due to the anticipated development being of a primarily tourist orientation.

The Master Plan for SALT, indicates that just over 50% of the proposed development will consist of permanent residents.

It has been negotiated that the structured open space requirement for SALT will be located in West Kingscliff adjoining the proposed structured open space area to be provided under Contribution Plan No 7 – West Kingscliff.

It is also proposed to change the name of the Plan from Kings Beach North to SALT.

RECOMMENDATION:

That Council endorses the public exhibition for 28 days of the amended Contribution Plan No 25 – Kings Beach North in accordance with Clause 31 of the Environmental Planning and Assessment Regulations, 2000.

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REPORT:

BACKGROUND

This amendment involves the inclusion of structured open space into Contribution Plan No 25 - Kings Beach North. The current Plan foregoes any structured open space contribution and accepts all land dedication and contributions as passive open space due to the development being of a primarily tourist orientation. The Master Plan for the proposed development (SALT) which has been determined by Council, indicates that just over 50% of the proposed development will consist of permanent residents.

The following is the estimated population for the SALT development:

Permanent residents

202 medium density units	343 people
410 standard residential	<u>1,066</u> people
	1,409

Tourists

613 tourist units	
@ 2 persons per unit	<u>1,226</u>
Total	2,635

Public open space has two components: Structured open space and Passive open space. Structured open space, sometimes referred to as active open space, includes any land developed for organised outdoor sporting pursuits, such as sports fields and tennis courts. Passive open space is land used for informal leisure activities, and includes parks and gardens, playgrounds, foreshore and riverbank areas, bushland and natural areas.

Council's policy is that the public open space standard of 2.83ha be provided in the following proportions:

- 60% Structured open space (1.7 ha/1000 persons)
- 40% Passive open space (1.13 ha/1000 persons)

PROVISION OF OPEN SPACE AT SALT

It is considered due to the permanent residential population which will occupy this site that there is a demand created for the provision of active open space within the area or locality. The development generates a demand for approximately 2.4ha of active open space. Through negotiations with the Ray Group it has been agreed that it is inappropriate to provide this active open space physically on-site due to the premium land values in this area due to its close proximity to the beach. Rather, it has been agreed to contribute to the acquisition and embellishment of land in the West Kingscliff area. Based on these figures, it is estimated that a contribution of \$1.2 million would be applicable for the provision of this active open space in the West Kingscliff area.

It was also negotiated with the Ray Group (see letters of 14 March and 15 April 2003) that the above standard of open space be reversed so that 40% of the public open space be structured (1.13ha/1,000 persons). An audit of the passive open space to be dedicated indicates that an excess

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of requirements is to be provided. It has also been determined that it is less likely that younger families with children will be purchasing in SALT, and therefore less structured open space will be required.

Therefore, based on 1.13ha/1,000 persons for structured open space, the following is required to be provided for a projected permanent population of 1,409 at the SALT development:

- $1.13\text{ha} \times 1.409 = 1.592\text{ha}$ structured open space, say 1.6ha.

Calculation of levy rate

Value of land in 1(b2) zone at West Kingscliff – \$250,000 per hectare - **Cost of acquiring the 1.6ha is \$400,000** (Note: This land was valued by the State Valuation Office on 3 March 2003).

Cost of embellishments, as based on information from Council's Recreation Services Unit, and adjusted annually by the use of the Consumer Price Index:

Topsoil - \$84,000 ($\$35/\text{m}^3$ for 1.6ha, @150mm deep)

Seeding - 120kg/ha at $\$6/\text{kg} = \$1,152$

Irrigation \$20,000 per hectare = \$32,000

Total embellishment costs = \$117,152

Revaluation cost: initial valuation and annual revaluation = \$1,500

Amenities blocks

Council will also require provision of an amenities block located at the sports field area with appropriate vehicular parking and pedestrian access. The size of the amenities block is as follows:

200m^2 (2 change rooms with showers and toilets, store room and separate toilets for the public)

$200\text{m}^2 \times \$700/\text{m}^2 = \$140,000$

Parking costs: 40 car spaces

$40 \times 30\text{m}^2/\text{car space} = 1200\text{m}^2 \times \$80/\text{m}^2 = \$96,000$

Total amenities block and parking: \$236,000

Cost per person

$\$400,000 + \$117,152 + \$1,500 + \$236,000 + 10\%$ admin cost

1,409

$\$754,652 + 10\%$ admin cost

1,409

$\$535.59$ per person + 10% admin levy = \$589.15

PER LOT CONTRIBUTION

Single residential lot: 2.6 persons \times \$589.15 = \$1,531.80

Medium density: 1.7 persons \times \$589.15 = \$1,001.55

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As a comparison the levy rate for structured open space in Banora Point under Contribution Plan No 1 is \$2,407 for a single residential lot.

Total Contribution:	410	x	\$1,531.80	=	\$628,038.00
	202	x	\$1,001.55	=	\$202,313.00
					\$830,351.10

CONCLUSION

The above negotiated outcome was embodied in the following condition in the SALT Development Approval.

“96. A contribution of \$830,351 (as agreed by letter dated 15 April 2003) shall be paid as a contribution towards the provision of active open space. The contribution may be paid on a pro-rata basis based on the number of lots released in each stage.”

This recommended draft amendment essentially formalises the outcome of the SALT development consent in the Section 94 Plan.

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Please Quote Council Ref: GT1/S94/25 Pt1

[spltr]

Your Ref No:

For Enquiries Please Contact: Mr Geoff Herridge

Telephone Direct (02) 6670 2524

document8

14 March 2003

Mr Darryl Anderson
Darryl Anderson Consulting Pty Ltd
Suite 7 Corporate House
8 Corporation Circuit
TWEED HEADS SOUTH NSW 2486

Dear Mr Anderson

SALT Development - Structured Open Space.

I refer to our discussions on Thursday, 13 March 2003 at Council offices concerning the Development Application for the SALT development. At that meeting Geoff Herridge briefly outlined the requirements for the provision of structured open space associated with the permanent residential population at the SALT development.

It was agreed that Mr Herridge would provide you with the detailed costing for the provision of the required open space, which it was also agreed will be located at West Kingscliff adjoining the proposed structured open space to be provided under Contribution Plan No 7 - West Kingscliff. The calculations for this structured open space are attached.

It should be noted that the proposed size of the structured open space area (and consequent cost) outlined in the meeting has increased from 1.82ha to 2.4ha. However there is no significant change to the levy rate per lot. The reason for the amendment is that the permanent residential population used in calculating the required open space was based on population projections which are now not being used.

Your comments on the attached would be appreciated. If you have any queries please contact Geoff Herridge on (02) 6670 2524.

Yours faithfully

David Broyd
Director Development Services



CIVIC AND CULTURAL CENTRE, MURWILLUMBAH
P.O. BOX 816, MURWILLUMBAH, N.S.W. 2484
TELEPHONE: (02) 6670 2400 FAX: (02) 6570 2429

PLEASE ADDRESS ALL COMMUNICATIONS TO THE GENERAL MANAGER

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Calculation of Levy Rate for Structured Open Space

Permanent residents

202 medium density units –	343 people
410 standard residential –	1,066 people
	1,409

Council's policy is that the public open space standard of 2.83 ha be provided in the following proportions:

60% Structured open space (1.7 ha/1000 persons)

40% Passive open space (1.13 ha/1000 persons).

- 1.7ha x 1.409 = 2.395ha structured open space, say 2.4ha.

Value of land in 1(b2) zone at West Kingscliff – \$250,000 per hectare. - Cost of acquiring the 2.4ha is \$600,000. Note: This land was valued by the State Valuation Office on 3 March 2003.

Cost of embellishments, as based on information from Council's Recreation Services Unit, and adjusted annually by the use of the Consumer Price Index
 Topsoil - \$120,520 (\$35/m³ for 2.3 ha, @150mm deep)
 Seeding - 120kg/ha at \$6/kg = \$1,728
 Irrigation \$20,000 per hectare = \$48,000

Total embellishment costs = \$170,248

Revaluation cost: initial valuation and annual revaluation = \$1,500

Amenities blocks

Council will also require provision of an amenities block located at the sports field area with appropriate vehicular parking and pedestrian access. The size of the amenities block is as follows:

200m² (toilets for the public, 2 change rooms)

200m² x \$700/m² = \$140,000

Parking costs: 40 car spaces

40 x 30m²/car space=1200m² x \$80/m²= \$96,000

Total amenities block and parking: \$236,000

Cost per person

\$600,000 + \$170,248 + \$1,500 + \$236,000 + 10% admin cost
 1,409

\$1,007,748 + 10% admin cost
 1,409

\$715.22 per person + 10% admin levy = \$786

PER LOT CONTRIBUTION

Single residential lot: 2.6 persons x \$786 = \$2,043

Medium density: 1.7 persons x \$786 = \$1,336

Reports from Director Development Services



RAY GROUP PTY LTD
ACN 057 883 511

34-36 Glenferrie Drive, Robina 4226
PO Box 81, Robina 4226
Telephone 0755 931 311 Fax 0755 931 233
Email: info@raygroup.com.au

15 April 2003

The General Manager
Tweed Shire Council
Tweed Shire Administration Centre
Tumbulgum Road
MURWILLUMBAH 2484
FACSIMILE NO. 0266 702 483
Attention Mr Steve Enders
Planning Services Department

Dear Sir

SALT DEVELOPMENT
COUNCIL REFERENCE: DA02/1422
DEVELOPMENT APPLICATION DA02/1422 FOR A 473 LOT SUBDIVISION

PROPOSAL FOR STRUCTURED OPEN SPACE CONTRIBUTIONS

As further support to the abovementioned development application and in particular regard to the creation of open space and/or the contributions in lieu, we wish to propose the following summary for Council's approval in conjunction with the development application.

Amendment to the Statement of Environmental Effects Prepared by Darryl Anderson Consulting that Accompanied the Development Application

In regards to Page 22 of the SEE, we wish to propose the following revised summary of occupancy rates, structured and casual open space.

Occupancy Rates

- Detached dwellings – 2.6 people per dwelling
- Medium density dwellings – 1.7 people per dwelling
- Tourist accommodation units – 2 persons per room
- Active open space not required for tourist accommodation
- Open space required at 2.3HA per 1,000 residential population – 40% structured 60% casual
- Open space required at 2.3HA per 1,000 tourist population – 100% casual.

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Attention Mr Steve Enders
Planning Services Department
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Based on the above calculations, the following table sets out open space requirements and proposed areas to be dedicated:

ACCOMMODATION TYPE	STRUCTURED OPEN SPACE		CASUAL OPEN SPACE	
	Required	Proposed	Required	Proposed
Detached Dwelling Houses (410)	410x30m2 = 12,300m2		410x44m2 = 18,040m2	Nil
Medium Density Dwellings (202)	202 x 19m2 = 3,838m2		202 x 29m2 = 5,858m2	Nil
Tourist Resort Rooms (333+280=613)	N/A		613 x 57m2 = 34,941m2	Nil
1,225 Dwellings	1.61HA	16.19HA	5.884HA	Nil

As reflected in the above table, the area of casual open space to be dedicated is well in excess of the minimum amount required. It has been agreed with Council that we will dedicate and embellish 6.83HA of casual open space as functional parklands, and further we will dedicate and embellish/restore 9.36HA of other open space.

Calculation of Levy Rate for Structured Open Space

Permanent Residents

202 medium density units	343 people
410 standard residential -	1,066 people
	<hr/>
	1,409 people
	<hr/>

Council's policy is that the public open space standard of 2.83HA be provided in the following proportions:

40% structured open space (1.13HA/1,000 persons)

60% passive open space (1.7HA/1,000 persons)

1.13HA x 1,409 = 1.592HA structured open space, say 1.6HA

Value of Land in 1(b2) zone at West Kingscliff - \$250,000 per hectare. Cost of acquiring the 1.6HA is \$400,000. Note: this land was valued by the State Valuation Office on 3 March 2003.

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Cost of Embellishments, as based on information from Council's Recreation Services Unit, and adjusted annually by the use of the Consumer Price Index:
Topsoil - \$84,000 (\$35/m³ for 1.6HA, @150mm deep)
Seeding - 120kg/HA @ \$6/kg = \$1,152
Irrigation \$20,000/HA = \$32,000

Total Embellishment Costs = \$117,152

Revaluation Cost: Initial valuation and annual revaluation = \$1,500

Amenities Blocks

Council will also require provision of an amenities block located at the sports field area with appropriate vehicular parking and pedestrian access. The size of the amenities block is as follows:

200m² (toilets for the public, 2 change rooms)
200m² x \$700/m² = \$140,000
Parking costs: 40 car spaces
40 x 30m²/car space = 1,200m² x \$80/m² = \$96,000

Total Amenities Block and Parking: \$236,000

Cost per Person

$\frac{\$400,000 + \$117,152 + \$1,500 + \$236,000 + 10\% \text{ admin cost}}{1,409}$

$\frac{\$754,652}{1,409} = 10\% \text{ admin cost}$

\$535.59 per person + 10% admin levy = \$589.15

PER LOT CONTRIBUTION

Single residential lot: 2.6 persons x \$589.15 = \$1,531.80
Medium density: 1.7 persons x \$589.15 = \$1,001.55

Total	410 x \$1531.80 = \$628,038.00
Contribution:	202 x \$1,001.55 = \$202,313.10
	\$830,351.10

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Justification

Our justification for this proposal is that the demographics of the eventual residents of the residential component of this project will be in the upper age bracket and that their requirements will be for a higher ratio of casual open space on the project with a lesser requirement for structured open space outside of the Salt development, but within the Kingscliff district.

To assist with this justification, we enclose a copy of the "Matusik Property Insights – Salt – Consumer Insights Report" dated 6 August 2002 which details the likely buyer profile for the residential component of the Salt Estate.

We do ask that this attached document is treated as **STRICTLY PRIVATE AND CONFIDENTIAL** for the eyes only of the Director of Planning, because it is a document that has been the basis of setting the standards for the residential component of the Salt development and it is important that this document does not reach the hands of our competitors.

Whilst the major portion of this report refers to the requirements of the intended purchasers, we refer you to Page 6 – Item 3 titled "Demographic Profile of Groups", and we refer you to the first dot item on this page that confirms that "two thirds of the respondents were aged 35 to 54 years and one third, 55+ years of age".

This report is based on three workshop groups held independently from any influence from the Ray Group or representatives of the Salt joint venture.

It is a stand alone report that, via the initiation of three separate workshop groups, confirms the likely buyer profile on the project.

It confirms that the likely buyers (which is being reinforced by the age profile of the current purchasers on the project) are in the age bracket of 35 to 65 years, with a high percentage being in the 45 to 65 year bracket.

This report, by its conclusions, confirms that younger families with younger children are unlikely to purchase in the Salt development, and we confirm that generally nor would they be able to afford the land prices in this beachside estate, coupled with the cost of building homes that meet the minimum standards demanded by the Architectural Design Guidelines.

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Attention Mr Steve Enders
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Conclusion

Therefore, we submit that a revised ratio of casual and structured open space should apply to this project because the demographics and buyer profile demand a higher percentage of casual open space.

Yours truly

S J MacRae
Development Manager

c.c. Darryl Anderson

Reports from Director Development Services

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Reports from Director Development Services

8. ORIGIN: Strategic Town Planning Unit

FILE REF: GT1/LEP/2000 Pt1; Tanglewood Development; LN: 18593

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 an Environmental Study this report recommends 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 prepare the draft Plan and Environmental Study.

RECOMMENDATION:

That :-

1. Council:
 - a) Informs PlanningNSW 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 an 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 Environmental Study and draft Plan for 1. and 2. above 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 PlanningNSW 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 Lots 532 and 533 DP 1003396 1(a) Rural and that an Environmental Study is not required.

Reports from Director Development Services

REPORT:

BACKGROUND

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;
- 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.

