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## **SCHEDULE OF OUTSTANDING RESOLUTIONS**

### **Schedule of Outstanding Resolutions**

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

**17 March 2004**

#### **REPORT FROM DIRECTOR ENGINEERING SERVICES**

##### **21 [ES] Proposed Water Reservoirs Adjacent to Koala Beach Estate**

**202**

**Councillor H James**

**Councillor B M Luff**

**RESOLVED** that Council investigates the further option of constructing the proposed Reservoir at a location on the Mooball-Pottsville Road.

**Current Status:** Reassessing technical aspects including alternative sites.

---

**16 June 2004**

#### **REPORT FROM DIRECTOR PLANNING & ENVIRONMENT**

##### **8 [DS] Draft Development Control Plan No 50 - Bogangar/Cabarita Beach Locality Plan**

**432**

**Councillor M R Boyd**

**Councillor S M Dale**

**RESOLVED** that this item be deferred.

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

---

## 4 August 2004

### 2 [NOM] Section 149 Certificates

#### NOTICE OF MOTION:

1

**Cr G J Lawrie**  
**Cr L F Beck**

**RESOLVED** that a report be prepared on "puting in place" a procedure for the processing of URGENT applications for S149 Certificates to be made available to the applicant within, say, two (2) hours of lodgement of the application and appropriate fee, in lieu of the current forty-eight (48) hours.

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

---

### 3 [NOM] Grey Water Reuse

#### NOTICE OF MOTION:

2

**Cr G J Lawrie**  
**Cr L F Beck**

**RESOLVED** that a report be brought forward about the feasibility/possible incentive(s) for encouraging ratepayers to collect and divert household grey water for garden use in lieu of entering the sewerage system.

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

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## ITEMS DEFERRED IN COMMITTEE

### **[ID][DS] Application to Modify Development Consent 98/79 Involving Unauthorised Enclosed of Ground Floor of Dwelling in a Flood Prone Area**

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

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

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

#### **C 123 RESOLUTION:**

That this matter be deferred following the DCP Workshop and after a decision has been made on the DCP.

**Current Status:** Workshop held 25 August 2004 - report now awaiting further decision on DCP.

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## **1 September 2004**

### **ORDERS OF THE DAY**

#### **1 [NOM] Street Lighting of Footpaths**

#### **NOTICE OF MOTION:**

#### **3 RESOLUTION:**

**Cr D M Holdom**  
**Cr B J Carroll**

**RESOLVED** that Council officers draft a report on "night lighting" of the main (council) coastal footpaths to afford more security to residents/visitors who wish to walk the footpath/s of an evening/night (time switch operated to go off at 11pm) lighting more so where each footpath moves through each village main street/beach area.

**Current Status:** Report being prepared.

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### **QUESTION TIME**

#### **1 Lands Classified Operational**

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**Cr S M Dale**

Asked that Council Officers supply councillors with a list of all operational council lands, including individual valuations or estimates for each parcel and permissible uses for each. Further can councillors be provided with information on uses and/or potential uses if developed in the future.

The General Manager responded that this information would be reported to Council.

**Current Status:** Details being prepared.

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## **MAYORAL MINUTE**

### **Mayoral Minute**

Councillors,

#### **1. Citizenship**

2 September – conducted private citizenship ceremony at Murwillumbah for Ms. Lynn De Lacy Frost and Miss Tanyja Pommersheim

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#### **2. Tweed Futures**

2 September – Tweed Futures Steering Committee Meeting at Murwillumbah

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#### **3. Murwillumbah Festival of Arts**

2 September – Murwillumbah Festival of Arts Awards Concert at Murwillumbah

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#### **4. Garden Competition**

3 September - Judging Shire's Annual Garden Competition

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#### **5. Volunteer Marine Rescue Point Danger**

4 September – attended Annual General Meeting of the Point Danger Volunteer Marine Rescue

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#### **6. Rats of Tobruk Association**

5 September – attended Dedication of Gold Coast Tobruk Memorial at Point Danger

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#### **7. Casino/Murwillumbah Rail Line**

6 September – attended Mayors' meeting at Lismore Council

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**8. NRACC**

9 September – attended NRACC meeting at Ballina

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**9. Festival of Speed on Tweed**

10 September – Volunteer sign-on at Murwillumbah

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**10. Museum Building**

10 September – Inaugural Dinner of Members/Museum Building at Murwillumbah

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**11. Murwillumbah South Infants School**

11 September – 50<sup>th</sup> Jubilee Celebrations of Murwillumbah South Infants School

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**12. Murwillumbah Netball**

11 September – Murwillumbah Netball Finals & Presentations

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**13. Centrelink**

13 September – Opening Centrelink Call Centre by Larry Anthony

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**14. Murwillumbah Meals on Wheels**

13 September – Murwillumbah Meals on Wheels Annual General Meeting

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**15. Tweed Chamber**

14 September – Tweed Chamber Breakfast at South Tweed

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**16. Tweed Shire Garden Competition**

14 September – Presentation Evening for Tweed Shire Garden Competition

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## 17. Twin Towns

15 September – groundbreaking ceremony – turning of first sod Wharf St Tweed Heads

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### INVITATIONS ACCEPTED:

- 16 September – Public Meeting re Barnby Street Masterplan
- 16 September – Civic Reception for Local Olympians at Tweed Bowls Club
- 16 September - Festival of Speed on Tweed – sponsors & supporters gathering
- 17 September – Citizenship Ceremony Tweed Heads (National Citizenship Day)
- 17 September – Festival of Speed on Tweed Street Parade
- 18 September – Festival of Speed on Tweed – flag off first cars
- 18 September – Festival of Speed on Tweed Dinner
- 20 September – Signing of Museum’s Memorandum of Understanding
- 20 September – Blair Athol AGM
- 21 September – Sports Advisory Committee Meeting
- 21 September – Public Meeting – Kirkwood Road Concept Design
- 22 September – Lot 490 Steering Committee Meeting
- 23 September – Murwillumbah Chamber Business Breakfast
- 23 September – Murwillumbah High School Year 12 Final Assembly
- 24 September – TEDC Board Meeting
- 25 September – Burringbar School of Arts Ball
- 29 September – Lot 490 Steering Committee Final Meeting
- 1 October – Jack Evans Boat Harbour Project Steering Committee Meeting

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

- Local Government Assoc. “Ageing & Place Seminar” **21 September 2004** Sydney
  - SEPPs Workout **20 October 2004** Sydney
  - Explanations Unlimited ½ day Workshop “Answers to Councillors’ Frequently Asked Questions – **11 October** (Coffs Harbour); **14 October** (Maitland); **18 October** (Sydney)
  - “Tides of Change” Local Government Community Development and Planning Conference **27-29 October 2004** Local Entertainment Centre
  - University of Newcastle “Pathways to Profit” **26 November 2004** Central Coast
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**ITEMS DEFERRED**

**[ID] [OGM] First Round Donations 2004/2005 - Festivals Policy**

**ITEM DEFERRED FROM MEETING HELD:**

**1 September 2004**

*RESOLVED that Council defers this item to the Council Meeting to be held on Wednesday 15 September 2004.*

**THIS ITEM IS THE SUBJECT OF A FURTHER REPORT AT ITEM 9 OF THIS AGENDA**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

Tweed Shire Council recognises a need to assist non-profit community groups and organisations, individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire.

Further to the adoption of Council's Policy on Festivals, applications were sought and are now submitted for Council's determination.

**RECOMMENDATION:**

That Council determines the distribution of funds for the first round of donations to Festivals in accordance with the adopted policy and the funds voted in the 2004/2005 Budget.

**REPORT:**

Council, at its meeting held on 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of applications for 2004/2005 have been received and are documented for Council's consideration.

The following application criteria is to be used to determine applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
- The funds are not to be used for a social activity for members of the organisation exclusively.

The 2004/2005 Budget allocation for festivals is \$33,990.00, of this amount \$7,500.00 (for the 2004 Wintersun Festival) has already been distributed, which leaves a balance of \$26,490.00. However, only 70% of these funds (\$18,543.00) are to be allocated in the first round.

Applicant	Amount Requested	Purpose
Greenback Tailor Fishing Competition Inc.	\$2,500.00	Annual fishing competition for Greenback Tailor
Tweed Coast Outriggers Regatta	\$2,000.00	"Spirit of Tweed" Outrigging Regatta in May 2005
Tweed Shire Senior Citizen's Week Committee 2005	\$4,500.00	To assist with costs of facilitating Senior's Expo in May 2005
Tweed Valley Banana Festival	\$8,500.00	To assist in covering this year's administrative costs
Tyalgum Diggers Sports Association	\$5,000.00	To assist with the running of Tyalgum Diggers Sports
Volunteer Marine Rescue Point Danger Association Inc.-Fishing Festival	\$2,000.00	For costs associated with the running of the 2005 Fishing Competition
<b>TOTAL</b>	<b>\$24,500.00</b>	

The total amount requested for Festivals in the first round of donations for 2004/2005 is \$24,500.

In the 2003/2004 Budget for Festivals, funds were distributed as follows:

<b>Festival</b>	<b>Allocation</b>	<b>Date Held/Proposed to be Held</b>	<b>Reported to Council</b>
CWA of NSW Mbah Evening	\$2,500.00	Sep 2004	Not yet held
Kingscliff Beachside Festival	\$4,500.00	21-23/5/04	Not yet held
Murwillumbah & District Senior Citizen's Week Committee	\$4,500.00	6/5/04	20/5/04
Speed on Tweed	\$4,500.00	Sep 2004	Not yet held
Twd Byron Local Aboriginal Land Council	\$2,000.00	Jul 2004	
Tweed Coolangatta Chess Club	\$500.00	Oct 2004	Not yet held
Tweed Valley Banana Festival	\$8,500.00	Aug 2003	23/7/04
Tyalgum Festival Committee Inc.	\$4,000.00	Sep 2004	Not yet held
Wollumbin Dreaming Inc.	\$2,500.00	Sep 2004?	Not yet held
<b>TOTAL</b>	<b>\$33,500.00</b>		

On 9 July 2004, Council wrote to Speed on Tweed, Tyalgum Festival Committee and Wollumbin Dreaming Inc, reminding them that a condition of Council's funding assistance is the provision of a financial statement to account for donation expenditure. These organisations were given until 23 July 2004 to provide that statement for the 2003/2004 period. The following organisations have complied:

1. Tweed Valley Banana Festival - advised in writing (copy attached) that *"funding covered insurance and portion of the stationary & postage expenses."*
2. Tyalgum Festival Committee Inc. - provided a statement of expenditure (copy attached) for the 2003 Tyalgum Festival of Classic Music.
3. Wollumbin Festival - provided 2003 Festival report and the financial statements for the 2003 financial year.
4. Speed on Tweed - provided a financial statement and auditors report as at 30 June 2004 for event covering 2002 and 2003 donations.

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

2004/2005 Budget allocation for festivals is \$33,990.00.

Expenditure to date is \$7,500.00.

#### **POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

1. Greenback Tailor Fishing Competition Inc. (DW1069802).
2. Tweed Coast Outriggers (DW1069805).
3. Tweed Coolangatta Chess Club (DW1082886).
4. Tweed Shire Senior Citizen's Week Committee 2005 (DW1069304).
5. Tweed Valley Banana Festival (DW1072148).
6. Tyalgum Digger Sports Association (DW1072860).
7. Tyalgum Festival Committee Inc. (DW1070795).
8. Volunteer Marine Rescue Point Danger (DW1071768).
9. Wollumbin Festival (DW1071530).

**The above attachments were distributed at the Council Meeting of Wednesday 1 September 2004.**

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## **REPORTS THROUGH THE GENERAL MANAGER**

### **REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT**

#### **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 [PE] Development Application DA04/0596 for a Farm Shed & Manager's Residence at Lot 1 DP 874316, Piggabeen Road Tweed Heads.

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0596 Pt1**

**SUMMARY OF REPORT:**

Council has received a development application seeking consent to construct a farm shed incorporating a manager's residence on Piggabeen Road, Tweed Heads. The subject site is currently used for the purposes of a Golf Driving Range in accordance with Development Consent No. D93/0405. The subject site does not have the benefit of a dwelling entitlement (a fact which is enforced by a restriction on the title to the plan) and subsequently this application has been lodged on the basis that the proposed shed and managers residence is incidental and ancillary to the dominant use being the approved Golf Driving Range.

In this instance the proposed managers residence is not considered to be ancillary or incidental as the dwelling is not only intended to assist the function of the driving range but it is equally intended that the residence operate as the family dwelling of the manager/caretaker. The following report details the nature and scale of the proposed dwelling house and its relationship to the permitted recreational use, and thus demonstrates that in this instance the use of the dwelling cannot simply be regarded as subordinate or ancillary to the use of the site as a golf driving range.

Subsequently, due to the absence of a dwelling entitlement and the scale of the existing Golf Driving Range the proposed application for a shed incorporating a manager's residence is recommended for refusal.

**RECOMMENDATION:**

That:

- A. Development Application DA04/0596 for a farm shed & manager's residence at Lot 1 DP 874316, Piggabeen Road Tweed Heads be refused for the following reasons: -
  1. The proposed managers residence would contravene the requirements of Tweed Local Environmental Plan 2000 as the managers residence is not considered to be ancillary or incidental as the dwelling is not only intended to assist the function of the driving range but it is equally intended that the residence operate as the family dwelling of the manager/caretaker.

2. The proposed structure would be classified as a dwelling in accordance with the definition contained within Tweed Local Environmental Plan 2000. A dwelling is prohibited in accordance with Tweed Local Environmental Plan 2000 and the title of the property.
  3. It would not be in the public interest to enable a dwelling to be constructed on the subject site (which does not have an entitlement to a dwelling) when there is insufficient justification for any ancillary use.
  4. The nature and scale of the driving range, at present, does not require the construction of a manager's residence.
- B. The applicant be advised that a separate application to erect an additional shed for the storage of machinery etc is likely to be supported by Council.

**REPORT:**

**Applicant:** Mr SJ Henson & Mrs JN Henson  
**Owner:** Mrs JN Henson, Mr SJ Henson, Ms JL MacOnachie and Mr DT MacOnachie  
**Location:** Lot 1 DP 874316, Piggabeen Road, Tweed Heads.  
**Zoning:** 1(a) Rural  
**Cost:** \$45,000.00

**BACKGROUND:**

Council has received a development application DA04/0596 for the erection of a farm shed incorporating a manager's residence at Lot 1 DP 874316 Piggabeen Road, Tweed Heads. The proposed structure is single storey, comprising of two sections. The first section of the structure is the storage shed component, which measures 10.5m x 9m to accommodate mowers and machinery, fencing materials and a small maintenance workshop together with the storage of fuels and oils. The second component of the structure (which is physically attached) accommodates the proposed dwelling which measures 10.5 x 9m (95m<sup>2</sup>) and comprises two bedrooms, a combined living and dining area, a bathroom and a kitchen. The proposed location of the structure is within low lying land and would need to be filled to the design flood level should the application be approved.

The site currently accommodates an existing driving range and an associated office/storage area. Council approved the driving range on 24 January 1994 by virtue of Development Consent No. D93/0405. The driving range was approved in conjunction with the establishment of a public golf course, guest accommodation and ancillary facilities on Lot 2 DP 625157 Piggabeen Road. The golf course has previously been known as Foxy's Golf Course. The driving range was subdivided from the golf course and tourist accommodation, with the subdivision being approved by consent S97/33 issued on 17 September 1997. The subdivision was approved under Clause 24 of Tweed Local Environmental Plan 1987 which specified that notwithstanding Clauses 25, 27, 28, 31, 32 and 34 the Council may consent to the subdivision of land for a purpose permissible in the zone which the land is in other than for a dwelling house or agriculture, provided it is satisfied that the size and shape of the allotment to be created is suitable for the proposed purpose.

This clause provides that a permitted use can be subdivided onto a separate lot of land provided it is not for a dwelling or for agriculture. Lots created under this clause of the Local Environmental Plan do not therefore receive a dwelling entitlement. This was enforced by condition 7 of the development approval for the subdivision which stated that *"a restriction to user was to be created under Section 88B of the Conveyancing Act in accordance with Clause 24(3) of the Tweed Local Environmental Plan 1987 that dwelling entitlements have not been created on the subject lots as a result of subdivision"*.

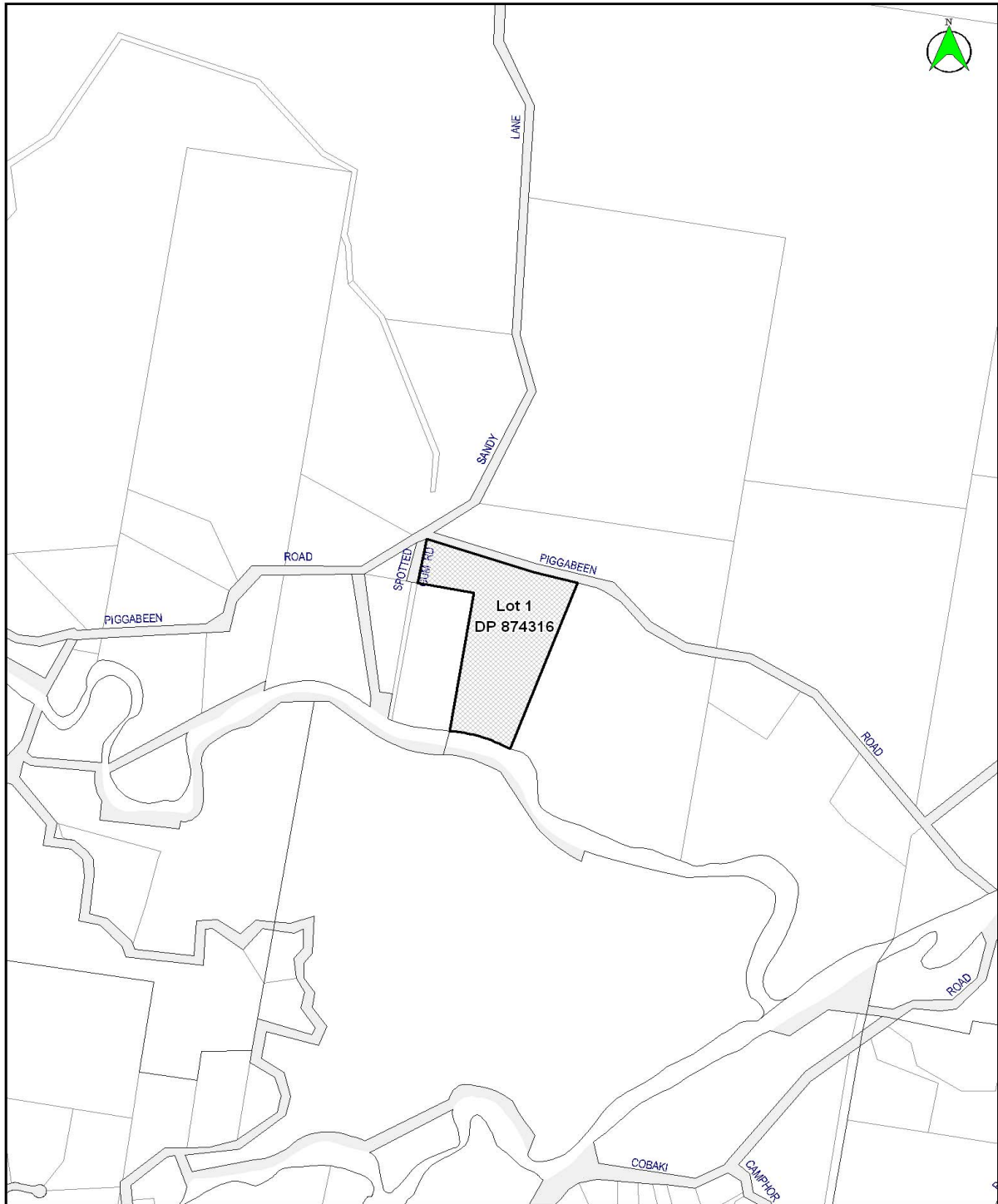
Subsequently, the current application can only be considered on the basis that the proposed managers residence and farm shed are incidental and ancillary to the dominant use being the approved Golf Driving Range.

This application is the second application Council has received for a manager's residence on the subject site. In 1999 Council received a development application (K99/236) which sought approval for the erection of a manager's residence and pro golf shop at Lot 1 DP 874316 Piggabeen Road, Tweed Heads. The proposed managers residence was single storey constructed from timber and colourbond roofing. The building was to contain a shop measuring approximately 4.5m x 6m, a stock room, three bedrooms, ensuite, lounge, family, dining room, kitchen and laundry. It was also proposed to construct a pool and a triple garage, two thirds of which was enclosed. K99/236 was subsequently refused for the following reasons:

1. The proposed managers residence would contravene the requirements of Tweed Local Environmental Plan 1987 as the size, cost and character of the proposal is not of the nature where it could be considered as being an ancillary use to the driving range on the site.
2. The proposed structure would be classed as a dwelling according to the definition contained within Tweed Local Environmental Plan 1987 and this plan, and the title of the property specify that a dwelling is not permitted on the subject land.
3. It would not be in the public interest to enable a structure of this size to be classed as a managers residence or to enable this nature of structure to be erected on a lot which does not have entitlement to a dwelling.
4. The driving range has not been established in accordance with the development consent (93/405) and has not been operated as an entirely separate entity to the adjoining golf course.
5. The driving range, at present, would not require the construction of a manager's residence.

The current application is obviously a downsized version of that sought as part of K99/236, however, a merit assessment of the proposed application reveals that the scale of the Golf Driving Range does not warrant the need for a manager's residence.

**SITE DIAGRAM:**



© TWEED SHIRE COUNCIL 2004  
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  
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**COPY ONLY - NOT CERTIFIED**  
 P.O. Box 816 Murwillumbah, NSW., 2484 Tel: (02) 6670 2409 Fax:(02) 6670 2483

*Tweed Shire Council*  
**Lot 1 DP 874316**  
**Piggabeen Road, Tweed Heads**  
 File: N:\MapInfo 7...\A4P Site Plan.Wor Author: J.Batchelor Date: 06/Sept/2004



STRATEGIC PLANNING UNIT  
**Site Plan**  
 Scale: 1:10,000 Sheet: 1 of 1

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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 1(a) Rural under the provisions of the Tweed Local Environmental Plan (TLEP) 2000. Consent is sought for the proposed shed and managers residence as incidental and ancillary to the dominant use being the approved Golf Driving Range. The driving range was approved as a recreation area which means:

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

For the managers residence to be considered permissible in the zone it must form an ancillary component to the approved recreation area. Ancillary is commonly defined as "*subordinate or subservient*".

The applicant has provided the following justification for an on site manager:

*"Mr and Mrs Hensen and their two children currently live at Currumbin and travel to and from the site on a daily basis. This arrangement is expensive and inconvenient and does not enable the operating hours of the business to be expanded (included night use of the range) as is proposed.*

*In addition, vandalism and theft has occurred at the premises in the past as a result of the isolated location and the absence of on site surveillance and security.*

*Currently, 15 to 20 patrons utilise the range daily between Mondays and Fridays and approximately 30 patrons daily on Saturdays and Sundays.*

*Business operations involve:*

- *Attending to telephone enquiries and bookings;*
- *Cashiering duties and sale of golf balls and refreshments;*
- *Maintenance and repair of equipment and fencing, tees, etc.;*
- *Collection and washing of balls;*
- *Mowing the range and routine maintenance of the lawn areas and the site generally;*
- *Coaching and tuition by a full time, on site Golf Instructor;*



- *General management and promotion of the business;*
- *Employment of a full time Golf Instructor.*

*Clearly, the nature and intensity of the business and the relative isolation of the site justify a permanent on site manager to provide security and efficient and effective management of the facility.*

*Given that the existing business is in the early stages of an expansion plan, a separate detached manager's residence is not proposed at this stage. Rather, a modest 95m<sup>2</sup> "manager's quarters" located within the proposed farm equipment shed as shown on the plans in contemplated.*

*The manager's quarters are modest in scale and facilities, consistent with their intended purpose of providing functional on site accommodation to assist in the growth and management of the business. 95m<sup>2</sup> of manager's quarter's represents a very small capital investment (estimated at \$25,000) within a building the whole of which could be converted to an agricultural shed should circumstances change in the future.*

*In this regard the applicants and owners would raise no objections to the imposition of a condition of consent requiring the building to be rendered uninhabitable within 28 days if the Golf Driving Range ceases operations.*

*Currently, the business does not generate sufficient cash flow to warrant an on site manager as an employee nor is this intended. Mr and Mrs Hensen will occupy the manager's quarters and will continue to operate the existing business more efficiently whilst planning and implementing their business expansion plans."*

Having regard to the applicant's argument above the following comments are provided:

- The proposed managers residence is not considered merely incidental or subordinate to the permitted Golf Driving Range. The applicants have provided to Council that the proposed managers residence would become the family home, accommodating two parents and two children. Obviously, the use of this managers residence as a family home would result in its use for incidental purposes, however, the incidental activities resulting from a family home such as trips to the shops, schools and alternative places of employment could operate independently of the approved use as a golf driving range.
- The applicant has provided that at present an employed worker operates the business 2-3 days a week. On other days either Mr or Mrs Henson runs the business. However, Mr Hansen currently works full time off site while Mrs Henson currently works part time elsewhere. Mrs Henson has provided that her part time employment would cease if this application were granted approval to enable her to run the business full time, while, Mr Hanson would continue to work elsewhere. This situation is not convincing evidence to support the argument that a family home is needed as an ancillary development to that of the golf driving range.

- The financial costs involved in setting up the proposed farm shed and managers residence have been estimated at \$45,000. Additionally should the application be approved Council would impose a condition of consent for the payment of approximately \$7,000 in S94 Contributions.
- The applicant has provided that during weekdays the golf course would accommodate approximately 20 people while on weekends approximately 30 people. Based on these figures there may not be sufficient income to warrant an onsite managers residence.
- Travelling from Currumbin to Tweed Heads (the subject site) is not considered a major inconvenience. Additionally it is considered that there is plenty of residential accommodation closer to the subject site than Currumbin.
- The subject site only provides for minimal security by way of a padlocked gate and a roller door to protect equipment. If the applicant is concerned about the equipment on site and any subsequent vandalism it is considered possible to upgrade the existing on site security measures at a much lower cost than providing an on site manager.

Based on the above comments it is not considered that the operation genuinely necessitates an onsite manager residing on the site.

The proposed use of the proposed managers residence cannot be categorised as merely incidental or ancillary to the existing golf driving range activities. Even if it were accepted that the residence by accommodating the managers residence will assist the operation of the golf driving range that is not the sole purpose or function of it, for it is equally clear that it is intended that the residence operate as the family home. The use of the manager's residence cannot be simply regarded as subordinate or ancillary to the golf driving range. It is a separate use or at least a dual use.

Therefore, if the proposed managers residence is not determined to ancillary development the only other way of defining the structure is as a dwelling, which is considered, prohibited development. Subsequently if the proposed structure is defined as a dwelling this application must be refused.

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

In accordance with Clause 15, the proposed managers residence must have adequate provision for essential services. Any proposed dwelling would be capable of being serviced by an approved onsite effluent treatment. The dwelling would gain its water supply from on site water tanks and would be close to an existing electricity line. These services would be considered satisfactory.

#### **North Coast Regional Environmental Plan 1988**

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

The proposed construction of a shed and managers residence would not result in a loss of prime agricultural land.

State Environmental Planning Policies

The subject site is located within the coastal zone in accordance with SEPP 71 – Coastal Protection. The proposed works are not considered contrary to the objectives of the SEPP having regard to the matters of consideration.

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

There are no applicable Draft Environmental Planning Instruments.

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

**DCP 2 – On site Car Parking**

The subject site area is capable of accommodating satisfactory car parking for the proposed managers residence in accordance with DCP No.2.

**DCP5 - Flood Liable Land**

DCP5 - Flood Liable Land specifies in relation to rural areas that the habitable area of all residential buildings is to be at a level not less than the level specified in any building approval having regard to the availability of flood information in the particular locality. Council does not have a specified flood height for this particular area, however the environmental study conducted for Cobaki Lakes could be used as a guide for determining the appropriate floor level of the building. The study was prepared by WBM for the Cobaki Lakes development north of the subject site which identified a 1:100 year flood level of 2.95m AHD. Council's standard policy contained within DCP5 is to require a floor level of any residential development of 0.3m above the 1:100 year level. This would equate to a floor level of 3.2m AHD being required for the proposal. Should the application be approved appropriate conditions of consent would be required relating to the proposed fill.

**Development Control Plan No. 39 Energy Smart Housing**

The proposed managers residence would be capable of compliance with this control however, appropriate conditions of consent would be required.

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

There are no matters prescribed by the Regulations that are considered to apply, as there are no contradictions to the objectives of the Coastal Policy.

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

### Impacts from Fill and Earthworks on Piggabeen Creek

The applicant has submitted that the filling would be required to ensure the habitable floor level of the manager's residence was above the designed flood level. In the event that Council is of the view the proposed application has merit it may be necessary for further detail to be submitted in relation to the filling of the building pad.

### Environmental Health Issues

The Environment and Health Unit has previously raised concerns regarding effluent disposal and acid sulphate soils. Previous studies conducted at the land indicate that a standard septic disposal system is not adequate and an extended aerated system is required with a total available area of 550<sup>m</sup><sup>2</sup>. Additionally any excavation below 2m in depth will require measures to ameliorate acid sulphate soils. Conditions relating to these issues can be brought forward if the application is to be approved. However, provided that environmental considerations relating to effluent disposal are adequate the proposal is not likely to have an adverse affect on the environment.

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

### Bushfire

The subject land is identified as being bushfire prone and as such will require comments from The Local Fire Office if the application were to be approved.

The applicant has not submitted the necessary assessment for bushfire probe land. In the event that Council considers the proposal warrants approval the applicant should be requested to provide a bushfire assessment report prior to final determination to enable the Local Rural Fire Service to provide appropriate conditions of consent.

### Flooding

From the assessment of the proposal contained under DCP 5 it is apparent that flooding is an issue for the site. Council has adopted controls for development on the flood plain within DCP 5. The applicant has not addressed compliance with Council's controls, however, it is considered possible to impose appropriate conditions of consent if approval is granted.

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

The application was notified to adjoining landowners for a two-week period between 21 July 2004 and 4 August 2004. During this period Council received one submission regarding the application specifically in relation to the potential land use conflict between the proposed residence and the adjoining function centre to the east of the subject site. Concern was expressed that if Council approved a residence within 500m of the adjoining property boundary

noise complaints may arise. The subject property is only 300m wide and therefore it would be impossible to satisfy this objection, however, it is noted that the proposed location of the manager's residence is located 120m from the adjoining property boundary. As this application is recommended for refusal this issue is not considered an issue at this stage. However, if approval is granted for this application Council must have regard to the potential land use conflict.

**(e) Public interest**

In the absence of adequate justification for the ancillary and incidental nature of the proposed managers residence it is considered that the proposed application cannot be supported. It is not in the general public interest for Council to support the introduction of a residence on a parcel of land that does not possess a dwelling entitlement where it cannot be adequately demonstrated that the proposed use is ancillary development to the existing approved use as a golf driving range.

**OPTIONS:**

1. Refuse the proposal for the recommended reasons.
2. Request the applicant to prepare a Bushfire Assessment Report for the Local NSW Rural Fire Service, and detailed information on the amount of fill required to achieve compliance with the design flood level, to enable the application to be assessed and appropriate conditions of consent obtained.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the determination he may seek to have the matter remedied in the NSW Land and Environment Court.

**POLICY IMPLICATIONS:**

Tweed Local Environmental Plan 2000 provides criteria regarding dwelling entitlements. In this instance, the subject site does not have a dwelling entitlement by virtue of Tweed LEP 2000 (a fact which is enforced by a restriction on the title to the plan). Until these guidelines change Council must ensure that any consent for a residence on this parcel of land truly satisfies the provisions of ancillary development. Failing this Council may create a situation of precedent having regard to dwelling entitlements.

**CONCLUSION:**

It is considered that the operation of the golf driving range does not genuinely necessitates an onsite manager residing on the site or that the business is financial enough to support the employment of an on site manager.

The proposed use of the proposed managers residence cannot be categorised as merely incidental or ancillary to the existing golf driving range activities. Even if it were accepted

that the residence by accommodating the managers residence will assist the operation of the golf driving range that is not the sole purpose or function of it, for it is equally clear that it is intended that the residence operate as the family home. The use of the manager's residence cannot be simply regarded as subordinate or ancillary to the golf driving range.

Therefore, if the proposed managers residence is not determined to ancillary development the only other way of defining the structure is as a dwelling, which is considered, prohibited development by the requirements of the Tweed LEP 1987 and the restrictions on the title of the property. Subsequently if the proposed structure is defined as a dwelling this application must be refused.

Refusal of the application is therefore recommended.

**UNDER SEPARATE COVER:**

Nil.

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**2 [PE] Development Application DA03/1038 for a 7 Lot Subdivision at Lot 121 DP 755701, NO. 50 Chinderah Bay Drive, Chinderah**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/1038 Pt2**

**SUMMARY OF REPORT:**

Council considered a report in relation to the proposed subdivision at its meeting of 19<sup>th</sup> May 2004 and resolved:

*"That this item be deferred to allow landowners to further address the concerns outlined in the report with Development Staff."*

Since the consideration of the report the applicant and his consultants have met with Council's officers to seek a solution to the matters raised as reasons for refusal. In the interim the applicant has lodged a deemed refusal in the NSW Land and Environment Court for which the first call over was on the 6/9/2004.

Further information was received at Council on 24/8/2004 addressing the engineering issues pertinent to the application and the application is also amended to a six lot subdivision.

Given the extent of the changes to the proposal and the technical assessment provided by Council's officers the proposed subdivision is now able to be supported. However as originally identified in the Council report of the 7<sup>th</sup> July 2004 the application is affected by Bushfire Hazard and the General Terms of Approval are required from the NSW RFS prior to formal determination of the application.

**RECOMMENDATION:**

That Council:

1. Receives and notes this report and the applicant be advised that it will be necessary to provide a Bushfire Assessment Report and Integrated Development fee for referral to NSW Rural Fire Service before the application can be formally determined.
2. Subject to a favourable response from the NSW Rural Fire Service, the application be determined under delegation by the Director, Planning and Environment.

**REPORT:**

**Applicant:** Chris Lonergan & Associates Planning Consultants  
**Owner:** Geographe Point Pty Ltd and Rivercolt Pty Ltd  
**Location:** Lot 121 DP 755701, No. 50 Chinderah Bay Drive, Chinderah  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$400,000.00

**BACKGROUND:**

Council considered a report in relation to the subdivision of the subject land on 7<sup>th</sup> July 2004 which was recommending refusal of the proposed subdivision for the following reasons:

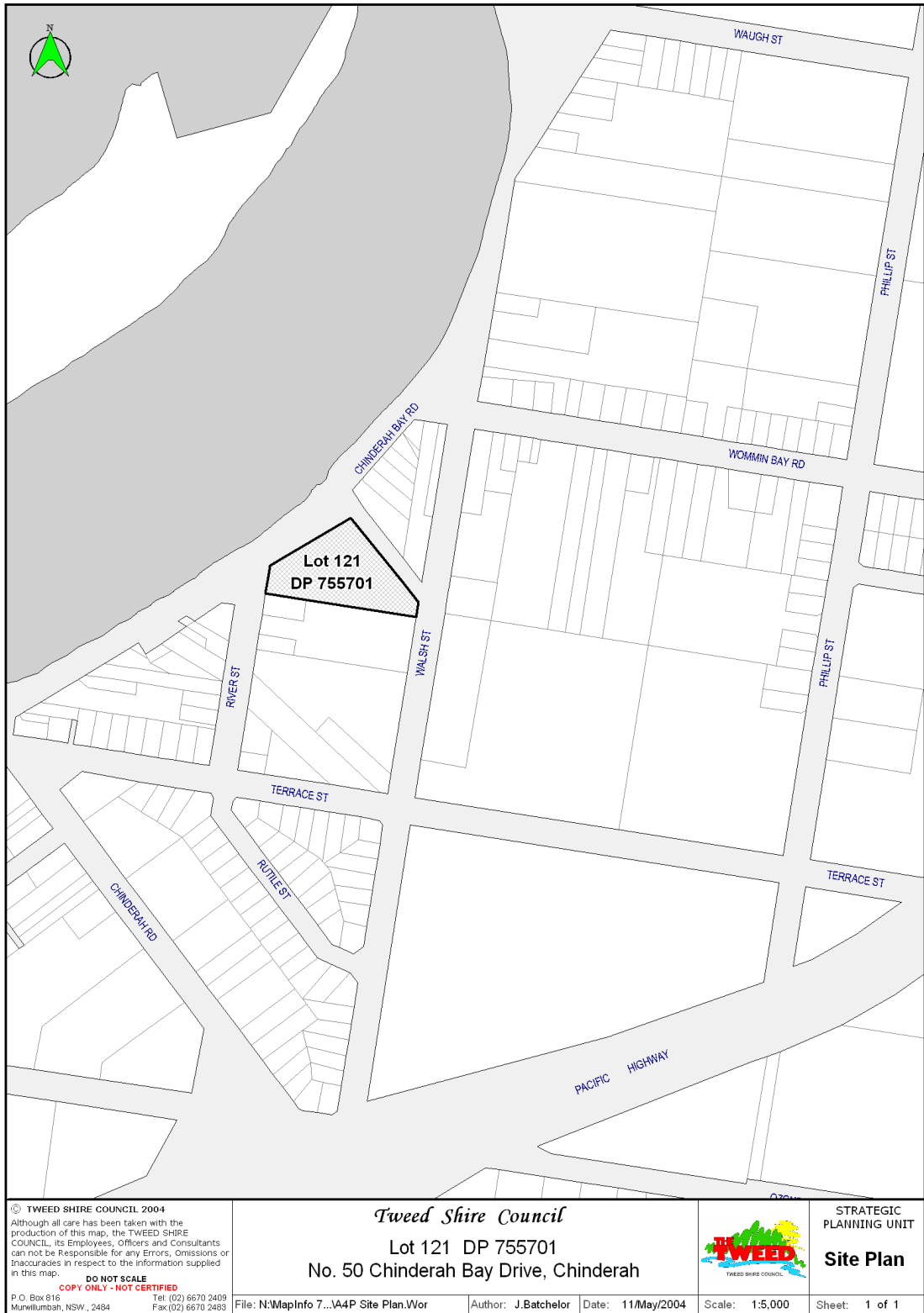
- 1. The subdivision proposal has not demonstrated that the subject land is outside the extreme flood hazard zone as defined by the Cameron McNamara Report dated September 1984 and as such has not been able to satisfy the requirements of Development Control Plan No.5 - Flood Liable Land.*
- 2. The proposed subdivision does not adequately satisfy the matters contained in Clause 34 - Flooding of the Tweed Local Environmental Plan 2000.*
- 3. The subdivision proposal is unacceptable in its design with seven lots accessing from a right of way and as such does not satisfy the requirements of Development Control Plan No.16 - Subdivision Manual.*
- 4. The subdivision proposal and resultant fill of the site is considered to result in on flow stormwater impacts that will result in an unacceptable cumulative impact. Inadequate information has been provided in relation to the impacts from filling of the land to assess this issue.*
- 5. The proposed subdivision is not considered to be in the general public interest as it is inappropriate development of the flood plain.*

Meetings with Council Officers and consultants have occurred to resolve many of the technical issues that were raised in the reasons for refusal. Further information and an amended application was submitted to Council addressing the technical aspects of the subdivision and the following report assesses the proposed subdivision and in conclusion supports the development application.

