

## ITEMS FOR CONSIDERATION OF COUNCIL:

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## **SCHEDULE OF OUTSTANDING RESOLUTIONS**

### **Schedule of Outstanding Resolutions**

#### **FOR COUNCILLOR'S INFORMATION:**

**18 December 2002**

#### **REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES**

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

**604**

**Cr Youngblutt**

**Cr Davidson**

**RESOLVED** that .....

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

**Current Status:** Consultant to be appointed.

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**22 October 2003**

#### **REPORTS FROM DIRECTOR DEVELOPMENT SERVICES**

##### **1 Seaside City - Local Environmental Study and Draft Local Environmental Plan**

**897**

**Councillor H James**

**Councillor B M Luff**

**RESOLVED** that the Mayor convenes a meeting of all landowners at Seaside City and any associated legal and planning representatives who they wish to also attend - together with relevant State Government agencies - to explain the historical position, status and process towards the completion of the planning and development of Seaside City.

**Current Status:** Meeting to be arranged

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**5 November 2003**

**REPORTS FROM DIRECTOR DEVELOPMENT SERVICES**

- 9 [DS] Development Applications DA02/2086 & DA02/2088 for Tourist Accommodation at Lots 12 and 13 Section 6 DP 14895 and Lots 16, 17 and 18 Section 2 DP 14895 Lorna Street, Kingscliff**

**918**

**Councillor M R Boyd**

**Councillor B J Carroll**

**RESOLVED** that this matter be deferred until after the meeting with landowners, which is to be convened by the Mayor.

**Current Status:** Meeting to be arranged.

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**19 November 2003**

**REPORTS FROM DIRECTOR DEVELOPMENT SERVICES**

- 6 [DS] Draft Tweed Local Environmental Plan 2000, Amendment No 37 - Tweed Heads West**

**979**

**Councillor H James**

**Councillor M R Boyd**

**RESOLVED** that a report be prepared on traffic implications of the proposed rezoning given the recent announcement of the NSW Government regarding Tugun By-pass.

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

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- 7 [DS] Development Application DA03/0922 for a 228 Berth Marina, Construction of Carpark, Installation of a 35000 Litre Capacity Fuel Tank & Underground Piping to Connect the Fuel Tank to Previously Approved Re-fuelling Jetty within Tweed River at Lot 121**

**980**

**Councillor B M Luff**

**Councillor W M Marshall**

**RESOLVED** that : -

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1. This report be received and noted.
2. Council agrees to conduct a workshop as requested by the concerned community groups relating to the proposed Marina at Chinderah sometime during the exhibition period for the amended proposal and invite all interested parties to attend including relevant State government agencies.

**Current Status:** Workshop to be arranged.

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## ORDERS OF THE DAY

### 6 [NOM] Local Environmental Plan - Definition of "Bed and Breakfast" - GT1/LEP/2000 Pt2

1000

**Councillor L F Beck**

**Councillor R D Brinsmead**

**RESOLVED** that a report be prepared on the implications of the proposal to change the current definition of "bed and breakfast" to:-

*"a dwelling used as a principal place of residence, and in addition for the provisions of:*

- (a) *accommodation for people away from their normal place of residence, and*
- (b) *meals and ancillary services, by the permanent resident or residents of the building for those people."*

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

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### 7 [NOM] Provision of Lifts in Multi-Dwelling Housing Developments

1001

**Councillor L F Beck**

**Councillor H James**

**RESOLVED** that a report be brought forward identifying the issues associated with a Council Policy requiring lifts to be installed in multi-dwelling housing developments consisting of three or more stories.

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

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## **MAYORAL MINUTE**

### **Mayoral Minute**

Councillors,

#### **1. NRACC Ballina**

20 November - attended NRACC Chair's meeting in Ballina.

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#### **2. John Anderson Dinner, Hastings Point**

20 November – attended dinner for John Anderson – Hastings Point

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#### **3. Mount St Patrick's College Year 12 Formal**

21 November 2003 – attended Year 12 Formal - Murwillumbah

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#### **4. National Assembly of Local Government, Canberra**

23 – 28 November – attended National Assembly of Local Government – Canberra ACT.

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#### **5. Protest Rally – Tweed Heads**

26 NOVEMBER – ATTENDING PROTEST RALLY “AXE THE TAX” FOR CLUBS – TWEED HEADS

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#### **6. Tweed Futures Public Meeting, Tweed Heads**

1 December - attending Tweed Futures Meeting at the Tweed Heads Auditorium.

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#### **7. Banora Point Residents Association Meeting, Tweed Heads**

1 December – attending Banora Point Residents Association meeting at Tweed Heads Bowls Club.

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### **8. Tweed Futures Public Meeting, Pottsville**

3 December – attending Tweed Futures public meeting – Pottsville School.

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#### **INVITATIONS ACCEPTED:**

- 18 November – Business Excellence Meeting – Tweed Heads Bowls Club.
  - 20 November - Dinner for John Anderson – Hastings Point
  - 21 November - St Patrick's College Year 12 Formal - Murwillumbah
  - 23 November – Presentation at National General Assembly of Local Government, Canberra
  - 3 December – Opening of Disability Forum – Tweed Heads
  - 3 December – Blind & Vision Impaired Support Group Christmas Function - Murwillumbah
  - 3 December – Lindisfarne School Presentation Day – West Tweed Heads
- 

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

- National Framework for Women in Local Government Forum for Local Councils  
**27 November 2003 Campbelltown**
- 

#### **ABSENCES FROM SHIRE BY EXECUTIVE**

|    |                  |         |               |
|----|------------------|---------|---------------|
| GM | 2 December 2003  | Lismore | NOROC Meeting |
| GM | 12 December 2003 | Sydney  | LGMA Meeting  |

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## ITEMS DEFERRED

**[ID] Lower Oxley River Bank Stabilisation Project - Water Unit Contribution THIS ITEM IS THE SUBJECT OF A FURTHER REPORT AT ITEM No 11 OF THIS AGENDA)**

### ITEM DEFERRED FROM MEETING HELD:

**1 October 2003**

**817**

**Cr Beck**

**Cr Marshall**

***RESOLVED** that this item be deferred to allow the community groups to address the Community Access meeting in November and to enable Council to contact the relevant Community Groups to update them on the project.*

**ORIGIN:** Water Unit

**FILE REF:** Oxley River; Riparian Projects; LandCare

### REPORT TITLE:

Lower Oxley River Bank Stabilisation Project - Water Unit Contribution

### SUMMARY OF REPORT:

The Murwillumbah Office of the NSW Department of Infrastructure Planning and Natural Resources, in association with the Tweed River Committee have developed a project bid under Federal Governments Natural Heritage Trust which seeks to address bank erosion in the Lower Oxley River. This project has been submitted to the Northern Rivers Catchment Management Board for appraisal under the current round of regional grant allocations. The Tweed River Committee has resolved to support this project through the contribution of \$5000 (TRC minutes 11 June 2003). The Tweed River Committee (TRC) have also requested that Council approve \$30,000 from the Water Budget (TRC minutes 11 June 2003) to support this project in view of the significant contribution it will make to the long term protection of Tweed Shires Water Supply.

### RECOMMENDATION:

That Council approves the allocation of \$30,000 from the Water Budget towards the Lower Oxley River Riparian Rehabilitation project.

## **REPORT:**

### **Introduction:**

The Murwillumbah Office of the NSW Department of Infrastructure Planning and Natural Resources, in association with the Tweed River Committee have developed a project bid under Federal Governments Natural Heritage Trust which seeks to address bank erosion in the Lower Oxley River. This project has been submitted to the Northern Rivers Catchment Management Board for appraisal under the current round of regional grant allocations. The Tweed River Committee has resolved to support this project through the contribution of \$5000 (TRC minutes 11 June 2003). The Tweed River Committee have also requested that Council approve \$30,000 from the Water Budget (TRC minutes 11 June 2003) to support this project in view of the significant contribution it will make to the long term protection of Tweed Shire's Water Supply.

### **Discussion:**

The Oxley River has been identified in the Northern Rivers Catchment Blueprint as a priority watercourse on the basis of its high conservation values, high ecosystem recovery potential and its contribution to the Tweed Shires Drinking water supply. However, unrestricted cattle access, a lack of natural riparian vegetation and severe weed infestations are recognised as significant impacts on water quality in the Oxley and Tweed Rivers, in particular on the quality of potable water extracted from upstream of the Bray Park Weir.

The area in which this project will be implemented is the lower reach of the Oxley, from the Eungella Bridge to its confluence with the Tweed, including both banks. This reach of the river (approximately 16 km of stream bank) has experienced some of the highest levels of erosion in the catchment, with a conservative estimate from Department of Infrastructure Planning and Natural Resources (DIPNR) suggesting approximately 3500 m<sup>3</sup> of sediment has been deposited into the system over the past 10 years.

The implementation of this project will involve the employment of a person for 12 months to work closely with the community to develop a stream bank management plan. It is anticipated that implementation of the plan would involve fencing of at least 8 km of river bank as well as minor revegetation, weed control, stabilisation works and provision of alternative cattle water supplies. Preliminary DIPNR consultation with rural landholders has revealed a high level of community acceptance and support for this project, subject to ongoing negotiation and a cooperative implementation regime.

The financial breakdown of the project is as follows:

|  |           |
|--|-----------|
| Federal Government Natural Heritage Trust Bid: | \$48, 500 |
| Tweed River Committee:                         | \$5, 000  |
| Tweed Shire Water Unit:                        | \$30, 000 |
| Total:   | \$83, 500 |

This project will have obvious benefits in terms of river conservation, however the key benefit to Council and the Community, and the rationale for Water fund investment, is in the improvement of downstream water quality.

The Oxley contributes approximately 50% of the regions potable water supply in an average year. Currently it costs \$350, 000 per year to remove turbidity from raw water extracted from the Bray Park Weir Pool. There will be direct costs savings to Council and the community related to at source control of sediment input through the cessation of bank erosion. Furthermore, reduction in nutrient inputs through the exclusion of sediment, filtering of agricultural runoff and prevention of direct faecal contamination of the river by cattle will significantly reduce the potential for algal to bloom.

The Bray Park Weir Management Plan prepared for Council by Patterson Britton and Partners (May 2003) presents strategies to prevent the risk of pathogen input (Giardia and Cryptosporidium) to the Tweed Water Supply. The report recommends the following three approaches:-

- Denying or discouraging cattle from having direct access to the weir pool;
- Creating wetlands to trap cysts and nutrients in runoff from adjacent land; and
- Implementation and maintenance of a vegetated riparian zone along the banks of the weir pool.

It is clear that the proposed outcomes of the Lower Oxley River Bank Stabilisation Project are consistent with, and complimentary to the Bray Park Weir Plan of Management.

**Conclusion:**

The contribution of \$30, 000 of Water Unit funds to the Natural Heritage Trust application is a cost effective means of implementing strategies required to protect Tweeds potable water supply, and a valuable opportunity to achieve these gains on lands under private ownership.

In the current rural economic climate, individual landholders do not have the resources to protect and enhance their riverbanks. Without this action, river banks will continue to degrade and affect the broader community, ecologically and economically. The implementation of this project will result in a benefit to local rural landholders, the environment, and will also contribute a downstream positive effect on most of the population of Tweed Shire.

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## 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.

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**1 [DS] Development Application DA03/0512 for the Establishment of a Residential Aged Care Facility at Lot A DP 415245, Lot B DP 415245, No. 194 Byangum Road, Murwillumbah**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/0512 Pt2**

**SUMMARY OF REPORT:**

Council is in receipt of an application for an aged care facility on the subject land at Murwillumbah. The subject land has an approximate area of 13210m<sup>2</sup> and is accessed from Byangum Road. The property also has frontage to Tombonda Road.

The proposed aged car facility is to provide a total of 116 beds in two stages. Stage 1 will be for 71 beds of which 25 will be in a high care facility, the remaining beds are in a low care facility. Stage 2 will involve the provision of a further 45 beds.

The proposed facility is predominantly single storey with an area of two storey which is due to the site topography and the provision of a basement for on site car parking. The proposed development will involve areas of cut and fill with retaining walls.

During the public exhibition of the proposed development 5 submissions were received raising issues of objection to the development. The more significant issue related to noise.

The proposed development has been designed in accordance with State Environmental Planning Policy No.5 - Housing for older People or People with a Disability. The proposed development is considered to meet Council's requirements and conditions of consent are recommended.

**RECOMMENDATION:**

That Development Application DA03/0512 for the establishment of a residential aged care facility at Lot A DP 415245, Lot B DP 415245, No. 194 Byangum Road, Murwillumbah be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos 1390 DA02 to 1390 DA11 inclusive prepared by MPS Architects lodged with the development application, Landscape Plan SK01 prepared by MPS Architects, proposed pedestrian

refuge prepared by Martin Findlater & Associates Pty Ltd and marked, except where varied by these conditions.

[GEN0010]

2. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[GEN0050]

3. No retaining walls or similar structures are to be constructed over Council's sewer main.

[GEN0090]

4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0120]

5. 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.

[GEN0150]

6. The development is to be only occupied by persons authorised under State Environmental Planning Policy No.5 - Housing for Older People or People with a Disability.

[GENNS01]

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

7. Any carparking floodlighting shall not spill beyond the boundaries of the site. A plan of the lighting shall be approved by the Director of Development Services **PRIOR** to the issue of a Construction Certificate.

[PCC0030]



8. 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.

[PCC0040]

9. 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.

**STAGE 1**

- a. Tweed Road Contribution Plan: \$16,257.00  
S94 Plan No. 4 (Version 4.0)  
**(Sector 9 - Murwillumbah)**

**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:-

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

where:

$\text{\$Con TRCP - Heavy}$  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)

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

Admin. Administration component - 5% - see Section 6.5

- |    |   |             |
|----|---|-------------|
| b. | Open Space (Casual):<br>S94 Plan No. 5  | \$4,172.00  |
| c. | Shirewide Library Facilities:<br>S94 Plan No. 11  | \$17,406.00 |
| d. | Eviron Cemetery/Crematorium Facilities:<br>S94 Plan No. 13  | \$2,872.00  |
| e. | Emergency Facilities (Surf Lifesaving)<br><b>(REMSHIRE)</b><br>S94 Plan No. 16                    | \$5,450.00  |
| f. | Extensions to Council Administration Offices<br>& Technical Support Facilities<br>S94 Plan No. 18 | \$7,751.60  |
| g. | Cycleways<br>S94 Plan No. 22  | \$4,060.00  |
| h. | Regional Open Space (Casual)<br>S94 Plan No. 26   | \$5,521.00  |

**STAGE 2**

- |    |   |             |
|----|---|-------------|
| a. | Tweed Road Contribution Plan:<br>S94 Plan No. 4 (Version 4.0)<br><b>(Sector 9 - Murwillumbah)</b> | \$12,758.00 |
|----|---|-------------|

**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:-

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

where:

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

and:

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

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

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

Admin.                      Administration component - 5% - see Section 6.5

- |    |   |             |
|----|---|-------------|
| b. | Open Space (Casual):<br>S94 Plan No. 5  | \$2,856.00  |
| c. | Shirewide Library Facilities:<br>S94 Plan No. 11  | \$11,904.00 |
| d. | Eviron Cemetery/Crematorium Facilities:<br>S94 Plan No. 13  | \$1,980.00  |
| e. | Emergency Facilities (Surf Lifesaving)<br><b>(REMSHIRE)</b><br>S94 Plan No. 16                    | \$3,726.00  |
| f. | Extensions to Council Administration Offices<br>& Technical Support Facilities<br>S94 Plan No. 18 | \$5,350.07  |
| g. | Cycleways<br>S94 Plan No. 22  | \$2,776.00  |

- h. Regional Open Space (Casual) \$3,779.00  
S94 Plan No. 26

[PCC0050/PSC0005]

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

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

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

**STAGE 1**

Water: \$88,077.00

Sewer: \$70,505.00

**STAGE 2**

Water: \$61,034.00

Sewer: \$48,857.00

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

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

[PCC0070/PSC0004]

11. 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.

[PCC0190]

12. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required

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

- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

(d) Specific requirements:

- (a) Stormwater to be Discharged to Tombonda Road
  - (i) Stormwater runoff to be discharged from the site to Tombonda Road must be conveyed by an underground pipe system and connected to Council's existing underground drainage system in Tombonda Road.
  - (ii) Engineering plans of the above connection must be submitted for approval by Council with the Local Government Act s68 Stormwater Application.
- (b) Stormwater runoff to be discharged to Gully on Lot 3 DP 529148
  - (i) On site stormwater detention and outlet controls must be installed in accordance with and achieve the peak discharge limits proposed by the report accompanying the application titled "Cardno MBK, Murwillumbah Aged Care Facility - Engineering Report - March 2003".
  - (ii) "Outlet B" referred to in the above report must be provided with flow dissipation and downstream scour protection to ensure no adverse impacts on the downstream flow path

- (iii) Engineering plans of the devices referred to in (i) and (ii) must be submitted for approval by Council with the Local Government Act s68 Stormwater Application.
- (iv) The Local Government Act s68 stormwater application must be accompanied the written approval of the owner of Lot 3 DP 529148 for discharge of stormwater from the development to their land and the construction on their land of the flow dissipation and scour protection devices.

[PCC0230]

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

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

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

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

[PCC0240]

14. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.

[PCC0300]

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

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

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*. [PCC0320]
16. Prior to the issue of a construction certificate a noise management plan shall be approved by the Director of Environment and Community Services. The noise management plan shall address the above noise related consent conditions.
17. A statement by the Tweed Shire Council Waste Contactor confirming the available of waste services within the required times and accessibility to the site and waste area shall be provided prior to the issue of a construction certificate.
18. Prior to issue of a construction certificate detailed design plans shall be submitted and approved by the Director of Engineering Services for the works within Byangum Road as marked on the stamped plan and required by conditions of this consent including road widening for the full frontage.
19. Prior to issue of a construction certificate an alternative solution to address BCA compliance shall be provided based on liaison with the NSW Fire Brigade and suitably qualified building surveyor to confirm adequacy of design (in particular Brigade intervention, egress to 'open space' and compartmentation). [PCCNS01]

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

20. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design. [PCW0010]
21. All cut or fill on the property is to be battered at an angle not greater than 45<sup>0</sup> 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. [PCW0040]
22. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
-

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

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

[PCW0050]

23. 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.

[PCW0060]

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

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

[PCW0070]

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

[PCW0090]

26. An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.

[PCW0210]



27. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

28. Trade Waste application fee will be applicable as per Councils Fees and Charges.

[PCW0240]

### **DURING CONSTRUCTION**

29. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

[DUR0010]

30. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR0080]

31. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0130]

32. 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

[DUR0170]

33. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.

[DUR0200]

34. All fire service connections are to be compatible with those of the NSW Fire Brigade.

[DUR0250]

35. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.

[DUR0260]

36. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.  
[DUR0280]
37. Tactile ground surface indicators for orientation of people with vision impairment are to be provided in accordance with Australian Standard AS1428.4  
[DUR0290]
38. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.  
[DUR0430]
39. The concrete driveway across the footpath is to be constructed in accordance with the approved plan and be a minimum of 150 millimetres thick reinforced with F82 mesh.  
[DUR0440]
40. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.  
[DUR0470]
41. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.  
[DUR0850]
42. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.  
[DUR0870]
43. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.  
[DUR0880]
44. 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.  
[DUR0900]

45. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
46. 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. [DUR0930]
47. 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. [DUR0980]
48. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work. [DUR1020]
49. 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. [DUR1030]
50. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR1110]
51. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR1160]

52. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR1180]

53. 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.

[DUR1200]

54. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1210]

55. The development is to be provided in accordance with the requirements of Clause 13A of State Environmental Planning Policy No. 5 - Housing for Older People or People with a Disability.

56. Discharge to Council's Sewer shall comply with the current Trade Waste Policy.

57. During construction the noise levels produced by the development shall not exceed 10dB(A) above the background noise level (L90) at the boundary of any affected residence from 7.00am to 7.00pm Monday to Saturday.

58. During construction the noise levels produced by the development shall not exceed the background noise level (L90) at the boundary of any affected residence from 7.00pm to 7.00am Monday to Saturday and Sundays and public holidays.
59. The premises and equipment must comply with the requirements of the Australian Food Standards Code as called into force by the Food Regulation 2001. Details of food preparation areas, fittings and equipment are to be submitted to Council prior to the issue of a construction certificate.
60. Any lighting shall not spill beyond the boundary of the property.
61. Road widening and vertical faced kerb and gutter is to be constructed for the full frontage to Byangum Road. The kerb alignment is to be 6.0 metres from the existing painted centrelines.
62. The existing sewer main on RTA site should have easement minimum 3m wide over it.  
[DURNS01]
63. The provision of 21 off street car parking spaces including disabled spaces and ambulance bay. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.  
[DUR0050]

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

64. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.  
[POC0020]
65. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).  
[POC0030]
66. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.  
[POC0050]
67. Roadworks must be completed prior to occupation of the development.

68. A 3m wide easement should be created over the existing sewer line located on the Aged Care facility property.

[POCNS01]

## USE

69. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0120]

69. All loading/unloading to take place within the boundary of the subject property.

[USE0130]

70. A person must not commence a change of building use for the whole or any part of an existing building unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[USE0150]

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

[USE0160]

72. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0170]

73. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

[USE0240]

74. Owners of buildings servicing any plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

75. All deliveries to the premises are to occur only within the hours of 7.00am to 6.00pm Monday to Saturday and within the hours of 8.00am to 5.00pm on Sundays, unless otherwise approved by Council's Director Environment and Community Services. Urgent or medical related deliveries excepted.

76. The noise levels produced by the development shall not exceed the Intrusiveness Criteria as defined by the New South Wales Environment Protection Authority Industrial Noise Policy at the boundary of any affected residence from 7.00am to 10.00pm Monday to Saturday and 8.00am to 10.00pm on Sundays and public holidays.