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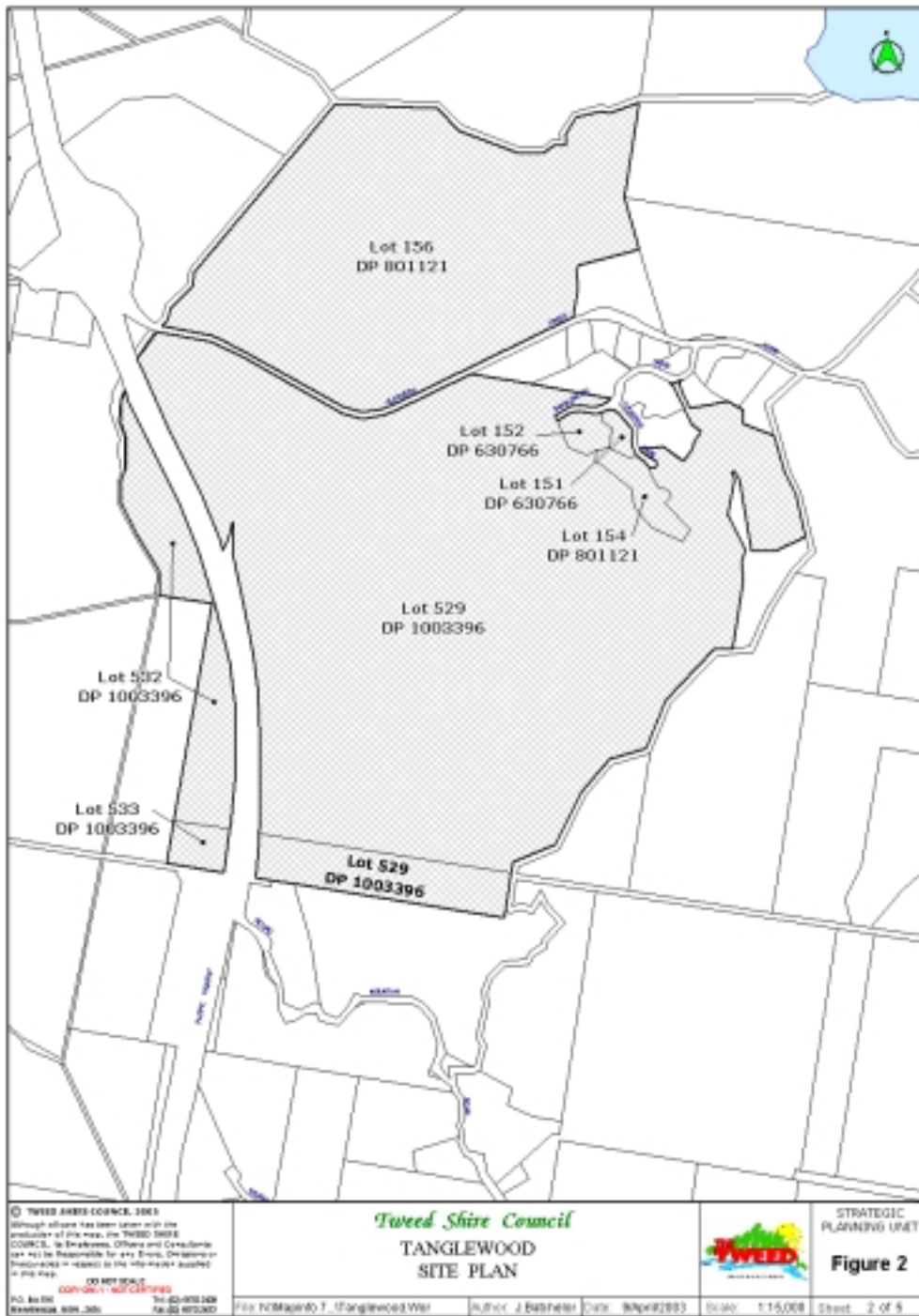
The report by Jim Glazebrook and Associates does not include Lots 532 and 533 on DP 1003396 and the road reserve of the Tweed Coast Motorway currently zoned 6(b) Recreation (See Figure 3).

Figure 1: Locality Plan



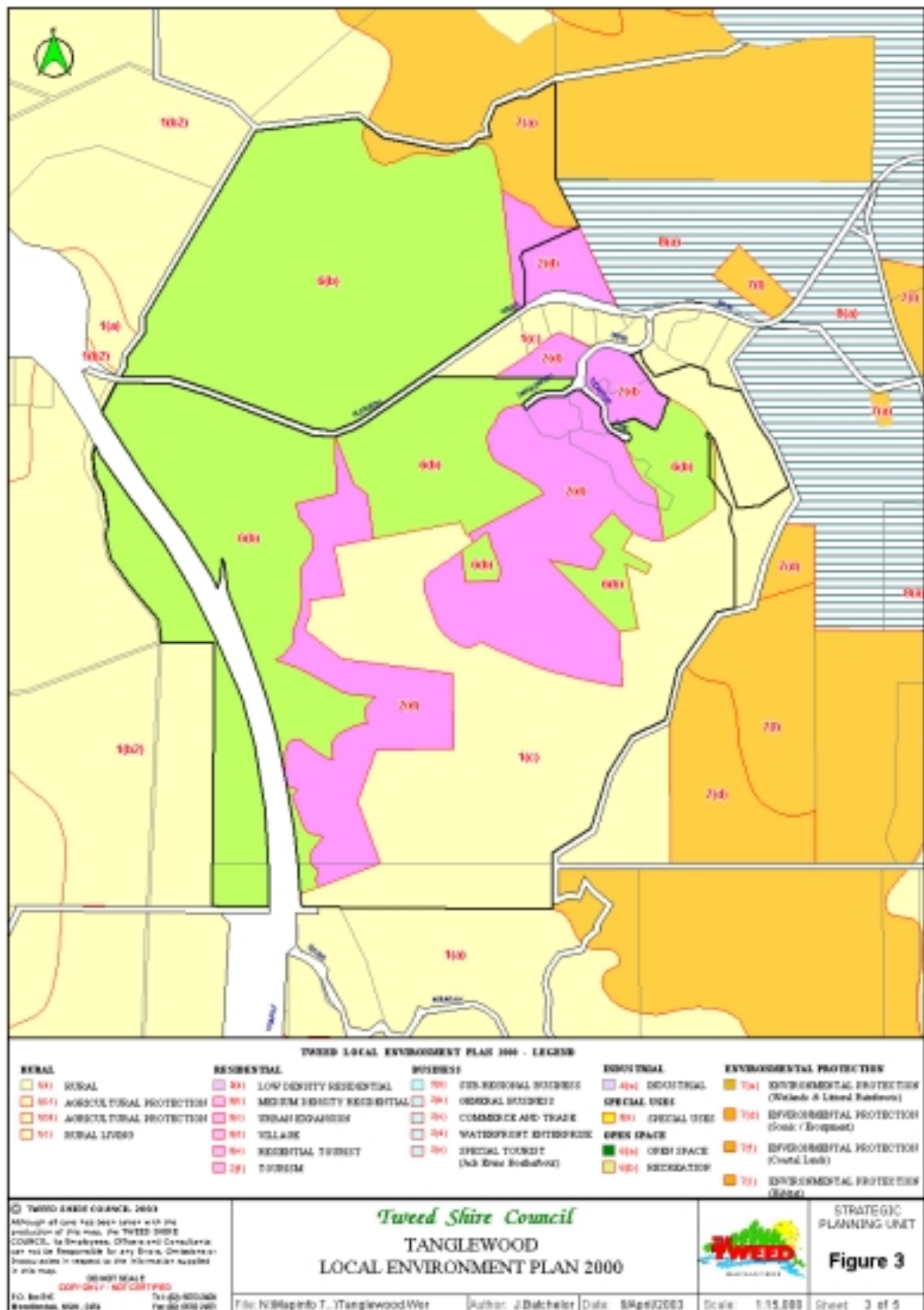
Reports from Director Development Services

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.

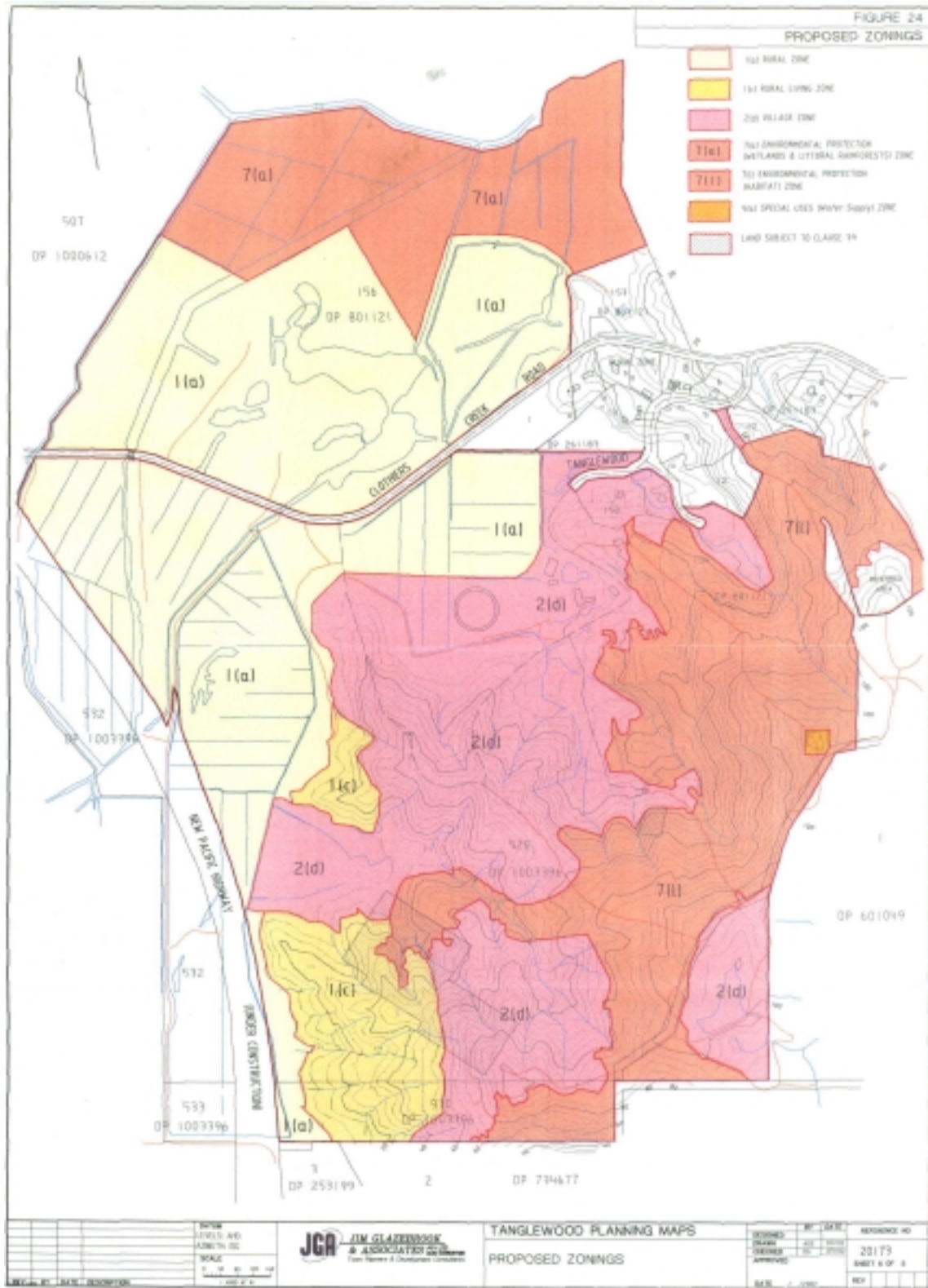
In their report Jim Glazebrook and Associates have indicated that an Environmental Study is not justified because their recommended draft Plan increases the area of land zoned Environmental Protection and because "*extensive survey work and management strategies justify and compliment the areas to be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

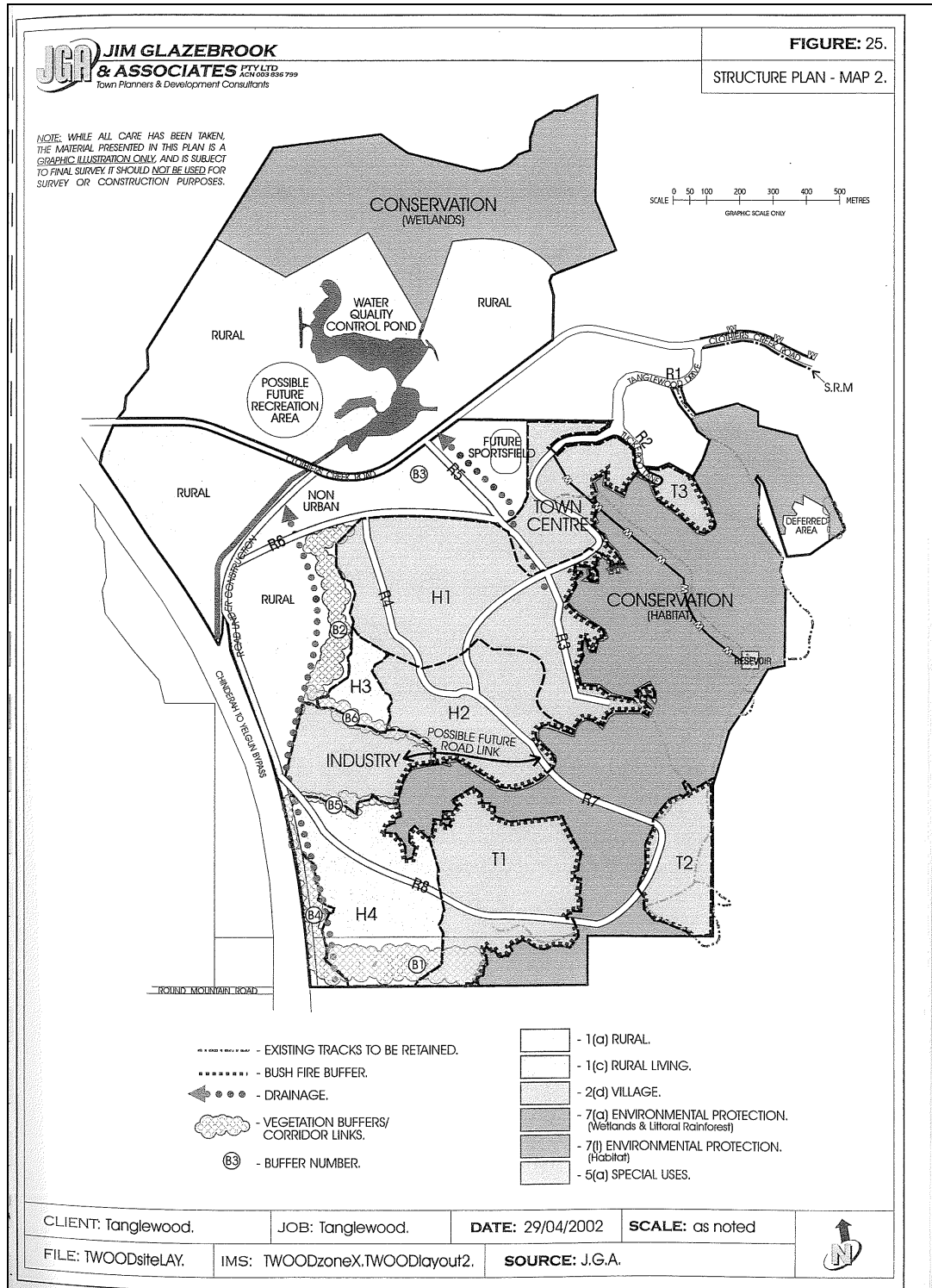
The tourism precincts have been proposed for a 2(d) Village zone so that in the event that tourism is not pursued then residential development may be pursued.

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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

Reports from Director Development Services

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

Reports from Director Development Services

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. Rezonings 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,

Reports from Director Development Services

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 authorities functions. Council has not yet consulted with relevant state agencies and bodies under

Reports from Director Development Services

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.

Reports from Director Development Services

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

Reports from Director Development Services

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.

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9. ORIGIN: Development Assessment Unit

FILE REF: DA4930/762 Pt1; LN: 37676

REPORT TITLE:

Development Application 1233/2001DA for the Demolition of an Existing Dwelling House, Erection of a Dwelling House and Two (2) Lot Subdivision at Lot 6 DP 844549, Lot 4 DP 844549, Lot 6 DP 853589, Lot 3 DP 811390, No. 193 Scenic Drive Bilambil Heights

SUMMARY OF REPORT:

Council considered a report on 18 December 2002 in relation to the proposed development and associated Amendment No. 28 to Tweed Local Environmental Plan 2000. The report assessed the proposed development and recommended conditional approval of the development subject to gazettal of the draft Amendment No. 28 of the Tweed Local Environmental Plan 2000. This recommendation was endorsed as Council's resolution.

The conditions of consent referred to the plans including the proposed dwelling house plans. The owner would like to modify the house plans by way of an additional bedroom and additional living area with the dwelling house being the same number of storeys and construction type as that previously resolved for approval.

As Council resolved on 18 December 2002 to approve the plans lodged at the time, it is necessary to recommend Council's endorsement of the changes in the plan and to issue the consent with the modified plans.

RECOMMENDATION:

That Development Application 1233/2001DA for the demolition of an existing dwelling house, erection of a dwelling house and two (2) lot subdivision at Lot 6 DP 844549, Lot 4 DP 844549, Lot 6 DP 853589, Lot 3 DP 811390, No. 193 Scenic Drive Bilambil Heights be approved in accordance with Council's resolution of 18/12/2002 except vary Condition No.1 to read: -

1. The development shall be completed in general accordance with the Statement of Environmental Effects and Plans Nos 1129-2 prepared by Chapman Surveys dated 20/8/2001, Dwg G2107 Sheets 1 to 6 inclusive prepared by Gavin Duffie dated 24/2/2003 and GJ0186.1.1 prepared by Gilbert and Sutherland dated 26/4/2002, except where varied by these conditions.

Reports from Director Development Services

REPORT:

Applicant: Mr MG Cusack

Owner: Greenview Developments Pty Ltd and Mr MG Cusack

Location: Lot 6 DP 844549, Lot 4 DP 844549, Lot 6 DP 853589, Lot 3 DP 811390, No. 193 Scenic Drive Bilambil Heights

Zoning: 2(c) Urban Expansion, 7(d) Environmental Protection (Scenic Escarpment) and 1(a) Rural zone.

Cost: \$135,000.00

BACKGROUND

Amendment No. 28 to the Tweed Local Environmental Plan 2000 was gazetted on 11/3/2003. Council's documents have been modified to reflect the amendments to the Plan. Council considered a report on 18 December 2002 Finalising the Tweed Local Environmental Plan 2000 (Amendment No. 28) and the two lot subdivision. At this meeting Council resolved that:-

- “1. Pursuant to Section 68 of the Environmental Planning and Assessment Act 1979 Council forwards the draft Amendment No.28 to the Tweed Local Environmental Plan 2000 to the Director General of PlanningNSW requesting that a report pursuant to Section 69 of the Environmental Planning and Assessment Act 1979 be prepared and forwarded to the Minister for Planning to make the Plan.
2. Upon gazettal of draft Amendment No.28 to the Tweed Local Environmental Plan 2000 Development Application 1233/2001DA for the demolition of an existing dwelling house, erection of a dwelling house and two (2) lot subdivision at Lot 6 DP 844549, Lot 4 DP 844549, Lot 6 DP 853589, Lot 3 DP 811390, No. 193 Scenic Drive, Bilambil Heights be approved under the delegation of the Director of Development Services subject to the following conditions: -

GENERAL

1. The development shall be completed in general accordance with the Statement of Environmental Effects and Plans Nos 1129-2 prepared by Chapman Surveys dated 20/8/2001, Dwg WD/137/82 prepared by Neil J Turner design Drafting and Building submitted with the application and GJ0186.1.1 prepared by Gilbert and Sutherland dated 26/4/2002, except where varied by these conditions.”

with all of the conditions following.