However in the absence of the General Terms of Approval from the NSW Rural Fire Service the application can not be formally determined. Upon receipt of the General terms of Approval the matter could be determined under the delegations of the Director of Planning and the Environment.



**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(a) Low Density Residential zone under the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

To provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.

The proposed subdivision is not considered to be in conflict with the primary objective of the zone, as the allotments created would be able to support single dwelling houses and thereby provide a low density residential environment.

Clause 11 of the TLEP requires minimum lot sizes of 450m<sup>2</sup>. The proposed subdivision has been amended and now involves the creation of 6 lots, including the residue. The 5 residential lots being created range in size from 516m<sup>2</sup> to 586m<sup>2</sup>, and therefore comply with the minimum lot size.

Clause 22 of the TLEP provides for development near designated roads. Chinderah Bay Drive is a Council designated road and as such Council may only grant consent to development of the land if satisfied, in summary, that:

- The development is unlikely to constitute a traffic hazard,
- The access would ensure through traffic on the designated road is not impeded,
- Proposed access will not prejudice future improvements to the designated road,
- The development type is not sensitive to traffic noise,
- The development will not detract from scenic values from the point of road users,
- Where practicable the access will be made from another road that is not designated.

While the subject land has frontage to a Council designated road the proposed subdivision is intended to be access from a right of carriageway at the rear of the residential lots. The proposal does not include access directly from Chinderah Bay Drive. The proposal is not likely to detract from scenic values of road users or prejudice future road improvements.

The proposed subdivision is not considered to be in conflict with the provisions of Clause 22 of the TLEP.

Clause 34 of the TLEP relates to flooding of land. The objectives of this clause are:

- To minimise future potential flood damage by ensuring that only appropriate compatible development occurs on flood liable land.
- To minimise the adverse effect of flooding on the community.

The clause states that Council must not grant consent to development on flood liable land unless it has considered:

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

Initially when assessing the original proposal in relation to this clause Council's Manager of the Water Unit was not able to be satisfied that the proposed subdivision was suitable based on the provisions of Development Control Plan No.5 - Development of Flood Liable Land.

In response the applicant submitted a Flood Management Plan for the subdivision and addressed the flood hazard issues by redesigning the subdivision and deleting a lot that is located in the extreme hazard zone. Council's engineers have assessed the proposed further information and have advised that the issue has been satisfactorily resolved.

Clause 35 of the TLEP provides for the management of acid sulfate soils. Council's Environmental Health Surveyor has assessed the submitted management plan and recommended that in the event that the subdivision is to be approved works would need to be undertaken in accordance with the plan. No further assessment of impacts to acid sulfate soils is required.

There are no further matters relevant to this application under the TLEP 2000.

#### North Coast Regional Environmental Plan 1988

Clause 32B of the North Coast REP requires the consideration of the NSW Coastal Policy, Coastline Management Manual and North Coast Design Guidelines. The NSW Coastal Policy is relevant to the proposed development, and is addressed in this report.

Clause 43 of the North Coast REP provides development control in relation to residential development and requires densities to be maximised, road widths

to not be excessive and public transport encouraged. The proposed subdivision is considered to maximise the density with a residue lot created that may in the future support further residential development.

The proposed subdivision is not considered to be in conflict with the provisions of the North Coast REP.

#### State Environmental Planning Policies

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

The applicant submitted a contaminated land assessment report and Council's Environmental Health Surveyor has assessed this report and does not raise any objection to the proposal in relation to contaminated lands.

##### State Environmental Planning Policy No.71 - Coastal Protection

SEPP 71 states that a consent authority must not grant consent for a subdivision of land within a residential zone if part of the land is in a sensitive coastal location. As the subject land is mapped in a sensitive coastal location the applicant sought a waiver from the Minister for the need for a master plan.

The Department of Infrastructure Planning and Natural Resources provided written advice on 10<sup>th</sup> November 2003 that the requirement for a Master Plan was waived.

In considering the proposed development Council needs to have regard to the relevant matters contained in Clause 8 of SEPP71. The proposed subdivision is not considered to be in conflict with the provisions of Clause 8 of SEPP 71.

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

The proposed development is for a residential subdivision. The nature of the development does not require assessment in relation to the existing draft environmental planning instruments.

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

##### Development Control Plan No.5 - Flood Liable Land

The subject land is identified as being Flood Liable and as such the proposed subdivision is required to meet the requirements of DCP5.

The application states that the current level of the land is approximately 1.0m AHD and it is proposed to fill the land to 1.61m AHD being the centreline level of Chinderah Bay Drive. The adopted design flood level for the land is 3.30m AHD and the adopted minimum floor level for residential development for the site is 3.60m AHD.

From these levels it is clear that the subject land experiences significant flooding, and any future dwellings will be of elevated design to allow flood waters to flow across the site.

Subdivision of land is only permitted under DCP 5 if it is to existing roads and where each allotment has a minimum frontage of 17 metres. The proposal complies with the minimum frontage requirements and fronts an existing road. However access to the subdivision is not proposed from the existing road, rather a right of carriageway at the rear.

Originally the proposed subdivision did not comply with Council's requirements in terms of the number of lots accessing from a right of carriageway. However the application has been modified in this regard.

According to Development Control Plan No.16 - Subdivision Manual a maximum of 5 lots may be accessed via a right of carriageway. In the amended design the access from River Street would service the five proposed residential lots plus the residue lot, which has limited development potential due to the DCP 5 restrictions. As it is not feasible to have direct access for the proposed lots to Chinderah Bay Drive, due to drainage structures, the right of carriageway arrangement is considered satisfactory.

There is also a requirement that infill development of residentially zoned land will be permitted with the exception of allotments within the extreme hazard zones identified in the Cameron McNamara report of September, 1984.

The applicant modified the proposed subdivision so that the residential lots are located in the 'hazardous' and 'limited hazard' areas with areas of 'extreme hazard' being limited to the residue lot.

The amended plan of the lot layout is now consistent with DCP 5 and the previous issues have been resolved.

#### Development Control Plan No.16 - Subdivision Manual

Council's Engineering Services Division have advised that the proposed subdivision can satisfy the provisions of DCP 16 in relation to the number of lots which are accessed from a right of way as the residual lot constraints under DCP 5 will limit the potential for development of the lot.

Also the provision of direct access from Chinderah Bay Drive is not feasible due to drainage structures and therefore the submitted access design is an acceptable solution.

The proposed subdivision is not considered to be in conflict with the provisions of DCP16.

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

NSW Coastal Policy 1997

The proposed subdivision is not in conflict with the strategic goals of this policy.

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

Impacts from Fill and Earthworks on Kingscliff Creek

The applicant has submitted further information for Council's Engineers in relation to the level of fill over the residue lot and given the proposed 1% grade the impacts of fill on the Kingscliff Creek catchment are no longer considered to be significant.

Council's Engineers are satisfied that this aspect of the application can be conditioned.

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

Flooding

From the assessment of the proposal contained under DCP 5 it is apparent that flooding is a significant issue for the site. Council has adopted controls for development on the flood plain within DCP 5. The applicant originally did not provide adequate information to support the application, however the provision of further information has enabled Council's Engineers to adequately address the flooding in their assessment.

Department of Infrastructure Planning and Natural Resources have advised in correspondence on this application that the cumulative flood impacts due to intensification of development in Chinderah may be significant and may not be consistent with the NSW State Government Flood Policy.

With the provision of the Flood Management Plan supporting the proposal Council's Engineers have concluded that the flooding matters have been resolved.

Bushfire

The subject land is identified as being bushfire prone and as such will require the general terms of approval from NSW Rural Fire Service for the subdivision to be approved. As the land was not identified to be bushfire prone until

February 2004 the applicant did not submit the necessary assessment or referral fee.

While this was previously highlighted to the applicant in the previous Council report, this matter is yet to be resolved. In the absence of the General Terms of Approval this applicant can not be determined by either Council or the court. The applicant is aware of this and consequently this application will be able to be formally determined on receipt of the General terms of Approval from the NSW Rural Fire Service.

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

The proposed development was notified for a two week period during which no submissions were received.

**(e) Public interest**

The proposed subdivision has been modified to meet the requirements of Council's Engineers. The original concerns with the proposed subdivision, being the creation of a residential lot in an extreme flood hazard area has been resolved by redesigning the lot layout. The submitted flood mitigation plan has satisfied the requirements of Council and it is considered that the development is not in conflict with the general public interest providing the NSW Rural Fire Service issue general terms of approval.

**OPTIONS:**

1. Advise the applicant to provide the necessary Bushfire Assessment Report and Integrated Development fee for referral to NSW Rural Fire Service to enable the application to be assessed on this matter prior to determination under the Director of Planning and the Environment delegations.
2. Refuse the Application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has lodged a deemed refusal in the NSW Land and Environment Court. In the event that the development application is determined by way of an approval the appeal will be able to be withdrawn.

Should the applicant be dissatisfied with the determination he may seek to have the matter remedied in the NSW Land and Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposed subdivision has been redesigned to meet the requirements of Council's Engineers. While there is a deemed refusal appeal in the NSW Land and Environment Court the development application can not be determined by either the court or Council until such stage as the NSW Rural Fire Service issue General Terms of Approval of the subdivision.

Upon receipt of the General Terms of Approval the subdivision can be determined under the delegation of the Director of Planning and the Environment.

**UNDER SEPARATE COVER:**

Nil.

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**3 [PE] Proposed Tweed Local Environmental Plan 2000 Amendment - Lot 4, DP 835954, North Arm Road, Murwillumbah**

**ORIGIN:**

**Strategic Town Planning**

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

**SUMMARY OF REPORT:**

A recent meeting of the Development Assessment Panel identified land being part of the Wollumbin High School and neighbouring property on North Arm Road Murwillumbah zoned inconsistent with the intentions of the Planning Study completed for the area in 1989.

The subject parcel of land is described as part Lot 4, DP 835954 and part Lot 1, DP 814412 North Arm Road, Murwillumbah and has an approximate land area of 1 hectare. The subject site is relatively flat and highly prone to flooding.

The purpose of the planning study was to identify land to accommodate the expansion of the Murwillumbah urban area. It was the intention of the planning study that the land identified would be suitable for development and would not be affected by flooding.

The zoning of the subject land is part 2(c) Urban Expansion and part 1(b2) Agricultural Protection. The purpose of the Amendment is to rectify the identified mapping anomaly in accordance with the intentions of the approved Planning study.

It is recommended that the proposed LEP Amendment be supported and that Council proceed with the draft LEP Amendment.

**RECOMMENDATION:**

That:

1. Council prepares a draft Local Environmental Plan, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, correcting a mapping anomaly on land identified as part Lot 4, DP 835954 and part Lot 1, DP 814412.
2. The Director-General of the Department of Infrastructure, Planning and Natural Resources be requested to waive the requirement for a Local Environmental Study given the minor nature of the proposed Local Environmental Plan Amendment.

## **REPORT:**

### **Introduction**

A recent meeting of the Development Assessment Panel identified land being part of the Wollumbin High School and neighbouring property on North Arm Road Murwillumbah zoned inconsistent with the intentions of the Planning Study completed for the area in 1989.

### **The Site**

The subject parcel of land is described as part Lot 4, DP 835954 and part Lot 1, DP 814412 North Arm Road, Murwillumbah. The subject site is divided by the common property boundary between the two allotments.

A range of surrounding land uses are present including Wollumbin High School, the Murwillumbah Golf Club, residential development and fields of sugar cane. The size of the subject site is approximately 1 Hectare. Figure 1 below clearly illustrates the land uses of the site and that of the surrounding properties.

The subject site is relatively flat and highly prone to flooding.

### **History**

The planning study completed in 1989 identified land to accommodate the expansion of the Murwillumbah urban area. It was the intention of the planning study that the land identified would be suitable for development and would not be affected by flooding.

The identification of the existing zone boundaries was based on small-scale topographic maps, being the best resource available at the time.

Tweed LEP 1987 Amendment No 8 zoned the land 2(c) Urban Expansion as part of the West Murwillumbah Urban Release Area.

During the development of the high school a survey of the subject site accurately identified the boundary of the land not affected by flooding and thus formed the current boundary of the high school.

### **Tweed LEP 2000**

The current zoning of the subject land reflects that adopted as part of Tweed LEP 1987 – Amendment No 8. The subject parcel of land is zoned part 2(c) Urban Expansion and part 1(b2) Agricultural Protection. Other surrounding land uses include 1(c) Rural Living and 6(b) Recreation. Figure 2 below illustrates the location of the property and the corresponding zoning.

## **Purpose of the Amendment**

The purpose of the Amendment is to correct the mapping anomaly identified in Tweed LEP 2000. The Amendment aims to rezone that part of Lot 4, DP 835954 from 2(c) Urban Expansion to 1(b2) Agricultural Protection and to rezone that part of Lot, 1 DP 814412 from 1(b2) Agricultural Protection to 2(c) Urban Expansion. This being the intention of the original planning study completed in 1989.

## **Planning Review**

### **Strategic Plan 2000+**

#### **Policies 1, 3, 4, 5, 6 - Environmental Protection**

The proposed LEP Amendment is considered to be minor and will not significantly impact on the Council's strategic planning principles relating to Environmental Protection

#### **Policies 17, 20 - Rural Settlement and Resources**

The proposed LEP Amendment is considered to be minor and will not significantly impact on the Council's strategic planning principles relating to Rural Settlement and Resources.

## **North Coast Regional Environmental Plan**

### **Clause 7 – Prime Crop or Pasture Land**

The purpose of the Amendment is to correct a mapping anomaly identified in Tweed LEP 2000. It does not impact or reduce the level of prime agricultural land within the local area.

### **Clause 20 – Rural Land Release Strategy**

The Amendment does not allow for the development of a dwelling or dwellings on rural residential or small holding allotments. It simply corrects an identified mapping anomaly.

### **Clause 45A – Flood Liable Land**

The proposed Amendment does not allow for an intensification of development on the subject site.

## **State Legislation**

The Proposed LEP Amendment is considered consistent with the relevant State Environmental Planning Policies and S117 Ministerial Directions. Consultation with relevant State Agencies will be undertaken as part of the Section 62 consultation in accordance with the Environmental Planning and Assessment Act 1979.

## **Local Environmental Study**

The proposed LEP Amendment is to correct an identified mapping anomaly in Tweed LEP 2000 in accordance with the intentions of the planning study completed for the area in 1989. The proposed Amendment will rezone part of Lot 4, DP 835954 from 2(c) Urban Expansion to 1(b2) Agricultural Protection and rezone part of Lot 1, DP 814412 from 1(b2) Agricultural Protection to 2(c) Urban Expansion. It is considered that the subject LEP Amendment is of a minor nature and hence, the need for an Environmental Study should be waived.

## **Work Program**

The proposed LEP Amendment is not included in the current Strategic Planning Work Program. Council on the 17<sup>th</sup> December 2003 resolved to allow the Director of Development Services to bring forward any minor LEP Amendments as resources may permit. Because of interest expressed in the property it is felt imperative that this anomaly be rectified.

## **Conclusion**

That Council prepares a draft Local Environmental Plan, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, correcting a mapping anomaly on land identified as part Lot 4, DP 835954 and part Lot 1, DP 814412.





**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**4 [PE] Request for Amendment to the Tweed Local Environmental Plan 2000 and a Development Application for a Dwelling and Two Lot Subdivision at Lot 346 DP 755701, Coronation Avenue, Pottsville**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0814 Pt1**

**SUMMARY OF REPORT:**

Council has received an application to amend the LEP to permit a dwelling and two lot subdivision at Lot 346 DP755701. A development application has also been received for a dwelling and subdivision at the site to enable concurrent assessment in accordance with the EP&A Act of the amendment, dwelling and subdivision.

The subject land is zoned part 1(a) Rural and part 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and has an area of 4.3 hectares. The site does not have a dwelling entitlement under the provisions of the Tweed LEP 2000.

The proposal involves excising the land zoned 1(a) (5751m<sup>2</sup>) and using it for a dwelling and dedicating the balance of the land (3.795 ha.) which is zoned 7(a) to Council at no cost. The majority of the land zoned 7(a) is within the SEPP-14 Wetland.

The applicant seeks the inclusion of an enabling clause in Schedule 3 of clause 53 of the LEP to permit approval of 2 lots less than 40 hectares and the construction of a dwelling on proposed Lot 1.

The applicant indicates that the amendment is justified on the basis that the site adjoins the existing urban area and can be fully serviced and an efficient and sustainable land use will be achieved.

The applicant has requested that the requirement for a Local Environmental Study be waived.

**RECOMMENDATION:**

That Council:

1. Advises the Director-General of the Department of Infrastructure, Planning and Natural Resources that, pursuant to section 54(4) of the Environmental Planning and Assessment Act 1979 Council intends to prepare a draft Local Environmental Plan to amend Schedule 3 to clause 53 of the Tweed Local Environmental 2000 to enable a two lot subdivision and dwelling house at Lot 346 DP 755701 and that Council does not consider a Local Environmental Study is needed.

2. Requests the Director-General to waive the requirement for a Local Environmental Study given the minor nature of the proposed amendment.
3. Supports in principle the dedication of Lot 2 to Council at no cost.

## **REPORT:**

**Applicant:** G and J Jones

**Owner:** Sunvista Pty Ltd

**Location:** Lot 346 DP 755701 Coronation Avenue, Pottsville

**Zoning:** Part 1(a) Rural and Part 7(a) Environmental Protection (Wetlands and Littoral Rainforest)

**Cost:**

## **BACKGROUND:**

The subject site is located on the western fringe of the Pottsville village and adjoins the existing residential area along the southern side of Coronation Avenue. The site is 4.3 hectares in area. A drainage reserve extends partially along the western boundary of the lot.

Approximately 13% of the site is zoned 1(a) Rural with the balance zoned 7(a) Environmental Protection. The majority of the land zoned 7(a) is affected by a SEPP-14 Wetland. The land zoned 1(a) is predominantly cleared and the 7(a) land is heavily vegetated.

The site does not meet the dwelling entitlement criteria in the Tweed LEP 2000 and the minimum allotment size for subdivision in the subject zones is 40 hectares.

The proposed LEP amendment has been submitted to Council with an accompanying Development Application in accordance with 72J of the Environmental Planning and Assessment Act 1979.

### **Proposal**

It is proposed to amend the LEP by including an enabling clause in Schedule 3 of clause 53 of the LEP to permit a two lot subdivision of the subject site and constructing of dwelling house on the lot zoned 1(a) Rural.

The subdivision proposal consists of one lot of 5751m<sup>2</sup> comprising the land zoned 1(a) and one lot of 3.795 hectares comprised of the land zoned 7(a) Environmental Protection. It is intended to dedicate the 3.795 ha lot to Council at no cost. Legal access to the lot will be via an unformed Crown Road however given this lot is to be dedicated to Council and Council owns the adjoining lot (Lot 65 DP 866656) access can gained via the existing Council owned land.

The proposed dwelling is predominately single storey with a two storey component. The dwelling is to be located on the site to comply with bushfire protection measures. The dwelling is proposed to be setback 23m from Coronation Avenue and 6m from the eastern boundary. A building site pad is to be filled for flood proofing purposes.

### **Land Dedication**

Council's Recreation Services Unit has made the following comments regarding the proposed land dedication-

This is an acceptable proposal. The area adjoins a large area of Council administered land zoned 7(a) Environmental Protection. The proposed Lot 2 can be managed in association with contiguous Council managed land to the east & south.

Considerations regarding a transfer of ownership to Council include:

- Fire Management - As proposed by the applicant, the Asset Protection Zones (APZ), Fire Perimeter Trail and any other actions relevant must not extend onto the area proposed for Council management.
- Access to 'Lot 2' - A means to access the area is desirable (may be negotiable). An access point from Coronation Avenue exists approx 200 metres east, however an additional means of access from Coronation Drive is desirable. This is may not be practical given the size of the development.
- Weed management - the 'Flora and Fauna Assessment' prepared for the applicant included only a brief assessment of weed status, and refers only to 'environmental weeds'. Groundsel (a declared weeds - different to environmental weeds) was prevalent on the neighbouring land to the south. A more functional assessment of weed threats, a weed management strategy, and undertaking associated weed control works will be important.

The above matters can be dealt with as part of the assessment of the development application.

### **Planning Considerations**

#### Tweed Local Environmental Plan 2000

The subject land is zoned 1(a) Rural and 7(a) Environmental Protection under the provisions of the LEP. The minimum allotment size for subdivision in both zones is 40 ha and the site does not enjoy a dwelling entitlement. A SEPP-1 variation cannot be used in this instance as the minimum allotment size for dwellings is not a development standard. It is not appropriate to rezone the land to residential given the constraints of the site. The appropriate method to deal with the proposal is via an enabling clause LEP amendment and concurrent development application.

#### NSW Coastal Policy

The subject site is affected by the Coastal Policy. The proposal is not inconsistent with the strategic objectives of the Policy. The applicants have requested a waiver of the Local Environmental Study. This matter is discussed later in this report.

#### North Coast Regional Environmental Plan 1988

Clause 12 -Impact on Agricultural activities. The subject land and adjoining land is designated as Class 5 agricultural land. The proposal will not cause a loss of prime crop or pasture land.

Clause 14 -Wetland or Fishery Habitat. The proposal is consistent with this clause as the wetlands are contained within the 7(a) zone.

Clause 15-Impact on Wetlands or Fishery habitats. The dwelling site is located a suitable distance from the wetland. It is unlikely that the dwelling will adversely affect the

wetland. It is proposed to implement control measures so that the conservation values of the wetland are not affected.

Clause 29-Natural Areas and Water Catchments. The existing zone boundaries include the significant vegetation communities and habitat areas in environmental protection zones.

Clause 38-Urban Land Release Strategy. The proposal does not constitute significant urban growth.

Clause 43-Residential Development. The site is suitable for a single dwelling only given the constraints of the site.

Clause 45-Hazards and 45A Flooding. The subject land is flood prone and is mapped as bushfire prone land. Council's minimum floor level at this locality is RL 2.7m AHD. The ground level at the house site is 2.2m. It is proposed to fill the pad site 0.5m above the existing ground level at the house pad site. This is considered suitable in this location.

A bushfire hazard report has been prepared and is proposing asset protection zones and a perimeter trail. Bushfire is a key issue for the development. The application is required to be referred to the NSW Rural Fire Service for approval in accordance with the integrated development provisions.

The site is affected by Class 3 acid sulfate soils. An acid sulfate soils report has been prepared and acid soils can be adequately managed regarding the proposal.

Clause 58-Servicing. The site adjoins the Pottsville village and will be catered for by the existing urban services.

#### State Environmental Planning Policies

The proposal is not contrary to any SEPP.

SEPP-44 Koala Habitat Protection. A koala plan of management is not required.

SEPP-55 Remediation of Land. The proposal is not inconsistent with the SEPP.

SEPP-71 Coastal Protection. The matters for consideration are able to be satisfied. Land with high conservation value is to be transferred to Council.

#### Section 117 directions

Section 26Coastal Policy. The strategic actions within the Coastal Policy are to be complied with. The applicant is seeking a waiver of the requirement for a Local Environmental study.

Farmland Protection. The site is not classified as being state or regionally significant agricultural land.

G25 Flood Prone Land. The proposed dwelling site can be suitable flood proofed without having a detrimental impact on flood behaviour or adjoining properties.

Clause 1 Acid sulfate soils. An acid sulfate soils report has been prepared. The impact on acid soils will be relatively minor and can be suitably managed.

G20 Bushfire. The NSW Rural Fire Service is required to be consulted on this matter. A report has been prepared and the proposal will be referred to the Rural fire Service.

G22 Amendments to allow a particular development proposal. No changes to the instrument are proposed other than an enabling clause.

Availability of services

The sewer will be required to be extended from the adjoining property to the east. Owners consent has been granted for such work.

A water main exists along the frontage of the property in Coronation Avenue.

Stormwater will be discharged to infiltration pits on site ie. rubble pits and garden beds. Overflow will discharge to the existing drainage channel on the site.

Flora/fauna

An eight part test of significance has been undertaken and the proposal is not likely to have a significant impact on threatened species. Whilst the site is not likely to have a significant impact on threatened species the following mitigation measures are proposed-

- Provision of a buffer between the proposed dwelling and the 7(a) wetland.
- Retention of significant vegetation
- Transfer high conservation land to Council
- Preparation of various management plans for impact mitigation.

Tweed 2000 Strategic Plan

The proposal is not inconsistent with the Plan and action 112 permits consideration of minor rezonings adjacent existing areas.

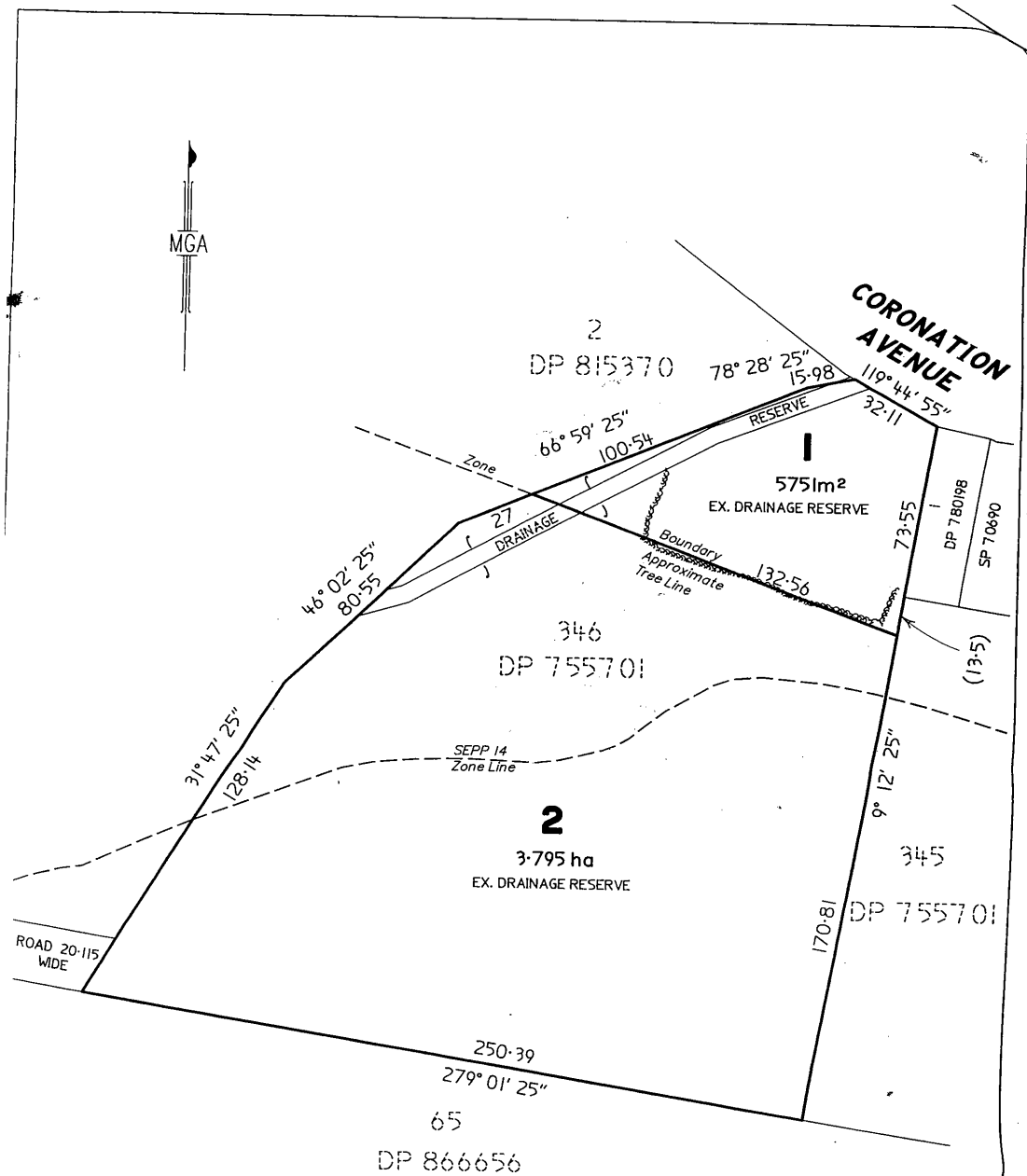
Local Environmental Study

The applicant has requested that Council recommend that the Director-General of the Department of Infrastructure, Planning and Natural Resources waive the requirement for a Local Environmental Study for the reasons-

- The scale and nature of the proposal does not justify the cost of preparing a Local Environmental Study.
- Detailed studies including vegetation mapping and Koala impact assessment have been undertaken to support this application.
- A further 3.8ha of high conservation value wetlands will be transferred to Tweed Shire Council at no cost. This is in addition to the 60+ ha which has previously been transferred in conjunction with Pottsville Waters and surrounding subdivisions.
- The specialist investigation reports accompanying this application represent a thorough and rigorous assessment of all environmental issues including site opportunities and constraints. Further assessment by way of a Local Environmental Assessment Study is unnecessary in the circumstances as all essential information is available to enable an informed decision to be made on this development application and LEP amendment.


It is considered that an LES is not required given the information required for an appropriate assessment of the proposal has been submitted with the combined Draft LEP and development application.

**SITE DIAGRAM:**



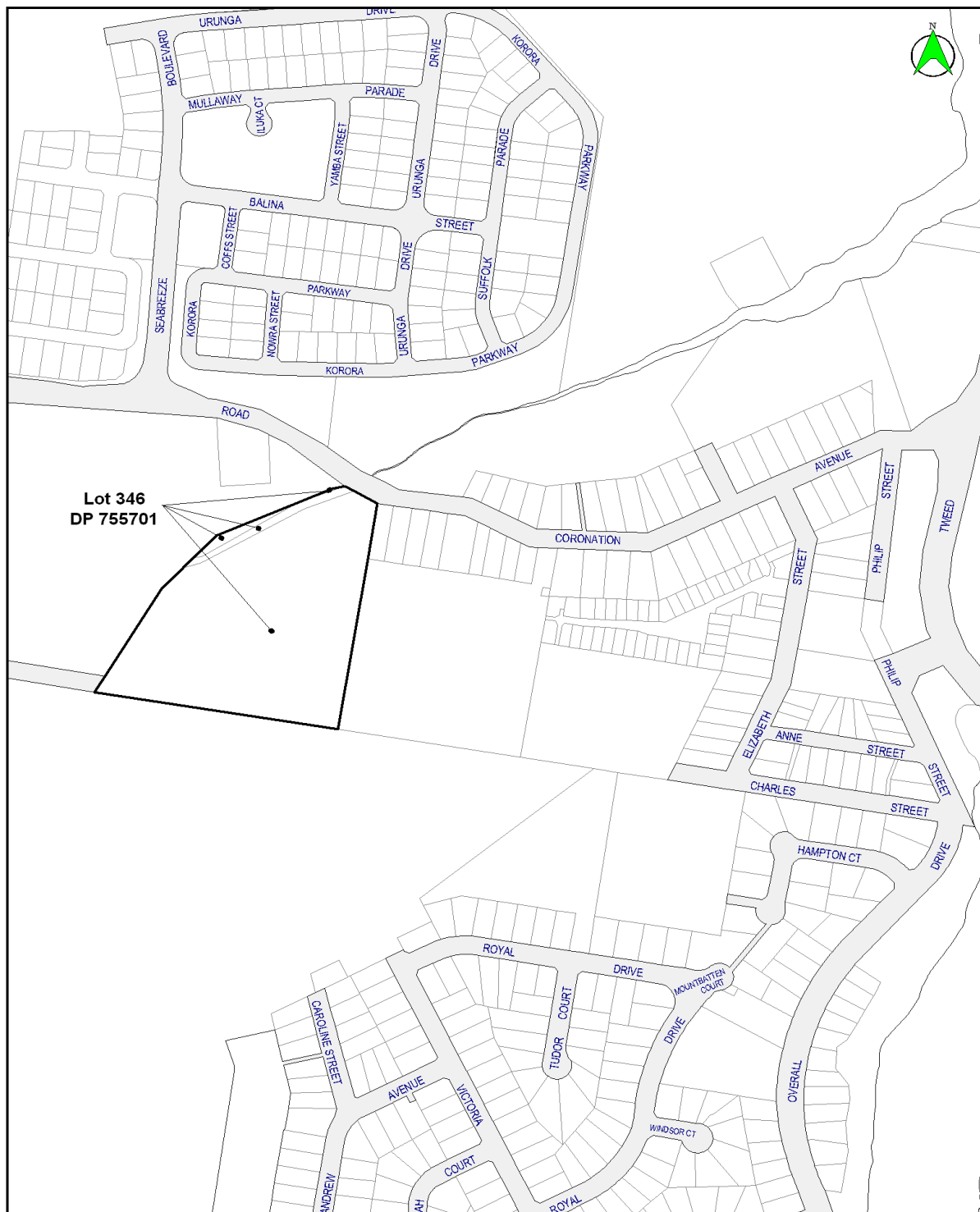
*Important Note:*  
Areas & Dimensions shown on this plan  
are approximate & are subject to survey

Rev A: MGA Bearings Added, Dim. E Bdy Lot 2 Amended 20/5/2004

cont. <b>SUNVISTA PTY LTD</b>		Level Datum n/a	Asimuth MGA	DATE 14/4/04	 <b>CHAPMAN SURVEYS</b> Pty Ltd ACN 090 445 211 CONSULTING SURVEYORS 34 Enid Street (PO Box 34) Tweed Heads
a Plan of Proposed Subdivision of Lot 346 in DP755701 Coronation Avenue, Pottsville		Origin	Contour Interval	JOB NO 2113	
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**LOCALITY PLAN:**



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 Murwillumbah, NSW, 2484 Fax: (02) 6670 2469

*Tweed Shire Council*  
**Lot 346 DP 755701**  
**Coronation Avenue, Pottsville**

 TWEED SHIRE COUNCIL	STRATEGIC PLANNING UNIT
	<b>Site Plan</b>
Scale: 1:5,000	Sheet: 1 of 1

**CONCLUSION:**

It is considered that the proposal is acceptable provided bushfire matters can be addressed to the satisfaction of the Rural Fire Service. There is limited opportunity to develop or use the land for other purposes. An environmental study is not considered necessary given the issues are localised and can be dealt with appropriately through the combined draft LEP and development application process.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**5 [PE] Draft Development Control Plan No 48 - Tweed Coast Building Heights**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/DCP/48**

**SUMMARY OF REPORT:**

Council on Wednesday 3<sup>rd</sup> March 2004 resolved to publicly re-exhibit draft Development Control Plan No 48 - Tweed Coast Building Heights. The purpose of the Plan is to respond to the significant issue of the current planning controls with regard to building heights for Kingscliff and the Tweed Coast.

The draft Plan was publicly exhibited from Wednesday 17<sup>th</sup> March 2004 to Wednesday 14<sup>th</sup> April 2004. Council received several submissions on the draft Plan, which identified the following key issues:

- The identified maximum heights of buildings are considered over generous
- Opportunity exists for the proposed controls to be manipulated
- Section 2.2 'Acceptable Solutions' of the document needs clarification
- Maintaining the identified bulk and scale of development
- Place based building height controls
- Relationship of the building height provisions to exempt development

It is considered that Council can adopt draft Development Control Plan No 48 - Tweed Coast Building Heights, as amended.