77. The noise levels produced by the development shall not be audible within any habitable room in any residential premises between the hours 10.00pm and

- 7.00am Monday to Saturday or 10.00pm and 8.00am on Sundays and public holidays.
78. The premises is to be operated in accordance with the requirements of the Australian Food Standards Code as called into force by the Food Regulation 2001.
79. Service vehicles access and vehicle unloading and loading is restricted to between 7.00am to 7.00pm Monday to Saturday and 8.00am to 7.00pm on Sundays and public holidays, unless varied in writing by the Director of Environment and Community Services.
80. Non-emergency and non-staff vehicle access to the site is restricted to between 7.00am to 7.00pm Monday to Saturday and 8.00am to 7.00pm on Sundays and public holidays, unless varied in writing by the Director of Environment and Community Services.

[USENS01]

**REPORT:**

**Applicant:** McKenzie Aged Care Group  
**Owner:** Malfort Pty Ltd and Rangestar Pty Ltd  
**Location:** Lot A DP 415245, Lot B DP 415245, No. 194 Byangum Road,  
Murwillumbah  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$5,000,000.00

**BACKGROUND:**

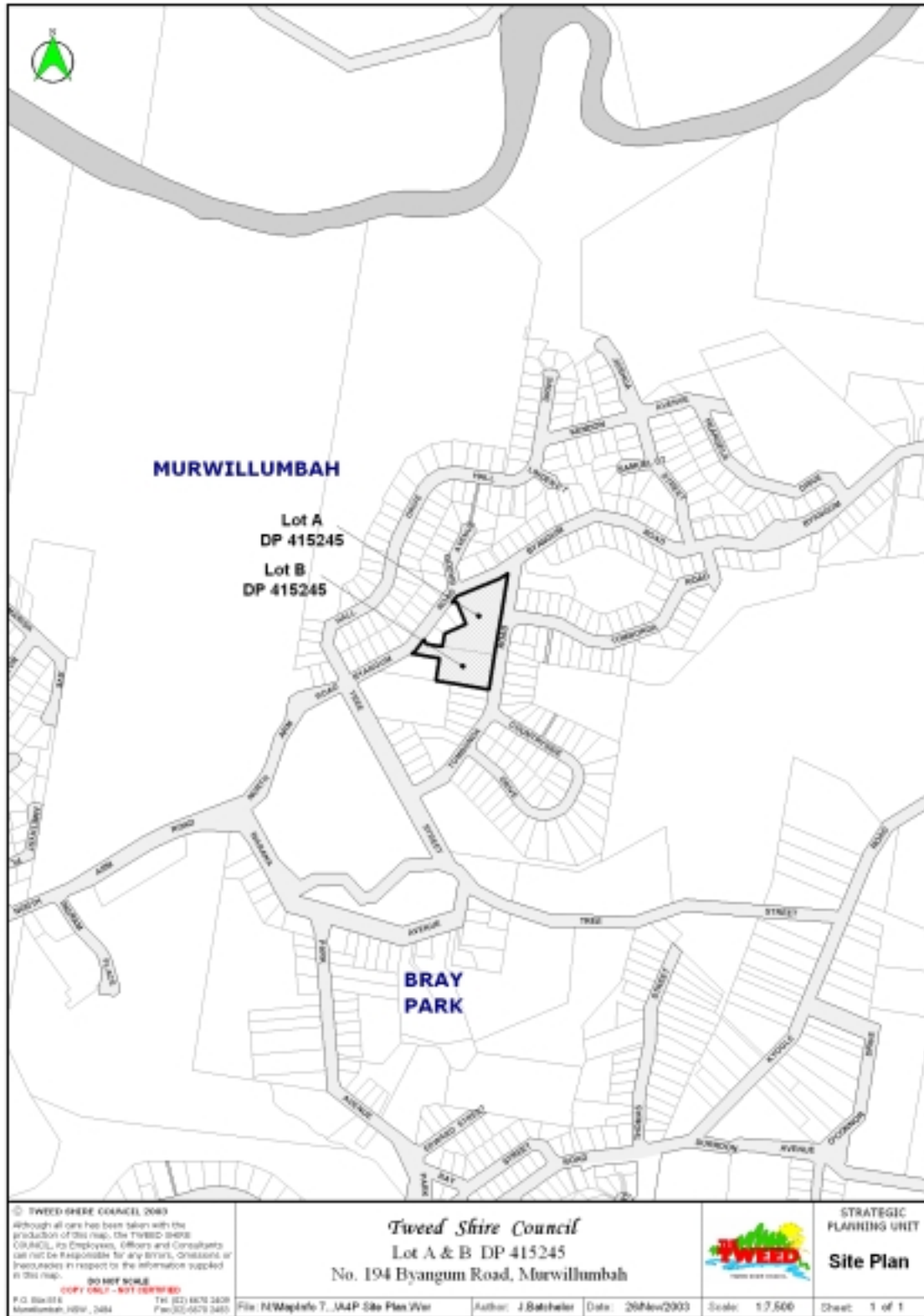
Council is in receipt of a development application for an aged care facility on the subject land. The facility is to be provided in two stages with Stage one containing 71 beds and all of the civil infrastructure, services, and recreational facilities. The site would also be provided with landscaping at this stage. Stage 2 is to involve the provision of a further 45 beds.

The proposed development will result in an aged care facility with 116 beds of which 25 beds will be high care facility.

The subject land is zoned for medium density residential development, and given the combined area of 13210m<sup>2</sup>, the site could potentially be developed to contain a number of residential units. The proposed development is an alternate use of the site and is permissible with consent in the subject zone.



**SITE DIAGRAM:**



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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(b) Medium Density Residential zone under the provisions of the Tweed Local Environmental Plan 2000. The objectives of the zone include:

- *To provide for and encourage development for the purpose of medium density housing that achieve good urban design outcomes.*
- *To allow for non residential development which supports the residential use of the locality.*
- *To allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *To discourage the under utilisation of land for residential purposes, particularly close to the tweed Heads sub regional centre.*

The Local Environmental Plan provides a definition for housing for older people or people with disabilities being: -

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

The proposed use of the subject land as a residential aged car facility is consistent with the zone objectives being a use which supports the residential use of the locality. The use of the subject land for the proposed purpose is permissible with consent.

Clause 15 of the TLEP requires the provision of essential services to be available to the site prior to any consent being granted. Council's Water and Sewer design Engineer has advised that the proposed development is able to be undertaken providing a number of conditions are imposed on a consent including the provision of easements.

Clause 16 of the TLEP provides a three storey height limitation over the site. The proposed development is predominantly single storey with a two storey section where the basement car park is visible due to the fall on the site. The proposed development complies with the height requirements.

Clause 17 of the TLEP requires a social impact assessment for development types likely to have a significant social impact in the locality. The proposed development is such a development type and as such the applicant has submitted the required Socio-Economic Impact Assessment. Socio-economic impacts of the proposed development are further examined in this report.

Clause 35 of the TLEP provides for the management of acid sulfate soils. The subject land is identified as being in a Class 5 area. The applicant has submitted that the proposal will not intercept groundwater. Council's Environmental health Surveyor has raised no objection in relation to this issue.

Clause 39 of the TLEP relates to the remediation of contaminated land. The historic use of the subject land as a depot for a building construction company led to the site having lead levels in excess of human based investigation thresholds. The site was remediated as a Category 2 work under State Environmental Planning Policy NO.55 - Remediation of Land.

The site validation report and sampling has confirmed the site is now suitable for the intended use. Council's Environmental Health Surveyor raised no objection in relation to the use of the land.

The proposed development is considered to generally comply with the provisions of the TLEP.

#### North Coast Regional Environmental Plan 1988

Clause 43 of the NCREP is applicable. Clause 43 contains provisions relating to residential development. The applicant has addressed these provisions in relation to maximising the density over the site, not providing excessive road widths and ensuring erosion and sedimentation control measures are adopted. The applicant has also submitted that the proposal will compliment the local bus services with a private bus service for residents.

The proposed development is considered to have satisfied the relevant provisions of the NCREP.

#### State Environmental Planning Policies

##### SEPP5 – Housing for Older People or People with a Disability

The aims of SEPP5 are: -

1. This policy aims to encourage the provision of housing that will: -
  - a. increase the supply and diversity of housing that meets the needs of older people or people with a disability;

- b. make efficient use of existing infrastructure and services; and
- c. be of good design

These aims will be achieved by: -

- a. setting aside local planning controls that will prevent the development of housing for older people or people with a disability that meets the development standards specified in this policy; and
- b. ensuring that applicants and Council's take into consideration the level of additional demand for support services for older people or people with a disability within the Council's area to be generated by the development when preparing and assessing development applications that are affected by this policy; and
- c. setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and location.

This policy applies to Tweed Shire.

Clause 12 of SEPP5 provides matters for consideration when considering a development application. Specifically relevant is the access to facilities and support services. The applicant has submitted that the development will be serviced by way of private bus services by a local bus company and the management of the Aged Care Facility.

The bus services will operate Monday to Friday inclusive and enable access to all services and facilities within the Murwillumbah CBD. This includes the necessary health care professionals, as well as recreation facilities, shops and banks.

The applicant has submitted that the on site services and facilities include full time nursing care, all meals, laundry and cleaning services. The proposal includes a recreational area, visiting medical practitioner, hair dresser and therapists. The development will have a common library, sitting rooms, tea rooms, kiosk, dining areas, community room including cinema, chapel and coffee bar, and a hobby shed.

The proposal satisfies the requirements of Clause 12 of SEPP5.

Clause 13 of SEPP5 contains development standards in relation to building height and street frontage. Clause 13 does not strictly apply to the proposed development as residential flat buildings are permissible with consent in the 2(b) zone.

The site will have a total frontage of approximately 132 metres to Byangum Road and 132.5 metres to Tombonda Road thereby satisfying the requirement

for a minimum of 15m frontage. No further assessment is required under this provision.

Clause 13A of SEPP5 contains development standards, access and usability provisions. Clause 13A states: -

*A consent authority must not consent to a development application made pursuant to this Part unless it complies with the standards specified in this clause.*

The following comments have been provided to assist in satisfying the relevant provisions of Clause 13A. As the proposal does not contain self care units not all of the provisions of this clause have been considered relevant.

### **Wheelchair access**

The proposed development is provided on a site that does not have a gradient of less than 1:10. The proposed development has extensive cut and fill and retaining walls to create a level site. This land forming ensures that the development can comply with the gradients required. The proposed development complies in relation to wheelchair access.

### **Road access**

The proposed development is required to provide wheelchair access by way of a continuous path of travel within the meaning of Australian Standard 1428 to any adjoining public road. The proposed development provides the ramped pathway to Byangum Road.

### **Common areas**

Access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development. The development has been designed to provide access to these common areas by way of wheelchair.

### **Adaptability**

10% of any residential care facility beds are to be adaptable meaning that they must have or be capable of being modified to have wheelchair access by continuous path of travel or central areas and facilities inside the hostel residential care facility including a toilet, bathroom, bedroom and a living area. The proposed facility has been designed to ensure compliance with this requirement.

### **Identification**

While the subject land has more than one street frontage access to the development is from the one access point and as the development does not

contain any self care units there is no need for numbering within the development aside from the internal room numbering requirements.

### **Security**

Pathway lighting must be provided at a low height to avoid glare and must also be provided at least 50 lux at ground level. The proposed development does not detail the exact location and intensity of internal lighting. It is envisaged that the applicant would intend to provide such lighting however, a condition of consent will be able to ensure the lighting complied with the requirements of SEPP5.

### **Private car accommodation**

The proposed development provides a basement parking area for staff and the required number of spaces based on the number of beds. There are no garages or car ports as the development does not contain self care units.

### **Accessible entry**

The site has been designed in accordance with the relevant Australian Standards being AS1428 and AS4299, as such it is considered the proposed development complies with the accessible entry requirements.

### **Exterior: general**

All of the aged car rooms in this development are internal therefore the keyed alike requirements are not applicable.

### **Interior: general**

Interior doors are to be provided with certain clearances and widths. The proposed development complies with the clearances and widths in the SEPP.

### **Bathroom**

SEPP5 details certain fitout requirements for the bathroom. The main issue being important at this assessment stage is the width and dimensions of the shower recess to ensure that the bathroom has the capacity to be fitted out in accordance with the rest of the requirements. It is noted from the floor plans that they can comply with the dimensions required for the shower recesses.

### **Doors**

The door hardware must be provided as the means of opening doors and must be able to be opened by one hand when located at a certain height from the floor. It is considered that the provision of the door handles to comply with this requirement could easily be controlled by way of conditions of consent.

### Surface finishes

Balconies and external paved areas must be slip-resistant surfaces. It is considered that this can be required by way of a condition of consent.

### Ancillary items

Switches are supposed to be located a certain distance above the floor level. This is also something that can be complied with by way of a condition of consent.

### Garbage

An outside garbage storage area must be provided in an accessible location. The proposed development provides this near the entry roundabout.

In conclusion it is considered that the design requirements contained in Clause 13A of SEPP5 have been achieved in the design submitted with this development application.

Clause 14 of the SEPP sets out the standards which cannot be used for grounds for refusal and states that the consent authority must not refuse consent to a development application under this Part on a number of grounds. The following table details these grounds and assesses the proposed development in relation to them.

| STANDARD                     | REQUIREMENT   | PROPOSED  | COMMENT   |
|------------------------------|---|---|---|
| Height Clause 14(a)          | Maximum 8.0m from ground level to ceiling of uppermost floor.   | Maximum 8.8m to ceiling but generally 3.0 to 4.0 metres.                                      | Proposal varies from this requirement because of the site topography. The addition of 0.8 of a metre is not considered to result in an adverse impact by way of significant shadow impacts. |
| Density & Scale Clause 14(b) | Maximum FSR of 0.5:1, or 0.75:1 for residential care facilities where within 400m of a public transport node (bus stop) | Maximum FSR of 0.45:1.  | Complies.   |
| Landscaped Area Clause 14(c) | 25m <sup>2</sup> per residential care bed.2900m <sup>2</sup> .  | Proposed 5181m <sup>2</sup> .   | Complies: Exceeds requirements.   |
| Parking Clause 14(d)         | 116 beds = 12 spaces<br>max 14 staff on duty = 7 spaces at any time.<br>One ambulance space                             | 21 spaces including one disabled bay, ambulance bay and bicycle parking, 19 spaces within the | Complies: Exceeds requirements.   |

|                               |  |   |   |
|-------------------------------|--|---|---|
|                               | <u>Total 20 spaces</u>   | basement.   |   |
| Landscaped Areas Clause 14(f) | Width of site x 15% of length of site for deep planting zone, ie. 1983m <sup>2</sup> . | Approximately 2000m <sup>2</sup> . This is located in one large area on the site. | Exceeds requirements. The proposal is accompanied by a landscape plan identifying this revegetation zone on the site. |

Clause 24 of the SEPP requires consideration of a site analysis prepared by the applicant containing information in relation to the surrounds and explaining how the design has been developed with regard to the site analysis. The applicant has provided these details as part of the development application.

Clause 25 of the SEPP requires the consent authority to be satisfied that the development demonstrates adequate regard to the following design principles.

**Neighbourhood amenity and streetscape**

The proposed development should contribute to an attractive residential environment with clear character and identity. The applicant contends that the proposed development will have a distinctive character with the use of varied roof lines, building materials, colours and setbacks. The proposal includes clear distinctive entry statement to areas of the proposal.

Issues of amenity are proposed to be managed with setbacks and buffers to adjoining development. Acoustic fencing and landscaping is also proposed to reduce any spillage of light to adjoining land.

The streetscape to Tombonda Road is to have open fencing with landscaping screen resulting in an attractive natural feature in the streetscape. The entry of Byangum Road is to be a more formal entry statement.

The proposed development is considered to achieve a reasonable neighbourhood amenity and appropriate residential character by providing building setbacks.

The proposed development maintains a reasonable neighbourhood amenity and appropriate residential character by using building form and siting that relates to the site's land form.

The proposed development is compatible with the scale of existing building heights with the development being predominantly single storey.

Boundary impacts from the development earthworks will need to comply with Council's Infrastructure Engineer conditions for setbacks to adjoining land.



The boundary impacts are not considered to require the design to be modified rather managed by conditions of consent.

The proposed development should also be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as existing building lines. The proposed development complies with the required building lines and seeks a variation to the fence height. The fence height variation is to Byangum Road and Tombonda roads and is to be of an open design with landscape rebates. The fence height variation has been supported.

### **Visual and acoustic privacy**

The proposed development should, where possible, consider the visual and acoustic privacy of neighbours in the vicinity. The proposed development has been accompanied by an acoustic report addressing noise issues with the development. Acoustic fencing is proposed to be used. Landscaping is proposed to the southern boundary to ensure screening of adjacent residents.

The rooms within the facility are located away from driveways and other internal noise sources.

### **Solar access and design for climate**

The proposed development should provide for adequate daylight and ventilation within the development. There is limited opportunity to provide northern facing rooms however the design has common outdoor courtyard and siting areas which are covered for weather protection. The roof design captures light through the elevated windows.

### **Stormwater**

The proposed development should, where possible minimise the disturbance and impacts of stormwater where practical, utilise on site stormwater detention and have regard to the scape for on site infiltration of water. The applicant proposes to treat and dispose of stormwater in accordance with Council's requirements. Council's Infrastructure Engineer has not raised any objection to the proposed stormwater management.

### **Crime prevention**

The proposed development, where possible, should provide personal property security for residents and visitors and encourage crime prevention. This is proposed to be achieved through the security system on site with main gates that control access to the site and acoustic fencing being of a height to provide boundary protection.

The development is also proposed to have internal lighting and security to enable staff and residents to move freely through the site.

Inter-communication services, nurse call and distress alert features are provided.

### **Accessibility**

The proposed development should, where appropriate have convenient, obvious and safe pedestrian and bicycle links, provide attractive, yet safe, environments for pedestrians, cyclists and motorists and where feasible, involve site layout and design that enables people with a disability to access, in one continuous path of travel, the facilities on the site.

The access is designed to comply with the Australian Standard 1428.1 "Design for Access and Mobility". Pedestrian access will be from Byangum Road adjacent to the vehicular access.

### **Waste management**

The proposed development should also, where possible, be provided with waste facilities to maximise recycling. The applicant has provided details in relation to Solo Waste collection. Medical waste is to be disposed of with a specialist medical waste contractor.

It is considered that the proposed development has adequately had regard for the principles contained in Clause 25 of SEPP5.

In conclusion it is considered that the proposed development has generally complied with the provisions of SEPP5 – Housing for Older People or People with a Disability.

### **SEPP 55 - Remediation of Land**

The subject land has been remediated from its previous use and validation reports have been provided to Council. No further assessment is required in relation to this issue.

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

The proposed development does not require further assessment in relation to any Draft Planning Instrument.

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

DCP2 – Site Access and Parking

The proposed development involves the provision of basement car parking for 19 cars and external car parking for one disabled space next to an ambulance bay at the entry level. The proposed development has been designed to comply with the requirements of SEPP5 and as such does not need to comply with Council's Car Parking Code. The applicant has submitted that the proposed development complies with Table 4.9A of DCP2, which requires compliance with the State policy in relation to developments of this type. The proposed development includes the provision of eight bike racks which is a reduction from the eleven required. Given the age group of the residents it is considered that the bike racks are likely to be used by visitors to the site and in this instance the reduction is considered reasonable.

The proposed development is considered to generally meet the requirements of DCP 2.

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

There are no matters prescribed under the regulations applicable to the proposed development.

**(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**

Compatibility with Adjoining Land Uses and Noise

While the subject land is zoned for medium density residential use, it is located in an area characterised by low density housing. The proposed development is a land use that is considered to be compatible with residential uses. The proposed aged care facility will provide housing for people generally over 70 years of age. The facility is to be provided with its own recreational facilities and is to be located in landscaped grounds with some areas of revegetation.

The proposed development is not considered to be incompatible with the residential uses. Buffers and setbacks are provided to adjoining residences that comply and exceed the permissible setbacks should the site be redeveloped with medium density housing.

The proposed aged care facility will have to be designed to comply with the NSW EPA Noise criteria, and to this end the applicant has advised that this can be achieved for the plant and car parking in the final construction design to be submitted prior to the release of a construction certificate.

The precinct is also characterised by the plantation shutters factory. This factory has operated in this residential area for a number of years and relies on existing use rights. Concern has been raised by this company that the proposed aged care facility may limit or prevent the development of the company on its existing site.

Future expansion of such a factory on the subject land would be assessed by a development application that would need to detail noise impacts of the expansion of the use on surrounding residential uses. It is also noted that noise is a matter that can be regulated by the Protection of the Environment Operations Act.

Council's EHO has recommended conditions of consent in relation to noise issues.

It is also noted that Council may in the future consider the acquisition of land adjoining the proposed development for the State Emergency Service and Rural Fire Service depot. Any noise issues arising from using the adjoining land for this use would need to be address, assessed and mitigated as part of that future development application process.

#### Natural Environment

The subject land does not contain any significant native vegetation. The proposal is accompanied by a flora fauna report which concludes that site is highly disturbed and is not likely to contain the habitat of any of the threatened species. The application includes the revegetation of the site in part to provide more appropriate plant community.

#### Road Environment

Council's Traffic Engineer has assessed the submitted engineering report and recommended road widening be provided for the full frontage of the property to Byangum Road. This will enable through traffic to have a clear passing area.

Council's Traffic Engineer has also required a pedestrian crossing be provided in Byangum Road. This is to be located just past the site near the Hall Drive intersection.

One of the objectors raised concern about these road works and considered they would impact on the plantation shutters factory. Council's Traffic Engineer has advised that the proposed road works will be provided in the road reserve and will provide parallel parking.

Council's Traffic Engineer has recommended a number of conditions be imposed on the development to ensure a suitable outcome is achieved for the local road environment.

### Socio-Economic Impacts

The applicant has provided a socio-economic impact statement supporting the proposed development. The socio-economic impact assessment concentrated on the requirements or matters identified in DCP45 being:

- Community networks
- Public realm
- Housing
- Access
- Human Services

The proposed development will result in approximately 116 people living at the facility of which 25 would be in a high care wing of the development. The proposed development would accommodate people in the 70+ age group. The proposed development provides special needs housing for these older aged cohorts.

Murwillumbah currently only has two residential care facilities providing approximately 100 high care beds and 44 low care beds. The proposed development is considered likely to result in a minor increase of older people living in the area.