As the plan has been gazetted it is now appropriate for the development application to be finalised and consent issued.

The applicant has submitted to Council on 9/4/2003 some plans for the dwelling house that they would like to have the consent relate to.

Reports from Director Development Services

The new plans do not change the location of the dwelling house on the subject land. They are also for similarly a single storey brick and tile residence. The conditions of consent will similarly restrict the reflectivity of the roof selection.

The plans differ from those originally lodged is they include an additional bedroom, forming a four bedroom residence, and a family room. These changes do not change the shape of the dwelling house substantially but they do result in an increase in floor area, and the dwelling house being more contemporary in the provision of rooms.

Having considered the modified plans it is considered that they could substitute the plans referred to in condition No.1 as they result in essentially the same development in the same location on the land, and do not generate further environmental impacts.

Reports from Director Development Services

SITE DIAGRAM



Reports from Director Development Services

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

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

The proposed house plans are for a single storey brick and tiled roof dwelling. The proposed dwelling house is located in the location that has been assessed in terms of contamination and considered to be suitable for the erection of a dwelling house.

The floor plan is increased in area to accommodate a fourth bedroom and family area off the dining and lounge area. These changes to the floor plan are not considered to be significant.

The proposed dwelling will be required to comply with the other conditions of consent in relation to low reflective construction.

(e) Public interest

The proposed modifications to the plan are not considered to be significant to generate an impact to the general public interest.

OPTIONS

1. Issue Development Consent with Condition No. 1 reflecting modified Plans.
2. Issue Development Consent in accordance with Council's resolution of 18/12/2002 and require the applicant to lodge an application under Section 96 of the EP & A Act to Amend the Development Consent.

CONCLUSION

The modifications to the plans are considered to be minor. It is open to the applicant to seek to replace the plans by way of an application to Modify the Consent under Section 96 of the Environmental Planning and Assessment Act 1979. By changing Condition No.1 to reflect the modified Plan numbers it is considered that further delay and expense can be avoided.

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

REPORT TITLE:

Tourism Development in Tweed Shire

SUMMARY OF REPORT:

This report was considered by Council on 16 April 2003. The motion to adopt the recommendation was lost. Therefore, Council has made no determination on this matter and the report is re-submitted for determination.

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

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

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

RECOMMENDATION:

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

- Development Control Plan No 6 – Multi Dwelling Housing:
 - Include in Clause 1.5:
“A7. To ensure that tourist accommodation which is capable of being used as permanent residential accommodation meets the same standards as multi dwelling housing”.
 - Include in Clause 1.6 the following paragraph:
“This DCP applies to tourist accommodation”.
- Any necessary textural changes throughout the document to add or include tourist accommodation where multi-dwelling housing controls apply.
- Development Control Plan No 2 – Site Access and Parking Code:

Reports from Director Development Services

- Replace Item B6 in Table 4.9B with the following:

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

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

Reports from Director Development Services

REPORT:

BACKGROUND

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

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

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

TWEED LOCAL ENVIRONMENTAL PLAN 2000 (TLEP 2000)

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

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

“Primary objectives

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

Secondary objective

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

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

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

“Primary objective

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

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Secondary objective

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

The most significant difference with the 2(f) zone is that dwellings and dwelling houses are allowed with Council’s consent although dwelling houses are prohibited if each is on an allotment of less than 450m².

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

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

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

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

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

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

KEY ISSUES

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

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

KEY ISSUES/FACTORS

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

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

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

THE WAY FORWARD

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

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

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

CONCLUSION

Council should make a determination on this important policy issue that is relevant to decision-making on a number of significant current and anticipated development applications. That determination can be in terms of the recommendation, maintain "the status quo" or another policy variation.

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11. ORIGIN: Development Assessment Unit

FILE REF: DA02/1137 Pt1

REPORT TITLE:

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

SUMMARY OF REPORT:

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

Council resolved as follows:

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

In accordance with that resolution the application was reported back to Council on 16 April 2003 with conditions of consent. Council however resolved to refused the application for reasons listed below but a recision motion was subsequently lodged and at the Council meeting of 7 May 2003, Council resolved: -

“that Council generally supports the application and asks the Director Development Services to bring back draft conditions of approval for the consideration of Council”.

In accordance with the latest resolution draft conditions have been included in this report.

RECOMMENDATION:

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

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

Reports from Director Development Services

6. The site located within a Coastal Erosion Zone is unsuitable for a development of this magnitude.
7. The proposal is not in the public interest.

Reports from Director Development Services

REPORT:

Applicant: Ms B McKeering

Owner: Bronlen Pty Ltd

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

Zoning: 2(a) Low Density Residential

Cost: \$735,000.00

BACKGROUND

An application has been submitted for a two storey residential flat building at Cypress Crescent, Cabarita Beach/ Bogangar. The land contains an existing older style two storey residential flat building comprising three units in the form of 2 x 2 bedroom unit and 1 x 4 bedroom unit. The existing units were built during the 1960's and are constructed from brick and tile. The land has an area of 614 m2 and is located on the seaward side of Cypress Crescent, Bogangar, and is adjacent to the Coastal Reserve. The land is zoned 2(a) Low Density Residential, and a development of this magnitude in such a zone is prohibited. This application is seeking consent by utilising the existing use right provisions under the EPA Act 1979 and EPA Regulations 2000. The applicant is also seeking consent for the demolition of the existing building.

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

Reports from Director Development Services

SITE DIAGRAM



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Tweed Shire Council
 Lot 16 Section 4 DP 31209
 11 Cypress Crescent, Cabarita Beach



STRATEGIC PLANNING UNIT
Site Plan
 Scale: N.T.S. Sheet: 1 of 1

Reports from Director Development Services

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

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

Tweed LEP 2000

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

Multi-dwelling Housing is permissible with consent in the 2(a) Low Density Residential Zone subject to compliance with Clause 51A of the LEP. That is 1 dwelling per 250 m² as the land is within 300 metres of land zoned 3(b) General Business. The subject site is within this 300 metres, however as the site has an area of 614 m² the proposal is seeking consent for a development with a density of 1 dwelling per 205 m². The proposal is therefore prohibited in the zone.

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

In relation to the existing building, Council has confirmed that the existing building has been lawfully erected under separate approval issued during the 1960's. The existing building has a gross floor area of 258 m² or a floor space ratio of 0.42:1 and occupies approximately 189 m² of the site. The proposed building has a gross floor area of 330 m² or a floor space ratio of 0.53:1, and occupies 217 m² of the site. In considering this proposal, it is also necessary to weigh up other constraints and issues pertinent to this proposal. These are overshadowing of the coastal foreshore area and coastal erosion issues. From the shadow diagrams submitted the proposal will result in an increase in overshadowing of the foreshore reserve. Under the North Coast Regional Environmental Plan 1988 development shall not overshadow the foreshore reserve at 3 pm midwinter and 7 pm midsummer. The site is also located within the 50 to 100 year erosion lines in the recently completed WBM Hazard Definition Study, and as such, Council needs to consider such a risk in determining application along the coastal foreshore.

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

Clause 15 Essential Services.

Existing infrastructure servicing the development is considered adequate.

Clause 16 Height of Buildings

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

Reports from Director Development Services

Clause 35 Acid Sulphate Soils

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

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

Clause 36 Coastal Erosion Outside Zone 7(f)

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

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

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

North Coast Regional Environmental Plan 1988 - Clause 32B

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

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

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

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

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

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

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

Comment – Shadow Diagrams have been submitted to show the shadow impact of the existing building, proposed building, and vegetation on the foreshore area. The diagrams however are not for the exact times as prescribed under the REP but it is considered give a fair indication as to the extent of the overshadowing into the foreshore reserve, when compared to the existing building. It is noted the existing building casts a shadow into the foreshore area in midsummer with an area of approximately 270m² and in midwinter with an area of 207m². The proposal casts a shadow of approximately 400m² in midsummer and 270m² in midwinter.

The proposal will therefore result in an increase in overshadowing of the foreshore reserve in mid winter of approximately 63 m² and 130 m² in midsummer. Having regards to the planning controls it is considered the increase in overshadowing is unacceptable and that a variation to the development standard not be granted in this instance.

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

SEPP 71 Coastal Development

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

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

No draft EPIs affect this proposal.

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

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

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

Development Control Plan No. 6 – Multi Dwelling Housing

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

Standard	Requirement	Variation/complies
Floor Space Ratio	0.5:1.0	The total floor area of the three dwellings is approximately 330m ² . The site area is 614m ² which equates to a floor space ratio is 0.53:1.0. The development does not comply with the FSR.
Landscaped Area	80m ² per unit = 240m ²	The proposed development provides a total of 300 m2 of landscaping to the site and complies with landscaping area requirements. The existing swimming pool is to be retained. A conceptual landscape plan has been submitted with the plans, which appears satisfactory.
Setbacks from street boundary	6.0m to Cypress Cr	The proposed building is setback approximately 10 meters from the street and complies.
Front fences and walls	1.2m max if solid	No new fencing is proposed between the front building line and the front boundary. Existing

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Standard	Requirement	Variation/complies
		fencing to be retained around swimming pool and adjacent to 13 Cypress Crescent to be retained.
Building Envelope	45° from 3.5m high at the boundary	The development all but complies with the BHP other than some minor encroachments from the eaves on the side boundaries. Such encroachments are considered acceptable.
Side and rear setbacks	BCA Requirements (3 metres)	The proposed building complies with the rear setback to the Coastal Reserve. Elements of the building encroach on the side setbacks. The Kitchens of Units 1 and 2 on the ground floor encroach by 750 mm and bedroom 1 of Unit 1 also encroaches by a similar amount. Being on the ground floor such an encroachment will have a negligible impact on neighbour's amenity.
Private Open Space	20% of site area and balconies with minimum dimensions of 2 metres and area of 10 m ² .	With over 300m ² of the site area being dedicated to landscaping, approximately 49% of the site is landscaped. The ground floor units have balconies accessible from the living areas with an area of 13.5 m ² and dimensions of 4.5m x 3m. The unit above has a balcony double this area with dimensions of 9 m x 3 m. Proposal complies with Private Open Space.

Development Control Plan No. 39 – Energy Smart Homes Policy

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

DCP 42 Notification Policy

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

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

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Demolition Code

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

Coastal Policy

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

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

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

Overshadowing

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

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

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

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

(c) Suitability of the site for the development

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

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

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

- **Inadequate Car Parking**

Car parking complies with the DCP 2

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

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

- **Proposed development is not low density and not detached housing, and the development does not achieve good urban design objectives as the density scale and height is not compatible with the primary objectives of the zone, and the Proposal does not comply with the LEP requirements of 1 dwelling per 250 m² of site area.**

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

- **Amenity**

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

- **DLWC Submission**

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

(e) **Public interest**

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

Building Services Unit

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

Environment and Health Services Unit

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

Engineering Services

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

OPTIONS

1. Refuse the application as recommended; or
2. Approve the application with appropriate conditions as is foreshadowed in the Council resolution dated 2 April 2003 and 7 May 2003.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

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

DRAFT CONDITIONS IN THE EVENT THAT COUNCIL DETERMINES APPROVAL

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

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

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

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

"Deferred Commencement"

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

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

SCHEDULE "A"

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

- A. The applicant shall submit to Council for approval within 12 months of the date of this notice the following

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- i) Detailed plans (in triplicate) and the proposed method of construction relative to the subject sites location within a coastal erosion zone. Such plans are to adequately demonstrate that the design of the proposed building will ensure structural design and construction to withstand a coastal erosion event and foreshore recession. Such plans and detail to be prepared and certified by a suitably qualified and practising structural engineer experienced in coastal erosion.

SCHEDULE B

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos SK61, 62, 63, 64, 65, 66 prepared by Husband Leith Architects and dated 14/ 11/02, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
4. The erection of a building in accordance with a development consent must not be commenced until:
 - a. detailed plans and specifications of the building have been endorsed with a construction certificate by:
 - (i) the consent authority; or
 - (ii) an accredited certifier; and
 - b. the person having the benefit of the development consent:
 - (i) has appointed a Principal Certifying Authority; and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
5. The development is to be completed in accordance with the NatHers Certificate signed by Mark Thomas dated 4/2/03.
6. Energy efficient hot water systems which achieve a minimum 3.5 star rating to be installed in each dwelling.
7. Coastal reserve R1001008 shall not be disturb or modified in any way and the following activities on the reserve are prohibited:
 - i) The clearing, lopping, trimming or damaging of any coastal vegetation;
 - ii) The dumping of rubbish including lawn clippings and other garden refuse;
 - iii) The construction of accessways through the reserve to the beach;

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- iv) Encroachment including the construction of barbeques and outdoor recreation areas and the erection of clothe lines.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.
9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
10. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.
11. Permanent Stormwater Quality Treatment
 - (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
 - (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can 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*.
12. The development application sought approval for stormwater drainage works under s68 of the Local Government Act 1993. The s68 application appended to the development

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application did not contain sufficient detailed information for Council to fully assess the proposal.

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

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

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

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

13. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This may be achieved by on site detention (OSD), on site retention or a combination of both. Detention storage may be incorporated into surface depressions in landscaping or aboveground car parking areas. The maximum water depth under design conditions in aboveground vehicle parking areas shall be 200mm. OSD devices including discharge control pits (DCP) are to comply with standards in The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire. All these works and the connection to Councils drainage system shall be constructed in accordance with design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director of Engineering Services.
14. Erosion and Sediment Control During the Construction Phase of Development
 - (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"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*.

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15. A. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
- i. in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number; and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - ii. in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in Section 29 of that Act,and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- B. A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.
16. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

PRIOR TO COMMENCEMENT OF WORK

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

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

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

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
 - (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
 - (c) if that is not practicable, any other sewage management facility approved by the council.
19. A sign must be erected on the site in a prominent, visible position stating:
 - a. that unauthorised entry to the work site is prohibited; and
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.
 - c. Lot number.
20. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
 - i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.
 - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.
21. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
22. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.
23. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.

DURING CONSTRUCTION

24. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

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25. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
26. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.
27. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
28. Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.
29. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. footings, prior to pouring of concrete
 - b. slab, prior to pouring of concrete
 - c. frame prior to the erection of brick work or any wall sheeting
 - d. final inspection prior to occupation of the building
 - e. completion of work
 - f. the fire protection of penetrations through any fire rated elements prior to covering
30. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.
31.
 - a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
32. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.
33. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
34. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays.
35. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
 - A. Short Term Period - 4 weeks.

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- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
36. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
 37. The burning of builders waste on site by open fire is prohibited.
 38. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
 39. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.
 40. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
 - a. internal drainage, prior to slab preparation;
 - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c. external drainage prior to backfilling.
 - d. completion of work.
 41. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
 42. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
 43. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
 44. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
 45. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
 46. Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

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47. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C 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.
48. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
 - ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
49. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
50. Acid Sulphate Soils shall not be exposed, excavated or disturbed as part of the development during construction.
51. Dewatering of the site is prohibited during construction or excavation for the development.
52. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.
53. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Cypress Crescent. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located

Reports from Director Development Services

800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

54. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.
55. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
56. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

USE

57. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.
58. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
59. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
60. Plant or air conditioning units shall not adversely impact upon the amenity of any other premises.
61. All wastes shall be collected, stored and disposed of to the satisfaction of the Director of Environment and Community Services.

Reports from Director Development Services

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Reports from Director Corporate Services

12. ORIGIN: Director

FILE REF: Festivals-Policy; Donations

REPORT TITLE:

Second Round Donations 2002/2003 - Festivals Policy

SUMMARY OF REPORT:

At its meeting of 19 March 2003 resolved to defer the decision on the donations in accordance with the Festivals Policy so that the application process could be re-advertised in the Tweed Link to address the concern that previous applicants may have been unaware of the need to reapply for funds.

The applications are now submitted for Council's determination.

RECOMMENDATION:

That Council determines the distribution of funds for the second round of donations to festivals, in accordance with the adopted policy and the funds voted in the 2002/2003 budget.

Reports from Director Corporate Services

REPORT:

Council at its meeting of 19 March 2003 resolved to defer the decision on the donations in accordance with the Festivals Policy so that the application process could be re-advertised in the Tweed Link to address the concern that previous applicants may have been unaware of the need to reapply for funds.

The second-round of applications for 2002/2003 have been received and are documented for Council's consideration.

The 2002/2003 budget allocation for festivals is \$37,888.00 of this amount \$14,000.00 was distributed in the first round leaving a balance of \$23,888.00 to be distributed.