**RECOMMENDATION:**

That Council:

1. Amends Section 2.2 Acceptable Solutions by replacing:

***"Acceptable Solutions***

*Development, to comply with the goals set by the building height performance criteria, will:*

- A1. *Measure the height in relation to a building to the uppermost ceiling or top plate of the highest external wall as follows:*

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

A2. *Measure the maximum height of a building to the highest point on the ridge of the roof and including all ancillary structures such as, but not limited by, lift overruns, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls a further 2 metres above these nominated heights.”*

with the following:

**“Acceptable Solutions**

*Development, to comply with the goals set by the building height performance criteria, will:*

- A1. *Measure the height in relation to a building from finished ground level to the uppermost ceiling or top plate of the highest external wall as follows:*
- 3 storey commercial development - 11 metres
  - 3 storey residential development - 9 metres
  - 3 storey mixed development (commercial on ground floor and 2 storeys of residential/tourist above) - 10 metres
  - 2 storey commercial development - 8 metres
  - 2 storey residential development - 6 metres
- A2. *Measure the maximum height of a building from finished ground level to the highest point on the ridge of the roof and including all ancillary structures such as, but not limited by, lift overruns, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls as follows:*
- 3 storey commercial development - 13 metres
  - 3 storey residential development - 11 metres
  - 3 storey mixed development (commercial on ground floor and 2 storeys of residential/tourist above) - 12 metres
  - 2 storey commercial development - 10 metres
  - 2 storey residential development - 8 metres”
2. Pursuant to Clause 21 of the Environmental Planning and Assessment Act Regulation 2000 adopt Development Control Plan No 48 -Tweed Coast Building Heights.
3. Provides public notice of its decision.

## **REPORT:**

### **Introduction**

Council on Wednesday 3<sup>rd</sup> March 2004 resolved to publicly re-exhibit draft Development Control Plan No 48 - Tweed Coast Building Heights. The purpose of the Plan being to respond to the significant issue of the current planning controls with regard to building heights for Kingscliff and the Tweed Coast.

### **Background**

The Aim of draft DCP 48 is to protect the established and future character of the Tweed Coast by providing more detailed but flexible guidance, with regard to future development, that limits the adverse impacts relating to the bulk and scale of individual buildings and the overall streetscape.

The objectives of the draft Plan are:

- To protect the Region's public amenity by enhancing its diverse and unique built environment through qualitative urban design; and
- To provide a degree of certainty with regard to identifying a maximum height of buildings.

Previously the draft Plan had been exhibited in November/December of 2002 and been the discussion of a community workshop in July of 2003. As a result of the exhibition and community workshop, issues were identified that required the draft DCP to be significantly amended.

Council, in light of these changes and to ensure that the community was given an opportunity to comment on the proposed provisions considered it necessary to re-exhibit the draft Plan, hence Council's resolution dated 3<sup>rd</sup> March 2004.

The issues identified as part of the draft Plan's original exhibition in 2002 and the community workshop in 2003 included:

- The uncertainty of which areas of the Tweed Coast would be affected by the Plan;
- The ambiguity of the document's aim and objectives;
- The community's expectation that a maximum allowable height in relation to a building is established;
- The effectiveness of existing height controls;
- The flexibility of the proposed controls;
- Consideration of the region's vernacular/urban character;
- Place based building height controls; and
- The adoption of building setbacks.

A copy of the report discussing these previously identified issues is attached for your information.

In accordance with Council's resolution the draft plan was re-exhibited from Wednesday, 17<sup>th</sup> March 2004 to Wednesday, 14<sup>th</sup> April 2004.

### **Public Exhibition - March 2004**

Re-exhibition of the draft Plan resulted in Council receiving several submissions. A summary of the key issues identified in these is as follows:

#### **Issue: The identified maximum heights of buildings are considered over generous**

##### **Comment**

The identified maximum heights of buildings could be considered over generous in some locations, particularly where land has no slope or is level. DCP 48, however, has been developed for the whole of the Tweed Coast not any one location within it.

Like most other developable land in the Tweed Shire the Tweed Coast is a mixture of landforms, which the community has long advocated to be maintained not reshaped by earthworks undertaken as part of future development.

The proposed provisions have been calculated to allow for flexibility in the design of buildings on either sloping or level sites. By doing so the identified building heights will appear generous in some locations whilst in others the provisions will be equally restrictive.

##### **Response**

Whilst the primary purpose of the Plan is to define the overall height, bulk and scale of development on the Tweed Coast, the Plan is also meant to promote qualitative urban design. To do so requires that the proposed controls are flexible in their application and which allow for individualism to be displayed in future developments. It is therefore recommended that Council adopt the exhibited maximum heights of buildings.

#### **Issue: Opportunity exists for the proposed controls to be manipulated**

##### **Comment**

Section 1.6 of the draft Plan states that:

*"In special circumstances, Council may approve variations of the provisions of the plan without amending it, where Council is satisfied that such a variation will have only minor impact and is consistent with the aims and objectives of the plan."*

The community consider this type of provision to be inappropriate, as it weakens Council's ability to ensure the identified controls are enforced.

Whilst the identified maximum heights of buildings allow for flexibility in the design of urban areas there may be circumstances where good urban design may be better achieved by development not technically in accordance with the proposed provisions.

The achievement of good urban design by development that largely complies with the identified maximum height of buildings is a far better outcome to the community than is poor urban design by development that completely complies with the proposed provisions. It is circumstances such as these that section 1.6 is intending to cater for.

### **Response**

To ensure that qualitative urban design is an achievable objective of the Plan it is recommended that Council adopt section 1.6 of the draft Plan as exhibited.

### **Issue: Section 2.2 'Acceptable Solutions' of the document needs clarification**

#### **Comment**

Submissions received as a result of the draft Plan's re-exhibition highlighted that section 2.2 'Acceptable Solutions' was difficult to interpret in that the proposed provisions did not state where or from what level the identified maximum heights of buildings would be measured i.e. finished ground level, natural ground level or existing ground level.

#### **Response**

To ensure that the proposed provisions are interpreted in the manner in which they are intended it is recommended that the exhibited section 2.2 Acceptable Solutions be omitted from the draft Plan and the following be inserted in its place:

#### ***"Acceptable Solutions***

*Development, to comply with the goals set by the building height performance criteria, will:*

*A1. Measure the height in relation to a building from finished ground level to the uppermost ceiling or top plate of the highest external wall as follows:*

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

*A2. Measure the maximum height of a building from finished ground level to the highest point on the ridge of the roof and including all ancillary structures*

*such as, but not limited by, lift overruns, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls as follows:*

- 3 storey commercial development - 13 metres
- 3 storey residential development - 11 metres
- 3 storey mixed development (commercial on ground floor and 2 storeys of residential/tourist above) - 12 metres
- 2 storey commercial development - 10 metres
- 2 storey residential development - 8 metres"

### **Issue: Maintaining the identified bulk and scale of development**

#### **Comment**

Public exhibition of the draft Plan identified that the community considered the bulk and scale of some buildings on the Tweed Coast inappropriate and which should not be maintained as suggested by section 2.3 'Building Setbacks'.

Ultimately the proposed controls have been developed to reflect the existing '*bulk and scale*' and '*height*' of buildings on the Tweed Coast. In doing so the majority of existing development already complies with the proposed controls and if adopted future development will more closely represent the existing character of the region.

Whilst this means that some development does not comply with the proposed controls it is in response to these and the existing building height controls of Tweed LEP 2000 and DCP 6 (Multi-dwelling Housing) that DCP 48 has been developed.

#### **Response**

To ensure that future development more closely reflects the existing '*bulk and scale*' and '*height*' character of the Tweed Coast it is recommended that Council adopt section 2.3 of the draft Plan as exhibited.

### **Issue: Place based building height controls**

#### **Comment**

DCP 48 has been developed to provide general height controls in relation to buildings for the whole of the Tweed Coast. However as identified by the Plans exhibition and re-exhibition the proposed controls are considered too broad for some localities like certain parts of Pottsville and Fingal Head. Of most concern to the community is height restrictions and building setback provisions on land zoned for commercial purposes having an already identified maximum building height of 2 storeys.

Detailed place based plans have and continue to be essential to Council's planning framework. Currently many locations within the Shire including Kingscliff, Cabarita Beach/Bogangar and Pottsville are involved in the development of their own place based planning controls. All of which will consider the future direction of each locality and will



possibly include additional or separate controls specific to each location in regard to building height. It is envisaged that these controls will compliment those proposed, as part of DCP 48 not contradict them.

### **Response**

It is recommended that Council not include references to specific localities in DCP 48 but instead adopt general controls with regard to the overall height, bulk and scale of development on the Tweed Coast.

### **Issue: Relationship of the building height provisions to exempt development**

#### **Comment**

Public exhibition of the draft Plan identified community concern regarding the development of covered structures (i.e. pergolas) atop rooftop gardens or viewing platforms. Of key concern was the construction of covered structures thought to be classified as exempt development.

Exempt development is development, which does not require approval from Council to build and which is considered to have only a minor impact. It includes such development as fencing, carports, bus shelters, decks, outdoor play equipment and minor internal alterations of a dwelling.

To ensure that exempt development has only a minor impact and is of sound construction Council has adopted DCP 40 (Exempt and Complying Development). The purpose of the Plan is to identify what classifies as exempt and/or complying development and to establish the minimum requirements for its construction.

Whilst some covered structures are classified as exempt development, the identified minimum requirements preclude them from being built other than on ground level. In other words to build a pergola or some other form of covered structure atop a rooftop garden or viewing platform would require approval from Council.

#### **Response**

To ensure that adequate provisions are in place for the assessment of covered structures atop rooftop gardens and/or viewing platforms it is recommended that Council adopt draft DCP 48.

#### **Conclusion**

It is recommended that Council Pursuant to Clause 21 of the Environmental Planning and Assessment Act Regulation 2000 adopt Development Control Plan No 48 -Tweed Coast Building Heights subject to the amendments marked by italics in the attached copy of the Plan.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**6 [PE] Draft Tweed Local Environmental Plan 2000, Amendment No 9 - Wardrop Valley Industrial Area**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/9**

**SUMMARY OF REPORT:**

On 16 August 2000 Council resolved to prepare a draft Tweed Local Environmental Plan 2000 amendment over three properties, Wardrop Valley Rd (refer to Figure 1).

The Department advised that a Local Environmental Study was not required in the preparation of this draft. In consultation with the State agencies several issues were raised and need to be addressed in consideration of the draft plan. These issues are addressed in this report. This Amendment has been deferred pending the outcome of the sale and development application for industrial subdivision of the land previously owned by Council.

On the 3 March 2004 Council approved a Development Application (DA 02/1685) for a subdivision over part of the land zoned 4(a) Industrial. The approved subdivision is on land currently in private ownership but was previously owned by Council.

The original subdivision proposal did not fit within the 4(a) Industrial zone area. Subsequently one of the development approval conditions removed four lots that were entirely within the 1(a) Rural zone.

At the same meeting (3 March) Council resolved that:

*"That the Director Development Services submit a report to Council addressing the applicant's request for rezoning to industrial of those lands identified on the applicant's subdivision plan as proposed industrial lots which are located outside the Industrial 4(a) Zone".*

The proposed rezone is a minor adjustment of the zone boundaries to fit within the previously registered plan which originally excised the new lot off from Council's original land holding. It is considered that there are no significant issues with the proposed amendment.

This report reviews the rezoning proposal and recommends to proceed with an exhibition of a draft plan to make minor adjustments to fit the 4(a) Industrial zone to the boundaries of the new parcel of land as part of the LEP Amendment which Council has already resolved to prepare.

**RECOMMENDATION:**

That Council:

1. Prepares a Tweed Local Environmental Plan 2000 Amendment for the land identified in Figure 1 of this report separately from the remaining area identified to the Department of Infrastructure, Planning and Natural Resources under Section 54 of the Environmental Planning and Assessment Act as Tweed Local Environmental Plan 2000, Amendment No 9 - Wardrop Valley Road, Wardrop Valley.
2. Defers the preparation of a Tweed Local Environmental Plan 2000 Amendment for the remainder of the land.
3. Exhibits draft Tweed Local Environmental Plan 2000 amendment No. 9 in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled *"LEPs and Council Land – Guideline for Councils using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council"*,
4. Requests that the proponents forward a \$2,200 rezoning fee to Council in accordance with Council's fees and charges and that the draft Tweed Local Environmental Plan 2000 amendment not be exhibited until the fee has been received.

## REPORT:

### Background

On 16 August 2000 Council resolved to inform the then Regional Director of the Department of Urban Affairs and Planning of its intention to prepare a draft Tweed Local Environmental Plan 2000 Amendment over three properties (Lot 31 DP133404, Lot 6 DP619717 and Lot 2 DP 591194, these descriptions have since changed – refer to Diagram 1, Wardrop Valley Rd) in the Wardrop Valley / Fernvale area. Council owns Lot 1 DP 1069561 (being part of old Lot 31 DP133404 (old description)) Wardrop Valley Rd.

The Department advised that a Local Environmental Study was not required in the preparation of this draft. In consultation with the State agencies several issues were raised and need to be addressed in consideration of the draft Plan.

On 3 March 2004 Council approved a Development Application (DA 02/1685) for a subdivision over part of the land zoned 4(a) Industrial. The approved subdivision is currently in private ownership but was previously owned by Council. The contract of sale of Council's land was subject to this development application for subdivision being approved. Due to Council's ownership and powers under the Planning and Environment Act the preparation of the report to Council on the DA was prepared by an independent planning consultant.

The original subdivision proposal did not fit within the 4(a) Industrial zone area. Subsequently one of the development approval conditions removed four lots that were entirely within the 1(a) Rural zone. This area specifically relates to Lots 47, 48, 49 and 50 in Figure 2.

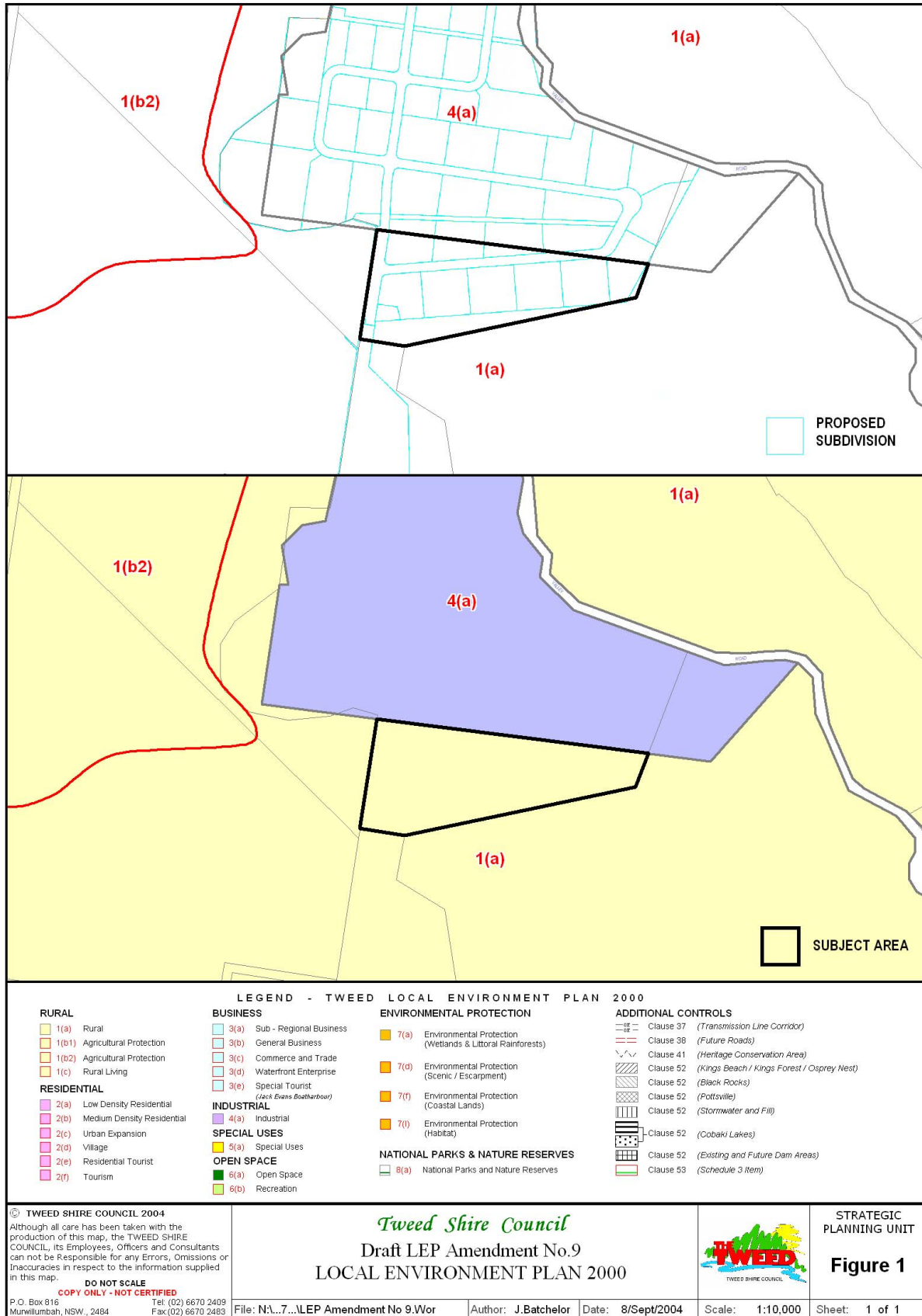
At the same meeting (3 March 2004) Council resolved that:

*"That the Director Development Services submit a report to Council addressing the applicant's request for rezoning to industrial of those lands identified on the applicant's subdivision plan as proposed industrial lots which are located outside the Industrial 4(a) Zone".*

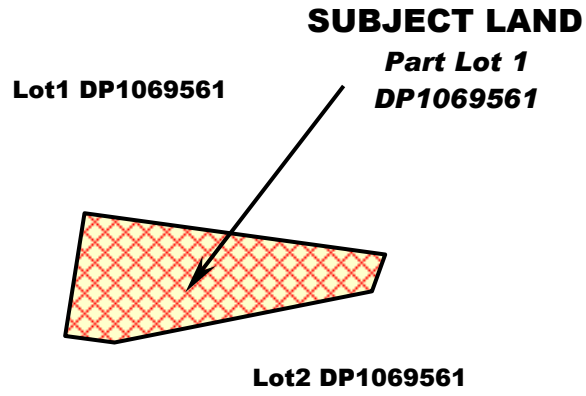
The proposed rezoning is a minor adjustment of the zone boundaries to fit within the previously registered plan which originally excised the new lot off from Council's original land holding. It is considered that there are no significant issues with the proposed Amendment.

Tweed currently does not have enough industrial land to cater for the increasing population growth of the Shire and this is becoming evident through high unemployment rates and a high proportion of residents commuting out of the Shire for work. This industrial subdivision represents an important contribution to the stock of serviced industrial land within the Shire.

Site Location



**Figure 1: Subject Land (Part Lot 1 DP 1069561)**



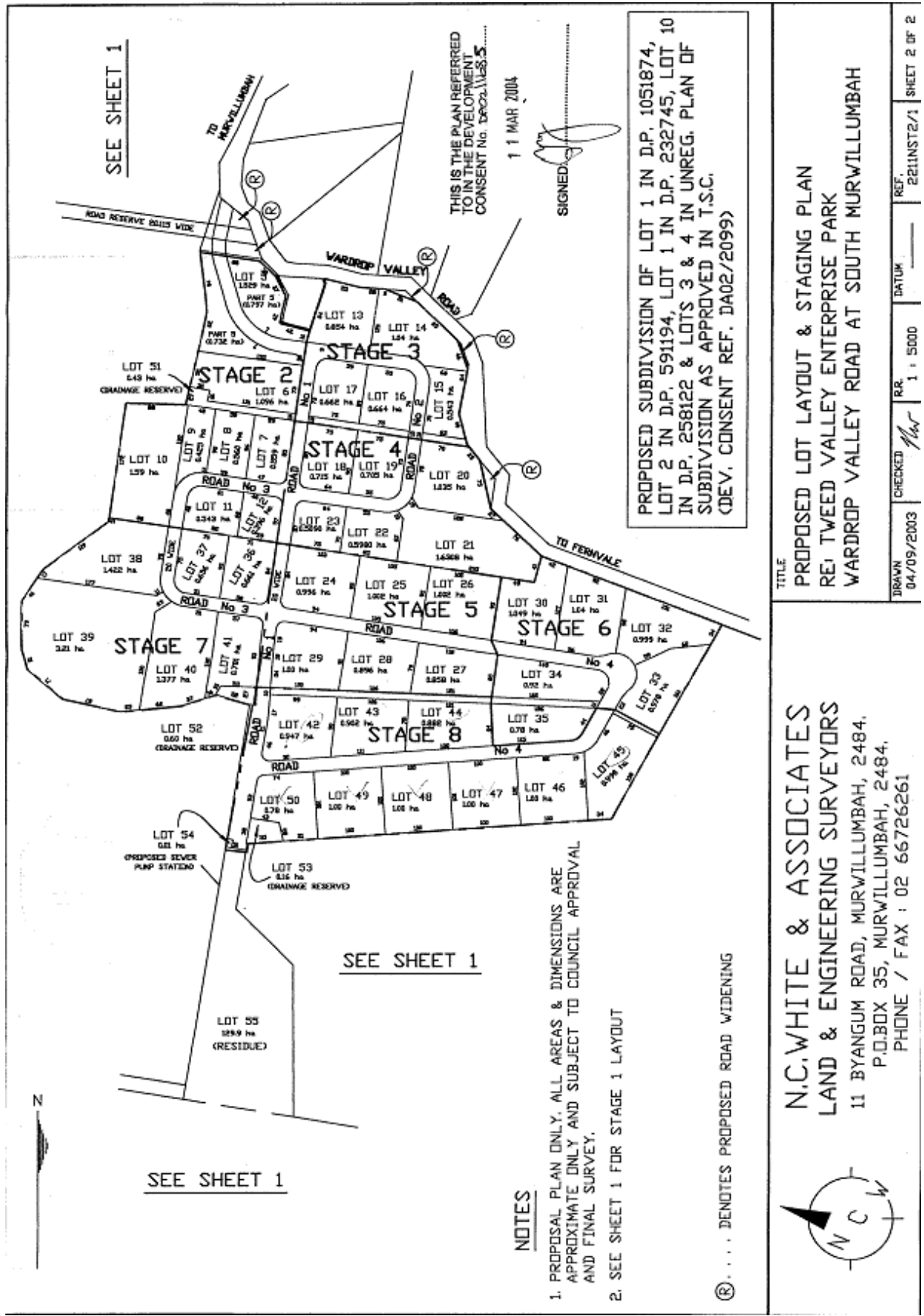


Figure 2: Approved Industrial Subdivision, Wardrop Valley Rd, Wardrop Valley.



## **Industrial Development**

This proposed draft LEP amendment will modify the extent and size of a larger portion of Industrial 4(a) Industrial zone by approximately 9ha. The existing 4(a) Industrial zone within the area constitutes an area of 38.4ha. This increase in zone area would create an area of approximately 47ha.

This report reviews the rezoning proposal and recommends to proceed with an exhibition of a draft plan to make minor adjustments to fit the 4(a) Industrial zone to the boundaries of the original subdivision layout of the Development Application.

The proposed draft LEP is a minor amendment to the existing zone boundary and will facilitate the subdivision and development of the land.

Subsequent to Council endorsing to proceed with the preparation of this LEP 2000 there have been two new State Government Policies which relate to this site. These are Ministerial Directions on Farmland Protection and Bushfire Prone Land.

## **Interim Protection for Farmland of State and Regional Significance on the NSW Far North Coast**

On 12 January 2004 the Minister for Planning Administration, Diane Beamer, issued a Section 117(2) to prevent good quality agricultural land on the Far North Coast of NSW from being rezoned to urban or rural residential uses. The objectives of the direction are as follows:

*Objective 1: To ensure that the best agricultural land will be available for current and future generations to grow food and fibre;*

*Objective 2: To provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning.*

The Ministerial Direction will be in force for two years from 12 January 2004. The purpose of this timeframe is to allow the Department to implement a substantial policy framework.

These maps clearly identify the subject lands as "Locally Significant Agricultural Lands". This does not exclude the area from being rezoned to "Urban Purposes".

On 13 August 2004 a set of revised draft Farmland Protection Plans was exhibited by DIPNR. It is important to note that these plans do not supersede the plans that were issued with the Minister's S. 117(2) Direction.

The subject land that is identified as "Locally Significant Agricultural Lands" on the maps issued with the S117(2) Direction have been identified as "Regionally Significant" on the consultation maps issued in August. This change does not impose the restrictions

outlined in the Minister's Direction. However as it is a publicly exhibited draft, consideration will be given to the issues raised in the draft policy proposals. The specific criteria raised in this draft Policy is analysed below in relation to the subject site.

The area of land within the Class 3 classification is currently used for sugar cane cropping. As a result of this classification the areas identified as Class 3 in the adjoining land was zoned 1(b)2 Agricultural Protection under the current LEP in 2000.

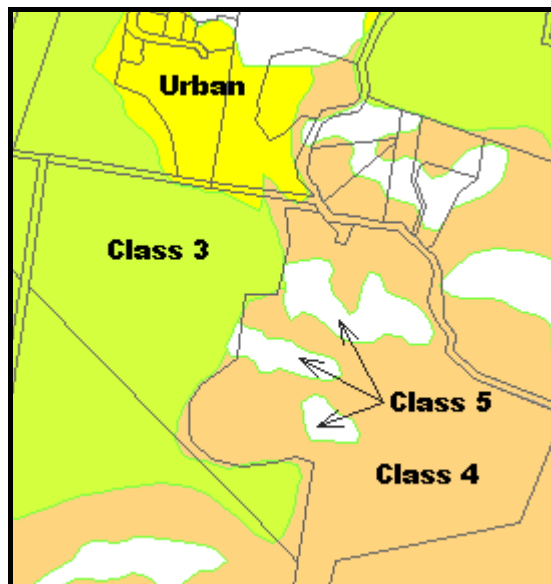
The land identified as Classes 4 and 5 have only been agriculturally productive as grazing land.

### **Proposals For Protecting Farmland**

A set of criteria for considering "Regionally Significant Farmland" for future industrial uses is presented to consider these situations. It is proposed that all of the following criteria must be met before a draft amendment can be prepared for industrial uses:

- **It would not significantly undermine the integrity of a regionally significant farmland area,**

The amount of land proposed to for rezoning is relatively small and has is used for cattle grazing. The 1996 Agricultural Classification Maps classify the area as containing Classes 4 and 5 agricultural lands (refer Figure 3 above). Due to its size and limited agricultural potential this land is not considered to have high agricultural potential and would not impinge on or degrade any adjoining regionally significant farmland area.



**Figure 3:** *Agricultural Land Classification Maps, NSW Agriculture, 1998.*

Figure 3 above shows the Agricultural Classifications for the site which were identified by NSW Agriculture in 1998. The classification systems differentiated classes 3,4 and 5 as follows:

- **CLASS 3** - *Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with pasture. Moderate suitability.*
  - **CLASS 4** - *Land suitable for grazing but not cultivation. Native or improved pastures established using minimal tillage techniques.*
  - **CLASS 5** - *Land suitable for agriculture or at best suited to only light grazing. Agricultural production is very low to zero.*
- **It would not compromise local or regional agricultural potential by alienating agricultural infrastructure or agricultural transport routes, or decreasing 'critical mass' for any existing agricultural industry**

As discussed the land contains agricultural lands identified as not have a very high agricultural value. The neighbouring property is an active sugar cane farm and is identified in the 1996 Agricultural Classification Maps as Class 3 agricultural lands. The land currently being used sugar cane cropping is also zoned 1(b2) Agricultural Protection.

Maintaining the integrity of lands used for sugar cane cropping is an important agricultural resource and the viability of the mill depends on a minimum threshold of land for production. It is important to preserve the amount of land currently under production.

The land proposed for rezoning for industrial purposes does not reduce the viability of the adjoining cane lands.

- **It would not create impacts which would compromise the agricultural use of nearby regionally important land**

It is considered that future industrial uses of the site would be an appropriate adjoining use to sugar cane cropping and will not impact on the viability of the adjoining farmland.

- **It would not be located in an area where there was an identified risk of land use conflict near an important enterprise**

The remainder of the adjoining sugar cane crop adjoins the existing Murwillumbah industrial area as well as an airfield. This has not caused a land use conflict in the past according to Council records.

- **It would not involve filling part of a floodplain unless consistent with a floodplain management plan prepared in accordance with the Floodplain Management Manual**

There has been no flood plain management plan conducted for the proposed rezoning. It is considered the amount of land will not have a significant impact on upstream or on adjoining properties.

The approved development approval for an industrial subdivision for the site has a considerable amount of cut and fill to make the area more level and able to be developed. This will bring the entire area out of flood and it has been submitted by the proponents that it will have significant impact on upstream or adjacent properties in terms of depth of inundation and velocities.

- **No viable alternative land is available which is suitable for the proposed industrial use**

There is an increasing demand for industrial land within Tweed Shire but the amount of land available for industrial uses is very limited. In 2000 Council adopted an Industrial Land Investigation Study that reviewed the current supply of industrial land and investigated numerous sites for future industrial development. Council took further investigation on a number of these sites some of which were later eliminated due to further constraints. This site on Wardrop Valley Rd represented a logical extension to the Murwillumbah industrial estate. This site is important to the Tweed Shire because it allows for larger industrial developments where most of the other industrial zones in the Shire are located to close to urban areas for increased scale of development.

### **Environmental Considerations**

While the subject land was in Council's ownership it was agisted out for cattle grazing.

In April 2002 Peter Parker was commissioned to undertake an assessment of the flora and fauna of the site as part of the Statement of Environmental Effects of the approved subdivision. This report concluded that there were no threatened species found on the subject land. Also, the vegetation communities on the site are unlikely to provide habitats to any threatened fauna species.

These comments are relevant to the preparation of this draft LEP Amendment.

## **Bushfire Hazards**

The Statement of Environmental Effects for the approved subdivision undertook an assessment of the of the potential bushfire hazards for the site. The entire area of the subdivision has a low potential bushfire hazard and a moderate bush fire threat. This assessment was undertaken in 2002 and does not take into consideration the new bush fire prone land assessment carried out between Council and the NSW Rural Fire Services. This assessment requires Council to consult with the Rural Fire Services if there is any land on the subject site that is identified as bush fire prone. There is a small portion of the land that is being considered for rezoning which is identified as bush fire prone. A Ministerial Direction, under S. 117(2) of the EPA Act, which was signed on 5 July 2002.

Subsequently, Council is currently consulting with the NSW Rural Fire Service regarding this draft LEP Amendment.

## **Best Practice Guidelines and Exhibition Transparency**

Council previously owned all the land that forms the subject site of the draft LEP Amendment. Council undertook to enter into a contract to sell the land to a private developer with a condition of sale that the developers achieve a development approval for an industrial subdivision before the land can be transferred. This development approval was achieved in March this year and the land has subsequently been transferred to private ownership.

As a result of Council's historic involvement in the land it is considered necessary that this draft LEP Amendment will need to be undertaken with all of Council's dealings made clear to the community. It is recommended that the draft LEP Amendment be exhibited in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled *"LEPs and Council Land – Guideline for Councils using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council"*.

## **LEP Amendment Fee**

Under the 2004/05 fees and charges a fee of \$2,200 applies for a request for Council to undertake the preparation of a draft Amendment to the LEP zone maps. In their Development Application the proponents requested that a draft LEP amendment be prepared to make minor adjustments to fit the zone line to the boundaries of the subdivision proposal. This report recommends that the proponents be required to pay this fee to Council prior to any draft LEP Amendment for the land being exhibited.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**7 [PE] Tweed Local Environmental Plan 2000 Amendment No. 7 - Bogangar Release Area**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/7 Pt3**

**SUMMARY OF REPORT:**

Draft Tweed Local Environmental Plan 2000, Amendment No 7, as indicated by Figure 1, has been exhibited. Following the review of submissions received Council resolved on 28 April 2004 as follows:

*"Council requests the Regional Director of the Department of Infrastructure, Planning and Natural Resources to review the need for a 50m buffer around the canal adjoining the land the subject of Draft Tweed Local Environmental Plan 2000, Amendment No. 7 for the following reasons:*

- *The water body to be buffered is an artificial drainage channel contained in an easement and not within a drainage reserve;*
- *It has limited environmental values as it serves as a wider quality function; and*
- *It is within the urban fabric of Bogangar."*

The Department has been consulted and has responded that:

- (a) It is prepared to modify its' request for buffers from 50m to 25m.
- (b) It remains concerned at the potential cumulative impact of the filling of land on the surrounding existing development.

With regard to buffers, no new arguments for a 10m buffer have been put forward by the proponents. With regard to the viability of the site there would still remain sufficient land for development, as indicated by Figure 2.

The position of DIPNR is clear on this matter. It is doubtful that the Department would accept a further reduction to 10m. Consequently, Council should accept the buffer as nominated by the Department.

**RECOMMENDATION:**

That Council informs the proponent that it intends to submit draft Tweed Local Environmental Plan 2000, Amendment No 7, to the Minister incorporating 25m buffers as required by the Department of Infrastructure, Planning and Natural

Resources, subject to the proponent providing satisfactory evidence that the additional filling of Areas 1 and 2, as identified by the proponent, will not result in any adverse flooding impacts on existing adjoining residential development.



## REPORT:

### INTRODUCTION:

Draft Tweed Local Environmental Plan 2000, Amendment No 7, as indicated by Figure 1, has been exhibited. Following the review of submissions received in respect of this draft LEP Amendment Council resolved on 28 April 2004 as follows:

*"Council requests the Regional Director of the Department of Infrastructure, Planning and Natural Resources to review the need for a 50m buffer around the canal adjoining the land the subject of Draft Tweed Local Environmental Plan 2000, Amendment No. 7 for the following reasons:*

- *The water body to be buffered is an artificial drainage channel contained in an easement and not within a drainage reserve;*
- *It has limited environmental values as it serves as a wider quality function; and*
- *It is within the urban fabric of Bogangar."*

The Department has been consulted and has responded that:

- (a) It is prepared to modify its' request for buffers from 50m to 25m.
- (b) It remains concerned at the potential cumulative impact of the filling of land on the surrounding existing development.

He has also responded to the flooding issue.