Social interaction on site will be facilitated by way of organised activities in the recreation areas. The proposed development does not result in any conflicts with the public realm in the locality. The site has the benefit of being in relatively close proximity to a number of services and facilities in Murwillumbah including, shops, hospitals, medical centres, chemists, schools. These facilities will provide connectivity for the people living in the development with the wider community.

The proposed development has assessed all access requirements in relation to Australian Standards in terms of design and access to bus services as well as own internal bus connection to facilities in the Murwillumbah locality. The proposed development is considered to be suitable based on social grounds as it provides additional housing for the older population group.

It will result in direct employment and may also result in economic multiplier effects. There are also the wider benefits to the community in having an aged care facility in the location.

Council's Strategic Planning Unit do not raise any objection to the proposed development.

Staged Development and Proportional Provision of Services

The proposed development is to be undertaken in two stages with all of the site civil works and service provision and construction of the aged cared building in stage 1. Stage 2 will include the construction of the section of building having a further 45 beds.

Stage 1 of the development will result in the provision of all services and recreational facilities.

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

Contamination

The subject site has been remediated and validation reports have been provided to Council confirming the suitability of the site for the proposed use. Council's Environmental Health Surveyor raised no concern in relation to this issue.

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

The proposed development was publicly exhibited for a fortnight during which five submissions by way of objection were received. One of these was a petition containing ten signatures. As an adjoining owner the Roads and Traffic Authority did not raise any objection to the proposal.

The following table addresses the issues raised.

| Issue           | Concern Raised  | Assessment   |
|-----------------|---|--|
| Traffic Impacts | <p>Concern was raised that the proposed development will result in large volumes of traffic on Byangum Road, reducing the road safety in this area.</p> <p>Concern was raised that the entry into the development is on a dangerous bend.</p> | <p>Council's Traffic Engineer has assessed the proposal and submitted traffic count information. Council's Engineer required the applicant to provide a design of a pedestrian refuge in Byangum Road. This has been designed to the Traffic Engineers requirements.</p> <p>Road widening will need to be provided for the full frontage on Byangum Road to provide for vehicles entering the property enabling through traffic to move clearly.</p> <p>Council's Traffic Engineer has advised on conditions that would need to be imposed on the development.</p> <p>The traffic issues have been</p> |

| Issue                        | Concern Raised   | Assessment  |
|------------------------------|--|---|
|                              |  | assessed and are not considered to warrant refusal of the application.  |
| Reduction in Property values | Concern was raised that the proposed development would reduce property values in the area.   | <p>The issue of reduction in property values is not a matter for consideration under the EP &amp; A Act 1979.</p> <p>However it is noted that the site is zoned for medium density development and under the TLEP 2000 would have the potential to be developed to contain medium density housing that could be built to a three storey height limitation. The proposed development is considered to be of a lower density and scale than the potential development of the site.</p> <p>The proposal does not warrant refusal for this reason.</p>  |
| On site Car Parking          | <p>Concern was raised that the proposed development would not have adequate on site car parking provided.</p> <p>Further to this Byangum Road can not support any on street car parking.</p> | <p>The proposed on site car parking complies with the requirements of the State Policy in relation to Housing for Older People and People with a Disability.</p> <p>The policy also identifies standards that cannot be used for the refusal of these types of developments, on site parking being one.</p> <p>It is noted that Byangum Road does not provide for casual on street parking however as the proposal complies with standard required by the State Policy, the proponent does not need to redesign to cater for more parking.</p> <p>On site car parking is not an issue to warrant refusal of the proposed development.</p> |
| Acoustic Issues              | Concern was raised that by locating a nursing home in the proximity of the existing timber shutter factory the business would not be able to expand due to its                               | The application was accompanied by an acoustic report, and a further acoustic report was submitted to address some of the acoustic concerns raised, and Council's Environmental Health Surveyor (EHO) requirements.   |

| Issue | Concern Raised  | Assessment  |
|-------|---|---|
|       | <p>noise impacts on the new adjoining use.</p> <p>The nursing home development would create noise with opening and closing front gates, traffic noise and other aspects of the development.</p> <p>Concern was raised that the operations of the nursing home would result in noise of activity and reduce amenity of adjoining residences.</p> | <p>The applicant has also provided a statement in relation to the practical design and that noise from the plant and car park can achieve the NSW EPA noise guideline levels. The proponent has acknowledged that noise management is a significant issue in the construction and ongoing operation of the development.</p> <p>Council's EHO has advised that a detail report will be required prior to issue of a construction certificate detailing the compliance with the NSW EPA noise guideline levels.</p> <p>The applicant has submitted that the noise emissions to neighbouring residences will be minimal and well below the criteria.</p> <p>Council's EHO has advised that conditions should be imposed regarding noise from the operation of the development. Noise is a matter that can be investigated under the Protection of the Environment Operations Act, however it is considered that by requiring the development to be appropriately designed and conditioning its use, the applicant will need to manage noise emissions.</p> <p>Responsibility of noise management falls to all property owners in terms of the use of land. Future expansion development applications from the joinery factory will need to address and mitigate noise impacts with any such application.</p> <p>Noise issues have been extensively considered with this application and providing the conditions recommended by Council's EHO are imposed, the proposal is not considered to warrant refusal for this issue.</p> |



| Issue                  | Concern Raised   | Assessment  |
|------------------------|--|---|
| Loss of Amenity        | <p>Concern was raised that the proposed development would result in spillage of light to adjoining residences.</p> <p>Concern was raised that the proposed development would impede views.</p> | <p>The light spillage from a development can be managed by way of the design of the lighting and located to minimise likely impacts to adjoining residences. This concern is considered to be valid, however the applicant can address this concern with the lighting design prior to issue of a construction certificate.</p> <p>In terms of loss of views, the proposed development is predominantly a single storey structure in an area where three storey buildings are permissible. The proposed development will be of a height of RL 25.9m. The property from which this concern was raised has a floor level of RL 27.1m. It is not considered that the proposal will prohibit the adjoining property from capturing some views.</p> <p>The proposed development is not considered to warrant refusal for this reason.</p> |
| Access                 | The proposed development will remove the access currently used by 192 Byangum Road.  | <p>The applicant has provided detail as to how access to 192 Byangum Road can be provided. It is noted that to date 192 Byangum Road has been using the adjoining property for access.</p> <p>The proposed development does not warrant refusal for this issue.</p>   |
| Compatible Development | Concern was raised that the proposed development is not suitable or compatible with the surrounding residential development.   | <p>The subject site is located in a very quiet residential precinct. The area is predominantly low density residential housing. The area is also characterised by the Cemetery and Plantation Shutters factory.</p> <p>It is noted that the site was previously used as a depot for a construction company.</p> <p>The proposed development includes landscaping and screening to provide an internal amenity for the nursing home and</p>  |

| Issue      | Concern Raised  | Assessment  |
|------------|---|---|
|            |   | <p>its residents. The development of the site as a nursing home is considered to be a compatible use in the zone and is permissible with consent under the TLEP 2000.</p> <p>While the local residents may have had an expectation that the site would be developed into medium density townhouses or the like, it is considered that the proposed development will be of a high standard of finish and is not likely to generate impacts to the local residential amenity.</p> <p>The proposal does not warrant refusal for this reason.</p> |
| Earthworks | <p>Concern was raised that the proposed earthworks would be immediately adjacent to adjoining land and would further exacerbate an erosion problem.</p> | <p>The applicant has provided a Geotechnical report addressing the concern raised by the adjoining property owner. The batter and retaining to be provided in this location will need to be of approximately 2.0 metres in height. This area is also to be further stabilised with the revegetation. Council's Infrastructure Engineer has advised that the land forming proposed is considered to be satisfactory.</p> <p>The proposal does not warrant refusal for this reason.</p>   |

**(e) Public interest**

The provision of aged care facilities within the local community is an important need. The proposed development will upon completion contain 116 beds. The proposed aged care facility does not contain any self care units. The development has been design to provide amenity to the future residents and spaces that are pleasant to afford leisure and recreation. The proposed development is considered to be of a high standard and would cater for a need within the community.

The subject land has been identified for medium density residential use under the Tweed local Environmental Plan 2000. The proposed development is a

permissible use within the zone and has been designed in accordance with the State Environmental Planning Policy No.5 - Housing for Older People or People with a Disability.

The subject land is in a relatively quiet low density precinct and therefore has attracted some submissions from residences and a local factory within its immediate locality. The development has been designed to be situated in a landscaped site with its own privacy. While some concern has been raised in relation to the proposed development it is considered that management by way of conditions of consent will result in appropriate use of the site.

The proposal is not considered to be in conflict with the general public interest.

#### Infrastructure Charges

The applicant has submitted that the contributions that could reasonably be applied to a residential care development of this nature are:

- Water and Sewer
- Tweed Road Contribution
- Environ Cemetery
- Extensions to Council Administration Offices.

The applicant has submitted that contributions to casual open space and libraries may be applied at a discounted rate given that the high care residents would be unlikely to utilise these services. Also a library is located within the development.

The contributions that have been calculated for the proposed development have been charged at the bed rate and only the components that are applicable to aged care facilities are to be levied. The subject land has the benefit of two equivalent tenements and as such this credit is provided at Stage 1 of the development.

#### **OPTIONS:**

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

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

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

**POLICY IMPLICATIONS:**

The proposed development does not generate a policy implication for Council.

**CONCLUSION:**

The proposed development complies with the requirements of SEPP 5 and meets Council's requirements. The applicant has submitted that only Section 94 Contributions relevant should be charged. The recommended schedule of conditions only impose contributions where there is a nexus with the development.

The proposed development is considered to be suitable for the site and has been designed with regard to the neighbourhood amenity. The recommended conditions of consent will enable management of the site during the construction phase and through to the operation of the facility.

**UNDER SEPARATE COVER:**

Nil.

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**2 [DS] Development Application DA03/0962 for the Erection of a Mixed Commercial/Retail and Residential Building at Lot 24 DP 31208 No. 47 Tweed Coast Road, Bogangar**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/0962 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for the redevelopment of the real estate agency site in the main street of Bogangar. The redevelopment is to include 4 shops accessed from the street level and two levels of residential accommodation above. The development would have 6 residential units in total.

The proposal involves the dedication of the rear laneway from which the car parking area is accessed. The proposal seeks a variation to the required car parking by seven spaces. This aspect of the development is not considered to be acceptable.

The proposed building also seeks a variation to the height limitation to create a four storey structure over the majority of the site. This SEPP 1 application is assessed and not considered to be supportable. The proposed development does not comply with the side setback requirements of Development Control Plan No. 6 - Multi-Dwelling Housing.

The importance of the site is highlighted in relation to the development of the town centre of Bogangar and the development control plan process that is nearing completion.

**RECOMMENDATION:**

That Development Application DA03/0962 for the erection of a mixed commercial/retail and residential building at Lot 24 DP 31208, No. 47 Tweed Coast Road, Bogangar be refused for the following reasons: -

1. The proposed variation to the height limitation as provided by Clause 16 of the Tweed Local Environmental Plan 2000 is not supported.
2. The proposed variation to the on site car parking requirements of development Control Plan No.2 - Access and Car Parking is not supported.
3. The height and scale of the proposed development is not considered appropriate resulting in impacts to the amenity of the rear laneway and adjoining property.

4. The proposed development does not achieve an adequate standard of security and amenity in the design.
5. The proposed development would result in a precedent in the locality that is considered unacceptable.
6. The SEPP1 application has not demonstrated why the 3 storey height limit is unreasonable or unnecessary.
7. The development is not considered to be in the public interest due to the number and magnitude of variations to Council's standards that are proposed.
8. The proposal is an overdevelopment of the site given the significant non-compliances with Council's height, car parking and setback requirements.

**REPORT:**

**Applicant:** BN & DJ Developments Pty Ltd  
**Owner:** BN & DJ Developments Pty Ltd  
**Location:** Lot 24 DP 31208 No. 47 Tweed Coast Road, Bogangar  
**Zoning:** 3(b) General Business  
**Cost:** \$1,600,000

**BACKGROUND:**

Council is in receipt of a development application for the redevelopment of the subject land to contain four commercial tenancies and two floors of residential units above. The proposed development is for six residential units each containing three bedrooms. The commercial gross floor area is 444.2m<sup>2</sup>.

The proposed building is a part three and four storey structure. The proposed development is accompanied by an application under State Environmental Planning Policy No.1 - Development Standards in relation to the height variation to four storeys. The extent of the four storey component is extensive.

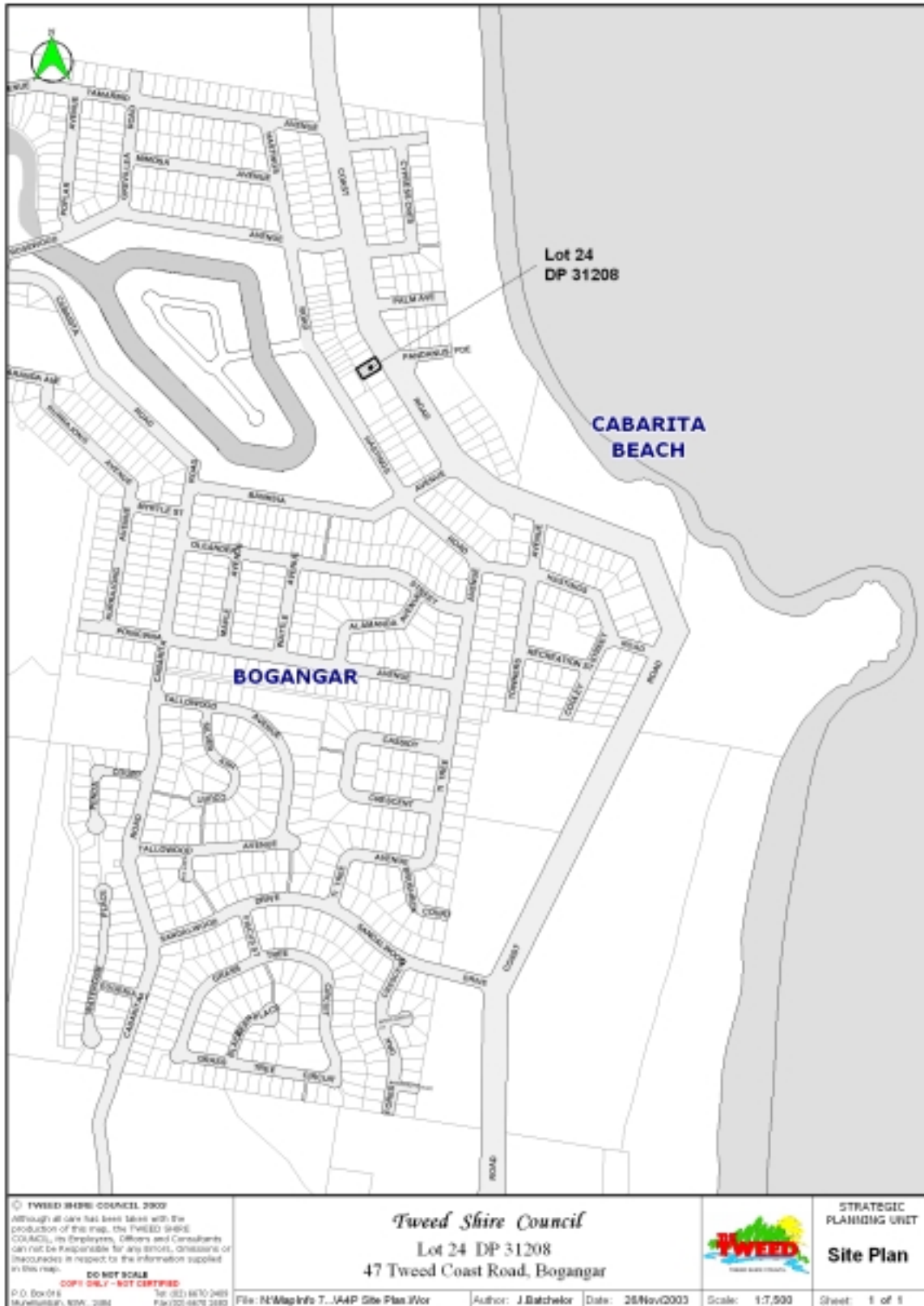
The proposed development is to be accessed from the extension of the laneway at the rear. The proposed development includes the dedication of land at the rear for the formation of the laneway.

The natural ground level at the rear is open to provide car parking, a car wash and loading bay, bike parking, and stair access to the upper levels.

The proposed development presents to the street level with three shop frontages and an arcade leading to the fourth at the rear of the development. The arcade leads to the lift and stair well for access to the two floors above of residential accommodation and one floor below being the open car parking area. The on site car parking does not comply with Council's requirements.

The upper two floors of residential accommodation have balconies to the street.

**SITE DIAGRAM:**





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

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

#### Tweed Local Environmental Plan 2000

The subject land is zoned 3(b) General Business under the Tweed Local Environmental Plan 2000. The objectives of the zone include:

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

The proposed development is a commercial development and meets the primary objective of the zone. All of the proposed residential units are located on the upper levels and therefore satisfy the objective requirements.

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

Clause 16 of the TLEP provides a height limitation for the site, being three storeys. The objective of this clause is:

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

The application is accompanied by an objection under State Environmental Planning Policy No.1 - Development Standards to this height limitation as the development is four storeys at the rear.

#### State Environmental Planning Policies

#### State Environmental Planning Policy No.1 - Development Standards

The proposed development seeks a variation to the three storey height limitation. The proposal is four storeys in height for the majority of the length of building. The building is approximately 30 metres in length with approximately 26 metres being at four storeys. The subject land falls away

from Tweed Coast Road with the building only appearing as three stories when viewed from the public road frontage.

The objective for the development standard is:

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

The applicant has submitted a justification in relation to the height variation with the following matters being relevant in assessing the merits of the departure from the standard.

- "(i) *There are special circumstances owing to the unusual topography of the subject land, with in excess of one (1) storey in height difference between the lowest level of the site at the western side and the Coast Road frontage.*

*The combination of zoning and topography makes the situation of the western side of the Coast Road, Cabarita unique in the context of the urban areas in Tweed Shire. This is because the land falls away behind the road frontage, thereby ensuring among other things that views are not obscured. Furthermore, adjacent land to the west, being similarly zoned commercial, can be developed with boundary-to-boundary buildings of three (3) storeys above road level, just the six (6) metre width of the proposed laneway from the rear of the subject land.*

*Because of this situation, and the fact that no adverse impact could result from the height variation, the upholding of the SEPP 1 Objection would not create any form of precedent for other parts of the Shire.*

*Similarly, this application is not seeking to use any other instances of approvals for height variations as justification for this proposal. However, it can nevertheless be instructive to consider the circumstances within which any particular variation may have been agreed to, as far as decision-making processes are concerned.*

*In this regard, the recent approval of a "4-storey" building in Marine Parade, Kingscliff shows the commonsense of examining and determining individual proposals on their merits.*

*That proposal can be distinguished from the proposal in Coast Road, Cabarita in a number of respects:*

- *In the case of the Kingscliff proposal, the topography involves a rise in levels from the front of the site to the rear, in contrast with the subject proposal,*
  - *In the case of the Kingscliff proposal, views from properties to the west of the site may apparently be adversely affected to an extent, although the Council found that such was not sufficient to warrant refusal of the application based on the building's height. In the subject application, there is of course no adverse effect on adjoining properties, through reduction of views or otherwise and,*
  - *The site of the Kingscliff proposal is within an area where the three (3) storey height limit has been confirmed after specific local area planning. For the Cabarita site there has been no local planning, in the form of a DCP or otherwise, therefore this application should be assessed on its merits. This merit assessment indicates that the departure from the development standard in this instance is entirely appropriate.*
- (ii) *The site's rear access is to a narrow lane (right of carriageway), and there is the prospect of a building being constructed to the boundary of the adjacent property to the west. This means that it will be impractical to construct a building with useable space at lower ground floor level (eg. Shops, offices), even with basement parking, since frontage to the lane would be inappropriate. By contrast, on the opposite side of the Coast Road, three (3) storey buildings above basement parking (which can be 1.5 metres above ground level) can be achieved;*
- (iii) *There are examples of buildings, including opposite the site, of three (3) storeys above Coast Road. The Cabarita Hotel redevelopment will be up to a height of RL 20m AHD, which is 3.3 metres (or one storey) higher than the proposal.*
- (iv) *The land is zoned 3(b) General Business, and this fact, coupled with the configuration of adjacent allotments and development on sites fronting Hastings Road, means that there would be no adverse effects due to building height especially on residential properties;*
- (v) *There is no logical planning reason that this building, on the western side of the Tweed Coast Road, further removed from the beach, should be one (1) storeys lower than those on the eastern side.*
- (vi) *Avoidance of excessive floor to ceiling heights means that the building would not be significantly in excess of what could*

*eventuate with a building of two (2) levels above Coast Road, especially one with a pitched roof (subject to the Council's proposed height limit review);*

- (vii) An articulated rear façade will avoid adverse visual effects which could occur with blank, unarticulated walls (of either three (3) storey or four (4) storey building).*
- (viii) It is concluded that the proposal meets the objectives of the development standard as it is appropriate to its location, surrounding development and the environmental characteristics of the land (ie. topography). No good planning purpose would be achieved, in this case, by strict adherence to the three (3) storey height limit."*

### Comments

In considering the justification submitted Council needs to be satisfied that the objection to the height standard is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of the policy. SEPP1 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance would be unreasonable or unnecessary.

When deciding whether to grant concurrence to a SEPP 1 variation the following matters must be taken into consideration:

- a) Whether compliance with the development standard raises any matter of significance for State or regional environmental planning; and
- b) The public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The proposed variation to the height does not raise any matter of State or regional significance as the variation from three stories to four does not result in the development exceeding any height specified by State Environmental Planning Policy No.71 - Coastal Protection that would trigger the State Significant category of development. The type of redevelopment does not trigger any regional significance either.

The proposed development is considered to undermine the development standard for Bogangar and erode the general public benefit of maintaining the development standard. The proposed development involves a variation to the height limitation over the majority of the allotment and results in a four storey building when viewed from the rear laneway. The site is not unique in its topography. The properties with frontage to Tweed Coast Road extending from Rosewood Avenue for the full length of the section affected by the rear

lane have steep topography. The steepness of the sites dissipates moving south along the laneway. Adjoining sites have the ability to be redeveloped and given they have the same topography may seek to pursue the same variation. The potential amenity impact of this would be the laneway lined by four storey buildings.