Applicant	Amount Requested	Purpose
CTC @ Tweed Valley	\$4,000.00	To stage a film festival for local youth aged 12-25 along with a three month workshop prior.
Greenback Tailor Charity Fishing Competition	\$1,500.00	To purchase trophies and prizes for the fishing competition.
Tyalgum Diggers District Sports Association Ltd	\$15,000.00	To provide an event for the community whilst raising funds for local groups and projects in a traditional rural environment.
Tyalgum Festival Committee	\$5,000.00	To market and promote the Annual Tyalgum Festival of Classical Music.
Wintersun Festival	\$7,500.00	The festival comprises of three components – Nostalgia Festival (50's & 60's), Fun Day and Street Parade.
Art, Food & All That Jazz	\$8,500.00	To promote Kingscliff and surrounds through music, art and food.
Wollumbin Dreaming	\$5,000.00	To provide a platform for reconciliation amongst diverse groups of the Tweed community. Festival includes entertainment and education, sharing of Bundjalung culture and promotion of the environment.
Lions Club of Kingscliff Inc.	\$300.00	Carols-on-the-Coast on 18 December 2003. Combination of community and school groups.
Speed on the Tweed	\$2,000.00	* Request received by the Mayor for assistance to buy extra bunting for Speed on Tweed Wollumbin St party.
TOTAL	\$48,800.00	

Reports from Director Corporate Services

The total amount requested for festivals in the second round of donations for 2002/2003 is \$48,800.00.

In the first round of donations for 2002/2003 under Council's Festival Policy the following amounts were distributed:

Senior Citizens	\$3,500.00
Tweed Valley Banana Festival	\$8,500.00
Wollumbin Festival	\$2,000.00
Total	\$14,000.00

In the 2001/2002 budget allocation for festivals, funds were distributed as follows:

Tweed Banana Festival	\$8,500.00
Murwillumbah & District Senior Citizens Week Committee	\$3,000.00
Greenback Tailor Charity Fishing Competition	\$1,500.00
Art, Food & All That Jazz Festival	\$8,430.00
Mooball Fish 'n' Nana	\$1,500.00
Wintersun	\$7,500.00
Tweed Coolangatta Chess Club	\$1,500.00
Total	\$41,214.00

Reports from Director Corporate Services

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Reports from Director Corporate Services

13. ORIGIN: Director

FILE REF: DW901929; Tourism - General; Walking Trails

REPORT TITLE:

Walker's Guide to the Tweed Proposal

SUMMARY OF REPORT:

Pemros Publications have produced an illustrated publication titled "A Walker's Guide to the Gold Coast". This guide was facilitated by a Gold Coast City Council grant, together with in kind assistance. The Mayor, Cr Gary Baidon, launched the Guide on 17 October 2002.

The Mayor has received a proposal from the publishers to produce a similar publication titled "A Walker's Guide to the Tweed Shire".

RECOMMENDATION:

That the:

1. General Manager explores in collaboration with Tweed and Coolangatta Tourism Inc. (TACTIC) the feasibility of establishing a similar publication to that titled "A Walker's Guide to the Gold Coast" for the Tweed Shire.
2. Full details be established and a report provided to Council of the full cost implications and benefits of such a publication.

Reports from Director Corporate Services

REPORT:

Pemros Publications have written to the Mayor outlining a proposal for "A Walker's Guide to the Tweed Shire". This publication would be similar in style to one prepared by the organisation for Gold Coast City Council titled "A Walker's Guide to the Gold Coast". The publication was launched by the Mayor of Gold Coast City Council, Cr Gary Baidon on 17 October 2002 and is reported to have already sold over 2,000 copies, locally, interstate and overseas.

Their letter of introduction appears below:



Pemros Publications
68 Kallay Street Miami Q 4220

Phone: (07) 5526 5054

Email: pemrospublications@austarnet.com.au
pemrospublications@austrarnet.com.au

RE A Walker's Guide to the Tweed Shire

Attention Councillor Warren Polgiase

Dear Councillor Polgiase,

Subject : A NEW BOOK FOR TOURISTS AND RESIDENTS!

TOURISM - GENERAL April 24, 2003

TWEED SHIRE COUNCIL
FILE NO. WALKING TRAILS

DOCUMENT No. []

REC'D MAY 2003

BOX No. []

ASSIGNED TO: GRIFFIN J

HARD COPY IMAGE

FILE No.

SUBJECT No ..

DOCUMENT No []

RECL 29 APR 2003

DOCUMENT TYPE []

LOCATION CODE []

ED P PROCESSED

On the 6th May 2000 my colleague, Dr Rod Sullivan and I, lifelong walkers, former university academics, and now writers and publishers, proposed to Councillor Gary Baidon, Mayor of the Gold Coast City Council, an illustrated "Walker's Guide to the Gold Coast" incorporating sixty existing and new walks to be planned and published collaboratively by PeMROs Publications and the Gold Coast City Council. He replied affirmatively on 9 May 2000, and arranged for us to have further discussions with Mr Rod Grose, Manager for Transport Planning. Following a Council decision on 12 December 2000, we received a grant from the Council and assistance in kind to ensure a high quality book. In the course of development we consulted with Councillors and a wide range of community organisations to enhance the relevance of our product. On 17 October 2002 the book (enclosed) was launched by the Mayor and has already sold over 2000 copies locally, interstate and overseas. We have received expressions of interest in similar projects from other regions in Australia and overseas. We are happy to enclose a complimentary copy of "A Walker's Guide to the Gold Coast".

Our research into walks in the Gold Coast local authority area took us along and across the interstate border. From 1988 we recorded a selection of walks in the Tweed River basin and enclose "Fingal Lighthouse to Kingscliff Beach" as a sample. Because of its cultural, environmental and geological significance we included a Mount Warning walk in "Walker's Guide to the Gold Coast" (pp 113-4) and appreciated the assistance received from Tweed and Coolangatta Tourism Incorporated.

Given the absence of a similar resource, we now propose the collaborative development of "A Walker's Guide to the Tweed Shire" featuring walks in all divisions that would capture the area's uniqueness, beauty and diversity. The proposed walks would cater for a variety of needs and interests. There would be circuits for beginners and experienced walkers. The richness of the local environment, natural and historical, would be highlighted. The Tweed, with its beaches, world heritage national parks, wetlands, estuarine forests, historic townscapes and agricultural hinterland offers great scope for walkers, both residents and tourists.

We seek a preliminary meeting with yourself or nominee to explore the feasibility of "A Walker's Guide to the Tweed Shire". Our CV's are enclosed. We look forward to hearing from you at your earliest convenience.

P.S. I enjoyed your performance in the Tweed Theatre Company's "Outback Debutantes' Ball" as I am an active performer and publicist for the Spotlight Theatrical Company, at Ashmore, myself.

Best wishes,

Peter Meggitt

Marketing Director / Pemros Publications

Reports from Director Corporate Services

It is suggested that the General Manager explore in collaboration with Tweed and Coolangatta Tourism Inc. (TACTIC) the feasibility of producing such a publication for the Tweed Shire.

Reports from Director Corporate Services

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Reports from Director Corporate Services

14. ORIGIN: Director

FILE REF: DW906519; Sustainable Regions Program

REPORT TITLE:

Sustainable Regions Program

SUMMARY OF REPORT:

Tweed Shire Council was selected last year to host the Far North-East New South Wales Sustainable Regions Program.

A grant from the Federal Government of \$99,000.00 was made available to fund the employment of a Program Executive Officer for 12 months. Advice has been received of further funding to extend the program and the employment of the Executive Officer for an additional two (2) years.

RECOMMENDATION:

That the Sustainable Regions Program provision of an Executive Officer for the Far North-East New South Wales Sustainable Region Advisory Committee funding contract between the Commonwealth of Australia, represented by the Department of Transport and Regional Services and the Tweed Shire Council, be endorsed and executed under the Common Seal of Council.

Reports from Director Corporate Services

REPORT:

Last year the Federal Government announced a sustainable regions initiative aimed at assisting regions to develop local solutions to deliver major economic, social and environmental change.

The region comprising of the Shires of Ballina, Byron, Lismore, Kyogle and Tweed were selected as one of the first regions to participate in the program. The Far North-East New South Wales Sustainable Region Advisory Committee was formed and the Committee selected an Executive Officer for a period of 12 months to assist the Committee in achieving their objectives.

Tweed Shire Council accepted the opportunity to host the employment of the Executive Officer and to be recipient of the grant of \$99,000.00 for the 12-month project.

The Executive Officer commenced employment on Monday, 13 May 2002 and was located at the Tweed Heads office. The Federal Department have advised that they intend to extend the program for an additional period of 2 years and negotiations with the current Executive Officer has resulted in the extension of her employment agreement. A grant of \$103,019.00 is to be provided to Council for the next 12 months of the funding agreement to meet all of the employment cost associated with the Executive Officer.

A revised agreement has been prepared between the Commonwealth of Australia and Tweed Shire Council (see attachment), which set out the terms of the funding agreement for the project. The agreement requires the endorsement, signing and sealing of the document by Council.

It is recommended that Council endorse the agreement.

Reports from Director Corporate Services

15. ORIGIN: Administration Services Unit

FILE REF: Councillors Fees

REPORT TITLE:

Mayor and Councillors Annual Remuneration 2003/2004

SUMMARY OF REPORT:

The Local Government Remuneration Tribunal has handed down its report and determination on the fees paid to Mayors and Councillors for the period 2003/2004.

RECOMMENDATION:

That Council determines the annual fee for:

1. The Mayor for the period 1 July 2003 to 30 June 2004.
2. Councillors for the period 1 July 2003 to 30 June 2004.

Reports from Director Corporate Services

REPORT:

The determination of the Local Government Remuneration Tribunal has been received. The Tribunal has awarded an increase in fees for Mayors and Councillors; the quantum of the increases was influenced by movements in national economic indicators in determining the recompense for changed levels of responsibility.

The Tribunal increased all minimum and maximum fees for Mayors by 7% and 3.5% for Councillors.

Tweed Shire Council is classified as Category 3 Council.

Tweed Shire Council did seek re-categorisation to Category 1. Council submitted that it is a high growth multi-purpose Council, however the Tribunal has not had the opportunity to discuss the issues raised by this Council in its submission, but plans to do so in the inquiry into the proposed new category for leading Category 3 Council.

Furthermore, the Tribunal for the new review will not call for, nor will it consider individual applications for re-categorisation. The only exception will be the completion of the review of Category 3 Councils.

The annual fees are as follows:

Councillor/Member		Mayor/Chairperson	
Annual Fee		Additional Fee *	
<i>Minimum</i>	<i>Maximum</i>	<i>Minimum</i>	<i>Maximum</i>
\$5,705	\$12,550	\$12,125	\$27,395

* This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

The current fee paid to the Mayor is \$37,730 and to Councillors is \$12,125.

Council is to determine and fix the annual fee in accord with Section 248 and 249 of the Local Government Act, application on and from 1 July 2003.

Reports from Director Corporate Services

16. ORIGIN: Financial & Information Services Unit

FILE REF: Donations

REPORT TITLE:

In Kind and Real Donations - 1 January to 31 March 2003

SUMMARY OF REPORT:

The following report details "In Kind" and "Real" donations for the period 1 January to 31 March 2003.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The following report details "In Kind" and "Real" Donations for the period 1 January to 31 March 2003.

Financial Assistance

Amount	Recipient	Donated Item	Date
1057.00	Chillingham Community Association	DA Fees	22/01/2003
2100.00	Murwillumbah & District Senior Citizens	Donation - Senior Citizens Week	24/01/2003
250.00	Murwillumbah Community Support Centre	Donation	13/03/2003
3708.40	Terranora Equestrian Club	Donation	26/02/2003
9500.00	Careflight Queensland	Donation	5/03/2003
1482.00	Horse/Rider Training Centre	DA Fees	3/01/2003
\$ 18,097.40			

Goods and/or Materials

Amount	Recipient	Donated Item	Date
2259.00	Chillingham Community Association	5300 Gal Water Tank	19/02/2003
120.00	Stokers Siding Landcare	Trees	25/02/2003
120.00	Sth. Murwillumbah Primary School	Trees	3/03/2003
160.00	East Murwillumbah Primary School	Trees	11/03/2003
60.00	Tyalgum Primary School	Trees	21/03/2003
300.00	Murwillumbah Primary School	Mulch	20/03/2003
\$ 3,019.00			

Provision of Labour and/or Plant & Equipment

Amount	Recipient	Donated Item	Date
\$ 1,151.56	Life Education	Moving of Van	Jan to March
\$ 151.54	Cudgen Surf life Saving Club	Barriers	17/01/2003
\$ 97.01	Show Ground Committee	Sweep Showground	24/01/2003
\$ 43.16	Police Citizens Youth Club	Barriers	7/03/2003
\$ 1,443.27			

Tweed Link Advertising

Amount	Recipient	Donated Item	Date
\$ 31.50	Twin Towns Police & Community Youth Club	Advertising	25/02/03
\$ 175.50	Various Community Groups	Advertising - Community Notices	28/01/03
\$ 40.50	Various Community Groups	Advertising - Community Notices	11/02/03
\$ 162.00	Various Community Groups	Advertising - Community Notices	18/02/03
\$ 94.50	Various Community Groups	Advertising - Community Notices	25/02/03
\$ 67.50	Various Community Groups	Advertising - Community Notices	04/03/02
\$ 189.00	Various Community Groups	Advertising - Community Notices	11/03/02
\$ 121.50	Various Community Groups	Advertising - Community Notices	18/03/03
\$ 135.00	Various Community Groups	Advertising - Community Notices	25/03/02
\$ 1,017.00			

Reports from Director Corporate Services

Rates

Amount	Recipient	Donated Item	Date
\$ 9.00	Tyalgum Literary Society	Rates	25/03/03
\$ 471.56	Kunghur Hall	Rates	02/02/03
\$ 112.80	Bilambil Literary Society	Rates	25/03/03
\$ 10.80	Burringbar School of Arts	Rates	25/03/03
\$ 604.16			

Hall Hire

Amount	Recipient	Donated Item	Date
\$ 57.00	Tweed Heads Hospital Aux.	Room Hire – T/Heads Mtg Room	6/01/2003
\$ 57.00	Tweed Heads Hospital Aux.	Room Hire – T/Heads Mtg Room	3/02/2003
\$ 57.00	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Mtg Room	2/03/2003
\$ 57.00	Tweed Heads Hospital Aux.	Room Hire – T/Heads Mtg Room	3/03/2003
\$ 57.00	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Mtg Room	30/03/2003
\$ 34.00	Twin Towns Garden Club	Room Hire – T/Heads Civic Centre	13/01/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	22/01/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	5/02/2003
\$ 34.00	Twin Towns Garden Club	Room Hire – T/Heads Civic Centre	10/02/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	10/02/2003
\$ 28.50	Twin Towns Ladies Aux.	Room Hire – T/Heads Civic Centre	12/02/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	12/02/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	17/02/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	19/02/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	20/02/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	24/02/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	26/02/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	27/02/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	5/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	6/03/2003
\$ 34.00	Twin Towns Garden Club	Room Hire – T/Heads Civic Centre	10/03/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	12/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	13/03/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	14/03/2003
\$ 288.00	Rotary	Room Hire – T/Heads Civic Centre	15/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	17/03/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	19/03/2003
\$ 288.00	NORPA	Room Hire – T/Heads Civic Centre	20/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	20/03/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	23/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	24/03/2003
\$ 51.90	Northern Rivers Symphony Orchestra	Room Hire – T/Heads Civic Centre	26/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	27/03/2003
\$ 41.90	Tweed Theatre Company	Room Hire – T/Heads Civic Centre	31/03/2003
\$ 41.90	Muwillumbah Theatre Company	Room Hire - Murwillumbah Civic	11/02/2003

Reports from Director Corporate Services

			Centre	
\$	23.80	Blind & Visually Impaired	Room Hire - Sth Tweed HACC	15/03/2003
\$	23.80	Twin Towns & Friends	Room Hire - Sth Tweed HACC	12/03/2003
\$	23.80	Blind & Visually Impaired	Room Hire - Sth Tweed HACC	19/03/2003
\$	23.80	Blind & Visually Impaired	Room Hire - Sth Tweed HACC	19/03/2003
<u>\$ 2,202.30</u>				

\$ 26,383.13 **Total Donations**

Reports from Director Corporate Services

17. ORIGIN: Financial & Information Services Unit

FILE REF: Comparative Information; Financial Reporting; Budget

REPORT TITLE:

Financial Indicators - 2001/2002 Comparative Information on NSW Councils Provided by the Department of Local Government

SUMMARY OF REPORT:

The 2001/2002 Comparative Performance Information for Councils in NSW has been released by the Department of Local Government. This report outlines the key annual financial indicators for Tweed Shire Council compared to the State averages.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Corporate Services

REPORT:

The 2001/02 Comparative Performance Information for NSW has been released by the Department of Local Government. This report outlines the key annual financial indicators for Tweed Shire compared to State averages and enables assessment of performance in key financial areas.

The Local Government Act gives councils significant responsibility and autonomy in their operations. Fundamental to these arrangements is that local government both knows and is able to demonstrate that it is providing services effectively, efficiently and equitably in meeting the community’s needs. Performance information and indicators are an integral part of this management process.

This financial comparative performance information is published annually by the NSW Government to make local government more transparent and to strengthen accountability. A major source of the data is the audited Annual Financial Statements of councils. The figures are indicators only and conclusions should not be drawn without qualitative assessment being made.