### Background to Draft LEP

When, on 28 April 2004, Council considered the submissions in respect of the matters raised by the Department of Infrastructure, Planning and Natural Resources, they were reported as follows:

*"The proposed rezoned 7(1) buffer zones around the canal banks do not comply with the recommended buffers shown in Figure 7 of the LES. The recommended environmental buffer width around the canal (waterway) should be a minimum of 50m to be effective as a buffer. Any buffer less than this would be ineffective and reinforce the concept that the development is a canal estate".*

### Response

*Council resolved on 12 November 2003 that a 10m buffer be included around the area to be considered for urban development. A 50m buffer would result in a reduced amount of land being available for development (Sites 1 from .95ha to .48ha, Site 2 from 1.8ha to 0.93ha).*

*The proponent's Consultant has nominated reasons why this Amendment should be treated as an exception to the usual requirement for a 50m buffer:*

- *The water body to be buffered is an artificial drainage channel contained in an easement and not within a drainage reserve;*
- *It has limited environmental values as it serves as a wider quality function; and*
- *It is within the urban fabric of Bogangar.*

*In view of this objection, if Council wishes to pursue this Amendment, it should not be submitted to the Minister until Council has made every effort to resolve the objection.*

*"The development of the remainder of the area would have significant flooding implications as any low density residential areas would still need to be built up above the 1:100 flood levels and access would be limited during flood flows".*

### **Response**

*Not relevant to this draft Amendment".*

### **Response from Proponents**

The proponents responded to the requirements of Department of Infrastructure, Planning and Natural Resources as follows:

#### *"1. Buffer zones*

*We note the Department's advice that it is prepared to vary the normal 50m buffer requirements to 25m so that all the existing vegetation is retained adjacent to the main canal in the Local Environmental Study. Notwithstanding the Department's position, we reiterate our client's preference to limit the buffer width to, say, 10m which, it is submitted, will adequately contain all significant vegetation. To require a buffer greater than 10m in width has significant implications for the viability of developing the site as yields will be significantly reduced. However, as the Department appears to be inflexible in any further variations to the normal 50m buffer requirement and given that the Minister is unlikely to make the LEP amendment whilst ever the Department objects to the 10m buffers proposed, we reluctantly accept the 25m buffer in respect of Site 2 (Clothiers Creek Road).*

*In respect to Site 1 (Willow Avenue) the attached sketch prepared by Nigel White shows the existing canal and the 25m buffer line which extends well beyond the top of the bank and the tree line. Clearly a 25m buffer significantly limits the area of land available for development. In the circumstances*

*Council is requested to limit the buffer to 10m as exhibited, as the land area is small and adjoining residential lots do not have a buffer.*

*If necessary, the land owners would be prepared to enter into a Deed of Agreement with Council confirming their willingness to dedicate the foreshore buffer areas at no cost to Council subject to the appropriate Section 94 credits.*

## 2. Flooding

*Section 3.3 of the Local Environmental Study (GHD, December 1999) addresses the whole of the release area (ie. Sites 1 to 4) and concludes that based a preliminary assessment of the impact of filling on the 100 year ARI flood levels the maximum impact was determined to be approximately 40mm increase in flood level.*

*As noted in the report to Council's meeting on 28 April 2004, Sites 1 and 2 have been lawfully filled and only a small additional quantity of fill (estimated at 200m<sup>3</sup>) is required to achieve the minimum fill level contained within Tweed Shire Council's Development Control Plan No. 5.*

*Sites 1 and 2 had been filled at the time of the flood modelling undertaken by GHD in 1999?? and therefore it is submitted that rezoning of these two parcels and the addition of approximately 200m<sup>3</sup> of additional material would not significantly increase flood levels and certainly not by 40mm as predicted for the whole site.*

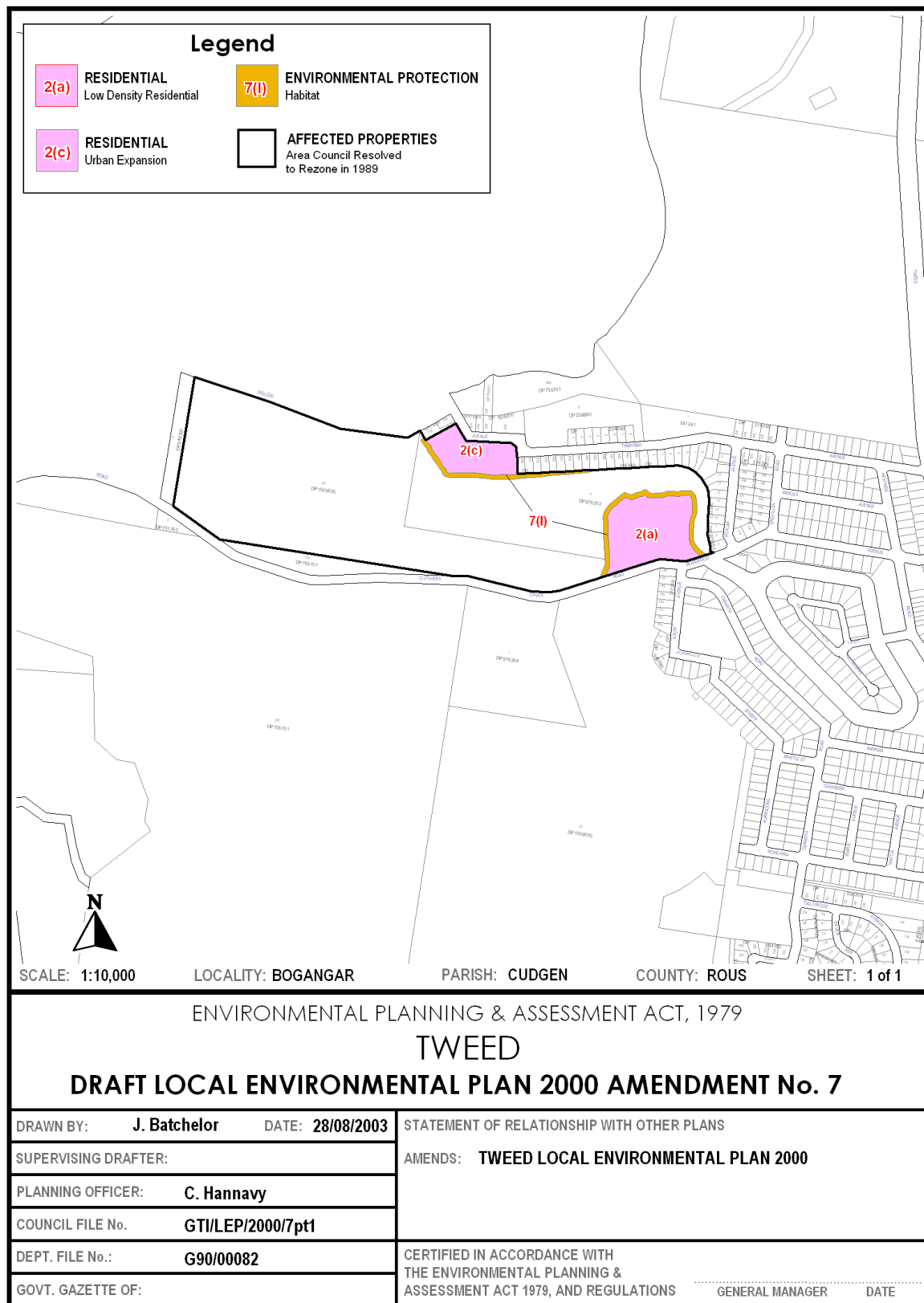
*We therefore submit that rezoning of Sites 1 and 2 as proposed will not have significant impact on surrounding development and accordingly further flood assessments at this stage are not considered to be required."*

## **CONCLUSION:**

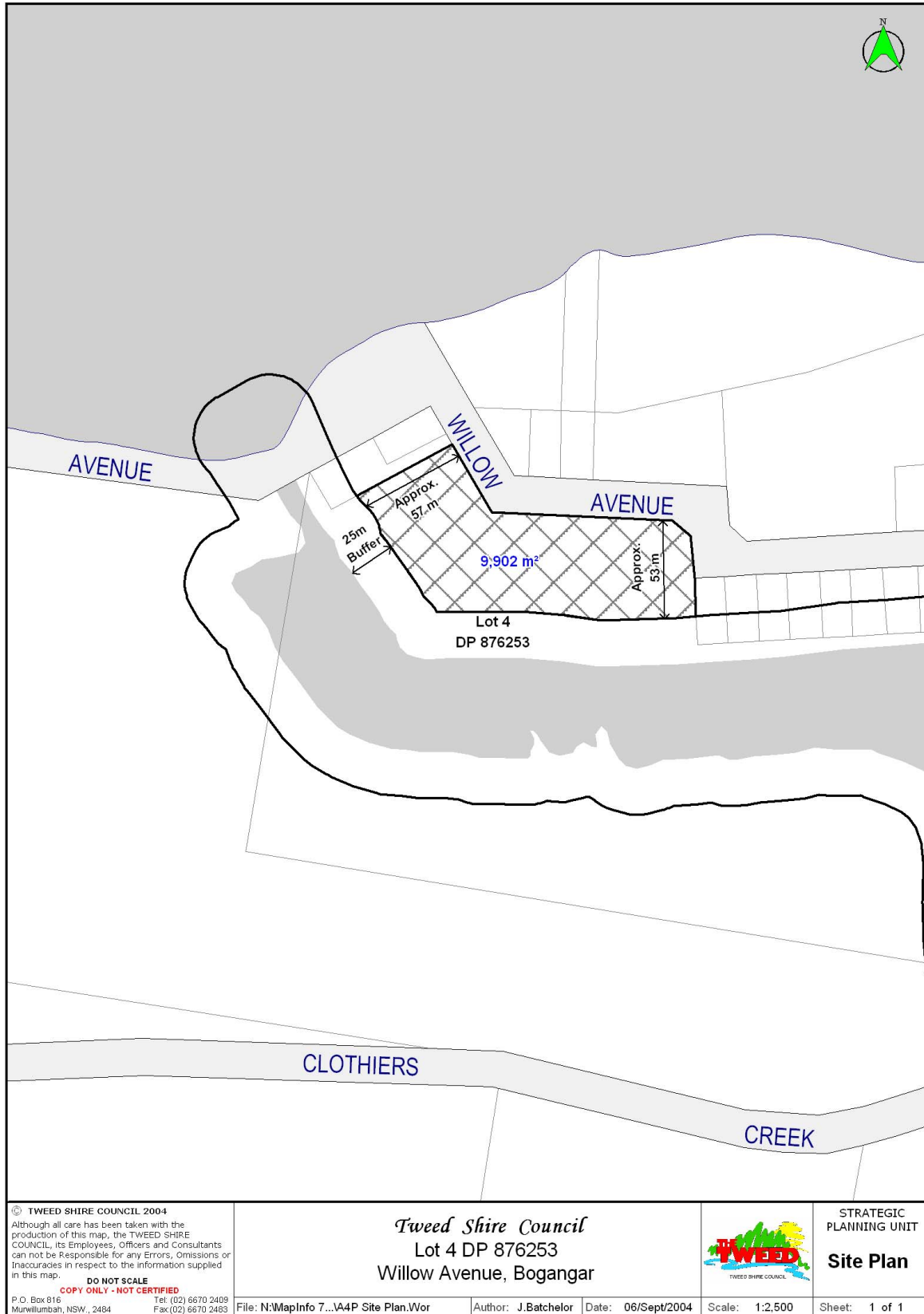
No new arguments for a 10m buffer have been put forward by the proponents. With regard to the viability of the site there would still remain sufficient land for development, as indicated by Figure 2.

The position of DIPNR is clear on this matter. It is doubtful that the Department would accept a further reduction to 10m. Consequently, Council should accept the buffer as nominated by the Department.

With regard to flooding, on the face of the information provided, there would be minimal impact on existing development. However, to satisfy the DIPNR detailed evidence is required of existing levels and the amounts of fill required to achieve flood level.



**Figure 1**



**Figure 2**

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**a7 [PE] Development Application DA03/0998 for an Attached Dual Occupancy at Lot 22 Sec 4 DP 8568, No. 40 Charles Street Tweed Heads**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/0998 Pt1**

**SUMMARY OF REPORT:**

An application has been received for a multi-dwelling (dual occupancy) development over a land parcel that has significant topographical site constraints. The primary issue with the amended design proposal is that it does not comply with prescribed two-storey height limitation. The application was referred to the Development Assessment Panel Meeting of 1 September 2004 and 3 September 2004. These reports are attached.

The application is of particular importance in this locality because approving a departure from the height limitation will have policy implications for future applications. In this regard it is noted that Council has before it three other non-compliant development proposal's within the same locality.

Having considered the merits of this application against the relevant planning objectives, the application is considered suitable for a conditional approval.

**RECOMMENDATION:**

That:

- A. The State Environmental Planning Policy No. 1 objections to Clause 16 of Tweed Local Environmental Plan 2000 regarding the height of the building be supported and the concurrence of the Director-General of the Department of Infrastructure, Planning and Natural Resources be assumed
- B. The application be approved subject to the following conditions of consent.  
That Development Application DA03/0998 for an attached dual occupancy at Lot 22 Sec 4 DP 8568, No. 40 Charles Street Tweed Heads be approved subject to the following conditions:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Planit Consulting dated July 2004 and Plans (as amended in RED) - nos.DWG 03-0503 Sheets 1 to 5 dated August 2004 prepared by Glen Peterson Architect Pty Ltd, except where varied by these conditions.

[GEN0010]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0120]
  
3. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

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

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

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



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

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

- a. Tweed Road Contribution Plan: \$1,288  
S94 Plan No. 4 (Version 4.0)

**Sector1\_4**

**Heavy Haulage Component**

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

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

where:

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

and:

- Prod.                      projected demand for extractive material to be hauled to the site over life of project in tonnes
- Dist.                      average haulage distance of product on Shire roads  
  
(trip one way)
- $\text{\$Unit}$                       the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)
- Admin.                      Administration component - 5% - see Section 6.5

- b. Open Space (Structured): \$780  
S94 Plan No. 5
  - c. Open Space (Casual): \$167  
S94 Plan No. 5
  - d. Shirewide Library Facilities: \$688  
S94 Plan No. 11
-

e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$126
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$215
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$344.81
h.	Cycleways S94 Plan No. 22	\$160
i.	Regional Open Space (Structured) S94 Plan No. 26	\$1,177
j.	Regional Open Space (Casual) S94 Plan No. 26	\$221

[PCC0050/PSC0005]

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

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

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

Water:	1 ET @ \$4325	\$4,325
Sewer:	1 ET @ \$3490	\$3,490

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]

6. Prior to issue of a Construction Certificate Council is to be furnished with a full geotechnical assessment of the land, which is to be undertaken after demolition and removal of existing site improvements, to the satisfaction of Council's Director Planning and Environment.

[PCCNS01]

7. A) Legally binding easements to drain water shall be created on Lot 11 Section 4 DP 8568 and Lot 12 Section 4 DP 8568, to provide a legal point of stormwater discharge for the subject development.
- B) Full engineering details of drainage services to be constructed within the subject easements must be submitted for approval by Council prior to the issues of a Construction Certificate. Minor and major drainage systems shall be sized to convey (as a minimum) all runoff generated by the ARI 20 year storm event from the subject site to existing public drainage infrastructure in Adelaide Street.  
[PCCNS02]
8. Prior to the issue of a Construction Certificate Council is to be furnished with a NatHERS Energy Star rating for each Unit. The minimum acceptable rating is 3.5 Stars.  
[PCCNS03]
9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.  
[PCC0190]
10. 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]
11. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of

New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

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

- 12. 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]

- 13. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

- 14. 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]

15. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

16. 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]

17. The existing sewer connection is to be capped off by a licensed drainer and inspected by Council prior to commencement of building work.

[PCWNS01]

#### **DURING CONSTRUCTION**

18. 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]

19. 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]

20. 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]

21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0160]

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. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0170]

25. 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]

26. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

27. 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]

28. 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 and prior to occupation of the building.

[DUR1020]

29. 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]

30. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

[DUR1070]

31. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR1090]

32. 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]

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**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

33. 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 and conditions of Consent.

[POC0020]



## REPORT:

**Applicant:** Great South East Developments Pty Ltd  
**Owner:** Great South East Developments Pty Ltd  
**Location:** Lot 22 Section 4 DP 8568, No. 40 Charles Street, Tweed Heads  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$450,000.00

## BACKGROUND:

Council has received a development application for a duplex at Lot 22 Sec 4 DP 8568, 40 Charles Street, Tweed Heads. The land has an area of 602.95 m<sup>2</sup>, is zoned 2(b) Medium Density and has a two storey height limit under Tweed LEP 2000. The site contains an existing part two/ three storey dwelling which is in a poor state of disrepair. The property is located on Razorback Hill approximately 1 kilometre to the southwest of the Tweed Heads CBD. The land contains significant views of the Tweed River and Pacific Ocean to the east, due to its location on Razorback Hill. Levels within the site vary from approximately RL35m AHD at the street frontage to RL23m AHD at the rear of the allotment. It is generally considered steep.

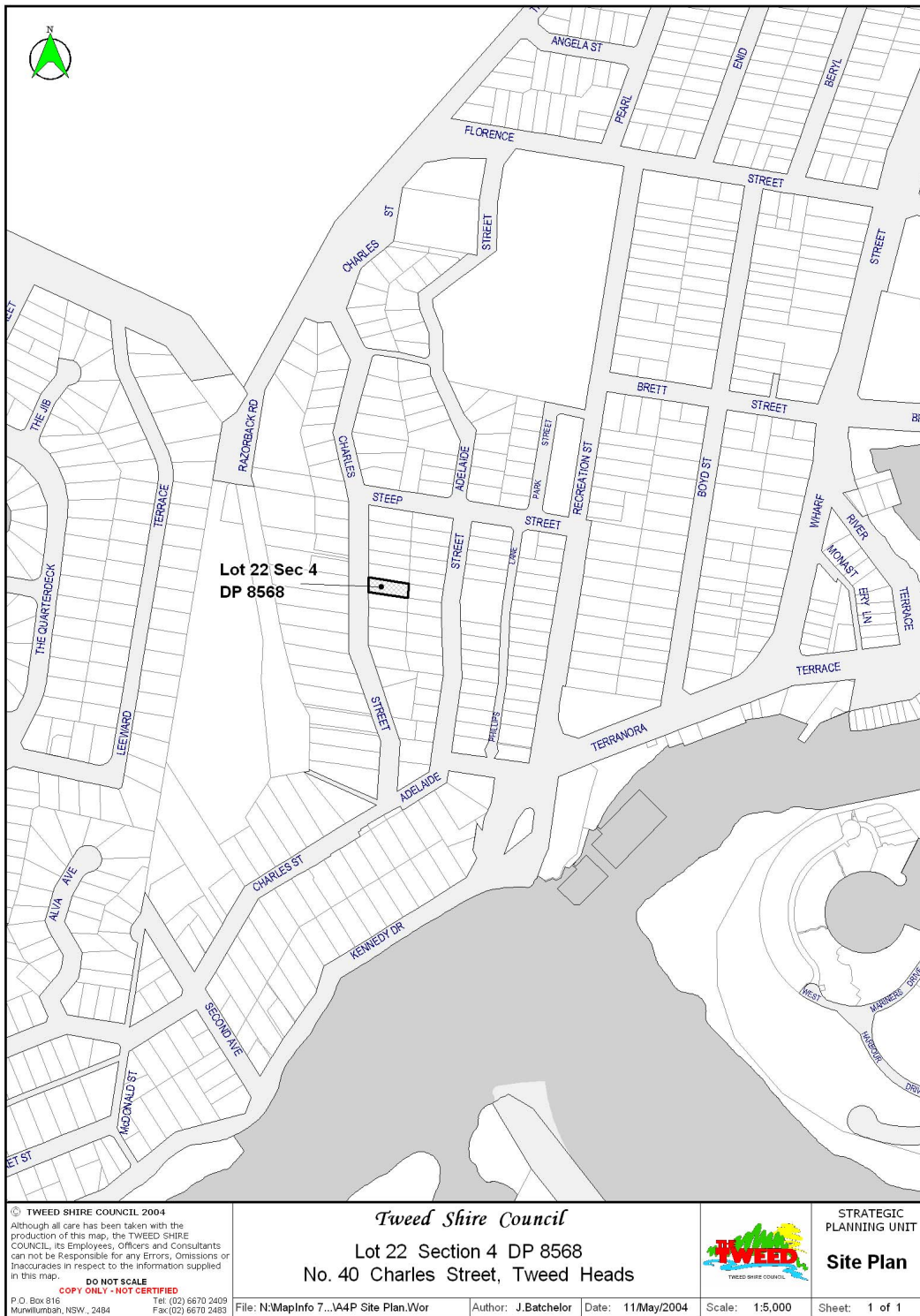
The application was lodged with Council on 10 July 2003. The time period is the result of significant design issues in the original proposal, more noticeably the extent of a non compliant third storey component and the overall visual impact of what was considered a bulky design. Consultation with the project architect has been on-going. More recently an amended design has been submitted. Whilst the development still comprises a third-storey component it is significantly reduced in area and the overall design is a significant improvement in terms of bulk, visual amenity and impact.

The site is located within an area known as 'Razorback Hill' and it is characterised by existing older style single dwelling houses. Although, examples of medium density developments and newer dwelling houses are starting to emerge as the locality redevelops. Of note is that a number of dwelling houses, generally older buildings, in the locality possess a three-storey component. An existing dwelling house is situated upon the subject site. The dwelling is approximately 40-50 years old and has minimal heritage and architectural value. Its condition appears to be deteriorated. The applicant contends that the existing dwelling house incorporates a three-storey component. Vegetation on site comprises a number of mature and significant trees within an existing vegetation stand toward the rear that includes a large mature mango tree, which provides significant visual buffering to adjacent properties.

The principal areas of issue that have arisen in this application are set out below and addressed further in this report.

- SEPP 1 Objection to TLEP 2000 building height restriction
- Building design (bulk, aesthetics)
- Public submission

**SITE DIAGRAM:**



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

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

**Tweed LEP 2000**

**Clause 8 - Zone objectives**

The land is zoned 2(b) Medium Density Residential. The proposal being defined as multi dwelling housing under Tweed LEP 2000 is permissible with consent. The objectives of the zone are as follows:

***Primary objective***

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

***Secondary objectives***

- *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 proposed development is defined as multi dwelling housing and is permissible in the zone. Although the zoning seeks to discourage the under utilisation of Residential 2(b) land in close proximity to the Tweed Heads sub-regional centre it is noted that the site constraints of the subject land would not cater to a more intensive form of development, than that proposed.

The revised building design is characterised as contemporary and comprises light weight materials and use of modern technologies and colours. The proposal achieves good urban design and best practice principles. It is consistent with the land-use zoning and accords with the emerging character of the locality.

### **Clause 15 - Essential Services**

Services provided to the land are adequate for this type of development. Due to the slope of the land stormwater cannot be disposed of to Charles Street. The applicant has proposed to dispose of stormwater via a stormwater easement through a neighbouring property to the east and out to Council's stormwater system on Adelaide Street. Agreement with the downstream owner has been secured by the applicant. Council's Infrastructure Engineer has reviewed the proposal and raises no objection subject to conditions of approval.

### **Clause 16 Height Of Buildings**

The land has a two storey height limit under Tweed Local Environmental Plan 2000. The objective of this clause are:

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

Council with the Gazettal of Tweed LEP 2000 adopted the height limit on the 7 April 2000 after extensive community consultation with the preparation of the Tweed Heads 2000+ Strategy. The height limit has now been further reinforced with the adoption of DCP 18 Tweed Heads.

The proposed building has a three-storey component. The elevation constraint of the land does not lend itself to significant excavation for terracing purposes. It is noted that the site falls from the street frontage to the rear boundary with an average gradient of 30%. The effect of this is either a reasonable development design incorporating a three-storey component or a compliant development by storey that would likely have a much greater site coverage in order to achieve a desirable / functional internal living area.

The originally submitted design had quite a significant three-storey component. The design was not considered aesthetically representative of the existing nor desired character of the area. The amended design is a stark contrast, providing a reduced third-storey component and a much improved overall design that has consideration to the sites elevation. The level of non compliance has been estimated at approximately 47 m<sup>2</sup> per dwelling compared to the initial 77 m<sup>2</sup> per dwelling.

The applicant has submitted a SEPP No.1 submission to support the variation. The applicant provides the following:

*SEPP No. 1 aims to provide "flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act".*

*Clause 6 enables a written objection to be made that compliance with a particular development standard is unreasonable or unnecessary in the circumstances of the case. Clause 7 of SEPP No. 1 enables the consent authority to grant consent to a development notwithstanding non-compliance with a development standard, where the consent authority is satisfied the objection is well founded and consistent with the aims of the policy.*

*The development standard to which this SEPP No. 1 objection relates is contained in Clause 16 of Tweed Local Environmental Plan 2000 (TLEP 1988).*

**Clause 16 states:**

**(1) Objective**

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

- (2)** *Consent must not be granted to the erection of a building, which exceeds the maximum height or number of storeys indicated on the height of buildings map in respect of the and to which the application relates.*

*A height limit of 2 storeys applies to the subject site. In this regard it is noted that the proposed development will create a part three-(3) storey configuration in accord with Council's current statutory definition of a storey.*

*The proposal will incorporate a part three (3) storey configuration (as marked on attached feature plan) in three (3) distinct areas. The non compliance coincides with topography drop off points on the site and is an unavoidable consequence of consolidating the built form high on the site (away from neighbouring properties) and achieving consistency with the zone objectives.*

*The area within which three (3) storeys is proposed is centrally located and as such will not present (visually) as three (3) storeys or result in any significant impact upon adjoining properties.*

*The underlying objective of the development standard is to control the height of buildings and ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. Having regard to the above intent, it is submitted that the proposed configuration of the building is consistent with the underlying objective of the development standard. In this regard, the following matters are considered relevant to assessing the merits of the proposed departure from the development standard:*

*The proposed areas of non-compliance are located where there is significant topographical drop off points on the site.*

*The area of proposed non compliance is centrally Located, therefore ensuring that the proposed development will in no way present as a three (3) storey form from either Charles Street or from a distance.*

*The surrounding area is overwhelmingly characterised by the presence of three (3) storey developments (by definition) within a two (2) storey statutory zone. The Latter is demonstrated evidence of the inability to provide for a compliant form (2 storeys) without creating significant adverse impacts associated with overlooking and substantially increased site coverage. Whilst the provision of a general two (2) storey form in the area is supported and understood, Council's current definition of a storey makes compliance almost impossible to achieve.*

*The strict adherence to a compliant two (2) storey form would effectively limit the density on the site to a single dwelling, thereby resulting in an undesirable compromisation of the statutory objectives of the zone. The proposed development is generally consistent with the desired future character of the area, with particular regard to the 2(b) zoning of the Land, DCP 6 compliance and associated market demands. The proposed variation does not raise any matters of significance relative to state or regional environmental planning. It is submitted that for the reasons outlined above, strict compliance with the two (2) storey height Limits is both unnecessary and unreasonable in the circumstances of the case. It is also submitted that the proposed variation will facilitate a more desirable product than if the two (2) storey restriction were steadfastly imposed.*

*It is concluded that the variation sought under SEPP No. 1 warrants support. Accordingly, it is respectfully requested that the concurrence of the Director General be assumed and that consent be granted to the submitted SEPP 1 objection.*

The SEPP 1 objection is reasonably well balanced and has merit. Whilst the objection is generally accepted, it is noted that the development will, notwithstanding its stepped design, present as three-storeys when viewed from certain vantages.

The following diagrams illustrate the approximate area of encroachment and elevations of the building. Of note is the level of articulation, stepping and contrast in modulation and use of different 'angles', which contribute to a visually interesting, modern design.

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

The land is mapped as ASS Class 5. No ASS is likely to be disturbed during construction of this duplex. Council's Environment and Community Services Unit has reviewed the proposal and raises no objection subject to conditions.

### **North Coast REP – Clause 43 Residential Development**

The proposal is consistent with the relevant provisions of the REP pertaining to residential development.

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy (SEPP) No.1 Objection**

The applicant has submitted a SEPP No.1 Objection to vary the two storey height limit under the provisions of Clause 16 of Tweed LEP 2000. This issue has been discussed earlier in this report. The SEPP 1 objection is considered to have merit.

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

Draft Tweed Local Environmental Plan No. 46 was exhibited between 16 April 2003 and 14 May 2003 and detailed an amendment to the definition of a storey to reflect the finished ground level rather than the natural ground level in addition to incorporating that any space in excess of 4.5 metres should be categorised as two storeys. This amendment does not have an affect on the assessment of this application and would not create any area of non-compliance with the number of storeys.

Having reviewed the Draft amendment it is considered that the proposed changes to the LEP would not alter neither the assessment nor recommendation for this application.

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

##### **DCP No. 6 – Multi Dwelling Housing**

The principle development control plans governing the proposed development are DCP 2, 6 & 18. Preliminary assessment of the proposal has identified that the development fundamentally achieves the design parameter objectives. The principle areas warranting of specific consideration are set out below.

**Development Control Plan No.2 – Access and Parking**

Off street car parking needs to be supplied in accordance with DCP2. Table 2 identifies the level of on-site parking compliance.

Standard	Requirement	Complies/variation
On site car parking	1.5 per dwelling = 3	Each dwelling is provided with a double garage (4 spaces) and is compliant

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

Development Control Plan No.6 - Multi Dwelling Housing is inherently flexible through its substantial utilisation of performance rather than prescriptive based criteria as its means for achieving the objectives of the design parameters. The performance criteria approach is adopted in this assessment.

The assessment below considers the proposed development against specific design parameter objectives, provided in DCP 6, as a means of determining the appropriateness of the development.

**DCP 6 Design Element 3.3: Building Siting and Design*****Objective 1***

*To ensure that the height, scale and length of new developments is not excessive and relates well to the local context.*

The proposed building design (as amended) provides a well articulated visually interesting stepped design. The sectioning and articulation reduces the visual scale of the building and provides for improved separation and view sharing to neighbouring development. The maintenance of view sharing in this area is considered important and relevant as many properties have significant coastal aspects. Whilst it is widely considered that a right to a view does not generally exist, the amended design has sought to minimise the impact on view loss to neighbouring lands. The stepped configuration over three storeys permits the building to be sited as far forward as possible, further reducing the impact on lands to the east and views from the south-southwest. The height of the building when viewed from Charles Street presents predominantly as single storey. From Recreation Street and surrounds the building will present as 2/3 storey depending on the aspect of the vantage point. The development is a good multi-dwelling design response to the land.



### **Objective 2**

*To encourage design which creates desirable living conditions and ensures that the amenity of surrounding properties is properly considered.*

The standard of design and liveability in this development is exceptionally high. As discussed the amended design respects the lands elevation and as such minimises the impact on neighbouring properties. It provides for extensive views from each unit and incorporates generous amounts of external private open space areas via balconies. There is generous setback from neighbouring development that maintains a good level of privacy and view sharing.

### **Objective 3**

*To allow flexibility in the siting of buildings and the provision of side and rear setbacks.*

The site is heavily constrained by its steepness. The proposed development is fundamentally centrally located, providing for good building separation via appropriate setbacks.

### **Objective 4**

*To allow adequate natural light and ventilation between dwellings.*

The development provides good separation to the neighbouring buildings. Acceptable levels of natural light and ventilation will be maintained.

It is considered that the proposed development attains the objectives of the building siting and design section of the DCP. The height, scale and articulation of the building are satisfactory.

## **DCP 6 Design Element 3.2: Streetscape**

### **Objective 1**

*In developed areas, to ensure that new development enhances and makes a positive contribution to the character of existing streetscapes or desired future character of the area.*

The proposed design presents largely as a single level to the street. The building would provide a significant improvement to the streetscape. It provides a modern, up-market and lively contribution that compliments the newer development in the area. The proposed development is considered to have a number of positive elements that lead to attainment of the objective, they are summarised in following table.

<b>Scale</b>	The development by design maintains a low density scale and addresses the street like a single dwelling. The design is very articulated and does not provide areas of massing that would lead to bulkiness. The building design provides a good level of visual interest.
<b>Design</b>	The design of the building incorporates modern architectural features and symmetry that provides a vibrant contemporary and desirable look.
<b>Amenity</b>	The building provides generous setbacks to neighbouring developments that maintain good view sharing, venting and amenity.
<b>Aesthetics</b>	The development allows for a well proportioned area of open landscaping.
<b>Context</b>	The setback provision is generous and assists in reducing external impacts.

**Objective 2**

*In new areas, to ensure that new development establishes appropriate and attractive streetscapes which reinforces the function of the street and is sensitive to the landscape and environmental conditions of the locality.*

The development is considered to provide a contribution to the streetscape, establishes a visual connection in keeping with modern developments in the locality and retains where possible existing mature landscaping.

**Objective 3**

*To encourage the creation of attractive, well design residential development.*

The proposed development has a high level of design merit and is considered to be amongst some of the better designs approved and erected in the locality. The building is attractive, provides a positive contribution to the locality and responds well to the site constraints.

#### **Objective 4**

*To allow flexibility in design and use of materials while encouraging high architectural standards.*

As discussed in this report, the development is considered to be of a high architectural standard. It utilises a range of modern technologies and materials.

The development attains the objectives of the streetscape section of the DCP with respect to setback, bulk, scale, amenity and design.

#### **DCP No. 18 Tweed Heads**

The development is located on land identified under the DCP as the Razorback Precinct. relevant objectives to this development are:

- Retain the Razorback Hill medium density zone as an attractive residential area, with buildings that respect the slope of the land and allow for retention of views available from adjoining land;
- Encourage development to take advantage of available views and climatic effects;
- Ensure that development on visually prominent sites is relatively unobtrusive;
- Preserve the leafy character of the precinct.

As discussed earlier in this report the proposed development is considered to be of a design that satisfies the above objectives.

#### **Development Control Plan No.39 – Energy Efficient Housing**

The applicant has not submitted a NatHERS certificate for the amended proposal. Having regard to the orientation of the development, fenestration and use of materials it is highly likely that the development will achieve a minimum 3.5 Stars. In this regard it recommended that the NatHERS energy rating be required prior to the issue of the Construction Certificate.

**Development Control Plan No. 47 – Cut & Fill**

The plan limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties while achieving the objectives of the plan.

The proposed development requires, as a result of lowering the building, some minor excavation works to a maximum depth of 1.4metres over a small area. Council's Environmental Health Officer, Council's Infrastructure Engineer and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

**Development Control Plan No. 42 Public Notification Policy**

Then application was originally exhibited for two weeks from 28 July 2003 to 13 August 2003 and adjoining neighbours were notified. Four submissions were received objecting to the proposal. The plans were amended and the application was again exhibited and from 29 October 2003 to 12 November 2003. This raised a further three objections to the proposed development. The plans have been amended further and the objectors were notified again, with only one objection received. For the purposes of this assessment only the latter submission is considered to be of determining relevance. These issues are identified further in this report.

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

The development application has been prepared and assessed in accordance with all relevant provisions, and is considered satisfactory. The subject land is affected by the Coastal Policy 1997. The proposed development is not considered to be in conflict with the policies and strategies contained in the Policy.

**Demolition**

The existing dwelling is to be demolished. The submitted demolition plan has been considered as satisfactory. Further geotechnical investigation is required after the demolition and removal of site improvements. An appropriate condition is proposed: prior to issue of the construction certificate.

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

The Proposal is sympathetic in design ensuring that the primary views of neighbours of the coast to the east will not be affected. In this regard the development presents to Charles Street as a predominantly low key single storey building, enabling adjacent residents to look over the top of the development and thus retaining views. The proposal is modern in design and utilises light weight modern materials. The design will not detract from the streetscape or the amenity of the neighbourhood.

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

It is not anticipated that the proposed residential development will create a land use conflict with surrounding development. Infrastructure is suitable to cater for the development and the development is not affected by any known impeding constraints however, a full geotechnical survey of the site is required upon removal of the existing buildings and prior to the issue of a construction certificate.

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

As stated above the application was exhibited on several occasions and a total of seven submissions were received objecting to the proposal. Issues raised are summarised as follows:

- Proposal fails to comply with the two storey Height Limit under Tweed Local Environmental Plan 2000
- Proposal does not comply with DCP No. 6 Multi Dwelling Housing
- Proposal does not comply with DCP 18 Tweed Heads
- The Proposal has an adverse impact adjoining residents from overshadowing, loss of views and impacts upon neighbourhood amenity and privacy.
- The SEPP No.1 Variation should not be supported as the applicant has failed to demonstrate the development standard is unreasonable or unnecessary, and to support the proposed variation to the height limit can only be seen as a precedent.
- Although the land is zoned 2(b) Medium Density it does not mean the site is appropriate for a dual occupancy development regardless of its size, configuration and topography.

The above issues, and related design issues, have been considered in this report, in particular the non compliance with building height, which is considered to be the primary area issue. It is considered that the development is a good design response the site and represents the orderly and economic utilisation of the site, in accordance with Section 5 of the Environmental Planning and Assessment Act, 1979.

**(e) Public interest**

The proposed, amended development, is not considered contrary to the public interest.

**OPTIONS:**

1. Refuse the application and provide grounds for refusal.

2. Defer the application and request that the applicant provide a compliant development
3. Approve the application and impose the consent conditions as provided.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the determination, avenues are available through the NSW Land and Environment Court for a merit based appeal. Financial implications would be incurred in any legal proceedings.

**POLICY IMPLICATIONS:**

The proposed development will have implications in terms of the two-storey height limit as defined under Tweed LEP 2000 for the Razorback Hill Residential Precinct. The circumstances of the site are not unusual or unique for the Razorback Hill Area in terms of topographical characteristics. A precedence will be perceived to have been established should the application be supported that will lead to expectations from other land owners that departing from the Tweed LEP height limitation provision is acceptable. As discussed in this report, Council presently has three other applications in the same catchment that fail to achieve the two-storey limit.

**CONCLUSION:**

This application is of great importance for the particular locality. Council presently has before it three other development applications within the same two-storey height limitation area that all seek a departure to the standard. In determining to approve the subject application with its three-storey height variation will, notwithstanding that all development applications are assessed on their individual merit and circumstance, be perceived as a precedence that will make way for further departures to the two-storey height limitation. In this regard, the proliferation of non-compliant applications / approvals will compound to undermine the objectives of the Tweed LEP clause 16 Height of Buildings provision. This position is a matter warranting of due consideration, and not to be taken lightly.

Council's Strategic Planning Unit's views on the proposal were sought in relation to the two-storey height limit, applicable to this application. It was advised that the two-storey height limit ensures that future development does not dominate the landscape of Razorback Hill. In summary the Unit recommended that the two-storey height limit is appropriate for the area and should be maintained.

Having considered the issues raised in this report and the advice of Council's Strategic Planning Unit, the proposed development is considered, on merit, to achieve the objectives of the relevant planning controls. The departure from the two-storey height limitation, whilst not considered favourable, may be considered acceptable having regard to the site constraints. The possibility of the building being further lowered to achieve the two-storey height limit has not however been determined as unattainable. On balance of a merit assessment it is concluded that the application, as amended, is acceptable for a conditional approval.

**UNDER SEPARATE COVER:**

1. Plan illustrating approximate area of three-storey component
  2. Development Assessment Panel Report of 1 September 2004
  3. Development Assessment Panel Report of 3 September 2004
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**REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER**

**8 [OGM] Proposed Lease from Council to Telstra - Round Mountain Reservoir**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

A request has been received from Daly International Pty Ltd for a proposed lease from Council to Telstra for an apparatus to be installed on the Round Mountain Reservoir.

**RECOMMENDATION:**

That a lease be entered into with Telstra Corporation Limited for a low impact installation facility to be installed on Round Mountain Reservoir for a period of five (5) years with a right to renewal at a rental of \$10,000 per annum, as per the conditions contained in this report.

**REPORT:**

A letter has been received from Daly International Pty Ltd acting on behalf of Telstra Corporation Limited for an installation of a low impact macro base station to be installed adjacent to Round Mountain Reservoir, Bogangar

It is proposed that the lease be negotiated on the following terms and conditions:

<b>Lessee:</b>	Telstra Corporation Limited
<b>Lessor:</b>	Tweed Shire Council
<b>Land</b>	Lot 24 DP 1058759 Round Mountain Road
<b>Premises:</b>	An area of approximately 60 square metres to accommodate a 30 metre monopole and associated ground based equipment hut.
<b>Access to Premises:</b>	Telstra shall have unrestricted access to the premises 24 hours a day, 7 days a week during the term of the lease and any holding over period.
<b>Permitted Use:</b>	To access, install, inspect, maintain, construct, excavate, replace, repair, renew, alter, clean, operate and remove the Facility on the Land for telecommunications operations and associated services.
<b>Term</b>	Five (5) years
<b>Option(s)/Consecutive Lease(s)</b>	Four (4) consecutive leases of five (5) years each.
<b>Commencement Date:</b>	Lease execution date.
<b>Rent:</b>	\$10,000 per annum.
<b>Rent Review:</b>	The rent will be increased by CPI annually on each anniversary of the commencement date during the term and any consecutive lease terms.
<b>Payment of Rent:</b>	Yearly in advance with the first year's rent to be paid from the Commencement Date. Subsequent rental payments will be made by EFT deposit directly into Council's nominated account.
<b>Legal &amp; Other Costs:</b>	Telstra agrees to pay Council's legal costs for the negotiation and executive of the lease and reasonable disbursements to an amount not exceeding \$750. In addition, Telstra will pay stamp duty and registration fees.