Further amenity impact could result with future developments that front Hastings Road applying to vary the building height at the rear of allotments, resulting in a 6 metre wide laneway with buildings to each side four storeys in height.

The amenity of the laneway would be reduced by the development on either side creating a canyon effect that would be undesirable. Further the visual and amenity impact could result in impacts in the appearance of the area from Hastings Road.

There are no unique circumstances with the site. The variation from the standard would not achieve the objective of the height limitation for this locality. There is a significant likelihood that similar applications would be made in the future to vary the standard in the locality, and the cumulative effect of similar approvals in Bogangar has the ability to undermine the strategic vision, amenity and standard of development for this coastal village.

The planning objectives for this locality are being further identified with the strategic process that is near completion with the Bogangar Development Control Plan. The height limitation for the site has been established under the Tweed Local Environmental Plan 2000 and the objective of the provision is clear.

In terms of height and scale of development it is considered that the proposed development is not appropriate resulting in impacts to the amenity of the rear laneway and potentially redevelopment of adjoining lands. The proposal does not provide a setback from the rear lane and does not address the laneway with any features to reduce the bulk impact.

The application to vary the development standard is not considered to be appropriate in the circumstances as the development does not achieve the underlying purpose or objectives for this locality.

Clause 22 of the TLEP applies to land that has frontage to a designated road. Council may only grant consent to land to which this clause applies if it is satisfied that:

- *The development is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road,*

- *The location standard and design of access points and on site traffic movement and parking arrangements would ensure that through traffic movement on the designated road is not impeded,*
- *The development or proposed access to it, will not prejudice any future improvements to or realignment of the designated road,*
- *The development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact,*
- *The development would not detract from the scenic values of the locality, particularly from the point of view of road users,*
- *Where practicable road access to the land is provided by a road other than the designated road.*

In relation to this clause the applicant has submitted:

- *The proposed development would gain access from the rear laneway,*
- *The traffic generated by the development would not affect the safety and efficiency of the designated road,*
- *Tweed Coast Road in front of the development is a low speed environment as a result of local traffic measures. Traffic noise is not considered to be an amenity problem, given the expectations of occupants living in the business area. The bedrooms are designed away from the noise source,*
- *The proposal is design to be compatible with the existing streetscape and to enhance the scenic quality of the area.*

It is considered that the proposed development has managed the impact of the designated road by providing access and parking at the rear of the development. This is to be accessed by way of a rear laneway.

The rear laneway has not as yet been completed, however Council's Traffic Engineer has advised that the development can be accessed through Council's car park site in Hastings Road to the section of formed laneway.

The proposed development is not in conflict with the designated road provisions of the TLEP.

Clause 35 of the TLEP is applicable to the proposed development as the site is part Class 3 and part Class 4 acid sulfate soils. The management of acid sulfate soils has been addressed in the development application by way of an management plan. Council's Environmental Health Surveyor has assessed

the proposal and advised of conditions that could be imposed to ensure the development does not impact on acid sulfate soils.

Clause 38 of the TLEP relates to future road corridors identified on the zoning map. The subject land has a future road, this being the rear laneway identified thereon. This clause requires Council to consider the effect of the development on the future alignment of the road prior to any consent being granted. Council's Traffic Engineer has advised that conditions would need to be imposed to ensure the rear laneway is provided to an appropriate standard and dedicated.

While the proposed development meets the objectives of the zone, the design exceeds the height limitation for the site. In this regard the proposed development is not considered to have satisfied all of the TLEP requirements for the site.

#### North Coast Regional Environmental Plan 1988

Clause 32B of the REP requires the Council to take into account the Coastal Policy and the North Coast Design Guidelines. The Design Guidelines do not contain specific design requirements for commercial buildings relevant to this application. The provisions of the NSW Coastal Policy are addressed in this report.

Clause 43 of the REP requires residential densities to be maximised without adversely affecting the environmental features of the land. The proposed development is for six residential units. There are no density requirements in the subject zone. The proposed development does not undermine the provisions of Clause 43 of the REP.

There are no other provisions under the REP applicable to the proposal.

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

The applicant provided a submission in relation to potential for contamination that Council's Environmental Health Surveyor has assessed. From aerial photography it is apparent that the site was not subjected to sand mining. Council's Environmental Health Surveyor raises no objection in relation to contaminated lands.

#### State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Buildings

The applicant submitted a compliance check in relation to the design principles contained in SEPP65. The applicant contends that the proposal meets all of the design principles.

The following points are made in relation to the proposed development and the design principles.

- Principle No.2 relates to the scale of the proposed development and its bulk and height. The proposal is not consistent with envisaged future development and does not achieve the objective for the locality.
- Principle No.7 relates to amenity features within the development. The proposal is not considered to achieve an adequate standard of amenity for proposed unit 3 and 6.
- Principle No.8 relates to safety and security. The proposed design is considered to have potential entrapment points and in the absence of casual surveillance lighting may not be adequate to achieve this principle of good urban design.

State Environmental Planning Policy No. 71 - Coastal Protection

The proposed development is not affected by the State Significant development provisions and as such Council is the consent authority. The provisions of Clause 8 of SEPP71 need to be taken into account when assessing the proposed development.

The proposal does not raise any conflict with the matters for consideration as the subject land is not adjoining a coastal reserve or beach area, is not affected by coastal processes, habitat areas, cultural items or heritage values. As such the proposed development is not considered to be in conflict with the provisions of SEPP71.

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

The Draft Tweed Local Environmental Plan No.46 involves amending the meaning of height in relation to a building. The proposed development would be four storey development under the Draft Plan as well as the current Tweed Local Environmental Plan 2000.

There are no further Draft Plans applicable to the proposed development.

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

Development Control Plan No.2 - Access and Car Parking

The following table details the proposed development in relation to the provisions of DCP2.

| <b>Standard</b>     | <b>Requirement</b>  | <b>Complies Variation</b>   |
|---------------------|---|---|
| On site Car parking | Residential unit = 1.5 with 25% for visitors<br>Shop = 0.5/100GFA staff and 3.5/100m <sup>2</sup> for customers | Proposal requires 9 for the residential units of which 3 are to be made available for visitors.<br>The shops require 14.2 |



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|  |  | spaces based on the reduction to 80%. Of which 2 are required for staff parking. The proposal requires 24, and only 17 spaces have been provided spaces and does not comply. |
|--|--|--|

### Car Parking Variation

The proposed development has a shortfall of car parking on site. The sub floor parking area has 14 car parking spaces with a further six spaces that are stacked. This does not comply with Council's policy as stacked car parking is not acceptable.

The application also includes the provision of four angled parking on the Tweed Coast Road.

The applicant has combined the angled parking with all of the spaces provided in the subfloor area to contend that the application meets the twenty four spaces required. However the proposal does not comply with Council's Policy as it:

- Relies on the use of stacked car parking,
- Removes one parallel space from the Coast Road to create the four angled spaces and therefore is only providing a net of three spaces on the Coast Road.

The application is only providing 17 car parking spaces based on Council's Policy. This is a shortfall of 7 spaces.

The applicant has submitted that the stacked parking would be able to be allocated to the residential units with each unit managing one stacked space, thereby not causing an inconvenience to residents or visitors. The remaining eight spaces are to be allocated to the shops, with a shortfall of seven spaces. The applicant has submitted that this is where the four angled parking spaces in Tweed Coast Road will assist.

The applicant has submitted that the four on street car parking spaces should be credited to the development. Council's Traffic Engineer has advised that the applicant may not realise that other developments that have provided on street car parking within the road reserve have provided such in addition to the on site requirements, or the developer has provided some other streetscape works that are a benefit to the community which is not the case with this application. This proposal merely utilises the road reserve to meet the shortfall on site.

The proposed development is attempting to fully utilise the site and not provide the required car parking for the proposed uses. The car parking

proposed in the road reserve would have a public benefit however such should be provided in addition to any required parking.

In conclusion it is considered that the proposal is an over development of the site which is reflected in the non-compliance with the on site car parking.

Development Control Plan No.6 - Multi Dwelling Housing

DCP 6 applies to multi dwelling housing and as such there are provisions with the plan that are applicable to the proposed development.

The applicant has submitted a site analysis plan as required under the DCP. This plan identifies some of the existing land uses surrounding the development.

|   |   |
|---|---|
| <p><b>Site Density</b><br/>The applicant submitted that the proposal achieves the performance criteria as it is compatible with and sympathetic to the scale and bulk of the existing and likely future development of the locality.</p>  | <p><b>Comment</b><br/>The proposal is not in keeping with the identified heights for the locality. This precinct should be characterised by three storey development. The future amenity of the locality would be impacted on by a development of the proposed bulk and scale. The proposal is not compatible with the desired future character of the locality.</p>  |
| <p><b>Streetscape Building Appearance and Front Setbacks</b><br/>The applicant has submitted that there are no traditional commercial streetscapes on the western side of the Tweed Coast Road. The proposal provides modern shop fronts with a pedestrian walkway to the boundary and an awning over the footpath. The applicant submits that the development is of a seaside village atmosphere and would make a positive contributions to the streetscape.</p> | <p><b>Comment</b><br/>The proposed development is of a modern design. DCP 6 allows multi dwelling housing in commercial areas to have no setback for the first nine metres from the front, however thereafter multi dwelling units are to comply with the side setbacks provided in 3.3.1, this being a minimum of three metre setback from the side.<br/>The proposal does not comply with the side setbacks on the two floors of residential units.<br/>The application requires a variation in relation to unit 3 and 6 with both being provided to zero lot lines. Unit 1 and 4 also encroach by one metre for the length.<br/>The amenity of units 3 and 6 is considered to be significantly reduced due to the zero lot line.</p> |

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| <p><b>Building Envelope and Siting</b><br/>                 The applicant has submitted that the building will be compatible with the streetscape. The applicant has submitted that the units with zero lot lines can be screened from overlooking and can be screened to maintain privacy. The applicant submits that the proposal will not affect the amenity of any future residential development.</p>                             | <p><b>Comment</b><br/>                 The proposed development achieves adequate light and ventilation between dwellings for four of the units, however units 3 and 6 are not considered to achieve a reasonable standard. The proposed development is considered to have the potential to reduce the amenity to adjacent development due to the length and height of the development. The proposal does not have a setback from the rear laneway so future adjoining development may impacted on by the extent and length of the proposal and its four storeys. The proposal is not considered to achieve all of the performance criteria for this design element to a high enough standard.</p> |
| <p><b>Views, Visual and Acoustic Privacy</b><br/>                 The applicant submits that none of the surrounding developments contain residential units. The proposal does not impact on any views from surrounding areas. The applicant has submitted that there are no privacy issues between adjoining developments. The proposal is also designed for bedrooms to be distanced from the traffic noise of tweed Coast Road.</p> | <p><b>Comment</b><br/>                 The proposal does not result in any loss of adjoining views, or overlooking of any residential units. The proposal generally achieves this design element, however it is considered that unit 3 and 6 would require screening from adjoining units to have a reasonable amenity.</p>  |
| <p><b>Useable Open Space</b><br/>                 The applicant contends that the proposal meets the requirement of providing a shaded balcony of a minimum 10m<sup>2</sup> with a minimum dimension of 2metres.</p>   | <p><b>Comment</b><br/>                 The proposal satisfied this requirement.</p>  |
| <p><b>Security Site Facilities and Services</b><br/>                 The applicant submits that the entry into the development and footpath areas would be well lit. The clothes drying area is not visible from Tweed Coast Road.</p>   | <p><b>Comment</b><br/>                 The proposal does not provide casual surveillance of the stair well or lift entry area. Access to the residential component of the development is not secure and could present some security issues. From within the units the access into the development is not easily surveyed. The public street and laneway are however visible from the unit balconies. The proposal has a large common drying area (5m x 5m) to the rear of the development. This would be visible from the laneway.</p>   |

The proposed development complies with the other requirements of DCP 6 by providing a car wash bay and appropriate energy rating for the units.

The proposal attempts to meet the criteria in DCP 6 however it fails to achieve a high standard of design in relation to proposed units 3 and 6. Also the development is not designed with an adequate standard of security and casual surveillance. These aspects of the design would have a significant impact on the amenity and quality of residential occupation of the site.

Development Control Plan No.39 - Energy Efficient Housing

The proposed development is required to achieve a minimum 3.5 star rating for each unit. The proposed development complies with this requirement.

**(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**

Town Centre of Bogangar

The importance of providing direction for the redevelopment of Bogangar has been recognised by Council and its resolution for a committee to be selected to advise on the preparation of a Development Control Plan. This process is near completion.

The land the subject of the development is important in relation to the main street of Bogangar as it is located in the main view line that extends up Pandanus Parade from the beach to Round Mountain. This view corridor is considered important as it links the natural features that people are attracted to the area for, with the town centre.

Future redevelopment in the Pandanus Parade area as a pedestrian environment will further enhance these linkages. Based on the topography of the area Council's Strategic Planning Unit have advised that buildings greater than 8.5 metres in height would block the view to Round Mountain, thereby eliminating the visual link of the sea to the hinterland.

Some of the design features that have been identified in the DCP process to date include:

- Setback from the rear lane of a minimum of 3 metres,

- Building Heights to be no more than 12.5 metres with the building being no more than 10 metres and a 2.5 metre high roof,
- Buildings to reflect the topography of the land,
- Active commercial street frontage with residential components setback.

The proposal achieves an active commercial frontage however in respect to all of the other attributes identified there would be areas of non compliance. The proposed building is 12.4 in height and exceeds the 10 metre height design feature for the locality.

Although the draft DCP has not been finalised, it is considered that aspects of the development such as the height variation and bulk and scale of the development from the rear are well beyond the intended future development of the locality.

#### Over development of the Site

The proposal is considered to be an over development of the site. This is evident in the variation required to the on site car parking to support the development. The extent of the variation is considered to be a significant impact on the locality and would need to be carried by the local community. The payment of monetary contributions is not a suitable planning solution to a non compliance of this extent.

#### Built Environment

The proposed development requires a variation to the building height for the locality. A full assessment of the proposed variation to building height has been provided in this report. It is noted that the subject site is not unique in its topography and that there is the potential that future redevelopment of sites would also pursue a height variation in the event that this standard is undermined by the proposed development.

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

The subject land is suitable for redevelopment. Council's Environmental Health Surveyor has not raised any site constraints that would limit its future redevelopment.

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

The development application was publicly exhibited for two weeks during which four submissions were received, one of which is a petition containing 16 signatures. The petition and one of the written submissions were in support of the proposal with two submissions raising objection. The following table details the issues raised in the objections.

| Issue                | Concern Raised  | Assessment   |
|----------------------|---|--|
| Pre emptive Planning | Concern was raised in relation to proposals in Bogangar and whether such could be deferred until the Development Control Plan process is completed. | The development control plan process does not prevent a developer from lodging proposals. However it is noted that this application is not strictly in keeping with some of the controls envisaged for Bogangar and therefore may create a precedence that could undermine the future DCP. |
| Building Height      | Concern was raised that the proposal exceeds Council's Building Height for the locality.  | The proposed development is not consistent with the height limitation for the site. The applicants submission in relation to SEPP1 has been assessed and is not supported.<br><br>The proposal warrants refusal for this reason.   |

The petition and a letter of support are on the basis of a need for commercial growth in the locality.

**(e) Public interest**

It is not considered to be in the public interest to vary Council's height limit to the extent proposed or vary Council's car parking requirements so significantly.

These are two aspects of the development that are contrary to the objectives of redevelopment in Bogangar. The impact of allowing these development control standards to be varied would impact on the wider community.

**OPTIONS:**

1. Refuse the proposed development in accordance with the recommendation.
2. Request conditions be provided to enable the approval of the proposed development.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

### **POLICY IMPLICATIONS:**

The proposed development is pre-emptive of the policy direction adopted by Council with the establishment of a Committee to advise on the preparation of a Development Control Plan for Bogangar. The proposed development does not achieve some of the identified objectives for this locality including:

- Setback from the rear laneway that could be in the order of three to four metres,
- Building height limitation of 12.5 metres maximum with a maximum 10 metre height building and a roof of no more than 2.5 metres in height,
- Buildings reflecting the topography, stepping down the site and following the fall of the land,
- Linkage of the elements of the natural environment from the coast to the mountain and view lines from Pandanus Parade West.

The proposed development would have a cumulative impact on the streetscape that would undermine the future development of the main street of Bogangar.

### **CONCLUSION:**

The proposed development has been assessed under Council's policies. There are areas of non compliance that are considered to be unacceptable. The subject land has the ability to be redeveloped within the planning framework set out by Council's statutory instruments.

The proposed development is not supported for the reasons contained in the recommendation.

### **UNDER SEPARATE COVER:**

Nil.

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**3 [DS] National Parks & Wildlife Act 1974 - Interim Protection Order, Kings Forest**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/20 Pt7**

**SUMMARY OF REPORT:**

The Minister for the Environment gazetted a new Interim Protection Order (IPO) over parts of the Kings Forest site on 14 November 2003. The new IPO represents a reduction of the area affected by the previous IPO dated 27 September 2002.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

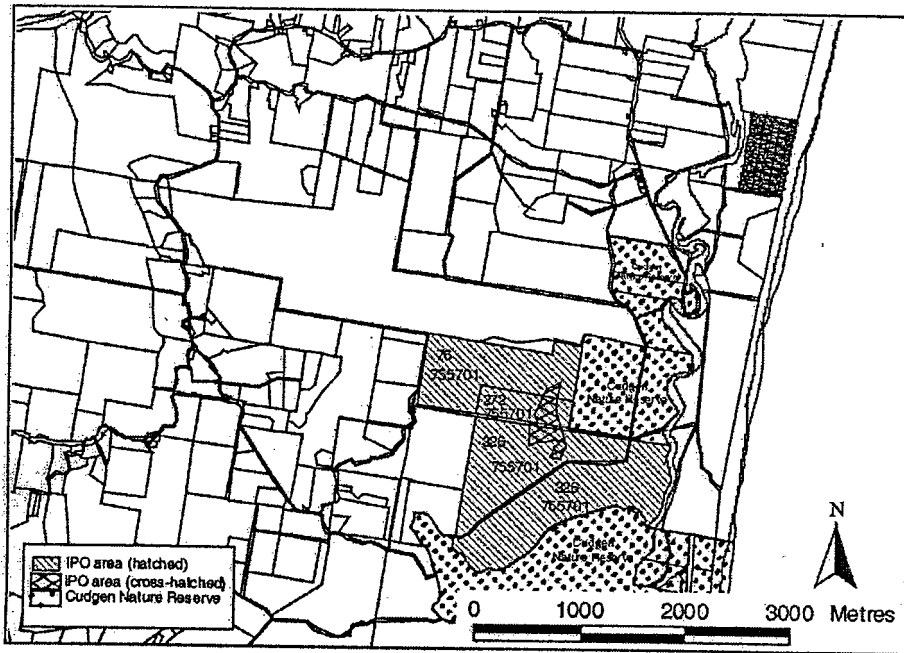
In a report to a Council meeting on 16 October 2002 Council was advised that the Minister for the Environment gazetted an Interim Protection Order pursuant to the National Parks & Wildlife Act 1974 over part of the Kings Forest site (see Figure 1). The IPO, dated 27 September 2002, has lapsed. A new IPO dated 14 November 2003 has now been gazetted (see Figure 2). The new IPO reduces the amount of land affected by the previous IPO by approximately 50%. The new IPO has been put in place after substantial discussions between the Department of Environment and Conservation (DEC) and the new landowners, LEDA developments Pty Ltd. The areas affected by the new IPO are considered by the DEC to be most at risk of further unauthorised actions which may affect threatened species and their habitat.

A copy of the new IPO forms part of this report.

**Figure 1 - Source Government Gazette 27/9/02**



Figure 2 - Source Government Gazette 14/11/03



SCHEDULE

*Land District – Metropolitan; L.G.A. – Canterbury.*

County Cumberland, Parish St George, 1.379 hectares, being Lot 1, DP 124133, Lot 2, DP 191033 and Lot 5, DP 356528; NPWS/02/00673, F/1053.

Note: The above reservation is restricted to a depth of 100 metres below the surface.

**NATIONAL PARKS AND WILDLIFE ACT 1974**

Interim Protection Order

IN pursuance of section 91B of the National Parks and Wildlife Act 1974, I, BOB DEBUS, the Minister for the Environment, having considered a recommendation by the Director-General of the Department of Environment and Conservation, DO HEREBY MAKE AN INTERIM PROTECTION ORDER in respect of the land described as Lot 76 in DP 755701, Lot 272 in DP 755701 and Lot 326 in DP 755701, depicted as the hatched and crosshatched area on the attached map marked "Diagram A" to prohibit the damaging or despoiling of the land or any part of the land, the carrying out of any activity which would constitute the carrying out of a development in relation to the land, the damaging or destruction of any tree or vegetation on the land or the removal of any tree or vegetation from the land, or the carrying on of any activity of the following type:

- disturbing the surface of the soil;
- undertaking earthworks;
- clearing, slashing, damaging or destruction of any tree or any native vegetation;
- application of herbicides or pesticides;
- dumping of spoil;
- removal of pine (*Pinus* spp.); and
- grazing of cattle or other domestic stock.

or any other activity that may affect the preservation, protection or maintenance of the land or any threatened species population or ecological community or its habitat within the meaning of the Threatened Species Conservation Act, AND I DO FURTHER ORDER that the Interim Protection Order shall have effect for a period of 12 months.

This Order does not prohibit the watering of tea trees in that area of land within part Lot 76 in DP 755701, part Lot 326 in DP 755701 and part Lot 272 in DP 755701 as indicated by crosshatching on the attached map marked "Diagram A" (that area being the same area excluded from the 17 September 2001, Stop Work Order). Watering shall be limited to watering by means of either hand watering or watering from a water tanker. Watering by means of irrigation from the dam on Lot 326 in DP 755701 is not permitted.