MAKING COMPARISONS

“It is designed to help both the community and council assess the performance of their council against a broad range of activities

Source: Dept of Local Govt May 2003”

2001/02 FINANCIAL INDICATORS - NSW AVERAGE: TWEED SHIRE COUNCIL(TSC)

1. Average Rate Per Residential Property Assessment

NSW	GROUP	TSC
\$571.00	\$590.34	\$573.90

2. Average Rate Per Farmland Assessment

NSW	GROUP	TSC
\$1374.00	\$1252.00	\$1000.66

3. Average Rate Per Business Assessment

NSW	GROUP	TSC
\$3284.00	\$4118.08	\$1834.99

4. Account Average Comparison

		NSW \$	TSC \$
Item 1	Residential Rate	571.00	573.90
Item 7	Domestic Waste	192.00	163.15
Item 9	Sewerage	368.00	420.73
Item 11	Water	373.00	244.90

Reports from Director Corporate Services

Total Average Account \$1504.00 \$1402.68

5. *Local Government Source of Income*

REVENUE -SOURCES OF FUNDS	NSW	TSC
Rates & Annual Charges	47%	39%
User Charges & Fees	16%	12%
Interest	3%	5%
Grants	17%	12%
Cash Contributions)	13%	31%
Non-Cash Contributions)		
Other Revenue	3%	1%

Matters that impact are income sources, level of government funding, rate of development and population growth and socio-economic characteristics of Council. The indicator assesses the degree of dependence on alternative sources of revenue.

6. *Current Ratio*

The ratio is a measure of a council's ability to meet its financial objectives such as payment for goods and services. A ratio greater than 1:1 indicates that unrestricted current assets exceed current liabilities. It is an indication of a council solvency and ability to meet short term liabilities with its current assets.

NSW	TSC
1:2.22	1:2.16

This ratio is impacted by budgetary and planning control, cash management and timing of cash flows and credit management policies and economic circumstances.

7. *Debt Service Ratio*

The ratio is an assessment of the operating revenue committed to the repayment of loan debt. Generally the ratio would be higher for councils in growth areas such as Tweed Shire where loans have been required to fund infrastructure eg roads, community buildings, bridges, water and sewerage works. The ratio is also affected by prevailing interest rates and loan terms.

NSW	TSC
6%	9.94%

Reports from Director Corporate Services

The use of loan funds is considered a prudent financial strategy allowing for contribution to the asset over its life by those who use it. For developing Councils such as Tweed a ratio of up to 20% is considered reasonable.

8. *Total Operating Expense per Capita*

Measures the total operating expense excluding capital expenditure on a per capita basis (excluding water and sewerage).

NSW	TSC
\$753	\$777.00

9. *Capital Expenditure Ratio*

The indicator is a measure of whether asset maintenance and replacement is keeping up with depreciation. It determines council's ability to replace or add to capital assets compared with the consumption (depreciation) of assets. A ratio of 1:1 indicates that the increase in assets equals the amount of depreciation expense.

NSW	TSC
1:1.06	1:1.27

10. *Total Operating Revenue per Capita*

This measure is a basic indicator of the revenue available to service the needs of the community. (Does not include water and sewerage rates).

NSW	TSC
\$725	\$603.68

11. *Outstanding Rates, Charges and Fees*

The percentage of rates, charges and fees unpaid at the end of the year.

NSW	TSC
7%	11.54%

Tweed Council's higher ratio includes rate, water consumption and sewerage charges accounts not issued until the end of the financial year and paid in the next financial year. This increases Council's percentage compared to state average. The ratio reflects the lower income groups represented in the Tweed and the arrangement to repay rates over a period of time.

12. *Dissection of Expenses from Ordinary Activities as Percentage of Total Expenses*

This indicator assesses the expenditure pattern of annual

	NSW	TSC
Employee Costs	37%	31.58%
Materials and Contracts	25%	25.08%
Borrowing Costs	2%	3.86%

Reports from Director Corporate Services

Depreciation	21%	26.70%
Other Expenses	15%	12.78%

13. *Library Expenses Per Capita*

This indicator measures the gross operating expenses for library services on a per capita basis

NSW	TSC
\$25.00	\$17.51

Council increased its financial commitment to library services in the 2002/03 and 2003/04 budgets.

These expenses only relate to operation expenses. Tweed Shire Council has major annual capital costs in addition to its operational expenses.

14. *Average charge for Domestic Waste Management Services Per Residential Property*

This performance indicator is the total domestic waste management charges divided by the number of residential properties receiving a service.

NSW	TSC
\$192.00	\$163.15

15. *Costs per Service for Domestic Waste Collection*

This indicator is the total domestic waste collection costs divided by the number of residential properties. Tweed Shire has provided for future provisions for replacements costs of waste management.

NSW	TSC
\$111.00	\$113.48

16. *Sewerage Average Account (\$ per connection)*

NSW	TSC
\$368.00	\$420.73

This indicator includes all revenue from sewerage rates and charges. Tweed Shire Council has a Loan Program that increases costs. Depreciation costs are also funded.

17. *Sewerage Operating Costs per Connected Property*

NSW	TSC
\$381.00	\$430.21

This indicator assesses the costs of providing average services. Tweed Shire Council funds depreciation costs.

Reports from Director Corporate Services

18. *Water Average Account (\$ per connection)*

NSW	TSC
\$373.00	\$244.90

This indicator includes revenue from water rates, water sales and user charges.

19. *Water Operating Costs per Connected Property*

NSW	TSC
\$397.00	\$293.69

This indicator includes the costs of providing water supply services.

20. *Population Growth/5 Year Average*

Tweed's Shire's population growth of 3.39% (5 year average) is the sixth highest in NSW.

21. *Community Services Expenses Per Capita*

NSW	TSC
\$45.00	\$7.71

Factors affecting this indicator include level of government funding available, number of community staff, population mix (age, ethnicity), socio-economic elements and Council Policy.

Costs included in this indicator are community centres, childcare centres, youth centres, senior citizen centres and community staff.

22. *Legal Expenses (Planning & Building Control) to Total Planning & Regulatory Building Costs*

NSW	TSC
10%	5.08%

The objective of this indicator is to highlight the level of disputation in the "Planning and Development" process. Factors affecting this percentage include nature and complexity of building and development, legislation complexity, as well as Council policies.

23. *Environmental Management and Health Services Per Capita*

NSW	TSC
\$18.00	\$29.79

Factors affecting this indicator include population growth, land usage, extent to which State Legislation applies and Council Policy. The objective is to measure the expenses of environment

Reports from Director Corporate Services

management and health services per head of population. Factor affecting this indicator include land usage mix and the extent State Legislation is applicable.

24. *Net Recreation and Leisure Expenses Per Capita*

NSW	TSC
\$53.00	\$96.72

Expenses relating to this indicator includes: recreational, swimming pools operations, sporting grounds and parks, multi-purpose recreation facilities and tennis courts. A figure of \$37.55 should be deducted from the Council expense of \$96.72 as there was a one off adjustment of cost for land. The per capita figure should read \$59.17.

25. *Number of Staff per 1000 Capita for Councils that have General, Water and Sewerage Funds*

Percentage of Staff Per 1000 of Population All Councils Levying General, Water and Sewerage Rates

	COUNCIL	Staff/1000 Population
1	BALLINA	5.47
2	YARROWLUMLA	5.61
3	GOSFORD	5.91
4	HASTINGS	5.97
5	WYONG	6.24
6	LISMORE	6.29
7	PRISTINE WATERS	6.30
8	QUEANBEYAN	6.36
9	TWEED	6.48
10	NAMBUCCA	6.70
11	COFFS HARBOUR	6.86
12	MUSWELLBROOK	6.87
13	NARRABRI	7.02
14	PARRY	7.11
15	DUBBO	7.17
16	WINGECARRIBEE	7.22
17	DUNGOG	7.41
18	DENILQUIN	7.42
19	LEETON	7.47
20	SHOALHAVEN	7.77
21	BYRON	7.78
22	YOUNG	7.97
23	SINGLETON	8.00
24	ORANGE	8.02
25	GRAFTON	8.05
26	TAMWORTH	8.11

Reports from Director Corporate Services

	COUNCIL	Staff/1000 Population
27	BELLINGEN	8.24
28	COPMANHURST	8.49
29	COOTAMUNDRA	8.51
30	LITHGOW	8.58
31	GOULBURN	8.59
32	GRIFFITH	8.61
33	HUME	8.73
34	ARMIDALE	8.75
35	EVANS	8.81
36	BEGA VALLEY	8.93
37	ALBURY	8.97
38	COROWA	9.35
39	PARKES	9.47
40	TUMUT	9.49
41	BATHURST	9.49
42	SCONE	9.58
43	MULWAREE	9.70
44	RICHMOND VALLEY	9.74
45	KEMPSEY	9.92
46	KYOGLE	10.14
47	MUDGEES	10.25
48	NARROMINE	10.29
49	COWRA	10.32
50	FORBES	10.33
51	MURRAY	10.44
52	CULCAIRN	10.49
53	YASS	10.59
54	BERRIGAN	10.63
55	GUYRA	11.02
56	EUROBODALLA	11.31
57	GLEN INNES	11.47
58	INVERELL	11.84
59	OBERON	11.91
60	GUNNDAH	12.03
61	MOREE PLAINS	12.04
62	NARRANDERA	12.06
63	WENTWORTH	12.07
64	MURRUMBIDGEE	12.22
65	WALGETT	12.38
66	COOMA-MONARO	12.54
67	SNOWY RIVER	12.94
68	HAY	13.16
69	CROOKWELL	13.26

Reports from Director Corporate Services

	COUNCIL	Staff/1000 Population
70	CABONNE	13.94
71	URALLA	14.17
72	GUNDAGAI	14.38
73	COONABARABRAN	14.55
74	HARDEN	14.67
75	GUNNING	14.73
76	TENTERFIELD	14.96
77	MANILLA	15.01
78	WAKOOL	15.05
79	WELLINGTON	15.62
80	WALCHA	15.73
81	CONARGO	16.20
82	BALRANALD	16.48
83	BINGARA	16.51
84	TUMBARAMBA	16.70
85	QUIRINDI	17.24
86	RYLSTONE	17.44
87	SEVERN	17.54
88	BOMBALA	17.80
89	BARRABA	17.82
90	NUNDLE	17.95
91	COOLAH	18.10
92	BOGAN	18.26
93	LACHLAN	18.40
94	GLOUCESTER	19.27
95	COONAMBLE	19.56
96	TALLAGANDA	19.61
97	MURRURUNDI	19.82
98	CENTRAL DARLING	20.02
99	WARREN	22.30
100	BOOROWA	22.30
101	YALLAROI	22.57
102	MERRIWA	23.72
103	JERILDERIE	23.95
104	BOURKE	24.84
105	CARRATHOOL	25.80
106	COBAR	26.12
107	BREWARRINA	26.63
108	GILGANDRA	33.94
	Average	12.68

Department of Local Government Monitoring

Reports from Director Corporate Services

The Department of Local Government have been monitoring the financial state of Councils throughout the State. The Department has been critical of some authorities that have not been providing cash reserves for infrastructure replacement and leave entitlements as well as the level of liquidity because of deficit budgeting and poor financial management practices.

GENERAL COMMENTS

Tweed Shire Council has strong financial management practices in place. It has, for many years, made extensive use of these and other performance information and indicators to support and improve its management practices.

Reports from Director Corporate Services

18. ORIGIN: Financial & Information Services Unit

FILE REF: Monthly Investment Report

REPORT TITLE:

Monthly Investment Report for the Period Ending 30 April 2003

SUMMARY OF REPORT:

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

RECOMMENDATION:

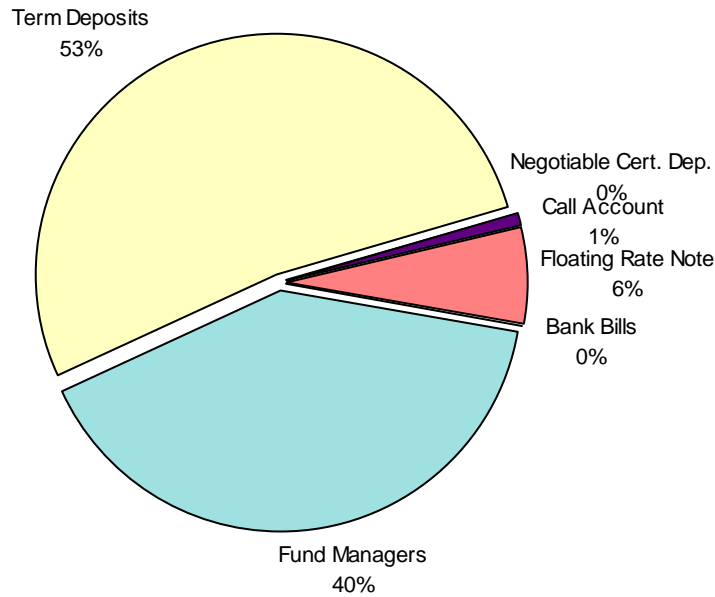
That this report be received and noted.

Reports from Director Corporate Services

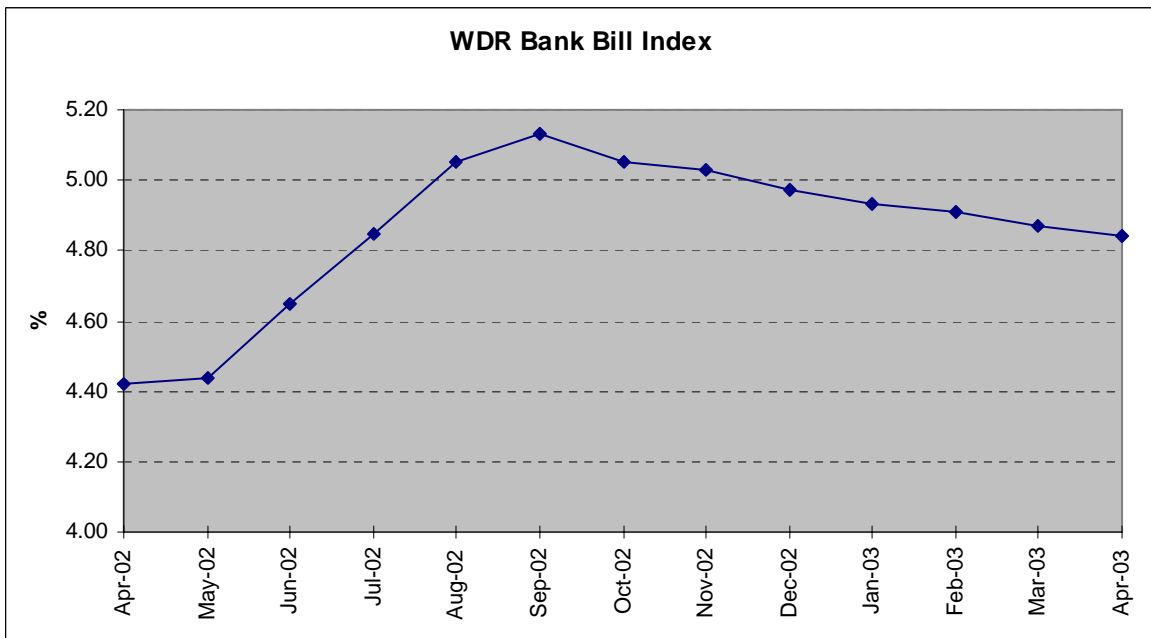
REPORT:

1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

% of Funds Invested by Category



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

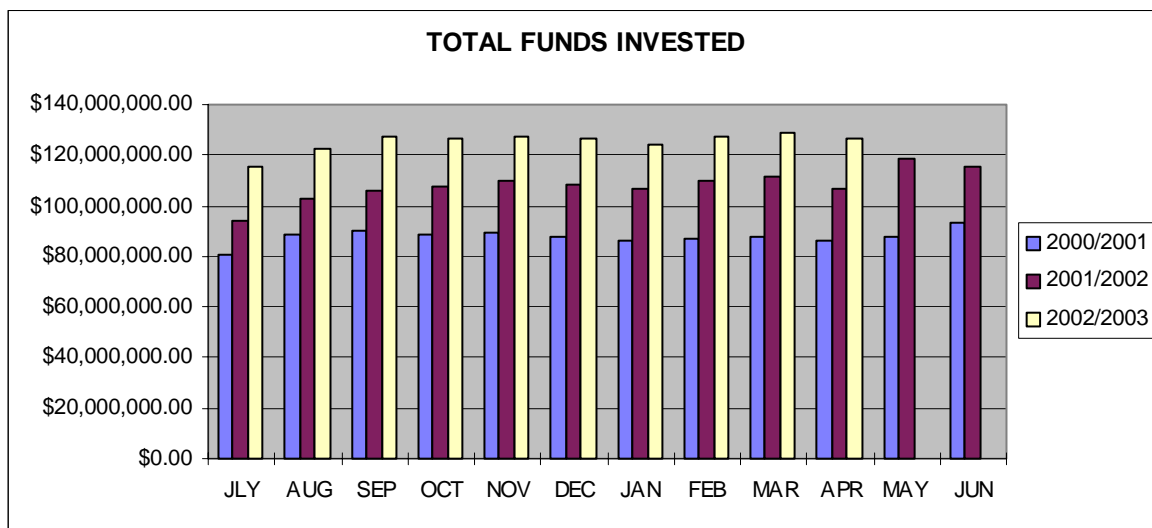


Reports from Director Corporate Services

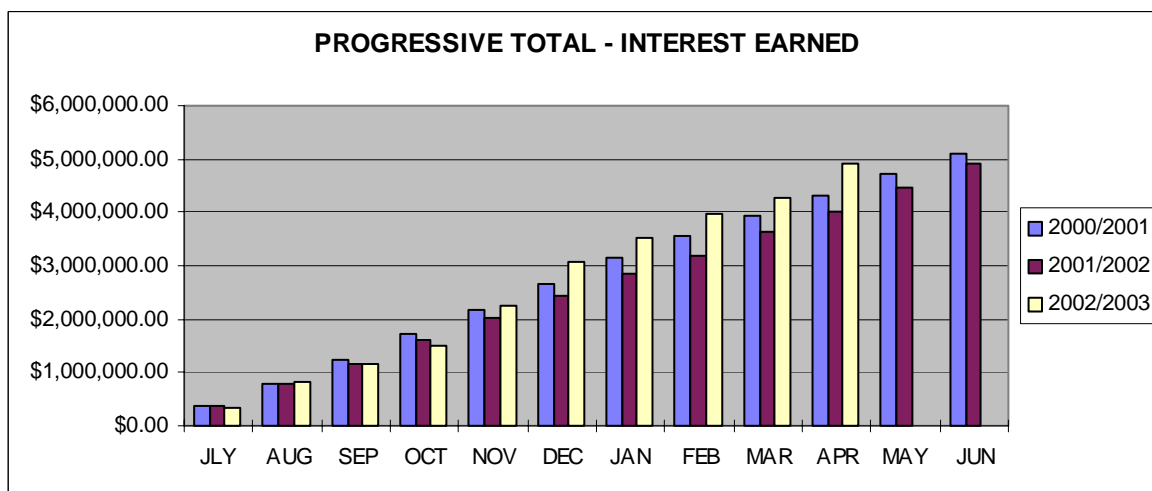
3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS – NET OF FEES

Fund	30 Days %	90 Days %	1 Year %
ANZ	5.54	5.02	5.05
Alliance	4.84	5.32	4.99
Deutsche	6.27	5.45	4.94
Macquarie Diversified	5.88	5.23	5.07

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

Although domestic economic growth has recently moderated, the economy's prospects remain solid for the short term. However the sharp rise in domestic inflation suggests that, in the absence of a protracted downturn in the global economy, the RBA is unlikely to give the economy any additional stimulus in the form of lower interest rates. Consequently many economists believe that the current level of Cash Rates will remain the same until the uncertainty in regard to the outlook of the global economy dissipates.