<b>Lease Documentation:</b>	Following return of the signed Lease Agreement, Telstra's lawyers will issue a version of their standard lease which will incorporate the terms and conditions set out in this Lease Agreement.
<b>Mortgage &amp; Mortgagee Details:</b>	Not applicable.
<b>GST:</b>	Unless otherwise stated, all amounts quoted are exclusive of GST.
<b>Australian Standards:</b>	Telstra will install and operate the facility in accordance with the relevant Australian Standards and regulations.
<b>Insurance:</b>	Telstra self-insures for property damage and has a global insurance policy for public liability.
<b>Easement for Services</b>	If the local power authority requires an easement to be registered on the title, the lessor will do whatever is necessary to procure the registration of an easement on the title.
<b>Telstra's Requirements:</b>	This offer is subject to: <ul style="list-style-type: none"><li>• Telstra's final approval; and</li><li>• Telstra obtaining consent from any statutory authority or other relevant authority to the construction of its facility.</li></ul>
<b>Low Impact Installation:</b>	It is acknowledged that the facility is a low impact installation under the Telecommunications Act 1997 (Cth)(Act). Telstra submit a waiver letter in accordance with clause 17(5) Division 5 Part 1 of Schedule 3 of the Act to Council.

**Comment:** Council's Manager Water, Mr David Oxenham, inspected the site and has given his approval for the installation of the apparatus.

It is to be pointed out that the installation of this structure is not permitted within the zone, thus it is necessary if this project is to go ahead that a rezoning of the site would be required. However, the first step would be for the approval of the lease, if not approved there is no need for the rezoning.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Lease to be prepared by Telstra's solicitors.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**9 [OGM] First Round Donations 2004/2005 - Festivals Policy**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

Tweed Shire Council recognises a need to assist non-profit community groups and organisations, individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire.

Further to the adoption of Council's Policy on Festivals, applications were sought and are now submitted for Council's determination.

**RECOMMENDATION:**

That Council determines the distribution of funds for the first round of donations to Festivals in accordance with the adopted policy and the funds voted in the 2004/2005 Budget.

## REPORT:

Council, at its meeting held on 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of applications for 2004/2005 have been received and are documented for Council's consideration.

The following application criteria is to be used to determine applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
- The funds are not to be used for a social activity for members of the organisation exclusively.

A representative from the Committee of Kingscliff Art, Food and All That Jazz Festival attended the August Community Access Meeting informing Council of the recent success of such Festival. It was the Committees understanding that their request for funding would be included in this round of funding, however it was omitted thus the report to the meeting of 1 September 2004 was deferred to this meeting.

Council at its meeting of 16 June 2004 dealt with a report concerning festival funding - Kingscliff Art, Food and All That Jazz Festival. The resolution as a result of that report was that Council does not accept the report until a full audited report is received from the Kingscliff and District Chamber of Commerce and Minutes of their Committee be provided, authorising the payment of individual payments made. Such audited report has not been received, however, it is to be pointed out that no other festival organisation has to provide full audited reports as in accordance with Council's Policy.

The 2004/2005 Budget allocation for festivals is \$33,990.00, of this amount \$7,500.00 (for the 2004 Wintersun Festival) has already been distributed, which leaves a balance of \$26,490.00. However, only 70% of these funds (\$18,543.00) are to be allocated in the first round.

Applicant	Amount Requested	Purpose
Greenback Tailor Fishing Competition Inc.	\$2,500.00	Annual fishing competition for Greenback Tailor
Tweed Coast Outriggers Regatta	\$2,000.00	"Spirit of Tweed" Outrigging Regatta in May 2005
Tweed Shire Senior Citizen's Week Committee 2005	\$4,500.00	To assist with costs of facilitating Senior's Expo in May 2005
Tweed Valley Banana Festival	\$8,500.00	To assist in covering this year's administrative costs
Tyalgum Diggers Sports Association	\$5,000.00	To assist with the running of Tyalgum Diggers Sports Association
Volunteer Marine Rescue Point Danger Association Inc.-Fishing Festival	\$2,000.00	For costs associated with the running of the 2005 Fishing Competition
Kingscliff Art, Food and All That Jazz Festival	\$4,000.00	To assist in the conduct of this Festival
<b>TOTAL</b>	<b>\$28,500.00</b>	

The total amount requested for Festivals in the first round of donations for 2004/2005 is \$28,500.

In the 2003/2004 Budget for Festivals, funds were distributed as follows:

Festival	Allocation	Date Held/Proposed to be Held	Reported to Council
CWA of NSW Mbah Evening	\$2,500.00	Sep 2004	Not yet held
Kingscliff Beachside Festival	\$4,500.00	21-23/5/04	Not yet held
Murwillumbah & District Senior Citizen's Week Committee	\$4,500.00	6/5/04	20/5/04
Speed on Tweed	\$4,500.00	Sep 2004	Not yet held
Twd Byron Local Aboriginal Land Council	\$2,000.00	Jul 2004	
Tweed Coolangatta Chess Club	\$500.00	Oct 2004	Not yet held
Tweed Valley Banana Festival	\$8,500.00	Aug 2003	23/7/04
Tyalgum Festival Committee Inc.	\$4,000.00	Sep 2004	Not yet held
Wollumbin Dreaming Inc.	\$2,500.00	Sep 2004?	Not yet held
<b>TOTAL</b>	<b>\$33,500.00</b>		

On 9 July 2004, Council wrote to Speed on Tweed, Tyalgum Festival Committee and Wollumbin Dreaming Inc, reminding them that a condition of Council's funding assistance is the provision of a financial statement to account for donation expenditure. These organisations were given until 23 July 2004 to provide that statement for the 2003/2004 period. The following organisations have complied:

1. Tweed Valley Banana Festival - advised in writing (copy attached) that *"funding covered insurance and portion of the stationary & postage expenses."*
2. Tyalgum Festival Committee Inc. - provided a statement of expenditure (copy attached) for the 2003 Tyalgum Festival of Classic Music.
3. Wollumbin Festival - provided 2003 Festival report and the financial statements for the 2003 financial year.

4. Speed on Tweed - provided a financial statement and auditors report as at 30 June 2004 for event covering 2002 and 2003 donations.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

2004/2005 Budget allocation for festivals is \$33,990.00.

Expenditure to date is \$7,500.00.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**10 [OGM] Representation on the Aboriginal Advisory Committee**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

Councillor Holdom has expressed a desire to be appointed to the Aboriginal Advisory Committee.

**RECOMMENDATION:**

That Councillor Holdom be appointed as a further Council Representative on the Aboriginal Advisory Committee.

**REPORT:**

Councillor Holdom advises that she would like to be the second Council Representative on the Aboriginal Advisory Committee. The other Council Representative is Councillor Boyd.

Councillor Holdom also advises that she has a keen interest in Aboriginal affairs and that she would make the time available to attend the meetings.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**11 [OGM] Summary of Declaration of Political Contributions received and electoral expenditure incurred in respect of the Council election held on 27 March 2004**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

The declaration lodged by candidates at the 27 March 2004 election have now been received from the Election Funding Authority of New South Wales.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

Advice has been received from the Election Funding Authority of New South Wales. Enclosing copies of the Summary of Declaration of Political Contributions received and electoral expenditure incurred in respect of the Tweed Shire Council Election held on 27 March 2004. Such declarations are held by the Manager Administration/Public Officer and are available for inspection in accordance with Section 12 (i) of the Local Government Act 1993.

On the advice of the Election Fund Authority a number of groups of candidates have not submitted their return or if they have submitted their return they have not been processed by the Election Funding Authority. These groups are: -

Group E	Headed by	Luff, Bronwynne
Group H	Headed by	Lawrie, Gavin
Group N	Headed by	Wright, Rose
Group O	Headed by	Dale, Steve

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**12 [OGM] Monthly Investment Report for Period Ending 31 August 2004**

**ORIGIN:**

**Financial Services**

**SUMMARY OF REPORT:**

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with the Local Government Act (1993), the Regulations and Council policies.

**RECOMMENDATION:**

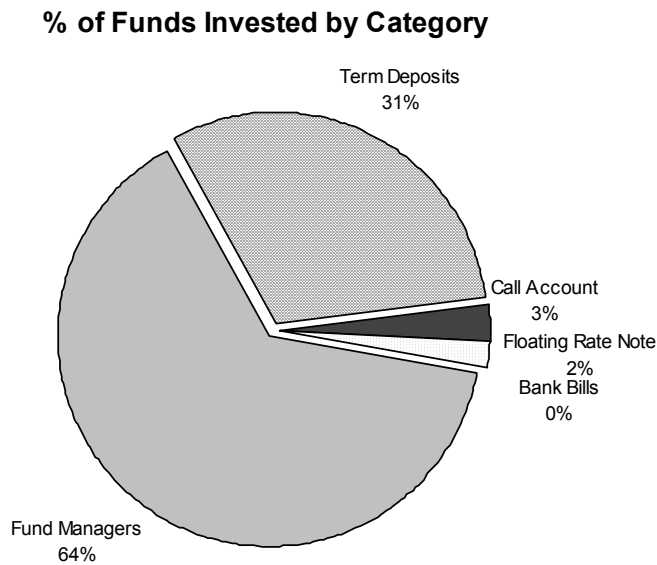
That this report be received and noted.

**REPORT:**

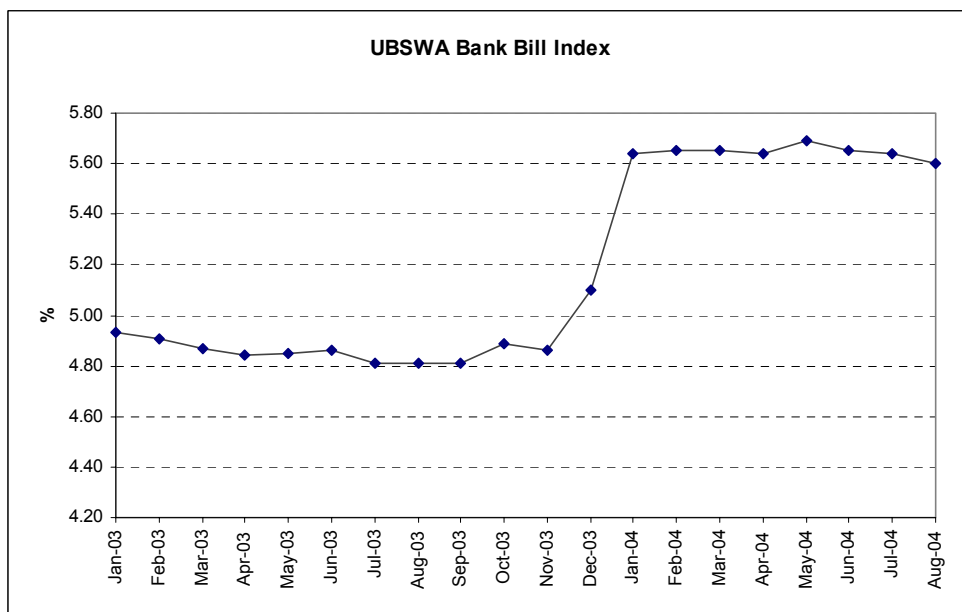
**Report for Period Ending 31 August 2004**

The "Chief Financial Officer" being the responsible accounting officer must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with the Local Government Act (1993), the Regulations and Council policies.

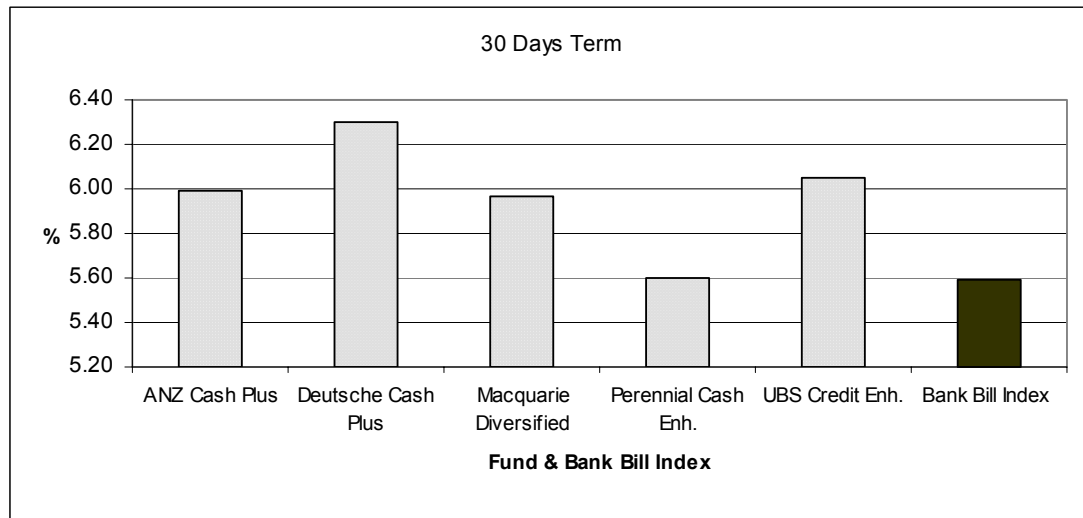
**1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY**



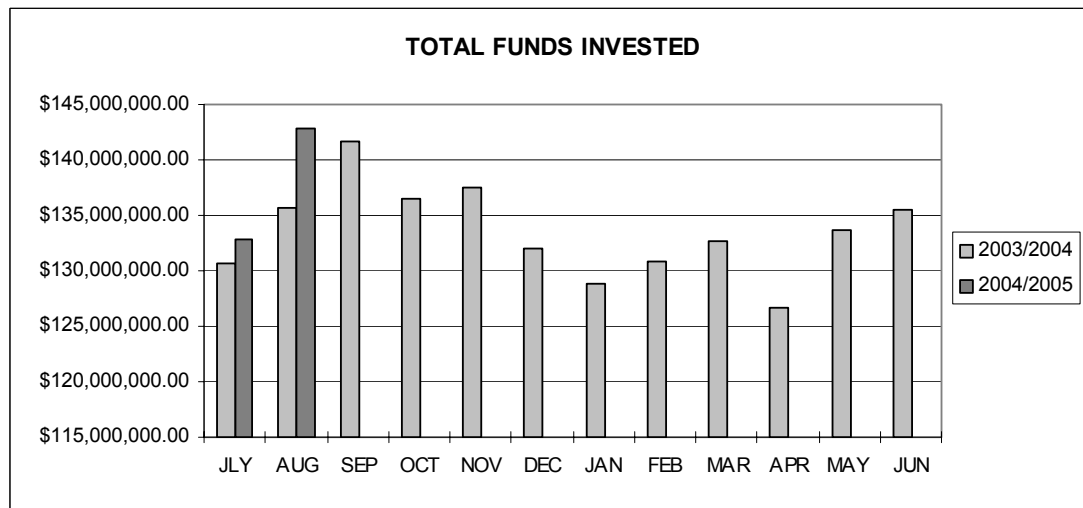
**2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)**



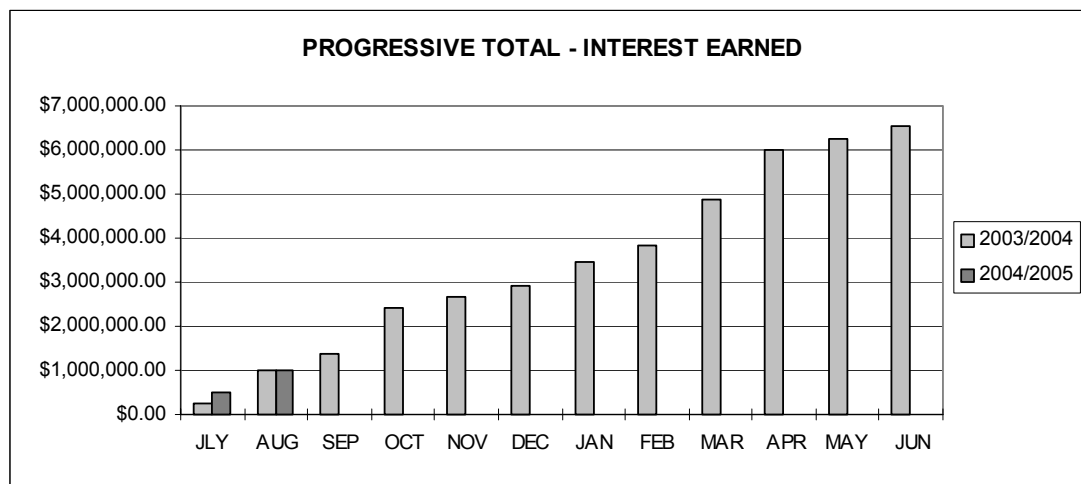
**3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS - NET OF FEES**



**4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED**



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



## 6. MARKET COMMENTARY

### Domestic Market

The June quarterly National Accounts data, released this month, showed the Australian economy still growing at a solid rate driven by strong private consumption, private dwelling and new business investment and underlying public sector demand. Economic growth as measured by Gross Domestic Product (GDP), was marginally weaker than the market anticipated at 0.6% but this result was overshadowed by upward revisions to the GDP figures reported in the past two quarters. GDP is currently 4.1% for the year.

The Reserve Bank of Australia (RBA) released its quarterly Monetary Policy Statement during the month. Our comments regarding this report follow:

- The market continues to expect that Australia's cash rate will remain unchanged in the next few months but that some further interest rate rises will occur in due course.
- The Bank's current assessment is that underlying inflation will start rising to around 2.5% by the end of 2005.
- There is no automatic reason that domestic interest rates will need to increase in line with the increases that are likely to occur overseas.
- With the policy stance in Australia still mildly accommodative and the global economic environment likely to remain favourable to growth, it is likely that Australian interest rates will increase further at some stage in the current expansion.
- The yield curve has flattened over the past 3 months reflecting the falls in longer-term yields.
- Yields on 10-year government bonds, which had been around 6% in the first half of May, have since fallen to around 5.7%. The spread between yields on 10-year bonds and the cash rate has contracted from 70 basis points in May to 45 basis points in August. This is well below its average for the past decade.
- The low level of credit spreads in Australia is mirrored in other major bond markets reflecting the improvement in the global economic outlook and the continued search for return in a low interest rate environment.



## International Market

The US Federal Reserve raised official interest rates by 0.25% to 1.50%, indicating the start of many such rises to come. Following the rise, the Federal Reserve's press release stated that even after the rise, monetary policy remains accommodative and 'coupled with robust underlying growth in productivity, is providing ongoing support to economic activity.' In addition, the Fed statement said: "In recent months, output growth has moderated and the pace of improvement in labour market conditions has slowed...The economy nevertheless appears poised to resume a stronger pace of expansion going forward."

In short, the continuing strength of the economy has been a positive for investors with current market conditions favouring sustainable growth.

### 7. INVESTMENT SUMMARY AS AT 31 AUGUST 2004

<b>GENERAL FUND</b>				
	TERM DEPOSITS		24,324,000.00	
	FUND MANAGERS		28,089,319.01	
	FLOATING RATE NOTE		0.00	
	CALL		2,000,000.00	<b>54,413,319.01</b>
<b>WATER FUND</b>				
	TERM DEPOSITS		2,200,000.00	
	FUND MANAGERS		39,058,071.68	<b>41,258,071.68</b>
<b>SEWERAGE FUND</b>				
	TERM DEPOSITS		15,800,000.00	
	FUND MANAGERS		26,284,900.65	
	CALL		2,000,000.00	
	FLOATING RATE NOTE		3,000,000.00	<b>47,084,900.65</b>
		<b>TOTAL INVESTMENTS</b>		<b>142,756,291.34</b>

It should be noted that the General Funds investments of \$54.4 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

**Statutory Statement - Local Govt Financial Management Regulations (Sect.19)**

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

*M. Charles*

**Chief Financial Officer (Responsible Accounting Officer)**

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS

### 13 [EO] Proposed "Totally Wicked" Youth Event

#### ORIGIN:

Recreation Services

#### SUMMARY OF REPORT:

Council has received a proposal for inclusion and subsequent launch event for a New South Wales Regional tour titled "Totally Wicked" Tour for Youth.

The roadshow is scheduled for January school holidays 2005. The promotional material states that the roadshow is designed specifically to reach youth (male and female) in regional areas and aims to motivate and inspire all ages to *achieve their dreams!* The show is touring regionally through the eastern states. Regional tours have been completed through Victoria and Queensland with great success.

The events are staged at skate parks and include extreme riding shows, safety and skills clinics, and fun motivational shows culminating in a major competition and prizes. The event is offered to Council as a package including all advertising and promotion including a series of commercials on Channel Ten, supported by local radio and press. A school promotion is conducted in the region early November.

#### RECOMMENDATION:

That Council indicates its acceptance of the proposal to participate in the "Totally Wicked" tour for youth, scheduled for 4 January 2004. The event is to be held at the Tweed Coast Skate Park, Cabarita.

**REPORT:**

Council has received a proposal for inclusion and subsequent launch event for a New South Wales Regional tour titled "Totally Wicked" Tour for Youth.

The following extracts from the participation proposal detail the event:-

**PROPOSED TWEED SHIRE EVENT  
TUESDAY 4<sup>TH</sup> JANUARY 2005**

- DATE:** TUESDAY 4<sup>TH</sup> JANUARY 2005
- ITINERARY:** SHOPPING CENTRE PROMOTION 10.30 AM  
MAIN SK8PARK EVENT 1.00 PM – 5.00 PM
- STARS ON TOUR:** **FOUR HIGH PROFILE CELEBRITIES -**  
- Dynamic event host  
- **THREE** of Australia's leading Xtreme riders of international standing, one each from SK8BOARDING, BMX & IN LINE
- WE PROVIDE:**
- \* **A PARK SPECTACLE FOR YOUTH**  
OFFICIAL OPENING - CLINIC REGISTRATIONS 1.00 pm  
DISPLAY SHOW SPECTACLE 1.30 pm for 30 minutes  
STAR MEET & GREETINGS 2.00 pm for 30 minutes +  
RIDER SKILLS & SAFETY CLINICS 2.45pm – 4.45 pm approx.  
'Achieve the Dream' MOTIVATIONAL SHOW with host during clinic time  
TWEED HEADS 'Achieve the Dream' DRAW 5.00 pm
  - \* **ALL ADVERTISING & PROMOTION**  
MEDIA SPONSORSHIP: SOUTHERN CROSS TEN  
Local press & radio  
SCHOOLS: ALL SCHOOLS in your shire  
SHOPPING CENTRE: Centro Tweed / City Centre tbc  
INTERNET: Associated sponsor and Xtreme sites
  - \* **MAJOR COMPETITION & TWEED HEADS SHIRE BANNER**  
We produce a special banner featuring your colour logo for the youth in your shire to write their dreams upon. Your banner will then tour on display alongside others throughout NSW. Youth writings will gain them entry into our Tweed Heads 'Achieve the Dream' competition for valuable prizes and starring role in tour documentary. All schools in your shire will be invited to produce their own 'dream' banners for display and judging at your event. Winning banner wins a fundraising pack for respective school valued at \$500 plus feature role in documentary.
  - \* **ALL PRIZES & GIVEAWAYS**  
TWEED HEADS PRIZE POOL: Computer games, cds, dvds, cameras & electrical goods to the value of \$1,000.00  
RIDING CLINIC AWARDS: t-shirts & caps  
CLINIC GIVEAWAYS: tips sheets & stickers  
AUDIENCE GIVEAWAYS: Show bags with posters, stickers & samplers
  - \* **EQUIPMENT**  
MARQUEES X 4 - 'Meet & Greet', Clinic registrations & Media / Achieve the Dream marquees  
- all measure 3 x 3  
SIGNAGE: Colourful marquee banners & corflutes  
SOUND SYSTEM (battery operated) 2 speakers, 2 microphones & cd deck
  - \* **PROFESSIONAL SUPPORT CREW**  
Tour Manager, Driver, Documentary cameraman, set up personnel
- PARTNERS:** SOUTHERN CROSS TEN, 1800 REVERSE plus others tba
- OPTIONAL:** **Your option to include -**  
\* BBQ lunch or dinner \* clinic attendance fee  
\* market stalls \* youth bands \* art competition  
\* public liability cover \* barricades/security \* public first aid
- WE RECOMMEND:** RIDING CLINIC INDEMNITY (parent or guardian to sign for under 18s)  
PUBLIC FIRST AID (team travels with own registered first aider & kit)
- COST OF PACKAGE:** **\$2,980 + gst** (a 1/3 on confirmation with balance on show day)  
Optional extra: Additional \$10 million RIDING cover FROM \$600

## OVERVIEW

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The 'Totally Wickid' concept first began as a display show in the capital cities of Melbourne, Sydney and Brisbane where it was staged for week long periods at major shopping centres. Now touring regionally throughout the eastern states, each shire has the opportunity to host events ranging from entertaining motivational shows to spectacular riding displays, safety and skills riding clinics and meet & greets with complimentary showbags for all.

Leading by example are the most professional of presentation teams, all having achieved international recognition in their chosen fields. They are all proficient public speakers and know how to relate well with this most important demographic.

Careful consideration has gone into the planning and delivery of all aspects with each event designed for maximum youth appeal whilst involving the community at large.

The concept aims to motivate and inspire youth in rural and regional areas and is achieved largely through a component called 'Achieve the Dream'. 'Achieve the Dream' is a motivational show with associate competition to encourage dreams and their fulfillment. Featuring fun interviews with audience and local identities the show gives hope and inspiration to all. The competition further reinforces dream goals through having youth write their dreams upon specially produced shire banners which are then displayed on tour effectively linking youth throughout. For major prizes schools in each region are invited to produce their own banners.

Conducted at sk8parks, spectacular riding displays showcase individual parks whilst presenting a safety conscious image. At all times 'Totally Wickid' riders who are leaders from the professional ranks of sk8boarding, in line and bmx, are fitted with helmets and pads and through both verbals and demonstrations ensure the safety aspect of their respective sport is well remembered.

Participating Councils and businesses all receive prominent recognition when hosting a 'Totally Wickid' event. As such respective logos, signage and promotional material feature throughout: *town 'dream' banners, team verbals, extensive signage at parks, associated shopping centres, marquees, displays, media advertising, school promotion & competition coupons.*

Providing valuable community standing, this comprehensive and professionally co-ordinated package lends itself to as little or as much involvement to suit.

## **SK8PARK SPECTACLE**

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### **\* OFFICIAL OPENING**

With local dignitaries – mayor, councillors, youth leaders, school captains etc.

### **\* CLINIC REGISTRATIONS**

Taken at clinic marquee

### **\* ‘TOTALLY WICKID’ DISPLAY SPECTACLE**

30 MINUTE +

3 minutes:

HOST OPENING

3 minutes:

INITIAL RIDE PAST with RIDER INTRO

6 minutes:

RIDER RAP CHATS with host

5 minutes:

RIDER ‘TRICK TREAT’ - Favourite tricks & knowhow

10 minutes +:

**THE XTREME CHALLENGE** with HUGE audience support

- Riders competing against each other for best trick display

LOCAL RIDER OPTION

- local riders competing against each other & tour stars

5 minutes:

RIDER BLAST FINALE – a synchronised spectacle by tour stars

### **\* STAR MEET & GREETs with GIVEAWAYS:**

30 MINUTES +

- Stars at ‘Meet & Greet’ marquee signing autographs and posing with audience members for souvenir photos

- Free showbags with posters, stickers and sponsor samplers for all

- Audience purchase option: \$5 polaroid photos in specially produced photo folders & souvenir t-shirts

### **\* SAFE SKILLS RIDING CLINICS with PRIZE PRESENTATIONS**

90 MINUTES +

Sk8bowl divided into three separate sections one for each sport. Tour stars will take their own clinics to 30 minutes duration each level. Number of clinics determined by number of registrations received.

#### **SKATEBOARDING**

- Beginners (30 minutes)
- Intermediate (30 minutes)
- Advanced (30 minutes)

#### **IN LINE**

- Beginners
- Intermediate
- Advanced

#### **BMX**

- Beginners
- Intermediate
- Advanced

### **\* ‘Achieve the Dream’ MOTIVATIONAL SHOW & COMPETITION**

60 MINUTES +

Conducted from the ‘Achieve the Dream’ marquee and held during riding clinics. A fun motivational show with special guest speaker and audience member interviews on their life, hopes and dreams. ‘Achieve the Dream’ competition entry and ‘dream’ writing on your shire banner.

### **\* COMPETITION DRAWS & SCHOOL BANNER JUDGING**

**LOCAL OPTION TO INCLUDE: BBQ, YOUTH BANDS, MARKET STALLS, ART COMPETITION**

## **a look at 'ACHIEVE THE DREAM'**

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The concept behind 'Totally Wickid's three state tour is to motivate, inspire and link youth in rural and regional areas. Achieved largely through a major competition and motivational show bearing the title 'Achieve the Dream'.

### **\* MOTIVATIONAL 'REALITY' SHOW**

This lighthearted motivational presentation is conducted at the 'Achieve the Dream' marquee during riding clinics. Show is based on interviews with town identities and audience members about their life, hopes and dreams. Competition entry point with 'dream' writing on your town banner provided. Progressive display of banners throughout the tour.

### **\* MAJOR COMPETITION**

Competition entry is free and open to all. Youth must complete an entry coupon and write their dream on your TOWN BANNER provided. Your banner will then travel on tour being displayed in each town and returned to you at the end of the campaign, February 2005.

All schools in your region will be invited to produce their own 'dream banners' to be displayed and/or judged at your event. Winning school will receive major fundraising pack and entry into the grand final held at end of campaign.

TWO WINNERS will be drawn from entry coupons received at your event. Your winners will receive quality prizes and go directly into a GRAND FINAL with other town winners to be conducted at the end of the three state campaign, January 2005.

#### **TOWN PRIZES ARE:**

##### **From a prize pool of-**

Computer games, cameras, cds, dvds, electrical goods

##### **- TWO INDIVIDUAL DRAWS**

Prize pack valued at \$250.00 EACH

##### **- WINNING SCHOOL**

Fundraising prize pack valued at \$500

#### **GRAND FINALS:**

##### **- INDIVIDUAL TOWN WINNERS**

**\* WEEKS HOLIDAY FOR TWO DESIGNED ENTIRELY AROUND WINNER'S DREAM IN LIFE**

- Return travel for TWO to Sydney, Brisbane or Melbourne

- One week's accommodation

- VIP visits & time spent with heads etc. of respective dream

- starring role in 'Totally Wickid' documentary

##### **- SCHOOLS**

**\* A PERSONAL SCHOOL PRESENTATION BY THE 'TOTALLY WICKID' TEAM PLUS STARRING ROLE IN DOCUMENTARY**

#### **OVERALL PRIZE VALUE:**

**\$ 5,600 +**

## ADVERTISING & PROMOTION

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### **\* MEDIA SPONSORSHIP ADVERTISING**

With an approximate value of \$ 5,000 PER TOWN

TWO to THREE WEEKS OUT FROM YOUR APPEARANCE

Local press & radio prominently featuring/mentioning your logo/name & event details

**TELEVISION:** - SOUTHERN CROSS TEN - generic commercial

**PRESS:** - Local press (community edition included)

**RADIO:** - Local fm station

### **\* COMMUNITY PROMOTION**

THREE WEEKS PRIOR

Posters will be provided for you to place throughout your community

### **\* SCHOOL PROMOTION**

TWO MONTHS PRIOR – (EARLY NOVEMBER '04)

To adequately promote your event and encourage schools to produce their own event banners

ALL SCHOOLS in your region will receive our mailout pack containing posters and banner competition information.

### **\* ASSOCIATED SHOPPING CENTRE for relevant towns**

ADVERTISING POSTERS TWO to THREE WEEKS PRIOR

School banner display / judging one to two weeks prior

Morning promotion by touring team on your event day



## TEAM OVERVIEW

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### \* YOUR CO-ORDINATOR -

Exceptional skills with over 20 years experience in directly working with and presenting to a youth market. My themed presentations and shows have featured many sporting greats over the years, each campaign acquiring much success throughout the eastern states. Through an extensive media support network I have attracted many thousands in captive audiences along the way and am continually inspired through each audience to create fresh and innovative concepts for this most important of markets.

### \* HOSTING TEAM -

#### **SHORTY BROWN**

28 year old Shorty has been living in New York for two years working as an interviewer and show host and making her way to the top with the big name stars in music, film and television. She presents as a shining light to all who meet her, instantly taken by her honest and zany charm no matter their age.

#### **PETER BRAY**

Bright, youthful and very 'cool', 21 year old Peter has a mature and determined outlook which is fast taking him to the top in the radio world. With his own breakfast show in regional Queensland he has a legion of fans who devoutly follow his every word. His sense and sensitivity combined with passion for action sees Peter inspire in the most dynamic of ways.

#### **MARKEETA MITCHELL**

25 year old dj and show host who runs her own hosting school in Melbourne. A mover and shaker who's achieving her dream, Markeeta's 'sparky' personality encourages all to live life to the full.

### \* RIDING TEAM -

All our riders are professionals in their sport and have attained competition winning status both here in Australia and on the International circuit. All are excellent public speakers who have been selected for their leadership qualities both on and off the sporting dias. Xtreme sport is fast moving into the professional ranks and we now see governing bodies being established. At all times we adhere to the conditions as outlined by respective associations for each sports' correct promotion and continued growth.

#### SKATEBOARD TEAM MEMBERS

**Tony Hallam** 35 years of age, 30 years riding, top 10 riders in the world '93, many videos, tours, mags  
**Scott Shearer** 25 year old Kwala team pro originally from Cairns with over 10 years experience  
**Chris Wood** 22 years of age, 10 years experience, 2002 Australian Skateboard Titleholder  
**Sally Clark** 18 year old female. Kwala team pro rider

#### IN LINE TEAM MEMBERS

**Paul Williams** Age 24, 10 years experience, American and national title holder  
**Iain Smith** Age 26 years, 11 years experience, international and national titleholder  
**Paul McGriel** Age 22 years, 10 years experience, Canadian & European titleholder  
**Brad Watson** Age 22 years, 10 years experience, Australian & International title holder

#### BMX TEAM MEMBERS

**Rob Smith** 25 years of age with 10 years+ experience. X games titleholder, brother of in liner Iain  
**Michael Perkins** 22 years of age, 12 years experience, professional tourer, World Title Holder for Dirt  
**Luke Fink** 21 years of age, 9 years riding experience, 2002 World Title Holder  
**Chris Edgar** 22 years of age, 5 years experience – outstanding rider of exceptional standard who without a doubt will reach world ranking over next two years

## NEW SOUTH WALES ITINERARY

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<b>TUESDAY</b>	<b>4<sup>TH</sup> JANUARY '05</b>	<b>TWEED HEADS</b>
<b>WEDNESDAY</b>	<b>5<sup>TH</sup></b>	<b>BALLINA</b>
<b>THURSDAY</b>	<b>6<sup>TH</sup></b>	<b>GRAFTON</b>
<b>FRIDAY</b>	<b>7<sup>TH</sup></b>	<b>COFFS HARBOUR</b>
<b>SATURDAY</b>	<b>8<sup>TH</sup></b>	<b>KEMPSEY or PORT MACQUARIE</b>
<b>SUNDAY</b>	<b>9<sup>TH</sup></b>	<b>FORSTER or TAREE</b>
<b>MONDAY</b>	<b>10<sup>TH</sup></b>	<b>CESSNOCK or NEWCASTLE</b>
<b>TUESDAY</b>	<b>11<sup>TH</sup></b>	<b>GOSFORD</b>
<b>WEDNESDAY</b>	<b>12<sup>TH</sup></b>	<b>CAMDEN or WOOLLONGONG</b>
<b>THURSDAY</b>	<b>13<sup>TH</sup></b>	<b>GOULBURN</b>
<b>FRIDAY</b>	<b>14<sup>TH</sup></b>	<b>WAGGA WAGGA</b>
<b>SATURDAY</b>	<b>15<sup>TH</sup></b>	<b>COOTAMUNDRA, YOUNG or COWRA</b>
		<b>ROUTE 1.                      OR                      ROUTE 2.</b>
<b>SUNDAY</b>	<b>16<sup>TH</sup></b>	<b>PARKES or ORANGE                      BATHURST or LITHGOW</b>
<b>MONDAY</b>	<b>17<sup>TH</sup></b>	<b>DUBBO    MUDGEE</b>
<b>TUESDAY</b>	<b>18<sup>TH</sup></b>	<b>COONABARABRAN                      MUSSELLBROOK</b>
<b>WEDNESDAY</b>	<b>19<sup>TH</sup></b>	<b>NARRABRI    TAMWORTH</b>
<b>THURSDAY</b>	<b>20<sup>TH</sup></b>	<b>MOREE    ARMIDALE</b>
<b>FRIDAY</b>	<b>21<sup>ST</sup></b>	<b>INVERELL or GLEN INNES</b>
<b>SATURDAY</b>	<b>22<sup>ND</sup></b>	<b>TENTERFIELD</b>
<b>SUNDAY</b>	<b>23<sup>RD</sup></b>	<b>CASINO or LISMORE</b>

## SAMPLE CLINIC INDEMNITY

### The Totally Wickid Tour for Youth Indemnity Form



Where: Rockhampton Skate Park, Bridge Street

When: Tuesday 6 July 2004, from 1.00pm

Please complete this form to participate in the Totally Wickid tour on the above date. All forms must be completed, signed and submitted as a condition of entry at the promotional day activities at the Skate Park on Tuesday 6 July 2004.