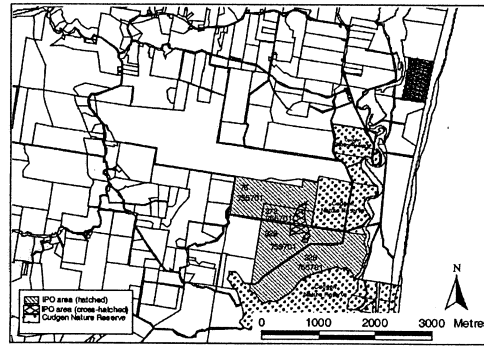
In this Order, "development" means:

- (a) the erection of a building;
- (b) the carrying out of a work, in, on, over or under land;
- (c) the use of land or of a building or work in, on, over or under land;
- (d) the subdivision of land; and

(e) the clearing of vegetation.

BOB DEBUS, M.P.,  
Minister for the Environment

DIAGRAM "A"



**NATIONAL PARKS AND WILDLIFE ACT 1974**

Coocumbac Island Nature Reserve  
Cooperabung Creek Nature Reserve  
Plans of Management

IN pursuance of section 76 of the National Parks and Wildlife Act 1974, it is hereby notified that Plans of Management for Coocumbac Island Nature Reserve and Cooperabung Creek Nature Reserve were adopted by the Minister for the Environment on 16 September 2003.

Copies of the plans may be purchased at a cost of \$8.50 each from the NPWS Mid North Coast Regional office, 152 Horton Street, Port Macquarie; and The National Parks Centre, 102 George Street, The Rocks, NSW 2655. The plans are also available on the NPWS web site: [www.nationalparks.nsw.gov.au](http://www.nationalparks.nsw.gov.au).

**NATIONAL PARKS AND WILDLIFE ACT 1974**

Brimbin Nature Reserve  
Tapin Tops National Park  
Plans of Management

PLANS of management for Brimbin Nature Reserve and Tapin Tops National Park have been prepared and may be viewed during office hours at:

- NPWS Manning Area Office, 78 Hargreaves Drive, Taree;
- Manning Valley Visitor Information Centre, Manning River Drive, Taree North;
- NPWS Mid North Coast Office, 152 Horton Street, Port Macquarie;
- The National Parks Centre, 102 George Street, The Rocks;
- NPWS Head Office Library, Level 7, 43 Bridge Street, Hurstville.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER**

**4 [OGM] 2003/04 Fees & Charges - New Fee to Operate a Surf School**

**ORIGIN:**

**Financial & Information Services**

**SUMMARY OF REPORT:**

The Tweed Coast Reserve Trust resolved at its meeting of 12 November, 2003 to issue a temporary licence under the provisions of Section 108 of the Crown Lands Act, 1989 to Mr Tom Campbell for the purpose of operating a surf school for one (1) month. The licence will continue on a monthly basis.

It is proposed to charge a weekly fee of \$40 for the operation of a surf school on Tweed Shire beaches.

**RECOMMENDATION:**

That the weekly fee of \$40.00 for operation of a surf school on Tweed Shire beaches be exhibited publicly for 28 days.

**REPORT:**

As per summary.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## **5 [OGM] Rate Pensioner Concessions and Cost to Council**

### **ORIGIN:**

**Financial & Information Services**

### **SUMMARY OF REPORT:**

The report summarises how Council issues rate pensioner rebates, the number and cost of pensioner rebates to Council and the details of Government Grants received to offset the cost.

### **RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

Council may grant a pensioner rate concession to people who make application and :-

- own and occupy their property within a dwelling
- holds a current pensioner concession card from Centrelink or Veterans Affairs
- receives a gold card that is stamped that they receive a TPI or EDA pension

If a pensioner does not own 100% of the property, the pensioner is entitled to the rebate proportionate to what they own as per the title.

Pensioners are eligible for a rate reduction on Ordinary and Domestic waste charges to a combined maximum of \$250.00. Council may be aware that in the rating year 2003/2004 a user pay system of water billing was introduced. As a result of the changed circumstances pensioners are entitled to a rebate on the water access charge of \$53.00 and may also receive up to \$34.50 rebate on water usage charges. Pensioners are also entitled to a rebate on sewerage charges of \$87.50.

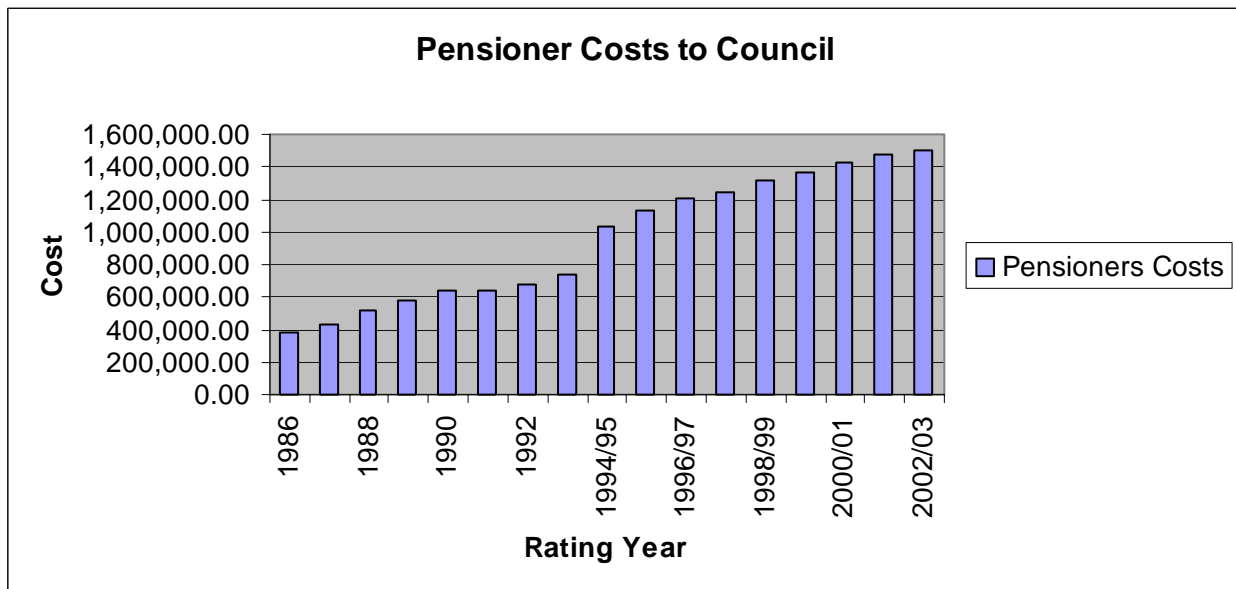
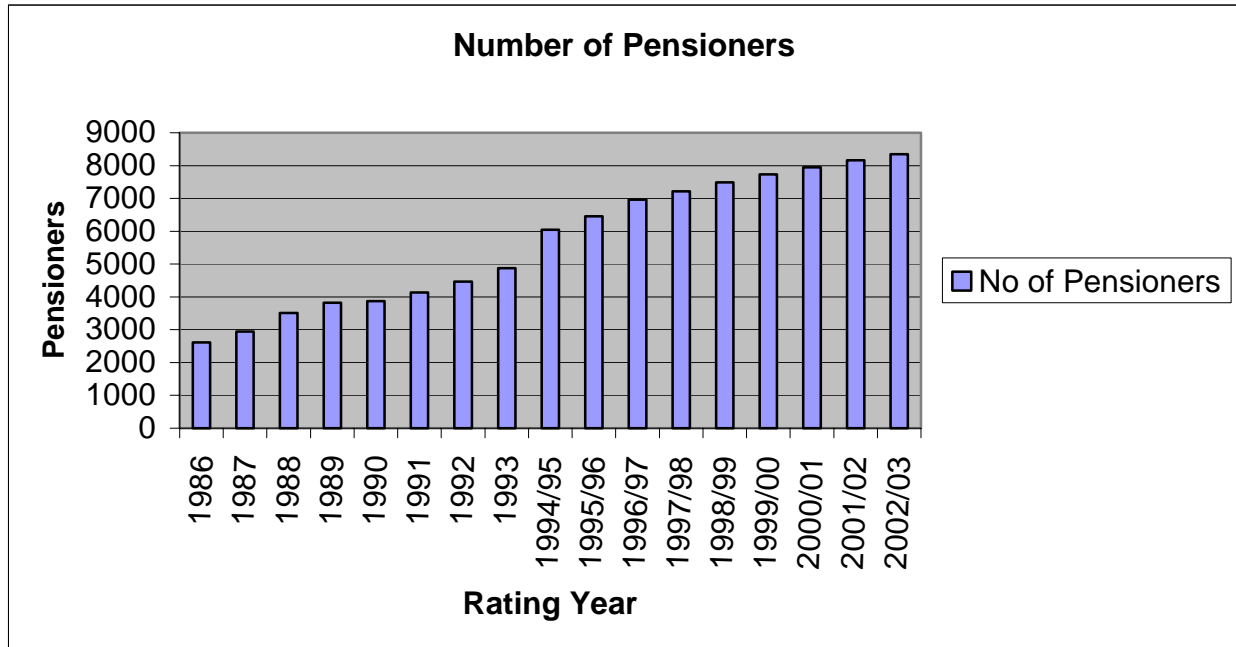
Therefore for the 2003/2004 rating period the minimum rate with General, Water, Sewerage and Garbage charges is \$1191.50 and the pensioner rebate applicable to the rates and charges would be \$390.50.

The table below indicates the increase in pensioners from 1986 and the associated cost to Council from the increased number of pensioners. It should be noted that the pensioner subsidy from the State Government has not increased during this time on an individual pensioner concession.

By comparison the total number of rateable properties currently is 33,000 of which 25% or 8,342 are entitled to the pensioner concession.

| Year    | No of Pensioners | % Increase Number of Pensioners | Pension Rebate Applications Received \$ | Pension Subsidy Claimed from Department of Local Government \$ | Net Pensioner Cost to Council \$ | % Increase Net Pensioners Cost to Council |
|---------|------------------|---------------------------------|---|--|----------------------------------|---|
| 1986    | 2611             |                                 | 773,282.00                              | 386,641.00   | 386,641.00                       |   |
| 1987    | 2948             | 12.91                           | 872,952.00                              | 436,476.00   | 436,476.00                       | 12.89                                     |
| 1988    | 3508             | 19.00                           | 1,038,778.00                            | 519,389.00   | 519,389.00                       | 19.00                                     |
| 1989    | 3821             | 8.93                            | 1,154,450.00                            | 577,225.00   | 577,225.00                       | 11.14                                     |
| 1990    | 3871             | 1.31                            | 1,270,052.00                            | 635,026.00   | 635,026.00                       | 10.00                                     |
| 1991    | 4132             | 6.74                            | 1,289,684.00                            | 644,842.00   | 644,842.00                       | 1.55                                      |
| 1992    | 4466             | 8.08                            | 1,356,646.00                            | 678,323.00   | 678,323.00                       | 5.19                                      |
| 1993    | 4878             | 9.23                            | 1,470,364.00                            | 735,182.00   | 735,182.00                       | 8.38                                      |
| 1994/95 | 6044             | 23.90                           | 2,064,634.00                            | 1,032,317.00   | 1,032,317.00                     | 40.42                                     |
| 1995/96 | 6456             | 6.82                            | 2,513,184.44                            | 1,256,592.22   | 1,130,933.00                     | 9.55                                      |
| 1996/97 | 6960             | 7.81                            | 2,678,366.67                            | 1,473,101.67   | 1,205,265.00                     | 6.57                                      |
| 1997/98 | 7216             | 3.68                            | 2,769,688.89                            | 1,523,328.89   | 1,246,360.00                     | 3.41                                      |
| 1998/99 | 7490             | 3.80                            | 2,934,677.78                            | 1,614,072.78   | 1,320,605.00                     | 5.96                                      |

|          |      |      |              |              |              |      |
|----------|------|------|--------------|--------------|--------------|------|
| 1999/00  | 7735 | 3.27 | 3,042,355.89 | 1,673,295.74 | 1,369,060.15 | 3.67 |
| 2000/01  | 7945 | 2.72 | 3,162,598.67 | 1,739,429.27 | 1,423,169.40 | 3.95 |
| 2001/02  | 8161 | 2.72 | 3,269,591.62 | 1,798,275.39 | 1,471,316.23 | 3.38 |
| 2002/03  | 8342 | 2.22 | 3,326,170.02 | 1,829,393.51 | 1,496,776.51 | 1.73 |
| Estimate |      |      |              |              |              |      |
| 2003/04  | 8550 | 2.50 | -            | -            | 1,534,000    | 2.50 |



**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENGINEERING SERVICES

### 6 [ES] Application to Close Council Public Road - Double View Road, Farrants Hill

#### ORIGIN:

Design

FILE NO: GR3/12/1 - Road Closures

#### SUMMARY OF REPORT:

An application has been received from Mr John Barter and his partner, Ms Hanna Steven-Boniecki to close and purchase two sections of the road reserve of Double View Road.

The property owned by the applicants, Lot 15 in DP 864872, is made up of 3 parts as Lot 15 is dissected by Double View Road and an unnamed formed road. The most easterly part of Lot 15, having an area of 2692m<sup>2</sup>, has a dam on it and one of the sections of the road reserve forming part of this application is the remnant of a road closed in 1985 by a previous owner. The remnant of road is not suitable for use by Council for future road widening as the area of unformed road reserve falls steeply from Double View Road down towards the dam. This area of road reserve contains a mixture of soft wood weed species and grasses, several specimens of pine trees (*Pinus* sp.) and a red cedar tree (*Toona ciliata*) immediately adjacent to Double View Road.

The second section of road reserve forming part of this application is a section of the junction of Double View Road and the unnamed road which form the southerly point of the middle section of Lot 15. Access to Lot 15 is from the short road, where it crosses the road reserve of the unnamed road. The area has been planted as part of the garden of Lot 15 and it is sought to be closed so it can remain as such.

#### RECOMMENDATION:

That:-

1. Council approves the closure of part of the road reserve of Double View Road, Farrants Hill;
2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by the State Valuation Office;
3. The title of the closed road be consolidated with the adjacent land;

4. Easements be created over public authority reticulation services, if any;  
and
5. All necessary documentation be executed under Common Seal of Council.

**REPORT:**

An application has been received from Mr John Barter and his partner, Ms Hanna Steven-Boniecki, to close and purchase two sections of the road reserve of Double View Road.

The property owned by the applicants, Lot 15 in DP 864872, is made up of several parts as Lot 15 is dissected by Double View Road and a short unnamed formed road. The most easterly part of Lot 15, having an area of 2692m<sup>2</sup>, has a dam on it and one of the sections of the road forming part of this application is the remnant of a road closed in 1985 by a previous owner. The remnant of road is not suitable for use by Council as the area falls steeply from Double View Road down towards the dam. This area of road contains a mixture of weed species and grasses, one or two pine trees (*Pinus* sp.) and a red cedar tree (*Toona ciliata*) immediately adjacent to Double View Road. This area is shown in the following plan as area "A":-



As the area of road shown as dark grey area and marked "A" above will not be of use to Council for road purposes due to the steepness of the site, it is recommended that it be closed and sold to the applicant. However, it should be noted that the applicant is seeking to close a greater area than that shown above, the area sought to be closed is shown on the plan following this report, marked "A", and having an area of 1,282.8m<sup>2</sup>. The area hatched on that plan contains the red cedar referred to above and pursuant to

Council policy on road closures, areas containing significant flora are not eligible for closure. The red cedar appears to be at least 15 years old and may be considered significant pursuant to Council's policy on the basis that red cedars of this age are not often found in the wild. In that regard, approval for the closure of this part of the road reserve extends only to that part of the road reserve that does not contain the red cedar.

The second section of road sought to be closed and purchased is at the junction of Double View Road and the unnamed formed road which contains road access from Lot 15. The road reserve at this junction has been planted as part of the garden of Lot 15 and it is sought to be closed so the garden can remain as such.

As the formation of Double View Road is fairly narrow, future road widening and/or realignment may be necessary to cater to potential future needs and it is in this basis that the road reserve at this junction be retained to ensure tenure remains with Council to allow for any future road widening and/or realignment.

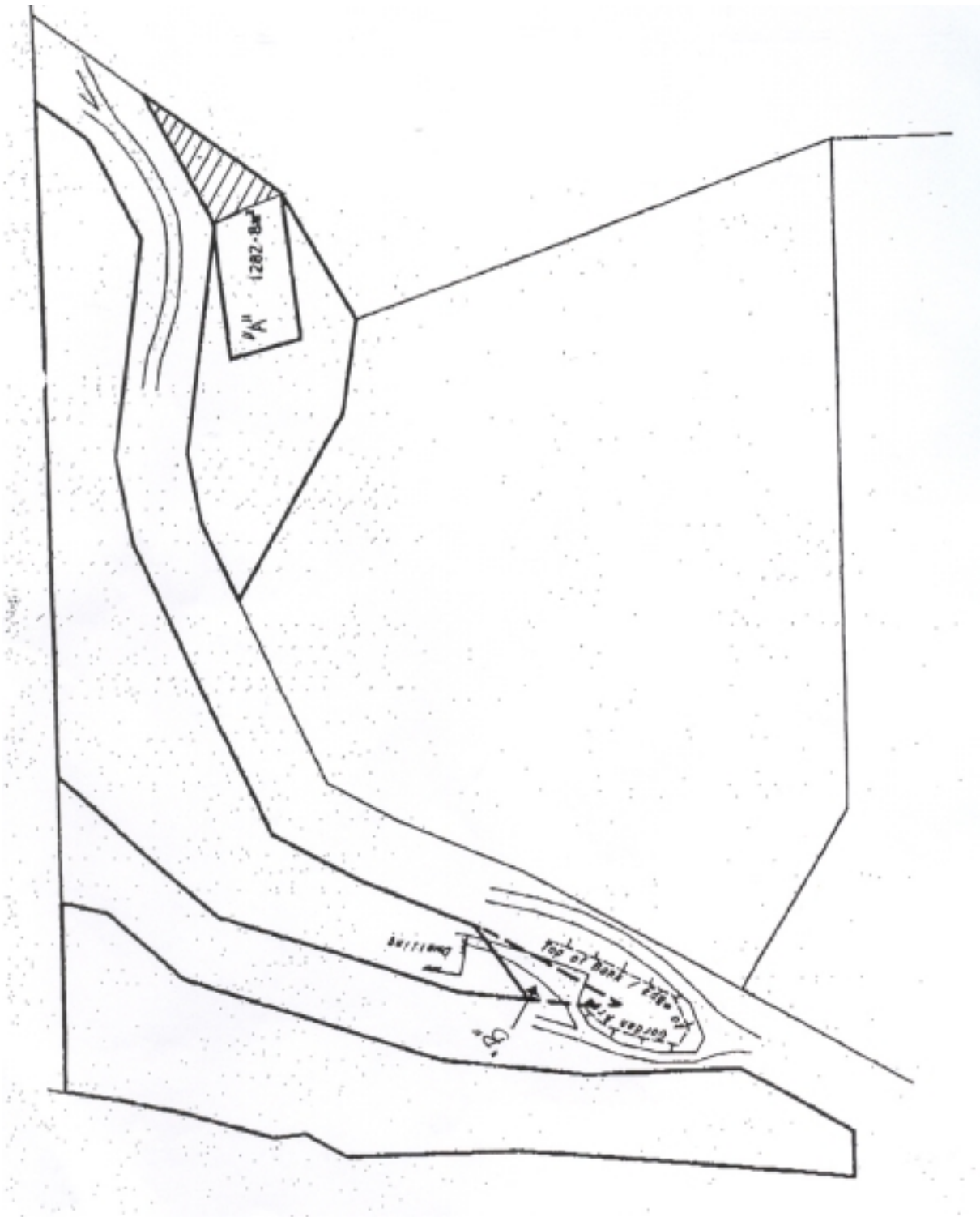
The plan following this report, prepared by the applicant's surveyor, shows that the formation of Double View Road lies within the road reserve, but is located on the easterly side of the road reserve around the edge of the garden and to enable any future road widening and/or realignment, it may be necessary to utilise that part of the road reserve containing the garden area.

The surveyor's plan also shows a minimum area sought to be closed by a hatched line, and shown as area "B" in both plans. The surveyor's plan also indicates the garden area which the applicants are seeking to include in the area sought to be closed. Although Area "B" within the hatched line incorporates the access for Lot 15. It is the opinion of various officers that to enable any future road widening and/or realignment it is necessary to retain the total area of road reserve at the junction of Double View Road and the unnamed formed road.

There are no objections to the applicants continuing to use that part of the road reserve to access Lot 15.



## Surveyor's Plan



### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**7 [ES] Cranneys Road Right of Carriageway**

**ORIGIN:**

**Works**

**FILE NO: R1420 Pt1**

**SUMMARY OF REPORT:**

Council has been maintaining the last 400 metres of sealed section of Cranneys Road for many years. The school bus uses this section of road and turns around at the end.

It has only recently come to Council's attention that this section of road is a right-of-carriageway on the property Lot 11 DP 778734 owned by Edwin Earl and Roslyn Smith (Cranneys Nursery).

There are two options open to Council at this time:-

1. Stop maintenance on that section.
2. Transfer the right of carriageway into Council ownership and dedicate it as public road.

**RECOMMENDATION:**

That Council proceeds to complete the survey to allow the dedication of the right-of-carriageway on Lot 11 DP 778734 Cranneys Road as public road.

## **REPORT:**

Council has been maintaining the last 400 metres of sealed section of Cranneys Road for many years. The school bus uses this section of road and turns around at the end.

It has only recently come to Council's attention that this section of road is a right-of-carriageway on the property Lot 11 DP 778734 owned by Edwin Earl and Roslyn Smith (Cranneys Nursery).

There are two options open to Council at this time:-

1. Stop maintenance on that section.
2. Transfer the right of carriageway into Council ownership and dedicate it as public road.