7. INVESTMENT SUMMARY AS AT 30 APRIL 2003

GENERAL FUND

BANKS	31,406,450.00	
FUND MANAGERS	5,537,739.76	
LOCAL GOVT. FIN. SERVICES	5,500,000.00	
CALL	1,026,073.23	43,470,262.99

WATER FUND

BANKS	10,500,000.00	
FUND MANAGERS	28,263,811.51	
LOCAL GOVT. FIN. SERVICES	4,000,000.00	42,763,811.51

SEWERAGE FUND

BANKS	16,000,000.00	
FUND MANAGERS	16,955,921.64	
LOCAL GOVT. FIN. SERVICES	7,000,000.00	39,955,921.64

TOTAL INVESTMENTS **126,189,996.14**

It should be noted that the General Fund investments of \$43.4 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

STATUTORY STATEMENT – LOCAL GOVERNMENT 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.



Responsible Accounting Officer
Manager Financial & Information Services

Reports from Director Engineering Services

Reports from Director Engineering Services

19. ORIGIN: Works Unit

FILE REF: DA3340/325 Pt13; R3340 Pt5; R4170 Pt1; LN: 9029; Roads: Marine Pde & Pearl St; Outdoor Dining Policy

REPORT TITLE:

Marine Parade On Street Car Parking at Paradiso

SUMMARY OF REPORT:

Negotiations have taken place with the developer of Paradiso in accordance with Council's Resolution dated 21 November 2001. After considering the developer's quotation of \$132,693.00 for the road works in Marine Parade to facilitate outdoor dining and provide 4 additional on-street car spaces it is considered appropriate to contribute \$30,125.00 from Contribution Plan No. 23.

RECOMMENDATION:

That Council:-

1. Transfers the sum of \$30,125.00 from Contribution plan No. 23 Sector – for the construction of additional on-street car parking on Marine Parade.
2. Votes the expenditure of \$30,125.00 for the construction of additional on-street car parking in Marine Parade.

Reports from Director Engineering Services

REPORT:

Marine Parade On-street Car Parking at Paradiso

Council considered a report regarding car parking in Kingscliff at its meeting on 21 November 2001. After considering the report Council resolved in Part:-

- “3. *In the 2002/2003 budget deliberations Council considers an increase in the fees for outdoor dining, for all sites within the Shire to provide for customer parking generated by the on-street development or provided on-site by the applicant.*
4. *No further outdoor dining blisters that occupy on-street car parking spaces be approved unless on-site parking can be provided to compensate, or S94 contribution for the value of the space is paid.”*

Paradiso developers approached Council regarding outdoor dining blisters in front of the development on Marine Parade.

In accordance with the above resolution it was agreed that it would be recommended to Council that a 50/50 funding split be supported based on a preliminary estate of \$47,420.00.

This was on the basis that whilst it is the developer’s responsibility to cover the costs of any work required to maintain the existing five parallel car parks in Marine Parade adjacent to the development, Council would gain by the creation of 4 additional on-street car parks. This situation arises by replacing the current parallel spaces with angle spaces and associated adjustments to the current kerb and island alignments. Based on the above quote, Council would gain 4 new public car spaces for around \$25,000.00 which was considered acceptable given the contribution rate for unsupplied car parking is \$11,500 in Contribution Plan No. 23 Car Parking and for 4 spaces is \$46,000.00.

The developer has pursued the proposal and has gained development approval for the project.

On the 17 April 2003 a new quotation for the work was submitted to Council for the sum of \$132,693.00 (see Table 1), nearly three times greater than the original estimate. Part of the cost increase is \$37,280.00 for special gutter covers that Council has requested as the galvanised steel covers used in other locations such as Murwillumbah Street have proven to be a pedestrian hazard and liability risk.

It is considered unviable for Council to fund 50% of the project given that this equates to \$66,346.50 which is \$20,000 more than the value of the 4 new spaces as determined by Contribution Plan No. 23.

The design and estimate has been investigated and the project assessed from Council’s viewpoint which is to provide as much on-street car parking as possible and excluding work needed for outdoor dining purposes.

The following plan shows the extent of the project and the cross hatched area is work that is required to provide the car parking only.

Reports from Director Engineering Services

Based on the plan and the quotation provided with some rates adjusted down to reflect Council rates the estimated cost of the work is \$60,250.00. The remainder of the cost is directly associated with providing outdoor dining (see Table 2).

Given that the developer is responsible for the costs on maintaining 5 on-street spaces and Council gains 4 new spaces the costs of the car parking component being \$60,250.00 should be split 50/50 with Council contributing \$30,125.00.

It is recommended that the developer be advised Council will contribute \$30,125.00 towards the cost of the project and that Council votes the transfer of this amount from Contribution Plan No. 23.

Tables 1 and 2 referred to in this report are an attachment to this Business Paper.

Reports from Director Engineering Services

20. ORIGIN: Works Unit

FILE REF: Car Parks - MBah; Murwillumbah St & Brisbane St

REPORT TITLE:

Murwillumbah Car Parking Trial and Car Parking Construction

SUMMARY OF REPORT:

Discussions have been held with members of the Murwillumbah District Business Chamber on the introduction of a one hour time limited parking trial for Murwillumbah Street between Commercial Road and Brisbane Street, and Brisbane Street between Wollumbin Street and Murwillumbah Street. The purpose of the trial is to assess the impact of increased usage on the 'pool' car park. If usage is found to increase it may become feasible to pursue the design of a first level deck car park over the existing 'pool' parking area. The Chamber has advised approximately 200 members and will discuss the issue further at their general meeting on the 21 May 2003. Subject to endorsement by the Chamber and Council a trial would commence in July 2003 for a period of three months at which point the results would be reviewed.

RECOMMENDATION:

That a 1 hour parking trial be implemented in Murwillumbah Street between Commercial Road and Brisbane Street and Brisbane Street between Murwillumbah Street and Wollumbin Street subject to endorsement of the Murwillumbah District Business Chamber at its meeting of 21 May 2003.

Reports from Director Engineering Services

REPORT:

Council last considered a report on this issue at its meeting on 20 August 1997 and resolved the following:-

“That:-

- 1. Option 5 be adopted at an estimated cost of \$44,000 to provide 36 extra car spaces and detailed design plans be prepared and construction take place subject to development consent:-*
- 2. The remainder of Murwillumbah Car Parking funds be held in reserve for the future provision of additional car parking in the CBD as property and or options become available.”*

Part 1 of the resolution has been completed being the parallel parking in Tumbulgum Road between the Civic Centre and the State Bank building and the 90° angle parking spaces on the entry road near the cenotaph.

Since that time options for additional car parking have been investigated. In particular the use of the car park area behind the National Australia Bank and adjacent buildings but unfortunately the National Australia Bank has recently advised that they are not prepared to enter into any agreements with Council.

Discussions have been held with members of the Murwillumbah District Business Chamber on the car parking subject.

The Chamber members agreed that a trial of 1 hour time limited parking in Murwillumbah Street between Commercial Road and Brisbane Street and Brisbane Street between Murwillumbah Street and Wollumbin Street should be introduced to gauge the increased use, if any, of the ‘perimeter’ car parks, particularly by the ‘pool’ car park.

This is necessary to assess the predicted usage of a ‘deck’ car park if it was constructed.

Previous ‘usage surveys’ in 2000 showed that large volumes of parking spaces in the Pool car park were not used as can be seen in the table below. However in May 2003 a similar survey has shown that the utilisation rate has increased significantly.

Pool Car Parking				
2000	Vacant Spaces Hourly Average	2003	Vacant Spaces Hourly Average	Increased Usage
10:00am	25	10:00am	17	8
11:00am	17	11:00am	16	1
12 noon	32	12 noon	16	16
1:00pm	35	1:00pm	17	18
2:00pm	31	2:00pm	16	15
3:00pm	34	3:00pm	22	12

Reports from Director Engineering Services

The proposed 1 hour trial is expected to further increase usage and will be monitored during the trial to assess the impact on utilisation. This is critical to ongoing parking development plans in that previous utilisation of the 'pool' car park has not been sufficient to enable a recommendation to proceed to detailed design of a 1st level deck over the existing car park. If the 1 hour trial generates even higher utilisation rates in the 'pool' car park there will be much greater confidence that such a proposal would be patronised which is crucial given the anticipated cost.

The Chamber has agreed with the trial in principle and has sent notices to its 200 members and the issue will be discussed at the Chamber's meeting on Wednesday 21 May 2003. As the Chamber is the peak representative body for Murwillumbah businesses it is proposed that subject to the endorsement of a trial at the above meeting, Council introduce a trial of 1 hour parking in Murwillumbah Street between Commercial Road and Brisbane Street and Brisbane Street between Murwillumbah Street and Wollumbin Street for a 3 month period. At the conclusion of the trial the Chamber will be further consulted and the findings reported to Council.

Reports from Director Engineering Services

Copy of Letter from Murwillumbah District Business Chamber Ltd:



P O Box 5 Murwillumbah NSW 2484

President: Paul Waters 02 66728866

Secretary: Peter Way 02 66721313

www.mdbc.com.au

Mike Rayner
Director Engineering Services
Tweed Shire Council
Murwillumbah 2484

Dear Mike,

I refer to our meeting recently to discuss ways of improving car parking in the Murwillumbah CBD. In particular the proposal to change regulated parking times from two hours to one hour in Main St commercial Rd and Wollumbin St area to create a uniform parking precinct. This should encourage shoppers and indeed shop owners and staff to utilise the perimeter parking at Knox Park and the Civic centre thereby relieving pressure on street parking for short term shoppers.

It is my understanding that we should introduce the new conditions as a trial period to measure the effect on perimeter parking stations, with the intention of increasing capacity at the perimeter parking stations if the trial indicates that this is necessary.

Reports from Director Engineering Services

The Murwillumbah Business Chamber Board endorses this course of action and has informed the membership via Email to over 200 members and on our web site information bulletins.

To date there we haven't received any negative feed back. However at our next general meeting on the 21st May we intend to cover the issue in a more public forum, then we will be in a better position to confirm more general support for the proposal.

In the interim we ask that you consider asking Council to approve the trial pending a favourable outcome at our general meeting discussions and membership vote.

Thanks for your help with this important process.

Regards

Paul Waters
President Murwillumbah Business chamber

Reports from Director Engineering Services

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Reports from Director Engineering Services

21. ORIGIN: Design Unit

FILE REF: DA0880/1880 Pt1; LN: 18284; Easements

REPORT TITLE:

Release of Easement for Sewer Rising Main Vested in Council by Government Gazette dated 15/1/82 Created for the Purpose of Murwillumbah Sewerage Augmentation

SUMMARY OF REPORT:

An easement for sewer rising main 5 wide was created in 1982 in Council's favour upon the gazettal of acquisition of easement in Government Gazette No. 7 dated 15 January 1982 Folio 176.

The easement was created for the purpose of the Murwillumbah Sewerage Augmentation and was shown as a proposed easement in DP 601164 and thence in a plan of subdivision burdening Lots 6 and 7 in DP 620704 and neighbouring property Lot 15 in DP 19727.

Recent relocation works of the sewerage network were performed to rectify surcharging problems within the existing network, necessitating the creation of an alternative location of the easement.

A plan of subdivision of Lot 6 in DP 620704 shows the alternative location of the easement, marked as (c) on the plan and the plan will also release the existing easement within Lot 6 as shown in DP 620704.

Pursuant to Development Consent K99/389, Council endorsed the Final Plan of Subdivision with Subdivision Certificate SC03/0015 on 14 March 2003.

As Council is the benefiting authority for the easement it is necessary for Council to provide its consent to the release of the existing easement within Lot 6 by signing the section 88B instrument which will accompany the plan for registration.

RECOMMENDATION:

That Council:-

1. Approves the relinquishment of Easement for Sewer Rising Main 5 wide vested in Council by Government Gazette dated 15 January, 1982 Folio 176 vide DP 601164; and
2. Endorses all necessary documentation under the Common Seal of Council.

Reports from Director Engineering Services

REPORT:

An easement for sewer rising main 5 wide was created in 1982 in Council's favour upon the gazettal of acquisition of easement in Government Gazette No 7 dated 15 January 1982 Folio 176. A copy of the gazettal follows.

The easement was created for the purpose of the Murwillumbah Sewerage Augmentation and was shown as a proposed easement (A) in DP 601164 and thence in a plan of subdivision burdening Lots 6 and 7 in DP 620704 and neighbouring property Lot 15 in DP 19727, a copy of DP 601164, marked "1" and DP 6020704 marked "2" follow.

Recent relocation works of the sewerage network were performed to rectify surcharging problems within the existing network, necessitating the creation of an alternative location of the easement.

A plan of subdivision of Lot 6 in DP 620704 shows the alternative location of the easement, this plan will also release the existing easement within Lot 6 as shown in DP 620704.

Pursuant to Development Consent K99/389, Council endorsed the Final Plan of Subdivision with Subdivision Certificate SC03/0015 on 14 March 2003, a copy of this plan follows, marked "3".

As Council is the benefiting authority for the easement it is necessary for Council to provide its consent to the release of the existing easement within Lot 6 by signing the section 88B instrument which will accompany the plan for registration.

Reports from Director Engineering Services

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NEW SOUTH WALES GOVERNMENT GAZETTE No. 7 [15 JANUARY, 1982

LOCAL GOVERNMENT ACT, 1919.

I, ALAN ROBERT LINDSAY GORDON, Minister for Local Government, hereby order pursuant to section 131 (5) of the Local Government Act, 1919, that the special variation of the Greater Cessnock City Council's standard rate for 1982 is 22.0 per centum. (M. 81-127)

Dated this 15th day of January, 1982.

(6670) A. R. L. GORDON, Minister for Local Government.

LOCAL GOVERNMENT ACT, 1919

I, ALAN ROBERT LINDSAY GORDON, Minister for Local Government, hereby give notice pursuant to section 126 (4) (a) (ii) of the Local Government Act, 1919, I have approved that for 1982 the amount of the general rate levied under section 118 of that Act which may be specified in accordance with section 126 (2) (a) by the Liverpool City Council as the minimum amount of the rate which shall be levied in respect of each separate parcel shall not exceed \$134. (M. 81-132)

Dated this 15th day of January, 1982.

(6922) A. R. L. GORDON,
Minister for Local Government.

LOCAL GOVERNMENT (AMENDMENT) ACT, 1978

APPROVAL FOR CONTINUED POSSESSION OR OCCUPATION OF PUBLIC RESERVE LAND

IT is hereby notified that I, ALAN ROBERT LINDSAY GORDON, Minister for Local Government, in pursuance of the provisions of Schedule 2 to the abovementioned Act, have approved of an application by the Scout Association of Australia, New South Wales Branch, for the continued possession or occupation of part of Thomas Hogan Reserve, Francis Street, Bondi, which is now occupied by the Club for a term expiring on 31st December, 1986. (M.79-1513)

A. R. L. GORDON,
Minister for Local Government.
Department of Local Government and Lands,
Sydney, 15th January, 1982. (6708)

LOCAL GOVERNMENT (AMENDMENT) ACT, 1978

APPROVAL FOR CONTINUED POSSESSION OR OCCUPATION OF PUBLIC RESERVE LAND

It is hereby notified that I, ALAN ROBERT LINDSAY GORDON, Minister for Local Government, in pursuance of the provisions of Schedule 2 to the abovementioned Act, have approved of an application by the Scout Association of Australia, New South Wales Branch, for the continued possession or occupation of lot 1, D.P. 532560, Marton Park, Kurnell, which is now occupied by the Association, for a term expiring on 18th June, 1988. (S.79-815)

A. R. L. GORDON,
Minister for Local Government.
Department of Local Government and Lands,
Sydney, 15th January, 1982. (6710)

NOTIFICATION OF RESUMPTION OF LAND UNDER THE PUBLIC WORKS ACT, 1912, AS AMENDED

IT is hereby notified and declared by His Excellency the Governor, acting with the advice of the Executive Council, that so much of the land described in the Schedule hereto as is Crown land is hereby appropriated, and so much of the said land as is private property is hereby resumed, under the Public Works Act, 1912, as amended, for the following public purpose, namely a Public School at BRAY PARK, and that the said land is vested in the Minister for Education as Constructing Authority on behalf of Her Majesty the Queen.