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Date of Birth \_\_\_\_\_

**CLINIC DIVISION (Please tick division and circle level)**

SK8 Beginner / Intermediate / Advanced

BMX Beginner / Intermediate / Advanced

INLINE Beginner / Intermediate / Advanced

**RELEASE AND DISCHARGE**

I \_\_\_\_\_ (name) of \_\_\_\_\_ (address)

In the State of Queensland (the entrant) desire to enter upon Rockhampton City Council land at Rockhampton's Skate Park as a participant in the Totally Wickid Road Show. I agree that entry to and attendance upon the land and participation in any competition or event shall be entirely at my own risk. I HEREBY RELEASE AND DISCHARGE ROCKHAMPTON CITY COUNCIL from any action, proceeding, claim, demand, cost, loss, damage or expense which but for the provisions hereof might be brought against or made upon Rockhampton City Council by the entrant including negligence by Council or its officers or agents.

**Please note:** It is the responsibility of the participant to ensure that appropriate safety gear is worn

**Note well:** If you are under 18 years of age this form must be signed by your parent or guardian.

Name (parent/ guardian) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

## **Comment**

Anecdotal evidence from numerous Councils in Australia has highlighted the benefits in actively managing skate facilities through the provision of organised events such as that proposed.

As noted in the proposal, the cost to Council is \$2,980.00. The cost for Council to organise an event at this scale would far exceed this cost, and the human resource requirements would be prohibitive.

This proposal offers an ideal opportunity to launch the recently opened Tweed Coast skate facility, and provide a platform from which to foster active community participation in the management of the facility.

The proposal appears to offer significant benefit to Council for minimal outlay. Therefore, it is recommended Council indicate its acceptance of the proposal to participate in the "Totally Wicked" tour for youth, scheduled for 4 January 2004. The event to be held at the Tweed Coast Skate Park, Cabarita.

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

\$2,980.00. Cost to be sourced from 2004/05 Recreation budget allocation.

### **POLICY IMPLICATIONS:**

Nil.

### **UNDER SEPARATE COVER:**

1. Complete "Totally Wicked" – a regional tour for youth:- Participation proposal.
-

**14 [EO] Draft Development Control Plan No. 5 - Development of Flood Liable Land**

**ORIGIN:**

**Planning & Infrastructure**

**FILE NO: GT1/DCP/5**

**SUMMARY OF REPORT:**

Draft DCP5 Version 2.3 has been prepared as an interim update of flood development policy to acknowledge some of the key principles of the 2001 NSW Floodplain Management Manual, update definitions to be consistent with the Manual and Tweed LEP 2000 and incorporate a number of minor changes that clarify the range of permissible developments in several flood plain areas.

The process in preparing this Draft has included a public exhibition period, review of submissions, consultation with the authors of submissions and subsequent re-drafting. Council has deferred decision on the Draft on two previous occasions. Subsequent workshops have provided Councillors with a summary of historical flood studies and mitigation works in the Tweed Valley, and the risk management principles of the Floodplain Management Manual. The potential impact of increased development in the Chinderah locality has been emphasised in these workshops, due to three submissions received by the Chinderah & District Residents Association.

Council is currently remodelling Tweed Valley flood behaviour. The consultants preparing this study have indicated that the full Draft Report from the "Flood Study" will be available to Council in mid October, subject to further consultation with DIPNR. Once the draft is reviewed, the final report is expected in November 2004. In accordance with the 2001 NSW Floodplain Management Manual, the results of this modelling, including predicted heights of the Probable Maximum Flood (PMF) level will then be addressed in a "Flood Plain Risk Management Study", and lead to the adoption of a new "Floodplain Risk Management Plan". Part of the implementation of this Floodplain Risk Management Plan will be a further comprehensive revision of DCP5. It has previously been reported to Council that this entire process is expected to take approximately two years to complete.

It is proposed that, in order to properly resolve the proposed amendment to DCP5 and address development concerns in Chinderah, Council defer decision on Draft DCP5 Version 2.3 pending receipt of the final Flood Study Report and Flood Model, at which time a Councillor workshop will be held. This workshop will discuss the findings of the study, and determine the particular development scenarios that Council may wish to examine using the new model, to better understand the potential impacts of any additional amendments made by Council to the draft, such as changes to the 50m<sup>2</sup> enclosure rule in Chinderah. Such changes would be made external to the

recommended Risk Management process prescribed by the NSW Floodplain Management Manual.

**RECOMMENDATION:**

That:-

1. Council defers decision on "Draft Development Control Plan No.5 – Development of Flood Liable Land".
2. A Councillor workshop, presented by Council officers, be scheduled for November 2004, subject to the receipt of the final Flood Study Report from WBM Oceanics, to inform Council of the findings of that report.
3. Following the workshop, Council selects specific floodplain development scenarios for Chinderah for input into the new Flood Model.
4. Council recognises the need to remove any uncertainties and provide definitive direction for development in the Chinderah locality in a timely manner.
5. Council acknowledges the risk management process outlined in the 2001 NSW Floodplain Management Manual, and recognise that major amendments to development controls outlined in DCP5 made prior to the preparation of a Floodplain Risk Management Plan may be contrary to this process.

## REPORT:

### 1. Introduction

Draft DCP5 Version 2.1 was publicly exhibited in late 2003. Two submissions were received and further amendments were made to the exhibited draft to address concerns raised in the submissions. The amended draft was recommended for adoption at 10 March 2004 meeting, where the decision was deferred.

In June 2004, a further submission was received from the Chinderah & District Residents Association and following a number of meetings additional amendments were made to the draft to address most of their concerns, however their request to substantially amend the current 50m<sup>2</sup> enclosure rule under elevated dwellings in Chinderah was not included in the subsequent redraft (Version 2.2). Representatives of the Chinderah & District Residents Association addressed a Councillor workshop on 28 July 2004, and lodged a second submission. Draft Version 2.2 was recommended for adoption at 4 August 2004 meeting, where the decision was deferred pending a further workshop. Chinderah & District Residents Association lodged a third submission on 23 August 2004.

In response to the Councillor workshops, and considering the Chinderah & District Residents Association submissions, further amendments were made to the draft (Version 2.3). Again, not all of the amendments requested by the Chinderah & District Residents Association are included in the draft, as the requests to lift restrictions on filling, subdivision and enclosures below design flood level are not validated by flood studies or the methods prescribed by the Floodplain Management Manual. The three Chinderah & District Residents Association submissions are discussed in detail in Section 6 of this report. Draft DCP5 Version 2.3 is now presented to Council for decision. Section 8 of this report presents a number of options available to Council regarding the potential adoption of the draft.

### 2. Background

The original version of DCP 5 was adopted 18 June 1986 and was based on a number of local flood studies and the 1986 NSW Floodplain Development Manual. There have been 7 amendments since initial adoption the latest being in 1996 that permitted granny flats in low hazard areas and updated the schedule of flood levels.

A number of changes have now taken place since the adoption of the 1996 amendment of DCP5.

- Tweed LEP 2000 has been adopted and has changed the definitions of many development terms.
- In January 2001 the NSW Government released a new Flood Plain Management Manual. The new manual incorporated changes that:-
  - Increase emphasis on “management” of the full range of flood risks including existing, future and continuing risks within a broad risk management hierarchy of
    - avoidance (where risks are considered unacceptably high),

- minimisation (using planning controls where risks are controllable), and
- flood risk mitigation (for alleviating existing flood problems)
- Prescribe the following floodplain risk management process:
  - Establish Floodplain Risk Management Committee
  - Flood study
  - Floodplain Risk Management Study
  - Floodplain Risk Management Plan
  - Management Plan Implementation (land use planning -LEPs, DCPs etc; mitigation works; catchment management; flood warnings and response; environmental rehabilitation etc)
- Recognise the need for local flood plans prepared under guidance of SES to address readiness, response and recovery
- Recognise the probable maximum flood (PMF), but, recognising that the PMF should not preclude or unnecessarily hamper development
- Recognise that site specific plans written separate from the overall risk management plan are ineffectual and should not form the basis of development consent
- Consider flood risk on a strategic framework to enable consideration of cumulative impacts
- Provide a basis for Council's to amend LEPs with respect to planning controls of types of development in flood prone land not identified in existing floodplain risk management plans
- Recognise the need to acknowledge and consider the links between floodplain management and environmental, ecological, social and cultural issues and the principles of ecologically sustainable development
- Recognise the potential of climate change on flooding behaviour (global warming)
- Council has commissioned consultants WBM Oceanics to update and re-run Tweed valley flood models to determine a range of flooding probabilities up to the PMF level. This modelling should be completed by late 2004.

It is considered that DCP 5 should be amended in a two-phase process:

The first phase, this draft DCP amendment, incorporates the key principles of the 2001 NSW Floodplain Management Manual, updates definitions to be consistent with Tweed LEP 2000 and incorporate a number of minor changes that clarify the range of permissible developments in a number of flood plain areas.

The second phase will be a comprehensive revision of DCP 5 in accordance with the prescribed process in the 2001 NSW Floodplain Management Manual. This would include the following elements:-



**TABLE 2.0 – Floodplain Risk Management Process**

Element	Description	When?
Establish Floodplain Risk Management Committee	The 2001 manual advises that the committee typically includes Council elected members, relevant council staff, community representatives, industry representatives, DIPNR representative, SES representative, and Catchment management board (superceded by CMA?) representative.	Council's existing Flood Plain Management Committee is generally consistent with this model. A Catchment Management Authority representative may be appointed when the Authority is established.
Flood Study	Technical investigation of flood behaviour. <i>Determination of flood discharges, levels, velocities for floods of varying severity. Determine hydraulic (floodway, flood storage or flood fringe) and hazard (low, high) categories for different areas of floodplain. Full range of flood events up to PMF. Modelling used as an analytical tool.</i>	Commenced 2002, expected to be completed late 2004
Floodplain Risk Management Study	Identify and compare options. <i>Having regard to the Flood Study; examine and assess existing policies, mitigation plans, warning/response plans and development controls; identify options for potential development areas within floodplain for assessment; identify and assess flood plain risk management measures including development restrictions; assess impacts of options (economic, social, ecological); identify required modification to current policies in light of above.</i>	Council resolved 16 June 2004 "subject to availability of subsidy from the Department of Planning Infrastructure and Natural Resources, Council commences preparation of a "Floodplain Risk Management Study". Cost approx \$210,000. Study brief to be prepared.
Floodplain Risk Management Plan	Preferred options from the Risk Management Study. Coordinated mix of measures to address flood risks.	After consideration of all options, preferred options adopted by Council
Implementation of Plan	Implement above mix of measures. Includes planning controls (amendments of LEPs, DCPs); mitigation works; flood warning, readiness and response plans; environmental rehabilitation; ongoing data collection and monitoring etc	Follows above. The major revision of DCP5 would be part of this process. The new DCP5 would reference mapping, flood heights and hazard categories derived from the flood study.

### **3. Purpose of this Version of DCP5**

This draft version of DCP5 has been prepared as an interim update of flood development policy to acknowledge some of the key principles of the 2001 NSW Floodplain Management Manual, update definitions to be consistent with the Manual and Tweed LEP 2000 and incorporate a number of minor changes that clarify the range of permissible developments in a number of flood plain areas.

These changes include:-

- Amending the definitions in Part 1.7 to be consistent with the Tweed LEP 2000 and the 2001 Floodplain Management Manual
- Introducing the concept and general implications of the probable maximum flood (PMF).
- Redefining areas 4 and 7 (Chinderah and Kingscliff) to make the realigned Pacific Highway the locality divider for the purpose of flood plain development.
- Whilst remaining consistent with the previous version and supporting flood studies/models, clarifying the range of permissible developments and filling heights in the Chinderah and Kingscliff localities
- Clarifying the allowable ground floor enclosure of elevated dwellings in high hazard flood prone areas and permitting in addition a detached garage of 36m<sup>2</sup>
- Clarifying permissible levels of roads and lot filling in flood prone areas
- Requiring the cumulative impact of development on flood plain areas to be assessed
- Incorporating a number of housekeeping measures to clarify permissible development in other flood prone areas

The above changes will remove a number of ambiguities/inconsistencies from the present version, provide owners/developers with more certainty of outcomes and enable flood plain development to progress until there is a comprehensive revision of DCP5, following completion of the current remodelling of flood levels and completion of a new Flood plain Risk Management Study and Plan.

### **4. Impact of the PMF**

The Probable Maximum Flood (PMF) is defined in the 2001 NSW Floodplain Management Manual as:-

*“the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation. Generally, it is not physically or economically possible to provide complete protection from this event. The PMF defines the extent of flood prone land, that is, the floodplain. The extent, nature and potential consequences of flooding associated with the PMF event should be addressed in a floodplain risk management strategy.”*

The PMF is the largest flood that can physically occur in a locality and is an extremely rare event. The 2001 manual advises that it does have relevance to floodplain risk management as:-

- It defines the maximum extent of the floodplain, the extreme limits of flood behaviour and the extent of associated flood risk

- the behaviour and consequences of floods up to the PMF level need to be investigated.
- it will generally be impossible, in either a physical or economic sense, to provide general protection against such an event, however, the PMF event should form the basis for certain planning decisions eg. location of emergency services such as police, hospitals, telephone exchanges, etc above PMF levels should be considered for both new facilities and upgrading existing facilities
- Statements about development above the Flood Planning Level (Adopted Design Flood Level) but below the PMF should be carefully worded to avoid the possible misunderstanding that the development is free of any flooding risk. These properties may be subject to flooding in rare flood events.

Council does not yet have any PMF levels. In the past, flood prone areas of the Shire have been modelled to determine flood levels for the adopted design flood (1 in 100 year frequency, 1% Annual Exceedance Probability) and these levels are printed in DCP5.

Council is now carrying out a new round of flood plain modelling with updated rainfall (including probable maximum precipitation), terrain and development data. This is expected to be completed late 2004. This modelling will predict the PMF levels for areas covered by the model.

PMF levels will be considered in the proposed "Floodplain Risk Management Study" and "Floodplain Risk Management Plan" referred to in Section 1 of this report. The future comprehensive revision of DCP5 arising from implementation of this study/plan will identify PMF levels for flood prone localities and address landuse and other policy and operational issues arising from identification of the PMF levels.

In the future comprehensive revision of DCP5, to be consistent with the definitions the "flood plain" and "flood prone land" in the 2001 NSW Floodplain Management Manual, the PMF levels will be used to define the extent of the (considerably enlarged) flood plain. This will also impact on issue of planning (149) certificates, and the need to advise as "flood prone" the additional land/lots encompassed by the PMF.

## **5. Public Exhibition of Plan and Response to Submissions**

The draft DCP Version 2.1 was exhibited for 28 days during November/December 2003 and two submissions were received. Following closure of the exhibition period, consultation meetings were held with the authors of the submissions and Council staff to address issues of concern. A number of amendments were made to the draft DCP to resolve these issues. Details of issues and the amendments to the exhibited version of the draft DCP5 are detailed in the following Table:

**TABLE 5.0 – Submissions Received During Exhibition Period**

Author	Issues Raised in Submissions	Comments	Proposed Response
Olga Vidler	The DCP should include maps clearly defining flood prone areas.	The DCP now references maps held by Council. These have not been updated since the original issue of DCP5 in 1986. New mapping including both the design flood (1 in 100 year) and the PMF will be available when the current flood modelling exercise is completed.	Include full range of flood maps based on new modelling in the future comprehensive revision of DCP5
	1.2 Definitions of flood liable land and design flood should be inserted early in document to help in understanding its intent by clarify these terms	Agreed	Definitions of flood liable land and design flood included (consistent with definitions elsewhere) in this section
	5. Incorrect use of locality "Fingal"	Agreed	Error corrected. "Fingal" substituted with "Fingal Head".
	4 and 5. Questions of Chinderah/Fingal Head section boundary at No.51 Fingal Rd	More logical boundary would be at southern end of village proper. It is also consistent with flood level contours.	Change section 4/5 boundary from south of No.51 Fingal Road to south of No.45 Fingal Road
	Building materials sections not adequately enforced for areas below design flood	This is a compliance issue outside the scope of this DCP	Refer to Building Control Unit
	Criteria on road levels and cumulative impacts of development supported		No change

Author	Issues Raised in Submissions	Comments	Proposed Response
	5. There should be controls for other land on Fingal Peninsula which is not zoned urban.	Section 5 only includes urban zoned land in Fingal Head. All other land in the area which is flood liable defaults to the generic requirements in section 10.	No change
	7. Concerned about development on flood liable land in West Kingscliff	Has been the subject of previous studies. 2(c) land subdivision is required to fill to above design flood. In industrial zones the site area of buildings and improvements in flood flows are limited to 50%	No change to 2(c) land. See comments and proposed response on section 7.5 in Jim Glazebrook & Assoc submission for application of 50% rule in industrial area.
	Concerned about impact of Chinderah Motorway.	Impacts of the Chinderah Bypass on flooding were addressed by WBM in 1994 as part of motorway EIS. The new flood modelling will account for the cumulative impact of the bypass and Yelgun/Chinderah Motorway.	For consideration in future comprehensive revision of DCP5
	3.1 – 9.1. Inconsistent wording of “application” clauses	Exhibited version had inconsistent application clauses in each locality section. It was agreed to amend them to be consistent across Sections 3 – 8 to apply to urban zoned land (except where specifically altered) in the various localities. No amendment needed to Sections 9 and 10 as Section 9 appropriately applies to villages and Clarrie Hall dam catchment and Section 10 appropriately applies to all flood liable land not specified in sections 3 - 9.	“Application” clauses amended where necessary for consistency.

Author	Issues Raised in Submissions	Comments	Proposed Response
Jim Glazebrook & Assoc for Gales Holdings	No new technical data to support revisions. Proposed revisions pre-empt conclusions of the current review of floodplain modelling.	This “housekeeping” DCP5 revision does not significantly alter flood levels. The new technical data available from the current flood modelling exercise will be used in the process that leads to the preparation of the future comprehensive revision of DCP5.	Include new section 2.4 that outlines the role of the current flood plain modelling exercise and the process outlined in the 2001 Manual to revise the Floodplain Risk Management Plan which will result in a future comprehensive revision of DCP5, other Council flood policies and programmes.
	2.12. The last three dot points about application of the PMF are confusing	Agreed. This DCP revision introduces the concept of the PMF as it is now a significant issue in the 2001 Manual, however as the Tweed PMF levels are not yet defined this additional information is inappropriate.	Delete last three dot points
	3.2, 4.2, 5.2, 6.2, 7.2, 8.2, 9.2. Object to deletion of reference to maps held by Council.	It is agreed that it is difficult to interpret the DCP without reference to these maps. The reference to the maps was deleted from the exhibited draft due to incomplete coverage of current urban zoned areas.	The words referencing the maps have been reinstated and a note has been added that now explains the limits of the mapping

Author	Issues Raised in Submissions	Comments	Proposed Response
	7.2. Object to reference to "small areas of floodway"	This is a drafting error that arose from rearrangement of Kingscliff and Chinderah sections in the exhibited version of DCP5	Delete reference to "small areas of floodway"
	7.5. Exhibited requirements for West Kingscliff are too prescriptive and do not allow for innovative site and flood behaviour specific solutions.	The exhibited draft attempted to provide a practical means to interpret the existing 50% area limit for structures and improvements in the flood flow in industrial areas of Chinderah and west Kingscliff. It is agreed however that the exhibited draft may be too prescriptive and limit other innovative and site specific solutions. It was further agreed with the author of the submission that this issue can be resolved by keeping the existing 50% rule as a performance criteria and designating the detailed prescriptive measures as an "acceptable solution".	50% area limit rule reinstated from current version as a "performance criteria". The more complex requirements in the exhibited version are now listed as an example of an "acceptable solution".
Council staff internal review	Current and exhibited versions did not contain full history of past Versions/Editions of DCP5	Log should be included	Include log of all amendments

## 6. Submissions from Chinderah & District Residents Association

The Chinderah & District Residents Association forwarded a submission 16 June 2004. The submission raised a number of concerns and opposed adoption of the amended Draft DCP5.

A number of meetings were then held with representatives of the Association to deal with these concerns and make additional amendments to the exhibited draft. The outcome of these meetings is tabulated below:

**Table 6.0 – Chinderah & District Residents Association Submission I (16/06/04)**

<b>Author</b>	<b>Issues Raised in Submissions and subsequent meetings</b>	<b>Comments</b>	<b>Proposed Response</b>
Chinderah & District Residents Assoc	4.2 Words “high hazard” not appropriate.	Agreed.	Delete words
	4.3 Roads Delete first paragraph and substitute with “The crown level of new or reconstructed roads shall be determined by taking into consideration the overall strategic drainage and flooding requirements for the entire subject area, but, shall not normally exceed 300mm above natural surface level.”	Agreed	Amend draft accordingly
	4.3 Filling Delete “Filling is permissible for minor levelling and local drainage purposes. The maximum permissible height of filling, including fill pads under buildings, is 300mm above natural surface level or the centreline level of the adjacent road, whichever is the lesser.” and substitute: “For drainage purposes only, land may be filled to the approximate level of the centreline of the adjacent road (refers to existing local roads only and excludes Pacific Highway”	Agreed	Amend draft accordingly
Chinderah & District Residents Assoc	4.4 Development Delete “(b) Except where dwellings are located above permissible commercial or industrial buildings, the area of a dwelling below Council's design flood level is not to be substantially enclosed. Consideration will be given on application, to permitting the enclosure of laundry, stairway entry and double garage space, provided that such an enclosure does not significantly restrict flood flows. An area of 50 m <sup>2</sup> per dwelling will generally encompass these	This proposal is not supported. It would be a material alteration to the present 50m <sup>2</sup> policy, which aims to limit damage to property, the costs of which have historically been met by governments	No change to exhibited wording at this stage. Review this policy as part of “Tweed Valley Floodplain Risk Management Study”.



Author	Issues Raised in Submissions and subsequent meetings	Comments	Proposed Response
	<p>facilities. Any larger enclosures are prohibited. The creation of fill pads, (other than filling for minor levelling or local drainage purposes of not more than 300mm above natural surface or filling up to the level of the centreline of the adjacent road, whichever is the lesser) under residential development is not permitted.</p> <p>The free flow of flood water must be a major consideration in the design of any area to be enclosed.</p> <p>(c) Apart from the dwelling, one non residential garage or shed structure is permitted on residential allotments. The maximum permissible plan area of this structure is 36 m<sup>2</sup>. This structure may be enclosed may have a floor level below the design flood level must be separated from the dwelling by a minimum horizontal distance of 6m (to allow free passage of flood flow between buildings) should provide for storage above flood level” and substitute with “Structures and permanent improvements are to be restricted in site coverage to retain a minimum of 50% of the area available for flood flow.”</p>	<p>and the community, and affluxes from the cumulative impacts of enclosures on the floodplain. It is acknowledged however that this is a contentious issue and should be further examined. The appropriate place to examine this issue is in the “Tweed Valley Floodplain Risk Management Study” that Council has recently resolved to commence.</p>	
Chinderah & District Residents Association	<p>4.4 Development</p> <p>Add the following words after the second paragraph</p> <p>“The provisions of Section 7.5 of this plan may be applied to industrial zoned land in Chinderah”</p>	<p>Agreed. This brings the policy for development of industrial land in Chinderah in line with the draft policy for land in West Kingscliff</p>	<p>Amend draft accordingly.</p>

It was considered by Council staff that most of the concerns of the Chinderah & District Residents Association were resolved at these meetings. However, this group made two further submissions, dated 29 July 2004, and 23 August 2004, requesting further amendments to the Draft DCP5 Version 2.2, which was developed through the process outlined above. The issues in these submissions were fully considered in the preparation of Draft DCP5 Version 2.3 (attached to this report), as detailed in the table below:-

**TABLE 6.1 – Chinderah & District Residents Association Submission II (29/07/04)**

<b>Author</b>	<b>Issues Raised in Submissions and subsequent meetings</b>	<b>Comments</b>	<b>Proposed Response</b>
Chinderah & District Residents Assoc	<p>4.3 Filling</p> <p>Delete “For drainage purposes only, land may be filled to the approximated level of the centreline of the adjacent road (refers to existing local roads only and excludes the Pacific Highway)</p> <p>In areas outside the residential zones, applications for filling above the level of the adjacent road will be considered where the applicant can satisfy Council that there will be no interference to local drainage nor any material adverse affect on adjacent land.”</p> <p>And substitute: “Applications for filling above the level of the adjacent road will be considered where the applicant can satisfy Council that there will be no interference to local drainage nor any material adverse affect on adjacent land.”</p>	<p>Not supported. Proposed change attempts to bring filling in Chinderah residential zone in line with industrial land. Previous studies have shown that the effect of filling industrial land is minimal, while filling residential area will have significant cumulative upstream impacts.</p>	<p>No change to exhibited wording at this stage. Review this policy as part of “Tweed Valley Floodplain Risk Management Study”.</p>
Chinderah & District Residents Association	<p>4.4 Subdivision</p> <p>Delete “Subdivision is permissible to existing roads only. Where an additional allotment is created, a minimum seventeen (17) metre frontage is required and battle axe block are prohibited. This clause does not apply to consolidation of existing allotments or boundary adjustments.”</p> <p>And substitute: “Subdivision will be permissible subject to satisfying other conditions contained in this document.”</p>	<p>Not supported. This clause is a concession allowing residential subdivision in Chinderah, which has not been afforded to South Murwillumbah, Condong or Tumbulgum.</p>	<p>No change.</p>

<b>Author</b>	<b>Issues Raised in Submissions and subsequent meetings</b>	<b>Comments</b>	<b>Proposed Response</b>
	<p>4.4 Development Delete from (b) "The creation of fill pads (other than filling for minor levelling or local drainage purposes of not more than 300mm above natural surface or filling up to the level of the centreline of the adjacent road, whichever is the lesser) under residential development is not permitted." Delete from (c) "Must be separated from the dwelling by a minimum horizontal distance of 6m (to allow free passage of flood flow between buildings)."</p>	<p>Not supported. The cumulative effects of filled house pads and construction of ancillary structures such as sheds without separation to allow for flood flows have not been examined.</p>	<p>No change. Amend Clause 8.4 for consistency between localities. Review this policy as part of "Tweed Valley Floodplain Risk Management Study".</p>

**TABLE 6.2 – Chinderah & District Residents Association Submission III (23/08/04)**

<b>Author</b>	<b>Issues Raised in Submissions and subsequent meetings</b>	<b>Comments</b>	<b>Proposed Response</b>
Chinderah & District Residents Assoc	<p>1.7 Interpretation Reinstate definition of "habitable area" to exclude areas used for recreational purposes provided that any furnishings therein are of a movable nature. Remove rumpus and games rooms from "habitable area" definition.</p>	<p>Agreed that change to definition not warranted by Tweed LEP, however Floodplain Manual includes rumpus rooms in "habitable area definition"</p>	<p>Adopt definition from Floodplain Manual "habitable area" means a living or working area, such as a lounge room, dining room, rumpus room, kitchen, bedroom or workroom or the like and includes rooms constructed and furnished for these purposes.</p>
	<p>4. Heading A real property description would assign a greater permanence to this location</p>	<p>Agreed. Proposed heading contains an incorrect property description for No. 45 Fingal Road</p>	<p>Add "Lot 19 DP 248900" to Headings 4.0 and 5.0, after No.45 Fingal Road.</p>

Author	Issues Raised in Submissions and subsequent meetings	Comments	Proposed Response
	<p>4.3 Roads Delete “but shall not normally exceed 300mm above natural surface level”</p>	<p>Not supported. Proposed change would in turn allows increased fill of residential areas, the potential impacts of which have not been properly assessed. Clause previously agreed to by Chinderah &amp; District Residents Association</p>	<p>No change</p>
<p>Chinderah &amp; District Residents Association</p>	<p>4.3 Filling Add “Applications for filling above the level of the adjacent road will be considered where the applicant can satisfy Council there will be neither interference with local drainage nor any material adverse affect on adjacent land.”</p>	<p>Not supported. Proposed change attempts to bring filling in Chinderah residential zone in line with industrial land. Previous studies have shown that the effect of filling industrial land is minimal, while filling residential area will have significant cumulative upstream impacts.</p>	<p>No change to exhibited wording at this stage. Review this policy as part of “Tweed Valley Floodplain Risk Management Study”.</p>

Author	Issues Raised in Submissions and subsequent meetings	Comments	Proposed Response
	<p>4.4 Subdivision Delete "Subdivision is permissible to existing roads only. Where an additional allotment is created, a minimum seventeen (17) metre frontage is required and battle axe block are prohibited. This clause does not apply to consolidation of existing allotments or boundary adjustments." And substitute: "Subdivision will be permissible subject to satisfying other conditions contained in this document and the relevant provisions of Tweed LEP 2000 and DCP16."</p>	<p>This clause is a concession allowing residential subdivision in Chinderah, which has not been afforded to South Murwillumbah, Condong or Tumbulgum.</p>	<p>No change.</p>
Chinderah & District Residents Association	<p>4.4 Development Apply 50% site coverage rule as applies to industrial development. Reinstate clause enabling application for enclosures greater than 50m<sup>2</sup>. Enclosure area should be based on allotment size. Past studies have demonstrated that filling of Chinderah can be carried out with minimal impact.</p>	<p>Dispute interpretation of referenced studies. Draft changes would make interpretation and enforcement of the 50m<sup>2</sup> enclosure rule more straight forward, and provides a concession by allowing an additional enclosed shed.</p>	<p>Delete "substantially enclosed", and reinstate "totally enclosed" in Clause 4.4 and 5.4 Development. Update Clause 8.4 Development to ensure consistent application across other development areas, particularly South Murwillumbah, Condong and Tumbulgum.</p>

## 7. Development Options for Chinderah

The major unresolved issue of concern for the Chinderah & District Residents Association is "Section 4.4 Development" subsections (b) and (c), due to the perceived restrictions that this clause places on residential development in Chinderah. The Association would like the 50m<sup>2</sup> enclosure beneath elevated residences rule substituted with the "50% of area to be available for flood flow" standard that now only applies to the industrial zoned land. This alteration is not supported as it would be a material alteration to the present 50m<sup>2</sup> policy and is not validated by the risk management process outlined in the 2001 NSW Floodplain Management Manual. Minor amendments have been made to the draft to ensure that this rule can be applied consistently between localities, and

clarify its interpretation. It is acknowledged however that this is a contentious issue and should be further examined to determine its cumulative impact on flood levels and risks of property losses from inundation. The most appropriate place to examine this issue is in the "*Tweed Valley Floodplain Risk Management Study*" that Council has recently resolved to commence.

As pointed out to Council extensively in the two workshops, a number of studies have been undertaken over the last 25 years to examine the effect of developing Chinderah on upstream flooding behaviour. All flood studies have concluded that widescale filling of the village area will increase upstream flood levels, with measurable impacts on existing and proposed residential areas in West Kingscliff and agricultural land. It should be noted that there is a general trend in these historical studies indicating lower upstream impacts from the development of Chinderah, as these modelling studies have become more accurate and therefore less conservative. Updated flooding behaviour, using more sophisticated rainfall and flooding models and including developments on the flood plain such as the Yelgun-Chinderah Motorway will soon be completed. This tool will then be available to Council to better understand the implications of development decisions in the Tweed Valley.

A case study for Council to consider was the 1989 project to raise the levees in Murwillumbah and South Murwillumbah. A flood study was conducted to assess the upstream impacts of raising each levee by 600mm. Increased peak flood levels up to 150mm in Bray Park and South Murwillumbah south of Colin St were predicted. While a detailed benefit-cost analysis of the levee project justified the upgraded flood protection for the township, a considerable percentage of the project cost was allocated to house raising in the affected upstream areas, and constructing minor levees around agricultural land, to mitigate increases inundation times for cane crops.

Should filling of Chinderah be pursued as a development option by Council by further amending DCP5, similar compensation measures may need to be invested in areas such as Noble Park in West Kingscliff, where according to previous studies (WBM 1991), increases in peak flood levels of over 100mm will inundate new residential subdivisions with ground levels at the current adopted flood height. As such, it is recommended that all material changes to filling, permissible residential subdivision, and enclosure beneath design flood level be deferred for incorporation in Council's Flood Plain Risk Management Study. As discussed below, it will be possible to bring forward elements of this study to deal with urgent matters that cannot be deferred for the projected two-year timeframe for the Risk Management Study.

## **8. Options for Council**

The following table examines the alternative choices available to Council regarding the draft amendments to DCP5. It is not exhaustive, but provides Council with an indication of the possible consequences, both positive and negative, in pursuing additional amendments to the draft prior to the comprehensive Floodplain Risk Management Study.

Where previously it was recommended to Council that the draft DCP5 be adopted (Option 1), it is now considered practical to defer the decision in anticipation of the results of the Flood Study and receipt of the new Flood Model (Option 6). Due to the

contentious nature of the proposed DCP5 amendments, and the high priority given to the issue by Council, it is considered that the Chinderah issues in particular need to be resolved prior to projected two-year timeline for development of the valley wide "Floodplain Risk Management Plan".

In order for Council to make diligent decisions in amending DCP5, the Flood Model would provide conclusive data on the design flood event for all affected localities, and supercede the previous studies which have been variously interpreted and referenced in the submissions. It is proposed to hold a Council workshop in November when the final report is expected.

Council will also be able to input selected development scenarios in the new Flood Model, to assess potential flood water affluxes caused by increased development on the flood plain. It is expected that this would provide a basis for any additional changes to the 50m<sup>2</sup> enclosure rule, limits on residential subdivision in Chinderah, maximum fill heights and the like, which Council may wish to pursue in consideration of the submissions from the Chinderah & District Residents Association.

Council must acknowledge that the process described above is outside of the Floodplain Management Process prescribed by the NSW Floodplain Management Manual. The process will have to include risk management elements and community, government and legal consultation in order to demonstrate that Council is making its decisions in "good faith".

**TABLE 8.0 – DCP5 Options**

Option	Description	Consequence	Possible Mitigation Measures
1	Adopt Draft DCP5 Version 2.3	(i) Compliance with NSW Flood Plain Management Manual (ii) Dissatisfy Chinderah & District Residents Association (iii) Facilitates comprehensive review of all aspects of DCP5 in forthcoming Flood Plain Risk Management Study, estimated two year process	None
2	Increase 50m <sup>2</sup> enclosure rule for residential dwellings	(i) Remove problem of non-compliance and regulation (ii) Increase in the use of enclosed areas for habitable purposes (iii) Increase damage exposure during flood events (iv) Impede flood flows and reduce available flood storage (v) Divert SES resources to protect residents' property below flood level	(i) Flood awareness, education program (ii) Structural protection of affected upstream land (iii) Financial compensation of affected upstream landholders
3	Apply 50% site coverage rule to Chinderah residential zone	(i) Allow higher number of larger structures on the floodplain (ii) Upstream affluxes affecting existing residential areas and agricultural land (iii) As per Option 2	As per Option 2
4	Remove subdivision limits for Chinderah	(i) Increase in available residential allotments (ii) Divert SES resources to evacuate increased population from floodplain	(i) Flood awareness, education program
5	Allow widescale filling of Chinderah Village	(i) Increased level of flood protection for residential zoned land in Chinderah (ii) Upstream affluxes affecting existing residential areas and agricultural land (iii) Existing residential allotments declared "flood prone" on 149 certificates	(i) Structural protection eg levees (ii) House raising (iii) Financial compensation (iv) Voluntary acquisition
6	Defer decision on Draft DCP5 Version 2.3 for completion of WBM Oceanics "Flood Study" and delivery of "Flood Model"  <b>RECOMMENDED</b>	(i) Avoids having to revisit DCP5 review process immediately after conclusion of current amendments, exhibition period, submissions etc. (ii) Decisions can be made based on current data, derived using modern techniques, with all significant floodplain development included in model. A Councillor workshop would be scheduled immediately upon receipt of the Flood Study. (iii) Previous studies will be superseded, to resolve conflicting opinions and speculation on flooding behaviour in the Chinderah locality. (iv) Allows Council to bring forward elements of the "Floodplain Risk Management Study" to allow informed decision making on any further amendments to DCP5, reducing Council's exposure to legal action. (v) Flood model will be available for additional modelling to predict the impacts of specific development scenarios as requested by Council. (vi) Decision on already long running process delayed by another 4-6 weeks.	(i) Publicity



**9. Conclusion - Draft Development Control Plan No.5, Version 2.3 - Development of Flood Liable Land**

The plan as exhibited contained a number of amendments to the current adopted version (March 1996) which are referred to elsewhere in this report. Since the close of public exhibition and meetings with Chinderah & District Residents Association, Gales Holdings Representatives and Olga Vidler (the authors of submissions) further amendments have been made to the draft to deal with their concerns. Council has the option to expand changes to DCP5 beyond those recommended in the current draft (as discussed in Table 8.0), after due consideration of past flood studies and precedents, to further accommodate the recent submissions from the Chinderah & District Residents Association.