### **Option 1**

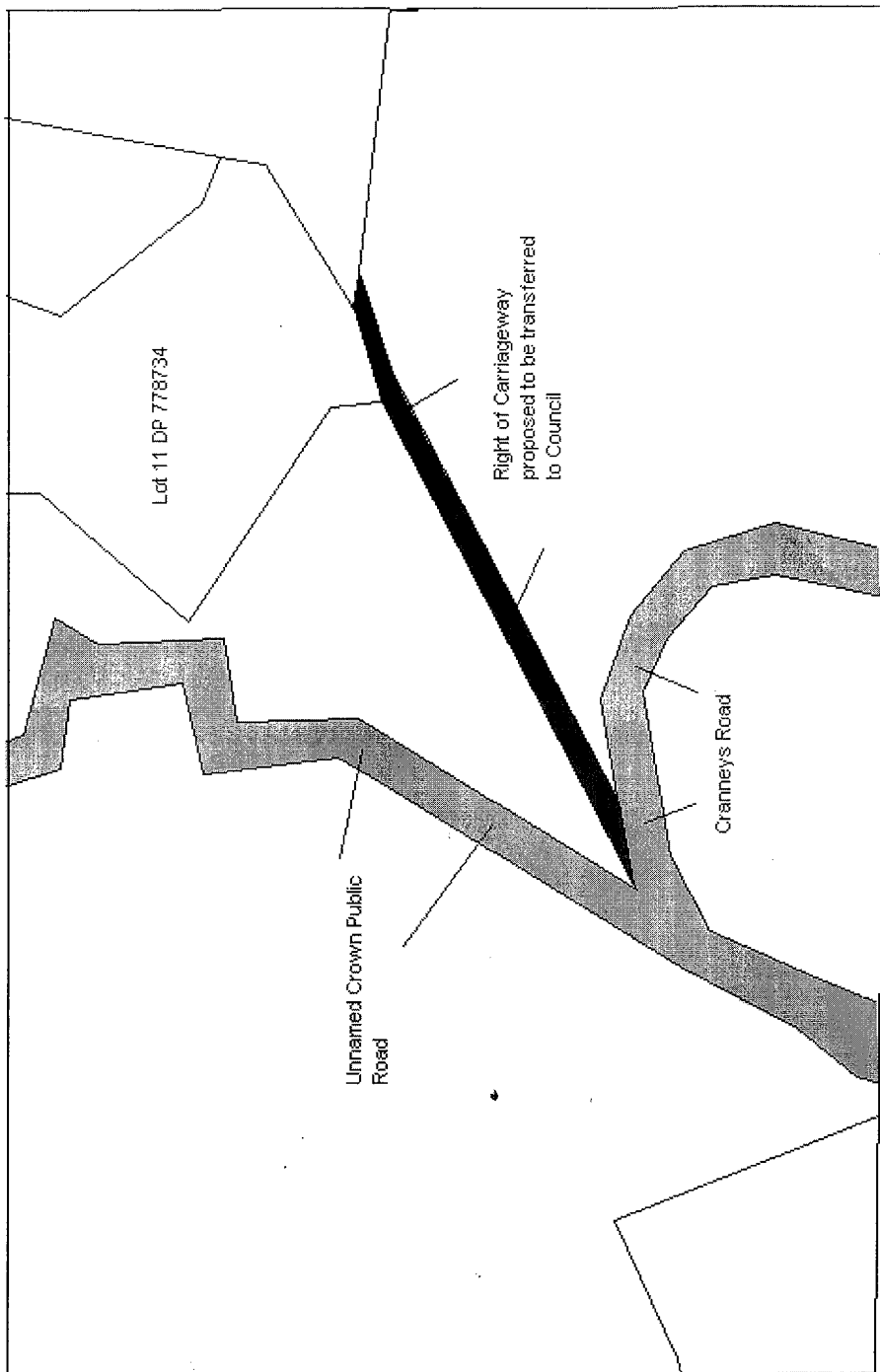
This may seem the easiest and cheapest solution but council would need to construct a turning area for the school bus and other visitors to the area. The estimated cost of this work is \$8,500.

### **Option 2**

The owners of the Right of Carriageway have been contacted and have agreed to transfer the land free of cost provided Council bears all survey and legal costs and that Council provide a barrier of trees along 60m of the road. This is estimated to cost \$4,000.

The sketch at the end of this report shows the section of access in question. There are no concerns about its structural adequacy or long term maintenance costs.

It should also be noted that Council has been including this section of "road" in its report on road lengths maintained to the relevant Government Departments.



**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**8 [ES] Tweed Valley Way - Burringbar Range Slope Stability**

**ORIGIN:**

**Works**

**FILE NO: R4031 Pt18**

**SUMMARY OF REPORT:**

As part of the Tweed Valley Way handover agreement with the Roads & Traffic Authority, a funding allocation was made to reduce the risk to road users of a slope failure on the Burringbar range. This report details the options considered by the Roads & Traffic Authority to address the issue.

**RECOMMENDATION:**

That Council proceeds with the Option 4 treatment recommended by the Roads & Traffic Authority for the Burringbar Range slope.

## REPORT:

Prior to maintenance responsibility for the Tweed Valley Way being handed over to Council, the Roads and Traffic Authority (RTA) had for some time been monitoring a roadside cutting on the Burringbar range for its stability. Whilst to date no rock fall of a serious nature that would cause injury or property damage has occurred, the Authority's geotechnical engineers held concerns over the long-term safety of the slope. An inspection of the slope in March 2001 by the RTA determined it as being in the "Assessed Risk Level 1" category, which is the highest risk rating that slopes can be classified as.

The slope concerned is located approximately 1.3km north of the speed camera at the southern end of the range. As part of the hand-over negotiations for the Tweed Valley Way, the RTA agreed to commission a geotechnical options report for the slope to identify treatment options and limit Council's public liability exposure. A copy of this report follows at the end of this report for Council's information.

The RTA recommended treatment option (Option 4 in report) involves a reduction in the length of the southbound overtaking lane at the slope in order create the necessary width to install a rock protection fence and concrete barriers. As the traffic volumes on this section of road have significantly reduced since the opening of the Yelgun to Chinderah freeway, the reduction in the length of the overtaking lane is considered acceptable. As stated in the RTA report, the overtaking lane would still be 2.4km long after it is reduced in length.

Council officers have fielded some informal objections by Burringbar residents to the Option 4 treatment. The main basis of the objections is the view that reducing the total road width from three lanes to two may compromise safety of motorists at the cutting, and that other options should be investigated.

In order to further investigate the other three options listed in the RTA report, contact was made with the report's author. The additional information provided for each of the other options is as follows:-

Option 1      Widen cutting

Involves the excavation of 8500 cubic metres from the face of the embankment so that a mid-height bench no greater than 4m high to catch fallen rocks could be placed.

Estimated cost \$132000

Option 2      Meshing the face

Involves scaling the face of the embankment with a long reach excavator to remove loose rocks and covering the face with a heavy duty mesh anchored with rock bolts to prevent large sized material coming away from the face.

Estimated cost \$188000



**Option 3**     **Reduce risk at two worst sections**

Involves use of gabion and 'H' piled retaining walls to 4m in height over the more dangerous overhanging sections. This option only offers protection at the two most at risk areas.

Estimated cost \$113000

A design to implement Option 4 has been completed by Council staff. The altered linemarking involves a painted chevron marked centre lane to keep opposing traffic separated by 3m south of the slope, with a double centreline for 350m past the protection fenced length. As the size of potential rock falls are expected to be significant, concrete barriers and a tensioned protection fence past the cutting have been designed in accordance with the RTA recommendation to prevent spills from coming to rest on the roadway. In recognition of Burringbar residents' concerns the widths of the travel lanes in the design have been kept identical to the width of the existing lanes and a 2m wide clear zone is provided between the northbound lane and the barrier. An estimate of cost for this treatment option is \$68,000. Council has already received a funding allocation of \$50,000 in the Tweed Valley Way hand-over grant for this embankment and the RTA has indicated that a further grant may be forthcoming to meet the additional costs for the recommended treatment.

Following, for Council's consideration, are photographs of the slope and also of similar linemarking and protective fencing treatments as proposed for this site.



**Photograph 1.** Overhanging rock section at distance 120m



**Photograph 2.** Overhanging rock section at distance 60m



**Photograph 3.** Example of proposed linemarking to keep opposing traffic separated south of the slope



**Photograph 4.** Indicative view of roadway past cutting with recommended barrier

**OLD SH10 MUWILLUMBAH ROAD BRRRINGBAR CUTTING**  
**SLOPE 140 LINK 3310 5.2km to 5.47km**

The cutting at Burringbar has been regularly monitored for several years, and no serious rockfall has occurred. There is fairly frequent dropping of rocks up to 250mm in size, but most of these break up to some extent when impacting the drain.

The edge drain, while only being narrow, slopes steeply back as a result of the asphalt base, and has been very effective in keeping a high proportion of the smaller rocks from getting onto the pavement.

A close inspection has been made of the cutting, with the following assessment:

- The cutting is approximately 270m long, with the northern 40m being <2m high and of little risk.
- The next 45m is up to 4m high, but is not showing signs of major instability or weathering
- The most dangerous area is located between 45m and 80m from the southern end. Large overhanging blocks are present, with poor joint orientation, and failure is likely, triggered by adverse rain events
- The other problem area is located 118m to 125m from the southern end. Very weathered rock has slid to produce a near vertical scarp that continues to shed material onto the pavement.

**Treatment Options**

**1. Widen cutting, with a bench at half height**

The top of the cutting is relatively level, then drops downwards 8 to 15m behind the crest of the cutting. The earthworks for this option would be substantial, but not excessive, as the cutting would not have to be increased in height.

The main disadvantage is that private land would need to be resumed.

**2. Mesh the face**

This option would involve meshing the entire face of the cutting, and securing at the top, and with intermediate rock bolts. Some earthworks would be necessary to re-shape areas of the cutting and remove overhangs

Shotcrete could also be applied

The disadvantage of this option are high cost, possibly more than option 1

**3. Reduce the risk of the two worst sections**

The road could be protected along the overhang section (45m to 80m) by a piled wall, or a concrete buttress structure, again very expensive

The section between 118m and 125m could be protected by a gabion wall, probably 4 gabions high. This would catch all material shed from this area. There may be OH&S problems with construction however.

The treatment of these two sections would eliminate the worst areas, but still leave the rest of the cutting subject to smaller rockfall, and possible larger slips as the material weathers further.

4. Construction of a rockfall fence

This is the recommended treatment from the Contract rating that was done in 2001. There is insufficient room to build a functional rockfall fence without narrowing the pavement. This was not an alternative when the road carried the full Pacific Highway traffic, but now there are few trucks, and less need for such a long overtaking lane.

The distances along the southbound overtaking lane were measured as follows:

|                 |                 |
|-----------------|-----------------|
| Start of lane   | 0km             |
| Burringbar Cut  | 2.45km to 2.7km |
| Merge sign      | 3.1km           |
| End of O/T lane | 3.25km          |



If the road was narrowed to 2 lanes through the cutting, this would mean the loss of 800m of overtaking lane, but still leave 2.4km.

**Recommendation**

Option 4 is the recommended treatment.

It is therefore proposed that the road be narrowed to allow the construction of a rockfall fence for the southern 230m of the cutting

The fence should be constructed of steel mesh and steel posts set in concrete footings. It should be a minimum of 1m in height, and 4 steel wire ropes should be woven between the posts and then tensioned.

It is further recommended that concrete new-jersey barriers, anchored to the road formation, be installed over a 30m length adjacent to the rock overhang section, and also over a 10m length at the 65km sign (at 120m).

These should prevent any mass slide from flattening the fence and pushing rocks out on to the road.



J. S. Taylor  
Geotechnical Services Manager

17.10.02



**Slope Risk Assessment  
Summary Report**

|   |                          |                          |                 |
|---|--------------------------|--------------------------|-----------------|
| Slope Identification No: 140                                |                          | File No:                 |                 |
| Completed by: D J Warren-Gash                               |                          | Date: 21/3/01            |                 |
| <b>Location</b>   |                          |                          |                 |
| Road No: 10   | Roadloc Link: 3310       | CWay Code: A             | L or R: L       |
|   | Start distance 5.2       | Finish distance 5.47     | Length 268      |
| Plan Reference No.  | Plan chainage            | Plan Cut or Fill No.     | Locality Name   |
| MGA Coordinates   | Easting                  | Northing                 | RL(AHD)         |
| GPS Coordinates (GDA Format)<br>Degrees Decimal (DDD.ddddd) | Latitude<br>E: 153.44685 | Longitude<br>S: 28.40638 | Elevation<br>91 |
| <b>Hazard/Failure Mechanism</b>                             | 1<br>Slip/fall           | 2<br>Topple              | 3<br>           |
| <b>Scale of Failure Rating</b>                              |                          |                          |                 |
| - For Volume (S1 - S5)                                      | S4                       |                          |                 |
| - For Block Size (S1 - S5)                                  |                          | S1                       |                 |
| Rate of Failure Rating (R1 - R5)                            | R1                       | R1                       |                 |
| Likelihood Rating (L1 - L6)                                 | L2                       | L2                       |                 |
| <b>Consequence Classes</b>                                  |                          |                          |                 |
| Temporal probability (T1 - T5)<br>(for loss of life only)   | T2                       | T2                       |                 |
| Vulnerability (V1 - V5)<br>(for loss of life only)          | V2                       | V2                       |                 |
| - Consequence class for loss of life (C1 - C5)              | C1                       | C1                       |                 |
| - Consequence class for property damage etc (C1- C5)        | C5                       | C5                       |                 |
| <b>Risk Assessment Parameters</b>                           |                          |                          |                 |
| Slope Attribute Score                                       | 123                      | 123                      |                 |
| Event Magnitude (M1 - M5)                                   | M2                       | M1                       |                 |
| Hazard Classification (H1 - H5)                             | H2                       | H1                       |                 |
| Assessed Risk Level (ARL1 - ARL5)                           | ARL1                     | ARL1                     |                 |
| Possible Remedial Measures (Type(s))                        |                          |                          |                 |
| Need for further investigation (Y/N)                        |                          |                          |                 |
| Reports Available (Y/N)<br>(if Y, list separately)          |                          |                          |                 |
| <b>Comments:</b> BALANCEMENT 10"<br>BALANCE ROAD = 1        |                          |                          |                 |

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**9 [ES] Naming of Crown Road Transferred to Council Located off Depot Road, Kings Forest**

**ORIGIN:**

**Design**

**SUMMARY OF REPORT:**

At a meeting held on 20 August, 2003 it was resolved by Council to publicise its intention to name the road coming off Depot Road at Kings Forest as "*Secret Lane*" allowing one month for objections to the proposal.

An advertisement was published in the Tweed Link on 14 October, 2003 seeking written submissions or objections to the naming. No submissions or objections have been received.

**RECOMMENDATION:**

That:-

1. Council adopts the naming of the public road as *Secret Lane*.
2. The naming of the public road be gazetted under the provisions of the Roads (General) Regulation, 1994 and the Roads Act, 1993.

**REPORT:**

As per Summary of Report.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**10 [ES] North East Weight of Loads Group - Deed of Agreement**

**ORIGIN:**

**Works**

**SUMMARY OF REPORT:**

Tweed Shire Council has been a member of the North East Weight of Loads Group (NEWLOG) since its inception in July 1994. There has been a Deed of Agreement between the participating Councils and Ballina Council as the administrating Council signed every five years. This Deed is due for renewal and requires Council's seal. Since 1994 NEWLOG has been instrumental in significantly reducing overloading on Regional and Local roads which will extend the life of the pavements. Council's continuation in NEWLOG is considered to be a cheap method of protecting a valuable asset.

**RECOMMENDATION:**

That the NEWLOG Deed of Agreement be executed under the Common Seal of Council.

**REPORT:**

Tweed Shire Council has been a member of the North East Weight of Loads Group (NEWLOG) since its inception in July 1994. There has been a Deed of Agreement between the participating Councils and Ballina Council as the administrating Council signed every five years. This Deed is due for renewal and requires Council's seal.

There are 11 Councils now participating in NEWLOG, which operates south to Grafton and west to Tenterfield. The inspectors are authorised to intercept vehicles on both local and regional roads and breach if overloaded. Since 1994 the average number of vehicles in the region complying with the loading regulations has increased from 85% to 96%. This has a major effect on reducing damage to the pavements.

The annual membership cost is only \$12,500, which is considered cheap insurance to protect an asset valued at \$300m. By reducing the incidence of overloading the life of Council's roads is being extended. In recognition of the work of the Groups in NSW the RTA contributes \$120,000 per group each year.

**THIS DEED OF AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_ 2003

**BETWEEN:**

**BALLINA SHIRE COUNCIL (BSC)** Corner of Cherry and Tamar Streets, Ballina  
in the State of New South Wales

**AND**

**THE LOCAL GOVERNMENT COUNCILS** named in Schedule One hereto attached

**WHEREAS:**

- A. The parties hereto previously voluntarily agreed in writing to join together to form an association for the purposes of firstly administering the legislation referred to in schedule two hereto; second, to detect breaches of that legislation by road users and third, to reduce maintenance costs of the roads for which each of the parties is responsible.
- B. That association is known as the North East Weights of Load Group (NEWLOG) and shall continue to be known by that name.
- C. That time frame in which that agreement operated has expired.
- D. The parties wish to extend the operation of that agreement until 1 July 2008.

**IT IS AGREED:**

1. The parties hereto shall forthwith do all such things and sign all such documents as may be required to extend the operation of the said expired deed of agreement.
2. Ballina Shire Council shall continue to be known as the Administrative Council of the NEWLOG and continue to perform the administrative work of NEWLOG.
3. The obligation on the parties to establish a management committee which shall have the responsibility for NEWLOG's affairs and operations shall continue.
4. A party to this agreement may terminate its membership in NEWLOG after the expiration of five years from 1 July 2003, by providing at least six months written notice to the administrative council.
5. The assets and liabilities of NEWLOG shall be held and borne by the parties hereto proportionate to the respective shares noted in schedule one.
6. The deed of agreement dated 1998 is in all other respects confirmed.
7. During the currency of this Agreement Member Councils including the Administering Council shall each make an annual contribution towards the

capital and operational costs of the Group being an amount calculated by the Management Committee due and payable to the Administering Council by 30 November 2003 and thereafter 31 July each year.

8. The annual contribution shall be recoverable by the Group as a debt.

**IN WITNESS WHEREOF** the common seal of each of the Councils names as parties hereto was affixed on the day and year mentioned below.

The Common Seal of Ballina Shire Council was hereunto affixed in pursuance of a resolution of the said Council passed on

.....  
**MAYOR**

.....  
**GENERAL MANAGER**

The Common Seal of Tweed Shire Council was hereunto affixed in pursuance of a resolution of the said Council passed on

.....  
**MAYOR**

.....  
**GENERAL MANAGER**

**SCHEDULE 1**

**Parties to Memorandum of Agreement**

| <b>Foundation Members</b>             | <b>Membership Status</b> | <b>Member From:</b>               |
|---------------------------------------|--------------------------|-----------------------------------|
| Ballina Shire Council                 | 2 units                  | 1 July 1994                       |
| Byron Shire Council                   | 2 units                  | 1 July 1994                       |
| Copmanhurst Shire Council             | 2 units                  | October 1997                      |
| Grafton City Council                  | 1 unit                   | 1 July 1994                       |
| Kyogle Council                        | 2 units                  | 1 July 1995                       |
| Lismore City Council                  | 2 units                  | 1 July 1994                       |
| Maclean Shire Council                 | 2 units                  | 1 July 1994                       |
| Tenterfield Shire Council             | 2 units                  | January 1996                      |
| Tweed Shire Council                   | 2 units                  | 1 July 1994                       |
| Richmond Valley Council               | 2 units                  | 1 July 1994<br>(combined in 2003) |
| Pristine Waters Council (Provisional) | 2 units                  | 1 July 2003                       |

**SCHEDULE 2**

**Legislation**

Local Government Act 1993

Roads Act 1993

Road Transport (Mass Loading and Access) Regulation 1996

Interstate Road Transport Act 1985



**IN WITNESS THEREOF** the Common Seals of the Said Councils have been hereunto affixed the day and year mentioned below.

THE COMMON SEAL of BALLINA SHIRE COUNCIL was hereunto affixed on the 2003 in pursuance of a resolution of the said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the BYRON SHIRE COUNCIL was hereunto affixed on the 2003 in pursuance of a resolution of the said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of COPMANHURST SHIRE COUNCIL was hereunto affixed on the 2003 in pursuance of a resolution of the said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the GRAFTON CITY COUNCIL was hereunto affixed on the 2003 in pursuance of a resolution of the said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of KYOGLE COUNCIL was hereunto affixed on the 2003 in pursuance of a resolution of the said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the  
LISMORE CITY COUNCIL was  
hereunto affixed on the  
2003 in  
pursuance of the said Council passed  
the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the  
MACLEAN SHIRE COUNCIL was  
hereunto affixed on the  
2003 in  
pursuance of a resolution of the  
said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of  
TENTERFIELD SHIRE COUNCIL  
was hereunto affixed on the  
2003 in  
pursuance of a resolution of the  
said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the  
TWEED SHIRE COUNCIL was  
hereunto affixed on the  
2003 in  
pursuance of resolution of the said  
Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the  
RICHMOND VALLEY COUNCIL  
was hereunto affixed on the  
2003 in  
pursuance of resolution of the said  
Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

THE COMMON SEAL of the  
PRISTINE WATERS COUNCIL was  
hereunto affixed on the  
2003 in  
pursuance of a resolution of the  
said Council passed the day of

.....  
MAYOR

.....  
GENERAL MANAGER

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**11 [ES] Lower Oxley River Bank Stabilisation Project - Water Unit Contribution**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

Council at its meeting of 1 October 2003 resolved:-

*"That this item be deferred to allow the community groups to address the Community Access meeting in November and to enable Council to contact the relevant Community Groups to update them on the project."*

In accordance with this resolution the community information evening was held at Mr Bill Everest's property at Eungella, followed by a Council Workshop on the 26 November 2003. Peter Boyd from the Department of Infrastructure, Planning & Natural Resources (DIPNR) and John Brock from Richmond LandCare addressed the meetings and advised of the details of the proposed project and the benefits for both the local landholders and the river health.

**RECOMMENDATION:**

That Council approves the allocation of \$30,000 from the Water Budget towards the Lower Oxley River Riparian Rehabilitation project.

**REPORT:**

In paragraph 3 under the Discussion heading of the previous report it was indicated that 8km of river bank would be fenced. As advised by Peter Boyd (DIPNR) on the 26 November 2003, river bank fencing will only be implemented if it is agreed by the landholder to be the most suitable option.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## **REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES**

### **12 [EC] NSW Ministry for the Arts 2004 Infrastructure Grants**

#### **ORIGIN:**

**Environment & Health Services**

#### **SUMMARY OF REPORT:**

Tweed Shire Council is in receipt of advice of the offer of a grant of \$125,000 under the NSW Government's 2004 Capital Infrastructure Program. The grant is towards the construction and fit-out of the new Tweed River Art Gallery.