Dated this twenty-third day of December, one thousand nine hundred and eighty-one.

J. A. ROWLAND, Governor.
By His Excellency's Command,
R. J. MULLOCK, Minister for Education.

THE SCHEDULE

All that piece or parcel of land situate in the Shire of Tweed, Parish of Murwillumbah, County of Rous, being lot 100 comprised in Deposited Plan 616049 having an area of 143.1 square metres. (SB 79-006359) (6994)

PUBLIC WORKS ACT, 1912

MURWILLUMBAH SEWERAGE AUGMENTATION

Acquisition of Easements

IT is hereby notified and declared by His Excellency the Governor that the easements or rights described in the Schedule hereto are as to so much of the said land as is Crown land

hereby appropriated and are as to so much of the said land as is private property hereby resumed under Division 1 of Part V of the Public Works Act, 1912, for the purpose of Murwillumbah Sewerage Augmentation, and it is hereby further notified that the easements or rights are vested in the Minister for Public Works.

Dated at Sydney, this 6th day of January, 1982.

L. W. STREET,
by deputation from His Excellency the Governor.

By His Excellency's Command,
L. J. FERGUSON,
Deputy Premier and Minister for Public Works and Ports.

SCHEDULE

Easements or rights to use in any manner for the construction and maintenance of works the surface of land and the subsoil or undersurface of land, and without limiting the generality of the foregoing purpose to use any of the strata beneath the surface for tunnels or pipes for the conveyance of sewage being:

All that piece or parcel of land situate in the Shire of Tweed, Parish of Murwillumbah and County of Rous, being the site of the proposed easement 5 wide for rising main shown in Deposited Plan 601164. (S.B.28289R) (Rising Main 2A)

All that piece or parcel of land situate in the Shire of Tweed, Parish of Condong and County of Rous, being that part of the site of the proposed easement for rising main 5 wide shown in Deposited Plan 601162 comprised within lots 8, 9 and 10, Deposited Plan 248042. (S.B. 28287R) (Rising Main 7A) (4574)

PUBLIC WORKS ACT, 1912

COFFS HARBOUR SEWERAGE AUGMENTATION

Acquisition of Easements

IT is hereby notified and declared by His Excellency the Governor that the easements or rights described in the Schedule hereto are as to so much of the said land as is Crown land hereby appropriated and are as to so much of the said land as is private property hereby resumed under Division 1 of Part V of the Public Works Act, 1912, for the purpose of Coffs Harbour Sewerage Augmentation and it is hereby further notified that the easements or rights are vested in the Minister for Public Works.

Dated at Sydney, this 6th day of January, 1982.

L. W. STREET,
by deputation from His Excellency the Governor.

By His Excellency's Command,
L. J. FERGUSON,
Deputy Premier and Minister for Public Works and Ports.

SCHEDULE

Easements or rights to use in any manner for the construction and maintenance of works the surface of land and the subsoil or undersurface of land, and without limiting the generality of the foregoing purpose to use any of the strata beneath the surface for tunnels or pipes for the conveyance of sewage being:

All that piece or parcel of land situate in the Shire of Coffs Harbour, Parish of Coff and County of Fitzroy, being the proposed easement for pipeline 4 metres wide and variable and the proposed easement for pipeline variable width shown in Deposited Plan 618634. (S.B. 29376R) (4576)

COMPANIES ACT, 1961

NOTICE

PURSUANT to section 80 (1A) of the Companies Act, 1961, I, FRANCIS JOHN WALKER, the Minister administering the Act, hereby declare that a Deed dated 21st December, 1981, between Club Flotilla Management Limited as Manager, Oldmano Pty Limited, Permanent Trustee Nominees (Canberra) Limited as Trustee for the holders of interests to which the Deed relates and Permanent Trustee Company Limited as Guarantor of the Trustee and establishing the Club Flotilla Interim Trust is not required to contain a covenant to the effect of section 80 (1) (b) (ii) of the Act, namely a covenant that the Management company will at the request of the holder of an interest, purchase that interest from the holder and that the purchase price will be a price calculated in accordance with the provisions of the Deed.

Signed at Sydney, this 23rd day of December, 1981.
(7044) F. J. WALKER, Attorney-General.

Reports from Director Engineering Services

112

DP 620704

REGISTRATION NO. 183

DATE 27/6/1979

TORRENS SUBDIVISION

TWEED SH. 21K

DP 572005 (DP 234527)

PLAN OF SUBDIVISION OF LOT 3 D.P. 610723 AND LOT 2 D.P. 572005

REDUCTION RATIO 1:1250

LENGTHS AS IN METERS

SHIRE OF TWEED

MURWILLUMBAH

MURWILLUMBAH

ROUIS

REGISTRAR GENERAL

1. MICHAEL JAMES FARRELL

2. JENNIFER ANN FARRELL

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Plan showing only in respect to this plan.

WARNING: CREEPING OR FLOODING WILL LEAD TO REJECTION

CREATED BY GOV. GEN. N.S.W. 11-1982 P.M. THE WIDE DP 60118.

REFERENCE MARKS

A.	20° 40'	0.1 PIPE	1-02 FD
B.	34° 07'	"	1-45
C.	106° 09'	0.1 4" W/ING	15-715 FD (0.9 255142)
D.	18° 00'	"	0-72 FD (R.31604 was)
E.	89° 00'	0.1 PIPE	"
F.	180° 01'	"	0-455 FD

(S) BENEFITED BY RIGHT OF CARRIAGEWAY DP 572005 (DP 234527)

DIAGRAM REDUCTION RATIO 1:1250

PLAN FORM 2

SIGNATURES AND SEALS ONLY

REGISTRAR GENERAL

16th April, 1982

Reports from Director Engineering Services

A D D E N D U M

21a. ORIGIN: Director

FILE REF: PF1640/430; Rural Hall - Doon Doon; LN 8154

REPORT TITLE:

Proposed Relocation of Doon Doon Hall to Crams Farm Recreation Area

SUMMARY OF REPORT:

Council has considered previous reports concerning the above.

The existing Doon Doon Hall Committee representative has addressed Council and requested that the hall be relocated near the existing toilet block and that access thereto be restricted in line with access to the recreation area. An alternative is to relocate it to an area near the entry to Crams Farm and relocate fencing so that the Hall is available for wider community use with access to the recreation area being restricted to it.

The latter alternative is more costly and will require formation of a new Hall Committee.

Bearing in mind the growth of the Shire it is felt that the alternative to allow greater community use should be adopted.

RECOMMENDATION:

That Council relocates the Doon Doon Hall to an area near the current entry to Crams Farm and rearrange access so that the Hall is available to the community outside the times when access to Crams Farm is restricted.

Reports from Director Engineering Services

REPORT:

Council at its meetings in March and April considered reports concerning a proposal to relocate the Doon Doon Hall to the Crams Farm site at the head of the Clarrie Hall Dam.

This proposal was also the subject of a presentation by a member of the Doon Doon Hall Committee at Council's Community Access Meeting on 9 April 2003. As well, a petition has been received containing 77 signatories supporting the relocation of the Hall.

The Doon Doon Hall Committee have recommended that Council be given the Hall for relocation, and that the existing site be sold and the proceeds be provided to Council to assist in funding the relocation.

The Hall Committee have also recommended that the Hall be relocated to an area in close proximity to the existing toilet building therefore there would be no need for any additional toilets. Further they suggest that the Hall would cease to be a true "community" hall in that access to the Hall would only be in line with the current access hours to the Crams Farm Recreation Area being 8.00am till 7.00pm.

Should this restriction to access be approved then it is considered that Council may be requested, at a later time, for greater access to the Hall outside these hours which would lead to access to the recreation area generally and there are concerns that such access could lead to damage to the existing facilities if late night functions occur.

The Committee's preferred location is on the western side of the existing amenities block, however, such would obscure the vista from the existing "dairy" building and other areas and accordingly if the Hall is to be relocated it is considered an area on the mountain side of the existing amenity would be more suitable.

While the above is the option favoured by the current Hall Committee another option is to relocate the Hall to the site near the current entry to the Crams Farm Recreation Area. This would allow the Hall to be provided with a separate access and parking access so that it could be used as a typical community hall, i.e. for community dances, birthday parties, etc. while the recreation area could still be closed to prevent after hours access. To achieve this additional toilet facilities would have to be constructed on the site.

As well, to operate as a community hall, it would be necessary to form a Hall Committee to manage the day to day operation of the Hall.

As has previously been advised to Council the estimated cost to relocate the Hall is \$23,000.00 with an estimate of \$7,000.00 for maintenance, electrical and painting. If the option to relocate near the front entry was preferred it is estimated that basic toilet facilities would cost \$30,000.00.

Accordingly, Council needs to decide:

- a) whether to relocate the Hall for restricted use and thus place it in the vicinity of the existing amenities buildings, or
- b) relocate it for more community use and place it near the existing entry to Crams Farm.

Reports from Director Engineering Services

As there is growth occurring within the Shire, albeit steady in the Doon Doon/Commissioners creek area it is still considered that Council should look to the future and relocate the hall to an area near the entry so that it can be used for greater community use.

Reports from Director Engineering Services

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Reports from Director Environment & Community Services

Reports from Director Environment & Community Services

22. ORIGIN: Environment & Health Services Unit
FILE REF: Pool Murwillumbah

REPORT TITLE:

Maintenance, Upgrade and Redevelopment of the Murwillumbah Pool

SUMMARY OF REPORT:

The Murwillumbah Swimming Centre has provided recreational services to the Tweed for many years. However age, high levels of use, failure to meet competition standards and urgent maintenance and repair work require action if the Centre is to remain operational in the longer term.

A redeveloped Centre presenting a modern, regional facility capable of hosting New South Wales events is proposed. Compared to potential alternatives, the Murwillumbah Swimming Centre provides the best and most cost effective opportunity for creation of a premier Aquatic Centre.

Funding for the redevelopment has already been identified in the Tweed Shire Council Contribution Plan 26, approved by Council in August 2002. Plan 26 identifies the need for the Shire to develop regional facilities that will accommodate population growth and future demand. The Plan also creates a funding base from which these facilities can be financed. Included in the particular actions nominated by the policy is the upgrading of the Murwillumbah Swimming Centre with an estimated cost of \$1,500,000.

It is proposed that part funding to allow commencement of planning be provided by Council in the 2003/2004 budget in the sum up to \$100,000 from Contribution Plan 26 funds when possible.

RECOMMENDATION:

That:-

1. The Murwillumbah Swimming Centre undergoes redevelopment to meet safety and regional facility standards and community needs now and into the future.
2. Council allocates up to \$100,000 in the 2003/2004 budget to be funded from Contribution Plan 26 for the planning and design of the development as funds become available.

Reports from Director Environment & Community Services

REPORT:

The Murwillumbah Swimming Centre has provided recreational services to the region for many years, with the original pool dating back to 1938. Popularity and use of the Centre has increased over time, with the original 1938 pool being converted to the diving, learners' and toddlers' pools in 1961, the existing 50 metre pool being constructed in the same year and the teaching pool being installed in 1985. Today the Centre is extremely popular with 150,000 to 200,000 visits per year, regular use by up to 40 schools, the hosting of 25 carnivals, use by swimming clubs, use by other forms of sporting club for cross training, the provision of safe swimming areas for young children, large grassed areas, barbeque facilities and a water slide. During summer school holidays the pool attracts up to 85% of a day's visits from the Gold Coast and South East Queensland, contributing to tourism in the region.

However age, high levels of use, failure to meet competition standards and urgent maintenance and repair work have become issues of concern for the Centre.

EQUIPMENT AND STRUCTURE

As a result of structural and safety concerns, the Environment and Health Services Unit commissioned an independent audit of the Swimming Centre in 2001 to ascertain the condition and life expectancy of the Centre's swimming facilities. The audit showed that the Murwillumbah Swimming Centre urgently requires a range of maintenance and upgrade works to comply with modern safety guidelines, to ensure proper operation and prevent equipment failure.

CAPACITY

The Murwillumbah Swimming Centre is struggling to meet community demands at peak times with the number of schools and carnivals hosted limiting use by other groups or individuals. The expansion of the main pool (as discussed below) and further additions (such as a 25 metre pool) are proposed if the Centre is to cope with existing and future demands.

The Centre's main pool also does not meet current FINA (world swimming body) standards for pools used for competitive events. These standards require a pool to have eight lanes and a wet deck, while the Murwillumbah main pool presently has seven lanes and side drains. This does not overtly affect local competition but does prohibit larger events such as the New South Wales Country Titles from being hosted. With the North Coast region not having a swimming centre that complies with FINA standards, the closest FINA complying pool in New South Wales is believed to be in Newcastle (with others available in Brisbane) and many larger events are being held there.

Well considered upgrades will not only enable the Centre to meet Tweed needs but to potentially act as a regional facility, servicing regional and New South Wales events and attracting events to the Tweed.

SAFETY

The Royal Life Saving Society Australia guidelines require signage, starting block and other safety based designs that vary from those presently in place. Chemical usage and plant also require action to fully meet occupational health and safety and environmental protection requirements.

Reports from Director Environment & Community Services

REDEVELOPMENT

Rectification of all the above problems is achievable by works on the existing facility. Actioning these works also presents an opportunity to upgrade other facilities such as the change rooms (there is presently no disabled toilets or showers). The audit conducted by the Environment and Health Services Unit also made some general suggestions regarding development of the site that will enable it to operate as a regional facility now and into the future, and increase overall community appeal and safety. Suggestions included:

- increase number of lanes in main pool from 7 to 8 to meet requirements for regional competition;
- replace gutter drains on side of main pool with wet deck areas to improve safety and improved competition quality;
- replace the learners and toddlers pool (both requiring significant upgrading) with a modified waterplay area;
- creation of a heated, all year, indoor 25 metre pool;
- conversion of the teaching pool to a teaching/therapeutic pool (possible joint funding from Northern Rivers Area Health Service);
- relocation of the entry way to a more accessible, predominant location; and
- upgrading of change and toilet facilities.

These works are only suggestions and any redevelopment work would require more thorough planning and consultation, with all proposed redevelopment works (and costings) to be submitted to Council for consideration.

ALTERNATIVES

Consideration has been given to alternatives to redevelopment of the Murwillumbah Swimming Centre. This consideration included:

- Redevelopment of the Tweed Heads or Kingscliff Swimming Centres – these centres presently have only 25 metre pools and are of much smaller size than Murwillumbah. Redevelopment would cost far more than Murwillumbah. Murwillumbah also presents a more central location and as a day tourist destination.
- Demolition and complete rebuilding of Murwillumbah – a similar proposal was made in Lismore recently (suggesting a 50 metre and 25 metre pool Aquatic Centre) and has been costed at over eight million dollars. The project has experienced poor community support.
- Creation of an entirely new Swimming Centre – construction costs would be similar to the Lismore project. Selection and purchase of a new site would add additional costs and most likely be a point of community contention.

Though the Murwillumbah Swimming Centre has reached a time when upgrades are necessary and redevelopment desirable it remains one of the largest, most popular and attractive swimming centres in regional New South Wales. It has the necessary space, facilities, community recognition and engagement to become a premier regional swimming centre.

Reports from Director Environment & Community Services

COSTING

The Tweed Shire Council Contribution Plan 26, approved by Council in August 2002, identifies the need for the Shire to develop regional facilities that will accommodate population growth and future demand. The Plan also creates a funding base from which these facilities can be financed. Included in the particular actions nominated by the policy is the upgrading of the Murwillumbah Swimming Centre with a proposed cost of \$1,500,000. This estimate remains as the best available for repair and redevelopment of the Murwillumbah Swimming Centre.

To achieve the proposed upgrade, it is recommended an appropriate consultant be appointed in the 2003/2004 financial year to finalise a plan of work, design, costing and the documents necessary for commencing the tender.

It is proposed that the funding for this, an estimated \$100,000, be sourced from Contribution Plan 26.

While this planning and design can occur whether the pool is in use or not, obviously the upgrade work will need to occur when the pool is not in use. Thus it is proposed that the planning and design occur and be completed by the end of the 2003/2004 swimming season to allow for the tender process to proceed so that a builder will be appointed to commence work at the end of the 2004/2005 swimming season. This additional time will also allow grant applications to be submitted and determined as well as approach to other organisations for funding assistance for, for example, a therapeutic pool.

As stated above funding for the project is proposed to be through Contribution Plan 26.

Reports from Director Environment & Community Services

23. ORIGIN: Environment & Health Services Unit

FILE REF: Genetically Modified Food; Pure Food Act

REPORT TITLE:

Proposed Release of Genetically Modified Canola by Bayer

SUMMARY OF REPORT:

Council has been advised by the Gene Technology Regulator, that it is proposed by Bayer to release a genetically modified canola to introduce a hybrid breeding system and to be tolerant to glufosinate ammonium the active ingredient in the herbicide Liberty.

RECOMMENDATION:

That Council advises of any comments they may wish to provide.

Reports from Director Environment & Community Services

REPORT:

Bayer CropScience Pty Ltd has made application to the Commonwealth Office of The Gene Technology Regulator for a licence to commercially release genetically modified canola in all canola growing regions of Australia. The canola in question has been genetically modified to introduce a hybrid breeding system and to be tolerant to glufosinate ammonium the active ingredient in the herbicide Liberty.