Draft DCP 5, Version 2.3 dated 8 September 2004, attached to this report. It includes all the changes agreed to in post exhibition meetings with authors of submissions. Considering the imminent receipt of the WBM Oceanics Flood Study, it is recommended that decision on the adoption of the draft be deferred until November, when Council officers will present a Flood Study workshop

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**15 [EO] Skate Park - Tweed Heads**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

The Tweed Registered Clubs approached Council through the beginning of the year indicating that they would like to support the development of a skate park in the Tweed area as one of their major projects through the Community Development Support Expenditure program (CDSE).

Council's executive agreed that Council would support a funding submission through the CDSE for a skate facility on a \$ for \$ basis totalling \$150,000 (\$75,000 CDSE and \$75,000 Council).

The proposal was accepted and contributions from the clubs are being received.

The initial phase of the development of the facility is site selection. Council officers have completed a preliminary assessment of potential sites in the Tweed/Banora Point area.

**RECOMMENDATION:**

That Council:-

1. Confirms a commitment of \$75,000 to the construction of a skate facility in the Tweed Heads/Banora Point area.
2. Seeks public comment on the proposal to locate the facility on Lot 519 DP 755740 being Community land located on the corner of Minjungbal Drive and Heffron Street, South Tweed Heads.

## **REPORT:**

The Tweed Registered Clubs approached Council through the beginning of the year indicating that they would like to support the development of a skate park in the Tweed area as one of their major projects through the Community Development Support Expenditure program (CDSE).

Council's executive agreed that Council would support a funding submission through the CDSE for a skate facility on a \$ for \$ basis totalling \$150,000 (\$75,000 CDSE and \$75,000 Council).

The proposal was accepted and contributions from the clubs are being received.

The initial phase of the development of the facility is site selection. Council officers have completed a preliminary assessment of potential sites in the Tweed/Banora Point area.

### **Site Selection**

Site selection is a critical element in the success of a skate facility and generally the most controversial. The following is an extract from 'Skateboard facility Planning, a manual for Local Government' (Sport and Recreation Victoria, 1990). Whilst this plan is from 1990, experience from local Councils in constructing facilities has confirmed the following as the main criteria to be considered in selecting a site:-

*"The selection of an appropriate location for a skateboard facility will significantly influence, along with design aspects, the success of the facility. Potential users of the facility should be identified and consulted throughout the planning process to ensure the best location is selected.*

### **Objectives**

*The location of the facility should:-*

- a) maximise access both to the facility and to amenities*
- b) reduce the tendency to ride boards to and from the facility*
- c) minimise noise nuisance and aesthetic degradation of the surrounds*

### **Site Requirements**

*To satisfy these objectives, consideration should be given to:-*

- a) situational factors such as the nature of the site, the scale of the facility, environmental issues, access and the availability of ancillary facilities, and*
- b) user factors. This includes an analysis of where potential users live, their means of transport, the accessibility of public transport and the extent of the catchment area.*

*An ideal site location should meet the following criteria:-*

- be sufficiently large enough to accommodate the facility and for effective landscaping*
- be accessible to public transport*

- *be centrally located to the identified catchment area allowing it to be accessible by foot or bicycle by the user group*
- *be separated from adjacent residential areas by an adequate buffer zone to avoid noise nuisance*
- *not be immediately adjacent to any road*
- *be located near ancillary facilities and other community facilities*
- *be accessible to a telephone and first aid facilities*
- *be able to provide for emergency access*
- *suit the topography of the site. Flat terrain is not necessarily required as ramps and bowls may utilise natural slopes in the design*
- *allow the facility, particularly ramps, to be faced north/south and not east/west as a rising and setting sun will make it difficult for the rider to see the coping*
- *not be located near sand or salt water as this may alter the performance of a facility.*

### **Nature of Site**

*The type of facility to be constructed will determine requirements for excavation, filling and drainage. These factors need to be taken into account when selecting a suitable site. The sub base below the surface layer provides the mechanical strength and stability for the entire surface system. If movement of these layers below the surface layer occurs due to poor drainage or clay expansion the sports surface system can be seriously damaged. In selecting a site the suitability of the existing surface and drainage should be considered.*

*The natural water table should be examined in relation to the formation of the sunken structures. The water pressure may have to be relieved to avoid uplifting of the structures.*

### **Access**

*When investigating potential sites, access should be examined closely. This factor will be crucial to the ongoing success of the facility. The main modes of transport for the majority of users are skateboards, bicycles or public transport. Facilities therefore need to be located close to a regular public transport system and to safe and effective pathways. Consideration should be given to placing the major facility in such a position so as not to entice users to cross major roads in dangerous sections to gain access.*

*While the provision of car parking space and car access is not a high priority any area used to pick up and drop off users in private cars should be off busy road. A bicycle storage area should be provided and located near the facility.*

### **Environment Issues**

*The development of a skateboard facility will have a visual effect on the site and in some situations will affect the ambience of the existing environment. Given the unstructured and informal nature of skateboarding and the main age groups (8-24 years) that are attracted to the sport, such facilities do lend themselves to increased and boisterous traffic. This may result in user conflict and possibly disrupt the traditional use of some areas such as passive parks. The possibility of potential user conflict should be acknowledged and investigated accordingly. Community members should be consulted when site options are being examined to reduce potential conflict. The possibility of*

*surrounding land degradation and damage to flora may also be an issue that needs to be considered.*

*Facilities should not be developed on sites exposed to wind or too close to the coast, due to problems with sand and salt deposits on ramps. Loose sand on a smooth concrete or steel surface will reduce traction preventing the rider from effectively sliding out of a fall.*

*The selection of appropriate construction materials for ramps may assist in reducing noise. Landscaping can be used to soften the visual effects of large concrete areas and reduce noise and glare at the facility. Obviously the cost associated with landscaping a skateboard facility is an important planning consideration.*

*Facilities should not be located near deciduous trees or near trees that cast shadows onto the riding surface.*

### **Ancillary Facilities**

*Consideration must be given to the provision or existing availability of ancillary facilities when selecting an appropriate site.*

*The following amenities should be considered:-*

- *A toilet block. Given that skaters often use the facilities for long period of times (up to 8hrs on weekends), consideration should be given to providing toilets at major facilities*
- *Seating. Seating should be provided a minimum of 4 metres from a facility*
- *Shaded areas. Shade is necessary for resting skaters however shadows should not be cast over the skating surface, particularly if it is metal as temperature differentials will affect surface friction and hence performance. Seating should also be provided away from the facility to create a resting/socialising area*
- *Fabricated shelter*
- *Kiosk Facilities*
- *Night lighting for security and/or night skating*
- *Drinking fountains*
- *Bicycle racks*
- *Bins*
- *Access to a telephone and first aid facilities.*

*One possible solution is to locate skateboard facilities near existing activity centres such as swimming pools or community centres, to avoid the need to provide special toilet and kiosk facilities. Skateboard users would also have ready access to telephone and first aid facilities."*

### **Comment**

The above criteria represent the ideal site. However, It is widely acknowledged that rarely will sites exist that satisfies all the stated considerations.

In attempting to satisfy the above criteria, two potential sites were identified in the South Tweed/Banora Point area.

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1. Lot 519 DP 755740 being Community land located on the corner of Minjungbal Drive and Heffron Street. South Tweed Heads. This area of land currently houses the South Tweed Swimming Pool and the HACC Centre (Figures 1&2).
2. Lot 1229 DP 1011945 being community land located on the corner of Leisure Drive and Frazer Drive, Banora Point (Figures 1&3).

An analysis of the sites against the site selection criteria is presented in the tables below:

**Site 1 Corner Minjungbal Drive and Heffron Street, South Tweed**

STRENGTHS	
Site area.	The site is approx 3360sq/m. This allows sufficient room for a skate facility and any additional ancillary facilities such as a basketball court
Accessible to public transport	Bus stop on Minjungbal Drive
Centrally located in the catchment	See figure 1
Separated from adjacent residential areas by adequate buffer zone	Not located in a residential area. Nearest resident approximately 220 meters away buffered by swimming pool complex and vegetation
Not immediately adjacent to any roads.	Large stormwater drain separating area from Minjungbal Drive
Located near ancillary facilities and other community facilities	South Tweed swimming Pool, South Tweed Community Centre and HACC Centre located on same lot
Accessible to telephone and first aid facilities	South Tweed swimming Pool, South Teed Community Centre and HACC Centre located on same lot
Be able to provide for emergency access	Easy access available
Site topography	Site level
Allow ramps to be oriented north/south	Site allows flexibility of orientation
Ancillary facilities	Toilet facilities located on site
Consideration should be given to placing facility in such a position so as not to entice users to cross major roads in dangerous sections to gain access.	Site separated from Minjungbal Drive by stormwater drain. Signalled pedestrian crossing located on Minjungbal Drive
While the provision of car parking space and car access is not a high priority, any area used to pick up and drop off users in private cars should be off busy roads	Carpark on site allowing for safe drop off area
LIMITATIONS	
Potential user conflict	The facility would be located adjacent to the HACC Centre. This may present potential conflict with the HACC Centre

	users
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## Site 2 Corner Leisure Drive and Frazer Street, Banora Point

STRENGTHS	
Site area.	The site is approx 3500 sq/m. This should allow room for ancillary features, although the triangular shape may create limitations
Accessible to public transport	There is a bus route along Leisure Drive
Centrally located in the catchment	See figure 1
Located near ancillary facilities and other community facilities	Located adjacent to South Tweed Sportsfields.
Accessible to telephone and first aid facilities	Telephone may be accessible from Twin Towns Juniors (if agreeable). This would then be limited to hours of operation. First aid dependant upon sports being played at sports field.
Be able to provide for emergency access	Emergency access available
Site topography	Site generally level
Allow ramps to be oriented north/south	Site allows flexibility of orientation
Ancillary facilities	Toilet facilities located at sportsfields
LIMITATIONS	
Separated from adjacent residential areas by adequate buffer zone	Residents located approximately 50m from site without buffer to facility
Not immediately adjacent to any roads.	Located immediately adjacent to Leisure Drive
Accessible to telephone and first aid facilities	Telephone may be accessible from Twin Towns Juniors (if agreeable). This would then be limited to hours of operation. First aid dependant upon sports being played at sports field.
Consideration should be given to placing facility in such a position so as not to entice users to cross major roads in dangerous sections to gain access.	Banora Point High School is located across Leisure Drive, as is a significant residential area. This may encourage users to cross Leisure Drive
While the provision of car parking space and car access is not a high priority, any area used to pick up and drop off users in private cars should be off busy roads	No carpark or drop off facilities currently exists. Facility would be sited adjacent to Leisure Drive
In selecting a site the suitability of the existing surface and drainage should be considered.	Stormwater pipes run through the site. These would require redirection incurring additional costs.

Based on the above analysis, there appears to be 3 particularly important criteria that would suggest the Minjungbal Drive site as the most appropriate site.



- 1.The proximity of the Leisure drive site to a busy road.
- 2.The proximity of the Leisure Drive site to residents.
- 3.The proximity of the Minjungbal Drive site to other community facilities

**Process**

The following processes will be required to finalise the project:-

**Consultation:**

Prior to determining a site, it is recommended Council allow an opportunity for comment on a proposed site. This may be achieved through an invitation for comment in the Tweed Link and direct contact with the Tweed and Banora Point Residents/Community Associations.

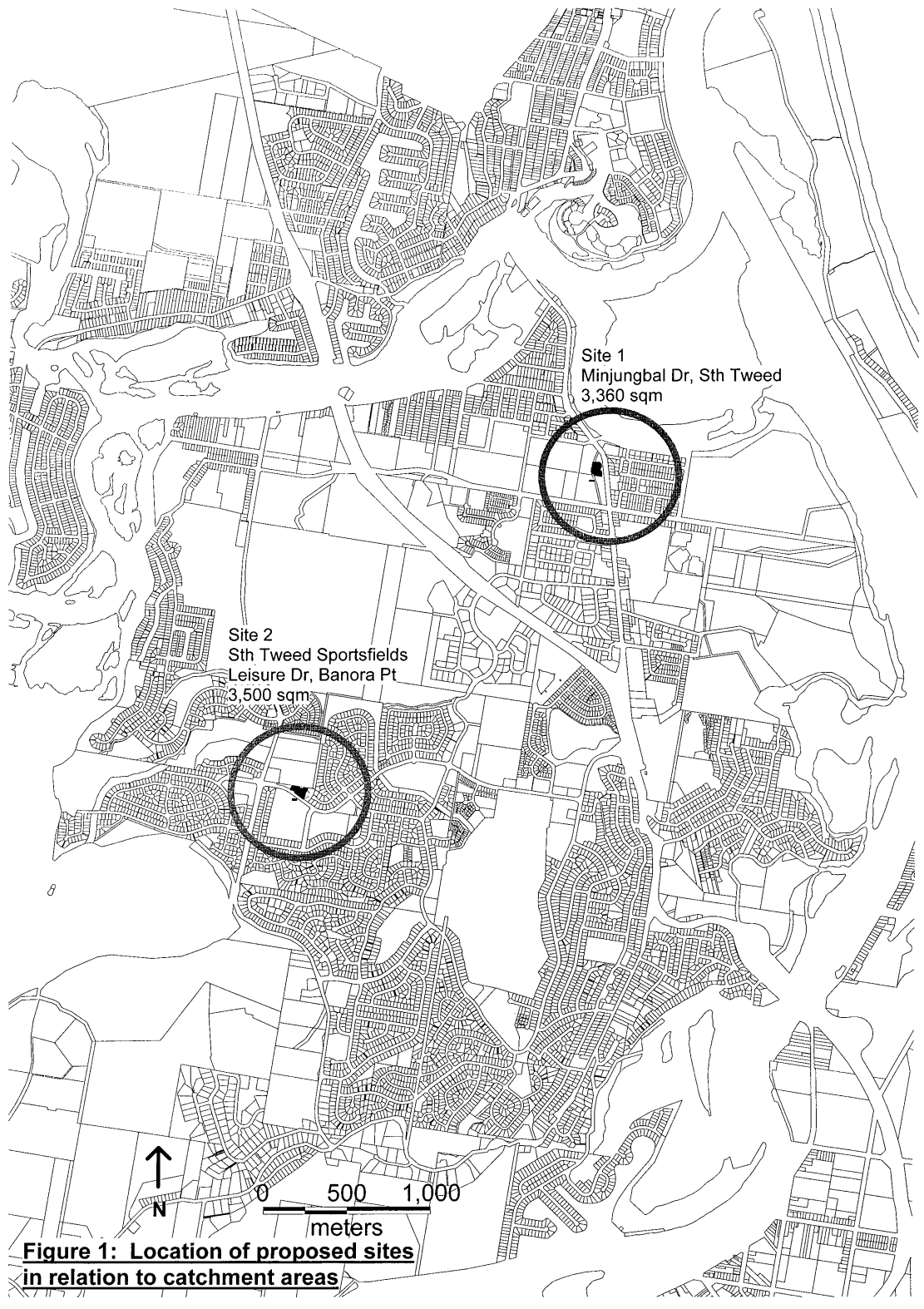
**Plan of Management:**

Both sites are classified as Community land under the Local Government Act 1993 (the Act). Subsequently, prior to lodgement of a development application or commencement of construction, a plan of management will need to be produced and adopted in accordance with the provisions of the Act.

**Design and Construction:**

A tender for the design and construction of the facility will be finalised. The design process will include consultation with facility users with consideration to skill levels, riding styles etc. Construction can commence once development approval is confirmed.

**Figure 1: Location of Proposed Sites in Relation to Catchment Areas**



**Figure 2: Site 1 Minjungbal Drive, South Tweed Heads**



**Figure 3: Site 2 South Tweed Sports Fields Leisure Drive, Banora Point**



**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

\$75,000

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**16 [EO] Application to Close & Purchase Part of Pathway between Charles Street and Adelaide Street, Tweed Heads**

**ORIGIN:**

**Design**

**FILE NO: GR3/12/7 Pt 3**

**SUMMARY OF REPORT:**

On 30 June, 2004 Council received advice from the Department of Lands that an application had been received for the closure of part of a dedicated Crown pathway that connects Adelaide Street and Charles Street in Tweed Heads. Please see attached plan marked "A".

It is to be noted that a pathway is defined in section 2 of the Traffic Act, 1909, as a "public street" where any "place open to or used by the public" falls within the definition of a road, therefore providing that this application comes within the provisions of the Roads Act.

At an on site inspection, it was discovered that the area of pathway to be closed is unformed, that the pathway from Charles Street slopes down to Adelaide Street, over a distance of approximately 60 metres, where the level of Adelaide Street is 10m lower than Charles Street.

The pathway, at the Charles Street end is actually a driveway used by the owners of 13 Adelaide Street, co-applicants with the owner of 15 Adelaide Street. However, the area used as driveway is not the subject of this application. It is the area between these properties that is being sought to be closed.

Copies of objections to the closure have been forwarded from the Department of Lands, the basis of these objections is that the pathway had been "widely used" by members of the public in the past.

**RECOMMENDATION:**

That Council:

1. Objects the closure of the pathway between Lots 494 and 495 in DP 755740 on Adelaide Street, Tweed Heads;

2. Advises the Department of Lands in writing that it does object to the closure of the pathway; and
3. Seeks the transfer of the Crown Road to Council pursuant to s151 of the Roads Act, 1993.

## REPORT:

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It is to be noted that a pathway is defined in section 2 of the Traffic Act, 1909, as a "public street" where any "place open to or used by the public" falls within the definition of a road, therefore providing that this application comes within the provisions of the Roads Act.

At an on site inspection, it was discovered that the area of pathway to be closed is unformed, that the pathway from Charles Street slopes down to Adelaide Street, over a distance of approximately 60 metres, where the level of Adelaide Street is 10m lower than Charles Street.

The pathway, at the Charles Street end is actually a driveway used by the owners of 13 Adelaide Street, co-applicants with the owner of 15 Adelaide Street. However, the area used as driveway is not the subject of this application. It is the area between these properties that is being sought to be closed. Please see the plan following this report.

Copies of objections to the closure have been forwarded from the Department of Lands, the basis of these objections is that the pathway had been "widely used" by members of the public.

Investigations into the application have identified the pathway as a potential location for water lines from the Razorback Reservoir, hence Council officers are reluctant to allow the pathway to be transferred into private ownership. Further, to enable the public to utilise the pathway, construction of a set of steps over the area sought to be closed would provide safe egress between Charles and Adelaide Streets.

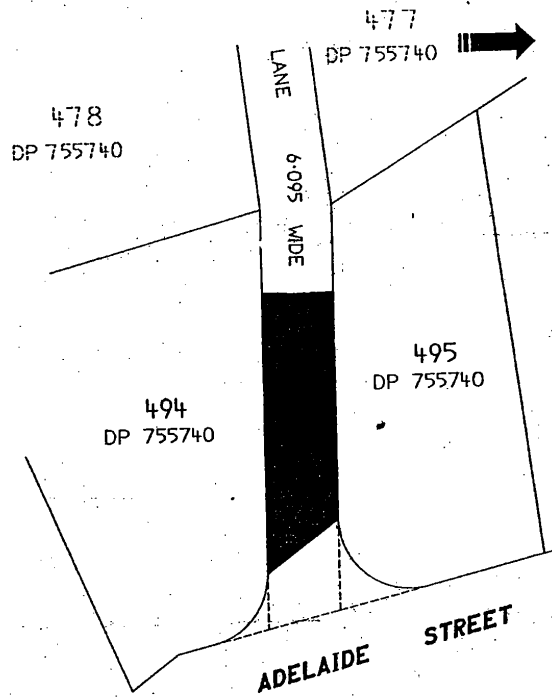
It is recommended that an application be made to the Department of Lands to transfer the pathway to Council so that it can utilise the area for any prospective water pipelines and to provide a safe pedestrian pathway for the public between Charles and Adelaide Streets.

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**DEPARTMENT OF LANDS**

**NOTIFICATION OF THE PROPOSED CLOSING OF ROADS**

In pursuance of the provisions of the Roads Act, 1993 it is hereby notified that the Minister for Lands proposes to consider closing the Crown public road shown below, being part of road separating Lot 494 from Lot 495 DP 755740, at Tweed Heads, Parish Terranora, County Rous.



Papers: GF03H200

All interested persons are invited to make written submissions concerning the proposal to the Manager (Business Services), Locked Bag 10, Grafton 2460, within twenty eight (28) days of the date of this advertisement.

In the event of closing of the road proving to be unobjectionable it is further notified that, on a date not less than fourteen (14) days after the date of notification in the Government Gazette of the closing of such road, consideration may be given to the sale of the included area of Crown land under the Crown Lands Act, 1989.

Enquires: G. Taylor

Telephone: (02) 66 40 2040

"NSW Government - Building a Better Environment"



**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Letters of objection to the closure of the pathway are a confidential attachment to this report.

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**17 [EO] Kingscliff Sewage Treatment Plant Upgrade: Status Report**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

Previous investigations into the upgrading of the Kingscliff Sewage Treatment Plant (STP) have led to Council's resolution on 4<sup>th</sup> October 2000 to develop a new STP on a 'greenfield' site to the west of the existing STP and to subsequently decommission the existing STP. On the 3 January 2002 a conditional agreement was signed with a local landholder to purchase a new site for the STP and sell the existing site. The new STP is required to be operational in late 2006.

The conditions for the sale and purchase of the old and new sites are expected to reach a conclusion before the end of the calendar year.

Development consent has been received for the new site along with rezoning of the existing site.

The concept design for the new plant has been completed and a report in the Confidential items of this meeting deals with the engagement of a consultant to undertake detailed design.

The new STP is being procured via a traditional process of detailed design and documentation followed by a 'construct only' contract.

The current project estimate is \$43M.

**RECOMMENDATION:**

That this report be received and noted.

## **REPORT:**

### **INTRODUCTION**

Previous investigations into the upgrading of the Kingscliff Sewage Treatment Plant (STP) have led to Council's resolution to abandon the existing site and develop a new STP on a 'greenfield' site to the west of the existing STP. The existing STP will be decommissioned once the new plant is operational.

An EIS has been completed for the new STP and Development Approval has been granted.

The new STP is required to be operational in late 2006.

### **BACKGROUND**

The Kingscliff STP serves a current equivalent population (EP) of 10,200 people. The catchment encompasses the villages of Fingal, Kingscliff, Chinderah, Cudgen and the newly developing beachfront communities south of Kingscliff including the Casuarina and Salt developments.

At present, the capacity of the existing STP is approximately 16,000EP. Population projections indicate that the STP will be at full capacity by December 2006.

Increased sewage treatment capacity is required urgently to accommodate the predicted increase in population and avoid impediments to further development currently planned for the area. Failure to provide increased treatment capacity within the proposed timeframe may require Council to consider development moratoriums or other alternatives.

The critical issue facing the completion of the project is the securing of the site for the proposed STP.

### **HISTORY OF THE PROJECT**

A brief history of the development of the new STP follows: -

- In 1993, Council initiated investigation of upgrading the existing STP to improve treatment standards and to accommodate future growth. At that time the plant consisted of an 8,000EP Intermittently Decanted Extended Aerated (IDEA) tank and associated components. The original plant commissioned in 1963, (a 2,500EP Trickling Filter system), had been previously decommissioned.
- Council upgraded the sludge treatment capacity of the plant in 1994.
- In 1996, investigations were expanded to consider alternative sites for the STP, carry out a community consultation process, select a preferred site and complete its subsequent environmental assessment.
- These investigations culminated in Council selecting its preferred option to expand the capacity of the STP on the existing site, (1998).
- As a result of feedback from the community opposing the expansion of the STP on the existing site, Council undertook a reassessment of previous work. This

reassessment led to Council to resolve in October 2000 to develop a new STP to the west of Chinderah Road (subsequently renamed the Tweed Coast Road).

- On the 3 January 2002 a conditional agreement was reached with a local landholder for the purchase of the proposed site and the subsequent sale of the majority of the existing STP site once to new STP is operational and the old STP decommissioned.
- An Environmental Impact Statement was prepared for the development of a new STP on part of Lot 2 DP 611021.
- The completion of the EIS and the associated public exhibition of this document resulted in development approval for the new STP being given in November 2003.
- A range of interim works was completed in 2003 to increase the treatment capacity of the existing STP from 8,000EP to between 14,000EP and 16,000EP. Due to the nature of these interim works, it is not possible to more accurately predict the final plant capacity.
- A Concept Design for the new STP was completed in July 2004. (See below).
- During the Concept Design phase for the new STP, a Procurement Options Workshop was held to identify the most suitable procurement strategy for the project. This workshop indicated that traditional option of detailed design and documentation followed by a 'construct only' contract exposed Council to least risk specifically in recognition of the fact that there is no guarantee that the purchase of the new STP site is yet to be finalised. (See below).
- Tenders were called for the detailed design and documentation for the new STP in July 2004. (See below).

### POPULATION PROJECTIONS

Population projections prepared during the development approval process for the project indicate continuing rapid growth within the catchment. The population projections used for setting the timeframe for the project are given in the table below: -

<b>Population Projection (EP)</b>					
1996	2001	2003	2011	2021	2031
8,222	9,161	10,200	20,860	33,316	39,640

Based on current observations, population growth is continuing generally in line with these predictions.

### ACQUISITION OF THE NEW STP SITE

As noted above, a conditional agreement has been reached with a local landholder (Kareena Developments) for Council to purchase the western portion of Lot 2 – DP611021 for the new STP.

Agreement has also been reached to sell the existing STP site to this landholder. The land will be sold in two parcels: -

- a) the first parcel is the unused portion of the property fronting the Tweed Coast Road.
- b) the second parcel (containing the existing STP), will be offered to Kareena Developments once the new STP is operational.

It is expected that pre-sale activities required of Council in relation to the first parcel will be completed by December 2004. Once these activities are complete, Council will be in a position to exercise the option for the sale of the new site to Council.

It is noted that the purchase of the new STP site must be resolved by January 2005 to avoid delays to the project. If this matter is not resolved by then, it will not be possible to proceed with the construction of the new STP. In this event, it is considered that there will be sufficient capacity in the existing plant to accommodate currently approved developments (including Casuarina and Salt). There will be insufficient capacity for any further developments. Council may have to consider a moratorium on further development in the catchment until the land tenure issue is resolved or pursue the development of the STP on the existing site.

### PROJECT PROGRAM

The current program for the project has been designed to accommodate the peak loads predicted for the commencement of the 2006/2007 holiday season. The significant project milestones are: -

Design Tenders Close	11 August 2004
Consultant Engaged	October 2004
Purchase of New STP Site Complete	January 2005
Design & Documentation Complete	March 2005
Construction Tenders Advertised	March 2005
Construction Tenders Close	May 2005
Construction Contract Awarded	August 2005
Construction Complete	September 2006
STP Commissioning Period	Sept to Dec 2006
STP Operational	December 2006

### CONCEPT DESIGN

An investigation of suitable treatment processes for the new STP was completed by consultant Montgomery Watson Harza (MWH) in March 2004.

MWH then prepared a detailed Concept Design based on the selected treatment process. This process will produce very high quality effluent and sludge streams with potential for high levels of reuse. The primary components of the proposed STP are: -

- Inlet Works with grit removal and odour control
- Oxidation Tank with continuous aeration, biological nutrient removal and complementary chemical nutrient removal
- Secondary rotary clarifiers
- Deep bed tertiary sand filters followed by
- Disinfection via chlorination with subsequent dechlorination to allow effluent to be discharged to the Tweed River at a standard acceptable to regulatory authorities
- Sludge stabilisation lagoons and associated dewatering facility.

The effluent produced by the process will be suitable for a wide range of reuse purposes once viable opportunities are identified and developed. Similarly the sludge produced will be able to be reused in a controlled manner on a number of agricultural applications.

The total cost of the concept design phase was in the order of \$300,000.

### **DETAILED DESIGN AND DOCUMENTATION**

Open tenders were called from the water supply and sewerage consulting industry in early July 2004. Tenders closed on 11<sup>th</sup> August 2004 and a report is the subject of a confidential item for this Council meeting.

After rigorous review of the tenders received, a consultant will be engaged for this work. The engagement will deliver a set of contract documents suitable for the construction and commissioning of the STP.

The estimated cost of the design and documentation phase is of the order of \$1,000,000.

### **PROJECT COSTS**

A summary of the estimated cost of the project is given in the table below: -

<b>Activity</b>	<b>Estimated Cost</b>
Commissioning	\$250,000
Concept Design for New STP	\$300,000
Construction of New STP	\$34,473,000
Contingency	\$3,691,000
Detailed Design & Documentation of New STP	\$1,000,000
Interim Upgrade of Existing STP	\$825,000
Investigations into Upgrading Existing STP	\$885,000
Management of Construction Phase	\$1,420,000
<b>TOTAL</b>	<b>\$42,844,000</b>

It is noted that the above costs are considered to be conservative. This approach has been taken due the current high level of activity in the construction industry and the resultant high prices.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

As detailed in the body of this report Council will be entering a contract to complete detailed design of the STP without land tenure but with an agreement to purchase subject to the satisfaction of a number of conditions, some of which are completed and the remainder of which are expected to be completed by December 2004.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**18 [EO] Tweed Shire Council and Maji Na Ufanisi Mentoring Program**

**ORIGIN:**

**Director**

**SUMMARY OF REPORT:**

Following resolution in February 2004 to establish a mentoring program with Maji Na Ufanisi, the first visit was undertaken in May 2004. A detailed report on the first visit has been completed and will be distributed at the Council meeting.

The report below provides a brief summary of the first visit outcomes.

As Council would also be aware Ms Karen Cranney, an environmental scientist within Council's Design Unit, will be undertaking two months of voluntary work while on leave from Council with Maji Na Ufanisi in Kenya during October and November 2004.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

As Council would be aware following representation at the 3<sup>rd</sup> World Water Forum in Kyoto in March 2003 Council subsequently resolved in February 2004 to develop a long term mentoring support partnership with Maji Na Ufanisi - a non-government organisation working in Kenya. Its aims are to increase the access of economically and socially marginalised people to water and sanitation.

The vision of the Partnership is to have the Tweed community embrace the concept of a mentoring and support role to the work of Maji Na Ufanisi and for the partnership to have a large positive influence on at least one African community.

**The First Visit**

The mentoring partnership formally commenced in May 2004 when Tweed Shire Council hosted two Maji Na Ufanisi staff for a three week period. The staff were Olita Ogonjo, Community Water Development Officer (BA Hons Political Science and Sociology) and John Nyachio, Program Manager Engineering (MSc Civil / Engineering). During the initial visit Council maximised opportunities for exposure of its initiative. Presentations on the work of Maji Na Ufanisi were made to Councillors, Council staff, schools and local service clubs, who all embraced the Program and supported Council in its initiative. The Program attracted significant media interest being widely reported on radio, television and through the press. The first exchange focussed on a number of key activity areas. The table below details those areas along with a summary of the outcomes in overview format:-

**First Visit Outcomes**

<b>Activity Area</b>	<b>Summary Outcomes</b>
Tweed Laboratory Centre (TLC)	<ul style="list-style-type: none"> <li>• Increase community and agency awareness of the benefits of Water quality testing and monitoring (WQTM)</li> <li>• Establishment of a central and mobile laboratory</li> <li>• Provision of WQTM equipment and training on testing protocols through corporate sponsorship</li> <li>• TLC to provide assistance in establishing training courses</li> <li>• TLC to provide interpretive advice on test results</li> <li>• TLC to assist in establishing testing and monitoring programs</li> </ul>
Tweed River Management	<ul style="list-style-type: none"> <li>• Joint development of promotional materials to assist in education and increased community awareness on river system protection and conservation</li> <li>• Establish small scale "landcare" reforestation projects in the project areas</li> <li>• Develop school programs based on protection of</li> </ul>

Activity Area	Summary Outcomes
	conservation of river catchments by linking Kenyan and Tweed Schools
Trade Waste Management	<ul style="list-style-type: none"> <li>• Maji Na Ufanisi to lobby local authorities to introduce trade waste policies focussed initially at large industrial discharges</li> <li>• Adoption of the TSC Trade Waste Policy as the basis for policy development in Kenya</li> <li>• Develop programs for education of the industrial and commercial sector</li> <li>• Identification and mapping of trade waste discharges into the Nairobi River system linking with WQTM</li> </ul>
Environmental and Cultural Education	<ul style="list-style-type: none"> <li>• Development of a range of education and community programs based on a large number of programs undertaken throughout the Tweed</li> </ul>
Waste Water Treatment	<ul style="list-style-type: none"> <li>• Maji Na Ufanisi to promote and lobby for the implementation of a range of technologies including               <ul style="list-style-type: none"> <li>○ Household treatment facilities</li> <li>○ Village scale Plants</li> <li>○ Constructed wetlands</li> <li>○ Composting toilets</li> </ul> </li> <li>• Strengthening of legislation and policy to regulate and control discharge</li> </ul>
Potable Water Treatment	<ul style="list-style-type: none"> <li>• Increase public awareness</li> <li>• Identify appropriate water treatment systems for small scale Plants at the village level</li> <li>• Undertake demonstrations on a pilot basis</li> <li>• Provide training in community operation of such Plants</li> <li>• Promotion of solar energy technologies for water treatment</li> </ul>
Water access	<ul style="list-style-type: none"> <li>• Promote technologies such as roof catchment systems (currently not utilised), small scale pans, dams and shallow wells</li> <li>• Promotion of technologies for recycled water</li> <li>• Education to improve technical capacity</li> </ul>
Tweed / Kenyan Rotary connection	<ul style="list-style-type: none"> <li>• TSC and Maji Na Ufanisi to facilitate establishment of linkages between Rotary Clubs for ongoing education, support and cultural link</li> </ul>
Business and trade opportunities	<ul style="list-style-type: none"> <li>• Maji Na Ufanisi to establish linkages through the Ministry of Trade and Chamber of Commerce between Kenya and Tweed businesses</li> </ul>
Community outcomes	<ul style="list-style-type: none"> <li>• Maji Na Ufanisi and TSC to continue to develop linkages between Kenyan and TSC schools</li> </ul>
Plant and Fleet	<ul style="list-style-type: none"> <li>• Maji Na Ufanisi to implement an asset management</li> </ul>

Activity Area	Summary Outcomes
Management	system <ul style="list-style-type: none"> <li>• Retraining of staff in the modern discipline of fleet management</li> <li>• Maji Na Ufanisi to implement a plant replacement program</li> <li>• Maji Na Ufanisi to embrace telemetry technology</li> <li>• Maji Na Ufanisi to advocate TSC fleet management protocols to Nairobi City Council</li> </ul>

### Current Status

Following the first exchange visit in May the status of actions as at September 2004 are detailed below:-

1. Water testing and monitoring of water quality in the Kiambu slums commenced. First results forwarded to TLC for review and analysis.
2. Mayor of Nairobi City Council, National Environmental Management Authority (NEMA) and the Nairobi Water and Sewerage Company have expressed a strong commitment to Maji Na Ufanisi to water quality improvements through testing, monitoring and treatment.
3. In conjunction with Wildlife Habitat, MNU will establish a partnership to contribute towards water quality testing and monitoring in a program to clean up the Nairobi River.
4. Four schools contacted by NMU with a view to developing education and cultural exchanges:-
  - Mutunguni School in Kitengeba (outskirts of Nairobi)
  - Carnavol Catholic Primary School (10kms from Nairobi City Centre)
  - Shadrack Kinalel in Kibera
  - YMCA Nursery School (in the heart of Kibera slums)
5. Sustainable Tweed farming techniques promoted by MNU to a panafrican farmer network (INADES). The organisation seeks to empower farmers through information and training.
6. UNICEF approached in regard to sponsoring a visit to Kenya promoting sustainable farming techniques, through Mr Robert Quirk.
7. Tweed Shire Council environmental scientist, Ms Karen Cranney to undertake two months of voluntary work in Kenya with Maji Na Ufanisi.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

In regard to Ms Cranney's volunteer work there will be nil cost to Council.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

### 19 [EC] Future Use of Old Art Gallery Building

#### ORIGIN:

Environment & Health Services

#### SUMMARY OF REPORT:

Council resolved on 4 August 2004 *“that a report be prepared on possible uses of the Old Art Gallery in Tumbulgum Road after June 2005 and that the public be invited to have input into the future use of the building”*.

#### RECOMMENDATION:

That Council dedicates the use of the Old Art Gallery in Tumbulgum Road, Murwillumbah for a focus space for the museums for the period July 2005 to June 2007 while retaining some space for office accommodation for Council.

**REPORT:**

Council resolved on 4 August 2004 *“that a report be prepared on possible uses after June 2005 of the Old Art Gallery in Tumbulgum Road and that the public be invited to have input into the future use of the building”*.

As Council is aware, the building has been dedicated for the use by the 5th City of the Arts project until July 2005.

This use has continued the community use of the building similar to the use as an Art Gallery.

A section of the building is being prepared to be used for some office accommodation for some of Council’s Cultural and Community Services staff to help tie over the current accommodation shortage in the Murwillumbah Civic Centre. This will be required for 2 to 3 years.

Council is currently preparing to pursue considerable museum improvements at Tweed Heads and Murwillumbah and has resolved to sign a Memorandum of Understanding with the three historical societies.