The funding will assist in completing the current works and fitting out the facilities to the designed standard.

#### **RECOMMENDATION:**

That Council accepts the grant and votes the expenditure.

**REPORT:**

As per summary.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**13 [EC] NSW Ministry for the Arts 2004 Grant**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Council is in receipt of advice from the NSW Ministry for the Arts of the 2004 Visual Arts & Crafts Grants. The NSW Government has provided a grant of \$34,500 towards the programs of the Tweed River Art Gallery. The grants are in support of the following programs: \$14,000 towards the salary of the Public Programs Assistant, \$15,000 towards the curator's fees for the David Rankin Exhibition, \$2,000 towards the curator's fees for the 3<sup>rd</sup> Tweed Wood Biennial and \$3,500 towards the Material Witness Exhibition

The grant for the curator's fees for the David Rankin Exhibition are in addition to the Gallery's current budget

**RECOMMENDATION:**

That Council accepts the votes the expenditure.

**REPORT:**

As per summary.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**14 [EC] Development Application DA03/1180 for a Workshop/Garage at Lot 9 DP 263200 No 15 Carrington Court, Terranora**

**ORIGIN:**

**Building Services**

**FILE NO: DA03/1180**

**SUMMARY OF REPORT:**

Application has been received to construct a concrete block and metal roofed workshop at the subject property. The workshop is proposed to include a bathroom and sink and will be located three metres from the side property boundary.

In response to Council's neighbour notification policy an objection was received from an adjoining property owner.

The objectors concerns were taken into consideration by the assessing officer however it was considered that, on balance, the proposal satisfies all Council requirements and is worthy of approval.

This report to Council has been prepared at the request of a Councillor

**RECOMMENDATION:**

That Development Application DA03/1180 for a workshop/garage at Lot 9 DP 263200, No. 15 Carrington Court Terranora be approved subject to the following conditions: -

1. 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.

[GEN0150]

## GENERAL

2. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by these conditions of consent.

[GEN0020]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0120]

4. A 1.80m high timber fence shall be erected along the western side of the workshop so that the windows and door in the western wall of the workshop and the vehicular entry to the workshop are obscured from the area of the swimming pool on the adjoining property.

[GENNS02]

## PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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.

[PCC0160]

6. A. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

- i. in the case of work to be done by a licensee under that Act:

- (i) has been informed in writing of the licensee's name and contractor licence number; and

- (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or

- ii. in the case of work to be done by any other person:

- (i) has been informed in writing of the person's name and owner-builder permit number, or

- (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount

prescribed for the purposes of the definition of **owner-builder work** in Section 29 of that Act,

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

- B. A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

[PCC0310]

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

7. 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; on completion of installation; and
  - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box on completion of works, indicating:-
    - (A) the method of protection; and
    - (B) the date of installation of the system; and
    - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (D) the need to maintain and inspect the system on a regular basis.

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

[PCW0050]

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

[PCW0090]

9. Prior to the commencement of works on the site all required erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

## **DURING CONSTRUCTION**

10. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

[DUR0010]

11. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR0080]

12. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0130]

13. 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

14. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[DUR0870]

15. 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.

[DUR0900]

16. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.  
[DUR0960]
17. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work.  
[DUR1020]
18. 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.  
[DUR1030]
19. 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.  
[DUR1130]
20. The finished floor level of the building should finish not less than 225mm above finished ground level.  
[DUR1150]
21. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.  
[DUR1160]
22. 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.
- [DUR1200]
23. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1210]
24. Overflow stormwater from the proposed rainwater tanks shall be disposed of into rubble pits so that no nuisance is caused to adjoining property owners .

Details of the rubble pits shall be submitted to and approved by the Principal Certifying Authority prior to commencement of works on that part.

[DURNS01]

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

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

[POC0020]

### **USE**

26. The building is not to be used for any habitable commercial or industrial purpose.

[USE0060]



## **S68 WASTE TREATMENT DEVICE**

27. The on site sewage management system proposed for the above site is approved subject to the following additional special conditions.
- i. All sanitary plumbing and drainage work is done in accordance with the requirements of the local sewage authority or the Local Government (Water, Sewerage and Drainage) Regulation 1993. No alterations or additions are permitted without the express approval of Council.
  - ii. A minimum landscaped area should be provided in accordance with the recommendations contained in the On site Waste Management Report number 2003.19 prepared by HMC Environmental Services and dated April 2003 for the specific purpose of receiving the effluent from the aerated septic tank.
  - iii. An aerated waste treatment system must not be installed in such a way that it can contaminate any domestic water supply.
  - iv. All distribution lines of the irrigation system must be buried to a minimum depth of 100mm below finished ground level.
  - v. All irrigation equipment must be installed in such a way that it will not be readily subject to damage.
  - vi. All irrigation pipework and fittings must comply with AS 2698 *Plastic pipes and fittings for irrigation and rural applications*; and
    - a. standard household hose fittings may not be used.
    - b. the irrigation system may not be capable of being connected to the mains water supply.
  - vii. Effluent from aerated waste treatment system must be managed by the use of one or more of the irrigation techniques specified in AS 1547.
  - viii. The land application area must not be used to grow vegetables or fruit for human consumption.
  - ix. The land application area may be divided into two or more areas.
  - x. Additional land application areas may be used only with the written prior approval of Council.
  - xi. Soaker hoses and standard household sprinklers and attachments must not be used for the irrigation of aerated waste treatment systems effluent.

- xii. The irrigation system must be operated in such a way as to prevent any run-off of effluent from the land application area.
  - xiii. The land application area should be landscaped by terracing and filling or retaining and filling so as to provide a relatively level area to the satisfaction of Council.
  - xiv. All effluent land application areas must be completely prepared or landscaped to the satisfaction of Council before:
    - a. in the case of a new dwelling, occupation of the dwelling
    - b. in any case, commissioning of the aerated waste treatment system.
  - xv. Within the effluent irrigation area there must be at least two warning signs that comply with AS1319 and have:
    - a. a green background
    - b. 20 millimetre high capital lettering in black or white, and
    - c. the words "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT"
  - xvi. The aerated waste treatment system unit shall be maintained by a service agent approved by Council.

*[SEP0010]*
28. The septic system shall be designed and installed in accordance with the recommendations contained in the On site Waste Management Design Report number 2003.19 prepared by HMC Environmental Services and dated April 2003
- [SEPNS01]*

## REPORT:

**Applicant:** Mr D Diklich  
**Owner:** Ms EL Diklich  
**Location:** Lot 9 DP 263200, No. 15 Carrington Court Terranora  
**Zoning:** 1(c) Rural Living  
**Cost:** 20000.00\$

### Background

Application has been received to construct a 14 x 9 metre workshop at the subject premises.

The allotment has an area of 5000m<sup>2</sup>, is zoned 1c rural living and is located on the southern side of Carrington Court and slopes downhill from the roadway.

The site contains a residential dwelling, in - ground swimming pool and tennis court.

An existing unsealed driveway is located inside and parallel to the western property boundary and terminates at an existing level building platform in the south-western corner of the site.

The workshop will be positioned on this platform, 3.0 metres from the side property boundary and 4.5 metres from the rear property boundary and will be constructed of concrete block walls with a 25 degree colorbond metal roof. The height of the workshop will be approximately 5.0 metres.

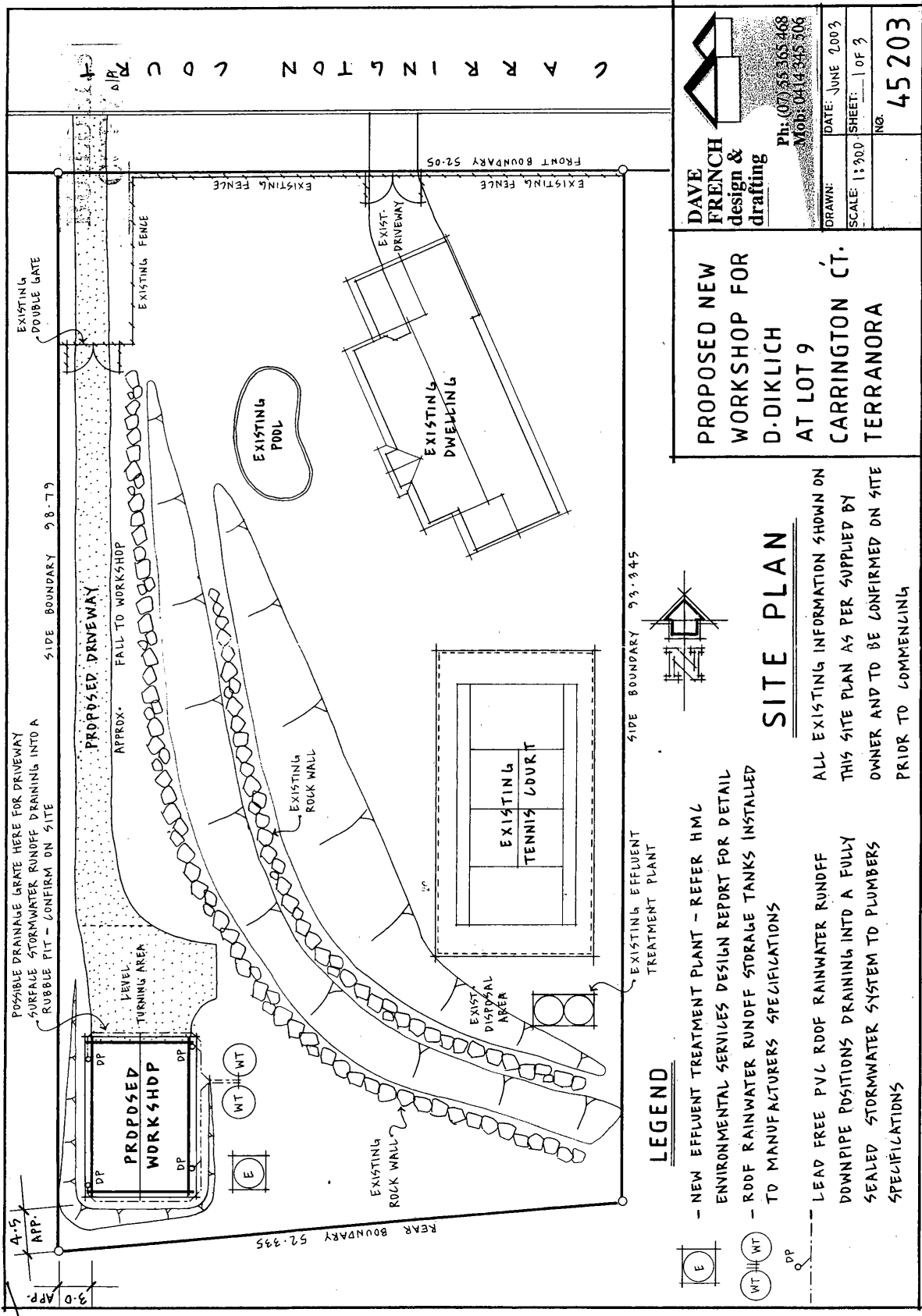
Proposed facilities include a bathroom containing shower, toilet and basin and a kitchen sink with small bench. No internal partitions, apart from the bathroom, are proposed, the ceiling will be lined with plasterboard.

A consultants report has been submitted for the septic disposal system and the disposal area will be located on existing grassed and landscaped banks uphill from the proposed workshop.

Council's Building Surveyor has visited the objector's property to discuss the proposal and has had lengthy discussions with the objector regarding their concerns.

This report has been prepared at the request of a Councillor.

Site Diagram



**DAVE FRENCH**  
design & drafting

Ph: (07) 5535468  
Mob: 0414 245 506

|                  |                 |
|------------------|-----------------|
| DRAWN:           | DATE: JUNE 2003 |
| SCALE: 1:300     | SHEET: 1 of 3   |
| NO. <b>45203</b> |                 |

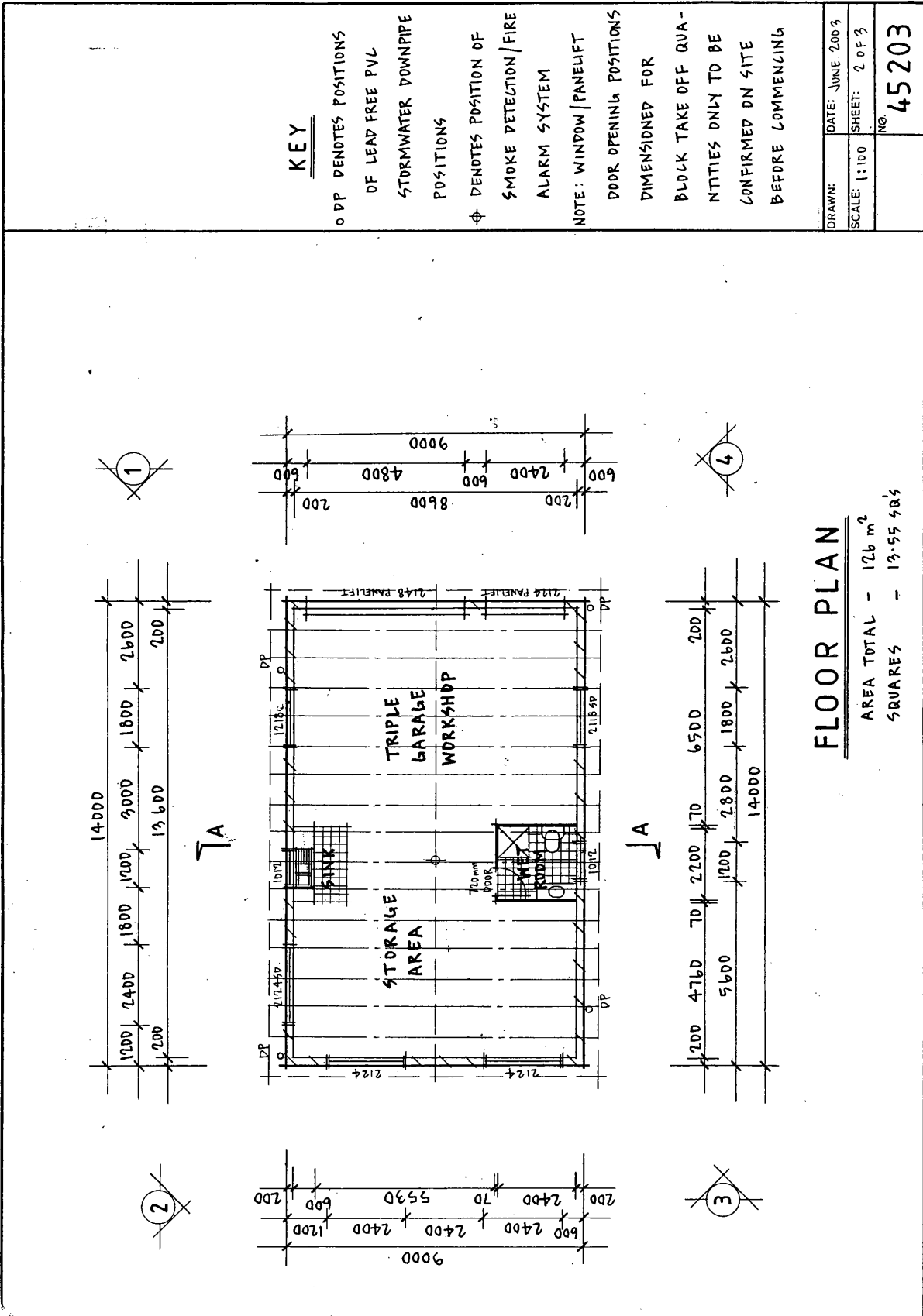
**PROPOSED NEW WORKSHOP FOR D. DIKLICH AT LOT 9 CARRINGTON CT. TERRANORA**

**SITE PLAN**

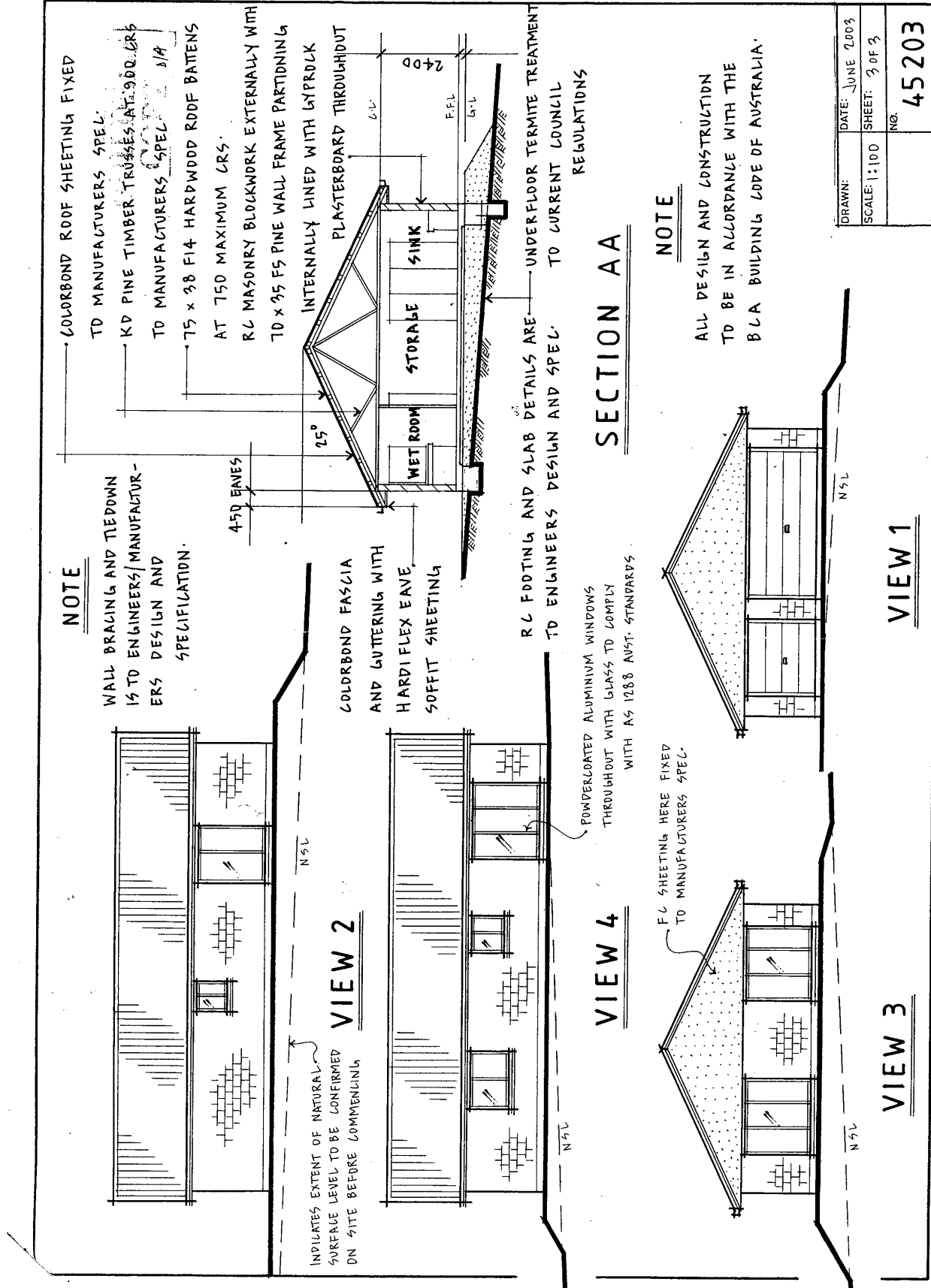
ALL EXISTING INFORMATION SHOWN ON THIS SITE PLAN AS PER SUPPLIED BY OWNER AND TO BE CONFIRMED ON SITE PRIOR TO COMMENCING

- LEGEND**
- NEW EFFLUENT TREATMENT PLANT - REFER HML ENVIRONMENTAL SERVICES DESIGN REPORT FOR DETAIL
  - ROOF RAINWATER RUNOFF STORAGE TANKS INSTALLED TO MANUFACTURERS SPECIFICATIONS
  - LEAD FREE PVC ROOF RAINWATER RUNOFF DOWNPIPE POSITIONS DRAINING INTO A FULLY SEALED STORMWATER SYSTEM TO PLUMBERS SPECIFICATIONS
-

Floor Plan



Side Elevations



|              |                 |
|--------------|-----------------|
| DRAWN:       | DATE: JUNE 2003 |
| SCALE: 1:100 | SHEET: 3 OF 3   |
|              | NO. 45203       |

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

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

The environmental planning instrument which is applicable to this application is Tweed Local Environmental Plan 2000 and the clauses which are considered to be applicable to this application are addressed below:-

- *Cl. 8 Zone Objectives*

The proposal is considered to satisfy the objectives of 1(c) Rural Living zone in that the workshop is consistent with the rural character of the area.

- *Cl. 16 Height of Buildings*

The height of the building will be approximately 5.0 metres above surrounding ground level and it is considered that its height and scale of development is appropriate to its rural location, surrounding development and the environmental characteristics of the land.

#### North Coast Regional Environmental Plan 1988

The proposal has been considered under the provisions of this plan and no objection is raised to approval.

#### State Environmental Planning Policies

The proposal is subject to SEPP 71 *Coastal Protection* and satisfies the aims of this policy.

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

There are no draft planning instruments affecting this site.

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

There is no Development Control Plan affecting this site.

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

There are no other matters prescribed by the regulations

### **(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 workshop will not be visible from the street however will be visible from the adjoining property. Boundary setbacks of 3.0 and 4.5 metres will provide a greater separation from the adjoining properties than is statutorily required. No overshadowing of any consequence will occur to adjoining properties. The Applicant has undertaken to install a 1.80 m high timber fence along the side property boundary between the workshop and the adjoining property to protect the privacy of the occupants of this allotment.

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

The proposed siting of the dwelling will be on a previously levelled building pad which is retained by battered banks. The pad is serviced by an existing unsealed driveway and is considered to be an acceptable location for such a structure. Adequate adjacent area exists for disposal of septic effluent, stormwater will be disposed of into rubble pits and a condition of consent will be imposed concerning the location of the rubble pits to ensure that a nuisance is not caused to the objector.