The licensing process has two stage of consultation. The first on the proposal and its impact on human health and safety and the environment in general, and the second on a mandatory risk assessment and management plan prepared by Bayer.

During the first stage of consultation Council resolved in its meeting of 16 October 2002 that it:

1. Seeks the opinion of the Combined Rural Industries Group and advise the writer of Council’s action in this regard and seeks an extension of time in which to respond.
2. Through the Tweed Link informs the public of the opportunity to make submissions to the Office of the Gene Technology Regulator and Tweed Shire Council on the proposal to commercially release genetically modified canola.

Subsequently correspondence was forwarded to the Combined Rural Industries Group and an article included in the 5 November 2002 Tweed Link. Responses received were as follows:

Submission by -	Summary -
Mr Col Brooks – President Combined Rural Industries Group	Genetic modification can have benefits, however “proceed with caution”.
Pottsville Community Association	Association oppose application (no reason given) and “would therefore support Tweed Shire Council should you decide likewise”.
Mr Bob Phelps – Director GeneEthics Network (Victoria) – sent to all Councils	A very detailed (15 pages attached) document describing a range of reasons for local government not to support the release of genetically modified canola by Bayer.

A Department of Agriculture officer advises no knowledge of canola being grown commercially within Tweed although individuals may have grown it as a rotational crop. It has been grown in a limited amount at various times in the Richmond Valley.

The Commonwealth Office of The Gene Technology Regulator has now provided a summary of the risk assessment and management plan prepared by Bayer to Council for comment as the second stage of consultation (attached). The Commonwealth Office of The Gene Technology Regulator emphasises that it only deals with impacts on human health and safety and the environment and that comment should be restricted to this.

Reports from Director Environment & Community Services

24. ORIGIN: Environment & Health Services Unit

FILE REF: Sustaining the Tweed

REPORT TITLE:

Milestone 3 of Cities for Climate Protection Campaign

SUMMARY OF REPORT:

In October 2002, Doctor David Kemp, Federal Minister for the Environment and Heritage wrote to all Local Governments encouraging them to consider the outcomes of the Local Leaders in Sustainability Forum and to pursue Local Government actions recommended by the forum.

A key recommendation of the forum was the fast tracking of the Cities for Climate Protection Campaign.

At the Council meeting on Wednesday 19th February 2003 Council achieved Milestone 2 (Milestones described below) of the Cities for Climate Protection Campaign by resolving to endorse:

1. *The goal of reducing corporate greenhouse gas emissions to 20% below 1996 levels by 2010*
2. *The goal to reduce community greenhouse gas emissions per capita to 20% below 1996 levels by 2010.*

At that meeting it was also resolved to endorse:

3. *The application for Australian Greenhouse Office funding to prepare a Local Action Plan to meet the Milestone 3 requirements of the Cities for Climate Protection Campaign.*

This funding application was successful and the Local Action Plan has been prepared in accordance with the Australian Greenhouse Office (AGO) and International Council for Local Environmental Initiatives (I.C.L.E.I) requirements.

In order to achieve Milestone 3 (M3) of the CCP Campaign (and to receive the second instalment of the M3 funding) I.C.L.E.I and the A.G.O require Tweed Council to adopt the Local Action Plan. (See attachment for copy of LAP)

Once the LAP is adopted, Council will have achieved M3 of the CCP Campaign.

It is important to note that the actions identified in the LAP have been drawn from Council's existing draft Environmental Management Plan. It is not a list of entirely new actions for Council to implement. The LAP is the compilation of previously identified actions into a report format that fulfils the A.G.O and I.C.L.E.I requirements for M3 of the CCP Campaign.

I.C.L.E.I have advised that Council is close to achieving Milestone 4 (M4) of the CCP Campaign due to the actions to reduce greenhouse gas emissions that have already taken place. Thus, it is anticipated that M4 of the program will be achievable soon after M3 is reached.

RECOMMENDATION:

That Council adopts the "Tweed Greenhouse Gas Reduction Local Action Plan" in order to meet the Milestone 3 requirements for the Cities for Climate Protection Campaign.

Reports from Director Environment & Community Services

REPORT:

In October 2002, Doctor David Kemp, Federal Minister for the Environment and Heritage wrote to all Local Governments encouraging them to consider the outcomes of the Local Leaders in Sustainability Forum and to pursue Local Government actions recommended by the forum. A key recommendation of the forum was the fast tracking of the Cities for Climate Protection Campaign.

The CCPTTM Campaign is an international initiative that provides funding and technical assistance to local governments to promote the reduction of greenhouse gas emissions in their area.

In Australia, the CCPTTM Campaign is delivered by the International Council of Local Environmental Initiatives (I.C.L.E.I) in collaboration with the Australian Greenhouse Office (AGO). There are currently 170 local governments, representing 66% of Australia's population, participating in the program.

As part of the CCPTTM program, Tweed Shire Council is required to achieve a set of five (5) Milestones:

Milestone 1:

Establish a base year 'emissions inventory' and 'forecast' for the community and corporate sector.

Milestone 2:

Set emissions reduction goal(s).

Milestone 3:

Develop and adopt a greenhouse reduction strategy – the Local Action Plan (LAP).

Milestone 4:

Implement the greenhouse Local Action Plan.

Milestone 5:

Monitor and report on emissions and implementation of actions and policies.

TWEED SHIRE COUNCIL'S MILESTONE ACHIEVEMENTS:

Milestone 1:

Achieved in May 2001 when a greenhouse gas emissions 'inventory' and 'forecast' for council and the community was completed by council and endorsed by I.C.L.E.I.

Milestone 2:

Achieved in February 2003 when Council resolved to set an emissions reduction goal of 20% based on 1996 emission levels.

Milestone 3:

Not yet achieved. See below for 'action taken' and 'action required' to meet M3.

Action taken to achieve M3:

- Funding application to AGO for Local Action Plan (LAP) preparation 13/02/03.

Reports from Director Environment & Community Services

- LAP completed 26/04/03.
- LAP endorsed by I.C.L.E.I on 12/05/03.
- LAP endorsed by Councils Executive Management Team on 14/05/03.
- Council Business Paper prepared recommending adoption of the LAP 21/05/03.

Action required to achieve M3:

- Adoption of the LAP by Council (See ‘ Tweed Community Greenhouse Gas Reduction Local Action Plan’ attached).

Milestone 4:

I.C.L.E.I have advised that Tweed Council will meet the Milestone 4 requirements of C.C.P Campaign following adoption of the Local Action Plan (M3) by Council. This is due to the ‘on the ground’ actions that have already been implemented (see below).

Milestone 5:

Monitoring and reporting of the actions taken to reduce greenhouse gas emissions is currently underway. The annual SoE report is the vehicle for reporting the emission reductions achieved throughout the year.

Milestone 5 is readily achievable due to the ‘on the ground’ actions (see below) that have already been implemented to reduce greenhouse gas emissions in the shire.

TWEED SHIRE COUNCIL’S “ON THE GROUND” ACTIONS TO DATE:

- Construction of an environmentally friendly, energy smart demonstration home to provide new and existing homeowners with a range of ideas to reduce domestic electricity consumption and associated greenhouse gas emissions.
- Electricity audits of the Tweed Heads and Murwillumbah Civic Centres to identify where savings can be made to reduce electricity bills and greenhouse gas emissions.
- Lighting Retrofit of the Murwillumbah Civic Centre where two fluorescent tubes in each ceiling fixture were replaced with a single more energy efficient tube and a reflector. This project has more than halved the office lighting bill and reduced air conditioner maintenance costs significantly. The lighting retrofit project has also resulted in greenhouse gas reductions of over 100 tonnes per year.
- Creation of a ‘Revolving Energy Fund’ whereby savings made from the Murwillumbah Office lighting retrofit are used to fund further greenhouse gas reduction initiatives.
- The development and adoption of an Energy Smart Homes Policy (Development Control Plan 39) to reduce domestic electricity consumption and associated greenhouse gas emissions.
- The development of a ‘methane flaring facility’ to reduce the amount of greenhouse gas emissions generated by the landfill. Initial calculations estimate that over 1000 tonnes of CO2 equivalent is being abated from the landfill every month.

Reports from Director Environment & Community Services

- Promoting greenhouse reduction issues via various media, the annual State of the Environment report, brochure production and the Council web site.
-

Reports from Director Environment & Community Services

A D D E N D U M

24a. ORIGIN: Director

FILE REF: Rural Halls - General; Licences - Entertainment

REPORT TITLE:

Community Halls - Fees - Place of Public Entertainment Approval

SUMMARY OF REPORT:

The community halls within the Shire require approval as Place of Public Entertainment as do other venues that provide entertainment. As Council assists in the payment of rates and other charges for community halls, it is considered that Council fees for such approvals should not be fully paid by the Hall Committee but that they should contribute the same amount as they now do towards the halls rates namely \$20.00 with Council contributing the rest through its Halls Budget allocation.

RECOMMENDATION:

That Council, because of the recognised contribution by community halls to the social needs of the community, resolves to require that community halls contribute \$20.00 per annum towards the fees necessary for the halls Place of Public Entertainment Approvals, inspections and documentation.

Reports from Director Environment & Community Services

REPORT:

Council is advised that the community halls within the Shire are required to be issued with an approval to operate as a “place of public entertainment”. This is also a requirement of all other venues where public entertainment occurs.

Currently the application fee for an approval is \$150.00 plus, once an approval is issued there is a similar annual inspection fee in subsequent years and it is necessary on an annual basis to submit to Council documentation that the various fire safety requirements are being maintained, i.e., fire extinguishers, exit lights, etc. The fee for requesting, checking and recording this data is \$46.50. Council, for the halls under its control, has a responsibility as owner for obtaining the fire safety certificates.

Currently to assist the community halls, Council has resolved to accept from them a \$20.00 payment for rates with the remainder being provided by a Council budget allocation. It is considered a similar arrangement should be made for the fees related to the “Place of Public Entertainment” licence. This policy should apply to all community halls which receive the \$20.00 payment concession for rates.

Accordingly because of the community need provided by the halls it is considered reasonable that the hall be requested to pay only \$20.00 per annum for the application and documentation fees relating to their “Place of Public Entertainment” licence and that Council’s budget allocation for community halls fund the remainder of the fees. This can be covered within Council’s current budget allocation for community halls.

Reports from Committees/Working Groups

1. Minutes of the Public Transport Working Group Committee Meeting held Thursday 24 April 2003

GT1/41 Pt3

VENUE:

Tweed Heads Civic Centre

TIME:

10.00am

PRESENT:

Committee Members: Bill McKenniarey, Cr Wendy Marshall, David Bishara

Informal: Robin Spragg (TSC).

APOLOGIES:

Nil

CORRESPONDENCE:

Outwards: J Maloney, Elizabeth Morley Court – 22 April
M Ronan, Elizabeth Morley Court – 22 April
J Knox, Red Bass Avenue – 14 April

Inwards: Lismore PTAP, February Minutes
Mountain View Retirement Village

MINUTES OF PREVIOUS MEETING:

Moved: David Bishara

Seconded: Robin Spragg

RESOLVED that the Public Transport Working Group Committee meeting held Friday 28 March 2003 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. **Policy Document Review**

(a) **Sustainable Local Transport Plan**

No further progress towards Council consideration was reported.

Reports from Committees/Working Groups

RECOMMENDATION:

That Council gives consideration to the SLTP at the first Council Meeting in May.

(b) Health Transport – State Funding Program

NSW Health produced an Implementation Framework in December 2002. Northern Rivers Area Health Service has formed a Reference Group to progress the Framework in the region, which met on 21 March to consider options for a Health Transport Unit, formation of Health Transport Networks, priority Clients and other issues. Further progress will be monitored.

In a separate development, Transport NSW has distributed an Accessible Transport Action Plan for NSW, which sets out targets for State transport operations (bus, rail, taxi etc) to achieve accessible transport.

(c) Responsibility for Bus Stop Locations

Arrangements are being made to raise this issue on the Agenda of the Local Traffic Committee on 15 May; Robin to be present for discussion.

Feedback from the Tweed Link item (15 April) resulted in 14 letters giving comments on bus stop issues:

- Fixed stops or hail and ride? Three letters mentioned this point, one favouring fixed stops, one hail and ride, and one approving both in suitable areas. Fixed stops should have kerbs and be adjacent to crossing facilities for safety.
- Shelters or less expensive seats? Most letters advocated shelters, usually in a particular location, or for safety and identification of stop. None preferred seats, except one said a shelter would be unsightly in a particular location where there is now a seat.
- What type of shelter? Several described desirable features of shelters as being weatherproof and vandal-resistant, with seating and good visibility. One suggested tip-up seats, and one said illuminated advertising encouraged vandalism. Seating in shelters is too low for disabled or elderly people. Sites should be numbered and fare stages marked.
- Timetables at stops or in pockets? Four letters mentioned timetables, mostly advocating them at stops, but also from drivers, on public notice boards, at tourist businesses and shops.

The comments will be referred to Council's bus stop designers.

Reports from Committees/Working Groups

2. Major Development Review

Discussion focused on the lack of progress in achieving road links between neighbouring developments which were designed to enable efficient bus routes. Updates will be sought from Development Services concerning the delays in links between:

- Koala Beach and Seabreeze Estates, Pottsville;
- Vintage Lakes and Flame Tree Park, Banora Point.

Similar situations could develop between Casuarina and Salt as designs are amended – the current inter-connection position needs to be checked.

As development builds up at the south end of Casuarina, there is an urgent need for stopping facilities on the Coast Road adjacent to pedestrian access points. It will be investigated whether these have been provided for.

3. Studies and Submissions

(a) EPA Clean Air Program – Local Air Improvement Grants

Submissions will be called for a further round of grants. Guidelines include projects providing greenhouse gas reductions. One such project could test the possibilities for change to sustainable transport modes in a particular corridor by improving transport service and promotion, and designing infrastructure to favour sustainable modes (eg, transit lanes, signal changes). It was thought that Minjungbal Drive offered more benefits than Leisure Drive or Kennedy Drive. An update on proposals for the transport strategy for South Tweed would be obtained from Engineering Services.

It was noted that the disability spaces located under Tweed City Cinemas were being abused, and Management of the Centre should be made aware.

(b) Robina – Tugun Rail Impact Assessment

Council comments have been requested on proposals for the northern section (Robina-Currumbin) of the rail alignment, which is being exhibited. The rail development will bring Tweed Heads within the catchment of the rail corridor, but the northern section is not as relevant as the southern Airport section. Draft comments prepared for the Director, Development Services, were tabled.

(c) Surfside Buslines Timetable Review

Following introduction of limited timetable changes in March, patronage figures have increased at 500 per week. This may be partly the result of publicity about the changes – there were information stalls at Tweed Mall and Tweed City, and a note was placed in Tweed

Reports from Committees/Working Groups

Link. 90%+ services are running on time, except at Tweed City over the Easter congestion period.

(d) Railway Strategy for Northern Rivers

The Campaign is concentrating on raising public awareness, by means of a survey of potential users over the next two months, and stories in the media.

(e) Country Passenger Transport Infrastructure Grants

Planning for installation of the 25 bus shelters along the Coast route is proceeding.

GENERAL BUSINESS:

4. Bus Shelter Requests

A request has been received to move the shelter at Mountain View Retirement Village to the opposite side of Ingram Street, for reasons of weather exposure. The means to do this will be investigated and reported further.

A response has been sent to Merle Ronan and J Maloney with reference to Elizabeth Morely Court in Banks Avenue, offering to provide a concrete slab.

5. Tweed City Employees Parking Bans

Information from the shopper survey is expected shortly.

6. School Student Transport - Shelters

The issue has been raised whether available S94 funds should be used for student facilities. Other grant funds cannot be used for this purpose, and there are continuing requests for student facilities, usually at pick-up or interchange points rather than at schools. Schools lacking facilities included Centaur, St Josephs, Banora Point Public School, Tweed River High, but in discussion it was felt that DSE should have responsibility for structures on school premises (Lindisfarne is an example where the school has provided shelters).

7. Transport Access Guides

The RTA and PTDP held a workshop for interested organisations at Ballina on 7 April. The purpose is to promote access to major visitor destinations and events by sustainable transport.

Reports from Committees/Working Groups

It is proposed to hold a meeting for TSC staff who may be interested in production of a Guide promoting sustainable access to Council facilities.

8. Northern Rivers Regional Strategy

Wendy reported that a Regional Forum was being planned in the next few months.

9. Murwillumbah Disability Taxi

Bill reported that the Access Committee has recently set up a working group to address the need for a disability taxi service in Murwillumbah.

SPECIAL MEETING: THURSDAY, 1 MAY 2003 at 2.00pm, Tweed Heads Civic Centre Board Room, with Magdy Youssef, Project Manager of the Ministerial Taskforce for Tweed Heads Town Centre, to discuss transport issues for the Town Centre.

NEXT MEETING:

The next meeting of Public Transport Working Group Committee will be held at 10.00am on Friday, 23 May 2003 at the Tweed Heads Civic Centre.

The meeting closed at 12.00pm.

Director's Comments:

Nil.

[document6]

DIRECTOR'S RECOMMENDATIONS:

1. Policy Document Review – (a) Sustainable Local Transport Plan

GT1/41 Pt3

Committee Recommendation:

That Council gives consideration to the Sustainable Local Transport Plan at the first Council Meeting in May.

Director's Recommendation:

As per Committee's recommendation.

Reports from Committees/Working Groups

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Orders of the Day

1. Notice of Motion - Cr Beck

Gravel Roads Used by School Buses

Roads - Works & Construction; Bus Services - Routes; Roads - General

That gravel roads that are used by school buses be given a bitumen seal during this financial year.

Orders of the Day

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