In relation to these projects, the following has been received from Kylie Winkworth, Council’s Museum Consultant:

*Recently the NSW Museums and Galleries Foundation approached me to see if the Tweed area would be interested in taking their travelling exhibition Café Culture from August to October 2005. This exhibition includes material on the Austral Café in Murwillumbah, and items originally owned by the Vlismas family. The historical societies are very enthusiastic about hosting this travelling exhibition, but it would be contingent on Council’s agreement to keep the City of the Arts space as an exhibition space for the new Tweed River Regional Museum.*

*I write to ask if Council would consider retaining the use of this space for museum exhibitions after the City of the Arts program is completed in July 2005.*

*Council currently has a grant from the NSW Ministry of the Arts to prepare an exhibition about the significant heritage collections of the Shire, developed by the three historical societies, with the generosity of local families. This exhibition, Treasures of the Tweed, is due to open in October 2005. It will reveal the hidden treasures of the Tweed Shire, and explore local stories about people, places and objects of significance for the Tweed. We hope it will encourage visitors to explore the villages and heritage places of the Tweed Shire. A considerable amount of time and money is being invested in the development of the exhibition (the Ministry’s Stage 1 funding for 2004 is \$20,000), and it would be advantageous if we could have this exhibition on show through 2006, in addition to accessing travelling exhibitions like Café Culture.*



*We hope the exhibitions next year will be a springboard for profiling the work of the new Tweed River Regional Museum. In effect, these will be the first exhibitions of the new museum and a taste of what the museum redevelopment promises the people of the Tweed Shire.*

*Retaining the City of the Arts space as the temporary base for the Tweed River Regional Museum would have a number of advantages:*

- It will help establish a public profile and identity for the new Tweed River Regional Museum while the Murwillumbah and Tweed Heads buildings are under development*
- It will assist with fundraising and building support for the redevelopment of the museums to the community and funding agencies. For example, we can put the designs for the new buildings on exhibition and highlight the vision, ideas and programs for the new museum as part of a community fundraising effort.*
- It will help Council secure further grants from government as the museum will have a venue for displays and public programs*
- It can be the base for the new curator who we anticipate will be appointed in 2005. Apart from office space, the curator will be able to hold workshops and public programs for both the volunteers and the wider community. Topics might include caring for family photos and archives, caring for textile treasures, Made in the Tweed, celebrating locally made heritage items etc.*
- Treasures of the Tweed will link with the school curriculum for years 5-6, and we hope will attract substantial numbers of local schools.*
- It gives the new curator a space to mount temporary displays in collaboration with the three historical societies, cementing working relationships with the societies. There are a number of themes that can be developed as temporary exhibitions, which might then be transferred to the new museum buildings. For example, an exhibition about the Condong sugar mill and sugar industry, an exhibition about the history and character of the villages of the Tweed Shire designed to support Council's tourism and economic strategy. Travelling exhibitions can also be shown here, such as Café Culture, and shows from the Powerhouse Museum and other cultural institutions.*
- It will assist the new curator in developing a cohesive team of volunteers, and in preparing the exhibitions for the redeveloped buildings.*
- The space would also function as a venue to show the important heritage collections while the museums are under development. I think the community has yet to fully appreciate the significance of the collections as they are currently displayed.*

*In addition to these very positive advantages in retaining the City of the Arts space for exhibitions, there are also risks for the new Museum when the current buildings are closed for redevelopment. One risk is that the public profile and community support drops away when the museum is dormant. I believe that retaining access to the City of the Arts space for museum use for an additional two or three years would be an important step in the development of the Tweed River Regional Museum into a lively, widely supported community cultural initiative. Alternatively, Council might consider allowing museum use until the end of 2006, with the possibility of a review in mid 2006.*

*Some consideration might be given in this review to the timing of the building redevelopment plans and the date of the opening of the new facilities.*

*Members of the historical societies are in enthusiastic agreement about the advantages of hosting museum exhibitions in the space, and they have indicated their willingness to supervise the exhibitions while the Regional Museum has a presence in the building.*

*I understand that Council is short of staff accommodation and that there are already plans for the City of the Arts space for office accommodation. Certainly, it would be possible for some of the space to be used for offices, while retaining a functional exhibition area. If Council is willing to consider this idea we could have some further discussion of how much space might be required for exhibition use. However I should mention that the Tweed River Regional Museum would require the use of the current workshop/storage space for crate storage and exhibition preparation, and would also need an office for the curator and a working space/office for the volunteers. The latter will be important in ensuring strong volunteer numbers to supervise the space, while enabling the volunteers to work on collection research and cataloguing in quiet times.*

*Thank you for your consideration of this request.*

*Yours sincerely,*

***Kylie Winkworth***

*Museum Adviser for Tweed Shire Council*

The matter of how the need of Council to provide office space can be managed with a proposed museum usage is an operational one which can be pursued between Ms Winkworth and Council's Manager of Environment & Health should Council decide to allow usage of the building for a museum focus for a period beyond the use by the 5th City of the Arts program.

Such usage would be a good focus in Council's current support for museum upgrading and the proposed appointment of a Museum Curator which is allowed for in the current budget.

There have over the past 2 years been a number of approaches to Council regarding the future use of the building. These have been mainly from community/cultural groups seeking usage but have also included enquiry if Council intends to sell the building.

If Council intends to use the building in the near future other than for the use by Council to support the enhancement of the museums and thus the three Historical Societies then Council will need to commence public input by advertising.

The options at this stage would appear to be:

1. For 2 years from July 2005, allow the use of the building for a museum focus with some Council office accommodation.
2. Seek public input into possible community/cultural use of the building but including some Council office accommodation.
3. Dispose of the property with the possibility of using 50% to reduce the current debt on the new Art Gallery and 50% as Council's contribution to an extension to the new Art Gallery.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**20 [EC] Request to Install Unregistrable Moveable Dwelling**

**ORIGIN:**

**Environment & Health Services**

**FILE NO: PF5950/510 Pt5**

**SUMMARY OF REPORT:**

A letter of request has been received from Mr Francis J Criddle to install an unregistrable moveable dwelling (UMD) at Drifters Van Village, Chinderah.

Drifters Van Village is a high hazard flood prone park. Installation of UMD's in such parks is not permissible under Council Policy P1.29. This restriction is intended to protect long-term residents and their property from exposure to flood conditions.

On 7 August 2002 and 5 May 2004 Council specifically resolved to refuse an application for placement of a UMD within the subject park. Council has also relatively recently refused applications to place UMD's in both the Homestead and Royal Pacific Parks. Council considered a lengthy report on possible variations to the Policy on 19 May 2004 and resolved not to vary the Policy.

If an approval were granted, it would set a precedent which other people are likely to pursue, namely approval for more UMD's in flood prone parks. Officers recommend that the Policy not be varied and the request be refused.

**RECOMMENDATION:**

That Council refuses the request to install an unregistrable moveable dwelling in the Drifters Van Village.

**REPORT:**

Mr Francis J Criddle has written to Council requesting that consideration be given to the relocation of an unregistrable moveable dwelling (UMD) from Banora Point Caravan Park to site 8 Drifters Van Village, Chinderah (refer to copy of Mr Criddle's request at the end of this report).

The following photographs illustrate the structure in question:





The structure in question is 2800mm wide with a rigid annexe attached and due to its width is not registrable. Currently, the wheels and running gear have been removed from the structure. Mr Criddle notes in his correspondence that he has obtained a quote to fix a new axle and wheels to the structure.

The park is a high hazard flood prone park and the placement of UMD's on long-term sites is prohibited by Council Policy P1.29. On 7 August 2002 Council specifically resolved to refuse an application for placement of a UMD within the subject park. Council has also relatively recently refused applications to place UMD's in both the Homestead and Royal Pacific Parks. Importantly, due to concerns such as those raised in Mr Criddle's correspondence Council considered a lengthy report on possible variations to the Policy on 19 May 2004, and resolved not to vary the Policy.

### **Council Policy P1.29 – Unregistrable Moveable Dwellings and Annexes on Flood Liable Land**

Council's existing Policy P1.29 is reproduced in full at the end of this report. The Policy objective is 'To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.'

Part k of the Policy relates to the placement of UMD's, and states the following:

*k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that: -*

*E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.*

*E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.*

**The current request does not comply with the current Policy in any respect, in that it would be placed on a long-term site, floor heights would not comply and it would not be used as a 'park van'.**

The Policy is intended to prevent persons placing UMD's on long-term sites within flood prone parks, as the structures would be exposed to flooding. This situation places the occupants and their possessions at risk, and may incur liability for Council.

The current Policy restrictions have operated since about 1989.

### **Subject Proposal**

Occupancy would be on a long-term site and the ground level within the Park is believed to have a height of about 2m AHD. Drifters Van Village is classified as a 'high hazard flood prone park' by Council records. The minimum floor level required in the structure by DCP 5 and Policy P1.29 is 3.6m AHD. This level equates to 300mm above the 'adopted design flood level' for Chinderah. Therefore the structure would need to be placed some 1600mm above ground level to be free from floodwaters. Council's existing Policy does not permit floor levels to be placed more than 1200mm above ground level for reasons of aesthetics and stability.

There are a number of significant and valid reasons why Council should not vary the current Policy and permit placement of the UMD, as follows:

- Approval could be sought to install a complying structure on the site, namely a caravan and rigid annexe.
- Long-term occupancy is required and the occupant would be exposed to flood conditions. It may be said that there are many structures in caravan parks which would be exposed to flood waters. However, there is no good reason why this should be compounded by the approval of additional UMD's in these circumstances. It is the intention of the Policy that as structures become old or dilapidated that they would be replaced with complying structures, not UMD's.
- Unless the structure is raised about 1600mm above ground level, then the structure would be inundated by floodwater. This is undesirable for reasons of aesthetics and structural stability. Whilst structural stability could be overcome by robust construction, caravan parks in the Tweed would look quite peculiar if it were permissible to install manufactured homes at 1600mm above ground level.
- The structure would eventually transfer to separate ownership, exposing future residents to flood conditions.
- Importantly, any approval would set a precedent. There is likely to be many other people who would seek approval to install UMD's. Officers regularly take enquiries from persons interested in installing UMD's in flood prone parks. This needs to be considered in terms of the safety of these persons and their possessions if they were exposed to future flood conditions.
- Council has refused similar applications in the recent past.



- There are other non-flood prone caravan parks for which approval could be sought to install a new UMD.

### **Recommendation**

A request has been received to place a UMD in a high hazard flood prone caravan park. However, placement of such structures is not permissible under Policy P1.29 due to flood exposure. There are substantive and valid reasons why the application to place a UMD on Site 8, Drifters Van Village should be refused. Officers recommend that the current Policy not be varied and that the application be refused.

Dear Council Members

**Re: Relocation of mobile home from Banora Point Caravan Park.**

*I am writing to seek permission to move my relocatable home from Banora Point (Tweed Waters) Caravan Park to the Drifters Holiday Village in Kingscliff. I have been advised by your Planning Department that I must seek special permission for this move because of a Council ruling.*

**Background:**

*My wife and I are now elderly (77 and 78) and purchased our home in 1992 with our life savings as our retirement home. At that stage, the Banora Point Caravan Park was a highly regarded and desirable park, and very well maintained by the then owners. We purchased a home with a direct outlook over the Tweed River and lived happily there for some years. IN 1996 the current owner purchased the park and I know that Council is well aware of the degradation of the facility since that time. The park is now in a deplorable condition, maintenance is non-existent, personal and property security is a major concern, and our quality of life is now at rock bottom. I am aware of several court actions that have been taken to try to improve the situation for residents but so far without any result.*

*In April this year, my wife suffered a major complicated fracture of her leg, and her safety and security is paramount.*

*Two of our daughters live in the near vicinity - one at Tweed Heads South and the other at Drifters Holiday Village at Kingscliff. The daughter who lives at Drifters Village has an intellectual disability and consequently has always had a special relationship with us. Her home has been provided by another daughter who lives overseas. It is very important to us to remain close to our two daughters who live in this shire.*

**Current Situation:**

*We have been advised by the Banora Park owner that the park is likely to close or be re-developed soon, and that all residents will be required to move. Because of the location of our home, close to the river with a lovely view, a major park of the value of our only asset has been this location. We have always maintained the unit in very good condition in an attractive garden setting and it has been much admired. Now despite everything, and all our efforts to remain here over the past few years, we are forced to concede that we will have to move our home or lose everything. At our age, we are no longer capable of sufficient resistance to stay and fight further.*

*We realise that we will not be able to find a site anywhere near as perfect for us as our present site, but have decided that the next best thing is to be closer to our daughter in Drifters Village. The proprietor there has been very kind and has a suitable site available for us to move at any time. The considerable loss in value of our home is something we are now prepared to accept.*

*We have also obtained a quote from a specialist removalist to dismantle and fit new axles and wheels to our home so that it can be safely moved to a new location.*

**Difficulties:**

*We have been advised that since we purchased our home, Council has declared much of the shire affected by a 1 in a 100 year flood level, including all the Relocatable Home and Caravan Parks in our vicinity. As part of that ruling we have been advised that our home, which has been developed from a 10 metre 2.7 metre caravan base, cannot be moved to any other park in the affected zone, as it is 15 cm wider than the regulations allow.*

*It seems we are now caught in a terrible triple bind. We cannot stay where we are - even if the park does not officially close for some time, the lack of maintenance and the high security risk is too severe for us to accept any longer. At the same time we cannot sell our home and buy another as the park conditions make it impossible to sell at anything other than a knockdown price. We would then never be able to afford to buy another. Thirdly we cannot move anywhere near where we have lived for these past 12 years and where our daughters lived, due to the recent Council regulations.*

*What can we do? We have been advised by Council staff that parks some distance away - perhaps in Pottsville - are not affected by the flood regulation. But this would be very isolating for us, particularly as our age advances and driving becomes less of an option.*

*It is very difficult for us to see why the extra 15cm is so important as to stop our only really viable option, moving to the Drifters Village to be near our disabled daughter. In terms of a 1 in 100 year flood, our final situation would be absolutely no different as the moment - our existing park is also covered by this regulation.*

***We are therefore applying for special consideration of our circumstances and permission to move our home to Drifters Village.*** *We have been forced into this situation and bitterly regret having to move at all when we had such hopes of a long and pleasant retirement overlooking the Tweed River. The current situation is extremely stressful for us, as I am sure you can imagine.*

*Please consider this request and provide permission for our move as soon as possible.*

*Yours sincerely*

*Mr Francis J Criddle*

## **P1.29 Unregistrable Moveable Dwellings and Annexes on Flood Liable Land**

### **Objective**

To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.

### **Policy**

- a. Unregistrable moveable dwellings and rigid annexes will not be permitted in any caravan park or addition to caravan park on flood liable land constructed after 1 December 1986.
- b. Unregistered moveable dwellings and rigid annexes may be permitted in caravan parks that are located on flood liable land within flood fringe and non-critical flood storage areas where the park is filled above Council's design flood level for the locality and where Council's investigations have shown that filling will not have any significant adverse impact on the flood pattern.
- c. In caravan parks not excluded by Clause (a), unregistrable moveable dwellings and rigid annexes may be permitted in caravan parks designated as being of a low hazard category. The floor level of the unregistrable moveable dwelling or annexe shall be at least 300 millimetres above the designed flood level. When the annexe is attached to a registrable moveable dwelling the floor level of the registrable moveable dwelling whilst maintained in a mobile state shall be at least 300 millimetres above the design flood level.
- d. In no instances shall the floor level be more than 1200 millimetres above the ground level.
- e. Low hazard for the purpose of this policy shall mean that the site and normal surrounding ground and road levels shall be not more than 800 millimetres below the design flood level and that there shall be access which will be not more than 800 millimetres below the design flood level from the moveable dwelling site to flood free land considered by Council to be a suitable refuge.
- f. In high hazard caravan parks, except Greenhills Caravan Park, Tweed Ski Lodge Caravan Park and any park excluded under clause (a) rigid annexes may, with the approval of Council, be attached to registrable moveable dwellings on long term sites provided:-
  - E1. Where levels permit, the annexe floor level shall be in accordance with clauses (c) and (d) of this policy.
  - E2. Where Item 1 cannot be complied with, the floor level of the annexe is not below the floor level of the registrable moveable dwelling to which it is attached.
  - E3. Any flooring fitted less than 300 millimetres above the designed flood level for the site shall be of hardwood or water resistant grade material.
  - E4. The method of attachment to the registered moveable dwelling shall be such as to allow disconnection within one hour.
- g. Short term sites will not be allowed to be converted to long term sites on flood liable land except as a reorganising of sites in accordance with Council's approval of an upgrading program.
- h. The base to the unregistrable moveable dwelling or annexe is to be structurally designed to withstand flood water and wind loadings and adequate design and documentation is to be submitted to Council to allow it to determine compliance with this clause.
- i. No unregistrable moveable dwelling or annexe is to be placed upon flood liable land without prior approval of Council.
- j. Each application for approval under this policy is to be made upon the approved form and be accompanied by a fee to be as determined by Council.
- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that: -
  - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.
  - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.
- l. A fee of \$50.00 will apply for applications to place unregistrable moveable dwellings or rigid annexes on flood liable land will apply from 4 June 1992 for the remainder of 1992.
- m. Council's Environment and Community Services Division will ensure that each park has an approved evacuation plan and means of communication to all tenants.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**21 [EC] Compulsory Desexing of Animals Sold from Council's Dog and Cat Impounding Facility**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Council resolved at its meeting of 21 July 2004 that a report be brought forward on the opportunity for Council to introduce compulsory desexing of animals sold from Council's dog and cat pound.

A case can be made that many of the problems experienced by the community in relation to cats and dogs can be related to unwanted and unowned animals. Therefore many of these problems could be overcome if the numbers of unwanted litters are reduced.

Council could directly address unwanted litters as a source of stray animals and subsequent community disturbance by adopting a policy which prohibits the sale of dogs and cats to new owners from the Pound, unless those animals are desexed. This does not cover release to the existing owner of the animal.

**RECOMMENDATION:**

That: -

1. A dog or cat which is to be sold to a new owner from the Council Pound facility shall be desexed prior to sale.
2. This policy shall not be applicable to a cat or dog which is being released or returned to its existing owner.

## REPORT:

Many of the problems experienced by the community in relation to cats and dogs can be related to unwanted and unowned animals. Therefore many of these problems could be overcome if the numbers of unwanted litters are reduced.

The view is held by some people in the companion animal 'industry' that all cats and dogs except those owned by registered breeders, should be desexed. However it would be difficult to achieve wide community acceptance of such a change.

Whilst the greater number of cats and dogs which currently exist in the community are not under Council control, Council could directly address unwanted litters as a source of stray animals and subsequent community disturbance by adopting a policy which prohibits the sale of dogs and cats to new owners from the Pound, unless those animals are desexed. This would impact on the number of unwanted litters and reduce the number of readily available animals that are introduced to the ongoing cycle of backyard breeding and unwanted animals. People wishing to purchase a non-desexed animal have the opportunity to do so through registered breeders and pet shops.

On a daily basis whilst actioning complaints Council Rangers are confronted with explanations of how a person comes to own their pet. An example of this is "I didn't really want the animal but my friends dog/cat had a litter and I just ended up with one." Compulsory desexing would reduce this occurrence and portray Council as advancing towards a holistic approach in attaining responsible pet ownership within the shire.

The compulsory desexing approach is not viewed as unconventional, and many Council's in NSW already have such a policy in place. Further, the RSPCA and the Queensland Animal Welfare League have adopted policies whereby it is not permissible to purchase either a cat or dog from their facilities which has not been desexed.

Approximately 60% of all impounded animals within the Tweed Shire are resold to the public. Council's current sale price of animals from the impounding facility incorporates desexing of the animal, microchipping, heart worm check, health check and vaccinations, therefore there would be no implications in introducing the policy. Although the current sale price includes desexing, the purchaser is not required to have the animal desexed, however, an incentive is created to have your animal desexed when purchasing from the impounding facility due to costs associated with registration.

### Registration Costs:

Desexed animal	\$35
Desexed animal owned by a Pensioner	\$15
A non-desexed animal	\$100



**CONCLUSION:**

Many of the problems experienced by the community in relation to cats and dogs can be related to unwanted and unowned animals. Therefore many of these problems could be overcome if the numbers of unwanted litters are reduced. A policy requiring all cats and dogs which are sold from the Pound to be desexed could assist in the matter.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**22 [EC] Dog Off Leash Exercise Area - Wooyung Beach**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

A petition with 163 supporting signatures has been received requesting that a dog off-leash exercise area be established at Wooyung Beach, Wooyung. The proposed area for allocation of the off leash area is a 2km stretch of beach bounded by Billinudgel Nature Reserve to the south and Wooyung Nature Reserve to the north.

**RECOMMENDATION:**

That Council maintains the existing off leashed exercise areas on beaches as the current balance of leashed and unleashed dog area facilitates the current public need.

## **REPORT:**

A petition with 163 supporting signatures has been received requesting that a dog off-leash exercise area be established at Wooyung Beach, Wooyung. 76 of these signatures are from residents within the Tweed Shire and the remaining are mainly from people who frequent the Wooyung caravan park.

The application has requested that Council considers the proposal due to the Wooyung caravan park being the only facility of its type in northern New South Wales where dogs are permitted and many people, both permanent residents of the park and holiday makers, choose to stay at the park solely for this reason.

The proposed area requested for allocation of the off-leash area is a 2km stretch of beach bounded by Billinudgel Nature Reserve to the south and Wooyung Nature Reserve to the north. The proposal has been discussed with the National Parks and Wildlife Service as the proposed proximity of the off leash exercise area could have the potential to impact these Reserves. All nature reserves under the control of the NSW National Parks and Wildlife Service prohibit dogs; therefore they were not in support of the proposal due to the potential for unrestrained dogs to enter the Reserves.

An alternative to the proposal is to incorporate a 500m buffer zone between the off leash area and both Reserves. Accordingly, this would reduce the size of the proposed off leash area to 1km and would be a more viable option for the NSW National Parks and Wildlife Service.

Many other users of unpatrolled beach areas desire to have access to areas where dogs are not off leash and the current balance seems to be appropriate.

Council has previously resolved to maintain the existing off leash exercise areas on beaches as the current balance of leashed and unleashed dog areas facilitates the current public need. This resolution is substantiated in this instance as the proposed off leash area at Wooyung is located only 7km from the beach off leash area at Pottsville. The topic of off leash dog exercise areas on beaches has also been a controversial subject associated with the recent Draft Coastal Management Plan. Part of the planning and management within this document provides for investigation into reducing the number of off leash dog exercise areas on Tweed Shire beaches.

## **CONCLUSION**

Council officers recommend the proposal be declined due to the recent controversy over off leash exercise areas on beaches associated with the Draft Coastal Management Plan, the close proximity of the off leash exercise area at Pottsville Beach and the NSW National Parks and Wildlife Service's concerns associated with the proposal.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### [TRC] Minutes of the Tweed River Committee Meeting held Wednesday 11 August 2004

#### FOR THE CONSIDERATION OF COUNCIL:

#### Minutes of the Tweed River Committee Meeting held Wednesday 11 August 2004 Tweed River Committee

**VENUE:**

Canvas & Kettle Meeting Room, Murwillumbah Civic Centre

**TIME:**

9.30am.

**PRESENT:**

Cr H James (Chair), Cr M Boyd, R James (Caldera Environment Centre); M Dobney (Action Sands), R Hagley (DIPNR); B Loring (NSW Fisheries); R McDonagh (Waterways Authority); G Judge, J Lofthouse, T Alletson, D Oxenham, G Edwards, (Tweed Shire Council).

**INFORMAL:**

Susan Davidson (Minutes Secretary).

**APOLOGIES:**

Cr W Polglase (Mayor); Cr L Beck (Tweed Shire Council); N Newell (State Member for Tweed); L Tarvey (National Parks and Wildlife Service); T Rabbidge; R Quirk (Tweed River Advisory Committee & NSW Cane Growers' Association);

**MINUTES OF PREVIOUS MEETING:**

**Moved:** Cr M Boyd

**Seconded:** Lance Tarvey

**RESOLVED** that the Minutes of Meeting held Wednesday 9 June 2004 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

**Item from Meeting held 12 May 2004**

**1. Committee Representation**

**Tweed River Committee**

*"Committee members were requested to express interest in maintaining a position on the Tweed River Committee. Furthermore, consideration was given to additional representation from other sectors. Jane Lofthouse sent letters to all members requesting confirmation of their intention to continue representing their organisations and attend meetings."*

All nominations have been received, a report is going to Council on 18 August 2004 with the following recommendations.

It is recommended that the existing Committee members be retained. Mr Robert Quirk is a highly valued member of this Committee and provides direct links with the Northern Rivers Catchment Management Authority and Acid Sulfate Soils works and research. Rhonda James represents the Caldera Environment Centre and provides high level advice on rehabilitation and revegetation issues as well as having farming interests. Dugald Gray represents the dredging industry and can provide timely advice on dredging issues.

New nominations received include Mary Grant, an active member of the Sea Bird Rescue Unit of Tweed Valley Wildlife Carers. Ms Grant has specific interests and may provide limited input into the broader issues dealt with by the Committee. Therefore, it is recommended that this nomination not be accepted.

The Banora Point Residents Association nomination represents a specific location. There are no other specific locations represented on the Committee. Therefore, it is recommended that this nomination not be accepted.

The nomination from Claire Masters, representing Tweed LandCare Inc. enables the Committee to expand its contacts and expertise to include upper catchment rehabilitation interests.

The Tweed River Charter Operators Association represents a large industry group in the estuary. With Council developing the charter boat operator's wharf, it is timely to have a representative on the Tweed River Committee. The charter operators also bring a high level of knowledge on navigational and recreational issues within the Tweed River.

It is therefore recommended that the nominations from Claire Masters representing Tweed Landcare Inc and the Tweed River Charter Operators Association be invited to join the Tweed River Committee as community representatives.

The Committee agreed with the recommendations made in the report.



## **Item from Meeting held 12 May 2004**

### **2. Fingal Head Old Boat Harbour**

#### **Tweed River Committee; Fingal Boatharbour; Boating**

As determined at the last meeting with officers from NSW Waterways, signs which show areas where vessel beaching can and cannot occur have been prepared to install at the old Fingal Boat Harbour. A copy of the sign was shown at the meeting. It was proposed that the need for bollards be monitored over next summer prior to installation.

Cr M Boyd suggested there should be some indication of where swimming areas are, maybe a set of buoys.

The existing buoys stay in place and one extra standard Waterways sign or similar be installed at the headland entrance. Tom will liaise with Waterways on layout.

The Committee voiced concerns of the risk of the sign encouraging swimming, leading to liability in the case of an accident.

David Oxenham suggested the Committee seek advice from Councils risk management officer.

A suggestion was made to Plant trees in areas where no vehicles are allowed to act as bollards.

Tom Alletson will find out what the standard Waterways signs currently used are, then take both signs to Councils risk manager for assessment.

---

## **Item from Meeting held 12 May 2004**

### **3. Stotts Channel**

#### **Stotts Island Nature Reserve**

Tom updated the Committee, advised he spoke with Council surveyors to obtain a quote. The cost for the works was between \$5,000 and \$8,000.

Cr James suggested only certain areas be selected for cross section measurements to reduce costs.

**Moved: Cr Max Boyd**  
**Seconded: Rhonda James**

**RESOLVED** that Council Surveyors be instructed to prepare a long and cross sectional survey for Stotts Channel.

---

**Item from Meeting held 9 June 2004**

**4. Tweed River Boating Plan of Management**  
**Area 5 - Tweed River; Boating; Master Boating Plan; Tweed River Management Plan**

The Draft Boating Plan of Management is on public exhibition from late August until 8 October 2004. Committee members to get comments to Jane by Friday 1 October.

---

**CORRESPONDENCE IN:**

**1. Northern Rivers CMA Newsletter**

A copy of the newsletter was available at the meeting.

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**2. DIPNR Report: Monitoring in the NSW Estuary Management Program**  
**Estuary Management**

Richard Hagley discussed this report and its implications for TSC's water quality monitoring programs in the Tweed and Coastal Estuaries.

The report author suggests monitoring should focus outside water quality monitoring and include a broader set of parameters to achieve objectives and actions of the Estuary Management Program. Tweed and Cudgen are systems which have been used in the Report. Findings of Report are to be included in the new Coastal Zone Management Manual.

---

**CORRESPONDENCE OUT:**

**1. Gold Coast Airport – Comments on Draft Airport Environment Strategy**  
**Airport - Coolangatta / Tweed; Environment Protection**

A review of this document was undertaken with comments forwarded to GCAL on 2 August 2004. A summary of these comments was presented at the meeting.

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The Report is comprehensive though timeframes for implementation of certain projects could be improved. The main focus of Tom Alletson's review of the Report is contaminated lands and leachate runoff, as well as management of the Cobaki foreshore. The opportunity to enhance the old dredge dump site as a high tide wader bird roost was also noted.

Cr M Boyd requested that Council contact GCCC to determine what management is happening with Tugun Landfill in relation to leachate runoff.

**Moved: Cr M Boyd**  
**Seconded: Bob Loring**

**RESOLVED** that Council, due to concerns introduced in the GCAL Environmental Management Plan, be requested to allocate staff to investigate pollution sources that may be emanating from the GCCC Tugun Tip into Cobaki Broadwater and undertake water quality monitoring.

**Recommendation:**

That Council, due to concerns introduced in the GCAL Environmental Management Plan, consider allocating staff to investigate pollution sources that may be emanating from the GCCC Tugun Tip into Cobaki Broadwater and undertake water quality monitoring.

## 2. Catchment Management Authority – Project Notifications

### Total Catchment Management

Nick Stevens, the CMA Local Government Liaison Officer, has coordinated the compilation and submission of a series of 1 page project descriptions that Councils in the Northern Rivers Region will be seeking CMA funding for over the coming years. The aim of this exercise is to allow the CMA to gain a broad overview of local governments priorities, and to be able to give early feedback to Council Officers on prospective project applications. Tweed submitted the projects as listed below. These projects were discussed at the meeting.

Title	Objective	Indicative Budget
Condong Mill Cogeneration Project	Supply of effluent from Murwillumbah treatment plant to green energy plant at Condong Mill for reuse as cooling water	\$250, 000
Roadside Vegetation Management Plan	Mapping of conservation significance of roadside vegetation and management to reduce impact of maintenance and construction work	\$60, 000 – \$80, 000
Cudgen Plateau farmlands Agricultural BMP	Provision of an extension officer to prepare farm management plans to reduce loss of topsoil from this area to the Cudgen Creek Catchment	\$220, 000
Tweed Coastal HCV Vegetation Management	Implementation of management plans for High Conservation Value vegetation in the coastal zone.	\$250, 000

Title	Objective	Indicative Budget
Cobaki and Terranora Broadwater Catchment Rehabilitation Project	Implement works that will have a positive effect on water quality riparian and ecosystem health in the Broadwaters. Works would include creek rehabilitation in rural areas and retrofitting SQUIDs in developed urban areas.	\$200, 000 Planning, consultation and design (TSC and TRC) \$1, 000, 000 construction (CMA)
Wader Bird Roost Creation	Undertake the creation of a new wader bird roost.	\$100, 000 design and approvals (TRC) \$200, 000 construction (CMA)
Condong Creek Catchment Rehabilitation Plan	Management of stormwater, ASS and degraded riparian areas on Condong Creek	\$100, 000 planning (TSC/TRC) \$100, 000 design (TSC/TRC)
Upper Tweed River Riparian Management Project	Conservation of HVC riparian vegetation and enhancement of Tweed river Water Quality.	\$450, 000

Any further information on the above projects is available from Tom Alletson.

### 3. WADAMP Grant Applications

#### Jetties; Boat Ramps; pontoons

Jane Lofthouse advised that grant applications for Lakes Drive Boat Ramp Upgrade and pontoons for Terranora Inlet Jetties had been submitted to the Waterways Authority.

#### AGENDA ITEMS:

#### 1. Potential Project - Foreshore Management Plan, Wommin Lake and Lagoon Wommin Lake; Riverbank Erosion; Road - Wommin Lake Cr

A number of areas of the foreshore of both Wommin Lake and Lagoon are affected by problems such as weed infestation and inappropriate use of public land by residents. The view of the Committee was sought on the need to prepare a foreshore management plan for this area and commit to its implementation.

**Moved: Cr M Boyd**

**Seconded: Richard Hagley**

**RESOLVED** that a management plan be developed for that section of Wommin Lake foreshore that is Council road reserve adjacent to Wommin Lake Crescent to address foreshore vegetation, erosion, and lake access.

Tom to contact TBLALC regarding working up a partnership to address wider management issues on Wommin Lake and Wommin Lagoon foreshores.

---

**2. Potential Projects - Upper Estuary Management Plan River Bank / Park Sites  
Riverbank Erosion**

A number of potential sites for river bank restoration projects have been nominated by the Manager of Environment and Health Services, Geoff Edwards. A brief overview of each site was presented and the Committees view on undertaking works at each sought.

**Moved: Cr M Boyd**

**Seconded: Bob Loring**

**RESOLVED** that a concept design report be prepared that includes expert engineering advice and preliminary costing for each area.

---

**3. Potential Project and Environmental Trust Application - Byrill Creek Riparian  
Management Plan**

**Riparian Projects**

The latest round of Environmental Trust project applications are due on 27 August 2004. A meeting between DIPNR, Caldera Environment Centre, Tweed Landcare Inc and Council Officers has identified a potential project to run on Byrill Creek.

Discussion on this item was deferred due to a lack of time. Henry James, David Oxenham, Tom Alletson and Jane Lofthouse met following the meeting to discuss this item.

---

**4. Continued Funding - Lower Oxley River Bank Stabilisation Project  
Riparian Projects; Oxley River**

Tom Alletson was to provide an update on the progress of this project and discuss ongoing funding requirements.

This item was deferred to the next meeting.

---

**5. Weeds Brochure - View Final Draft, Determine Print Numbers**

**Education**

The Committees original intention with respect to this brochure was to send it to all residents. This was an opportunity to view the final product prior to confirming the number to be printed.

This item was deferred to the next meeting.

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**6. Fish Unlimited Project Report - Patrick Dwyer (NSW Fisheries) and Abigail Foley (Wetland Care Australia).**

**Wetlands**

Abigail and Patrick presented the background and progress of the Fish Unlimited project.

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**7. EIS for Banora Point STP and Tweed Heads West STP Effluent Disposal  
Sewerage Treatment General, Estuary Management  
Sewerage Treatment - Banora Point; Tweed Heads**

David Oxenham provided an overview of this issue, updating the Committee on the assessment being undertaken on the effluent disposal options, and the concurrent community consultation process. The Committee will be invited to options evaluation workshops held as part of this community consultation process.

---

**GENERAL BUSINESS:**

**1. Southern Boatharbour**

**Southern Boatharbour**

All licensees signed up, only one berth spare.

Two contracts have been let, one land based works and second the marina.

Works will be complete January / February 2005.

---

## 2. Clarrie Hall Dam

### Cams - Clarrie Hall - General

The issue of recent fish kills was raised. When water is released it causes fish to migrate upstream into a small pool in which they become trapped and deplete the oxygen causing death. Mesh and star pickets have been put in place to prevent fish moving into the pool.

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## 3. Waterways Officer

Waterways Authority have allocated a second boating officer for the Tweed Brunswick, to commence October 2004.

---

### **NEXT MEETING:**

The next meeting of the Committee is to be held on 13 October 2004 at the Canvas & Kettle Meeting room commencing at 9.30 am.

The meeting closed at 12.40pm.

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

Nil

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

#### 1. Gold Coast Airport – Comments on Draft Airport Environment Strategy Airport - Coolangatta / Tweed; Environment Protection

##### Correspondence Out

That this item be referred to the Director Environment and Community Services for assessment of requirements prior to a further report to Council.

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**Minutes Circulated with this Agenda Not Requiring Resolution**

**FOR THE CONSIDERATION OF COUNCIL:**

**UNDER SEPARATE COVER:**

1. Minutes Of The Tweed Coastal Committee Meeting Held Wednesday 11 August 2004
  2. Minutes of the Tweed Shire Council Occupational Health and Safety Committee Meeting held Thursday, 12 August 2004
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## **ORDERS OF THE DAY**

### **1 [NOM] Cobaki Broadwater**

#### **NOTICE OF MOTION:**

Councillor M R Boyd moves:

That:

1. Council staff undertake a field inspection in company with Gold Coast Airport Limited staff, of the various drains which empty into the Cobaki Broadwater.
  2. This inspection be followed up by a systematic water sampling program to ascertain the quality of water flowing from these drains into the Cobaki Broadwater.
  3. A report on the results of the inspection and water quality testing be provided to Council with a plan showing the position of the drains.
- 

### **2 [NOM] Public Toilet at Tumbulgum**

#### **NOTICE OF MOTION:**

Councillor G J Lawrie moves that a report be prepared as to the feasibility of making available the funds intended for a public toilet at Tumbulgum to be redirected for the construction of bollards on the riverfront at that village, and for the completion of a footpath on the residential side of Riverside Drive.

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### **3 [NOM] River Foreshore at Chinderah**

#### **NOTICE OF MOTION:**

Councillor G J Lawrie moves:

That a report be prepared on possible ways to beautify and enhance the river foreshore at Chinderah.

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## **CONFIDENTIAL MATTERS**

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

### **REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT IN COMMITTEE**

#### **1 [PE] Tweed Heads Ministerial Taskforce**

##### **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
- 

### **REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE**

#### **2 [EO] EC2004-132 Supply and Laying of Asphaltic Concrete at Various Locations**

##### **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 [EO] Outdoor Dining Licence Agreement - "Shell's on Broadway" previously "Pavlo's Cafe" Wharf Street, Murwillumbah**

**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 [EO] Licence Agreement - Boyds Bay Bridge - Tweed River Boat Hire**

**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 [EO] EC2004-126 Kingscliff STP: Consultancy for Design, Documentation and Associated Services**

**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
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