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

In accordance with Council's neighbour notification policy four adjoining property owners were notified of this proposal and in response to this process one written objection was received from the adjoining property owner who is closest to the proposed building site.

The grounds for objection are as follows:-

1. *“Complete erosion and therefore intrusion of our privacy and utter disregard for the aesthetics of original land subdivision.”*

**Comment.**

The objectors have a swimming pool at the southern end of their dwelling which is their main cause for concern. This area has existing landscaping around the end of the pool area which will provide some screening from the workshop.

Due to the level of the building pad the floor level of the workshop will be approximately 1.0 metre above the level of the swimming pool on the complainants property. The applicant has undertaken to construct a 1.8 m high fence along part of the common boundary with the objector to protect the privacy of the objector, the fence will be constructed towards the top of the battered bank to provide an effective visual barrier.

The original subdivision was created to provide for rural living and the proposed shed is not considered to be inconsistent with this objective.

2. *“An easy and low cost method of gaining a dual occupancy without intruding on the current dwelling or other outbuildings of Lot 9.”*



**Comment.**

The Applicant was requested to provide a written undertaking that the workshop will not be used or adapted for residential occupation and advising the need for a sink in an area designated as a garage and storage.

In response to this request such an undertaking has been received from the owner and advice that the sink is required for "hand washing" and "beverage making" as the workshop is over 50 metres from the dwelling.

The workshop is not proposed to contain a kitchen or laundry and the effluent report, which was submitted in support of the application indicates that the workshop will be used for hobby purposes by one person generating waste of approximately 70 litres per day which is substantially less than what would be generated by a dwelling.

It is considered that due to the open design of the workshop, the facilities proposed and the undertakings given by the applicant then it is reasonable to accept in good faith that the building will be used as a workshop and not as a dwelling.

3. *"Possible effluent discharge into the catchment area of the Tweed River as there are no reticulating options indicated."*

This area is not serviced by a reticulated sewerage system and therefore treatment of household waste is undertaken by septic disposal.

In support of this application the applicant has commissioned an independent "On site sewage management design report" prepared by hmc environmental services.

This report makes an assessment of the likely volume of liquid waste, which will be generated by the use of the workshop and recommends the most effective method of disposing of this waste on site.

The recommendation of this report is that waste water generated from the workshop be treated through the use of an Aerated Wastewater Treatment System fitted with an in tank effluent filter and then be disposed of onto a nearby vegetated terraced yard area by spray irrigation which will enable the effluent to either infiltrate into the ground, be taken up by vegetation or to evaporate into the atmosphere.

Adequate reserve area exists on site for effluent disposal should it be needed.

The effluent disposal area will be located so that effluent is unlikely to cause a nuisance to adjoining properties.

The proposed system of effluent disposal is considered to be of a high standard and satisfies Council's usual requirements.

4. *"The obvious devaluing of our asset being lot 8, with a building, any building, immediately located on our common boundaries particularly a workshop which is a "blind" for an additional dwelling not for cars or machinery but for people."*

The alleged effect on the value of the objector's property solely as a result of the construction of the proposed workshop cannot be proven conclusively.

The workshop will not be "on the boundary" but three metres away from the boundary.

As discussed above the use of the workshop as a workshop is accepted in good faith .

**(e) Public interest**

The proposal is to construct a single storey concrete block and metal roofed workshop on an allotment where the zoning permits this type of structure .The workshop will be located in an area of the site which is suitable in terms of access, septic disposal and available flat area. Setbacks from adjoining allotments are in excess of the statutory minimum.

In general, it is considered that there will be no adverse public interest issues generated should approval be granted.

**OPTIONS**

1. Approve application as submitted with conditions
2. Refuse the application

**CONCLUSION**

The proposal to construct a single storey concrete block and metal roofed workshop on this allotment has been assessed in accordance with the relevant provisions of the Environmental Planning and Assessment Act 1979. The objections of an adjoining property owner have been taken into consideration in the assessment of this application however, on balance, it is considered that the application satisfies Council's requirements and is recommended for approval.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

In the event of a refusal an appeal could be lodged by the Applicant and legal costs could ensue.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 1 Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 13 November 2003

#### FOR THE CONSIDERATION OF COUNCIL:

##### VENUE:

Cabarita Beach Sports Centre

##### TIME:

5.00pm

##### PRESENT:

**Committee Members:** Cr Max Boyd, Cr Henry James, Arthur Rawlinson (Pottsville Dune Care), Kay Bolton (Fingal), Mick Stewart (Twin Towns Coastal Care), Ian Anderson (Kingscliff North), Peter Langley (Kingscliff Enviro Club), Jeanette Davison (Cabarita Dune Care), Dougal Walker (Casuarina Dune Care), Mr Frank McLeod (Department of Works), Mr Stewart Brawley, Mr Rodney Keevers (TSC).

**Informal:** Rhonda James, Vic Brill and Rose Wright

##### APOLOGIES:

Ms Kate McKenzie

##### MINUTES OF PREVIOUS MEETING:

**Moved:** P Langley

**Seconded:** A Rawlinson

**RESOLVED** that the Minutes of the Tweed Dune Care Advisory Meeting held Thursday 11 September 2003 as tabled at the meeting are accepted by the Committee as a true and accurate record of the proceedings.

##### BUSINESS ARISING:

#### 1. Volunteer Training

Few people still to do spray and tractor training. Training program progressing well.

---

## 2. Fingal Headland Path

Still awaiting finalisation of Management Plan and landscape plan for the lighthouse and headland. Kay Bolton is concerned at potential loss of funding (Coastcare) if no progress by December. Frank McLeod to make enquiry on status of plan and advise Kay Bolton.

---

## 3. Tree poisoning

Dune Care Committee; Vandalism

Dougal Walker notified he had discussed with neighbours at Casuarina and all seemed offended by the poisoning.

Discussion on progress of recommendation for installation of signage at sites of vandalism. Cr Boyd noted that there were 32 noted incidences of tree poisoning/vandalism at Casuarina.

Discussion on most recent incidents of poisoning and vandalism and most appropriate sites for signs (subject to result of Council rescission motion).

Dougal Walker noted that most instances appear to be from weekenders and vacant lots. Casuarina Dune Care Representative supports the installation of signs.

R Keevers noted there has been significant vegetation cleared in front of the Hideaway Motel Cabarita Beach and it was noted that a common comment appeared to be "If it's ok for Casuarina".

**Moved:** Dougal Walker

**Seconded:** Arthur Rawlinson

**RESOLVED** the Manager Recreation Services to table a memo to Councillors at their meeting to be held 17 November reiterating their support for the signs highlighting the support of the Casuarina Dune Care representatives for the proposal. Additionally, the memo to recommend Council install signs at the site of vegetation clearing at Cabarita.

Action – Manager Recreation Services to copy pamphlet to Dougal produced for Casuarina residents. Dougal to distribute to residents with cover letter.

**Moved:** Mick Stewart

**Seconded:** Kay Bolton

**RESOLVED** that the Far North Coast Weeds be requested to attend to weed problem on private lots at Casuarina and Seaside City.

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**GENERAL BUSINESS:**

**4. Signage**

Kay Bolton raised the issue of the cutting of green trees for fires on the beach. Frank McLeod noted Department Works has a range of signage. Discussion on benefits or otherwise of signage. Frank McLeod to provide information on signage available and wording.

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**5. Communication**

Vic Brill raised issues of communication between groups when working on the same site to prevent doubling up of work etc. Rhonda James accepted responsibility for mix up.

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**6. Cabarita Beach Dune Care representative**

Cabarita Beach Dune Care Group; Dune Care Committee

Janette Davison advised she would stand down, as representative of the Cabarita Beach Dune Care Group as she is relocating and advised Ron Butler would replace her position. The Committee thanked Jeannette for her contribution to Dune Care and the Tweed Dune Care Committee.

**Moved:** Arthur Rawlinson

**Seconded:** Dougal Walker

**RECOMMENDATION:**

That Janette Davison be replaced by Ron Butler as representative for the Cabarita Beach Dune Care Group.

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**7. Weeds Forum**

Frank McLeod advised of the Weeds Forum to be held 26 Feb 2004 at Twin Towns Services Club.

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**8. Greening Australia**

Stewart Brawley advised of Greening Australia plans for works on the coast.

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## **9. Beach Access**

Arthur Rawlinson expressed concerns of beach access for older people and mums with children particularly at the north end of Pottsville. Additionally, accesses at South Pottsville were showing signs of wear.

R Keevers noted he had met with Len Greer to discuss required works and developed a works program. It was noted that the shape of the dunes limits the ability to construct level accesses.

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## **10. Duranbah Dune Management Plan**

Mick Stewart noted the draft Duranbah Dune Management Plan.

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## **11. Dune Care Progress Reports**

Cr Boyd requested before and after photos of Dune Care works. Suggest report of what Dune Care has achieved. Rose Wright offered to approach the Sun and Daily News to run stories.

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### **NEXT MEETING:**

The next meeting of the Tweed Dune Care Advisory Committee will be held 12 February 2004.

The meeting closed at 6.30 pm

### **DIRECTOR'S COMMENTS:**

That Janette Davidson be replaced by Ron Butler as representative for the Cabarita Beach Dune Care Committee on the Tweed Dune Care Advisory Committee.

### **DIRECTOR'S RECOMMENDATIONS:**

#### **6. Cabarita Beach Dune Care representative**

Cabarita Beach Dune Care Group; Dune Care Committee

That Janette Davison be replaced by Ron Butler as representative for the Cabarita Beach Dune Care Group.

### **UNDER SEPARATE COVER:**

Nil.

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**2 Minutes of the Local Traffic Committee Meeting held Thursday 20 November 2003**

**FOR THE CONSIDERATION OF COUNCIL:**

**VENUE:**

Peter Border Room

**TIME:**

Commencing at 9.00am.

**PRESENT:**

**Committee Members:** Cr George Davidson; Tweed Shire Council; Mike Baldwin, Roads and Traffic Authority; Snr Constable Steve Henderson, NSW Police.

**Informal:** Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council.

**APOLOGIES:**

Mr Neville Newell, MP, Member for Tweed, Mr Don Page MP, Member for Ballina.

**MINUTES OF PREVIOUS MEETING:**

**RESOLVED** that the Minutes of the Local Traffic Committee Meeting held Thursday 16 October 2003 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**BUSINESS ARISING:**

**9. Terranora Road, Terranora**

**R5431 Pt5; Traffic - Weight of Vehicles**

Brought forward from meeting held 16 October 2003 (item 9) and reproduced as follows:-

*"The Police Representative advised that there are increased heavy weight vehicles using Terranora Road.*

*It was decided that traffic counters should be placed on Terranora Road and that the item be brought forward for further discussion.*

*For Council's information."*

The Police Representative requested that signage be placed on Terranora Road (or shire wide) to the effect that heavy vehicle usage on the road be limited to local deliveries only.

The Committee recognised the Police concerns but noted that the legality and process needed investigation.

The Committee noted that under the Regulatory Signage Regulations only Gross signage could be erected.

The RTA Representative undertook to research what would be the best way of limiting heavy vehicles on local roads, yet allowing local deliveries to be made.

To be deferred to the December meeting of the Local Traffic Committee for further discussion.

For Council's information.

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## **GENERAL BUSINESS:**

### **PART A**

#### **1. Kyogle Road, Smiths Creek Road Uki R2970 Pt10; R5100 Pt2; DW958379; DW955861; Traffic - Speed Zones**

Request received for a lowering of the speed limits along Kyogle Road and Smiths Creek Road and that a review of speed limits should also include Rowlands Creek Road. In particular the following has been requested:-

- "1. The 100kph speed limit from Smiths Creek Bridge to the Byangum Bridge be reduced to 80kph. There are a large number of concealed/difficult driveways and school bus stops along this route that would tend to support a case for a lowering of the speed limit.*
- 2. The 100kph speed limit in Smiths Creek Road between Sunrise Place and Clareville Road be reduced to 60kph. It is understood that some residents in Smiths Creek Road have independently written to Council based on a petition organised by a resident. The new footpath from Smiths Creek Bridge into Uki village will see more pedestrian traffic along Smiths Creek Road.*
- 3. The 50kph limit in Kyogle Road from Uki Village be extended to Smiths Creek Bridge. Again, with the new footpath soon to be finished, many more pedestrians will be crossing this section of Kyogle Road, a section that is already narrow, winding and dangerous."*

Further request received from the Uki Village & District Residents Association requesting that a similar extension of a 50kph speed zone be installed at the western end of the village. The Association has also advised that this is a built up area with street lighting up to the intersection of Kyogle Road and Marshall Street.

At the 18 September meeting of the Local Traffic Committee the following was resolved:-

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*"That a 70kph speed zone be installed on Smiths Creek Road from the existing 60kph zone to 100m south west of Clareville Road."*

The Committee agreed on the following:-

1. The 100kph speed zone between Murwillumbah and Uki was discussed and it was noted that more road and bridge reconstruction was programmed for upgrading, in addition to the road upgrades completed over the last 5 years. This item to be deferred pending a road safety audit addressing existing and currently planned upgrading works on Kyogle Road between Bray Park and Uki.
2. The reduction of the 100kph speed limit in Smiths Creek Road between Sunrise Place and Clareville Road was discussed. The Committee noted that this has already been addressed and reduced to 70kph.
3. The speed limit on Kyogle Road was discussed. The Committee decided that the current signage locations at Uki comply with RTA speed zoning policy.

For Council's information.

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## **2. Corporation Circuit, Tweed Heads South**

### **R1365 Pt1; DW960810; Traffic - Parking Zones**

Request received for the provision of "No Parking" signs at the front of the Teddy Bears Educational Child Care Centre at 27 Corporation Circuit. It is reported that cars are parking at the front of the property causing the buses that transfer children from local schools to stop well out from the footpath or in front of the entry or exit of the driveway.

Deferred to the December meeting of the Local Traffic Committee for the Road Safety Officer to meet on site with the owner.

For Council's information.

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## **3. Marine Parade, Kingscliff**

### **R3340 Pt5; DW957695; Traffic - Parking Zones**

Request received for:-

1. The parking outside Paradiso on Marine Parade be changed from two hour parking to 30 minute parking to allow quick changeovers.
2. The provision of two hour parking on Seaview Street between the two roundabouts.

The Committee noted that the Chamber of Commerce is currently developing a proposal on car parking and the Committee encourages the two representative bodies to develop a collaborative recommendation to Council.

For Council's information.

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**4. Murwillumbah Railway Station  
DW967126; Transport - Railways General; Traffic - Pedestrian Crossings**

Request received for reinstatement of the pedestrian crossing for access to the Murwillumbah Railway Station.

The Road Safety Officer advised that the location clearly does not meet the warrants for a pedestrian crossing and was the reason the RTA originally removed it.

The Committee noted that given that the traffic volumes on the Tweed Valley Way have halved since the motorway opened and the fact that the original pedestrian crossing did not meet the warrants for a pedestrian crossing the situation that exists currently also does not meet the warrants.

The Committee also noted that there are pedestrian ramps 50m north of the crossing that pedestrians should be using.

For Council's information.

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**5. Lochlomond Drive, Banora Point  
R3085 Pt1; DW966918; Traffic - Parking Zones**

Request received for the provision of "No Parking" signs at the section of Lochlomond Drive near the driveway of 1/23 that leads to units. It is reported that vehicles are parked both on the grass and on the road, obstructing traffic. The area is also a bus stop area. It is also reported that vehicles parked at this location obstruct the garbage truck emptying bins.

The Committee noted that cars are allowed to park on residential streets and did not support parking signage. The issues of vehicles parking on the road reserve is being referred to Council's Rangers for appropriate action.

For Council's information.

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**6. Dry Dock Road, Tweed Heads**

**R1680 Pt3; Fire Services; Traffic - Signals**

Request received for "Keep Clear" signage to be painted on the roadway adjacent to the access to the Fire Station from Dry Dock Road. Firemen coming from Minjungbal Drive cannot access the premises due to queued traffic from the lights at Minjungbal Drive.

The Roads & Traffic Authority Representative advised that such signage cannot be used near traffic signals as it would interfere with the operation of the signals. It is also noted that it is only a problem at peak hour.

Given the above it is considered that the request cannot be supported at this time.

For Council's information.

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**7. Kingscliff Street, Kingscliff**

**R2890 Pt1; DW969168; LN27116; Traffic - Parking Zones**

Request received for the erection of two "No Standing" signs at the boundary of 274 and 272 Marine Parade to the northern part of the driveway on the back lane of 272 Marine Parade for vehicles from Unit 3/121 Kingscliff Street, Kingscliff.

The Committee noted that parking is already prohibited on one side of the laneway. It is not considered appropriate to ban parking on both sides and it is not possible to put "No Parking" signs at every driveway along the laneway. The Committee noted that access can be gained to the driveway and that better access could be provided by widening the driveway to the units.

For Council's information.

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**8. Pacific Highway, Sexton Hill**

**R4031 Pt18; Traffic - Safety**

Request received for this item to be placed on the Agenda in relation to recent traffic incidents on Sexton Hill.

The Police Representative advised that the Police had previously requested speed cameras on both sides of the road and associated infrastructure improvements. Speed related accidents are still occurring. Cameras, signage and an extension of the existing New Jersey kerb to improve traffic separation is a suggestion by the Police.

The Committee noted that this is a matter for the Roads & Traffic Authority and will be referred to the Roads & Traffic Authority Regional Office.

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For Council's information.

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**9. Smith Street, Murwillumbah**

**R5090 Pt1; DW968206; Traffic - School Zones**

Request received for a change to the existing school bus zone signage on Smith Street. The current sign reads "Bus Zone No Parking 8:30am - 9:30am." The signage needs to be changed as school buses pick up at this location in the afternoons from 2:50pm.

**RECOMMENDATION:**

That the school bus zone signage be changed on Smith Street, Murwillumbah to include the afternoon times from 2:30pm to 4:00pm

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**10. Kyogle Road, Byangum**

**R2970 Pt10; DW964710; Traffic - Line Marking; Traffic - Speed Zones**

Request received for a reduction in the speed limit on Kyogle Road, Byangum, from 100kph to 80kph. It is reported that vehicles are travelling too fast around the bend and quite often run into the fence.

As per Item 1 of this meeting the following was discussed:-

The Committee agreed on the following:-

1. The 100kph speed zone between Murwillumbah and Uki was discussed and it was noted that the road and bridge was programmed for upgrade. This item to be deferred pending a road safety audit addressing existing and currently planned upgrading works on Kyogle Road between Bray Park and Uki.
2. The reduction of the 100kph speed limit in Smiths Creek Road between Sunrise Place and Clareville Road was discussed. The Committee noted that this has already been addressed and reduced to 70kph.
3. The speed limit on Kyogle Road was discussed. The Committee decided that this should remain at 60kph.

The Committee recommended that investigation of the installation of curve warning signage was necessary but will be covered in the audit required in Item 1.

For Council's information.

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**11. Round Mountain Road, Round Mountain**

**R4840 Pt1; Traffic - Weight of Vehicles**

Request received regarding heavy vehicle usage on Round Mountain Road. In particular the area of concern is between Clothiers Creek Road and Pottsville. The possibility of a review of the speed limit and limiting truck movements is raised.

The Committee noted that the truck movements were probably a short term issue due to haulage to the Koala Beach subdivision. The Committee recommended that the matter be referred to Development Services to ensure that development consent conditions are being adhered to.

A request be made to the Weights Inspectors to patrol Clothiers Creek and Round Mountain Roads.

For Council's information.

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**12. Chinderah Weight Station**

**Traffic - Weight of Vehicles**

Late item raised by the Police Representative. Several issues were raised by the Police regarding the operation of the Weight Station. The Committee noted that these issues are outside the responsibility of the Local Traffic Committee and are being directly addressed by the Roads and Traffic Authority.

For Council's information.

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**PART B**

Nil.

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**NEXT MEETING:**

The next meeting of the Local Traffic Committee will be held on Thursday 11 December 2003 in the Peter Border Room commencing at 9.00am.

The meeting closed at 10:45am.

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**DIRECTOR'S COMMENTS:**

**6. Dry Dock Road, Tweed Heads**

**R1680 Pt3; Fire Services; Traffic - Signals**

The Fire Brigade should be advised to negotiate alteration to the traffic signal installation at Dry Dock Road / Minjungbal Drive directly with the Roads & Traffic Authority as signals are not Council controlled.

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**DIRECTOR'S RECOMMENDATIONS:**

As per Committee's recommendations

**UNDER SEPARATE COVER:**

Nil.

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**3 Minutes Circulated to Councillors with this Agenda not Requiring a Council Decision**

**UNDER SEPARATE COVER:**

1. Minutes of the Tweed Shire Council Occupational Health & Safety Committee Meeting held Thursday 11 November 2003
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## ORDERS OF THE DAY

### 1 [NOM] Honorary Rangers

#### NOTICE OF MOTION:

Councillor W J Polglase moves:

That a report be prepared by Council on the feasibility of appointing honorary rangers to observe destruction/vandalism of dunal vegetation in the Casuarina Beach Precinct.

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## **CONFIDENTIAL MATTERS**

### **CONFIRMATION OF MINUTES**

#### **Minutes of the Confidential Council Meeting held 19 November 2003**

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### **REPORTS THROUGH GENERAL MANAGER IN COMMITTEE**

### **REPORTS FROM DIRECTOR ENGINEERING SERVICES IN COMMITTEE**

#### **1 [ES] Hastings Point STP Augmentation - Design & Construction of Tertiary Filters**

#### **REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
-

## **2 [ES] Tender EC2003-185 Pile Driving - Byangum Bridge**

### **REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

## **3 [ES] Tender EC2003-186 Supply & Delivery of Prestressed Concrete Bridge Planks - Byangum Bridge**

### **REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

## **4 [ES] Telstra Relocations for Fraser Drive Upgrade**

### **REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
-

**5 [ES] EQ2003-101 Quotation for Licence to Operate Commercial Sight Seeing Charters on Clarrie Hall Dam**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

**6 [ES] EQ2003-100 Licence to Operate Commercial Fishing Charters on Clarrie Hall Dam**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
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